

TOWN OF MILFORD

Office of Community Development
Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



Administrative Review

Date: December 28, 2020
To: Jason Plourde, Chair - Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2021-02: Thomas and Toni Nelson, Tax Map 52, Lot 35, 140 Comstock Drive
Special Exception Application – Home Based Business**

The applicant is before the Board of Adjustment seeking a SPECIAL EXCEPTION from the Milford Zoning Ordinance, Article VII, Sections 7.12.6 and 7.12.8 and Article X, Section 10.02.1 to convert a portion of the garage (approx. 288 square feet) into a pet grooming home business with associated retail sales within the Residential 'R' District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 2.16 acres (94,090 sq. ft.) and is partially developed. The property contains a three bedroom, single-family residence.
 - b. Property contains approximately 150 feet of linear frontage on Comstock Drive and is serviced by private well and septic.
 - c. The subject property lies within the Residential 'R' Zoning district and is situated among an established single-family residential neighborhood and bordered by other single-family residences.
2. The proposal calls for the conversion of approximately 288 square feet of the existing/attached garage (totaling 576 square feet) into a pet grooming home business. The home business will include the retail sale of pet food to clients.
3. The applicant was previously before the Board of Adjustment in 2013 with a similar case seeking to allow a pet grooming home occupation within a portion of the attached garage (288 square feet) of the subject residence. The case was denied by the Board as it was determined that the use would adversely affect the adjacent areas. See attached Case #2013-17.

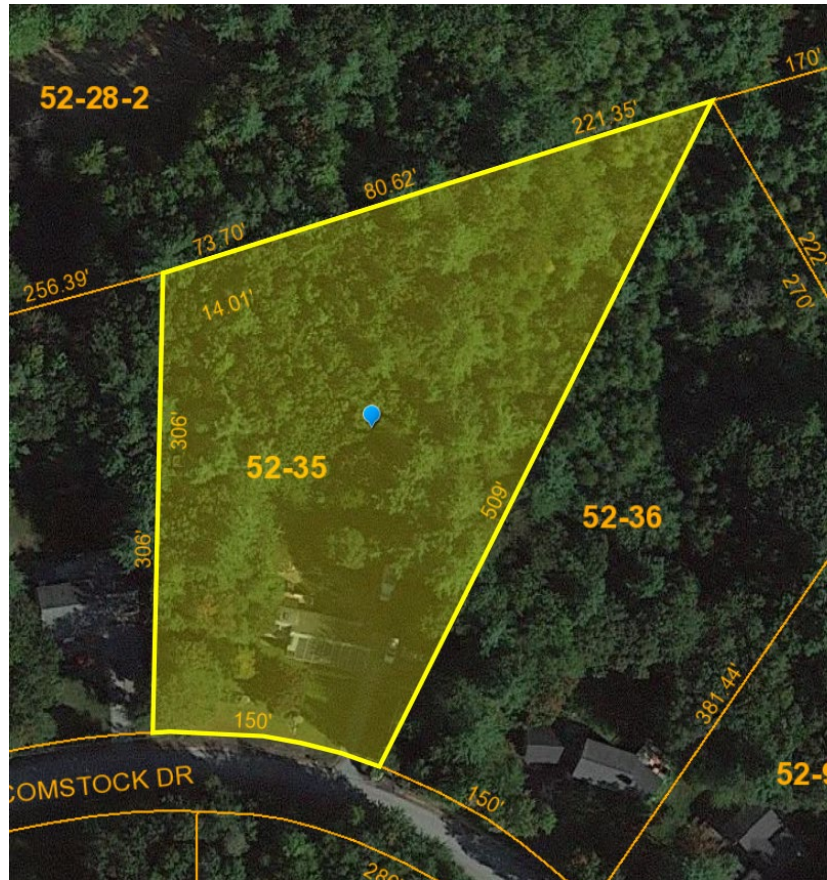
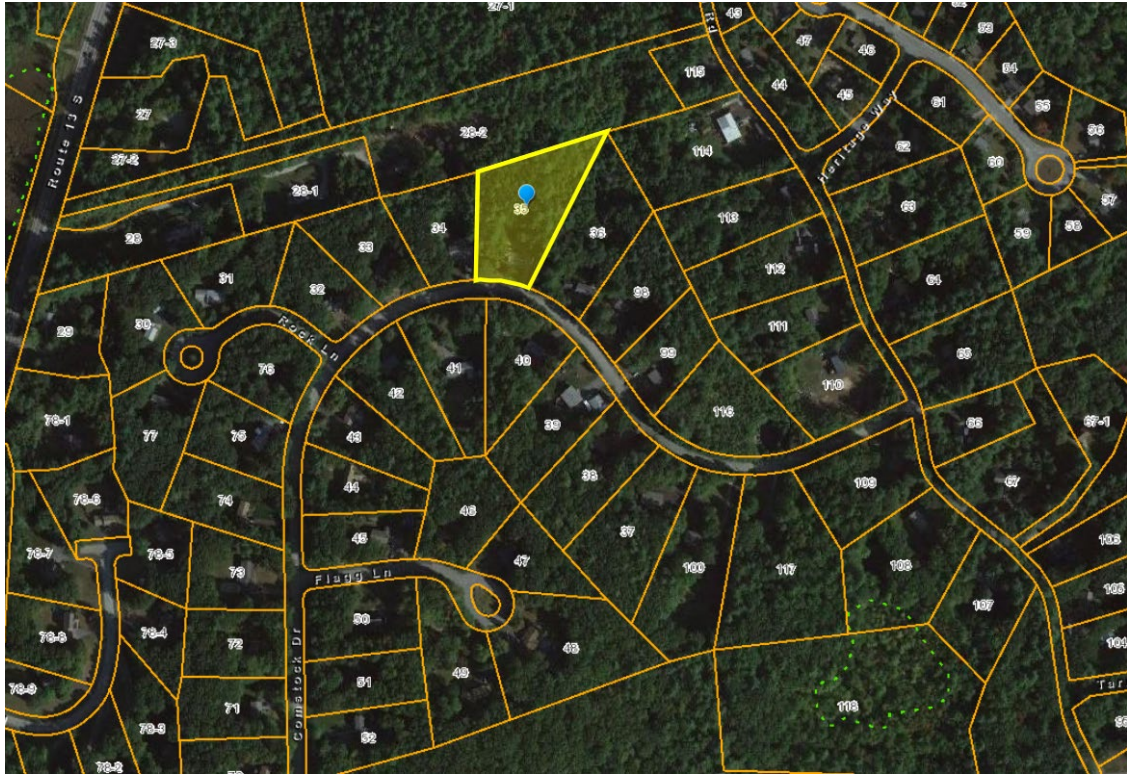
The Board will need to determine if circumstances have changed sufficiently to warrant acceptance of a reapplication. If there has not been a significant change in circumstances, then the Board should reject the application and end further consideration. This determination must, of course, be made at a meeting of the board following submission of the application and notice to the applicant, abutters and the public of a public hearing on the application. The Board should review the previous applications and compare them to the current application to determine any differences and make the decision to proceed or not as soon as possible.

“When a material change of circumstances affecting the merits of the applications has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan.” Fisher v. Dover, 120 N.H. 187 (1980).

The previous application was reviewed in accordance with Section 10.02.3 Home Occupations. In 2019, the Town removed and replaced Section 10.02.3 Home Occupations with Section 7.12.0 Home Based Business. The adoption of said Section established a new regulatory classification of home based business and related review and approval process. Under the current Home Based Business ordinance, pursuant to Sections 7.12.6 and 7.12.8, the proposed use is categorized as Home Business and is permitted by way of Special Exception subject to criteria listed in Section 7.12.6.A.

4. Pursuant to Sections 7.12.6 and 7.12.8, the proposed use is categorized as Home Business and is permitted by way of Special Exception subject to criteria listed in Section 7.12.6.A.
 - Location – As stated by the applicant, the Home Business will be conducted entirely within the attached garage.
 - Signs - No signs are being proposed at this time. Should the applicant install a sign at a future date, a sign of not more than six (6) square feet is permitted. Said shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment.
 - Employees – The applicant (Toni Nelson) is the owner and only employee of the home business.
 - Area – The proposed Home Business will be 288 square feet (12'x 24') and will be less than permitted 25% of the combined floor area of all structures on the property.
 - Sales - Retail sales of pet food for clients is being proposed.
 - Traffic – The business will generate less than the maximum sixteen (16) clients or deliveries per permitted per day.
 - Vehicles – There will be no commercial vehicles associated with the home business.
 - Hours of Operation - The hours of operation will be Tuesday – Friday 8:30am – 5:00pm, Saturday 8:30am – 3:00pm.
 - Hazardous Substances - The applicant has stated that the home business will not store or use hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. Further, the proposed use will not involve the use or storage of toxic substances.
5. As part of the Board deliberation, the applicant should be prepared to discuss the following:
 - a. Explanation /summary of business operations:
 - Detail location of operations totaling 288 square feet in the garage (e.g. pet grooming station(s), washing/drying areas, retail sales area, receiving clients and their pets). Explanation of how pets are received.
 - Approximately ½ of the garage will be used for the proposed business. How will the applicant prevent/limit expansion of operations within the garage?
 - Will operations occur in the winter/colder season and how will operations be managed?
 - Detail of pet and operational waste (eg. hair, bathing water, nails, etc.) management and disposal.
 - b. Explain if any aspect of the operations will be visible to abutting properties/roadway? Will the garage door(s) be open during business and/or will there be any operations outside of the identified home business area?
 - c. Need for noise attenuation for customer's pets.

Aerial Photo(s) of Subject Property :



Street Photo(s) of Subject Property:



Subject Property Look West on Comstock Drive



Subject Property Looking North on Comstock Drive



Subject property looking east on Comstock Drive



ZBA Application
MILFORD ZONING BOARD OF ADJUSTMENT
GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

Date Received: 12-18-20
 Case Number: 2021-02
 Application Number: 20201565
 Hearing Date: 1-7-21
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION

Street Address: 140 Comstock Dr
 Tax Map / Parcel #: 052-035-000-000 Lot Size: 2 acres

PROPERTY CURRENTLY USED AS

SFR

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: THOMAS W. NELSON / TONI M. NELSON
 Address: 140 Comstock Dr
 City/State/Zip: MILFORD, NH 03055
 Phone: (603) 566-4599 (c) 603-673-7305
 Email: TMNELSON@555@comcast.net

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/REPRESENTATIVE

SAME AS OWNER
 Name: _____
 Address: _____
 City/State/Zip: _____
 Email: _____
 Phone: () Cell: ()

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Thomas W. Nelson Toni M. Nelson 12/14/20
 Property Owner's signature Date:

Zoning District (check one):

- Residence A
- Residence B Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

APPLICATION FEES

Application Fee:	\$75.00
Abutters Fee: \$4 x <u>8</u>	<u>32.00</u>
Amount received:	
Date Received:	

Check _____ Cash _____

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.





ZBA Application – Special Exception
MILFORD ZONING BOARD OF ADJUSTMENT

TOWN OF MILFORD
RECEIVED
DEC 18 2020
PB ZBA Office

Date Received: _____
Case Number: _____
Application #: _____
Date Complete: _____
Hearing Date: _____
Decision Date: _____
Decision: _____

PROPERTY INFORMATION

Street Address: 140 Comstock Dr

Tax Map / Parcel #: 052-035-000-000

A Special Exception is a use which is permitted by the Zoning Ordinance, but requires approval from the Zoning Board of Adjustment. Most special exceptions have a list of additional criteria that must be met in order for the ZBA to approve the application.

*Note that in addition to the specific criteria that may be listed for a particular special exception, all special exceptions are subject to the general criteria in Section 10.02.1 of the Zoning Ordinance.

What section of the Zoning Ordinance are you applying under?

Article X Section 10.02.1
VII 7.12.6

Describe the use you are proposing under the above section of the Ordinance.

Conversion of 1/2 of garage to a pet groom shop with some Pet Food retail.

**Application for
(check all that apply):**

- Change/Expansion of Non-conforming Use/Structure (2.03.1.C)
- Wetland Buffer Impact (6.02.6)
- Accessory Dwelling Unit (10.2.6)
- Office in Res-A & B (10.2.7)
- Home Business (7.12.6)
- Side/Rear Yard Setback Reduction (Zoning District Specific)
- Other

General Criteria Section 10.02.1

Describe the project you are requesting a Special Exception for:

Set up Pet Groom Shop (Happy Paws Pet Grooming LLC)

Explain how the proposal meets the general criteria as specified in Article X, Section 10.02.1 of the Zoning Ordinance:

A. The proposed use is similar to those permitted in the district because: I already have several show dogs & need a place to groom them. They will not interact with clients or their pets

B. The specific site is an appropriate location for the proposed use because: It allows me to continue to do what I love - Groom dogs/cats. Also my vehicles are too tall to fit inside and has been closed off to them

C. The use as developed will not adversely affect the adjacent area because: Nothing in sight from the road. We have a new driveway which allows clients to drive in and out forward.

D. There will be no nuisance or serious hazard to vehicles or pedestrians because: No on-street parking, all stopping done in driveway

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use because: I could no longer afford a regular brick & mortar store, because of COVID and my age. Electricity and Water removal have already been improved.



ZBA Application – Special Exception
MILFORD ZONING BOARD OF ADJUSTMENT

N/A

Explain how the proposal meets the specific criteria of the Zoning Ordinance for each section:	
WETLAND AND WETLAND BUFFER IMPACT 6.02.6	
1. Has the need for the project been addressed? Please explain.	
2. Is the plan proposed the least impactful to the wetlands, surface waters and/or associated buffers? Please explain.	
3. Has the impact on plants, fish and wildlife been addressed? Please explain.	
4. Has the impact on the quality and quantity of surface and ground waters been addressed? Please explain.	
5. Has the potential for increased flooding, erosion and sedimentation been addressed? Please explain.	
6. Has the cumulative impact if all parties owning or abutting the affected wetland were allowed to alter or impact the wetland or buffer area in the same way? Please explain.	
7. Has the impact of the values and function of the overall wetland and wetland complex been addressed? Please explain.	
8. Has a comment from the Milford Conservation Commission been solicited? Yes___ No___ Date of Conservation Commission Meeting attended: _____	

HOME BUSINESS CRITERIA 7.12.6	
1. Is the Home Business located in the Residential 'A', Residential 'B', or Residential 'R' Zoning District?	R
2. Please explain if the Home Business is conducted entirely within the dwelling or accessory structure.	Entirely within 1/2 of garage
3. A sign of not more than six (6) square feet is allowed and shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment. Please provide the dimensions, design, and approximate location of the sign.	No Signage
4. There shall be no more than two (2) non-resident employees of the Home Business. Please provide the total number of non-resident employees.	0 Employees
5. The Home Business shall not be more than 25% of the combined floor area of all structures on the property. Please detail the total combined floor area of all structures on the property used for Home Business.	12x24 = 288 sq feet

Section continued on next page.



ZBA Application - Special Exception
MILFORD ZONING BOARD OF ADJUSTMENT

HOME BUSINESS CRITERIA 7.12.6 (Continued)	
6. Retail sales of goods incidental to Home Business are allowed. Please explain if there will be retail sales of goods incidental to Home Business.	Pet Food Sales to grooming clients
7. There shall be not more than sixteen (16) clients or deliveries per day. If applicable, please provide the anticipated number of clients or deliveries per day.	3-4 grooming clients per day. Pets get dropped off and client returns to pick-up No more deliveries than 1 per week
8. There shall be no parking of or deliveries by vehicles with more than two (2) axles. Only one (1) commercial vehicle may be parked on the property in conjunction with the Home Business. Please summarize the anticipated size of the delivery vehicles and number of commercial vehicles serving the Home Business.	NO parking in driveway. - Truck stops in street only to drop off del.
9. A Home Business shall not be conducted in a way that is perceptible in external effects (such as but not limited to noise, odors, traffic) from beyond the lot line between the hours of 9:00 p.m. and 7:30 a.m. Please explain the hours of operation.	Tues - Fri : 8:30 am - 5:00 p.m. / Sat: 8:30 a.m - 3:00 pm
10. The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances. If applicable, please explain if there will be the storage of hazardous, flammable or explosive, or toxic substances associated with the Home Business and its location on the property.	NONE

ACCESSORY DWELLING UNITS 10.02.6	
1. Is the property going to be Owner Occupied?	N/A
2. Has a Building Permit application been made? Copy of permit application attached?	
3. Is the ADU developed in a manner which does not alter the character/appearance of the principal use as a single-family residence?	
4. Is the ADU intended to be secondary and accessory to a principal single-family dwelling unit?	
5. Does the ADU impair the residential character of the premises or the reasonable use, enjoyment and value of neighborhood?	
6. Is there adequate off-street parking? How many spaces?	
7. Are any additional curb cuts being proposed?	
8. Are all necessary additional entrances or exits located to the side or rear of the building to the maximum extent possible? Please note on the plan.	

