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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

January 31, 2014

Certificate of Granting of Special Permit

A Special Permit was granted to Belmont Crossroads, LLC, Paul L. Tocci, Manager, 1010 Pleasant Street, Belmont, MA 02478 under the Lunenburg Protective Zoning By-Law Section 4.1.1a)&b. and 4.6.3.1.d). The petitioner was seeking a Special Permit to continue the existing use as a landscaping business and outdoor display of equipment and associated vehicles. In addition the petitioner seeks approval to operate an automotive repair shop open to the general public. The property which is the subject of this case is located at **271 Leominster-Shirley Road, Lunenburg, MA 01462.**

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, Sections 4.1.1a)&b. and 4.6.3.1.d).

Board Members present: Donald F. Bowen, Chairman (present but not voting), James Besarkarski, Alfred Gravelle, Paul Doherty, David Blatt and Sheila Lumi.

A Special Permit has been granted affecting the rights of the owner with respect to land and buildings at **271 Leominster-Shirley Road, Lunenburg, MA 01462**, Book 7090 Page 134, and dated December 16, 2009, as described in plans submitted with the petition. Assessors Map 146, Lot 10.

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 Donald Bowen opened the public hearing and Lisa Normandin read the petition into the public record and a memo from James Garreffi, Lunenburg Board of Health Agent. The hearing was held on January 22, 2014 at 6:30 p.m.

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Attorney Keith W. Michon of Cambridge, MA was representing the petitioner at the hearing. He indicated that his client would like to incorporate automotive repair into the existing landscaping business. He explained that the current building on the property has three existing bays for car repair and currently modest repairs are being done to the company equipment and vehicles. The request is to be able to do repair work for the general public He explained that there is ample room for parking and the repairs would be modest. He felt that the business is environmentally safe would not create any traffic risks. He added that the owner would be using the existing driveway for the automotive repair business. Attorney Michon added that Mr. Tocci has gone to a great expense upgrading the property.

Donald Bowen indicated that some vehicles and equipment were being stored too close to the bridge area near Leominster-Shirley Road and that he heard of some complaints. Mr. Bowen indicated that a twenty foot setback must be maintained in this area; David Blatt agreed and said nothing should be stored on the Old Shirley Road area. Alfred Gravelle asked if they would be selling any vehicles, Attorney Michon indicated that there would be no sales, only service. Mr. Gravelle said that all new signs must be in compliance and a review by the building department would be needed for compliance. Paul Doherty thought it would be a great spot for the automotive repair business. James Besarkarski asked if two businesses were allowed on one parcel and Donald Bowen said that the repair business is accessory to the existing landscaping business.

The Board reviewed the Board of Health memo which included conditions regarding floor drains, proper disposal of hazardous materials and health nuisance guidelines and conditions related to air pollution controls. Attorney Michon said that his client would adhere to all Board of Health requirements outlined in the memo. The Board was in agreement that the accessory business will not be detrimental to the neighborhood.

MOTION

Alfred Gravelle made a motion to grant the Special Permit as requested to operate an automotive repair garage and continue the existing landscaping a business and outdoor display area as per the submitted plan. The newly submitted plans are part of the decision and subsequently on file with the Zoning Board of Appeals with the following conditions outlined below. Paul Doherty seconded the motion.

CONDITIONS

1. All vehicles and equipment must maintain the 20 foot setback from the main road

2. The storage and display of equipment and vehicles is limited to the area outlined on the plan dated October 13, 2010 and submitted with the subsequent petition December 13, 2013.

3. Storage of de-icing chemical (salt) shall be limited to approximately (400-500 fifty pound bags) in waterproof containers when the material is present at the property. Must clean up spills to minimize contamination of the onsite wells in the area (per memo Board of Health Agent, James Garreffi dated October 20, 2010.

4. All fertilizers, pesticides and herbicides must be stored and handled in accordance with State and Federal laws in a manner that will not create a potential for contamination of the ground water.

5. If fuel is to be stored on site, it must be done in a manner that will not contaminate the soil or groundwater.

6. Any floor drain in the building must be connected to an industrial waste holding tank designed by a PE and approved by DEP.

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7. Any catch basin in the paved area where vehicles/equipment is stored should be equipped with oil/gas separators.

8. Operation onsite cannot cause a "condition of air pollution" as defined by 310CMR7.00 (noise, air, sound).

9. No junk (as that term is hereinafter defined) shall be stored or maintained out of doors. As used herein, the term "junk" shall mean any worn out, castoff, or discarded articles or material which are ready for destruction or which have been collected or stored for salvage or conversion to some use.

10. The petitioner shall abide by all of the requirements of the Lunenburg Fire Department, Department of Public Works of the Town of Lunenburg and the Department of Public Works of the Commonwealth of Massachusetts with respect to ingress and egress at the property, and any other Board or agency.

11. The petitioners shall conduct their business at all times in a manner so as not to be offensive to the residential abutters.

12. All materials used for the cleaning of equipment and vehicles shall be of a non-toxic nature to prevent contamination.

13. Lighting is to be contained to the parking area only, not to be visible offsite.

14. All signs must be in compliance with sign regulations outlined in the Town of Lunenburg Protective Zoning By-Laws.

15. The granting of this special authorization shall inure to the benefit of the applicants, and shall cease in the event title to the premises is transferred or in the event the business is sublet to another party. In this event the new owner or renter must apply for a new Special Permit in their name. The permit will not be unreasonably withheld as long as the new parties agree to these conditions.

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 sightliness, if an open use.

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 Belmont Crossroads, LLC, Paul L. Tocci, Manager comply with all licenses, regulations, statues and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

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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
James Besarkarski voted in favor of granting the Special Permit.
Alfred Gravelle voted in favor of granting the Special Permit.
Paul Doherty voted in favor of granting the Special Permit.
David Blatt voted in favor of granting the Special Permit.
Sheila Lumi 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

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

D F Bowen 1/30/2014

Donald F. Bowen, Chairman Date