

TOWN OF GENESEE PLAN COMMISSION MEETING MINUTES

July 24th, 2023

6:00 P.M.

Chairman Leair called the meeting to order at 6:00 p.m. Present were Chairman Leair and Plan Commission members Engelking, Lightfoot, Turzynski, Toole, and Christiansen. Also present was Town Board Supervisor Ross. Also in attendance was Administrator/Planner Herrmann and Deputy Clerk Workman.

1. **Discussion/Action-Commercial Kennel Request from Skylar Briant. The property is described as a part of the NW ¼ of Section 13 T6N R18E Town of Genesee, Waukesha County. More specifically, the property is located at W287 S3238 Bethesda Church Rd. (GNT 1490-999-006)** Planner Herrmann referred to comments made in the Public Hearing dated 6-26-2023 in regards to limiting the noise from barking dogs and the public concerns regarding an unauthorized business (SniffSpot) being run from said property. Planner Herrmann clarified that this action will only be for Walk This Way Pet Sitting and that no other business will be approved tonight. Plan Commission member Lightfoot asked a clarifying question that the allotted number of twenty (20) dogs being allowed per Planner Herrmann's conditions included Ms. Briant's four (4) personal pets. Planner Herrmann stated that yes, her dogs are included in this number. Plan Commission member Christiansen made a comment that if neighbors have future complaints about noise that they need to lodge a complaint in writing to the Town. Chairman Leair read through some of Planner Herrmann's conditions. Plan Commission member Engelking made a motion to approve the request for a commercial kennel subject to the conditions Planner Herrmann outlined in his report dated 7-19-2023 which he feels adequately addresses the concerns for neighbors from the Public Hearing dated 6-26-2023. The motion was seconded by Town Board Supervisor Ross. The motion was approved 7-0

TOWN OF GENESEE PLAN COMMISSION

PLANNER'S REPORT AND RECOMMENDATION

CONDITIONAL USE/PLAN OF OPERATION

PROJECT NAME: Walk This Way Pet Sitting

TAX KEY NUMBER: GNT 1490.999.006

DATE: July 19, 2023

NAME OF APPLICANT:

Skylar Briant

W287 S3238 Bethesda Church Road

Waukesha, WI 53189

NAME OF OWNER:

Laura Gralton

N60 W39698 Mary Lane

Oconomowoc, WI 53066

LOCATION OF PROPERTY:

Lot 2 CSM 6264, being a part of the NW ¼ of Section 13, T6N, R18E, Town of Genesee. More specifically, the property is located approximately 1,400 feet north of the intersection of Bethesda Church Road and CTH D and contains approximately 17.4 acres

PRESENT ZONING:

A-5 Mini-Farm District.

A-E Exclusive Agricultural District.

A-3 Suburban Estate District.

PRESENT LAND USE:

Single-Family Residence and Private Horse Boarding Operation.

PROPOSED REQUEST:

The existing property contains approximately 17.44 acres of land and has 725 feet of frontage on the east side of Bethesda Church Road. Recently the owner of the property constructed a 40-foot x 100-foot Barndominium. The petitioner is proposing to operate a Commercial Kennel Facility per Section 40 (B)(4) Animal Hospitals, Veterinarian Clinics, and Commercial Kennels of the Town of Genesee Zoning Code. "Walk this Way Pet Sitting" is a boutique pet sitting service, servicing about two (2) dozen families in the Lake Country Area. On a normal day, the petitioner expects to have between 8-10 client dogs and 4 personal dogs on site. Most dogs go home each day, but there are situations where 3-5 dogs will spend the night. The interior contains five (5) large dog crates, five (5) small dog crates on top of the large crates and one (1) extra-large crate. A dog washing station has been installed in the back room where the horses are located. A fenced in dog run area is located behind the home. However, it does not appear that the dog run is located the required 100 feet from an adjoining property line. A small commercial dumpster is located on the property to handle the animal farm waste as well as the waste from the dogs. Parking will be located in the front of the building. Usually only one person is dropping off a dog at a time.

One of the biggest issues with commercial kennels is noise from barking dogs. The petitioner indicates that if barking dogs do become a problem, those dogs are brought inside to settle down before going back out. The petitioner does have bark collars for those dogs that continue to bark uncontrollably.

The hours of operation will be generally on Sunday through Saturday from 9:00 a.m. to 5:00 p.m. There might be an occasion where a dog is dropped off before 9:00 a.m. and picked up after 5:00 p.m., but those instances will be rare in nature. Currently, the petitioner is picking up and dropping off all of the dogs at their homes and no drop offs occur at the facility at this time. The lighting and landscaping on the property will not be changing as a result of this new business. No new signage is proposed on the site. According to the application, the petitioner is the only employee and no additional part-time or full-time employees are anticipated in the future.

