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**ROCKLAND ZONING BOARD OF APPEALS**  
**242 UNION STREET**  
**ROCKLAND, MASSACHUSETTS 02370**  
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Town Clerk's Date Stamp:

**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

Decision: Special Permit

Applicant: Cynthia Ellis and Michelle Remillard ( Pampered Paws )

Property Address: 265 Pleasant St, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the review of the application submitted by Cynthia Ellis of 43 Merrymount Rd, Quincy MA 02169 and Michelle Remillard of 21 Buckley St, Quincy MA 02169 for a special permit pursuant to Sections 415-7, 415-15, 415-22, 415-38.3, and 415-89 to allow: the operation of a commercial dog kennel ( Pampered Paws ) at the premises known as and numbered 265 Pleasant St, Rockland MA 02370. The Applicant is seeking a Special Permit to allow up to 100 dogs to be boarded, groomed, and have doggie daycare, with associated retail and training services. The property is located in the I-1 Limited Industrial Zoning District, and is further identified as Lot 19-73-0 on the Rockland Assessor's Maps. The owner of the property is Salvatore Spataro, 265 Pleasant St, P.O. Box 522, Rockland MA.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

Advertised: November 19th, 2021, and November 26th, 2021, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A Public Hearing was held via remote at 7:45 P.M. on December 7th, 2021.

**ATTENDANCE:**

**Board Members: Robert Rosa, Gregory Tansey, Timothy Haynes, Robert Baker, Jr., Robert Baker, Sr., Stephen Galley, (alt)**

**Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.**

**(All Board members were participating remotely)**

**MEMBERS VOTING: Chairman Robert Rosa, Gregory Tansey, Tim Haynes, Robert Baker, Jr., Robert Baker, Sr.**

**DISCUSSION ON December 7th, 2021**

The Chairman of the Zoning Board introduces the members of the board advising to the public that all are participating remotely.

The Chairman asks the members of the ZBA for roll call vote to open the public meeting. The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of December 7th, 2021.

Cynthia Ellis and Michelle Remillard are both present at the hearing for the Special Permit.

The Applicant testified they are taking over the business from the prior owner, and that they are looking to obtain special permit for the operation of a Commercial Kennel similar to the previous owner special permit, however, they would like to increase the dog count from 50 per day to 75 per day (previously noted as 100 on application). They would like take the current business and expand it.

The Chairman opens it up to the members of the board for any questions they may have for the applicant.

Robert Baker, Sr. questions on the original agreement by the zoning board back in 2014 with regards to the last condition noted for the prior owner stating the special permit is non-transferable.

He asked if that is stating that the applicant in front of them today will have to now apply for a whole new license. He wants to know if they are looking for a new license or transfer of ownership.

The Chairman stated that is in regard to the Special Permit to which they are applying for. The non-transferable portion is in regard to the Commercial Kennel License to which the current owner needs to cancel her license and the applicants would apply for a new license within the town clerks office and then it would be approved for by the Animal Control Officer for the Town.

Timothy Haynes – has a question with regards to the fenced in area as one side is chain-link and 2 other sides are vinyl. He asked the Applicant to explain to the board what the landscaping is like and what is changing.

The Applicant testified that they have already moved the fence to the correct land line, moved it up. They also plan on sectioning off different areas of the fence and put the same type of fencing all the way around so that it will be more secure and removing the chain link fence.

Timothy Haynes asked the applicant to talk to the board about how they plan to separate the dogs, staffing, etc.

The Applicant testified that currently there is plenty room to section off big dogs, small dogs, etc... As far as over-nights go they will not board over-night any more than the current number of 21 and they plan on hiring someone to be at the establishment the full time over-night with the animals so the dogs will have 24 hour care.

Timothy Haynes asked if there was a plan in place to dispose of the waste.

The Applicants testified that they clean up the waste daily – place it in sealed containers, and then there is a business they have hired to come remove of the containers.

Timothy Haynes asked that the Applicant note somewhere on the plan to show where it is store and how it is stored so that the Town knows it is not just laying out there.

Robert Baker, Jr. – questioned the daycare portion to see if it is a 7 day per week operation?

The Applicant testified that the current owner is only doing daycare Monday – Friday and weekends by appointment. They would like to do operate Monday – Saturday for Doggie Daycare.

Robert Baker, Jr. asked the Applicant what the earliest drop off and earliest pick up times are.

The Applicant testified that they would like 6:30 A.M. to 7:00 P.M.

Robert Baker, Jr. asked the applicant with respect to the separation of the dogs by size etc...to elaborate on that.

The Applicant testified that plan is in place to basically just keep the dogs safe so that there are not a bunch of dogs running around getting stepped on by the bigger dogs etc. Should a little dog love to big with the bigger animals they will allow it.

Robert Baker, Jr. asked what the maximum amount of dogs in each group at any given time would be.

The Applicant testified that the maximum amount of dogs in each group would be 25

Robert Baker, Jr. asked what the staffing plan is for monitoring each of those groups.

The Applicant testified that they will both be full-time and then they will hire staff another additional member at least for each group.

Robert Baker, Jr. asked with respect to the boarding, are they using wire crates, enclosures, etc?

The Applicant testified that there is already vinyl fencing in place, with no top on them. There are 8 4x6 and 8 6x6. They confirmed there are no crates.

Robert Baker, Jr. asked the Chairman with regards to licensing etc. for purpose of ZBA they are not getting involved with the operation of the business, with respect to emergency vet plans etc.

The Chairman asked the Applicants what their plan is going to be for emergency situations.

The Applicant testified that their goal is to become affiliated with a local vet and if not then VCA in Weymouth.

Robert Baker, Jr. asked the applicant what their position is with regards to a behavioral assessment.

The Applicant testified that they would just be using it to see how the dog interacts with the other dogs.

Robert Baker, Jr asked the Applicant – in terms of vaccination requirements if they were looking for anything other than Rabies and Bordetella?

The Applicant testified no they are not.

Robert Baker, Jr. asked the Applicant if they are going to require evidence of flea and tick protection?

The Applicant testified they are not sure on that yet because there are some dogs that have reactions to those etc. They will have groomers there so should they have fleas or ticks they can address the situation.

Robert Baker, Jr. asked the applicant if they are going to offer the dogs the opportunity to be feed there.

The Applicants testified yes in separate areas.

Robert Baker, Jr. asked the Applicant what arrangements will be made for the food storage?

The Applicant testified the owners of the animals will be bringing their own food in each day and it will be labeled.

Greg Tansey – asked the Applicant how much experience they have in running kennels?

The Applicant testified she has owned a Doggie Daycare / Dog Walking company for 18yrs. As well as for the past 6 months they have been shadowing the current owner of the establishment to learn how the kennel is operated.

The Chairman asked the Animal Control Officer if he is happy with the Applicants and the plan presented and the current establishment.

The Animal Control officer confirmed he is comfortable with all of it and what they would like to do.

The Chairman asked the current owner what her plan is if when they get the license is she going to be completely gone?

The current owner testified that she is going to transition out she will not be immediately gone and will work with the new owners during the transition.

Tom Ruble – asked the current owner – to see if her Special Permit was ever recorded within the registry of deeds.

The current owner confirmed there is one recorded and the Town clear has one on file.

Tom Ruble stated that was his only question – he thinks everything else is great.

The Chairman opens it back up to the members of the board if they have any further questions.  
No further questions

The Chairman opens it back up to the members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

No one spoke in favor or opposed on behalf of the applicant.

The Chairman asked the members of the board for a motion to close the public portion of the meeting.

Robert Baker, Sr. made a motion to close the public portion of the meeting.

Robert Baker, Jr. seconded the motion.

The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been closed.

The Chairman reads to the applicant the appeal process and states a decision will be made at tonight's hearing, and that they are welcome to stay and await the result.

### **DELIBERATION:**

Upon a motion duly made Timothy Haynes and seconded by Robert Baker, Sr. in a roll call vote the Board voted unanimously (5-0) to GRANT, via roll call vote, with members, Robert Rosa, Greg Tansey, Tim Haynes, Robert Baker Jr., Robert Baker, Sr. in favor, to the newly conditioned Special Permit, with the new conditions to reflect as shown below.

### **CONDITIONS:**

1. The number of dogs at any given time from now until the area is inspected by the Building Commissioner/ZEO for compliance with these conditions is limited to 15 dogs; after the area is inspected by the Building Commissioner/ZEO for compliance the Applicant shall be permitted to have not greater than seventy five (75) dogs on site at one time.
2. The Applicant shall abide with the provisions of §415-38.D.8 of the Zoning By-law which states that no dogs shall be outside between sunset and sunrise; however, the Board agrees and authorizes a shore supervised bathroom break in the outdoor area after sunset limited in size and scope to such a break and not recreation. Under no circumstances shall there be no more than twelve dogs outside and there shall be no outside bathroom breaks after 11:00 P.M.
3. The inside of the structure as well as outside play area needs to be kept in a clean, sanitary, and humane condition and shall be subject to Inspection by the Rockland Animal Control Officer as per provisions of §415-38.3.D.9 of the Zoning By-law.
4. All dogs shall be provided access to shelter which will protect them against inclement weather and shelter shall be kept clean and sanitary.
5. The Applicant shall maintain a written plan in place for offsite disposal of solid animal waste and shall provide a copy of the plan to the Building Commissioner/ZEO.
6. Animal Control Officer shall be permitted at any time to inspect or cause to be inspected any kennel and if, in his/her/their judgement the kennel is not being maintained in a sanitary and humane manner, if the kennel is being operated in such a manner to cause a nuisance, or if records are not properly kept as required by law, may by order temporarily revoke or suspend said kennel license, refer the matter to the Board of Selectmen for a hearing pursuant to applicable law, and/or refer said matter to the Zoning Board of Appeals for enforcement, suspension, or revocation of said Special Permit.
7. The Applicant shall keep and maintain on-site current rabies certificates for all dogs which are kept at the commercial kennel, including for dog day-care or for boarding and a copy of the yearly dog licenses from the town in which the animal resides.

