



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
67 VILLAGE STREET**

Date Application Filed: December 14, 2017

Applicant(s): Kent Leung ("the Applicant")
Jay Abend Trustee,
Village Realty Trust
555 Cambridge Street
Cambridge, MA 02141

Location of Property: The Project is located on a parcel of land in Medway located at 67 Village Street (Assessor Parcel ID: 61-046).

Approval Requested: Special Permit under Section 5.4 Table 1: Table of Uses of the Medway Zoning Bylaw for a commercial Kennel License.

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

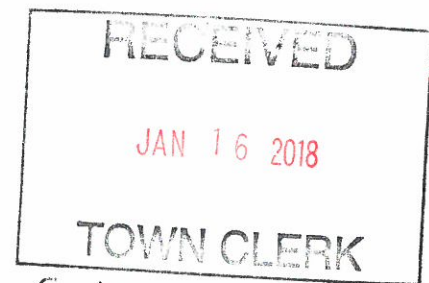
Members Voting: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Bridgette Kelly, and Rori Stumpf

Hearing Opened: January 3, 2018

Hearing Closed: January 3, 2018

Date of Decision: January 3, 2018

Decision: Granted with Conditions



February 5, 2018
20 Day Appeal



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I. PROCEDURAL HISTORY

1. On December 14, 2017, the Applicant's Representative filed a Special Permit application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, for a commercial Kennel License for the property located at 67 Village Street.
2. Notice of the public hearing was published in the Milford Daily News on December 20, 2017 and December 27, 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 January 3, 2018. The Board closed the public hearing the same evening.
4. The Property is located in the Agricultural Residential II (AR-II) District. A Kennel License is allowed by Special Permit under Section 5.4 of the Zoning Bylaw.
5. The Board notified Town departments, boards and committees of this application. The Board comments from the Fire Chief, Conservation Agent, and Planning and Economic Development Board Coordinator.
6. 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 January 3, 2018 meeting, the hearing was opened by the Board. The Applicant provided an overview of the proposed use. The Applicant has an established business with five existing locations. The Applicant started their business after their dog had been attacked at a kennel. After that occurred, they felt a need to start their own company. They have the only dog company that has not had any dog attack recorded in Massachusetts. The company only accepts 5 to 10 percent of dogs whose owners apply to be clients and part of the dog day care. The Applicant hopes to build a better environment for dogs.

Typically the kennel would not have 200 dogs, however, there are three major holidays that have a significant rise in the amount of kenneling: Christmas, Thanksgiving, and St. Patrick's Day. 40% to 50% of kenneling and income is provided during these peak holiday seasons. The Applicant was requesting up to 200 dogs to hit the peak numbers in order to off-set the number of dogs throughout the remainder of the year—if the Applicant did not have a 200 dog limit, they would need to take in more dogs on a regular basis. They do not intend to have 200 dogs on a regular basis, the limit would provide flexibility for other times that may see an increase in a need for services as well.

The Kennels operate with a pet taxi service and with minimal amounts of parking. The business calculates pick-ups similarly to a regular transportation system creating routes.

The daycare uses a three-phase 30 day evaluation system for dogs which will interact with other dogs, that is the dogs that are “clients” which would not remain kenneled at all times.

The standard industry kennel size is 3 feet by 5 feet. The Applicant is proposing a variety of kennels and pet suites to provide different levels of affordable options.

There are no veterinarian services proposed at this time.

In regards to noise, odor, and waste—the flooring is an anti-microbial coated rubber flooring called “Paint Shield.” The building is made of concrete filled concrete-block. Mr. Stumpf asked how strongly the permit could be conditioned, if it could be conditioned to say, “Dogs will not be heard outdoors” (from within the facility). The Applicant stated that they would not be heard (from within the facility) at all. Internal to the facility, there will be one inch double laminated glass with a thermal layer in the middle. The glass helps to reduce sound but also helps to the dogs to become accustomed to seeing other dogs and people in the facility to help reduce barking. The waste is contained in a dumpster on a non-pervious surface and it is enclosed. The doggie bags are tied and then contained in a sealed trash bag which is then stored in the dumpster that is enclosed and outdoors. Dumpsters are typically emptied with a waste disposal company on a weekly basis. The facility will also have “pooper-scooper stands,” or mini waste stands for clients.

Ms. Leahy, Community & Economic Development Department, explained that she had spoken to the Animal Control Officer who had made it very clear that there are standards that the Applicant would need to abide by in terms of animal treatment and care and that the Animal Control Officer was not concerned about needing any additional protections included for how the business would be operated in accordance with the Massachusetts standards.

Mr. Arbeene noted that the Fire Chief provided comments that the building would need to be sprinklered.

The Applicant clarified that the dogs would not be socializing if they were strictly a boarding/kennel client, but would be if they were a client that had been through the review process and were part of the doggie day care. The Applicant hires a board certified behaviorist to assist with the review process.

There was not a proposed location for an outdoor area for the dogs at this time. All services would be indoors except for bathroom breaks and walks outdoors. There would not be non-leashed outdoor activities. Ms. Leahy noted that the Applicant could come back for a modification to a permit to include outdoor areas if they decided to move forward in that direction.

The Applicant noted that they use slip lead leashes and have never had a dog escape from one of the leashes.

The Applicant controls pick-up and drop-off times in which clients visit the facility the volume of clients, to ensure that they are not coming in at “off times,” and to avoid fees for missing the

pick-ups. The Applicant works with clients for pick-up times. In addition, most clients (75 to 80%) use the pet taxi service to have their dogs picked-up instead of dropping them off at the facility.

One taxi would be kept at the Medway Facility, and the other taxis would be stored overnight at one of the larger facility locations.

The pet taxis are fitted with kennel packages that are welded into the vans. The taxis are spotted cleaned on-the-go as needed and sanitized with car washes.

The Applicant explained that dogs aren't allowed into the building without being provided a vaccination certificate.

The Applicant checks ID's before anyone enters the building.

The Applicant noted that typically staffing is 1:10 or 1:12 staff to dogs for the doggie day care. Ms. Leahy noted that the Animal Control Officer would like to see 1:10, preferably 1:6. Mr. White asked if a limit of 108 dogs for doggie day care would be an issue. The Applicant said that would be fine for the day care.

The Applicant intends for the facility to be open 7 days a week, however, the weekends are typically for pick-up only.

The Board moved to public comment.

Helen Kelley, 72 Village Street, questioned the hours of operation. She also noted that there is typically flooding in the neighborhood.

Gary Kendig, 65 Village Street, was opposed to the request. He stated that there was a history of noise pollution from that property and the canoe launch nearby. He felt there was no way that dogs could be going outside all day without him being able to hear the dogs.

Jeff Boudro, 73 Village Street, was also opposed to the request. He was concerned about barking heard during operation and the location of waste from the dogs.

Ken & Mary Farley, 75 Village Street, were also opposed to the request and also felt there was no way that there would not be barking heard during operation.

Anthony Varrichione, 249 Village Street, stated that he was the listing agent for the property. He stated that applying for this special permit was well within the Applicant's right under state and local law. What the Applicant proposes is a much better use than the other types and classes of businesses of other proposals and interested buyers for the property.

The Applicant stated that every time he applies for a permit with a Zoning Board, there are residents that complain about the potential impact, especially the noise. After being granted the permits, no complainant has come back with any official complaints or concerns.

Helen Kelley, stated that her main concern was for the things that were out of the Applicant's control, such as outdoor barking.

The Board moved to deliberations.

Bridgette Kelly stated that the Applicant had provided evidence that the business was well run and established. There is substantial evidence that the business will be well run and controlled.

Carol Gould stated that she agreed with Ms. Kelly and that the business was very well thought out. Ms. Gould felt that granting the permit with conditions would appease the neighbors' concerns.

Mr. White, Mr. Stumpf, and Mr. Arbeene agreed.

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 hearing and comments submitted by residents placed in the public record during the course of the hearings.

A. Section 3.4 Special Permit Decision Criteria

1. *The proposed site is an appropriate location for the proposed use.*
 2. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
 3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.*
 4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area.*
 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.*
 6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.*
 7. *The proposed use is 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.*
 9. *The proposed use will not be detrimental to the public good.*
- a. The Board finds that the Applicant has provided thorough documentation in the Special Permit general application form submitted with this application and as explained during hearing to satisfy the Special Permit Criteria.

