

**TOWN OF SUNAPEE  
ZONING BOARD OF ADJUSTMENT**

**A PUBLIC HEARING WILL BE HELD AT THE TOWN  
MEETING ROOM LOCATED AT 23 EDGEMONT ROAD  
ROOM ON THURSDAY, March 7, 2019 AT 7:00 PM ON THE  
FOLLOWING CASES:**

**Any cases continued from previous meeting**

**Case #19-02**

**Parcel ID:**

**0106-0005-0000**

**Seeking a variance**

**per Article IV, Section 4.10**

**To permit dog sitting business.**

**1002 Main St. Georges Mills**

**George & Susan Neuwirt**

**MISC.**

**Review Minutes from Previous  
Meeting**

**NOTE:**

In the event the meeting is cancelled, the Agenda will be continued to the next scheduled Zoning Board meeting.

check # 11096  
\$ 150.00 RW

**RECEIVED**

FEB 06 2019

TOWN OF  
SUNAPEE

CASE# \_\_\_\_\_

Town of Sunapee  
Zoning Board of Adjustment

Variance

1. Landowner(s) Name(s): George & Susan Neuwirt 2. Parcel ID# 0106/0005/0000
3. Zoning District: VR
4. Project Location (Street & #): 1002 Main Street Georges Mills
5. Mailing Address: PO Box 663 Sunapee, NH 03782
6. Phone Number 603-763-6005
7. Reason the Variance is necessary: Dog sitting is not specifically  
addressed as being allowed in the VR section of the ordinance.

*•All applications seeking relief from setback requirements on lakefront properties must be accompanied with a professional recorded survey of the property and building location(s).*



*•Important-Your property has to be identified with your street number or name-without this identification your hearing may be continued to a later date.*

*•Please use the abutter list form, which is attached, for your abutters' mailing list.*

*•IMPORTANT: Review application deadline dates for a timely submission.*

*•Base Fee-See Zoning Administrator for Fee Schedule.*

Please sign the following statement: I understand that the public hearing will be held at the scheduled date and time unless a request is made by me for a new hearing. Any rehearing will require a new public notice and notification to abutters, the cost of which will be borne by the applicant. Further, I hereby give permission to the ZBA members to visit the subject property prior to the public hearing. To the best of my knowledge, the above is true and correct.

Landowner(s) Signature(s) \_\_\_\_\_ Date \_\_\_\_\_

A Variance is requested from Zoning Ordinance, Article ~~II~~ <sup>IV</sup> Section ~~2.3~~ <sup>4.10</sup> to permit:

Dog sitting business within my home  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Landowner(s): George & Susan Neuwirt Parcel ID#: 0106/0005/0000

Property Address: 1002 Main Street Georges Mills

**FACTS SUPPORTING THIS REQUEST:**

1. The proposed use would not diminish surrounding property values because:  
This is a very low impact business. Nothing is being changed on the property and it is doubtful anyone would be aware that anything is different. The dogs are inside the home the majority of the time. There will be no signage.

2. Granting the variance would not be contrary to the public interest because:  
The public will not be affected in any way.  
\_\_\_\_\_  
\_\_\_\_\_

3. Denial of the variance would result in unnecessary hardship per the following:  
  
a. the zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment because:  
  
There are already several businesses on the street, all of which have significantly more impact on the neighborhood than this proposed use.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because:

The proposed use does not affect the health, safety or general welfare of the community in any way. It also does not threaten the natural resources or vitality of the town. It will not diminish surrounding property values because there will be no outward change of the property.

c. the variance would not injure the public or private rights of others because:

There will be no obvious indication that any business is going on at the property. There will be no signage. Traffic will be extremely limited because customers drop their dogs off for days or weeks at a time. Also, the home is located right on the corner at the end of the road. The dogs are inside the home the majority of the time and are never left unattended. I am home all day. When the dogs do go outside my yard is completely fenced in and they are not left out extended periods of time and are always attended.

4. Granting the variance would do substantial justice because:

There is a real need in our area for people to have a place to leave their dogs that they feel good about. Increasingly more and more people are treating their animals like children and no one feels good about their animals being in a cage the majority of the time.

Many people have dogs who are too scared or nervous to go to a regular kennel.

5. The use is not contrary to the spirit of the ordinance because:

The proposed use is actually far less of an impact on the surroundings than many of the uses allowed by right, such as a daycare or professional clinic. Inns and lodging are allowed by right; the only difference is I am lodging dogs instead of people.



