

**MINUTES**  
**CHURUBUSCO BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**JUNE 15, 2023**  
**7:30 P.M.**

**CHURUBUSCO TOWN HALL**

**MEMBERS PRESENT**

Jason Bartl, Chairman  
Alan Malcolm  
Brenda Saggars, Vice Chair  
Ashley Wagner

**MEMBERS ABSENT**

Miles Wilson

**STAFF**

Nathan Bilger

**ATTORNEY**

*absent*

**AUDIENCE MEMBERS**

Eighteen visitors signed the Guest List at the meeting. The Guest List is included with the minutes of this meeting.

**CALL TO ORDER/ROLL CALL/INTRODUCTIONS**

Mr. Bartl called the meeting to order at 7:30 P.M. Mr. Bilger read the roll with members present and absent listed above.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

Mr. Malcolm made a motion to approve the April 20, 2023, minutes, as presented. Ms. Saggars gave the second; motion passed 4-0.

**ADMINISTRATION OF OATH**

Mr. Bilger administered the Oath to visitors planning to speak at the meeting.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**1. 23-CH-SE-1**

Mr. Bartl introduced 23-CH-SE-1, Aimee Gladieux's request for a Special Exception to operate a kennel on her property at 8512 E. 600 North. For the public's benefit, Mr. Bilger provided a general explanation of how meetings are conducted. He summarized the Staff Report, explaining that Staff had discussed the petitioner's business with the Board in 2011, and Ms. Gladieux had agreed to reduce the number of dogs at that time. Mr. Bilger described that the Department began receiving formal complaints in 2022, regarding the number of dogs on Ms. Gladieux's property. He stated that the history was relevant, but due to the time frame between complaints, the current case was considered separate from the previous. Mr. Bilger provided the definition of a kennel and stated it was a use listed in the Code as permissible via a Special Exception approval. He told the Board Ms. Gladieux currently had

around 20 adult dogs and a number of puppies, and she had indicated they would soon begin reducing the number of dogs as they are preparing to sell the property and relocate. He said Ms. Gladieux stated dogs would be in and out of the house, within fenced areas, between the hours of 7:30 a.m. and 10:00 p.m., and she had described that customers do not come to her home, with the exception of close, personal friends. Mr. Bilger listed that no lighting, signage, or changes to the business had been proposed, and there are no hired employees. He summarized the Review Criteria and listed water pollution, erosion, odor, and noise as potential concerns, with noise having been the only complaint received so far. Mr. Bilger calculated that barking from 12-20 small dogs likely exceeded the Code's limitation of 75 decibels. In conclusion, he listed seven suggested conditions of approval.

There were no questions for Mr. Bilger, and Mr. Bartl requested to hear from the petitioner. Tim Hershberger and Aimee Gladieux stated their names for the record. Mr. Hershberger said that since the end of April, eight adult dogs had already been rehomed. They described that they have been planning to relocate for several years and recently increased their efforts because a neighbor's shooting upsets the dogs. Ms. Gladieux explained that she would like to rehome two more dogs, keeping ten females, two males, and two senior dogs, because this is the number of dogs she can transport to the new home in one trip. She expressed wanting to be a good neighbor and said she would try harder to keep the dogs quiet; she apologized for the trouble the dogs have caused. Both Ms. Gladieux and Mr. Hershberger said they had recently provided neighbors with their phone numbers so they could be contacted quickly if the dogs were causing a problem. Ms. Gladieux expressed that the dogs bark with common cause, such as people riding bicycles and delivery vehicles; she said the dogs do not bark without cause, as is normal for any dog. She encouraged the neighbors to bring their concerns to her.

Ms. Wagner asked Ms. Gladieux if she planned to breed more dogs. She replied that it depended on the outcome of the meeting but that she did want to continue breeding this year. Mr. Hershberger added that a litter would be just 2-4 puppies. Ms. Gladieux said the puppies do not go outside and are placed in new homes as soon as they are old enough. Mr. Hershberger explained that the dogs are their pets and selling them offsets the cost of caring for them. Ms. Gladieux said she currently has two litters that will be ready for homes in July; she tries not to have more than 2-3 litters at a time, and puppies are born 2-3 times per year.

There were no further questions from the Board, and Mr. Bartl asked if anyone else wished to speak. Cathy Barnes asked how many puppies Ms. Gladieux has. She replied that she currently has five puppies. She confirmed for Ms. Barnes that the total number of dogs on site at present is twenty-one.

