

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE OCTOBER 21, 2014 MEETING**

MEMBERS PRESENT:

Mr. Roger Mason
Mr. Justin Verst
Mr. Joseph Williams
Mr. Michael Williams
Ms. Sharon Haynes, TPO
Mr. Scott Bachmann, Vice Chair

MEMBERS ABSENT:

Mr. Dave Schaber, Chair

STAFF PRESENT:

Ms. Cynthia Minter, Director
Mr. Ryan Hutchinson, Planner
Mr. Michael Duncan, Legal Counsel
Ms. Stephanie Turner, Recording Secretary

Mr. Bachmann called the meeting to order at 7:02 PM and asked for a roll call. Following roll call, a quorum was found to be present. Mr. Bachmann asked if everyone had read the July 15, 2014 meeting minutes and if there were any questions or corrections. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion to approve the minutes as submitted. Mr. Mason seconded the motion. A roll call vote found Mr. Mason, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Ms. Haynes in favor. Mr. Bachmann abstained. Motion passed.

Mr. Bachmann introduced case #BA-05-14, by applicant Toni Lauer, at the location of 13015 Fisher Road in the Unincorporated Campbell County, with a request for approval of a conditional use permit to operate a dog kennel. Mr. Hutchinson presented the staff report as follows:

NUMBER: BA-05-14

APPLICANT: Toni Lauer

LOCATION: 13015 Fisher Road, Unincorporated Campbell County

REQUEST: A conditional use permit to operate a dog kennel.

Considerations:

1. The applicant is requesting a Conditional Use from Section 10.1, C., 3., Kennels. The site in question is currently zoned A-1 (Agricultural One). There is currently a kennel operating without board of adjustments approval.
2. The site in question, containing approximately 5 acres on two separate lots, is located on the east side of Fisher Road, approximately 700 feet south of Haubner Road, Unincorporated Campbell County. Areas located to the north, south, east and west of the site in question are currently zoned A-1.
3. Currently, the site has a single family home, barn and several out buildings used as kennels. Surrounding land uses include single-family residential dwellings and vacant / farm land.

4. The 2008 Campbell County Comprehensive Plan identifies this area for agricultural uses.
5. The Campbell County Zoning Ordinance definition of kennel: "An area specifically used for the raising, boarding, or harboring of small domestic animals."
6. The setback requirements for conditionally permitted uses in the Agricultural (A-1) Zone are as follows:
 - a. Minimum Lot Area - One Acre
 - b. Minimum Lot Width – One hundred (100) feet.
 - c. Minimum front yard Depth – Fifty (50) feet
 - d. Minimum side yard Width – Total – Twenty five (25) feet; One Side – (10) feet
 - e. Minimum rear yard Depth – Thirty-five (35) feet
7. The submitted site plan indicates the following:
 - a. There are 4 sheds used as kennel units that exist on the property. There are also fences and runs associated with each shed structure.
 - b. There is an existing house and horse barn on the property.
 - c. The applicant states the 4 sheds will house a maximum of 25 dogs.
 - d. The sheds will be approximately 65' to 100' feet from the applicant's house.
 - e. The closest shed to the right-of-way is 110' feet.
 - f. The sheds are disbursed on both the north and south east side of the home.
 - g. The dog runs cover a large portion of the property north and south east of the house.
 - h. The applicant's five acre tract is under common ownership but two separate lots.
 - i. Additional information submitted with the development plan:
 1. Each shed will connect to an outside run.
 2. The dogs will be inside a shed at night.
 3. The runs will have solar electricity for lights.
 4. The sheds have lights on the front and on the inside of the building.
 5. The sheds have heated water buckets and heating pads for the winter.
 6. One of the sheds has heat.
 7. There will be no employees other than family members at the site.
 8. The owner will be living on the premises.
 9. There will be no sign posted on the property for the kennel.
 10. No additional landscaping has been proposed.
 11. It is not clear how wide the right-of-way is fronting the lots.
 - j. Staff finds that there were 4 shed/kennels and fences added between 2007 and the 2013 aerials. No permits for fences or outbuildings were applied for on this property.

Mr. Hutchinson paused at this point in his presentation to jump to the end of the staff report to the section labeled as "Additional Information". Mr. Hutchinson stated that on January 29, 2008 staff responded in writing to the applicant about operating a Kennel as a conditional use on the premises. In our response, we included all procedures and meeting dates for the Board of Adjustment. Staff was unaware that a kennel was on site until July when staff was contacted by a concerned neighbor because the applicant was installing a carport without a permit. A building inspector was sent to perform a site visit on July 10th. He confirmed that the carport

was being installed without permits and believed they were also operating a kennel on the premises. At that time, we advised them that an Occupational License, as well as a Conditional Use Permit, was needed.

Ms. Minter came forward at this point to speak. When staff learned there was a possible kennel on site, staff contacted the Campbell County Animal Shelter to request they perform a site visit which was performed on July 25th. They confirmed that the site was a kennel and that an Occupational License as well as a Conditional Use Permit was required based on their site visit. On September 5th, a second site visit by the Campbell County Animal Shelter identified major issues with the sheds/kennels. They are made of wood or plywood and hay was being used for bedding which is changed once a month. The County Ordinance 90.26, which is on file, requires that kennels have to be hosed and disinfected daily. The applicant was receptive to working with the Animal Shelter to adjust their management practices there.

Ms. Minter advised the Board that on October 15th staff received a message from Lisa Krummen, the Assistant Director/Animal Control Officer at the Campbell County Animal Shelter. Ms. Krummen apologized because she was not able to attend the meeting tonight, but she wanted to give us a statement. Ms. Minter read the message into the record:

The Woof and Hoof Inn Kennel consists of 4 sheds that are used for kennels. They look like doll houses with window boxes and flowers. It appears well maintained. Each Kennel has a fenced in yard attached for the dogs to run and play during the day.

She has painted the insides of the kennels with waterproof paint, added waterproof siding to the walls, and linoleum to the floors. She added fencing inside to separate the kennels into separate cages and beds to keep the dogs elevated off the floor and warm. The kennels look 100% better and smell clean. She states that she purchased her sanitizer from Pet Edge, which is a Pet Supply company, and is disinfecting the walls and floors daily. She also made a visit to the shelter so that I could show her how we clean the kennels and the products that we use.

I feel confident that if Ms. Lauer receives her conditional use permit that she would be operating a nice facility. I would be happy to make annual inspections.

Lisa Krummen, Assistant Director/Animal Control Officer

With this, Mr. Hutchinson returned to presenting his staff report.

8. A review of the public records indicates there were no previous conditional uses or variances granted by the Board of Adjustment for this site.
9. Kentucky Revised Statute (KRS) 100.111 provides for the following definitions:

"Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

"Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

- (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
- (b) A statement of the specific conditions which must be met in order for the use to be permitted.

Per Campbell County Zoning Ordinance Section 9.14, A. DETERMINATION: Subject to the requirements of Section 18.7, the Board of Adjustments may authorize a conditional use to be located within any zone in which such conditional use is permitted, if the evidence presented by the applicant is such as to establish beyond any reasonable doubt:

- a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

The applicant stated: "The Kennels will provide income to the county in the way of taxes, helping other businesses such as groomers, vets and alternative means of boarding K-9 companions. They have the access to run and play unlike other facilities which require them to stay in small concrete cages. This means of alternative boarding keeps dogs happy and non-stressed which in return keeps dogs from barking."

- b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity."

The applicant stated: "Health: waste is disposed of in dumpster, all dogs are current on all mandatory shots. Safety: All dogs are evaluated for behavior issues, they are contained behind fences which have electric cattle wire on top and bottom to prevent escape. If a dog was to escape they have another fence barrier before they could exit the property. General Welfare: No dog has access to a person residing or working in vicinity. Gates to property are kept locked when no one is on the premises and closed at all times. The dogs are of no threat to the property or improvements in the vicinity. The property is manicured and looks as if it is a park. Attached are photos. There is no signs for advertising on property. All clients are by referral. Less than 5% either pickup or drop off their dogs in a year. Pickup and delivery is provided to the customer by the kennel."

- c. That such use will comply with any regulations and conditions in this Ordinance for such use.

The applicant stated: "Kennel will comply with any regulations and conditions in this ordinance for such use. A current occupational license is in effect. All dogs are current on shots and health papers on premises."

Staff Recommendation:

To approve the conditional use request, but only subject to compliance with the following conditions:

1. That the applicant applies for zoning and electrical permits for the sheds and fences. The fees shall be doubled since this is for a conditional use in the A-1 Zone and construction occurred without a permit.
2. That the facility house no more than 15 dogs.
3. That the dogs be placed inside the kennel at night.
4. The applicant must follow the home occupation regulations in the County Zoning Ordinance.
5. That any signage be in accord with the Campbell County Zoning Ordinance.
6. That the dog kennels not be used for residential use.
7. That the applicant complies with all applicable Campbell County Planning, Zoning & Building Regulations.
8. That the four kennels (sheds) used to house dogs be consolidated to the north side of the existing primary residence.
9. That the applicant has an annual inspection by the County Animal Shelter for compliance. These results must be provided to staff in writing. If the applicant fails to meet the County Compliance within 30 days of annual inspections staff can proceed with termination of the Conditional Use Permit.
10. That the 5 acres shown on the plan be combined into one lot.
11. That the minimum right-of-way along a local road be dedicated fronting the proposed lot.
12. That any future expansions or modifications be submitted to the Board of Adjustments.
13. That a lighting plan for any exterior lighting be submitted to staff for review and approval.
14. That the storage of manure or animal waste be further than 50' feet from any property line.

Supporting Information/Bases for Recommendation:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

2. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
3. That such use will comply with any regulations and conditions in this Ordinance for such use.
4. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.11 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS: "Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and customer is contacted in other than that location."
5. That any and all signs comply with Sign Regulations in the Campbell County Zoning Ordinance.

Additional Information:

On January 29, 2008 staff responded in writing to the applicant about operating a Kennel as a conditional use on the premises. In our response, we included all procedures and meeting dates for the Board of Adjustment.

In July staff was contacted by a concerned neighbor because the applicant was installing a carport without a permit. That is when staff learned they were also operating a Kennel on the premises.

Mr. Hutchinson concluded his report by asking the Board if there were any questions he could answer for them. Mr. Bachmann asked the Board if they had questions. Ms. Haynes asked for background on how the limitation of fifteen (15) dogs was determined. Mr. Hutchinson stated that the applicant had submitted to staff that she could hold and/or does hold a maximum of twenty-five (25) dogs. Staff reviewed the application and had discussion with the Animal Shelter and determined that twenty-five (25) dogs seemed to be high. We had discussion with the Shelter and settled on a number of fifteen (15) dogs for the size of operation that they held here. Mr. M. Williams asked if the Shelter indicated there was a reason why fifteen (15) was ok, but twenty-five (25) was too many. Is there some kind of criteria they use? Mr. Hutchinson replied he did not have that conversation with the Animal Shelter, but Ms. Minter did and may be able to answer that question. Ms. Minter went to the podium to address this question.

