**Town of Charlton**

**Zoning Board of Appeals**

**Public Hearing Minutes and**

**Business Meeting Minutes**

**August 8, 2023**

Minutes of the Zoning Board of Appeals meeting held on August 8, 2023.

Chairman Jim Leupold called the meeting to order at 7:00 p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Roll Call attendance was taken.

Present: Jim Leupold, Chairman, Chip Ellms, Nate Keenan, Jim Craig, Esq., Town Attorney and Kim Caron, Recording Secretary.

Chairman Leupold led the Pledge of Allegiance.

Chairman Leupold introduced the Board.

**Business Meeting**

**Minutes**

Chairman Leupold stated that the meeting minutes from the April 11, 2023 meeting need to be approved. Chairman Leupold stated that there are not enough board members present to vote. Minutes will be voted on at the next meeting.

Chairman Leupold stated that the meeting minutes from the June 13, 2023 meeting need to be approved. Chairman Leupold stated that there are not enough board members present to vote. Minutes will be voted on at the next meeting.

Chairman Leupold stated that the meeting minutes from July 11, 2023 meeting need to be approved. Chairman Leupold stated that there are not enough board members present to vote. Minutes will be voted on at the next meeting.

**Johnson Application – Special Use Permit**

**PUBLIC HEARING**

Mrs. Caron read numerous letters from residents regarding this application into the record.

Mrs. Caron read the letter from the Saratoga County Planning Board and the Town Planning Board into the record.

Chairman Leupold stated that this is a continuation from last month’s hearing.

Daniel Smalls, Esq. appeared on behalf of the applicant, Tammy Johnson.

Daniel Smalls, Esq.: I am Daniel Smalls. I am the attorney that represents Ms. Johnson and her family. I have offices located in downtown Schenectady. I will just use my phone as there are some notes that are right here. I would like to mention a little bit more what was already exemplified within the numerous letters that were just read into the record, then I will ask Ms. Johnson to come up too and fill in the gaps on some of the things that I may have left out. Ms. Johnson has been residing at the residence for approximately 5 ½ years. She has been operating the business, unbeknownst to her, void of the requirements of having to seek a special use permit in doing so. (Inaudible) When the situation did come to light, she did exactly what she should have done which was petition the town in order for her to seek permission to do so. It came to light because she put a sign up on the main road. Before that, nothing had come to light as she would have sought permission to do so. There were no complaints, at least to our knowledge, there were no complaints that were received by the town from the residents (inaudible). I think that speaks volumes to professionalism that Ms. Johnson takes within that property. She resides on over 20.02 acres of land. There is a lot of trees and land separation on the premises from the other premises of the neighbors which is approximately 800 feet from the main road. It is my understanding that the other neighbors are of some distance as well off the main road. One of the letters (inaudible) All of the letters in support are from different individuals who may or may not know each other. But again, they all shared a common denominator and they all attest to the professionalism that Ms. Johnson has in services that she actually offers. One of the concerns was with traffic. I don’t believe that there has been any accidents outside on the portion where you would turn on the right or left into the property (inaudible). I do not believe that it actually poses escalated number of individuals stopping by the premises in fact if anything at all it would actually slow down the speed of traffic in that area because individuals have to stop (inaudible). I don’t believe it would actually pose a risk as it relates to any traffic. As it relates to any of the dogs barking, I don’t believe that the distance between the 20 acres of land that Ms. Johnson resides on between her property as well as the adjacent neighbors that’s within 2500 feet that we are referring to I don’t believe that you would be able to hear the dogs barking or that it poses a problem. As it relates to any of the animals fecal matter, the dogs are well kept and cleaned up afterwards. The dogs are leashed within the premises and are cared for. It is my understanding that there is a farm that is in close proximity (inaudible). I don’t see the difference between that and farm. As it relates to posing a risk for anyone, I don’t believe there are any reports of dogs loose or caused a nuisance or a dog has attacked, assaulted or bit anyone. I don’t believe that there is any risk. I think that is a testament to Ms. Johnson and her family for properly taking care of the dogs. I believe I covered a lot of the issues. I would echo the 15 plus letters that were read into the record. It is also important to note that there are two letters from Planning Boards and they actually do not see a problem and are in support as well. Ms. Johnson do you have anything you would like to add.

Tammy Johnson: No.

Marissa Herbert, President of dog rescue/adoption: I have worked with Primitive Dog since the start of the business and have learned so much from them in order to help dogs (inaudible). They have had their hands in some way with a majority of the dogs that we have taken in. (Inaudible) I honestly don’t believe that I would be able to do what I do if it wasn’t for this business and our success rate in placing dogs in their forever homes where they can live happy and healthy lives. Their training style is different from anyone else in their area that creates long lasting effects and a true bond between dog and owner. They allow dogs to come out of their shell and begin to trust when people have failed in the past. They honestly volunteer their time to help unwanted dogs or educate the public to prevent dogs from going into overpopulated shelters. They receive dogs in their homes (inaudible). I will be forever grateful for their knowledge, experience and kindness, hard work ethic and most of all friendship in this never-ending cycle of dogs.

