

**Town of Lenox
Zoning Board of Appeals
Meeting Minutes
Wednesday March 20th 2024
Town Hall Land Use Room/ Zoom
7:00 PM**

APPROVED APRIL 17TH 2024

Members Present: Robert Fuster Jr- Chair (RF), Shawn Leary Considine (SLC), John Simons (JS), Arthur Oliver (AO)

Members Virtual: Kim Duval (KD)

Members Absent with Notification: Al Harper (AH)

Others Present: Shannon Palestino, Carrie Ann Vincent, Kate McNulty-Vaughan, Jim Scalise (Jim), Thomas Hamel, Diane Thorson, Jeff Lynch

Others Virtual: Clarence Fanto

Staff: Neena Martino

Meeting called to order by RF at 7:00 pm

- 1. 7 School Street** – special permit under section 9.2.3 of the bylaw to convert an existing structure on the property into an accessory dwelling unit

The public notice was read for the record. Attorney Lynch presented the petition to the board, on behalf of property owners Diane and Jerome Thorson. They intend to convert an existing shed on the property into an accessory dwelling unit for either themselves or their adult daughter to live in. The necessary upgrades will be undertaken to turn the shed into a dwelling, including water and sewer service, heat and foundation frost wall. The primary structure on the property is a two-family dwelling, with the Thorson's and their daughter on one side and a full-time renter on the other. The existing shed will not be expanded in any way and will fall well under the ADU maximum requirement of 800 square feet.

RF questioned whether the bylaw allows for 3 units on a piece of property, as this is the first he's seen where an ADU is proposed on the same parcel as a multi-family home. JL answered that he believes it does, as there is not any kind of specific prohibition to it, and multi-family homes are allowed in that district as it is.

SLC brought up the definition of an ADU, which says that it is a self-contained dwelling unit in an owner-occupied single-family home and she feels like the petitioner might actually need some sort of use variance, because the definition specially calls out single-family homes. JL said that there are technically no such thing as single-family neighborhoods, as most allow for multi-family, so the definition is ambiguous and difficult to keep track of references between sections; he felt that interpretation is very limiting for people to have the ability to have ADUs on their properties. Kate McNulty-Vaughan spoke on the matter, for herself and not as a representative of the Planning Board. She felt that if there is an

existing building that can be made into housing, the need is so great right now, that it becomes a controlled factor. She explained the Planning Boards process when writing bylaws and how they tend to be fairly restrictive at first, and sometimes they need to amend wording later on so it is not so restrictive, which she believed is the case here.

There were no members of the public present wishing to speak and no correspondence. A motion was made by KD to close to public hearing, seconded by JS. All were in favor.

The board agreed that there would be no negative impacts to the Town by permitting this application and the standards for granting the special permit are met. They also agreed that the Planning Board should revisit the definition of ADUs.

Motion made by SLC to grant the petition, seconded by AO. All were in favor.

SLC proposed a condition that this ADU will not be permitted to be a short-term rental, seconded by AO. SLC, JS, AO and RF were in favor, KD abstained.

RF requested the applicant submit proposed findings.

2. 475 Pittsfield Road – special permit under section 5.2F17 of the bylaw for a change of use from a retail store to an automobile sales lot with office space

The public notice was read for the record. Jim Scalise from SK Design Group presented the project and was joined by Thomas Hamel, the attorney for 475 Pittsfield Road LLC. Jim explained the applicant seeks to change the use from that of a retail store to a car sales lot, but that the only changes to the lot will be some pavement painting to reorganize the internal traffic flow and some minor landscaping. RF asked if they plan to expand the parking lot; Jim stated they are not proposing any expansion to the paved area on the lot. He explained this is an adaptive re-use of a building containing a retail store that is closing regardless, the only change to the building itself will be a garage door in the rear.

SLC asked how they plan to avoid people crossing route 7 to get to the Mazda dealership. Jim answered that this location will be completely separate from the Mazda dealership and will only be selling used cars, no new Mazda cars will be at that lot. He said, as he understands, the sales team will coordinate vehicles for customer appointments to avoid anyone having to cross the street.

The board questioned the exterior lighting on the property; Jim answered that the current lights are not dark-sky complaint but that they can be retrofitted with a cut off style, downward facing fixture. His suggestion was that the applicant improve the existing lights, but confirmed they will not be adding any more.

SLC asked if the two properties will be signed differently, so that people are aware that one lot is for used cars and one is for new cars; Jim answered that they definitely will have signs to distinguish the properties.

KD commented that the Planning Board should take the allowance of auto dealerships in this zone under consideration, as Lenox seems to be slowly becoming the Pittsfield auto mile.

There was no correspondence submitted. Carrie Ann Vincent of 120 Roaring Brook Road spoke in regards to Yankee Candle, she is the manager of the store but was speaking as a resident. She stated as far as she was aware, the business was not planning to close prior to this. Attorney Hamel said that the property is currently under contract and Yankee Candle representatives have authorized and signed the application of 475 Pittsfield Road LLC.

Motion made by SLC to close the public hearing, seconded by KD. All were in favor.

The board agreed that the application meets the standard for special permit and site plan review. They also agreed that it is a shame Yankee Candle is closing and hope they can find a new location nearby.

A motion was made by SLC to grant the special permit, seconded by JS. All were in favor.

A motion was made by SLC to grant the site plan approval, seconded by AO. All were in favor.

SLC proposed a condition that the project site be limited to two pole-mounted lights and the fixtures be replaced with dark-sky compliant fixtures. All were in favor.

SLC proposed a condition that the sign at the property distinguish its purpose as a used car dealership from that of the Mazda dealership across the street. RF seconded. SLC, KD, AO and RF were in favor, JS abstained.

RF asked about the construction schedule for this property, as the construction across the street has not adhered to the condition placed on it during that hearing. Jim answered there will not be much construction at the property, and should only take a couple days. RF proposed a condition that there be no outdoor construction on the weekend. SLC seconded. All were in favor.

RF requested proposed findings from the applicant.

3. Approval of Minutes – March 6, 2024

A motion was made by RF to approve the minutes of March 6, 2024. All were in favor

A motion was made by JS to adjourn the meeting, seconded by SLC. All were in favor.