**TOWN OF SUNAPEE**  
23 Edgemont Road  
Sunapee, New Hampshire 03782-0717  
[www.town.sunapee.nh.us](http://www.town.sunapee.nh.us)

DATE: February 14, 2019  
TO: ZBA  
FROM: Nicole Gage, Zoning Administrator  
RE: Case #ZBA19-02 / Variance / NEUWIRT

**Comments:**

1. Zoned VR Village Residential w/ partial Shorelines Overlay District
2. See Page 18 (Sect. 4.10) for the types of Uses allowed in the VR District.
3. After we received the Variance application, I responded to multiple emails from the applicant. See attached Email Correspondence (7 pages).
4. Once the Variance is granted, or deemed unnecessary by the ZBA, the next step would be to go to the Planning Board for Site Plan Review and to apply for a Sign Permit.

## Zoning

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**From:** Zoning  
**Sent:** Wednesday, February 13, 2019 1:21 PM  
**To:** georgem.neuwirtconstruction@comcast.net; Barbara Vaughn  
**Subject:** Re: Pet Sitting

No worries Sue. I will let Barbara know it's okay to send the hearing notices out for your variance. Thanks.

CC: Barbara Vaughn

Nicole Gage  
Zoning Administrator  
Town of Sunapee, NH  
Email [zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us) / Web [www.town.sunapee.nh.us](http://www.town.sunapee.nh.us)  
Direct (603) 763-3194 / Town Office (603) 763-2212

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**From:** georgem.neuwirtconstruction@comcast.net <georgem.neuwirtconstruction@comcast.net>  
**Sent:** Tuesday, February 12, 2019 11:03 AM  
**To:** Zoning  
**Subject:** RE: Pet Sitting

Hi Nicole,

I wasn't insinuating you made an error. I genuinely do not know what the right course of action should be. I guess continue with the variance.

Thanks,  
Sue

**From:** Zoning <zoning@town.sunapee.nh.us>  
**Sent:** Tuesday, February 12, 2019 9:57 AM  
**To:** georgem.neuwirtconstruction@comcast.net  
**Subject:** Re: Pet Sitting

Hi Susan. If you think I mis-interpreted the ordinance and made an error in the email I sent you last Friday, than I recommend you start by first appealing that - Appeal of an Administrative Decision.

If you think the business you want to do is not allowed, and you want to just cut to the chase, keep going with the Variance.

Please note, you could do both applications (but there would be more fees involved). In that case, I would recommend that you go for the Appeal of Admin decision first and then the Variance.

Nicole Gage  
Zoning Administrator  
Town of Sunapee, NH  
Email [zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us) / Web [www.town.sunapee.nh.us](http://www.town.sunapee.nh.us)  
Direct (603) 763-3194 / Town Office (603) 763-2212

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**From:** [georgem.neuwirtconstruction@comcast.net](mailto:georgem.neuwirtconstruction@comcast.net) <[georgem.neuwirtconstruction@comcast.net](mailto:georgem.neuwirtconstruction@comcast.net)>  
**Sent:** Saturday, February 9, 2019 12:47 PM  
**To:** Zoning  
**Subject:** Pet Sitting

Hi Nicole,

I appreciate the time you have spent to help determine the right course of action for my pet sitting business. I have some further thoughts which I have noted below. Based on this, I would like your guidance as to whether I should try for the appeal or continue with the variance process.

Thanks so much,  
Susan Neuwirt

My proposed use is not a kennel. My proposed use is pet sitting. Below is a Wikipedia excerpt defining a kennel as being a different entity from a pet sitter:

**“Boarding kennels**

**This is a place where dogs or cats are housed temporarily for a fee, an alternative to using a pet sitter.”**

A traditional kennel contains cages and outdoor runs which house stressed, and often nonstop, barking dogs. My arrangement is the complete opposite. The animals are not confined in small cages and are not stressed and barking. I have no typical kennel infrastructure and my appeal from the administrative decision is based on the knowledge that pet sitting is not addressed in the zoning ordinance and is therefore not prohibited.

I do agree with your conclusion that what I am proposing to do is in fact not a daycare. However, Inns and lodging are allowed by right; the only difference is I am lodging dogs instead of people. What I am proposing has significantly less impact than a daycare or an Inn. There will be markedly less traffic than with a daycare or an Inn. The dogs are inside of my home the majority of the time and it will be very hard to ascertain from the street that anything different is even going on at the property. All in all, this business will be very low impact.

## Zoning

---

**From:** Zoning  
**Sent:** Friday, February 8, 2019 3:22 PM  
**To:** 'gmnconstruction@comcast.net'  
**Cc:** Barbara Vaughn; Michael Marquise  
**Subject:** RE: Variance  
**Attachments:** 20190208140038.pdf

Dear George & Susan:

RE: 1002 Main St GM, Village Residential (VR) District

Instead of going right for a Variance, do you want to start by appealing my interpretation of the ordinance to the ZBA? The ZBA has the authority to over-turn or uphold any or all of my interpretation. Attached is the application to use. These e-mails would serve as the interpretation. Please let Barb know asap. She is getting ready to mail the abutters next week for your variance application.

**If you wish to appeal my determination for review by the Zoning Board of Adjustment pursuant to RSA 676:5, you must do so within 30 days of the date of this e-mail.**

Here are additional reasons why I believe that "Day Care" does not cover a home-based pet-sitting business that allows overnight and extended stays, or a "doggy day care".

1. **DAY NOT OVERNIGHT:** A "Day Care" connotates daily use, daytime use, or a use having a beginning and an end within the same day, not overnight or extended days. You mentioned in the summary of your Variance application that you intend to keep dogs for multiple days and sometimes a few weeks at a time. Overnight boarding of dogs seems to best fit into the term "Kennel", and "Kennels" are allowed by Special Exception in the RR district.
2. **DAY CARE V. KENNEL:** I reviewed the Planning Board Public Hearing Minutes from December 1, 2005. At that time, the Planning Board was proposing an amendment to add "Day Care" to the Mixed Use District, because a "Day Care" was allowed in all districts except Mixed Use and they wanted to correct that oversight.
  - a. If "Day Care" is the same as allowing overnight & extended care of pets, then why does the town have a separate use called "Kennel" which is only permitted in the RR district by Special Exception?
3. **DAY CARE MEANING CARE OF HUMANS, NOT PETS:** In 2007 the ZBA approved a Special Exception for a Day Care Case 07-09 for a Child Care Business. See snippet of minutes here:
  - a. *6/14/2007 ZBA MINUTES: Page 2. 6 | 10 | 01. Case# 07-9. Sandra H. Bailey. Map# 107. Lot# 8. Seeking a Special Exception. Art. IV. 4:10. to run a DayCare in a Residential Zoned District as required under Sunapee Zoning Ordinance. 17 John Avery Lane. George's Mills. N.H. Dwight Erickson presented the case. The Board went over the five requirements for this type of business in a residential neighborhood. The property is on Town Water and Sewer. The applicant has the necessary State Health requirements covered. She has contacted the Fire Department. The State has regulations concerning the ages of the children. There is also a requirement concerning the amount of space and the number of children. She has been in the Child Care business for considerable time and is highly regarded. There was a question concerning the high voltage power lines. She has ample room for the business. The Public part of the hearing closed at 7:45P.M. The State limits the number of children to 12. There is also a condition of x number of square footage per child. James Lyons made a motion to approve the request of Sandra H. Bailey. Case# 07-9. Map# 107. Lot# 2. for a Special Exception from Art. IV. 4:10 to run a DayCare in a Residential Zoned District at 17 Avery Lane, George's Mills, N.H. Harry Gazelle seconded the motion. There were five yes votes.*



4. **KENNEL BUSINESS MEANS DOGS STAYING FOR A FEW DAYS OR OVERNIGHT.** In 2004, the ZBA approved a Special Exception for a Kennel business in the RR District. Ironically, the applicant mentioned wanting to run the business from home so his daughter does not have to go to day care. See snippet of minutes here:
- a. *7/8/2004 ZBA MINUTES: 7:55 P.M. Case #04-29. Matthew and Kathleen Driscoll. Map #225. Lot #3. Special Exception. Art. IV. 4:10. To operate a kennel / grooming business in existing garage. 206 State Rt. 11. Sunapee. This property is in the Rural Residential district and the request is allowed in this district. Mr. Driscoll presented the case. The case will have to go to the Planning Board and Site Plan Review after the Zoning Board approves the Special Exception. Peter White read the conditions of the ordinance concerning a home business. Mr. Driscoll said that his wife has been in the business for twenty years and he wants her to have the business at home and cut down on her travel time and so their daughter does not have to go to day care. The business would be by appointment only. They do have dogs of their own. At times, a dog might be kept overnight or for a few days. The Board was concerned that the house was not numbered. Mr. Driscoll said that it had been marked on a stone post and he had broken it when he was plowing. He said he would get a marker back up. The Board asked about the existing septic system. There is a State approved system on file in the Town Office that was done in 1997. It was done for 4 bedrooms and they have three bedrooms. The highway access was also discussed. The public part of the hearing closed at 8:15 P.M. Dick Guyer's concerns were with the health issue and the highway access. Mr. Driscoll has talked with his neighbors and they do not have any objections. Peter Urbach made a motion to approve the request of Matthew and Kathleen Driscoll. Case #04-29. Map #225. Lot #3. Special Exception. Art. IV. 4:10. To operate a kennel / grooming business in existing garage .206 State. Rt.11. Sunapee. The conditions are as follows: The Planning Board reviews the adequacy and safe highway access. Planning Board review the adequacy of sewerage disposal available at the site. A house number will be put in a visible place. Robert Mastin seconded the motion. There were five yes votes.*
5. **HOME BUSINESS?** Home Businesses is an allowed use, if the activity meets the definition of Home Business from the Sunapee Zoning Ordinance:
- a. *HOME BUSINESS – Any business that is conducted within the home by the inhabitants of the home and no more than three non-resident employees. The home business shall meet all the requirements of the Site Plan Review Regulations. If the home business is for retail purposes, it shall be limited to items, which are made on the premises or antiques. The home business shall be subordinate and incidental to the primary residential use of the property and shall not change the residential character of the dwelling or neighborhood. The home business shall not generate noise, odor, traffic, or any other negative influence on the community or neighboring properties. (Adopted 3/14/2000)*

