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Special Permit Amendment #97-14  
363 Main Street  
September 14, 2015

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Zoning Board of Appeals

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**AMENDMENT OF DECISION**  
#97-14

**363 Main Street**  
Special Permit

September 14, 2015

GRANTED with CONDITIONS

Decision of the Acton Zoning Board of Appeals (hereinafter the Board) on the application of Daphne Flessas (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Karen Geissert of 363 Main Street, Acton, MA 01720. The property is located at 363 Main Street and shown on the Acton Town Atlas as map and parcel F3-56 (hereinafter the Site).

This Decision is in response to an application for an amendment to Special Permit #97-14 dated November 26, 1997 (the Original Decision) pursuant to Section 8.2.3 of the Acton Zoning Bylaw in effect in 1997.

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public meeting on September 14, 2015. Board members Mr. Jonathan Wagner (Chair), Ms. Suzanne Buckmelter (Alternate) and Mr. Richard Fallon were present throughout the meeting. The minutes of the meeting and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

## **1 EXHIBITS**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Items and documentation consisting of:
  - A Letter from Daphne Flessas, DVM, requesting an amendment to Decision #97-14, dated August 5, 2015;
  - Original Decision #97-14, filed with the Town Clerk, November 26, 1997;
  - Minutes of Hearing #97-14, filed with the Town Clerk, October 29, 1997;
  - Request for Extension of Special Permit Decision #97-14, filed with the Town Clerk, September 30, 1999;
  - Letter from property owner Karen E. Geissert, dated August 12, 2015.
- 1.2 Interdepartmental communication received from:
  - Acton Planning Department, dated September 3, 2015;
  - Building Permit #17178, issued October 24, 2000;
  - Plot Plan Depicting total area used for Animal Hospital, dated September 27, 2000.

Exhibit 1.1 is referred to herein as the Application.

## **2 FINDINGS and CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the Residence 2 (R-2) zoning district.
- 2.2 The Applicant requests an amendment for a change in ownership as required by the Original Decision.
- 2.3 The Original Decision granted the current property owner, Ms. Geissert, a special permit under section 8.2.3 of the Zoning Bylaw, as in effect in 1997, to operate a veterinary care/animal hospital at the Site and renting to a tenant the existing residence. Previously the veterinary business had been operated by the resident owner and as such appears to have been a legal conforming home occupation.
- 2.4 The Original Decision limited the veterinary care/animal hospital to less than 50% of the square footage of the entire built structure on the Site and required the residential use to be greater than 50% of the total square footage of the entire built structures on the Site.
- 2.5 The Animal Hospital has been operating consistently since before 2000.
- 2.6 The Board finds the request for change in ownership meets the mandatory findings under Zoning Bylaw Section 10.3.5.

## **3 BOARD ACTION**

Therefore, the Board voted to GRANT the requested amendment for change in ownership at 363 Main Street subject to and with the benefit of the following conditions.

### **3.1 CONDITIONS**

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the special permit amendment granted with this decision null and void. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

3.1.1 The Applicant shall record this Decision at the Middlesex South District Registry of Deeds.

**4 EFFECT AND SCOPE OF THIS AMENDMENT DECISION**

This Amendment Decision only responds and decides on the limited matters before the Board as outlined herein. Except as herein specified, the Original Decision shall remain in full force and effect.

Town of Acton Zoning Board of Appeals



Jonathan Wagner  
(Chairman)



Richard Fallon



Suzanne Buckmelter

*Copies furnished:*

<i>Applicant -</i>	<i>Building Commissioner</i>	<i>Engineering Department</i>	<i>Town Clerk</i>
	<i>Town Manager</i>	<i>Assistant Assessor</i>	<i>Owner</i>