



*Town of Pepperell*  
**BOARD OF APPEALS**  
One Main Street  
Pepperell, Massachusetts 01463  
(978) 433-0333  
Fax: (978) 433-0335

**Zoning Board of Appeals Meeting Minutes of October 7, 2009**

**PRESENT:** Sherrill Rosoff (Chair), Annette McLean, Mark Walsh, Sean McCaffery, Bruce Roberts; also present, Cheryl Lutzca (ZBA Assistant) and Town Counsel, Attorney Edward J. Richardson

**7:00P.M.** Chair announced that the first agenda item is a hearing regarding an application which has been submitted by Maureen Allen, requesting a Zoning Board of Appeals **SPECIAL PERMIT** under Sections 3300 through 3320; 9221 and 9300 of the Town of Pepperell Zoning-By-Law, which if granted, would allow a home occupation for the purpose of providing the service of daycare for dogs. Subject property is located at 80 South Road, Pepperell, MA, as shown on Assessor's Map 39 as Parcel 8.

Clerk read the Notice of Public Hearing into the record.

Applicant, Maureen Allen, and her husband, Kevin Allen are present. Legal Counsel for the Applicant, Attorney Christine Morrissey is also present.

Clerk read responses from the following Town Boards/Departments and/or concerned parties into the record:

- Planning Board
- Water Department
- Conservation Commission
- Police Department
- Town Engineer
- Highway Department
- Board of Health
- Assessor's Office
- Town Counsel

Town Counsel (Attorney Edward Richardson) read and gave an overview of his letter to the Zoning Board of Appeals (ZBA) dated August 9, 2009. He explained that the ZBA does not have authority to grant a Special Permit for a home occupation, as requested, if the Board finds that the application meets the criteria for a commercial kennel.

Attorney Christine Morrissey addressed the Board and made the following points on behalf of the Applicant:

- The principal use of the subject property will remain as the residence of the Applicant.
- Applicant proposes to do a home occupation providing the service of day care for dogs in the barn, and this has to be distinguished from a commercial kennel, as Applicant will provide daycare and will not groom, house, breed, train or sell dogs on the premises.
- Applicant will care for dogs during the day only. The dogs will not be fed, however water will be available. There will be a play area in the accessory structure (barn).
- Applicant will not be doing the activities performed by a commercial kennel.
- Ms. Morrissey submitted photos into the record of the property to the Board, including barn, and explained that there will be plenty of parking available.
- Applicant will conduct the business.
- Dogs will be contained in barn and never unattended.
- No materials will be stored at barn.
- Property would be fenced.
- Dogs will be exercised in limited groups by Applicant or her husband.
- There will be no change in plumbing and septic system will be used strictly for house.
- Submitted a petition into the record with 23 names of support of the application.

Kevin Allen, husband of the Applicant addressed the Board and made the following points:

- Barn would be renovated for the dog daycare by adding stalls, insulation, play area and an office.
- Barn already has circuit breakers and electricity.

- Barn is multi-level.
- Basement under the barn would be used for the storage of snow blower and lawn mower.
- Property consists of 2.2 acres.

Board asks Applicant to point out location of home on aerial view photo.

Board Member, Sherrill Rosoff, inquired as to what the capacity would be. Kevin Allen responded that they are looking to provide daycare for 25 dogs.

Discussion ensued regarding the dogs not being fed while at the daycare.

Board Member, Annette McLean inquired if there would be food onsite for emergency conditions. Applicant responded that there would not.

Annette McLean inquired if there would be heat in the barn. Kevin Allen responded that there would be, however not sure what kind at this point. Mr. Allen also commented that they would provide air conditioning during the summer, and would most likely be installing a forced-hot air system.

Board Member, Mark Walsh, commented that there is no definition of Boarding or Service in the Town of Pepperell Zoning-Bylaw.

Annette McLean inquired if client will be required to sign a contract. Mr. Allen responded that there will be a form with information such as who the veterinarian is and if the dogs are up to date on shots. He further explained that they will not accept aggressive dogs.

Discussion ensued regarding daycare versus a commercial kennel.

Discussion ensued regarding advertising of services to the public. Applicant explained this would occur via “word of mouth”, and that they would only advertise if they had to.

Town Counsel explained that a commercial kennel is not allowed in this zoning district and that the Board will have to make findings one way or the other. Discussion ensued.

Discussion ensued regarding housing versus boarding versus daycare of dogs; housing and boarding services; can Applicant offer service of watching dogs while owners are away.

Ms. Rosoff inquired as to how large the fenced area would be. Mr. Allen explained as follows:

- Area would be 600 feet, same as area that is currently fenced; dogs will not be able to escape (similar to deer fencing) and fence will be 6-feet high.
- Only 7 to 8 dogs will be outside at a time, for approximately one hour.
- Will provide lots of playthings and activities for dogs so that they will be tired when they go home with their owners.
- Will be better for dogs, as they will not be stuck home all day.

