

**DECISION OF THE ZONING BOARD OF APPEALS
of the
TOWN OF WESTWOOD**

PROPERTY OWNER(S): Rte One Management LD Trust, LLC

PETITIONER(S): AMR Auto Holdings-PA,LLC (Prime Motor Group)
425 Providence Highway
Westwood, MA 02090

LAND AFFECTED: 420 Providence Highway
Westwood, Massachusetts 02090
Map 24, Lot 083

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Wednesday, January 20, 2021 at 7:00 P.M. via remote participation to consider the Petitioner's request to alter a Special Permit previously issued by the Board on January 10, 2005 and amended September 18, 2007 and again on May 13, 2011. The original special permit was granted pursuant to the previous Westwood Zoning Bylaw Sections § 4.4, 4.1.1, 4.12, 4.1.5.8, 4.1.5.9, 4.1.5.10, 6.2.2.8, 6.2.15. and 6.2.17 [Automotive Uses, Signage]. The applicant proposed to amend the existing special permit to allow for a change in use of the dealership to the Mazda brand, with minor changes to the building and change of signage. Property is located in the Highway Business District.

BOARD MEMBERS: John Lally, Chairman
Douglas Stebbins, Clerk
David Belcher

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

SECTION 4.0 USE REGULATIONS

4.1 PRINCIPAL USES

4.1.1 **General.** No building or structure shall be constructed, and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District or Highway Business District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting

municipality. However, in all other cases, no building or structure shall be constructed or used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

- 4.1.2 **Table of Principal Uses.** The Table of Principal Uses designates which Principal Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.3 RESIDENTIAL USES													
4.1.3.1 Single-Family Dwelling	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.3.3 Two-Family Dwelling per Section 8.2	N	N	N	N	N	BA	N	N	N	N	N	N	N
4.1.3.4 Senior Residential Development per Section 8.4	PB	PB	PB	PB	PB	PB	PB	N	N	N	N	N	N
4.1.3.5 Residential Retirement Community per Section 8.5	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.3.6 Nursing or Convalescent Home	N	N	N	N	N	N	N	N	N	N	N	N	BA ¹
4.1.3.7 Assisted Living Residence	N	N	N	N	N	N	N	N	N	N	N	N	BA ¹
4.1.3.8 Open Space Residential Development in accordance with Section 8.3 ²	N	Y	Y	N	Y	N	N	N	N	N	N	N	N
4.1.4 EXEMPT AND INSTITUTIONAL USES													
4.1.4.1 Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.3 Child Care Facility in new building	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.1.4.4 Child Care Facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.5 Agricultural Use, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.6 Farm Stand. Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.7 Municipal Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.8 Essential Services	BA	BA	BA	BA	BA	BA	BA	Y	Y	Y	Y	Y	BA
4.1.4.9 Extension of existing cemetery	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.10 Public Utility	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	BA