8. There shall be no more than twenty five (25) dogs outside during the day-light hours within the fenced in area at the rear of the building, and they must be supervised by employee(s) who is/are outside or by video camera which has the capacity to monitor noise so that excessive noise can also be monitored and controlled.
9. The hours of the business operation shall be 7:00 A.M. to 7:00 P.M. and no pick-up or drop off after 7:00 P.M. except in the case of an animal emergency.
10. Pursuant to provisions of 415-38.3.D.3 of the Zoning By-law a vegetated buffer zone is required the Applicant demonstrated that there is at the time of this hearing an adequate buffer existing with appropriate vegetation. If for any reason the natural vegetation that is currently existing is removed or ceases to exist, the Applicant shall within 60 days install the vegetated buffer provided it is within the growing season. If not, the Applicant shall install as soon as practical following springtime, but not later than April 30<sup>th</sup> of the ensuing year's springtime.
11. The hours for dumpster pick-up and pet dog waste removal shall be during the hours of 8:00 A.M. to 5:00 P.M. Monday through Friday.
12. The number of dogs shall be 75 in total with no more than 21 for over-night boarding for one (1) year from the date stamp of this decision. After (1) year, the number of dogs may be increased upon further application and approval by the Board at a public meeting after (1) year period of time provided there is compliance with the conditions of this Special Permit and the operation of the commercial kennel as not created any undue or adverse noise, visual impact, traffic or other impact. The request shall be made in writing by the Applicant and a written approval from the Board shall also be recorded with the Registry of Deeds.
13. This Special Permit authorizing a Commercial Kennel granted specifically to the Applicant and is non-transferable, shall be null and void upon the sale of all or any part of the business and/or change of ownership.
14. The Special Permit shall be recorded after the issuance of a certificate of no appeal from the Town Clerk's office following the 21 days from the date stamp of this decision. The Special Permit is not valid until it is record with the Registry of Deeds. Proof of recording shall be given to the Building Commissioner/ZEO prior to obtaining an occupancy permit and a copy of said recording shall also be given to Town Clerk's office prior to obtaining a Commercial Kennel License from the Town Clerk's office.
15. The outside pen shall be fenced in with solid wood or vinyl fence with a minimum of 6ft – to be completed within 1 year from the date stamp of this decision.
16. There shall be in place and subject to the approval of the Animal Control Officer an emergency veterinary plan that includes but is not limited to an identified emergency care service provider.
17. Staff will be present at all times on the premises when dogs are present for boarding
18. There shall be an emergency evacuation plan in place approved by the Animal Control Officer.

**REASON FOR DECISION/FINDING:**

Upon motion duly made by Timothy Haynes and seconded by Robert Baker, Sr., the Board found the Applicant is seeking a Commercial Kennel offering a day care, grooming and limited over-night boarding for 75 dogs at 265 Pleasant Street. The Board found that the Applicant has experience in operating this type of business at a previous location. The Board found that there have been no complaints file with the Town officials or the Animal Control Officer concerning the prior operation at the previous location. The Board found that the structure is CMU construction which will suppress the noise. The Board found that the natural brush is sufficient for a vegetated buffer but if for any reason the brush is eliminated the operator of the kennel shall within 60 days install the required vegetated buffer as soon as the following springtime. The Board found that there is a substantial distance to the nearest residential dwelling. The Board found that with this Commercial Kennel being run in an I-1 zone, it would not be offensive by reason of the emission of

odor, fumes, dust, smoke, noise, and/or vibration or that it would have a negative impact on the environment or living conditions within the Town. The Board found provided there is a compliance with the new Commercial Kennel By-law and list of conditions set-forth in this decision, the operation of a Commercial Kennel in this location by the Applicant would not be in derogation of the intent and purposes of the Zoning By-law and could be operated in harmony with the surrounding neighborhood.

**NOTE:**

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

**FOR THE ZONING BOARD OF APPEALS**



Robert C. Rosa III

Chairman