

HULL ZONING BOARD OF APPEALS

Applicant: Arthur Augenstern

Property: 6 A Street

Date: Thursday, October 17, 2013

Time Meeting Began: 7:30 p.m.

Time Meeting Concluded: 10:26 p.m.

Place of Meeting: Hull Municipal Building, Louis C. Costa Room, 253 Atlantic Avenue

Zoning Board Members Present for Hearing:

Ms. Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
Dr. Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
Mr. Phillip Furman, Associate	Sitting	Attending	Absent	Abstain
Mr. Jason McCann, Associate	Sitting	Attending	Absent	Abstain
Mr. Patrick Finn, Associate	Sitting	Attending	Absent	Abstain

Others in Attendance:

Arthur Augenstern, Applicant

James McCue, 12 Dighton Street, Hull

Charles E. Mr. Gould, 61 Holliston Avenue, Abutter

Neil Kane, 29 Nantasket Road, Abutter

John Burke, 40 L Street, Abutter

Karen Morgan, Recording Secretary

General Relief Sought: Continuation – of a Public Hearing on an application filed by Arthur Augenstern regarding property at 6 A Street, Hull, MA which according to the application seeks: To apply for a Special Permit – to re-establish the use of a property for Auto Repair where the use has ceased for more than two years, pursuant to Hull Zoning Bylaws, Section 34-1A-d.

General Discussion:

Mr. Atherton – Mr. Augenstern withdrew his appeal of the Building Commissioner's decision for reasons we went into at the last meeting, so this focuses this discussion on the special permit request. We all agreed last time that the original 1984 Special Permit had expired after the two years, it was also not renewed. We are dealing with a new Special Permit. His recollection is that most abutters agree that they were not opposed to the request as long it was done right and subsequently enforced. The ZBA decided a site plan was necessary to determine the parking spaces that are available. Mr. Finn was able to find, due to his research, two sets of plans. One has a filled in portion with the proposed

construction. The issues that are still left to be discussed are the parking situation and then we need to think about what conditions we might want to impose, if any, and the other conditions that Mr. Finn looked into with his research.

Mr. Finn – The research was from Ken's Auto Body.

Mr. Atherton – Has run off a sheet of the conditions that were on the original permit and then he added to that list the two proposed suggestions in the Kidstone letter.

Ms. Swiec – We did do our site visit on September 28th.

Mr. McCann – Agreed with everything Mr. Atherton said. The main things we were going to address were to identify the conditions we may want to include in the decision.

Mr. Finn – Has a marked-up copy of the conditions he wanted to be considered. He stated that the Kidstone letter was not read out loud into the record.

Mr. Atherton – Read a portion of the Kidstone letter suggestion: All the equipment, materials and refuse related to uses at this site must be stored on the applicant's property and not in the public way. The second suggestion made is to install permanent marking of the property line on the Bay Avenue East border of the site.

Ms. Swiec – Asked if the letter was read into the last meeting.

Mr. Atherton – Answered no, I just read excerpts. A lot of it was just repeating the bylaws.

Mr. Finn – Reads the letter into the record: Donald Kidstone regarding property of 6A Street. "I would like to offer the following comments in your deliberations. As expressed at the last hearing, the neighbors have many concerns regarding uses for this property. Among those concerns are the storage of equipment, supplies and refuse outdoors, both on the site and public way abutting the site; the potential use of the public way for customer vehicle storage; and the use of the public way for business-related parking. As recently as today and after the owner's efforts to clean up the site, there were traffic cones and a small saw horse that appeared to be in the public way on Bay Avenue East and a temporary chain link fence in the A Street public way. To address these concerns and ensure the public way is clear for pedestrians and vehicular traffic and clear of visual blight, and to protect and enhance the view corridor of the Hull Bay, I recommend that, if a permit is issued by the Board, it require that all equipment, materials and refuse related to this site be stored on the applicant's property and not in the public way. Equipment should include all business related vehicles. To assist in assuring compliance with this condition, I recommend that the applicant be required to install permanent marking of the property line on the Bay Avenue East border of the site. Many properties in Hull have such markings in the form of concrete curbing or fences. Markings could be installed flush with the ground at vehicle access points. Such markings would make it easier for the property owner and the Town Inspector to observe that the owner restricts his business operation to his property and the general public has unobstructed access to the public way for pedestrian and vehicular travel. These recommendations are consistent

with the zoning bylaws...” [The rest of the letter quotes from By Laws, Article III, 34-3, and, Article IV, 40-4 (see letter in file for details) Use Regulations].

Ms. Swiec – Mr. Finn, do you want to give us an overview of what it is you would like to see?

Mr. Finn – After the last meeting, I asked Jean Paquin from the Planning Board and rather than require the applicants to hire an engineer, I obtained a copy of the plans that showed where the property line was. Abutters mentioned that there was a minimal amount of space in front of those two garage bay doors that Mr. McCue wanted to operate out of. The Building Dept. mentioned that Mr. Mr. Gould testified that maybe it was 4 or 5’. Mr. Augenstern plan said maybe 9 or 10’ at the shortest point at the corner. It scales to 8’. It shows the concrete driveway apron as the property line. He looked at the concrete apron as it lined up with the telephone poles, as a good indication of where the property line is.

Mr. Atherton – On the diagram shown, the property line is the black area?

Mr. Finn – Yes, it’s in the plans that the Town had worked up by their engineer and the Mass Works grant that they intend to pave that entire driveway apron right up to the property line. That indicates the curb cut is the entire frontage of the property.

Mr. Atherton – The parking will have to be on the north side of that black area.

Mr. Finn – Yes, if you want to follow those conditions. The apron is going to be paved in front of the building.

Mr. Atherton – Did you do parking spaces or come up with the dimensions.

Mr. Finn – Just got copies of the plans.

Mr. Atherton – At the last meeting, it was stated that the applicants needed 200 sq. ft.

Mr. McCann – One space per 200 sq. ft.

Mr. Finn – One space per 200 sq. ft. of retail floor space.

Mr. Atherton – Is that retail space where you would be repairing cars and trucks or boats?

Mr. McCann – There is nothing else that says anything specific; that is the most applicable parking part for this business, its retail store is served as a business. There are pieces of this that are tricky. If you go into the parking requirements, it is 9’x20’ per space, no nearer than 3’ to a building for any off street parking.

