

**Holliston Zoning Board of Appeals
Meeting Minutes of June 10, 2020**

Call to Order: The Chairman called the meeting to order at 7:00 p.m. via Zoom. He read the following statement into the record: Pursuant to the Governor's Order suspending certain provisions of the Open Meeting Law M.G.L. c. 30A paragraph 20, as well as the Select Board's Emergency Order dated March 16, 2020, the Zoning Board of Appeals will be using remote participation for this meeting. The audio of this meeting is being recorded and will be posted on the Town's webpage within 24 hours in accordance with the Governor's Emergency Action requirement of keeping the public informed of actions during this meeting. I would ask that all participants remotely attending this meeting please state your name for identification purposes each time you speak throughout the meeting. At this time, a roll call attendance vote will be taken:

Chairman John Love - Present
Jay Peabody - Present
Mark Bush- Present
Elizabeth Dembitzer, Associate - Present

The Chairman noted that it has worked well if people use the Chat function to ask questions.

Approval of Minutes:

On a motion by Mr. Peabody, seconded by Ms. Dembitzer, the minutes of May 20, 2020 were approved as written on a roll call vote.

Public Hearings:

Continued Special Permit Public Hearing – Atty. William Harvey, 799 Washington Street

The Chairman re-opened the public hearing at 7:04 p.m. Atty. William Harvey and Tony Mitri of Gulf Services Inc were present to discuss the petition to operate a self-serve gas station with repairs and construction of a canopy. He reviewed the proposed use and application materials and noted compliance with provisions of the by-law, including Section V-K Village Center Commercial District. He noted that the building was constructed in 1964. He noted that all signage would be compliant with the by-law, lighting would be low intensity and the canopy would be re-designed to include an asphalt-shingled roof.

The Chairman asked for a clarification of proposed circulation for customers as well as delivery vehicles. All deliveries would be off hours with the delivery truck occupying the four proposed customer parking spaces on the south side of the building. Mr. Peabody asked for a copy of any traffic opinion. Atty. Harvey noted that he was simply given a verbal recommendation to limit right hand turns. He agreed to obtain a written report.

Commented [Z1]:

Members requested a rendering of the proposed improvements to the building and new canopy. Gutters will be included in the canopy design. It was clarified that the two garage bay doors are newly installed. Atty. Harvey agreed to work with a design professional to provide the members with additional information.

The Chairman opened the meeting to the public. Neil Lazarro of 1290 Washington Street asked about the operations and the requirement for a Special Permit. Atty. Harvey clarified that the ZBA is the SPGA in the Village Center Commercial District and has the ability to vary the

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dimensional requirements of Section IV-B. He stated that his client was willing to withdraw the canopy component. Mr. Lazarro asked about when the facility closed. Application materials noted 2012. He asked about westbound stacking to turn into the site and pedestrian conflicts with signal changes. He also noted that cars could be face to face at pumps and cars could block the sidewalk. The Chairman noted that parked cars could also pose an issue. He asked that these issues be addressed. Mr. Lazarro stated that all operations previously had been full service and without staffing, traffic management could be difficult. Atty Harvey offered that full service could be an option for his client.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was continued until July 15, 2020 at 7 p.m. on a unanimous roll call vote. Atty. Harvey agreed to provide materials in advance of the next session so that they could be made available to staff, interested parties and members.

Dimensional Variance – Kenneth Fisher, Jr., 181 Ashland Street

The Chairman opened the public hearing at 8:10 p.m. and waived the reading the hearing notice. Kenneth Fisher, Jr., was present to discuss the encroachment of his dwelling into the previously permitted front yard setback (See Dimensional Variance of 2019 at Book) by less than a foot. The second option to this additional relief from the ZBA via variance would be to raise the grade of the yard in order to eliminate the bottom step, creating a mounding to the sidewalk and streetline. The “big foot” supports used present a formidable support system for the stairs and landing.

The Chairman opened the hearing to the audience. No one asked questions or spoke in favor or against the application.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was closed. The roll call vote in favor was unanimous.

Special Permit – Putts & More, 750 Concord Street

The Chairman opened the public hearing at 8:22 p.m. and waived the reading the hearing notice. Attorney Peter Barbieri was present along with Jim Giammarinaro of Rugny Propertieis, LLC and Putts & More, LLC to discuss adding a splash pad to the existing outdoor amusement and recreational facility. The record plan was reviewed. Atty. Barbieri noted the proposed location for the over an area of existing pavement with relocation of the handicapped parking spaces. He noted that the board’s 2014 Special Permit controls business operations with regard to hours of operation. Mr. Giammarinaro clarified that a splash pad is also known as a sprinkler park, with chlorinated water. He clarified that the business provides employment for special needs individuals.

