

Testimony of Martin P. Sullivan, Sullivan & Barros, LLP
Zoning Commission Case No. 14-10

Good Evening, Mr. Chairman and Commission Members, I am speaking here today on behalf of several doggie day care clients, and also on behalf of my own interest in enjoying some clarity on the dog day care regulations.

I would like to make just 2 suggestions, one specific and one general:

Proposed 25-Foot Rule

1) I would suggest that the proposed language in 735.2 should match the language used for gas stations, bowling alleys, and fast foot establishments. There are several reasons for this:

(i) This language – the language that matches the gas station requirement - would match the intention of the originally adopted regulations, as stated in the Set-Down Report, that “an alley would constitute adequate separation.” It was my impression that the initiative behind this proposed amendment was for the purpose of clarifying the regulations, not for the purpose of making it more difficult to establish an Animal Boarding Use, which it undoubtedly does.

(ii) This language would be consistent with other concepts and language in the Zoning Regulations, as the Set-Down report notes. Does the Zoning Commission believe that dog day care is decidedly more adverse than a gas station, bowling alley, or fast foot establishment? I don’t think it does. I suspect that the Commission – and the general population - see dog day care as less potentially adverse than those uses; but certainly not more so.

The currently proposed language, on the other hand, has 2 main effects:

(i) The proposed language will make it almost impossible to bring a special exception case in any location in which this type of business is viable. This business survives mostly on the commuter corridors, not in the middle of the downtown business district. Almost every potential property brought to me by a client is separated by an alley from the residential zone. And none of those alleys are 25-feet wide.

(ii) The proposed language leads to confusion and ambiguity. In discussions with the Office of Planning on this, Mr. Mordfin has represented that he thinks that if a dog day care left the rear 15 feet of their property un-used, and then that was added to a 10-foot alley, that such a situation would comply with the proposed new 735.2 because the “use” would be 25-feet away from the residential property. But (i) I don’t know if the ZA would agree with that, and why should he have to make a call every time the issue comes up?; and (ii) this would encourage dead space in formerly productive buildings, with no real benefit.

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Matter-of-Right Options

I would suggest that the Office of Planning consider an amendment that allows Animal Boarding Use as a matter-of-right somewhere and under some reasonably identifiable conditions.

I do not have specific suggestions for this scenario. I just think there needs to be an ability to search for a possible matter-of-right location.

I have two clients that have searched for locations for years. When a potential site is found, you have to get a landlord to bear the risk of waiting for 6 months and possibly getting denied. They always end up saying no to that.

The current structure of the Regulations, and the recent way in which the BZA has interpreted them, has made a new establishment virtually impossible, even under the current Regulations.

I would urge the Office of Planning and the Commission to consider this further, and work with the Dog Day Care community to establish some certainty, to ensure that dog day care has a place in the District's future.

Thank you.