



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 27, 2023

ORDERED:

PAGE 1

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

ALL FUR LOVE

ORDER NO. 22/23-1008723D

The City Council of the City of Marlborough hereby **DENIES** the Application for a Special Permit to Divino Oliveira and Marquel Frink (collectively, the "Applicant") for a dog grooming business at 75 Lincoln Street, Marlborough, as provided in this Decision.

FINDINGS OF FACT

1. The Applicant, Divino Oliveira and Marquel Frink, are individuals with an address of 126 Main Street, Medway, MA 02053.
2. The Applicant is the prospective owner of the property located at 75 Lincoln Street, Marlborough, Massachusetts, being shown as Parcel 249A of Assessor Map 57 (the "Site").
3. In accordance with unspecified sections of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to change the current use at the Site to establish a new use, dog grooming business (the "Use").
4. The Site is located in the Residence B Zoning District ("RB").
5. The Site has an area of 10,714 SF +/- according to the application.
6. The Applicant filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
7. In connection with the Application, the Applicant submitted a certified list of abutters, and filing fees.
8. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.



IN CITY COUNCIL

Marlborough, Mass., _____ FEBRUARY 27, 2023

PAGE 2

ORDERED:

10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, December 5, 2022. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on December 5, 2022.
11. The Applicant presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, parking/traffic, and the neighborhood.
12. At the public hearing, one member of the public spoke in opposition to the Use.
13. The City Council's Urban Affairs Committee reviewed the Application. At its meeting on January 24, 2023, the Committee voted 5-0 to recommend denial of the special permit.
14. On February 13, 2023, the City Council referred the Urban Affairs Committee's recommendation to deny the special permit to the Legal Department to be placed in proper legal form.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

- A. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **DENIES** the Applicant a Special Permit for a dog grooming business. The basis for the denial are the following reasons and findings:
 1. The Use is not permitted in the RB zoning district, and a special permit cannot authorize the Use under City Zoning Ordinance 650-16, 650-17. The Use is a change in use that must itself comply with current zoning.
 2. Under City Zoning Ordinance 650-12(b), the City Council considered whether this Application seeks to change a pre-existing non-conforming use to a new use, and if so, whether the Use would not be substantially more detrimental to the neighborhood than the existing use of the Site.
 3. The City Council finds that the Applicant did not establish whether there is a legal, pre-existing non-conforming use currently on the Site, which would allow for an application under Section 650-12(b) of the Zoning Ordinance. While the Application references an existing "mixed-use", it is not established whether any such mixed-use was lawfully established, and even if it was, that it had not been abandoned or not used for a period of two years or more.
 4. Subject to the above paragraphs 2 and 3, the City Council considered the impacts of the change in use for purposes of Section 650-12(b), and finds that the Use will be substantially more detrimental than the most recent use of the Site for the following reasons:



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 27, 2023

PAGE 3

ORDERED:

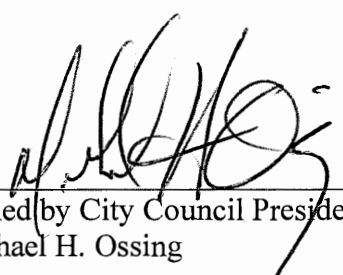
- a. The Use proposes to establish a new commercial use of the Site as a dog grooming business. The Site is located in the RB zoning district, which is a residential zoning district that prohibits business uses with very limited exceptions. Dog grooming is not a use explicitly listed in the Zoning Ordinance's Table of Uses, Ordinance 650-17. Even if the Use arguably falls within another use category such as "consumer service establishments" or as part of a "mixed-use development", these types of uses are also prohibited in the RB zoning district.
- b. Utilizing the Site for a type of business that has a significant number of customers on Site daily would result in a significant increase in the number of vehicles entering and exiting the Site from the most recent use of the Site for upholstery where customers did not regularly frequent the Site.
- c. Lincoln Street already is a heavily traveled road, and the Use would add additional traffic entering/exiting the Site when compared to the most recent uses.
- d. The Use poses new detrimental impacts to the neighborhood in the form of noise from customers and dogs utilizing the parking lot on the Site, and odor due to any dog waste within the exterior of the Site. Adjacent uses to the Site are residential.

Each of the above stated reasons, individually, provides sufficient grounds for the denial of the special permit, and collectively, provides sufficient grounds for such denial.

- B. Incorporation of Submissions. All minutes, reports, documents, recordings, and submittals before, or made by, the City Council and/or the City Council's Urban Affairs Committee, are incorporated into this decision.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.


Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
22/23-1008723D