Ms. Minter stated that based on the size of the structures and they type of facility this is. This is a facility for housing of dogs and not breeding of dogs so fifteen (15) seemed appropriate. Mr. M. Williams asked if the applicant agreed with the limitation. Ms. Minter advised that question would need to be asked of the applicant. Mr. M. Williams asked Ms. Minter is the County Ordinance 90.26 was a zoning ordinance. Ms. Minter replied it was a County Ordinance set by the Fiscal Court and was not located in our zoning ordinance. Mr. M. Williams asked Mr. Hutchinson to specifically point out on the site plan what was considered north and Mr. Hutchinson did so. Mr. M. Williams went on to ask about the use of the word "shed" and "kennel" interchangeably. Mr. Hutchinson stated that on the site plan they are listed as "shed", but the "shed" is actually the "kennel" buildings where the dogs are housed. Mr. M. Williams asked if the nearest neighbor was located to the north. Mr. Hutchinson replied that the closest neighbor to the kennel was to the south of the property. Mr. M. Williams proceeded to use his laser pointer to identify what he thought was the larger of the two (2) kennel buildings to the

northeast behind the applicants home, but closer to the nearest neighbor. Mr. Hutchinson replied that was correct. Mr. M. Williams which kennel was really close to the property line. Mr. Hutchinson pointed out the two (2) smaller kennel buildings to the north of the property and probably within the setback requirements. Mr. M. Williams asked if these structures were visible from the front right of way. Mr. Hutchinson replied that there were a lot of trees so the kennels to the north you could see but not very well. The two (2) structures to the rear of the applicant's home are in line with the driveway and you could see those a little clearer. Mr. M. Williams asked what the distance to the nearest resident was. Mr. Hutchinson replied it was about two hundred (200) feet to the south. Mr. M. Williams asked if there were any other residences in the immediate area. Mr. Hutchinson replied none closer than the two hundred (200) feet. Mr. M. Williams stated he did not see any other neighbors nearby. Mr. Hutchinson pointed out residences across the street.

Mr. M. Williams asked about the history of the case. In the report, it states that in 2008 someone inquired about having a kennel. Mr. M. Williams states he assumes that is the current applicant. Mr. Hutchinson stated that was correct. Mr. M. Williams asked if the inquiry was in writing. Mr. Hutchinson replied that the initial inquiry was a phone call and Ms. Turner responded in writing. Mr. M. Williams asked if the letter advised them there were zoning regulations to be followed. Mr. Hutchinson replied that was correct. Mr. M. Williams asked if staff knew why they proceeded to install the kennel without obtaining the necessary approvals. Mr. Hutchinson stated that staff provided them with the information and steps they needed to follow in order to apply for a conditional use for a kennel in the A-1 Zone. Mr. M. Williams asked if at the time of the first inquiry was the kennel already in existence. Mr. Hutchinson replied that he does not know that, but looking at the aerals between 2007 and 2013 there were four (4) sheds added. Mr. M. Williams asked for confirmation that it was not known if the kennel was in operation at the time they made their inquiry in 2008. Mr. Hutchinson replied all he could advise was that the kennel was not there in 2007. At some time between when we flew our aerals in 2007 and then again in 2013, the four (4) shed were added along with the fencing all without permits. Mr. M. Williams asked if we knew why the applicants never followed up. Mr. Hutchinson replied that staff was not advised of any information. That question should be addressed to the applicant.

Mr. Hutchinson stated that the initial inquiry about the carport being installed. Staff advised the applicant they needed to apply for a conditional use permit. At that time, we were not aware that we had previous contact with the applicant. It was after we received the completed application and had begun doing the necessary research that it was discovered the applicant had made a previous request for information on operating a kennel. Mr. M. Williams stated his concern was that if they were notified in 2008 that they were supposed to comply with certain zoning regulations and they didn't do it. They never advised staff why. Mr. M. Williams continued that there were not to be any employees on site. It was strictly for the resident. Mr. Hutchinson stated that was what was told to staff by the applicant and that would comply with the Home Occupation regulations.

Mr. M. Williams stated that was his next point. As he reads Article IX, Section 9.11 for the regulation regarding a home occupation, it is his understanding that if you have a home occupation business then you cannot have direct contact with customers, changes in the operation of any home occupation should not have any visible evidence of that outside the residence. Mr. Hutchinson replied that there shouldn't be any indication of a business except they are allowed to apply for a sign which is an indication, but it is accounted for in the ordinance. Visually if they have a sign, it is a way to separate it from a residence, but they cannot have employees. Mr. M. Williams stated that in 9.11, C there should be no visible that the property is used for any purpose other than a dwelling, but as he looks at the aerial view

there is visible evidence of sheds, dogs and runways, so would that be not in compliance with the home occupation regulations. Mr. Hutchinson replied that the caveat here is that a kennel is listed as a possible conditional use of the property within this zone. That is different than your standard home occupation where you would have to operate inside of your home like if you were an accountant and you operate your business out of your house. Mr. M. Williams stated that was where he was getting confused. Your recommendation #4 is that the applicant must comply with home occupation regulations, but the home occupation regulations prohibit any sign of an occupation outside of the residence.

Mr. M. Williams asked if he was reading this incorrectly. Mr. Duncan stated that Mr. M. Williams was reading it correctly, but staff is offering that as a condition to mitigate the effect of this conditional use business in an agricultural zone. He does not believe that the applicant is applying for a home occupation permit, but staff is suggesting that the home occupation regulations should be followed as closely as possible to mitigate the effects of the business there. Mr. M. Williams asked if the Board approved this then should we put somewhere on the record that certain regulations in the home occupation section not be applied. Mr. Duncan stated he believes this is the best way to handle it. In other words, we are talking about the conditions to approve the request. If we get to that point, your conditions of approval can be under the statute and of our ordinance whatever most appropriately integrate this use into the community to offset the adverse effects that might happen if you didn't do those conditions. Ms. Haynes asked Mr. Duncan to clarify if that was recommendation #4. Mr. Duncan replied that it was. Mr. M. Williams went on to ask if we could waive those. Mr. Duncan replied that as a board, you can impose any reasonable condition you feel is appropriate to make this use compatible with the community. They have applied for a conditional use permit; not a home occupation permit. Staff is proposing that those home occupation limits on items such as number of employees, etc. would apply to regulate their business somewhat to a reasonable level. Mr. M. Williams commented that the intent is so we will hold them to the exterior items they currently show such as the sheds, runways and what have you. Mr. Duncan replied that was correct. Mr. M. Williams stated that reconciles the issue for him.

Mr. Verst asked if the County Ordinances limit smaller domestic animals. How many dogs can a person have at their house if it is their personal use? If you have fifteen (15) dogs that are your family dogs and want to put sheds up for those dogs, does that look like a business versus just someone with a bunch of dogs? Mr. Hutchinson stated he did not know. Mr. Verst stated that this could look like a personal residence of a person with a bunch of dogs. Mr. Verst stated the reason staff wanted to place a limitation on the number of boarding dogs because staff did not want the applicant to suddenly start breeding dogs and then they are also taking dogs in like a rescue. That was why we limited it to fifteen (15) dogs. We don't want this to become something greater than what the applicant expressed her intention was.

Mr. M. Williams stated he was a little concerned about the inspections of the kennel only being required once a year. It doesn't seem enough. He is thinking of the publicity we seen in the past not only with this county, but neighboring counties. Would the animal shelter be the one doing to the inspection? Mr. Hutchinson stated that the animal shelter offered to do an inspection annually. Mr. M. Williams asked if they would be willing to do more frequent inspections and even unannounced inspections. Mr. Hutchinson stated that they offered to do an annual inspection and he doesn't know what their ability to perform additional inspections would look like. Ms. Haynes asked what the norm was for a normal kennel. What is the normal procedure? Ms. Minter stated it was not unusual for our animal shelter to visit kennels in the county. They will do an annual. If there is an issue or there is a site that needs to be cleaned up, they will come more frequently. If they are a good operating kennel, they will just go annually. You can see from the contact with Ms. Krummen that they went out to do a visual

inspection to confirm it was a kennel; they came back on the 25th to do a more thorough inspection; they went back again in early October to allow the applicant time to make some adjustments to their process. If there is an issue or a problem, they will keep going back until the issue is resolved. Ms. Haynes state she just wasn't sure if there was a prescription of the number and/or type of inspection they perform. Ms. Minter stated that we did share the staff report with the animal shelter and they stated they would be fine doing annual inspections.

Mr. M. Williams stated that is what makes him uncomfortable. Because the problem is that they are inspected once a year and the kennels have their process and place in order to pass that inspection and then it goes down in status. Mr. M. Williams stated he feels strongly that he would feel more comfortable if he knew they were being inspected on a regular basis and even with surprise visits to make sure the animals were being properly cared for. He is not insinuating anything about the applicant or how anyone runs their business. He just personally would want some reassurance that there are measures in place to inspect more than once a year and that they are unscheduled. That would keep everyone honest. Mr. Duncan stated again that the statute would support the Board making any condition they deem appropriate. If the Board deems they want to see regularly scheduled inspections, it is within your rights to do so if that is what it takes for you to be comfortable approving the application.

Ms. Minter stated she was going to quote a section of our ordinances. This is County Ordinance 90.27 as it relates to inspections:

"The manager of the animal shelter or the animal control officer shall be permitted and empowered to make an inspection of any commercial animal establishment within the county and shall further be permitted to take photographs of commercial animal establishment during the inspection. The inspection shall take place upon the verbal request of the manager of the animal shelter or the animal control officer during regular business hours of the commercial animal establishment."

Mr. M. Williams stated that the potential was there for inspections to occur more than once a year. Ms. Minter agreed that was correct. Mr. Mason added that the way staff recommendation #9 was written it would allow the Board to terminate the conditional use if there were any problems.

Mr. Verst asked staff about the residence to the south. Do you know approximately when the residence to the staff was built? Was the house there in 2007? Mr. Hutchinson stated that he did not look to see what houses surrounded the area in 2007. He concentrated strictly on this property. Mr. Hutchinson stated that the applicant may be able to answer the question. Mr. Verst asked about the applicant's statement that the waste was placed in a dumpster. Is there a visible dumpster on site? Mr. Hutchinson replied there was. Mr. Verst asked Mr. Hutchinson to point out on the site plan where the dumpster was placed. Mr. Hutchinson pointed out the location of the dumpster as being in front of the pole barn that houses the applicant's horses. Mr. Hutchinson stated he had been on site twice and he saw it in the location of the pole barn both times. It is on a lot that is owned by the applicant, but not on the same lot as the kennels are located.

Mr. Verst asked about staff recommendation #6 where staff asks that the kennels not be used for residential use. Is staff trying to say that the shed not be used for living space for humans? Mr. Hutchinson confirmed that was correct. Since the sheds have electric, water and heating, staff does not want to see any of the sheds used as an "apartment" or "guest house".

Mr. M. Williams asked staff what they considered to be “future expansions or modifications” as referred to in staff recommendation #12. More dogs? More sheds? Mr. Hutchinson replied it would be more dogs, sheds, runways, lighting and signage. It would be any change from the plan that would be approved tonight. Mr. M. Williams asked how many dogs they kept as an average over the past couple of years that they have been operating without a permit. Mr. Hutchinson stated that he did not ask that question.

Mr. Verst asked staff about their reasoning for asking for right-of-way dedication along the front of the property. Mr. Verst fully supports dedicating right-of-ways, but he is not certain how this applies to the conditional use permit. Mr. Hutchinson stated that staff was recommending that both lots be combined and consolidated into one (1) lot. When they apply for that consolidation, staff wants to see the right-of-way dedicated at the front of the lot. Mr. Verst asked if the consolidation was asked for because with the location of the two kennels to the north staff does not believe they can meet the minimum setback requirements for this zone. Mr. Hutchinson stated that the property to the north which currently has the barn itself could potentially be sold and then someone else could become the owner within close proximity of their residence. By consolidating, they can avoid that. If they want to divide in the future then we can look at the true location of everything and make certain that the setbacks were unobstructed by the kennels at that time. Mr. Verst asked if there were any issues with the fact that there is an accessory structure on the other lot without a residence. Mr. Hutchinson replied that was not a factor because this is the A-1 Zone and accessory structure for agriculture use is permitted without a primary structure being constructed first. The barn is used for horses which would be an agriculture use.

Mr. Bachmann asked for confirmation that the two sheds to the north do not currently meet the setback requirements. Is this an issue since they are owned by the same owner? Mr. Hutchinson stated there were no measurements on the site plan so staff cannot definitely confirm this, but staff fully suspects that the two (2) kennels are in the setback requirements. The fact they have common ownership has no impact on placement of structures on the site plan. They are still required to fully comply with the setback requirements.

