

MINUTES OF DELAWARE TOWNSHIP BOARD OF ADJUSTMENT

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HYBRID IN-PERSON and VIRTUAL via ZOOM PUBLIC

DATE: October 12, 2023

Chairman Cline called the meeting to order at 7:30pm.

Chairman Cline read a statement noting that the requirements of the Open Public Notice had been met.

MEMBERS IN ATTENDANCE

Buchanan, Emmons, Fowler, Gilbreath, Manley, McAuliffe, Milesnick, Warren, Cline

PROFESSIONALS/STAFF IN ATTENDANCE

- 1) Laurie Courter, Acting Board Secretary
- 2) Steve Goodell, Esq. Attorney
- 3) Jim Kyle, Planner

Chairman Cline noted that Laurie Courter would serve as Secretary for this meeting.

Chairman Cline stated that on page 2 of the agenda, that the application for Greg & Josh Lynch has been postponed. They have given the Board until December 31st as they are working on a change to satisfy the County. The ZBOA will not hear them until they have County approval.

MEETING MINUTES: AUGUST 10, 2023

The Board voted on the motion of Mr. Manley seconded by Ms. Gilbreath to adopt the August 10, 2023 Meeting Minutes. Emmons, Gilbreath, Manley, McAuliffe, Warren and Cline were in favor. Milesnick, Fowler and Buchanan abstained and none opposed.

RESOLUTIONS: None.

REQUEST FOR INTERPRETATION OF ORDINANCE

SPARROW KING AND KURT HUMMLER, Block 4, Lot 10, 48 Locktown School Road

The applicant is seeking an interpretation as to whether an in-home dog boarding constitutes a home occupation as long as it is in compliance with Section 230-104 of the Township Land Use Code.

Erica Edwards, Esq, representing Sparrow King and Kurt Hummler reiterated the purpose of their appearance at the meeting.

Chairman Cline asked Attorney Steve Goodell, Esq. to confirm that the notices for this meeting were in order. Mr. Goodell responded that the newspaper and neighbors were adequately notified, that the notice accurately describes the relief sought and the time and place of the hearing. He finished by saying the Board has jurisdiction over a matter of this nature.

Chairman Cline then announced for the record that the meeting is hybrid, both in-person and on zoom.

Ms. Edwards stated that they have three witnesses: Ms. King, Architect Thomas Chauvette from Washington Architecture Group in Morristown and Planning Consultant Dave Roberts.

Chairman Cline explained the procedure for testimony. Once the witness has testified, the Board will question them. The Chairman will then open the meeting to public questions, beginning with the attorney representing the opponents and then audience members will be able to ask questions.

Chairman Cline indicated that all witnesses will be sworn in and each will sit at the table with a microphone along with Ms. Edwards to testify. Mr. Goodell swore in all three witnesses.

In response to questions from Ms. Edwards, Ms. King provided the following testimony: She stated her name, address, length of residence, pet ownership (2 dogs & 2 cats) and when her pets were acquired. She confirmed that she is seeking an interpretation of the Land Use Code and that her intent is to offer in-home boarding, dog sitting. She defined that as treating the dogs as if they live at the house, no cages, no kennels or crates. Well socialized dogs stay anywhere from overnight to 3 weeks. Dogs are fed and cared for as pets for the duration. No grooming, no retail sales. However, she will clean and dry the dogs if they are muddy. Ms. King noted that she has conditional approval from the County Board of Health subject to Zoning approval of this project. Plans submitted to the Board of Health consisted of up to six dogs (not including her own) located in the back room of her house (and addition that was rebuilt in 2019). It also includes the use of the downstairs bathroom as a quarantine room if needed. She furthered that the work done on the addition was performed by a contractor and permitted. The Board of Health stated that dogs are to be walked on a leash, individually in the backyard to relieve themselves. No other outside use is allowed as the Board of Health requires that area to be impenetrable and her yard is grass. There is only a fence around her property and no equipment is stored outside. She has no employees; however, her husband helps as needed. There is no proposed signage. No website or social media. The business runs on word of mouth. She agreed that it is her testimony that she will fully comply with the requirements of the license granted by the County Board of Health in the event that she receives approval from the ZBOA and is granted that license.

Chairman Cline asked what qualifies a dog to be quarantined. To which Ms. King replied that communicable diseases such as kennel cough or if a dog was injured. Chairman Cline asked what if there is more than one dog to be quarantined, can both be kept in that room. Ms. King replied that yes, each would be crated within the quarantine room. Chairman Cline continued asking if Ms. King has a medical/veterinary background. Ms. King replied that she does not, but per the Board of Health, she has to have a vet oversee operations. Dr. Leone from Locktown Vet signs off once a year, but will respond to calls if needed. Chairman Cline asked if the Zoning Officer has stopped by to tell

her anything about her business. Ms. Kind said no, but he contacted her by phone, first saying that he was getting complaints from neighbors that she was running an illegal business in an area not zoned for it. He also reported a noise complaint. Ms. King believed it was likely her own dog barking and for no more than ten minutes. She furthered that a dog is not considered a nuisance unless barking for twenty minutes or more. Chairman Cline continued asking if there were any further phone calls. Ms. King said there were other complaints and then she was directed to shut down. She was notified during Memorial Day weekend. She kept her current commitments, but canceled any future paying clients. She did note that she had an arrangement with her neighbor to watch each other's dogs when the other is on vacation.

Board member Caine Fowler asked if Ms. King reviewed 360-7 of the ordinance. She replied that she does not know the sections by number. He stated 360-7 is the definition of dogs and kennels and that 124-9 also further defines how kennels operate in our township.

Board member Scott Emmons asked if her proposal to the Board of Health included six dogs. She clarified that she would have a total of 8 dogs, including her own. Mr. Emmons stated that 360-8 states six dogs total. She countered that it states intact dogs. Her dogs and any boarders are not intact. Her understanding is that the ordinance did include a reference to ten dogs total, but that was not part of the passed ordinance, so it is unclear how many dogs are allowed.

Board member Elizabeth Gilbreath asked how Ms. King proposes to keep six dogs in 278 sq. ft, uncaged for most of the day. Ms. King responded that she has large couches, the dogs sleep often and she takes them to the park to tire them out. She only takes well-socialized dogs. She first asked questions over the phone and then arranges to meet the dogs, sometimes consisting of a drop-off with her dogs and any dogs on site to confirm. Ms. King indicated that she had up to thirteen in that room in the past.

Chairman Cline asked if she was using another outbuilding. Ms. King responded no, that building had been part of the proposal at one time as a possible quarantine room, but has since been told the bathroom would qualify.

