



Town of Leicester PLANNING BOARD

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SPECIAL PERMIT DECISION ORDER OF CONDITIONS

Date: September 6, 2016

File Number: SP2016-02

Applicant: AA Transportation Co., Inc.
Attn: Ron Ernenwein, President
605 Hartford Turnpike
P.O. Box 639 MO
Shrewsbury, MA 01545

Owner: The Estate of Ero A. Sundstrum
Attn: Karen Girard, Authorized Agent
100 South Main Street
Leicester, MA 01524

Proposed Use: School Bus Dispatch (Trucking Depot §3.2.05.3), Two-Family (§3.2.02.2),
Mixed Use Development – Horizontal Mix (§3.2.02.14)

Location: 100 South Main Street
Assessors Map 21, Parcel A4

Zoning: Business (B)/Water Resources Protection Overlay District

Deed Ref.: Book 12636/Page 20

Water/Sewer: Leicester Water Supply District (sewer)/Private well (water)

Subject: Application for Special Permits for a bus dispatch (trucking depot), two-family dwelling, and mixed-use development (horizontal mix)

The decision of the Planning Board on the above-referenced application is as follows:

PROCEDURAL HISTORY:

1. On June 20, 2016, an application for a special permit in accordance with §3.2.03.5, §3.2.02.2, and §3.2.02.14 of the Leicester Zoning By-laws was submitted to the Leicester Planning Board. All application materials are on file with the Planning Board. The Board's decision is based on the following submittal(s) as well as the documents described in paragraph 3 below:
 - A. Application for Special Permit (Application form)
 - B. Site Plan (1 sheet), entitled Site Plan Showing Proposed Parking Layout at 100 South Main Street in Leicester, MA, prepared by Guerriere & Halnon, Inc. and dated June 7, 2016, revised through August 22, 2016.
2. The Planning Board held a public hearing on the application on August 2, 2016. The hearing was continued to August 23, 2016 and September 6, 2016 to allow the Applicant to address comments from the Board and other Departments. At each hearing date, opportunity was

given to all those interested to be heard in favor or opposition to such application. The hearing was closed on September 6, 2016.

3. During the review process, the following documents, exhibits and plans were submitted to the Planning Board:
 - A. The plans and submittals referred to above;
 - B. Comments from Quinn Engineering dated July 20, 2016 and August 27, 2016.
 - C. Written comments from the following Town Boards and Departments: Town Planner (7/11/2016), Historical Commission (6/22/2016), Building Inspector (7/25/2016), Fire Department (7/26/2016 & 8/25/2016), and Police Department (7/22/2016), and Cherry Valley & Rochdale Water District (8/31/2016).
 - D. Letter from Guerriere & Halnon, Inc., undated, labeled W-309, received August 22, 2013 (response to comments).
 - E. AA Transportation Inc. Transportation Contingency and Spill Containment Program, dated October 2015.

FINDINGS

1. The project is located on a parcel in Business (B) District, using an existing building and associated parking area (former site of Inland Divers). The project will involve 590 square feet of new paving to expand emergency access, and removal of 637 square feet of pavement (to be replaced with landscaping), for a net reduction of impervious area (47 square feet). The site is served by the Leicester Water Supply District for sewer; water is provided via private well. The applicant proposes the following uses on site:
 - A. Bus Dispatch Center with outside storage of buses (special permit required under §3.2.05.3, Trucking Depot). The applicant proposes parking of 14 buses. These buses will be used primarily to serve the Leicester school department.
 - B. Residential uses: 1) Use of an existing vacant 2nd floor 2 bedroom apartment above the proposed retail area and 2) use of existing vacant 2-story unit with 3 bedrooms (special permits required under §3.2.02.2, Two-family dwelling and §3.2.02.14, Mixed Use Development – Horizontal Mix.)
 - C. Retail space (800 square feet): allowed by-right with sufficient parking

The existing pool area is proposed to be closed off and potential uses for this portion of the building are not included in the current application.

2. Parking for the proposed site is summarized below:

Use	Spaces Provided
Residential (2 units)	4
Retail (800 s.f.)	4
Trucking Depot (14 buses, 16 employees)	14 bus, 8 employee spaces (total 22)
Total Parking	30 spaces

The Board finds parking to be adequate to serve the currently proposed uses on site.

3. The project site is also within the Water Resources Protection Overlay District, which limits the amount of impervious surface on-site. The applicant proposes no increase in the amount of impervious area on the site. No fueling or repair of vehicles is proposed (this activity is prohibited in the Water Resources Protection Overlay District).

4. MGL, Chapter 40A, §9 requires that the Board find uses allowed by special permit to be “in harmony with the general purpose and intent of the ordinance or bylaw.” The Board finds that this project is in harmony with the purpose and intent of the Bylaw.
5. In accordance with Section 5.8.04.B. of the Leicester Zoning Bylaw, the Planning Board may grant a special permit in the B district if the following criteria are met:
 - 1) **Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual;**
The Board finds that the proposed project meets this standard as conditioned herein.
 - 2) **The proposed use shall not overload the capacity of water and sewer systems, stormwater drainage, solid waste disposal facilities, and other public facilities;**
The Board finds that the project meets this standard as conditioned herein. Sewer service is available from the Leicester Water Supply District; water is provided by private well. Other utilities will be provided by the owners at the owners’ expense.
 - 3) **The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;**
See comments under #2 above regarding sewer. Trash will be picked up by private contractor.
 - 4) **The project shall comply with all applicable environmental laws and regulations;**
The Board finds that the proposed project meets this standard as conditioned herein.
 - 5) **The proposed project shall be consistent with Leicester’s Master Plan; and,**
The project is consistent with Leicester’s Master Plan, which encourages the reuse of existing structures.
 - 6) **The project shall comply with B District Site Development Standards.**
The Board finds that these standards are inapplicable as the proposed project does not involve new construction of a non-residential use, expansion of more than 25% of the existing non-residential use, or an increase of more than 10 parking spaces.

DECISION:

In view of the foregoing, the Planning Board voted at its meeting of September 6, 2016 to grant approval of the Special Permit. As used in this decision, the term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Planning Board. The term “Town” shall mean the Town of Leicester, Massachusetts. Unless otherwise indicated herein, the Board may designate an agent or agents to review and approve matters set forth herein. Approval by the Planning Board shall not be construed as approval from any other board, official or agency that is needed regarding permitting for this project. The Planning Board’s approval is subject to the conditions and waivers contained in this Order of Conditions, below.

WAIVERS:

The Planning Board agrees to accept the plans and related materials as is and to waive some provisions of Planning Board requirements since this is reuse of an existing site, including the following:

- Elevation Plans
- Drainage report

CONDITIONS

Pre-Construction

1. Prior to the commencement of authorized site activity, the Applicant shall provide to the Planning Board Office the name, address and business phone number of the individual who shall be responsible for all construction activities on site.
2. Prior to the issuance of a building permit, all required federal, state, and local permits and licenses for the construction of the proposed project which is the subject matter of the building permit shall be obtained and presented to the Building Inspector.

General

3. Final design and construction shall be in substantial conformance to the plans submitted to the Planning Board and this Order of Conditions. No substantial corrections, field modifications, additions, substitutions, alterations, or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board, which in its sole discretion, may determine such substantiality. Any requests for substantial modifications shall be made to the Planning Board for review and approval and shall include a description of the proposed modification, reasons the modification is necessary and supporting documentation.
4. Unauthorized deviations from the approved plan may result in the Planning Board seeking the issuance of a Cease and Desist Order until the deviation is addressed. Violation of any condition contained herein or failure to comply with the approved plan shall subject the Applicant to a zoning enforcement action in accordance with the remedies set forth in M.G.L. c. 40A.
5. Construction on the site must be started or substantial activity commenced by September 6, 2017 (1 year of the date from the date of approval). Construction, once begun, shall be actively and continuously pursued to completion. The deadline to complete construction is September 6, 2018 (2 years from the date of approval). These deadlines may be extended at the discretion of the Planning Board, for good cause, and upon a written request from the applicant prior to the expiration of the applicable deadline. If the time period for commencement or completion has elapsed without extension, the rights granted by this special permit shall terminate.
6. Litter and debris in the parking lots, landscaped and buffer areas shall be removed regularly to maintain a neat and orderly appearance.
7. The use will not result in any undue disturbance to adjoining property owners or to the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.
8. All travel lanes and parking areas shall remain accessible and clear of snow year-round. In such instances where snow storage areas are not sufficient to accommodate heavy snow, the Applicant shall remove snow off site to ensure that all travel lanes and parking areas are accessible.
9. The Applicant shall comply with the provisions of §3.2.07 (SIGNS) of the Leicester Zoning Bylaws, and apply for the appropriate permits for the proposed signage.
10. The Applicant shall be responsible for maintenance of the stormwater management system. In the event that the Applicant, its successors, or agent fails to maintain the stormwater management system in accordance with the operation and maintenance plan, the Town may

conduct such emergency maintenance or repairs, and the Applicant shall permit entry onto the Property to implement the measures set forth in such guidelines. In the event the Town conducts such maintenance or repairs, the Applicant shall promptly reimburse the Town for all reasonable expenses associated therewith; if the Applicant fails to so reimburse the Town, the Town may place a lien on the property to secure such payment.

