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JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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WILLIAM ROSSITER
JOHN STARACE
JULIE MCKEON

ZONING BOARD OF APPEALS MINUTES

NOVEMBER 14, 2019

PRESENT: **CHAIRMAN: JOHN MAXWELL, VICE-CHAIRMAN: PHILIP AGLIETTI**
SILVIO BALZANO, ROSE FABIANO, JULIE MCKEON, WILLIAM ROSSITER, JR. &
JOHN STARACE

<u>APPLICANTS</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Ross Fumusa	53.20-1-20.2	1 – 2	Requested Variance Granted
Stacy Hirsch	66.13-1-7	2 – 12	No Action Taken
Wayne Lutz	65.17-1-14	12 – 13	Requested Variance Granted

The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Dawn M. Andren

NEW APPLICATIONS

1. Application of **ROSS FUMUSA** for a Variation of Section 156.15 seeking permission to retain existing 8' x 8' shed. The property is located at 261 Wixon Pond Road, Mahopac NY 10541 and is known by Tax Map 53.20-1-20.2.

Code Requires/Allows	Provided	Variance Required
10' - side	1'	9'

- Mr. Ross Fumusa of 261 Wixon Pond Road, Mahopac was sworn in.

Chairman Maxwell asked how long has the shed been there for.

Mr. Fumusa replied approximately 3 years.

Chairman Maxwell said and you didn't realize you needed a permit.

Mr. Fumusa responded no; we bought it at Home Depot as a clearance item so they delivered it on a truck; we just got it to hold our kids ride-on toys and summer toys. It was a small shed so we didn't realize that we needed a variance for that.

Chairman Maxwell said I was up there the other night. It's between trees and pretty secluded but it looks like your driveway is an easement?

Mr. Fumusa replied it is.

Chairman Maxwell asked is there any potential for someone to build on that piece of property or is that land-locked.

Mr. Fumusa said we've been there for 15 years and I don't even know who owns the property next door. The last I heard, someone else bought that property so they could have an easement off the driveway to go to the left to develop the land back there but that was years ago. I'm not sure and haven't seen anyone there since we've been there.

Chairman Maxwell said it's an unusual situation with that easement there. I don't see any major issues with it; it's a pretty significant variance but it's a different situation. There's no property you can buy to bring it into conformance?

Mr. Fumusa replied no; I sent pictures to Dawn Andren. In our back yard, it immediately goes down hill to watershed. I remember the builder said we weren't allowed to put any kind of structure so close to the watershed and we didn't want the truck to drive over the septic fields in our front lawn. There's really no place to put it anywhere besides where it is because everything is rocky, hills and watershed. Also, so the kids have access to it to get their toys and go to driveway.

Mrs. Fabiano asked why is this coming up now?

Mr. Fumusa replied I'm not sure.

Mrs. Fabiano said you got a letter from Town?

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Mr. Fumusa answered yes.

Chairman Maxwell asked if there was any input from the public on this application of which there was none.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Balzano with all in favor.

Decision of Board:

Mrs. Fabiano moved to grant the requested variance; seconded by Mr. Rossiter with all in favor.

2. Application of **STACY HIRSCH** for a Use Variance seeking permission, pursuant to Town Law 267-b (2 to continue a dog boarding kennel in existence since 2004; violation served 12/31/18. The property is located at 311 Drewville Road, Carmel NY 10512 and is known by Tax Map 66.13-1-7.

Mr. Balzano recused himself from hearing this application.

- Mr. William Shilling, Esq. representing the applicant appeared before the board.
- Ms. Stacy Hirsch of 311 Drewville Road, Carmel NY 10512 was sworn in.

Mr. Shilling stated the property in question at 311 Drewville Road has been used as a kennel since 2004. She used it, initially, as a training facility for a number of dogs and it has expanded over the years to a kennel. The property consists of approximately 2 acres. It's zoned residential. On the property is a two-story frame with a large heated 4 bay garage, flagstone patio, fences and runs that come with a kennel. A large part of the neighboring property is undeveloped; it's NYC land. It's a very forested and secluded area for the dog kennel. It's interesting to note that my client's predecessor used the 4-car garage as a car detail or car repair shop. It was also used, of course, as a single-family house but the person used it, in part commercially, as a car repair.

