

Town of Dedham
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

Scott M. Steeves, Chair
Sara Rosenthal, AIA, LEED, AP, NCARB, Vice Chair
J. Gregory Jacobsen
Jason L. Mammone, P.E.
Thomas Ryan, Esq.

Associate Members
Norman Vigil, Esq.
Allen MacDuffie

Planning Director
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Senior Planner
Michelle Tinger

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Office Manager
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Wednesday, March 15, 2023, 7:00 p.m.
Dedham Town Hall

- Present: Scott Steeves, Chair
J. Gregory Jacobsen
Tom Ryan, Esq.
Norman Vigil, Esq., Associate Member
Allen MacDuffie, Associate Member
- Regrets: Sara Rosenthal, AIA, LEED AP, NCARB, Vice Chair
Jason L. Mammone, P.E.
- Staff: Michelle Tinger, Senior Planner
Jayson Schultz, Economic Development Planner

The meeting began at **7:00 p.m.** on the night of **Wednesday, March 15, 2023**. Chairman Steeves conducted roll call:

Greg Jacobsen
Tom Ryan
Norman Vigil
Allen MacDuffie

Chairman Steeves called the meeting to order.

550 Providence Highway

Applicant:	Petco Animal Supplies Store, Inc.
Project Address:	550 Providence Highway
Zoning District, Map/Lot:	Highway Business (HB) Zoning District, Map 108, Lot 3.

Legal Notice:	Requests a Special Permit for veterinary services and a Special Permit for a kennel.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaws Section 280-9.2, 280-9.3, and Table 1.

Attorney Michael J. Barone, Jr. was present on behalf of the application. The applicant is requesting a Special Permit to operate a veterinary office and day kennel in its existing retail location. Approximately 1,930 square feet, existing parking spaces, and a loading dock will be utilized for these services. The vet office will include four exam rooms, an operating room, x-ray room, waiting room, and restrooms. There will be 12 kennels present in the office; the kennels will only be utilized during regular business hours for animals awaiting or recovering from surgery.

Chairman Steeves asked if there were any members of the public wishing to speak, and there were none.

Upon a motion made by Member Ryan and duly seconded by Member Jacobsen, the Board voted in favor (5-0) to accept and grant the requested Special Permit for veterinary services and a Special Permit for a kennel.

- Greg Jacobsen – yes
- Tom Ryan – yes
- Norman Vigil – yes
- Allen MacDuffie – yes
- Scott Steeves – yes

The motion passed unanimously, 5-0.

Building Commissioner Presentation and Discussion

Building Commissioner Ken Cimeno and Assistant Building Inspector Fredrick Johnson attended the meeting to discuss the process after the Board makes a decision with conditions. Currently, after a decision, the Building Department reviews both the proposal and the decision to ensure they are consistent; unfortunately, this is not always the case.

Mr. Cimeno referenced the recent case of Glenridge Road and Board’s approval of their Accessory Dwelling Unit (ADU) application. Mr. Johnson read the Board’s decision and reviewed the plot plans; unfortunately, the two documents did not match. Mr. Johnson reviewed the file in the Planning and Zoning Department and discovered that what was approved by the Board and what was submitted to the Building Department were not consistent. Mr. Johnson noted that specific, concrete, and definitive language in a decision (particularly those with conditions) would be helpful for the Building Department.

In the initial stages of a project, applicants come to the Building Department for proposal review and feedback. Member MacDuffie inquired about the process when a project is

denied a permit by the Building Department, specifically asking whether the applicant is given a letter of denial. Mr. Cimeno reviews applications and if the proposed project is not in compliance, Mr. Cimeno will provide applicants with direction on what they can do to come into compliance. He does not issue formal written denials.

Member MacDuffie would like to know the reason an applicant is denied by the Building Department when considering whether the Board should request a variance or special permit; he suggested an informal review process be put into place. Ms. Tinger confirmed that a member of the Planning and Zoning Department staff reviews and advises all applicants on how to proceed prior to going before the Board. This ensures that Board members have all the information they need to make decisions.

Mr. Cimeno noted that unlike the Planning Board, the ZBA has strict statutory timeframes in which to hold a hearing and render a decision. While the Planning Board can have informal Scoping Sessions to provide applicants with feedback, this is not something that has been done by the ZBA. Mr. Cimeno suggested Board members speak with Town Counsel to ask if they can hold Scoping Sessions.