Section continued on next page.



ZBA Application – Special Exception
MILFORD ZONING BOARD OF ADJUSTMENT

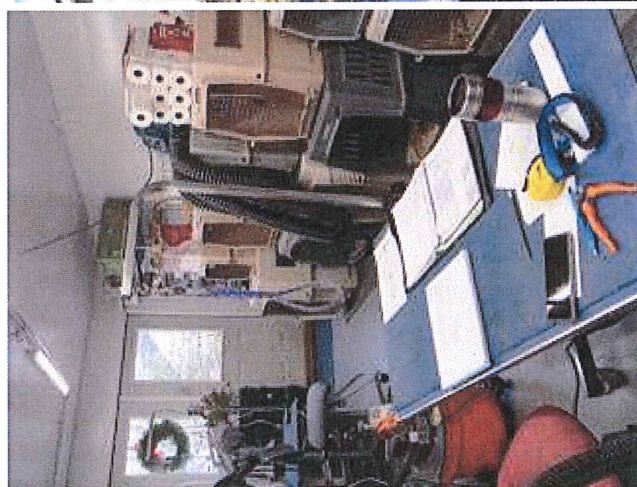
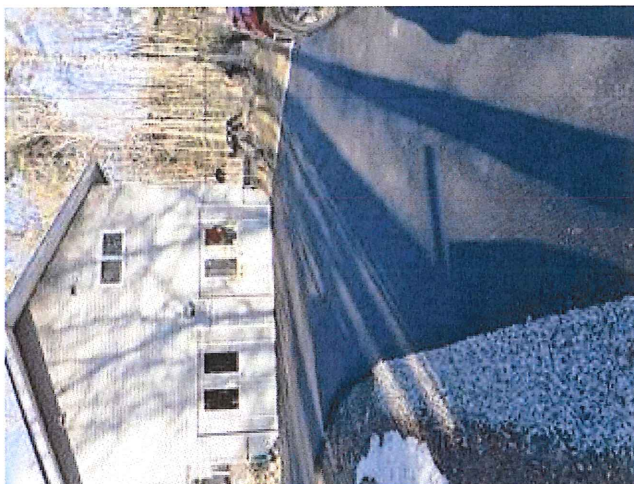
ACCESSORY DWELLING UNITS 10.02.6 (Continued)	<i>N/A</i>
9. Is there adequate sewer/septic and water for the additional inhabitants? Please include septic/sewer approval.	
10. Is there only one (1) ADU on the property?	
11. Is the ADU no more than 750 square feet gross floor area? How many square feet is the ADU?	
12. Does the ADU have no more than two (2) bedrooms? Please show on plans.	
13. If inside the existing dwelling, is there at least one common wall with a door between the two spaces at least 32 inches wide? Please show on plans.	
14. If a connecting hall is proposed, is the hallway at least 36 inches wide? Please show on plans.	
15. For Existing Unpermitted ADUs	
16. Has a Code Compliance inspection been conducted by the Building Inspector? Please include inspection report.	
17. Is the ADU in compliance with Section 10.02.6:A of the Milford Zoning Ordinance? How so?	
18. If no, has a Variance from Section 10.02.6:A been granted by the ZBA?	

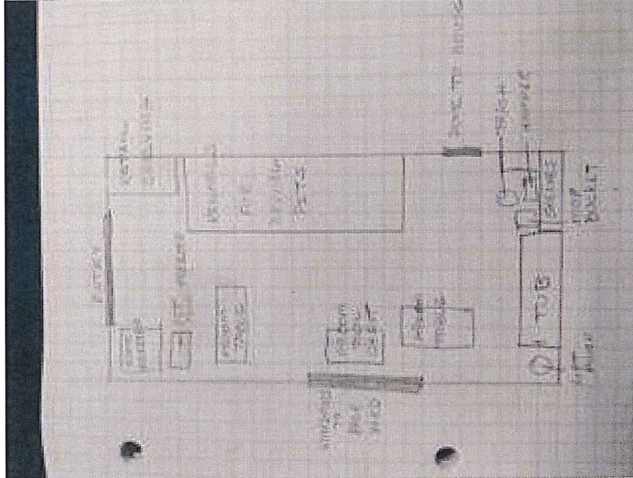
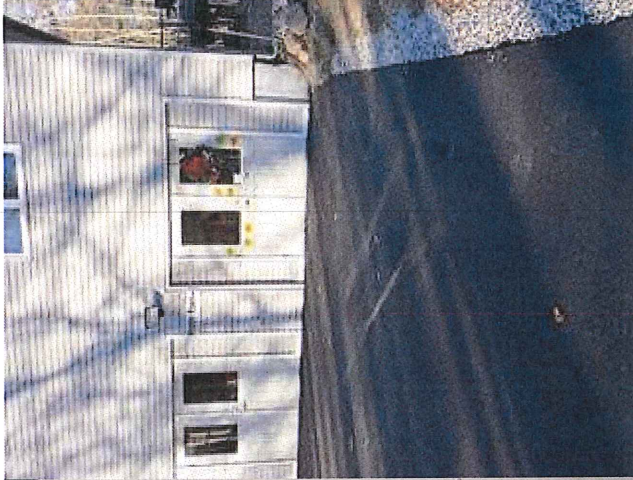
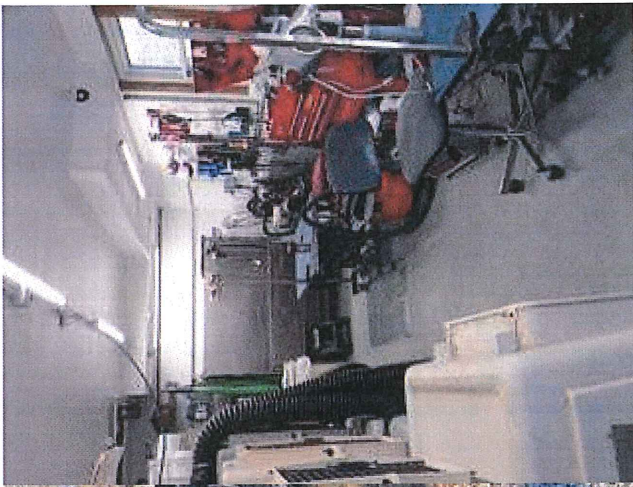
OFFICE IN THE RESIDENCE A AND B DISTRICTS 10.02.7	<i>N/A</i>
1. Is the specific site of the proposed office use located in an existing building that is an appropriate location for the proposed use and ancillary to the Residential Use permitted by right? Please explain.	
2. Will the use as proposed adversely affect adjacent Residential areas? Please explain.	
3. Will there will be any nuisance, such as but not limited to: noise, odor, hours of operation, traffic, deliveries and lighting associated with this use? Please explain.	
4. Will there be any outside storage? Please explain.	
5. Has the applicant made a site plan application to the Planning Board (hearing subsequent to Zoning Board approval)? Yes ___ No ___ Date of hearing: _____	

From: [Toni Nelson](#)
To: [Lincoln Daley](#)
Subject: Happy Paws Pet Grooming
Date: Tuesday, December 29, 2020 8:06:48 PM

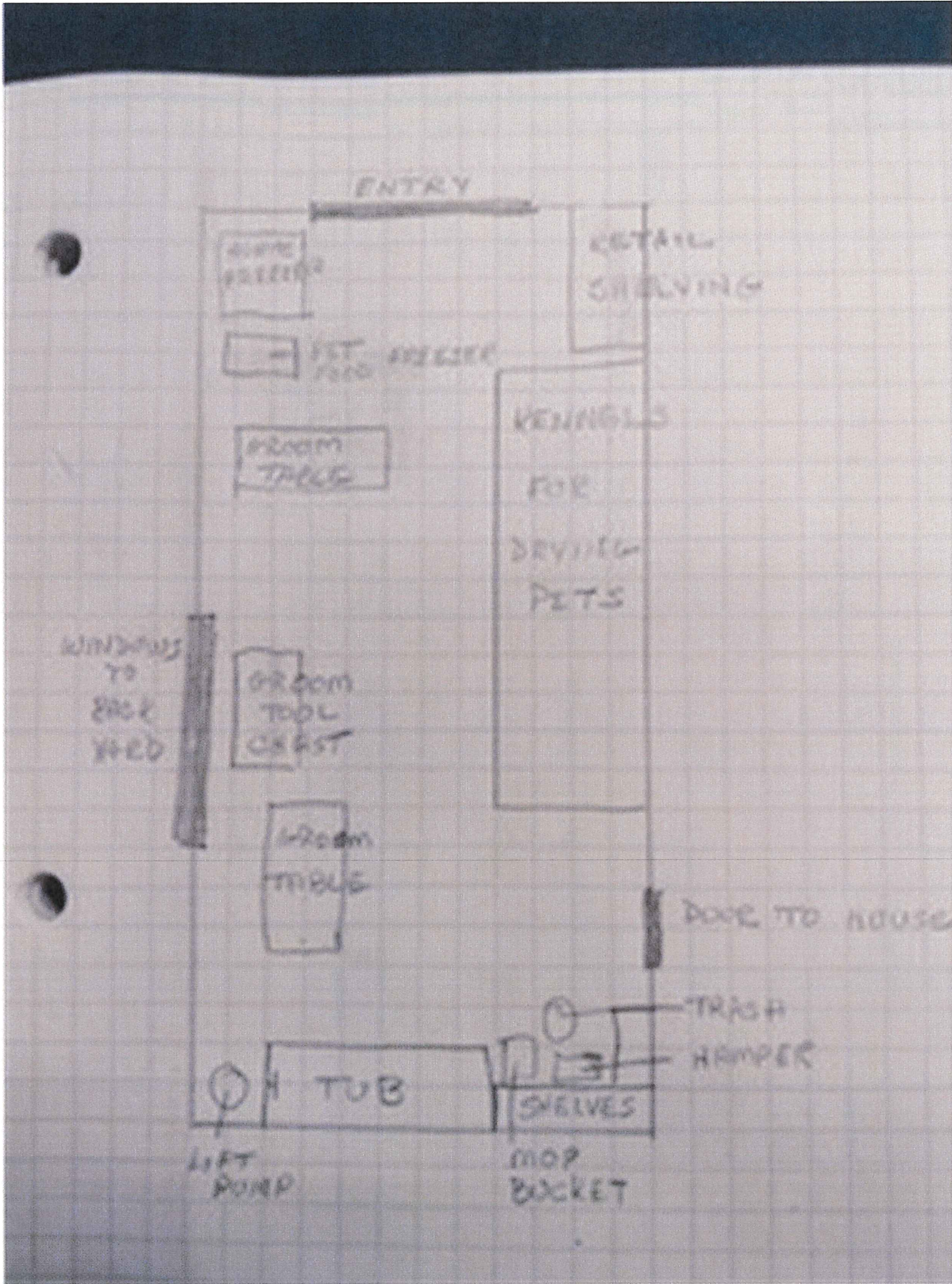
I am enclosing several photos I have taken to try to show what is being accomplished. We have replaced and enlarged our driveway which allows my customers to enter and leave the premises forward. Remodeled and converted 1/2 of our garage into Happy Paws. I accept payment in cash, check and charge. The chart below shows the placement of all equipment in use. Customers drop off their pets and they are groomed as requested. When finished the client is called to come and pick up their pet. My own pets cannot reach clients, but can peak in.

Thank you for your consideration.



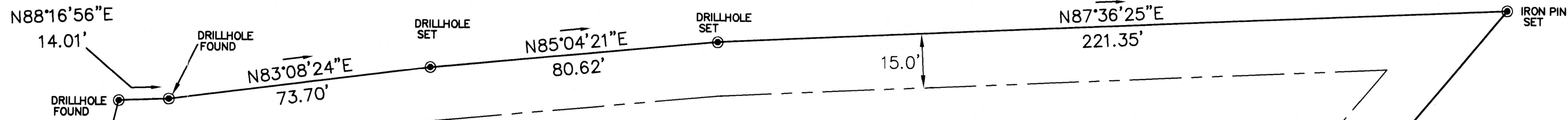


Sincerely,
Toni Nelson owner



DATE	REVISION

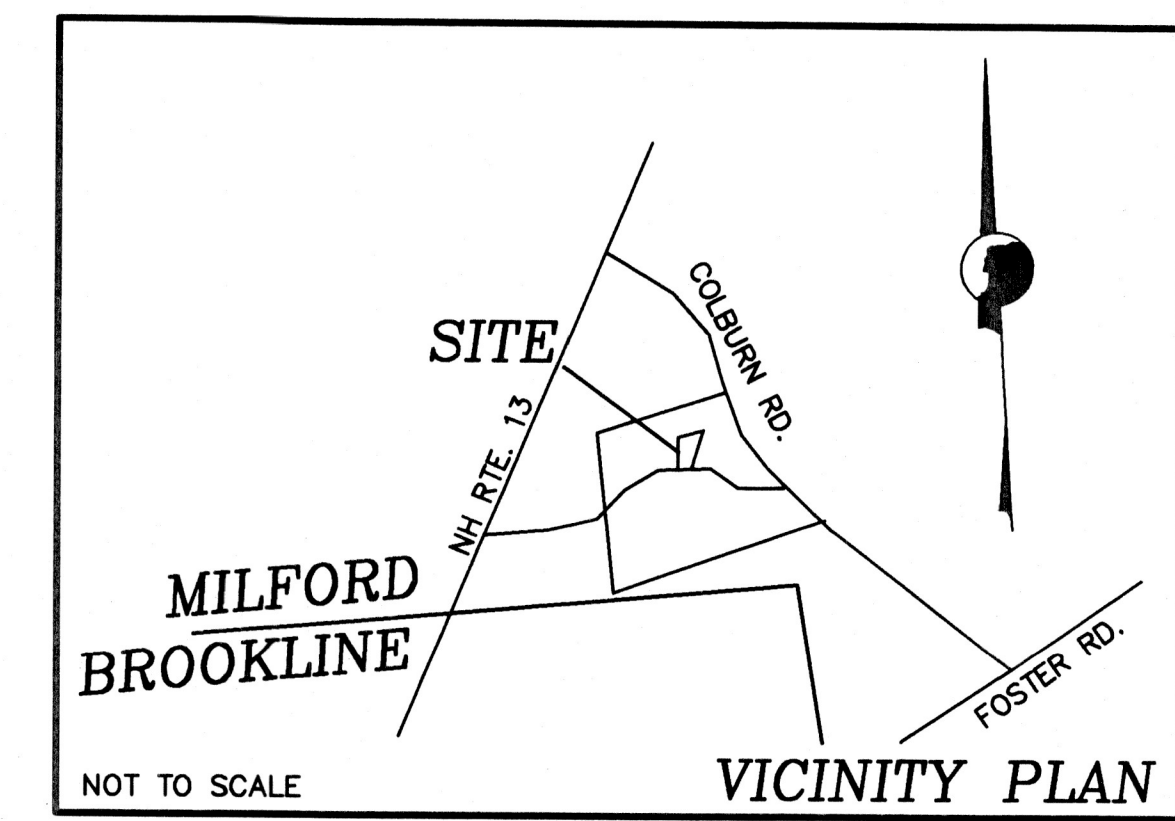
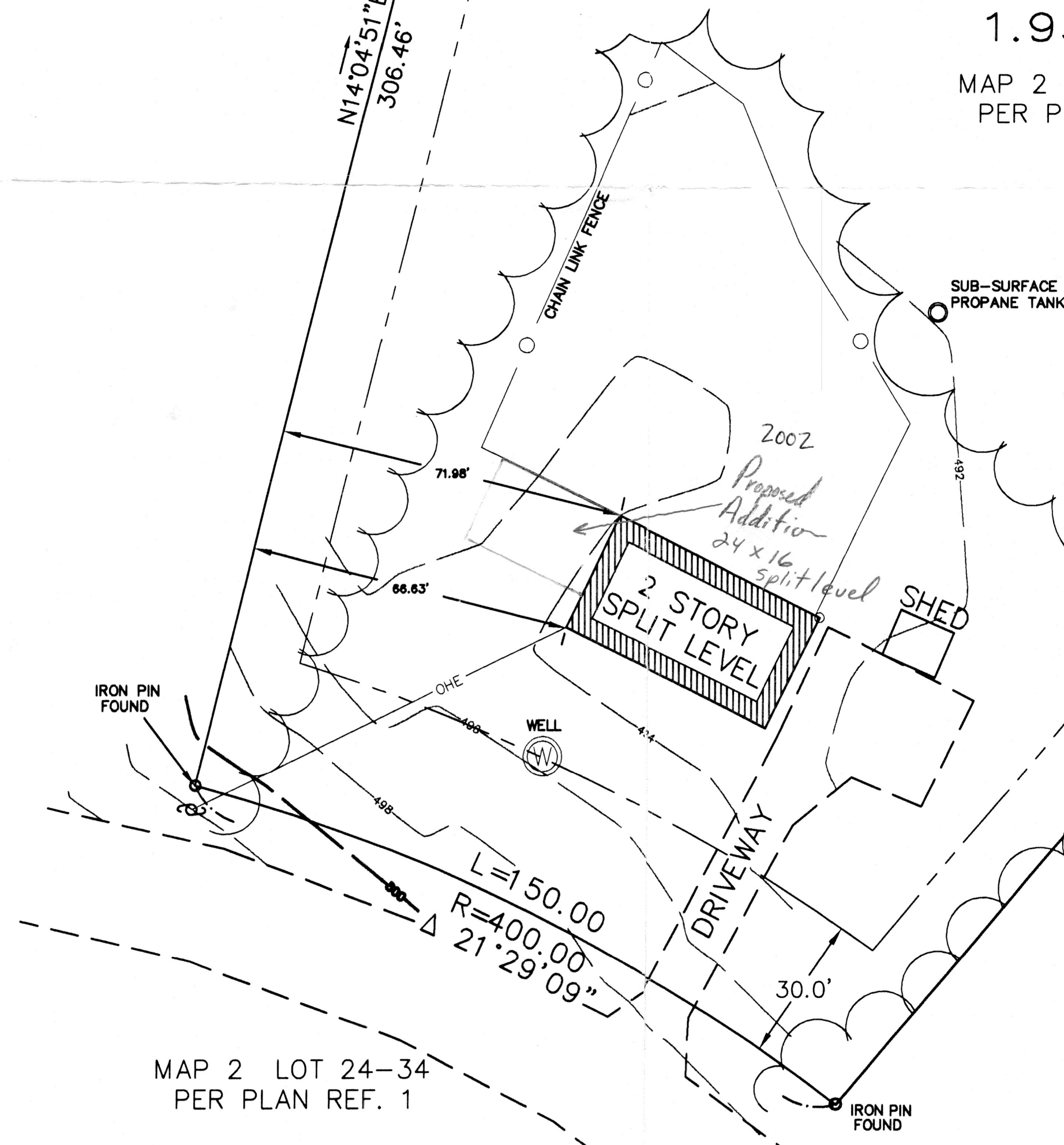
MAP 2 LOT 24-19
PER PLAN REF. 1