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5 COMMERCIAL USES													
4.1.5.1 Agricultural Use, Non-exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.2 Farm Stand, Non-exempt ³	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.5.3 Animal Hospital or Animal Clinic	N	N	N	N	N	N	N	BA	BA	Y	BA	BA	N
4.1.5.4 Funeral Home	N	N	N	N	N	N	N	BA	BA	BA	N	N	BA
4.1.5.5 Motel or Hotel on five (5) acres or more	N	N	N	N	N	N	N	N	N	N	BA	BA	N
4.1.5.6 Retail sales and services, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y ⁴	Y	Y	N
4.1.5.7 Retail sales and services, 10,000 square feet or more	N	N	N	N	N	N	N	N	N ⁵	Y ⁴	BA ⁶	BA ⁶	N
4.1.5.8 Motor Vehicle Sales and Rental; other open air sales	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.9 Motor Vehicle General Repairs and Body Repair	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.10 Motor Vehicle Light Service	N	N	N	N	N	N	N	BA	BA	BA	N	N	N
4.1.5.11 Car Wash	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.12 Restaurant without entertainment, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.13 Restaurant without entertainment, 10,000 square feet or more	N	N	N	N	N	N	N	PB	PB	Y	PB	PB	N
4.1.5.14 Restaurant with entertainment	N	N	N	N	N	N	N	PB	PB	PB	N	N	N
4.1.5.15 Fast Order Food Establishment	N	N	N	N	N	N	N	N	N	BA ⁷	N	N	N
4.1.5.16 Coffee Shop	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.17 Ice Cream Parlor	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.18 Pet Care facility	N	N	N	N	N	N	N	Y	Y	Y	BA	BA	N
4.1.5.19 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel	N	N	N	N	N	N	N	N	N	Y	BA	BA	N
4.1.5.20 Professional Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.1.5.21 Business Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5 COMMERCIAL USES, CONTINUED													
4.1.5.22 Office of doctor or dentist not a resident on premises	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
4.1.5.23 Bank, Financial Institution	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.24 Commercial Recreation, Outdoor	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.25 Commercial Recreation, Indoor	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	BA
4.1.5.26 Golf Course	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.27 Personal Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.28 General Services Establishment	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.29 Campground, wildlife preserve, fishing grounds operated not for profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.30 Printing/copy/publishing establishment, less than 4,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.31 Printing/copy/publishing establishment, 4,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.32 Major Business Development per Section 7.2	N	N	N	N	N	N	N	PB	PB	PB	PB	PB	PB
4.1.5.32 Building Trade Shop in an establishment with less than 8,000 square feet	N	N	N	N	N	N	N	Y ⁸	Y ⁸	Y	Y	Y	N
4.1.5.34 Building Trade Shop in an establishment with 8,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.35 Commercial laundry, dry cleaning, dye work, carpet cleaning	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.36 Public Communications Use	N	N	N	N	N	N	N	N	N	BA ⁹	BA ⁹	BA ⁹	N
4.1.5.37 Educational Use, Non-Exempt	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	Y
4.1.5.38 Contractor's Yard	N	N	N	N	N	N	N	N	N	BA	BA	N	N
4.1.5.39 Medical Marijuana Establishment per Section 7.4	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.40 Non-Medical Marijuana Establishment	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.5.41 Fire Arms/Explosives Sales and Service	N	N	N	N	N	N	N	BA	BA	BA	BA	N	N
4.1.5.42 Taxi Service	N	N	N	N	N	N	N	N	N	BA	N	N	N

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO

4.1.6 INDUSTRIAL USES

4.1.6.1 Earth Material Movement per Section 7.1	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
4.1.6.2 Light Manufacturing	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.3 Warehouse, wholesale or distribution facility without outdoor storage	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.4 Warehouse, wholesale or distribution facility with outdoor storage	N	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.6.5 Manufacturing	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.6 Junkyard or Automobile Graveyard	N	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.7 Research and Development	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y
4.1.6.8 Self-Storage or Mini-Storage Facility per Section 7.6	N	N	N	N	N	N	N	N	N	N	PB	PB	PB	N

4.1.7 OTHER USES

4.1.7.1 Pay-to-Park Outdoor Parking Facility	N	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	N
4.1.7.2 Parking Garage	N	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.7.3 Drive-Through Service	N	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	BA
4.1.7.4 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA

4.2 NOTES FOR TABLE OF PRINCIPAL USES

- 1 Accessory dwellings may be allowed to the extent expressly allowed by the special permit.
- 2 Open Space Residential Development shall be permitted in the SRB, SRC and SRE districts and the uses delineated in Article 8.0, Special Residential Development, Section 8.3, Open Space Residential Development, shall be the allowed uses in OSRD projects.
- 3 Non-exempt farm stands on municipal properties are permitted and exempt from BA special permit requirements.
- 4 For only retail sales and services in the Highway Business District that do not require a special permit pursuant to other sections of the Bylaw and do not involve Adult Uses
- 5 Except for a retail grocery store which may exceed 10,000 square feet.
- 6 Retail sales and services in the Industrial and Industrial-Office Districts between 10,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.
- 7 In addition to meeting all other requirements for a special permit for a Fast Order Food Establishment in the Highway Business District, the Applicant shall be required to submit the opinion of a qualified professional expert, and the data upon which such opinion is based, showing to the reasonable satisfaction of the Board of Appeals that the facilities for on-site parking (taking into account all other uses and activities that share the premises with the proposed use) will be sufficient to serve the employees and customers of such establishment without encroaching upon or using neighboring streets or property.
- 8 A special permit from the Board of Appeals shall be required if there is outdoor storage of equipment or materials.
- 9 Does not include wireless communications facilities.

