



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

140 Worcester Street * West Boylston MA 01583 * zba@westboylston-ma.gov

MEETING MINUTES

November 17, 2014

Chairman: John Benson

Members Present: Jon Meindersma (Vice-Chair), Francis Cahill (Clerk) and Charles Witkus.

Others Present: David Femia (Associate Member) and Secretary Toby Goldstein.

Members Absent: Kristina Pedone and Paul Hennessey (Associate Member).

At 7:15 p.m., Mr. Benson called the meeting to order. He read aloud the names of full members and associate members present and absent, and designated David Femia to replace Kristina Pedone as a full member for consideration of the scheduled public hearing this evening. He also mentioned that, noted on the agenda, was that the Continued Public Hearing for 94 North Main Street was continued to the January 2015 meeting (date to be determined later); Mr. Benson stated that he received an e-mail from Mr. Bobrowski, attorney for the petitioners, requesting the continuance, and a copy of the e-mail will be attached to the record.

Public Hearing, 215 H & M Realty LLC, Petition for Special Permit, 215 West Boylston Street:

(Representing were Blaise Berthiaume, attorney representing 215 H & M Realty, LLC, and the principals, Lisa Meola Harris and Nathan Harris). Mr. Benson noted that the petition states that the request is for a Special Permit to operate an automotive repair shop. Mr. Berthiaume confirmed this and continued that, according to the zoning bylaw, the petitioners would be allowed to sell fuel also, but are not requesting to do so, only to repair and service vehicles. He described the history of the building, that it was formerly the Hostess Pastries building, and was owned by successive bakeries. He also said that Hostess used it primarily to repair and service its trucks, and mentioned that the manager at the time was present this evening to verify this. Mr. Berthiaume continued that the petitioner only wants to use the back half of the building, perhaps using the front half one day for retail. Mr. Berthiaume added that Hostess had used the building for automotive repair as a pre-existing, non-conforming use but he was not aware if there had ever been a permit issued for that or not when asked by Mr. Benson.

Mr. Benson then asked if any construction was being done, as Mark Brodeur, the former Building Inspector, thought there was going to be, but Chris Lund, present Building Inspector, does not see that any will be taking place, only that the project will be limited to the non-conforming use. Mr. Berthiaume replied that they will fill in a hole where a ramp comes down so that it will be at ground level for trucks, and the entire parking area will be level; also, they will install an interior wall to separate the working part of the building from the front, and the footprint will be the same. Mr. Benson asked where was the truck repair done that created a situation of non-conforming use? Mr. Berthiaume replied in the rear part of the building, where they are seeking the Special Permit now. Mr. Berthiaume asserted that, since Hostess filed bankruptcy and left the premises, the non-conforming use of the building lapsed, and now they are trying to restore the non-conforming use under the zoning bylaws. Mr. Witkus asked, to verify, if the building is to be cut in half? Mr. Berthiaume replied that the petitioners will install a wall inside to separate both halves, and mentioned that they own the building. Mr. Witkus then asked if they might rent the front part of the building eventually, and Mr. Berthiaume replied that they might eventually do that. Mr. Berthiaume continued that the managers of the limited liability company that own the building bought the building through International Bakery, the successors of Hostess. He added that their rear abutter also does auto repair, and opined that this proposed business would have less traffic flow than Hostess used to have.

The board members then asked questions relating to structure and layout. Mr. Benson asked how many bays they would have, and Mr. Harris replied that they would have three. Mr. Femia asked about parking, and Mr. Harris replied that they would have parking and it would be a rather large area. Mr. Femia asked if their parking would interfere with the Cranston business (vehicle repair, behind them), and Mr. Harris replied that it would be on the opposite side of the building, and then Mr. Femia asked how large the station would be, and Ms. Meola Harris showed the board plans of the proposed work, on two drawings, called A (exterior) and B (interior) (on file). She went over with the board where the wall would be installed in the building to separate the front from the back. Mr. Femia asked her if the Building Inspector was aware that they were intending to put up the wall, and she replied that he was aware of that. Mr. Benson noted that all parking would be behind the building. Mr. Femia opined that they would fill in a dip in the back. Mr. Meindersma asked if there would be drainage issues with filling in of the dip? Mr. Berthiaume replied that there would be an interior drain in the concrete floor of the building, with a steel grate, and when they fill in the area where the ramp was located, a filter tank will put in place into which any stray oil or gas will be filtered out through the concrete floor and trapped in the tank. Mr. Femia asked Mr. Berthiaume if they have spoken with the Fire Department? He replied that he assumes that they will need to speak with Board of Health and obtain the building permit from the Building Inspector, but

need to get use allowed by ZBA before they can do that, and they may also have to meet with other departments and boards regarding construction.

Mr. Femia, to verify, asked Mr. Berthiaume if this was an active repair shop previously, and how long ago did they close? Joe O'Connor, a previous fleet manager, replied that he worked in that building, and left in 1982, and that Nissen bought it afterwards. He recalled trucks loading and unloading off the trailer well on the side of the building, while he worked there and after. He recalled there always being an auto repair garage on the premises, perhaps since 1955. Looking at the plan of the interior, Mr. Femia surmised that the petitioners plan to keep what was there, but will add a wall to separate the front and back and add two stalls. Mr. Witkus noted two lifts, #2 and #5. Ms. Meola Harris corrected him to #3. Mr. Meindersma, referring to drawing B, asked if the area between lifts #2 and #3 and the front of the building is all open now? Mr. Harris replied that it is. Mr. Benson asked if there was a retail shop in there, and Mr. Berthiaume replied in the front corner only, on the right side. Mr. Femia asked if the wall would make it such that one would not see through to the back of the building? Mr. Berthiaume said yes, and continued that the size of the space is 140 feet by 80 feet, 10,000 square feet, but only one-sixth of the entire parcel of property, so there is a significant amount of land around the building. Mr. Meindersma remarked that this is roughly three times the size of the building; he then asked about traffic to and from the building, and Mr. Berthiaume opined that the ingress and egress of employees and customers will not be significant.