Mr. M. Williams stated this was probably a question of the applicant, but he was going to ask staff anyway. How exactly are they evaluating the dogs for behavior issues? Did you ask? Mr. Hutchinson replied they did briefly discuss this issue, but he would let the applicant answer this question. Mr. M. Williams asked if the county ordinance had any restriction on certain breeds of dogs. Is this a problem? Mr. Hutchinson stated he did not know. Ms. Minter commented that the county ordinance speaks of animals in general. It does speak of “vicious animals”, but it does not call out any specific breed of dog.

Mr. Bachmann asked if there were any additional questions of staff. There being none, Mr. Bachmann asked the applicant to step forward and state their name and address for the record. Ms. Toni Lauer, the owner and operator of the kennel in question, stepped forward and stated her address and the kennel location were 13015 Fisher Road in California, KY.

Ms. Lauer stated that she owned both parcels. The one to the left of the site plan is a horse farm which is for her personal horses. She does not board horses. They’re horses that she owns and rides for her personal pleasure. She has a couple of llamas on that parcel as well a few sheep. The other parcel is her residence. There are four (4) dwellings for kennels. They are separated the way they are so that they can get out and run. If you put the dogs right up against one another, they will bark and carry on. The dogs are penned in at night. They are allowed to go out and exercise. There is perimeter fencing around the place so that the dogs cannot get out to anyone to bite them or anything of that sort. The kennels have been updated

to meet the requirements of the Campbell County Animal Shelter. She also asked what their requirements were for inspection when she went to their location to see their methods. At that time, she was told there was no annual inspection process in the county and she has been in her position for fifteen (15) years. Ms. Lauer asked if the Board had any questions.

Mr. Bachmann asked Ms. Lauer if she had any issues with the recommendations proposed by staff. Ms. Lauer stated that she does not agree with the recommendations made by staff. As far as combining the lots, she disagrees with the consolidation because the other plot is used for agriculture for her animals. If she was to sell the other plot, she has no problem with the Board revoking the conditional use permit or the occupational license. Ms. Lauer does not want to move the kennels towards the north side of the property. They are fine how they are set and they work properly. There is no place to put the kennels on the other property because that is actually the pasture for her horses. She meets the variances for how far the setbacks are. They are more than enough in any way since she owns the property on the other side. Ms. Haynes clarified that Ms. Lauer "currently" owns the other property. Ms. Lauer replied that was correct. Ms. Haynes commented that Ms. Lauer could sell the other lot at any time. Ms. Lauer replied that if she sold it then she was fine with the Board revoking the cup and then there would be no kennels there. Ms. Lauer stated it's not like this would transfer anyway if she did sell the property.

Ms. Haynes asked when Woof and Hoof was established. Ms. Lauer stated that Woof and Hoof is actually her farm's name for her horses and she has poodles. She has a brand that has a horseshoe with a paw print. Ms. Haynes stated it was not created for the kennel. Ms. Lauer stated it was not. It's just the name of her farm. Ms. Haynes asked when Ms. Lauer started the kennel per se. Ms. Lauer stated that she started the kennel in about 2013 per se. She watched dogs for people which is what got her started. She checks the dogs for behavior issues and ninety (90) percent of the dogs going to her kennel also go to doggy daycare where they are evaluated as well. New dogs do not go in with the dogs that have been coming to her kennel for a while.

Most of her clients are repeat customers who take a lot of business trips or vacationing. Ms. Haynes asked how many dogs on average she has at any one time. Ms. Lauer stated she had six (6) to ten (10) dogs, but has had twenty-five (25) dogs in her peak season. Ms. Lauer stated it was good business and brought taxes to the county. Ms. Haynes asked if they closest neighbor was there prior to 2007. Ms. Lauer stated that the house was there before she built her home and kennels. Ms. Haynes asked what kind of support or concerns have her neighbors expressed to her with the kennel. Ms. Lauer replied that they don't really talk. Ms. Haynes asked if there was enough distance that they just didn't speak regularly. Ms. Lauer replied that was correct. Ms. Haynes asked if the applicant was aware of any concerns from the neighbors. Ms. Lauer replied that she was not.

Mr. Bachmann asked Ms. Lauer if she had an Occupational License for the kennel. Ms. Lauer replied that she does. Mr. M. Williams asked how the dogs were evaluated for behavioral issues. Ms. Lauer replied that it was by observation. When a dog arrives, she spends time with them. She introduced them to her dog first and sees if they get along. Her dog is very passive. You can tell if a dog is going to be very aggressive by putting food down and seeing how they act. You just monitor them and what they do and how they react to different things around them. A lot of times she takes the dog close to the fence where the horses are and see how they react to other animals; if they are aggressive towards them. If a dog behaves aggressively, they don't come back to her kennel.

Mr. M. Williams asked if between 2008 when Ms. Lauer made her first inquiry and 2013...Ms. Lauer cut Mr. M. Williams off and stated that she did not make any inquiries. Mr. M. Williams stated that apparently someone from that location did. Ms. Lauer stated she was at that location, but she did not make any inquiries. Mr. M. Williams asked Ms. Lauer to confirm she did not make any inquiries or phone calls inquiring for information. Ms. Lauer stated that she did not make any calls asking for information. Mr. M. Williams asked if prior to 2013 Ms. Lauer kept any dogs at her farm in any commercial way or was it only as a friend helping a friend manner. Ms. Lauer replied that was correct she did not have a kennel prior to 2013, but she occasionally dog sat for people. Mr. M. Williams asked her to confirm she started her commercial operation in 2013. Ms. Lauer replied that was correct. Mr. M. Williams asked why the applicant didn't apply for any permits or licenses. Ms. Lauer stated she was not aware that she needed any permits or licenses. Being out in the county, no one out there ever gets permits and she didn't think she would need any either.

Mr. M. Williams asked if the applicant had any objection to cooperating with inspections even if they are more than once a year. Ms. Lauer assured the Board she was fine with any inspection they want to request, but she feels all the other kennels should be getting inspections. She doesn't feel it should be singled out to just her. They can inspect her four (4) times a year and that's fine. Mr. M. Williams asked Ms. Lauer if she was aware of any other kennel like hers. Ms. Lauer stated there are Red Robin and another one that she can't remember the name of. One is on Fender Road and the other is somewhere in the Camp Springs area. When she visited the animal shelter, Ms. Lauer stated she was told that they never inspected them. The animal shelter only went out when there was an issue. Mr. M. Williams asked if the average number of dogs was between six (6) and twenty-five (25). Ms. Lauer replied that was correct. Mr. M. Williams stated that the peak times when she keeps dogs if she was asking for some kind of consideration for peak seasons. Ms. Lauer replied that she was. Mr. M. Williams asked if she still preferred to be able to have twenty-five (25) dogs. Ms. Lauer replied that she was. Mr. M. Williams asked what the peak seasons were exactly. Ms. Lauer replied that it was Thanksgiving, Christmas and Spring Break. The normal times people go away. The others are just business trips for business people.

A gentleman began to speak from the audience. Ms. Minter advised him that he would need to approach the microphone and state his name and address for the record. Since the meeting is recorded, we need everyone to use the microphone so that everyone could hear him. Mr. Jim Kidney, Ms. Lauer's attorney, approached the podium. Mr. Kidney stated that they had some additional photos they wanted to show the Board. Upon viewing the photos, you will see that this lady is very talented. The photos were passed to the Board members to view. You can see from the photos that you can barely see the kennels from the street. The carport was placed there because her vehicle will not fit in the garage so that was why she had to get something different. It has nothing to do with the dog situation. As she mentioned already, it is doubled fenced. As for the inspections, the dog pound or whatever you want to call it, they only inspect once a year, but anybody can file a request and if the neighbors say they smell something or there are lights coming on. Anybody can file a request at any time. If they feel it is necessary they can come out once a month or once a week...they won't but they could. If you look at the photos, you can't see anything but a beautiful home. Mr. Kidney stated he was impressed with it and he felt the Board would be too. Mr. Verst asked if staff could keep the photos submitted tonight as part of the record. Mr. Kidney answered yes, they could.

Mr. Kidney stated there were certain conditions and he would allow Ms. Lauer address those issues. He did want to comment on the number of dogs to be restricted to. If you lower the number of dogs that she can have, then you lose the customers that come more often. That might make, even if it were a compromise of twenty (20) dogs instead of twenty-five (25), that

would still give her the ability to bring these people, and these are affluent people who have dogs and money to spend to take care of them. I don't think any dogs are dangerous in this area. She doesn't do any Rottweiler or Pit Bulls. She doesn't do any breed of dog that she feels is at all harmful to the community. Mr. Kidney thinks she is an asset to the community and he would let her get back to the issues, but he wanted the Board to see the photos. One of the houses is a dollhouse like he had for his daughter years ago. With that, Mr. Kidney sat down. Mr. Verst thanked Mr. Kidney for his comment.

Ms. Lauer stated that her establishment brings in money for the county in the form of taxes. She uses local groomers for the dogs when they get dirty before she takes them home so she is bringing in money to them. Sometimes, she is asked to pick up the dogs and take them to their vet appointments. She uses local veterinarian Dr. Crowley's office. They are more affluent individuals who don't want to do certain things for themselves and they enjoy this service that she provides. She takes the dogs and have items done and they just pay the bills. This brings in more income for out in the county.

Mr. M. Williams asked to be recognized to address legal counsel. Mr. M. Williams clarified it was the Board's legal counsel. With the recent discussion regarding agriculture uses, Mr. M. Williams wanted a clarification if the boarding of dogs would be considered an agricultural use of the property. Mr. Duncan replied that the boarding of horses was agricultural, but the boarding of dogs is not.

Mr. M. Williams next asked for a clarification of how the limit came up to be fifteen (15) dogs. Ms. Lauer replied that she did not come up with that limitation. She spoke with Lisa Krummen and she appeared fine with the number of dogs initially. When she came back for her follow up visit she was told it was a number that Ryan Hutchinson came up with. Ms. Lauer stated she did not know if Lisa just agreed at that point or what. It was not clear to her how the limitation was determined.

Mr. Bachmann asked if the structures themselves are divided on the inside. Ms. Lauer replied that the two (2) large sheds are yes. The two (2) smaller sheds are not. Mr. Bachmann asked, with twenty-five (25) dogs and four (4) runs, what the number of dogs allowed in the largest run were. Ms. Lauer stated she could not tell you exactly how much acreage the run it is, but there can be thirteen (13) dogs in the largest. Mr. Bachmann asked if that was thirteen (13) dogs in one (1) building. Ms. Lauer explained no, that there could be thirteen (13) dogs in the largest run where they run and play. Most kennels, you are in a 6 x 10 area with concrete walls. You eat and go the bathroom in the same area. My kennel is not this way. They are able to go out and exercise just like it was a dog park. Mr. Bachmann stated that the applicant mentioned the dogs come in at night. If you only have twenty-five (25) dogs and four (4) shelters then how are they housed? Ms. Lauer pointed the house closest to the Board (the one closest to her neighbor's house). It is split up into five (5) different compartments inside. They can go into the runs outside. It also has a privacy fence on one side to keep them from barking at night since they can't see anything. The other one is split into two (2) large compartments where you can put four (4) dogs in each side of it.

Mr. M. Williams asked what the dimensions are of the sheds. Ms. Lauer stated that it should be on the drawings. Mr. M. Williams stated he must have missed that and asked if she knew off the top of her head. Ms. Lauer replied she believes the dimensions are 12' X 24'; 6' x 8'; 6' x 8'; and 8' X 12'. Mr. M. Williams was looking at the plat. He restated you have twenty-five (25) dogs you would distribute them among four (4) sheds that are 6' x 8'; 6' x 8'; 8' X 12'; and 12' X 24'. Ms. Haynes asked him to repeat that and he did so. Mr. M. Williams stated that was more room than some men get in prison.

