



Town of Medway  
**ZONING BOARD OF APPEALS**  
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair  
Brian White, Vice Chair  
Carol Gould, Clerk  
Bridgette Kelly, Member  
Rori Stumpf, Member

**DECISION  
SPECIAL PERMIT  
66 WEST STREET**

RECEIVED

AUG 10 2017

TOWN CLERK

20 Day Appeal  
August 30, 2017

**Date Application Filed:** July 11, 2017

**Applicant(s):** Lisa Goldman (the "Applicant")  
6 Checkerberry Circle  
Sudbury, MA 01776

**Location of Property:** The Project is located on a parcel of land in Medway with proposed access to the property via frontage on West Street. The property is located at 66 West Street (Assessor Parcel No. 55-009).

**Approval Requested:** Special Permit under Section 5.4, Table 1: Schedule of Uses of the Zoning Bylaw for use as a Veterinary Hospital

**Members Participating:** Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Bridgette Kelly, and Rori Stumpf

**Members Voting:** Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Bridgette Kelly, and Rori Stumpf

**Hearing Opened:** August 2, 2017

**Hearing Closed:** August 9, 2017

**Date of Decision:** August 9, 2017

**Decision:** Approved with Conditions

## I. PROCEDURAL HISTORY

1. On June 12, 2017, the Applicant filed a Special Permit Application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, for use of 66 West Street, Medway, Massachusetts, as a Veterinary Hospital.
2. Notice of the public hearing was published in the Milford Daily News on July 19, 2017 and July 26, 2017, and notice sent by mail to all interested parties and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on August 2, 2017 and was continued to August 9, 2017. The Board closed the public hearing on August 9, 2017.
4. The Property is located in the Agricultural Residential II District.
5. During the public hearing, the Applicants were also represented by their counsel, Stephen Kenney of Kenney & Kenney, 181 Village Street, Medway, MA 02053.
6. The Board notified Town departments, boards and committees of this application. The Board received written comments from the Conservation Commission.
7. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section V. of this Decision.

## II. TESTIMONY

At the August 2, 2017 hearing, the Applicant's representative provided an overview of the proposed use. The Applicant has been working at the *Medway Animal Hospital*, 66 West Street for two years and was involved in a purchase and sales agreement for the property from Dr. Robinson, the current owner of the property and business. The Applicant was seeking a Special Permit for the continued use as a Veterinary Hospital which has been in use since 1967, or 50 years.

The original special permit was granted to a Dr. Herzig, for a number of years. Dr. Herzig also received a special permit for the grooming of animals in 1972. In 1989, Dr. Robinson received a Special Permit with the same conditions. The permit was specifically granted to Dr. Robinson, similarly to the previous permits granted to Dr. Herzig.

The Applicant was looking for grant of the same special permit, however, not limited solely to the Applicant so that if the property was sold in the future, the next owner would not need to go through the same process.

There have been no problems or impact of the existing use on the surrounding area and the use is at an appropriate location, not detrimental to the public good. Many of residents of Medway and the surrounding towns use the hospital for their pets. There would be no changes to the exterior

or interior of the building. In addition, no changes were proposed to the existing business operations or existing use.

### **III. FINDINGS**

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered evidence and testimony presented at the public hearings and comments submitted by Town departments, boards and committees as well as residents placed in the public record during the course of the hearings.

#### **A. Special Permit Decision Criteria**

1. *The proposed site is an appropriate location for the proposed use:*
  - a. The location has been used as a Veterinary Hospital for 50 years. There have been no complaints from abutters regarding the location or negative effects of the use on the surrounding district.
2. *Adequate and appropriate facilities will be provided for the operation of the proposed use:*
  - a. The proposed use will continue to operate with the same facilities as it has for 50 years. There are no known issues with the existing facilities, including but not limited to the existing bathrooms, egress, and parking.
3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment:*
  - a. The proposed use as a Veterinary Hospital poses no hazard to abutters, vehicles, or pedestrians. The Board does not anticipate any change to occur at the location.
  - b. Hopping Brook, a perennial stream protected under state and local jurisdiction of the Conservation Commission, is located on the premises of the proposed use. The Conservation Agent has previously noted lawn clippings and mulch located in the brook. Additionally, the Agent has noted an excess amount of dog waste without proper disposal located on the premises. The disposal of organic and inorganic materials into the perennial stream poses a potential risk to the environment. Proper maintenance and disposal, as well as inspections, should adequately address these concerns.
4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area:*



- a. The proposed use will continue to operate in the same manner as it has for 50 years. There is no known issue regarding traffic conditions.
- 5. *The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use:*
  - a. The proposed use will continue to operate in the same manner as it has for 50 years. There will be no detriment to the adjoining properties regarding flooding, odors, dust, noise, vibration, or other attributes of the proposed use.
  - b. The proposed use as a Veterinary Hospital incidentally implies refuse material—animal waste. Proper maintenance and disposal, should adequately address these concerns.
- 6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district:*
  - a. The proposed use shall benefit Medway Residents, the surrounding neighborhood, and the Agricultural Residential II zoning district. The proposed use shall provide a continued service to Medway.
- 7. *The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw:*
  - a. The proposed use is allowed by Special Permit in the zoning district and is therefore in harmony with the general purpose and intent of the Zoning Bylaw.
- 8. *The proposed use is consistent with the goals of the Medway Master Plan:*
  - a. The Board finds that this criteria is not applicable.
- 9. *The proposed use will not be detrimental to the public good:*
  - a. Any potential concerns regarding the proposed use will be adequately addressed as conditioned herein and as previously addressed, and therefore will not be detrimental to the public good.

#### IV. CONDITIONS OF APPROVAL

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board grants to Lisa Goldman, a Special Permit for use of 66 West Street (Parcel ID 55-009) as a Veterinary Hospital, subject to the conditions and limitations set forth herein.

1. The animal population will be limited to 25 dogs at any one time. The Applicant may request a modification to increase the dog population limit, so long as adequate facilities are also provided.
2. The practice shall be conducted under the provision of 256 CMR 1 – 7 “Board of Registration in Veterinary Medicine” and 105 CMR 670 “Right to Know.”
3. Any grooming activities at the veterinary hospital must be under the control of the property and/or business owner.
4. The property and/or business owner shall not allow any customers or staff to improperly dispose of animal waste on the premises or surrounding properties. All pet waste shall be cleaned and disposed of in a proper disposal unit.
5. The property and/or business owner shall provide a location on the premises for a disposal unit outdoors in order for customers to dispose of animal waste properly.
6. The property and/or business owner shall remove any existing violation of State and Local laws, specifically the Massachusetts Wetlands Protection Act Regulations and the Medway General Bylaw Article XXI and its Regulations, which includes the storage/dumping of non-organic and organic materials on site within the jurisdiction of the Medway Conservation Commission. This includes, but is not limited to landscape debris, animal waste (that is not contained in a proper disposal unit), lawn clippings, cut trees, etc.
7. The property owner shall provide a letter to the Zoning Board of Appeals and Conservation Agent after the premises is remediated of all organic and inorganic materials within the jurisdiction of the local and state wetlands laws and regulations. A site visit shall be conducted following receipt of such letter to ensure compliance.
8. The property shall be inspected annually, as determined necessary, to ensure that there are no violations of this permit.
9. This special permit approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the Special Permit that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a modification.

Any work or use that deviates from the approved Special Permit or this Decision shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests a modification and such approval is provided in writing by the Board.

Any request for a modification shall be reviewed by the Board. Modifications that the Board determines are insubstantial may be reviewed as a discussion at a regularly scheduled Board meeting. Modification that the Board determines are substantial shall require a public hearing.

10. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to

the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the Special Permit shall lapse two years from the date of Decision, unless acted on or otherwise specified, and may be reestablished only after a new filing, hearing, and decision.

## **V. INDEX OF DOCUMENTS**

**A.** The Special Permit application for the proposed Veterinary Hospital facility include the following plans and information that were provided to the Board at the time the application was filed:

1. Addendum provided by Stephen Kenney, regarding the existing use and previous permitting



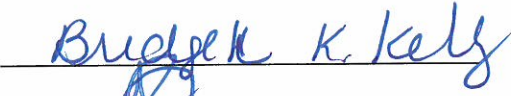
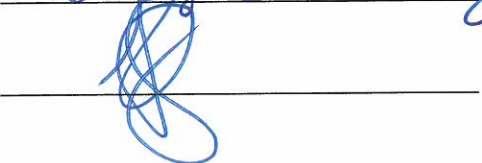
**B.** During the course of the review, the following materials were submitted to the Board by Town Departments/Boards:

1. Veterinary Hospital Special Permit Decision from April 5, 1989 for Dr. Michael P. Robinson
2. Conservation Agent Comments, provided by Bridget Graziano, received July 19, 2017



## VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Bridgette Kelley, the Zoning Board of Appeals hereby **GRANTS** to the Applicants, a *Special Permit* for use as a *Veterinary Hospital* subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Eric Arbeene	Yes	
Carol Gould	Yes	
Bridgette Kelly	Yes	
Rori Stumpf	Yes	

This vote was taken on August 9, 2017.

The Board and the Applicant have complied with all statutory requirements for the issuance of this Special Permit on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days (20) after the filing of this notice in the Office of the Medway Town Clerk.

In accordance with MGL c. 40A, Section 11, the Special Permit granted by this Decision shall not take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the Office of the Town Clerk and no appeal has been filed within said twenty day period or that any duly filed appeal has been dismissed or denied. The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.