MAP 52 LOT 35
84,057 S.F.
1.93 Ac.
MAP 2 LOT 24-20
PER PLAN REF. 1

MAP 2 LOT 24-21
PER PLAN REF. 1

MAP 2 LOT 24-34
PER PLAN REF. 1



GENERAL NOTES:

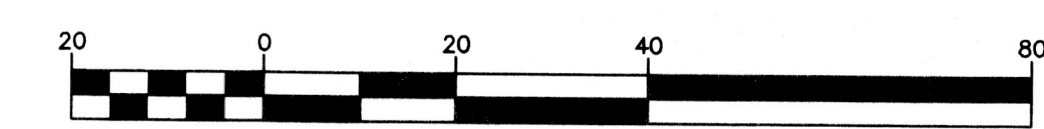
1. THE PURPOSE OF THIS PLAN IS TO SHOW BOUNDARY AND EXISTING CONDITIONS ON MAP 52 LOT 35 MILFORD, N.H.
2. CURRENT ZONING IS - RESIDENTIAL
BUILDING SETBACKS: FRONT = 30', SIDE = 15', REAR = 15'
3. OWNER OF RECORD: THOMAS & TONI NELSON, 140 COMSTOCK DR.
MILFORD, NH BK. 5335 PG. 255
4. FIRST FLOOR ELEVATION -501.2
ELEVATION DATUM IS ASSUMED

REFERENCE PLAN:

1. SUBDIVISION PLAN OF LAND, COLBURN ACRES, MILFORD, NEW HAMPSHIRE, PREPARED FOR 101 REALTY, INC., SCALE 1"=100', DATED JUNE 28, 1978 PREPARED BY THOMAS F. MORAN INC. SHEET NO. 3 OF 3 RECORDED AT H.C.R.D. AS PLAN #1607.

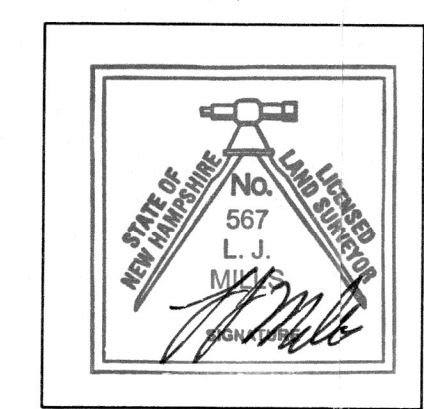
EXISTING CONDITIONS & BOUNDARY PLAN
MAP 52 LOT 35
THOMAS & TONI NELSON
140 COMSTOCK DRIVE
MILFORD, NEW HAMPSHIRE
BK 5335 PG 0255

SCALE: 1" = 20' JUNE 26, 2002



I CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY AND HAS A MAXIMUM ERROR OF CLOSURE OF 1 PART IN 10,000 ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY.

7/10/02
DATE



Granite State SURVEYING INC
CONCORD, N.H. • MERRIMACK, N.H.
228-0002 424-5103



Town of Milford
ZONING BOARD OF ADJUSTMENT

October 7, 2013

Toni Nelson
140 Comstock Dr
Milford, NH 03055

ZBA Case #2013-17

Town Hall
1 Union Square
Milford, NH 03055-4240
(603) 673-7964
Fax (603) 673-2273
www.milford.nh.gov

TDD Access:
Relay NH 1-800-735-2964

You are hereby notified that Case #2013-17, a special exception, requested by Thomas W. and Toni M. Nelson, Map 52 Lot 35, 140 Comstock Dr, in the Residence "R" district, from Article V, Section 5.04.2:A.3 to allow a home occupation, in accordance with Article X, Section 10.02.3 for pet grooming, was denied on October 3, 2013. A motion was made, seconded and voted (4-1) to deny the request because the use would adversely affect the adjacent area.

In accordance with NH RSA 677:2, application for a rehearing in this matter must be received by the Board of Adjustment prior to close of business (4:30 p.m.) on November 4, 2013.

This special exception is subject to expiration, in accordance with Article X, Section 10.06.0,if within one (1) year after the granting of a variance or special exception by the Board of Adjustment, none of the work required by a building permit covered by the variance or special exception has been executed, then such variance or special exception shall become null and void except in any case where legal proceedings relative to the variance or special exception shall have caused an undue delay in the execution of the required building permit. Only one, six-month extension may be granted for any variance or special exception. The applicant may apply for the extension at a regularly scheduled Zoning Board meeting.

Sincerely, _____

Shirley Wilson
Office of Community Development

CC: Dana MacAllister/Tim Herlihy, Building Inspection/Code Enforcement/Zoning

**Town of Milford
Zoning Board of Adjustment Minutes
October 3, 2013
Case #2013-17
Map 52, Lot 35
Thomas W. and Toni M. Nelson
Special Exception**

Present: Fletcher Seagroves, Chairman
Laura Horning, Vice Chair
Zach Tripp
Kevin Taylor
Michael Thornton, Alternate

Absent: Bob Pichette
Len Harten, Alternate
Paul Butler, Alternate

Secretary: Peg Ouellette

The applicants, Thomas W. and Toni M. Nelson, owners of Map 52, Lot 35, 140 Comstock Dr., in the Residence "R" district, are requesting a special exception from Article V, Section 5.04.2:A.3 to allow a home occupation, in accordance with Article X, Section 10.02.3 for pet grooming.

Motion to Approve: *Fletcher W. Seagroves*
Seconded: _____
Signed: *Fletcher W. Seagroves*
Date: 11/21/2013

Fletcher Seagroves, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures of the Board; he then introduced the Board. He read the notice of hearing into the record. The list of abutters was read. Applicants Thomas W. and Toni Nelson, owners of Map 52, Lot 35, 140 Comstock Dr, were present. John Keller of 145 Comstock Dr., and Paul R. and Carol J. Connor, Trustees, of 133 Comstock Dr., abutters, were present.

Applicant's presentation: Toni Nelson said she would like to move her business, Happy Paws, from Granite Town Plaza to her home.

F. Seagroves asked for questions from the Board.

M. Thornton felt it was pretty straightforward.

Z. Tripp inquired how the applicant planned to control customers; will they come as they want?

T. Nelson said by appointment only, on a leash or in a crate as size dictates.

Z. Tripp asked about planned hours. In winter months it gets dark early.

T. Nelson stated as current, Tues-Fri 8 to 5, Sat. 8:30 to 3, give or take a few minutes. She can shorten hours in winter.

Z. Tripp said it appeared the driveway had additional space to the right; was that intended for parking?

T. Nelson said it would be. Their vehicles are parked there but will be shifting them so customers can pull straight in and straight out.

L. Horning asked about disposal of waste.

T. Nelson said she gathers it up and disposes of it out back.

L. Horning said there were some disposal management companies to manage and that applicant may want to look into that.

T. Nelson said she is anticipating no more than six animals per day.

K. Taylor asked if there is any on-street parking.

T. Nelson said customers would not be expected to park on the street; most customers drive in and drop off and come back, pick up and leave.

K. Taylor was concerned with children in the area.

T. Nelson said there aren't many; most of them have grown up.

F. Seagroves asked if she would probably have only one animal at a time?

T. Nelson said she liked to have everybody there within a short time. They are crated inside the building. Owners are called as soon as finished and go home before closing hours.

Z. Tripp asked the type of animals and services.

T. Nelson said cats and dogs – washing, cutting hair and nails.

Z. Tripp asked if each takes an hour.

T. Nelson said at least. Some large animals take three to four hours. When there, they are crated.

F. Seagroves asked if she is currently at Granite Town Plaza and basically moving.

M. Thornton asked when that would happen.

T. Nelson said after she gets permission. It will be a considerable downsize from the current location.

K. Taylor asked if she will store supplies for customers to buy.

T. Nelson said yes, she had some for her customers.

Z. Tripp asked if they planned on finishing off the garage, putting up walls.

T. Nelson said they had a contractor and were waiting for approval to do the work.

There were no further questions from the Board, so Chair opened the meeting for public comments.

Paul Connor of 133 Comstock Dr. came forward. He has lived there 34 years. He stated there was a serious dog problem there for about 10-15 years. He had spoken to neighbors who were unaware of this meeting and could not be present. They provided him with a letter to read. He read a letter from Roxanne Meldrum of 80 Comstock Dr, expressing concerns with allowing a pet grooming business on Comstock Dr., including increased traffic and safety of pedestrians, number of dogs in the residence in

question, and barking dogs. He read another letter from Julie Adi-Zarabi of 128 Comstock Dr., two homes away from the home in question, expressing concerns with number of dogs in the residence and extra traffic. He also stated there were other residents in the area on other streets who were unaware of the meeting and were upset. He lives across the street and there have been twelve dogs in the residence, and he stated they bark all day long. He read from Chapter 466 of the ordinance, Paragraph A,B, C and G. and cited instances when he felt these were violated, with regard to leashing or control of dogs, barking. He has called police about the noise, and he said a woman was bitten a few years ago.

T. Nelson responded she wished Mr. Connor had spoken to her and she hasn't heard from anyone else. She acknowledged having twelve German Shepherds and tries to keep them quiet. A woman was bitten while walking. Ms. Nelson paid a fine and that dog has died. When the police came, she was out and they spoke to her husband. They try to make sure the noisiest dogs are not out at the same time. They get excited when she gets home.

Judith Keller of 145 Comstock Dr. said she has lived across the street 18 years. She feels she lives in a different neighborhood than the previous speaker. The only time she hears the dogs is when Ms. Nelson comes home. Toni is an excellent dog trainer. She said when her cat walked by them, Toni said not to touch the cat and they sat and looked; one dog also helped find her lost cat. Even though there are a lot of dogs they are well-trained. She had no problem with her two-year old grandchild visiting with them. They bark if you walk by, but if Toni has her business at home the dogs will be quieter. Maybe where their house is located they don't hear what others do, but they don't have a problem. They don't have any problem with the business at home. She felt the applicants would never do anything to negatively affect property values.

Carol Connor of 133 Comstock Dr. said her concern is that this is a residential neighborhood and she believed a retail, or any type of business belongs in a commercial area, not in a residential area. She is concerned about value of their home. She stated if it starts out as a grooming business it could be turned into a kennel or boarding. She felt residents on the street are afraid to walk by.

Vaughn Seward of 108 Comstock Dr. said he has lived there 34 years because it is a residential neighborhood with not a lot of traffic. He was concerned once one business opens, there will be others. This should be in the business district. He didn't want a business in his neighborhood.

Jim Geary of 105 Comstock Dr, said he has been living there for 34 years. This is a residential area where families live and raise kids. A business would change the nature of the area and value of the properties. With added traffic come noise and safety concerns. There are walkers and bikers on the street and families with children moving in. The house in question is located on the downside of the hill on a sharp corner. Visibility is a problem. Accessibility of the driveway to turn around was mentioned; he doubts that, especially in winter. He hears the dogs from several houses up the street, but concern is impact of a business. Introducing other animals with aggressive dogs escaping the enclosure, which has happened, is a concern. This would set precedent for other businesses and as mentioned, has potential to turn into something other than intended.

P. Connor came forward again, stating that there would have been more people in attendance if they had known about the meeting. F. Seagroves informed him that by law, only abutters must be notified.

Kathy Bauer stated that meetings are posted and noticed in the newspaper. Those are the legal requirements, as well as sent to the abutters.

F. Seagroves closed the public portion of the meeting. He then read a letter received from abutters, Jeffrey and Leslie Rounsaville who live next door at 148 Comstock Dr., stating that based on information provided by the Nelsons, they had no objection to the nature of the proposed business, trusting the Nelsons to follow the plan as outlined to them; only concerns are potential noise and signage. They would prefer no signs but would hope any signage would be small.

The applicant read the application:

Description of proposed use:

A home occupation for a pet grooming business in accordance with Sec. 10.02.3. Business to occupy 288 sq. ft. or less than 25% of the lower level floor area.

1. The proposed use shall be similar to those permitted in the district:

Various small businesses are allowed in the Residence R District by special exception to home occupations including veterinary clinics and daycare facilities.

2. The specific site is an appropriate location for the proposed use because:

A portion of the lower level garage will be utilized for the pet grooming business. There is adequate parking and driveway access to provide safe drop-off and pickup of pets by customers.

3. The use as developed will not adversely affect the adjacent area because:

There will be no changes to the exterior of the existing home other than necessary to accommodate business access. Traffic generated will be limited as business will accommodate 3 or 4 customers per day. Business will be open during normal business hours. Signage will be limited to that allowed for home occupations (6 sq. ft.).

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

There will be limited customer traffic and safe parking and access for pedestrians. Comstock Dr. is a residential street with only local traffic.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

The business will need to comply with necessary building code requirements prior to operation to insure there are adequate and appropriate facilities.

F. Seagroves asked if there were any additional questions. There were none. He stated that special exceptions are granted under special conditions, i.e. veterinary clinics, family day care, bed and breakfast, self-service storage, church, nursing homes, schools. He wanted to inform the audience these are items that can be granted by special exception in Residence R, and have been voted on by the voters.

K. Taylor asked to clarify whether she will be doing sales.

T. Nelson stated there will be dog food.

F. Seagroves asked whether dogs are leashed while being groomed.

T. Nelson said the doors are closed and no way they can get out.

F. Seagroves asked if they are leashed most of the time.

T. Nelson said yes.

F. Seagroves commented if your neighbors' animals are barking and bothering you, you should call them. He had gone to court because of complaints about his dog and the judge told him that dogs can bark a little for a half hour and up to 10 p.m.

T. Nelson said she didn't realize it was happening after 10 pm.

F. Seagroves asked for further questions from the Board. There were none.

The Board then discussed the criteria for a home occupation.

Z. Tripp said, regarding #s 1-4, it is pretty straightforward, the applicant has answered that she conforms to those. Regarding #5, the home occupation must not impair residential character or impair reasonable use or enjoyment. Putting aside applicant's particular situation and she did have pets would seem like a reasonable business to have in this area. It is by appointment. They will be inside most of the time. He would not imagine much impact. If they are generating noise that is common to residential area. The Special exception criteria. It is permitted in the district. Home occupations are allowed as long as they meet criteria of 10.02.02. Site for proposed use is appropriate use. It will not adversely affect the area similar to #5 of home occupation. Applicant testified it will be appointment only; so it should be fairly controlled. Applicant stated six a day which would be about one car or so an hour. And business will not be open at night, per application. No nuisance or serious hazard to vehicles or pedestrians. There is a peculiar driveway but it does appear to be room at the bottom. Applicant is a business person and he has faith they will make customers comfortable and it appears to be a feasible location to provide some

kind of parking and turnaround. Re adequate facilities, they are going through permitting process that will address that; testimony there are outside lights.

L. Horning said re applicant's current situation with 12 dogs she takes exception to the dog waste issue. She expects to add six more. The issue in her opinion, is this allowed in the district. A veterinary clinic is different in that the State regulations for proper and adequate disposal of waste and management of animals in that environment. This is not outlined in the ordinance for a dog grooming business in this case. The proposed use is not similar to the surrounding area. In her opinion the specific site is not appropriate. There are already 12 dogs there. It will adversely affect the area with dog waste and waste water as it is a small residential lot. The Ordinance addresses health, safety and welfare general and abutting properties. She has serious concern about properly maintaining and regulating the dogs already there. Adding animals could be a bigger problem. Regarding adequate facilities, she couldn't answer that adequately because a veterinary clinic is regulated by the State, as is a child day care and some other home occupations in the ordinance. The applicant does meet the home occupation criteria; she resides there. There will be no evidence outside the dwelling except for permitted sign and off-street parking. There is no required off-street parking. It is illegal in NH to back out of a driveway. It would not be adequate in such a densely populated area. They are talking about the retrieval of animals to and from a vehicle and the containment of them. She meets the criteria of being confined to one floor of the building. She meets the access. The Ordinance takes abutters into consideration by requiring that the home occupation and conduct thereof shall not impair the residential character of the premises or use and enjoyment of other residential property in the neighborhood. This is not an issue addressed by the Ordinance, veterinary clinics have a moderate amount of regulation by the State and, in some cases, Federal regulations. She cannot allow this exception.

K. Taylor echoed some of Laura's concerns. Has concerns about 12 dogs on the property. Health and safety-wise the street is curved, so there is a hazard. She meets some requirements, but as Laura said, it is not accepted in the zoning portion of criteria. As it stands, he would not accept this.

M. Thornton said his concerns were specifically those of the abutters that have aggregated over many years, and they have accepted it. With more dogs being added, there is concern. He's not as concerned with waste disposal, because there are adequate remedies.

L. Horning said in this situation it is not regulated; in a veterinary clinic it would be.

M. Thornton agreed, saying applicant would have to mitigate it in order for him to look favorably on this request.

F. Seagroves asked if the applicant will have only herself and her husband there.

T. Nelson said she had one girl who helps, but she is not an employee and will not be. Customers' dogs are never mixed with hers. They are planning to block the facility end with five-foot fence and to reduce noise level.

F. Seagroves said regarding no evidence outside the dwelling except permitted signs and parking, he had problem with this. He knew when you get a group of dogs together they will make a lot of noise. Regarding "a home occupation shall be confined to one floor of the dwelling unit and no more than 25% of such floor shall be used" concerns were raised that if granted this would not turn into a kennel. It is a dog grooming business with goods to be provided for sale. This was not a problem. A home occupation shall not impair the residential character of the premises; he went back to the noise of the dogs. Regarding the proposed use shall be similar, he didn't know how many other dog grooming businesses there are around. Regarding "site is an appropriate location" and "no nuisance or serious hazard to vehicles or pedestrians" he didn't see there would be a problem.

The Board voted on questions:

The exception is allowed by the ordinance: (home occupation)

L. Horning=yes, Z. Tripp=yes, K. Taylor=yes, M. Thornton=yes, F. Seagroves=yes

Are the special conditions present under which the exception can be granted?

Z. Tripp=yes,

K. Taylor—no; safety and hazard are involved. Safety of the roadways and people coming in. Twelve dogs on the property will cause a hazard.

L. Horning said this is not an exception listed in the ordinance under home occupation. This particular home occupation is different than veterinary allowed in the district, which have some regulations or regulatory safety mechanism in place. She didn't believe the conditions were present with this application.

M. Thornton said he has bred, raised and trained dogs. The biggest problem with animals together is they love to communicate and do, stridently. Several neighbors stated they have put up with it for years. He didn't know what could be done to mitigate that outside. Inside, you could do things to the walls. He was concerned, as the neighbors were, for the number of dogs. The waste issue can be addressed. He was not sure with twelve resident dogs and applicant intending to have dogs dropped off in the morning, that would be another six dogs.

T. Nelson said they are not there all day long.

M. Thornton said just the twelve dogs, they are communicating.

T. Nelson said in the winter, the doors and windows would be closed.

M. Thornton said unfortunately we have other seasons. He didn't feel comfortable at present after hearing neighbors' concerns.

T. Nelson said she wished they had said something to her before this.

F. Seagroves also had problems with nuisance with eighteen dogs. There are too many dogs there now.

F. Seagroves called for a vote:

Is the exception allowed by the ordinance?

L. Horning – yes; Z. Tripp – yes; K. Taylor – yes; M. Thornton – yes; F. Seagroves – yes

Are specific conditions present under which the exception may be granted?

L. Horning – no; Z. Tripp – yes; K. Taylor – no; M. Thornton – no; F. Seagroves – no

F. Seagroves requested a motion to deny.

K. Taylor moved to deny the application.

L. Horning seconded.

Final vote: M. Thornton – yes; L. Horning – yes; Z. Tripp – yes; K. Taylor – yes; F. Seagroves – yes

Chair informed applicant the request had been denied and advised of the thirty day appeal period.

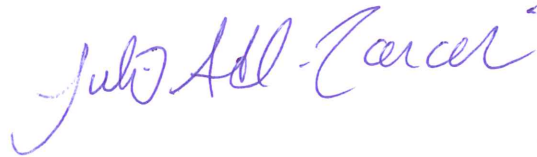
REC'D AT 10/3/13
ZBA Mtg

To whom it may concern,

I am writing in regards to the third item on your agenda for tonight. **Case #2013-17: Special Exception** Thomas W. and Toni M. Nelson, owners of Map 52 Lot 35, 140 Comstock Dr, in the Residence "R" district, are requesting a special exception from Article V, Section 5.04.2:A.3 to allow a home occupation, in accordance with Article X, Section 10.02.3 for pet grooming. I live at 128 Comstock Drive, two homes away from the home in question. I am unable to attend the meeting tonight, but wish to express my concern over having a pet grooming business at 140 Comstock. The home in question already has several dogs on the premises. It is common to hear them barking and howling in the evenings. I have four children who are nervous walking past that home because of all the large dogs they have.

It worries me that this business will bring countless unknown dogs into the neighborhood, even if just for short periods of time. I am also concerned about the extra traffic Comstock would be subject to. This is a family neighborhood. There are many children on this road, including young kids. There are no sidewalks for kids to walk or ride their bikes on so an increase in traffic is worrying. I hope you will consider not granting this exception. I feel that a neighborhood like Comstock is not the appropriate place for it. Thank you.

Sincerely,
Julie Adl-Zarabi



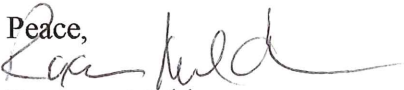
REC'D AT 10/3/13
ZBA MTC

October 3, 2013

Dear Zoning Board Members,

As I am unable to attend tonight's zoning meeting, I'm writing to you of my concerns regarding allowing a pet grooming business on Comstock Drive. I have three concerns. First, our road is heavily traveled by walkers and runners trying to avoid route 13 traffic. Putting a business on our street will increase traffic making it less safe for our pedestrians. And honestly, those who don't live in our neighborhood tend to speed on our street and use it as a cut through so I feel a business will add more of this type of traffic to our street. Second, I've been concerned about the number of dogs living in that residence and their care over the past several years and would suggest caution adding more dogs to that environment. At one time, there were 12 dogs in residence, and I'm wondering how they manage all that waste. Finally, there are times when the dogs are loose in the front yard, and or barking viciously out the open windows or from behind the fence at pacers by on the street. It's all ready very disconcerting walking by that residence, again I would be wary of adding more dogs to that scenario.

