

**Town of Westwood**  
Commonwealth of Massachusetts

David W. Krumsiek, Chairman  
John F. Lally  
Douglas C. Stebbins



**ZONING BOARD OF APPEALS**

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2018 JUN 29 11:03

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TOWN CLERK (781) 767-6  
TOWN OF WESTWOOD

**NOTICE OF DECISION**

In compliance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts, you are hereby notified that the Board of Appeals has unanimously voted to grant the Petitioner, Tristan Medical Enterprises PC its request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.1.5.23 to operate a Medical Center or Clinic at 315 University Avenue.

PROPERTY OWNER(S): Westwood University Property LLC

LAND AFFECTED: 315 University Avenue, Westwood, MA  
Map 37 Lot 014

The signed decision for the petition was filed at the office of the Town Clerk on **June 29, 2018**.

Any appeal of this decision shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17 and a copy delivered to Office of the Town Clerk within twenty (20) days of the date that the decision was filed in the office of the Town Clerk.

**DECISION OF THE ZONING BOARD OF APPEALS  
of the  
TOWN OF WESTWOOD**

**PROPERTY OWNER(S): Westwood University Property LLC**

**PETITIONER(S):** Tristan Medical Enterprises PC  
465 S. Washington Street  
North Attleboro, MA 02760

**LAND AFFECTED:** 315 University Avenue  
Westwood, Massachusetts 02090  
Map 37, Lot 014

**HEARING:**

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Wednesday, June 18, 2018 at 7:00 PM in the Champagne Meeting Room of the Carby Street Municipal Office Building, 50 Carby Street, Westwood, MA 02090 to consider the Petitioners' request for a special permit pursuant to Westwood Zoning Bylaw § 4.1.5.23 to operate a Medical Center or Clinic Use at 315 University Avenue. Property located in Industrial Zoning District (I).

**BOARD MEMBERS:** David M. Belcher, Acting Chairman  
Gregory J. Donovan  
Charles D. Reilly

**APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW**

**4.1 PRINCIPAL USES**

- 4.1.1 **General.** No building or structure shall be constructed, and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District or Highway Business District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting municipality. However, in all other cases, no building or structure shall be constructed or used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

**4.1.2 Table of Principal Uses.** The Table of Principal Uses designates which Principal Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
<b>4.1.3 RESIDENTIAL USES</b>													
4.1.3.1 Single-Family Dwelling	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.3.3 Two-Family Dwelling per Section 8.2	N	N	N	N	N	BA	N	N	N	N	N	N	N
4.1.3.4 Senior Residential Development per Section 8.4	PB	PB	PB	PB	PB	PB	PB	N	N	N	N	N	N
4.1.3.5 Residential Retirement Community per Section 8.5	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.3.6 Nursing or Convalescent Home	N	N	N	N	N	N	N	N	N	N	N	N	BA <sup>1</sup>
4.1.3.7 Assisted Living Residence	N	N	N	N	N	N	N	N	N	N	N	N	BA <sup>1</sup>
4.1.3.8 Open Space Residential Development in accordance with Section 8.3 <sup>1</sup>	N	Y	Y	N	Y	N	N	N	N	N	N	N	N
<b>4.1.4 EXEMPT AND INSTITUTIONAL USES</b>													
4.1.4.1 Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.3 Child Care Facility in new building	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.1.4.4 Child Care Facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.5 Agricultural Use, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.6 Farm Stand, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.7 Municipal Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.8 Essential Services	BA	BA	BA	BA	BA	BA	BA	Y	Y	Y	Y	Y	BA
4.1.4.9 Extension of existing cemetery	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.10 Public Utility	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	BA

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
<b>4.1.5 COMMERCIAL USES</b>													
4.1.5.1 Agricultural Use, Non-exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.2 Farm Stand, Non-exempt <sup>1</sup>	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.5.3 Animal Hospital or Animal Clinic	N	N	N	N	N	N	N	BA	BA	Y	BA	BA	N
4.1.5.4 Funeral Home	N	N	N	N	N	N	N	BA	BA	BA	N	N	BA
4.1.5.5 Motel or Hotel on five (5) acres or more	N	N	N	N	N	N	N	N	N	N	BA	BA	N
4.1.5.6 Retail sales and services, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y <sup>4</sup>	Y	Y	N
4.1.5.7 Retail sales and services, 10,000 square feet or more	N	N	N	N	N	N	N	N	N <sup>5</sup>	Y <sup>4</sup>	BA <sup>6</sup>	BA <sup>6</sup>	N
4.1.5.8 Motor Vehicle Sales and Rental, other open air sales	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.9 Motor Vehicle General Repairs and Body Repair	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.10 Motor Vehicle Light Service	N	N	N	N	N	N	N	BA	BA	BA	N	N	N
4.1.5.11 Car Wash	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.12 Restaurant without entertainment, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.13 Restaurant without entertainment, 10,000 square feet or more	N	N	N	N	N	N	N	PB	PB	Y	PB	PB	N
4.1.5.14 Restaurant with entertainment	N	N	N	N	N	N	N	PB	PB	PB	N	N	N
4.1.5.15 Fast Order Food Establishment	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.16 Coffee Shop	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.17 Ice Cream Parlor	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.18 Pet Care facility	N	N	N	N	N	N	N	Y	Y	Y	BA	BA	N
4.1.5.19 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel	N	N	N	N	N	N	N	N	N	Y	BA	BA	N
4.1.5.20 Professional Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.1.5.21 Business Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y

DISTRICTS

PRINCIPAL USE	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
<b>4.1.5 COMMERCIAL USES, CONTINUED</b>													
4.1.5.22 Office of Health Care Professional	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
4.1.5.23 Medical Center or Clinic	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.24 Hospital	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.25 Substance Rehabilitation or Treatment Facility	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.26 Bank, Financial Institution	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.27 Commercial Recreation, Outdoor	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.28 Commercial Recreation, Indoor	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.29 Golf Course	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.30 Personal Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.31 General Services Establishment	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.32 Campground, wildlife preserve, fishing grounds operated not for profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.33 Printing/copy/publishing establishment, less than 4,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.34 Printing/copy/publishing establishment, 4,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.35 Major Business Development per Section 7.2	N	N	N	N	N	N	N	PB	PB	PB	PB	PB	PB
4.1.5.36 Building Trade Shop in an establishment with less than 8,000 square feet	N	N	N	N	N	N	N	Y*	Y*	Y	Y	Y	N
4.1.5.37 Building Trade Shop in an establishment with 8,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.38 Commercial laundry, dry cleaning, dye work, carpet cleaning	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.39 Public Communications Use	N	N	N	N	N	N	N	N	N	BA*	BA*	BA*	N
4.1.5.40 Educational Use, Non-Exempt	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	Y
4.1.5.41 Contractor's Yard	N	N	N	N	N	N	N	N	N	BA	BA	N	N
4.1.5.42 Medical Marijuana Establishment per Section 7.4	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.43 Non-Medical Marijuana Establishment	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.5.44 Fire Arms/Explosives Sales and Service	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	N

4.1.5.45 Taxi Service

N N N N N N N N N N N N N N

**PRINCIPAL USE**

**DISTRICTS**

SRA SRB SRC SRD SRE SRG SRH SRB LBA LBB HBB HB I IO ARO

**4.1.6 INDUSTRIAL USES**

4.1.6.1 Earth Material Movement per Section 7.1	PB	PH	PB	PB	PH	PH	PB	PH	PB	PB	PH	PB	PH	PB	PH	PB	PH	PB	PH	PB	PH	PB	PH	PB	
4.1.6.2 Light Manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.3 Warehouse, wholesale or distribution facility without outdoor storage	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.4 Warehouse, wholesale or distribution facility with outdoor storage	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.5 Manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.6 Junkyard or Automobile Graveyard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.7 Research and Development	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.8 Self-Storage or Mini-Storage Facility per Section 7.6	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

**4.1.7 OTHER USES**

4.1.7.1 Pay-to-Park Outdoor Parking Facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.7.2 Parking Garage	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.7.3 Drive-Through Service	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.7.4 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA

## 4.2 NOTES FOR TABLE OF PRINCIPAL USES

- 1 Accessory dwellings may be allowed to the extent expressly allowed by the special permit.
- 2 Open Space Residential Development shall be permitted in the SRB, SRC and SRE districts and the uses delineated in Article 8.0, Special Residential Development, Section 8.3, Open Space Residential Development, shall be the allowed uses in OSRD projects.
- 3 Non-exempt farm stands on municipal properties are permitted and exempt from BA special permit requirements.
- 4 For only retail sales and services in the Highway Business District that do not require a special permit pursuant to other sections of the Bylaw and do not involve Adult Uses
- 5 Except for a retail grocery store which may exceed 10,000 square feet.
- 6 Retail sales and services in the Industrial and Industrial-Office Districts between 10,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.
- 7 In addition to meeting all other requirements for a special permit for a Fast Order Food Establishment in the Highway Business District, the Applicant shall be required to submit the opinion of a qualified professional expert, and the data upon which such opinion is based, showing to the reasonable satisfaction of the Board of Appeals that the facilities for on-site parking (taking into account all other uses and activities that share the premises with the proposed use) will be sufficient to serve the employees and customers of such establishment without encroaching upon or using neighboring streets or property.
- 8 A special permit from the Board of Appeals shall be required if there is outdoor storage of equipment or materials.
- 9 Does not include wireless communications facilities.



## **FINDINGS**

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. The Subject Property is located at 315 University Avenue in Westwood.
2. The lot area of the Subject Property is approximately 114,127 sq. ft. (2.62 acres) where 40,000 sq. ft. is required.
3. The lot frontage of the Subject Property is 356' where 200' is required.
4. The Petitioner received an Administrative Environmental Impact and Design (EIDR) approval from the Town on September 27, 2017 for use as an Office of Health Care Professional.
5. The Petitioner wishes to use the Premises as a Medical Center or Clinic, with proposed uses including treatment of patients through procedures and surgeries. This proposed use is consistent with the definition of Medical Center or Clinic as defined in the Bylaw.
6. The proposed use requires a Special Permit pursuant to Section 4.1.5.23 of the Westwood Zoning Bylaw. The Board of Appeals is the Special Permit granting authority.
7. The Project will also require an EIDR for change of use pursuant to Section 7.3 of the Westwood Zoning Bylaw.
8. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioner's proposed construction, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Petitioner's proposed Medical Center or Clinic use will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.
9. The Petitioner's proposed Medical Center or Clinic use will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.
10. The Petitioner has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

## **DECISION**

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit for the proposed Medical Center or Clinic use at 315 University Avenue subject to the following:

1. The Change of Use shall require EIDR Approval by the Westwood Planning Board and this special permit shall be subject to all conditions of said approval.
2. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
3. **The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
4. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Prior to the expiration of the Special Permit, the Applicant may apply for an extension of the Special Permit for a period not to exceed one (1) year if the substantial construction or use thereof has not commenced for good cause.

#### **RECORD OF VOTE**

The following members of the Board of Appeals voted to grant the Special Permit amendment for the above mentioned project: David Belcher, Gregory Donovan and Charles Reilly.

The following members of the Board of Appeals voted in opposition to the grant of the Special Permit amendment: None.



**WESTWOOD ZONING BOARD OF APPEALS**

**David M. Belcher - Chairman**

**Charles D. Reilly**

**Gregory J. Donovan**

6/20/18  
Date

**315 University Ave-Special Permit-Welter**

TOWN CLERK  
TOWN OF WESTWOOD

2018 JUN 29 A 11: 01A

