

2OWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
May 18, 2022

Members:

Mr. Paul Dahlen – Chairman
Mr. Doug Dondero – Vice Chairman
Mr. Lane Goldberg
Mr. Robert Mullen
Mr. Kevin Wrightington

Building Commissioner:

Mr. Jason Silva available via Zoom

Mr. Dahlen called to order the meeting of the Zoning Board of Appeals at 7:00 pm in Room 200, Mr. Goldberg motioned to open the Public Hearing and Mr. Wrightington seconded. Also, in Room 200: Mr. Dondero and Mr. Mullen with a vote of 5-0-0.

VOTE: 5-0-0 to open Zoning Board of Appeals Hearing of 114R Main St.

Appointment:

7:00 PM Applicant must seek a special permit from the Zoning Board of Appeals per section 5.2 table of uses in order to construct and run a dog daycare business and boarding of dogs. Caitlin Anderson, 114R Main Street, Map 58, Lot 132. Continued from March 2, 2022, and March 16, 2022, April 6, 2022, May 4, 2022.

Caitlin and Burt Anderson, 18 Druid Hill Avenue East, Randolph presented the ZBA with her proposal as requested by the Board Members.

- Hours of operation would be Monday through Friday 6 am – 6 pm and Saturdays 8 am – 4 pm. Closed on Sundays.
- No overnight boarding
- 3 dog maximum would be allowed out at one time.
- Fenced area will be an 8' tall mass loaded vinyl soundproofing installed along the inside of the fence.
- One outdoor play area located at the backside of the building to take proper safety precautions.
- Outdoor area will be power washed with water at the end of each day.
- Arborvitaes will be planted along the exterior of the parking lot to absorb any potential sound.
- Outdoor space will have an ultrasonic dog silencer installed to prevent any potential barking.
- Multiple play areas inside the facility to separate the dogs and/or open the gates between play areas for larger play groups.
- Each indoor play area will have trench drains for easy clean up at the end of the day. The product used indoors will be "Rescue". Disposal considerations/methods concentration use dilution is 1:16 and higher, information available via written proposal.

Mr. Goldberg asked Caitlin if she spoke to the neighbors.

Caitlin stated yes, she went to talk to the neighbors. Only one was available to speak to.

Mr. Goldberg confirmed that only one neighbor would speak to Caitlin.

Caitlin stated yes.

Mr. Goldberg referred to Caitlin's new proposal that was presented to the Board and asked for clarification of outdoor area as to whether it would be a play area or used only for the dogs to relieve themselves.

Caitlin confirmed that it is not a play area and strictly for the dogs to relieve themselves. Caitlin stated that according to the bylaws, the dogs need an outdoor area to relieve themselves which is a safe space out the back door. The area is fenced with the potential that any dog is off leash it works as a precaution to keep them in.

Mr. Goldberg asked Caitlin if she would be bringing out three dogs at a time.

Caitlin replied yes.

Mr. Goldberg stated that would not be a lot of noise.

Mr. Dondero stated that he like everything he has heard so far.

Mr. Wrightington told Caitlin that she has done a good job putting the proposal together. Thinks the location is not a good spot.

Caitlin responded that any retail space is going to produce traffic which has been a concern of abutters. Caitlin mentions brick building which is 8" thick which absorbs sound. There will be sound proofing.

Mr. Wrightington stated that there will be a line of cars and dogs going in and out of the building for drop off and pick up.

Caitlin's reply is that the drop off and pick up will be scheduled to control and monitor.

Mr. Wrightington asked Caitlin how many dogs she is anticipated to have.

Caitlin replied that she needs to follow up with the animal control officer when she goes for the kennel license. The bylaw is 25 square feet per dog. The last proposal presented with the Animal Control Officer's letter was approved at operating with 50 dogs. The whole plan has been revamped to be indoor day care so there are lots. Each play lot according to the bylaws one person is allowed to monitor up to 12/13 dogs. Gives guidance as to how many dogs will be going in each lot and how many staff members are needed.

Mr. Wrightington asked Caitlin if she would be willing to reduce the dogs to twenty-five total.

Caitlin responded that other dog day cares get to operate with more dogs. The Animal Control Officer told Caitlin that she could operate with 50 dogs based on the square footage. Caitlin would prefer to be around the scenario of 50 dogs which would be ideal because it would be suitable in the space that they have with five different play lots. Looking for leniency to fill play lots or Caitlin would have 3 empty play lots.

Mr. Dahlen responded and said that you cannot compare because they are in different zones.

Mr. Wrightington stated that the number of dogs would be a condition.

Caitlin asked the Board if at some point she could go up on the number of dogs.

Mr. Dahlen responded that he is concerned that this could be a bad business model due to the restrictions.

Mr. Wrightington question who would enforce this.

Mr. Hajjar, 114R Main St. Landlord spoke of other dog day care facilities that he rents to outside of Kingston and has not had any noise complaints.

Caitlin spoke to the Board asking to make a point that the outdoor space will only have three dogs out there so the sound will be controlled. Mass loaded vinyl, Arborvitaes, ultra-sonic sound, and fence will absorb sound. Many options have been given to absorb sound. The dogs will be indoors. It's a brick building which absorbs the sound. If it was heard outside calls would be received from multiple different day cares. Most people have dogs including those abutters. Are three dogs outside really going to make that big of a difference.

