DECISION **2023 NSUARB 214**
M11243

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE HALIFAX REGIONAL MUNICIPALITY CHARTER

- and -

IN THE MATTER OF AN APPEAL by **KRISTA JANSEN** from the decision of a Development Officer for the Halifax Regional Municipality to refuse to issue a Development Permit for property located at 3650 Highway 2, Fletchers Lake, NS, PID: 00530147

BEFORE:	Julia E. Clark, LL.B., Member
APPLICANT:	**KRISTA JANSEN**
RESPONDENT:	**HALIFAX REGIONAL MUNICIPALITY** Meaghan Carlson
FINAL SUBMISSIONS DATE:	October 6, 2023
DECISION DATE:	**December 4, 2023**
DECISION:	**Appeal is dismissed.**

SUMMARY

[1] Krista Jansen is a long-time resident of Highway 2 in Fletcher's Lake in the Halifax Regional Municipality. It is in a suburban area with large established lots. In 2022, Ms. Jansen bought a property across the road from her mother's house. The property, which is the subject of this application, is about 2.44 acres, with a house, two garage/out-buildings and a generous parking area. There is a large, cleared lot at the back of the property surrounded by trees and set back from neighbouring homes. The property is zoned as C-2 Community Commercial under the Land Use By-law for Planning Districts 14/17 (Shubenacadie Lakes).

[2] Ms. Jansen is a dedicated pet owner. She identified an unmet need for specialized dog training and related services for pet owners in her area. She saw a potential business opportunity to partner with professional dog trainer, Chelsea Neville, whose roster of clients has outgrown her former training location in Waverly. After researching her options, Ms. Jansen applied to the Halifax Regional Municipality Planning & Development (HRM) for a development permit for a "Professional Training Service/Home-based Pet Care facility" at her property. Her proposed business, "Sit Stay Good Dog" intended to offer professional dog training, professional dog grooming, some retail, and access for clients to a fenced rear yard to allow off-leash exercise and training.

[3] Andrew Faulkner, a Development Officer with HRM, reviewed Ms. Jansen's permit application. He denied the application because he said that the zoning for the property (C-2 Zone) "does not permit Professional Training Services or Pet Care Facilities as a permitted use" [Exhibit J-1, p.1]. The Land Use Bylaw allows certain commercial,

residential and community uses in the C-2 zone. “Services and Personal Service Uses” are among the permitted commercial uses in the C-2 Zone.

[4] Ms. Jansen appealed to the Board because she believes her proposal is properly classified as a personal service for pet owners. She says Mr. Faulkner’s decision does not comply with the Land Use Bylaw and should be overturned.

[5] The Board received many letters supporting the proposal from Ms. Jansen’s neighbours and potential future clients. Mr. Faulkner noted that Ms. Jansen’s proposal has value. I agree. But our scope of review is limited to the interpretation and application of the Land Use Bylaw to the specific application. Community support is not a factor I can use to weigh in favour of a particular outcome. If the proposed use is permitted in the C-2 zone, Mr. Faulkner’s decision conflicts with the Land Use Bylaw and the permit should have been issued. If it is not a permitted use, I must deny the appeal.

[6] I listened to Ms. Jansen’s and Mr. Faulkner’s evidence and reviewed the documentary and video exhibits. I found that the Land Use Bylaw is ambiguous about the limits of what is considered a personal service use that is permitted in the C-2 zone. However, where there is ambiguity, the default outcome is that a use not included in a prescriptive bylaw is prohibited. Commercial land uses involving animals are treated distinctly in the Land Use Bylaw, supporting HRM’s argument that the dog training aspect of the proposal is more aligned with the definition of Pet Care Facility use, which is not a permitted use in the C-2 Zone. This would exclude it from the more general category of personal services.

[7] Ultimately, after my review, I agree with Mr. Faulkner's interpretation and its application to Ms. Jansen's proposal. I conclude that his decision did not conflict with the Land Use Bylaw. For that reason, I dismiss the appeal.

II ISSUES

[8] The main issue for me to decide is whether Ms. Jansen's proposal for a professional dog training business, with associated secondary services would be a permitted use of her property in the C-2 zone. If her proposal constitutes a permitted use, HRM's refusal of her development permit application would conflict with the Land Use Bylaw.