Mr. Cimeno added that the Building Department tries to provide applicants with the best possible information (as it relates to zoning, dimensions, etc.) and tries to minimize the applicant's cost and time in getting through the approval process. Member MacDuffie commended Mr. Cimeno and his team for the customer service they provide to Dedham residents.

Mr. Johnson commented that this Board is very 'user friendly' to residents, adding that Mr. Rosenberger, Ms. Tinger, and Mr. Schultz provide invaluable support. He suggested the Board work with the Planning and Zoning Department to determine under what parameters (if any) an applicant would be denied a Board hearing. The message the Building Department gives to residents is to go before the Board anytime they are not in compliance and need a special permit or variance, regardless of their proposal.

Member MacDuffie replied that when making decisions the Board looks at what an applicant is proposing and how it impacts their neighbors and neighborhoods. For example, if relief is given, does it impair the intent and purposes of the Zoning regulations and have any impact on abutters. If there is no substantial impact, he thinks that relief should be given.

Member Ryan asked Mr. Cimeno to outline the process the Building Department follows when a resident visits them with a proposed project. Mr. Johnson replied that the Department will review any of the paperwork presented (such as a certified plot plan) and let the applicant know if they are in compliance or if they will need to seek relief from the Board. There would not be a formal denial issued.

Mr. Cimeno added that in other cases, some applicants come to the Building Department with an interpretation of a bylaw that is different than his. In this case the Building Department would issue a written denial because the applicant is asking for relief from an interpretation of the bylaw. Applicants can then appeal that decision to the Board; Ms.

Tinger confirmed that in these cases all relevant information and documentation is shared with the Board.

Member Ryan commented that the Building Inspector is mentioned frequently in Chapter 40A. He believes the Building Department is closely intertwined with the Zoning process. Many applicants are represented by attorneys at Board meetings, and the manner in which the information is presented favors the applicant. As it stands now, a member of the Building Department is not at the meetings to offer rebuttal statements if needed. Member Ryan noted he would like to see representation from the Building Department at meetings when the Board is reviewing applications that have concerns or reservations.

Ms. Tinger added that if members would like clarification on an application, she can coordinate a conference call between all interested parties to ensure the Board is fully informed.

Member Ryan noted his interest in learning how abutting towns interpret bylaws and make decisions on when to grant relief.

Member Jacobsen inquired about the process when an ADU application comes before the Board and the Board approves the application with conditions. He inquired if there is a follow up inspection in the future made by the Building Department. Mr. Cimeno noted that unfortunately there is a huge administrative challenge when it comes to members of the Building Department ensuring that each condition is met for each application.

If the applicant does not abide by the conditions set forth in their application within a three-year period, they need to reappear before the Board to request additional relief.

Mr. Johnson commented that this becomes more of a significant challenge when these homeowners attempt to sell their house. For example, a real estate broker may visit the Building Department and state the house is a two family, however the Board approved a single family with an ADU. In this case, the Building Department will look at the ZBA decision and advise the parties involved accordingly.

Chairman Steeves thanked Mr. Cimeno and Mr. Johnson, noting his appreciation for the work of the Building Department. He and the Board will discuss having a member of the Building Department attendance at meetings and their level of participation.

Member Ryan added that it would be helpful to have Town Counsel attend the next meeting. He would like guidance on how to effectively draft decisions for ADUs and in-law apartments. A tremendous burden is placed on the Building Department to track these applications and he would like to provide assistance.

There are approximately six applications submitted per year, it would be easy for the Board to create an Excel spreadsheet and create a calendar to send members alerts when a special permit is set to expire. In open meetings Chairman Steeves can state they have expired and send a letter to the homeowner encouraging them to reapply for the special permit. If some

automation can be used in the processes, it could help lift some of the administrative burdens.

Member Vigil noted his concern that follow up is not being done for durational projects and asked the Board to discuss this further at a future meeting. Ms. Tinger commented this is a staffing challenge; sometimes things fall by the wayside because of the workload.

Member MacDuffie expressed his support for the Building Department attendance at Board meetings on a case-by-case basis.

Meeting Minutes

A motion was made by Member Jacobsen to approve the minutes of the February 15, 2023 meeting. The motion was seconded by Member Vigil and a roll call vote was taken.

Greg Jacobsen – yes

Tom Ryan – yes

Norman Vigil – yes

Allen MacDuffie – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

Adjournment

A motion was made by Member MacDuffie and seconded by Member Jacobsen to adjourn the meeting at 8:51 p.m. A roll call vote was taken, all agreed, and the meeting was adjourned.