



Zoning Board of Adjustment Meeting  
Monday, June 4, 2018, 6:00 PM  
City Hall Council Chambers

**MINUTES**  
**Approved 8/6/2018**

**Call to Order by the Chair**

Mr. Hurd called the meeting to order at 6:00 PM and asked for a roll call.

**I. Attendance/Roll Call**

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

**Absent:** Carolyn Towle

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

**II. Minutes of Previous Meeting – May 7, 2018**

**Motion:** To accept

**Made by:** Mr. Howe **Second:** Mrs. Kier

**Vote:** Mrs. Pope abstained; all others voted in favor

**III. Old Business**

**IV. New Business**

- A. (ZO 2018-00004) Philip Osgood Sr., 50 West Pleasant St** – Application for a variance of Sect. 22-168 (RR lot size and area) and 22-169 (RR yard) of the Claremont Zoning Ordinance to permit placement of a mobile home, garage and storage shed on the lot at **55 Case Hill Road**. Map 159, Lot 60. Zoning District: RR

Mr. Hurd read the public notice and asked for an abutters roll call. Mr. McCrory read the roll.

**Planner's Report**

The Case Hill Road area is zoned RR and AR, but there are a lot of lots that are smaller than the minimum lot size required under current zoning (they are existing nonconforming lots). This application applies to just such a lot).

The applicant met with staff several times to explore making improvements on a lot that is nonconforming in size and configuration. The existing house is too close to the road. The proposed house would sit back farther than the existing structure, but it will still encroach in the front setback. Hence the need for the variance. The garage will be no closer to the side yard than the existing garage. The existing driveway will be retained.

Mrs. Pope asked why the variance is needed when the new structure will encroach less than the existing one. Mr. McCrory said it was because the new structure still won't meet setback requirements and because it is a bigger building than the existing one.

### **Applicant's Presentation**

Joe Osgood, Ward 2, presented his application. He described the project as a "major improvement on a piece of property". He wants to replace a 1963 mobile home with a 2018-2019 mobile home. It will be further from the road than the existing one. He said the house on the adjacent property is even closer to the road than this mobile home. He said he felt he was making "all kinds of improvements". He will be replacing a "pretty run-down garage" with a new garage. The new mobile home will be ten feet further from the road than the current one (the width of the current mobile home).

There is a foundation beneath the shed on the back side of the existing mobile home. Mr. Osgood wants the new mobile home to site on top of that foundation.

The swimming pool that is shown in the photo (contained in the application) has already been removed.

Mr. Hurd asked about the new garage. Mr. Osgood replied, "I'm going to stay within the legitimate setbacks and move the garage back. It's not going to be up even with the front of the house. I can meet all the setbacks."

There were no further questions for the Mr. Osgood.

### **Abutters Testimony**

Raymond Bernard, next door neighbor, said, "The only thing this can do is enhance the area." Mr. Bernard has lived in the neighborhood for 45 years.

No other abutters wished to speak. Mr. Hurd closed the public hearing.

**Motion:** *That we approve the Application for a Variance from Section 22-169, Yards in the RR Zoning District, to permit a garage and mobile home within the front yard setback at 55 Case Hill Road (Tax Map 159, Lot 60) with the following conditions of approval:*

- 1. The proposed new house and garage shall be constructed in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2018-00004 and testimony during the public hearing for said case.*
- 2. The structures shall be no closer to the front yard boundary than the existing structures. No encroachment into the side yard and rear yard setbacks is permitted.*
- 3. The applicant shall obtain and receive all necessary permits and approvals as determined by the local, state and federal governments.*
- 4. 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.*

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

**Discussion:**

Mrs. Kier:

- Granting the variance would not be contrary to the public interest.
- The applicant would not be able to meet front and rear setbacks wherever the structures are placed.
- Putting the new structure further back (from the road) is creating an improvement.
- The spirit of the ordinance is being observed in doing this.
- The proposed use is a reasonable one – clearly a useable lot with a well-kept and newer home is going to be a very reasonable use for that area.

Mr. Hurd:

- Values will go up.
- It will be more of an asset.
- The size of the lot is the hardship.

Mrs. Pope:

- Granting the variance will do substantial justice because it’s actually going to be improving that lot.

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

**B. (ZO 2018-00005) Christopher Anastaspoulos, 269 Pleasant St – Application for a Special Exception for a Family Dog Training Facility as a Home Occupation at 269 Pleasant Street. Map143, Lot 44. Zoning District: R1**

Mr. Hurd read the public notice and asked for an abutters roll call. Mr. McCrory read the roll.

**Planners Report**

The applicant met with Mr. McCrory a couple of times to discuss how he could bring his canine obedience training business to his home. Mr. McCrory felt the proposed use did not quite fit many of the use categories available for this district. The best fit Mr. McCrory could find was the Home Occupation with limitations.

Home Occupations should be accessory to the residential use. Mr. McCrory read the definition of Home Occupation:

*Home occupation shall mean any business, profession or occupation which is conducted at a residential property, and for which a client or customer comes to the property for ordering or receiving advice, a product, a repair or service, or which receives or sends deliveries in any vehicle of more than two (2) axles.*

*A home occupation shall be conducted entirely within a dwelling or within an accessory building to a dwelling by the owner and must be incidental and subordinate to the residential use of the building by the owner, and may have not more than two (2) persons who are not residents of the premises. Such use must not change the residential character of the dwelling or the property, and must create no nuisance, odor, noise, glare, vibration noticeable off premises, or safety hazard. There shall be neither outside storage of materials nor display of stock in trade. A home occupation may not occupy an area equivalent to a maximum of greater than twenty (20) percent of the usable square foot area of the residential building. On premises retail sales are not permitted except those that are incidental and accessory to the*

*home occupation, such as hair care products by a beauty salon. Off-premises retail sales, such as over the internet, are permitted. A home occupation relates to the activity of a specific occupant and does not run with the land.*

The bulk of the training takes place in a room in the house. There will be some outdoor activities for exercising the dogs. There is a “fairly stringent process” to control the dogs according to the applicant.

There is also a limited number of canines on the property. The application states that there are no more than ten at any one time. This would include the training and the care of boarding dogs. The training itself is no more than four dogs at one time. If this should get any more intense, the owner understands that he will have to locate to a different property.

Mr. McCrory asked the board for assistance in determining whether this proposal meets the criteria for a Home Occupation and whether it also meets the criteria of a Special Exception.

Mrs. Pope said a kennel is considered four or more and the applicant is saying he is going to have four. Why isn't this considered a kennel, which isn't allowed in this district. Mr. McCrory said he thought the applicant could speak to that.

Mr. Hurd said previously an owner had to come before the Board for a kennel because they owned four dogs – personal pets.

Mrs. Pope said she couldn't see the difference.

Mr. McCrory asked the Board to give the applicant the opportunity to address the distinction. He said the Board could deny the application on the basis that it's not an allowed use, which would give the applicant the opportunity to apply for a variance.

Mr. Howe asked for a definition of “long-term” because the application states that dogs could be kept on-premise for up to three weeks. He felt three weeks was “long-term”.

Mr. McCrory said that unfortunately the current ordinance does not have a definition of “kennel”. It does say, “Keeping of four or more dogs”, yet there are families who have more than four dogs as pets. He said he was not inclined to enforce that definition on all households with more than four dogs. The state definition is more substantial than the City ordinance. It's a standard much higher than just the four-dog limit.

Mr. Howe pointed out that the application states “up to ten dogs”. Mr. McCrory acknowledged the number and said he would defer the distinction to the applicant.

The Board had no further questions for Mr. McCrory.

### **Applicant's Presentation**

Mr. Anastapolous acknowledged that ten dogs sounded like a lot. The business plan speaks of four dogs a month. If there are not four dogs a month, there would (need to) be a second or third source of revenue. This would include day or overnight boarding. He said where “that would fit into the four-dog” (proposal) would be up to the board. Mr. Anastapolous said he specializes in proper socialization. He went on to say that if there were not four dogs engaged, he would schedule classes

in proper socialization where up to four dogs would participate. The classes would be one or two hours or something similar.

Mr. Anastapolous said the doggy-daycare was not something he wanted to do. He could forego it if necessary. The money is in the training and the boarding.

He doesn't intend to have more than four dogs on site at any time. He would encourage clients to schedule their sessions so there would not be four dogs training at the same time.

He has a dog of his own.

Most of the training is done indoors (training with no distractions). Then they are moved outside on-leash (training with distractions). He has enough room in his backyard for four dogs. Then they are moved off-premise for confidence-building.

The dogs are kenneled when he is not present.

The dogs would be worked one at a time, with the remaining dogs in their kennels. The dogs are worked 3-4 times a day in 20-minute sessions plus structured walks on-leash.

He has colleagues and mentors who work a larger number of dogs in smaller spaces in cities.

He said the stereo-typical dog kennels where there are dogs behind chain-link fenced yards and barking all the time is not what he is proposing.

Mrs. Pope said if you have a dog of your own, then there could theoretically be five dogs on the property at once. Mr. Anastapolous answered yes. She said then you also could have eleven dogs if we approve your request for ten boarding dogs. In addition, there might be more dogs coming into classes. What would the maximum be?

Mr. Anastapolous gave the following example: Four dogs arrive at the first of the month. They would be there for two weeks (optimum training time), then they go home and there would be a new set of four dogs for two weeks. Mrs. Pope said that didn't make sense. She said that's what she was talking about when she said 4 + 4 + 4 + etc. constantly. Would you do classes too? He said it would depend on what the City allows. Mrs. Pope said as the application is written, you would have four dogs in training, plus your dog, plus you could have classes, plus doggy-daycare. He agreed that that is the way the application reads.

Mrs. Kier said if you have four dogs in the training program, would you also have doggy-daycare at the same time? (Cannot hear applicant's response – however, based on Mrs. Kier's response, it is assumed that he said no.) She said she understood that the primary goal is to have the four-dog training program, but have the doggy-daycare as a supplemental income.

Mrs. Pope asked if the Board were to approve the training program for three dogs and deny the doggy-daycare, would he be okay with that. Mr. Anastapolous replied yes. He said he would wish to be allowed to do day or overnight boarding (which is not doggy-daycare) if he doesn't have the three dogs in the training program.

There was more discussion trying to understand the total number of dogs that might be on the premises at any given time, independent of the amount of time they are there. Mr. Hurd compared it to a fixed number of parking spaces – there may be different vehicles using those spaces throughout the day, but the number of useable spaces remains fixed. Change the parking spaces to dogs and then figure out what that number would be. Mrs. Kier felt the board should look at the number of overnight dogs as well as the number of daytime dogs. Mr. Hurd didn't think it could be broken down that way.

Mr. Anastapolous acknowledged the difficulty in understanding the numbers.

He asked if he could give the board some letters he had from some of his customers.

Mr. Hurd said he wanted to hear from the people that were at the hearing and then ask for a continuance of the hearing. He wanted more clarification of state guidelines and more direction from staff on which direction the board should go in with this.

Mr. Anastapolous said the application was written the way it was to make the business plan numbers work out. Mr. Hurd said he wasn't comfortable with what was presented in the application. He felt he didn't have enough information. Mr. Anastapolous said he understood. He said he needs four dogs a month to meet his business plan – two dogs come in on the 1<sup>st</sup> of the month and leave on the 15<sup>th</sup>; then two more dogs come in on the 16<sup>th</sup> and leave on the 30<sup>th</sup> – this is what he needs to meet the business plan. Until he gets that optimum number, he needs to supplement his income by being allowed to board additional dogs, still with no more than four dogs on site at any one time. The confidence training classes can be done anywhere – it does not need to be on his property.

Mr. Anastapolous said this is not a kennel. The dogs would not be left outside unsupervised barking all day long. He said that is not what he does. He trains against incessant barking.

Mrs. Pope said there can be no external evidence of a Home Occupation. Taking dogs outside goes against that standard. She agreed with Mr. Hurd that more information is needed and to continue the hearing to the next month.

Mr. McCrory said the ordinance states that a kennel is the keeping of four or more dogs, but doesn't define it. State statute says a kennel is a commercial facility for breeding.

Mr. Hurd said the precedent has been set for Claremont – anyone with four or more dogs must get a permit for a kennel.

Mr. McCrory said he did not equate exercising dogs outside with display of stock and trade. Mr. Hurd said what about the person who comes to observe the dog outside to view the dog's progress?

### **Abutters' Testimony**

Bonnie Miles, Ward 2, asked why this application was being presented. This is an R1 zone. These are allowed in agricultural and rural residential zones with a special exception. This is a kennel. Why do we have kennels this close to down town? She is concerned about the barking. The application said the dogs would not be left alone for more than eight hours, but then also said they would always be supervised. He used to have chickens that were all over the place – they weren't contained.

She is concerned about the property value. She has put a lot of money into her rental property and she has long-term tenants, but if the tenants don't like what they see next door, they will move away, which would affect her financially. She is concerned about his property maintenance – the grass was long until just recently and was long all last year. She said she was not in favor of this proposal because she fears for the value of her property.

Matthew Makela, owner of Asetex Tire and Auto and direct abutter to the property, said his main concern is barking, due to some of the issues in the past. (chickens). He said Mr. Anastapolous does do a good job with the dogs. He suggested a chain link fence to keep the dogs from getting off the property. (There is currently no fencing there.)

Mrs. Merchant said her concern was about safety. The sidewalk in front of Mr. A's house is heavily used. There are a couple of bus stops nearby as well. If a dog were to get off-lease and bolt, it might put someone's child in danger.

Mr. Pelton was present but chose not to speak.

Alfred E. Jones, 281 Pleasant Street, said he remembers the days when dogs were not required to be leashed or tied up. He said he thought the board needed to examine the intent of the training. He cited a lot of historic anecdotes about what things were like in Claremont's past. He said this proposal is a small operation. This business will help people understand and control dogs better. He felt there were lots of dogs in Claremont that would benefit from this training and was in favor of the application.

**Motion:** To continue this hearing to June 26, 2018 at 7PM in Council Chambers.

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

**Vote:** Unanimous in favor

## V. Communications

There were no communications.

**Motion:** To take a 5-minute recess.

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

**Vote:** Unanimous in favor

## VI. Other Business (7:00 PM – non-televised work session)

### A. Training Session with City Solicitors

Stephen Buckley of NHMA spent time with the board discussing various topics related to the zoning board process.

## VII. Adjournment

Respectfully submitted,  
*deForest Bearse*