It was clarified that the handicapped parking will be reconfigured and there is a net loss of two spaces to accommodate the splash pad atop the existing pavement. The proposal also includes adjustments to handicapped access throughout the site, installation of a rinse station and equipment shed to the rear of the existing snack shack building.

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The Chairman opened the hearing to the audience. No one asked questions or spoke in favor or against the application.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was closed. The roll call vote in favor was unanimous.

Special Permit – Nice Wheels, Inc., 1490 Washington Street

The Chairman opened the public hearing at 8:30 p.m. and waived the reading the hearing notice. Present with the owner Tony Graceffa was Luiz Porfirio of Nice Wheels, Inc., and Atty. Robert Burr to discuss the proposed wheel service and car detailing facility. A comment from Chris Canney dated June 10, 2020 was entered into the record. It was clarified that the petition is for use of Building #1 on the site, with 28 parking spaces to be located to the front and side of the building. It was also clarified that all operations would occur inside of the building.

Atty. Burr presented a draft overall parking area plan for the planned multi-tenant use of the site. Mr. Bush asked about bay door locations and potential conflicts with vehicles. He also asked about the overall plan for the site and asked about denoted snow storage and landscaping. Ms. Sherman noted a prior Planning Board Special Permit and Site Plan Review approval for the overall site.

Mr. Porfirio clarified the proposed hours of operation. Mr. Porfirio stated that 9 am-6 pm Monday through Saturday would be his preference. Ms. Dembitzer asked about potential noise, lighting and protections for Upper Charles Trail (UCT) users. Mr. Porfirio reiterated that all functions occur inside the building. Mr. Graceffa noted that an 8' stockade fence is shown on the plan abutting the UCT property. It was noted that no signage package has been developed for the site.

The Chairman opened the hearing to the audience. David Franco of 45 Summer Street asked about installation of buffer trees noted on the plan of record. Mr. Graceffa noted that after paving, landscaping would be finalized.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was closed. The roll call vote in favor was unanimous.

Deliberations:

Dimensional Variance – 181 Ashland Street

Findings of Fact

Literal enforcement of the provisions of the by-law would involve substantial financial hardship to the Petitioner owing to circumstances relating to topography of land and structure on the non-conforming, narrow lot previously the subject of a variance in July 2019. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the by-law. Alternatives include removal and alteration of the front step and landing or re-grading the yard to eliminate the bottom step. The relief requested is de minimus. Safe, building code-compliant ingress and egress are achieved with the current construction and placement of the structure on the lot.

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Zoning Board Vote

The Board's vote to approve the Petitioner's Dimensional Variance application for relief under Sections I-C (3.2) and VI-D (3) for property described and located at 181 Ashland Street was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	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 and Section VI-D of the Holliston Zoning By-Laws. The copy of the decision to be filed must contain a certification 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. The construction denoted on the record plan entitled "Final As-Built Plan of Land" prepared by Colonial Engineering and dated April 23, 2020 depicts the approved relief for the construction to extend no closer than 28' to the front lot line.

Special Permit – Putts and More, 750 Concord Street

Findings of Fact

The Board reviewed the application materials and testimony provided. In accordance with the provisions of Section III (D)(17) and VI-E Special Permit Granting Authority of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: The proposed use is in harmony with the general purpose and intent of the by-law. The Board as Special Permit Granting Authority has considered the proposed use in relation to the site, as well as the adjacent uses and structures, and finds that there are no significant adverse effects to the neighborhood or the Town, considering the regulations, restrictions and criteria of sub-section VI-E(5). The proposed alteration is not substantially more impactful than the existing outdoor recreational uses subject to prior Special Permits granted by the Zoning Board.

