



BOARD OF APPEALS  
Jesse Geller, Chair  
Johanna Schneider  
Mark Zuroff

# *Town of Brookline*

## *Massachusetts*

TOWN CLERK'S OFFICE  
MAR 22 12 48:13

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
Phone: (617) 730-2010  
Fax: (617) 730-2043

**Benjamin Kaufman**  
Town Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2021-000075  
PAUL MATARAS & NICHOLAS CAPONE

Petitioners, Paul Mataras and Nicholas Capone applied to the Building Commissioner for permission to convert a building from an office use (Use #21) to a veterinary clinic (Use #20A) at 1290 Beacon Street, Brookline, Norfolk County, Massachusetts. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed February 17, 2022, at 7:00 p.m. via ZOOM as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney of record, 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 February 3, 2022, and February 10, 2022, 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 on the following petition:**

Address: **1290 Beacon Street**  
Zoning District: **G-1.75(CC) General Business District**  
Precinct: **10**  
Description: **Convert building from office use (Use #21) to a veterinary clinic (Use #20A)**

**Date, time, and location of the public hearing are as follows:**

Date: **2/17/22**  
Time: **7:00 pm**  
Location: **Virtual Meeting (see below)**

**Register for this virtual hearing:**

<https://bit.ly/3u6DSd6>

*After registering you will receive a confirmation email containing information about joining the hearing.*

**Our Virtual Meeting Guide for Applicants and the Public can be found here:**

<https://bit.ly/30wRoY3>

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

§5.09 - DESIGN REVIEW

§8.02 - ALTERATION OR EXTENSION

***QUESTIONS, PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:***

*Advanced submissions of files and presentations are strongly encouraged. In an effort to ensure the Board has adequate time to review materials we ask that any additional documents such as written comment letters, photos, files, or presentations or questions be sent before the hearing to **Monique Baldwin** ([mbaldwin@brooklinema.gov](mailto:mbaldwin@brooklinema.gov)).*

*All plans and submissions may be found at: <https://aca-prod.accela.com/Brookline/Default.aspx>. An account is **NOT REQUIRED** to access materials. Public testimony will be taken during the hearing as normal.*

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters by mail or in the papers. Questions about hearing schedules may be directed to the Planning and Community Development Department at [vpanak@brooklinema.gov](mailto:vpanak@brooklinema.gov), or by checking the Town meeting calendar at: [www.brooklinema.gov](http://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 Assistive Listening Devices, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

***Jesse Geller, Chair  
Mark Zuroff  
Johanna Schneider***

**Publish: 2/3/2022 & 2/10/2022**

On February 17, 2022, the Zoning Board of Appeals continued the case to March 3, 2022.

On March 3, 2022, this Board held a virtual public hearing. Present at the hearing was Chair Jesse Geller, and Board Members Lark Palermo and Randolph Meiklejohn. Petitioners Paul Mataras, co-owner & managing partner, and Nicholas Capone, co-owner & project architect, presented an overview of the case.

Mr. Mataras stated Mr. Capone and he have been in the veterinary business since 2012 and that they currently own two other clinics: one located on Harvard Street and the other in the Boston Seaport District. He noted that since the pandemic, pet ownership has increased and has had a positive impact on mental and physical health. Mr. Mataras shared statistics regarding the importance of pets. He also stated that his clinics are the first fear-free certified practices in Boston, are accredited, and are one of the top veterinary clinics in North America.

Mr. Mataras noted that the Seaport clinic is similar in size and scope to what they are proposing at 1290 Beacon Street in Brookline. He noted there will be about twenty employees including doctors, technicians, and administrative staff. They will treat sick animals (cats and dogs) on the spot, diagnosing them as quickly as possible. He stated they will also provide dental

surgery, soft tissue surgery, and provide x-rays for diagnosis. A full treatment area and full lab are included in the layout. Mr. Mataras also noted the proposed veterinary clinic will include a small pharmacy where they will dispense medications for chronic and acute conditions. He stated the medicines will be locked and have adequate security, and that fingerprint verification would be required.

Mr. Mataras spoke about their other currently operating locations and how they have improved aesthetics, by adding green space where there was concrete and restoring the facade. He also noted that they have provided letters of reference from other tenants and owners of apartments near their other operating locations.

Mr. Mataras stated he has provided three independent technical reports regarding acoustics, odor, and waste. He noted that convenience and access to services was important, and therefore they are proposing to be located in a walkable neighborhood, such as the Beacon Street General Business district. Mr. Mataras briefly spoke about the ventilation system which moves air in and out of the facility. He noted that they have a professional cleaning service that will clean the clinic on a regular basis.

Mr. Mataras noted that this site is appropriate for this use and location. He noted the operating hours are from 8am to 7pm, Monday through Thursday. They will open on Fridays from 8am – 6pm, Saturdays from 8am to 1pm and the clinic will be closed on Sundays. He stated that the use will not adversely affect the neighborhood and having a clinic would be a positive addition to the neighborhood. He also noted that there will be no nuisance or serious hazard to vehicles or pedestrians.

Board member Randolph Meiklejohn asked where the air is discharged to since the proposed location contains several floors of apartments above the commercial floor. Mr. Capone

noted that the air filtration system outflow will be through a window on Pleasant Street. He noted it's a technique used in other operating clinics, which are located in mixed use buildings. He stated there have been no odor or noise issues in his other facilities and that they will follow building code requirements for separation from operable windows or other air intakes. Mr. Capone also noted that if there were an issue, the use of a charcoal filter could be used. Additionally, Mr. Mataras noted that they will not be boarding animals. Therefore, no animals should be inside the clinic for longer than thirty minutes and that there would only be about ten dogs and two cats in the building at any given time, including surgeries and treatments.

