

**Holliston Zoning Board of Appeals
Meeting Minutes of December 14, 2016**

Present: Chairman Henry Dellicker, John Love, Brian Liberis and Associate Members Jay Peabody and Mark Bush.

Call to Order: The Chairman called the meeting to order at 7:05 p.m. in Room 014 of the Town Hall.

Approval of Minutes:

January 20, 2016 - On a motion by Mr. Liberis, seconded by Mr. Bush with the vote as follows: 3-0-2 (Mr. Love and Mr. Peabody abstained as they were not present), the members approved the minutes of January 20th as drafted.

April 20, 2016 ó On a motion by Mr. Love, seconded by Mr. Liberis with the vote as follows: 3-0-2 (Mr. Peabody and Mr. Bush abstained as they were not present), the members approved the minutes of April 20th as drafted.

October 19, 2016 ó On a motion by Mr. Love, seconded by Mr. Peabody, the minutes of October 19th were approved as drafted on a unanimous vote.

Green View Realty, LLC – Comprehensive Permit Extension Request:

The Chairman noted receipt of correspondence dated October 31, 2016 from Michael Norton, Managing Member of Green View Realty requesting an extension to the 40B Comprehensive Permit granted in 2011 and previously extended. Atty. Glenn Wood was present along with Kevin Norton of Green View Realty. The Chairman asked what progress has been made on the development. Atty. Wood of Rubin & Rudman, LLP noted that the only interest in the project has been by companies that want to convert the project to rental units and a re-design would require time and money. The wastewater treatment plant needs to be designed and the additional permitting required needs to be completed. The Chairman expressed concern about the property taxes being in arrears. Atty. Wood suggested that the effectiveness of the extension could be made contingent upon payment of taxes. Mr. Peabody asked about the MassHousing permit and its term. Atty. Wood stated that he did not know. Mr. Peabody noted that the board has authority to issue a lesser request and has broad discretion.

Mr. Peabody made a motion to grant a 2-year extension (November 30, 2018) contingent upon payment of back taxes. A one-year status review and progress on any permits will be provided. Mr. Love seconded with the vote as follows: 4-0-1 (Mr. Bush abstained).

I. PUBLIC HEARINGS:

**Continued Dimensional Variance Public Hearing
Nancy and David Dubin – 1070 Washington Street**

The Chairman opened the public hearing at 7:10 p.m. Mrs. Dubin was there to represent the petition. GLM site plans dated December 8, 2016 were provided for the record, showing 3.5ø from the structure to the western side lot line. Mrs. Dubin noted that although the structure is close to the lot line, there is a natural buffer to the abutters. Mr. Love noted that Atty. Bobrowski

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had weighed in on the issue of the age/timeliness of the construction. Mr. Liberis reviewed the details of the October 19th correspondence from the Health Director.

Mr. Love began review of the hardship standard of c. 40A. Mrs. Dubin noted that it is not affordable to remove or move the structure to comply with zoning. Mr. Liberis asked if there were any physical constraints to alternative locations of the structure. Mrs. Dubin noted that the site is tremendously stony and the structure was located at the highest point on the sloping site.

The Chairman asked if anyone in the audience had questions about the petition. Dave Schroeder of 24 Raleigh Road asked for a clarification of the relief being requested. Members noted that the relief is a dimensional variance from the provisions of Section V-A. The definition of an accessory building under Section I-E and Section V-A Accessory Buildings and Structures were reviewed. The Chairman asked if anyone wished to speak for or against the petition. Mr. Schroeder spoke against the petition, noting that the plethora of structures on the lot and multiple uses and activities impacts his property and neighborhood negatively. He argued that there are multiple other locations on the site and to grant the petition retroactively is a bad precedent.

On a motion by Mr. Bush, seconded by Mr. Peabody, the public hearing was closed.