Mr. Atherton – Except when it is in front of a garage.

Mr. Augenstern – The parking requirements are for retail space, this is not retail space. Retail space is when you have a bunch of customers to buy things like in the Kenburma area. The only parking he needs is that he’ll only have 6-8 cars inside and the only car outside would be the occasional adjuster or

a parts truck to drop something off. I don't think retail parking would come close to applying. There won't be a lot of people there.

Ms. Swiec – The interior space of the structure that is in question this evening has sufficient room for all of the customers cars to be pulled in and stored within the confines of the wall.

Mr. Augenstern – For the most part.

Mr. McCue – Occasionally there would be a car being dropped off by a tow truck and there may be a car parked outside. Most of his cars will be inside. Some may be awaiting parts in front of the doors.

Ms. Swiec – It wouldn't be scheduled in that we would say, Mr. Atherton dropping his car off and park across the street and leave the keys under the mat, that is not going to happen.

Mr. McCue – Right.

Mr. McCann – One thing that he remembered hearing with the application is that this business would only be for the western half of the 6A Street property.

Mr. Augenstern – Just two bays.

Mr. McCann – To the eastern half, you have a huge gravel lot. Can people park in that lot and go to the auto body?

Mr. Augenstern – If there is need, that space is available. As his business grows, he may need more parking spaces and we'll address that then. In front of his two bays, there is probably room for 4 cars.

Mr. McCann – Is concerned with the measurements that Mr. Finn's done on the far western side of the property. It isn't long enough to fit the 9x20 requirements for an actual spot. The car would have to go in straight into the bay and the cars outside would be sticking out.

Mr. Atherton – We are only talking in front of the 2 bays, then you are right, that's why Mr. Finn brought up last time that we were talking about the whole property. Mr. Augenstern, the original Special Permit back in the day, 1984, restricted you to no more, the people that owned it at the time, no more than 4 automobiles, boats or equipment be stored or worked on at one time and I suppose that is inside and 3 of same would be inside and only 1 of same could be outside of shop area at any one time, is that realistic now?

Mr. Augenstern – That is not realistic, when that was first applied, he applied for 1 bay, the end bay. We're applying for a SP for 2 bays.

Mr. Atherton – What would now be realistic?

Mr. Augenstern – I could not see having more than having 4 vehicles parked out front. You can park one parallel in front of 1 bay. As you move to the east, it gets wider. The front of the car can get an 8' space where an average car is 6' wide.

Mr. Atherton – The Town bylaw says 9x20 and we need to stick with it, reasonable or not.

Mr. Augenstern – Even at 9', if you come 2' back from corner of that, you are 9' from the building and then the bays are 20' wide and there are 2 bays and you can easily have 1 car parallel. One of the bays, 1 is parallel to the building and other 2, you can park diagonally and you can get 3 cars outside the building without being in the travel way. To have a car that is legally registered partially parked from the public way when the street is not even 2/3rd of that space, we are splitting hairs to him.

Mr. McCann – Until you redo the road.

Mr. Augenstern – No one will be able to drive down there, it's going to be the side of the road, not the roadway.

Mr. McCann – Just wants to find something to work as it is the abutter's biggest concern.

Mr. Augenstern – One of the big concerns deals with the fence being on the public way, it has nothing to do with these 2 bays. There is no fence on the public way on 6 A Street; there is nothing on the public way on 6A Street. He has a small trailer parked near the building and everything is moved out of the public way. If they want to talk about other properties, they can do that, it has nothing to do with this permit. This only deals with the 2 westerly most bays of 6A Street, there is no equipment stored outside or would there be because he doesn't want the liability of anything outside or damage to a customer car, all work will be done inside. A lot of the complaints were from previous situations that do not apply to him or to me. The place had to be cleaned up and it was due to be done anyhow independent of this. To restrict in any less than 10 jobs does not make any sense. One of the items of this list is no more than 4 automobiles to be restored or worked on at one time....

Ms. Swiec – Mr. Atherton is just summarizing the conditions of the previous permit, we are not saying we are going to be applying that condition.

Mr. Finn – This is from the 1984 template.

Mr. Atherton – We just want to be fair for Mr. Augenstern but at the same time, protect your neighbors from all the problems you heard too many times.

Ms. Swiec – Asked Mr. Augenstern about the gravel lot on the other side of the property at the east side and you suggested that space may be used for overflow use by this business. It would be helpful to your perspective tenant if we can write some language to that as a condition in that if cars would to be towed in late at night or dropped off early in the morning, if they can use a portion of the gravel lot. Maybe give him 2 spaces in your gravel lot.

Mr. Augenstern – That's something would be available as his business expands, it's not necessary for a Special Permit and not necessary at this point. That lot is a separate piece of property, 8 A Street. If there is a problem, he wants to keeps the tenant and see him succeed, he will work with Mr. McCue on that. That piece of property should not be tied up to 6A Street, just like the other 3 bays should not be

tied up with the Special Permit. The Special Permit is for a repair facility for 2 bays with work inside and have enough parking outside to satisfy the requirements of the business.

Ms. Swiec – Once he hangs the sign up, he'll have a booming business, that is just her feeling and have more than 4 cars a day. It's going to grow very quickly and parking probably is the most contentious issue the Board is dealing with. It's important to protect the neighbors and let this young man focus on his business as opposed to running up to Town Hall with complaints from the neighbors. She likes everything she seen so far. The applicant has a good history and done great work in other area. Mr. Augenstern is a good property owner and doing the right thing with the neighbors. Parking is the real issue and she would like to talk about this some more and come up with something may be beneficial for this permit tonight. There are other businesses separate from what we are here about tonight. This is an important matter in considering this application tonight.

Mr. Augenstern – All the cars he'll be working on will be inside. All he needs for the outside if for someone to pull up and drop off some parts. I don't see why the side of the street can't work, it works for other businesses in town. Who has space in any of the businesses in town for a delivery truck to not be on the street?

Ms. Swiec – She is more concerned about the people like her. She is heading out of town at 6:30 a.m. and if she pulls up to the shop and there is a night box and fills out the form and leaves the keys, that is what we all do today and that's early in the morning and also car accidents where cars are being dropped off after hours and they will need a clear spot for the tow truck and have it identifiable to the tow truck. It's just the before and after hours business activities that concern me.

