



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 SEP 27 P 3:30

TOW. CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-22

PETITION OF LUCIMAR DA COSTA

DATE OF DECISION: SEPTEMBER 13, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of Lucimar da Costa (hereinafter the Applicant), for property located at 225 Arlington St. This Decision is in response to a Petition to amend a Special Permit (#12-09) to allow an increase in number of vehicles as required by the Zoning By-Law (hereinafter the Application).

2. Applicant

Lucimar Rodrigues da Costa
225 Arlington St.
Framingham, MA 01702

Property Owner

John Kuass
32 Meadow Brook Rd.
Sherborn, MA 01770

3. Location

Property is located at 225 Arlington Street and identified by Assessors' Parcel ID 141-82-8742-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on September 13, 2016 the Board voted to APPROVE the Application and AMEND the SPECIAL PERMIT by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	YES
EDWARD "TED" COSGROVE	YES
SUSAN S. CRAIGHEAD	YES

5. Proceedings

The Application was received by the Board on July 1, 2016 pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on August 9, 2016 at 7:15 P.M. in the Blumer Community Room of the Memorial Building. The hearing was continued to September 13, 2016 at 7:30 PM to allow Board members to visit the site and for the Applicant to address concerns about truck traffic to the site. Board Members Philip R. Ottaviani, Jr., Susan Craighead, and alternate Ted Cosgrove,

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were present throughout the proceedings. Mr. Meltzer was present on August 9 and appointed as a voting member, but arrived late to the September 13 meeting, and Mr. Cosgrove served as a voting member in his absence. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1. Letter dated June 13, 2016 from the Building Official stating the applicant was in violation of his Special Permit.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on July 1, 2016.
- 6.3. Filing fee in the amount of \$500.00.
- 6.4. Conservation Commission comments with accompanying map, dated August 4, 2016.
- 6.5. Planning Board comments dated August 8, 2016.
- 6.6. Photographs depicting the new chain-link fence recently installed on the premises, as well as the interior of the premises where vehicles are stored, stamped "Received" by the ZBA on August 9, 2016.
- 6.7. Applicant submitted ZBA decision #12-09, originally filed with the Town Clerk on June 20, 2012.
- 6.8. Site plan showing proposed parking spaces, stamped "Received" by the ZBA on July 1, 2016.

Exhibit 6.8 shall be hereinafter referred to as the "Plan."

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the General Manufacturing (M) zoning district.
- 7.2. On June 13, 2016, the Building Official contacted the Applicant for being in violation of his Special Permit #12-09, because the number of vehicles stored on the property exceeded the allowed number, and because the fence had not been kept in good condition.
- 7.3. On July 1, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of amending ZBA Special Permit #12-09.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on July 25 and August 1, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting Members or residents appeared at the hearing.

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- 7.5. The Applicant is before the Board to amend Special Permit #12-09 to increase the number of vehicles permitted from 20 to 70. The premises are located at the end of Arlington Street on a secluded lot, and the vehicle storage is to be confined to a gated, opaque, fenced area where sufficient space exists for 70 vehicles. The Applicant has acknowledged that the lot will be used as off-site storage for Direct Auto Mall, a used car dealer. The new fence is an improvement to the property and the proposed use will not adversely impact the neighborhood.
- 7.6. Nearby residents of Arlington Street appeared at the August 9 hearing and expressed concerns of truck traffic to the site, including car carriers, was disruptive to the neighborhood and dangerous. The Applicant agreed that he would instruct commercial vehicles to access the premises via Col. James M. Halpin Drive. As of the September 13 continued hearing, the Board is satisfied that such arrangements have been made, and notes that no residents spoke in opposition at that time.
- 7.7. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
- 7.7.1. The specific site is an appropriate one for such a use or structure. *The property is located in the M zoning district at the end of a street and currently is being utilized for auto repair and to store vehicles.*
- 7.7.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *Sufficient parking will be provided within the fenced-in property for the additional vehicles.*
- 7.7.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *Commercial vehicles to and from the site will utilize Col. James M. Halpin Drive instead of Arlington Street in order to minimize neighborhood disruption and hazards.*
- 7.7.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *The property is located in the M zoning district at the end of a street and is already being utilized in this manner.*
- 7.7.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient. *All services necessary to meet the needs of the proposed use are adequate and sufficient.*
- 7.8. The Board amends Special Permit #12-09, with the conditions changed as follows:
- 7.8.1. The Special Permit for outside storage of vehicles is issued only to the Applicant.
- 7.8.2. Not more than 70 vehicles may be stored in the outside lot any one time, either for transport or repair.
- 7.8.3. Commercial traffic to and from the site must use Col. James M. Halpin Drive, not Arlington Street, so as to avoid adverse impacts to the adjacent residential neighborhood.

7.8.4. The 10-foot stockade fence shall be maintained in good condition.

7.8.5. There shall be no storage of junk vehicles or parts outside of the fenced-in lot.

7.9. This Decision applies only to the requested Special Permit. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.

7.10. If the rights authorized by this Special Permit are not exercised within two years of the date of filing of the Decision with the Town Clerk, said Special Permit shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefore, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.

7.11. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including recording information, shall be furnished to the Board and the Building Official.

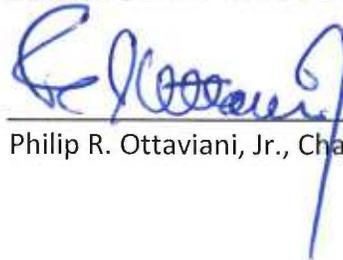
7.12. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

8. Appeals

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By:



Philip R. Ottaviani, Jr., Chairman

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