PLANNER'S RECOMMENDATION:

It is the opinion of the Town Planner that this request be **approved** subject to the following conditions:

1. Subject to the proposed uses on the premises consisting of a commercial kennel operation for up to a total

of twenty (20) dogs, including the four dogs owned by the petitioner. No other commercial operations on this property are approved at this time

2. All dogs owned by the owner or petitioner shall be licensed with the Town of Genesee on a yearly basis.
3. The fenced in dog run shall be located at least 100 feet from all property lines. An updated site plan shall be submitted to the Town Planner showing the exact location of the fenced in dog run in compliance with the ordinance.
4. If noise from inside the building becomes a problem on the outside of the building, the petitioner/owner will be required to adequately sound proof the building to the satisfaction of the Town Engineer. Any costs associated with hiring an engineer regarding the soundproofing of the building shall be the responsibility of the owner and petitioner.
5. All dogs taken outside the fenced in kennel area shall be on a leash at all times.
6. The drop off times shall not be earlier than 7:00 a.m. and pick up times shall not be later than 7:00 p.m.
7. No signage has been proposed with said operation. Any proposed signage shall be submitted to the Town Plan Commission for review and action prior to installation.
8. Documentation shall be submitted to the Town Planner that Waukesha County Environmental Health Division has reviewed and approved the existing septic system for the proposed uses, prior to the issuance of any permits for said Commercial Kennel facility.
9. If there are complaints about unusual noise inconsistent with the normal operations of a commercial Kennel, the Town Plan Commission may recommend that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use.
10. The Town Plan Commission shall review the proposed operation on an annual basis beginning on June 2024. The Town may require additional measures or changes to the operation for said use to continue in operation.
11. Subject to the Applicant satisfying all terms, conditions and requirements of the Town of Genesee Building Inspector, with regard to the building and the property, to ensure compliance with all applicable laws, codes, statutes, ordinances, rules and other lawful authorities, prior to the issuance of an occupancy permits. The Applicant shall allow the Town of Genesee Building Inspector access to the property and building for the purpose of conducting such inspections.
12. Subject to the Applicant submitting to the Town Planner proof that Lake Country Fire and Rescue has inspected the premises to ensure all applicable fire codes are complied with and that a Knox Box has been installed in conformance with the Town of Genesee Knox Box Ordinance (if applicable) and that Lake Country Fire and Rescue granted approval, prior to the issuance of an occupancy permit. Any approval

by Lake Country Fire and Rescue is for the Town's purposes only, and must not be interpreted as providing any representation or assurance of any kind to the Applicant or future owners of the property or any third party.

13. The Town reserves the right to review any condition imposed as part of this Conditional Use/Plan of Operation, if said use becomes a problem in the area. The Town Plan Commission may modify, change, delete, add, etc. any conditions, which they feel may be reasonable in order to allow this use, and to ensure that it does not become detrimental to the surrounding area.
14. The proposed dumpster shall be completely enclosed by a fence in a manner approved by the Town Planner within one (1) year of the approval by the Town Plan Commission of this proposed use.
15. An up-to-date Plan of Operation must be approved and on file at all times with the Town of Genesee Plan Commission, subject to the Applicant applying for an amended Plan of Operation and receiving all necessary Town Approvals prior to any revisions being made to the operation. The Applicant must ensure that the current Plan of Operation is on file at all times.
16. Documentation shall be submitted to the Town Planner that all required Federal, State, County and Local licenses and permits have been obtained for any and all uses.
17. Subject to the applicant allowing the premises to be available for inspection by the Town of Genesee officials at any reasonable time and upon reasonable notice.
18. All activities on the subject property herein may not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.
19. A Deed Restriction stating the conditions of approval shall be filed in the Waukesha County Register of Deeds Office prior to conditional use permit being issued.
20. The standard conditions attached hereto as Exhibit A are incorporated herein by reference.

