



Zoning Board of Adjustment Meeting  
Monday, May 1, 2017 7:00 PM  
City Hall Council Chambers

**MINUTES**  
**Approved 6/13/2017**

Vice-chair Kier called the meeting to order and asked for a roll call.

**I. Attendance/Roll Call**

**Present & Participating:** Richard Collins, Carolyn Towle, James Petrin, Abigail Kier, Tracy Pope, Patrick Howe

**Absent:** Michael Hurd

**City Staff:** Michael McCrory, City Planner

Mrs. Kier asked Mrs. Pope to sit in for Mr. Hurd.

**II. Minutes of Previous Meeting**

**A. April 3, 2017**

**Motion:** To accept the minutes

**Made by:** Mr. Petrin      **Second:** Mrs. Pope

**Vote:** Unanimous in favor

**III. Old Business**

There was no old business.

**IV. New Business**

- A. (ZO 2017-00005) Kate Sohngen, 26 Goyette Ave** – Seeks a variance from Sect. 22-387, Table of Uses, of the City Zoning Ordinance, to permit a licensed animal shelter and quarantine facility at **26 Goyette Avenue**. Tax Map 131, Lot 253. Zoning District: CR1.

Mrs. Kier read the public notice.

**Planner's Report**

The applicant came to the Planning Department because of the need to acquire a license for a quarantine facility. Kennels are allowed in the rural districts, but not in the city center (kennels being the closest appropriate use in the zoning use tables), hence the need for the variance. It is proposed as a small-scale facility and Mr. McCrory urged the board to see that it remains small-scale due to its location.

City Solicitor, Jane Taylor, urged the Board to remember that the application is for a variance for a kennel, not because a state law may have changed.

Mrs. Pope asked if the law had not changed, would the applicant not have come to the Board. Ms. Taylor said she probably should have because she is caring for dogs that are not her own.

Mr. Petrin asked if there is a definition of a kennel so the Board could know what a kennel is supposed to be. Mr. McCrory said there is no definition in the zoning ordinance. The Board was keenly interested in knowing the number of dogs that defines a kennel, where Mr. McCrory felt the operation of keeping the dogs itself was more germane.

Mr. Petrin asked if there are specifications regarding the kennel building. Mr. McCrory said there are none. Mr. McCrory said the applicant can address the requirements for a quarantine facility.

Mr. Howe asked what prompted the applicant to come to the Board at this time. Mr. McCrory said he would defer to the applicant.

Mrs. Kier asked for an abutters' roll call. Mr. McCrory read the names.

### **Applicant's Presentation**

Ms. Sohngen said she has been involved volunteering with dog rescue since 2004; she has fostered dogs through other rescues in her home and not had any issues. Recently New Hampshire changed the state laws for rescues with dogs coming in-state, even though they are coming in-state with a health certificate, they are now required to be quarantined for 48 hours and then go to a licensed vet and receive a new health certificate before they can go to a foster home or be adopted. The rescue that she had worked with that provided the quarantine, was based out of Croydon NH, but has dissolved their rescue; they are no longer in practice.

“So, we’re looking to – we work with Lifesavers which is from Texas, which brings dogs to New England and adopts them out locally. We’re looking to open Lifesavers North here in New Hampshire and use my home as the quarantine facility. In order to do that I applied for the variance and then apply for the license through the state of New Hampshire, Department of Agriculture. We have a separate detached garage on the back of our property – it’s not at the end of the driveway. It is in the back corner. That’s where we would be doing the quarantine. Dogs picked up from transport, brought to the home, placed in quarantine for 48 hours. They have to be in a contained area that is separate from other animals in the home. So, they would be in the garage, either in a kennel or a crate, depending on the size of the dog. They will use a separate area for their bathroom. After 48 hours, they will go to Claremont Animal Hospital for a new health certificate. At that point, they will either enter our home as a foster or another foster home or be adopted.”

The purpose of quarantining is to prevent spread of diseases. However, all of the dogs arriving have been quarantined for two weeks in Texas and are certified they are well enough to travel in order to come to New Hampshire. New Hampshire now requires a 48-hour quarantine and a new health certificate once they arrive.

If a dog develops symptoms, it must remain in quarantine until the symptoms had been resolved. Claremont Animal Hospital will provide the recommendations needed to resolve the matter. The dogs would be separated and secluded to prevent spread of airborne diseases. The state provides protocols for sanitizing after each dog leaves.

The garage abuts the rear property line fence, which is shared with the railroad, so there are no neighbors behind the property.

Feces are picked up and sealed in bags and disposed of. There is a separate kennel area that's attached to the garage where the dogs can go outside and go to the bathroom. It's picked up immediately.

The New Hampshire law requiring the 48-hour quarantine was enacted two years ago. Ms. Sohngen was not aware of any dogs failing the quarantine during the two years at the Croydon facility.

Lifesavers does not provide written protocols for quarantine facilities. Ms. Sohngen is a volunteer. The rescue operation is very small-scale.

There have been no complaints about noise. The neighbors are aware that the Sohngens foster dogs and there have not been any complaints.

The Sohngens are not looking to quarantine more than two dogs at a time and would work with neighbors to resolve any issues if any should arise. They have no intention of expanding.

They currently foster only one dog at a time. They would quarantine two adult dogs at a time. Occasionally there may a litter of 5 or 6 10-week old puppies that would come up together and be quarantined together, but that is uncommon.

The state provides guidelines for licensed quarantine facilities. The facility must be contained, separate, and have flooring that can be sanitized. (The garage floor is concrete.) Enclosed kennels or crates can be used – something that's contained within the contained area. There are calculations to determine the square footage of area that each animal needs. The amount of light and air circulation are also regulated along with a long list of other items. The Dept. of Agriculture inspects the facility as part of the licensing process. They conduct random inspections and keep track of paperwork once the license has been issued.

The City ordinance appears to characterize a kennel as having four or more dogs.

The Board had no further questions.

No abutters were present. Mrs. Kier closed the public hearing.

**Motion:** That we approve the application for a variance from section 22-387, Permitted Uses in the CR-1 Zoning District, to permit a state-licensed quarantine shelter for rescue dogs at 26 Goyette Avenue, Map 131, Lot 253 with the following conditions of approval:

1. The dog quarantine shelter use shall be accessory and subordinate to the principal residential use of the property.
2. The proposed use shall be substantially in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2017-00005 and testimony during the public hearing for said case.
3. There shall be no more than two adult rescue dogs with a litter of puppies in quarantine at one time. Quarantine practices shall be in accordance with state requirements and best practices.
4. This variance is void if the dog quarantine shelter use is abandoned for more than 12 consecutive months.
5. This variance shall be recorded in the chain of title.

**Made by:** Mrs. Pope

**Second:** Mr. Collins

**Discussion:**

1. Would granting the Variance be in accord with the public interest?

Mrs. Pope said the applicant has been doing this since 2004 and there haven't been any complaints. She doesn't have any abutters here tonight protesting this application. Quarantining the dogs is really a community service. Mrs. Kier agreed. This won't alter the character of the neighborhood or threaten the health or safety or welfare of the public. She felt it would do just the opposite. Having it state-regulated will enhance what the applicant is doing.

2. Would granting the Variance be consistent to the spirit of the ordinance?

Mrs. Kier felt this would be in the spirit of the ordinance. Overall it is a good use; it is a use that has been there; in keeping with the Agricultural regulations will make it more consistent.

3. Would granting the variance, as requested, do substantial justice?

Mrs. Kier said there seems to be no injustice to the public by doing this. This is a gain as far as the public and the animals are concerned. Mrs. Pope repeated that the applicant has been doing this since 2004. Mr. Petrin said there have been no complaints.

4. Does the proposed use maintain the value of surrounding properties?

Mrs. Towle said there would be no change in property values, with which Mrs. Kier agreed.

5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?

Mrs. Pope said the applicant has demonstrated that the proposed use is a reasonable one. The applicant wants to be licensed so she can continue what she has been doing. She is doing a service to the community. Mrs. Kier agreed, saying it is balancing the public good against potential harm. The state regulations and regulatory actions will ensure the facility is well run.

Mrs. Kier said it appears that all criteria have been met.

**Vote on the motion:** Mr. Petrin voted no; all others voted in favor. Motion carries.

- B. (ZO 2017-00006) Linda Perron, 6 Juniper Hill** – Seeks a variance from Sect. 22-389, Table of Dimensional Regulations, of the City Zoning Ordinance, to permit construction of a deck within the rear setback at **6 Juniper Hill**. Tax Map 133, Lot 78. Zoning District CR1.

Mrs. Kier read the public notice.

Mrs. Towle recused herself from the hearing as she said she is a long-time friend of the applicant and has worked for the applicant as well.

Mrs. Kier asked Mr. Howe to sit in for Mrs. Towle.

Mrs. Pope said she has known the applicant for many, many years, although she has never worked for her. Mr. McCrory asked if Mrs. Pope was going to gain financially from an approved application? Mrs. Pope said no. Ms. Taylor said this is the case of New Hampshire being a small place where everyone knows everyone and hoped that everyone could judge the application on its merits.

Mrs. Kier asked for an abutters' roll call. Mr. McCrory read the roll.

### **Planner's Report**

The proposal is to add onto an existing deck – and add an enclosure to it– a roofed structure that will be screened in. The deck will be enlarged two feet toward the rear property line and 4 feet toward the southerly side property line. It is borderline, but it still meets the structural standard for which variances and setbacks apply.

The location of this structure is within the rear setback and a variance is required. Mr. McCrory and the applicant discussed the layout of the property at the time of application. He advised Ms. Perron that if there were alternatives that would allow construction outside the setback, that she should consider them.

The existing pool had been built (not by the applicant) encroaching on the rear property line, so there was a property line adjustment to accommodate it.

The required setback is 25 feet. The completed structure will be within 6 feet of the line (19 feet inside the setback).

### **Applicant's Presentation**

Ms. Perron said that prior owners had built a swimming pool with a deck on two sides and enclosed everything with a stockade fence. The people who built the pool didn't have enough land, so they bought a piece from the neighbor after the fact. The neighbor sold them a "teeny" piece of land on the back.

The existing deck is 8 ft. x 18 ft. There is more deck attached to that – "so technically 6.5 more feet that has a gate there." They would like to keep the 8 ft. x 18 ft. section and add 2 feet to the side and 4 feet to the rear. Most of it will be within the existing fence. They would like to build the enclosure so as to accommodate a large family and keep their grandchildren safe.

Ms. Perron said there isn't anywhere else that they could make this addition to the deck. The house is ranch-style with a metal roof that sheds snow in all directions.

Ms. Perron said they have spoken to the neighbor to the rear and "he wasn't in any way negative" about the proposed project. Mrs. Kier noted that he wasn't present for the hearing.

Ms. Perron offered to show a video she had taken of her property to help the Board better understand its layout and topography. After much discussion, it was decided that the video wasn't necessary.

Mrs. Kier noted that there were no abutters present and closed the public hearing.

**Motion:** That we approve the application for the variance from Section 22-389, Table of Dimensional Regulations in the CR-1 Zoning District, to permit an enclosed deck within the rear yard setback at 6 Juniper Hill, tax map 133, lot 78 with the following conditions:

1. The proposed structure shall be constructed substantially in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2017-00006 and testimony during the public hearing for said case.
2. The applicant shall obtain and receive all necessary permits and approvals as determined by the Local, State and Federal governments. No work is permitted to commence until such permits, or appropriate statements of compliance with Local, State and Federal regulations, are submitted and approved by the Planning and Development Department.
3. This variance shall be recorded in the chain of title
4. This variance allows expansion of the deck by 2 feet to the rear and 4 feet to the southerly side.

**Made by:** Mrs. Pope

**Second:** Mr. Howe

**Discussion:**

1. Would granting the Variance be in accord with the public interest?

Mrs. Pope said none of the neighbors were to oppose the project. Mrs. Kier said it would not harm the character or public safety.

2. Would granting the Variance be consistent to the spirit of the ordinance?  
Mrs. Kier felt this was within the spirit of the ordinance.
3. Would granting the variance, as requested, do substantial justice?  
Mrs. Kier felt granting the variance would do substantial justice.
4. Does the proposed use maintain the value of surrounding properties?  
Mr. Petrin felt it would not hurt the properties values. Mrs. Pope agreed.
5. Would denial of the variance by literal enforcement of the ordinance result in unnecessary hardship to the owner under either condition below?  
Mrs. Pope felt that, with the hilliness of the Juniper Hill property, there is no other way to expand the deck.

**Vote on the motion:** Unanimous in favor

#### V. Communications

There were no communications.

#### VI. Other Business

Mrs. Towle said that the Board had a policy of not accepting application-related materials on the night of the hearing (with regard to the discussion about Ms. Perron's video). There was discussion about this policy and its consequences.

Ms. Taylor said that by accepting materials at a hearing, whether from the applicant or an interested party, the board puts one side at an advantage over the other. As a quasi-judicial board, they must ensure that all sides have access to the same materials at the same time. It's fundamental fairness. Mr. McCrory said reading a letter into the record at a hearing is quite different from someone coming in with an independent engineering study. The first can be regarded as testimony, the second requires much more time to incorporate.

Mrs. Pope asked if a letter has gone out to Ian Gates yet. Mr. McCrory said no.

#### VII. Adjournment

**Motion:** To adjourn the meeting

**Made by:** Mrs. Pope                      **Second:** Mr. Collins

**Vote:** Unanimous in favor

The meeting adjourned at 8:00 PM.

**Respectfully submitted,**

*deForest Bearse*