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730 Main Street

Suite 2C

Millis, MA 02054

October 26, 2020

Holliston Zoning Board of Appeals  
Town Hall  
703 Washington Street  
Holliston, MA 01746

Ref: 45 Washington Street  
Special Permit

Dear Members of the Board:

We are pleased to submit the enclosed application for Special Permit for a proposed redevelopment at 45 Washington Street. Enclosed are the following in support of this application:

- One original and 15 copies of the executed application;
- An executed Gatehouse Media form;
- One copy of abutters lists from Holliston and Sherborn;
- Fifteen copies of the executed Operations Information Questionnaire along with accompanying discussion and documents (narrative, MSDS sheets, etc...);
- Fifteen copies of a FEMA firmette and Flood Profile for Dopping Brook;
- Fifteen 11x17 copies of the site plan;
- Two sets of stamped envelopes to all abutters, six surrounding towns, and to the owner/applicant;
- Twelve blank stamped envelopes;
- A certified envelope addressed to the Applicant; and
- A check in the amount of \$250.00 for the filing fee.

The application seeks a special permit under Section V-J.B.1 to allow redevelopment work within a Zone A flood plain. Portions of the existing parking areas lie within the Zone A flood plain, which has no established 100-year flood elevation. We are not aware of any available 100-year flood elevation for this flood plain. However, the nearby Dopping Brook has a 100-year flood elevation of 163 in this area. In addition, there is a significant difference in elevation between the developed pad and the wetland behind the site. The wetland behind the site lies at elevation 161-162 and the developed portions of the site lie at elevation 165-166. FEMA flood maps are approximations only and typically not very accurate graphically. This is particularly true in Zone A's where a specific flood elevation has

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not been determined. Given the topography of the work area in relation to the nearby wetland and the fact that the developed portion of the site lies 2-3 feet above the flood elevation for Dopping Brook, it is our opinion that the proposed work areas are not actually subject to flooding during a 100-year event. Note further, that most of the proposed work in the Zone A involves the construction of stormwater basins, which will lower elevations. For all of these reasons, it is our opinion that the proposed work within the Zone A will not result in increased flood elevations in the Zone A flood plain.

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

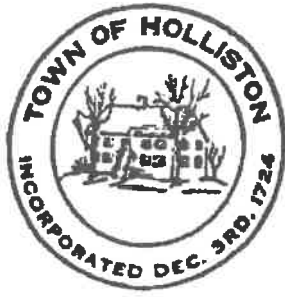
LEGACY ENGINEERING LLC

A handwritten signature in black ink, appearing to read "Daniel J. Merrikin".

Digitally signed by Daniel J.  
Merrikin, P.E.  
Date: 2020.10.26 14:06:07 -04'00'

Daniel J. Merrikin, P.E.  
President

cc: File



TOWN OF HOLLISTON  
ZONING BOARD OF APPEALS  
TOWN HALL  
HOLLISTON, MASSACHUSETTS 01746

**APPLICATION FOR GRANT OF A SPECIAL PERMIT**

Date Filed: October 26, 2020

Applicant's Name: Gill Realty Trust - I

Applicant's Address: 45 Washington Street, Holliston, MA 01746

Applicant's Phone Number: 508-652-6600

Owner's Name: Same as Applicant

Owner's Address: PO Box 30, Natick, MA 01760

The Owner hereby appoints Daniel Merrikin to act as his/her/its agent for the purposes of submitting and processing this application for a special permit.

The Owner's title to the land that is the subject matter of this application is derived under deed from Ernest Ecker, dated August 14, 1986

And recorded in Norfolk Registry of Deeds, Book 17309, Page 433

Or Land Court Certificate of Title No. n/a, registered in

District Book n/a, Page n/a.

The land is shown in the Assessor's records as Lot 12 on Map 2, Block 11

And has an address of or is located at 45 Washington Street

in the Industrial zoning district.

Under the provisions of Section VI-D (2) to vary the terms of Section I-B and the following, the Applicant hereby petitions the Board of Appeals:

**Nature and subject matter of Special Permit:**

To allow the redevelopment of an existing commercial property within a Zone A flood plain. Work includes modifications to existing parking areas and the construction of new stormwater management systems.

**Section of Zoning Bylaw that permits this use by grant of Special Permit:**

V-J.B.1 Floodplain District Regulations  
V-J (3)(B)(1)

**Previous Zoning Information (To be completed by Inspector of Buildings):**

A Special Permit was granted in May of 1995 for use of the property as a used car lot with repair garage and for extension of a non-conforming use in an aquifer protection zone - see Bk 25425 Pg 097. Proposed alterations are a continuance of the existing use with new building and stormwater facilities. 10/19/2020 CC

**The Applicant presents the following evidence that supports the grant of the special Permit:**

**a. The use is in harmony with the general purpose and intent of the bylaw because:**

The proposed work will not result in any adverse impact to the Zone A flood plain on this currently developed site.

**b. The general or specific provisions of a grant of a special permit, as set forth in the zoning bylaw are satisfied because:**

The existing use is allowed in the Industrial district and is therefore in harmony with the general intent of the bylaw. The areas within the Zone A flood plain that are proposed for redevelopment are already disturbed. The work will not increase flooding in the area.

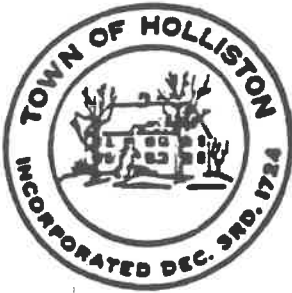
**Will the proposed use include the storage or process of any hazardous substances?**

Yes X (Please attach additional information.) No \_\_\_\_\_

The used car facility provides warranty service and utilizes materials typical for such activities.

