



ZONING BOARD OF APPEALS

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ZBA 2015-79
 Petition of Michel Chammas
 1005 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 8, 2015, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Michel Chammas requesting a Special Permit/Finding pursuant to the provisions of Section XVII B.2 and Section XXV of the Zoning Bylaw that expansion of an existing nonconforming use in a Water Supply Protection District, in a Business District, at 1005 Worcester Street, shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.

On September 22, 2015, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Michel Chammas, the Petitioner, and Salim Ayas, Engineer. Mr. Ayas said that Mr. Chammas has been at this location for 34 years. He said that it is his family's business. He said that the request is for a small addition to meet the Mass Department of Motor Vehicle regulations. He said that currently it is a two bay garage. He said that Mr. Chammas would like to add an inspection station. He said that the addition would need to be at least 3 feet by 30 feet, for 90 square feet.

The Board asked about the location of the proposed addition. The Board confirmed that it just touches over the Natick line. The Board confirmed that it will remain as two bays and the proposal is to enlarge one of the bays.

The Board asked what relief was being requested. Michael Zehner, Planning Director, said that the Planning Board looked at this as an auto repair garage or motor vehicle service station. He said that they did not see that use changing. He said that it is allowed by the underlying zoning. He said that the overlay district is the Water Supply Protection District (WSPD), where this is a prohibited use. He said that it falls under the pre-existing nonconforming use section which defers to MGL Chapter 40A, Section 6, which indicates that the ZBA can grant approval of a pre-existing nonconforming use, for extension or alteration, provided that such extension or alteration shall be permitted, with a finding by the SPGA that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

Mr. Zehner said that the Planning Board recommendation was for the ZBA to defer action and require the Applicant to submit comments as to how the WSPD design and operation standards will be met.

The Board said that it received a letter from the Wetlands Protection Committee (WPC). Mr. Ayas said that they have approval from the WPC, dated September 2, 2015. He said that the WPC granted permission for Mr. Chammas to proceed with the project without submitting a Request for Applicability to them.

Mr. Ayas said that the request is for a special permit. He said that it is critical for the family business to continue. He said that it is a hardship, given today's economy. He said that it is really needed and required to continue business. He said that Mr. Chammas has been at this location for 34 years. He said that he has known him as decent and reputable person in the Town of Wellesley. He said that his business neighbors are recommending that he proceed with the project.

The Board asked in what way would having the inspection station change the function of the service station. Mr. Ayas said that function will not change. He said that it will not change the business use. He said gas stations have inspection stations as part of the business use. He said that Mr. Chammas is entitled to this addition, which is very small and will not impact any of the runoff. He said that they will stay within the footprint of the building under the existing overhang on three sides of the building.

A Board member said that he looked at this and the leading case that talks about change of use and sets out three standards for determining whether the current or proposed use fits into the allowable exemption. He said it is whether the use reflects the nature and the purpose of the use prevailing when the bylaw took effect or that there is a difference in the quality or character of the proposed modification and whether the current use is different in kind in its effect on the neighborhood. He said that the cases also talk about, as long as the increased use is attributable to the growth of the original nonconforming use, it is acceptable. He said that he agreed that an inspection station is not unrelated for a change of use from a service station or a gas filling station. He said that it has service bays. He said that the Board can look at other service stations in town that have inspection stations and the last two days of the month when cars queue up. He said that it could be a hazard on Route 9. He said that the issue is how this fits in the WSPD. He said that it will not be much of a change with the inspection station.

The Board said that the area surrounding the building is impervious and this will be built on top of that on posts. The Board said that they will not be increasing the 100 percent hardscape runoff. The Board said that there is a roof above it with its own internal gutters and there is already hard surface on the apron outside of the service bays.

The Board asked when the WSPD came into effect. Mr. Zehner said that it came into effect on March 30, 1987. Mr. Chammas said that he has been the owner of the business since 1982. The Board said that the permits go well beyond that date.

The Board asked if the Planning Board recommendation was that the Petitioner address the six criteria of the WSPD bylaw or meet them. Mr. Zehner said that the Petitioner needs to address the criteria. He said that they need to understand the impacts. He said that he hoped that the ZBA would get comments back from Engineering with regard to the impacts to the WSPD before the ZBA takes action on it. He said that it is an almost 100 percent impervious site. He said that the Petitioner is seeking a special permit to alter a nonconforming use. He said that the Planning Board said that they thought that the ZBA would want to consider some improvements of the existing conditions of the site, especially if there are some known issues.

Mr. Ayas asked what kind of improvements the Planning Board was seeking.

The Board said that the station currently sells gas. The Board asked about standard Best Management Standards that new stations must incorporate versus what is on the site today. The Board asked what happens if there is a spill of gas and oil separators. The Board asked about a plan of action for containment. The Board said that new gas stations have canopies that fully cover the tanks and the pumps. Mr. Ayas said that there is a canopy and a fire protection system. The Board said that DEP regulates that. Mr. Ayas said that if there is a gas spill, the employees are instructed to clean it immediately. He said that they have containment on site.

The Board said that the change is de minimis. The Board said that inspections themselves will not generate any environmental issues.

The Board said that traffic, parking and queuing could be issues of concern. Mr. Ayas said that the inspection station will not add environmental impact. He said that the lot is more than 13,625 square feet in area. He said that there is plenty of room for parking. He said that what Mr. Chammas is asking for is a 3 foot by 30 foot addition. He said that they can add a parking space. A Board member said that he was concerned about the first and last couple days of the months with cars queuing up for inspections. He said that may push some of the traffic out onto Route 9. He said that the Town has had that issue with drive-throughs on Route 9. He said that he has seen cars lined up at other stations on Saturdays. A Board member said that it is a good distance away from Route 9. Mr. Ayas said that there is plenty of room to accommodate cars.

The Board discussed the WSPD.

The Board asked when the project would be completed and when they would start doing inspections, if the special permit is approved. Mr. Ayas said that they will hire a contractor and get the work going before the winter. The Board discussed a condition to have the Petitioner come back after a year of operation to address any questions about interruption of Route 9 traffic because of queuing.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 1005 Worcester Street, in a Business District and a Water Supply Protection District.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII B.2 and Section XXV of the Zoning Bylaw that expansion of an existing nonconforming use in a Water Supply Protection District shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.

A Plot Plan, dated 8/28/15, stamped by Antoni Szerszunowicz, Professional Land Surveyor, Existing and Proposed Elevation Drawings, Section and Sona Tube Detail, dated 8/28/15, prepared by SAA Design Group were submitted.

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On September 2, 2015, Pam Helinek, Wetlands Administrator, stated in a letter to Michael Chammas that the proposed expansion of service bays at 1005 Worcester Road is outside of Wetland jurisdictional areas on the property.

On October 7, 2015, the Planning Board reviewed the petition and recommended that the Zoning Board of Appeals defer action on the request and require the Petitioner to report on the compliance of the site with the Design and Operations standards of the WSPD.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that although expansion of an existing nonconforming use in a Water Supply Protection District is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for expansion of an existing nonconforming use in a Water Supply Protection District, subject to the following condition:

All vehicles shall be parked and queued on site and not impinge on Route 9.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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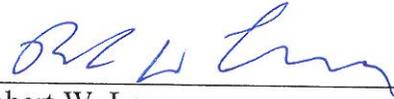
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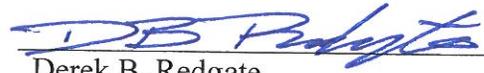
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



David G. Sheffield, Acting Chairman



Robert W. Levy



Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

TOTAL AREA 13625 SQ. FT.



WORCESTER

STREET

SITE PLAN
SCALE 1"=20'



Antoni Szerszunowicz

— PREPARED BY —		PLOT PLAN			
AGH ENGINEERING STOUGHTON, MA 02072 166 WATER STREET PHONE: (781)344-2386		1005 WORCESTER ST. WELLESLEY/ NATICK, MA			
20' 0 20' 40'		PREPARED FOR:	MIKE CHAMMAS		
SCALE IN FEET 1"=20'		SCALE	DATE	ACAD FILE	DWG NO.
		AS NOTED	8/28/2015	1005 WORCESTER	1