Respectfully submitted,

Jeffrey C. Herrmann, AICP

Town Planner

2. **Discussion/Action-Conditional Use Request from Adam Coker for a Limited Family Business for Watts Up Engineering LLC. The property is described as being a part of the SW ¼ of Section 10 and a part of the SE ¼ of Section 9 T6N R18E Town of Genesee, Waukesha County. More specifically, the property is located at W305 S3077 Brookhill Road. (GNT 1479-041)** Planner Herrmann outlined the requirements for a Limited Family Business. Planner Herrmann stated that the Town's Attorney believes that the structure Mr. Coker would like to put up should be considered an accessory building, not an addition on his primary residence. Plan Commission member Lightfoot confirmed that in the findings of fact, that the addition is 1,145 square feet with the breezeway to the house. Per the HOA of the subdivision said addition does not meet their setback requirements or anything larger than 1,000 square foot addition. Chairman Leair stated that it looks like too much for that one (1) acre parcel. She stated that most of the time, the town requires the applicant to look at a business park lot for the size of this business. Plan Commission member Turzynski agreed that one (1) acre is very inadequate for what Mr. Coker is doing. Town Board Supervisor Ross stated that there are always pallets sitting there and that he is not comfortable with a commercial sign in a residential area. Chairman Leair stated that this business is not the type of business that is thought of as Limited Family Business. Plan Commission Member Engelking clarified that with the breezeway, the addition would be 230 square feet over the maximum. He also stated that he doesn't like the need for a forklift on site which makes it much more commercial. Plan Commission member Lightfoot asked a question regarding the current stuff that is on the property and Planner Herrmann stated that Mr. Coker would have thirty (30) days to clean it up or it would be referred to the Town's attorney. Plan Commission member Lightfoot then made a motion to deny the Conditional Use Request for Watts Up Engineering subject to the Findings of Fact, Conclusion of Law, and Order and Determination. The motion was seconded by Toole. Plan Commission member Engelking pointed out that the denial would be due to the Findings of Fact numbers 16,17, and 18. The motion was approved 7-0

DECISION OF PLAN COMMISSION

TOWN OF GENESEE

WAUKESHA COUNTY, WISCONSIN

Project Name: Watts Up Engineering Conditional Use Application

Tax Key Number: GNT 1479.041

Application Filed: June 4, 2023

Notice Dates: June 9 and June 16, 2023

Hearing Held: June 26, 2023

FINDINGS OF FACT¹

Having heard all the testimony and considered the entire record herein, the Commission finds the following facts:

1. The Applicant is Adam Coker.
2. The Applicant is the owner of property described as W305 S3077 Brookhill Road, Town of Genesee, Waukesha County (the "Property").

¹ To the extent that any Finding shown herein as a matter of law, it is intended to be a Conclusion of Law; and to the extent the Conclusions of Law shown herein involve factual matters, it is intended to be a Finding of Fact. The heading under which such statements appear shall not be controlling.

3. The Property is zoned R-1 Residential District under Section 68 of the Town of Genesee Zoning Code.
4. The Property is currently being used as a single-family residence by Mr. Coker.
5. The owner is requesting a conditional use permit for the operation of a solar sales and installation business known as Watts Up Engineering on the property through a Limited Family Business per Section 40(B)(16) of the Town of Genesee Zoning Code.
6. The Applicant's application materials included building plans, site plan, and a plan of operation.
7. The Applicant presented his proposal to the Plan Commission on June 26, 2023.
8. The proposed plan included a garage addition to the house connected via a 5-foot, 5-inch-wide covered breezeway to house the equipment and operations necessary for the solar business.
9. The proposed addition would have a footprint of 1,145 square feet, including the breezeway.
10. The proposed business would be operated by Mr. Coker and one other full-time employee.
11. The Applicant would own and operate three trucks, three trailers, and forklift on the Property in conjunction with the business.
12. Two (2) commercial vehicles and One (1) trailer would be parked outside of the new building addition.
13. A statement was presented by a neighbor opposing the application due to the nuisances currently on the property and the anticipated increase in nuisances that may be created by the operation of the solar business.
14. The Applicant presented a site plan detailing an accessory building that would not satisfy the setback requirements (75 feet from the right of way and 25 feet from the lot line), as required by the Homeowners Association.
15. The Applicant's plan of operation detailed the sale of products on the premises not produced by the limited family business.
16. The Applicant **has not** presented substantial evidence that his proposed use would satisfy the vehicle storage and parking conditions.
17. The Applicant **has not** presented substantial evidence that the proposed breezeway meets the six (6) foot width criteria and therefore this would be considered an accessory building would exceed the maximum size of an accessory structure of 1,000 square feet.
18. The Applicant **has not** presented substantial evidence that his proposed use would satisfy the standards of operation requirements for a limited family business.

CONCLUSIONS OF LAW²

Based upon the above Findings of Fact and the record made herein the Commission concludes as follows:

1. Section 1(B) of the Town of Genesee Zoning Code describes its intent as follows:

"For the purpose of promoting health, safety, morals or the general welfare of the community, this Code is enacted to regulate the height, location and size of buildings; to classify and regulate the use of buildings and

lands according to their specific characteristics; to regulate the density of population and the use of lot area; to regulate and determine the areas of open space surrounding buildings; to divide the Town into districts of such number, shape and area to carry out the regulations of this Code; to provide for the administration and enforcement of this Code; and to prescribe penalties for the violation of the provisions of this Code.”