Chairman Maxwell interjected did he have it as a legal.....?

Mr. Shilling replied no; not to my knowledge. I checked the assessment cards and it wasn't noted as such.

Chairman Maxwell said so almost like a hobby.

Mr. Shilling responded except that it was a pretty heavily commercial place. It was a busy place for people to bring their cars to get detailed or repaired. What we're seeking is a Use Variance per the application. This is a kennel that's been in existence since 2004 and prior to that, as I mentioned, it had some resemblance of a commercial use as a car repair. There is someone in the audience, Stacy tells me, that actually brought their car there. In support of our application is the affidavit of the applicant. We submitted a memorandum of law. We submitted the minutes of a 2007 meeting where Happy Days Kennel sought and received a Use Variance for an expansion of their pre-existing, non-conforming kennel. That kennel is on Route 6 and has residential neighbors much closer to the kennel than is the case here. The nearest neighbor to my client is over 500 feet away. The other one is about 600 feet away. So, the variance in question was in 2007 and they applied Use

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Variance Standards. Significantly, Mrs. Fabiano and Chairman Maxwell were on the Board at the time and you applied Use Variance standards to enlarge a pre-existing, non-conforming kennel. The facts of this matter is that in 2004, my client purchased the property. She's a licensed dog trainer by the State of New York; had a business in Peekskill when she came to her Carmel site. Her purchase price was \$450,000 and she and her three children live on the site. They attend Mahopac School District. Stacy believes she could use the building as a dog training facility – very modest and not unlike a home occupation albeit not a home occupation as recognized by the Town. She's going to use the 4-car garage for that purpose. She believed, in time if she did expand, she would seek the necessary approvals for a kennel; it was subject to legalization. She started with the dog training program and then it gradually developed into a full-blown kennel. Today, many Carmel residents use the kennel for their own dogs and she currently employs 5 employees. I submit to you that this property is ideal for a kennel. I think it's significant and that you should know there's no definition for "kennel" in your Code. I would submit to you that it's better, even though it's not in the Code in either capacity: commercial or residential, that a kennel belongs in a residential area provided it's not very close to a sub-division or a neighborhood. I would further submit to you a commercial approval for a kennel can wreak havoc on commercial neighbors. I don't think any person who goes into a mall, for example, would like to be next to a kennel; restaurants, whatever. It's not an appropriate place for a kennel. This is an appropriate place for a kennel. It's secluded; it's undeveloped; it's surrounded by NYC property; it's heavily wooded; it is in close proximity to a shooting range. However, it is residential in nature but surrounded by large undevelopable properties. As I said, there's no entitlement to kennel in your Code; there's no definition. Also, as I said, I think kennels, for example in the Town of Kent, you can do residential zone as a special use permit. It's nowhere found here. I do think it's significant that this Board, not too many years ago, found that an expansion of a kennel use – pre-existing, non-conforming – applying Use Variance standards was appropriate and it did so. Immediately next to that kennel were a number of neighbors who appeared. I think it's important that this Board recognize that kennels belong in residential areas even though it's not marked as such and it's not permitted as such, it's the best place for a kennel to be. Stacy is a single mother. As I've said, she has 3 children in Mahopac Schools. One child is special needs. During her early stay, she had financial problems because of her marital break-up. As a result, the dog training became more of a dog kennel because of the need to pay the mortgage. Her mortgage fell into default; she entered into a modification agreement. I've provided you the coupon for what her payment is now. It's \$4,400 a month which includes taxes and her outstanding balance on her mortgage is \$632,000. That's because of the falling into default and the interest accruing. She has mortgages and liens on the property of \$632,000. I've given you an appraisal that shows the house, as a residence is worth, \$506,000. So; she's \$126,000 under water and that doesn't include any of the capital improvements that she's made over the 15 years. In all the time she has toiled on the site - the grading, the fencing and the things necessary to run a successful kennel. Not even included in the numbers that I've provided you, on December 28th I think it was, Mr. Denis Marousek served Stacy with a violation and we are here tonight for that reason. On the issue of law, we're here pursuant to 267(B) of the Town Law. There's always been a question as to a commercial user having to go to Planning first or come here first. I believe the correct answer to that is, as it is in the Code, the Board of Appeals from a decision or a determination of the administrative official, shall have the power to grant Use Variances so that an existing user has the right to come here initially and seek a Use Variance. There's no question that she has to go to the Planning Board to get her site plan approval if we're successful tonight. Conversely, a proposed commercial use requiring a Use Variance has to go to the Planning Board first. I respectfully submit to you that we're here tonight because we're allowed to be because the law permits us to be. We're seeking a Use Variance of 267(B) of the Code envisions. As I told you previously, it's important that