Board member Michael Manley asked Ms. King to describe her fence. She explained that it is a black, chain-link fence installed around about one acre of her property. Wood boards were then added to some sections as a result of neighbor complaints. She noted that it is still a work in progress as more funds are needed to complete it. Mr. Manley asked the height of the fence. Ms. King stated that it is a 6 ft. fence. He then asked how busy she is and whether she has dogs all of the time. Ms. King replied no, but summer is busier, typically four to five dogs at a time. Mr. Manley then asked how she switched from asking for a use variance to the interpretation. Ms. King answered that the process had been going on for four years and while preparing for the use variance, she decided that home occupation might be an easier route.

Board member Seth Buchanan asked if there are any other requirements for the dogs. Ms. King replied that they have to be up to date on shots, neutered or spayed. She's required to keep files on all dogs. Mr. Buchanan asked how many clients she has. Ms. King answered that she has about sixty.

Some of her clients are from her former home town. Clients know she has a six dog limit and book early.

Board member Scott Milesnick asked if the shot requirements include kennel cough. Ms. King said yes, Bordetella, but that there are other diseases that cause kennel cough, but Bordetella is the big one. Mr. Milesnick asked, barring an emergency, are dogs left unattended. Ms. King replied, no.

Chairman Cline inquired about a building they talked about last time and whether it is still there. Ms. King answered yes, but it is her art studio and storage. Chairman Cline asked if she'd be storing any equipment or food there. Ms. King replied nope. Chairman Cline then asked about improvements to insulation, as one of the biggest complaints is noise. Ms. King stated that the new addition is much better than the old one, so yes there is an improvement.

Chairman Cline opened the meeting up to audience questions, beginning with Richard Schkolnick appearing on behalf of Glenn Brewer, a next-door neighbor. Mr. Schkolnick started by asking for confirmation that the interpretation would be municipal-wide and that the presentation has been site-specific. Chairman Cline did not believe so, but deferred to Attorney Goodell, who confirmed that it would not, as there would be different facts for each application.

Mr. Schkolnick asked Ms. King if she operated for two and a half years without zoning and that it was an illegal operation for two and a half years. Ms. King replied that it was her understanding that she could continue operation while getting zoned as long as there were no complaints from neighbors. She explained, that is why checked with her neighbors, John Wagner and Glenn Brewer. Mr. Schkolnick asked Ms. King to answer yes or no to the fact that she knew she needed approval and she operated without that approval. Ms. King answered yes to both. Mr. Schkolnick asked Ms. King to confirm that the dogs are walked outside and that they are outside of the home when she puts them in the car to take them to the park. Ms. King added that they'd be on leashes. Mr. Schkolnick asked if those activities are outside the home, to which Ms. King replied yes. Mr. Schkolnick asked if Ms. King read 230-104 home occupation standard and that the definition states that it has to take place within the principal dwelling. Ms. King commented that if you're implying that I cannot take them to the park, I won't.

Mr. Schkolnick presented several documents. The first marked 01 - dated 2/2/23. Mr. Schkolnick asked Ms. King to confirm receipt of the document, which she identified as her resume. He asked if she prepared it, to which she replied, yes, years ago. Mr. Schkolnick read from the resume that Ms. King indicated that she offers off-leash socials, read the description that included her huge, fenced yard. Ms. King noted that some of the services are provided at the owner's homes. When asked again about the fenced yard, she stated that she didn't know the Board rules then, but has since learned.

Mr. Schkolnick presented documents marked 02. After asking Ms. King if she had reviewed them, she noted they were from the past. The document contained testimonials featured on her website regarding the use of the yard by dogs. Mr. Schkolnick then presented documents marked 03. A letter written by Ms. King to her neighbors apologizing for issues caused by her business. When asked what issues, she stated that she did not know as they had not been communicated to her. Mr. Schkolnick asked her to read further down in the letter. A section where she apologized for her dog

getting out onto neighbors' property and in one instance, another dog bit a boy. In the letter Ms. King apologized and stated that if she had known they were that upset, she would have offered to pay for the doctor's appointment. Mr. Schkolnick pointed out that the letter includes a hand-written apology to Mr. Brewer. Ms. King acknowledged that she lost her temper and that Mr. Brewer thanked her for her apology. Finally, Mr. Schkolnick presented document 04 – dated 4/25/19, a letter written by Ms. King. After Ms. King acknowledged the letter, Mr. Schkolnick read from a paragraph referencing backyard use. He asked Ms. King to confirm that at that time, she was using the backyard for dogs to run and play. She stated, correct.

Chairman Cline then opened the meeting up for public questions.

Mary Ellen Banisch, resident, reiterated several of the questions asked by Mr. Schkolnick. She asked if the whole house had previously been used for boarding. Ms. King indicated that previously she used the first floor of the house. Ms. Banisch asked if she would only use the one room moving forward and how that would be regulated. Ms. King answered yes and that the Board of Health does inspections. Finally, she asked if Ms. King uses her art studio building when she has dogs in the house, to which Ms. King replied no.

Jeff Racioppi, resident, asked if the dogs are left unattended, how can Ms. King do out of home pet socials. Ms. King replied that she does not do both at the same time.

Nico Racioppi, resident, if the dogs are never unattended, how is it that your own dogs are able to get out of the home. She explained that beagles are tenacious and will find a way out. She has reinforced her fence, yet they still find a way out. He asked about the square footage of the bathroom. Chairman Cline replied that it is 73 sq. ft. Mr. Racioppi commented that it is very small. He also wanted to make her aware of how people drive on their street and expressed concern for her dogs.

Hearing no other questions, Chairman Cline declared a 5-minute break. After the break, Chairman Cline called the meeting to order.

Ms. Edwards asked if she could ask a question on redirect. She referenced the documents 01, 02, 03 and 04 provided by Mr. Schkolnick, and asked if all refer to past conduct. Ms. King said yes, with the exception of her CV on LinkedIn, which was an oversight. Ms. Edwards referred back to the testimony that Ms. King provided that now that she is aware of the Board of Health requirements that she is committing to adhering to those requirements if she receives zoning approval from the Township. Ms. King agreed. Chairman Cline clarified that she is committing to 100% of all of the requirements in our ordinance. Ms. King indicated that she would do so in order to have the ability to run her business.

Mr. Schkolnick posed questions on recross. He recounted that Ms. King testified that she would walk the dogs in her backyard, to which she agreed. He stated that the ordinance says within the dwelling, so that walking outside is not within the dwelling, so she will not be complying with the ordinance when she walks dogs outside. Ms. King said that was correct. He also referred to the fact that she would be taking the dogs outside to load them into the car to go to the park, which Ms. King

indicated was also correct. He stated that when you take the dogs outside, that is not within the dwelling. Ms. King answered that was also correct.

Ms. Edwards questioned the next witness, Mr. Thomas Chauvette, regarding his name, occupation, employer, length of employment and licensing information. Chairman Cline asked for a motion to approve Mr. Chauvette as a witness. Ms. Gilbreath made the motion which was seconded by Mr. Fowler. All were in favor, none abstained and none opposed.

Ms. Edwards marked a floor plan, previously provided to the Board marked as A1. She then asked Mr. Chauvette to explain the plan which shows the house footprint of 863 sq. ft (gross) including the 73 sq ft of bathroom (net space), plus the back room of 278 sq. ft. (gross). The combined total is 351 sq. ft. (278+73) which represents 29% of the total floor plan 1,214 sq. ft. (863+288) to be used for the in-home dog boarding. Both are less than the ordinance which states that it must be less than 900 sq. ft. or 40%, whichever is less. Ms. Edwards asked Mr. Chauvette to confirm that the Washington Architectural Group prepared the plan initially to be presented to the Board and that he verified the dimensions and calculation, and he agreed to both.

Chairman Cline asked if the Board had any question for this witness. Hearing none, he opened the hearing to Mr. Schkolnick, the in-person audience and anyone online. Margaret Brewer, resident, asked about the outdoor space that will be used to walk the dogs and if that space has been included in the calculation. Mr. Chauvette said that it was not and he was not sure how it would be calculated. Chairman Cline replied that the outdoor space should be included per previous testimony and that they would need that information for any space being used for home occupation, and that it would likely exceed 40%. Mr. Chauvette replied unless there is an area fenced in.

Nancy Amend, resident, came forward to ask where the dogs defecate. Chairman Cline stated that question had been answered, that they will use the yard, to which Ms. Amend replied, but that's not allowed.

Mr. Chauvette was dismissed. Ms. Edwards introduced the Planner David Roberts and asked that he provide his credentials. Chairman Cline then asked for a motion to accept Mr. Roberts as an expert witness. Ms. Gilbreath made the motion, which was seconded by Mr. Fowler. All were in favor. No abstentions, no oppositions. The motion carried.

Mr. Fowler asked Mr. Goodell sought to clarify the purpose of the agenda item, stating that the applicant is seeking an interpretation as to whether in-home dog boarding constitutes a home occupation, not whether this site/activity conforms to that definition. Mr. Goodell disagreed, and replied that they are here to decide if the proposal meets the definition of home occupation. He then asked Mr. Kyle to go through the definition of home occupation. Mr. Kyle read from the memo from May 8th, section 230-104 "A home occupation/home-based business as defined in this chapter is a permitted accessory use in any zone. A home occupation/home-based business must be conducted within the principal dwelling which is a bona fide residence of the person conducting the home occupation/home-based business, or in an accessory building on the same premises. The home occupation/home-based business shall be carried on within the dwelling unit or such accessory building, but the total aggregate area utilized for all home occupations/home-based businesses on such premises shall not exceed a total area equivalent to 40% of the total first floor area of the

principal dwelling or 900 square feet, whichever is less. No accessory equipment and/or materials shall be located within the front yard, or in the side yard setback, of any property and shall be located in such a manner that a person in the community would not be aware of its existence under normal circumstances.” Mr. Goodell stated that the Board is here to determine if this proposed business opportunity meets the elements of that zoning ordinance. Not to determine if it’s ok to have dogs be a home occupation, but rather does this proposal, with all of the elements from the applicant, architect and planner. This is not an application for a variance or exception to the ordinance, but rather does it comply with the ordinance.

Mr. Roberts provided a handout to the Board, marked A2. He then walked the Board through the handout. Page one of the handout contained the definition of a home occupation/home-based business and he read out some highlighted sections. The September issue of Zoning Practice Newsletter from the American Planning Association was about home occupations and indicated that in some Zoning ordinances have fallen behind the times given the increase in the popularity & variety home based businesses. Chairman Cline suggested that Mr. Roberts bring that topic to the Planning Board. Mr. Roberts offered that some of the requirements of the ordinance are to make the home occupation indistinguishable from other residences, protect the character of neighborhoods. His emphasis will be that this business is consistent with that. He offered that Ms. King taking dogs out for a walk is indistinguishable from pet owners doing the same. Will neighbors know when a dog barks if it is a boarded dog or a pet. All home-based businesses require leaving the home, such as him leaving his home occupation to go to this meeting. Chairman Cline asked if a dog kennel is a permitted use in this zone. Mr. Roberts responded that a dog kennel is regulated as a facility and in his opinion, this is not a kennel. Chairman Cline asked if a kennel is a permitted use. Mr. Roberts replied that it is not called out as a permitted use in this zone. Chairman Cline then stated that if it is not listed as permitted use, then it is not permitted. Mr. Roberts countered that this use is not a kennel. A Board member (*unable to determine who it was*) asked if he’s reviewed the definition of kennel. He answered yes, and he referenced boarding kennels, breeding kennels. He referenced that he illustrates in his handout that those are commercial facilities, which are distinctly different, in his handout. He furthered that the Board needs to make a distinction between in-home pet sitting and a kennel, which has structures that are specifically used to house dogs. He references page three & four, excerpts from an ordinance from 2012 referenced by Ms. King that they believe was adopted on second reading on 12/2/12 per the minutes, but they have not been able to find a signed copy. It’s included to point out the definitions for facility vs. kept. He also references the six intact dog limit. And for a household, there is a maximum of six intact dogs, but no limit on spayed or neutered dogs. The Board of Health language limits the number of dogs over the age of seven months to six and not more than a total combined intact and/or spayed/neutered of ten per household (a single-family home). He went on to point out that the limit does not apply to properly licensed kennels, pet shops, pounds or shelters operating in conformity with all codes. He restated that the representation is not that this is a kennel, even though the definition of kennel includes boarding and we’re talking about overnight stays of dog in someone’s home. Mr. Roberts said you could say that if you are getting money for keeping or having custody of someone’s dog, then that’s boarding and that makes you a kennel. He felt that would be a narrow interpretation and not consistent with the intent of a home-based business, as indistinguishable from other homes. Someone walking a dog is a regular occurrence in neighborhoods. He cited in-home childcare (preempted from Zoning) as a having a similar effect on a neighborhood. He referenced information on page five from a service matching

website and on page six he referenced why people prefer in-home sitting or boarding to a kennel, with images of typical kennel facilities. He concluded that in his opinion that home occupations are a permitted accessory use in the A-2 zone and in-home sitting use is consistent with provisions of what the Board of Health considered with the maximum of ten dogs per household and can be conducted without being a kennel, they are two different uses in his view. That this use would be indistinguishable and would not cause an adverse impact on the peace and quiet of the neighborhood.

Chairman Cline opened the meeting to questions from the Board.

Mr. Fowler clarified that we're looking to see if per 230-104 is this is a home-based business. He then referenced 360-7 definition of kennel – "any establishment wherein or whereupon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop". So, you don't feel that this is a pet shop, but is a home business where boarding can take place. Mr. Robert agreed to both. Mr. Fowler stated that then it does fall under the 360-7 definition of a kennel. Mr. Roberts started to say that in his opinion a "boarding" kennel... Mr. Fowler interjected that that boarding is not in the definition in our ordinance. Mr. Roberts believes that the definition is one of the problems.

Mr. Buchanan asked about Mr. Roberts testimony about distances. Mr. Roberts replied that he did not do analysis since we were not here for a use variance. He went on to explain that in denser areas, the issue of noise is more acute, but that is not the case in this situation, but would be in a neighborhood more like downtown Delaware Township.

Chairman Cline asked Mr. Kyle to comment on needing a variance. Mr. Kyle replied that that is a question that the Board is going to have to deal with. He stated that the way the Board of Health ordinance is written is that if you want to have a kennel in Delaware Township, you have to go to the Zoning Board for a use variance. If you look at our Zoning scheme, kennel is not a permitted use in any of our Zoning districts. The issue is can you have a home occupation that is a business that can only be approved by use variance. He furthered that Mr. Roberts doesn't think that this meets the definition of a kennel, which the Board will have to determine.

Chairman Cline asked Mr. Fowler to reread the definition (see definition above). Mr. Manley read the definition of Boarding "The act of providing food and/or shelter to dogs or cats, regardless of whether it involves an overnight stay, for a fee, at the request of the owner or caretaker." Chairman Cline has concerns about why they are meeting since if we need a variance in order to get this permitted because it is a kennel based on our ordinance and we're talking about boarding. Mr. Kyle explained that we've added another element to this interpretation. The Board was presented with an opinion that this is not a kennel. So, the Board needs to judge based on the facts of the hearing and the definitions. If it is the Board's determination that this is a kennel, then there has to be a use variance granted in order for this facility to operate, whether it is a home-based business or not. The provision of the ordinance that says you need a use variance would control versus the general concept of a home occupation. You can't have a home occupation that was a use that was not allowed. Chairman Cline restated that the testimony of the applicant was that she would comply with every part of the Health ordinance and that is part of it.

Mr. Goodell asked Mr. Roberts if his opinion is that the intent of the home occupation ordinance was to provide that a home occupation would not distinguish that building from any other house on the block. Mr. Roberts stated that was the purpose/intent of the regulations. Mr. Goodell responded that the regulation has specific elements for compliance that have to be met. He asked Mr. Roberts if he's asking the Board to look at the intent of the ordinance over the specific language. Mr. Roberts replied, in a way, because most of the home occupation ordinances are written to prevent outdoor storage that is commercial in nature, not residential. He does not believe that walking the dog in the back yard is a violation of that ordinance. The intent was to prevent commercial use outside the house, and walking a dog is not considered a commercial use in a neighborhood. He was saying that a reasonable interpretation, protecting the spirit of the ordinance in its attempt to protect the neighborhood, that this home-based business could be considered a home occupation.

Mr. Kyle added that the Board of Health regulations make this case unique. It would not come into play for other home-based businesses, such as a plumbing contractor, which would not be permitted in an A-2 zone, but if in compliance with the home occupation, it would be. The question really is the requirement of the Board of Health for a use variance (124-9).

Chairman Cline opened the meeting to public comments for Mr. Roberts. Mr. Schkolnick came forward. He asked Mr. Roberts to confirm that he reviewed the application (05) and that it's for in-home dog boarding, not pet sitting. He agreed. He referred to the copy of 360-7 (06) and read the definition of boarding and asked Mr. Robert to agree that Ms. King's proposal is boarding according to that definition. He then read the definition of kennel. Mr. Roberts agreed that kennels, board, breed and sell dogs. Mr. Schkolnick asked if there's boarding, then it's a kennel. Mr. Roberts said that is true per the definition, but his opinion is that in this context, the facility is not a kennel, not a commercial facility. Mr. Schkolnick referred to 07 and asked Mr. Roberts to read from 124-9A "Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter or a pound shall apply to the Clerk of the Township for an application to the Board of Adjustment for a variance." Mr. Schkolnick asked Mr. Roberts to agree that one of the guiding principles of statutory interpretation is to figure out the intent of the governing body. He agreed. Mr. Schkolnick went on to say that ordinance says boarding equals a kennel and that a kennel has to go to the Board of Adjustment for a variance. Mr. Roberts indicated that was correct. Mr. Schkolnick stated that Mr. Roberts' report mentioned the yard, but per the ordinance you can't use the yard. Mr. Roberts responded that under Mr. Schkolnick's interpretation you can't. Mr. Schkolnick stated that "within the dwelling" is not an interpretation and that in his report Mr. Roberts mentioned the yard as one of the advantages. Mr. Roberts replied that it is an advantage to an in-home boarding to have a fenced in yard to provide a secure place for the animals. Mr. Schkolnick replied that the ordinance says that the business must occur within the building, but he would argue that any business conducted within a dwelling, that at some point you'd have to go outside, to get into a truck or make deliveries. Mr. Schkolnick said this case is unique because it involves dogs. Mr. Roberts referenced the Board Of Health ordinance distinguishes between households, kennels, pet shops, pounds and shelters.

Chairman Cline invited audience members to ask questions.

Nico Racioppi came forward to ask if the planner had visited the home. Mr. Roberts responded that he had. Mr. Racioppi furthered that Mr. Roberts indicated that Delaware Township homes are far

from each other and asked about the distance to the nearest residence. Mr. Roberts responded that he did not measure it. Chairman Cline interjected that that information would be needed for a use variance, but not for this.

Hearing no other questions from the audience or zoom, Chairman Cline addressed Ms. Edwards, who indicated they rest for the time being. He then asked if Mr. Schkolnick had any witnesses. Mr. Schkolnick indicated that he has a witness, his client and then closing remarks. Chairman Cline indicated that there would be no testimony taken after 10 pm. Mr. Schkolnick called Planner Peter Steck. Mr. Goodell swore Mr. Steck in. As Mr. Steck has appeared before the Board previously, he did not need to provide his credentials, but confirmed that his license is still in effect. Mr. Schkolnick asked if Mr. Steck had reviewed the file, which he had and to offer his opinion on the interpretation. He stated that his understanding of a request for interpretation is that it applies generically. Meaning if they approve this interpretation that boarding dogs is a valid in-home occupation, that it would apply to anyone with a residence, regardless of the zone. The point of indicating that the business must occur in the home is so that neighbors would not be aware of the business, activities, equipment and noise. He furthered that it is clear from the application that this business cannot be confined to the building. The Board of Health indicates that you have to take the dogs outside, so there is going to be an impact. And while homeowners can have their dogs outside, with a business, there is an incentive to have more dogs. In his opinion, this does not satisfy the requirements of a home occupation is that an inherent part of this business must be conducted outside (walking, exercise, transferring to car). It's natural for dogs to bark and when they are inside the sound is reduced. Mr. Steck commented that if the Board's opinion the application for interpretation is specific to this property, so he provided some details about the property. It is a 3.5-acre property in a six-acre zone. It is substandard in width (105.58'). Most of the land is wetlands, with only .79 acres that are outside of the preliminary wetlands per the NJDEP website and that doesn't include the 150' buffer. Although Mr. Steck does not think the interpretation should be specific to this applicant, the lot is not a standard six-acre lot with the closest house is 100' away in a zone which requires six acres. The crucial issue is that inevitably part of the business occurs outside of the building and home occupation language requires the business to occur within the building, which is an important inclusion so that the neighbors are unaware of the business and the building provides a sound buffer (including dog barking). If this is not considered a permitted use, then the applicant can go for a variance, in which case the specifics would be important. With regard to this request for interpretation, the specifics don't help. The lot is substandard sized, with a substandard frontage, with a dwelling that violates the front setback and the area outside of the wetlands, which shouldn't be disturbed, including a C1 stream, which leaves a very small area, even if using the outside. According to the ordinance, reexamined in 2022, which classifies this as a kennel, plus a second ordinance from the Board of Health which requires application for a use variance, this is not a permitted use. Even if you don't deem it a kennel because it requires outside use, in his opinion, it is ineligible.

Chairman Cline asked about a C1 stream size. Mr. Steck did not have an authoritative answer.

Chairman Cline asked if there were questions from anyone else on the Board, planner or attorneys, in-person audience and via zoom. There were no further questions.

Chairman Cline asked Mr. Schkolnick to call his next witness. Mr. Schkolnick called his client Glenn Brewer. Mr. Brewer was sworn in by Mr. Goodell. Mr. Schkolnick asked if Mr. Brewer lives next door, he responded that he lives across the street. Mr. Schkolnick asked if he had had any instances in which dogs have been fighting. He replied there have been fight for the past seven years in the back yard. Mr. Schkolnick asked about dogs escaping from the unpermitted business. Mr. Brewer replied that that has been going on for seven years. Mr. Schkolnick asked for examples. The last instance was when a dog ran for over three miles to Dr. Chad Tindell's house on Upper Creek Rd. He added that there have been instances of dogs running on his and his neighbor's property, generally at night. There was one instance when two dogs entered his paddock containing two miniature donkeys and small pony and chased his animals. By the time Mr. Brewer got out there, they ran away. Mr. Schkolnick asked if Mr. Brewer was sure they were from the applicant to which Mr. Brewer replied that they were beagles. Mr. Schkolnick asked about bite incidents and asked Mr. Brewer to describe them. Mr. Brewer was not there, so Chairman Cline stated that his testimony would be hearsay. Mr. Schkolnick asked for leeway, and mentioned that Ms. King was allowed to provide hearsay testimony when she stated that the Clerk told her she could operate illegally and Mr. Schkolnick did not object at the time. Chairman Cline responded that they have already heard a couple of instances of hearsay from Mr. Brewer and asked Mr. Schkolnick to proceed. Mr. Schkolnick indicated he was done.

Chairman Cline asked if any of the Board members had questions. Hearing none, he asked Ms. Edwards if she had any questions, she did not. Chairman Cline opened the hearing to the audience.

Bridget Sullivan, resident & neighbor stated that she is a certified professional dog trainer and asked Mr. Brewer if he knows what dog play sounds like. Mr. Brewer replied absolutely as he's had dogs. Ms. Sullivan asked how Mr. Brewer knew if the dogs were playing or fighting if he could not see inside Ms. King's fence. Mr. Brewer responded that he was right across the road and described the sound as excruciating. Ms. Sullivan replied that dog play is often very loud. Mr. Brewer replied that it was not dog play. Ms. Sullivan stated that was hearsay again as Mr. Brewer was not there.

Nancy Amend had a dog that Mr. Brewer bred "Tupper." Ms. Amend asked if that dog was confined or did he run away and go on the neighbor's property. Mr. Brewer said that happened sometimes, but he confined him. Ms. Amend asked if Mr. Brewer had to pay a vet bill because Tupper beat up a dog. Mr. Brewer answered yes. Ms. Amend asked if Mr. Brewer's cows ever broke through his fence and go to the neighbor's property. Mr. Brewer answered yes. Ms. Amend asked if the fence Ms. King has around her property is enough to keep dogs confined. Mr. Brewer replied that it's not because the gate was left open and dogs were constantly running loose. Ms. Amend asked which dogs, to which Ms. Brewer replied all of the dogs. Ms. Amend asked if he meant the beagles (Ms. King's dogs) or the others. Mr. Brewer replied that one day there were six dogs running down the road.

Chairman Cline reminded audience members to confine their questions to Mr. Brewer's testimony.

Mary Ellen Banisch, resident, asked if in any case when a dog came onto Mr. Brewer's property, did the owner come onto his property and was there a direct incident with the dogs and the owner. Mr. Brewer replied many times. Ms. Banisch asked for a few examples. Mr. Brewer noted that one time a dog came up his driveway with Ms. King following, yelling for a piece of meat. Not having any, he

picked up the dog and handed it back to the owner. Mr. Brewer spoke of instances, usually around 9 pm, while watching TV when he would see a flashlight in his field. He would go outside and hear the applicant yelling and running after her dogs and they would end up at Locktown-Flemington Rd on various properties in that area. He stated it was a regular occurrence.

Chairman Cline opened up the meeting to comments from the audience. Mr. Goodell asked for a show of hands from those who intended to speak and swore all of them in. Chairman Cline notified the audience that they should limit their remarks to five minutes or less.

Barbara Brewer, resident, lives across the street from the applicant. Ms. Brewer read a statement that said based on her experiences to date with the applicant's dog boarding business, she opposes any further dog boarding or kennel-related activities of any type at the applicants' property. Numerous incidents have occurred over the last seven years which have been a demonstrated lack of concern and respect for neighbors and their properties by the applicant with regard to their dogs. These incidents include the applicant running through her properties, late at night, screaming and chasing loose dogs without regard for boundaries, the time or disruption of others. They are concerned about their livestock as the applicants' dogs have penetrated enclosures, posing a risk to the livestock and the dogs themselves (police reports attached). Even with two fences at the applicants' property, dogs have continued to get loose causing disruption, worry and alarm. The applicants' dog was recovered over a mile away (police report attached) and recently, almost three miles away on Upper Creek Rd. (eyewitness report provided by Dr. Chad Tindell). This is an indication that the nuisance goes beyond the immediate neighborhood of Locktown. The applicants have operated an unlicensed and unregulated dog boarding business for seven years even after requests from neighbors to stop. Neighbors had to engage the Township in an effort to shut down the business. Despite all of this the boarding of dogs continues uninterrupted at the applicants' address – per her direct testimony. She asked the Board to consider the undesirable and negative impact that approving the application will have on the neighborhood, property values and the residents of Locktown and the surrounding areas, when deciding on this matter. She then thanked the Board.

Mary Wagner, resident (next door neighbor), read from a statement. She and her husband have lived next door to an illegal dog boarding business that has been in operation since 2016. She does not want a boarding kennel next to her due to harassment, barking and loose animals in her yard. She's concerned for her goats. In the past five years, she and her neighbors have witnessed dogs escaping from the boarding property and running around the neighborhood. She has been awakened as early as 5 am and as late at 11 pm by uncontrolled dogs and constant noise. Ms. King's dogs were often on Ms. Wagner's property. One time Ms. Wagner witnessed the front door to Ms. King's home wide open. When Ms. Wagner notified her that the door was open, Ms. King indicated that she was aware. Ms. Wagner indicated that the dogs are loose on Ms. King's property while she is cutting her grass. Ms. Wagner does not feel that Ms. King is responsible enough to board dogs. She objects to the carelessness she's seen like dogs escaping, biting, being allowed to run along near the tractor, dog fights that could be heard even when the doors are closed. The applicants are not able to confine their own two dogs. Her dog Argo escaped so many times that he now has to wear a tracking collar. Ms. King runs around screaming regardless of the time. Ms. King has posted online about happy dogs which Ms. Wagner states that only an hour before that dog was lost and neighbors were helping to

find the dog. Ms. Wagner concluded by saying that she feels Ms. King is not capable of taking care of any dog.

Bridget Sullivan, resident and neighbor, reiterated that she is a certified dog trainer and that her dogs are friends with Ms. King's dogs and she has seen how wonderfully socialized her dogs are. Beagles are bred to bay and chase prey and are not a danger to livestock. The dogs have gotten out in the past, but it has been over six months since they've gotten out as Ms. King has fortified the fence as she testified earlier. The dogs do wear GPS tracking collars because Ms. King is a responsible owner to get the dogs home more efficiently and without bother. Ms. Sullivan stated Ms. King's beagles have never gone after anyone's livestock and are not a danger to humans (very sociable). Ms. Sullivan stated that thinks Ms. King is a wonderful, responsible owner and caregiver. She furthered that as others have stated before, many prefer in-home dog sitting over the kennel environment due to the lower chance of contracting kennel cough and it's more suitable for dogs with sensitivities or special needs.

John Wagner, resident, read from a statement indicating that he and his wife live next door to the applicant who is asking for dog boarding to be included in the Township's interpretation of a home occupation. He strongly objected to having a commercial dog boarding business next to his home as it would greatly impact the peace and quiet of his property and neighborhood. He felt that if he were to buy and home put in a business he would first find out if it was a permitted use, which Ms. King didn't do. They moved in and started advertising Sparrow's Pets dog boarding online. Mr. Wagner noted that there have been numerous times when dogs have escaped and run through his property and the neighborhood. He added that on one occasion his grandchild was bitten by an escaped, illegally boarded dog. He furthered that after frequent complaints to the Township, a cease-and-desist order was issued, yet the applicants continued to operate their illegal dog boarding business. He indicated that he received instructions from the Township to report any further incidents of illegal dog boarding and upon reporting, the owner of Sparrow's Pets came onto his property, on his porch and screamed at his wife about calling the Township. Her behavior, as well as the disregard for the cease-and-desist order indicated to Mr. Wagner that Ms. King lacks respect for authority and a disregard for law and order. As to home occupation, Mr. Wagner asked if they had ever been in the vicinity of a boarding facility and heard ten to twenty dogs barking at once. He indicated that the whole neighborhood will be aware of the dog boarding business. He also referenced the real estate value reduction for property located next to a dog kennel. Mr. Wagner stated that they bought their home in 1978 and have enjoyed living in Delaware Township for forty-five years and urged the Board to vote no on expanding the definition of home occupation and stop the commercial dog boarding business to regain the peace and quiet so treasured in Locktown.

Scott Welch, resident, stated he lives two doors down from the applicant and strongly objects to the presence of a dog boarding business in Locktown based on past experiences with dogs being boarded on the applicants' property. He continued that a kennel has been in operation for the last six to seven years at 48 Locktown School Rd without the required licenses, inspections, approvals or protocols. The loud howling and barking from the subject property have caused a disturbance as dogs run around in the backyard unleashed and occasionally fight with one another. Dogs, including the owner's, have routinely escaped beyond the fences. There is no telling where they will end up and it occurs at all times of the day & night. Escaped dogs entering other properties causes a nuisance and

safety issue for neighbors, pets, livestock and the applicant, who can be heard in loud and profane pursuit of the escapees. He furthered that an escaped dog on Locktown-Sergeantsville Rd is vulnerable to the dangers posed by vehicles. Anyone chasing a dog and passing cars could be placed in harm's way. A recent escapee was tracked to the Tindell property on Upper Creek Rd, several miles from Locktown. Illustrating how events of Locktown impact the wider community. He stated that he is concerned about the presence of unfamiliar and possible aggressive animals. When talking to the applicant, an aggressive great dane came towards Mr. Welch and the dog's teeth grazed his hand. Fortunately, there was no serious injury due to Mr. Welch's timely reaction. Mr. Welch's wife asked if the dog's rabies shot was current, but did not receive an answer. Mr. Welch reported that he heard that the same great dane attacked and injured a smaller dog also being boarded at the applicant's property. The applicant has run a dog boarding business for many years despite objections from the neighbors and despite being told to stop by the Township. This caused unnecessary disturbances, disruptions and safety issues. He commented that he is concerned that permission to proceed will ensure more of the same in addition to reducing the value of their properties. He questioned who would want to live by this ongoing undisciplined and disruptive activity. Mr. Welch asked that the Board consider that home occupation should include dog boarding, please also consider the safety and well-being of residents, their pets and livestock. Please also consider the applicants' long-term failure to comply with ordinances and regulations. He queried, given past experience, how will permission to proceed provide incentive to improve their practices and ability to control the animals under their care. Please vote against expanding the interpretation of home occupation to include in-home boarding of dogs in Delaware Township.

Mary Ellen Banisch, resident, expressed her strong opposition to the running of a dog boarding business at 48 Locktown School Rd. Locktown is a small historical residential village known for its preserved farmland and the Locktown Stone Church. The latter of which is listed on the National Register of Historic Places. In addition to its residents, the area appeals to runners, walkers and bicyclists as well as those interested in local history. There is no commercial activity in Locktown. Ms. Banisch continued that the last stretch of the road located by the church is made up of closely clustered homes relative to the rest of the road. It is this area that includes the applicants' property which occupies a uniquely narrow lot that sits close to the road with a setback of just over twenty-six feet. Mr. Banisch noted that she first met Ms. King shortly after she moved to the road. Ms. King was running through Ms. Banisch's property, chasing a dog, yelling profanities and screaming for the dog to come back. She continued by saying that dogs escape the applicants' property often enough that it is an issue. Escapees run around on neighbors' properties causing a disturbance and a nuisance. Disruption of the peaceful and quiet enjoyment by neighbors of their property is compromised every time a dog escapes or dogs are left out to run wild on the applicants' property. She offered that the applicants' backyard is visible from her home and the sound carries loudly to her property. Ms. Banisch and her husband have had to go indoors at times to escape the howling and barking. Ms. Banisch cited a letter that Ms. King wrote to neighbors in 2019, in which Ms. King apologized for any issues caused by her business. Ms. King also stated in that letter that that she wished she could promise 100% that her own dogs would not get out again, but she couldn't. Ms. Banisch offered that these statements demonstrate that the applicants are aware of the problems their dog boarding has caused their neighbors and they know there is not much hope for relief from those problems in the future. Ms. Banisch continued by saying that on September 5, 2021 while feeding a neighbor's dog, Ms. King was attacked by a dog she was caring for. She added that the screaming

was loud and prolonged intermixed with dogs barking and growling, which led Ms. Banisch to believe that someone was being mauled and their life was in danger. Ms. Banisch called 911 and the police arrived twenty minutes later. Before they arrived, Ms. Banisch noted that Ms. King came out the neighbor's house crying and visibly shaking. She was bloodied, bitten and her pants were torn. Ms. Banisch characterized the incident as "truly horrifying" as Ms. King was clearly hurt and frightened. Ms. Banisch continued saying that fortunately Ms. King was not gravely injured, but she was injured and traumatized. After she left the property of the incident, one of the dogs was left outside unrestrained. Ms. Banisch indicated that the event was traumatic for everyone involved. While the applicants have and will continue to benefit financially from an in-home dog boarding business, Ms. Banisch asked that the Board consider the negative impact on the value of the surrounding properties. She stated that many of the residents have made investments in the improvement of their properties. She added that it seems wrong for the applicants to benefit at the expense of their neighbors. She continued by saying that the applicants have continued to disregard existing ordinances and the Township's efforts of enforcement. They've continued to board dogs and run an unlicensed kennel which requires a variance (among other things) to comply with state and local regulations. This is known to the applicants as noted by their many abandoned attempts to have an application for a variance review prior to tonight's request for an interpretation. Whether or not tonight's application is an intentional way around the need for a variance or the requirements for kennel ownership, she asked that Board not overlook those requirements to which they have not adhered. Ms. Banisch concluded by asking the Board to consider the residential and unique historic nature of Locktown, the neighbors desire for peaceful enjoyment of their properties and inconveniences, nuisances, trespassing and safety concerns to contend with if the applicants are permitted to board dogs on their property and devaluation of the surrounding properties. If the decision becomes a change to the ordinance, the changes would be felt throughout Delaware Township as dog boarding becomes more common as a home occupation. The problems experienced in Locktown would eventually become more widespread, reducing the quality of life for residents.

Nico Racioppi, resident, stated that he is in opposition. A longtime resident of Locktown-School Rd, he stated that he loves this town and plans to spend his whole life here. He's noticed that newcomers to the area don't acknowledge the customs and courtesies that he grew up with. He noted drivers don't pull over for each other and if they can't see a large truck, how are they going to see a dog in the road. He continued by saying that the applicant has proven repeatedly, and even stated in her letter, that they can't guarantee that their dogs won't get out. He asked Ms. King if she could tell a client that their dog was gone due to her negligence. Chairman Cline indicated that this portion of the meeting is not for questions, but for statements. He reiterated his love for the Township and its peace and quiet and expressed sympathy for those whose properties have been more affected than his own.

Chairman Clines asked for comments from the online audience. Seeing none, he closed the public comment section and moved to summations.

Ms. Edwards summarized the relief sought, to conclude that the applicants' business is not a kennel under the ordinances of the Township and to request an interpretation of Section 230-104 to conclude that an in-home dog boarding is a home occupation and that any use of the exterior of the property to walk leashed dogs to relieve themselves is a negligible activity that does not impact the integrity of the classification of this use as a home occupation.

Mr. Schkolnick waived his summation given the hour.

Chairman Cline stated that the Board does not normally vote on the same night, but given that this is interpretation, he will take comments from the Board and put the matter to a vote.

Chairman Cline voiced his concerns. The application is not for a variance and many of the comments would be applicable in a variance application, but we're here to decide if the applicants' business is a kennel or not. Based on the Delaware Township definition, it is his opinion that this is a kennel, although there is no breeding or selling of dogs, there is boarding taking place based on the definitions in the Delaware Township ordinance. It is the Board's job to interpret from the ordinance, as written, not what it should be. Mr. Cline furthered that if changes need to be made to the ordinance, he would welcome someone to come to the Planning Board to apply or suggest changes to the ordinance.

Mr. Goodell offered his charge to the Board, stating that the issue is not about whether Ms. King is a good or bad dog owner. In his opinion, the issue is not about whether dog boarding should be allowed as a home occupation and not about whether the ordinance should be adjusted, as would be done for a variance. He continued that instead, it's about whether his application, with the fact as presented here, meets the terms of the home occupation ordinance as the Board interprets that ordinance. He explained that ordinances are written by the Governing Body and are laws for the town. Not all laws or ordinances are clear. Some are ambiguous, some are unclear and, in those cases, they must be interpreted. Land Use law gives the Zoning Board of Adjustment the ability to interpret the ordinance. The Board is serving as a judge to interpret what the words of the ordinance mean. The tools to do that are the words of the ordinance, the plain meaning of those words. Beyond that, if the words are not plain or self-explanatory, you must determine what they are intended to mean. He concluded that any interpretation the Board has must be reasonable. The Board must first look at what this particular ordinance says – that a home occupation or home-based business is defined as a permitted accessory use in any zone with certain conditions. Mr. Goodell cited the ordinance stating a home occupation must be conducted within the principal building. That building must be a bona fide residence of the person conducting the business. Home occupation shall be carried on within the dwelling unit or such accessory building. Total aggregate area utilized for the home occupation shall not exceed a total area equivalent to 40% of the total first floor area of the principal dwelling or 900 square feet, whichever is less. No accessory equipment or materials shall be located in the front yard or side yard setback, of any property and no shall be located in a manner that any person in the community would (not) be aware of its existence. And you can have only one employee that is not a resident. He instructed that the Board's job is to determine if the application meets those requirements. Mr. Goodell noted that there has also been a second issue raised, which is whether a Board of Health requirement applies here. Because the Board of Health requirement defines kennels and states that all kennels require variances. Kennels are not approved uses per the Board of Health. While that is not a Land Use ordinance, it is an ordinance that gives the Board the power to give a variance in a particular situation. He recommended that the Board first go through the analysis under the Land Use law and after that they would go to the kennel issue. Mr. Goodell read the case law, and noted that ordinances are to receive a reasonable construction and application to serve the apparent legislative purpose. We will not depart from the plain meaning of language

which is free of ambiguity or an ordinance must be construed according to the ordinary meaning of its words and phrases. These are to be taken in the ordinary or popular sense unless it plainly appears they're used in a different sense. He added that that is the way courts interpret statutes and the way the Board is to interpret ordinances.

Chairman Cline acknowledged the charge he asked for comments from the other Board members.

Ms. Gilbreath agreed with what the Chairman said that based on the ordinance, that this is a kennel and therefore it does require a variance, rather than being a home occupation. She furthered that a home occupation is different in that it must be contained within the dwelling or accessory building and that's a bit of an extension (*recording unintelligible*) would deny it.

Mr. Manley commented that this cannot be operated within the residence or accessory building. The dogs go outside on a regular basis (*recording unintelligible*). He continued that he does not think this business can be operated so that a reasonable person would not be able to tell that a business is going on with customers coming and going. He noted that he doesn't feel this business meets the definition of a home occupation. To go forward, it is a kennel and should be treated as such.

Mr. Buchanan had no comment.

MR. Emmons indicated that he is in agreement with what had been said, that the occupation of a home-based business as far as caring for animals, can't be done within the dwelling itself so that doesn't apply there, but also (*recording unintelligible*).

Mr. Fowler stated that as a resident of this Township, he feels bad for the entire neighborhood. He grew up here and the beauty of this Township is that we find a way to come together. It is his hope that they find a way to come together and mend the division that's occurred. He went to say that he has looked at the matter every way he could, looking at N.J.S.A. 4:19-15.1 this business is still defined as a kennel, so it's hard to consider a household-based business and that's how he'll be moving on this.

Mr. McAuliffe echoed Mr. Fowler and others' comments that according to the definition in our ordinances, this is not a permitted use for a home-based business.

Mr. Warren stated that it does not meet the definition of a home-based business and that it meets the definition of a kennel.

Mr. Milesnick stated that he appreciates all of the passionate testimony . He is a dog owner with experience with kennels and boarding, but like his colleagues on the Board he concurred that it does not meet the standard for a home occupation business and it is also defined as a kennel according to Delaware Township regulations.

Chairman Cline pointed out that there are alternates in attendance, so after the regular members vote, the alternates will either concur or not concur.

The Board voted on the motion of Mr. Fowler, seconded by Mr. Manley to deny that this is a home-based business. Chairman Cline clarified that yes vote is against the applicant and no vote approves the applicants' contention that it is a home-based business. The vote record follows.

<i>Roll Call: Deny that this is a home-based business</i>						
Member	Motion	2nd	Yes	No	Concur	Absent
Buchanan (Alt. 1)					X	
Emmons (Vice Chair)			X			
Fowler	X		X			
Gilbreath			X			
Manley		X	X			
McAuliffe			X			
Milesnick (Alt. 2)					X	
Warren			X			
Cline (Chair)			X			

Chairman Cline stated that the Board voted and the application for interpretation as a home-based business has been denied. He thanked the attendees for coming out and for their comments.

PUBLIC HEARINGS

Addressed by Chairman Cline earlier in the meeting.

GREGG AND JOSH LYNCH, Block 22, Lot 4, 712 Sergeantsville Road

The applicant is seeking variance approval to permit the continued use of two (2) existing one-bedroom apartments.

CORRESPONDENCE

Letter dated May 8, 2023 prepared by Jim Kyle, Board Planning Expert re: KING/HUMMLER.

PLANNING BOARD UPDATE

Chairman Cline reported that the Planning Board has no application at this time. They finished the Planning Board reexamination and it's been sent to the Township Committee.

Mr. Fowler added, based on the application considered at this meeting, that he'd like to arrange a time to bring the ordinance to them for reconsideration. Chairman Cline asked Mr. Fowler to draft his suggestion and he would present it at the Planning meeting. Mr. Fowler agreed to do that.

PROFESSIONAL BILL LIST

NON-ESCROW BILLS

INVOICE NO.

DATE

AMOUNT

None

Chairman Cline asked for an update from Mr. Goodell regarding payments owed. Mr. Goodell said there are some escrows that are long overdue. Mr. Cline asked about Locandro. Mr. Goodell said they paid. Chairman Cline asked about GTG. Mr. Goodell said they are in arrears as well as the tennis facility. Chairman Cline asked Mr. Kyle for an update. Mr. Kyle stated there are a few including GTG. Chairman Cline asked him to send the to him directly and he will bring them to the CFO. Mr. Kyle replied that their bookkeeper is working with Ms. McDaniel, but the issue is that some of the escrow accounts don't have funds. Chairman Cline wanted to confirm that Ms. McDaniel had all outstanding invoices so that she can include them in her letter to the applicants.

Chairman Cline read the escrow items from the Bill List.

<u>ESCROW BILLS</u>	<u>INVOICE NO.</u>	<u>DATE</u>	<u>AMOUNT</u>
Van Cleef (Engineering)			
West	3935021-5	8/17/23	\$280.00
Friends/Locktown Stone Church	3935018-4	9/25/23	\$210.00
Kyle McManus (Planning)			
Locandro	4877	10/02/23	\$44.10
Friends/Locktown Stone Church	4534	06/08/23	\$220.50

The Board voted on the motion of Ms. Gilbreath , seconded by Mr. Manley, to approve payment of the escrow bills. All were in favor, no abstentions and none opposed.

ADJOURNMENT: 10:35 pm

It was moved, seconded and carried to adjourn at the noted time.

Respectfully Submitted,

Diana Ramage; Acting Clerk

These minutes were approved at the Delaware Township Board of Adjustment meeting on January 11, 2024.

Motion by Member Gilbreath

Second by Member Manley

Roll Call Vote

Aye: Emmons, Fowler, Gilbreath, Manley, Milesnick, Warren, Cline

Nay: None

Absent: Buchanan, McAuliffe

Recorded by Acting Board Clerk,

Kathleen E. Klink