Jake Rhoades asked why the petition was filed if the owners are planning to relocate. Ms. Gladieux said she went forward with the case because she wanted to be in compliance and because she wanted to address and resolve the neighbors' concerns. Mr. Bilger added that the proposal was not to increase the business but to request to continue, as it had not been previously received approval.

Andrew Helgesen said the business had been downsized before and was being downsized again; he asked Ms. Gladieux if her plan was to downsize each time there were complaints. Ms. Gladieux said she believed this was the reason Mr. Bilger suggested a condition that she request renewal from the Board each year. She also stated that there were different

circumstances causing the present downsizing than had existed in the past. Mr. Hershberger said their goal was to stay a “hobby breeder” (verses a “commercial breeder”), which he described as being 20 or less female dogs.

Kammi Barrett asked for the definition of a kennel. Ms. Gladieux replied that she does not have a kennel (structure), but her business is labeled as a kennel because she has multiple dogs. She explained that her dogs live in her home, and she also has one cat. Ms. Barrett inquired about the plan to continue breeding while trying to downsize. Mr. Hershberger offered that they intend to move after rehoming puppies, before new puppies are born. Ms. Gladieux said they are having trouble finding a property that meets their needs, and she is seeking approval for her business, not knowing how long they might still live here. Ms. Barrett also asked about there not being customers being on site. Ms. Gladieux said she does not want strangers to know her location because there have been breeders who have been robbed at gunpoint or had dogs stolen from their property. She also voiced concerns about COVID. She said they have cameras on the property to help watch the dogs when they are outside.

Ms. Barnes spoke again to ask why Ms. Gladieux didn’t seek approval for her business when she moved to her current property and why she continues to be out of compliance with Northwest Passage’s Home Owner’s Association. Ms. Gladieux said she received confirmation that the property was not part of Northwest Passage when she put an offer on the house. She stated that she does not pay HOA dues, pay for snow removal, or receive a newsletter. Ms. Barnes argued that the Covenants still apply to Ms. Gladieux’s property. Mr. Hershberger said the property is not part of Northwest Passage because it is accessed off 600 North, the same as Mr. Rhoades’ property (to the west). Ms. Barnes said Ms. Gladieux did receive paperwork clarifying her property was part of the subdivision. She questioned Ms. Gladieux’s intention to comply when she has disregarded the rules thus far. Ms. Gladieux said when it was brought to her attention previously, she rehomed dogs as part of a plan to dissolve the business. She apologized for not following through with her plan.

Mr. Helgesen told Ms. Gladieux that her property was part of the subdivision. He expressed that despite what Ms. Gladieux was told when she purchased the home, because she was part of the subdivision, she needed to comply with the Association’s rules. Ms. Gladieux voiced her understanding of Mr. Helgesen’s comments.

Joan Helgesen spoke to point out that notice of the meeting identified the property as Lot 23 in Northwest Passage. Ms. Barnes stated she had spoken with Bob Egolf, who created the subdivision, and he told her the Covenants were created with the plat to prevent this nuisance situation. She hoped the Board would consider the negative impact that 20 barking dogs has on the neighbors and people who would like to walk or bike on the road. Mr. Hershberger said they intentionally do not have 20 dogs outside all at once. Ms. Barnes stated Ms. Gladieux has not at any point made an effort to comply with the Covenants.

Don Amber stated he is not in favor or against the petition, but he spoke to say that when he was elected Commissioner in 2009, he began receiving complaints regarding the subject property. He said that a barking dog ordinance (2009-08) was established as a result, and neighbors should call the Sheriff when there is a problem. Mr. Amber also told the Board that when Ms. Gladieux was approached about her kennel business in 2009, she pointed out that her website clearly stated she does not sell puppies; her puppies are free, but new owners pay

a “transportation fee.” Mr. Amber felt this wording was intentionally deceptive. Ms. Gladieux expressed her surprise and stated that she did not recall the events Mr. Amber described. Mr. Amber again encouraged the public to contact the Sheriff if needed, and he assured the public that the ordinance was being enforced, sometimes with heavy fines.

Ms. Helgesen told the Board she had informed many neighbors about the barking dog ordinance, and they had communicated to her that they received no response to their calls. Mr. Bilger reported that he had not had a chance to obtain response rates from the Sheriff, and he had not been aware of the ordinance until just days before the meeting.