Attorney Scott Wolf from Schlossberg, LLC, Braintree, MA., Represents the Landlord who of 114R Main St. The building is not just brick. It's a concrete brick building which is 8" thick. The indoor noise should not be at all a problem. In addition to the concrete block there's also going to be insulation installed when it is built out along with sheetrock. Any indoor noise will be minimal. When we talk about the outdoor noise whether there's 30, 50, 100 dogs those dogs are inside in an incredibly well insulated building. Attorney Wolf used an apartment building and concrete block as division as an example compared to a paper-thin building. There's well over 100' between buildings the indoor noise is just not an issue. Outdoor there are now Arborvitaes, Vinyl sound proofing, 8' fence which will be blocked off so that the dogs cannot see outside the fence along with an ultra-sonic array which will minimize noise. We are minimizing noise here. Any other use would not have these restrictions on it. Whether it's people on a break playing music and day care which there have been inquiries about and would avoid this entire process. Commercial uses generate some level of noise. We are talking about three dogs at a time who are with their friends. Dogs will be acclimated to each other, going out with your buddies, doing your business, and coming back inside to play. The outside is a place for the dogs to relieve themselves.

Attorney Wolf did not see the conservation letter. Regarding waste for urine, there is a remediation system to treat the urine with the chemical which is safe for sanitary sewage. To the extent that there is any waste that escapes that treatment outdoors, the catch basin in the rear property, the elevations are set so that everything from the property goes into the catch basin.

Mr. Dahlen states the Conservation Agent requests which is: to clean all drainage structures including retention area behind the building to be free from silt debris and function as designed. And further to be cleaned annually and to provide the conservation agent reports to confirm and a site inspection if warranted.

Mr. Mullen is impressed by work, cost, and plan. He is concerned about Caitlin's risk by conditions and restrictions imposed. Mr. Mullen is sympathetic to the neighbors and their concerns. Sounds like Caitlin tried to tackle them. Mr. Mullen also stated that he would not like to see Caitlin's business fail with restrictions. If your business fails, we have to come back and do this again in one year if your business fails. It's a tough location.

Caitlin suggested that if the dog day care is approved and limits are put on dogs, if dog day care is function for one year and there's no problems would it be something we could address with the Animal Control Officer again or whomever if we have to go through this process. Hopefully by then we could increase the number of dogs. Would that be a possibility? Animal Control said they do random check backs to make sure filing of incidents ex. Bites is being kept.

Mr. Goldberg stated that Caitlin would have to reapply to ZBA and go through the whole process again.

Paul Vantangoli, 5 Brightside Ave., asked if a doggy day care needs a kennel license.

Mr. Dahlen stated that it does need a kennel license.

Paul Vantangoli, 5 Brightside Ave., asked if Caitlin needs to go to the Selectman to get a kennel license.

Mr. Dahlen stated that the kennel license comes from the dog officer.

Paul Vantangoli, 5 Brightside Ave., asked if the dog day care is approved, what would keep it from becoming an overnight dog day care.

Mr. Dahlen stated those are the restrictions the Board is speaking about putting on the dog day care. If there are conditions and they violate them, they violate the whole package. If they get caught kenneling, Mr. Silva, the Building Commissioner would issue them a citation. Asked the public if they would like to present new items not old to move forward.

Tree Kuharich, 5 Post Court, stated her concern as in previous meetings. Dogs getting in and out of cars, dogs going in and out of the building, there's no way to stop them from barking. Traffic concerns, criteria not met to approve.

Dr. Ed Kislauskis, Duxbury Resident was a Kingston resident in the past. Representing a contingent of people who are very interested in available local dog day care. This represents a need. Dogs represent the best therapeutic component in a household. Stated that Kingston is anti-business.

Mr. Dahlen stated that we are a pro-business town trying to protect all aspects, but businesses cannot go anywhere they want. Kingston is not anti-business.

Mr. Mullen stated that the Board appreciates the residents in Kingston.

Kelly Conte, Brightside Ave., stated her concerns as in previous meetings, Noise, sound system not conducive to healthy life, runoff into water, dogs in the back barking. Not in favor.

Amber Dickinson, Plymouth, stated that she supports Off the Hook Dog Day Care. She found out about this potential facility through a friend because other facilities that she has called there's a wait list. Dog walkers are too expensive.

Tara Kislauskis, 30 Cole St., via Zoom supports Off the Hook Dog Day Care. Tara thinks this is a great idea since there are waiting lists at other facilities.

Attorney Wolf discussed points:

- regarding traffic, people are going to work at different times staggering arrival and pick up time. Any business will have traffic.
 - Catch basin is completely on the property. The whole point of a catch basin is to allow run off to collect in one place and filter through the ground. The urine will be treated, the feces will be picked up and not dumped into a catch basin and disposed of by regular trash pickup.
 - Dogs don't bark when they are going out to relieve themselves. They go out, relieve themselves and come in and play and maybe bark.
 - When we look at the intent of the bylaw, when doing special permits, you have findings to make when allowing a special permit. One point that is relevant to consideration is that you are trying to preserve and increase amenities in the town. It has been mentioned that there are waitlists for doggy day care. People who are moving into a suburban town like Kingston want amenities.
- Three dogs at a time are not going to be making any more noise than another use at the premises.

Mr. Dahlen read an email received from Patrick and Nicole Dasey, 15 Brightside Ave., an abutter who does not support the dog day care business.

Paul Kislauskis, Rocky Nook, stated that he supports the dog day care business.

Nathan Hedburg, 5 Post court, stated his concerns as in previous meetings. Does not support the location of the business. Area not suitable for this particular use.

Mr. Dahlen asked the Board members to motion to close the hearing. Mr. Goldberg motioned to close the hearing and seconded by Mr. Wrightington with a vote of 5-0-0.

VOTE: 5-0-0 To close the hearing of 114R Main St., Off the Hook Dog Day Care.

Mr. Dahlen spoke to the Board and mentioned that the Board has three options. A yes, no vote, or if yes leave it there with no conditions or go for conditions.

Mr. Mullen voted yes. Promote the quality of life in Kingston for residents, business, and the town itself. This business has done everything it can to accept the bylaws of the town, to feel the residents needs for the business and the residents' concerns. Traffic is going to be there whether the business is there or not. Kingston has a good Conservation, Animal Control, Building Department, Police, Fire which helps control the other aspects of it.

Mr. Wrightington recommends restrictions. He thinks the Applicant has done a very good job putting everything together and their effort.

Mr. Dondero if he votes for it, it will be with a lot of restrictions. Believes it is the right time for this business but does not think 114R Main is the right location. Expresses his concerns that the constraints could be setting the Applicant up for failure.

Mr. Goldberg voted yes with restrictions. He stated that the bylaw needs to be looked at to protect the neighbors. Conservation restrictions, low number of dogs going out. Does not see traffic as an issue. There's going to be traffic regardless. Does not consider this to be a nuisance. Mr. Goldberg does not want to see the Applicant fail.

Mr. Dahlen spoke to Caitlin Anderson and explained that she needs four out of five votes, a super majority. If She does not win four out of the five votes and you're denied, you're denied for two years. No dog day care only a different business.

Mr. Dahlen told Caitlin that her options are the Board can take the vote or not take the vote and Caitlin can try to find another location. Taking the vote and failing puts you in a worse off position or Caitlin can pull back and say no we would rather you not take the vote and will walk away.

Motion for five-minute recess for Attorney Wolf to speak with Caitlin and Burt Anderson by Mr. Dondero and seconded by Mr. Goldberg with a vote of 5-0-0.

VOTE: 5-0-0 to recess

Attorney Scott Wolf discussed the voting with Caitlin and Burt Anderson. The Applicants would like the Board to vote. Hoping the answer is yes and conditions can be considered.

Motion by Mr. Goldberg to approve the special permit for Off the Hook Dog Day Care with conditions seconded by Mr. Mullen with a vote of 5-0-0.

VOTE: 5-0-0 to APPROVE Off the Hook Dog Day Care with conditions.

Conditions:

1. Conservation Agent requests: to clean all drainage structures including retention area behind the building to be free from silt debris and function as designed. And further to be cleaned annually and to provide the conservation agent reports to confirm and a site inspection if warranted.
2. Three dog maximum outside at the same time and that the outside is not a play area.
3. Devise a system where coming and going of dogs is controlled so that an arrival would be called in and a staff member comes out to retrieve the dog either directly from the vehicle or passed by leash from the owner. This is to minimize dogs waiting outside in the parking lot. "Single file in".
4. No overnight boarding at this time.
5. Applicant has to reapply for overnight boarding. Per the approval of Animal Control.
6. Business hours: Monday through Friday 6 am – 6 pm and Saturdays 8 am – 4 pm. Closed Sundays.
7. Construct an 8' foot wall behind building.
8. Area power washed at the end of each day.
9. Arborvitaes to absorb potential sound on left side.
10. Fence locations to the _____ side/rear of the building.
11. 35 dogs maximum to start with the potential for an increase.
12. Applicant is required to go before the ZBA in _____ and subsequent times _____ to make sure that the neighbors do not have any problems with their operation. If the neighbors do not express complaints or issues, consideration could be given to an increase in the number of dogs the business could accept daily as far as the amount allowed per Animal Control.

Mr. Jason Silva, Building Commissioner stated that the Board has a lot of valid points and thinks that the conditions are reasonable to enforce. It's a reasonable place, somewhere in the middle.

Mr. Dahlen explained the appeal process. The Board would like Town Counsel and Animal Control involved in the decision.

Mr. Dondero motioned to continue Off the Hook Dog Day Care to June 1, 2022, at 7:10 pm and seconded by Mr. Wrightington with a vote of 5-0-0.

VOTE: to continue: 5-0-0

Mr. Dondero motioned to close the hearing and seconded by Mr. Goldberg with a vote of 5-0-0.

VOTE: 5-0-0

Meeting ended at 8:38 pm