Applicant's Signature: \_\_\_\_\_

Owner's Signature: \_\_\_\_\_



**TOWN OF HOLLISTON**  
**ZONING BOARD OF APPEALS**  
**TOWN HALL**  
**HOLLISTON, MASSACHUSETTS 01746**

OFFICE OF THE  
TOWN CLERK  
HOLLISTON, MASS.

95 MAY 16 AM 9:33

*Henry J. Davis*

8:15 P.M. Petition of Gill Realty Trust, seeking a special permit at 45 Washington St. to allow the Petitioner to utilize a fully-equipped garage on the premises as a repair garage to service the general public. (Indus./AQ1)

May 12, 1995

Re: Application of Gill Realty  
Trust - I, 45 Washington Street

A public hearing on the Application of Gill Realty Trust - I of 45 Washington Street, was held on Wednesday, February 15, 1995, at 8:15 p.m., in the Town Hall. Notice was mailed to all persons required by law and deemed by the Board to be affected by the subject matter of the Application. Notice of the hearing was also published in the MILFORD DAILY NEWS on February 1st and 8th 1995.

**ATTACHMENTS**

1. Application dated December 23, 1994
2. Memo from the Inspector of Buildings, dated January 17, 1995
3. Memo from the Fire Chief, dated December 29, 1994
4. Memo from the Town Administrator, dated January 10, 1995
5. Memo from the Police Chief, dated January 23, 1995

ALL ATTACHMENTS ARE ON FILE WITH ORIGINALS IN THE TOWN CLERK'S OFFICE.

**PRESENTATION AND FACTS**

Brendan Perry, Esq. appeared with Richard J. Gill, Trustee of Gill Realty Trust - I, to present the application. Mr. Gill was seeking a special permit under Use No. 33 in Section III-A of the Zoning By-Law in order to legally operate a repair garage open to the general public at the used car dealership located at 45 Washington Street.

Discussion ensued as to the exact relief sought; specifically whether in addition to a special permit under Use No. 33 the Applicant needed a variance in order to conduct repair garage services in an aquifer district as defined in Section V-L of the Zoning By-Law. The Building Inspector

opined that a special permit under Section I-C.3(b) would be required instead of a variance, on the grounds that in the past there had been some level of garage service available at 45 Washington Street, in which case the application, for aquifer protection purposes, would be regarded as the extension of a nonconforming use. The Applicant contended that a special permit with respect to aquifer protection was not necessary, as the premises had continually been in use for years as a general repair facility.

The Applicant reviewed the terms of the Class II license granted them by the Board of Selectmen dated February 6, 1995, along with Revised Restrictions and Conditions dated January 30, 1995 that accompanied the license. The Applicant agreed to comply with the various conditions, and observed that the use of the existing two-bay garage for repair service to the general public was intended to augment the used car sales and repair business conducted at the site.

In addition, Mr. Joel Carlson from the Conservation Commission commented on the proposed change of use by asking that snow removal on the lot be accomplished in a manner that did not push snow banks into the wetlands at the back of the property, but rather piled them at the opposite end of the property. The Applicant agreed to do so, and also noted that in order to prevent contamination, any cars to be repaired would be parked on the asphalt portion of the lot rather than on its unpaved part.

#### DECISION

The Board first finds that the Building Inspector's opinion that two special permits are needed in this case properly presents the regulatory posture of this application. In addition to the special permit requested by the Applicant under Use No. 33, a special permit for the extension of the nonconforming use - repair service to the public - is necessary. The Applicant's claim that this use has been continuous for decades is unpersuasive. It also is contradicted by Gill v. Stewart, et al., Middlesex Superior Court No. 87-3014 (Decision dated July 6, 1992), in which Judge McHugh concluded "...no reasonable person driving by the property could possibly conclude that any commercial activity of any kind or description whatsoever was taking place on the facility."

That said, the Board finds that it may grant both special permits so long as the Applicant complies with the conditions listed below. The proposed use appears to be in harmony with the intent and purposes of the Zoning by-Law. As the Applicant noted, the site had in the distant past been used as a repair

garage, and it presently is used as a used car lot. The general repair services are intended as an adjunct to the used car business, and the Applicant estimated that these services are unlikely to generate a substantial increase in the traffic volume and activity in the area.

The Board therefore grants the requested special permit to operate a two-bay repair garage to service the general public under Use No. 33 of Section III-A of the Zoning By-Law and in addition grants a special permit under Section I-C.3(b) as the extension of a nonconforming use in an aquifer protection zone by the unanimous vote of those in attendance, namely, Ms. Irving, Mr. Broderick, and Mr. Dellicker, subject however to the following conditions:

1. The Applicant shall comply with the "Revised Restrictions and Conditions" dated January 30, 1995 agreed upon by the Applicant and the Holliston Board of Selectmen which accompanies the issuance of the Applicant's Class II Used Car Dealers License dated February 6, 1995.
2. These special permits are issued to the Applicant and are non-transferrable. They shall expire and be of no effect at such time as the Applicant ceases to operate a used car business at 45 Washington Street, irrespective of whether or not Applicant's annual used car dealer Class II license has then expired or not.
3. There shall be no body work allowed and no work shall be performed outside the building.
4. There shall be no outdoor storage of wrecks, automobile parts, vehicles or equipment which are neither being serviced nor are part of either the garage or car dealership operations.
5. The Applicant shall remedy the Building Code defects set forth in the letter to the Applicant from the Inspector of Buildings, to the satisfaction of the latter.

HOLLISTON ZONING BOARD OF APPEALS

  
Brian C. Broderick, Chairman