



# The Zoning Board of Appeals

## TOWN OF WESTHAMPTON

Town Hall, 1 South Road

Westhampton, Massachusetts 01027

413-203-3086 – [administration@WesthamptonMA.org](mailto:administration@WesthamptonMA.org)

### DECISION

#### **Scott and Melissa Start, Deborah Barthelette, 180 Reservoir Road**

On Tuesday, September 13, 2022 at 7:00 PM, the Westhampton Zoning Board of Appeals held a public hearing in the Town Hall, 1 South Road, on the request of Scott and Melissa Start and Deborah Barthelette, for approval to operate a commercial dog kennel.

The property is located at 180 Reservoir Road, Assr. Pcl. 10-10.

#### **Applicable Law**

The application was made in accordance with Sections 3.0245 and 6.2 of the Westhampton Zoning Bylaw.

#### **Applicant Provided**

- APPLICATION FORM, plus check for \$125, plus \$6 abutters Fee
- "SITE PLAN of LAND" in Westhampton Massachusetts, survey for Scott & Melissa Start; prepared by Heritage Land Surveying & Engineering, Inc.; Scale: 1" = 40'; Dated: July 12, 2022.
- NARRATIVE - Project Description, undated.
- PLANS for a structure, prepared by Hometown Structures, Westfield, MA, undated, no scale.
- Certified List of Abutters, prepared by Westhampton Board of Assessors, dated May 10, 2022.

#### **Procedural Record**

The application and plans were submitted to the Zoning Board of Appeals on July 14, 2022. A public hearing notice was advertised in the Daily Hampshire Gazette on two consecutive Fridays, Tue, Aug 30, 2022 and Tue, Sep 6, 2022. Hearing notices were posted by the Town Clerk, placed on the Town's website, and distributed to appropriate town departments. Abutters, certified by the Assessors' Office, were notified by mail no later than Mon, Aug 29, 2022.

The public hearing was opened on September 13, 2022, at 7:01 PM, and closed on September 13, 2022 at 7:12 PM.

#### **Criteria**

##### 6.27 Criteria for Grant of Special Permit:

Where a special permit may be authorized by the Special Permit Granting Authority under this Bylaw, said Authority may grant, upon written application, such special permit if it finds, among other things:

1. That the proposed use would be suitably located in the neighborhood in which it is proposed and/or the total town.
2. That the use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district.
3. That the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories.
4. The adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation.

5. The proposed use shall comply with any and all additional special permit criteria or special use regulations imposed on individual uses in Section V of this Bylaw.
6. The proposal will not create traffic congestion or impair pedestrian safety. Provision shall be made for convenient and safe vehicular and pedestrian circulation with the site and in relation to adjacent streets, property or improvements.
7. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for maximizing groundwater recharge.
8. The design of the project shall provide for adequate methods of disposal of sewage, refuse or other wastes generated by the proposed use.
9. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses through the use of screening or vegetated buffer zones.

### **Findings**

- Ms. Start noted that she was hoping to operate a small kennel - 8-14 dogs;
- The proposed building will fit into the existing house and barn;
- Minimal trees will be removed.
- An eight foot fence will be built to keep dogs in and 'critters' out.
- All dogs will be met by the kennel operator prior to acceptance for boarding
- "Nuisance" dogs will not be allowed.
- Ms. Start noted that the existing horse paddock would remain; the proposed area will be in a wooded area to the right of the existing driveway.
- Ms. Start noted that the area would be mostly invisible from the public view.
- Mr. Tracy: has the board of public health reviewed the application? Ms. Start: the board of health agent had no questions, comments or concerns.
- No employees are proposed.
- No new utilities (well or septic) are proposed.
- Mr. Tracy: Has the state changed septic requirements for a dog kennel? Ms. Start: Not to my knowledge.
- Mr. Kelsey: Concerns relative to proper disposal of dog waste is addressed by the licensing authority.
- Ms. Sanders: are the dogs going to be on site all the time? Ms. Start: Yes.
- Mr. Kelsey: will there be overnight boarding? Ms. Start: Not for the time being.
- Ms. Start noted that she did not have prior experience running a kennel.
- Mr. Kelsey noted that he had driven past the site and noted that neighbors appeared to be some distance from the proposed site.
- Mr. Tracy asked if there was support for the proposal.
- Mr. Huntley: I have no objections, and am likely the closest abutter.
- Mr. Graham: We were just concerned about the possibility of noise; however, we have no objections.
- Mr. Tracy noted no other objections had been received from members of the public. Mr. Finn noted that no comments had been received from boards or committees.
- Mr. Ignatovich: What if a dog didn't stop barking? Ms. Start: I plan to be selective about the dogs that I accept for boarding, and do not want problem dogs.
- Mr. Tracy noted that the general consensus among abutters appeared to imply support for the proposal.
- It was noted that grant of a special permit would not create a precedent - consistent with all grants of special permits.
- There was some discussion as to whether noise would become an issue. It was noted that the operation would be subject to annual licensing and inspection in accordance with General Law and Town Bylaw, and that town residents and abutters would have an opportunity to provide feedback in regard to the operation prior to annual renewal of the license.



## Action

It was MOVED by Sanders, SECONDED by Ignatovich,

*To approve the application for the operation of a dog kennel, as described in the application and this hearing, with a limit of no more than 14 dogs to be kenneled at any one time; and subject to all offers and conditions as noted in the application.*

**VOTED: 5, 0, 0. (7:20 PM)**

## Conditions

- This special permit is not in effect until the applicant has filed a certified copy of the decision or certificate with the registry of deeds. A copy of same shall be provided to the Zoning Board of Appeals and the Westhampton Building Inspector.
- The construction shall conform to the application considered and approved by the Zoning Board of Appeals, including all plans and documents submitted in support of same, and approved by the Zoning Board of Appeals.
- This special permit shall run with the land.
- Outdoor lighting shall be limited to that required by the building code and shall be down-lit only and fully shielded when viewed from the top and sides.
- Prior to issuance of a building permit, the above specified plans will be compared to the construction documents submitted to the Building Inspector for verification and correspondence. If the Building Inspector determines that there are significant differences, the applicant shall be required to apply for a Modification to this Special Permit.
- Substantial activity authorized by this Special Permit must commence no later than one year from the date of final action by the Westhampton Zoning Board of Appeals.

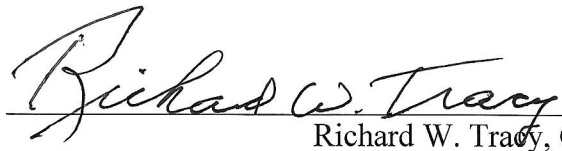
## Other Conditions:

- All offers and conditions as noted in Application and Findings are incorporated as Conditions for Approval.

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*These proceedings were conducted in accordance with the provisions of the General Laws, and the Westhampton Zoning Bylaw. A full copy of the application, plans and proceedings is on file for inspection. Persons aggrieved by this decision may appeal in accordance with the provisions of MGL Ch. 40A §17 by filing notice of such appeal with the Westhampton Town Clerk within 20 days of the filing of this decision with the Town Clerk.*

For the Westhampton Zoning Board of Appeals

  
Richard W. Tracy, Chair

Date: \_\_\_\_\_

I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: \_\_\_\_\_  
Katrín Kaminsky, Town Clerk