APPROVED

you note that there's no place for kennel in the Town of Carmel *Code*; there's no definition. But; in fact, four of the five kennels that I found in the Town of Carmel are in residential zones – four out of five. They are: the subject site, Happy Days on Route 6, Stone Meadows, Austin Road and the one kennel in a commercial setting is Pawsitively Petastic and that's ~~not~~ a stand-alone building. There are no commercial neighbors on either side to disrupt and, certainly, kennels can disrupt with the noise and the smells. That's why, in my opinion, this is perfectly suited to where it is. I submit to you that maybe the framers of the Code deliberately left it out because I don't think they wanted to put commercial, as of right, kennels in commercial zones. I don't think it fits. I don't think I'd be happy if I had a commercial use and found out that there would be a kennel right next door to me. So, four of the five kennels in this Town are on residential properties. While it's not specifically permitted, I submit to you that the Town has seen to it that this is where kennels belong. Nevertheless, we're here to talk about Use Variance standards. The first one is reasonable return or economic hardship. I told you that my client's purchase price was \$450,000 but because of personal issues, falling behind in her mortgage and modification of her outstanding principle interest is now \$632,000. On an appraisal that came in at \$506,000, she's \$126,000 under water. That doesn't include all the time and all the money she's spent in creating a business that has been successful. I submit to you that a denial today would be a catastrophic loss to my client. It would mean short sale perhaps and bankruptcy perhaps. I don't believe the Zoning Board has the cause to deny on this ground. It's a public attribute. I think there are people here to talk about the good that Stacy does for her clientele. I believe that economic hardship and reasonable return are shown. I've also given you case law that says that if the neighborhood won't be changed, case law says the need to show economic hardship is, at least, reduced. I believe the economic hardship that we're showing today is significant enough in any Use Variance context, not just one where we're looking for a downgrade of that level of standard. This is a unique application. There was a commercial component before. It's unique because it's had a gradual expansion for 15 years. It wasn't meant to be a kennel from the very beginning but personal things made it turn into that. My client is a licensed dog trainer; she's been in the business for years; she's developed an expertise that people in this Town have found to be attractive and necessary. It's unique because no where in the Code is kennel defined or permitted. I think it's unique because if you see the aerial, the nearest dwelling to my client is over 550 feet away. Another one is 600 feet away. I think it's unique because of the public benefit it provides the Town of Carmel and the 5 employees that she has hired. With regard to the neighborhood, this is the most important criteria. The courts have said that and this is our strongest attribute. It's wooded; it's secluded; it's isolated; it's surrounded by DEP property that will never be developed. She's succeeded someone who was using it, at least partially, as a commercial use. She's been in business 15 years; there's no change in the neighborhood. Eighty-five percent of the kennels in Carmel are on residential areas. This Board, in 2007, found Use Variance standards for an expansion of a kennel with non-commercial neighbors much closer than any are to Stacy's property. If you have concerns, know that my client has to go to the Planning Board for site plan approval if this matter is passed over to the Planning Board. With regard to self-creation, the reason we're here is, in large part, because it was meant to be a small dog training and then it expanded because of the financial hardships that she's endured plus the failed marriage. I believe it's not self-created that she's here. Even if she was mistaken in the idea that she could run a dog training place, good faith mistakes should not result in the denial of a variance. I'll conclude just by hitting the points I've hit for the last 5 minutes. It's a perfect site for a kennel - its size, its seclusion; previous commercial user – it's a kennel since 2004; four out five kennels are residential in Carmel – the other one is a standalone; the catastrophic consequences that she would incur if you rejected this application; 5 jobs – public need. I don't think there will be any opposition. As I conclude, I just ask for you to show your understanding and compassion. I'm not asking you to

APPROVED

abrogate your responsibility; you have to find Use Variance standards but I submit to you that they're here tonight.

