

**BOROUGH OF TINTON FALLS  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
AUGUST 6, 2020**

The meeting was opened by Chairman Battista at 7:36 p.m.

Chairman Battista read a statement of compliance with the *New Jersey Open Public Meetings Law* as follows:

*This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Coaster and the Asbury Park Press.*

Chairman Battista then led the meeting in a salute to the flag.

Ms. Sena took roll call.

Present Chairman Battista, Mr. Slazyk, Mr. Lomangino, Mr. Porzio, Mr. McKinley, Ms. Hatami, Ms. Berk, Mr. Kuzmin

Absent: Vice Chairman Palmieri

Also Present: Ms. Sena, Ms. Keefer, Board Attorney Mr. Hirsch, Engineer Mr. Neff, Planner Ms. Bell

*Chairman Battista gave a brief explanation of the COVID-19 guidelines in place for tonight's meeting.*

**MINUTES-**

Chairman Battista stated that minutes of the May 7, 2020 have been previously distributed via email for the Board Members to review.

*Mr. Lomangino offered a motion to approve the minutes of the May 7, 2020 meeting, seconded by Ms. Berk. All in favor by those members eligible to vote.*

**RESOLUTIONS-** -None

**NEW BUSINESS-**

**BA2020-03-WAYNE AND FRANCES HANUS, 76 SUNSET DRIVE, BLOCK 76.02 LOT 73- VARIANCE FOR REAR YARD SETBACK**

Attorney Hirsch stated that he has reviewed the proofs and affidavit of service from the applicant, all is in order as to form.

*Motion is made to accept service, all present voted in favor.*

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Attorney Hirsch swore in Wayne and Frances Hanus as the Applicant.

Mr. Hanus explained that they are here this evening seeking a variance to extend an existing rear patio by five feet, using a five-foot setback from the rear property line. He explained that their property backs up to a common area and undeveloped woods. The patio would be approximately ten and a half feet deep, extending from the back of the house. The patio would increase the impervious lot coverage to about 54%.

Mr. Hanus stated that in 2017 the Borough of Tinton Falls Planning Board approved Toll Brother's request to allow a five-foot setback for 6 properties located on Sunset Drive. 62 properties in this development were already granted this variance from the Planning Board.

Discussion ensued regarding the size of the open space lot located behind their property.

Ms. Berk inquired about the current size of the patio and Mr. Hanus explained that it is about 5ft by 30ft and would like to extend the patio another 5 feet from the rear of the house.

Mr. Lomangino asked if they intend to cover the patio or keep it open, Mr. Hanus stated it will be an open patio.

Chairman Battista inquired about the 6 properties who were granted this variance and Mr. Neff explained that essentially Toll Brothers requested this variance to market these homes for sale.

Mr. Neff stated that there are no drainage issues associated with this variance.

Mr. Hanus stated that they do intend to plant some shrubbery around the patio, however it would not be on the property line and would conform to the HOA guidelines. The patio will be constructed out of pavers.

Chairman Battista asked if any Board Members have any other questions?

Chairman Battista asked if any members of the public had any questions? Hearing none, Mr. Lomangino offered a motion to close the public discussion, seconded by Mr. McKinley. All present voted in favor.

*Mr. Lomangino offered a motion to grant a Variance for a Rear Yard Setback to Wayne and Frances Hanus, the motion was seconded by Mr. McKinley.*

**ROLL CALL**

AYES: Mr. Lomangino, Mr. McKinley, Chairman Battista, Mr. Slazyk, Mr. Porzio, Ms. Hatami, Ms. Berk.

NAYES:

ABSENT: Mr. Palmieri

INELIGIBLE: Mr. Kuzmin

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**BA2020-02-JEMAL'S DOGTOPIA OF TINTON FALLS, LLC: 980 SHREWSBURY AVENUE, BLOCK 25 LOT 5.01-APPLICATION FOR USE VARIANCE**

Attorney Hirsch stated that he has reviewed the proofs and affidavit of service from the applicant, all is in order as to form.

*Mr. Lomangino offered a motion to accept service, seconded by Mr. McKinley, all present voted in favor.*

Jennifer Krimko, Esq on behalf of the Applicant stated they are here this evening seeking a Use-Variance for a dog daycare with boarding and grooming to occupy an existing location within a shopping center in Tinton Falls. The Zoning Board previously approved a Use-Variance for a dog training center in the same location.

*Attorney Hirsch swore in Kathy Halter, Vice President of Development for Dogtopia.*

The following exhibit(s) were entered into record:

A-1 PDF Pamphlet, Dogtopia of Tinton Falls

Ms. Halter gave a brief explanation of the Dogtopia franchise, there are 144 operating locations throughout the United States and Canada. Norman Jemal, the franchisee and applicant has the rights to open 7 Dogtopia locations having gone through an extensive training process.