Mr. J. Williams asked Ms. Lauer if out of all of staff's recommendations if she only disagreed with three (3) of them (the combining of the properties; the number of dogs; and the consolidation of the kennels). Ms. Lauer replied that was correct. Mr. J. Williams asked her to confirm she was willing to comply with all the other recommendations. Ms. Lauer stated that she would comply with all the remaining recommendations. Ms. Lauer repeated that if she were to sell the other lot, the conditional use permit could be revoked. She does not anticipate selling. How it reads, it would make her lose her horses because then it would be designated to dogs. She would lose her agriculture space as far as having her animals; her livestock. Because they want to move the dogs to the other property, she would lose her pastures and that means she would lose the whole thing. Mr. Verst explained that his understanding is not that the kennels would be moved to the other lot, but rather just closer to the north side and the existing kennels there. Staff has recommended the lots be consolidated and we can discuss that, but nothing he has recommended would change what your operations are on the north side. Ms. Lauer replied that if you look at the way the ground lays, you would see that it is not feasible to move the sheds closer to the north of the property. Mr. Verst stated again that one recommendation is to move the two (2) sheds to the south east of the home to the north east closer to the other two kennels. The second recommendation is to consolidate both lots into one (1). Neither of these items would require you to change your operations. He is not advising that you move the kennels to the second lot. Ms. Lauer stated that is what she thought she read.

Mr. Kidney started speaking from the back of the room. Ms. Minter asked him to please approach the microphone to speak so that his comments could be recorded. Mr. Kidney stated he felt he spoke loud enough to be heard. Mr. Kidney came to the podium and stated that it isn't like you are just picking up two sheds and moving them like in someone else's backyard. She has done a great job and you have to agree after seeing the pictures. She should get an award for the prettiest yard in the county and I truly think it is. Just moving the sheds is not quite picking them up and moving them. For cleaning purposes, so they can be hosed down every day which it is, it would require more than just that. Just concrete and fence wise, the cost would be great to move them. She doesn't intent to put any signs up. She has a fake fire hydrant in the front yard just for aesthetics. Ms. Lauer stated that if you come out there, you won't know there are dogs on site. If the dogs bark at night, I get up. I listen for them.

Mr. Bachmann asked if there were any other questions for the applicant. There being none, Mr. Bachmann was preparing to ask the audience if anyone wanted to speak when Mr. Verst asked to be recognized. Mr. Bachmann did so. Mr. Verst wanted to ask staff to clarify the initial contact with the applicant in 2008. Ms. Minter approached the podium and stated she had the correspondence tonight and wanted to read a portion of the letter into the record. Mr. Verst asked Ms. Minter to read the entire letter with the heading into the record and Ms. Minter did so:

*Ms. Toni Lauer
13015 Fisher Road
California, Kentucky 41007*

Dear Ms. Lauer,

I appreciate your call on Monday, December 29, 2008 to confirm the regulations and requirements for opening your new kennel business. A kennel is identified as a "Conditional Uses" business. You will need to file a Board of Adjustment Application for their consideration. Please find enclosed the two documents I promised you:

- 1. Article X Zone Regulations for Campbell County Agriculture Zone A-1*

2. Board of Adjustment Application

Per the current fee schedule, the fee due for your application is approximately \$525.00 based on the information you supplied to me via our telephone conversation. There is a flat fee of \$400.00; a \$5.00 fee for each adjoining property owner (which you identified as only two); a \$100.00 publication fee; and a \$15.00 Certificate of Land Use Restriction fee. The publication fee is the fee assessed for the advertising of the legal notice required to notify the community of your application to the Board of Adjustments.

Your payment should be made payable to the Campbell County Fiscal Court and should be attached to your Board of Adjustment Application at the time it is submitted to our office. This is a non-refundable fee. Your complete application and payment would need to be submitted to the Campbell County & Municipal Planning & Zoning Commission by January 20th, 2009 to be accepted for the February Board of Adjustment's meeting.

If you have any further questions, please feel free to contact our office at (859) 292-3880 between the hours of 8:30 am and 4:30 pm on Monday through Friday.

Best Regards,

*Stephanie Turner
Campbell County & Municipal Planning & Zoning*

Enclosure(s):

*Article X Zone Regulations for Campbell County Agriculture Zone A-1
Board of Adjustment Application*

Mr. M. Williams stated for the record that the phone number "(859) 292-3880" was then and is now the phone number for the Campbell County Planning & Zoning office. Ms. Minter stated that is correct. Mr. M. Williams asked confirmation for the record that Ms. Turner was still employed with this office. Ms. Minter confirmed that Ms. Turner is still employed with the office. Ms. Lauer asked to comment on the letter. Mr. Bachmann recognized Ms. Lauer. Ms. Lauer stated that she never made a phone call to the zoning office. She never asked for information regarding a kennel. She doesn't know who did or what. She did not at that time consider opening a kennel. Ms. Haynes asked Ms. Lauer to confirm that she did not receive the letter. Ms. Lauer stated she did not receive the letter. Mr. M. Williams asked her to confirm that it was her address. Ms. Lauer stated this was then and is now her address.

Mr. Bachmann returned to the list of registered speakers. He asked the registered speakers if one (1) person was going to represent the family or if they each wanted to speak. They both wanted to speak. Mr. Ed Stubbs approached the podium and identified himself as the owner of the home at 13076 Fisher Road, California, Kentucky 41007. His home is the 2nd closest home to the kennel. His son's home is the 1st closest. His home is approximately five hundred (500) feet from the kennel. He doesn't understand why this is going on. The kennels were never approved. Who enforces it? What's the good of laws if no one is enforcing it? These people (staff) can't enforce it. Ryan can't enforce it. The ladies can't enforce it. This really is a concern of Mr. E. Stubbs. He owns the west side of Fischer Road, or rather he and his wife own the west side of Fischer Road, directly across from the kennel. It is some nice choice building spots. He pretty sure that if there is a kennel across the street it is going to hurt his chances for any site that he may want to sell. Chances are he would not want to sell, but you never know what lies ahead.

Mr. E. Stubbs continued that the dog barking gets real bad sometimes; more in the summer than the winter. There are no permits for these buildings. He just doesn't understand why we are going through all of this if no one is going to enforce the laws. If you call the county police about the dogs barking, they are just going to tell you to try to get along with your neighbor. Well to a point, sure. But can't they make a phone call to planning and zoning to make sure they are operating in a legal manner.

Mr. E. Stubbs stated he was not going to question her on how long she has had her kennel open there, but he knows for a fact that it has been open for a number of years. Mr. E. Stubbs continued that the report stated that the applicant complies with all applicable conditions and he doesn't see that happening as she opened the kennel without approvals. As far as it is a benefit to the community, he doesn't see this as a benefit to the community. It is an aggravation. It doesn't go on every day, but it happens fairly regular. They were carrying on today, but not to the extent they sometimes do. She has fencing, good fencing. A horse and a couple of dogs have gotten out and that's not a real problem. That happens to everyone once in a while. But the noise is the issue. It is really disruptive. Mr. E. Stubbs stated he didn't think anyone in this room would want a dog kennel next door to them.

Ms. Haynes asked Mr. E. Stubbs when he moved to that location. Mr. E. Stubbs stated he bought the farm in 1982 and they built their home there in 1986. Ms. Haynes asked him to confirm if he was not aware that it was a business. Mr. E. Stubbs stated it was obvious it was a business. Ms. Haynes asked if he just assumed it was approved. Mr. E. Stubbs stated yes, everyone would assume it was approved if someone opened a business next door to them. Ms. Haynes asked if he just assumed she was in compliance. Mr. E. Stubbs stated he was pretty certain that she told "Joe" (his son) that she was approved. Here again, this is hearsay, he's not going to say that she did do that or she did not do that.

Mr. M. Williams stated that we have all been in neighborhoods where a dog barks once in a while. Then we have all been in that neighborhood where dogs bark incessantly for long periods of time. Mr. M. Williams asked Mr. E. Stubbs how he would characterize these. Mr. E. Stubbs stated just once in a while they go on and on and on. Sometimes, it happens and she might not even be there. She's not there 24/7. Mr. M. Williams stated then it wasn't continuous or incessant. Mr. E. Stubbs stated the issue was that you couldn't tell when it was going to be. Sometimes on a summer night, you want to open the windows to get some air. The dogs start howling and you have to close all the windows and turn on the air conditioner to get some sleep. Mr. M. Williams asked about odors. Are these a problem? Mr. E. Stubbs stated this was not an issue. Mr. Bachmann asked if you could notice that the noise is more so with more dogs. Mr. E. Stubbs stated that you could not tell how many dogs are over there. He doesn't have a way of telling. Mr. Bachmann asked if there were any other questions of Mr. E. Stubbs. There being none, Mr. Bachmann thanked Mr. E. Stubbs for his comments.

Mr. M. Williams stated before the next person came up to speak he had a couple of questions for staff. Did the letter to Ms. Lauer come back? Ms. Minter stated that the letter was issued in December 2008, but due to the weather, it could have been delayed until 2009. Ms. Minter had no knowledge of the letter being returned. Mr. M. Williams asked who specifically spoke to the caller. Mr. M. Williams wanted the record to reflect that Ms. Turner commented that if she wrote the letter then she was the person who spoke with the caller.

Mr. Bachmann called the next speaker to the podium. Mr. Joe Stubbs, of 13023 Fisher Road, California, KY 41007, came to the podium. Mr. J. Stubbs is the nearest neighbor to the south of the kennel. He has been there since 1990. The biggest issue for him is the noise...dogs

barking. You can tell when someone comes to drop off dogs and when someone comes up to pick up a dog. If a dog goes to a strange place, they are going to make noise. The noise disturbs our sleep a lot. You learn to sleep during the day a lot. The dogs bark a lot. Mr. J. Stubbs stated that this has been going on and off for many years now. You call the county police and they say that they would rather he work it out with his neighbor and not cause problems. He tried talking to her. She was combative and accused him of making noise. The county police stated that they need evidence either a video tape or audio tape. He videoed some of it and he can play it for the Board if they like.

Mr. J. Stubbs stated that occasionally a dog gets loose. That has happened a couple of times. It is usually not a problem. Mr. J. Stubbs contacted her one another time when a dog tore up his swimming pool cover. She swore it wasn't hers. He understands that things like that happen. His dogs have gotten out before, but he would take responsibility for his dog if it caused any damage. This kennel has been in operation for at least four (4) years. You can see cars going in dropping dogs off and then coming in and picking dogs up. There are times that are worse than others. Busy times - like holidays - with people going on vacation and dropping their dogs off, the barking is really bad then. Right now, for the past month, it has not been as bad. It is frequent enough to really aggravate you.

Mr. J. Stubbs asked if he could play the video. Mr. Bachmann asked how long the video was. Mr. J. Stubbs stated it was only a couple of minutes. Mr. Verst asked Mr. Duncan how we make the video part of our records. Mr. Duncan stated that by playing the video into the microphone so that the recording of the sound it would be make part of the record. Ms. Minter asked Mr. J. Stubbs to approach the table where staff seats so that it could be played directly into the microphone of the recording equipment. Mr. M. Williams moved his microphone so that it would pick up the recording so the entire Board could hear it clearly. At 1 hour 26 minutes 35 seconds into the recording of the meeting, Mr. J. Stubbs began playing his video recording. The video clearly showed the person holding the phone as standing in what looks like a driveway. There was a row of trees in the distance that were not full of leaves. You could clearly see the shed or "kennel" where dogs were housed. You could not specifically see the number of dogs in the building. The sound recording was of dogs barking loudly and frequently. You could hear a couple of birds chirping and some cows mooing in the recording as well. However, the dogs barking overcame the ambient noise in the recording. The dogs stopped for a few seconds and then started again two (2) to three (3) times during the recording. After just one (1) minute of the recording, Mr. M. Williams stated that should be enough to provide the Board with an example of the noise generated by the kennel. Mr. Duncan advised that we need to document when that recording took place for the record. Mr. J. Stubbs looked at his phone and advised it was recorded on April 22, 2014 at 9:47 AM.