CC: Barbara Vaughn, Administrative Assistant / Michael Marquise, Planner

Nicole Gage  
Zoning Administrator  
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23 Edgemont Rd., Sunapee, NH 03782  
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**From:** [gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net) <[gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net)>  
**Sent:** Friday, February 8, 2019 12:32 PM  
**To:** Zoning <[zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us)>; [georgem.neuwirtconstruction@comcast.net](mailto:georgem.neuwirtconstruction@comcast.net)  
**Subject:** RE: Variance

Hi Nicole

What does the dogs staying overnite have to do with anything? Dogs staying over nite is LESS traffic then every day drop off and pick up...seems to me that the standard should ne LESS strict if they are staying over nite...as it is less disruptive to the neighborhood...

Our town ordinance does not have a definition for "Day Care" How is anyone supposed to know what it means? You cannot just assume that the "Traditional" use of day care applies when today we have a changing use of that term as it applies to people's lives and their pets...If we want that to mean ONE specific thing then it should be defined as such in our ordinance...

Please advise...

*George M. Neuwirt*  
Owner  
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**From:** Zoning <[zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us)>  
**Sent:** Friday, February 8, 2019 12:21 PM  
**To:** [gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net)  
**Subject:** RE: Variance

Hi George.

Two thoughts:

- 1 ) The variance app refers to having some dogs stay for a couple of days or weeks (ie overnight); and
- 2) I believe when the ordinance was adopted to allow for "Daycare" they were thinking of traditional people daycare, not the newer term "doggy daycare".

I just did a quick Google search "define daycare" and came up with:

Web results

*Day Care | Definition of Day Care by Merriam-Webster*  
<https://www.merriam-webster.com/dictionary/day%20care>

*Definition of day care. 1 : supervision of and care for children or physically or mentally disabled adults that is provided during the day by a person or organization —often used before another noun a day care centerday care workersday-care facilities.*

*Daycare | Define Daycare at Dictionary.com  
<https://www.dictionary.com/browse/daycare>*

*Daycare definition, supervised daytime care for preschool children, the elderly, or those with chronic disabilities, usually provided at a center outside the home.*

*Child care - Wikipedia*

*[https://en.wikipedia.org/wiki/Child\\_care](https://en.wikipedia.org/wiki/Child_care)*

*Day care, daycare, child day care, or childcare is the care of a child during the day by a person other than the child's legal guardians, typically performed by someone outside the child's immediate family.*

*Corporate child care - Wikipedia · Child care · Child care in the United Kingdom*

Nicole Gage  
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**From:** [gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net) <[gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net)>  
**Sent:** Friday, February 8, 2019 11:13 AM  
**To:** Zoning <[zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us)>; [georgem.neuwirtconstruction@comcast.net](mailto:georgem.neuwirtconstruction@comcast.net)  
**Subject:** RE: Variance

Hi Nicole

“Day care” is allowed by right in the Village Residential area that my Georges Mills house is located in....and we have no definition in our ordinance as to “what” is being provided care. So why isn’t the “Day care” of dogs allowed?

G

*George M. Neuwirt*  
Owner  
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---

**From:** Zoning <[zoning@town.sunapee.nh.us](mailto:zoning@town.sunapee.nh.us)>  
**Sent:** Thursday, February 7, 2019 1:17 PM  
**To:** George Neuwirt <[gmnconstruction@comcast.net](mailto:gmnconstruction@comcast.net)>  
**Subject:** Variance

Hi George.

Thanks for the bringing in your application for the dog sitting proposal.

Your application says the Variance is from Article II, Section 2.3 which gives a general description of the district and boundaries of each district. (p. 8)

Shouldn't the Variance be from Article IV Section 4.10, which is the list of Uses allowed by right & special exception? (p. 18).

You can view the ordinance here: [http://town.sunapee.nh.us/Pages/SunapeeNH\\_ZBA/ordinance](http://town.sunapee.nh.us/Pages/SunapeeNH_ZBA/ordinance)

Nicole Gage  
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Town of Sunapee, NH  
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