2. Consistent with that intent, Section 68 permits single-family dwelling and certain agricultural uses in an R-1 Residential District (R-1).
3. Section 40(B)(16) of the Town Zoning Code allows for a limited family business as a conditional use in R-1 Residential Districts.
4. Section 40 of the Town Zoning Code defines the intent of conditional uses within the Town, including the following:

“Certain uses, which are of such a special nature, or are so dependent on the actual contemporary circumstances as to make impractical the predetermination of permissibility of such uses or to detail in this Code of the specific standards, regulations, or conditions which would permit such uses in each individual situation. Such uses may, however, be permitted as conditional uses subject to the terms of this Section. The applicant for a conditional use shall demonstrate that the application and all requirements and conditions established by the Town of Genesee Plan Commission and Town Board (if applicable) relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The decision to approve or deny any such conditional use permit will be based upon **substantial evidence**.”

5. Section 19(2)(a) limits the aggregate floor area of accessory buildings in R-1 Residential District to 1,000 square feet. The subdivision deed restrictions also restrict accessory buildings, to no larger than 1,000 square feet. While the Applicant proposes to attach the new structure to the residence by a breezeway, the structure is functionally separate from the house, and for all practical purposes would operate as an accessory structure.
6. The Town of Genesee Zoning Code states the following applicable standards for a limited family business conditional use in Section 40(B)(16):

(a) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owners and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.

(e) The limited family business is restricted to a professional office, service-oriented business or home occupation business with very limited or no onsite customers and is prohibited from manufacturing or assembling products. The sale of products on the premises not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e., hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).

(f) The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.

(g) The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.

7. The proposal does not meet the required storage and parking conditions. The proposal does not meet the allowed uses for a limited family business as the sale of products not produced by the limited family business would take place on the property. The proposed building is larger than the Town Zoning Code and subdivision deed restrictions allow for an attached garage or an accessory building, and this is tantamount to an accessory building based on the intent of the ordinance. The Applicant has not presented substantial evidence that his proposed conditional use satisfies the standards set forth in the Town Zoning Code and therefore would not promote the health, safety, morals or the general welfare of the community. The Applicant failed to demonstrate through substantial evidence that the application and all requirements and conditions established by the Plan Commission would be satisfied.

ORDER AND DETERMINATION

On the basis of the above Findings of Fact, Conclusions of Law and the record herein, the Commission determines and orders as follows:

*The requested conditional use permit application to operate a solar sales and installation business as a limited family business on the Property zoned R-1 Residential District is **denied**.*

3. **Discussion/Action –Site Plan/Plan of Operation for Athletes Lab DBA Clutch Sports; Steve Plochocki. The property is described as being a part of the NW ¼ of Section 27 T6N R18E Town of Genesee, Waukesha County. More specifically, the property is located at S47 W30760 WI-59 Unit 106. (GNT 1546-996)** Steve Plochocki was present representing Clutch Sports. He stated that he will be making three baseball tunnels for use. Plan Commission member Christiansen asked a question about how the baseball simulator would differ from the golf simulator. Mr. Plochocki reviewed the differences. Plan Commission member made a motion to approve the site plan/plan of operation for Athletes Lab DBA Clutch Sports. The motion as seconded by Christiansen. The motion was approved 7-0
4. **Discussion/Action- Amendment to the Site Plan/ Plan of Operation for S/S Automotive Inc for parking and signage. The property is described as being a part of the NW ¼ of Section 27 T6N R18E Town of Genesee, Waukesha County. More specifically, the property is located at W305 S4990 Hwy 83. (GNT 1546-056-001)** Robert Williams Jr was present representing S and S Automotive and stated that he is looking to extend the parking lot and give the buildings a “facelift” including new paint and signage. Planner Herrmann stated that the Town will require S&S Automotive to file a revocable occupancy if the town ever needs to widen the road, the parking lot expansion would be removed at the owner’s expense. Town Board Supervisor Ross made a motion to approve the amendment to the Site Plan/Plan of Operation with the filing of the revocable occupancy. The motion was seconded by Engelking. The motion was approved 7-0
5. **Discussion/Action -Approval of June 26nd Plan Commission Meeting Minutes** Plan Commission member Engelking made a motion to approved the minutes from 6-26-23. The motion was seconded by Christiansen. The motion was approved 6-0 with 1 abstention.
6. **Update on Pending Enforcement Matters** None
7. **Correspondence** Planner Herrmann stated that Maravilla Montessori School is looking to have a special Plan Commission meeting to expand the parking lot. August 7, 2023 at 4:00 p.m. was decided on to be a time that most if not all Plan Commission members could attend.
8. **Adjourn** Plan Commission member Engelking made a motion to adjourn. The motion was seconded by Ross. The motion was approved 7-0. The meeting was adjourned at 6:40 p.m.

Respectfully Submitted;

Rachel Workman

Deputy Clerk

July 10, 2023

Notice - It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Town Office at 968-3656.