

**Holliston Zoning Board of Appeals
Meeting Minutes of October 17, 2018**

Present: Chairman Henry Dellicker, John Love and Jay Peabody. Mark Bush was absent. Also present was Jay Talerman of Talerman, Costa and Mead, Town Counsel.

Call to Order: The Chairman called the meeting to order at 7:05 p.m. in the Selectmen's Meeting Room (#105) of Town Hall.

Approval of Minutes:

On a motion by Mr. Love, seconded by Mr. Peabody, the minutes of July 18, 2018 were approved as drafted.

Public Hearing and Comprehensive Permit Extension

Green View Realty, LLC – 708 Prentice Street and 95 Marshall Street

The Chairman opened the public hearing at 7:05 p.m. and read the hearing notice into the record as well as comment letters from Bill and Cathy Tomasetti of 141 Marshall Street (dated October 12, 2018) and Mary Bousquet, Treasurer/Collector (dated October 15, 2018). Atty. Talerman provided an overview of the state statute and the local by-law provisions (Article XVI). He noted that the Board's authority is very substantial under the by-law. The permit may be revoked or suspended or an extension granted. He noted that the permit has been in existence since 2011. The previous extension was granted in 2016. The property is in tax title since FY16.

Present on behalf of Greenview Realty, LLC was Atty. Robert Fasanella of Rubin & Rudman. He reviewed his extension request and noted that his clients are willing to pay the taxes in full within the next few weeks. He represented they are negotiating with developers on a joint venture to develop the property. He added that he has an option to seek extension through the Housing Appeals Committee and would likely seek such an appeal. Atty. Talerman noted that the HAC cannot take jurisdiction over this non-payment of taxes issue. Also present with Atty. Fasanella was the licensed site professional, Mr. Hoyerman.

Mr. Peabody asked about any changes to the circumstances or facts in this situation. Atty. Talerman noted that one of the remaining milestone permits that has not been obtained is the state wetlands permitting. The issue of permit modification to accommodate a new layout or density was discussed in general. Mr. Peabody asked for additional disclosure on any development deal.

Atty. Talerman noted that there is a very short timeframe for the ZBA to consider this issue. Atty. Fasanella stated that he would agree to an extension of time for the Board to act. November 14th was discussed as a continuation date. It was noted that abutters would have an opportunity to speak at the next session on both the tax issue and the issue of the permit extension request. Mike Lotti of Wingate Road asked when the last tax payment was made.

Mr. Peabody made a motion to continue the two matters until November 14th at 7 p.m. Mr. Love seconded with all in favor.

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**Special Permit Public Hearing
Lazo Popovski – 599 Concord Street**

The Chairman opened the public hearing at 7:35 p.m. and waived the reading of the public hearing notice as no abutters were present. Present were the applicant, Mr. Popovski and the present owner and Special Permit holder Barry Charton. It was clarified that all conditions of the 2005 Special Permit were acceptable to the applicant.

No one else spoke on favor or against the petition.

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

**Dimensional Variance Public Hearing
Michael Lotti – 50 Wingate Road**

The Chairman opened the public hearing at 7:40 p.m. and waived reading the hearing notice into the record as there were no abutters present. The applicant, Michael Lotti was present to discuss his proposed 14ø x 36ø single-story carport addition to the existing two-story dwelling. He noted that from the front, the structure will resemble a third garage bay. The structure's roof will be south facing and will also house solar panels. The site's unique circumstances were discussed: The area is currently paved and the area in question is in line with the existing position of the house on the undersized lot. The requested relief was clarified as being 36ø from the front property line and 13.5ø from the side lot line.

No one spoke in favor or against the petition.

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

**Continued Special Permit Public Hearing
Robert E. Collier – 888 Washington Street**

The Chairman re-opened the public hearing at 7:53 p.m. On a motion by Mr. Love, seconded by Mr. Peabody, the applicant's request for withdrawal was accepted without prejudice and public hearing was closed.

**Special Permit Public Hearing
Empire Automotive Group, Inc. – 439 Washington Street**

The Chairman opened the public hearing at 7:55 p.m. and the reading of the public hearing notice was waived as there were no abutters present. Arnold Zaltas of Brida Realty was present along with Anis Lahiani and Pedro Caldeira of Empire Automotive Group. It was clarified that there will be no addition to the structure and parking will remain as noted in the application materials. Hours of operation Mon ó Sat. 8 -7 are being proposed. Characteristics of the area were reviewed, including prior uses of the site as a full service gas station.

