



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 NOV 29 P 3: 27

CLERK

BOARD OF APPEALS CASE NO. 16-21

PETITION OF THE CLEAN MACHINE

DATE OF DECISION: NOVEMBER 15, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of THE CLEAN MACHINE (hereinafter the Applicant), for property located at 1183 WORCESTER ROAD. This Decision is in response to a Petition to amend a Special Permit (#80-33, alternatively numbered #1564, and filed on 8/21/80) to allow an increase in number of U-Haul trucks as required by the Zoning By-Law (hereinafter the Application).

2. Applicant

Neil Freedlander
4 Whiting Rd.
Framingham, MA 01701

Property Owner

Clean Realty Trust
1181 Worcester Rd
Framingham, MA 01702

3. Location

Property is located at 1183 Worcester Road and identified by Assessors' Parcel ID 089-04-8061-000 (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 November 15, 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
STEPHEN MELTZER	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on June 15, 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 Board voted to continue the hearing at 7:15 PM on September 13 to allow the Applicant adequate time to provide an updated site plan. The Applicant

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requested and the Board voted to continue the hearing at 7:00 PM on October 24. The Applicant requested and the Board voted to continue the hearing at 7:00 PM on November 15 at which point a decision was made. Board Members Philip R. Ottaviani, Jr., Stephen Meltzer, and alternate Joseph Norton, were present throughout the proceedings. Ms. Craighead arrived late to the November 15 meeting, and Mr. Norton acted as a voting member in her 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.

On August 9, Mr. Bernard Freedlander and Mr. Neil Freedlander explained to the Board the circumstances of the proposed Special Permit amendment due to a competitive business environment and the reliance on the U-Haul truck rentals for income. Bernard Freedlander explained that the gas pumps were to be removed in October leaving available space for parking and landscaping. The Board voiced concerns on circulation, appearance, and adequate space and requested a new site plan addressing parking spaces and landscaping. Ms. Susan Bernstein (TMM 7) spoke in opposition to the additional trucks, citing the poor appearance of the property, and congestion on the site. The hearing was continued to September 13. The Applicant requested to continue the hearing to October 24, and again to November 15.

Neil Freedlander was present on November 15 and explained that they were reducing their requested number of trucks to 15 from the original request of 25. He presented a new site plan showing dedicated parking spaces for customers and for the U-Haul trucks, as well as the intended circulation pattern. Mr. Robert McArthur, Conservation Administrator, commented on the complications of removing the underground storage tanks once additional vehicles are permitted. He suggested the Applicant be in contact with the Conservation Committee to address other issues and concerns. Mr. Ottaviani read the Planning Board comments and pointed out that the Applicant has been compliant. Mr. Ottaviani suggested the Applicant be in contact with the Conservation Commission.

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 June 17, 2016.
- 6.3. Filing fee in the amount of \$500.00.
- 6.4. Applicant submitted ZBA Decision and Decision Notice for application #1564, originally filed with the Town Clerk on August 21, 1980.
- 6.5. Letter explaining Applicant's proposal to expand "U-Haul" business, stamped "Received" by ZBA staff June 15, 2016.
- 6.6. Fire Department comments dated July 6, 2016.

- 6.7. Planning Board comments dated August 8, 2016.
- 6.8. Conservation Commission comments with accompanying map and Underground Storage Tank information, dated August 8, 2016.
- 6.9. Memo from the Applicant requesting adjustment to Special Permit application, to reduce the original request of 15 additional operating U-Haul vehicles to 5 additional, dated November 10, 2016.
- 6.10. Site Plan showing proposed landscaping, stamped "Received" by ZBA staff June 15, 2016.
- 6.11. Site Plan entitled "No. 1181 & 1183 Worcester Road Framingham, Mass." prepared by Drake Associates Inc., 25 Wellesley Ave., Wellesley, Mass., dated October 13, 2016.

Exhibit 6.11 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 Business (B) zoning district and Highway Corridor (HC) overlay district.
- 7.2. On June 13, 2016, the Building Official contacted the Applicant, in response to the business expansion request, for being in violation of his Special Permit #80-33.
- 7.3. On June 17, 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 #80-33 to allow more U-Haul trucks.
- 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. One Town Meeting Member, Susan Bernstein (Pct. 7), appeared and spoke in opposition.
- 7.5. The Applicant is before the Board to amend Special Permit #80-33 to increase the number of U-Haul vehicles permitted from 10 to 15. Truck rental is no longer a permitted use in the Zoning District but the existing Special Permit remains valid and may be amended. The Applicant has explained that the increase in trucks will be offset by the removal of gas pumps, and by generally declining business at the car wash and service bays. He has presented a properly prepared site plan indicating which spaces are for customers and employees and which are for the trucks; a dedicated spot for handicapped customers has also been added.
- 7.6. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
 - 7.6.1. The specific site is an appropriate one for such a use or structure. *The property is located on Route 9 at the Intersection of Ellis Street, in the B zoning district, and is currently being utilized for auto care and U-Haul units consisting of both motor*

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vehicles and trucks. Similar automotive related businesses proliferate along Route 9 and in the Business zone.

- 7.6.2. 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 on the property and the parking spaces will be designated specifically for customers, employees or trucks.*
- 7.6.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *Circulation on the site will be improved with the removal of the gas pumps.*
- 7.6.4. 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 proposed use will not change and the increase in the number of trucks will not be inconsistent with the existing Special Permit.*
- 7.6.5. 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.*
- 7.7. The Board amends Special Permit #80-33 (alternatively numbered #1564), with the conditions changed as follows:
 - 7.7.1. No more than 15 U-Haul rental vehicles may be stored and rented on the premises. Parking spaces must be striped and reserved spaces for customers and handicapped visitors must be signed according to the Plan (Exhibit 6.11).
- 7.8. 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.
- 7.9. 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.
- 7.10. 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.

7.11. 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