Zoning Board Vote

The Board's vote to approve the Petitioner's Special Permit application for relief under Section III (D)(17) for property described and located at 750 Concord Street was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	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 three (3) years unless exercised per MGL, c. 40A, s. 9 and Section VI-E(6) of the Holliston Zoning By-Laws. The copy of the decision to be filed must contain a certification 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. A landscaped buffer strip shall be maintained along the southerly and westerly sides of the property 100 feet from all residential zoning districts as shown on the Aerial Photo (See photo in hearing record). This buffer area shall not be used in connection with the proposed outdoor recreational use except for the golf operations that exist and are shown on the Aerial Photo. The area shall be maintained as landscaped open space designed to protect abutting residentially-zoned areas from light, noise and other impacts of the proposed use. A fifty foot buffer area on the northerly side of the site west of Meeting House Path may contain the workout area and picnic tables as depicted for the Plan. In the event that access to the residential land to the west is actually constructed, the picnic tables and workout area shall be relocated so as not to obstruct the actual access.
3. Hours of operation are to be within the period from 9:00 AM to 12:00 AM for golf uses, the splash pad and snack shop uses, 6:30 AM to 12:00 PM for the farmers market, and 9:00 AM to 9:00 PM for batting cages and fitness workout area.
4. Any food service provided on the site shall be as an accessory use to the permitted facilities and shall not be designed to attract other patrons. No indoor seating shall be provided, nor shall food be prepared or packaged for off-site consumption. The use of the picnic area for eight picnic tables is allowed.
5. Sufficient parking spaces as depicted on the record plans prepared by DGT Associates Surveying & Engineering dated April 17, 2020 shall be provided for employees and visitors.
6. All lighting shall be directed into the site and designed to avoid direct eye contact with passing traffic and abutting properties. Light spillover onto residential properties shall be minimized to the extent possible.
7. Any loud speakers, for messages and/or background music, shall be directed into the site and maximum sound levels at the lot line of all adjacent or nearby residences shall not exceed 50dBA.
8. The premises shall be maintained so as to be visually unobtrusive and neat at all times.
9. The Special Permit is issued solely to the Applicant and is not transferable or assignable.

Special Permit – Nice Wheels, Inc., 1490 Washington Street

Findings of Fact

The Board reviewed the application materials and testimony provided. In accordance with the provisions of Section III (E)(4), Motor Vehicle Uses and VI-E Special Permit Granting Authority of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: The proposed use is in harmony with the general purpose and intent of the by-law. The Board as Special Permit Granting Authority has considered the proposed use in relation to the site, as well as the adjacent uses and structures, and finds that there are no significant adverse effects to the neighborhood or the Town, considering the regulations, restrictions and criteria of sub-section VI-E(5) and as conditioned below.

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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 1490 Washington Street was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	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 three (3) years unless exercised per MGL, c. 40A, s. 9 and Section VI-E(6) of the Holliston Zoning By-Laws. The copy of the decision to be filed must contain a certification 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. Approval of an amended site plan delineating and assigning parking spaces to tenants based on their demands is required prior to occupancy.
3. Hours of operation shall be limited to 9:00 a.m. to 6:00 p.m. Monday through Saturday.
4. No outdoor storage of materials or equipment or active outdoor operations are authorized by this permit.

0 Birchwood Road (Dimensional Variance)

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner and his professional engineer, Holliston's Inspector of Buildings, and parties of interest as entered into the record. In accordance with the provisions of Holliston Zoning By-Law Sections VI-D(3) Variances and IV-B Schedule of Intensity Regulations and MGL c. 40A, the Board finds the following: The Board finds generally that the applicant did not provide sufficient evidence to meet its burden that the hardship was unique; was not willful and self-created; and was related to soil condition, shape, or topography of such land or structures, especially affecting such land and structures but not generally affecting the zoning district in which it is located. Unique conditions simply do not exist with respect to topography, soil conditions or the shape of the lot.

Additionally, in that the variance was necessitated by the applicant's own decision to propose a 40' x 34' single family dwelling with detached 24' x 28' garage, any alleged financial hardship is self-created. The parcel has not been assessed as a building lot and was purchased from the community at auction for a nominal amount. Additionally, the Board found that petition would substantially derogate from the intent and purpose of the by-law as the requested relief is not de minimus. The lot was part of an approved subdivision but lost its zoning protection over time and the underlying zoning district was changed as well.

Zoning Board Vote

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The Board's vote to DENY the Petitioner's Dimensional Variance application for relief under Section IV-B for property described and located at 0 Birchwood Road was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

Adjournment: The meeting adjourned at 9:40 p.m. on a motion made and duly seconded with all in favor on a roll call vote. The next meetings were scheduled for June 17th and 24th as well as July 15th.

Respectfully submitted,

Karen Sherman
Town Planner

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