



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

DECISION - ZONING BOARD OF APPEALS CASE NO. 22-31

APPLICANT:

Gradam, LLC

OWNER OF RECORD:

Gradam, LLC

LOCATION OF PROPERTY INVOLVED:

2250 Boston Providence Highway
Walpole Assessors Map: 53-37
Zoning District: Highway Business (HB)

APPLICATION:

A **Special Permit** under the Zoning Bylaws, section 5-B.1.4.s to allow for the use and expansion of an animal or veterinary hospital within the Highway Business Zoning District.

DESCRIPTION OF PROJECT:

The Petitioner is requesting a Special Permit for an animal or veterinary hospital use in the Highway Business zoning district as well as construct of two additions onto the existing building.

PUBLIC HEARING:

On January 18, 2023 a public hearing was opened and held in the Main Meeting Room of Walpole Town Hall, 135 School Street, for the purpose of receiving information and voting upon a decision as to the granting of Special Permit.

On January 18, 2023 the following members were present and voting:

Drew Delaney, Vice Chair
Bob Fitzgerald, Clerk
Judy Conroy, Member
Timothy Hoegler, Associate Member
Mark Major, Associate Member

A motion was made by Ms. Conroy, and seconded by Mr. Hoegler to approve the **Special Permit** under **Zoning Bylaws Section 5-B.1.4.s**, for 2250 Boston Providence Highway to allow



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for an animal hospital or veterinary use in the Highway Business Zoning District as well as the construction of two additions to the existing building based upon architectural plans titled "Veterinary Neurology and Pain Management Expansion" dated October 31, 2022, by Capone Architecture, 18 Shipyard Drive #2A, Hingham, MA 02043, and a site plan titled "Site Development Plans Proposed Veterinary Neurology & Pain Management Center, Boston Providence Highway (Route 1), Walpole, MA" dated October 28, 2022, revised December 16, 2022, by Glossa Engineering, Inc., 46 East Street, E. Walpole, MA 02032, with standard conditions.

The vote was (5-0-0) in favor: Delaney-Aye, Fitzgerald-Aye, Conroy-Aye, Hoegler-Aye, Major-Aye; therefore, the application for a **Special Permit** is hereby granted, subject to the following conditions:

CONDITIONS:

1. Plans with life safety devices, such as smoke and carbon monoxide (CO) detectors, will be submitted to the Walpole Fire Department for review and approval, with a follow up Fire Department inspection to confirm conformance with approved plans.
2. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Zoning Board of Appeals, Walpole Town Clerk, and Walpole Building Department.
3. The proposed expansion of the existing structure shall be substantially consistent with the Architectural Renderings submitted by Capone Architecture, 18 Shipyard Drive #2A, Hingham, MA 02043, and a site plan titled "Site Development Plans Proposed Veterinary Neurology & Pain Management Center, Boston Providence Highway (Route 1), Walpole, MA" dated October 28, 2022, and revised December 16, 2022, by Glossa Engineering, Inc., 46 East Street, E. Walpole, MA 02032.
4. The final plan of record approved by the Planning Board shall be submitted to the Zoning Board of Appeals and retained within the case record.

DECISION RATIONALE

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5-B.1.4 to allow for an animal or veterinary hospital use in the Highway Business zoning district as well as construct two additions onto the existing building. The Board finds that the use and expansion are in character with and follows the intent of the Zoning District in which it is located. Accordingly, the Board has determined that the Special Permit requested is warranted. Specifically, the Board made the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:



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- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested Special Permit;**

There are no use specific criteria or standards for the granting of this Special Permit except for those listed within Section 2.2.B.(1) of the Zoning Bylaws. Therefore, the Board finds that this criterion has been met.

- (b) shall not have vehicular and pedestrian traffic of a type or quantity so as to adversely affect the immediate neighborhood;**

The Board finds that while the expansion and proposed use would increase use of the site from what is already present, the expanded use would not result in a type or quantity of vehicular or pedestrian traffic so as to adversely affect the immediate neighborhood. The expected vehicle trip generation and traffic pattern of a medical office use of this nature would not overwhelm or impede the existing traffic conditions and traffic patterns present along the Highway Business Zoning District. Therefore, the Board finds that this criterion has been met.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that there is no residential use associate with this project. Based on submitted information from the applicant, there would be approximately 18 staff members on site with an estimated 18 patients visits per day during normal business hours. Should an urgent care use be incorporated, that would be done during off hours. Given the commercial nature of the Highway Business Zoning District, and the similar commercial nature of its immediate neighborhood, there would be no foreseen adverse impacts to that neighborhood. Therefore, the Board finds that this criterion has been met.

- (d) shall comply with the dimensional requirements applicable to the zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the proposed development is dimensionally compliant, and given its location is not impacted by the buffer requirements under Section 5-B of the Zoning Bylaws. Relief will be needed for exceeding impervious surface requirements as it relates to Section 12.3.C of the Zoning bylaws. However, that relief is to be sought from the Planning Board as they are the Special Permit Granting Authority under the applicable language of this section of the Zoning Bylaws. The Board finds that this criterion is met as it relates to the relief sought with Zoning Board of Appeals.



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- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the waste from the facility would be considered medical waste. This is heavily regulated by the Board of Health as well as State entities. There would be no materials used in the facility that would cause danger to the immediate neighborhood through fire, explosion or emission of waste. Therefore, the Board finds that this criterion has been met.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use and expansion of the building would not create noise, vibration, dust, heat, smoke fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood. Any nuisance as described above may occur temporarily during construction, but shall be mitigated by any and all applicable State building and fire codes. Therefore, the Board finds that this criterion has been met.

- (g) shall not adversely affect the character of the immediate neighborhood, and;**

The Board finds that the immediate neighborhood serves a commercial purpose and the proposed use and expansion to the existing building would not adversely affect the character of the immediate neighborhood. Therefore, the Board finds that this criterion has been met.

- (h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the Zoning District in which the premises is located;**

The Board finds that the proposed use and expansion is compatible with the purpose of the Zoning Bylaw and of the zoning district for which it is located. The Zoning District being Highway Business is intended for commercial uses such as retail, office, research and development, assembly, manufacturing, and all accessory uses related to said uses consistent with those along a major regional highway. The proposed use of a veterinary or animal hospital is consistent with the purpose of the Highway Business Zoning District.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant of thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good use".



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Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority of special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded with the Norfolk registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner on record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

Robert Fitzgerald

Robert Fitzgerald, Clerk

This decision was made on January 18, 2023 and filed with the Town Clerk on January 30, 2023