

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: APRIL 21, 2010

CASE NO.: 4/21/2010-1

APPLICANT: ERICA N. ONDRE
144 MAMMOTH ROAD
LONDONDERRY, NH 03053

LOCATION: 144 MAMMOTH ROAD, 3-98, AR-I

BOARD MEMBERS PRESENT: MATTHEW NEUMAN, ACTING CHAIR
NEIL DUNN, VOTING MEMBER
JIM SMITH, VOTING MEMBER
JOE GREEN, VOTING ALTERNATE
JAY HOOLEY, NON-VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING
OFFICER

REQUEST: SPECIAL EXCEPTION TO ALLOW A PET GROOMING SERVICE AS A HOME
OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION
3.12.

PRESENTATION: Case No. 4/21/2010-1 was read into the record with no previous cases listed.

Clerk O'Sullivan read Exhibit "A" into the record; a letter from an abutter.

MATT NEUMAN: The applicant can come forward.

ERICA ONDRE: [indistinct; asking which microphone to use]

MATT NEUMAN: Whatever you feel comfortable with. Just if you can start with your name and
address.

ERICA ONDRE: I'm Erica Ondre from 144 Mammoth Road. Do I just...?

MATT NEUMAN: The easiest way is just for you to walk through your application.

ERICA ONDRE: Well, I'm just looking to open up a pet grooming, and I say "pet grooming" because we will be doing dogs and cats...well, I will be doing...

MATT NEUMAN: You know, I'm just gonna stop. It'll help if you just actually go through your application point by point.

ERICA ONDRE: Like exactly what I wrote down or...?

MATT NEUMAN: Yeah.

ERICA ONDRE: I don't have...

JIM SMITH: Or you could paraphrase it. You don't have to be...

MATT NEUMAN: Yeah.

ERICA ONDRE: I don't have that copy of exactly what I wrote because I hand wrote it.

LARRY O'SULLIVAN: Sure.

ERICA ONDRE: Sorry.

MATT NEUMAN: No problem.

JAYE TROTTIER: You can come up and get this.

ERICA ONDRE: Thank you.

JAYE TROTTIER: Yup.

ERICA ONDRE: So I just said I'm applying to open a dog and cat grooming business. I'll be bathing, drying and trimming the pets. The pets will be dropped off between seven (7:00) and nine (9:00), so it will be a staggered drop off, and picked up later, once their done, the same day. I'm not gonna do any boarding or day care. And the only time I would let them out, if they were there for a longer period of time, say maybe, over like four (4) hours or something, where it should be let out to go to the bathroom, but other than that, they're just gonna be inside my house. There's no licensing or requirements by the State. I did go to training, four (4) month training and I have been doing it for like five (5) years now. I plan on just starting out doing it part time here and there and still keeping my full time job and doing it, kind of, on the side, just 'til the business builds. Eventually, I'd probably say Monday through Saturday would be the days that I would be doing it and I say seven (7:00) to six (6:00) but more, like I said, the only time would be drop off would be between seven (7:00) and nine (9:00) and then they just come when I call for them to come pick up their animals. I did want to have a sign. A freestanding sign. And I did attach all my floor plans to show that it's less than twenty five (25) percent of the living area. Eventually...let me see...I'm not doing any

exterior renovations. I did eventually want to have an employee, once this is down the road, maybe just like a brusher/bather type of person that would help me bathe the dogs. Again, that's once I get big enough to even consider that. And I think that's it.

MATT NEUMAN: Any questions from the Board?

LARRY O'SULLIVAN: Sure. Is there a description of the sign here?

ERICA ONDRE: No. I just said I would like it up to three (3) square feet.

LARRY O'SULLIVAN: I'm sorry, how many?

ERICA ONDRE: I would like it up to the size of the three (3) square feet that you guys allow, but that was all. And just have it freestanding.

LARRY O'SULLIVAN: And do you have a fenced yard?

ERICA ONDRE: No, I do not.

LARRY O'SULLIVAN: How were you planning on taking care of the dogs when they're out?

