



BETHEL PARK ZONING HEARING BOARD

SUMMARY JULY 7, 2025 MEETING

The Zoning Hearing Board of Bethel Park came to order at 7:30 p.m.

ROLL CALL: PRESENT: REGAN, KOCH, KANON, DUFF, WILLETS

ALSO PRESENT: VINCE KELLY, DAVE MONTGOMERY, KIM STRNISA

APPROVAL OF SUMMARY:

1. Mr. Regan asked if there were any changes, additions, corrections and/or deletions to the summary of the June 2, 2025 meeting. Mr. Koch made a motion to approve the minutes. The motion was seconded by Mr. Duff. There was no further discussion on the Motion. Roll was called and the Motion passed unanimously.

COMMUNICATIONS:

1. Invoice from Kim Simms-Strnisa – A Motion was made by Mr. Koch to approve invoice received from Kim Simms-Strnisa in the amount of \$515 for attendance fee for the May 7, 2025 and June 2, 2025 meetings. The Motion was seconded by Mr. Duff. There was no discussion on the Motion. Roll was called and the Motion passed unanimously.

OLD BUSINESS: None

NEW BUSINESS: Case #2875

APPLICANT: JENNIFER BIRD

LOCATION: 5815 KINGS SCHOOL RD

SUBJECT: APPEAL FROM APRIL 23, 2025 NOTICE OF VIOLATION REGARDING PURSUANT TO MPC SECTION 10616.1; NOTICE OF VIOLATION CONCERNING THE MUNICIPAL DOG LAW, MUNICIPAL CODE SECTION 30.5.1; APPLICATION FOR A USE VARIANCE OR VARIANCE BY ESTOPPEL PERMIT THE OPERATION OF A DOG KENNEL AT THE PROPERTY LOCATED IN THE R-3 RESIDENTIAL ZONING DISTRICT

SECTION 69.25.1

It is hereby requested that the Zoning Hearing Board hear the following requests for relief”

1. Challenge to Notice of Violation concerning violation of Municipal Dog Law, Municipal Dog Law, Municipal Code Section 30.5.1.

Board Chair Regan announced that the Zoning Board lacked jurisdiction over this Code violation. This Code violation is not a zoning matter and does not arise under the Municipalities Planning Code. Bird’s attorney, Gerald Hornby, disagreed and asserted the the Board has jurisdiction. The Municipality Solicitor, Gavin Robb, stated that jurisdiction over this summary violation is with the local District Magistrate, where an enforcement action is currently pending.

Mr. Hornby preserved his objection to this ruling.

2. Challenge to April 23, 2025 Notice of Violation pursuant to Municipalities Planning Code Section 10616.1.

In a challenge to a Notice of Violation brought under MPC 53 10616.1, the Municipality bears the initial burden of proving that the Notice of Violation satisfied the procedural requirements of Section 10616.1/ Solicitor Robb conducted a direct examination of Zoning Officer Vince Kelly. Mr. Kelly testified that the Notice (Hearing Exhibit 1) included the following information required under Section 616.1(c) in a valid enforcement notice:

1. The name of the property owner and any other person against whom the municipality intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements which have not been met, listing in each instance the applicable provisions of the ordinance
4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
5. That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

53 P.S. § 10616.1.

3. Application for a use variance to operate a rescue kennel on a property located in an R-3 Residential Zoning District

4. Application for a variance by estoppel to operate a rescue kennel on a property located in an R-3 Residential Zoning District

The land involved is 5815 Kings School Road. Current Zoning Classification is R-3 Residential. Involved Ordinance or Legislative Act: Ord. 7-12-93A Section: 69.25.1

Variance Type: Use variance and/o variance by estoppel to permit the operation of a dog kennel in a residential neighborhood.

The Zoning Hearing Board should grant the following relief: permission to continue operating FurKid Rescue dog kennel at 5815 Kings School Rd.

