

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday April 11, 2019 beginning at 8:00 P.M. in the Verona Community Center, 880 Bloomfield Avenue, Verona, New Jersey.

**Roll Call:**

Present: Dan McGinley, Chairman, Scott Weston, Vice Chairman, Christy DiBartolo, Pat Liska, Lou Russo, Sean Sullivan, and Genevieve Murphy-Bradacs, Alt #1

Also, present: Michael Piromalli, Esq. and Michael DeCarlo, Township Zoning Officer

Absent: Larry Lundy

Secretary read the notice of Open Public Meetings law and called attendance.

Mr. McGinley called the meeting to order at 8:03 PM. He leads the Pledge of Allegiance. He then explains to the Applicants that the Board can grant variances, but the burden is on the Applicant to prove special reason or any undue hardship. Mr. McGinley states the Applicants shall offer sworn testimony on their application and the Board will rule based on the evidence presented. He reports the variance, if granted, will be memorialized at the next regular meeting.

**Application:**

**Case 2019-01: 467 Bloomfield Avenue LLC,  
467 Bloomfield Avenue, Block 612 Lot 17**

David Owen, attorney to represent the applicant for both the appeal and variance applications, began the appeal testimony.

He explained the property is at the corner of Bloomfield Avenue and Lakeview Place. The applicant is looking to upgrade the property and put a "Doggy Day Care" business on the property. Michael Petry put together plans dated October 25, 2018 that were submitted to Michael DeCarlo in the Township Engineering department for review. They decided to appeal Mr. DeCarlo's decision and filed the appeal in December of 2018. They are appealing the "Doggy Day Care" beginning considered under the zoning ordinance 150-6.1 for animal hospitals and animal kennels. Exhibit A-1, appeal application. Under the provisions for animal hospitals and kennels, there needs to 150 feet setback to all residential or 200 feet setback for any outdoor play areas. The applicants disagree they fall under these provisions. On March 1, 2019 revised plans were filed that eliminated a proposed outdoor exercise area for the dogs at the business. This would remove the question of 200 feet setback to residential properties neighboring the property.

Mr. Owen called Michael Petry to testify.

Mr. Piromalli clarified if they would continuing as 70A & 70B, appeal and interpretation. Mr. Owen stated that they would proceed under 70A; originally, letters came from Mr. DeCarlo out of the office of the Engineer but now from Mr. DeCarlo as Zoning Officer.

Mr. Petry was sworn in. Mr. Petry gives his background to the Board that includes licensing as Engineer, Architect and Planner. This past year the Board accepted him as expert in Engineering. He is now before the Board as a Professional Planner. Mr. Sullivan moved to accept Mr. Petry as expert in professional planning. Mr. McGinley conferred the Board accepted as Professional planner.

Mr. Petry began with definitions from the township zoning ordinance that has three titles of animals in definitions; animal day care facility, animal hospital and animal kennel. He continued

that none of the definitions included another. He feels that Animal Hospital and Kennel does apply to this application. He explained that the town has their own definitions, the state has their own and there are other definitions as well. He felt it was in error that Mr. DeCarlo incorporated those other definitions into his letter of denial. The local ordinance has its own relevant zoning definition, setback, and variances. He also referenced the Cox book (New Jersey Zoning & Land Use Administration Book) with regards to principles of interpretation and read directly from page 564. Since the zoning ordinance for Verona has three separate definitions and 150-6.1 only references Animal Hospitals and Animal Kennels, he felt that it did not pertain to their application for zoning.

Mr. Owen added that applicant seeks variance for use and some bulk variance but they do not feel they need to see zoning for Animal hospital and animal kennels into their design of their property.

Mrs. Murphy-Bradacs questioned with the three definitions and section on animal hospitals and kennels, if there were any regulations or requirements for dog day care in the ordinance. Mr. Petry stated that it is not a use allowed in any zone and no specific zoning for animal day care. She asked why day care would not fall under animal kennel. R. Petry explained there are separate definitions and those definitions do not mention any other in them. He added that in case law if distinguished separate definition for a term then that is the definition for that term. There would need to be something in the ordinance specific stating that one term would fall under or with other term.

Me. Weston asked if any other animals other than dogs at the day care. Mr. Petry stated no. Mr. Weston questioned if they did start taking other household pets that would stray from use. Mr. Owen stated that they could stipulate that it is only dogs allowed.

Mr. Sullivan questioned licensing for the facility and who regulates. Mr. Owen explained that they are licensed by Board of Health and they are licensed yearly. In Verona, the Montclair Health department does the licensing for facilities. He added they are also under vet supervision and regulations along with state regulations from State Department of Health and Safety regulations. There are lot that regulate this type of business and the owners are licensed for their business. Mr. Sullivan further questioned if these authorities license differently for a kennel that keeps animals overnight and not overnight. Mr. Owen explained that from old regulations generally controlled four types of facilities, shelters, pounds, kennels and pet shops. More recently, dog day care has been regulated under kennels at the state level. However, they are before the Board appealing because of how the local ordinance deals with the use.

Mrs. DiBartolo questioned what the grooming facilities in town are categorized under. Mr. Owen stated that they permitted use and fall under personal service facility. He added that of the groomers in town the applicant is one established as a personal service and retail service facility that is allowed at their current location. Mr. Petry stated that there is one other dog day care facility in town that was permitted variance for use.

Mr. McGinley asked Mr. DeCarlo to address the appeal. Mr. DeCarlo explained that he struggled with what to follow for this application with no specific regulations and not a permitted use for "Doggy Day Care". He looked into uses and found under webpage for Public Health aspects for Animal facilities. There was boards, kennels and daycares, no other inclusions. He felt they seem to all fall under the same. The zoning had nothing else for buffers, setbacks and other bulk regulations so he used the section for animal hospitals and kennels. Mr. Owen added that the Department of Health webpage not part of law.

Mr. McGinley clarified that the contention is that because animal day care not in the code that it is not regulated under the 100 feet or 200 feet setback to residential line. Mr. Owen stated that the 200 feet setback is no longer issue as the outdoor open pen has been removed and that the 100 feet setback does not apply as the application does not fall under animal hospital or kennel.

Mrs. Murphy-Bradacs asked if it is not a permitted use why could not use something similar for requirements. Mr. Owen explained that day care is not in 150-6.1, it is not allowed in any zone and recognized with a separate definition for such a facility, therefore it cannot be tagged with similar uses requirements. Applicant did list the variance for the 100 feet setback in their variance application in case it was determined by the Board to be needed.

Mr. Piromalli the Board is determining what use this application more closely falls under. The use is defined separately and is not in any sections. The applicant is arguing that 150-6.1 regarding animal hospitals and kennels does not address the day care use. In Board discussions, they are to determine and make a motion, as 150-6.1 does not apply as the applicant says.

Mr. McGinley opened up Board discussions.

Mr. Sullivan stated that applicant applied as a specific use which has specific restrictions on inside for use from health and state regulations but there are no specific restrictions in zoning for this use. He agreed with the applicant as a day care they are not applying to be kennel or hospital, therefore are not subject to the zoning for those. Mr. Russo and Mr. Liska both agreed as well. Mr. Weston agreed and added that there are clear use as a day care and not kennel with the definitions.

Mr. Sullivan moved to reverse determination of Zoning Official that the use falls under 150-6.1 Animal Hospitals and Kennels. Mr. Russo seconded the motion. All votes aye. The appeal passed.

Move to the variance application.

**Application:**

**Case 2019-03: 467 Bloomfield Avenue LLC  
467 Bloomfield Avenue, Block 612 Lot 17**

Mr. Piromalli offered proof of service was in order.

Mr. Owen began is opening for the variance application. He explained the property is on the corner of Bloomfield Avenue and Lakeview Avenue as stated before. The property formerly was a diner and hot dog hut at one time. Currently there is no business operating on site. The applicant is proposing to combine the buildings on the property to make one building with alterations to the existing inside as well. They are looking to use the site as a Dog Day Care facility where dogs come for the day and not overnight. They are before the Board for use variance and setback variances. He will have three witnesses; Mr. Petry as Engineer and Planner, Liz McKenna as co-owner and operator of business and Mike Sweebe as architect. He likes the project for the site as the nature of the use falls under retail and personal service, they are going to improve the property with upgrades and alterations to the building, they are licensed and supervised by the Board of Health and veterinarian and this is operated by two women with a lot of experience with dogs and their care.