Mr. Augenstern – There are 3 spaces right out in front that you can pull right up to the door and leave your car there. He is not going to have more than that number of cars hanging around, he doesn't want them outside.

Mr. Atherton – So how many, 3 out front and 4 inside?

Mr. Augenstern – You can put 6 to 8 cars inside.

Mr. McCue – You can have 4 outside because there is parking in front of the gate.

Mr. Augenstern – At some point that trailer will be cleared out.

Ms. Swiec – With the gate, is that with the property he is leasing?

Mr. Augenstern – It's the gap besides the building along A Street; if he needs space, that may be space for even more overflow if he needs it.

Mr. Atherton – How many inside and outside would be your max?

Mr. Augenstern – Maybe 3...

Mr. McCue – 8 and 3...

Mr. McCann – Say in the morning you have 4 people who have scheduled to do 4 paint jobs in the morning, they are not going to come back till after work but you are going to finish them after a couple of hours, will you leave them inside then you only have 3 spots outside?

Mr. McCue – Most of the cars will be with me for at least a week so they will be inside for a long time because of insurance companies take a long. You bring your car to me and it will take about 2 weeks to be completed.

Mr. McCann – There is no job that you'll be doing on-site that will be a quick turnaround?

Mr. McCue – No.

Ms. Swiec – She is just looking for something we could add as a condition that not to lock you down and prohibit your business from growing, to satisfy the neighbors. Could we say something to the effect, there won't be no more than an X number of cars during non-business hours? Can you do that with 3 vehicles after 6:00 p.m. at night?

Mr. McCue – Yes.

Mr. Atherton – Total of 11, 3 max parked on the outside. That would be right in line with condition #4.

Ms. Swiec – I'm more concerned how many he's putting inside.

Mr. Atherton – Maybe we should not restrict the number of cars inside?

Ms. Swiec – I don't think we should restrict the cars inside; I'm not concerned with the inside. As a condition, no more than 3 cars would be left outside during non-business hours located in the bay areas, would you feel comfortable with that?

Mr. Atherton – People are more worried about during the day than non-business hours.

Ms. Swiec – He will be there to control the traffic flow during the day. But tow trucks dropping off cars after hours when there is no one there to monitor, it's during non-business hours. That's when the neighbors come home from work. Who do they call, Town Hall, they are closed; you call the police, it's not their job. Then she gets the call if there are any complaints.

Mr. Atherton – I just want to write what we say as a condition and you added something after hours that he is not sure is necessary. The neighbors are concerned about what is going on all day long as well as 10:00 or 11:00 at night.

Ms. Swiec – When we word that condition, we shouldn't specify any particular time frame. We don't want to limit to hours of operation.

Mr. Atherton – We are going to say no more than 3 cars in the roadway at any given time.

Mr. McCann – My only concern is that we haven't assessed if there is minimum parking requirement. I do take your point very well. I don't know the size of the business and don't know if we should include the entire place.

Mr. Atherton – We had this before you were on the Board because a lot of the business space at another store (t-shirts) was storage, the only part that was retail was where they had the outside office, desk and register. A garage to me, you don't let people wander around your shop because there is huge technical and insurance responsibility. The only retail part would be where they have a phone, a computer or a desk, which might be 200 sq. ft., requiring one car. He's saying they can store up to 3 cars.

Mr. McCue – There is only a small office.

Mr. Atherton – To me, they have that covered with 3.

Mr. McCann – Where do people who work for the auto body park?

Mr. McCue – Just me, I would park parallel to one of the bays on the property.

Mr. McCann – There is a requirement for 1 off-street parking.

Mr. Finn – I went to the Planner and he said that this was the Town's plan to give that apron to that business and the Planner said that if the Board voted on a SP, one of the conditions should be to have a site-plan review. This will take care of all the abutters' issues. I like where Mr. McCann is going and sticking with the bylaws. I can see your property getting maybe 3 parking spaces, you are not going to get much more than that.

Mr. Atherton – That's why I asked you...I drew some actual parking spaces, but it also depends if they can park in that cross hatched area on the plan you gave us.

Mr. Finn – That's the apron, 20' from the bldg.

Ms. Swiec – I'm saying 3 customers...

Mr. Atherton – I'm saying 1, 2, 3, 4 plus what they can squeeze in there.

Mr. Finn – If they can get 4 cars in their property, that's a good thing. I don't have a problem with the current conditions that I assume should have been enforced while the auto body operated there. The applicant is here to apply for a SP to reestablish the use of a property as auto repair where the use has ceased for more than 2 years. This is what they are asking to reestablish.

Mr. Atherton – The list that I put together mirrors that exactly, except for the last two. All your conditions are in the list that I gave, plus the two from Mr. Kidstone.

Mr. Finn – Why are we wasting all this time? The applicant is supposed to show where they put their spots on their property. These conditions, it said no vehicle should be parked on any public street or

way either while being repaired on or while awaiting repair. There is no problem with that condition, that's what the neighbors want.

Mr. McCann – We are talking about if that can actually be enforced.

Mr. Finn – We are not zoning enforcement.

Mr. McCann – We are trying to access whether or not....

Mr. Finn – That is why they need to go to site plan review. Keep the existing conditions, add some more important ones, like the screening, sound proofing to eliminate the sound 50'. The applicants are willing to do those things. I disagree with Mr. Augenstern and Town Counsel that if we vote to grant to SP at 6A Street, the entire site is 6A Street, if this space is for 2 bays, that is fine to conduct business, but someone has to look at the whole site and that is where site plan review comes in. We should not be wasting our time with site plan review issues. They have enough room in front of their bays for a couple of cars and no one will complain if a couple of cars will come by and park overnight. We can't restrict the lot adjacent to it. I'd rather not be getting into the site. After talking to Town Planner, I was going to vote against out of respect to Mr. Mr. Gould, but after doing my research and checking out other sites in town, I realize the best thing to do is to put conditions on it and permit it. Then hope for enforcement because if we just deny it, it's not going to stop a business from taking place there in a business district. The building code changed where it defined high hazard and industrial use in the building code to include auto body. It doesn't specifically say auto body in our jurisdiction. I don't know if there is a drain in there...