Applicant's Petition: Requesting a variance and/or variance by estoppel to operate a kennel at my residence located at 5815 Kings School Rd. Currently, kennels are not a permitted use in the R-3 Residential Zoning District.

Applicant's Arguments: Jennifer Bird has operated Furkids as a rescue kennel since 2008. In 2012, Bird received a letter from the municipality. This letter was not presented at the hearing. She called the zoning officer and was told that she had to obtain a kennel license. The zoning officer did not distinguish between a state and local license. Ms. Bird obtained a state kennel license at that time. Ms. Bird did not conduct any further investigation to determine if the rescue kennel was permitted under the local zoning code.

Furkids has mainly dogs, some cats. Many dogs require medical care and have been neglected. Furkids is a non-profit and operates with volunteer assistance.

Multiple police officers have adopted dogs from Furkids. No further interventions from the municipality until a complaint was filed in 2022.

Ms. Bird also testified that other rescue kennels operate in Bethel Park and no enforcement against those rescue kennels has been taken. Ms. Bird read a personal statement into the record. She believes that she is a target of a personal vendetta. She contends that she operates a clean facility and the facility is not a nuisance.

Ms. Bird works full-time, 365 days per year, taking care of the Furkids animals.

Gavin Robb cross-examined. Ms. Bird testified that the Subject Property could be used as a residence in conformity with the Zoning Code if the request for variance is denied. Ms. Bird never applied for a permit with the municipality. Bird never received approval from the municipality.

Melissa Schaefer, 514 Glen Haven Drive, Glenshaw, Pa., Furkids Secretary-Treasurer, testified that Furkids does not have a set annual budget. Furkids files an IRS Form 990 annually. Donations and adoption fees cover operating expenses. The Furkids budget was approximately \$50,000 in 2024.

Ms. Schaefer testified that Furkids has 20-30 dogs at any given time. Ms. Bird said she has kept it at less than 25 dogs, at one time, for the past three years.

Allegheny County dog warden Steve Stoehr, 9850 Fox Road, Pittsburgh, PA. 15237, testified. Ms. Bird contacted him in 2012 to obtain a state rescue kennel license. License issued in 2013. The County inspects twice a year and has not had complaints. The animals seem to be well cared for. Mr. Robb cross-examined Mr. Stoehr. Mr. Stoehr admitted that Furkids does not currently have an operable state license since 2024 to have more than 25 dogs per year at the Subject Property. The license at that time was removed to the Furkids Glenshaw Pa. office. The state rescue kennel license is not location based.

Mr. Stoehr testified that Furkids would face a hardship if it was forced to relocate dogs with physical or medical issues that make them hard to adopt.

There were 7 (present) additional proponents in this case:

Frank McAleavey
6724 Ridgevue Dr
Pittsburgh, PA 15236

Mr. McAleavey resides in South Park and is a field investigator for the SPCA. He questioned the Code's definition of "Kennel" and whether it applies. He questions whether there is proof that Furkids is a nuisance to the neighborhood.

Charles Bashaar
504 Kings School Rd
Bethel Park, PA 15102

Mr. Bashaar testified that Furkids would face a significant hardship if forced to relocate dogs. His family moved into the neighborhood in 2015 and considers Furkids an asset to the community. Not a detriment to the neighborhood.

Matthew Jacob
1201 Cobblewood Drive
Bethel Park, PA. 15102

Mr. Jacob met Ms. Bird twelve years ago and adopted two dogs from Furkids. He testified that Ms. Bird is an asset to the municipality.

Lauren Murphy
5818 Kings School Road
Bethel Park, PA 15102

Ms. Murphy is a neighbor, living across the street from the Subject Property since 2010. Ms. Murphy is a stay-at-home mom and has not heard excessive barking, or perceived "awful smells" and believes that the Furkids operation would not have a detrimental effect on property values.

