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THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF LUNENBURG  
ZONING BOARD OF APPEALS

April 6, 2016

**Certificate of Granting a Special Permit for Dimensional Variation**

Special Permit for dimensional variation was granted to Douglas Jackson, 93 Lancaster Road, Shirley, MA 01464 affecting the rights of the owner with respect to land and buildings located at **436 Massachusetts Avenue, Lunenburg, MA 01462** under the Lunenburg Protective By-Law Section 8.3.2.1.4). Recorded in Worcester Northern District Registry of Deeds, Book 7508, Pages 267, as described in plans submitted with the petition. The property is currently owned by 436 Mass Ave Realty Trust, 114 Chestnut Street, Lunenburg, MA 01462. Assessors Map 73-9,

The petitioner was seeking a Special Permit to use the property located at 436 Massachusetts Avenue, Lunenburg, MA as a single family home that is currently located in the limited business zoning district. The subject property was formerly a real estate office.

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit for dimensional variation has been granted pursuant to Protective By-Law of the Town of Lunenburg.

Board Members present: Raymond Beal, Chairman, Alfred Gravelle, James Besarkarski, Hans Wentrup, Paul Doherty and Donald F. Bowen (present but not voting).

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

**DISCUSSION**

Chairman Beal opened the public hearing and explained the meeting procedure to the audience. Lisa Normandin, Board Secretary read the application into the public record. A memo was submitted to the Zoning Board from James Garreffi, Agent, with the Nashoba Associated Board of Health requiring that a new septic system is installed and subject to a deed restriction limiting the building to a two bedroom dwelling.

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Mr. Beal indicated that the property card that was submitted with the application was incorrect in that it listed the property in the Limited Business zoning district, it is in the Commercial zoning district.

Mr. Jackson intends to use the property at 436 Massachusetts Avenue as his primary residence and will maintain the landscape of the property. Jack White, 13 Jacklyn Drive, Lunenburg and current owner of the property spoke in favor of the applicant. Mr. White has used the property for the last twenty seven years as his real estate office and now wants to sell the property as a single family home. There have been no changes to the interior of the property as it still maintains a full kitchen, two bedrooms, living room and bath. Mr. White has known the applicant for many years and says that he will take good care of the property.

Paul Doherty asked Mr. Jackson is he will be renting or purchasing and is he willing to abide by the two bedroom restriction. Mr. Jackson said he is purchasing the property and that the two bedroom limit is not an issue.

James Besarkarski asked if the property could be connected to municipal sewer. Mr. White said that unfortunately the sewer line does not extend that far on Massachusetts Avenue. The current septic system did not pass Title V and Mr. White currently has a permit for a new sewage disposal system and the installation of a raised septic system is slated to begin soon.

Alfred Gravelle indicated that it makes perfect sense to allow the applicant to use the property as formerly intended with a new septic system.

Raymond Beal read from section 8.3 of the Lunenburg Protective By-law and stated that the only reason the applicant was before the Board for relief was simply because of the lot size of .55 acres. James Besarkarski agreed and was in favor of the granting the applicants request.

### **MOTION**

After due deliberation James Besarkarski made a motion to grant the Special Permit for dimensional variation for the lot size as per the submitted plans and based finding that the single family home will not be substantially more detrimental to the neighborhood, subject to the below conditions. Alfred Gravelle seconded the motion.

### **CONDITIONS**

1. New septic system must be installed.
2. A restriction is recorded on the deed for the property limiting the home to be no more than two bedrooms.
3. A copy of the recording deed must be submitted to the Board of Health.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

### **FINDINGS**

In granting a Special Permit, the Board of Appeals found that the proposed use:

- a. Will not be injurious or dangerous to the public health, or unduly hazardous because of traffic congestion, danger of fire or explosion, or other reasons.
- b. Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.

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- c. Will be operated with reasonable regard for order and sightliness.
- d. Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

The granting of the Special Permit shall inure to the benefit of the applicants Douglas Jackson and shall cease in the event the business is sold or sublet to another party.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit with the above members present and voting as follows with respect to the issuance of the Special Permit dimensional variation.

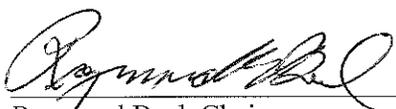
**VOTE**

Raymond Beal voted in favor of granting the Special Permit.  
Alfred Gravelle voted in favor of granting the Special Permit.  
James Besarkarski voted in favor of granting the Special Permit  
Hans Wentrup voted in favor of granting the Special Permit.  
Paul Doherty voted in favor of granting the Special Permit.

In making this determination, the Board specifically found that the granting of this Special Permit would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed,

Raymond E. Beal, Chairman  
Lunenburg Zoning Board of Appeals  
Special Permit Granting Authority

 4/6/13  
Raymond Beal, Chairman                      Date

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