

COMMONWEALTH OF MASSACHUSETTS  
CITY OF GARDNER  
ZONING BOARD OF APPEALS  
DECISION

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2014 DEC 23 PM 12 12

CITY CLERK'S OFFICE  
GARDNER, MA

NAME: Paul B. and Ann C. Lehoux  
ADDRESS: Ashburnham, MA 01430

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

157 West Street  
Parcel ID M27-23-28

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS: **Book 26506, Page 383.**

ON APPLICATION DATED October 20, 2014 FOR A **SPECIAL PERMIT TO:** Operate a convenience retail store at 157 West Street, Gardner, MA, parcel ID M27-23-28, located in Zoning District General Residential #(GR3) was denied as it does not comply with Chapter 675, Article 410, A & B of City Code of Gardner. The "Table of Uses" states that the use requested requires a "Special Permit."

The Gardner Zoning Board of Appeals at its December 15, 2014 meeting voted unanimously to grant, with conditions, a Special Permit under Section 675-410 for the operation of a convenience retail store.

The Public Hearing was held on November 18, 2014. A site visit was held on December 6, 2014 at which time the Board members viewed the property and the proposed project.

The Applicants have operated a retail photography business at this location since 1998. They are now looking to retire and be able to convert the property to a convenience store for a pending sale.

At the Public Hearing, the applicant addressed the specific criteria for a Special Permit as outlined in Section 675-1170 of the City Code and are as summarized below:

1. The proposed use is compatible with the General Residential use of the neighborhood. The property has been a retail establishment for several decades. There are other retail establishments in the neighborhood. Within the vicinity of this property there is a dental office, restaurant, used car dealership, health facility (gym), social club (VFW) and an auto body shop.
2. The proposed use provides for safe vehicular and pedestrian traffic. The requirement for parking is 4 vehicles and there is adequate space for 7, including employees. Its former use as a donut store generated more than the predicted traffic/customer flow.
3. The proposed use provides adequate facilities for sewerage and refuse. The prospective owner stated that he will have a dumpster located to the rear of the property for refuse and the property is connected to city municipal services.
4. The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians. There will be no external storage of any products or materials. All parking spaces will be clearly marked and the property will have improved lighting, thus improving safety.
5. The operation of a retail convenience store is in harmony with the general purpose of the intent General Residential zoning district. See #1 above.
6. A convenience store will not have a detrimental effect on City Services. The property is connected to city services and will positively impact the city tax base.
7. The improvement and upgrade of one property in a General Residential should be consistent with the City's Master Plan. It is consistent with the existing plan.


The Special Permit is granted with the following condition.

- The property will be policed for litter on a daily basis.
- The dumpster is to be located at the rear of the building and will be secured and screened, from view.
- The parking spaces are to be lined and clearly marked per city code before an occupancy permit is issued. If not completed due to weather, then the lining must be completed no later than April 30, 2015.
- The existing sign and pole is to be removed so as to not interfere with parking and traffic flow. Removal of the pole and base will improve traffic flow. It must be removed not later than April 30, 2015.


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 23 DAY OF December, 2014

Raymond F. LaFond   
Raymond F. LaFond, Chairman

Michael Gerry   
Michael Gerry, Clerk

Anthony Asmar   
Anthony 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 DECEMBER 23 2014 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.

JANUARY 20 2015  
Dated

Alan L. Agnelli  
Alan L. Agnelli, City Clerk