Thank you for your time and consideration of my concerns.

Peace,


Roxanne Meldrum
80 Comstock Drive
Milford, NH 03055

148 Comstock Drive
Milford, NH 03055

30 September 2013

Town of Milford
Zoning Board of Adjustment
1 Union Square
Milford, NH 03055



Attention: Mr. Fletcher Seagroves
Chairman

Subject: Case #2013-17
Application for Special Exception, Home Business

To Mr. Seagroves and the Board:

We are abutters to the property of Thomas and Toni Nelson at 140 Comstock Drive, who are applicants for a special exception to allow a pet grooming business in their home. Because we will not be available to attend the hearing, we respectfully submit this letter for the record.

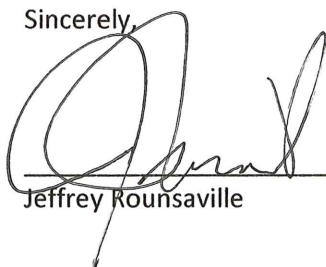
As residents since 1980, we are interested in maintaining the residential character of the neighborhood. We have spoken to the Nelsons to get an understanding of the nature of the business, and we were told the following.

- The business will involve only pet grooming; there will be no boarding or retail business.
- There is an existing clientele and the expectation is that there will be no more than 2 to 6 customers per day.
- Hours of operation will be 9 AM to 5 PM Tuesday through Friday, 9 AM to 3 PM Saturdays
- Pets will be corralled indoors within the area designated for the grooming business.
- In cases when pets need outside relief, they will be leashed.
- They would like to have a sign identifying the location of the business.

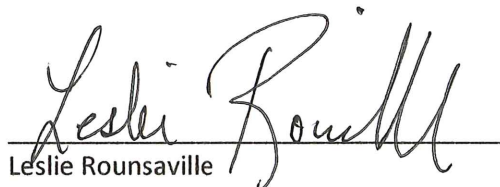
We have no objections to the nature of the business, and trust the Nelsons to follow the plan as they outlined to us. Our only concerns are the potential noise from the animals, and signage. If the special exception were granted, we would prefer that no sign is installed, but if there must be, it will be as discreet and small as possible.

Thank you for your consideration.

Sincerely,



Jeffrey Rounsaville



Leslie Rounsaville

Town of Milford
ZONING BOARD OF ADJUSTMENT



NOTICE OF HEARING

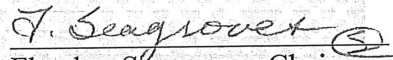
Town Hall
1 Union Square
Milford, NH 03055-4240
(603) 249-0620
Fax (603) 673-2273
www.milford.nh.gov
TDD Access:
Relay NH 1-800-735-2964

Notice is hereby given for a Public Hearing to be held on October 3, 2013 at 7:00 PM in the Board of Selectmen's Meeting Room.

The applicants, Thomas W. and Toni M. Nelson, owners of Map 52 Lot 35, 140 Comstock Dr, in the Residence "R" district, are requesting a special exception from Article V, Section 5.04.2:A.3 to allow a home occupation, in accordance with Article X, Section 10.02.3 for pet grooming.

Case # 2013-17

Dated: September 20, 2013


Fletcher Seagroves, Chairman

Owner/authorized representative must attend hearing; abutters requested to attend.



**Town of Milford
Zoning Board of Adjustment**

Date Received:	<u>9/5/13</u>
Case #:	<u>2013-17</u>
Application #:	<u>20130935</u>
Payment amount:	<u>\$118.75</u>
Date:	<u>9/5/13</u>
By:	<u>ck 2134</u>

Application for Special Exception

Name of Applicant: THOMAS W. & TONI M. NELSON Phone #: 673-7305
902471

Email: TMNELSON@555@COMCAST.NGT

Address: 140 COMSTOCK DR, MILFORD NH 03055

Owner: same as applicant
(If same as applicant, write "Same")

Owner's Address: same
(If same as applicant, write "Same")

Property Location: 140 Comstock Dr Map 52 Lot 35
(Number and Street)

Description of property: 1.93 acre single family lot with existing
2 story split level home. Garage under
150 feet of frontage. Zoned Residence "R"
(Lot dimension, total area, present use)

This application is not considered acceptable unless all required statements have been made and all sections completed. Additional information may be supplied on separate sheets if necessary.

Fees: \$75.00 per case plus abutter fees, including owner and representative (if applicable).

TOWN OF MILFORD RECEIVED
SEP 05 2013
PB _____ ZBA _____ Office _____

Section 1 - APPLICATION FOR SPECIAL EXCEPTION

A Special Exception, as specified in Article V Section 5.04.2.A.3 of the Zoning Ordinance, is requested to permit:

A home occupation for a pet grooming business in accordance with sec. 10.02.3. Business to occupy ~~400~~ ²⁵⁰ sq. feet or less 25% of the lower level floor area.
288

Explain how the proposal meets the Special Exception criteria as specified in Article X, Section 10.02.1 of the Zoning Ordinance:

A. The proposed use is similar to those permitted in the district because:

Various small businesses are allowed in the Residence R District by special exception to home occupations including veterinary clinics and daycare facilities.

B. The specific site is an appropriate location for the proposed use because:

A portion of the lower level garage will be utilized for the pet grooming business. There is adequate parking and driveway access to provide safe dropoff & pickup of pets by customers.

C. The use as developed will not adversely affect the adjacent area because:

There will be no changes to the exterior of the existing home other than necessary to accommodate business access. Traffic generated will be limited as business will accommodate 3-4 customers per day. Business will be open during normal business hours. Signage will be limited to that allowed for home occupations (6 sq. ft)

D. There will be no nuisance or serious hazard to vehicles or pedestrians because:

There will be limited customer traffic and safe parking and access for pedestrians. Comstock Dr. is a residential street with only local traffic.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

The business will need to comply with necessary building code requirements prior to operation to ensure there are adequate and appropriate facilities.

Section 2 - ABUTTERS

See attached sheet.

Section 3 - ATTACHMENTS

- A. A plan of the property and all buildings, drawn to scale, is required.
- B. A Building Permit Application as needed (to be determined by the building official.)
- C. Additional explanations, justification, abutters' statements, letters, etc.

Section 4 - REPRESENTATION

Owner(s) authorization for the applicant or other agent to represent the owner at the proceedings:

Print the name of the person or party representing the owner(s)

The applicant or agent, as stated hereon, has authorization from the property owner to submit this Zoning Board of Adjustment application and to represent the property owner on matters relative to said process.

Owner's Signature

Date

Section 5 - SIGNATURES

Signature of Applicant Toni M. Nelson Date 9-4-13

Signature of Owner Toni M. Nelson Date 9-4-13

Signature of Zoning Official Bill Parker Date 9/16/13
Comm. Dev. Director / Zoning Administrator

For office use only

Code Enforcement Officer's decision and comments:

Associated Criteria - Nelson special exception
Map 52 Lot 35
140 Comstock Dr.
10.02.3

1. The person conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident employed in connection with such occupation.

I am the owner and resident of 140 Comstock Dr.. I will have no more than one assistant working with me at a time.

2. There shall be no evidence outside the dwelling except for permitted signs and required off-street parking, that the dwelling contains a home occupation.

True. Parking exists and signage is limited by the ordinance to six square feet.

3. The Home Occupation shall be confined to one floor of the dwelling unit or accessory buildings and not more than twenty-five (25) percent of such floor area shall be so used.

Home occupation will occupy (288) square feet, which is approximately (20) percent of lower level square footage (1425) sq. ft.

4. Accessory finished goods may be provided for sale in conjunction with the home occupation. Sold and stored in allowed home occupation space only.

There will be available for sale limited pet supplies and accessories as space allows.

5. The home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment, and value of the other residential property in the neighborhood.

See Special Exception Application A through E.



52-27-1

52-28-1

52-28-2

53-114

53-113

52-35

52-36

52-34

52-33

52-98

52-99

52-40

52-41

52-42

Comstock Dr

52-32