Valerie Daniels
5805 Kings School Rd
Bethel Park, PA 15102

Ms. Daniels lives immediately adjacent to Furkids. She does not hear significant noise from the Furkids dogs and has not noticed offensive smells. According to Ms. Daniels, Furkids only allows five dogs out at a time. She concluded that Furkids is not a detriment to the neighborhood.

Bryan Calhoun
5827 Kings School Road
Bethel Park, PA 15102

Mr. Calhoun lives two doors down from the Subject Property. He has not observed offensive noise or smells from the Subject Property.

Ryan Phelps
1253 Bethel Green Drive
Bethel Park, PA 15102

Mr. Phelps purchased their home in June 2024. His rear property line adjoins the Subject Property.

There were 2 (present) opponents in this case:

Stella Cafaro
1260 Bethel Green Dr
Bethel Park, PA 15102

Ms. Cafaro lives one door from Mr. Kurtz and objects to the variance and to any change to the lawful zoning of the Subject Property. She pointed out that many letters in support were dated from 2022 and questioned their relevance. One letter is from a man who died in 2023 and whose wife has since moved to Butler County. She objects to a use that would negatively impact the property values in the neighborhood.

Roger Kurtz
1247 Bethel Green Dr
Bethel Park, PA 15102

Mr. Kurtz was represented by Attorney Amy Schrempf. Mr. Kurtz's property adjoins the Subject Property. Mr. Kurt's testimony from 2022 was incorporated by reference by the Board Chair. He also testified that he submitted a letter to the Board outlining its position.

Board Votes:

Appeal of April 23, 2025 Notice of Violation

A Motion was made by Mr. Koch that the Notice of Violation complied with MPC Section 10616.1. Mr. Kanon seconded the motion. Kanon – no, Duff - yes, Regan - yes, Koch - yes. Willets - yes. Motion APPROVED – 4-1.

Request for Use Variance

A Motion was made by Mr. Koch that the use variance request is barred by the doctrine of res judicata. Mr. Duff seconded the motion. Kanon – yes, Duff - yes, Regan - yes, Koch - yes, *Willets* - yes. Motion Approved – 5-0.

Request for Variance by Estoppel

A Motion was made by Mr. Willets that the request for a variance by estoppel is barred by the doctrine of res judicata. Mr. Duff seconded the motion. Kanon – yes, Duff - yes, Regan - *no*, Koch - *no*, *Willets* - yes. Motion Approved – 3-2 that the request for a variance by estoppel is barred by the doctrine of res judicata.

A Second Motion, made in the alternative, on the merits of the application for variance by estoppel, was made by Mr. Koch to approve the variance for estoppel as presented. Mr. Willets seconded the motion. Kanon – *no*, Duff - yes, Regan - yes, Koch - yes, *Willets*- *no*. Motion APPROVED – 3-2.

The Board went into executive session to discuss legal matters.

Mr. Regan announced that the Board would consider two additional motions due to confusion by Board Member Duff regarding the motion to approve the variance by estoppel on the merits.

Mr. Koch moved to rescind the two votes on the variance by estoppel due to confusion by Board Members. Mr. Kanon seconded. Kanon – yes, Duff - yes, Regan - *no*, Koch - yes, *Willets*- *no*. Motion APPROVED – 3-2.

A Motion was made by Mr. Koch that the request for a variance by estoppel is barred by the doctrine of res judicata. Mr. Duff seconded the motion. Kanon – yes, Duff - yes, Regan - yes, Koch - *no*, *Willets* - yes. Motion Approved – 4-1 that the request for a variance by estoppel is barred by the doctrine of res judicata.

A Second Motion, in the event that the res judicata is deemed not to serve as a bar to the variance by estoppel, was made by Mr. Koch to approve the variance for estoppel as presented. Mr. Kanon seconded the motion. Kanon – *no*, Duff - yes, Regan - yes, Koch - yes, *Willets*- *no*. Motion APPROVED – 3-2.

ADJOURNMENT: The meeting was adjourned at 10:45 P.M.