



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

DECISION - ZONING BOARD OF APPEALS CASE NO. 23-30

APPLICANT:
Edilson Siqueira

OWNER OF RECORD:
Saratogao Sevens LLC.

LOCATION OF PROPERTY INVOLVED:
1 Foxhill Drive
Walpole Assessors Map: 53-35
Zoning District: Highway Business (HB)

APPLICATION:

A **Special Permit** under Section 5-B.1.4.dd to allow an auto body repair use at the site.

DESCRIPTION OF PROJECT:

The applicant is requesting a Special Permit to open an auto body repair establishment at 1 Foxhill Drive. The existing building has been in use as office space. The proposed auto repair use will take place in the rear of the building, while the office space in the front portion of the building will remain as is.

PUBLIC HEARING:

On November 20, 2023, a public hearing was opened and held in the Select Board Meeting Room of Walpole Town Hall, 135 School Street, for the purpose of receiving information and voting upon a decision as to the granting of the Special Permits. The public hearing was continued to December 6, 2023, January 22, 2024, and closed on February 7, 2024.

On February 7, 2024 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Judith Conroy, Member
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A motion was made by Ms. Conroy, and seconded by Mr. Delaney to approve the **Special Permit** under **Zoning Bylaws Section 5-B.1.4.dd**, with conditions, for 1 Foxhill Drive to allow for an auto body based on a plan titled "1 Foxhill Drive Plan of Land in Walpole, Ma" dated January 8, 2024, and revised on January 29, 2024, prepared by Glossa Engineering, Inc. 46 East Street, East Walpole, Ma 02081.

The vote was (5-0-0) in favor: Lee-Aye, Delaney-Aye, Conroy -Aye, Fitzgerald-Aye, Anderson-Aye; therefore, the application for a **Special Permit** is hereby granted.

The approval is subject to the following conditions:

CONDITIONS:

1. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Zoning Board of Appeals, Walpole Town Clerk and Walpole Building Department;
2. The changes to the site shall be made according to the plans discussed at the Public Hearing on February 7, 2024 titled "1 Foxhill Drive Plan of Land in Walpole, Ma" dated January 29, 2024, prepared by Glossa Engineering, Inc. 46 East Street, East Walpole, Ma 02081;
3. Catch basins shall be cleaned on an annual basis;
4. Concrete curbing (with a 6 inch reveal) shall be installed on newly created impervious area;
5. No parking is permitted on areas not shown as parking on plans;
6. Plantings of at least 18 inches in height shall be planted on newly created pervious areas;
7. No more than 12 vehicles are permitted at any one time in the vehicle storage area;
8. No car washing shall take place onsite;
9. The applicant shall submit an Operation & Maintenance plan for the tight tank system;
10. All catch basins shall be updated with a LeBaron Snout system;
11. Snow storage shall be shown on the final plan.
12. A spill prevention kit to handle up to a 100 gallon spill shall be maintained on site.
13. The property owner shall have an annual inspection of floor drains, tight tank and parking lot catch basins by a registered professional engineer. The report shall include maintenance and repair recommendations, if any, and be provided to the Zoning Board.

DECISION RATIONALE

It is the finding of the Board that the Applicant was able to meet the use requirements of Section 5-B.1.4.dd, for auto body repair. Accordingly, the Board has determined that the Special Permit requested is properly granted. The Board make the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:



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- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested Special Permit;**

Through review, the Board finds that the proposed work at the site adequately addresses the defined use requirements and design standards as specified within each applicable section of the zoning bylaws. The Board emphasizes that this Special Permit is only for the use as defined in Section 5-B.1.4.dd. No other relief under the Zoning bylaw is granted, including with respect to Section 12 as this property is located within an Area 3 Zone in the Water Resource Protection Overlay District. Therefore, the Board finds this criterion is satisfied.

- (b) shall not have vehicular and pedestrian traffic of a type of quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed auto body use will not result in an adverse impact to the neighborhood relative to vehicular or pedestrian traffic. As the site is within the Highway Business District and directly off of Route 1, the use is in keeping with the surrounding area. Vehicles will remain onsite while work is being done and will not create an increase in traffic. Therefore, the Board finds this criterion is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use will have employees on site during normal business hours. However, the property is zoned for commercial uses and the building itself is already in use as a commercial development with employees. The Board finds this auto body use will not have an adverse effect on the immediate neighborhood. Therefore, the Board finds this criterion is satisfied.

- (d) shall comply with the dimensional requirements applicable to the zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the use sought and work to be performed on site will not impact dimensional requirements. Therefore, the Board finds that this criterion has been met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the proposed use will not include the storage of toxic and hazardous materials as defined under M.G.L.c 21E. In the event the proposed use is expanded to store hazardous materials, the applicant understands that, at a minimum, a Special Permit under Section 12.3.C (2) and (6) would be required. The use as an auto body establishment will not pose any danger to



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the immediate neighborhood or the premises through fire, explosion, emission or wastes, or other causes. Therefore, this criterion has been met.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood;**

Nothing proposed by the Applicant will be used, generated, or would otherwise create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood. The applicant is required to install and maintain a spill kit to mitigate any material spills. Therefore, this criterion is satisfied.

- (g) shall not adversely affect the character of the immediate neighborhood, and;**

The Board finds that the immediate neighborhood is zoned for commercial and contains business uses. The proposed use of an auto body establishment does not adversely affect the character of the immediate neighborhood as this property has been historically used for a variety of commercial uses. Therefore, the Board is satisfied that this condition is satisfied.

- (h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the Zoning District in which the premises is located;**

The proposal meets the standards needed for relief through a Special Permits as defined within the applicable sections of the Zoning Bylaw. The use is also appropriate for the Zoning District in which the premises is located. Therefore, the Board finds that this criterion is satisfied.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant of thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good use".

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the



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decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority of special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded with the Norfolk registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner on record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

Robert Fitzgerald

Robert Fitzgerald, Board Clerk

This decision was made on February 7, 2024 and filed with the Town Clerk on February 20, 2024