



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

Aug 3 9 02 AM '90

JOHN A. DONOVAN, JR., Chairman
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ZBA 90-49
Petition of Lee Imported Cars, Inc.
962 Worcester Street

Pursuant to due notice the Permit Granting and the Special Permit Granting Authority held a Public Hearing on Thursday, June 28, 1990 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, on the petition of LEE IMPORTED CARS, INC. requesting Site Plan Approval pursuant to the provisions of Section XVIA, Section XII, Section XIVB, Section XIVE and Section XXV of the Zoning Bylaw to construct a 12 foot high open deck, approximately 100 feet by 126 feet, on concrete columns/piers to be used as a vehicle storage facility for 72 cars at 962 WORCESTER STREET, on a 99,348 square foot lot in a Business A District, a Flood Plain District, and a Water Supply Protection District.

A Finding is also requested pursuant to the provisions of Section XVII and Section XXIV-D of the Zoning Bylaw that the possible extension of the pre-existing non-conforming use will not be more detrimental than the existing non-conforming use to the neighborhood.

On May 11, 1990, the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Edward Donlon, attorney for the petitioner, who was accompanied by John Staniunas, project architect, and James C. Hall, a hydrogeologist, who had designed the retention basin on the site. Also present were Christopher Lee, owner of Lee Imported Cars, Inc., and Howard and Donald Bolles, owners of the property.

Mr. Staniunas presented the project using enlarged site plan drawings. He showed that the deck would be located in the right rear corner of the lot with a connection to an existing ramp. An apron will be erected below the deck and a setback barrier about 3.5 feet high installed about 6 inches beyond the drainage point. Rain water would flow between the building and the curtain. If this is not satisfactory, gutters and drainspouts will be installed. The installation of the barrier would render the cars stored on the deck barely visible.

Mr. Hall explained the design of the existing retention basin and the design of the drainage from the proposed deck and stated that there will be no change in the peak rate of flow or the total amount of flow going into the basin due to the deck.

Stanley Hodges, 10 Pickerel Terrace, questioned if the access road to Morses Pond for the purpose of weed harvesting is functional, and if it is, why the DPW is not using it.

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Chris Lee responded that there is no right-of-way or access road through the property, but that he has offered access to the DPW for weed harvesting. The DPW has never responded.

Chuck Bayer, member of the Planning Board, who was accompanied by Mary Sullivan, Chairman of the Planning Board, asked how the groundwater would be protected from dripping oil from the new cars, as the site is in a watershed protection district.

Mr. Hall responded with a detailed description of the retention basin, which, he noted, had been approved by the Wetlands Protection Committee three years ago before it was installed. He stated that the system is capable of preventing any pollution due to oil stained water running off the deck. The quality of water entering Morses Pond would not change.

Mr. Bayer then raised the issue of the extension of a pre-existing non-conforming use as more service would be involved which would intensify the use. Mr. Hall responded that the same number of cars would be prepped and serviced in the future as is prepared now; the only difference is in the location of storage, since all cars previously stored in Holliston, which would now be stored at Worcester Street, have always been prepped at Worcester Street. Mr. Donlon stated that an auto dealership is not a prohibited use in a Water Supply Protection District. The deck is an adjunct to the auto dealership, so there is no non-conforming use involved in the project.

No other person present had any comment on the petition.

Statement of Facts

The property in question is located at 962 Worcester Street, on a 99,348 square foot lot, in a Business A District, a Water Supply Protection District, and a Flood Plain District. The property abuts Town of Wellesley land and Morses Pond to the south and Route 9 to the north. Eighty per cent of the lot and building are within a 100 year flood area; 60% of the lot and 30% of the building are in a 25 year flood area. The entire site is in a Water Supply Protection District. The property is owned by Howard Bolles and is leased to Lee Imported Cars, Inc. for use as an automobile sales and service establishment.

In May, 1987, the Board of Appeals gave Site Plan Approval to the petitioner to construct a second-floor addition of approximately 17,300 square feet to the existing 17,094 square foot building (ZBA 87-7).

The petitioner is requesting Site Plan Approval to construct a 12 foot high deck at approximately 12,600 square feet, at the southwest corner of the property which would be connected to the existing ramp to serve as a vehicle storage facility for 72 cars. The deck will be supported by 16 columns, which will displace approximately 1,000 cubic feet of material. There would be no change in the existing landscaping or parking.

A Finding is also requested to determine if in fact, the construction of the proposed parking deck would constitute an expansion of a pre-existing non-conforming use.

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The following materials were submitted: Cover sheet with Artist's View of Site; Site Plan of Land dated April 2, 1990, drawn by Everett R. Kennedy, Professional Engineer and Joseph R. Sullivan, Registered Professional Surveyor; Landscape Plan (L1) dated January 2, 1987, drawn by Joseph R. Sullivan, Registered Professional Surveyor; Vehicle Storage Facility Upper Level (A-1) dated 3/29/90; Vehicle Storage Facility Lower Level (A-2) dated 3/29/90; Vehicle Storage Facility Elevations (A-3) dated 3/29/90; Vehicle Storage Facility Upper Level (S-1) dated 3/28/90; Vehicle Storage Facility Lower Level (S-2) dated 3/28/90; and Vehicle Storage Facility Stairs & Details (S-3) dated 3/29/90. Plans A-1 through A-3 and S-1 through S-3 were drawn by John Staniunas, Registered Architect. An Official Development Prospectus and photographs were also submitted.