John Wilcox said he wasn’t concerned about the number of dogs Ms. Gladieux owned, but he was upset that he had to hear them constantly. He said that although the petitioner has good intentions, the problem has been ongoing for years, and it is obvious that she is unable to manage the number she has. He stated that he had called the Sheriff and was told there was not an ordinance. Mr. Wilcox said he spent a lot of money to put up a fence because the dogs would bark at any movement in his yard and every time he would go outside. He stated the barking was constant harassment. Mr. Malcolm requested that the public contact their County Commissioner and inform them that the Sheriff was not aware of the ordinance. Mr. Wilcox added that he wondered if the dogs were barking because they were angry about being outside because non-stop barking is not normal for a dog.

Mr. Rhoades asked why the dogs are left outside barking for so long and causing a nuisance when Ms. Gladieux describes wanting to be a good neighbor. He reported that 50+ yards from the property line, he cannot talk on the phone because the caller cannot hear over the dogs. He expressed that 10 minutes would be understandable, but it was disrespectful to leave them outside barking for hours. He added that the “outside hours” that were provided were not accurate, and he has heard barking outside at 2:00 a.m. and 4:00 a.m.

Joe Boersema also testified that Ms. Gladieux’s dogs are outside barking in excess of the hours she provided. He questioned how any conditions of approval would be enforced. Mr. Hershberger replied that some dogs have free access to the yard, but he can begin to close the door at night. He added that inside the house, they do not hear the dogs barking. Mr. Wilcox commented that he can hear them inside his home and has been embarrassed during remote meetings when coworkers are bothered by the background noise.

There were no further comments, and Mr. Bartl closed the public hearing. Ms. Wagner asked for clarification on enforcement. Mr. Bilger replied that as Staff received complaints regarding compliance, the Department would reach out to the petitioner. Mr. Bartl permitted Mr. Wilcox to speak, and he asked if the Department had received complaints recently. Mr. Bilger confirmed that there had been several received. Mr. Bilger also added that the Board does not enforce Covenants or Association regulations. Mr. Bilger clarified for Ms. Saggars that the petitioner had not previously received any approval or filed for a Special Exception; it was discussed by the Board as an enforcement action. Ms. Barnes added that Ms. Gladieux made an agreement with the previous Planning Staff that she did not adhere to. Mr. Bilger stated that he had a copy of that information. He reiterated that although related, the proposed case was treated separately for various reasons. Mr. Malcolm made a motion to approve 23-CH-SE-1 with the conditions listed in the Staff Report. Ms. Saggars gave the second; motion failed 0-4. After a brief discussion, Ms. Saggars made a motion to deny the petition. Mr. Malcolm gave the second. The motion passed 4-0. Mr. Bilger stated that because of the

denial, the kennel use may not continue; for the purpose of enforcement, he asked the Board what grace period, if any, they would entertain. Ms. Wagner moved that there be no further breeding and that the kennel be dissolved within the next 4 months. Mr. Malcolm gave the second; motion passed 4-0.

### **OTHER BUSINESS**

There was no other business.

### **ADJOURNMENT**

There being no further business, Mr. Malcolm made a motion to adjourn. Ms. Saggars gave the second, and by unanimous vote, the meeting was adjourned at 8:35 P.M.

### **GUEST LIST**

1. Joel Barrett ..... 8770 E. 600 North, Churubusco
2. Kammi Barrett ..... 8770 E. 600 North, Churubusco
3. Andrew Helgesen ..... 5908 N. Woodcrest Drive, Churubusco
4. Earl Sassen ..... 5970 N. Woodcrest Drive, Churubusco
5. Don Amber ..... 3977 N. West Carlin Court, Churubusco
6. Russ Gilliom ..... 8731 E. 600 North, Churubusco
7. Cathy Barnes ..... 5915 N. Woodcrest Drive, Churubusco
8. Joan Helgesen ..... 5908 N. Woodcrest Drive, Churubusco
9. Danae Thomas ..... 5942 N. Woodcrest Drive, Churubusco
10. Amanda Hendricks ..... 8585 E. Westwood Lane, Churubusco
11. Aimee Gladioux ..... 8512 E. 600 North, Churubusco
12. Tim Hershberger ..... 8512 E. 600 North, Churubusco
13. Jake Rhoades ..... 8472 E. 600 North, Churubusco
14. Taylor Rhoades ..... 8472 E. 600 North, Churubusco
15. Joe Boersema ..... 8599 E. Westwood Lane, Churubusco
16. John Wilcox ..... 8555 E. 600 North, Churubusco
17. Bree Shew ..... 8613 E. Westwood Lane, Churubusco
18. Will Praul ..... 8613 E. Westwood Lane, Churubusco