

**Members Present:**

Adrian Ooms  
Robert Leary  
Kary Jablonka  
Mitchell Khosrova  
Suzanne Williams  
JP Henkel  
David Everett, Chairman  
Tal Rappleyea, Atty.  
Walt Simonsmeier, ZEO

**Members Absent:**

None

**Public Present:**

Kyle Mitchison      Richard Buckley  
Michael Behrens      Pam Katz  
Elizabeth DiPalma  
George H. Vollmuth  
Kristen Wogen      Colleen Safford  
John Manning

The October 23, 2008 Zoning Board of Appeals meeting was called to order at 7:01 PM by Chairman David Everett. The Pledge of Allegiance was recited. Mitchell Khosrova moved and Kary Jablonka seconded that the meeting minutes from the previous meeting be adopted. This carried.

**KYLE MITCHISON-REQUEST FOR AN AREA VARIANCE OF HIS LITTLE LAKE  
ROAD PROPERTY WHICH WILL PERMIT HIM TO SUBDIVIDE THIS PROPERTY  
PUBLIC HEARING**

The Public Hearing was opened at 7:03 PM. Mr. Mitchison reviewed his request: he wishes to subdivide his existing property using the town line as the subdivision line. He reported that he had a Public Hearing on this request in the Town of Kinderhook, and once the deed for the right-of-way through the property in Chatham is completed, the Town of Kinderhook will approve the subdivision. The subdivision is being reviewed by our Planning Board, and pending approval of the area variance it will go to Public Hearing on November 11. There was no Public Comment. The Public Hearing was closed at 7:10 PM. The Board reviewed the criteria for approving a variance. The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, Bob Leary moved that there is no significant adverse environmental impact with this project, and should be accepted.

Mitchell Khosrova seconded the motion and it carried unanimously. Mitchell Khosrova moved that the variance request be granted. Bob Leary seconded the motion and it carried unanimously.

### **GEORGE VOLLMUTH-REQUEST FOR A CHANGE OF USE FOR THE OLD FIREHOUSE IN NORTH CHATHAM PUBLIC HEARING**

The Public Hearing was opened at 7:13 PM. Mr. Vollmuth reviewed the project: he wishes to restore the old Firehouse in North Chatham back to the original trolley station. To do this he needs a special use permit for a non-profit recreational area. It is currently being reviewed for a site plan

approval by the Planning Board. The plan has been sent to the County Planning Board, but there has been no response as of yet.

Mike Behrens wondered if there were other trolley stops in the area. Mr. Vollmuth explained that there were some, but that this one is different in that it is larger, for several reasons. The Public Hearing was closed at 7:25PM. It was explained to Mr. Vollmuth that the ZBA could take action on this; however, it would be final pending no requested changes from the County. The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, Mitchell Khosrova moved that there is no significant adverse environmental impact with this project, and should be accepted. Kary Jablonka seconded the motion and it was approved unanimously. Mitchell Khosrova moved that the special use permit for a not-for-profit recreational use be approved, pending no changes requested by the County Planning Board. This was seconded by JP Henkel and carried unanimously.

**COLLEEN SAFFORD AND JOHN MANNING-REQUEST FOR AN INTERPRETATION AS TO WHETHER THE BARN THEY ARE USING TO HOUSE DOGS TEMPORARILY CAN BE CONSIDERED A HOME OCCUPATION PUBLIC HEARING**

The Public Hearing was opened at 7:26 PM. The applicants reviewed what is currently being done: dogs are transported to their home on White Mills Rd. where they are kenneled for weekends, using the aforementioned barn. This barn connects to a dog run of about ¼ acre where they play about 4 times a day in this supervised and continuously monitored area. Although they have been using this barn for this purpose since March or April, they have been pet sitting in their home since they moved here about three years ago. The largest number they might have at one time is about 5. In the past this property was used for breeding and often there were 16-30 dogs there at a time. The Board reviewed the definition of home occupation. Walt stated that our definition is a very poor one. In the past the Town has had a case involving the kenneling of dogs in the Town which ultimately went to court, and restrictions were placed. In that case, the owner chose not to come to the ZBA.