At the hearing on June 28, 1990, additional photographs, a detail of the Filter Box and a Cross Section diagram were submitted.

A Notice of Intent was filed on May 10, 1990 with the Wetlands Protection Committee which issued an Order of Conditions (DEP 324-171) on July 2, 1990.

The Design Review Board held a preliminary review of the project on May 24, 1990, at which time it requested the petitioner to submit photographs of the site and elevations as seen from Morses Pond. At the final review held on June 14, 1990, the petitioner submitted the requested materials and the Design Review Board voted to approve the project as presented.

The materials detailed above were also sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and the Fire Chief as required by Section XVIA of the Zoning Bylaw. Written responses from each of the above were received and are on file in the Board of Appeals office.

The Planning Board, on May 29, 1990, voted to strongly recommend denial of site plan approval and denial of a favorable finding on the extension of the pre-existing non-conforming use.

The Wetlands Protection Committee, in a letter dated June 12, 1990, expressed concerned with possible intensification of vehicle repair and maintenance in a Water Supply Protection District due to the increase in the number of cars stored on the site. Motor vehicle repair garages been a prohibited use in Water Supply Protection Districts since their creation in 1987. The Committee believed that if the project is built according to the submitted plans and in compliance with the Order of Conditions, the requirements of the Wetlands Protection Act will have been met.

The Natural Resources Commission, in a letter dated June 12, 1990, requested that the extension of a prohibited use should be denied. In the opinion of the NRC, addition of the deck would roof over the present parking lot which would encourage outdoor car servicing, a use prohibited in a Water Supply Protection District. It is the contention of NRC that the existing leaching basin does not meet present design standards nor does it afford the degree of protection of Morses Pond called for by the Zoning Bylaw.

A letter dated June 28, 1990, in opposition to the project, was submitted by Arnold E. Reif, 39 College Road.

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Decision

This Authority has made a careful study of the evidence presented. The petitioner's proposed 12,600 square foot 12 foot high parking deck at 962 Worcester Street for vehicle storage of 72 cars constitutes a major construction project under Section XVIA as it is an activity regulated under both Section XIVB, Flood Plain or Watershed Protection District, and Section XIVE, Water Supply Protection District. A major portion of the property lies in a Flood Plain District, and the entire property lies in a Water Supply Protection District.

In the opinion of this Authority, a Finding pursuant to the provisions of Section XVII of the Zoning Bylaw is not required, as the construction of the proposed parking deck is not an extension of a "motor vehicle service station" or a "repair garage" use, which are prohibited uses in a Water Supply Protection District, but is an extension of "storage or parking of motor vehicles", a use allowed by right under Section XII, Business Districts, and not prohibited under either Section XVIB or Section XVIIE. It is also an extension of a use for "Motor Vehicle Sales", which presently requires a Special Permit, but did not when the premises were originally constructed.

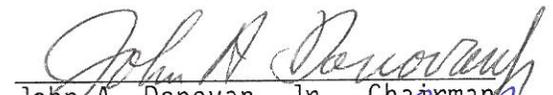
It is the opinion of this Authority that the plans for the proposed parking deck at 962 Worcester Street, as enumerated in the foregoing Statement of Facts, comply with the Zoning Bylaws of the Town, protect the safety, convenience and welfare of the public, minimize additional congestion in public and private ways, insure adequate protection for water, sewerage and drainage. Furthermore, they insure compliance with Section XVI and Section XXI of the Zoning Bylaw.

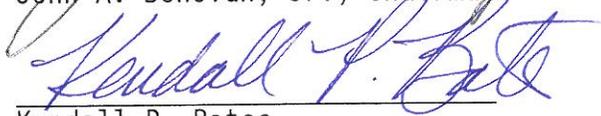
Site Plan Approval is hereby granted by this Authority pursuant to Section XVIA, Section XII, Section XIVB and Section XIVE of the Zoning Bylaw, subject to the conditions attached hereto as Addendum A - Conditions for Approval.

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.

cc: Planning Board
Wetlands Protection Committee
Inspector of Buildings

edg


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert R. Cunningham

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ADDENDUM A
CONDITIONS FOR APPROVAL

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1. The project must conform to all requirements of the Wetlands Protection Committee and the Order of Conditions (DEP 324-171) issued on July 2, 1990.
2. All work shall be performed in accordance with plans submitted and on file with this Authority.
3. All design and construction must comply with all applicable State and local codes.
4. All requirements of the Town Engineer and the Department of Public Works be complied with.
5. All requirements of the Town of Wellesley Fire Department shall be complied with.
6. The detention basin shall be vacuum-swept as necessary to assure proper operation, but no less than bi-annually. Written notice of the sweeping shall be submitted by January 1st and July 1st of every year to the Wetlands Protection Committee, specifying the name of the contractor and the nature of the maintenance performed.
7. The monitoring well closest to Worcester Street and the monitoring well closest to Morses Pond shall be tested annually between July 1st and September 1st. Test samples of both wells must be taken on the same day by a DEP certified laboratory and tested for volatile organic compounds using the EPA Method 502.1. Results of testing shall be submitted to the Wetlands Protection Committee and the Department of Public Works Water Division by September 30th of every year.
8. There shall be no servicing of vehicles outside the confines of the interior service area of the existing building.
9. There shall be no storage of vehicles awaiting servicing on the proposed deck, the use of which shall be limited to the storage of new vehicles only.
10. All site utility plans shall be submitted to the Department of Public Works.
11. A copy of the Occupancy Permit issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.