

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
March 15, 2023

Members:

Mr. Paul Dahlen – Chairman
Mr. Doug Dondero – Vice Chairman
Mr. Lane Goldberg
Mr. Robert Mullen
Mr. Kevin Wrightington
Mr. Brian Woods – Associate Member
Ms. Marsha Smith Meekins – Associate Member

In attendance in Room 200: All members were in attendance.

Mr. Dahlen opened the meeting of the Zoning Board of Appeals at 7:01 PM, seconded by Mr. Dondero with a **VOTE of 5-0-0**.

Mr. Goldberg read the Public Hearing Notice for 47 Marion Drive and motioned to open the hearing, seconded by Mr. Dondero with a **VOTE of 5-0-0**.

Appointment:

7:00 PM – Applicant, Richard Powderly, A Dogs World Unleashed, Inc. for a modification of a Special Permit #20-10 in order to increase the allowable number of dogs to 150 with additional modifications to the business operations to facilitate the change. Location is 47 Marion Drive, Map 75, Lot 8. Existing Conditions Plan by Cavanaro Consulting, Brendan Sullivan Registered Land Surveyor, Project #22397, Drawing #ECP 7/15/2022.

Richard Powderly, 5 Standish Ave. East is requesting an increase to 150 dogs, overnight boarding of dogs to 55. The facility occupies approximately 7,000 sq. ft. at the floor level and mezzanine. Renting the building except for approximately 200 sq. ft. which is occupied by the landlord for storage. There are 6 pens outside which total approximately 8,000 sq. ft. Employs 27 employees as of last payroll. 15 are fulltime and 12 are parttime. A group of highly trained people are working with the dogs. The facility operates 7 days per week, grooming 6 days per week, boarding 7 days and training 6 1/2 days per week. At any given time and weather dependent, ½ of the dogs are inside and ½ outside and also 3 carports used for shade for the dogs. At last, ZBA hearing they met regulations for sanitation, water inside and out.

Mr. Dahlen spoke of the letter from the Animal Control Officer.

Richard Powderly stated that the Animal Control Officer is supporting his request.

Mr. Dondero asked how long A Dog's World Unleashed has been open?

Richard Powderly stated that A Dog's World Unleashed has been open for 2 ½ years.

Ms. Marsha Meekins Smith asked if there would be structural changes.

Richard Powderly replied no there would not be.

Mr. Dahlen pooled the Board, and all were in support of increasing the number of dogs per day and for overnight boarding.

Motion to close the hearing by Mr. Wrightington and seconded by Mr. Dondero with a VOTE of 5-0-0.

Motion to APPROVE the request as is by Mr. Wrightington and seconded by Mr. Goldberg with a VOTE of 5-0-0.

VOTE: 5-0-0

7:05 PM – Informal request by Maggie Ann Ewing, of 41 East Avenue, requesting the Board's opinion on ZBA case #20-01.

Attorney Steve Guard, 1165 Washington St., Hanover representing the Applicant Maggie Ewing. In 4/2020 there was a Special Permit issued by the ZBA. Jason discovered an inconsistency. Discusses raze and reconstruct. There's a 3 year window which expires 4/1/2023. Special Permit was never recorded. Requesting a vote from the Board to clear defect/clerical error in the minutes. There was no opposition at the time of the original Application/Hearing.

Attorney Jay Talerman Clerical error can be corrected administratively by a revised decision without a public hearing. Then, the Applicant could record that. Recommended that Applicant provide a draft for that purpose and move on with that. The recording issue is concerning. The Applicant should have recorded it before doing any work. The work should have followed with permits. It can be recorded now. Spoke of another case that was not recorded and had ramifications. There is no grandfathering in this case. No further work should happen until it is recorded. Under Kingston's bylaw and the state's statute, a lapse occurs if there has been no work commenced and pursued consistently in three years. Three years is up. There could be a new clock when the administrative change is completed. The determination would be whether there has been a commencement of work under the original permit.

Mr. Dahlen asked Attorney Talerman if it would make more sense for the Applicant to file as soon as possible and hold a public hearing? Reopen case?

Attorney Talerman Stated that they do not have to hold a Public Hearing. ZBA could if it's felt there is some question as to whether or not it was a clerical error. If there has been a problem with non-compliance with the unrecorded permit, then that would be something that would probably originate in Jason's office (Building Department). That would be through an enforcement action. You wouldn't have jurisdiction over that question. The clerical error can be handled in a non-public hearing. Either the ZBA or Applicant can draft it and can be approved by the ZBA, then filed with the Town Clerk and recorded. It could have a new date if the Board wants.

Mr. Dahlen In the Findings and Decisions request to raze the structure "raise" not raze the structure and to construct a new single family 3 bedroom. Depending on how you read that you can read it in two ways. We don't have a picture of what the house is going to look like. It's been so long and now we are trying to correct it. Are we setting a future precedent for other properties down the road that could potentially come in front of the ZBA.

Attorney Talerman stated that he did not see it as precedent setting. The Board is entitled to other information so that you know what the replacement house looks like.

Jason Silva stated that minutes did not represent the hearing the way intended. More information should be in front of the Board.

Mr. Dahlen asked Attorney Talerman if the Board could vote this evening for an extension?

Attorney Talerman stated yes.

Attorney Guard stated that they would provide plans to the Board.

Mr. Mullen asked Jason Silva if he would offer an opinion.

Mr. Silva stated that he thinks more information is needed. The attorney should draft a corrected final decision.

MOTION: Mr. Goldberg motioned an extension for 60 days, Mr. Mullen seconded with a **VOTE** of 5-0-0. Next meeting for 41 East Avenue is scheduled for 4/19/2023 at 7:00 PM.

3/1/2023 minutes reviewed and **APPROVED**, motion by Mr. Dondero and seconded by Mr. Mullen with a **VOTE** of 4-0-0. (Mr. Goldberg was not present at the 3/1/2023 hearing.)

MOTION: Mr. Goldberg motioned to adjourn the meeting, seconded by Mr. Wrightington with a **VOTE** of 5-0-0.

ADJOURN: 7:51 PM

Respectfully submitted,

Debora Barry
Executive Secretary - Zoning Board of Appeals