

GRAND JUNCTION BOARD OF APPEALS
JULY 11, 1990
8:10 a.m. - 8:35 a.m.

The regularly scheduled meeting of the Board of Appeals was called to order at 8:10 a.m. in the City/County Auditorium by Chairperson Jan Pomrenke.

In attendance, representing the Board, were Katie Worrall, Aden Hogan and Jan Pomrenke. Sheliah Renberger and John Elmer were absent.

In attendance, representing the City Planning Department was Linda Weitzel. Also present was John Shaver, Assistant City Attorney.

Bobbie Paulson was present to record the minutes.

I. MINUTES

HOGAN/WORRALL - Motion to approve the minutes of the June 13, 1990 meeting. Vote 3-0.

II. FULL HEARING

1. #90-5 Consideration of a request to vary the Home Occupation Section of the Zoning & Development Code to allow pet grooming in a Residential Single Family (RMF-32) zone.
Petitioner: Elaine Boyer
Location: 1260 Kennedy Avenue

PETITIONER'S PRESENTATION

Elaine Boyer is a full time Mesa State College student employed by the work/study program. In order to supplement her income from work/study, she grooms approximately 3 to 4 dogs per week. She stated that she grooms one dog at a time, and there are no dogs waiting to be groomed at her house.

When she bought this house in August of 1989, the realtor told her that the zoning was appropriate for a dog grooming business as indicated by the City Zoning Map. Ms. Boyer said that the reason she purchased this property was because she would be able to live and work from the residence.

Ms. Boyer said that she was legal prior to the zoning (sic) changes in May, 1990. She was unaware that she needed a home occupation permit.

QUESTIONS

Jan Pomrenke asked the petitioner what her understanding of the zoning of the property was.

Ms. Boyer replied that the realtor had checked and told her the property was zoned to allow pet grooming. She understood that the zoning had been changed in May, 1990 and that she was legal before that.

Katie Worrall asked the petitioner if she intended to increase the number of dogs groomed or if the business would continue after Ms. Boyer completes her course study?

Ms. Boyer replied negatively to both questions.

Ms. Worrall asked if the grooming room was also enclosed.

Ms. Boyer replied that it was. It is located in her laundry room. There is a six foot high privacy fence around that part of the property.

Aden Hogan stated that he had a concern about the on street parking, but since customers would come just one at time, this did not seem to be a problem.

STAFF PRESENTATION

Linda Weitzel said that parking didn't seem to be an issue because of the existing impact that Mesa State College parking already has on the neighborhood. With such a limited number of clients, parking for Ms. Boyer's use has a low impact.

Linda stated the the Planning Department received one complaint about Ms. Boyer's dog grooming business from someone who lives at the other end of the City. It appeared that the complaint was from a competitor.

At the time of the petitioner's purchase (1989), the zoning map showed that Ms. Boyer's property was Planned Business (PB). Upon further research, Linda discovered that 1260 Kennedy had not been part of the Planned Business designation. The property was in fact zoned residential multi-family. The realtor and Ms. Boyer were acting in good faith in regards to the zoning by consulting and relying on a map that was in error.

The Zoning & Development Code requires that all Home Occupations be registered with the Planning Department. Ms. Boyer failed to register but that was the only problem with the use prior to June 6, 1990. Linda said that it is difficult for people to know of this registration requirement because it is not advertised. Normally, the Planning Department will inform people when they apply for a sales tax license.

On June 6, 1990, City Council passed a text amendment regarding Home Occupation in order to clarify more appropriate Home Occupation uses. Linda read from the Code, "Under normal operating procedures the following types of uses would not be acceptable as home occupations: pet grooming". The question is what is normal

operating procedures. The Assistant City Attorney recommended that the Board of Appeals decide on this matter as it is essentially the question with which they are presented, given the petitioners limited use and her good faith reliance on zoning map errors.

Linda then recapped Ms. Boyer's hardships. She said one of Ms. Boyer's hardships was the incorrect zoning map that showed a planned business zone at the time she purchased the property. Another concern of the petitioner as stated in her application and testimony is financial need. Ms. Boyer is engaged in part time dog grooming to supplement her income.

Aden Hogan asked Ms. Boyer when she moved into the property.

Ms. Boyer responded that it was August of 1989.

Aden asked John Shaver if the variance would stay with the property, or would it end if Ms. Boyer should sell her property.

John replied that the variance was owner and use specific and does not run with the land.

PUBLIC COMMENTS

There were no public comments either for or against this variance.

Worrall/Hogan - Motion to approve the request to vary the Home Occupation Section of the Zoning & Development Code to allow pet grooming in a residential multi-family (RMF-32) zone. Vote 3-0.

After the petitioner had left, there was some discussion about the number of dogs that can be groomed per day. Upon the advice of John Shaver, it was decided that an amended motion be made to accurately reflect the Board's intent to vary the Code requirement for this use and user based on the petitioner's testimony.

Hogan/Worrall - Motion to amend minutes to put a cap of six dogs per week on this home occupation. Vote 3-0.

III. DISCUSSION

There was discussion about the issue of "hardship". John Shaver said that there needs to be some notation that the Board found that a hardship existed and that the hardship was not a creation of the petitioner. The reason for granting the variance should be based on these facts. From the legal standpoint, the Board has to make reference to the fact that it was not a creation of the petitioner and the hardship is of sufficient justification for their decision.

IV. ADJOURNMENT at 8:35 a.m.