Mr. Benson then asked if the Special Permit is to include repair of vehicles outside of the building? Ms. Meola Harris replied that it probably wouldn't, but that the back side of the building where it would be done would not be seen. Mr. Harris added that nothing major would be done outside, perhaps a window might be repaired, and nothing involving oil or fuel. Mr. Benson asked if they would object to the Special Permit being limited to use inside of the building? Mr. Cahill commented that, being an auto parts business, sometimes those things are done outside (for example, windshield wipers). Mr. Benson continued that he is concerned that a blanket Special Permit will allow these petitioners or a successor to do other types of work in the parking lot. Mr. Harris replied that the majority of it will be done in the building. Mr. Benson explained that the concern is that the Special Permit might open the door to wide-scale repair outside of the building in the future. Mr. Berthiaume agreed that the point was well taken, but added that the heavy equipment which is need to do many repairs is all located inside the building. Mr. Benson asserted that the concern is that, if the board gives the Special Permit today, what might happen in 20 years, and would they object if the Special Permit specifies that the work must be done inside the building? Mr. Berthiaume replied that he did not see a problem. Mr. O'Connor interjected that the back of the building is cold in the winter, so large repairs probably wouldn't be done outside anyway.

Mr. Berthiaume next discussed the matter of pollution to Town water and sewer, and asserted that runoff will not be likely and a steel grate leading to a holding tank will be in place inside the building, which he assumed that the Board of Health and Building Inspector would need to approve. The property is hooked up to sewer. Regarding excess noise, vibration, smoke, dust, heat or odor, he asserted that it would be primarily an interior operation. Regarding trash, he said that they would hire out a dumpster. Regarding setbacks, he said that they would be using a pre-existing structure. Regarding the question of compatibility, he added that their business would be compatible with Cranston's auto repair business next door. Mr. Berthiaume continued that all surrounding uses are commercial, therefore this business should be compatible with the rest of the neighborhood; and he opined that there would be no dramatic increase in traffic and no danger to pedestrians. Mr. Meindersma referred to bylaw 4.B.2, regarding pollution, and asked about the tank with filtration? Mr. Harris replied that there would be a separator which elevates oils to the top of it, and that goes into the sewerage. He thought that it needs to be emptied but was not sure about the process. Mr. Berthiaume explained that there are grease traps, and that the Board of Health requires the filtration system because it is something other than normal sewerage. Mr. Meindersma explained that he just wanted to know what would happen if gas or oil gets into the tank and Mr. Benson responded that it would be one requirement of the Special Permit. Mr. and Mrs. Harris agreed that they need to upgrade the system, and Mr. Berthiaume added that this is the first step in the occupancy process.

With no other questions or comments by the board, Mr. Benson opened the discussion to public comment. With no questions or comments by the public, Mr. Meindersma moved to close the discussion to public comment. Mr. Cahill seconded. All voted in favor, and the motion carried.

Next, the board deliberated. Mr. Meindersma stated the fact that Hostess and its successors did not run retail repair businesses, but used the facility to repair and maintain their own vehicles, and not others; for the board's purposes, that use was discontinued but, even though similar, was not identical to the use requested here. Mr. Berthiaume agreed that this previous use is not germane to the use requested in the Special Permit. Mr. Femia opined that the decision was clear that the permit should be granted; even though Hostess did the repair work for their own purpose, this is an existing operation, structurally in place, not being started from scratch. Mr. Femia also mentioned Mr. Cranston, who has the same type of business. He sees no reason not to go forward with the project, so long as there is no disapproval from the other Town departments. Mr. Benson noted that the work should be limited to the inside of the building. Mr. Meindersma added the proper handling of gas and oil as a condition. Mr. Witkus asked Mr. Harris where he works now and does he have a garage? Mr. Harris replied that he doesn't have a garage now. Mr. Witkus asked how many people would be working at this

location, and Mr. Harris replied perhaps two and himself, but just himself right now. Mr. Witkus opined that it is the perfect location for that business. Mr. Meindersma verified with Mr. Berthiaume that there would only be service and repair, not sale of fuel, and Mr. Berthiaume verified that this would be the case, even though the zoning bylaw would allow for sale of fuel.

With no further discussion between the board members, Mr. Benson explained that a “yea” vote would grant the permit on the conditions that there is only interior use, only repair work is done, and there is proper handling of waste materials. Mr. Meindersma moved to grant the Special Permit with the contingencies that the premises are used for repair and service but not to dispense fuel, and the repair and service activities will take place within the interior of the existing structure, and the handling of gas, oil or other waste that cannot be deposited into the general sewerage be handled in accordance with rules established by the Board of Health, Conservation Commission, or any other entity. Mr. Femia seconded. All in favor. The vote was as follows:

Mr. Benson: “Yea”

Mr. Meindersma: “Yea”

Mr. Cahill: “Yea”

Mr. Witkus: “Yea”

Mr. Femia: “Yea”

With (5) “yea” and (0) “nay” votes, the motion carried.

Minutes of October 27 Meeting:

After review of the minutes by the board members, Mr. Femia moved to accept the minutes as submitted. Mr. Cahill seconded. All in favor.

With no further business to discuss, Mr. Meindersma moved to adjourn the meeting at 8:13 p.m. Mr. Femia seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____

By: _____