4.3 ACCESSORY USES

- 4.3.1 **Table of Accessory Uses.** The Table of Accessory Uses designates which Accessory Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district

under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

ACCESSORY USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.3.2 ACCESSORY USES IN ALL DISTRICTS													
4.3.2.1 Any use allowed in that district as a Principal Use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.3.2.2 Any use allowed in that district by special permit as a Principal Use, subject to the same conditions as a Principal Use.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.3 Uses, whether or not on the same premises as uses permitted as of right, accessory to uses permitted as of right, which are necessary in connection with scientific research or scientific development or related production.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.4 When associated with otherwise permitted agricultural operations on a lot with not more than five (5) acres, the following: (1) kennel, (2) salesroom or stand, (3) any building or structure devoted to productive agricultural use which, together with any other such buildings or structures on the premises, covers more than five hundred (500) square feet or contains more than five thousand (5,000) cubic feet.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.5 Commercial Outdoor Seating in association with permitted commercial uses pursuant to Section 4.4.2.	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.2.6 Roof-mounted Solar ³	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.3.2.7 Ground Mounted & Other Solar ³	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS													
4.3.3.1 Private garage for not more than three (3) motor vehicles including not more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.2 Private garage and/or the parking or storage area of more than three (3) motor vehicles, or of more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds, but only where in connection with a Principal Use on the same premises.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N

4.3.3.3 Private greenhouse, stable, tool shed, playhouse, tennis court, swimming pool, or other similar building or structure for domestic use. Swimming pools shall be enclosed as required by the Massachusetts State Building Code, as amended from time to time.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.4 Raising or keeping of animals as pets by the resident of the premises.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.5 Renting of rooms by a resident owner, or the furnishing of table board in a dwelling by the resident owner, to not more than three (3) persons other than members of the family.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.6 Home Occupation pursuant to Section 4.4.1	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N

ACCESSORY USE

DISTRICTS

SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
------------	------------	------------	------------	------------	-----------	-----------	------------	------------	-----------	----------	-----------	------------

4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS, CONTINUED

4.3.3.7 Parking or storage area, for use by the occupant of the dwelling, for the purpose of parking or storing in the rear of the yard and not substantially visible from the street one of the following: one (1) unoccupied recreational vehicle of less than thirty (30) feet length; one (1) inoperative passenger vehicle which has not been partially or wholly dismantled.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.8 Parking or storage area, for use by the occupant of the dwelling, for the purpose of parking or storing in the rear of the yard and not substantially visible from the street one (1) unoccupied recreational vehicle of thirty (30) feet length or more.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.9 Personal kennel, Veterinary kennel or animal clinic or hospital, if located on the same premises as a dwelling unit and conducted by a resident thereof.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.10 Yard Sale, limited to no more than two days per sale, and no more than two sales per year on any residential property	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.11 The use by a resident builder, carpenter, painter, plumber or other artisan for incidental work and storage in connection with this off-premise trade, subject to the conditions in Section 4.4.1.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N