ERICA ONDRE: I did plan on getting, like, a freestanding kennel and having them leashed and just bringing them out to the kennel and having them go to the bathroom in that one area.

MATT NEUMAN: Now, exactly what rooms are you gonna...they're gonna be limited to the third bedroom and the laundry room? Is that...?

ERICA ONDRE: Well, the third bedroom is just for my office. I put that. Then all the grooming is gonna be done in the laundry room.

MATT NEUMAN: And then where are they gonna be?

ERICA ONDRE: They'll be in there, too. Yeah, caged there.

MATT NEUMAN: That's where they'll be caged?

ERICA ONDRE: Yup.

MATT NEUMAN: Okay.

LARRY O'SULLIVAN: Can I ask if the laundry room and the storage garage are separated by a wall?

ERICA ONDRE: Yes. And that was eventually in my future plans, I did want to expand that if it got to that point. If I needed to.

MATT NEUMAN: So your plan, at some point, is to make that one room and...?

ERICA ONDRE: All one area. Yeah, so then the office and the checking and, like, could be all there with the grooming room.

MATT NEUMAN: So you wouldn't be using that third bedroom...

ERICA ONDRE: Anymore, no.

MATT NEUMAN: ...anymore?

ERICA ONDRE: No.

MATT NEUMAN: Do we have any other questions on the Board?

LARRY O'SULLIVAN: Yes. Are you the owner of the property?

ERICA ONDRE: Yes.

LARRY O'SULLIVAN: How long have you lived there?

ERICA ONDRE: I bought it October 31st, 2008.

JIM SMITH: Any limit on the size of the animals?

ERICA ONDRE: While it's just me, I probably would stay, like, probably around seventy (70) pounds or so. I wouldn't go bigger than that, 'cause I couldn't get them in the tub.

LARRY O'SULLIVAN: So would you voluntarily limit your trade to cats and dogs, or...?

ERICA ONDRE: Yup.

LARRY O'SULLIVAN: Mm-hmm. You mentioned that you wouldn't have any boarding or any overnights?

ERICA ONDRE: Nope.

LARRY O'SULLIVAN: At all?

ERICA ONDRE: At all.

LARRY O'SULLIVAN: Do you own a pet?

ERICA ONDRE: Yes.

LARRY O'SULLIVAN: Dog? Cat?

ERICA ONDRE: I have a dog and one (1) cat.

LARRY O'SULLIVAN: Okay.

MATT NEUMAN: What are your plans if someone drops their dog off and then they can't make it back to pick them up?

ERICA ONDRE: I would say I would call them and see what the situation was and try and drop...or I could drop it off at either someone's house that they would like me to or bring it back to their house.

MATT NEUMAN: So maybe, possibly in an emergency situation, you might have to keep one overnight or...? But you're not planning on boarding.

ERICA ONDRE: Oh, no. Yeah, I mean, obviously, if it's an emergency and there's nowhere else the dog could go, I would keep it, but...

MATT NEUMAN: And I assume you're on a septic system there?

ERICA ONDRE: Mm-hmm. Chambers.

MATT NEUMAN: Alright.

JOE GREEN: You'd be comfortable with us limiting the boarding and day care? Obviously not...that you wouldn't be doing it?

ERICA ONDRE: Yeah. Yup.

JOE GREEN: Okay.

NEIL DUNN: If I may, Mr. Chairman? If you're gonna be home and they're dropping them off and you have a car in your driveway, is there room for somebody to turn around in your driveway?

ERICA ONDRE: Yes. Yup.

NEIL DUNN: Do you know that the dimension, the width of your driveway is? On the diagram you had where the house was? Just an approximate.

ERICA ONDRE: I don't have, like a...I don't know how many feet it would be but I know four (4) cars can fit, like, facing my house. Four (4) cars.

MATT NEUMAN: Well, if there's no further questions from the Board at this time, then we'll ask anyone in the audience who's in favor of the request to come forward. And not seeing any, we'll ask...

LARRY O'SULLIVAN: Here comes somebody.

