

Approved

**Minutes  
For  
Village of Dryden  
Zoning Board of Appeals Hearing  
Held on Tuesday, October 4, 2022 at 7:00p.m. at Dryden Neptune Hose**

CHAIRMAN PRESENT: Charlie Hart  
MEMBERS PRESENT: Joyce Day, Adam Holic, Corwin Holtz, Cory Giroux, Trevor McKee (Alternate Member)  
VILLAGE ATTORNEY: Natalie French  
SECRETARY PRESENT: Allison Kjellander-Cantu  
ZONING CODE: Dave Sprout  
LIASON: Michael Murphy  
APPLICANTS PRESENT: Arianna Broad and Joshua Wildes  
GUESTS PRESENT: Alexandra Yiambilis, Rod Riker, Matt Mcsher, Bernie Bochenski, Marie Tracy, Betty Ann Enders and Shelly Walker

Chairman Hart opened the hearing at 7:00 p.m.

**1 Tannery Circle Interpretive Relief on Customary Home Occupation:**

The purpose of this hearing is to consider the request of Arianna Broad (“Broad”), co-owner of Wildes Doggy Day Care (“WWD”) seeking interpretive relief from a violation notice regarding the operation of a doggy daycare business at 1 Tannery Circle, a parcel in a Residential A zoning district. Specifically, Applicants seek an interpretation of Section 30302 of the Zoning Laws of the Village of Dryden- entitled Permitted Accessory uses located on the same lot with principal use.

The following definition and other sections of the law were read aloud and are attached:

- \*Section 30302A- Customary home occupation
- \*Definitions of a Home Occupation, a Dog Kennel and Structure
- \*Section 30909 Location of Certain Activities
- \*Memorandum/Letter from Code Enforcement to the Zoning Board dated August 25, 2022
- \*Cease and Desist Letter from Code Enforcement to the applicants dated July 13, 2022
- \*Notification of Violation – Order to remedy dated August 3, 2022
- \*Application for an Interpretation filed dated August 16, 2022
- \*The WDD website notice of the temporary caregiver utilized by the doggy daycare

Chairman Hart presented several questions which Broad answered as follows:

Hours of operation are from 7 am to 7 pm, 7 days a week. The dogs are housed in the main level of the house only which includes the living room, kitchen and a sound proofed garage, as well as the back yard. They feel this is about 20% of the square footage of the property’s indoor space. They also have fenced in the yard. They have no more than 3 clients’ dogs in their care at any time. This does not include dogs there to be groomed. Grooming is done

“once or twice a month, three times a month”. They do keep up to 3 dogs overnight. Occasionally a dog there for daytime care is there later than 7pm.

When asked about additional exterior changes such as external lighting Broad said there are no additional changes planned.

When asked about the temporary caregiver advertised on the WDD website, Broad stated that the individual is their roommate and they do not employ anyone. If they have an emergency and the roommate is unavailable to assist, they would and have closed the business during those times.

The Applicants own 2 dogs personally. They are kept on the second floor, separated from clients’ dogs.

Wildes oversees the running of the business and supervises the clients’ dogs.

When asked to clarify the hours of operation, Broad further explained that dogs may be dropped off or picked up between 7am or 7pm.

When asked about the business’s prior location, Broad stated they previously operated out of a rental property in Ithaca. While their previous landlord was unhappy with doggy daycare business, the business was protected as a Transit Business (under local law) because it was operating under 6 months.

Board Member Holtz inquired to Attorney French about the Applicants’ 2 personal dogs in conjunction with the dogs that they care for. Attorney French stated that the “kennel” definition did not distinguish between ownership of a dog and total number of dogs present on the property would be counted.

Broad distributed materials she prepared in their defense (attached) and reviewed it with the Board. She stated that the impetus of the violation was a complaint regarding their fence which they had a permit for. Regarding noise Broad presented charts to show decibel meter readings from their property were, on average, within Town of Dryden noise ordinances. During the day, the average was 52.61 decibels, the Town limit being 65db. At night, the average was 47 decibels, the Town limit being 55 db. Broad mentioned a 2019 Marsden v. Town of East Hamptons case, in which the business in question was operating in a similar fashion to theirs. Broad mentioned that the Town of East Hampton Zoning Board of Appeals was not compelled by a video of dog barking as the source of the barking could not be confirmed. She stated that after 9 or 10 p.m. they keep the dogs inside and they do not let them out again until 7 a.m.

A letter of support from Diane Rudd, a neighbor and customer of WDD, was read aloud and is included in the attached Applicant materials.

Attorney French agreed with Broad’s characterization regarding the treatment of the barking video in the Marsden decision. However, Attorney French clarified that Board’s decision was largely based on specific language of the Town of East Hamptons Code, the Village has very different zoning laws and this interpretation is in regard to Village of Dryden laws.

Member Holic voiced his concern that there was a picture posted 5 days ago on WDD’s website/ Facebook, that showed 7 dogs present. Broad stated this might be an old picture for advertising as they did allow up to 10 dogs when operation in Ithaca. It was noted the same fence in the picture was the one in the Dryden location. Wildes verified that the picture was taken at the Tannery Circle house.

A question was asked of Attorney French and she advised that if the Board did decide that a doggy daycare was a customary home occupation, then there would be no limit on the number of dogs they could board and the restriction as a kennel would not apply.

Broad clarified that they are very strict about not having more than 3 “boardings” or dogs staying overnight. However, if a client reaches out for daytime care, they do allow more than 3 dogs at a time because in their view it is not boarding if it is during the day. Attorney French explained that the definition of a kennel is not exclusive to boarding, but rather “harboring and keeping”. Boarding is not included in the definition. Harboring and keeping are not defined in the code. In the opinion of Attorney French, the Code distinguishes between boarding and a kennel because they are both listed as prohibited activities in Section 30309 B of the Village Code. If they were contemplated to be the same thing, that sentence would be duplicative. They are separated because they are two different services.

