

RECEIVED & FILED

MAY 05 2016

LUNENBURG TOWN
CLERK OFFICE



THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

May 4, 2016

Review Authority approval

Review Authority approval granted to Peter M. Kelly, 206 East Pembroke Road, Danbury, CT 06811 with respect to land and buildings located at **36 Summer Street, Lunenburg, MA 01462**, Assessors map 115/8. This approval is found in the Lunenburg Protective by Law Section 4.14. and the deed is recorded in Worcester Northern District Registry of Deeds May 7, 2010, Book 7171, Page 353, as described in plans submitted with the petition

The applicant was seeking review approval for the construction of a two story addition to an existing commercial building which will include two garage bays and a second floor apartment at 36 Summer Street, Lunenburg, MA 01462. Currently an auto sales business exists at the subject property and this use will continue as previously permitted in May 2009.

The Board of Appeals of the Town of Lunenburg hereby certifies that a review approval 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 and Paul Doherty. Donald F. Bowen member was 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 Review Approval 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 Raymond Beal opened the hearing and explained the procedure to the audience. Lisa Normandin, Board secretary read the application into the public record as well as a memo submitted by the Lunenburg Conservation Commission. The Conservation Commission requested that the applicant file a notice of intent prior to the issuance of a building permit.

MAY 05 2016

**LUNENBURG TOWN
CLERK OFFICE**

Christopher Anderson of Hannigan Engineering was representing the applicant Peter M. Kelly. Mr. Kelly is proposing an addition to his existing building located at 36 Summer Street. The addition proposed would be a 50x52 square feet addition to the west of the existing garage. This construction will increase the building from a two bay garage to four bays with an apartment on the second floor located to the west of the existing building. A Special Permit for dimensional variation was previously granted for the addition on the easterly side of the building in March 2015.

Mr. Anderson explained that the current building has municipal water and sewer on site. Proposed employee parking will be in the northwestern corner of the property with additional parking available on the western side of the building. One garage bay will serve the residents of the apartment and have access to the second floor with a secondary entrance to the rear of the building. The plan was relocated from its original proposal and the engineer expressed that it is a more efficient use of the site and therefore would be not be in the flood plain.

Mr. Kelly owns the subject property and operates an auto sales business at this address known as PMK Motor Sales. A Special Permit was granted in April 2012 to Alain LaChance for an automotive repair garage at this address, however, Mr. LaChance has since moved his business to a larger facility in Fitchburg.

Raymond Beal pointed out that the **Summer Street Revitalization Overlay District** allows residential uses as defined in Section 4.14 of the Lunenburg Protective Zoning By-law. Mr. Kelly was before the Board to modify the previous request and the new proposed located does not require a dimensional variation and by shifting the construction from the easterly to westerly side, it meets current setbacks, same plan but mirrored on the other side of the existing building.

Alfred Gravelle felt that this request was only a review that it is allowed in Summer Street revitalization overlay district and is permitted. Alfred Gravelle asked what his plans were for the addition of the two garage bays. Mr. Kelly wanted to rent out the three bays to one or more tenants. Mr. Kelly is reserving one bay for the apartment.

Paul Doherty asked questions regarding egress safety for the upstairs apartment. Mr. Kelly indicated he would follow all building and fire codes with regard to ingress and egress standards.

Mr. Kelly was apprised of the fact that if he rented the garage bays to outside vendors that they (vendor and or tenants) would need to come before the Zoning Board for approval, also that the current conditions outlined in the special permit issued and modified in April 2012 are still in effect.

Chairman Beal reviewed Section 4.14 Summer Street Revitalization overlay district and its stated objectives. He felt that the objectives are clearly met and all the findings are being addressed. Mr. Beal informed Mr. Kelly that a development plan review by the Planning Board would also be required. Mr. Kelly acknowledged that he has already been before the Planning Board. Mr. Beal felt the by-law as written is clearly ambiguous and described the fact that the ZBA has "review authority" and the Planning Board is the Permit Granting authority.

The Board members asked several questions of the applicant and were satisfied that the business would not be detrimental to the abutting properties.

MOTION

After due deliberation Alfred Gravelle made a motion to grant "review approval" for the addition of a 40x52 foot addition with a second floor apartment. The motion is based on the finding that the proposed addition will not be substantially more detrimental to the neighborhood. Paul Doherty seconded the motion.

The Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its review approval 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:

- 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.
- Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- Will be operated with reasonable regard for order and sightliness.
- 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 Review Approval 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 review approval shall inure to the benefit of the applicant Peter M. Kelly d/b/a PMK Motor Sales and shall cease in the event the business is sold or sublet to another party.

After closing the discussion, the Board acted in its capacity as the review authority with the below members present and voting as follows.

VOTE

Raymond Beal voted in favor of approval
Alfred Gravelle voted in favor of approval.
Hans Wentrup voted in favor of approval.
James Besarkarski voted in favor of approval.
Paul Doherty voted in favor of approval.

RECEIVED & FILED

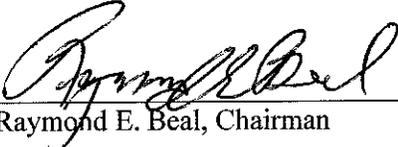
MAY 05 2016

LUNENBURG TOWN
CLERK OFFICE

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,

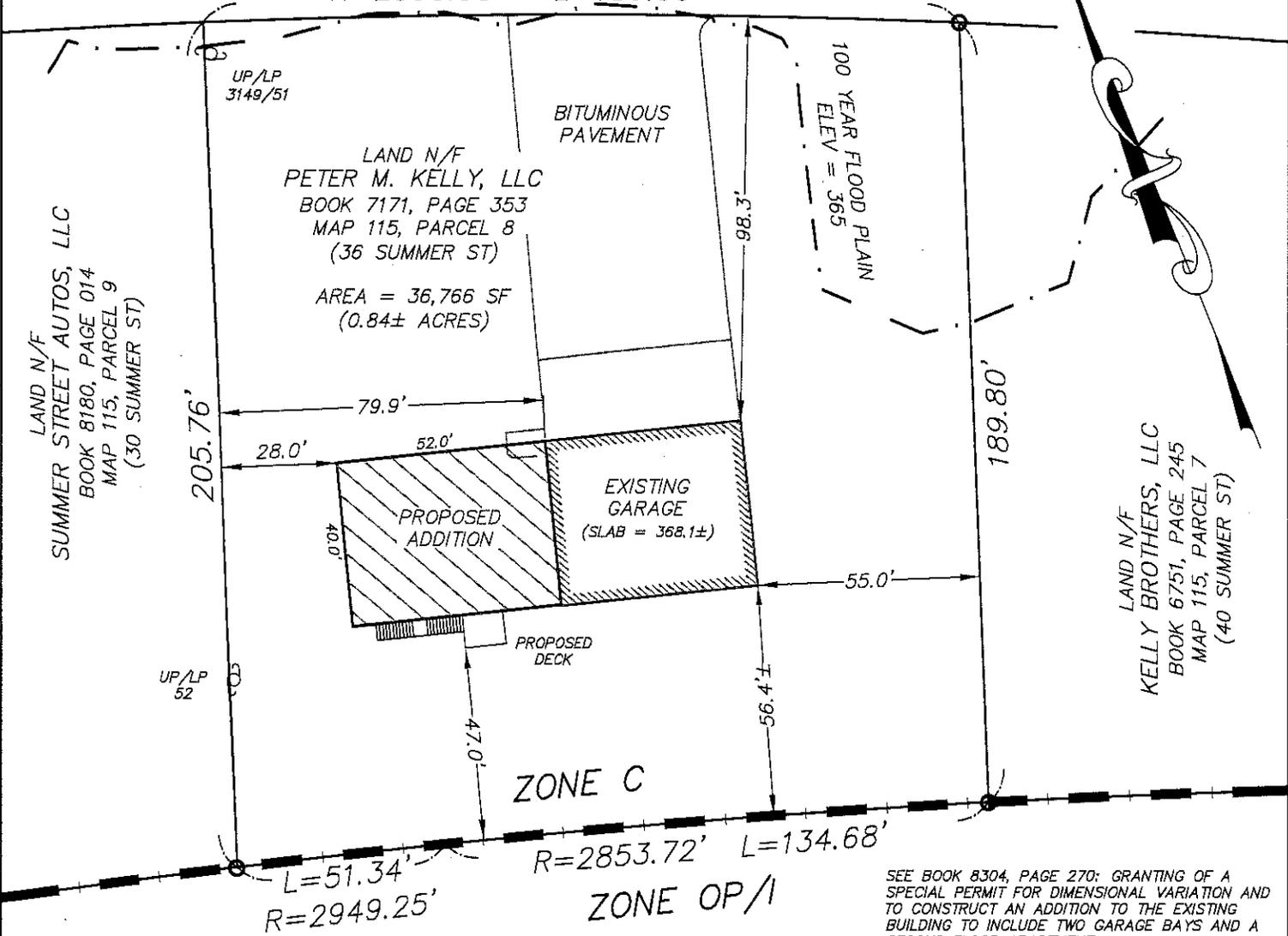
Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