CHRIS WEST: I'm Chris West, 146, the north side of their property. I'm not opposed to it; I just have concerns with the traffic onto Mammoth Road. And it's a very fast part of the road. There's been many, many accidents out there. They were there on the move-in day, they got one right in front of their house and it's sort of a blind drive coming out of their property, going onto the road. So you have to turn around and go out facing to get out safely. So that's the only concern we have.

MATT NEUMAN: So you're not opposed but you're just raising that concern?

CHRIS WEST: But I'm not opposed to the business. They've had a dog for the year and a half and I don't think we've heard boo from the dog. So, that's...and the prior neighbors were very noisy. Had a lot of dog problems with the prior...before they bought the house, so, it's been quiet. So, that's all I have.

MATT NEUMAN: Okay. Thank you.

JIM SMITH: Are any other family members gonna help you?

ERICA ONDRE: Working in the business?

JIM SMITH: Yeah.

ERICA ONDRE: Nope.

JIM SMITH: Okay.

LEITA ONDRE: I wanted to say something [indistinct].

MATT NEUMAN: Come on up. If you can just state your name and your address.

LEITA ONDRE: I'm Leita Ondre and I live on Frost Road in Derry. I'm her mom. And I just wanted to address the anonymous letter. There was a couple of things. As far as odors and dog shampoos, I don't think any of that would emanate out from the building or into the neighborhood at all. There's gonna be plumbing in the building, the drain from the tub goes right into their plumbing. So as far as odors, I don't see that as a problem. And as far as the noise goes, I don't know if anybody's been to Petco where you can look through the glass wall, but basically they're not outside. There's usually a bank of cages inside the grooming area and the dogs are kept in there and they're not...wouldn't be allowed to run out on the lawn, free. Obviously, they've just been cleaned, you don't want them outside running around. And they just are outside momentarily when they let them out to go to the

bathroom, if a dog has been there for a longer period than usual. And they did mention that there weren't any businesses, but when I drive up and down Mammoth Road, there's a hairdresser, a day care, and either a metal business or a welding business that are all up and down Mammoth Road, as far as being other businesses on that road. And I'm a little prejudiced, probably, but she's a pretty responsible daughter and very good with her animals and as far as training and making them behave, as her neighbor has said. So I think that she would pay particular attention to anything that might disturb anybody in the neighborhood. Thank you.

MATT NEUMAN: Thank you. Anyone else in the audience who'd like to come forward, either in favor or opposed?

ALEXA MUTY: [indistinct]. I just wanted to say...

MATT NEUMAN: Your name and address?

ALEXA MUTY: Oh, sorry, my name's Alexa Muty and I live at 47 Fieldstone Drive, Londonderry. I just wanted to mention something about the letter as well and his concern about traffic. The traffic issue, that's why there's a staggered drop off time, so that people will be coming from seven (7:00), seven-thirty (7:30), eight (8:00), eight-thirty (8:30), possibly for drop off, between seven (7:00) and nine (9:00), so that there won't be a lot of traffic coming in and out. And then as dogs are done, the owner will be called, so it would only be one (1) dog done at a time, rather than a mass amount of people coming to pick up at one (1) time. That's all.

MATT NEUMAN: Okay, thank you.

MICHAEL MCQUEENEY: You said anybody at this time, right?

MATT NEUMAN: Absolutely.

MICHAEL MCQUEENEY: Michael McQueeney, 15 Wildwood Road. I am a rear abutter to the property, so I'm not on Mammoth Road. The back of her property backs up to the back of my property. So I'll let you guys worry about the Mammoth Road and the traffic. My issue is noise. And, like Chris said, she's so far been a dog owner. We've not heard her dog bark. However, I'm concerned about issues beyond her control. People that have not come and picked up their dogs, the business takes off and she's doing great, whatever the issue may be, these dogs have to go outside at some point. I'm not concerned about the sound while they're being groomed. It's indoors. Where this kennel's gonna be is probably gonna be very close to my property line. I have a dog. We have a nice stream that goes between the properties. It's a nice wooded area and I would hate to see that compromised by barking dogs that could even be beyond her control, whether or not they're there. So, in addition to the letter, my point of emphasis is noise. Thank you.