[9] The primary disagreement between the parties is the proper interpretation of the term "Service or Personal Service Use" in Section 13.1 of the Land Use Bylaw, and whether that includes professional dog training services, grooming, and other ancillary services.

[10] I also must consider the applicable legal tests and whether they have been met in the circumstances of this case. I address those issues first because they are the first step in my analysis and underpin my decision on the interpretation of the Land Use Bylaw.

III ANALYSIS

Issue One: What are the legal tests and how do they apply to my review?

[11] The Board is not a court and does not have the same powers as a court. Our decision-making is restricted by the limits of the legislation that created the Board and any legislation that allows us to hear an appeal or make other decisions.

[12] The *Halifax Regional Municipality Charter* (*HRM Charter*) is the statute that governs planning matters in the Halifax Regional Municipality, where Ms. Jansen's property is located. Section 263(3)(a) of the *HRM Charter* allows an applicant to appeal to the Board if a development officer refuses to issue their development permit, as Ms. Jansen did. She can only appeal the decision on the grounds that the refusal of her development permit "does not comply with" the land use bylaw (under s. 265(2) of the *HRM Charter*).

[13] For the Board to allow the appeal and reverse a development officer's decision to refuse the development permit, it must find that the decision "conflicts with" the land use by-law (s. 267(2)). As the Board found in *Sanctum Homes Inc. v. Halifax Regional Municipality*, 2021 NSUARB 115, although the wording of the legal tests in sections s.265(2) and s. 267(2) is not the same, the two provisions work together. I accept in these circumstances that a decision that does not comply with a land use by-law also conflicts with it.

[14] Because the main issue in this appeal involves the interpretation of a bylaw, I must approach my review guided by established principles of statutory interpretation. These principles apply to my analysis of the statutory provisions in the *HRM Charter,* as well as my efforts to interpret the provisions of the Land Use Bylaw and, where applicable, the Municipal Planning Strategy (MPS). I also considered how much deference I should

give to Mr. Faulkner's interpretation of the relevant provisions before arriving at my own conclusion.

[15] My task is to interpret the applicable provisions of the Land Use Bylaw to determine whether Mr. Faulkner's decision conflicts with, or does not comply with, that interpretation. I have more information than Mr. Faulkner had when he made his decision. Planning appeals are *de novo* hearings, which means that parties can submit additional evidence beyond what is contained in the appeal record. They can make other arguments beyond what was presented to the first decision-maker.

[16] I approached my review guided by the modern principle of statutory interpretation, which was recently re-affirmed by the Supreme Court of Canada in *Canada (Minister of Citizenship in Immigration*) v. *Vavilov,* 2019 SCC 65, and summarized by the Nova Scotia Court of Appeal in *Sparks v. Holland,* 2019 NSCA 3, paragraph 27*,* where Justice Farrar stated:

> [27] The Supreme Court of Canada and this Court have affirmed the modern principle of statutory interpretation in many cases that "[t]he words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament (*Rizzo & Rizzo Shoes Ltd. (Re),* 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27 at 21).

[17] Justice Farrar explained that the Court applies the following three questions derived from Professor Ruth Sullivan's text, *Sullivan on the Construction of Statutes*, 6th ed (Markham, On: LexisNexis Canada, 2014) at pp. 9-10:

1. What is the meaning of the legislative text?
2. What did the legislature intend?
3. What are the consequences of adopting a proposed interpretation?

[18] When I looked at the relevant sections and definitions in the Land Use Bylaw, these were the questions I asked. Besides these common law principles, I also

applied the *Interpretation Act,* R.S.N.S. 1989, c. 235 including ss. 9(1) and 9(5), which are consistent with, and complementary to, the modern principle and the application of Sullivan's three questions.

[19] The Nova Scotia Court of Appeal has considered the standard by which the Board must review a development officer's decision, and what deference should be given. Historically, the Court of Appeal said that the Board should apply the standard of correctness. In *Halifax (Regional Municipality) v. Anglican Diocesan Centre Corporation*, 2010 NSCA 38, the Court plainly stated that the Board must do "what the statute tells it to do" and apply the standard of review as prescribed by the *HRM Charter.* The Court agreed that the Board "may only allow [the] appeal if it determines that the Development Officer's decision 'conflicts with' or 'does not comply' with the provisions of the Land Use Bylaw."

[20] Since *Anglican Diocesan* was decided, there were important changes in the law impacting the court's review of an administrative decision in a statutory appeal, after the Supreme Court of Canada's judgment in *Vavilov* in 2019. The impact of *Vavilov* has not been addressed in legal argument before the Board in this type of appeal. However, I agree with my colleague's previous comments in *Sanctum Homes,* para. 22-25, that the Board does not need to engage in a standard of review analysis in development officer appeals. The *HRM Charter* sets the standard.

[21] Unlike when a court reviews an administrative decision, the actual decision-maker, Mr. Faulkner, appeared before the Board and explained the reason for his decision. Mr. Faulkner's report and analysis is, essentially, also an exercise in statutory interpretation. I had the benefit of Mr. Faulkner's opinion as an expert in planning.

However, to decide whether his decision conflicted with the Land Use Bylaw, as directed by the *HRM Charter,* I must determine (for myself) the meaning of the applicable provisions based on the principles of statutory interpretation I outlined earlier. This required me to review the words of the Land Use Bylaw in their ordinary context, and in their grammatical and ordinary sense, within the broader scheme of the Land Use Bylaw, its objects, and HRM's intent in enacting those provisions. The degree of deference, if any, I would give to the development officer's decision largely depends on the degree to which his reasoning also conforms to those principles.

Issue 2: Is Professional Dog Training a "Personal Service Use" permitted in the C2 Zone?

[22] The crux of the issue I have to decide is whether Ms. Jansen's proposal is for a land use that is permitted in the C2 Zone. If the Land Use Bylaw allows professional dog training, grooming, retail and private dog run among the "permitted uses" in the zone, the decision to refuse the development permit would conflict with the Land Use Bylaw.

[23] Dog training is not explicitly included in the list of permitted uses in the C2 Zone under s. 13.1, which governs the allowed land uses on the property. Neither is "Pet Care Facility", which was the other descriptive term Ms. Jansen used in her application. In a prescriptive zone, which sets out permitted land uses, the default rule is that if a use is not listed for the zone, it is not permitted. This Land Use Bylaw also includes Section 3.5, which explicitly directs how to determine what uses are permitted in each zone. The relevant sections are as follows:

> (a) If a use is not listed as a use permitted within any zone, it shall be deemed to be prohibited in that zone.
> […]

> (c) Where a use permitted within any zone is defined in Part 2, the uses permitted within that zone shall be deemed to include any similar use which satisfies such definition except where any definition is specifically limited to exclude any use.
> […]
> (e) Where any list of uses permitted is divided by subheadings into broad functional or characteristic groupings, such subheadings shall be deemed to be provided for the purpose of reference and identification and shall not, in themselves, be deemed to be uses permitted nor to define any uses permitted …
>
> [Exhibit J-3, Land Use Bylaw, p. 22]

[24] Because none of the permitted uses in Section 13.5 explicitly capture professional dog training, the primary disagreement between Ms. Jansen and HRM is whether the services she intends to offer can be categorized as a "Service or Personal Service use", which is one of the permitted uses in the C2 Zone.

[25] Ms. Jansen's presentations contained a mix of evidence, lay opinion and argument, as is common for self-represented parties and lay witnesses. The Board is used to this approach and HRM did not raise objections except where issues arose that clearly stretched the limits of my jurisdiction. Ms. Jansen explained her position in her presentations at the hearing and in the documents she submitted with her written evidence. I have summarized her key points as follows:

- Ms. Jansen's proposed business, Sit Stay Good Dog, will provide professional dog training and supplementary services to 'members' or clients of the business, who may have varied needs;
- Training may be offered in individual or group sessions, and owners may be present on-site or sometimes a pet may be dropped off for training or other services;
- Professional training would be the primary business, but she may offer secondary services for the benefit of training clients, rather than the wider public. These could include limited pet grooming (nails, bath, blowout), pet-

related retail, owner consultations, and use of the back lot of the property for off-leash exercise or training;

- The definition of personal service use includes “professional or personal services” and is not limited to only the examples of services listed in the definition.
- Dogs are property, and other personal services listed in the definition relate to services for a person, or their property (tailoring, shoe repair). Dog grooming is a comparable service to hair styling or spa services which are considered personal services under the bylaw. Dog training can also be considered a “professional service” offered to a person for the benefit of the individual, as well as the dog.
- Veterinary clinics are permitted in the C-2 Zone and could offer similar services with similar community impacts.

[26] HRM’s position is primarily derived from Mr. Faulkner’s analysis, which is set out in his expert report [Exhibit J-8]. As he has in other proceedings before the Board, Mr. Faulkner was qualified as an expert in planning matters in accordance with his pre-filed qualification statement. He works regularly with HRM Planning Documents and has a long work history in municipal planning and bylaw enforcement. Mr. Faulkner walked through the factors he considered when reviewing Ms. Jansen’s application.

[27] The first stage is reviewing the listed uses. The only permitted use that was considered as a possibility to allow the primary dog training proposal was Service and Personal Service Use. The others, including Veterinary Clinics, could be dismissed as too

specific or dissimilar. The definition of “Personal Service Use” applicable to the C2 zone is:

> 2.58 PERSONAL SERVICE USE means a building or part of a building in which professional or personal services are provided for gain and where the sale of retail of goods, wares, merchandise, articles or things is only accessory to the provisions of such service, including but without limiting, the generality of the forgoing; barber shops, beauty shops, tailor shops, laundry and dry cleaning depots shoe repair, health and wellness centres, tanning salons and doctors or dentists offices.

[28] Mr. Faulkner told Ms. Jansen that he considered her arguments that dogs are personal property, and the personal service definition includes services offered directly for an individual, but also involving their property. She asked why there should be a distinction between a cobbler, providing service for a person’s shoes (personal property) and a trainer providing behavioral training as a service for pets (also personal property). Similarly, she likened a grooming service to barbering or beauty services for people. She also pointed out that the examples are intended to be general, as shown by the wording “including but limiting, the generality of the foregoing; …”.

[29] Mr. Faulkner conceded that, if personal service was the only definition he had to work with, he might have considered that Ms. Jansen’s proposal could qualify as a personal service use. He acknowledged that if a dog trainer was officially licensed, that might be considered a “professional service”. He also agreed that the “personal service use” examples do not create a discrete list, but said those listed examples had similarities that dog training services did not share.

[30] Therefore, the next step is to look elsewhere in the Land Use Bylaw to determine if another defined land use is a “better fit” or “more analogous” use. Mr. Faulkner referred the Board to the Part 2 definitions of “Pet Care Facility” and “Kennel” in the Land Use Bylaw, which he determined were a closer match. The fact that Council

specifically addressed the care and keeping of pets under those other definitions excludes those land uses from the definition of Personal Service Use.

[31] Ms. Jansen did not accept that her proposal might meet the definition of a Kennel under Part 2, and I agree with her on that point. However, she conceded that Pet Care Facility was a definition that might apply, and she used that description in her permit application. In the Part 2 definitions, a Pet Care Facility means “a facility for the temporary care or boarding of not more than twelve dogs or cats for gain or profit, but shall not include the breeding or sale of such animals.”

[32] While the definition given for Pet Care Facility does not perfectly capture what Ms. Jansen describes as her plans for Sit Stay Good Dog, I agree that animals attending a business for training or grooming can be within the temporary care of the trainer/groomer and the facility while they are there. The use is, at least, similar. Mr. Faulkner made no distinction for circumstance where the owners would be present and in control of their animals while they were in the “care” of a facility. He considered the impact of keeping an animal would be similar whether the owner was present or not.

[33] HRM also argued there is a qualitative difference in the proposal from a personal service use. Meaghan Carlson, counsel for HRM, referred to the potential nuisance elements of pet waste and noise, which are inherent where animals may be gathered in groups. She said the intensity of use was different because the clients would remain on-site with their animals for some time. The listed personal service uses are typically offered on an individual basis, where a person arrives, carries out their business, and leaves. While Ms. Jansen emphasized the measures she would take to reduce potential nuisances, Council’s intent would be influenced by the general case. Ms. Jansen

acknowledged that, generally, one would expect at least some barking with groups of dogs in the early stages of training.

[34] The hearing provoked a thorough review of all definitions that mention animals, which is appropriate in the pragmatic and purposive analysis of the Land Use Bylaw that the Court of Appeal tells us to apply. Recent amendments to this Land Use Bylaw include the addition of Part 2A, which created “additional” definitions that apply only to the newly developed CI – Commercial Industrial and GI – General Industrial Zones, which became effective April 9, 2022. [Exhibit J-3, Planning Districts 14 and 17 Land Use Bylaw, pp. 16-18].

[35] In Part 2A, Council adopted a definition of “kennel” that explicitly includes the commercial training of dogs, as well as any overnight boarding unrelated to veterinary use. A definition of “pet day care” was also added, which differentiates the daytime boarding and care of pets from overnight boarding and kennels. Furthermore, the definition of “personal service use” applicable to the CI and GI Zone was expanded to include “services for the needs of individuals *or pets*, *such as grooming* and haircutting, tailoring and shoe repair…., and the retail sale of products accessory to any service provided” (emphasis added). Veterinary facilities, kennels, pet day care uses and crematoria were explicitly excluded from the definition.

[36] Mr. Faulkner explained that he didn’t consider the Part 2A definitions in his analysis because they do not apply to the C2 Zone. The list of permitted uses in the CI zone is lengthy, and separately includes:

> (m) Kennels, pet day care uses, and veterinary clinics
>
> …; and
>
> (r) personal services.

[37] In this section Council's intention is clear that commercial pet training facilities (under the "kennel" definition), grooming (as a personal service), and associated retail are all permitted in the CI Zone.

[38] The land use definitions applicable to the C2 zone are not as explicit. Mr. Faulkner could not explain why Council chose to apply the revised definitions only to the CI and GI zones. However, my task is to look at the whole Land Use Bylaw for guidance on how to interpret ambiguous sections. I agree with HRM that, as the Land Use Bylaw is currently drafted, Council has treated services related to the care, boarding or keeping of animals as distinct from other services. In that zone, where those uses are allowed, the provisions were carefully crafted and specific. Ms. Carlson described the CI Zone as intended for higher-intensity, industrial uses. If I were to apply the Part 2A definitions to Ms. Jansen's proposal, it would clearly exclude her dog training business from the C2 zone, where kennels, pet care facilities, or pet day cares are not among the permitted uses.

Issue 3: Could the Application have been approved as an Open Space Use?

[39] One of the secondary ideas in Ms. Jansen's business plan was to offer clients use of the back lot of the property, which is a large, cleared area surrounded by trees and set back from neighbouring homes. She said she eventually planned to fence the area to allow a safe space for off-leash play and training. She believed there were no similar facilities available in the Fall River/Waverly/Wellington area that allowed off-leash play and training, particularly for reactive or untrained dogs.

[40] Mr. Faulkner said he does not consider the use of the back lot of the property for training or pet owners' use to be a permissible "open space" use for the C2

Zone. Section 2.53 of the Land Use Bylaw defines Open Space Use as “an Open Space Use in the P-2 Community Facility Zone”. That section restricts development permits in the zone except for the following:

> Open Space Uses
>
> Public and private parks and playgrounds
> Cemeteries
> Historic sites and monuments

[41] Public Park is defined in s. 2.60 of the Land Use Bylaw as “a park owned or controlled by any public authority or board, commission or other authority established under any statute…” The terms “private park” and “playground” are not defined. For guidance on the interpretation of what Council considered as public and private parks and playgrounds, Mr. Faulkner looked at P-70 of the MPS, the enabling policy for the Community Facility Zone referred to in the definition. He explained this is a common approach that can give a development officer potentially helpful information about Council’s intent. The Court of Appeal has accepted that it is sometimes appropriate for the Board to refer to the MPS to help deduce the interpretation of a Land Use Bylaw, especially when the two documents are approved at the same time (see *Archibald v. Nova Scotia (Utility and Review Board),* 2010 NSCA 27, para. 24) as they were in this case.

[42] In this case, P-70 is the MPS policy that addresses the intention of Council for the P-2 Community Facility Zone. It focuses on “community-related uses such as government offices, hospitals and medical clinics, libraries, community centers, churches, schools and larger day care facilities …”. Mr. Faulker therefore concluded that the allowance for parks was intended to serve a community or public use. He opined that the

distinction between “public park” and “private park” relates to ownership rather than an indication that a private park would have a commercial component.

[43] Ms. Jansen explained the dog training aspect of the proposal is her primary concern. She did not argue that the whole proposal should be allowed as a “private park” which is one of the permitted open space uses in the C-2 Zone. If a training business was permitted, one additional service they might have offered to clients and their pets was the private rental of the yard. She felt that the open space or “private park” use could have allowed the off-leash play and training space aspect of the proposal.

