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**TOWN OF NEEDHAM  
MASSACHUSETTS  
BOARD OF APPEALS**

***Special Permit***

***Tail Waggers Pet Care, Inc., applicant  
L & T, LLC, owner  
6 Brook Road  
Map 74, Parcel 30***

***August 15, 2024***

Tail Waggers Pet Care, Inc., applicant, applied for a Special Permit to allow the operation of a dog daycare/boarding/grooming business under Section 3.2.6.2 (h); and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the By-Law. The property is located in the Mixed Use -128 (MU-128) zoning district. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue on Thursday, August 15, 2024 at 7:45 p.m. The meeting was also livestreamed on Zoom and broadcast on Needham Cable.

***Documents of Record:***

- Application for Hearing, Clerk stamped July 22, 2024.
- Existing and Proposed Conditions, C-001, stamped and signed by William A. Eldredge Jr., professional engineer, dated July 22, 2024.
- Aerial Photo of Existing Parking at 6 Brook Road.
- Letter from Edward Pidcock, L & T, LLC, dated July 16, 2024.
- Memorandum of Support with attachments, prepared by George Giunta, Jr., dated August 6, 2024.
- Email from Joseph Prondak to Robyn Toscano, dated July 15, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, dated August 14, 2024.
- Letter from Joseph Prondak, Building Commissioner, dated August 6, 2024.
- Email from Justin Savignano, Assistant Town Engineer, dated August 6, 2024.
- Email from Chief Tom Conroy, Fire Department, dated July 24, 2024.
- Email from Chief John Schlittler, Police Department, dated August 6, 2024.

- Email from Tara Gurge, Assistant Public Health Director, dated August 5, 2024.
- Tail Waggers Pet Care – 217 California Street, Newton - Drop-Off Count for Week of July 22 – July 26, 2024.

### **August 15, 2024**

The Board included Jonathan D. Tamkin, Chair; Howard Goldman, Vice-Chair; and Valentina Elzon, Associate Member. Peter Friedenberg, Associate Member, was also in attendance. Mr. Tamkin read the public notice and opened the Public Hearing at 8:15 p.m.

George Giunta, Jr., the attorney representing the applicant; Robyn and Joseph Toscano, owners/partners of Tail Waggers Pet Care, Inc. the applicant; and Will A. Eldredge, Jr, representing the applicant's engineer, were in attendance.

Mr. Giunta reported that the applicant is proposing to locate their business to 6 Brook Road in the Mix-Use 128 Zoning District. The one-story commercial structure and surrounding parking, areas were built in 1966 and is located on the corner of Wexford Street and 6 Brook Road. The building is one of a three-building-condo complex addressed as 6 Brook Road, 50 Brook Road, and 56 Brook Road. The stand-alone condos are treated as separate properties.

For the past 20 years, 6 Brook Road was occupied by Chilly Bear, a company specializing in the production of decorated apparel for its manufacturing, warehousing, and retailing. Since the 1960s, and prior to Chilly Bear, the location was occupied by Anderson Machine Company, Inc. for manufacturing and warehousing.

The Toscanos have been operating Tail Waggers, a doggie day care, located at 217 California Street in Newton since 2009. The business provides both a day care and overnight boarding. The Toscanos want to open a new location in Needham.

The day care and overnight program involves the dogs being dropped off between 7:00 a.m. to 10:00 a.m. on weekdays; and 8:00 a.m. to 10:00 a.m. on weekends. Only dogs enrolled in the program can be boarded overnight. Day pick-up hours are not limited but nearly all pick-ups occur between 3:00 p.m. to 7:00 p.m. on weekdays; and limited from 3:00 p.m. to 5:00 p.m. on weekends. Initially the business will offer day care services only and add weekends and overnight services later as the business enrollment increases.

Once the operation is established the maximum enrollment will be 100 dogs, with an average of 60 to 75 dogs for the day program. The maximum overnight boarders will be 50 dogs. The overnight dog number is included in the maximum enrollment count.

There will be a maximum of four staff on site. Initially there will be three staff persons and staff will be added as the program expands. The ratio is one staff to 25 dogs. The business only hires experienced professionals with a minimum of three to five years of experience.

Mr. Tamkin asked if there are programming guidelines or regulations. Ms. Toscano responded that industry best practice suggests 40 to 100 square feet per dog depending on the dog's activity

level and size. The program screens the dogs, limiting the enrollment to 15-20% to high energy dogs. High energy groups are limited to 8 to 10 dogs.

Mr. Goldman asked if the dogs are walked. Ms. Toscano responded that the dogs are not walked but they have a fenced outdoor space for relief and play. The indoor space is divided up into rooms with a large play area and smaller rest rooms. The dogs are separated by temperament and their energy level throughout the day.

Mr. Goldman asked about the program drop-off. Ms. Toscano explained that drop-off on weekdays is between 7:00 a.m. to 10:00 a.m. Drop-off and pick-up turn-around time is quick and efficient. Nest cameras and walkie-talkies assist staff to anticipate the dog approaching arrival or departure. For drop-off owners accompany and unleash their dog at the counter. Staff then places the dog into the appropriate space. The process is reversed for pick-up with dogs leashed ready for pick-up at the door. Customers are accustomed to the pick-up and drop-off process. The only time when there is a long drop-off is when it's the dog's first day. The program will only take on one new dog or dog family per day. A new dog's first day assessment is done at lunch time on the phone. Dogs are assessed for success in the program.

Mr. Goldman asked if dogs are fed. Ms. Toscano said that dogs are fed at home by their owners. Exceptions are made for puppies and dogs with medical reasons. Dogs that stay overnight are fed.

Mr. Goldman asked about grooming. Ms. Toscano reported that Newton provides grooming services. At the Needham location there will be a tub for accidents. Once established and later, she would like to offer grooming services.

Mr. Tamkin asked how emergency medical situations are handled. Ms. Toscano said that they have a working relationship with the 24-hour Veterinary Emergency Group on Needham Street. The program has an emergency care waiver for each dog on file if a situation requires it. The owner is contacted as the dog is taken to the vet which is four minutes away. If the owner has a preferred facility the dog is taken there.

Mr. Giunta reported that the By-Law was amended in 2017 to allow by Special Permit a Veterinary office and/or treatment facility under Section 3.2.6.2 (h). However, the By-Law did not provide a parking standard under the Required Parking Section 5.1.2. Mr. Giunta reasoned that the Parking Requirement for Manufacturing or industrial under Section 5.1.2 (18) of one space per 400 square feet would be most applicable. The calculation is as follows: 5,577 square feet of space divided by 400 equals 14 spaces.

A parking count of the drop-offs was conducted from July 22 through July 26 between 7:00 a.m. to 10:00 a.m. at the Newton location broken down in ten-minute increments. The count indicated that the most drop-offs at any given time are eight cars. Furthermore, a calculation of the average number of cars indicated that there are never more than five cars in a ten-minute period. Typically, each drop-off last no more than several minutes. Mr. Giunta claimed that in practice no more than five parking spaces will be required.

The Building Commissioner calculated that 16 spaces were required based under Section 3.2.6.2 (h) for a 7,000 square foot building; with the square footage including the outdoor area. Mr. Giunta disagreed with the Commissioner calculation as the building is 5,577 square feet.

Mr. Giunta included for comparison the calculations from the APA Parking Standards PAS Report for animal facilities, which when used is within the required parking range. Furthermore, the property has 16 available spaces sufficient to accommodate the various parking calculations.

Mr. Tamkin thought that the childcare parking use standards were more applicable than the manufacturing one. Mr. Giunta agreed. However, he thought the childcare parking standards may overstate the need, plus the drop-offs for dog care are many times quicker than childcare drop-offs. He thought childcare and dogcare were analogous but not on a one-to-one parking use calculation. We thought realistically eight to ten spaces was what was needed. He was agreeable with 16 spaces required by the Building Commissioner as there are 16 available spaces at the site surrounding the building – 6 on the Brook Road side and 10 on the Wexford Street side.

As a condominium commercial space, Mr. Goldman asked if there were any restrictions for parking. Mr. Giunta said there were no restrictions. Mr. Friedenberg asked if the parking spaces at the back of the building were at play. Mr. Giunta noted that there is a fence along the back of the property and those spaces are for the adjacent property.

Ms. Elzon asked if grooming services, when provided, would be offered to outside customers. Ms. Toscano said that it would probably be offered to outside customers but the majority of the customers are from the daycare program.

Mr. Giunta noted that the parking lot has had no changes since 1966. The parking lot does not comply with any of the Parking Plan and Design Requirements under Section 5.1.3 of By-Law and a waiver is being sought.

Comments received:

- The Police Department had no issues.
- The Planning Board had no comment.
- The Engineering Department had no comment or objection.
- The Building Department believes that 16 parking spaces are required for a 7,000 square foot area which includes the outdoor area.
- The Fire Department had no issue.
- The Health Department had the following recommendation and concerns:
  - a) the owner must develop strict cleaning protocols (both interior and exterior); proper waste pick-up protocols, so the waste does not end up in the stormwater; and also, disinfection protocols, especially outside; along with a plan to decrease the risk of nuisance noise (i.e., excessive barking, etc.) to prevent any public health nuisance issues for neighboring abutters.
  - b) the owner must secure a contract with a certified pest control service company that conducts at least a monthly service, both interior and exterior. And will be willing to bump-up this pest service schedule, if needed.
  - c) the owner must have a waste hauler contract which includes 2 separate dumpsters, one for trash, and one for

recycling. These dumpsters must be on a sufficient service schedule to ensure no waste overflow occurs, which could cause the attraction of pests. This dumpster area must be kept clean and sanitary at all times and be on a frequent clean-up schedule to prevent trash accumulation or odors. The location of these dumpsters should be such that it cannot create a nuisance.

- d) as part of the protocol any dogs being boarded must be vaccinated for Rabies, Kennel cough, Parvo, etc. We recommend that proper records must be kept and maintained on site for each animal.
- e) an emergency plan shall be developed for on site for staff to refer to in order to properly evacuate and transport animals that are on site, if an emergency occurs. It is recommended there is a plan to address pets that escape and how they keep track of animals that are checked in. For overnight boarding, 24/7 coverage/contact numbers shall be provided in case of an emergency.
- f) sufficient indoor ventilation shall be provided.
- g) all areas where pets are staying should be smooth, easily cleanable and non-absorbent, including exterior play areas. These areas need to be put on a frequent cleaning and disinfection schedule in order to prevent the risk of odors and unsanitary conditions.
- h) both hot and cold water shall be present, and a mop sink is installed on site to discard dirty mop water. Due to the proposed outdoor play area, we recommend that an exterior water faucet also needs to be installed to ensure that the exterior 'dog run' areas, etc., are able to be sufficiently cleaned and power washed on a routine basis.
- i) shade structures (i.e. an awning, etc.) shall be installed and also proper flooring materials shall be installed for the exterior space to help prevent the risk of excessively hot surfaces. We recommend that this exterior area should also have a proper water drainage system installed to ensure that the wastewater from cleaning/power washing the area is properly drained and to help prevent the risk of parasites, etc.
- k) the Health Department contact information to be provided to the owner. Before formally opening, the Environmental Health Agent along with the Needham Animal Control Officer, conduct joint a site visit with the owner.

Diane Quinn is a ten year Tail Waggers customer from Wellesley. She has had three dogs in the program. She strongly recommends them and finds them to be a professional organization. She supported the granting of the Special Permit.

Tray Duval is a customer of Tail Waggers from Newton for the past year. He was supportive of the business, owners and staff. He concurred that the drop-off and pick-up is quick and efficient.

Alex Ebbling is a six-year customer of Tail Waggers from Needham. He appreciates the peace of mind knowing his dog is cared for while he works. He found Dog Waggers to be a professional, responsive caring business. He thought the business would be an asset to Needham.

Mr. Friedenberg thought Tail Waggers was a great operation. He was impressed that four employees could handle 100 dogs. Ms. Toscano attributed it to the strong intake/selection of participating dogs.

Mr. Goldman was supportive of the business. He thought they had a strong business model with strong positive client support and a good location.

Mr. Tamkin thought it was great concept and location. He appreciated that Town Meeting amended the Zoning By-Law to allow the use.

Mr. Goldman moved to grant Dog Waggers Pet Care, Inc. a Special Permit to allow the operation of a dog daycare/boarding/grooming business under Section 3.2.6.2 (h); and to waive strict adherence to the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 conditioned on the following:

- a) the details of the business operations shall be undertaken as presented at the public hearing and in the plans submitted;
- b) that the Health Department's strict requirements shall be complied with; and
- c) that 16 parking spaces are required.

Ms. Elzon seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:52 p.m.

### **Findings**

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The subject of this application is located at 6 Brook Road in the Mixed Use-128 Zoning District. It is one of three commercial buildings within the Brook Road Condominium – addressed as 6 Brook Road, 50 Brook Road, and 56 Brook Road – which act as separate, stand-alone structures. The structures are sited on a corner lot, along Brook Road and Wexford Street, containing 45,663 square feet, identified on Assessors Map 74, Parcel 30.
2. The premises consists of 5,577 square feet of a single-story commercial building, adjacent outdoor space and 16 parallel parking spaces along the building; six along the Brook Road side and ten on the Wexford Street Side.
3. The building and parking were built in 1966. For over twenty years, the building has been occupied by Chilly Bear, a manufacturer of decorated apparel. Prior to Chilly Bear, Anderson Machine Company, Inc., occupied the premises for warehouse and manufacturing purposes.
4. The applicant seeks zoning relief under Section 3.2.6.2 (h) of the By-Law for an *animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.*
5. Since 2009, the applicant has operated a dog daycare, boarding and grooming business at 217 California Street, Newton, MA. The applicant proposes to use the entire premises for day, overnight boarding and grooming services of dogs.
6. The applicant proposes to operate the dog day care Monday through Friday, 7:00 a.m. to 7:00 p.m., and 8:00 a.m. to 5:00 p.m. for weekends. Drop-off for both day care and overnight is 7:00 a.m. to 10:00 a.m. for weekdays; and 8:00 a.m. to 10:00 a.m. for weekends. Pick-up occurs between 3:00 p.m. – 7:00 p.m. on weekdays and limited from 3:00 p.m. to 5:00 p.m. on weekends.
7. The program is selective. Dogs are evaluated and screened before being accepted for day

care. Only 20% of dogs are accepted that are young and energetic. Only dogs enrolled in the day care program may be boarded overnight.