MATT NEUMAN: Thank you. Anything further from the audience? Any additional questions from the Board?

NEIL DUNN: I would like...is there an existing kennel there now?

ERICA ONDRE: Nope, I haven't got it yet. And, like, when they do go out, it's gonna be five (5) minutes, to make sure they go to the bathroom, and then I'm gonna clean it up and put them back in the cage inside. I mean, they won't be outside for long.

JIM SMITH: Now when you say "kennel," what do you really mean?

ERICA ONDRE: I would say it's, like a...it's freestanding, it's not in the ground. It's not a permanent fencing. It's just like a run, almost, a dog kennel run, and it's freestanding. There's nothing in the ground. I'd say it's probably like three (3) by six (6).

JIM SMITH: So it's a caged-in area?

LEITA ONDRE: [indistinct]

ERICA ONDRE: Oh, six (6) by six (6).

JIM SMITH: So, it's a caged-in area?

ERICA ONDRE: Yes.

JIM SMITH: It's not a shelter of any...?

ERICA ONDRE: Nope.

JIM SMITH: Okay.

ERICA ONDRE: Yup. That's just for the safety of the animal being right on Mammoth Road.

MATT NEUMAN: Are you currently working in this industry?

ERICA ONDRE: Yup. I work at Petco.

MATT NEUMAN: Okay, and you've been doing this for...?

ERICA ONDRE: Five (5) years.

MATT NEUMAN: Five (5) years?

ERICA ONDRE: Mm-hmm.

NEIL DUNN: The concerns over noise, do you have any comments on how you'd handle...or your thoughts on the noise concerns?

ERICA ONDRE: I just think, inside, I don't feel like that's going to be a problem. And it's only some of them are going to be going outside if they have been there for a period of time and it's only gonna be outside for five (5) minutes or so, just to make sure that they have gone to the bathroom.

LARRY O'SULLIVAN: Your notes say that you expect about six (6) dogs or animals per day?

ERICA ONDRE: Yeah, I'd say on average, that's what I do.

JOE GREEN: Would that be the maximum that you would take?

ERICA ONDRE: I wouldn't say the maximum, just if it's...as of right now, yeah, I wouldn't take anymore. It's just that I wouldn't have the room. If I did get bigger and I had the expansion, like I put in the plans, then I'd be able to have more cages. And just if I have short haired dogs, they don't take very long to do and I could take a couple more, but just due to the traffic-wise, I understand. I wouldn't want that many people at my house. I'd say probably max, like eight (8) dogs.

JOE GREEN: So at the 14.42[%], you'd have eight (8) dogs max, right?

ERICA ONDRE: Yup.

JOE GREEN: Okay.

MATT NEUMAN: And I think that's probably one of the biggest concerns that we have is that it at some point, you're gonna be Petco on Mammoth Road and...

ERICA ONDRE: If I do get that big, I definitely would plan on looking into renting a place or something like that. I don't want it to get that big at my house.

MATT NEUMAN: Anything else from the Board? Alright, we're gonna bring it back and deliberate.

DELIBERATIONS:

LARRY O'SULLIVAN: So with the self-imposed hour limitations, the number of animal limitations, the requirements to put in the kennel, or to have a kennel where the dogs are kept outside, or leashed all the time, I don't see any issue with this. Or the sign, anybody can have a three (3) foot square outside their home...

MATT NEUMAN: Right.

LARRY O'SULLIVAN: ...in our town. The questions that folks were asking were really that, they were questions about, you know, "what if," "what if," and I think Miss Ondre has addressed them. I don't see any other issue with this.

NEIL DUNN: I know we like...that we get a lot of requests for home occupations and I guess the biggest trouble I have with...from a technical point, when we look at 3.12, "Home Occupations," and then you look at 3.12.1.2 and additionally .3, it says it "shall be carried on...within the dwelling and/or garage." That's the 1.2, and then .3, there shall be "no exterior renovations or construction." So maybe, if the kennel was there now, I could get away with the fact that there's nothing exterior going on, but it's still taking part of the business outside of the dwelling or garage.