 5/4/16
Raymond E. Beal, Chairman Date

SUMMER STREET

80' WIDE - PUBLIC - 1930 COUNTY LAYOUT

$R=2360.00'$ $L=186.00'$



LAND N/F
SUMMER STREET AUTOS, LLC
BOOK 8180, PAGE 014
MAP 115, PARCEL 9
(30 SUMMER ST)

LAND N/F
PETER M. KELLY, LLC
BOOK 7171, PAGE 353
MAP 115, PARCEL 8
(36 SUMMER ST)
AREA = 36,766 SF
(0.84± ACRES)

LAND N/F
KELLY BROTHERS, LLC
BOOK 6751, PAGE 245
MAP 115, PARCEL 7
(40 SUMMER ST)

MASSACHUSETTS BAY TRANSIT AUTHORITY
RECEIVED & FILED

MAY 05 2016

LUNENBURG TOWN
CLERK OFFICE

THE LOT SHOWN AND THE BUILDING THEREON ARE GRAPHICALLY LOCATED WITHIN THE FEDERAL FLOOD HAZARD AREA, ZONE A, AS SHOWN ON THE FLOOD INSURANCE RATE MAPS FOR THE TOWN OF LUNENBURG, COMMUNITY PANEL No. 250315 0004 B, DATED JUNE 15, 1982. I FURTHER CERTIFY THAT THE SLAB ELEVATION OF THE EXISTING BUILDING IS ABOVE THE FLOOD ELEVATION OF 365 AS DENOTED ON SAID MAP.

PLAN REFERENCE:
PLAN BOOK 49, PAGE 3
PLAN BOOK 268, PAGE 19
PLAN BOOK 326, PAGE 9

DEED REFERENCE:
ASSESSOR MAP 115, PCL 8
BOOK 7171, PAGE 353

OWNER/APPLICANT:
PETER M. KELLY
841 VALLEY ROAD
RANDOLPH, NH 03593

ZONE: COMMERCIAL
SUMMER STREET REVITALIZATION
OVERLAY DISTRICT
AREA = 20,000 SF
FRONTAGE = 50'
MIN OPEN SPACE = 10%
MAX BLDG HT = 55'
SETBACKS: FRONT = 20'
SIDE = 15'
REAR = 20'

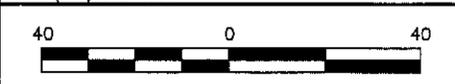
SEE BOOK 8304, PAGE 270: GRANTING OF A SPECIAL PERMIT FOR DIMENSIONAL VARIATION AND TO CONSTRUCT AN ADDITION TO THE EXISTING BUILDING TO INCLUDE TWO GARAGE BAYS AND A SECOND FLOOR APARTMENT.

NOTE: PROPERTY LINES ARE BASED UPON DEEDS AND PLANS OF RECORD.

HANNIGAN ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS
8 MONUMENT SQUARE (978) 534-1234 (T)
LEOMINSTER, MASSACHUSETTS 01453 (978) 534-6060 (F)
WWW.HANNIGANENGINEERING.COM

**BUILDING PERMIT PLAN
IN
LUNENBURG, MASSACHUSETTS**

PREPARED FOR:
PETER M. KELLY
841 VALLEY ROAD
RANDOLPH, NH 03593
TEL: (603) 342-4360



CALC: LRS	DRWN: LRS	SCALE: 1"=40'
CHKD: WDH	APPD: LRS	DATE: MAR 9, 2016
SRV: JEF-JGR	FB: 49/126	JOB NO: 2518
TAB: MODEL	SHEET 1 OF 1	PLAN NO: FILE

LARRY R. SABEAN
PROFESSIONAL LAND SURVEYOR
No. 34625
03/09/2016

LARRY R. SABEAN, PLS#34625 DATE