

COMMONWEALTH OF MASSACHUSETTS  
CITY OF GARDNER  
ZONING BOARD OF APPEALS  
**DECISION**

RECEIVED  
2013 OCT 1 PM 1 58  
CITY CLERK'S OFFICE  
GARDNER MA

NAME: Rebecca Wilson  
ADDRESS: 130 Templeton Road, Hubbardston, MA 01452

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:  
**28 Central Street**

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

**BOOK 50582 PAGE 369**

ON APPLICATION DATED August 20, 2013 FOR A **Variance** TO:  
Operate a dance school at 28 Central Street (Parcel R27-17-13), Gardner, MA. (Denied zoning approval by the Building Commissioner because it does not comply with Section 7 Off Street Parking & Loading Standards, 752 Schedule of Parking uses (p) in General Residential 3 zoning district of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its September 17, 2013 meeting voted unanimously to grant a Variance to Rebecca Wilson to operate a dance school at 28 Central Street, Gardner, MA.

The Public Hearing held on September 17, 2013.

The Board, at its September 17, 2013 meeting, granted a Use Variance to the Applicant to operate a Dance School at the property upon which this Variance for parking relief is contingent.

The Applicant proposes to conduct a dance school at the 28 Central Street location. The building in question is a two-story building, the main floor fronting on Central Street which has historically housed a convenience store, a restaurant and a restaurant with bar and function rooms. The lower level which fronts on Chestnut Street historically housed miscellaneous small businesses such as barbers, hair salons, and laundromat and other convenience retail to support the neighborhood.

The Applicant proposes to utilize the main floor as a dance studio. The Applicant currently has a dance studio located in downtown on Parker Street and has outgrown the current location. Relocating to the Central Street address will provide additional needed square footage to permit the business to grow and allow multiple sized classes concurrently.

There is no current proposed use for the lower level at this time.

The proposed use will occur entirely within the existing building. The business will operate within normal business hours. Currently, the business operates at various hours daily per week, ranging between the hours of 9AM and 8:15PM. The use will be significantly less detrimental and disruptive to the neighborhood than the past uses of the building where patrons of the restaurant and bar were disruptive to the neighborhood.

The building encompasses essentially the entire lot thereby affording no real opportunity for on-site parking. The property abuts a municipal parking lot with 19 spaces. There is on street parking permitted on Central Street, Chestnut Street, and Woodland Avenue. The Applicant provided parking space counts that indicated that a total of 78 spaces are available in the immediate vicinity, with 96 in the general area generally available. In the application, the anticipated class sizes are expected to be between 3 and 20 students. There are also other parking demands in the area such as the Congregational Church across the street, the Masonic Lodge on the corner of Chestnut and Central Streets, the American Legion, and the Gardner Museum, in addition to private residences and multifamily apartments. The Applicant's business is currently located downtown and similarly competes with other uses for parking, without known complaints. The Board believes the parking demands of the proposed approved use will be compatible with other parking demands in the area.

The granting of the Variance for parking relief does not create or aggravate a safety hazard. The Board believes that adequate municipal off-street parking and on street parking exists in the neighborhood to accommodate the use as granted by Use Variance.

The granting of the Variance for parking relief does derogate from the intent of the Zoning Ordinance in that there is no proposed parking on the property. The property abuts a municipal parking lot on the site of the former Town Hall. There is also adequate on-street parking available in the area. Parking is only needed during business hours, i.e. no overnight parking is required. A strict adherence to the Ordinance would create an undue hardship upon the Applicant.

There is a clear hardship related to shape, topography or soil conditions of the property. Due to the size of the lot, adequate parking on the lot is not feasible. The Board recognizes that this lot existed prior to the adoption of the Zoning Ordinance. In this area, much like in other areas of the City, the lot precludes on-site parking. A literal enforcement of this section of the Ordinance would impose a hardship upon the Applicant in that the lot offers no possible locations for parking.

The Variance is unanimously granted without conditions.

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 1st DAY OF October, 2013

*Randall W. Heglin* dx     *Michael D. Gerry*     *Anthony J. Asmar* dx  
Randall W. Heglin, Acting Chairman     Michael D. Gerry, Clerk     Anthony J. Asmar, 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 OCTOBER 1, 2013 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.

OCTOBER 19, 2013  
Dated

Alan L. Agnelli  
Alan L. Agnelli, City Clerk