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

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II. DELIBERATIONS:

Special Permit – 599 Concord Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Section III-D(5) and (21) of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: The continuous use of the premises for Pick-A-Pup has been permitted since 1986 by this Board. The Board finds that the uses are in harmony with the general purpose and intent of the Zoning By-Laws and the continued use would not be detrimental to the neighborhood.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section III-D(5) and (21), Retail Sales and Animal Hospital or Kennel for property described and located at 599 Concord Street was as follows on a motion by Mr. Love, seconded by Mr. Peabody:

Mr. Dellicker	Aye
Mr. Love	Aye
Mr. Peabody	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) year unless exercised per MGL, c. 40A, s. 9. 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 appeal has been filed or if such appeal been filed, that it has been dismissed or denied.
2. Hours of operation are limited to 7:00 a.m. to 9:00 p.m. Monday ó Saturday and 12:00 p.m. to 6:00 p.m. Sunday.
3. Area and/or outside lighting shall be designed to avoid direct eye contact with passing traffic and abutting properties.
4. All trash is to be stored under cover and screened from view.
5. Adequate off-street parking will be maintained for customers and employees.
6. The premises shall be maintained so as to be visually unobtrusive and neat at all times.
7. Retail trade is permitted to the extent that it is complementary to pet care industry.
8. Special care shall be taken to avoid noise nuisance from barking dogs.
9. This Special Permit is issued solely to the Petitioner and is not transferable or assignable.

Dimensional Variance – 50 Wingate Road

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Sections I-C(3.2) of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: Owing to circumstances created by zoning changes implemented by the community after the house was constructed and the unique placement of the dwelling on the non-conforming lot, literal enforcement of the provisions of the

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by-law would involve substantial hardship to the Petitioner. Desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law.

Zoning Board Vote

The Board's vote to approve the Petitioner's Dimensional Variance application for relief under Sections I-C(3.2) Pre-Existing, Non-Conforming Uses, Structures and Lots for property described and located at 50 Wingate Road was as follows on a motion by Mr. Love, seconded by Mr. Peabody:

Mr. Dellicker	Aye
Mr. Love	Aye
Mr. Peabody	Aye

Conditions of Approval

1. This Dimensional Variance 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 one (1) year unless exercised per MGL, c. 40A, s. 10. 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 an appeal has been filed, that it has been dismissed or denied.
2. Construction of the proposed carport shall be no closer than 36' to the front lot line and 16.5' to the southeast side lot line.
3. Building materials shall be consistent with the front face of the existing dwelling.

Special Permit – 439 Washington Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Town of Holliston Zoning By-Laws Section III(E) Motor Vehicle Uses (1 and 4 - auto sales with repair services and storage as well as auto body), the Board finds the following: The combination of proposed uses are consistent with long-term use of the property and are consistent with criteria of Section VI-E(5)(a & e). The use does not significantly alter the character of the Commercial district and is compatible with the character and scale of neighboring properties.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section III(E) (1 and 4 - auto sales, repair, and auto body) for property described and located at 439 Washington Street was as follows on a motion by Mr. Love, seconded by Mr. Peabody:

Mr. Dellicker	Aye
Mr. Love	Aye
Mr. Peabody	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) year unless exercised per MGL, c. 40A, s. 9. 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 appeal has been filed or if such appeal been filed, that it has been dismissed or denied.
2. Hours of operation are limited to 8:00 a.m. to 7:00 p.m.
3. Parking shall be substantially as indicated on the plan of record and shall accommodate spaces for service and sales customers as well as vehicles for sale. No vehicles shall protrude onto the sidewalk.
4. There shall be no unreasonable glare from lighting, whether direct or reflected, onto Washington Street, the night sky or onto adjacent properties.
5. There shall be no outdoor storage of materials and waste shall be stored properly.
6. This Special Permit is issued solely to the Petitioner and is not transferable or assignable.

Adjournment: The next meeting was set for November 14, 2018. The meeting adjourned at 8:50 p.m. on a motion made and duly seconded with all in favor.

Respectfully submitted,

Karen Sherman
Town Planner

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