Mr. M. Williams asked Mr. J. Stubbs to identify where he was standing. Mr. J. Stubbs stated he was standing in his front yard. The dogs can see them in their yard and they bark. They see deer in the area and they bark. They see anything that interest them and they bark. They bark at each other. Mr. M. Williams asked if there were any deer in the yard the morning of the recording. Mr. J. Stubbs stated there was not. However, there were several dogs in the same kennel together. Mr. M. Williams asked if Mr. J. Stubbs has been there since 1990, then prior to 2013 how many dogs have been over there. Mr. J. Stubbs stated that he has not seen any difference in the number of dogs there the past four (4) years since 2009. It is hard to tell. He has seen as many as six (6) or seven (7) dogs in the run closest to his home. Mr. J. Stubbs stated it was harder to see the kennels in the summer time because of the cows.

Mr. M. Williams asked if Mr. J. Stubbs could testify that the dog houses and runs were installed as long ago as 2009 or 2010. Mr. J. Stubbs replied yeah. Mr. M. Williams asked if Mr. J.

Stubbs had specifically witnessed people dropping off dogs and picking them up. Mr. J. Stubbs stated yeah, but that wasn't very often. Usually, just during holidays. It's not like there are three (3) or four (4) each day.

Mr. M. Williams asked if the dog barking and noise associated with the dogs to the extent that Mr. J. Stubbs is suggesting that the Board refuse the application. Mr. J. Stubbs stated absolutely. Mr. M. Williams asked if it was that bad. Mr. J. Stubbs stated it was that bad. Mr. M. Williams stated that if he had been there since 1990 and doesn't appear to be anti-dogs or anti-animals. Mr. J. Stubbs stated certainly not. He has his own dog. It is standard for a dog to bark when a car pulls into a driveway. There is nothing wrong with that and is actually a good guard dog. Mr. J. Stubbs stated that he and his children have been woken in the middle of the night by the barking and the noise the kennel generates. Generally, the night time is not as bad as the day, but he doesn't know if Ms. Lauer works or what, but she is usually not there during the day. Mr. J. Stubbs is there during the day.

Mr. M. Williams asked if what the Board heard during the recording was typical or atypical. Mr. J. Stubbs stated that the recording was probably one of the worst events at the kennel. He called the police that day. The county police acted dumb as to the barking ordinance and he was going to check into that and get back with Mr. J. Stubbs. The policeman never did follow up with him and when Mr. J. Stubbs called him back, he never got an answer. It may be a couple of day or even weeks between the intense episodes. Mr. M. Williams asked if on a schedule of one (1) to ten (10) with one (1) being "occasionally, but not a problem" and ten (10) being "unendurable" where would you put the kennel on that scale. Mr. J. Stubbs stated that is why he is here. It is up there pretty good. It's about an eight (8). Mr. J. Stubbs stated he tried to talk to Ms. Lauer about it, but that didn't go so well and he doesn't plan to do that ever again.

Mr. M. Williams asked if the situation improved after he spoke with her. Mr. J. Stubbs stated it somewhat improved. The first time he spoke with her she put privacy fence up along one side of the kennel so that they couldn't see us. That did help a little bit because they couldn't see his family in the backyard. It is just subject to what type of dogs she gets there. Dogs get around other strange dogs and they bark. Mr. Bachmann commented that it looks like the only issue is the sound. Does Mr. J. Stubbs have an issue with the appearance of the property? Mr. J. Stubbs stated the noise was his only issue. The appearance is fine. Mr. Bachmann asked if it was the kennel along the south side or all of the kennels on the property. Mr. J. Stubbs clarified that the primary issue is the dogs to the south east of her home. The dogs in the kennel to the north of her home can still be heard, but not as bad. Mr. Bachmann restated that the dogs to the south are the main trouble. Mr. J. Stubbs agreed that was correct.

Mr. Verst asked Mr. J. Stubbs if the Board were inclined to approve the conditional use permit, were there any suggestions that Mr. J. Stubbs would ask be imposed that would mitigate the issues for him. Mr. J. Stubbs answered that the noise is the main issue. As far as having dogs, that doesn't bother him; she can have a hundred if she wants. He just wants to make sure that the noise is not so bothersome so he and his family could sleep better. Mr. Verst stated that noise was a hard thing to manage. Mr. Verst added that after Mr. J. Stubbs spoke with Ms. Lauer she up privacy fence and that seemed to help some. Are there any other suggestions that you can think up like that could help the situation? Mr. J. Stubbs replied that he doesn't know how you keep a dog from barking.

Mr. M. Williams asked to be recognized. Mr. Bachmann did so. Mr. M. Williams stated that if he recalls correctly that Mr. J. Stubbs stated that the dogs respond to seeing the Stubbs family outside. Mr. J. Stubbs stated that was more so with the kennel that is closest to his house. Mr. M. Williams had a laser pointer and pointed to the house. He asked Mr. J. Stubbs to tell him

which buildings the ones to the left or the ones back and to the right. Mr. J. Stubbs indicated the ones back and to the right (the one on the south east corner of the property). She did put up the privacy fence there. There are a few runs that run out on concrete. Mr. M. Williams asked if the privacy fence helped at all. Mr. J. Stubbs stated that it did help a little. Mr. M. Williams asked if more fencing would help. He knows they have sound blocking fences they put alongside express ways to cut down on the noise. Mr. M. Williams stated he didn't know if there is a fence that blocks dog barking, but...Mr. J. Stubbs stated no one wanted to see that kind of sound blocking fencing out in the county. Mr. J. Stubbs added that he didn't know if that would help or not. He's here because of what he has had to put up with for the past several years. He would probably move if he wasn't living next to his parents. Mr. M. Williams asked him to confirm the kennels were built in approximately 2009. Mr. J. Stubbs stated it was.

There being no more questions for the application, Mr. Bachmann stated there was one more name on the list and called for Mr. Danny Lauer to approach the podium. Mr. Danny Lauer lives at 12889 Fisher Road, California, KY 41007. He is actually the brother of Ms. Toni Lauer. Mr. Lauer stated that he is the largest land owner near her. He doesn't see that moving the buildings is a big problem. What probably sets off any dog in the county are coyotes? One starts barking, they all start yapping. Ms. Haynes asked how often they had a coyote sighting...every day. Mr. Lauer stated every night and sometimes if you shine a light out you can see their eyeballs. His neighbor killed twenty-four (24) coyotes last year in trapping and he didn't even put a dent in them. Like he said before, if one dog starts yapping, it sets all the dogs off. He has been a neighbor to Ed & Joe Stubbs for years and he doesn't have any problems with them.

Mr. Bachmann asked Mr. Lauer to confirm that he didn't think it would be an issue to move the sheds. Mr. Lauer said he doesn't see a problem with moving them. Mr. Bachmann stated that Ms. Lauer said it would be an issue and he was just trying to understand the difference. Mr. Lauer said he has cattle. If he leaves his cattle near there, Ed & Joe are going to hear them the same way that he can hear Ed & Joe's cattle. It's the country...you are going to hear animals. Mr. Mason stated he did hear cows mooing on the video recording. Mr. Lauer said yeah, you could and there was no telling if they were his or the Stubbs. When they wean the calves in May, they light the neighborhood up. Would he need to come back before the Board again because the cows are mooing? Mr. Mason stated that was a good question. When people from the city move out to the country, are they going to complain that the cows are too loud? Mr. M. Williams stated that he was familiar with dogs' reaction to coyotes. Where he lives, the dogs usually stop barking after a minute or a minute and a half. Mr. Lauer stated sometimes, but it really depends on how long the coyote is going to yap. Sometimes they start and go on for 10 minutes. They set off her dogs, his dogs, and their dogs just all of them. They wake up the whole neighborhood. Start of the day, he knows there are deer back there. The dogs could be barking at each other. Mr. M. Williams stated that Ms. Lauer stated that the dogs were in the kennels at night. Mr. Lauer stated that doesn't matter. Just because they were in a shelter doesn't mean they aren't going to hear the coyotes. He stated that they have been within three hundred (300) feet of his windows.

Ms. Lauer asked to address the Board. Mr. Bachmann recognized Ms. Lauer. Ms. Lauer stated that as far as the dog barking, yes, she did originally speak with Mr. J. Stubbs and she put the fence up. As far as the dogs' excessive barking, another contribution to it is his son rides a quad runner along my outer boundary fence. It is back and forth and back and forth. If she knew they could bring video evidence, she would have brought it. She has had numerous accounts of him right his little quad. She has a standard poodle and he will sit here and antagonize it and race the motor trying to get the poodle to come over there so he can aggravate it. We all know that a quad will set a dog off. Other times the dogs bark because

someone is coming into her yard. Sometimes at Mr. J. Stubbs because that is just a boundary thing and they see someone come in to the yard so they bark. It seemed really excessive and he has a really good phone or something because between the area along their border is all trees and the trees are a buffer just as good as what is along the expressway. If the recording was April 27th, then the trees should have been in full leaf and the distance away from his house to my house is pretty good. Ms. Lauer pointed out on a slide where his house sat and where her house sits and stated it was about two hundred (200) feet. So if he can sit at his home and record that on his phone then she needs to get that kind of phone. If a dog is a barker, then the people will send their bark collars. They might bark once, but that pretty much ends it. She has them send the collar with them if they are barkers.

Mr. M. Williams asked Ms. Lauer if she could require that. Ms. Lauer stated that yes you could require that, but if dogs are barkers she doesn't have them back at the kennel again. She doesn't advertise and she doesn't take nuisance dogs. She is pretty strict as far as the kind of animals that she allows there. She doesn't allow Pit Bulls, Dobermans, no aggressive dogs or rather dogs with aggressive reputations or with notorious reports of aggression. This is all by referral. She doesn't take dogs unless she knows their behavior. Mr. M. Williams asked what the problem was with telling your clientele that look your dog barks and we have neighbors so we insist you have a bark collar. Ms. Lauer stated that would be the same as having a bark collar on her standard poodle who is just protecting her property. What's next? Are you going to have every dog in the county having to wear a bark collar? There are people up the road that has beagles and the beagles bark. There are people who walk up and down the road with dogs and those dogs occasionally bark. That would have to apply to every dog in the county. Mr. M. Williams stated that people walking their dogs back and forth. Ok, that happens, but barking like that would last only about thirty (30) seconds. What we are talking about here is the incessantly loud barking that is disturbing your neighbors. So I go back to my question of what would be the problem if we recommended that if you have barking dogs that your clientele provide a barking collar. Ms. Lauer stated there is nothing wrong with saying that, but dogs are kind of like children in that you don't know when they are going to bark or what is going to set them off. Mr. M. Williams stated he could tell you from experience that the shock from the barking collar is going to slow them down a bit. Ms. Lauer agreed that it would, but hearing a quad runner going back and forth along the property line tells the dog that something is happening here and he's not going to be quite. Mr. M. Williams asked if they stop barking after the quad runner leaves the area. Ms. Lauer stated they do.

Ms. Lauer added that Ms. Minter has been to her house and she said that she didn't even know it was a dog place because she didn't hear anything. People come to the gate and didn't even know we were there. Ms. Minter interjected at this point to clarify that she has never been to this site. Ms. Lauer apologized and stated she thought Ms. Minter had told her previously that she had.

Mr. M. Williams asked what the cost of a bark collar was. Ms. Lauer stated it was approximately \$40. Ms. Lauer stated that was all she had to say and sat down. Mr. Bachmann stated that was everyone that was on the list that wanted to speak. Mr. Bachmann closed the public comment section of the meeting.

