

RESOLUTION

PLANNING BOARD

TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: March 20, 2012
Memorialized: April 17, 2012

Re: Application No. 2011-54-PFSPV
Applicant: Pups@Play
Premises: 42 Okner Parkway, Livingston, New Jersey
Block: 102; Lot: 6
Zone: C-I

SUMMARY OF THE CASE

1. This Application as filed by Pups at Play (d/b/a as Pups@Play Doggie Daycare & Spa and hereinafter referred to as “Applicant”) requests approval to install an outdoor dog run area measuring 18 feet by 20 feet and surrounded by a 6-foot-high gated fence. This enclosed area would compliment an existing business operation conducted by the Applicant at the subject premises as an indoor dog daycare facility. The enclosed run or pen would allow dogs cared for at the Applicant’s facility to have an outdoor area providing fresh air and exercise and accommodating the dogs’ sanitary needs.
2. The Applicant was represented by Susan R. Rubright, Esq., of Brach Eichler, who verified that all taxes have been paid, that proper notice has been given and that all statutory requirements have been met.
3. A hearing was held before the Board on March 20, 2012 with respect to this Application.

4. In order to construct the proposed dog run or pen, the Applicant would remove two parking spaces close to the rear of the building and adjacent to a rear entrance to Applicant's facility. That area would be covered with gravel and surrounded by the 6-foot-high fence. The fence area closest to and parallel with the rear of the building would be chain link, as would be the access gate located there. The remaining fencing would be solid PVC board to screen visibility of the run from the parking area and nearby childcare facilities. At the end farthest from the building there would be a vestibule with a man gate for caregivers to enter and leave the run with reduced risk of dogs escaping. An existing separate chain-link gate providing access from the building to the parking area would be increased to 6 feet in height so as to reduce the risk of dogs jumping it.

5. Although two parking spaces would be removed, the Applicant would reconfigure the parking area to provide for one additional handicapped space; thus bringing the total handicapped spaces to a conforming 5. There would be adequate parking that would conform with the Township parking requirements.

6. The Applicant presented testimony that the facility is designed to handle as many as 50 dogs per day, and that there are 4 to 5 full-time staffers. A licensed groomer is in the grooming room, and a veterinarian is on staff on a part-time basis. All dogs accepted for the facility are tested for health and sociability. The Applicant further provided testimony that the dogs would be supervised by a staff member at all times while they are in the outside dog area.

7. The Applicant agreed to several changes suggested by the Board:
 - A: No more than 5 dogs shall be allowed in the fenced outdoor area at any one time.
 - B: Springloaded latches will be added to all the gates so that they will be self-closing and secure.
 - C. Increasing the width of the handicap access path from the parking area to 4 ft.
 - D: The Applicant shall consider providing a means of shading at least part of the fenced area from direct sunlight for the protection of dogs and attending staff.
 - E. A sign cautioning that the outdoor area is a dog run will be posted for the benefit of persons in the parking area.
8. Appearing as a witness for the Applicant was: Matthew B. Jarmel, admitted as an expert in architecture.
9. No variances were requested or required for the Application.
10. No members of the public appeared either in support of or in opposition to the Application.

FINDINGS OF FACT

1. The Board finds that the Application conforms with all requirements of the Township Zoning Ordinance and that the Site Plan, with the conditions agreed to by the Applicant and set forth herein, will result in an operation that can be run safely and that is entitled to approval by the Board.
2. The Board grants the Application for Preliminary and Final Site Plan approval.

3. The approval of this Application is subject to the following conditions:

- A: No more than 5 dogs shall be in the fenced outdoor area at any one time.
- B: A staff member shall supervise the dogs at all times while they are outside the Building.
- C: All gates of the fenced area shall be spring-loaded and self-latching.
- D: The outer gate of the vestibule of the fenced area shall be equipped with a lock so that only staff members can have access.
- E: The Applicant shall comply with any requirements of the Township's Division of Health with respect to the fenced outdoor area.
- F: A sign cautioning that the outdoor area is a dog run will be posted for the benefit of persons in the parking area.
- G: The width of the handicap access path from the parking lot shall be increased to 4 ft.
- H: The following of the Board's Model Conditions of Approval as amended through December 20, 2011 also apply:

