

Department of Community Planning and Economic Development - Planning Division Report**Appeal of the Decision of the Zoning Administrator
BZZ-2522****Date:** August 18, 2005**Appellant:** Lucy K. Higgins**Address of Property:** 4208 40th Avenue South**Contact Person and Phone:** Lucy K. Higgins, (612) 387-2366**Planning Staff and Phone:** Molly McCartney, (612) 673-5811**Date Application Deemed Complete:** July 26, 2005**End of 60 Day Decision Period:** September 24, 2005**Ward:** 12 **Neighborhood Organization:** Longfellow Community Council**Existing Zoning:** R1A, Single-family District

Appeal of the decision of the Zoning Administrator: Lucy K. Higgins has appealed the decision of the Zoning Administrator that a doggy day care is not an allowed home occupation for a property located at 4208 40th Avenue South in the R1A, Single-family District.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

Background and Analysis: The appellant has appealed the decision of the Zoning Administrator that a doggy day care is not an allowed home occupation for a property located in a residential district. The appellant has been in communication with Planning Staff in the Zoning Office since May, 2005, in regards to opening a doggy day care business in her home at 4208 40th Avenue South. The appellant was informed by Animal Control that zoning approval would be needed for the issuance of a permit needed to

CPED Planning Division Report
BZZ-2522

operate an animal-related business of this nature. The appellant was told by Planning Staff that a doggy day care is most similar to an animal shelter, also known as a kennel, which is allowed only in the Industrial Districts and that Zoning Administrator's decision is prohibit a doggy day care as a home occupation.

A doggy day care is not specifically defined in the City of Minneapolis Zoning Code. In this type of situation, the Zoning Administrator must make the determination that the undefined use is most similar to another use that is included in the zoning code. There is a number of animal-related land uses in the Zoning Code. Pet stores and veterinarian clinics are permitted in all of the commercial and downtown districts. Chapter 536, Specific Development Standards, requires that pet stores must meet the following standards:

- All activity shall be within a completely enclosed building with soundproofing and odor control; and
- Outdoor kennels are prohibited.

Animal shelters, also known as kennels, are conditional uses in the industrial districts. Chapter 536, Specific Development Standards, requires that animal shelters must meet the following standards:

- All activity must be within a completely enclosed building with soundproofing and odor control, except in the I3, General Industrial District; and
- Outdoor kennels are prohibited.

The Zoning Administrator has determined that because is the nature of a doggy day care is to provide care for dogs during the day, this use is most similar to an animal shelter and would not be an allowed home occupation because it does not meet certain standards of the Home Occupation section of the zoning code.

In Chapter 535, Article VII, Home Occupations, lists standards that must be met for the operation of a home occupation. Three of the home occupation standards have considerable applications to a doggy day care operated in a residential dwelling. First, home occupations are limited to activities that are customarily associated with the use of a dwelling (Standard #1). While caring for animals owned by residents of a dwelling is associated with residential uses, a business that provides care for animals that are owned by nonresidents of the dwelling is not a use typically associated with residential uses. Second, home occupations must be conducted within an enclosed area of the dwelling (Standard #5). While a doggy day care could be fully enclosed, the likelihood is that dogs will be outside for some time period during the day which would have sound and odor impacts to surrounding residential properties. Other animal-related businesses that are included in the zoning code have the enclosed building requirement and prohibit outdoor kennels, except in the I3 District. Last, in addition to the enclosed building requirement, the home occupation must not produce noise or sound that is audible beyond the zoning lot (Standard #15). Five dogs in a home are likely to be audible beyond the zoning lot on a fairly regular basis.

In addition to the above home occupation standards, there are other standards this type of business is likely not to meet. Home occupation operating hours are limited to 8:00 AM to 8:00 PM (Standard #12) which may conflict with hours of operation. Clients would likely be dropping off pets prior to 8:00 AM, simply because of the fact that many people begin work at 8:00 a.m. and presumably would be using this service while they are at work and unable to care for their dog. These clients would have to come to the site twice per day. Ten additional trips per day to and from this residential dwelling could be considered excessive compared to typical residential use of the dwelling (Standard #13). While this would also be true for a daycare facility, the code specifically exempts daycare from this requirement, among others.

CPED Planning Division Report
BZZ-2522

The appellant has submitted a statement addressing the Home Occupation Standards (535.450) in which the appellant believes that her interpretation of the zoning code would allow for a doggy day care as a home occupation as well as having minimal impact on the surrounding neighborhood. In regards to home occupations limited to activities associated with the use of dwelling, the appellant has stated that her dwelling is dog friendly, and that she would like to care for up to five dogs during the day. In regards to home occupations being conducted within an enclosed portion of the dwelling, the appellant states that the dog would be let out periodically for fresh air and elimination, but that she would take steps, which include prompt removal of animal waste and citronella “anti-barking” collars, to reduce sound and odor impacts to the surrounding area. The appellant’s full statements are included in the staff report.

Based on the land use classification that determines that a doggy day care is most similar to an animal shelter and the Home Occupation Standards that require home occupations to be customarily associated with the use of a dwelling and to have an enclosed building requirement, Planning staff agrees that the Zoning Administrator has correctly interpreted the zoning code.

Recommendation of the Department of Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the appeal of the decision of the Zoning Administrator.