



**ZONING BOARD OF APPEALS**

City Hall, Room 303  
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CITY CLERK'S OFFICE  
 NEW BEDFORD, MA

2015 MAY -6 A 9:14

CITY CLERK

CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

**NOTICE OF DECISION**

Case Number:	#4178			
Request Type:	Special Permit			
Address:	591 County Street			
Zoning:	Mixed Use Business District			
Recorded Owner:	Steven Alves			
Applicant:	Michelle Conlan			
Applicant Address:	7 Westview Street Westport, MA 02790			
Application Submittal Date	Public Hearing Date		Decision Date	
March 27 <sup>th</sup> , 2015	April 23 <sup>rd</sup> , 2015		April 23 <sup>rd</sup> , 2015	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
58	149	1919	533	

**Application:**

Special Permit under provisions of Chapter 9, Comprehensive Zoning Sections 2500 (Home Occupation), 2520-2528 (Home Occupation by Special Permit), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 591 County Street, Assessor's Map Plot 58 Lot 149 in a Mixed Use Business District. To allow the petitioner to operate a dog grooming business as a home office at the premises as plans filed.

**Action:** GRANTED, WITH CONDITIONS, for the reasons set forth in the attached Decision with the Conditions as described in the attached Decision.  
 (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on May 6<sup>th</sup>, 2015. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

May 6, 2015  
 Date

*Allen Decker*  
 Clerk, Zoning Board of Appeals

### 1.) APPLICATION SUMMARY

The petitioner is proposing to operate a dog grooming business as a home office at the premises as plans filed, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 2500 (Home Occupation), 2520-2528 (Home Occupation by Special Permit), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 591 County Street, Assessor's Map Plot 58 Lot 149 in a Mixed Use Business District.

### 2.) MATERIALS REVIEWED BY THE BOARD

#### Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, dated 3/2/15

#### Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, Stamped Received by City Clerk's Office March 27<sup>th</sup>, 2015.
- Floor Plan, drawn by unknown, not dated.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated March 30<sup>th</sup>, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated April 15<sup>th</sup>, 2015.

### 3.) DISCUSSION

Board Members I. Comerford, A. Decker, L. Schick, D. Trahan, and R. Schilling were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A. Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated March 30<sup>th</sup>, 2015; the Communication from the Office of City Planner dated April 15<sup>th</sup>, 2015; the appeal packet; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. Motion seconded by D. Trahan. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

Representative of the petitioner: Attorney Christopher Saunders (700 Pleasant Street New Bedford, MA 02740) described the proposal for the Special Permit. The petitioner, Ms. Michelle Conlan (7 Westview Street Westport, MA) was also in attendance. It was stated Ms. Conlan will soon be residing at 591 County Street. Attorney Saunders presented that Ms. Conlan is the current owner of GoFetch, a dog grooming business, located on

Kempton Street. The petitioner proposes to relocate the business and operate it as a home occupation at 591 County Street. He described the location as having four off-street parking spaces. Attorney Saunders further described the property as at the corner of County Street and Maxfield Street, adjacent to Dillon's restaurant.

Attorney Saunders stated the hours of operation as Tuesdays through Saturday 8am-5pm, with the option of occasional Monday service as needed. All services are provided by appointment only, with on average of ten appointments per day he explained.

Attorney Saunders described the current location on Kempton Street shares five parking spaces with a number of businesses, which has been sufficient for the demand for this business. Attorney Saunders explained the typical pick-up and drop-off takes ten minutes.

He stated the dogs will be held inside the home which will have air conditioning so the windows will be shut to address any barking or noise impacts on the neighborhood. Attorney Saunders highlighted that this lot abuts a business use and recently was rezoned to Mixed Use Business, so it is zoned for a business use. Attorney Saunders described the parking as adequate for the customer pick-up and drop-off as well as deliveries to the business. Attorney Saunders stated the business deliveries usually are via a UPS delivery truck so it will be no different than a UPS/FedEx size delivery truck coming to your home.

Attorney Saunders addressed the requirements necessary to grant the special permit. He stated it is the continuance of an existing business in the city, which is a benefit to the city. The proposal has safe and adequate off-street parking, and won't have overflow into the neighborhood. There will be no need for any additional utilities. The dog grooming business will not be a detriment to the neighborhood character or social structures. More specifically, Attorney Saunders stated to address this criterion, air conditioning will be used to minimize any noise impacts, and the hours of operation are during the day. He stated there are no expected impacts on the natural environment as there is no build out for this proposal other than repairs due to fire damage at the property. Attorney Saunders stated the proposal will have an overall positive impact as the tax base will increase as a result of this proposal. Attorney Saunders further stated Ms. Conlan is moving back to New Bedford and this property is located in her childhood neighborhood.

D. Trahan asked if there would be any boarding of animals. Attorney Saunders stated no boarding, just grooming. Chairperson Comerford told the representative of the petitioner the board would like to make no boarding of animals a condition of approval. Attorney Saunders agreed to the condition.

A. Decker asked the applicant about the requirements for Home Occupations for Special Permits. A. Decker verified that the building has been at the location for at least five years. He asked what percentage of the structure the home business would take up. Attorney Saunders stated it does not take up anymore than thirty percent (30%). A.

Decker verified it would be the only home occupation on the premises. Attorney Saunders stated yes, the only occupation with only one additional employee. A. Decker asked if the sign will conform to the regulation. Attorney Saunders stated yes, within three square feet. A. Decker asked if the use or storage of hazardous materials would be in quantities greater than associated with normal household use. Attorney Saunders stated no quantities greater.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. At Large City Councilor Linda Morad (1426 Acushnet Avenue New Bedford, MA), spoke in favor of the petition. Councilor Morad stated she has known the petitioner for some time and spoke favorably about the current operation of this business by the petitioner. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson I. Comerford invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

Chairperson I. Comerford stated he lives near the area and thinks it would be a good addition to the neighborhood.

With no further stated questions or concerns, Chairperson I. Comerford declared the hearing closed.

#### 4.) FINDINGS

The Board found that the applicant met all the requirements listed under Chapter 9, Comprehensive Zoning Sections 2500 (Home Occupation), 2520-2528 (Home Occupation by Special Permit), and 5300-5330 & 5360-5390 (Special Permit)

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
  - The Board found that through relocation of an existing business, this proposal keeps an existing business in the city of New Bedford.
- *Traffic flow and safety, including parking and loading;*
  - The Board found that proposal provides adequate parking with four (4) off-street parking spaces available.
- *Adequacy of utilities and other public services;*
  - The Board found that the needed utilities exist at the premises.

- *Neighborhood character and social structures;*
  - The Board found that this fits within the existing character of the neighborhood.
- *Impacts on the natural environment;*
  - The Board found the impacts on the natural environment are neutral.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
  - The Board found the this proposal gets a residential property back into functioning and operating a business use there, therefore increasing the tax base in the city of New Bedford.

Additionally, in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 2520 the Board found that the following conditions had been satisfied:

- The occupation or profession shall be carried on wholly within the principal building, or within a building or other structure accessory thereto, which has been in existence at least five (5) years, without extension thereof.
- Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.
- Only one home occupation may be conducted on the premises.
- The home occupation may serve clients, customers, pupils, salespersons, or the like on the premises, if the Board of Appeals determines that the neighborhood will not be detrimentally affected; which the Board has determined.
- Not more than one person not a member of the household shall be employed on the premises in the home occupation.
- An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.
- Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard, and such parking shall not occupy more than thirty-five (35) percent of lot area.
- The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.

**5.) RELIEF**

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2500 (Home Occupation), 2520-2528 (Home Occupation by Special Permit), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 591 County Street, Assessor's Map Plot 58 Lot 149 in a Mixed Use Business District; to allow the petitioner to operate a dog grooming business as a home office at the premises.

**6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY**

- a. That the boarding of animals is not to be allowed;
- b. The project shall be set forth according to plans submitted with the application;
- c. That the applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- d. And that the rights authorized by the granted Special Permit must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and Acted upon within one year from the date they were granted or they will lapse.

**7.) DECISION**

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested petition for a Special Permit.

On a motion by A. Decker seconded L. Schick by to grant the requested Special Permit, the vote carried 5-0 with members D. Trahan, A. Decker, R. Schilling, L. Schick, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

May 6, 2015  
Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals