Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz., Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy C. Foley, Associate Member

September 28, 2016

DECISION – BOARD OF APPEALS CASE NO. 14-16

APPLICANT:
CLYDE'S BAR AND GRILL

LOCATION OF PROPERTY INVOLVED:

642 Providence Highway, Walpole, MA. Assessor's Map 36, Lot 35 Zoning District HBD

APPLICATION FOR:
A **Special Permit** under Section 7 of the Zoning Bylaw to allow for two free-standing exterior electronic message center-type signs.

On September 14, 2016, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Special Permit** to Clyde's Bar and Grill, 642 Providence Highway, Walpole, MA.

The following members were present and voting:

Matthew Zuker, Chairman
Craig Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy Foley, Associate Member

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A motion was made by Craig Hiltz, seconded by Susanne Murphy to close the public hearing. The vote was **5-0-0 in favor** (Zuker, Hiltz, Coffey, Murphy, and Foley voting).

A motion was made by Craig Hiltz, seconded by Susanne Murphy to grant a Special Permit to allow the applicant to alter two pre-existing non-conforming signs and replace them with signs of a larger dimension as per Sections 7.5.C.(4) and 7.6.A.(4) of the Zoning Bylaw. The vote was **5-0-0** in favor Zuker, Hiltz, Coffey, Murphy and Foley voting).

A motion was made by Craig Hiltz and seconded by Susanne Murphy to allow the applicant to convert one of the two signs into an electronic message center as per Section 7.6.A.(4) of the Zoning Bylaw. The vote was **5-0-0** in favor Zuker, Hiltz, Coffey, Murphy and Foley voting).

Town Hall, 135 School Street
Walpole, Massachusetts 02081
Room 212
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Therefore, the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

CONDITIONS:

1. The increase in the size of the signs shall not be more than 50%.
2. The applicant shall conform to all the requirements set forth in the Zoning Bylaw.
3. The applicant shall conform to all the information presented at the public hearing.
4. Only one of the two signs shall be an electronic message center.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the applicable requirements of Section 7 (Sign Regulations) of the Zoning Bylaw. Accordingly, the Board has determined that the **Special Permit** requested is warranted.

FURTHER FINDINGS

The Board found that the applicable provisions of Section 2.2.B. of the Zoning Bylaw were met. Specifically, the Board found that the proposed signs were consistent with the character and intent of the Highway Business District and that the proposed signs would not be detrimental to the neighborhood or to the general public by way of danger, noise and/or glare and would not pose as a threat to public safety.

CONSISTENCY

This Decision is consistent with the purpose and intent of the Zoning Bylaws.

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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 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 cause."

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 or special permit granting

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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 in the 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 of 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

Craig W. Hiltz, Clerk

CH/k:16-28

cc:	Town Clerk	Engineering	Planning Board
	Board of Selectmen	Building Inspector	Conservation Commission

This decision was made on September 14, 2016 and filed with the Town Clerk on October 3, 2016.

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