MATT NEUMAN: There's no real alteration, though, if it's not a permanent structure.

LARRY O'SULLIVAN: It's a temporary, yeah.

NEIL DUNN: Right, so...well, again, I mean...but again, if we go back to 3.12.1.2, it says the "home occupation shall be carried on by the occupant only," it's not saying, you know, any other thing, then "only within a dwelling and/or garage."

LARRY O'SULLIVAN: I think that would be referring to washing the dogs outside, as opposed to bringing them out for a walk or to relieve themselves, so...

JOE GREEN: Yeah, I don't agree with that. I think your point is valid, that we, you know, part of the business is actually coming outside. The other comment I had was I'm still not convinced that if you have six (6) to eight (8) dogs out in a kennel, that they're not gonna be talking...

JIM SMITH: No, she didn't say that.

JOE GREEN: I mean...

LARRY O'SULLIVAN: During the day...

JIM SMITH: No, no...

JOE GREEN: ...during the day, that they're not gonna be talking to each other or chatter and barking, so...

JIM SMITH: No, no, no. What she said was she's only gonna take a dog out to relieve itself one at a time.

JOE GREEN: Oh, for the [indistinct]? Okay. I missed that part.

JIM SMITH: She's not gonna put them all out there. She essentially said she was gonna keep them in cages inside.

JOE GREEN: Okay. I missed that part.

JIM SMITH: So you wouldn't have that situation, I don't believe.

LARRY O'SULLIVAN: Richard, can we ask for an opinion as to the outside part of the business there?

RICHARD CANUEL: Well, you know, the kennel, if that's what you want to call it, you know, the fenced-in area to allow the animals to relieve themselves is not necessarily construction that has to do with the operation of the business. So I wouldn't consider that an issue.

LARRY O'SULLIVAN: Especially since she has a dog already that could use it.

RICHARD CANUEL: Sure.

MATT NEUMAN: Right...

LARRY O'SULLIVAN: In the past we've allowed people to put home occupations in where they already had swing sets and what have you that...

MATT NEUMAN: So you can almost say it's equal to someone coming and going from the property itself.

LARRY O'SULLIVAN: Yeah.

MATT NEUMAN: We're talking about an animal...

NEIL DUNN: Right but the...

MATT NEUMAN: ...for an amount of time going outside.

NEIL DUNN: ...the ordinance 3.12 specifically addresses traffic and then if it's a day care or a group care, there are specific chapters for that. This one falls under the general home occupations and typically, we've been looking at businesses that are really run from the home, whether you're a one-person outfit on the internet or doing whatever, but it's really all concealed within the home. Again, it only gets back to the part, it seems miniscule, but it's coming out of the house now and when I read that, I just, you know, where do we draw the line on what's written specifically? When we get to the other ones, there are specific areas that talk about outside play areas and it has to be fenced in, so that's a different that we're getting regulated by, so that's all my point is here.

LARRY O'SULLIVAN: You can have a lot of intent there...

RICHARD CANUEL: I'm glad you brought that up because you can compare that equally to a day care...

LARRY O'SULLIVAN: Right.

RICHARD CANUEL: ...where the day care use as a home occupation is done within the home but yet there is an outside play area...

NEIL DUNN: Right, but there's a specific...

RICHARD CANUEL: ...so there's that same relationship there.

NEIL DUNN: Yeah, but there's a specific...

LARRY O'SULLIVAN: Allowance for that, yeah.

NEIL DUNN: ...allowance for that in the home day care or home care category, which is a different section of the ordinance. That's all I'm pointing out.

LARRY O'SULLIVAN: I agree but I think with the being as finite about that. I think, though, that the intent has to be taken into consideration when we interpret this and I think that's the intent of this section, anyway, is to allow this type of an operation with that type of exposure outside.

JIM SMITH: I think if you look at .6, it says "in addition to the requirements set forth...whether the proposed Home Occupation will adversely affect the property involved, the neighborhood [sic] properties, by reason of any *unusual* sight, light, noise, smell, traffic..." So I think there's some wiggle room there for as far as allowing the dog to go outside.

LARRY O'SULLIVAN: Mm-hmm.

JIM SMITH: That's not an unusual thing to happen in a residential neighborhood. Anybody that's got a dog, you know you gotta take them out at least once, twice a day.

NEIL DUNN: That's valid. I can see that.

JIM SMITH: You know? And I think that gives you the ability to address something like that.

MATT NEUMAN: I just don't know, does the Town have a limit on how many animals that you can have as a homeowner?

JIM SMITH: You can put it, but it'd be...

LARRY O'SULLIVAN: We don't have...

[overlapping comments]

MATT NEUMAN: No, no. Do we have that anywhere?

JIM SMITH: Oh.

MATT NEUMAN: Is that a....?

LARRY O'SULLIVAN: Not for dogs and cats.

JIM SMITH: Yeah. If you have over a certain number, then it's considered a kennel and then that falls...

MATT NEUMAN: Do you have any idea what the number is, though? I mean...

JIM SMITH: It's under the agricultural thing.

RICHARD CANUEL: Yeah, if you...

JIM SMITH: I think it's...it's either four (4) or six (6). And then they have to be over six (6) months of age before you...into the kennel, then it's considered similar to an agricultural use, so you need to have the two (2) acres.

LARRY O'SULLIVAN: If you have more than four (4) dogs?

JIM SMITH: I think it's either four (4) or six (6). Richard's looking it up.

RICHARD CANUEL: Yeah, by our definition, you know, the kennel is described as a use of a lot for four (4) or more dogs which are of six (6) months or age older. But that would be a kennel use of the lot, that's if you're actually building a kennel out on the lot itself, so...

MATT NEUMAN: So there is really no limit for someone to have...if somebody wanted ten (10) dogs as a property owner.

RICHARD CANUEL: No, of course not. No.

JIM SMITH: Well, you would fall under the agricultural thing where they need a certain acreage, I believe.

RICHARD CANUEL: I'd say if they were actually establishing a kennel use, per se, so...

MATT NEUMAN: Alright. Any further deliberation needed? I'm ready for a motion.

LARRY O'SULLIVAN: I think we ought to get the language together for the...

MATT NEUMAN: Restriction?

LARRY O'SULLIVAN: ...restrictions, please. Yeah. We do have the boarding limitation. We also have the single employee. We have the kennel required. Limited to cats and dogs. Anybody else have anything that they would...?

JOE GREEN: Eight (8) max.

LARRY O'SULLIVAN: I beg your pardon?

JOE GREEN: Eight (8) max.

LARRY O'SULLIVAN: Per day?

JIM SMITH: Could we get away from the word "kennel" and say a...

LARRY O'SULLIVAN: "Fenced-in area"?

JIM SMITH: Yeah, I think that would be more...

MATT NEUMAN: Yeah, I agree with Jim.

LARRY O'SULLIVAN: Appropriate and descriptive of our needs. Okay.

MATT NEUMAN: Mm-hmm.

JIM SMITH: Yup.

LARRY O'SULLIVAN: Okay. I make a motion to approve case 4/21/2010-1, a special exception, with the following restrictions: that there be no overnight boarding; that the employee be limited to one (1) employee; that the fenced-in area be required prior to the business or to continue the business for the dogs for temporarily storage outside, I guess that would be, use outside; that it be limited to, was it eight (8) cats or dogs per day.

MATT NEUMAN: We have a motion to approve with restrictions. A second?

JIM SMITH: I'll second.

MATT NEUMAN: We have a second. All those in favor, say 'aye'. Aye.

LARRY O'SULLIVAN: Aye.

JIM SMITH: Aye.

JOE GREEN: Aye.

NEIL DUNN: Aye.

MATT NEUMAN: Those opposed? Abstentions?

[no response for either]

RESULT: THE MOTION TO GRANT THE SPECIAL EXCEPTION WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MAY 19, 2010 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JOE GREEN AND APPROVED 5-0-2 (VICKI KEENAN AND MICHAEL GALLAGHER ABSTAINED AS THEY HAD NOT ATTENDED THE MEETING).