Mr. Owen called on Mr. Petry first as civil site engineer. Mr. McGinley offered the Board would accept Mr. Petry as expert in field of professional engineer.

Mr. Petry offered exhibit A-1 dated 4-9-19 for the variance application. This exhibit is aerial map of the area. Mr. Petry explained 467 Bloomfield is at corner of Bloomfield and Lakeview Avenues to the right of Verona Park. He stated a key element to the location is that it is across the street from the entrance to the park. Historically the site used as food establishment. He was familiar with the site and parking having visited the diner that once was on site. He offered Exhibit A-2 a layout of the property. This showed that the property is trapezoidal in shape with three existing buildings on site. These buildings previous used as a diner-restaurant, a shed and an ice cream hut. The entire site is paved other than the buildings. There are current curb cuts on Bloomfield Avenue and almost the entire side of Lakeview. There is currently pavement up to the sidewalk with no curbs. The current lights are building mounted. The applicant is proposing to take the three buildings and make one structure. They will remove the shed but area where it stands will be part of the new building. They propose to close the driveway curb cut on Bloomfield Avenue and make one 25 feet two-way driveway on Lakeview Avenue only. They propose four parking spaces with none designated as handicap. There will be a handicap loading area next to the first parking space that will accommodate handicap. They will reduce the driveway size. They will add landscaping around the property. They will add stair and a ramp into the entrance. The sidewalk on Bloomfield Avenue will remain. They are decreasing impervious coverage by removing pavement and adding landscaping. They did not propose any drainage improvements in this application but know by removing pavement and adding landscaping it will reduce the runoff and discharge will reduce. Exhibit A-3 page SP-4 from plans with color added. The lighting on the property proposed one light pole 12 feet high that backs up to Bloomfield Avenue and the other side of the building bollard lights 42 inches from the ground with lights shining forward. There will be no light spillage to the adjacent residential properties. The proposed business will operate 7 days a week, Monday through Friday 7 am to 7 pm and weekends 8 am to 6 pm. He explained no dogs would be housed overnight. There would be limit of 30 dogs at any time at the facility. There are regulations of square footage per dog. The facility will be 1100 square feet and need 37 square feet per dog. The applicant is willing to accept condition on maximum number of dogs allowed. They will require dogs show they are vaccinated. They are looking to run a high-end facility.

Mr. Owen called next witness Liz McKenna.

Elizabeth McKenna, co-owner and operator, was sworn in.

Miss McKenna explained her background to the Board. She has a bachelor of science in animal science. She has worked at animal hospitals and animal shelters. She is also a certified animal control officer. She has worked with animals and more specifically dogs the last 14 years. She explained that the business would be regulated by the Health department. They will offer some retail by selling collars, leashes, treats and some other items. They will offer dog services in grooming as well. They will have three full time staff; two on the floor with the dogs and one to answer phones, clock in customers and other reception work. There will be 30 dogs top. They will limit the size of the dogs and only take small to medium sized dogs. They will screen dogs before they come in. They will undergo intake-screening process for their safety and the other dogs' safety. They will not take any aggressive dogs. Dog waste will be cleaned up promptly. They will have an animal waste disposal company that will come more frequently than regular trash pickup. The company will be called and they will come that day to pick up. Dog waste will be in separate location than regular trash. They will not store waste outside, it will only be put out when being picked up. The flooring they are looking to put in is seamless, anti-fatigue, safe for dog pads, non-porous for easy clean up and that will help insulate for noise.

