

MEETING MINUTES

1. CALL TO ORDER; INTRODUCTORY; ROLL CALL

Chair Timko called the meeting to order at 6:30 p.m. and asked that the roll be called.

Board Members Present: Vern Gardner, Charles Denault III, Jeff Brake, Suzanne Jones (joined at 6:50 p.m.), Louis Leontakianakos, April Timko

Board Members Absent: Barry Fitzpatrick

Staff Present: Craig Alfis, Code Enforcement Officer

2. PLEDGE OF ALLEGIANCE

3. AGENDA AMENDMENT AND ADOPTION

- Motion by Mr. Denault to amend the agenda to postpone the acceptance of the minutes of August 25th as they have not been provided to the Board yet. Seconded by Vice Chair Leontakianakos. Motion passed 5-0-0 by voice vote [Yes: Gardner, Denault, Brake, Leontakianakos, Timko; No: --; Abstain: --]

4. EXECUTIVE SESSION

5. PUBLIC HEARINGS

- **Timothy Phoenix representing Tamara Bourque, tenant, 518 US Route 1 Unit 4, seeking an administrative appeal to a Code Enforcement Officer decision and a Special Exception Use request to operate a dog grooming facility in the Mixed Use (MU) zone.**
- Mr. Gardner recused himself as he has worked with the applicant in the past. Chair Timko advised the applicant that they would need a unanimous vote in order to have their appeal granted. The applicant decided to continue with the hearing. Mr. Timothy Phoenix, presented the details of the appeal. Ms. Jones joined the meeting at 6:50 p.m. Ms. Jones confirmed the Board has the authority to hear the appeal. Mr. Alfis presented the staff report. The Board had several questions for both Mr. Phoenix and Mr. Alfis. No members of the public spoke. Chair Timko closed the public hearing at 6:59 PM. The Board entered discussion.

Motion by Mr. Denault to grant the Administrative Appeal per Section 16.6.3 overturning the decision of the Code Enforcement Officer and grant the Special Exception Use request with the condition that the applicant holds a kennel license. Seconded by Mr. Brake. Motion passed 4-1-0 by roll call vote [Yes: Gardner, Denault, Brake, Jones, Leontakianakos; No: Timko; Abstain: --]

Chair Timko notified the Board of their right to reconsider and the public of their right to appeal.

Chair Timko and Vice Chair Leontakianakos read the following Findings of Fact and Conclusions of Law into the record:

Findings of Fact: (1) Timothy Phoenix brought an Administrative Appeal and Special Exception Use request on behalf of Tamara Bourque to operate a dog grooming business in the Mixed Use zone. (2) The abutters were notified by the Town of the public hearing. (3) The hearing was properly noticed in the Portsmouth Herald on Monday August 31st, 2020. (4) The applicant had entered into a letter of intent to lease space in the building at 518 US Route 1, specifically Unit 4. (5) The applicant presented testimony and information that she would be providing services to dogs in the facility and that she is required to hold a kennel license. (6) Mr. Gardner recused himself.

Motion to accept the Findings of Fact made by Vice Chair Leontakianakos. Seconded by Ms. Jones. Motion passed 5-0-0 by roll call vote [Yes: Denault, Jones, Brake, Leontakianakos, Timko; No: --; Abstain: --]

Conclusions of Law: (1) The Board had the authority to hear this appeal pursuant to Code Section 16.6.3. (2) The dog grooming business that was request fell under the commercial kennel use and as such is a Special Exception Use. (3) The Board considered the conditions set forth in Section 16.6.6 as the Basis for Decision and the factors set forth in Section 16.6.6.B. (4) The Board found that all of the conditions and Factor for Consideration were met.

Motion to accept the Conclusions of Law made by Vice Chair Leontakianakos. Seconded by Ms. Jones. Motion passed 5-0-0 by roll call vote [Yes: Denault, Brake, Jones, Leontakianakos, Timko; No: --; Abstain: --]

Mr. Gardner rejoined the Board at 7:37 p.m.

6. UNFINISHED BUSINESS

7. NEW BUSINESS

8. ACCEPTANCE OF PREVIOUS MINUTES

9. BOARD MEMBER OR CEO ISSUES OR COMMENT

- Mr. Alfis confirmed that the next Board meeting will be held in person at the Kittery Community Center.
- Mr. Alfis confirmed that there is one item on the agenda for the September 22nd meeting.
- Chair Timko reminded the Board that any statements and questions of the CEO, applicant or representative should be specific to the matter at hand and to keep opinions and discussion for when the Board enters discussion to make sure the meeting stays on track.

10. ADJOURNMENT

Motion by Chair Timko to adjourn. Second by Mr. Denault. Motion passed 6-0-0 by voice vote [Aye: Gardner, Denault, Brake, Fitzpatrick, Leontakianakos, Timko; Nay: --; Abstain: --]

The Kittery Board of Appeals meeting of September 8, 2020 adjourned at 7:43 p.m.

Submitted by Craig Alfis, Code Enforcement Officer

Disclaimer: The preceding minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information, the minutes are not intended to be a verbatim transcript of comments at the meeting but only a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.