Special Permit Public Hearing
Nicholas C. Prizio – 85 Central Street

The Chairman opened the public hearing at 7:38 p.m. Mr. Liberis read the public hearing notice into the record. Mr. Prizio was present to discuss his petition to allow a Class II license for sale of up to four vehicles at the existing business known as Nickø Garage. He stated that many of his repair and tow customers currently ask him about sales. The impound area previously used for Town-solicited towing is available for vehicle storage. The site abuts Shea Insurance and is across the street from the plaza. The Chairman noted the age of the repair business and the fact that there are no restrictions on the repair vehicles on the site.

No one was present to speak for or against the petitions.

On a motion by Mr. Love, seconded by Mr. Peabody, the public hearing was closed.

Special Permit Public Hearing
Lynn Fontanella – 57 Lake Shore Drive

The Chairman opened the public hearing at 7:48 p.m. and Mr. Liberis read the hearing notice into the record. Ms. Fontanella was present to discuss her petition to replace and extend an existing deck. She noted that the existing stairs are closer to Lake Winthrop than the proposed stairs on the north side. Those stairs are approximately 12ø from the side lot line. Joyce Hastings, PLS was present to clarify the rear yard setback to Lake Winthrop as approximately 9ø and noted that the water line of the lake is receding. The proposed porch addition will not extend close to the lake than the existing structure.

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The Chairman opened the hearing to the public. No one spoke in favor or opposition to the application. On a motion by Mr. Bush, seconded by Mr. Liberis, the public hearing was closed.

Special Permit Public Hearing
Skip Kelleher – 41 Pleasant Street

The Chairman opened the public hearing at 7:58 p.m. and Mr. Liberis read the hearing notice into the record. Mr. Kelleher was present along with Joyce Hastings, PLS of GLM Engineering Consultants, Inc. to discuss the petition for voluntary demolition of an existing multi-family structure and replacement with a new single-family dwelling with attached 2-car garage. The volume and area of the proposed structure is larger than the existing dwelling.

The existing house was constructed in approximately 1820. The Holliston Historical Commission has reviewed the structure under the Town's Demolition Delay by-Law. A drainage easement has been granted to the Town of Holliston on the southeast lot line to accommodate a relocated drain pipe. One of the existing driveways will be eliminated. An elevation and floor plan entitled Concept Plan prepared by SO design collective (dated 10/23/16) were provided. The proposed dwelling will be in keeping with the architecture of the neighborhood.

The Chairman opened the hearing to the public. No one spoke in favor or opposition to the application. On a motion by Mr. Love, seconded by Mr. Peabody, the public hearing was closed.

Special Permit Public Hearing
Authentic Auto Body & Collision, LLC – 229 Lowland Street

The Chairman opened the public hearing at 8:10 p.m. Atty. Peter Barbieri of Fletcher Tilton was present along with his client Steve of Authentic Auto Body. There is a designated fenced-in area. The facility is existing and is simply changing hands. Conditions of the 1996 Special Permit granted to Paul Enos (Holliston Auto Body).

The Chairman opened the hearing to the public. Pat Hafford of Lowland Street noted that 7 a.m. to 7 p.m. on Saturday is not a reasonable proposal and asked to reconsider the allowance for early morning start hours. Atty. Barbieri stated that a condition limiting work to indoors only would be acceptable. Cathy and William Glover of 272 Lowland Street noted that the site is contaminated and wonders how any permit can be issued without mitigation. She noted that the site is cluttered with equipment and multiple users that are operating in a very unrestricted manner. The Chairman directed the Glovers to the Inspector of Buildings in terms of enforcement. He noted that intermittent noise is a concern with the type of use and there are many sources of noise within the industrial park. Paul Enos of Holliston Auto Body was present to discuss the new tenant that the Glovers complained of and his conversation with them. He noted that he very rarely operates on Saturdays and that the other tenants are problematic. To a degree the tenants are self-policing. He confirmed that the former polluting tenant, a firm known as PEI, and the land owners did do mitigation on the site.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was closed.

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II. DELIBERATIONS:

Dimensional Variance – 1070 Washington Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section V-A, the Board finds the following: Facts have not been presented to adequately meet the criteria of VI-D(3)(a and b) and neighborhood opposition has been noted.