Mr. Hutchinson approached the podium and commented that based upon the testimony that has been heard; he wanted to clarify a couple of items. First, staff was not proposing that the kennels to the south east of the applicant's home be moved to the adjoining lot also owned by the applicant. Staff was recommending that these two (2) sheds be moved to be in closer vicinity to the two (2) sheds on the north side of the lot. Secondly, Mr. Hutchinson reminded the Board that the conditional use permit runs with the land and not with the applicant. If the

applicant sold the property, the new owner would be entitled to run a kennel on site based upon any conditional use permit that may be approved tonight.

Mr. Kidney approached the podium. Mr. Bachmann advised Mr. Kidney to be brief in his comments. Mr. Kidney stated that every time someone has asked her to do something, she has done it and she's done it better than the average person. She has never said that she is going to give you the bare bones minimum. She has gone above what is necessary. This is almost like a park.

Mr. Kidney stated that he heard the same thing the Board heard on the recording on the cell phone. We have all attempted to record things on a cell phone. If you look at the line from the corner of the shed to the property line you will see it is two hundred eight-nine (289) feet. If you take that and swing it around...Mr. Kidney asked Mr. M. Williams to use his laser pointer and Mr. Hutchinson took the pointer and handed it to Mr. Kidney. Mr. Kidney used the pointer to point to the distance from the shed closest to the property line to the actual property line. Mr. Duncan stopped Mr. Kidney at this point and asked Mr. Kidney if he was talking about the number depicted on the drawing itself. Mr. Kidney stated he was. Mr. Duncan advised Mr. Kidney that the distance is labeled as ninety-five (95) feet not two hundred eight-nine (289) feet. Mr. Kidney continued that he doesn't think you can record anything that clear. Mr. Kidney said that if anyone went out there and stood twenty (20) feet away you are not going to pick up anything. Mr. Bachmann asked Mr. Kidney if he wanted to see the video. Mr. Kidney declined and stated that the applicant has done everything possible, she's a good asset to this county, and she's a good asset to this community. She has asked me for consideration. He doesn't know what happened in 2008. She has testified that she didn't do anything...ask for anything. As all these hearings go, there is a lot of hearsay that is permitted. In this case, she said she didn't do it. We don't have a certified letter or anything that was returned at all.

Mr. M. Williams asked Mr. Kidney if we don't have a presumption that if it was sent through the mail, ordinary mail, that the addressee received it. Mr. Kidney stated that his belief was that the county ordinance requires letters to be sent by certified mail. Mr. M. Williams stated that was for official notices, not general correspondence. Mr. M. Williams stated he is correct in that if the letter was sent to the addressee and did not get returned then there is the presumption that it was received. Mr. Kidney replied not in the city and not in the county. He was the city attorney for the city of Highland Heights for a long time. If you send official notices out, you must send them by certified mail. Mr. M. Williams reiterated that we were not talking about official notices. Mr. Kidney stated that he always uses and advised his councilmen to use certified mail. Ms. Haynes stated it was just an inquiry. Mr. Kidney replied that she says she didn't do it, maybe she doesn't remember, he doesn't know because he wasn't there then. Folks, this is all secondary to the application.

Mr. Bachmann stated that we have already closed the public comment section of this hearing. We are getting off topic. Mr. Bachmann advised Mr. Kidney to finish his thoughts and let's wind this up. Mr. Kidney stated again that she has done everything that she needed to do. Every time this gentleman gets upset she has put up a wood fence. From the pictures, we have shown this is a very wooded area right here. Mr. Kidney thinks that she has been shown what she needs to do. Mr. Kidney stated he doesn't know what a difference the number of dogs makes. Many of the audience comments were very positive to the applicant and he thinks that is a good thing to see between neighbors. This is just something that doesn't occur constantly. Mr. Kidney concluded by stating he saw the news the other night and it showed a bobcat eating a deer out in this area. Maybe it's a good thing to have dogs in this area. Maybe some people have children in this area, she doesn't, but maybe the neighbors do.

Mr. Bachmann restated that the public hearing was closed and opened the floor for discussion among the Board. Mr. M. Williams began by stating that he doesn't have a problem with twenty-five (25) dogs. It seems to him that if there is any kind of standard somewhere that so much square footage allows for no more than "x" amount of dogs then he is not aware of where. If we are going to have inspections, regular inspections, through the course of the year, if there were a problem with overcrowding, then that can be brought to our attention. If we are going to have regular inspections, then I don't see a problem with twenty-five (25) dogs scattered among however many sheds. Mr. Verst commented that twenty-five (25) dogs that don't bark at all are better than two (2) dogs that bark nonstop. The numbers are a little bit arbitrary. Mr. M. Williams agreed and stated as Ms. Minter commented before that this was just a number they came up with. As long as we have regular inspections, he is comfortable that the dogs would be fine.

Mr. Verst stated that his general thoughts are that first the property looks nice. It looks like it has been well maintained. Second, there are good size runs for these dogs. Third, this is agriculture property so you expect there to be some up sides and down sides to agriculture property. Expect there to be some type of livestock or animals. Fourth, there may be some odors. It is in a nice rural setting. Fifth, the noise seems to be the biggest concern. It is probably the hardest thing that matters. The property looks good so you can't fault what it looks like. Sixth, if math serves his right, for twenty-five (25) dogs that would be approximately 20 square feet of sleeping space per dog. Seventh, noise is the neighbors concern. Eighth, a little bit hesitant and concerned when he hears there was previous contact. Obviously staff doesn't send out random letters to people. There had to be some reason to send out that letter. It concerns me as a member of the BOA that someone was notified of the regulations. Give them credit for seeking out what the regulations were, but somewhere there is a disconnect between what needed to be done and then moving forward without doing it. Finally, we have had kennel applications before. We have in the past on this Board had the typical discussions as we have had before regarding the noise. We have placed restrictions on the number of dogs; the number of dogs staying long term. I'm talking about the number of dogs at any one time versus the number of dogs there long term.

Mr. M. Williams said let's forget the dogs for a moment. Say that I had a hobby where I used a circular saw. We know how loud that can be. I used it fairly regularly. Not incessantly, but fairly regularly. If I had neighbors around me, there would be some measures forced upon me to abate that problem. Now let's get back to the dogs. There shouldn't be any difference for the animals. If it is a problem for the neighbors, and it has always been my standing, that if it is on your property, but it adversely affects the neighbors, then something needs to be done about it to the extent we can demand it be done. Even if it is just building a higher fence, if that is possible, he doesn't know. Mr. M. Williams continued that the fact that there are trees, and that they are in the country, and that the nearest home is two hundred (200) feet away, anyone that has been hunting knows that depending on weather and/or wind conditions, you hearing someone whispering a football field away. So that argument does not impress me. If I had a business that would be jeopardized and the solution could be collars then I would impose that condition. I know enough about the need for a place to board dogs that from experience he can tell you that it would only cost me \$40 to board the dog he would be ok with it. For some of the big dogs that he heard barking it would cost twice that amount to feed them. He thinks there is a solution here.

Ms. Haynes commented that unfortunately though if someone is operating a business for anywhere from one (1) to five (5) years, and the neighbors didn't know it was happening and the police didn't know it was happening, then I don't see how you can enforce a dog collar. Mr. Verst stated that we have the ability to enforce whatever we feel is necessary to make sure that

this application is not injurious to the health, safety and general welfare of the neighborhood. Ms. Haynes is it possible and sustainable to enforce a solution such as that? Mr. Verst stated that basically an operation has been going on illegally without the proper permits. They are seeking to make this kennel legal. One of the findings we have to decide is "That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity." So they are asking for a special condition. A kennel is not a permitted use. No one can build a kennel without special permission so that we can make sure that the neighbors are protected. That is what conditional uses are for and what we are charged with is that before we approve an application is that we can justify that it is not going to be detrimental to the health, safety, or general welfare of the community.

Ms. Haynes stated that the Board has been poking at some very good solutions and situations, but is the use of the item sustainable and could we recommend it. Mr. M. Williams stated that if it didn't work, we would hear about it, the police would hear about it, someone would hear about it. Mr. M. Williams stated he has seen these collars work and they will work if they are applied. Dogs react kind of funny when that shock shocks them in the neck. Maybe just a fence would work, he just doesn't know. Mr. M. Williams stated he believes like Mr. Verst stated that this business has been going on regardless what anyone else says that it has been out there. He is still willing for the Board to make this work without causing or without the continuing problems with the neighbors and let this women make a living by boarding dogs. It is a public need and use so let's make it work. I don't think \$40 for a dog that can't keep its mouth shut. The only other option would be vocal cord surgery and he is not suggesting that.

Mr. Bachmann stated for the record that he is never going to advocate a shock collar on a dog because he is barking. The more obvious solutions are as Justin said. We have a responsibility to the whole community. The neighbors are obviously having a problem with this. The most obvious solution is exactly as staff has presented. We limit the number of dogs and move the kennel. That is as least going to spread this pain. Mr. M. Williams stated, just to make it clear, he is not suggesting anything cruel. Bark collars are very common these days and even professional dog trainers are recommending them now. Mr. Bachmann stated he thinks this is more of a dog owner's choice versus forcing this on a kennel. Ms. Haynes stated she just didn't know if this was even enforceable or if this is even an option. Mr. Verst added that we don't have any standards for what level of noise is acceptable. It has always been up to the owner and neighbors to determine what is objectionable. It is going to be very difficult to quantify that, measure that and regulate that. Mr. Mason stated that he has neighbors that complain about cows. They move from the city next to his farm and they complain about the neighbors cows. He laughed about it. The question is what is that level of noise and from whom before it becomes a problem.

Ms. Minter approached the podium and asked to speak. Mr. Bachmann recognized Ms. Minter. Ms. Minter began by explaining that she has twenty (20) years of experience with acoustical barriers. She wanted to give the Board some background on acoustics not particular to dogs, but to sound itself. The visual barrier attached to the shed is just that a visual barrier. It is not a sound barrier at all. It is designed to be a visual barrier and that is its effect. If you want to create a sound barrier between two objects, you need to either be close to the object with your barrier or close to what you are trying to protect from the sound. In terms of natural vegetation, you would have to use some kind of dirt mound or multiple rows of dense pine trees. The trees, like oak trees or leafy tree, technically it doesn't really deafen the sound, it just simply creates a visual barrier to what is there. In terms of actual hearing, you would have to have multiple layers of dense pines. Mr. M. Williams asked about fencing. Ms. Minter stated that just technical fencing would not help with the sound barrier. You would have to have an acoustical

wall which would be very cost prohibitive in this situation. Mr. Bachmann asked Ms. Minter if she can clarify the issue of the setbacks. With these two (2) lots not combined, the two (2) sheds to the north side of the property will not meet the side setback requirements, is that correct? Ms. Minter stated that staff was not given significant documentation to confirm that. Staff does not believe that the applicant has met the side setback requirements, but the applicant did not supply the distance between the sheds and the property line dividing the two (2) parcels owned by the applicant.

Mr. M. Williams asked staff to put up the slide showing the site plan and Ms. Minter did so. Mr. Verst stated that this is a rough scale on the map, but his estimates are that the one shed is a little less than ten (10) feet from the property line. Mr. Lauer approached the podium to speak. Mr. Bachmann denied his request to be recognized stating that the Board had enough information at this point in time.

Mr. Verst continued that the applicant is at a disadvantage tonight. Typically, the applicant would be before the Board before they do anything. They would tell the Board they want to propose a kennel, we would discuss issues that normally face a kennel and see where they want to place the kennel. We may or may not approve it and if we approved it we may have placed conditions on it. On one of the cases he recalls, there were stipulations that had to be followed up on. They would have been starting with a clean slate and we would have waited to see if there were any complaints from the neighbors. We're at a little disadvantage because we already have neighbors complaining before we ever get started and this puts the Board back to trying to solve problems from a negative scenario.

