

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
SEPTEMBER 11, 2019**

**CALL TO ORDER BY CHAIRMAN GARY**

**SILENT PRAYER**

**PLEDGE OF ALLEGIANCE**

**OPEN PUBLIC MEETINGS STATEMENT:** “adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building”.

**ROLL CALL:**

**Present:** Members Bittone, Unangst, Rutledge, Woolf and Vice-Chairman Larsen and Chairman Gary.  
**Absent:** Member Horun - No professionals present

**OLD BUSINESS:**

- Approve the Regular Meeting Minutes from August 14, 2019

**Motion by:** Member Rutledge

**Seconded by:** Member Bittone

**ROLL CALL:**

**AYES:** Members Bittone, Unangst, Rutledge, Woolf and Vice-Chairman Larsen Chairman Gary

**NAYS:** None

**ABSTAIN:** Chairman Gary

**NEW BUSINESS:**

- Adopt Resolution 19-05 - Alpha Pet Grooming – Holly Bichler – Block 100, Lot 3 ,1075 Route 22, Block 100, Lot 3 in the HB RM Zone – To relocate her dog grooming business and to start a Doggie Daycare, overnight boarding and dog training. As per §243-74, not a permitted use in the ordinance.

**R 2019-05**

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP  
OF**

**LOPATCONG, WARREN COUNTY, NEW JERSEY,**

**GRANTING VARIANCE RELIEF PURSUANT TO N.J.S.A. 40:55D-70(d)(1) TO ALPHA  
PET GROOMING SALON c/o HOLLY BICHLER FOR A PET DAYCARE,  
GROOMING AND BOARDING FACILITY CONCERNING PROPERTY LOCATED AT  
1011 ROUTE 22 AND DESIGNATED AS BLOCK 100, LOT 3**

**Case No. 2019-05**

**WHEREAS, ALPHA PET GROOMING SALON c/o HOLLY BICHLER** (hereinafter referred to as “Applicant”), has applied to the Township of Lopatcong Zoning Board of Adjustment (hereinafter referred to as “Board”) for variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) to establish a pet daycare, boarding and grooming facility in a unit of a pre-existing building located at 1011 (applied for as 1075) Route 22 in the Township of Lopatcong and as designated on the Tax Map of the Township of Lopatcong as Block 100, Lot 3 (hereinafter referred to as “Subject Property”), and as located within the ROM Research Office and Manufacturing Zone District; and

**WHEREAS**, this application falls under the jurisdiction of the Board for approval pursuant to N.J.S.A. 40:55D-1 et seq.; and

**WHEREAS**, the Applicant was represented by William Edleston, Esq.; and

**WHEREAS**, the Applicant provided proof of service and publication of all proper notices and advertisements as required pursuant to the Municipal Land Use Law; and

**WHEREAS**, a public hearing was held on the application on August 14, 2019, during which time the Applicant presented testimony, reviewed the variance application and the case was opened for public comment; and

**WHEREAS**, the Board heard testimony, reviewed exhibits and reports, and established a record that may be characterized as follows:

1. The following reports and/or correspondence were received and reviewed by the Board:
  - A. Lopatcong Township Application for Variance.
  - B. Notice samples.
  - C. Certification of Taxes.
  - D. Proposed floor plan.

- E. Form W-9.
- F. Zoning permit denial.
- G. Marketing materials pertaining to Subject Property including an October 19, 2018 Deed.
- H. July 13, 2019, correspondence of Paul Sterbenz, P.E.
- I. July 31, 2019, letter memorandum of Ruggiero Plante Land Design, LLC, under the signature of George Ritter, P.P., Township Planner.

2. The following exhibits were introduced at the hearing:

- Exhibit A-1: 4 photographs of kennel system
- Exhibit A-2: 4 photographs of indoor pet facilities
- Exhibit A-3: 7 photographs of google including aerials and street views of Subject Property and existing sign

3. The following is a summary of the testimony introduced at the hearing:

A. Holly Bichler was introduced and sworn. Ms. Bichler indicated that she currently operates a business in the Township of Lopatcong known as Alpha Pet Grooming Salon which is located on Route 57. Ms. Bichler indicated that the business currently provides dog grooming services and that she has been in that business for approximately 14 years. Ms. Bichler testified that most of her clients are from the Warren County area but she does have clients who travel from approximately 1 hour away and even some from New York. Ms. Bichler's current business has 4 employees and anticipates that approximately 4 additional employees will be required if she obtains an approval. Ms. Bichler testified that she is looking to relocate her business because of the need for additional space and so that she can expand her business into dog boarding and dog daycare, which are services frequently requested by her existing clientele. Ms. Bichler indicated that there is currently no specific boarding facility for dogs in the Lopatcong area and believes that the closest one is located in Bloomsbury, New Jersey. Ms. Bichler indicated that in addition to dog grooming, boarding and daycare, it is possible that the business would also perform professional dog training. Currently, Ms. Bichler indicated that her volume of work is approximately 15 to 20 dogs a day for grooming, which are mostly by appointment. Ms. Bichler indicated that her business is only concerned with dogs and there are no cats or other animals. Ms. Bichler indicated that she believes that the space being sought for her use is particularly suited for the use because the business would remain in Lopatcong at a location which most of her clients are familiar with and there is existing underutilized space available. Ms. Bichler indicated that she did not see any specific detriment associated with the use at the pre-existing building.

