

OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295  
NORWELL, MASSACHUSETTS 02061  
(781) 659-8018 • Fax (781) 659-1892

## Members

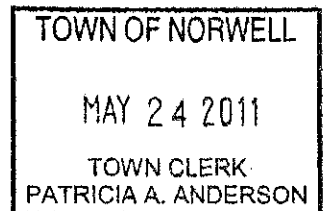
Lois S. Barbour, Chair  
Philip Y. Brown, Vice Chair  
David Lee Turner

## Associate Members

Michael E. Kiernan, Clerk  
Thomas P. Harrison

## **FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS**

File No. 11-06



A PUBLIC HEARING was held on May 18, 2011, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA upon the application (the Application) of:

**Campus of Caring, Inc.**  
**Ralph E. Tedeschi, President**  
**P.O. Box 323**  
**Norwell, MA 02061 (the Applicant)**

For a Special Permit and Section 6 Finding under Norwell Bylaw Sections 1400, 1420, or, in the alternative, for findings and a ruling, under Section 2312(e) of the Norwell Zoning Bylaw, that the Applicant is a non-profit corporation, and that the proposed use is for a philanthropic purpose and not a business undertaking, together with any other determinations the Zoning Board of Appeals may deem appropriate.

The proposed use is a hospice care facility on the Site, utilizing existing buildings, modified and expanded in accordance with the proposed additions and changes noted on the site plans, page SP-0, Site Plan, existing conditions, and page SP-1, Site Plan that shows the "new hospice care facility Campus of Caring" 19 Assinippi Avenue, Norwell, MA, both plans on file with the Board and received by and on file with the Town Clerk's Office on April 27, 2011 (the Site Plans). The property (the Property, also referred to as the Site) is located at 19 Assinippi Avenue and is situated in part in Residential B and in part in Business District B, all as shown on the Site Plans. The Property is also shown on

Assessor's Map 18B, Block 17, as Lot 140. For further title reference see Land Court Certificate 95391.

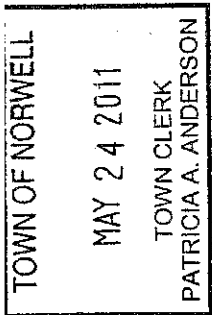
The Public Hearing for this application was duly noticed in *The Patriot Ledger* on May 2, 2011 and in *The Norwell Mariner* on May 12, 2011, and posted at the Norwell Town Hall. Additional notice was given as required by law.

The Applicant, represented by its President and the Applicant's consultants, P.M.P. Associates, Sullivan & Sullivan, PC, and KFP Architects, Inc. sent representatives who were in attendance at the hearing to present the proposal on the Application and to present comments and materials.

The Board received the following materials and documents (marked as Exhibits) into its files:

Exhibit Numbers:

1. Copy of legal notice
2. Abuffers Lists
3. Application completed and signed by the applicants, date-stamped April 27, 2011 by the Town Clerk, with attachments (The Site Plans)
4. Assessors Card Print-out for the lot
5. Articles of Organization under G.L. c.180 for Campus of Caring, Inc.
6. By-Laws of Campus of Caring, Inc.
7. IRS, U.S.A. Department of Treasury Determination of Tax Exempt Status letter dated February 15, 2007, for Campus of Caring, Inc.
8. Memorandum to the Board from Bill Dolan, dated May 18, 2011, concerning this pending application



#### **FINDINGS:**

Based upon the Exhibits, referenced above, and information received at the Public Hearing, the Board finds:

1. The structures to be modified and the proposed new construction, that will constitute the erection of a structure containing more than 200 square feet, are situated in Residential District B, as defined in the Norwell Zoning By-Law.
2. The proposed new use to be established is a hospice care facility to be operated and maintained as a philanthropic institutional service, and not a business undertaking, by a non-profit corporation<sup>1</sup> (Proposed New Use).

<sup>1</sup> See the G.L. c 180, Articles of Organization, and By-Laws for the Corporation (Exhibits 5 and 6) and Determination by the United States of America, Department of Treasury, Dated February 15, 2007 sent to Campus of Caring, Inc. (Exhibit 7)

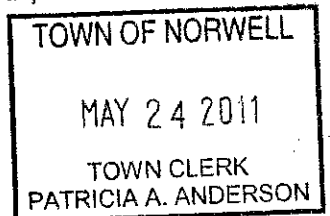
3. The provisions in Section 1500, Site Plan Review, do not apply to the building construction and modifications shown on the Site Plans because the proposed erection and external enlargement is all on that portion of the site situated in Residential District B and for a permitted use under Section 2312(e) in the Zoning By-Law.
4. The Applicant has the right to use the property for the Proposed Use without further relief or action by this Board. (See G.L. C40A, §8)

**DECISION OF THE BOARD:**

Based on the evidence presented and its findings above, upon a motion duly made and seconded, the Board **VOTED** unanimously to determine that the use, as proposed by this Applicant, is a permitted use under Section 2312(e) of the Zoning By-Law and, therefore, the Applicant's request for a Special Permit and Section 6 Finding are unnecessary and are denied.

**SPECIAL CONDITION:**

This Decision cannot and does not impact upon the obligations and legal requirements, if any, that may apply to this Proposal under Board of Health, Conservation Commission or Historical Commission rules, regulations, requirements or enabling statutes or the Laws of the Commonwealth.



**CONDITIONS APPLYING TO ALL DECISIONS:**

1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed then dismissed or denied, a copy of the Board's decision must be filed with either the Register of the Plymouth County Registry of Deeds to be recorded and indexed in the grantor index under the name of the owner of record in the case of unregistered land, or with the Recorder of Land Court to be registered and noted on the owner's certificate of title in the case of registered land.
2. **RECORDING RECEIPT:** A copy of the recording fee receipt must be returned to the Board of Appeals. **NOTE:** No building permit shall be issued without such evidence.
3. **EFFECTIVE DATE OF APPROVAL:** This Decision shall take effect only at such time as a copy of the Decision, certified by the Office of the Town Clerk of the Town of Norwell, is recorded with the Register of Deeds or Recorder of the Land Court.
4. **EXPIRATION:** The applicant must exercise any Decision granted by the ZBA within two (2) years from the date of the Decision or it shall lapse.

*Lois S. Barbour*

Lois S. Barbour

*David Lee Turner*

David Lee Turner

*Philip Y. Brown*

Philip Y. Brown

Date Filed with Office of the Town Clerk

*This space reserved for  
Date Stamp of Town Clerk*

TOWN OF NORWELL

MAY 24 2011

TOWN CLERK  
PATRICIA A. ANDERSON

**NOTICE OF APPELLATE RIGHTS:** Any decision of the Board of Appeals may be appealed to Superior Court within twenty (20) days after filing of the written decision with the Town Clerk. Any construction or pre-construction activity is undertaken at the applicant's risk during the appeal period.