Chairman Maxwell said I was out there the other night; the coldest night of the year so far and sure enough, with the leaves down, you could see the furthest house away seemed like miles in either direction. I didn't spend too much time there because it was so cold but it was well kept and maintained. I saw the run in the back with a turf type.....which is a nice comfort for dogs.

Mrs. Fabiano said where exactly are the dogs staying and where will they be on the property because I was also out there.

Ms. Hirsch said I'll show you here (at map). Back here, this structure which is in the back of the house, that's where the dogs stay. That's behind this fence. This is my house and car garage.

Mrs. Fabiano said I wasn't sure where the dogs stay and where the dogs go out to play.

Ms. Hirsch said it's here; this is the inside. It's just rooms; it was the old garage that the prior house owner was using for his cars. I basically put up some walls and the dogs stay in there and then they go out in the back yard.

Mrs. Fabiano said and they are fenced in completely I assume.

Ms. Hirsch replied yes; this is all fenced in.

Mrs. Fabiano what is the total number of dogs you could have at one time.

Ms. Hirsch replied it varies; we base it off the size of dogs and temperament – who we can put together. I have four different rooms – each room can hold up to 10-15 dogs if needed.

Mrs. Fabiano said so you could potentially have 60 dogs there at one time.

Ms. Hirsch responded I could hold up to that many dogs over maybe a Christmas Holiday week when people are traveling.

Mrs. Fabiano said that's a lot of dogs.

Ms. Hirsch replied it's not when you do this and it's pretty organized. They're in playgroups and they're friendly, family dogs that we take in.

Mr. Shilling interjected if I might mention the Zoning Board decision that you came to in 2007, this was a pre-existing, non-conforming; I think it was limited to 85 dogs.

Mrs. Fabiano said there's a shooting range nearby. Does that spook the dogs in any way?

Ms. Hirsch responded sometimes if we're outside training with the dog in the driveway, we can hear it. Once in a while, they'll look around but it's not loud enough.

Chairman Maxwell said the shooting range is much further down their property. It's almost a ½ mile going to where the targets are.

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Mrs. Fabiano said as Mr. Shilling said, both Chairman Maxwell and myself were here for the other kennel on both of these properties. Yours and the other are both on busy roads – Route 6 & Drewville Road; both are double yellow-lined roads so it gets a lot of traffic. It's not if it's a very close neighborhood with a little cul-de-sac. It's much more populated as far as traffic goes.

Chairman Maxwell said the house is pretty much up a steep hill so it's not even accessible to any of the dogs. I wouldn't think you take them down there?

Ms. Hirsch replied no; we don't even walk down there.

Mrs. Fabiano asked will you be putting a sign up at some point?

Ms. Hirsch replied I wasn't planning on putting a sign up; it's my house. I like that it's my house and it's residential. You really don't even know that there's a business there which I do like about it.

Chairman Maxwell said you work more by word of mouth?

Ms. Hirsch replied I have a lot of training clients that I've had for over 20 years so I have a lot of clients that have been using me for that long.

Chairman Maxwell said if you do put a sign, you'd have to come back for a variance for that too – right Mike?

Mr. Carnazza replied it depends on what size. That's one of the questions I had. Who licenses your profession?

Ms. Hirsch replied there's not really a standard license; I actually did go to a dog training school back in 1996.

Mr. Carnazza said so it's not a New York State license.

Ms. Hirsch no; there's not really any kind of license.

Mr. Carnazza said that would have helped you because then you could do a professional office in the home and that is permitted.

Ms. Hirsch replied unfortunately there's not.

Mr. Starace said outside of the kennel – the dogs are allowed to be outside?

Ms. Hirsch responded yes; we take them out in the backyard. You can see the fencing here. I don't have the whole back yard but Chairman Maxwell was there the other night and we went into the backyard.

Chairman Maxwell said to Mr. Starace yes; it's pretty sizeable. It's all turf.

Ms. Hirsch interjected it's actually a special dog turf. They make it so there's drainage and it's easy to clean and hose off. So, this fence goes straight across the driveway and then it goes all the way around the back to the other side.

Mr. Starace asked how high is the fence.

