

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Doylestown Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.
2. The Applicants are the owners of the subject property and therefore possessed of the requisite standing to make application to this Board.
3. The subject property is located in the R-1a, Residential Zoning District of Doylestown Township. It is approximately 2.42 acres in size and accommodates the Applicants' two-story detached single family home with an attached three (3) car garage; two (2) rear decks and a swimming pool to the rear of the home; and appurtenant access ways.
4. The Applicants purchased the property approximately five (5) years ago. Mrs. Panitz testified that, approximately four (4) years ago, she started a dog grooming and boarding business in a portion of the garage. Specifically, there is a wall in the garage that separates two (2) of the bays, which are used for the parking of vehicles, from the third bay, 9' 11" x 21' 6 1/2" in size, which has been modified to include a grooming table, bathtub, and dog crates as depicted on Exhibit B-1c.
5. Mrs. Panitz indicated that she operates the dog grooming business Monday through Friday from 9:00 a.m. to 4:30 p.m.; that she has one or two customers a day and that her customers drop-off their and pickup their dog for bathing and grooming and boarding during those hours. She testified that she has no walk-in customers and that grooming is done by appointment only. Occasionally, she will also take customers on a Saturday or Sunday but only during the hours of 9:00 a.m. to 12:00 p.m.
6. There is no advertising done for this business and it obtains its customers by word of mouth only.
7. Part of the business includes the boarding of dogs overnight. Until the hearing, Mrs. Panitz testified that she had boarded no more than five (5) dogs on any given night.
8. There is no "dog run" structure on the property, however, the dogs that are kept overnight are permitted outside within a fenced-in area separated from the fencing around the existing pool. The dogs are only permitted outside from 9:00 a.m. until 10:00 p.m., unless they are barking, in which case, the Applicants bring the dogs inside.
9. The Applicants have requested a variance from the use provisions of the R-1a Zoning District contained at §175-32 in order to allow a kennel use on the subject

property which is defined at §175-16.A-3. This use is not permitted within the R-1a Zoning District.

10. However, a kennel is defined, in relevant part, as "...the keeping of more than four (4) dogs...".

11. The Applicants agreed that they would keep no more than four (4) dogs overnight at any one time.

12. Applicants' counsel requested to amend the application so as to include a request for a special exception to permit a home based business use on the property as defined at §175-16.H.1.

13. An H-1, home based business use is permitted in the R-1a Zoning District by special exception pursuant to §175-32.B.

14. As the keeping of four (4) dogs is not a commercial kennel use, but rather one that is permitted as part of the use of a residential property, the Board finds that the special exception is the more appropriate relief for this application. Since the public notice issued identified the Applicants' intent to groom and board dogs at the subject property, the Board determined that the public had been adequately advised by that public notice of the intent of the application and permitted the amendment to include the request for a special exception.

15. The Applicants established, by competent and credible evidence, that the grooming and boarding that they engage in is a business or commercial activity conducted as an accessory use that is clearly secondary to the residential use of the dwelling. There is limited customer traffic and the grooming and boarding will take place entirely indoors, with the exception of those times during the day when the dogs are kept within the fenced-in area which, as noted earlier, is permitted for any residence, provided that no more than four (4) dogs are there.

16. There will be no use of show windows, display or advertising visible outside the premises, except for permitted home based business sign.

17. There will be no exterior storage of material or building material.

18. There will be no parking of commercial vehicles. The appearance of the residential structure has not been altered and will not be altered in the future so as to cause the property to differ from the residential character of the neighborhood.

19. There will be no articles sold or offered for sale.

20. There will be no stockpiling, storage or inventory of products of a substantial nature.

21. There will be no commodities sold or services rendered that require receipt or delivery of merchandise, goods or equipment by other than passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries.

22. The home based business shall be carried on only by one (1) inhabitant of the home.
23. The floor area devoted to the home based business use does not occupy more than 25% of the ground floor area of the principal residential structure.
24. There will be no equipment or process employed that creates discernible noise, vibration, glare, fumes, odors or electrical interference.
25. There will be no manufacturing, repairing or other mechanical work performed on the property.
26. The business activity will not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use.
27. The parking spaces for drop-off and pick-up of dogs is available on the existing driveway and garage access area located to the side of the residence.
28. A number of residential neighbors testified at the hearing. They all indicated that they either were unaware of the Applicants' grooming and boarding business use on the property or, if they were aware, it was not impactful. All of the residential neighbors agreed that they did not wish that the subject property receive a variance for an A-3 kennel use as requested, but would prefer that a special exception be granted to allow a home based business, as defined in the ordinance and found in this Decision, so as to ensure that a variance, of the type requested, does not "run with the land".
29. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW

1. The Applicants have satisfied the Board that their dog grooming and boarding business is not to be considered a kennel use since no more than four (4) dogs would be boarded overnight.
2. As the keeping of no more than four (4) dogs is permitted on any residential property, the actual bathing and grooming and cutting of dogs fits the definition of home based business contained at §175-16.H.1.
3. The Applicants have satisfied the Board that it will comply with all of the criteria set forth in that Ordinance section in order to establish that home based business use.
4. Based upon the testimony of the neighbors, the Board concludes that the existing use, and the proposed use in the future, limited to overnight boarding of no more than four (4) dogs, has little or no negative impact upon surrounding properties or uses.

5. The Board concludes that the use, limited as set forth in this Decision, will be consistent with the neighborhood in which the subject property is located and the type of home based business use contemplated within any Residential Zoning District of Doylestown Township.

6. The Board concludes, therefore, that the Applicants' proposed use does not negatively impact the general health, safety and welfare of the residential neighbors, or the residents of Doylestown Township.

7. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the amended application to seek a special exception subject to conditions as is set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township DENIES the Applicants' request for a variance from §175-32, but GRANTS the Applicants' request for a special exception, pursuant to that section, to operate a dog grooming and boarding business as a home based business use, defined at §175-16.H.1, within the area of the attached garage devoted to that use, subject to the following conditions:

1. There shall be no more than four (4) animals boarded overnight at any given time;

2. The dogs being served on the property shall be permitted outdoors, within the fenced-in area designated for that purpose only, from the hours of 9:00 a.m. until 10:00 p.m. and shall not be permitted to run free outside during the night hours except on a temporary or emergency basis; and

3. The Applicants otherwise comply with all other applicable governmental ordinances and regulations.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: W. Andrew McPherson, lsl
W. Andrew McPherson, Chairman

William J. Lahr, lsl
William J. Lahr

Richard K. Gaver, lsl
Richard K. Gaver

IMPORTANT NOTE: Pursuant to §175-136 and §175-137 of the Doylestown Township Zoning Ordinance, the relief granted herein shall expire five (5) years from the date of this decision.