Ms. Swiec – There will be requirements coming of the Building Inspector's office.

Mr. Finn – How do we know if it will be enforcement? That's why we need to put in conditions. I would like to change #9 - Building must be insulated and sound-proofed to eliminate noise to abutters per recommendation of Building Commissioner of the Town of Hull and #11 - The special permit shall continue in force for a period of one year from the date of recording, and the property in question must fully meet the above-named restrictions during said term and at time of reapplication, if any, for an extension of the permit subject to site plan review.

Ms. Swiec – So you are putting #7 for consideration that the two items and the previous SP #8 and #11 that are highlighted, those are your recommended changes?

Mr. Finn – They are asking to reactivate the existing one and I don't want to go line by line taking out the conditions with the record of that property sitting upstairs and the violations and lack of enforcement. If anything is going on there, this has to be in the decision and recorded at the Registry of Deeds.

Ms. Swiec – That is what we are trying to get to. Parking is important in that area.

Mr. Finn – The conditions address that and the site plan review addresses that.

Ms. Swiec – Is just attempting a dialog with the applicant. I don't want to impose conditions that will prohibit the growth of this business. Originally I was saying 3 and possibly 5 parking spaces for the business owners cars.

Mr. Gould – I am concerned with the number of cars that will be parked there. As I said to Mr. McCue, I don't want it to look like demolition alley. If you have 3 or 4 cars that are wrecked, it will look awful in the neighborhood. I am also concerned about noise. Insulation and sound –proofing is a good idea because a lot of complaints over the years have been about noise. I have been active in this Town for many years. I told them to take care of your neighborhoods. I want him to be concerned about the neighbors. Quality of life is number one and noise subtracts from quality of life.

Neil – I have a concern with page 3 of Mr. Finn's proposed conditions.

Ms. Swiec – That being the original?

Mr. Kane – Yes, #6 installing drain and gas traps, and then there are pages attached related to Nantasket Ave. There are at least 3 other businesses in Town that do auto repair kind of work. Each of the 3 were required by the Town to install these gas traps, to trap hazardous wastes and there is a system where they are separated out so that the wastes do not end up in the Town's sewer system. I understood from the first meeting that work has been ongoing on cars and I don't know what's has been happening with those liquid wastes. It's not legal for that to be pumped into the Town's sewage system. I don't know if they have been in the past when the previous tenant was there and whatever is being done now. When cars are worked on, a lot of waste winds up on the floor, resulting in a whole range of materials that should not be in the soil, nor on the street, nor piped into the Town's sewer system. Those other 3 businesses were required to install these systems prior to being able to be opened for business. I don't know that the plan would be to deal with these materials. There are environmental implications when you are along the shore. How is this going to be dealt with now and what is the plan? If there is no containment system already there, allowing a business to start up and producing those materials, then there should be some requirements before that happens that shows that an acceptable system has been installed.

Ms. Swiec – The concerns that are raised are legitimate. The system that you referred to is a requirement by the State for various reasons. That is being dealt with on a higher level. He's not limited to local licenses. You can speak to the business owner directly about that and he can provide you with that information.

Mr. Augenstern – Mr. Kane is bringing up 3 other buildings, they were contaminated, the whole site and that's why they had to change, they had to redo the whole building.

Mr. Kane - This requirement by the State doesn't address historical contamination.

Ms. Swiec – Whatever equipment for this type of business would be regulated by the State, not locally. The Building Inspector can give you more specifics. Also the Dept. of Public Safety would have information and the answers you are looking for.

Mr. Kane – There can be a problem that we don't already know the extent of. That should be a zoning issue so that the business doesn't operate with those kinds of materials not handled correctly.

Mr. Augenstern – The only sewer in the building is in the restroom in the back. There is no floor drains to wash this stuff down in and there is no floor drains to get into the floor. This has nothing to do with auto repair. Nothing is being swept out the door and everything is absorbed with absorbents. I had all of that inspected when I re-financed the building years ago. He's doing body work, much of his paints and materials are all green. There is no reason to put a drain in this building and nothing going into the sewer system.

Ms. Swiec – I'm not voting on this, I share your concern, but right now there is no provision in the Hull zoning bylaws to address this. The voting members can add it as a condition; if it's not an enforceable condition, it's essentially a useless one.

Mr. Kane – Mr. Augenstern just proved my point. Mr. McCue says they are using tubs and containers to catch these materials and any vehicle that has been wrecked with front end damage, there are hazardous fluids coming out of those cars. If they are catching them in tubs or using absorbents, they are going to go somewhere after they have been caught. That should be a condition to operate that business.

Mr. McCue – Most of the fluids have been dumped at the accident scene in Hingham or Cohasset, most of the fluids are gone by the time they get to me. If they are not, I have pans underneath the cars.

Ms. Swiec – How do you dispose of the pans?

Mr. McCue – They go into a drum and get pumped out. The drum is stored internally in the shop and pumped out. I will be licensed for this but have a permit and have a contract with the company that is licensed with the state.

Mr. Augenstern – Everything that will be done will be done by state regulations.

Mr. McCann – Seems like a lot of what we are talking about is on the right point.

Mr. Finn – We already did the research and I have my mind made up.

Mr. McCann – We need to make that a little more specific.

Mr. Finn – I attached a letter from the sewer dept. and I know from talking to them upstairs that the sewer dept. has policies in this regard. I would add some language subject to site plan review and every Town Board can weigh in on it. In one year I would not go along with what Mr. Kane's suggested to shut them down, this is the template and make it for one year a temporary permit subject to site plan review approval and install a draining gas trap, which would be done with the advice from the sewer dept.

Ms. Swiec – I thought you were suggesting that we require that...

Mr. Finn – If you want to add into the language about the sewer department policy...

Ms. Swiec – It's not within...we can require that they...

Mr. Finn – You are not going to talk me out of this.

Ms. Swiec – I just want make sure we continue to infuse common sense into this and get clarification. You want to resurrect the conditions that were in the previous decision.

Mr. Finn – This is what the applicant is requesting.

Mr. McCann – He doesn't want all these conditions.

Mr. Atherton – That's where I was too. Except for the parking part and we talked about changing that part and you want not to change that and leave it where it was back in 1984.

