



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, Assoc. Member
Timothy Hoegler, Assoc. Member

DECISION - ZONING BOARD OF APPEALS CASE NO. 22-7
A REVISION OF PLANNING BOARD CASE NO. 14-10

APPLICANT:
1429 Main Street, LLC

OWNER OF RECORD:
1429 Main Street, LLC

LOCATION OF PROPERTY INVOLVED:
1429 Main Street
Walpole Assessors Map: 40-149
Zoning District: Business (B)

APPLICATION:

A **Special Permit Modification** to change the plan of record for a previously issued Special Permit (Case No. 14-10) by the Planning Board for a mixed-use residential development in a Business (B) Zoning District. The decision of Planning Board Case No. 14-10 was granted on December 18, 2014, a date in which the Planning Board was the Special Permit Granting Authority for the use identified under Section 5-B.1.3.g of the Town's Zoning Bylaws. In the interim since the issuance of the Special Permit for Planning Board Case No. 14-10, the Special Permit Granting Authority for the granted use identified under Section 5-B.1.3.g of the Town's Zoning Bylaws has changed to the Zoning Board of Appeals.

On May 18, 2022, a public hearing was 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 the requested Special Permit Modification. The public hearing would be continued without testimony at request of the Applicant to June 1, 2022, July 20, 2022, August 17, 2022, September 21, 2022, and November 2, 2022

On November 2, 2022 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Bob Fitzgerald, Clerk
Judy Conroy, Associate Member
Tim Hoegler, Associate Member

VOTE OF THE BOARD:

A motion was made by Mr. Delaney, and seconded by Mr. Hoegler to grant a **Modification to the Special Permit** issued under Planning Board Case No 14-10 to approved the plan of record as the plan approved by the Planning Board that is consistent with the site plan titled "1429 Main Street Modified



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Site Plan in Walpole, MA,” dated December 14, 2020, with revision date September 1, 2022 by Glossa Engineering, 46 East Street, East Walpole, MA 02032 for 1429 Main Street.

The vote was (5-0-0) in favor: Lee-aye, Delany-aye, Fitzgerald-aye, Conroy-aye, Hoegler-aye; therefore, the application for a **Modification** to the plan of record for the previously approved Special Permit under Planning Board Case 14-10 is hereby granted.

REASONS FOR DECISION:

Through a separate action, the applicant received approval from the Walpole Planning Board by way of the Marion Street Definitive 2-Lot Subdivision Approval, dated October 19, 2022, to reconfigure the property boundary of the parcel shown on Assessor’s Map 40 Lot 149, or 1429 Main Street. The new parcel dimensions for 1429 Main Street remain conforming to the dimensional requirements applicable in the Business Zoning District. The action to reconfigure the property boundary did not interfere with any of the conditions of approval for the original Special Permit in Planning Board Decision 14-10, apart from Condition #1 which referenced the plan of record associated with the approved Special Permit. It was the determination of the Board that the requested relief was technical in nature rather than a substantive change to the Special Permit. Therefore, the Board grants the requested modification to the Special Permit to modify the plan of record with the plan approved by the Walpole Planning Board in their Site Plan Modification Decision referenced in the decision dated October 19, 2022, and consistent with the site plan titled “1429 Main Street Modified Site Plan in Walpole, MA,” dated December 14, 2020, with revision date September 1, 2022 by Glossa Engineering, 46 East Street, East Walpole, MA 02032.

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 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.



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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, Clerk

This decision was made on November 2, 2022 and filed with the Town Clerk on November 15, 2022.