Clerk reads or presents letters of opposition from abutters into the record:

- Letter from abutter Jason Eisenberg, 81 South Road – read into the record.
- Letter from abutters Pamela Worden and Charles Faucher, 75C South Road, both of whom are present and discussed the concerns they outlined in their letter to the Board of October 5, 2009. They commented that they think a dog daycare center is a wonderful idea; however this is not a good location for it.

Chair inquired if there was anyone in the audience who would like to speak in favor of, or opposition to the application.

- Kim Gordon, 75 Groton Street, made the following comments:
  - The subject property was previously a farm, so why can't dogs be there now.
  - Commercial kennel is "housed"; Daycare is "day."
  - Thinks proposal is a good idea.
  - She had worked in a commercial kennel in Westford about in the past that was in a house.

Ms. Rosoff asked if Ms. Gordon could explain how that business was run. Discussion ensued.

- Charles Faucher, 75C South Road, addressed the Board as follows:
  - What will happen if a dog is ill or injured while at the daycare? Attorney Morrissey responded that the owner of the dog would be called.
  - Due to fencing style, dogs would be visible from both Powhatan and South Roads. Attorney Morrissey responded that the Applicant would be open to fencing ideas from the Board.
  - Is dog daycare a novel service or routinely offered in other areas? Attorney Morrissey responded that this is becoming more necessary.
  - Does applicant expect to house anything other than dogs? Applicant responded it would only be dogs.

- Is there a dog daycare in the area that could be looked at? Applicant responded that there was one in Dunstable.

Ms. Rosoff commented that the Applicant had attached a Decision from the Town of Wellesley Zoning Board of Appeals regarding the renewal of a dog daycare permit.

Town Counsel responded that what was done in another Town would not set a precedent for Pepperell, as every town Massachusetts has the right, under Chapter 40A, to write its own Zoning-By-Laws from scratch, so there is no precedence on what is done in other cities and towns in the state.

Discussion ensued regarding the possibility of conducting a site visit to a dog daycare in Dunstable or Ashby. Board Members Mark Walsh and Sean McCaffery both responded that they did not think a site visit to a dog daycare in another town is necessary. Town Counsel commented that this would not help with the issue of determining whether this would be a commercial kennel or dog daycare.

Discussion ensued regarding noise, safety and property values.

Mark Wilson, 4 Powhatan Road, addressed the Board, and commented that the intersection of Powhatan Road and South Road (Route 119) is on a curve and there are safety concerns, as many accidents have occurred there. Approximately nine children stand at the corner of Powhatan Road and South Road to wait for the school bus.

Pamela Worden commented that many accidents have occurred when making a left-hand turn from Route 119 onto Powhatan Road, as cars stop before turning onto Powhatan Road.

Applicant responded that they have a circular driveway with access onto the subject property from Route 119.

Mr. McCaffery commented that large dogs can climb a chain link fence. Mr. Allen responded that the fence has smaller, rectangular holes that cannot be climbed.

Attorney Morrissey recites Special Permit criteria of application.

Mr. Wilson inquired if there is any way to get a safety report from the Police Department. Chair responded that the Police Department had offered no comments, in their response to the Board relative to the application. Mr. Wilson inquired if the Board would be making a decision in this matter tonight. Mr. Wilson also inquired if there would be employees at the site. Mr. Allen responded that there would not be employees however they have the right to have two employees. Town Counsel responded that the Board could restrict the number of employees.

Mark Marston, Nashua Road, addressed the Board and asked if the ZBA will be making a decision on this matter tonight? Mr. Walsh and Mr. McCaffery responded that they were not sure.

Mr. Wilson inquired if there would be liability insurance if one of the dogs got loose; there are many children in the neighborhood and waiting for the school bus. Town Counsel responded that liability would fall on the business and owners of the dogs, and that both would probably be liable.

Mr. Faucher asked if dogs would be dropped off and picked up during rush hour in the A.M. and P.M. Applicant responded that that would depend on their schedule. Mr. Walsh commented that the Board can establish hours of operation.

Annette McLean motioned to close the public hearing and take the matter under advisement. Mark Walsh seconds. All concur.

Board deliberates and discusses points of application.

Board decides to continue deliberations at a meeting to be held on Monday, October 26, 2009 at 6:30p.m. at Nissitissit Middle School (NMS). ZBA Assistant, Cheryl Lutcza, to contact NMS to reserve a room to hold meeting in (possibly NMS cafeteria). Once this has been confirmed, Ms. Lutcza will post a meeting notice on the ZBA bulletin board on first floor of Town Hall. A meeting notice will also be posted on the Town website.

### **Old and New Business:**

Mark Walsh motioned to approve the ZBA Meeting Minutes of September 9, 2009. Annette McLean seconds. All concur.

Annette McLean motioned to adjourn the meeting. Mark Walsh seconds. All concur.

Meeting Adjourned at 8:45P.M.

ZBA Minutes of October 7, 2009 filed with Town Clerk: November 2, 2009

Respectfully submitted by:

---

**Cheryl Lutcza,**  
**Assistant to the Zoning Board of Appeals**

cc: Town Clerk  
Building Inspector  
ZBA Minutes file  
ZBA Members  
ZBA Application File(s)