Mr. M. Williams asked for those Board members that have been on the Board longer than he has if barking dogs was an issue. He lived near kennel at one time and there wasn't much barking. Mr. Verst stated there was an issue of a kennel where the owner had several dogs he owned. The neighbors had issues with the dogs he owned. In that case, the kennel owner installed a large earthen berm with landscaping on top of it between the facility and the neighbor. There were concerns and we did recommend some mitigating conditions.

Mr. Bachmann commented that if this case had come in to us first, we would have controlled where the kennels could go and prevented some of this in the first place. He is of the opinion that we need to address it that way even if it means moving buildings. Just because it wasn't done in the correct order, that shouldn't affect how we structure our approval now. It is not going to be practical for them to move kennels around, but we are looking for the end result that we would have wanted had they come before the board first. Mr. M. Williams stated he felt that was right and that the shed be located somewhere else. If that is what it takes, he would not be opposed to that being a requirement.

Mr. Bachmann stated to move those sheds he thinks the lots need to be combined. Mr. Verst disagreed with this last statement. He stated that there appears to be confusion as to moving the sheds and consolidating the lots. Mr. Verst stated that what staff was recommending was that the applicant move the sheds from the south east behind the home to the north east side of the lot. They are close enough on the two (2) sheds currently on the northern side of the lot that it would not be worth arguing over moving them, but the other two (2) sheds can be relocated to that location and meet the setback requirements. Mr. M. Williams used the laser pointer to point out the two (2) sheds on the northern side of the lot. He asked if these were the sheds that do not meet the setbacks. Mr. Verst stated it was the first shed more so than the second shed. Mr. M. Williams asked about the sheds to the south east of the home. Mr. Verst stated these were the ones that staff was recommending be moved closer to the northern lot line. Ms. Haynes

commented that they didn't have to line up straight. Mr. Verst stated not unless the applicant wanted to do so.

Mr. M. Williams asked if the applicant had been asked if they would be willing to do this. Mr. Bachmann stated that the applicant did not want to move the sheds. Mr. M. Williams wanted to ask his question another way. Will they move them if it is a condition of the Board's approval? Mr. Duncan stated that if it were a condition, it becomes part of the approval and they would have to do it or the approval is not valid.

Mr. Bachmann asked where the Board has common ground. Ms. Haynes started it off by saying that clearly you can see this was not consistently done. Staff has done a great deal of research. They are aware of the conflicts. They have done a tremendous amount of work and research and Ms. Haynes stated she supported their recommendations. This is unfortunately a no win situation from the start and for a long time. Mr. Bachmann understood Ms. Haynes position, but he feels that the entire Board supports only about eleven (11) of staff's recommendations and see only three (3) issues sticking out. The three (3) issues being: the number of dogs allowed; the consolidation of the lots; and the location of the sheds. Does everyone on the Board agree with that? Mr. M. Williams stated that if this thing goes in and we can't abate sound with a fence because it is cost prohibitive and we aren't going to require barking collars then he takes back his previous comments in support of the number of dogs. Ten (10) more dogs are ten (10) more dogs louder. He is fine with limiting the number of dogs to fifteen (15). If they go over that number, that's it. He also has no problem with requiring them to move those buildings.

Mr. Verst added that, if we approve this application for fifteen (15) dogs, the applicant can come back in one (1) to two (2) years and say look we are not having any issues with noise and they can request to have their conditional use permit modified to allow twenty-five (25) dogs if it is working. They have that ability. It all comes down to noise. We are making the assumption that the recommendation of staff to move the kennels to the north side of the lot will help in abating some of the noise. Mr. Bachmann stated that was a safe assumption. The best we can do it to try to spread this out for everybody. At most, moving the sheds has got to have some impact in mitigating some of the noise. As far as consolidating the two (2) lots, his opinion was that it has to be done. Mr. Verst stated that it would be a good thing, but that is a significant burden to put on the applicant and limits their ability to sell a piece of property if they desire. Mr. Verst stated that what the applicant offered should be considered. If the two (2) parcels remain as they are and you move all these kennels to the northern side of the lot then they become a lot closer to this other lot that the applicant owns. We make it a condition that this conditional use permit is only good for as long as the lots remain under common ownership. If the owner of one of the lots changes, then the conditional use permit is invalidated. Mr. Duncan stated that he feels this would be a lawful condition especially since it is the applicant's offer.

Mr. M. Williams commented that dogs tend to bark more if they can see anything of interest to them. If they see us going in and out of the house, they bark. If they see a deer in the yard, they will bark. If we can't keep the noise out, maybe if we can keep the dog from seeing beyond the property line and the kennels, maybe some hedging or privacy fence can help. Mr. Bachmann stated that if we limit the number of dogs and require some hedging it would be enough to help in the control of the noise and then in the future the applicant can come back and it can be expanded sometime in the future. Mr. M. Williams stated that dogs have to rely on their senses. Two (2) senses have to interact and the dogs generally respond. Sight and smell. If you eliminate sight then maybe that would be enough to keep them from barking. Mr. Verst stated that sight would be an issue to control because most of the run area is on a slope that is thirty (30) feet from top to bottom. Somewhere along that run area they are going to be able to

see out to the pasture and yard area. If it were a nice flat farm, it would maybe do some good. But on this site it isn't going to matter. Moving the kennels to the north side would obstruct their site somewhat. Mr. M. Williams stated he would rely on Mr. Verst's knowledge and experience based on topography. Mr. Verst stated that maybe you add some fence and landscaping near the house and it would help to block the dogs' view of the neighbors to the south.

Mr. Hutchinson went to the site plan and pointed out the high side and valley on the site. Mr. Hutchinson commented that by moving the kennels, the house actually acts as a visual and sound barrier to the neighbors' homes. If this were a blank slate coming in and they were requesting kennels all along the property staff would have recommended the kennels be moved to consolidate towards one area of the property. Mr. M. Williams has reservation approving it for no other reason than the fact that it disturbs people in the surrounding area however, I tend to give deference to staff recommendations. Lord knows they know more about it than I do. If staff thinks moving the kennels and taking advantage of the topography, then he would probably go along with that.

Mr. Verst stated he could go along with all of staff recommendation, but he doesn't think that he would push for the consolidation of the lots. Mr. Bachmann asked about the sheds. Mr. Verst stated we could condition that they meet all setbacks for the sheds and if they have to move them then they have to move them. Mr. Bachmann asked about the location of the dumpster being on the other lot and not part of the kennel area. If they remain two (2) separate lots, would the dumpster need to be moved. Mr. Mason asked if we approve the consolidation and then they come back and want to sell two (2) acres off. Would they just go back to planning & zoning and say they want to do an id plat? Is it just a simple review of meets road frontage and meets the criteria of a legal lot? Or is this a \$5,000 process they would have to go through? Mr. Duncan replied it would be just a normal id plat process. Mr. Mason commented that would be simple. Mr. Verst stated they would have to hire a surveyor to prepare the plats, submit them for approval with \$250 fee, and be reviewed by staff.

Mr. M. Williams asked what the reason was that they didn't want to consolidate the lots. Ms. Haynes stated it was in case of a future sale. Ms. Lauer stated the reason she didn't want to consolidate it is because she acquired it after she built her home and if she were to sell her home then that lot reverts to the original owner, her brother Danny Lauer. That is their verbal agreement. Ms. Lauer wanted to reopen the conversation as to installing of landscaping and fencing if that is what it would take. She has had controversy between her and her brother on going. Ms. Lauer tried to comply with her and her brother but she doesn't know if it has anything to do with the dogs or just their relationship. Mr. Bachmann appreciated Ms. Lauer's comments but that has no relevance to this discussion tonight. Ms. Lauer continued to speak. Mr. Bachmann stopped her and advised her that the public hearing was closed and no additional input from the public was needed at this time.

Mr. Verst stated that he agrees consolidation of lots is good, but in this case it would not be in the owner's best interest. He feels strongly that the setback requirements be followed. Ms. Haynes asked Mr. Verst if he was proposing conditions 10 and 11 be stricken or how would he phrase that? Mr. Verst stated that maybe change the phrasing of conditions 10 or 11 that the applicant be required to meet the setback requirements. Mr. Hutchinson asked to be recognized and was. He stated that when staff was presented with the plan, they brainstormed for ideas as far as conditions. They had no knowledge or consideration of any complaints from the neighbors to the staff. This was just staff's working knowledge and dealing with kennels in the past. Since they owned all this land, they could move the kennels. At first, we thought this was just a fence. If you look at the PVA these lots are outlined as one because they have the same owner for taxable purposes. We had to do additional research to determine it was

actually two (2) separate lots. But still knowing they were both in the same tract, we didn't want these to be as far away from adjacent residential use or homes knowing that if the Board was inclined to leave these as two (2) different tract staff's recommendations probably would not be any different but to move the sheds to the middle portion of the existing lot. If you had a potential house on the other lot, it would help to split the difference and place the sheds in the middle of the lot directly behind the applicant's home. We are not trying to be difficult. We would recommend this on any application coming before staff for review.

Mr. J. Williams asked if we follow recommendations laid out by Mr. Verst can we say we want to see this come back to us for review in one (1) to two (2) years to determine if these suggestions have met our requirements and has also helped the neighbors with the noise or would that not be recommended. Mr. Duncan stated that can be done and a lot of ordinance have that built in. Not sure if our does, but the zoning administrator would review to confirm that the conditions are being met and if not then introduce measures to revoke the conditional use. There would have to be another public hearing. Mr. Verst stated he was struggling to determine how can we measure this in a year and say there are definite improvements. We could get a measurement device to measure the decibels. Then go back in a year and do another measurement. Mr. J. Williams stated it is difficult to decide on something we don't see or hear ourselves. Noise is subjective and what bothers me might not bother you. Mr. M. Williams stated that if the barking is incessant it doesn't have to be loud. That was why he kept asking if it was incessant was it loud. The answer we got was it is off and on, but when it does it is very loud and wakes people up.

Mr. Verst stated that in order to make a recommendation we have to be able to say that it "not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity". We have to be able to say that if we are to approve it. Mr. M. Williams added that it is obviously it is detrimental to somebody. Mr. Bachmann stated that it is an allowable conditional use. When they wrote the ordinance, they recognized there were going to be issues. Mr. Verst stated that if it was a great thing on all, it wouldn't have the condition on it. By being a conditional use, they are saying that we need to find some way to make sure it doesn't cause someone else any problems with it. Mr. Bachmann stated that he doesn't think this Board sees anything that is great for all. Mr. M. Williams stated he is willing to assume that who drafted this assumed there would be some barking in a dog kennel. Mr. Bachmann stated staff addressed this in the best manner that they could by reducing the number of dogs and moving the kennels. Mr. M. Williams stated that we need to approach this like the Chair stated before. Like there is absolutely nothing there and this is just a site plan that is being proposed. I don't want to see anyone incur any unnecessary cost, but this isn't our fault. If staff wants those sheds moved, then they need to be moved or there isn't going to be a kennel there. Mr. Bachmann stated this wasn't an arbitrary decision they were put there for a reason. Mr. M. Williams stated that yes and their argument made since. Mr. Bachmann stated he didn't agree with that. Mr. M. Williams stated he was going to insist on regular inspections.

Mr. Verst stated that he would be inclined to recommend approval particularly if the two (2) kennels on the south east corner be moved to the north east corner and some additional buffering were installed between those kennels and the residences to the south which would basically be to the east of the existing residence. If there were some fencing and/or dense vegetation installed there, it would help buffer that sound. By moving those kennels to the northeast corner, you would be moving them to the other side of the ridge from the residence to the south and putting some conditional fence and landscaping it is going to help keep that sound on the north side of the ridge. Mr. M. Williams added that would also block some of the

vision of the neighbors to the south. Mr. Mason felt this was a reasonable compromise. There was some general discussion on the conditions to be placed.