6. Final Plans

Prior to the issuance of any Township permit for demolition of any structure, preparation of the Site, or construction of any improvement:

- a. The full text of all of the conditions of this approval, and all plan changes agreed to in the course of the hearing, shall be set out on final plans submitted to the Construction Official, the Township Engineer and the Board Secretary; and
- b. Such final plans shall have been reviewed by the Board Secretary or the Board's Planning Consultant for determination of whether the plans conform to the Board's approvals and shall then have been signed by the Board Chairman, the Board Secretary and the Township Engineer.

8. Guarantees and Bonds

- a. The approval of this Application is subject to the posting, with terms acceptable to the Township Engineer, of any and all required performance guarantees, bonds, soil erosion and sediment control approvals, and any other requirements of Township ordinances prior to the issuance of any permits for commencement of site preparation or construction.
- b. This approval is also conditioned upon the Applicant's providing, prior to issuance of the first Certificate of Occupancy, a performance guarantee acceptable to the Township Engineer for any aspects of the approved landscaping or fencing that has not been completed by the time of issuance of such certificate.

10. Noise

- a. No site preparation, demolition or construction activity shall be performed on the Site on Sundays, or before 7:30 a.m. or after 5:00 p.m. on weekdays, or before 9:00 a.m. or after 5:00 p.m. on Saturdays or federal holidays.
- b. All vehicles and motorized machinery operated on the Site shall be equipped with properly operating mufflers.
- c. No site preparation, demolition or construction activity (other than authorized blasting) shall produce, at the property line, (i) continuous airborne sound at a sound level in excess of 65 dBa, or which has an octave band sound pressure level in decibels which exceeds the standards provided in 32 N.J.R. 2230 et. seq., or (ii) impulsive sound in air which has a peak sound pressure level in excess of 80 decibels, or (iii) impulsive sound in air which repeats more than four times in any hour and has a peak sound pressure level in excess of 50 decibels.
- d. Relief from these noise conditions may be permitted, temporarily, by the Township Engineer upon his finding that a circumstance constituting an emergency exists and necessitates such permission.

11. Other Governmental Approvals

- a. Applicant shall comply with all applicable Federal, State and local laws and regulations and obtain any other governmental approvals required for implementation of this application as approved. If any other governmental agency or authority grants a waiver of or variance from any law, rule or regulation, or imposes any condition or requirement, which affects this approval or any of the conditions contained herein, then this Board shall have the right to review such action as it relates to this Board's approval or conditions and to modify, amend or revoke its approval and/or conditions.

- b. No Township permit for demolition of any structure, or preparation of the Site or construction of any improvement shall be issued until proof of request for such required approvals and any action thereupon, shall have been presented to the Construction Official and the Board Secretary by the Applicant.

18. Written Response to Memoranda

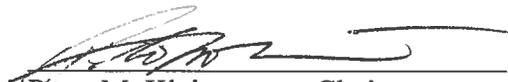
Prior to issuance of any permit for site preparation, demolition or construction, the Applicant shall have provided written responses to all issues raised in all memoranda from the Township Engineer, or any consultant to the Township, that were considered by the Board in the hearings.

19. As-built Plans

A final Certificate of Occupancy shall not be issued until the Applicant shall have submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans, surveys and building elevations.

NOW THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston, it is resolved that the Application for Preliminary and Final Site Plan approval is hereby granted and approved subject to the terms and conditions set forth herein.

This Resolution is a memorialization of the decision of the Livingston Planning Board made on March 20, 2012, wherein Board Members Leopold, Rieber, Anthony, Kimmel, Klein, Alternate No. 1 Ratner (in place and stead of Member Dinar) and Alternate No. 2 Wishnew (in place and stead of Member Kalishman) voted in accordance with the actions memorialized herein; they being all of the Mm\embers present and eligible to vote.


Peter M. Klein, Chairman

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Planning Board of the Township of Livingston on April 17, 2012 memorializing the decision of the Planning Board made on March 20, 2012


Jackie Coombs-Hollis, Secretary