Zoning Board Vote

The Board's vote to deny the Petitioner's Dimensional Variance application for relief under Section V-A for property described and located at 1070 Washington Street was as follows on a motion by Mr. Peabody, seconded by Mr. Liberis:

Chairman Dellicker	Aye
Mr. Liberis	Aye
Mr. Bush	Aye
Mr. Peabody	Aye

Special Permit – 85 Central Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section VI-E(5), the Board finds the following: The expanded auto-related use on the site is in an appropriate location and does not significantly alter the character of the neighborhood. The proposed use shall not create any adverse environmental impact.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section III(E)(1) for property described and located at 85 Central Street was as follows on a motion by Mr. Love, seconded by Mr. Bush:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye
Mr. Peabody	Aye
Mr. Bush	Aye

Conditions of Approval

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11 and shall lapse in two (2) years if a substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The copy of the decision to be filed must contain a certification by the Town Clerk that twenty (20) days have elapsed since after the

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decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.

2. A maximum of four (4) cars are allowed to be displayed for sale on site.
3. Sales are contingent upon issuance of the applicable license from the Board of Selectmen.

Special Permit – 57 Lake Shore Drive

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section I-C(3.3.1), the Board finds the following: The proposed modification to the non-conforming structure will not be more detrimental than the existing non-conforming structure to the neighborhood.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section I-C(3.3.1) for property described and located at 57 Lake Shore Drive was as follows on a motion by Mr. Liberis, seconded by Mr. Bush:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye
Mr. Peabody	Aye
Mr. Bush	Aye

Conditions of Approval

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11 and shall lapse in two (2) years if a substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The copy of the decision to be filed must contain a certification by the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. The deck structure as depicted on the plan of record entitled Plot Plan of Land 57 Lakeshore Drive prepared by GLM Engineering Consultants, Inc. shall be located no closer than the existing structure to the rear setback (Lake Winthrop) and no closer than 12' to the north side lot line.

Special Permit – 41 Pleasant Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section I-C[3.5.1(3. a and b)], the Board finds the following: The proposed modification to the non-conforming structure will not be more detrimental than the existing non-conforming structure to the neighborhood.

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Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section I-C(3.5.1) for property described and located at 41 Pleasant Street was as follows on a motion by Mr. Bush, seconded by Mr. Peabody:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye
Mr. Peabody	Aye
Mr. Bush	Aye

Conditions of Approval

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11 and shall lapse in two (2) years if a substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The copy of the decision to be filed must contain a certification by the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. The new dwelling shall be constructed in accordance with the plan of record entitled Plot Plan of Land 41 Pleasant Street prepared by GLM Engineering Consultants, Inc., dated November 11, 2016. The proposed construction shall be no closer to the front lot line than the existing dwelling, no closer than 10' to the northeast side lot line and no closer than 13' to the southeast side lot line.
3. Construction shall be substantially consistent with record plans and elevations provided as prepared by SO design collective, dated October 23, 2016.

Special Permit – 229 Lowland Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section VI-E(5), the Board finds the following: The continued auto body use on the site is in an appropriate location and does not significantly alter the character of the neighborhood. The proposed use as conditioned shall not create any adverse environmental impact.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section III(E)(4) for property described and located at 229 Lowland Street was as follows on a motion by Mr. Bush, seconded by Mr. Love:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye
Mr. Peabody	Aye
Mr. Bush	Aye

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Conditions of Approval

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11 and shall lapse in two (2) years if a substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The copy of the decision to be filed must contain a certification by the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. Hours of operation are to be within the hours of 7 a.m. to 7 p.m. Monday through Saturday.
3. All work is to take place inside the building with doors closed.
4. The premises shall be maintained so as to be visually unobtrusive and neat at all times.
5. The storage of unregistered vehicles on the premises is prohibited.

Adjournment: The meeting adjourned at 10:00 p.m. on a motion made and duly seconded with all in favor. The next meeting was scheduled for January 18, 2017.

Respectfully submitted,

Karen Sherman
Town Planner