

NOV 22 2016

LUNENBURG TOWN
CLERK OFFICE

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

November 22, 2016

Certificate of Granting of Special Permit for Dimensional Variation

A Special Permit was granted to Min Xu, Trustee of K&E Realty Trust, 5 Winter Hill Road, Lunenburg, MA 01462, dba Asian Imperial Restaurant, under the Lunenburg Protective Zoning By-Law Section 6.4.3.C. The petitioner was seeking a Special Permit for Dimensional Variation to allow a parking area adjacent to the existing Asian Imperial Restaurant. The proposed parking layout does not meet the current setback requirements for zoning.

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit has been granted pursuant to the Protective Zoning By-Law of the Town of Lunenburg, Section 6.4.3.C.

Board Members present: Raymond Beal, Chairman, Alfred Gravelle, James Besarkarski, Paul Doherty and Sheila Lumi. Hans Wentrup and David Blatt were present but not voting.

Special Permit issued to Min Xu, Trustee of K&E Realty Trust, 5 Winter Hill Road, Lunenburg, MA 01462, dba Asian Imperial Restaurant and affecting the rights of the owner with respect to land and buildings at **9 Electric Avenue, Lunenburg, MA 01462**, Recorded Worcester Northern District Registry of Deeds Book 8573, Page 86, and dated June 3, 2016 as described in plans submitted with the petition. Assessors Map 74, Lot 8&9.

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; Lisa Normandin Board Secretary read the application into the public record. A memo received from the Board of Health Agent James Garreff indicated that they had no issues with the request as the property is served by both municipal water and sewer.

The applicant purchased the abutting property at 9 Electric Avenue for the main purpose of adding additional restaurant parking to help eliminate traffic hazards. The proposed plan is to add a 20'x65' addition to the front of the building to create a customer waiting area and additional seating. The adjacent property (9 Electric Avenue currently has a dwelling on it and sits at a higher elevation than the proposed parking area). The proposal is to remove the dwelling and create a better and safer parking condition for the neighbors and general public.

NOV 22 2016

LUNENBURG TOWN
CLERK OFFICE

The applicant Min Xu was being represented by Robert Oliva of David E. Ross Associates in Harvard, MA. Mr. Oliva gave a detailed presentation of the plans for the proposed parking area. The applicant requires several dimensional variations for the parking setbacks as currently shown on the plan. The building Official outlined in detail what the requirements are and what variations are needed. Mr. Oliva explained the plan going forward with the restaurant addition and parking plans, however, the only request before the zoning board is simply the parking setback requirements. The applicant is well aware that the proposal will require Site Plan approval before the Planning Board subsequent to an approval by the Zoning Board. The Planning Board will dictate details such as lighting, drainage and utilities and impacts to abutters.

Mr. Oliva explained that currently there are (33) thirty three parking spaces and the new plan would allow for a proposed (52) fifty two spaces. The upper lot for parking will require significant grading and walls.

David Blatt asked Mr. Oliva why the existing entry was was not being addressed in the proposal as it is narrow and difficult to navigate? Mr. Oliva explained that when the original site was developed it took six months for Mass Highway to issue an approval, the applicants want to move forward more quickly and changing the entry way would take time. The Board members all agreed that parking on the site was a serious issue and the need for more parking was definitely warranted.

Paul Doherty suggested the traffic would flow more easily if the existing entry way into the parking lot (to the right) would be one-way and come around the new parking area as a right hand turn. Mr. Oliva indicated that they had several renderings of the drawings but did not disagree.

Kim Chen said the spaces in front of the building would be for take-out customers and handicap parking. Hans Wentrup asked what kind of buffer is planned between the neighboring properties. Mr. Oliva explained that there would be a significant grade change and retaining walls so that it would have minimal impact. He mentioned that they have not dealt with all of the details of the buffering but knew that they would be addressed by the Planning Board during their site plan review. Alfred Gravelle indicated that the by law requires a buffer for the abutting residential neighbors. Mr. Oliva mentioned that all of the entry/egress, parking space dimensions and width of travel lanes met all current zoning requirements.

Alfred Gravelle said that while the applicant is here for a dimensional variation, what would be the alternate plan for parking if the variations are not approved? Mr. Oliva said that there was significant work put into this plan and most of the other parking layouts that they developed were not cost efficient. Mr. Oliva was aware that he had more work to do with regard to the parking layout and appreciated all of the Board comments.

Alan Graham, 13 Electric Avenue, Lunenburg a direct abutter was in support of the petition but had a few concerns regarding the grading of the parking area. Mr. Graham had no objection with removing some of the larger pines if necessary but indicated that the deciduous trees added significant privacy and would not want to see them removed. He added that currently they cannot see the restaurant at all. He was totally in agreement that the need for the additional parking is warranted.

Robert Graham, 13 Electric Avenue agreed and said it is a safety hazard especially on holidays when the traffic is backed up in front of their home. He also had concerns with patrons that park at the strip mall across the street and cross the busy road at night on foot.

The Board agreed that there is a significant need for additional parking at the site and that the Planning Board in their Site Plan Review would set forth the requirements.

MOTION

After due deliberation and careful review Paul Doherty made a motion to grant the Special Permit for dimensional variation as requested in accordance with the plans submitted and subsequently on file with the Zoning Board of Appeals. The motion was based on the finding that it would not be more substantially detrimental to the neighborhood. Sheila Lumi seconded the motion.

NOV 22 2016

LUNENBURG TOWN
CLERK OFFICE

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.
- c. Will be operated with reasonable regard for order and sightlines.
- 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 Authorization is granted with the contingency that Min Xu comply with all licenses, regulations, statutes and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

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.

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.

VOTE

Raymond Beal voted in favor of granting the Special Permit.

Sheila Lumi voted in favor of granting the Special Permit.

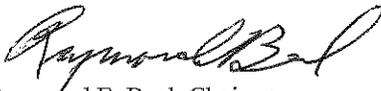
Paul Doherty voted in favor of granting the Special Permit.

Alfred Gravelle voted in favor of granting the Special Permit.

James Besarkarski voted in favor of granting the Special Permit.

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

RECEIVED & FILED

NOV 22 2018

WARREN TOWN
PLANNING OFFICE

