



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-619-5685

CITY CLERK  
SALEM, MASS

2021 NOV - 4 PM 3:03

November 4, 2021  
Decision  
City of Salem Board of Appeals

**Petition of MARIA BOVA, for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 FRANKLIN STREET (Map 26, Lot 375) (R2 Zoning District).**

A public hearing on the above Petition was opened on September 22, 2021 pursuant to M.G.L Ch. 40A, § 11 continued to October 20, 2021; and closed on October 20, 2021.

On September 22, 2021, Those of the Salem Board of Appeals present were Mike Duffy (Chair), Paul Viccica, Carly McClain, Rosa Ordaz, and Peter Copelas.

On October 20, 2021, Those of the Salem Board of Appeals present were Mike Duffy (Chair), Paul Viccica, Carly McClain, and Peter Copelas.

The petitioner seeks special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 Franklin Street. (R2 Zoning District)

## Statements of Fact:

1. The petition is date stamped September 1, 2021. The petitioner has requested a special permit per section 3.3.2 *Nonconforming Uses* from commercial business (dog groomer) to a commercial business (kennel).
2. 9 Franklin Street is owned by 11 Franklin LLC.
3. The petitioner is Maria Bova
4. The representative was Julia Marsh Rabin.
5. 9 Franklin Street is in the B1 business neighborhood and the R2 residential two-family zone. The property is currently being leased and the petitioner is seeking to add a dog grooming and boarding facility at 9 Franklin Street.
6. The requested relief, if granted, would allow the petitioner to operate a dog grooming business as well as a kennel.
7. The petitioner discussed how the dog hours would be in effect. Maintaining that the business would have open hours of 7am to 7pm. Expressing that the dogs would not be outside in the evening later than 7:30pm and they would be in their enclosed area so that dogs could not escape.



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8. A member of the public inquired how will the owner manage the transition from have a day care with 20 (twenty) dogs to having a space the can hold up to 50 (fifty) dogs. The petitioner responded by stating that they have 10 (ten) to 20 (twenty) dogs a day for the grooming business. The business will allow for multiple employees during the day and there will be 2 (two) employees for overnights.
9. Another member of the public expressed concern that there was going to be a new ambulance company moving onto the property across the street and wanted to know what the petitioner had planned for the sirens when the ambulances leave the property with the sirens on. The petitioner maintained that if there was noise coming from the business "beyond a reasonable doubt" that she would most certainly apply sound proofing to her concrete walls inside the business.
10. Another member inquired about the schedule for dog waste removal. The petitioner state that just like the dog owners in the neighborhood she would pick up the dog waste and dispose of the waste in the dumpster on her property. The dumpster is picked up weekly.
11. The building commissioner, Tom St. Pierre, stated that the petitioner will also be under the jurisdiction of the animal control officer. The petitioner will need to comply with all the City of Salem's laws and ordinances around animals.
12. Another public comment inquired about the impact of traffic on the area now that there will be overnight boarding. The petitioner responded that the animals that are dropped off for boarding will be during the day and there should not be any impact on traffic due to no one dropping off the animals outside of business hours.
13. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the October 20, 2021 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

### **Special Permit Findings:**

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

Social, economic, or community needs are served by this proposal. The business will bring in an increase in tax revenue and provide for training and job opportunities for the community.

Traffic flow and safety, including parking and loading: No impact is expected.

Adequate utilities and other public services already service the structure.



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Impacts on the natural environment, including drainage: No negative impact is expected; drainage would remain on-site.

Neighborhood character: The project is in keeping with the neighborhood character.

Potential fiscal impact, including impact on City tax base and employment: There is a potential positive fiscal impact, including enhancing the City's tax base by enhancing the value of the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Paul Viccica, Carly McClain, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed to grant to Peter Souhleris the requested Special Permit per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimal lot requirement and the requested Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 Franklin Street, subject to the following terms, conditions, and safeguards:

### **Standard Conditions:**

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the building commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Exterior finishes of the new construction shall be in harmony with the existing structure.
5. Petitioner shall obtain a building permit prior to beginning any construction.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to



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an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.

10. All construction shall be done per the plans and dimensions, submitted to and approved by this Board, as amended. Any modification to the plans and dimensions must be approved by the Board of Appeals, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

  
Mike Duffy, Chair  
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.