Mr. Finn – I'm comfortable with the conditions that relate to the complaints and noise. We don't have to be concerned with the parking. It's a big site, the landlord will make an additional lot if available as needed. If they go to site plan review, we didn't make them do a survey, we need to make them do a sit plan so they can do that with the Planning Board.

Mr. Atherton – The conditions that you are addressing and asking us to approve or reapprove had conditions for 1 bay, now he has 2.

Ms. Swiec – That needs to be changed.

Mr. Finn – Are you sure this permit is for 1 bay only?

Mr. Atherton – I don't know. Do you want to keep those same numbers or change?

Mr. Finn – Yes, keep those same numbers; but if those number don't make sense, I would like to see the dimensions to show how many cars fit in there.

Mr. Atherton – Eliminate the inside, how many on the outside, I have 4 here, if we can park on this cross hatched area.

Mr. Finn – That's the public way and there's the condition for no cars to be parked on the public way.

Ms. Swiec – I don't think that's the public way.

Mr. Finn – It is, it says right of way. This is why I'm talking to the Town Planner. He said that this is exactly the type of building we want to come before the Planning Board. This is a building that was built before these issues. It's well within our discretion to bring things up to the current requirements. He's saying that given the apron all in front of there, it's 20' from your building; they will probably say, parking isn't going to be an issue once the whole road is done.

Mr. Atherton – Do you leave that condition in?

Mr. Finn – There is no condition about how many parking spaces. It just says you can't park in the public way.

Mr. Atherton – Read #4. We decided to eliminate including the inside parking.

Mr. Finn – That's because it only had 1 bay and it had no room in front of that 1 bay. I'd like to see the dimensions of the 2 bays do you just want to double those numbers and assume that those numbers work in the first place.

Mr. Atherton – There is only the zoning space for 2, if you can't use the right of way.

Mr. Finn – Just double them. I have no problem with that. I was hoping they would give us a requested plan but they didn't. So it makes it more difficult and argumentative and we should send them to site plan review.

Mr. Atherton – But that is expensive.

Mr. Augenstern – Isn't site plan for a new building, this is an existing building. That's a whole lot of money spent for nothing. How can you screen a building right up against the street.

Mr. Finn – It's in the bylaws. On the plan, I highlighted the A Street side.

Mr. Augenstern – There isn't room for that.

Mr. Finn – I was on the site and I believe there is plenty of room for screening.

Mr. Atherton – It says under 40-2 that the applicability of site plan review is for land subdivisions resulting in 3 or more lots, new buildings and/or structure which involve non-residential uses or multi-family uses for 3 or more residential units and expansions or changes in use of existing buildings which are now or will result in 5,000 sq. ft.

Mr. Finn – Which it is.

Mr. Augenstern – This is 2,000 sq. ft. for this permit. The other three bays have nothing to do with this 2,000 sq. ft. If we have to we would withdraw the application and I'll reapply for 6 A Street, Bays 4 and 5. I withdrew what I thought you were asking for. I withdrew reinstating this thing and we were told because the extension has expired, we had to apply for a new SP.

Mr. Finn – You're applying for a new SP.

Ms. Swiec – Mr. Finn is within his right as a voting member to offer conditions and stipulations and it is up to him, I can call a roll for the other voting members to accept them or not accept them. He has to make his case.

Mr. Atherton – It takes one vote to same no. It has to be unanimous.

Ms. Swiec – What we can, we can go through this list of conditions or raise the conditions that may agree with each of you and make a proposal. I think overall everyone is agreeing, which one do you want to see removed or changed?

Mr. Finn – The business was operated for 20 years with these conditions.

Ms. Swiec – I'm not voting on this but I have one question. In the previous SP, #10 the condition of the hours of operation, 7:00 a.m. is the industry standard?

Mr. Finn – It doesn't say anything about Saturdays. Do you want Monday-Saturdays, 7-7? No operation on Sunday.

Mr. McCann – I think that issue here that we keep moving from is that at the end of the whether we talk about a plan review or drainage tank or other amendments to the 1984 conditions, you still have a lot of problems with the other conditions that we haven't talked about. I think that's an issue no matter what we do, if we add conditions or just use the previous conditions. The base line of the existing conditions that is all we generally need to agree upon.

Mr. Augenstern – Some of these items I question, #3, no repair should be conducted next to the building at any time. There will be none of that outside, he does all his work inside. One of the conditions that nothing can be done outside, someone might come in have their wiper blades changed and change a headlight so they pop the hood and look under the hood...

Mr. McCann – Does that mean you have a problem with condition 6?

Mr. Augenstern – I would like to say that except for incidental. Most of the work is done out in back. I don't want someone who wants to come by and cause trouble and call the building inspector and say that there is a car outside with the hood up, there are people that do that and harass you.

Mr. Finn – Number 3, no repairing or refinishing to be conducted on the exterior of the building at any time, do you have a problem with that?

Mr. Augenstern – No.

Mr. Finn – Number 3 is okay, Number 6, no vehicles shall at any time be parked upon any public street or way either while being repaired on or while waiting repair?

Mr. Augenstern. – No, it's #3, what I want, no repair or refinishing or body work will be done outside the building, but if someone pulls up and needs to see something checked out under the hood that is an incidental thing..

Mr. Finn – I wouldn't interpret that as being repair and refinishing. Peter and Bart have a lot of common sense.

Mr. Augenstern – I don't want something in the conditions that when we have to come up for a review in a year and all I was doing was changing a wiper blade.

Mr. Finn – This condition was in here because there is no exterior of the bldg. to speak of to be refinishing a vehicle.

Mr. Augenstern – The complaint came from the previous owner who applied to those conditions, he ended up leaving and going to Florida after he got this in 1984 and came back and ended up going bankrupt so the conditions didn't work for him and he created some of these messes with leaving cars parked across the street.

Mr. Finn – Then we have nothing to argue about.

Mr. Augenstern – There is, if someone pulls up from after work and wants someone to quickly check under the hood, it might be a 15 minute thing and doesn't need to be pulled into the shop. I want some incidental clause in there so we can't be held accountable for something small like this and end up being a count against us a year later.

Ms. Swiec – That would be up to the Building Commissioner's office.

Mr. Augenstern – It doesn't create a situation where they have to act upon it. The police have to act upon it.

Mr. Finn – I don't have a problem with this condition and doesn't think that Mr. McCue will have a problem with that either.

Ms. Swiec – It would be up to Mr. McCue to use professional integrity and common sense to determine whether he can look at something quickly as a matter of a couple of minutes or say to that customer to pull the car into the garage. If calls are made, frivolous calls are made in every place in this Town, we can't prevent that. In #4, are we changing the last line that says, only one of the same could be outside of shop area at any time? We are going to change that...

Mr. Finn – We are doubling those numbers. There are 2 bays inside of 1.

Mr. Augenstern – The east side of the bay, if you are going to measure it, you'll find that there are 35' of space that is out of the public based on this survey from the Town and 35' can park three cars diagonally in there.

Ms. Swiec – Which is Mr. Atherton's number.

Mr. Augenstern – Bay 4 and 5 have two concrete pads and you can put two cars in there and be off the public way.

Mr. Finn – Are you okay with 8 and 2 instead of 4 and 1?

Mr. Augenstern – Yes.

Mr. Atherton – I thought we were going to forget about how many were inside and just talk about the outside.

Mr. Finn – No more than 4 automobiles or equipment should be stored or worked on at one time, and 3 of same would be inside and only one same could be outside. That was for 1 bay, this is 2 bays, so we doubled those numbers from 4 to 8, 3 to 6 and 1 to 2.

Ms. Swiec – Mr. Atherton is saying that earlier on in the meeting we informally agreed we would strike the language with the cars inside.

Mr. Finn – I informally disagree, we just talked about it now and I agreed with Mr. Atherton and we will take it at face value, there was 1 bay and now there are 2.

Mr. Atherton – Your answer is no.

Mr. Finn – My answer is that we should double the numbers because we have double the bays.

Ms. Swiec – So #4 is going to be now no more than 8 vehicles or equipment will be stored on at one time and only 6 of same would be inside...

Mr. Gould – No more than 4 automobiles or equipment will be stored on or worked...now they are not going to working outside on these?

Mr. Finn – No. We are doubling these numbers because they were originally for 1 bay and now there are 2 bays. If McCue is fine with this, we shouldn't be discussing this any further. Only 2 of same would be outside the shop, when they are outside, they have to be on the property.

Mr. McCue – So it would 4 on each bay being worked on?

Mr. Finn – Yes, doubling the numbers.

Mr. Augenstern – If he can have 8 to 10 cars inside and working on 10 cars, what difference does it make if he puts 10 cars inside as long as there are only 3 cars outside. Half his parking will be on the inside. Putting a restriction on how many cars on the inside, I don't understand the need for that.

Mr. Atherton – I always said we don't need to worry about the number of cars inside.

Mr. McCann – I agree it doesn't matter either as to what is inside. I am concerned about this working out where all these cars can be located on these two concrete pads outside of these bays. The gravel lot may or may not be used on 6A Street. People are concerned about parking.

Mr. Finn – That's why you limit the number of vehicles you work on.

Mr. Augenstern – If it's a problem after a year; then we have to answer for our problems.

Mr. Finn – The door has to be closed at all times. The neighbors aren't going to see how many cars are inside.

Mr. Augenstern – I just don't see putting any unnecessary restrictions on the number of cars.

Mr. Finn – I'm just doubling the conditions.

Mr. Augenstern – Can we make it 10?

Mr. Atherton – Can you fit 10?

Mr. Augenstern – Yes, 6 and 4.

Mr. Finn – What are the dimensions?

Mr. Augenstern – It's 40 x 50, some of these cars are small.

Mr. Finn – 10 total, 8 inside 2 outside instead of 8 total 6 inside.

Ms. Swiec – He can store 10 inside is what he is saying.

Mr. Finn – You want 10 total and you want to decide where to put them.

Mr. Augenstern – Inside the bay...if there is a problem in a year then...

Mr. Finn – I would like to see a picture that's why I was comfortable with doubling the numbers..

Mr. Augenstern – That's fine, if you want to double...

Mr. Finn – Show me something, submit me something to show the bays that we can fit 8 inside, how are you going to work with all those cars inside?

Ms. Swiec – So are we going to drop it down to 8?

Mr. Finn – Just leave it as it is.

Ms. Swiec – Any other items in the previous decision that you want to speak to aside from the ones that Mr. Finn highlighted which would be... When you wrote about sound-proofing, would that be under 8 or 9?

Mr. Finn – Number 9, building must be insulated and sound proofed to eliminate noise to abutters per recommendation of the Building Commissioner of the Town of Hull.

Mr. Atherton – What about the two proposals about Kidstone?

Mr. Finn – We haven't gotten to them yet. I'm fine with those. If you want to add those, I'm all for it. One year instead of 2 on #11.

Ms. Swiec – Number 10 will be hours of operation shall be from 7:00 a.m. to 7:00 p.m. six days a week, no Sundays.

Ms. Swiec – Number 11 is 1 year, not 2. Then it is #'s 12 and 13.

Mr. McCann – What if no work is being performed?

Ms. Swiec – It says during operation, do we take that...

Mr. Finn – 7-7 would be operating hours.

Mr. Atherton – What he is saying that if he has no cars in the bays would you still want the door closed?

Mr. Finn – Number 10 says hours of operation should be from 7-7 and then it says for doors to be closed during operation.

Mr. Augenstern – Do any other businesses have that requirement? If there is nothing going on.

Mr. Finn – It makes it a waste of time to insulate doors if you are going to keep them opened. I'm just willing to give the special permit, providing these conditions remain.

Mr. McCann – I'm fine to amend the condition while the cars aren't being worked on.

Mr. Finn – Operation is the operating hours when business is being conducted and the business is auto body.

Ms. Swiec – What language will you use?

Mr. McCann – I would say doors to remain closed during hours of operation while automobiles or boats are being repaired.

Mr. Finn – I can't change that language at all.

Ms. Swiec – You are going to have to take vote on that.

Mr. Atherton – We have to be unanimous.

Mr. Finn – Mr. McCue can explain why the doors are opened if there are any complaints. There is no need to change the wording to work around these issues.

Ms. Swiec – For the other two voting members, it's up to you two to decide if you want to support the conditions with or without these conditions.

Mr. Atherton – If Mr. Finn says no, no matter what Mr. McCann and I might want to change, if Mr. Finn says no, it won't fly because it needs to be unanimous.

Ms. Swiec – When we come to a vote of the application, you can say, no on this application because I didn't agree with the changes in this stipulation that I wanted.

Mr. Gould – This is going to be for one year? Now at the end of that year, will the neighbors be notified by the Board that this will be brought up at the end of the year and will be invited to attend the hearing.

Ms. Swiec – Yes, after a year, they have to come back to the board.

Mr. Augenstern – If the permit has to be reviewed, you have to file with the Board of Appeals and have the costs with having a full set of hearing again? If there is nothing on file, it's automatically renewed?

Ms. Swiec – When this permit expires, the two of you come back to the Building Commissioner and apply for a permit. If he finds it problematic, then it gets kicked back the ZBA. If he finds all has been satisfactory, he just re-issues the permit. Further down in this document, it says the SP is subject to the following 4 conditions and Mr. Finn has modified #5 and added 6.

Mr. Finn – Building Department cannot just re-issue the permit. Once a special permit is in place with the condition that it must come back to the ZBA after one year, the owner must re-apply for a new hearing to extend the Special Permit. Number 5 said that work to begin within 1 year from the date of effect which doesn't apply here because it is in existence. Number 5 is subject to site-plan review and approval within 1 year from the granting of the special permit which goes hand and hand with Number 11, the SP shall continue to be enforced for 1 year. So essentially, I would say the business should operate, go through the process, and have the 1 year to prove yourself to the neighbors, go through the site plan review process and show you are doing the right thing.

Mr. McCann – You want this condition to have the site plan review by the planning board before the business can be in operation?

Mr. Finn – No. I want it subject within 1 year of the grant of the SP. We are giving them a SP for a period of 1 year and you can go through whatever processes you have during that one year.

Mr. Augenstern – I don't know why we need to go through the expense of site plan review while there is an existing bldg. Site plan review will not change anything.

Mr. Finn – It can clean up the disaster that everyone has been seeing. I want to see you comply with the bylaws; which is the screening.

Mr. Augenstern – How can you screen it? There's 2 ft. behind the bldg.. to the public way, I can't put shrubs on the public way. I can't do that. How are you going to maintain the side of the bldg., I painted it many years ago. There's about 2 ft., Mr. Mr. Gould said it was 1 ft.

Ms. Swiec – To the voting members, do you agree with the changing of the language, modification to #5 site plan review.

Mr. McCann – The way its worded is confusing, subject to site plan review and approval within 1 year. I don't know if that's possible with the bylaws. You can say, this is subject to site plan review before the use can go into operation.

Mr. Finn – Mr. Atherton correctly pointed out that the bylaws do not require that this building to go to site plan review. I want this as a condition, and not being too overly restrictive, and not making this a condition prior to operation as I suggested. I'm saying that this is set up and that after a year, they have to come back and go through the process. It gives them a year to go through site plan review. The Town Planner requested it. The discussion came up and it was pointed out that it was part of the Mass Works grant and design and they are encouraging marine business. They want to work with you and I don't think there will be a problem with the site plan review.

Mr. Augenstern. – There are 2 bays of the building and not with the whole building.

Mr. Finn – I disagree and I think the Town Planner agrees with me.

Mr. Burke – This is third meeting that he has been here about the SP. I went down and had a discussion with what will be going on here. It seemed like a great idea to me. After that, everything has been done since then to stop him from having this business. This site plan review is just another hurdle for him to have to go to that is going to delay his business. This business can fit into the area. That kind of work already occurs. If you are looking for screening, the screen from the neighbors is provided by Mr. Augenstern's property that he owns access to that bldg. The garage doors open to the street and trees that would be screened. I'm for this, it is a great idea. It works there. There is no need to go through this huge process if he's just applying for 2 bays. A site plan review is too onerous.

Mr. Finn – This condition as I explained would not hinder his business whatsoever. It requires the property owner to bring his site to Site Plan Review because honestly most of the complaints directly relate to the site which is not a zoning issue directly. Mr. McCue is only renting 2 bays; this SP in my opinion goes with the property and will be recorded with the Registry of Deeds.

Mr. Augenstern – I am not going to Site Plan Review.

Mr. Finn – The Town wants to get the Mass Works Grant and make that a business friendly neighborhood. They want the business to thrive to give them the apron with 20 ft from the building to the curb line. Now you have direct access to the bays like a normal garage and the neighbors are happy that they have a side walk across the street and nice screening on A Street. Site Plan Review looks at dumpsters and refuse and not just chain linked fences. I think it will be an improvement to go through Site Plan Review.

Mr. Burke – I think it's great to clean it up and they done that on their own already at the first request.

Ms. Swiec – At this point, can we vote on the SP with this stipulation as it is worded?

Mr. McCann – I would not include the site plan review as a condition, I would include every other condition and the only thing is the second Kidstone suggestion, we should make an indication of the permanent marking of the bays with a painted line and I would not include the condition about the screen on the A Street side. With Mr. Finn's drainage gas trap provision, I can't work up language that provides the technical requirements for this. I would include this if Mr. Finn if he can provide more specifications for that. I would not include Mr. Finn's new #5 and I would not include the screening requirement.

Mr. Atherton – His #6, he added something verbally that I did not write down. You said something about the approval or agreement with the sewer dept.

Mr. Finn – Mr. McCann didn't like my wording.

Mr. Atherton – We shouldn't be ordering something that the Town does not think is necessary.

Mr. Finn – I didn't propose this as the written decision, just a suggestion. I could care less how it is worded. I am not comfortable with the use that is going on there that hasn't been brought up properly.

Ms. Swiec – The State has language for these types of specifics. I don't work with them myself.

Mr. Finn – I was looking at all the other conditions that the other businesses were put on, but there was none, there was no zoning decision. This is an absolute condition; it is a bldg. code and a State requirement.

Mr. McCann – I am comfortable putting it in if it goes after #1, compliance with the Town of Hull's law and the Commonwealth that require the installation of a draining gas trap...

Mr. Finn – That makes sense.

Mr. Atherton – I agree with that.

Mr. Finn – I thought you didn't want a gas trap Mr. McCann.

Mr. Atherton – So you don't want #5?

Mr. McCann – I do not support that.