B. Matthew Bichler was introduced and sworn. Mr. Bichler indicated that he believed that dog training would go hand in hand with the business and that any type of training would utilize trained professional staff. Mr. Bichler described the property and indicated that it was previously the Sears Hardware store and that the

property has been vacant for quite some time. The property will need some cosmetic updates on the outside with paint and the interior will require certain landlord updates for the lighting system and other electrical components. Internally, the unit will have divider walls that are not structural and there will be no specific demolition. As to noise, Mr. Bichler indicated that the building itself is separate from other parts of the building and the proposed boarding area is adjacent to concrete cinderblock wall so it is not anticipated that noise will be an issue for neighboring units. Mr. Bichler indicated that if noise were to become an issue, there are baffles available to mitigate any type of noise that emanates from the facility. Mr. Bichler indicated that there is very limited outside activities anticipated which would be limited to the walking of dogs, but 99.5% of all activity will be conducted indoors. Mr. Bichler indicated that a camera system would be installed and described how pet waste would be appropriately disposed of in the trash and that the kennel systems are designed to direct appropriate waste into the sewer systems and for trash disposal. Mr. Bichler described and showed the Board exhibits regarding the kennel system and the various adjuncts used to control pet waste. Mr. Bichler testified that he believed that there was more than ample parking in the parking area and demonstrated with an overhead view the available parking in the general area of the proposed unit. Mr. Bichler indicated that they have requested 20 dedicated parking spaces in the lease but would be willing to seek more parking if required. Mr. Bichler indicated that there was a handicapped accessible ramp in the parking area. As to signage, Mr. Bichler indicated that there is a pre-existing free-standing sign and that they would utilize space on same and would otherwise comply with the Township's sign ordinance. As to the timing of the business, Mr. Bichler indicated that drop-offs for boarding and grooming are typically Monday through Friday opening at 6:00 a.m. and closing at 7:00 p.m. at night with limited hours on Saturday and Sunday for pickup of boarded animals. Mr. Bichler indicated that the facility has a sprinkler system and upon further questioning indicated that there is sufficient parking space for other users in vacant areas of the building as well. Mr. Bichler indicated that the Applicant would be amenable to designating appropriate handicapped parking on the site in consultation with the landlord as well as to confirm handicapped accessibility in compliance with appropriate standards. As to site lighting, Mr. Bichler further indicated that the Applicant is amenable to appropriate lighting in the parking area. In further colloquy, Mr. Ritter indicated that it was his opinion that Subject Property is in an area where one would expect this type of business to be located and it was his opinion that it would be difficult to foresee any type of nuisance to anyone because of where the business would be located. Mr. Ritter did indicate that the dimensions of the floor plan is only about 5,000 square feet and the Applicant itself represents 6,200 square feet so he advised the Applicant to check that particular difference.

4. The application was opened by the Board for public comment and no public comment was received.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Township of Lopatcong, that it hereby makes the following findings of fact and conclusions of law based upon the testimony given in this matter, and the reports, documents and materials that have been provided to the Board:

- A. Applicant, Alpha Pet Grooming Salon c/o Holly Bichler, is the prospective lessee of property located at 1011 (1075 as applied) Route 22 in the Township of Lopatcong and as designated as Block 100, Lot 3 located in the ROM zone district. The Applicant seeks to utilize an approximate 6,220 square foot unit within the pre-existing multi-unit/tenant building to operate a facility for dog boarding, grooming, daycare and possibly training. The Subject Property is improved with a pre-existing parking area and is fairly large. Previously, the existing building accommodated a Sears hardware store and currently hosts other users and the potential for additional users.
- B. The proposed area to be utilized by the Applicant is a vacant warehouse area that has been vacant for quite some time. The Subject Property has access to Route 22 and there is ample pre-existing parking on the Subject Property. The proposed use is not expressly permitted within the zone pursuant to Section 243-75A of the Zoning Ordinance.
- C. The Board finds that the Applicant is seeking to utilize the unit on the Subject Property as detailed on the floor plan layout for a proposed overnight boarding area, daycare area and training area, and grooming areas. The layout indicates appropriate spaces for all facilities, including reception and office areas.
- D. The Board further notes that there is a lack of dog boarding and daycare facilities in the general geographic area within the Township itself.
- E. The Board believes that the Applicant has established its burden in justifying the variance. In this regard, the Board finds that there are special reasons to grant the variance first noting that pursuant to N.J.S.A. 40:55D-2(a), the existing building on the Subject Property is a multi-unit/tenant commercial use and the application seeks a commercial use that is simply not noted in the zoning ordinance as being permitted. In this regard, the Board finds that the Subject Property as it currently exists and is subdivided is particularly suited for the proposed use in the area denoted by the Applicant for both its commercial character and for the utilization of an underutilized and vacant space. The Board further finds that it is an appropriate location to provide a variety of commercial uses, especially inasmuch as no such uses currently exist within the Township as those being proposed.
- F. The Board further finds that the relief can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan

and zone ordinance. In this regard, the Subject Property hosts commercial uses along a major state highway is far removed from residential areas. The proposed use will occupy a small portion of the overall occupancy of the building. There is adequate access to the building for the proposed use and there is adequate parking available as well. Any perceived detriment is not substantial as most of the activities of the proposed use will be conducted indoors and any noise generated will be internal and mostly insignificant to neighboring properties. The proposed use is appropriate for this building and area, as it does not impact residential or retail areas. Moreover, while the use is not specifically provided for in the zoning ordinance, the use is nonetheless consistent with the types of uses that are generally allowed within the ROM district and will not substantially impair the intent of the zoning ordinance.

- G. The Board is satisfied that the Applicant has otherwise demonstrated an appropriate means of operation of the use at the proposed location.

**BE IT FURTHER RESOLVED**, by the Zoning Board of Adjustment of the Township of Lopatcong as follows:

1. Variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) is hereby granted to the Applicant so as to permit the use of a dog boarding, grooming, daycare and training facility in the area of the Subject Property as depicted on the plans and application submitted herein.
2. The approval granted herein is subject to and based upon the following conditions:
  - A. The Applicant shall comply with any and all conditions, requirements and agreements as set forth within this Resolution, as well as any and all representations made to the Board, both orally and in writing, whether contained in this Resolution or not. Further, Applicant shall comply with all comments and conditions set forth within the reports of the Board professionals and Township employees as provided to the Applicant.
  - B. The Applicant shall be required to satisfy and post any and all required escrows as may be required by law or by ordinance.
  - C. The Applicant shall be required to post any and all required inspection fees as it may be determined to be appropriate by the Board Engineer.

- D. The Applicant shall obtain any and all other approvals required by law from any other agency having jurisdiction over any subject matter related to this approval.
- E. Prior to the receipt of any Certificate of Occupancy, the Applicant shall confirm to the satisfaction of the Board Engineer appropriate ADA compliance with appropriate access pursuant to current standards, handicapped parking spaces, striping and delineation at the Subject Property, as well as appropriate handicapped parking signage.
- F. Prior to the receipt of a Certificate of Occupancy, the Applicant shall confirm appropriate site lighting in the exterior space and parking area appurtenant to the Applicant's business to the satisfaction of the Board Engineer.
- G. All animals and pets removed from the facility by the Applicant or its customers shall be appropriately leashed.
- H. The Applicant shall delineate to the Board Engineer's satisfaction designated parking areas for the Applicant's use.

**BE IT FURTHER RESOLVED**, by the Zoning Board of Adjustment of the Township of Lopatcong that:

1. All conditions contained in this Resolution and in the record of the proceedings in this matter, including any agreements made by the Applicant, were essential to the Board's decision to grant the approvals set forth herein. A breach of any such condition or a failure by the Applicant to adhere to the terms of any agreement within the time required shall result in the automatic revocation of the within approval and shall terminate the right of the Applicant to obtain or continue work or occupancy under any construction permits, Certificates of Occupancy or any other governmental authorizations necessary in order to continue development and use of the property.

2. The development of this property shall be implemented in accordance with the plans submitted and as approved. In the event that the Applicant shall make or propose any changes to the project or structures on the property from those shown

on the revised and approved plans and exhibits approved for this Application, whether such changes are voluntarily undertaken or required by any other regulatory agency, Applicant shall resubmit any such changes to this Board for review and determination.

Those voting on the motion to approve are as follows:

**Motion by:** Member Rutledge

**Seconded by:** Member Unangst

**ROLL CALL:**

	<u>Ayes</u>	<u>Nays</u>	<u>Abstain</u>
Member Bittone	X		
Member Unangst	X		
Member Rutledge	X		
Member Woolf	X		
Vice-Chairman Larsen	X		
Chairman Gary			X

The foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Lopatcong at its meeting of August 14, 2019.

Date: September 11, 2019

\_\_\_\_\_  
Phyllis Coleman, Secretary Zoning Board of Adjustment

**PUBLIC COMMENT:**

No one from public present

**ADJOURNMENT:**

**Motion to Adjourn**

**Motion by:** Member Unangst

**Seconded by:** Member Rutledge

**AYES:** All in Favor

**NAYS:** None



Respectfully submitted by

---

Phyllis D. Coleman, Secretary

Date: September 11, 2019

---

Fred Gary, Chairman

Date: \_\_\_\_\_