Board member Lark Palermo asked for clarification regarding the hours of operations. Mr. Mataras provided the hours.

Chair Geller asked whether the applicant has submitted the information requested from the Health Department regarding the dumpsters they propose to use, the location of the dumpsters, and the frequency of trash and waste removal. Mr. Mataras noted that trash pickup is once per week in another operating location for both trash and recycling and the applicant proposes a similar frequency for this location. He stated they have been operating in that location for nine years and have not had to increase the frequency of pickups. Chair Geller commented that the information should be submitted to the Board of Health.

Chair Geller mentioned that the acoustical study included a recommendation that all floor to ceiling assemblies be well sealed and airtight during the fit out. He stated that this should be a condition of the special permit. Mr. Mataras and Mr. Capone agreed to this condition.

Finally, Chair Geller asked the applicant whether they considered the risk of people parking in front of the main door off of Beacon Street, on Pleasant Street. Mr. Mataras noted that

at the other currently operating location in Seaport, they had the option to purchase or rent the parking spaces in front of the clinic. However, for Brookline, that isn't an option. Therefore, they would discourage parking on Pleasant Street because cars coming around the corner would be dangerous for both the car and animal. They will put up a sign that states people cannot park there. Mr. Geller noted that the measure must be seriously considered since safety to vehicles and pedestrians is a specific requirement under Section 9.05.

The Chair asked if anyone wished to speak in favor of or in opposition to the proposal. No one was present to speak.

The Chair then called upon Monique Baldwin, Zoning Coordinator / Planner, to deliver the Planning Department and Planning Board findings and comments. The relief they need is under the following findings:

#### **FINDINGS**

**§4.07 – TABLE OF USE REGULATIONS, 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, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor, and improper waste disposal.

#### **§5.09 - DESIGN REVIEW**

#### **§8.02 - ALTERATION OR EXTENSION**

Ms. Baldwin noted the Planning Staff is supportive of the proposal as the proposed use is an appropriate use in the general business district. Furthermore, the applicant has demonstrated through various technical reports that the proposed veterinary clinic will not have an adverse impact on surrounding properties. The reports include an analysis of acoustics, odor and waste, and the Department is satisfied with the findings.

She also stated that the Health Department stated they are satisfied with the information provided. However, the Health Department did request additional information, such as the types of dumpsters that will be used for trash/recycling storage, the proposed location of the dumpsters, and the frequency of trash/recycling removal.

Ms. Baldwin stated that the Planning Department is in support of a condition that requires other control measures be undertaken in the future should noise levels exceed, or odor or waste concerns arise in the future.

### **PLANNING BOARD RECOMMENDATION**

Ms. Baldwin stated that Planning Board is supportive of this proposal. The Board asked a few clarifying questions about waste management and office space but otherwise felt that the proposed use would be well-managed and would have no negative impacts on surrounding properties.

**Therefore, the Planning Board recommends approval of the site plan by VHB, dated 10/20/20, and architectural plans by Capone Architecture, dated 11/1/21, subject to the following conditions:**

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Further control measures shall be undertaken if background noise levels are exceeded during the operation of the facility, or other odor or waste complaints arise in the future.**
- 3. Details on waste management shall be submitted to and reviewed and approved by the Health Department prior to the issuance of a Building Permit.**
- 4. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.**

The Chair called upon Paul Campbell, Deputy Building Commissioner, to deliver the comments of the Building Department. The Building Department had no objection to the Planning Board's recommendation.

The Board deliberated on the merits of special permit relief as requested. Ms. Palermo stated she would like to add a condition regarding the hours of operation of the clinic since there are residential apartments located above the commercial storefront. Ms. Palermo stated she was in favor of the application. Mr. Meiklejohn noted that condition number two should be amended to say "The applicant *shall* undertake further control measures if background noise levels...".

Chair Geller agreed with Ms. Palermo. He also noted that the missing information must be submitted to the Board of Health as a condition of the special permit, and that a condition regarding the sealing of **all floor to ceiling assemblies during the fit out** to mitigate noise and odor issues is be added.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Section 9.05.

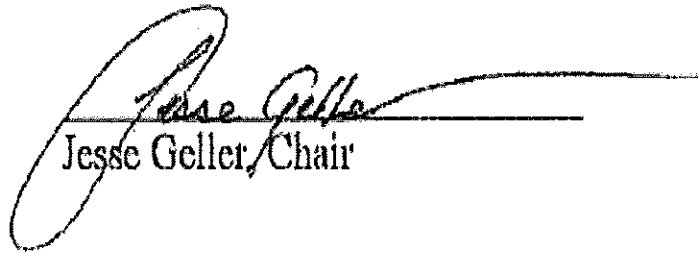
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.**
- 2. The applicant shall undertake further control measures if background noise levels are exceeded during the operation of the facility, or other odor or waste complaints arise in the future.**
- 3. Prior to the issuance of a building permit, details on waste management shall be submitted to and reviewed and approved by the Health Department, including additional information regarding the frequency of trash and recycling removal, the types of dumpsters used, and the locations of the proposed dumpsters.**



4. The applicant shall ensure that all floor to ceiling assemblies are well-sealed and airtight during the fit out to mitigate acoustical and other issues.
5. The hours of operation shall not be greater than Monday – Thursday 8am- 7pm, Friday 8am-6pm, and Saturday 8am—1pm.
6. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk’s office by the applicant or their representative and recorded at the Registry of Deeds.

Unanimous decision of the Board of Appeals



Jesse Geller, Chair

Filing Date: March 22, 2022

A True Copy  
ATTEST:



Benjamin Kaufman  
Clerk, Board of Appeals