

TOWN OF MEDWAY

ZONING BOARD OF APPEALS

MINUTES OF MEETING JANUARY 16, 2013

Messrs. Cole and Biocchi, and Ms. Doherty and Ms. Gould were present when the Clerk called the meeting to order at 7.48 p.m.

A motion was made by Ms. Doherty, seconded by Ms. Gould and passed unanimously to accept the Minutes of the December 19, 2012 meeting of the Board as presented by the Clerk.

By unanimous consent, the new application of Mr. Symonds was accepted for advertisement and hearing.

Mr. Musmanno then joined the meeting at 7:56 p.m.

By unanimous consent, the new application of Mr. Marcel was accepted for advertisement and hearing.

The Board then proceeded, by unanimous consent, to hear the applications of Flying Fur, Inc, on whose behalf appeared Cathy Elia, Esq., accompanied by Mr. Vander Barbosa, President of Flying Fur. Ms. Elia confirmed that the applicant had no objection to the two applications being heard jointly or to the issue of a joint decision.

Ms. Elia stated that the present use was a pre-existing non-conforming use and that the proposed use would not be more detrimental to the neighborhood than the present use. The applicants run an existing business in Medway which seeks to expand. The applicants propose to install a solid fence between the two existing buildings to avoid visual distraction of the dogs and hence reduce barking. There would be no overnight boarding of dogs; the hours of operation sought were 6 am to 7 pm weekdays and 6 am to 6 pm Saturdays.

The property is presently under a purchase-and-sale agreement so Flying Fur cannot apply for a building permit. The existing non-conforming use is a retail furniture store.

When questioned about the absence of a kennel permit for the existing business, Ms. Elia stated that the present applicants did not realize that they needed a kennel permit at their present location. The Board took note of a letter from the Animal

Control Officer stating that no complaints had been received about the applicants' existing business. Ms. Elia noted that the L-shaped area for outside exercise of dogs is about 5000 square feet, and they there would not be more than 50 dogs on the premises at any one time.

Board members enquired what would happen if a client does not return to collect their dog by the 7 p.m. closing time. Mr. Barbosa replied that this rarely happened (Flying Fur impose substantial extra fees for late pick-ups) but if it did the last employee on the premises would take the dog home; the dog would not be left on the premises overnight.

The Chairman than opened the floor for questions from the public. Mr. Michael Cannistraro of 133 Main Street asked what happened to outside dog waste. Mr. Barbosa stated that the dogs were not left outside without an attendant who cleans up continuously; the exercise area would be surfaced with woodchip mulch to avoid run-off. Mrs. Angela Cannistraro of the same address asked how many dogs would be outside at one time, and was advised that the application specified a limit of 10. Mr. Paul King asked if there would be difficulty with cars attempting to leave the parking lot; the applicants noted that there is approximately a two hour window morning and evening for people dropping off and picking up dogs, with occasional traffic throughout the day for the grooming business.

Public comments for or against the application were then invited. Mr. Giovangelo of 144 Main Street stated that he had no problems with the proposed kennel.

In response to a final question from the Board, the applicants stated that there would be additional lighting but only over the exercise area as shown on the plan submitted.

A motion to close the hearing was made by Mr. Biocchi, seconded by Ms. Doherty and passed unanimously.

The Board proceeded by unanimous consent to hear the application of Mr. McNally and Ms. Cooke; only Mr. McNally actually appeared. Mr. McNally explained that each applicant had two dogs when they moved to Medway, and he frankly admitted that he did not know what they would do if one dog died. The dogs are two chihuahuas, an 8 year old labrador and an 8 month old boxer. The Board took note of a letter from the

Animal Control Officer stating no objections to the proposed kennel permit. The applicant further stated that all the dogs were kept indoors, with a fenced backyard used for exercise; neither applicant had received any complaints from neighbors. The lot is almost two acres, with the fenced backyard being approximately 100 foot square. The closest house to the fenced area is 20 Broken Tree Road, the lot line of which is 20 to 30 feet from the fenced area. The applicants keep the dogs only as domestic pets and would have no objection to a condition in the permit barring commercial activities. There are no known neighbors with kennel permits.

A motion to close the hearing was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously.

The Board then proceeded by unanimous consent to immediate deliberation on the application of McNally and Ms. Cooke. A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that grant of a suitably conditioned kennel permit would not cause substantial detriment to the public good. A second motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that grant of the requested kennel permit would be consistent with the guidelines for special permits set out in Article III.J of the Zoning ByLaw. Accordingly, a further motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to grant a kennel permit to the applicants subject to the following terms and conditions:

- (a) the permit shall be limited to domestic pets owned by residents of the subject premises;
- (b) not more than four dogs shall be present on the premises at any one time;
- (c) no dogs shall be left outside unattended; and
- (d) there shall be no commercial activities in connection with the dogs.

The Board then proceeded by unanimous consent to take up deliberations on the application of Calarese Properties, Inc. A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to adopt the draft decision as presented by Mr. Cole as the decision of the Board.

The Board then proceeded to deliberate on the applications of Flying Fur, Inc. As a preliminary matter, the Board agreed unanimously that a dog care facility required a kennel permit even though no dogs were kept overnight. After a rather inconclusive discussion, the Board passed unanimously a motion made by Mr. Cole and seconded by Mr. Musmanno to table further deliberations.

By unanimous consent, the next meeting of the Board was fixed for February 6, 2013 at 7.45 p.m. A motion to adjourn was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously; the Board adjourned at 9.38 p.m.