Chairman Hart read a portion of the letter from Andrew Henry and Casey Cazer dated October, 2, 2022. Henry and Cazer mistakenly thought the application was for a use variance but expressed concerns regarding the business due to the barking noise and the number of dogs present (Letter attached).

Broad clarified that the barking data was collected over 72 hours and feels the disruption of the noise is no more than their own 2 dogs barking. Chairman Hart said that he thinks there would be a difference if you have 2 dogs barking versus 5 or 6, the noise level must go up. Broad agreed. Member Giroux also stated depending on which dogs were there, the level of barking could drastically change.

The floor was open to the public at 7:43 pm

The main concern from the public was the increased barking and quarreling noise. A neighbor down the street noted that he has lived there 35 years and the presence of the business and the increase in barking has changed the quality of where he lives. He believes the Applicants were sneaky in the way they opened the business in a residential area without informing neighbors. Another neighbor 3 houses down said it sounds like dogs fighting constantly and she is concerned the dogs will get out and attack her grandchildren. The neighbor next door hears the barking and screeching sounds constantly. She has seen at least 6 dogs in the fenced area. Applicant claims the dogs do not fight, it is called “rough play” and many big dogs do that. Another neighbor noted that the barking of the dogs at WDD incites and encourages other dogs in the neighborhood to join in.

Alexandra Yiambilis, client of WDD, asked for the definition of a kennel. The definition of a kennel was read aloud, and Chairman Hart stated the law in the past it has been held to prohibit any Village resident from owning more than 3 dogs. Member Day asked about a section of the Code regulating dog barking. Code Officer Sprout stated it prohibits barking which creates “unreasonable noise”, which is not defined further.

Yiambilis is client of WDD from Ithaca. During drop off and pick up she does not hear excessive barking, though acknowledged it is a small amount of time that she is there. Yiambilis had high praise for the business.

Chairman Hart clarified that this hearing is not about whether a doggy daycare is a good or bad thing, but solely whether it is a permissible customary home occupation within the Village.

A member of the public made a comment that the company was specifically brought into the Residential A District from its location in Ithaca, when the Applicants had the opportunity to purchase a property elsewhere. Broad responded that they had few options in properties to purchase. They consulted with their attorney as to whether the business would be feasible at that location and were advised that they would need a zoning interpretation. They said it was their only opportunity to purchase a home.

Attorney French explained the interpretation process of this hearing: To have the Zoning Board of Appeals examine the Village Code and interpret if a doggy daycare is within the definition of a customary home occupation within a Residential A district. To that end, the Board must look at the Code as a whole to help draw the intent of the drafters

when they drafted the Code, and based on that, if a doggy daycare was intended to be in a Residential A district as a customary home occupation. She believes the pertinent sections of the Code have been addressed.

The Board went into discussion about the findings:

Chairman Hart stated when the Zoning laws were first adopted in 1973 it does not appear that a doggy daycare business was specifically known as such, but kennels were in existence and were defined in the Code. Chairman Hart read the definition of “kennel” and that this includes dogs owned personally. There was a discussion amongst the Board, the Code Officer and Attorney French about the difference between “boarding” and “keeping”.

Chairman Hart stated per Village Zoning law kennels are not allowed within 300 feet of a residential zoning area. A doggy daycare with more than 3 dogs present at any point in time would fit the definition of a kennel. This would limit the owners from having only 1 dog for pay as they already own 2 dogs themselves. Applicants clearly stated that there are 3 dogs for pay present at any given time, in addition to their own 2 dogs, and there was a picture shown that there may be more than that.

Chairman Hart stated there would be increased noise from even 1 additional dog on a property. The increase would have an impact on the character of the neighborhood and be external evidence of the business, even with the fence surrounding the yard.

Chairman Hart and other board members expressed the concern of setting a precedent moving forward by allowing a doggy daycare to operate within the Residential A zoning district as a customary home occupation. There would be no regulation to limit number of dogs or how a doggy daycare would operate.

Chairman Hart stated in 1973 he does not believe the intent was to allow a doggy daycare in a Residential A zone because the drafters specifically prohibited a kennel from being within 300 feet of a residential district.

Member Holtz stated that the applicants did not do their research regarding the Village laws and did not contact or inform the Village regarding this type of business prior to its opening.

Member Giroux noted a difference between a doggy daycare and childcare is that New York State regulates childcare businesses, but doggy daycares are not regulated by the state.

Member Holic opined that the Zoning laws were created before a doggy daycare was commonplace but the Code identifies businesses that are similar and present similar concerns. The Board’s job is to determine whether the concerns with a doggy daycare are similar enough to businesses explicitly defined in laws that pre-date “doggy daycare”. He sees a lot of similar concerns to businesses such as animal hospitals or kennels to a doggy daycare.

On a motion to treat a doggy daycare as a customary home occupation; a yes vote would say we interpretate it as a customary home occupation and a no vote would say we do not interpretate it as a customary home occupation: Moved by Chairman Hart and seconded by Member Day, motion was denied:

Vote: Day-No, Giroux-No, Hart- No, Holic -No, Holtz -No,

**Adjourn:** RESOLUTION No. 10-4.1-2022

Adjourn

**Resolved,** that the Zoning Board of Appeals of the Village of Dryden hereby adjourns at 8:22 p.m. not to reconvene

Charles Hart, Chairman