Cindy Pink, Swaggertown Road: My husband and I adopted Levi in 2022. The first few weeks he was with us he was perfect. By the end of week three his true colors came out. He would charge at us, he would run and take things and then he would charge at us some more. He would go out and charge at the door. He would bark and this would last 45 minutes to an hour. We had no experience with a dog like that. We had a lot of dogs. (Inaudible) We were able to find Tammy. If not for her we would have had to send the dog back to the agency we got him from. We did not want to do that. Tammy saved him.

Steve Anderson. 901 Charlton Road: I just wasted over a half hour listening to letters that have nothing to do with the permit. It doesn’t matter if she is the world’s best trainer. That doesn’t have anything to do with the permit so why are we talking about it. You should not be wasting everybody’s time discussing that.

Carol Henry, 1017 Gideon Trace: In November of 2022 I adopted a dog from rescue,. She was very nervous. She can’t get along with other dogs at the time. We couldn’t pet the top of her head. She had lots of different issues with strangers. She would not let people in the house. I left her with Tammy for a two week program where she got individual attention from morning to night. She has really calmed down. We are still working on things but now she lets people in the house. She doesn’t back so much when people go by on the street and she really learned to get along with other dogs. Tammy has been exceptional. I couldn’t do it without her. There is no way that I could board her at a regular kennel because she was so frightened of other dogs. All I have to do is mention Tammy’s name and the dog goes crazy.

Bruce Hodgkins, 910 Charlton Road: I live next door. I think it sounds great what’s going on here with what Tammy does with the dogs but no one is living with the barking and I do living right next door. This isn’t just during the day. It’s all night long sometimes. When it comes to spring and we open our windows we hear them all night long and if it’s the ones that you are bringing to your place and working with and then they go back, they are not the ones barking. I don’t know who’s working with them but if they were in your yard and it was your neighbor, you would not want this. I have probably seen a third of the clients because they come into our driveway because they miss hers and I don’t mind that but I have a dog and I’m retired and I’m 850 feet off the road and so I have to run out there and get her and get her to settle down and get people where they have to go. The barking of these dogs is unmerciful and you want to talk about cows next door, I have lived here for 50 years and the worst time our cows, they are Chris’s cows now, they make noise is when we take the calves away from the moms in the fall and ween them. That’s it. I have talked to a lot of the neighbors and they can hear them a lot farther away than I am.

Chris Halladay, 916 Charlton Road: TO reiterate what Bruce said and really what Steve said, I think that the whole meeting in kind of off track. The Zoning Board of Appeals isn’t here to determine whether or not she runs a good business. We know she has a great business; her clients are very happy with her. The zoning, as the planning board’s letter said, which did not recommend either way, to allow or not to allow the special use permit, the zoning board is to look at whether or not the community wants a business in a residential zone. I believe that its pretty clear that those of us immediately next to this business do not want a business in a residential/agricultural zone.

Ann Varcasio, 846 Charlton Road: I sent a letter in June and as a resident, I live on Charlton Road, I am concerned about traffic too. I use Tammy’s service. I have probably gone over there at least once a month and I pick up and drop off. I never hear any barking during those times. I don’t really see a problem with traffic. I go all different times of day. I just wanted to add that. I know that is important to me as a resident and I have not seen a big impact. She is very scheduled so you don’t have dogs arriving at the same time. There is no one outside waiting. Her dogs may be outside at the time but there is really no excessive barking. Any of the people who do drive up if you hear barking that would really surprise me.

Jan Witter, Scotia: I have been a client of Tammy’s for the last 4 years and I would echo what others have said. I now have our second dog in daycare being dropped off at scheduled times and there are dogs that great you and there may be a couple barks at best. It is not excessive. If there was excessive barking, that is what Tammy does, she trains the dogs so they don’t do that. This is our second dog and she is working on training to become a therapy dog. Our last dog did have behavioral problems and absolutely loved it at Tammy’s. I am in support of them because they are wonderful

Marissa Herbert: This relates to the barking. My boyfriend has a carpet cleaning business and we were there just this past week and not once was there any barking as the machinery is cleaning.

Tiara Antonovich, 1567 Division Street: I don’t think this is totally off track to have residents of Charlton speak about why we need this business in a residential area. I honestly love Tammy and her service. I drop of my dog two days a week for the last 4 months before and after work and I am the only one in the driveway. I am not waiting. 95% of the time its just me in the driveway there is not a slew of cars. Its usually between 7:30-8:30 am and 4:00-5:00 p.m. I am not hearing a lot of barking at the times I am there.

Gregg Stevens, 1136 Peaceable Street: We have in the attendance here at least one active cattle farmer who has explained the negative affects being adjacent to a kennel has already had on his farm, his home and his herd. I encourage the ZBA to consider that especially in a right to farm community. The burden of allocating a special use consideration such as a kennel should fall upon non-agricultural uses. Raising cattle in the AG district is allowed by right, in fact it’s a land use preferred in the zoning code over almost all others and a special use case should not adversely affect one’s ability to raise cattle up here or just to simply live in peace.

Jim Leupold: Anyone else?

Board member Keenan made the motion to close the public hearing. Board member Ellms seconded the motion. All were in favor.

**DELIBERATIONS**

Attorney Smalls stated that it is important to note that a noise complaint has never been filed prior to the sign being installed on the property. Attorney Smalls stated that if it was a problem complaints would have been filed. Attorney Smalls stated that he does not believe that the ZBA has to distinguish between AG use or Special Use as it relates to kennels because there is a preference given to AG uses. Attorney Smalls stated that there is also preference given to an individual who exercises their first amendment right to purchase a home and utilize the land within the local ordinance which has implemented laws for special uses. Ms. Johnson and 30+ individuals have spoken in support and will testify to the fact of why this business is important to animals and families she helps on a daily basis.

The board has decided that they would like to review all the information provided this evening and have further deliberations next month.

**Sargent/Meilunas Application – Area Variance**

Mrs. Meilunas appeared before the board.

Mrs. Meilunas stated that they are looking to subdivide their property to create two new lots for their two adult children. Mrs. Meilunas stated that the proposed Lot 3 will need a variance because they only have 173.5 feet of frontage.

Board member Ellms acknowledged that a survey has been completed since the last meeting per the board’s request.

Chairman Leupold inquired if there was another way to accomplish what they are looking to do without the variance.

Ms. Meilunas stated that due to the setback from the horse barn, they cannot get two lots in the front and meet that setback.

Board member Keenan made the motion to schedule the Public Hearing for the September 12, 2023 meeting at 7:00 p.m. Board member Ellms seconded the motion. All were in favor.

**Stevens Application – Use Variance**

Eric and Sandee Stevens appeared before the board.

Mrs. Stevens stated that they purchased the property in 2013. Mrs. Stevens stated that part of the snowmobile trail is on the property. Mrs. Stevens stated that they are not looking for tents, pop-ups, RV’s, etc. as they are looking to do more of a “glamping” type operation. Mrs. Stevens stated that they are not looking for a giant campground where there will be big parties or lots of noise. Mrs. Stevens stated that they would like to use something like a geodesic domes or safari tents. Mrs. Stevens stated that they would like to do 3 sites on their 25-acre property. Mrs. Stevens stated that site 1 has already been cleared and site 2 is somewhat cleared.

Board member Ellms inquired about the tents.

Eric Stevens showed pictures to the board of what the tents may look like.

Mrs. Stevens stated that they eventually would like all 3 sites to be opened year-round since they are on the snowmobile trail.

Board member Ellms inquired about parking.

Mrs. Stevens showed the existing driveway and the locations of the sites and parking.

Board member Ellms inquired if they had background in running a business.

Mrs. Stevens stated that Mr. Stevens is self-employed.

Board Attorney Craig stated that there are three major things that need to be addressed. Board Attorney Craig stated that the type of shelter needs to be finalized, bathroom services, whether it be another water source and sewer source or if it will be tied into the existing services, the criteria for a use variance. Board Attorney Craig stated that there are 4 criteria for a use variance where all 4 have to be met, including financial evidence as to why the use variance is needed.

Mrs. Stevens stated that they will look into it.

Board Attorney Craig inquired if there were any streams or wetlands on the property.

Mr. Stevens stated that there is a small pond in the back and they have a letter from DEC that there are no wetlands on the property.

Chairman Leupold inquired about signage.

Mrs. Stevens stated that they would have a small sign and markers on the trees so that any one staying there will know where to go and what trails to stay on.

Board Attorney Craig inquired if there was any hunting done on the land.

Mr. Stevens stated no.

Board Attorney Craig stated that the applicants should come back next month with more information and that the application should be referred to the town engineer, town planning board, and Saratoga County planning board for comments.

**New Business**

None.

Board member Ellms made the motion to adjourn, seconded by Board member Keenan. All were in favor.

Meeting adjourned at 8:32 p.m.

Respectfully Submitted,

Kimberly A. Caron

Recording Secretary