Ms. Halter described the services offered at Dogtopia which include daycare, boarding and spa. She explained that their most popular amenity is the dog day care, where pet parents can drop their dog off for a day of play and exercise.

Ms. Krimko inquired about outdoor play, and Ms. Halter stated that Dogtopia is strictly an indoor facility. The property is equipped with an indoor play space customized to keep the dogs active throughout the day.

Ms. Krimko asked Ms. Halter to explain how Dogtopia handles issues of noise and waste in a shopping center location. Ms. Halter indicated that most of their franchise locations are located in a strip mall with tenants on either side of the facility. Dogtopia follows strict protocols to ensure both noise and odor control. Ms. Halter explained the process in which liquid waste is drained through a system underneath the turf floor and stated that solid waste is taken out three times a day.

To control the noise, all locations are constructed with a tightly sealed demising wall to ensure neighboring tenants are not disturbed by any noise. Throughout the course of the day, the dogs are continually interacting with K-9 coaches that keep them engaged and playing.

All playrooms are equipped with webcams that allow pet parents to check in on their dogs throughout their stay. Owners and managers can also monitor these webcams.

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Ms. Krimko asked Ms. Halter to give a brief overview of Dogtopia's COVID-19 protocols. Ms. Halter explains that pet parents can use an app equipped with a concierge service to make it easy and safe for owners to pick up and drop off their dog. This allows Dogtopia to know when they arrive, and an employee will come and escort the dog inside.

Mr. Slazyk inquired about the procedure when a dog relieves themselves outside of the front entrance. Ms. Halter indicated that it will promptly be picked up by a Dogtopia employee, and the premises will be monitored for dog waste hourly.

Mr. Porzio asked about the weekly waste pick up and inquired if the number of pick ups is influenced by the number of dogs in attendance, Ms. Halter stated that it is. Dogtopia has the ability to have daily pick-ups and waste pick-ups as needed.

Mr. Lomangino inquired about the facility's maximum occupancy, and who would be in charge of regulating the capacity. Ms. Krimko stated that the maximum occupancy for this location is 100 dogs, this figure is based on the size of the facility.

Ms. Halter discussed the Dogtopia franchise, and how they monitor and train independent franchisees to ensure the company standards are met. During the first 6 months of operation, the corporate officials are highly involved in monitoring the new location. The current operator has a 10-year lease at this location.

Mr. Porzio inquired if Dogtopia has a policy regulating the size of dogs allowed to attend, Ms. Halter stated that they do not.

Discussion ensued regarding dog grooming and spa services at various Dogtopia locations.

Ms. Halter discussed the boarding feature and stated that as per Dogtopia's policy, all dogs must attend three daycare sessions before being boarded. She discussed the use of homestyle crates that the dogs sleep in while they are boarded. Dogtopia also offers larger suites for larger dogs to be boarded in.

Ms. Krimko asked Ms. Halter to address the hours in which employees are on premises during overnight boarding. Ms. Halter indicated that there is an employee present an hour before Dogtopia opens, and an hour after the facility closes. No employees stay overnight with the dogs, however there is an employee who can get to the property in the event of an emergency. The rooms are monitored 24/7 by webcam video.

Ms. Berk inquired about the response time in the event an issue arises, Mr. Jemal indicated he could be at the facility in 6 minutes.

Chairman Battista inquired about the homestyle crates during boarding and asked if the dogs sleep in the same crate each night they are there. Ms. Halter indicated that the dogs will likely sleep in the same crate each night, however they are sanitized daily. Mr. Battista asked if he would be able to see his dog via webcam throughout the night, and Ms. Halter stated that he could.

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Mr. Slazyk inquired about the procedure in which Dogtopia handles barking dogs inside the crates. Ms. Halter discussed their policy of three daycare visits before a dog can be boarded to ensure Dogtopia is the right fit for their dog.

Ms. Krimko stated the hours of operation for the daycare are Monday through Friday, 7:00 A.M. to 10:00 P.M. Saturday, 10:00 AM to 6:00 P.M. and Sunday 12:00 P.M. to 4:00 P.M. Typically, there are two shifts per day, with 8 employees per shift. Dogtopia also has a working relationship with Shrewsbury Animal Hospital, which is located across the street from this particular location.