APPROVED

Ms. Hirsch replied it's 6'.

Mr. Starace asked have you ever had a dog jump over that.

Ms. Hirsch replied I don't think so.

Chairman Maxwell said she has a swing set that's totally segregated from the business part of it.

Ms. Hirsch interjected that's my backyard so on the other side is my house

Chairman Maxwell interjected it's segregated with a fence and it's well screened.

Ms. Hirsch continued there's a 6' fence that goes across my backyard so my kids can play on one side and the dogs are on the other side.

Mrs. Fabiano asked what do you do with the waste. How do you store it and how do you get rid of it?

Ms. Hirsch said just like my own dogs, I bag it and put it in the regular garbage.

Chairman Maxwell opened it up to the public for input on this application.

➤ Margaret Rizzuto of Carmel, NY was sworn in.

Ms. Rizzuto said I've known Stacy and her family for over a decade; she is a very intelligent business woman and extremely community oriented. I have a photography studio and I've had the pleasure, over several years, of working with her by doing fundraisers for the ASPCA where a lot of goods and money has been donated. I've actually used her services as well with my own dog and despite the fact that I have a dog, I'm not a dog person so I tend to be really sensitive to dog smells and things like that. I have to say that whenever I've been to Stacy's house or business, never any smells, noise. I've always been really impressed by the cleanliness and organization of it. I think that if Stacy's business and services were not available, it would be a disservice to the community. That's what I wanted to say.

➤ Sharon Powell of Putnam Valley, NY was sworn in.

Ms. Powell stated I have a dog that I adopted some years ago. She's a pit mix and she had been wandering the streets of the Bronx before she was found. She was only a baby. When I brought her home, I needed to find a place for her to play and run around. I tried a couple of different kennels and the kennel who I found before Stacy, who was supposed to be a trainer, told me she has behavioral problems and can't stay here. No trainer can fix this. I was freaking out because I was going on vacation and I needed some place to put her. My groomer told me to check out Stacy so I did. She (Stacy) said bring her over for a day and let me evaluate her. I brought her there. Stacy said we can fix this. Bring her here for the training session and we'll see how she does. She went and was trained by Stacy. She turned out wonderful. She is obedient; everybody loves her. I bring her now once a week to go play and be socialized to reinforce her training. Whenever I need to board her, that's where I bring her. She loves to go. If I tell her you're going to go see the puppies, she comes sits and waits for me to put her collar on. They love her there. I know

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she gets perfect care and they're so considerate of her needs. Now; she's 8 ½ years old and still goes to Stacy. She still loves to go there. I don't know what I would do if she wasn't there as I couldn't put her anywhere else.

➤ Danielle Whitmarsh of 37 Carolyn Road W, Carmel NY was sworn in.

Ms. Whitmarsh said I used to be the kennel manager for Guiding Eyes for the Blind; I did it for 13 years. I have been at Stacy's home and kennel multiple times and many different times of the day. I have to say the same thing. It's clean; it's quiet; you wouldn't even know that she has dogs in the back. I've raised 7 healing autism dogs and a few new dogs for BluePath and Stacy helps me socialize them. She really contributes her time and energies. I did want to make a mention that when I was managing Guiding Eyes for the Blind, we did have a similar situation. We were built in a residential area and the variance had come up. I actually worked with Mr. Balzano for years and the same situation came up in both Yorktown and Patterson. They saw the good in the community. Her dogs are well behaved. I've tried 3 or 4 kennels in the area before finding Stacy and I have to say none of them compare to care, cleanliness and support that they get here.

➤ Dan Goldstein of 320 Shear Hill Road, Mahopac NY was sworn in.

Mr. Goldstein said in full disclosure, my family and I have been long time friends with Stacy and her family. I also have utilized her services. Three years ago, Stacy gifted me my dog so I thought I should probably have my dog trained with Stacy. I'd just like to echo some of the remarks of the others in terms of the quality of her business and the cleanliness of her property. She maintains the utmost professionalism. It's quiet and I think the service that she provides, for nearly 15 years, is important to people that have come to depend on her not only in our community but in surrounding communities. I also just wanted to appeal to the human, sensitive side of this case; that is to reiterate what her counsel had said which is a single mom, self-supporting her 3 children and it would be a shame to impose any kind of burden. I think we can all appreciate having 3 kids – one of which is special needs and what that would do to the family.

