

CITY OF FRAMINGHAM  
ZONING BOARD OF APPEALS

150 Concord Street B2  
Framingham, MA 01702

CITY OF FRAMINGHAM  
CITY CLERK'S OFFICE

2018 JUN 26 A 9:33

**BOARD OF APPEALS CASE NO. 18-12**

**PETITION OF HOWARD ONE GRANT, LLC**

**DATE OF DECISION: JUNE 12, 2018**

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of HOWARD ONE GRANT, LLC (hereinafter the Applicant), for property located at 1 GRANT STREET. This Decision is in response to a Petition for a Special Permit for a Research/Development Lab as required by the Zoning By-Law (hereinafter the Application).

**2. Property Owner and Applicant**

Howard One Grant, LLC  
40 Mechanic Street, Suite 220  
Marlborough, MA 01752

**3. Location**

Property is located at 1 Grant Street and identified by Assessors' Parcel ID 128-06-0604-000 (hereinafter the Site).

**4. Board Action**

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on June 12, 2018 the Board voted to GRANT a SPECIAL PERMIT by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	YES
SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES

**5. Proceedings**

The Application was received by the Board on April 19, 2018 pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on June 12, 2018 at 7:00 P.M. in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternates Rick McKenna and Edward "Ted" Cosgrove were present throughout the proceedings. Due to potential imminent changes to the makeup of the Board, Mr. Ottaviani appointed Mr. McKenna and Mr. Cosgrove as alternates. Mr. Ottaviani executed and read into the record a Conflict of Interest Disclosure Form pursuant to G.L. c. 268A s. 23(b)(3). The minutes of the public hearing and submissions on which this Decision is based, which

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together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

Mr. Allen Bullen of Rosewood Management introduced himself and the prospective tenant, Mr. Andrew Levin of Kephera Diagnostics. Mr. Bullen explained the conditions of the property stating that it was a five story commercial building with 15,000 square feet on each floor. He explained that the tenant would occupy 4,000 square feet of the third floor and use it for laboratory space. Mr. Ottaviani questioned if the tenant had any relation to the existing biotech tenant in the same building. Mr. Bullen responded no, the projects had no relations.

Mr. Meltzer questioned the operation and asked the Applicant to address what would be done on the premises. Mr. Levin explained that Kephera Diagnostics is focused on creating diagnostic tests for infectious diseases, specifically focusing on the creation of a Zika infection test. Mr. Meltzer asked if there would be live Zika virus on site and if they were subject to Board of Health, state, or federal regulatory agencies. Mr. Levin responded, research would be done with fragments of a synthetic virus that has a very low impact process. He confirmed that no dangerous or hazardous substances would be at the premises. The laboratory would be classified as a BL2 laboratory, similar to the existing fourth floor tenant. A BL2 lab means the space is contained and does not allow growth of large quantities of organisms. Mr. Cosgrove questioned if there was an inspection process for the BL2 certification. Mr. Levin responded, not to his knowledge but would confirm with the municipality.

Mr. Levin stated that if the product developed were used for human diagnosis then they would be required to go through the US Food and Drug Administration (FDA). He confirmed that staff would be subject to Occupational Safety and Health Administration (OSHA) and Chemical Hazard trainings. Ms. Craighead asked who would use the kits. Mr. Levin responded, the kits would be widely distributed within hospitals, clinics, public health organizations, and researchers. However, Kephera Diagnostics is not ready to manufacture and is still within the research phase.

## **6. Exhibits**

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

- 6.1. Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on April 20, 2018.
- 6.2. Application filed with the Building Official for a permit for research and development laboratory within in the Central Business District, dated March 2, 2018.
- 6.3. Filing fee in the amount of \$1,000.00.
- 6.4. Treasurer/Collector comments and Applicant correspondence, dated April 24 and April 25, 2018.
- 6.5. Floor plan entitled "ZBA Floor Plan" prepared by Gerald Couto, Architect, 25 Dennison Avenue, Framingham, MA 01701, dated March 5, 2018, and revised August 19, 2016.
- 6.6. Plan depicting 1 Grant Street, 300 Howard Street, 4 Bishop Street, 39 Grant Street, and Clinton Street Garage, submitted with the application.

Exhibits 6.5 and 6.6 shall be hereinafter referred to as the “Plans”.

## 7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the Central Business (CB) zoning district.
- 7.2. On March 2, 2018, the Building Official denied the Application for the operation of a research and development laboratory under Section II.B.6.A of the Zoning By-Law.
- 7.3. On April 20, 2018, the Applicant filed with the City Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit pursuant to the Zoning By-Law.
- 7.4. Notice of the public hearing was duly published in “THE METROWEST DAILY NEWS” on May 28 and June 4, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.
- 7.5. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
  - 7.5.1. The specific site is an appropriate one for such a use or structure. *Research and development laboratories are allowed by Special Permit in the Central Business zoning district. There is already a similar BL2 lab in the same building.*
  - 7.5.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *The parking demand of the proposed lab use is less intense than a traditional office use.*
  - 7.5.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians.
  - 7.5.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *This low-intensity laboratory use for research and development is compatible with the Central Business district and allowed by Special Permit.*
  - 7.5.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient.
- 7.6. The Board grants this Special Permit subject to the following condition:
  - 7.6.1. The proposed establishment shall be developed as shown on Plans.
- 7.7. This Decision applies only to the requested Special Permit. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 7.8. If the rights authorized by this Special Permit are not exercised within three years of the date of filing of the Decision with the City Clerk, said Special Permit shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights. A request for extension shall require a new public hearing pursuant to MGL, Ch. 40A, §9. The Board herewith reserves its rights

and powers to grant or deny such extension, and to require any appropriate changes to this approval.

7.9. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including recording information, shall be furnished to the Board and the Building Official.

7.10. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the City of Framingham.

**8. Appeals**

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the City Clerk.

ZONING BOARD OF APPEALS

By:  \_\_\_\_\_  
Philip R. Ottaviani, Jr., Chairman