COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED
2011 MAR 17 P 3:23
CITY CLERKS OFFICE
GARDNER, MA

NAME: Holly A. Mercier
ADDRESS: 14 Mill Street, Gardner, MA 01440

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

14 Mill Street

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

BOOK 33530 PAGE 298

ON APPLICATION DATED February 16, 2011 FOR A **Variance** TO:
Operate a retail business at 14 Mill Street, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 4, Use Regulations, 415 Table of Uses #35, in Single Family Residential I Area, of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its March 15, 2011 meeting voted unanimously to grant with conditions a Variance to Holly Mercier to operate a retail business at 14 Mill Street, Gardner, MA.

The Public Hearing was held on March 15, 2011. The Applicant indicated that this home business is the production of custom t-shirts that are proposed to be sold via the internet. The equipment used in the business is typical office type equipment, computers, printers and such and necessary hardware to affix the designs to the t-shirts. The Applicant indicated that this is a start-up business and will take place within the home with no employees but the Applicant and perhaps a family member to assist. No retail sale of t-shirts is contemplated at the home. The shirts would be produced and mailed via USPS or other common carrier.

The Board during its deliberations discussed the type of business proposed and believes the proposed use is similar to typical home type occupations that are permitted under the Ordinance.

The granting of the Variance does not create or aggravate a safety hazard. The Applicant completes the work for the business within the existing home. No retail sales from the home are planned. A condition of the granting of this Variance addresses further this issue.

The granting of the Variance does derogate from the intent of the Zoning Ordinance in that a retail business is not permitted in the district which the home is located. The Variance is for use of a small portion of the property for a business which the Board believes is similar in scope and intent of Home Occupations as found in Section 830 of the Ordinance and permitted in residential districts.

Whether a hardship exists with regard to shape, topography or soil conditions of the property is not applicable to this application as the Applicant seeks a use Variance. No hardship related to shape, topography or soil conditions exists.

The Variance is granted with the following conditions:

- Business is restricted to internet or on-line business only
- Production is limited to 400 t-shirts per month
- No retail sales at the premises. Transaction via internet and common parcel delivery.
- T-shirts only

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 17th DAY OF March, 2011

Raymond F. LaFond dk Randall W. Heglin Michael D. Gerry dk

Raymond F. LaFond, Chairman Randall W. Heglin, Clerk dk Michael D. Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on March 17, 2011 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

April 7, 2011
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk