



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2019 APR -5 A

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0001
1663 BEACON STREET, BROOKLINE, MA

Petitioner, Pleasant Animal Clinic, Inc., applied to the Building Commissioner for permission to establish a veterinary office at 1663 Beacon Street. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed February 14, 2019 at 7:00 PM., in the Selectmen's Hearing Room as the date, time and place for the public hearing. Notice of the hearing was mailed to the Petitioners, to their attorney, Robert L. Allen, Jr., to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on January 31, 2019 and February 7, 2019 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

1663 BEACON STREET, BROOKLINE, MA 02445 - Establish a veterinary office in a(n) G-1.75(WS) GENERAL BUSINESS on February 14, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) Precinct 12

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

§4.07 – TABLE OF USE REGULATIONS, USE #20A

Any additional relief the Board may find necessary.

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.

If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Mark Zuroff*

Publish: 1/31 & 2/7

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Jesse Geller and Board Members Kate Poverman and Randolph Meiklejohn. Also present at the hearing was Planner, Karen Martin.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, First Floor, Brookline, Massachusetts 02445. Also in attendance were representatives for the Petitioner, Joseph and Charles Callanan, and the architect for the project, Domenic Valente.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Attorney Allen then described the proposal at 1663 Beacon Street. He noted that Petitioners are part of the Callanan Veterinary Group, a family who have operated several veterinary offices in the Greater Boston area and Rhode Island for many years dating back to 1928. He added that other Massachusetts locations include Watertown, Somerville, Dorchester, and Belmont. Attorney Allen noted that the property is in the G-1.75 (WS) district and the proposal involves renovating the space that was formerly Emack & Bolio's into a veterinary office. He stated that the Petitioners need relief, available by special permit, for the veterinary office use, Use # 20A of the Section 4.07 Table of Uses. He noted that the Planning Board unanimously supported the proposal, and that the Petitioner provided elevations at the request of the Planning Board. He noted that the Petitioner would need to return to the Planning Board at a later date for a review of proposed signage.

Chairman Geller asked whether the statements from experts required for Use # 20A had been provided. Planner, Karen Martin, provided the documentation, which was submitted by the Petitioner, to the Board. The Board Members reviewed the documentation and determined that the documents were insufficient. Attorney Allen then introduced Charles Callanan, managing partner of Callanan Veterinary Group, to address the Board's concerns. Mr. Callanan discussed the practice of the Callanan Veterinary Group and the standards that would be met.

Chairman Geller noted that the Zoning By-Law makes provision that relief requires Petitioner to submit documentation from a third party regarding odor, noise and waste disposal as provided by Use # 20A. Attorney Allen suggested that in lieu thereof the Board add a condition requiring that any additional documentation be approved by the Health Department. Attorney Allen described how the Petitioner's requested relief meets the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed use as a veterinary office, which is a use allowed in the G-1.75(WS) Zoning District with a special permit; the use will not adversely affect the neighborhood because existing square footage will be utilized, the applicants are very experienced, and documentation required has been or will

be provided to the Board; there will be no nuisance or serious hazard to vehicles or pedestrians; adequate and appropriate facilities will be provided for the proper operation of a veterinary office; and there will be no effect on the supply on housing available for low and moderate income people. Attorney Allen suggested that enough evidence was provided for the Board to grant the special permit relief requested and condition the submission of any additional documentation.

Chairman Geller then asked whether anyone was present to speak in favor of the proposal. Howard Warnick, the owner of 1663 Beacon Street, Brookline, Massachusetts, spoke in favor of the proposal. Mr. Warnick stated his excitement that the property was going back to a medicinal use and noted that he would not put just anyone in this space. Mr. Warnick noted that the Callanans currently run top-quality operations. He added that he spoke to his existing tenants who are all in favor of this proposal and the fit into the block and area.

Jerry Kampler, owner of 210 Winthrop Road, Brookline, Massachusetts, a neighboring property, also spoke in favor of the proposal. Mr. Kampler noted that he also spoke to the owner of 203-205 Winthrop Road and that neither he nor that owner had any opposition to the proposal and thought that the proposal was an improvement to the current condition.

Bob Gill, 15 Garrison Road, Brookline, Massachusetts, spoke generally in favor of the proposal and asked some questions. Mr. Gill noted that he approved of the use but he questioned the adequacy of and impact on parking. He noted that the hours were extended beyond those of the prior occupant of the space, Emack & Boilio, and wanted to know how the parking would be regulated. He mentioned a particular concern for emergency visits, in particular, where the premises are located on a street corner and where there is no location to pull up in front.

Charles Callanan responded to Mr. Gill's questions. He noted that wellness visits are scheduled for fifteen minute slots and anything longer is usually a drop off for the day. He further noted that there is a procedure the company has to get injured animals out of vehicles quickly.