8. There will be a maximum of 100 dogs on site at any one time. The maximum dogs accepted for overnight/boarding will be 50 dogs. The 100-dog maximum includes the 50 boarded dogs.
9. There will be a maximum of 4 staff persons. The target is no more than one staff person per 25 dogs. Employees are required to have a minimum of three years of experience in large scale dog daycare. Staff are pet first aid and CPR certified.
10. Dog grooming services are primarily for enrolled dogs. Grooming services may be offered to outside customers.
11. The business will initially be limited to weekday dog day care at business opening with three staff persons. Weekend, boarding and grooming services will be offered later once the business is established.
12. The By-Law has no category for animal care facility under Section 5.1.3 *Required Parking*. The Building Commissioner determined the use most closely resembles child day-care use. The building contains 5,577 square feet of space but when including the outdoor area used for the dogs, is approximately 7,000 square feet (both interior and exterior use). Using the formula from the most recent ITE Parking Manual ( $7,000 \times 3.6 \text{ per thousand} \times 63\% = 15.8$ ), and as determined by the Building Commissioner, 16 spaces would be required for this proposed use. There are 16 on-site parking spaces available to the applicant.
13. The 16 on-site parking spaces have been in existence without modification since the 1960s and do not comply with current design standards. The applicant has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 *Parking Plan and Design Requirement*. The applicant proposed no exterior changes to the existing structure or changes to the parking lot. It would not be possible to comply with design requirements without reductions in the number of spaces. The Board finds there are special circumstances that justify waiver of the By-Law's design requirements.

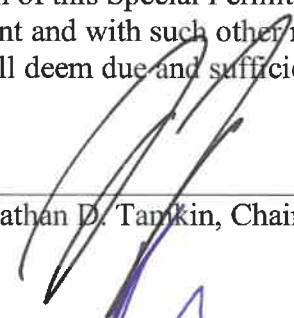
**Decision:**

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote grants the applicant 1) a Special Permit under Section 3.2.6.2 (h) of the By-Law for an animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals; and 2) a Special Permit under Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, subject to the following conditions:

- A. The dog day care operation hours shall be Monday through Friday, 7:00 a.m. to 7:00 p.m., and 8:00 a.m. to 5:00 p.m. on Saturday and Sunday. Drop-off for both

day care and overnight is 7:00 a.m. to 10:00 a.m. for weekdays; and 8:00 a.m. to 10:00 a.m. for weekends. Pick-up shall occur between 3:00 p.m. – 7:00 p.m. on weekdays and shall be limited from 3:00 p.m. to 5:00 p.m. on weekends.

- B. Only dogs enrolled in the applicant's dog day care program may be boarded overnight.
- C. There will be a maximum of 100 dogs on site at any one time. The maximum number of dogs accepted for overnight/boarding will be 50 dogs. The 100-dog maximum includes the 50 boarded dogs.
- D. There will be a maximum of 4 staff persons on site at any time.
- E. The applicant shall comply with all the requirements of the Town of Needham's Board of Health including, without limitation, as described in the email from Tara Gurge, Assistant Director of Public Health, dated August 5, 2024;
- F. 16 on-site parking spaces are required for this use and all the existing 16 spaces shall be available and provided at all times for use by the dog day care operation. A redacted copy of the applicant's lease shall be provided to the Board confirming the applicant's right to use all of the 16 on-site parking spaces;
- G. This Special Permit is issued to the applicant only, and may not be transferred, set over or assigned, directly or indirectly, by the applicant to any other person or entity without the prior written approval of the Board of Appeals following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient. Any transfer of control by the person(s) or entities currently owning the applicant, whether directly or indirectly or by operation of law, shall be deemed a transfer/assignment requiring approval of the Board.
- H. Failure to comply with each and any of the foregoing conditions at any time may constitute cause for the revocation of this Special Permit by the Board after hearing with notice to the applicant and with such other notice as the Board, in its sole and exclusive discretion, shall deem due and sufficient.



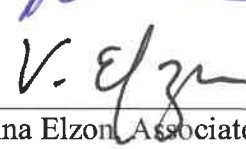
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Jonathan D. Tamkin, Chair



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Howard S. Goldman, Vice-Chair



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Valentina Elzon, Associate Member