➤ Laura Pereira of 114 Wellington Drive, Carmel was sworn in.

➤ Ida Stepinac of 45 Blossom Lane, Carmel was sworn in.

Ms. Pereira stated first, I've lived here for over 20 years and you've never seen my face here because there's not many people who would bring me out to speak on their behalf. Stacey is definitely one of those people that brought me out on the coldest night of the year. She's a neighbor and the question is what do you want in a neighbor. I want my neighbor to be someone who is at the Mahopac Public Schools every day, dedicating her time to all of our children and they are all members of the school system also. Stacy volunteered at that school – public school, didn't have to – wasn't a paid position – was there helping the children of Mahopac. If you could quantify that – what she did for the District, what she did for the Town, that alone is kind of deserving of some extra compassion. I want someone who volunteers her time to rehabilitate dogs to get them back into the world and be more wanted and adopted. I would like a neighbor to be a safe place. My own child has spent time there. I've never worried that she would be unsafe with all of those dogs. I've never even thought of it. I've even asked my daughter if she's ever heard them and she doesn't ever hear them there. She's spent time, feels safe, comes home and doesn't smell like dogs; when people leave my house, they smell like dogs. They leave there, they smell better; I

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don't know how that's possible but it is. Last but not least, I want my neighbor to be a good person who gives to the community, doesn't take from the community and I want my neighbor to be Stacy.

Ms. Stepinac said I just want to echo Ms. Pereira's thoughts at the risk of being repetitive; I'm actually newer citizen of Mahopac. I've only been here for four years and I absolutely love living here. It's people like Stacy that have really embraced me and my family in this community. It shocks me how a single mother of three does what she does. It actually shocks me. I don't know how she does it and just one small sentiment – her volunteerism is really unbelievable; so unbelievable, that when she left Fulmar Road, she was so stressed out that there was someone to fill the shoes for the important projects. She went out of her way to groom and assist me to make sure that these kids – there's not a lot of volunteers; it's always the same people. This woman brought me in because she was so concerned that there would be no one to take over for all the work that they had done. Because of her, I took that on and she even came back to the school without her own children there to help and pass the baton. This is an incredible person in the community. This is the kind of citizens that we like to see in Mahopac and this is why I love living here – because of people like her. I'm very lucky.

➤ Kristin Muscarella of 321 Bullet Hole Road, Mahopac was sworn in.

Ms. Muscarella said I've known Stacy for about 12 years now. Our kids went to preschool together and we became friends. We went there for some playdates. To be honest, the first few years, I didn't even know she had a dog business at the house. I didn't smell anything, didn't hear anything, didn't see anything and then as we got to know each other, obviously I found out she had a dog business. I was a boy scout leader and she opened up her home and business to the boy scouts and did some training sessions with the dogs. I also had a tragedy in our family. We lost our 7-year-old cousin and when she passed, her parents asked that we just support our local humane society because my cousin loved dogs. Stacy, once again, opened up her home and we did a big fund raiser in her name and we donated a bunch of stuff to the local Putnam Humane Society. Anything I've ever needed from Stacy – she's always there.

➤ Lisa Yurko of 51 Crafts Road, Carmel was sworn in.

Ms. Yurko stated I want to support Stacy. I'm a close neighbor. I never hear the dogs; I've been to her house personally also. I just want to reiterate pretty much everything everyone else has said. It's very clean; always great. On a personal level, she's actually helped me with a rescue dog that I had taken in and helped with training. It's been great so she really is a great asset to the community. I totally support her and hope this passes for her.

➤ Kim Stern of 26 Troxell Trail, Carmel was sworn in.

Ms. Stern said I've known Stacy for as long as we've had Bad Mikey's open because she came to us originally. She's always been a positive role model. She's a strong woman who, I believe, needs to be in business with her family. As a female, she is an awesome role model. She's helped us. We have 4 dogs and every time we've had a new puppy, it's was "Stacy, what should we do?" and she was always helpful to us. We lived by her house forever and didn't know that she had the business there until we actually went to her house. I said this is amazing; how in the world..... you would never see it from the road;

APPROVED

you don't see it even when you drive up. You don't see it unless you actually go into her house to see it. It's kept clean, I love her business; it's awesome.

- Christine Geller of 56 Watermelon Hill Road, Mahopac was sworn in.

Ms. Geller said I've known Stacy about 12 years. Our kids started preschool together at the Hampton School. We had some playdates at her house. Unlike most of the people here, I'm not a dog owner. I started going to her house when my kids were really little and in preschool; they would play in the yard and at the house. I knew she was a dog trainer but I had no idea that her business was there. It wasn't until years later and the kids were a little older and in cub scouts that she volunteered to do some training; we did a Putnam Humane Society fund raiser there; that's when I actually found out the whole business was there. My kids had been in the yard and as a person who doesn't have a dog, I would think I'm a little more sensitive to the sounds, smells and all that. I knew she had her own dogs but had no idea that all this was going on. Stacy and I have done a lot of volunteer work together. We ran two of Fulmar's auctions; she's raised a lot of money for the community and as the years have gone on, she now volunteers at the Middle School but she ran a 3-week long book fair. Stacy has always been there doing all these things. In addition to everything that she does and as some other people have said, if this were not be able to go through for Stacy, I think it would be catastrophic for her and her family. Hopefully you'll allow a business that has been going on and doing very well for her, her family and the community to continue.

- Farrah Ballard of 77 Drewville Road, Carmel was sworn in.

Ms. Ballard stated I'm one of the closest neighbors. I just want to reiterate what everyone has said. I've worked with her volunteering for the school and other places as well. I just have to say that when I've gone to her house, I had no idea there was a kennel. I've never actually been inside the kennel because I am a cat person. She's actually helped me overcome my fear of Dobermans so she's an excellent trainer as far as I know.

- James Pfeifer of 125 Drewville Road, Carmel was sworn in.

Mr. Pfeifer stated I've known Stacy for about 15 years. I was her account manager at a bank. A few years later, we both had children of the same age who are now best friends. I've worked with Stacy on multiple fundraising events throughout the Fulmar Road School District. I can't believe how much she does for the community. Living on Drewville Road, I hear the gun range all the time; I never hear Stacy's dogs barking. I've been to her house multiple times. My daughter has slept there; the kids have never come home smelling like dogs. She has two Dobermans. Some people are afraid of Dobermans but when you walk in the house, they don't move. They sit still and you never have to worry about your children. I've always wanted a dog. I had parents that never wanted a dog. My wife never wanted a dog. I have a 10-year-old autistic son who has always wanted a dog. Without Stacy's help training and guidance, we would have never gotten a dog a year ago. Her training, compassion, attention from the staff and her that she has been able to give the dog that we own, my son would not be able to have that companion. He takes the dog for a walk and I don't even have to be concerned; the dog follows all of his commands. Stacy's lawyer said her kennel grew out of a need for income but it grew out of her compassion, her love for what she does, the confidence her clients have in her. There's a ton of good things

APPROVED

here. Being a neighbor, a client and a friend, I ask the Board to please consider moving this forward.

Chairman Maxwell asked is anybody AGAINST this application tonight?

Mrs. Fabiano said I have one more thing. Would you be opposed to the same conditions that were applied to Happy Days – that being no more than 85 animals and no animals are to be left more than 30 minutes outside?

Ms. Hirsch replied yes.

Mrs. Fabiano said you're okay with those provisions.

Ms. Hirsch again replied yes.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

Mr. Folchetti (Board Legal Representative) stated if you're inclined to take an action on that particular application tonight – that is a motion to grant either in part or a whole, - it can't be done tonight. There's no Planning Board application so you're charged with SEQR and you don't have any SEQR documents in front of you. You can close the public hearing; Mr. Shilling can submit an environmental assessment form and then you can go through the environmental assessment form the next time you meet. You can make a SEQR determination at that time prior to taking any kind of positive action if you're inclined on the application. Typically, these come in here and there's a Planning Board application so the Planning Board acts as lead agency. Right now, this is first instance where the applicant is here without a Planning Board application so you have to be the lead agency on this portion of it. You haven't declared yourself lead agency; you don't have to do a coordinated review but there at least has to be SEQR materials before you: a short Environmental Assessment Form (EAF) for your review and consideration and then you can make a determination as to whether you want to be lead agency and then take a SEQR action and you can vote on the application.

Chairman Maxwell said my only question is there is a violation from last December.

Mr. Folchetti responded that's also stayed. As long as there is a pending application before the Zoning Board of Appeals, Town Law prohibits the prosecution of that action in local court. I don't know if it's ripened into that or it's just a notice of violation but it can't be enforced against the applicant as long as you're pending here.

Mr. Shilling stated the only thing that I would request is this matter has been noticed, the public has been notified, people have been heard; I have no objection submitting the EAF but I believe the public hearing could be closed tonight and you just await an EAF to make your final vote.

Mr. Folchetti interjected that's exactly what I'm saying. You don't have to have any further public hearing if you don't wish but your determination should be made after there is a SEQR review and that can be done in the 60-day period from the close of the public hearing.

Mrs. Fabiano asked there is no need for site plan approval.

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Mr. Folchetti replied that's an entirely different thing. If they need site plan approval, they'll go to the Planning Board and the Planning Board will be the lead agency on that particular portion of the application. As of right now, this only pertains to "use". It doesn't have anything to do with the physical characteristics or whatever the parking requirements are, stormwater or anything to that effect. The Planning Board will have to be lead agency for that but this is a little unique because this is a violation and the applicant has come to you first for the "use" related relief and that just charges you with the obligation of SEQR.

NO ACTION BY BOARD AT THIS TIME:

Greg Folchetti, Esq. stated the public hearing is closed; you can just start deliberations again at your next meeting and make the SEQR determination. You're not holding it over. Holding Over means the public hearing is continued and it's not. The next time you convene, you can take action.

3. Application of **WAYNE LUTZ** for a Variation of Section 156.15 seeking permission to retain existing gazebo. The property is located at 230 East Lake Blvd., Mahopac NY 10541 and is known by Tax Map 65.17-1-14.

Code Requires/Allows	Provided	Variance Required
Rear yard – 15 ft.	0 ft.	15 ft.

- Mr. Joel Greenberg, Architect of 2 Muscoot Road North, Mahopac was sworn in.
- Mr. Wayne Lutz the applicant of 230 East Lake Blvd. was sworn in

Mr. Greenberg stated if you've been to the property, this was a piece of property that was approved by the Planning Board many, many years ago. The property has been improved and it's been extremely well maintained. We're here tonight to get a variance for a gazebo which is put right alongside – I've highlighted this tree which you can see over here and the gazebo which is right next to it. We need a variance to keep the gazebo in its location. It's basically at the edge of the property line. It actually goes over the property line so if the variance is granted, there may be other situations which we have to address but we can't do that until we come to the Zoning Board.

Chairman Maxwell said because you're right up against the Lake – right?

Mr. Greenberg replied yes.

Chairman Maxwell said there's no other property you can purchase to bring this into conformance.

Mr. Greenberg responded on both sides, it's already been addressed. If you look at the property, you'll see that both sides have been.....

Chairman Maxwell interjected how long has it been there for?

Mr. Lutz replied approximately 6 or 7 years.

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Chairman Maxwell said you didn't know that you needed a permit for it?

Mr. Lutz replied I bought it from Home Depot as a kit. Assumed, because it didn't have any sides or foundation.....

Mr. Starace said this column, is that steel under that?

Mr. Lutz responded it's aluminum columns and then I put wood and rope around it.

Mr. Starace said and it's been up for 7 years.

Mr. Lutz replied yes; approximately.

Mr. Starace asked did you ever have any issues with it falling down.

Mr. Lutz responded no; it's actually held up very well.

Mr. Starace asked is there electric in there.

Mr. Lutz replied a plug through the power from the docks.

Mr. Starace asked what's the size of that.

Mr. Lutz replied 10' x 10'.

Mrs. Fabiano asked why is this coming up now. Is there a violation?

Mr. Lutz responded there is a violation but it was picked up from the title search company. I'm trying to sell the property.

Chairman Maxwell opened this application up to the public for any input of which there was none.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

Decision of the Board:

Vice-Chairman Aglietti moved to grant the requested variance; seconded by Mr. Rossiter with all in favor.

MISCELLANEOUS:

No minutes were available for approval.

The meeting adjourned at 8:33 p.m.