Mr. Kidney asked if he could comment on a proposal by the applicant. Mr. Bachmann allowed him to speak. Mr. Kidney asked if they could just approve the conditional use permit for six (6) months. Then it can be reviewed in six (6) months and if she was unable to do it then she would be required to do all these conditions. There is a construction phase and a planning phase. If she just had six (6) months, she could fix all these problems with her neighbor. She could install some additional fencing and landscaping. She just needs time to implement it. She will have all of these issues resolved not just one or two, but all. Mr. M. Williams asked if that would include moving the sheds. Mr. Kidney stated that the other solution to that is that you could ask for a partition so that all the setbacks could be met with that. They can convey a small section by special deed and transfer a small strip to the other property. If we don't have some time, we won't be able to pour concrete. She is in total agreement with that. It is not a good planning season. If you get some of those things like they have at the corner of Grand and Highland and you have all those cedar trees. It will stop a log of the noise. Mr. Kidney thinks this will resolve everything. Mr. Duncan asked Mr. Kidney if he was proposing this instead of moving the buildings. Mr. Kidney stated that moving the buildings are an impossibility at this stage. She couldn't and you have done this for someone that has deeded a small portion of their property for just these circumstances where someone has built something and encroached a little bit too far. Mr. Duncan asked Mr. Kidney to confirm if he was talking about just moving the property line slightly in the other direction. Mr. Kidney replied yes. Mr. Duncan stated moving the property line slightly would help with that one condition of the setbacks. Mr. Kidney stated that the shrubbery would solve that problem as well. In 6 months we would be back and the neighbors would tell you there is an improvement. Mr. Duncan stated he wasn't trying to argue with Mr. Kidney he was just trying to clarify the request for the Board. Mr. M. Williams was confused by Mr. Kidney's statement about moving the sheds. Mr. Verst explained that Mr. Kidney was talking about moving the property line to allow the two (2) sheds to the north to meet their setback requirements, but they did not want to move the location of any of the sheds. They would still have the issues with the main sheds to the south east side which are a bigger issue.

Mr. Verst stated that he was inclined to make a motion to approve the request and include staff's recommendations numbered 1 through 9 and 12 through 14. Mr. Verst stated he felt condition 10 and 11 needed to be modified. With assistance from staff and the other Board members, Mr. Verst stated the modifications should be as follows:

10. ~~That the 5 acres shown on the plan be combined into one lot.~~ That all structures on the property shall meet the minimum setback requirements in the County Zoning Ordinance.
11. ~~That the minimum right of way along a local road be dedicated fronting the proposed lot.~~ That the applicant implements measures between the relocated kennels and the residence to the south to mitigate sound subject to staff approval. Those measures may include dense vegetation, earthen berming and/or acoustical barrier.

Mr. Hutchinson asked Mr. Verst if there would be a time consideration to meet the conditions. Mr. Verst stated he is working on that. There was additional discussion by the Board. Mr. Verst stated he would add conditions as reflected below:

15. That all conditions must be found to be in compliance within one (1) year from the date of approval.
16. That a site plan be provided to staff showing all elements of the kennel operation prior to implementation.
17. That the conditional use shall only remain in effect so long as the two (2) parcels totaling approximately five (5) acres, currently owned by the applicant, remain under common ownership.

After this discussion by the Board, Mr. Verst stated that he was making a motion to approve case #BA-05-14, by applicant Toni Lauer, at the location of 13015 Fisher Road in the Unincorporated Campbell County, with a request for approval of a conditional use permit to operate a dog kennel including staff's recommendations numbered 1 through 9 and 12 through 14 as listed in the staff report; including recommendations 10 and 11 as modified above; and adding recommendations 15 and 17 as stated above.

Mr. Kidney approached the podium asking to be recognized. Mr. Verst advised Mr. Kidney that they had enough information to proceed. Mr. Kidney stated that from a legal standpoint the Board could not partition the lots. He asked that they add the word "intent" to condition 17. If she tried to partition a small section, she would have to deed it to a straw person with the intent to deed it back to her. Just put the word "intent" in there. You can't sell something you already own to yourself. You have to create an entity to transfer back to your from a legal standpoint. Mr. M. Williams stated he doesn't understand what the request is. Mr. Duncan commented that they sell off the other parcel or a part of it so that there is less than 5 acres that remain, then they conditional use permit goes away. Mr. Kidney stated exactly. But if you take that and the sheds are 9 feet and she deeds this so that she already owns it then she has to transfer it to another entity with the intent to transfer it back to her. Mr. Verst stated the condition was not a matter of setbacks. This is an issue of if someone else owns that property and we have just pushed all these sheds up against that property line, we don't want them to buy it without knowing the knowledge that there is a kennel right up against them. It is not a matter of setbacks or the structures that are there. Mr. Duncan stated that if the motion passes then the applicant does not have to worry about doing a land addition.

Mr. Verst stated that was his motion and the basis for his motion that they will meet the requirements is as stated in the staff report under 9. (b) a., b. and c. to address the necessary and desirable use, health safety and welfare section and that the use is in of the ordinance. Supporting bases is the information heard at the hearing tonight from staff, the applicant and the audience members as well as discussion among the Board tonight.

Mr. M. Williams asked Mr. Verst if he would be willing to amend his motion so that the applicant cooperates with the Animal Shelter for regular inspections could be added to condition 9. After discussion among the Board and with staff, Mr. Verst stated he amended his motion to include changes to condition 9 as follows:

9. That the applicant cooperates with regular ~~has an annual~~ inspections to be held not less than annually by the County Animal Shelter for compliance. These results must be provided to staff in writing. If the applicant fails to meet the County Compliance within 30 days of ~~annual~~ inspections staff can proceed with termination of the Conditional Use Permit.

Mr. Bachmann asked about the requiring of an occupational license to make certain that it is done. Mr. Verst asked staff if the Board had the authority to require the occupation license. Ms. Minter stated that we do require occupational licenses. If they let that lapse, they are in violation of our tax codes not our zoning ordinances. Mr. Verst stated that he wanted to amend his motion to add another condition to read as follows:

18. That the applicant maintains a valid occupational license for the operation of the kennel.

Mr. Bachmann asked about the location of the manure storage. Mr. Duncan stated that the manure can be stored anywhere on property owned by the applicant as long as it is 50 feet from any property line. Mr. M. Williams asked if the applicant needed building permits for the movement of the sheds. Ms. Minter replied that they would need permits for the movement of the sheds and for any electrical work that needed to be done.

Mr. Bachmann called for a second to the motion. Ms. Haynes seconded the motion. Mr. Bachmann asked if there were any other questions, comments or discussion on the motion. Ms. Haynes commented that it was unfortunate, but this is a solution. There being no other comments, Mr. Bachmann called for a roll call vote on the motion. A roll call vote found Mr. Mason, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Ms. Haynes in favor. Mr. Bachmann abstained. Motion passed.

Just to clarify the conditions imposed by the Board, a finalized list is provided below:

- 1. That the applicant applies for zoning and electrical permits for the sheds and fences. The fees shall be doubled since this is for a conditional use in the A-1 Zone and construction occurred without a permit.*
- 2. That the facility house no more than fifteen (15) dogs.*
- 3. That the dogs be placed inside the kennel at night.*
- 4. The applicant must follow the home occupation regulations in the County Zoning Ordinance.*
- 5. That any signage be in accord with the Campbell County Zoning Ordinance.*
- 6. That the dog kennels not be used for human residential use.*
- 7. That the applicant complies with all applicable Campbell County Planning, Zoning & Building Regulations.*
- 8. That the four (4) kennels (sheds) used to house dogs be consolidated to the north side of the existing primary residence.*
- 9. That the applicant cooperates with regular inspections to be held not less than annually by the County Animal Shelter for compliance. These results must be provided to staff in writing. If the applicant fails to meet the County Compliance within thirty (30) days of inspections staff can proceed with termination of the Conditional Use Permit.*

10. *That all structures on the property shall meet the minimum setback requirements in the County Zoning Ordinance.*
11. *That the applicant implements measures between the relocated kennels and the residence to the south to mitigate sound subject to staff approval. Those measures may include dense vegetation, earthen berming and/or acoustical barrier.*
12. *That any future expansions or modifications be submitted to the Board of Adjustments.*
13. *That a lighting plan for any exterior lighting be submitted to staff for review and approval.*
14. *That the storage of manure or animal waste be further than fifty (50') feet from any property line.*
15. *That all conditions must be found to be in compliance within one (1) year from the date of approval.*
16. *That a site plan be provided to staff showing all elements of the kennel operation prior to implementation.*
17. *That the conditional use shall only remain in effect so long as the two (2) parcels totaling approximately five (5) acres, currently owned by the applicant, remain under common ownership.*
18. *That the applicant maintains a valid occupational license for the operation of the kennel.*

Mr. Bachmann introduced case #BA-06-14, by applicant Campbell County Planning & Zoning Department on behalf of the Campbell County & Municipal Planning & Zoning Commission with a proposed update to the By-Laws of the Campbell County and Municipal Board of Adjustment.

NUMBER: BA-06-14

APPLICANT: Campbell County Planning & Zoning Department on behalf of the Campbell County & Municipal Planning & Zoning Commission

REQUEST: Proposed update to the By-Laws of the Campbell County and Municipal Board of Adjustment.

Mr. Bachmann asked the Board if they desired to hear this case tonight or if they wanted to consider tabling the case until a future meeting date due to the late hour. After a general discussion among the Board, Mr. Verst made a motion to table case #BA-06-14, by applicant Campbell County Planning & Zoning Department on behalf of the Campbell County & Municipal Planning & Zoning Commission with a proposed update to the By-Laws of the Campbell County and Municipal Board of Adjustment, until a future meeting date. Mr. M. Williams seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Mason, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Ms. Haynes in favor. Mr. Bachmann abstained. Motion passed.

Mr. Duncan advised that the legal notice requirements were met for this meeting. There was no audience to speak on the topic. That being the case, there would not be any need to advertise this case again. The issue can be raised at any future meeting and be discussed and determined at the leisure of the Board.

There being no cases to come before the Board of Adjustment, Mr. Bachmann called for the Director's Report.

DIRECTOR'S REPORT

Ms. Minter advised the Board that the Planning & Zoning Commission recently adopted text changes recently to the A-1, R-RE and RMHP Zones, as well as to the portions of the ordinance relating to cell towers. These items have been forwarded to the Fiscal Court for approval. Once they are approved, there will be handouts to update your Zoning Ordinances.

Ms. Minter passed out an invitation to participate in an "Agriculture Tax Workshop: "Reducing Your Farm Tax Liability"" being sponsored by Campbell County Farmland Workgroup, Campbell County Conservation District, Campbell County Cooperative Extension Service and the University of Kentucky College of Agriculture. This class does not count towards the HB 55 training requirements. However, you may participate in the event.

Ms. Minter next distributed a draft of Goals and Objectives of our Comprehensive Plan and advised the Board that the Commission has determined they wanted to conduct a work session to immediately follow their next normally scheduled meeting which will occur on November 11th. The meeting will start at 7:00 PM and they anticipate beginning the working session at approximately 7:15 PM. The Board is invited to attend as their audience and participate in the discussions.

Ms. Minter gave an update on the community rating system for the Floodplain items. Ms. Minter received her official certification on September 8th so we have a Certified Floodplain Manager representing Campbell County. The second item was that we needed to have an inspection with Kentucky Division of Water (KDOW) which occurred on October 13th. The next step is to meet with FEMA directly which will occur once KDOW issues their recommendation. This is very important because it will offer some relief in the rates being charged for flood insurance.

Ms. Minter stated the final item she had was pertaining to preferred communications method. If you would like to make a change to receive paper copies instead of electronic, please just let staff know. Ms. Minter had no other items for discussion. Mr. Bachmann asked if there were any other items the Board wished to discuss tonight. There being none, Mr. Bachmann asked for a motion to adjourn. Mr. Verst made a motion to adjourn. Mr. M. Williams seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 10:10 PM.

Prepared by:

Approved:

Cynthia Minter
Director

Scott Bachmann
Vice Chair