Mr. Russo asked if there would be any surge at 8 am and in evening if they would have orderly pick up and drop off to help during busy traffic times. Miss McKenna explained that their busiest

times are 7 to 9 am and 4 to 7 pm. They have about 15 dogs per hour about 1 dog every 4 minutes. Once they would start operating if they found they were getting 10 dogs in 10 minute they would talk with customers and work out to stagger times for drop off and pick up. They would set time schedule to make sure more orderly. Mr. Russo still had concerns of losing business because of the traffic that is on Bloomfield Avenue and customers may not want to deal with it. Miss McKenna stated that they would see and could explore options of pick-up and drop-off from and to customers.

Mr. Weston asked if the staff would be taking up the four parking spots proposed. Miss McKenna explained that staff would park on Bloomfield Avenue at metered spots. Mr. Owen added that they surveyed and there are 25 metered parking spaces from Claremont to Park Avenue on Bloomfield Avenue. They want to keep the parking spots available for customers on the site.

Mr. McGinley questioned if the animal waste company would be secondary or for all. Miss McKenna explained that the animal waste would be disposed of exclusively with the Animal waste disposal company.

Mr. Liska questioned there being a drainage plan now with one big building. Mr. Petry explained that right now anything that is between buildings runs off now and by adding landscaping that will reduce the runoff. He mentioned the Environmental Commission suggested tying roof leaders to landscape area and a bio-swale infiltration system. Mr. Liska agreed that would help with no water sheeting to street and sidewalks. Mr. Petry explained that there would be no sheeting to Bloomfield with the curbs along there.

Mr. DeCarlo asked if they would be walking dogs in the park. Miss McKenna stated they would. He asked if they currently do grooming and offer day care at current business location. Miss McKenna stated they do grooming no day care at current facility.

Mrs. Murphy-Bradacs asked how design would help reduce noise of 40 dogs. Mr. Petry explained that the building would be insulated with sound proof or sound reducing materials. Miss McKenna added that they are a more interactive day care facility and not have a boarding type business where you would have more stress barking from the dogs. They want to limit stress on the dogs and that should keep barking down.

Mrs. DiBartolo asked if they would have part time or intern workers as well. Miss McKenna explained that they had discussed possibility of maybe with pickup having a part time worker.

Mr. Weston questioned if there was enough space for cars backing in and out at the eastern most parking space, especially if someone parks in that handicap loading area. Mr. Petry stated that if someone did park illegally it would be difficult.

Mrs. DiBartolo questioned if moving or switching the parking and stairs might help or give more room. Mr. Petry explained that because of the topography and trying to make more user-friendly they could not really do more than they have.

Mr. Weston asked what the height of the shrubs would be on the property. Mr. Petry stated 12 inches to 30 inches in height by driveway being cautious for sight vision purposes. By the residential, the shrubs will be 30 inches to 34 inches to help block headlights. They do not want to go too high so as not to block the neighbors' views from their porch.

**Public questions (for Mr. Petry & Miss McKenna): None**

Michael Sweebe, architect for applicant was called to testify. Mr. Sweebe was sworn in.

Mr. Sweebe gave his credentials and background to the Board. The Board accepted him as expert witness in field of architecture.

Mr. Sweebe gave a four-page handout to the Board to supplement his testimony. That was marked as Exhibit A-4. Also marked was Exhibit A-5 a colored version of page A-1 in the application architectural plans. Mr. Sweebe explained that the property was a collection of three buildings; first the main building, second an office type structure and third a shed. The shed will be removed and that area reused for usable space. The current ramp is non-compliant being too steep to exterior elevations. The proposed building will extend to the smaller eastern building. That smaller building will be remodeled to be part of the main building. The building will bronze or brown color. The roof will not over hang because it will be a straight wall. They will make the ramp much larger. The floor plan changed from original as they took the exterior play area to the interior. The interior will have large 1100 square foot play area, check-in area, and area for staff computer. There will be anti-fatigue flooring with no seams and cushioned back. They will utilize Verona Park for fresh air walks. The next handout, drawing A-2, was for sound transmission ratings. He gave noise decibel for one dog at 85 and if all 30 dogs bark at once 100 decibels. There will be sound barrier at exterior walls and roof to help with noise reduction. The roof rating at 58 will go down to 42 decibels with improvements. The standard limitations 65 decibels and this will be under that rating. Mr. Sweebe pointed out page A-3 the condenser units would be removed and replaced in same location with screening. Sheet A-4 shows isolation – holding area with glass door and exhaust air to exterior.

