

MERRA &
KANAKIS, P.C.

ATTORNEYS AT LAW

Michael F. Merra
merra@mklawnh.com

Mark D. Kanakis
kanakis@mklawnh.com

Nicholas A. Kanakis
nick@mklawnh.com

159 Main Street
Nashua
New Hampshire
03060

603-886-5055

Fax 603-883-0750

www.mklawnh.com

February 11, 2019

Ms. Dawna Baxter
Allentown Zoning Board of Adjustment
16 School Street
Allentown, NH 03275

RE: Melodie Fay/Bear Brook Canine Camp, LLC. Variance Request

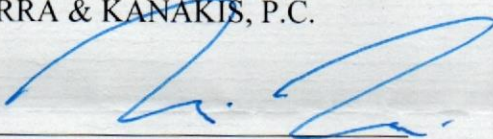
Dear Ms. Baxter:

Enclosed is a variance application, supporting memorandum, and abutters list for a variance application of 310 Deerfield Road, Tax Map 402 Lots 2, 2-1, and 2-2.

Please let me know if you need any additional information.

Very truly yours,

MERRA & KANAKIS, P.C.

By: 
Nicholas A. Kanakis



Town of Allenstown
Zoning Board of Adjustment

Application for Appeal

Applicant Name Melodie Fay Phone (603) 682-7216 (603) 782-5995
Address 310 Deerfield Road, Allenstown, NH 03275 Home Work
Owner of Property Concerned Melodie Fay Map # 402 Lot # 2, 2-1, and 2-2
Address of Property Concerned 310 Deerfield Road Zoning District Open Space and Farming
Description of Property - Frontage 334.34 Side 1222.49 Side 1307.44 Rear 554.29 Acres/SF 27.104 (A) SF
Proposed Use Dog boarding facility

COMPLETE SECTION 1, 2, OR 3. DO NOT COMPLETE MORE THAN ONE SECTION

Section 1 - APPEAL FROM AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision, determination or requirement by the Building

Inspector/Code Enforcement Officer on _____, relative to Article _____, Section _____ of the zoning
date
ordinance

Section 2 - APPEAL FOR A SPECIAL EXCEPTION

The undersigned hereby requests a special exception as provided in Article _____, Section _____ of the zoning
ordinance

Section 3 - APPEAL FOR A VARIANCE

The undersigned hereby requests a variance to the terms of Article _____, Section _____ and asks that said

terms be waived to permit the property to be used as a dog boarding facility in the
open space and farming zone.

Applicant Signature [Signature] Date 2-4-19

PLEASE LIST ABUTTERS TO BE NOTIFIED ON REVERSE SIDE OF THIS APPLICATION

Received Stamp

ALLENSTOWN ZONING BOARD OF ADJUSTMENT

Application for Variance

Owner/Applicant: Melodie Fay/Bear Brook Canine Camp, LLC

Property: 310 Deerfield Road
Tax Map 402 Lots 2, 2-1, and 2-2

This variance request is to allow a dog boarding facility in the Open Space and Farming Zone. Allowed uses in this Zone include general purpose farm and nurseries that are located and conducted in a manner not injurious, offensive and/or obnoxious to the general neighborhood and traffic. Allenstown's Zoning Ordinance incorporates RSA 21:34-a's definition of farming which includes the raising and sale, breeding, boarding, and training of various animals.

1. Granting the variance will not be contrary to the public interest.

To be contrary to the public interest, a variance must be unduly and in a marked degree conflict with the Ordinance such that it violates the Ordinance's basic zoning objectives. A variance violates ordinance's basic zoning objectives if it would alter the essential character of the locality or if it would threaten the public health, safety, or welfare.

This use will not alter the essential character of the locality, nor will the use threaten the public health, safety, convenience and general welfare of Allenstown in any way.

The proposed use as dog boarding facility is low impact and will generate minimal traffic, noise, and other detrimental effects in the surrounding area. This type of use is also consistent with other uses allowed under the Ordinance. Granting the variance in this case will allow the property to be used in a similar manner related to the ordinance's zoning objectives (boarding animals) which is safe, reasonable, promotes local business, and is consistent with allowed uses in the area.

Based on the above, the requested variance does not conflict with the purpose of the ordinance and is not contrary to the public interest and is consistent with other uses in the area.

2. The spirit of the ordinance is observed.

The spirit of the ordinance is to ensure a reasonable and compatible use of the property while ensuring the Town's health, safety, convenience, and general welfare.

The proposed use of the property is low impact and will not result in any negative effects on the surrounding properties or the area as a whole. This requested use will generate minimal traffic, noise, and other detrimental effects in the surrounding area. Further, allowing a local business to open on the property adds a convenience for town Residents and makes Allenstown a more attractive place to live. Moreover, the contemplated use is a very similar use to those allowed in the Zone.

The spirit of the ordinance, seeking to promote the health, safety, convenience, and welfare of Allenstown, is observed by the requested variance.

3. Granting the variance will do substantial justice.

When evaluating the substantial justice criteria, any loss to the individual that is not outweighed by a gain to the general public is an injustice.

Here, granting the variance would not result in any appreciable harm to the public. The request proposes for the property to be used as a dog boarding facility, which is consistent with the Zone's allowed uses and is significantly more benign and of lower impact than other Farming uses. This project is appropriate for the area, does not harm its abutters, and would not alter the character of the neighborhood, injure the rights of others, or undermine the public interest. While if this variance request is denied, Ms. Fay will be denied a reasonable use of her property that, due to space requirements, is only possible in this zone. Further, due to the areas of wet and poorly drained soil on the property, the property has proved difficult to sell and is limited in potential uses.

In light of the benefits Ms. Fay would receive from this variance are significantly outweighed by any harm to the general public.

4. The values of surrounding properties will not be diminished.

The requested relief will not diminish the values of the surrounding properties. The requested use would not diminish the character of the surrounding properties, which include a stable and homes sites with large lots. This request merely seeks to allow the property to continue to be used in a similar manner to allowed uses in the Zone. Therefore, the granting of this variance will not produce different or significant traffic, noise, odors, or other detrimental impacts to the surrounding area. Thus, the values of the surrounding properties will not be diminished.

5. Unnecessary Hardship

Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship can be shown in either of two ways:

A. First, because of special conditions of the property that distinguish it from other properties in the area, there is no substantial relationship between the general public purposes of the ordinance and the specific application of that provision to the property; and the proposed use is a reasonable one.

The property is unique in that it consists of three parcels totaling 16 acres, much of which is wetlands or poorly drained soil which limits its potential use and marketability.

No fair or substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the intent of the Open Space and Farming Zone's permitted uses is to ensure compatible uses and uses that ensure Allenstown's health, safety, convenience, and general welfare.

The proposed use is compatible with the Zone's permitted use as is benign and low impact and has no negative impact on the surrounding area. Moreover, the proposed use will not diminish or alter the character of the neighborhood.

B. Alternatively, an unnecessary hardship exists because, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property.

The property is special and unique in that unique in that it consists of three parcels totaling 16 acres, much of which is wetlands or poorly drained soil which limits its potential use and marketability. If the variance is denied, and the property is held to strict conformance with the Ordinance, the applicant will be unable to open for business and the property will either remain a single-family residence or will have to be altered to accommodate for large, more traditional farm animals, which restricts the use and brings with it health and safety risks, increased traffic, noise, odor, and air pollution.

Rodney D. Musto, Jr.
398 Deerfield Road
Allentown, NH 03275

Sally A. Breslin
75 Chestnut Drive
Allentown, NH 03275

Carol Lane
5 Podunk Road
Allentown, NH 03275

Glenn T. Chisholm
309 Deerfield Road
Allentown, NH 03275

Dianne E. Chisholm
309 Deerfield Road
Allentown, NH 03275

Patrick J. Farley
324 Deerfield Road
Allentown, NH 03275

Randy S. Burton
1 Birchwood Drive
Allentown, NH 03275

Janice T. Kelley
3 Podunk Road
Allentown, NH 03275

MERRA &
KANAKIS, P.C.
ATTORNEYS AT LAW

159
Main
Street
Nashua
New
Hampshire
03060

Ms. Dav
Allensto
16 Scho
Allensto

09275-19171

MERRA &
KANAKIS, P.C.
ATTORNEYS AT LAW

159
Main
Street
Nashua
New
Hampshire
03060

Ms. Dawna Baxter
Allenstown Zoning Board of Adjustment
16 School Street
Allenstown, NH 03275

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