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** the Applicant(s), Kent Leung, a **SPECIAL PERMIT** for a **COMMERCIAL KENNEL LICENSE** under Section 5.4 of the Zoning Bylaw for the property located at 67 Village Street (Parcel ID: 61-046), subject to the **CONDITIONS** herein.

1. There shall be a maximum of 200 dogs allowed to board/kennel.
2. Of the 200 dog maximum, a maximum of 108 dogs allowed for “doggie day care,” that is any dog that will interact with other dogs non-leash, any dog that is a “client,” and/or any

dog that is not primarily kenneled and will be allowed to play with other dogs. The maximum of 108 dogs is intended to provide a 1:6 ratio of staff to dogs (maximum 1:10), per the parking arrangement which shows 18 parking spaces.

3. The 200 dog maximum provides flexibility for holidays and “peak” periods, including Thanksgiving, Christmas, and St. Patrick’s Day. The facility shall not be kept at maximum capacity throughout the year. A request to stay at full capacity of 200 dogs regularly or to increase the maximum shall require a modification to this permit.
4. The facility shall provide for varying levels of kennels and “pet suites” to accommodate varying price points. The suites shall provide different levels of affordability.
5. The flooring of the facility shall be of microbicial coated rubber flooring, or of other microbicial materials. The facility shall utilize one inch double laminated glass with a thermal layer in the middle to improve the sound proofing of the facility.
6. All operations shall be indoors with the exception of dog walks and bathroom breaks. Dogs shall remain on slip lead leashes for the extent that they are outdoors. A request to include outdoor enclosed play areas, or other similar operations, shall require a modification to this permit.
7. The Applicant shall provide staggered pick-up and drop-off times as to ensure that there is an adequate number of parking
8. There shall be no pickup/drop-off of animals between the hours of 10 p.m. to 7 a.m. daily.
9. A request to include veterinarian services shall require a modification to this permit.
10. Any item which the applicant has agreed to during the hearing process which is not explicitly listed as a condition of approval shall also be considered as such, for purposes of implementation and enforcement of this Special Permit.
11. This Special Permit 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 this Decision shall be a violation of the *Medway Zoning Bylaw*.

12. 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 substantial action is taken, or as may be otherwise specified herein, and may be reestablished only after a new filing, hearing, and decision.

V. INDEX OF DOCUMENTS

A. The Special Permit application for the proposed duplex/two family included the following plans and information that were provided to the Board at the time the application was filed:

1. General Application Form
2. Special Permit General Application Form
3. Frequently Asked Questions Addendum
4. Plot Plan with proposal of 18 parking spaces and dumpster location

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

1. Staff Report, dated December 29, 2017
2. Comments: Fire Chief, dated January 2, 2018
3. Comments: Conservation Agent, Bridget Graziano, dated January 2, 2018
4. Comments: PEDB Coordinator, Susy Affleck-Childs, dated January 3, 2018

C. During the course of the hearing, the following materials were submitted to the Board:

1. Six Letters of Support for Business, provided by Applicant at Hearing January 3, 2018:
 - (a) Timothy J. Toomey, Jr., Cambridge City Council
 - (b) Marc Resnick, The Beantown Companies
 - (c) Daniel Carr, 18 Cottage Park Avenue, Cambridge, MA
 - (d) Lee Ghannam, Triple Nickel Auto Body & Repair
 - (e) Nicole Procaccini, 8 Slocumb Place, Medway, MA
2. Five Pages of “Pet Suite” Style Images

VI. VOTE OF THE BOARD

By a vote of 5 to 0, on a motion made by Brian White and seconded by Bridgette Kelly, the Zoning Board of Appeals hereby **GRANTS** the Applicant(s), Kent Leung, a **SPECIAL PERMIT** for a **COMMERCIAL KENNEL LICENSE** under Section 5.4 of the Zoning Bylaw for the property located at 67 Village Street (Parcel ID: 61-046), subject to the **CONDITIONS** herein.

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

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision 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, no variance or special permit shall take effect until a copy of the Decision 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.