Mr. Atherton – I do not either.

Mr. Finn – I didn't add the screening as a requirement or doing anything with the apron or delineate the property line. I thought those things should be handled by Site Plan Review. If you don't want to cite the Site Plan Review, I would be happy to revisit to additional conditions. I would be happy to say they should approve this compacted gravel, broken bituminous concrete area to delineate their property line. That would clean up the site tremendously. I figure they should go to Site Plan Review and work it out through a public hearing process with a professional Town Planner, as part of the site plan review.

Mr. Augenstern – We've gone and done everything that they wanted. I keep the place immaculate. I don't have to cut the grass at the corner, but it's been the most clean in over 50 years. Site Plan Review is just a way to add more cost to him. I am not doing that. I am not going through the headaches of Site Plan Review. There are no setbacks.

Ms. Swiec – You have the support of your voting colleagues except the Site Plan Review.

Mr. Finn – In lieu of Site Plan Review, I can add more conditions as far as that letter was written into the record and what Mr. McCann said about delineate the property line.

Mr. McCann – I think we should rephrase to make the line or something that is more designating...

Mr. Finn – It's a disaster with gravel and broken bituminous concrete. The owner is insistent that they are only asking for a Special Permit for only 2 bays and I clearly understand the law that this is the entire site when we grant a Special Permit and the entire site needs to be reviewed. Absent a site plan, I would be happy to doing the site plan review ourselves and requiring the zoning bylaws, 6' opaque fence in lieu of screening. We could put a fence there.

Mr. McCann – I think it's overly strict...at the end of the day...the use of the building isn't on the side of the bldg. it is not non-conforming issue. I don't think it's a significant issue. It has not been raised by the abutters.

Mr. Finn – This is why I didn't put it in there, I just said let Site Plan Review take care of it. Let the Town Planner do his job. I don't see why you don't consider the site the most important issue here.

Mr. Gould – I heard you agree to the hours of 7-7, would 8-6 be better for you or the neighborhood?

Mr. McCue – Would 7-6 be better?

Mr. Gould – Yes.

Mr. Finn – Are we changing condition #10 with the negotiation of Mr. McCue for the new hours of operation.

Mr. Atherton – I am very happy with that decision.

Ms. Swiec – The sticking point is with the Site Plan Review. Roger and Jason are opposed. Pat would like to add in lieu of a Site Plan Review stipulations; are you are suggesting that specific individual conditions be added in its place?

Mr. Finn – With the Kidstone #2 suggestion to install permanent markings on the property line, that's fine and making it paved in front. Then part about the screening...I would like to just put a condition in here referencing that portion of the bylaws that requires an opaque screening and to me, it really isn't a condition, it's just a requirement of a Special Permit.

Mr. McCann – Business mixed-use requires screening along a common property line – that doesn't apply here as there is a street separating any residential property and it's a non-conforming building.

Mr. Finn – There are no setbacks.

Mr. Augenstern – From Bay Avenue East to B Street, it's all zoned business and it doesn't abut with the streets surrounding it.

Mr. Finn – The things I would send to Site Plan Review for would be the screening and the markings in the front.

Mr. McCann – I don't think we should add that. The bylaw doesn't have a specific enough requirement for this case as there is no common property line with the residents.

Mr. Finn – The screening is more like chain-linked fence that is surrounding storage.

Mr. Augenstern – That is on 8 A Street, not 6A Street.

Mr. Finn – This site about 15' from the building to the property line and there is a chain-linked fence. I would like to see them opaque to block the storage trailers.

Mr. Augenstern – On 6 A Street there is a naturally stained wooden fence that blocks the building from the property line. It blocks the trailers. 8A Street has chain linked fence, if you make it opaque and cops drive by and if they can't see inside, there will be a problem.

Mr. Atherton – I think it's one more blocking item to slow things down.

Mr. Finn – So the other part of the Site Plan Review would be screening of dumpsters.

Mr. Augenstern – That will be done, that is not a problem.

Mr. McCann – We can say all refuse be deposited in suitable receptacle which shall be screened.

Mr. Finn – So we add in the screening. Where will that be located on the site? They didn't present us what we asked for at the last meeting. Does it cost a lot of money to go through Site Plan Review?

Mr. Atherton – Yes.

Mr. Finn – The only issue I have now is the opaque fencing and marking the front line.

Mr. Augenstern - I want to make a concrete apron around the whole building. I'm just not going to Site Plan Review. As far as the paving goes, I was holding off in paving until I knew what they planned to do; it's a nuisance to walk on and work on.

Mr. Finn – Seems like the screening on A Street. It's too much money...or too much aggravation, when I brought it up last time, everyone agreed and Mr. McCue's wife even agreed to put some out on the back door.

Ms. Swiec – Thinks she was talking about potted plants.

Mr. Finn – Can I make it a condition that we recommend screening according to them although it's not on the common property line.

Mr. Atherton – We are not requiring, we are just recommending.

Mr. McCann – All of these are listed as conditions and you have to create a new subsection.

Ms. Swiec – We can in the body of the decision, there was a lively discussion among the members for Site Plan Review and the possibility of screening would be desirable and we agree with the letter on file that was notarized about two pages of Site Plan Review issues but short of having specific language that the majority members didn't want to make this a condition, we recommend that they take in consideration the Site Plan Review issues of screening and following up with the Town Planner. Also, we can include a mention of the letter on file and the complaints from the neighbors. And also, the point that the Board encouraged the Applicant to speak with the Town Planner in lieu of being required to do a Site Plan Review.

Mr. Finn – That is excellent.

Ms. Swiec – I think we have found a common ground and everyone is in agreement.

Motion: Mr. McCann made a motion to approve the request for a Special Permit for 6A Street for use of auto body with the conditions as discussed by the Board.

Vote taken: Unanimous

Member	Motion	Second	For	Against
Ms. Swiec, Chair			X	
Dr. Roger Atherton, Clerk			X	
Atty. Mark Einhorn, Member				
Mr. Phillip Furman, Associate				
Mr. Jason McCann, Associate	X		X	
Mr. Patrick Finn, Associate		X	X	

Action Taken, if any:

Mr. McCann will write the decision.

Recorded by Karen Morgan

Approved by Mr. Atherton

All actions taken:

All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at a meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussion is not required.