



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

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

DECISION - ZONING BOARD OF APPEALS CASE NO. 22-8

APPLICANT:

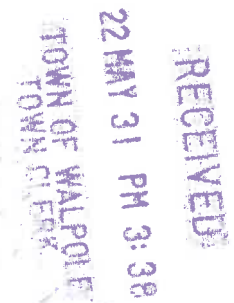
Amer Reda

OWNER OF RECORD:

James Bardol

LOCATION OF PROPERTY INVOLVED:

140 South Street
Walpole Assessors Map: 41-50-8 & 41-50-9
Zoning District: Limited Manufacturing (LM)



APPLICATION:

A **Special Permit** under 5.B.4.DD Schedule of Use Regulations of the Walpole Zoning Bylaws to allow an automotive repair garage.

On May 18, 2022 a Public Hearing was opened and held in the Main 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 Special Permit.

On May 18, 2022 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Jane Coffey, Member
Judy Conroy, Associate Member

Prior to closing the public hearing, Mr. Lee, Chair explained to the applicant that because the Zoning Board of Appeals is a five (5) voting member Board, and only four (4) members were present and voting, a unanimous (4-0-0) vote would be needed in order to grant a Special Permit. Mr. Lee, Chair further explained that it is was the applicant's choice if they wished to continue the public hearing to a future meeting where five (5) voting members could be present, or pursue closing the public hearing and have a decision rendered with the current four (4) member Board. The applicant proceeded to close the hearing knowing that a unanimous vote was necessary.

VOTE OF THE BOARD

A motion was made by Mr. Lee to approve a **Special Permit** under section 5.B.4.DD of the Walpole Zoning Bylaws with conditions to allow an automotive repair garage at 140 South Street Units 8 & 9.



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CONDITIONS:

1. Hours of operation are limited to, Monday - Friday 8:00 A.M. to 5:00 P.M. and Saturday 8:00 A.M. to 2:00 P.M.;
2. The special permit is for units 8 & 9 only;
3. Special Permit for auto repair limited to electrical customization of cars, trucks, or motorized vehicles used for transporting people, not allowed for general automotive maintenance and repair;
4. No auto sales on site;
5. No outside storage of parts, tires, and associated materials.

The vote was (3-1-0) in favor of granting the Special Permit: (Lee-Aye, Delaney-Aye, Coffey-Aye, Conroy-Nay), therefore, the application for a Special Permit is hereby **denied** as the vote does not meet the two-thirds majority threshold needed to carry the vote.

The voting criteria for granting of a Special Permit is a two-thirds majority vote. A five (5) voting member Board requires a favorable vote of at least four (4) members to grant the Special Permit. In the situation where there are only four (4) members present and voting, all four (4) members will need to vote in favor to grant the Special Permit.

REASONS FOR DECISION

While the Board took a favorable vote with conditions, the vote did not meet the required two-thirds majority threshold needed to issue the Special Permit. Therefore, it is the finding of the Board that the Applicant was not able to meet the requirements for issuance of a Special Permit for an auto repair facility as pursuant to Zoning Bylaws, Section 5-B.4.DD. As such, the Board issues the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:

- (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;**

Section 5-B.1.4.dd refers to auto body repair establishments for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks, and all types of motorized vehicles and automotive repair garages. The requested application meets the criteria and standards required to seek this Special Permit, however, there is no further defined criteria or standards other than findings and determinations addressed in 2.2.B.1. The Board finds that this finding is not pertinent to this decision.



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- (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 granting of this Special Permit will result in an adverse effect on the neighborhood relative to traffic and parking. As there were no detailed parking plans submitted with the application, the Board had to go forward with a determination based on the existing parking conditions of the site. The neighborhood is split between existing residential and commercial uses and is zoned Limited Manufacturing. The proposed use would result in an increase of commercial traffic to an existing site with an undefined parking plan.

- (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 Special Permit will have an adverse effect on the immediate neighborhood due to increased visitors and with a use that was not originally intended for the site. The Board finds that the finding has not been met.

- (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 building shown on the submitted plan, *Plot Plan of Land, in Walpole, Mass, October, 14, 1987*, conforms to the applicable dimensional requirements of the Limited Manufacturing (LM) Zoning District for which the property is located. No alterations to the lot coverage were being proposed as part of this Special Permit. No alterations to the buffer zone requirements in Section 5-G were being proposed as part of this Special Permit. 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 Special Permit solely pertains to electrical customization of cars, trucks, or motorized vehicles used for transporting people and no products can be stored outside which would cause any danger to the immediate neighborhood of the premises through fire, explosion, emission or wastes, or other causes. As result, 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 under the application would generate, 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 due to the applicant's intent to conduct work solely within the building. However, the existing conditions of the site pared with this new use of the site could be seen as detrimental to the immediate neighborhood with increased noise and glare. Ultimately, based upon the decision, the criterion has not been met.



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

The northerly side of the immediate neighborhood is zoned General Residence while the southerly side and project location is zoned Limited Manufacturing. The proposed Special Permit is an allowable commercial use within a Limited Manufacturing zoned district. However, the proposed use would contribute to increased traffic and cars within a location that is not primarily commercial but must coexist with residential uses. It is the ultimate determination that the proposed use would adversely affect the neighborhood and therefore, the Board finds this criterion is not met.

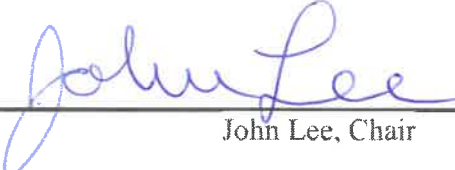
(h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the Zoning District in which the premises is located;

The Board finds that the purpose of the Zoning Bylaw, as stated in Section 1.2, in part states, "the purposes and objectives of this zoning bylaw shall include the promotion of public health, to lessen congestion in the streets; to prevent overcrowding of land". The proposed application has not been found to meet this standard. The land for which this application is taking place is zoned Limited Manufacturing, and the proposed use of auto repair is allowed in this zoning district through Special Permit. However, the specific location of this proposed use with its proximity to residential uses and dense existing confines of the site make it less advantageous than other more appropriate locations. As a result, this criterion is not met.

Based upon the vote and action of the Board it has been determined that the necessary Findings and Determinations noted in Section 2.2.B. of the Zoning Bylaw have overall not been satisfied.

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



John Lee, Chair