Project-Specific Conditions:

11. Repair or fueling of vehicles on-site is prohibited.
12. Normal hours of Operation for the bus dispatch office shall be 5AM – 6PM Monday through Friday. Normal hours of operation for bus service shall be 5AM – 6PM, with exceptions for special contracted use (e.g. field trips, sporting events, and chartered events). Normal hours for retail shall be 8AM – 8PM seven days per week. The Planning Board may modify hours of operation upon the written request of the Applicant, with at least thirty (30) days' notice.
13. The existing pool space shall not be used for any commercial activity that requires additional parking spaces without an amendment to this special permit that fully addresses adequacy of parking for all uses on site.
14. If exterior lights are proposed, they must be shown on a plan to be reviewed by the Town Engineer to ensure there will be no glare on abutting properties or Route 9.
15. The Applicant shall install a berm across the south and east sides of the parking area to prevent runoff to the rear of the property.

Construction

16. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction on exterior features shall not commence on any day before 7:00AM and shall not continue beyond 7:00PM; provided, however, that such construction shall not commence on Saturday before 8:00AM and shall end at 3:00PM. There shall be no construction on any Sunday or state or federal legal holiday.
17. Members or agents of the Planning Board shall have the right to enter the site at reasonable times to gather all information, measurements, photographs or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board entering onto the site for these purposes shall comply with all safety rules, regulations and directives of the Applicant and the Applicant's contractors.
18. Sediment tracked onto abutting public or private ways from construction activities shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.

Occupancy

19. No final certificate of occupancy for the building shall be issued until all site work and other requirements of this approval have been completed to the satisfaction of the Planning Board, unless adequate security has been provided, reasonably acceptable to the Board, to ensure such completion. Any such performance guarantee shall be approved as to form by the Board or its designee.
20. If there are field changes from the approved site plans referenced above, the Board may require As-Built plans showing such changes prior to the final certificate of occupancy. No

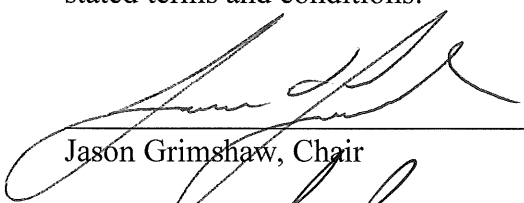
final certificate of occupancy shall be issued until the Planning Board or its agent confirms that all improvements or alterations substantially comply with the approved Site Plan.

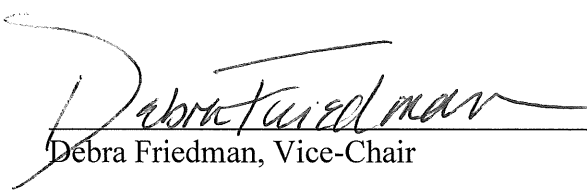
Approval by the Planning Board shall not be construed as approval from any other board, official or regulation that is needed regarding permitting for this project.

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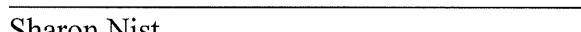
RECORD OF VOTE

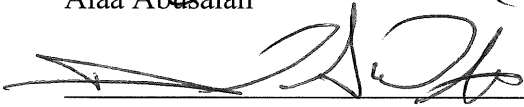
The Board vote was 4 in favor of approval 1 opposed. The following members of the Planning Board vote to approve a Special Permit for the proposed project, subject to the above-stated terms and conditions:


Jason Grimshaw, Chair


Debra Friedman, Vice-Chair


Alaa Abusalah


Sharon Nist


David Wright

APPEALS

Appeals, if any, shall be made pursuant to M.G.L., Ch. 40A, §17 and notice of appeal shall be filed within 20 days after the date of filing of this notice in the office of the Town Clerk.

Copy of Decision sent to:

<i>Applicant*</i>	<i>Building Inspector</i>	<i>Police Department</i>
<i>Owner</i>	<i>Quinn Engineering</i>	<i>Fire Department</i>
<i>Town Administrator</i>	<i>Assessors Office</i>	<i>Highway Department</i>
<i>Conservation Commission</i>	<i>Applicable Water District</i>	<i>Applicable Sewer District</i>
<i>Historical Commission</i>	<i>Board of Health</i>	<i>Applicant Engineer</i>
<i>Applicant's Attorney (where applicable)</i>		

* by certified mail

Notice of Decision mailed to:

"Parties in Interest" (abutters & Planning Boards of abutting Towns)