

Board Members
Brian White, Chair
Gibb Phenegar, Vice-Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member
Adam Kaufman, Associate
Member



Medway Town Hall
155 Village Street
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Telephone (508) 321-4890
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
MODIFY A SPECIAL PERMIT -
165 MAIN STREET – TOP DOG DAY CARE

Applicant: John J. Greene, Top Dog Day Care, 165 Main Street

Location of Property: 165 Main Street (Assessor Parcel ID: 48-092)

Approval Requested: The application is to modify a Special Permit for a kennel under Zoning Bylaw Sections 5.4 and 3.4 requesting the ability to have 7 additional dogs at the facility and to remove the requirement that an overnight attendant be present.

Members Voting: Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Joe Barresi, Member; Tom Emero, Member, Adam Kaufman; Associate Member

Date of Decision: May 15, 2024

Decision: GRANTED WITH CONDITIONS

I. PROCEDURAL HISTORY

1. On June 28, 2012, the Zoning Board of Appeals issued a decision granting, with conditions, a special permit to John Greene for the premises at 165 Main Street, to operate a kennel (hereinafter referred to as the "2012 Special Permit"). The 2012 Special Permit decision was filed with the Town Clerk on July 12, 2012, and is recorded at the Norfolk County Registry of Deeds at book 41765 page 9.
2. On March 19, 2024, the Applicant filed for a modification to the 2012 Special Permit under Zoning Bylaw Sections 5.4 and 3.4.
3. Notice of the public hearing was published in the Milford Daily News on April 3, 2024, and April 10, 2024, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.

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4. The public hearing was opened on April 17, 2024, and continued to May 15, 2024. The hearing was/was not closed the same evening. Associate member Kaufman was designated to sit on this application due to the absence of Mr. White at the first night of the public hearing.

5. The Property at 165 Main Street is located in the AR-II (Agricultural Residential II) District. The front setback requirement is 35 feet, and the side and rear setback requirements are 15 feet. The minimum lot area requirement is 22,500 sq. ft., and the minimum lot frontage requirement is 150 feet.

6. The Board notified Town departments, boards, and committees of this application.

7. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section IV of this Decision.

II. SUMMARY OF EVIDENCE AND TESTIMONY

Attorney Steve Kenney was present with the applicant, John J. Greene, Trustee of 165 Main Street Trust and Top Dog Day Care/Kennel. The ZBA granted the applicant a special permit on June 27, 2012. The facility features 2,200 square feet of four indoor runs, 900 square feet of overnight care, 1,900 square feet of exterior runs and 500 square feet of office space. The 2012 special permit allows up to 73 dogs, and overnight boarding with the requirement of an overnight attendant. The applicant is requesting to allow 7 additional dogs and remove the requirement that an overnight attendant be present. The facility is fully sprinklered with heat and smoke detectors per code and direct Central Station Calling to Medway Fire Department. In 10 years of operating, they have had no overnight issues; however, the requirement of an attendant is an extreme financial burden on the operations. The business helps fill what was once a dilapidated old mill complex. In regard to the concerns of the Conservation Agent to protect Chicken Brook, the outdoor run is 400 feet away from Chicken Brook with no expansion on the outside requested and no materials are stored, dumped or discarded. In regard to the concerns of the Animal Control Officer, there will be full disclosure to the dog owners of the no overnight attendant. The hearing was continued to May 15th.

At the continued public hearing, it was noted that up to 25 dogs are allowed overnight. Members of the Board asked if there was a minimum number of dogs overnight that might warrant an attendant. The applicant stated that the dogs are kept in separate crates or runs overnight which are state of the art, there is also video surveillance and the dogs generally just sleep. They state there have been no issues. The members agreed that, so long as the dog owners are informed in advance that there will be no overnight attendant, the requirement is not needed.

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.

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 hazards 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 this 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.

Where this is a proposed modification of an existing special permit, for a use that has been in successful operation for many years, the Board found that all the criteria have been met.

IV. INDEX OF DOCUMENTS

A. Application dated March 19, 2024.

B. Other documents received by the Board:

1. Email from Erin Mallette, Animal Control Officer, dated April 2, 2024
2. Email from Bridget Graziano, Conservation Agent, dated April 10, 2024-including site photos from the Agent.
3. Decision of Zoning Board of Appeals granting special permit for kennel, dated June 28, 2012 (herein referred to as the “2012 Special Permit”).
4. Opinion of the Board (Zoning Board of Appeals) for Special Permit delivered on June 8, 2012, Recorded 5-8-2024.

V. CONDITIONS

All conditions set forth in the 2012 Special Permit remain in effect unless specifically modified by this decision.

1. Condition number 3 of the 2012 Special Permit is revised to read as follows: “No more than 80 dogs shall be allowed on the premises at any one time. Between the hours of 7:00 p.m. and 7:00 a.m. not more than 25 dogs shall be allowed on the premises at any one time.”

2. Condition number 4 of the 2012 Special Permit is revised as follows: “There shall be an attendant present at all times between the hours of 6:00 a.m. and 9:00 p.m. when dogs are on the premises.”

3. The following new condition: “The owner or operator shall prepare a written disclosure, which will be provided in advance to all dog owners who are leaving dogs at the facility overnight, that the dogs will be unattended from 9:00 p.m. to 6:00 a.m., and shall receive a written acknowledgement from each such owner of receipt of the disclosure.”

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, the Zoning Board of Appeals hereby GRANTS the Applicant, John J. Green, Top Dog Day Care, a **Modification to a Special Permit** for a kennel under Zoning Bylaw Sections 5.4 and 3.4 requesting the ability to have 7 additional dogs at the facility and to remove the requirement that an overnight attendant be present.

Member:	Vote:	Signature:
Gibb Phenegar, Vice-Chair	Aye	_____
Christina Oster, Clerk	Aye	_____
Joe Barresi, Member	Aye	_____
Tom Emero, Member	Aye	_____
Adam Kaufman, Associate Member	Aye	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this appeal on the terms herein 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 General Laws, chapter 40A, section 15.






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

In accordance with General Laws chapter 40A, section 11, no 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 the appeal has been filed within such time. 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.

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.

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Member:	Vote:	Signature:
Gibb Phenegar, Vice-Chair	Aye	
Christina Oster, Clerk	Aye	
Joe Barresi, Member	Aye	
Tom Emero, Member	Aye	
Adam Kaufman, Associate Member	Aye	

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