Pam Katz stated that she supports the application. She lives nearby and can't hear or smell the dogs, and there has been no change in the traffic patterns because of the dogs. Elizabeth DePlama stated that the dogs are quiet, you never know that they are around, and that you are unable to see the run from the road. She feels that private dog owners in the neighborhood have more impact on the neighborhood than this business does. Suzanne Williams commented that she lives on this road and never knew a business was being conducted until they came to the Board last month. Chairman Everett stated that if there were to be any change in intensity the applicants would have to return to the ZBA. Chairman Everett also wondered what would happen if this applicant left and the business was continued by someone else and there are complaints. Atty. Rappleyea agreed that if the use becomes offensive there is a method in our Code to deal with this. If someone has a home occupation request, it is dealt with in a place to place and case to case manner. Other kennels could be opened up in the town, but each applicant would have to come before this Board for an interpretation. In this particular case, because of the low intensity of use, no precedent is being set---all uses of a property come first to the Code Enforcement Officer and then to the ZBA for a determination. The Public Hearing was closed at 7:52 PM.

Suzanne Williams moved that based on the intensity of use and the low impact of this situation, and the fact that the Board reviewed 180-29 of the Code, where they found that this met the criteria for a home business, that this kennel operation be considered a home business, without setting

a precedent for kennels in the future. If there are any changes, the applicant would return to the ZBA. Kary Jablonka seconded the motion and it carried unanimously.

**MAUREEN ANGERAME- REQUEST FOR AN AREA VARIANCE ON HER PROPERTY ON FORD RD. WHICH WOULD ALLOW A 2-LOT SUBDIVISION ON THAT PROPERTY PUBLIC HEARING**

The Public Hearing was opened at 8:02 PM. The applicant reviewed the project: this property falls within three zones—RL-1, RL-2 and RL-3. The desire is to carve out a 5 acre piece in the 10 acre zone so a small house could be built for the applicant. The topography of the land was reviewed, and it gets very steep very quickly. The house would be on the lower portion of the property, yet it wouldn't be seen from the road. Chairman Everett asked why it couldn't be a 10-acre piece of land, and the applicant stated that the difference in taxes and taking away from the rest of the land is the concern. There was a lengthy discussion. It was generally felt that allowing this to happen opens the doors to others to do the same, which could severely compromise our zoning standards. After reviewing these standards, JP Henkel stated that he feels that this would set a very dangerous precedent if it is allowed. The applicant pointed out that her neighbors all support this, and that several have written letters. The Board also discussed that in the comprehensive plan this area might become a 5-acre zone. Kary Jablonka suggested that the applicant might wish to consider going to the Town Board to ask for a 5-acre zoning change for this area at this time. The applicant will reconsider the options at this point. The Public Hearing will be left open at this time.

**TRANSCEND/ATT REQUEST FOR MODIFICATIONS ON THE CELLULAR TOWER LOCATED ON CADY ROAD**

Mr. Richard Buckley is requesting that the antennae at this site be changed out. Currently there are 3 antennas on the top. Some extensions would be made on the arms, which would improve service in the area. This will also bring the height down a bit, as the arms will be substituted for the height by laterally adding to the surface. The ZBA wants to send this to our town engineer for review and to ascertain the exact changes that are being sought to be certain that it complies with the original special use permit. ZEO Walt Simonsmeier handed out copies of the original permit to all members of the Board and to Mr. Buckley for review prior to the next meeting on December 11, at which time a Public Hearing will be set, if needed.

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There was some discussion as to how the ZBA should handle interpretation requests. In our law, a Public Hearing is not mandated; however it has been this Board's policy to hold both an informational meeting and then a Public Hearing because of the possible impact on the town. The Board decided that it wants to continue with this policy.

It was requested by the Board that the attorney be present at all meetings.

Mitchell Khosrova moved and Kary Jablonka seconded that the meeting be adjourned. The meeting concluded at 8:49 PM.

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David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk