

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Dog Town, LLC

Appeal No. 2021-002

An initial hearing was held in the above matter on Thursday March 18, 2021 and was then continued, at Applicant's, request to March 25, 2021 at 7:00 p.m. at the Hilltown Township Municipal Building. Notice of the hearing was published in the Intelligencer advising that all parties in interest might appear and be heard. In addition, the property was posted, and written notice was provided to neighboring property owners as required by the Zoning Ordinance.

The matter was heard before John Snyder, Chairman, David Hersh, and Stephen C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and no individuals requested party status.

The following exhibits were admitted and accepted into evidence:

Zoning Hearing Board's Exhibits

- B-1 Proof of Publication
- B-2 Posting Certification
- B-3 Letter with enclosure dated February 19, 2021 to neighbors from K. Eberle
- B-4 Letter to Applicant dated March 2, 2021 from K. Eberle continuing the hearing to March 25, 2021

Applicant's Exhibits

- A-1 Zoning Ordinance Excerpt
- A-2 Soundproofing Guide

A-3 Letters from Neighboring Businesses

A-4 Application with all Attachments

No other documentary evidence was submitted or received by the Hilltown Township Zoning Hearing Board. After weighing the credibility of the testimony and documents offered, the Hilltown Township Zoning Hearing Board renders its Decision on the above Application as more fully set forth below.

I. FINDINGS OF FACT

The Hilltown Township Zoning Hearing Board (the "Board"), having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, and a quorum of members present, hereby makes the following Findings of Fact:

1. Hilltown Crossings, LP is the owner of the real property located at 1553 Bethlehem Pike, Unit 2C, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-032-015.

2. The Property is part of a commercial shopping center known as Hilltown Crossings.

3. Applicant is Dog Town, LLC, who is the lessee of one of the commercial units at the Property.

4. The Property is located in the PC-1 (Planned Commercial-1) Zoning District in Hilltown Township.

5. The units on either side of Applicant are also commercial uses and only operate during the week.

6. Applicant's facility is 6,300 square feet, with a retail space of approximately 2,000 square feet.

7. Applicant currently operates a dog daycare, retail store, and adoption center at the Property.

8. Inside the facility is rubber matting floors for the dogs to play and exercise.

9. Outside of the facility is a 50 foot by 12-foot space for the bathroom and play area.

10. In addition, Applicant is permitted to use the field directly behind the facility to walk the dogs during its business hours.

11. The current hours of operation are 6:30 a.m. until 7:00 p.m. daily.

12. On average, approximately 18 dogs are at the Property each day.

13. In order to minimize disruption to the adjoining businesses, Applicant has installed soundproofing materials not only in the walls, but also in ceiling and currently exceeds the minimum required Sound Transmission Class.

14. Applicant wishes to add an A6 Kennel – Commercial Use to its business in order to offer overnight boarding services to its customers.

15. Applicant anticipates a maximum of 20-30 dogs per night with an average board time of one weekend and the longest board time of approximately two weeks.

16. Applicant would remain unstaffed during the overnight hours but would utilize cameras and sprinklers to monitor the dogs and ensure their safety.

17. Because the adjacent businesses currently close at 5:00 p.m., which is prior to Applicant's regular hours of operation, and are not open on the weekends, no adverse impact is anticipated as a result of Applicant's proposed use.

18. An A6 Kennel – Commercial use is only permitted by special exception in the RR-Rural Residential and CR-2 – Country Residential II Zoning Districts.

19. Accordingly, Applicant requests a variance from §160-22-Table Use of Regulations, which prohibits an A6 Kennel – Commercial Use in the PC-1 Zoning District.

DISCUSSION:

Applicant is before this Board requesting relief in connection with the addition of a A6 Kennel – Commercial Use in order to offer overnight boarding to its dog daycare customers. Applicant seeks a variance from §160-22 -Table of Use Regulations, which prohibits an A6 Kennel – Commercial Use in the PC-1 Zoning District.

In considering applications for a variance, this Board is required to apply the provisions of Section 10910.2 of the Municipalities Planning Code. The Board has the authority to grant a variance if it finds that an applicant has met its burden of proof for the following five elements: first, that the property has unique physical circumstances, peculiar to the property, and not generally created by the Zoning Ordinance; second, that an unnecessary hardship exists, due to the uniqueness of the property, resulting in an applicant's inability to develop or have any reasonable use of the property; third, that the applicant did not create the hardship; fourth, that the

grant of a variance will not alter the character of the neighborhood or be a detriment to the public welfare; and fifth, that the variance is the minimum necessary to afford relief. 53 P.S. § 10910.2(a).

Based on the above, the Board finds that Applicant has shown the existence of a hardship, not self-created, and unique and peculiar to the Property, which requires the grant of the variance from §160-22 - Table of Use Regulations. Additionally, the Board finds that the variance as requested, permitting an A6 Kennel – Commercial Use in the PC-1 Zoning District so that Applicant may offer overnight boarding services to its customers, would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicant the opportunity to reasonably use the Property.

DECISION AND ORDER

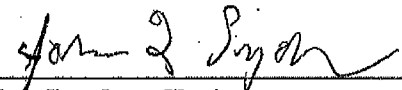
AND NOW, this 10th day of May, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

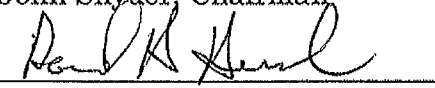
1. Applicant shall be permitted to operate an A6- Commercial Kennel use at the Property in accordance with the testimony and evidence submitted.

2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

The Hilltown Township Zoning Hearing Board hereby deems the foregoing conditions as necessary and warranted under the terms of the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.


HILLTOWN TOWNSHIP ZONING
HEARING BOARD

By: 
John Snyder, Chairman

By: 
David Hersh

By: _____
Stephen Yates

GRIM, BIEHN & THATCHER

By: 
Kelly L. Eberle, Solicitor
104 South Sixth Street
Perkasie, PA 18944

Date of Mailing: May 10, 2021