Mr. Neff inquired about parking and the overall demand through peak hours of pick-up and drop-off. Ms. Halter indicated that the drop-off typically begins at 7:00 AM and concludes around 10:00AM. Pick-up usually begins around 3:00 PM and ends by 7:00 PM. Pick-up and drop-off is typically a swift process for frequent dogs. New dogs have a scheduled pick-up and drop-off time. The franchise requires 6 parking spots be reserved for customers and require employees park either behind or on the rear of the building.

Ms. Bell inquired about pick-up and drop-off time and asked if they stagger their customers, so all dogs aren't arriving at the same time. Ms. Halter indicated that this process is staggered throughout the day.

*The Board took a break at 8:48 PM and were back on record at 8:58 PM.*

Attorney Hirsch inquired about the intensity of the use and asked what kind of dogs they permit and if they have any regulations on breed or age. Ms. Halter stated that they do not have any regulations on the kinds of dogs permitted. However, they do evaluate the dogs to ensure they are well-fit for the facility.

Attorney Hirsch inquired about grooming services, and Ms. Halter clarified that Dogtopia offers spa services. However, if the independent franchisee chooses to offer grooming, they may do so.

Attorney Hirsch also inquired about the boarding services, and the number of dogs boarded on any given night. Ms. Halter explained that they typically board 5-10 dogs on weekdays, and about 25 dogs on the weekend.

Discussion ensued regarding the overall layout of the facility and the maximum occupancy for the building. The franchise agreement states that this location is limited to 100 dogs. This is regulated by franchisor, the franchisee and the Board of Health.

Mr. Neff briefly discussed parking and stated that this use would require fewer parking spaces than that of a traditional retail establishment, whereas Dogtopia would only need about 15 spaces. Discussion ensued regarding peak hours during pick-up and drop-off.

Ms. Hatami asked for clarification of the location of the facility within the shopping center. Discussion ensued regarding the floor plan and the potty platforms located in each room. Should the Board vote favorably on this application, they will submit revised architectural plans to include the potty platform.

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*Attorney Hirsch swore-in Barbara Ehlen, Professional Planner, Beacon Planning.*

Ms. Ehlen discussed the statutory criteria, stating the Applicant is seeking to occupy a vacant space in a shopping center. She stated that the use is beneficial to surrounding establishments that will draw more people to the shopping center. Ms. Ehlen discussed the positive criteria, she argues under the Municipal Land Use Law, the application qualifies under "C" as no changes are proposed to the lot or building. She stated that this is an appropriate use that will service local community members. Referencing the franchisor's extensive testimony, she does not see any detriment to surrounding tenants.

Attorney Hirsch inquired about the sign variance, and Ms. Krimko stated they are permitted to have a 92 square-foot sign, whereas they are proposing a 100 square-foot sign. This is consistent within the range of signs already used in the shopping center.

Ms. Hatami inquired about the percentage of use for the day-care, boarding and spa features. Ms. Halter indicated that they day-care is about 75% boarding is about 25% and the spa is about 5-10%.

Ms. Krimko stated that this application is complementary to the other uses in the center today and in the future. The peak hours do not coincide with the peak hours of retail establishments.

*Chairman Battista noted for the record that there are no public present this evening and offered a motion to close the public portion.*

Ms. Hatami asked Ms. Bell if she feels as though the applicant has addressed her Planning Review comments. Ms. Bell stated that she feels the Applicant gave sufficient testimony for the use as a dog-daycare and boarding facility. The Applicant has shown they can mitigate the negative impacts by providing acoustics within the building as well as waste management control.

Ms. Hatami voiced her concerns of the number of dogs entering and exiting the facility at any given time, and the impact it could have on other businesses in the shopping center.

Mr. Kuzmin discussed the use of a traditional retail establishment in which there is a heavy flow of business throughout the day. He stated that this use has a flow of entering and exiting throughout a three-hour time period that does not have a heavy parking demand.

Chairman Battista discussed Dogtopia as a franchise, stating they are a reputable company that has several successful locations in similar shopping centers throughout the country.

*Mr. Porzio offered a motion to grant a Use Variance to Jemal's Dogtopia of Tinton Falls, the motion was seconded by Mr. Slazyk.*

**ROLL CALL**

AYES: Mr. Porzio Mr. Slazyk, Chairman Battista Mr. Lomangino, Mr. McKinley, Ms. Berk

NAYES: Ms. Hatami

ABSENT: Mr. Palmieri

INELIGIBLE: Mr. Kuzmin

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**MOTION TO ADJOURN**

Chairman Battista asks for a motion to adjourn

Motion was made by Mr. Lomangino at 9:52 PM

All in Favor: AYE

Respectfully submitted,

  
Trish Sena  
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: **October 1, 2020**