Chairman Geller asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chairman Geller called upon Karen Martin, Planner to deliver the findings of the Planning Board. Ms. Martin noted the following:

FINDINGS

Section 4.07 –Table of Uses, Use #20A: Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. Studies by recognized experts shall be submitted to insure the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. *Special permit required.*

PLANNING BOARD COMMENTS

The Planning Board had no concerns about this proposal and felt that the applicant and the property owner had sufficiently addressed all potential issues. The Board did specify that it would like to see elevations of the storefront included in the plan set submitted to the ZBA for a better understanding of the proposed exterior.

Ms. Martin noted that the requested elevation was added to the plans received by the Board.

Therefore, the Planning Board recommends approval of the floor plans and elevation by D.F Valente Architect & Planner, dated 2/6/19, subject to the following conditions:

1. Prior to the issuance of a building permit, final floor plans indicating all salient dimensions and elevations shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. The applicant shall take all such action that may be necessary to eliminate all noise and odor impacts on neighboring businesses, including but not limited to the installation of an appropriate ceiling system for limiting noise transfer and quick cleanup and disposal of all animal waste.
3. All waste from the veterinary clinic and pharmacy/lab/Sharps and Infectious Waste shall be disposed of appropriately and in compliance with all applicable Environmental and health regulations.
4. The operator must apply for and obtain a Keeping of Animals Permit from the Brookline Department of Public Health. Should the level of dogs kept at site exceed 4 or more dogs overnight a kennel permit must be obtained from the Town Clerks office
5. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final floor plan Beacon Street 1633 3 stamped and signed by a registered engineer or architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Member Poverman indicated that she did not believe that the Petitioner submitted the requisite documentation from third party recognized experts to meet the statutory requirements of the By-Law.

Board Member Meiklejohn stated that he felt similarly. Chairman Geller then asked Attorney Allen if he

wanted to continue the matter to a later date in order to provide the Board with the requested documentation. Attorney Allen requested to continue the hearing to February 28, 2019 at 7:00 PM in the Select Board's Hearing Room.

February 28, 2019. Second night of the public hearing.

Present at the continued public hearing were Chairman Jesse Geller and Board Members Kate Poverman and Randolph Meiklejohn. Chairman Geller stated that at the first hearing, the Board requested additional documentation, and he noted and that the Petitioner provided the documentation in the interim. The documentation provided was entered into the record of the hearing.

Attorney Allen, on behalf of the Petitioners, submitted that the documentation provided now satisfies the requirements of the Zoning By-Law. He further noted that Pat Maloney of the Brookline Health Department suggested that the Board include in its decision as conditions to the Special Permit relief conditions similar to those included for a restaurant to address the Board's any remaining concerns the Board Members have.

Board Member Poverman asked whether Mr. Fred Lebow of FSL Associates was an acoustical engineer. Attorney Allen responded that Mr. Lebow is an acoustical engineer and that he actually drafted the Brookline Noise By-Law.

Board Member Poverman noted that the By-Law required that a condition be amended to "require that further noise control measures be undertaken in the future if such background noise levels are exceeded during the operation of the facility."

The Board then deliberated and unanimously determined that the appropriate studies by recognized experts ensuring that the use will be constructed as to safeguard nearby properties against undue noise, odor, and improper waste disposal were provided, the special permit should be granted for Use # 20A of Section 4.07 Table of Uses and that the standards for special permit relief under Section 9.05 of the

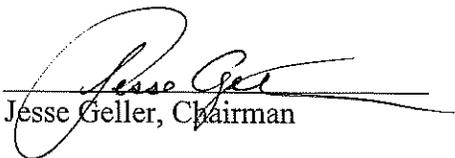
Zoning By-Law had been met, subject to amended conditions. The Board determined specifically under said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Development will have no effect on the supply of housing available for low and moderate income people.

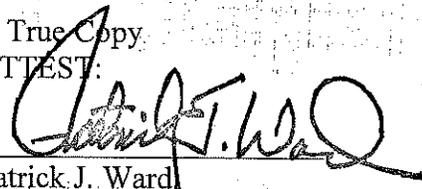
Accordingly, the Board voted unanimously to grant the zoning relief requested subject to the following conditions as amended:

1. Prior to the issuance of a building permit, final floor plans indicating all salient dimensions and elevations shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. The Petitioner shall undertake further noise control measures in the future if background noise levels are exceeded during operation of the facility.
3. The establishment shall install an odor control system should the Health Department document related nuisance complaint odors. Any required odor control systems must be reviewed and approved by the Health Department and Building Department prior to installation.
4. All waste from the veterinary clinic and pharmacy/lab/Sharps and Infectious Waste shall be disposed of appropriately and in compliance with all applicable Environmental and health regulations.
5. The operator must apply for and obtain a Keeping of Animals Permit from the Brookline Department of Public Health. Should the level of dogs kept at site exceed 4 or more dogs overnight a kennel permit must be obtained from the Town Clerk's office.
6. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final floor plan stamped and signed by a registered engineer or architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Jesse Geller, Chairman

Filing Date: 04/05/19

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals