



TOWN SEAL

tel: 781-631-1529

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Revision Date: 12-14-15

Town of Marblehead ZONING BOARD OF APPEALS

Mary A. Alley Municipal Building
7 Widger Road, Marblehead, MA 01945

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2020 FEB 19 AM 11:52

ZBA APPLICATION

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Town Clerk

Project Address 313 10 OCEAN AVE

Assessor Map(s) 08 Parcel Number(s) 33

OWNER INFORMATION

Signature [Signature] date 1/8/2020

Name (printed) DR. JEFFERY ROCKWELL

Address 10 ATLANTIC AVE. MHD 01945

Phone Numbers: home 781-639-2911 work 781-631-8881

E-mail fax

APPLICANT or REPRESENTATIVE INFORMATION (if different from owner)

Signature date

Name (printed) ROBERT ZARELUI ARCHITECT

Address 66 WASHINGTON ST. MHD 01945

Phone Numbers: home work 781-883-1033

E-mail Bob@ROBERTZARELUIARCHITECT.COM fax

PROJECT DESCRIPTION & RELIEF REQUESTED (attach additional page if necessary)

ADDITION OF 288 SF OF SUPPORT SPACE AND
336 SF OF CLINICAL SPACE. TOTAL 614 SF

- Please schedule a Zoning / Application review with the Building Department by calling 781-631-2220.
- Obtain the Town Clerk's stamp and submit 12 copies of each of the following to the Town Engineer's Office:
 - the signed and stamped application (3 pages);
 - current survey plan (not older than 90 days) as prepared by a Registered Professional Land Surveyor;
 - the project design plans as required;
 - check for the applicable fee payable to the Town of Marblehead.
- Any relevant permit(s) that were previously issued must be available for review by the Board of Appeals at the scheduled hearing. (Section 3(D), Board of Zoning Appeals Rules & Regulations).

REQUIRED SIGNATURES

Reviewed by
Building Department
For Zoning Board
Of Appeals

1. Building Commissioner (pages 1, 2 and 3) [Signature]

2. Town Clerk's stamp (upper right corner)

Town of Marblehead
ZBA-APPLICATION

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Revision Date: 12-14-201

Project Address 10 ATLANTIC AVE Map(s) / Parcel(s) 88-33

ZONING DISTRICT (circle all that apply)

B B1 BR CR SCR ECR GR SGR SR SSR ESR SESR HBR U SU

CURRENT USE (explain) VETERINARY HOSPITAL

CURRENT USE CONFORMS TO ZONING (Article IV, Table 1)

Yes ☒ No ☐ (explain) BY ZBA DECISION 2008

PROPOSED CHANGE OF USE

No ☒ Yes ☐ (explain)

PROPOSED CONSTRUCTION QUALIFIES AS "Building New" (§200-7) Yes ☐ No ☒

EXISTING DIMENSIONAL NON-CONFORMITIES (check all that apply)

- ☐ Lot Area - Less than required (§200-7 and Table 2)
- ☐ Lot Width - Less than required (§200-7)
- ☐ Frontage - Less than required (§200-7 and Table 2)
- ☐ Front Yard Setback - Less than required (Table 2)
- ☐ Rear Yard Setback - Less than required (Table 2)
- ☐ Side Yard Setback - Less than required (Table 2)
- ☐ Height - Exceeds maximum allowed (§200-7 and Table 2)
- ☐ Open Area - Less than required (§200-7, §200-15.B(4) and Table 2)
- ☐ Parking - Less than required; undersized; tandem (§200-17 to §200-21) (circle all that apply)
- ☐ Other Non-conformities (explain)
- ☒ No Existing Dimensional Non-conformities

NEW DIMENSIONAL NON-CONFORMITIES (check all that apply)

- ☐ Lot Area - Less than required (§200-7 and Table 2)
- ☐ Lot Width - Less than required (§200-7)
- ☐ Frontage - Less than required (§200-7 and Table 2)
- ☐ Front Yard Setback - Less than required (Table 2)
- ☐ Rear Yard Setback - Less than required (Table 2)
- ☐ Side Yard Setback - Less than required (Table 2)
- ☐ Height - Exceeds maximum allowed (§200-7 and Table 2)
- ☐ Open Area - Less than required (§200-7, §200-15.B(4) and Table 2)
- ☐ Parking - Less than required; undersized; tandem (§200-17 to §200-21) (circle all that apply)
- ☐ Exceeds 10% Expansion Limits for Non-conforming Building (§200-30.D)
- ☐ Other Non-conformities (explain) SEE ZBA 27 MAY 2008 DECISION - CONDITION 1
- ☒ No New Dimensional Non-conformities

ADDITIONAL HEARINGS REQUIRED

Conservation Commission
Historic District Commission
Planning Board

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

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DESIGN & SURVEY PLANS MEET -ZBA- RULES & REGULATIONS (Sections 3(A) and 3(C))

Town of Marblehead
ZBA-APPLICATION

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Revision Date: 12-14-2015

Project Address 10 OCEAN AVE

Map(s) / Parcel(s) 88/33

NET OPEN AREA (NOA)

Lot area = A

EXISTING

PROPOSED

Area of features

footprint of accessory building(s)

footprint of building

footprint of deck(s), porch(es), step(s), bulkhead(s)

number of required parking spaces 14/16 x (9' x 20' per space)

area of pond(s), or tidal area(s) below MHW

other areas (explain) _____

Sum of features = B

Net Open Area (NOA) = (A - B)

GROSS FLOOR AREA (GFA)

accessory structure(s)

basement or cellar (area > 5' in height)

1st floor (12' or less in height) NOTE: [for heights exceeding

2nd floor (12' or less in height) 12' see definition

3rd floor (12' or less in height) of STORY §200-7]

4th floor (12' or less in height)

attic (area > 5' in height)

area under deck (if > 5' in height)

roofed porch(es)

Gross Floor Area (GFA) = sum of the above areas

Proposed total change in GFA = (proposed GFA - existing GFA)

Percent change in GFA = (proposed total change in GFA ÷ existing GFA) x 100

Existing Open Area Ratio = (existing NOA ÷ existing GFA)

Proposed Open Area Ratio = (proposed NOA ÷ proposed GFA)

This worksheet applies 1. plan by/dated

to the following plan(s): 2. plan by/dated

3. plan by/dated

Hayes Engineering

RZA ARCHITECT

2/4/2020

Reviewed by
Building Department
For Zoning Board
Of Appeals

25,454

25,454

-0-

-0-

4336

4950

200

200

2520

2380

-0-

-0-

-0-

-0-

7056

8030

18398

17424

-0-

-0-

-0-

-0-

4336

4950

-0-

-0-

-0-

-0-

-0-

-0-

-0-

-0-

-0-

-0-

200

200

4536

5150

= 614

= 13.5 %

= 4.0

= 3.38

TOWN OF MARBLEHEAD

**BOARD OF APPEALS • APPLICATION REDUCED
TO EXPAND**

**Application of Jeffrey Rockwell
for a Special Permit pursuant to § 200-36.A.
with respect to the property located at
10 Ocean Avenue
Assessors Map No. 88, Parcel 33**

Pursuant to notice mailed, postage prepaid, to the petitioners, abutters, and persons to whom such notice is required to be given, and pursuant to advertisements in *The Marblehead Reporter* on May 8 and May 15 of 2008, the Board of Appeals held a scheduled hearing at the Selectmen's Room at Abbot Hall, Marblehead, Massachusetts on Tuesday, May 27, 2008 at or after 8:30 p.m. and said hearing was continued without evidence taken to June 10, 2008 and continued without evidence taken to June 24, 2008 at or after 9:00 p.m.

Sitting for the Board of Appeal son June 24, 2008 were members Bennet, Tenenbaum, Lipkind, Burke-Jacobson and Chairman Moriarty.

The applicant appeared with Attorney Paul Lynch and plans drawn by Robert Zarelli Architect dated May 27, 2008 and revised to June 05, 2008., in addition to a site plan drawn by North Shore Survey, Registered Land Surveyor, dated June 10, 2008 seeking permission to change the pre-existing nonconforming use as a greenhouse to another nonconforming use as a veterinary hospital pursuant to section 200-30

that required the applicant to install larger trees on the boundary lines of the property to be planted at a height of 7 to 8 feet.

Approximately two weeks prior to the instant hearing a traffic report prepared by Hayes Engineering was circulated to the Board members for their review and was made part of the record.

Attorney Lynch argued that the purpose of Section 200-30 B (2) is to allow the continuance of nonresidential uses in areas of Marblehead which have been rezoned to residential use to allow businesses to continue operate in a town which does not reserve large areas for commercial use.

It was represented that the existing property consists of 25,275 square feet of land and contains a retail building and several greenhouses, both attached to the building and standing alone as accessory buildings. The existing retail store has a footprint of 1,832 square feet and accessory structures of 7,160 square feet for a total of 8,996 square feet of gross floor area. The present site has parking for approximately four cars in an unmarked area. Pictures of the existing conditions on the site were shown to the Board which showed greenhouses in disrepair and unkempt yard conditions.

The site had once been the location of Osborne Greenhouse and was operated on a year round basis which included a flower delivery service. The land and business was purchased in 2007 by a neighbor who recently ceased the operation of the greenhouse business. Although the applicant does not presently own the land he has entered into a purchase and sale agreement with the owner.

Attorney Lynch and Dr. Rockwell explained that the applicant wanted to relocate his existing veterinary practice from 385 Atlantic Avenue, Marblehead, where he has operated for fifteen years to 10 Ocean Avenue because the existing location is extremely cramped and the rooms are used for multiple purposes making it difficult for the doctor and staff to function. Dr. Rockwell stated that it is not his intent to expand the practice to any great degree but to provide a functional building to operate.

Robert Zarelli explained the proposed building to the Board. The new building will contain a total of 4,440 square feet of gross floor area with a height of 17'9". The

front yard setback is 66 feet with a rear yard setback of 25 feet and side yard setbacks of 26 and 34 feet.

Fifteen parking spaces will be provided on the site which will have both a dedicated entrance land and a dedicated exit lane for the orderly passage of vehicles. The parking surface will be a mixture of bituminous and landscape pavers as depicted on the landscape plan.

Attorney Lynch noted that the traffic study concluded that the change of use will have no traffic impact on the area and will be more controlled by the scheduled appointments versus random visits at the greenhouse.

Letters were presented to the Board from the Police Chief, Animal Control Officer, and Director of the Board of Health all indicating that the existing practice at 385 Atlantic Avenue has had no public complaints.

Letters were also given to the Board from the other tenants in the existing building stating that the veterinary hospital did not generate excessive noise or cause a nuisance.

Attorney Lynch added that the relocated practice would be operated along the same lines as the existing practice and that there would be no boarding of dogs.

At the conclusion of the applicant's presentation Chairman Moriarty asked for comments from the assembly.

Attorney William DiMento addressed the Board and stated that he represented several families in opposition to the application and presented the Board with a list of those families he represented. Attorney DiMento stated that his clients would address the Board directly.

Elizabeth Durkee of 18 Ocean Avenue, a direct abutter, stated that she objected to the size of the building and the parking area that would be created. She also stated that she spoke for the Hills at 6 Ocean Avenue who also objected.

Donald Forte of 119 Ocean Avenue was concerned about drainage.

Ruth Boland at 131 Atlantic Avenue stated that the traffic is presently a problem on a very busy street and she has problems getting out of her driveway.

Amy Weist of 7 Bubier Road and Brian Seaman of 11 Bubier Road also objected to the change because of traffic and change of use.

Brian Skidmore of 9 Bubier Road, a direct abutter at the rear of the property spoke in favor and believed that the change and new building would be a great improvement to the neighborhood. Barbara Hitchcock of 1 Weston Road which is located directly across the street also said she believed that the change would be a great improvement.

Chuck Carey of 234 Pleasant Street stated that he had worked at the greenhouse several years ago and that it has always been an active year round operation.

In rebuttal to objectors, Attorney Lynch countered that the size of the building was not out of character in the neighborhood. He pointed out that the former Sundance Day Care building located less than a block away is 5,790 feet of gross floor area and that the street is a major street in the Town with a heavy traffic flow which will not be impacted by the proposed change of use but will be improved because of a new section of sidewalk and off street parking where now little exists. With a fire station, telephone building, and library all in the immediate vicinity, the general neighborhood cannot be considered a conventional residential neighborhood. This is particularly true since this part of Ocean Avenue is a main town thoroughfare with controlled traffic lights at either end that connects two major roads (Atlantic Avenue and Pleasant Street).

The Board then deliberated and concluded that the traffic would not be adversely affected and that the site was an appropriate location for the newly proposed use.

Based on the above factors, the Board made the findings required by Section 200-36.B of the By-Laws as most recently amended, to wit: That the granting of the application will be consistent with the general purpose and intent of the Bylaw; that the specific site is an appropriate location for the new building; that neither the new building nor the use of the building will adversely affect the neighborhood; that there will be no nuisance or serious hazard to vehicles or pedestrians resulting from the construction of the building or change in use; and that adequate and appropriate facilities will be provided for the proper operation of the building.

The Board voted to grant the Special Permit to allow the new non-conforming use as a veterinary hospital as follows:

Mr. Bennet -No Ms. Burke Jacobson-Yes

Mr. Moriarty—Yes Ms. Tenenbaum—Yes Mr. Lipkind - Yes

The Special Permit is granted, but only subject to the following conditions:

1. This special permit is issued on the condition that there shall be no construction regarding the construction herein approved at any time following the vote of the Board of Appeals which either differs from the construction set forth on the Plans approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this decision and these conditions, without the applicant obtaining prior written approval from the Board of Appeals for such construction. Additionally, no demolition, building or occupancy permit, whether temporary, conditional or permanent, shall issue for any work on the premises unless and until a copy of this 5 page decision in its entirety, and not merely the conditions, bearing the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either no appeal has been filed or an appeal has been filed within such time, has been recorded in the Essex South District 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. 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.
2. There shall be no boarding of dogs.
3. The allowed hours of operation will be Monday through Thursday 8 Am to 8 PM; Friday from 8 AM to 6 PM and Saturday from 9 Am to 1 PM.
4. The conditions of the Site Plan Special Permit granted by the Planning Board on June 24, 2008 are hereby shall incorporated into this Special Permit and are to be considered conditions hereof.

I hereby certify that twenty days have elapsed since the decision has been filed in the office of The Town Clerk and an appeal has been filed and it has been dismissed with prejudice.

Robin A. Michaud
Robin A. Michaud
Town Clerk

BOARD OF APPEALS
TOWN OF MARBLEHEAD

By: *William Moriarty*
William Moriarty, Chairman

2008 JUL 17 PM 12:02

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