[44] Both parties agreed that this was not the key issue in the appeal but did spend time at the hearing addressing it. Fundamentally, the development permit application must be considered as a whole, rather than by its individual components. I have no basis to find that Council intended to capture a private, commercial professional dog training/pet care facility with associated services, under the term “private park”. The majority of training was planned indoors, and the retail and grooming services cannot be considered under that category. I cannot find that Ms. Jansen’s full proposal could be permitted as an open space use.

[45] In the circumstances, I decline to decide the hypothetical question of whether another proposal to operate a private off-leash dog park for commercial purposes is or is not permissible in the C-2 zone as an Open Space Use.

IV OTHER INFORMATION CONSIDERED

[46] In appeals under the *HRM Charter,* the Board invites people interested in the appeal to submit letters of comments or to request to speak at the public hearing. The

Notice of Public Hearing set the deadline for those letters and requests. The Board received many letters of support for Ms. Jansen's application. The Board received two letters indicating some concern with the proposal, one mentioning concerns about barking. No one asked to speak at the hearing. I reviewed the letters and concluded that most writers identified the need for a local option for dog training and supported Ms. Jansen's vision for her business. I did not rely on the letters of comment in reaching my decision, which was largely a question of legal interpretation.

[47] In planning appeals, the Board sometimes conducts an on-site visit to a property. After discussing this with Ms. Jansen and HRM, I decided not to do so. Ms. Jansen provided authenticated video footage of the property and surrounding area with detailed description and commentary, which I relied on to provide helpful context for this decision.

[48] Ms. Jansen's property is in the Residential Designation under the Generalized Future Land Use Map-1B in the MPS. In her submission, Ms. Jansen referred to Policy P-74 of the MPS, which speaks to Council's intention to establish a local business zone in the Residential Designation, permitting local commercial convenience, office service and personal service uses. She described how her proposal could meet the intent of that policy. Mr. Faulkner explained that Policy P-74 enables Council to establish the local business zone within the Residential Designation, and also sets out what factors should be considered for rezoning proposals that could allow new local business uses in those areas.

[49] Additionally, Ms. Jansen asked Mr. Faulkner why he could not also rely on Policy P-91, which describes the parameters for consideration of the development of new

commercial recreation uses, and appears to encourage such new uses. This policy enables Council to consider entering into development agreements to establish new commercial recreation uses. Mr. Faulkner explained that sometimes Council relies on development agreements to allow new uses not previously contemplated, and to put more detailed controls on uses that are not permitted as of right in a zone.

[50] As described earlier, at times the provisions of the MPS can help illuminate the meaning of the Land Use Bylaw. I did not find guidance in these sections of the MPS in my analysis of the key issue in the appeal. However, I agree with HRM that those policies point to other potential avenues (rezoning, development agreement) that could allow new uses on Ms. Jansen's property, from a planning perspective. While emphasizing it was not his area of expertise, Mr. Faulkner indicated that Ms. Jansen could approach HRM planning staff to consider other options to pursue her proposal. I will not address those further as my involvement is limited to evaluating this development permit application.

V CONCLUSION

[51] Ms. Jansen demonstrated that her proposal for Sit Stay Good Dog could provide a desired service for her community. She explained how she would reduce potential impacts on her neighbours. Several other uses permitted as of right in the C-2 zone would likely be more intrusive in the community. In light of those facts, it may be difficult to understand why HRM, and now the Board, did not approve her request to develop her business. However, as HRM said in its final argument, it is not about the value of the proposal, it is about where it can be located. The legislation and the case law

are clear that Council has the primary authority over planning. In these appeals we must take the Land Use Bylaw as Council approved it.

[52] In this case, I came to the same conclusion as Mr. Faulkner that professional dog training services are not among the uses permitted under the Land Use Bylaw for the C-2 Zone. Ms. Jansen urged me to consider that Sit Stay Good Dog's services are not just about the dogs. While the services would be for owners as well as their animals, the fact remains that uses related to the care and keeping of animals are treated distinctly under the Land Use Bylaw. I find there is no evidentiary basis or legal foundation which leads me to conclude that Mr. Faulkner's decision to refuse this development permit application did not comply with the Land Use Bylaw. The appellant has not met the legal test that would result in a successful appeal.

[53] I am satisfied that the decision of HRM's development officer to refuse to issue the development permit in this case does not conflict with the provisions of the Land Use Bylaw. The appeal is dismissed.

[54] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 4th day of December, 2023.

Julia E. Clark