Mr. Sullivan asked if skylights were factored into the noise rating. Mr. Sweebe stated that yes they were.

Mrs. DiBartolo questioned the condensers and exhaust and if the building was sprinklered. Mr. Sweebe explained that the mechanical was fully designed and could be seen from above and the screening was to reduce not vision. The parapet wall at the roof would block view from the street. He also stated the building was not sprinklered. She further questioned if there were any concerns with proximity to residential with noise and fire. Mr. Sweebe had no concerns about noise to the neighbors. He explained that the building was 3 hour fire rating and the roof a 1-hour fire rating which would be no concerns for the neighbors. Mrs. DiBartolo questioned the lighting inside. Mr. Sweebe stated that had not been designed yet.

Mr. Liska asked if the parapet or walls would be any higher than those on the existing building would. Mr. Sweebe stated that they would not be any higher than the main building now.

**Public Questions (for Mr. Sweebe): None**

Board took short break from 9:45 to 9:54pm.

Mr. Owen called back Mr. Petry as a professional planner. Board previous accepted him as expert witness in planning.

Mr. Petry stated that this application is for a use variance to put Dog Day Care facility in the Town Center (TC) zone district. This use is similar to uses allowed in the zone as retail and personal service establishments based on how definitions read. There would personal services in grooming and caring for daytime. They would also have retail sales of dog items. Grooming is allowed and there are several in the TC zone. Animal Day Care is not recognized as allowable in

any zone in Verona. There are bulk variances as well for setbacks and curb cuts. The rear setback needs a variance, the landscape is less than 15 feet wide to residential, the driveway is less than 50 feet from Bloomfield Avenue, the driveway is greater than 20 feet wide and the parking is in a front yard. The use variance benefits promote general welfare, suitable for area and zone, improvements to the site and with light air and open space. This is busy area by the park. They will improve site with ada changes, sound proofing and making code compliant parking along with improvements to the structures themselves. This is efficient space for the business and there is a need for the facility in the area. This is a high-end facility at Pamper your Pet. They will eliminate a vacant area. They will not cause substantial detriment to the property or neighboring properties. Historically there have been intensive uses on the property with restaurants that have exhaust and noise. They will be eliminating the noise by putting the play area in doors. They making changes to make safer for traffic by eliminating the curb cut on Bloomfield Avenue and keeping all traffic in and out on Lakeview place. The owners have years of experience and backgrounds in Animal care. The project supports the Master Plan. All the bulk variances are existing on the property today or worse.

Mr. Sullivan asked if there was any parking requirements for the zone. Mr. Petry said there is none for the zone and are offering four spaces on site. Mr. Sullivan also asked if there could be someone that would come in to the property and build on the whole site and much more intense. Mr. Petry said it could be possible as there are no front and side yard requirements in the zone. On page, A-3 of the engineer drawings the setback lines are dashed in and it could be possible for someone to build on the entire property.

Mrs. DiBartolo asked if there were any traffic concerns. He felt the traffic would be helped with changes to the property, a she requested the property when the diner was there and people would back out on the Bloomfield Avenue and there was parking all around the property. Mrs. DiBartolo questioned if at 5 o'clock there could be difficulties making a left into Lakeview. Mr. Petry yes there is traffic and 5 o'clock and left hand turn may be difficult but it is a very wide road opening with the park there which gives a wider area to make the turn in.

**Public Questions (for Mr. Petry as planner): None**

Mr. Owen ended witness testimony.

**Public Comments:**

Christy Ruggiero, 10 Orchard Street

Mrs. Ruggiero stated she gets her dog groomed at Pamper Your Pet, the owners current business in town, she would not trust her dog to anyone else. She stated they have a pristine establishment. She is excited that they may take on this endeavor. She also likes that they would be taking away an eyesore. Essex County Parks have made the park look so good and the empty place is an eyesore by it. She feels the dog day care is ideal in this location.

Pat Murphy, 35 Birdseye Glen

Mrs. Murphy stated when she moved to town she tried several dog groomers and she is very particular about her dog and this facility was the best. The others had dogs barking and very hectic feeling with dogs in crates. At Pamper Your Pet, she found very calm with no dogs barking. She feels great leaving her dog with them. She is excited about the Dog Day Care and cannot wait to take advantage of it.

Anthony Nesto, 105 Forest Avenue

Mr. Nesto explained he lives with four woman and their dog Mr. Brady. They have been bringing their dog for r10 years to the grooming facility and they are very caring and professional. He feels they are great for the community and this is a no brainer to have in town. He also thanked the Board for their time and service to the Community as he works for a municipality and understands their effort.

Reina Rivas, 213 Pompton Avenue

She takes her dog Charlie to the groomers and they are very professional. She is in support of them and hope that all take advantage of the proposed business.

Laura Corona, 26 Montclair Avenue

Ms. Corona works with rescue dogs and non-profit organizations. She brings the dogs to Pamper Your Pet and they take care of the dogs so well. She feels they are wonderful business owner and they give back to the community as well with all their help with the rescue dogs.

Richard Aloia, 37 Malvern Place

Mr. Aloia agrees that the property needs to be improved. He questioned walking the dogs in the park and a way to condition so that they cannot turn Verona Park into a “commercial dog potty.”

Mr. McGinley put on record that no one within 200 feet of the property attended the hearing.

Mr. Owen gave his summary. They answered all issues in and questions in the department reviews. This a use variance in a commercial zone along Bloomfield Avenue and near the Verona Park. This is an upgrade to the current property. They will do all they can to eliminate sound from dogs and hvac equipment. The benefits outweigh the determents. The facility could fall into retail and personal service with some aspects. This benefits the neighboring properties by eliminating a vacant property. The facility is licensed and supervised by Board of health and a veterinarian. The owners have 12 years of experience grooming in town. Al the people there are in support of the owners and their proposed facility. He also added that for walking dogs in Verona they could confirm to 2-hour times in morning and afternoon and limit to 4 dogs at a time.

Mr. Sullivan stated this was a benefit to area with changes to parking, increased pervious surfaces and soundproofing. He does not see negative and is in favor of the application. Mr. Russo seconded Mr. Sullivan’s comments. Mr. Weston also okay with the application, as he does not see dog day care as much traffic as could be with other business that could go in there. Mrs. DiBartolo had some concerns with dogs in the park with small children around and would go with the condition mentioned of limiting number and times. She had no concerns with the sound especially with Bloomfield Avenue in the area. Mr. Liska stated there is a need for improvements to the site and the positives outweigh the negatives in this application. Mr. McGinley sated there are lot of positives for the application. He asked council to review the conditions.

Mr. Piromalli reviewed conditions discussed as follows; testimony that they would limit to dogs only, there would be no overnight boarding of dogs, there would be no more than 30 dogs, size small to medium with 55 pound limit, they will contract private company to dispose of animal waste, hours of operation 7 to 7 Monday through Friday and 8 to 6 Saturdays Sundays, park time would be limited to 2 hour blocks from 10 – 12 and 2-4 with no more than 4 dogs at a time, with in engineering letter agree to #15 for refuse area and there was testimony to inside waste and #16 sign in compliance with ordinance.



Mrs. DiBartolo asked about a condition for the inside lighting plan. Mr. Piromalli stated that the inside space is their space. Mr. Owen stated that they could do a lighting plan and have it reviewed by the township to make sure it is okay. Mr. DeCarlo said the plan could be submitted to the Engineer's office for review once it is developed. Mr. Sullivan added a condition be done that an interior lighting plan be submitted to the Engineer to review and approve.

Mr. Sullivan motioned for approval of case 2019-03 with conditions already mentioned; Mr. Russo seconded the motion.

All votes aye. Application approved.

**Minutes:**

Minutes for regular meeting March 2019.

Mr. Liska motioned for approval of the minutes; Mr. Sullivan seconded the motion.

All votes aye. Minutes approved

Meeting was adjourned at 10:45 PM to next regular scheduled meeting.

Respectfully submitted

Kelly Lawrence

Board of Adjustments Secretary