4.3.3.12 Accessory apartment consisting of a second dwelling unit located within a detached one-family dwelling or a building accessory thereto, subject to the conditions in Section 8.5.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.13 Family Day Care, Large	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.14 Family Day Care, Small	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.15 Adult Day Care Facility for no more than twenty (20) adult clients and operated by the owner of the premises	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.4 ACCESSORY USES IN ALL NONRESIDENTIAL DISTRICTS													
4.3.4.1 Living quarters for necessary caretakers and watchmen	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.2 Transient accommodations for business visitors to the premises	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.3 Retail Take-out Counter	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.3.5 ACCESSORY USES IN INDUSTRIAL, HIGHWAY BUSINESS AND ARO DISTRICTS													
4.3.5.1 Retail uses, such as cafeterias, snack bars, gift shops and vending machines dispensing food, soft drinks and incidental merchandise items; provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.	N	N	N	N	N	N	N	N	N	Y	Y	Y	BA ¹
4.3.5.2 Display and sale of products of manufacturing activities conducted on the premises.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.3 Operations required to maintain or support any uses permitted in the Industrial District, if conducted on the same lot as the permitted use, such as maintenance and machine shops, power plants and keeping of animals.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.4 Parking Garage ²	N	N	N	N	N	N	N	N	N	Y	Y	Y	BA

4.4 NOTES FOR TABLE OF ACCESSORY USES

- ¹ Provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.
- ² The total square feet of floor space within a parking garage as an accessory use shall not be included in the calculation of Floor Area Ratio.
- ³ All solar arrays, facilities, and solar photovoltaic installations must comply with applicable setbacks as required by Section 5.0 [DIMENSIONAL REQUIREMENTS], 5.2 [TABLE OF DIMENSIONAL REQUIREMENTS], and 5.4 [HEIGHT REGULATIONS].

4.4.1 **Home Occupations.** Home Occupations may be permitted subject to the conditions below:

- 4.4.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;
- 4.4.2 No stock in trade shall be regularly maintained except for products of the occupation itself, or for goods or materials customarily used incidental to its performance;
- 4.4.3 Such use shall not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property;
- 4.4.4 No external change shall be made which alters the residential appearance of the buildings or structures on the premises; and
- 4.4.5 There shall be no exterior display or other outward evidence that the premises are being used for any purpose other than residential (except for a sign as herein permitted).

4.4.2 **Commercial Outdoor Seating.** Outdoor seating for restaurants, fast order food establishments, coffee shops, ice cream parlors, retail take-out counters, professional service establishments, research and development facilities, or other similar allowed use may be permitted upon review and approval, subject to the conditions in Sections 4.4.2.1 through 4.4.2.7 below. Residential uses are exempt and not regulated under this section.

- 4.4.2.1 Plans for all proposed outdoor seating must be approved by the Town Planner, in writing, in advance of implementation.
- 4.4.2.2 In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.
- 4.4.2.3 Outdoor seating areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures, and where necessary, shall be protected from vehicles by means of curbing, curb stops, bollards, or other similar buffering and protection measures.

- 4.4.2.4 Outdoor seating areas shall at all times comply with the requirements of Section 6.6 [Noise] and Section 6.4 [Exterior Lighting] of this Bylaw.
- 4.4.2.5 A sufficient number of off-street parking spaces shall be provided to meet the minimum parking requirements for the associated business, including parking spaces related to the outdoor seats.
- 4.4.2.6 Outdoor seating areas shall be maintained in a neat and orderly condition at all times and shall be managed in such a manner as to not negatively affect any adjacent properties.
- 4.4.2.7 Once implemented, outdoor seating areas shall be reconfigured upon the order of the Building Commissioner, as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** Nonconforming uses and structures, as defined in Section 2.0 of this Bylaw, may continue. Any alteration of a nonconforming use, or any alteration of a nonconforming structure, shall require authorization in accordance with this section. An alteration of a structure is a modification, structural change, extension, or reconstruction of the structure.

4.5.2 Nonconforming Uses.

4.5.2.1 **Permitted Alterations of Nonconforming Uses.** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration falls under any of the following circumstances:

- 4.5.2.1.1 There is no extension or expansion of the exterior of the structure.
- 4.5.2.1.2 There is no interior expansion that would intensify the use.
- 4.5.2.1.3 The alteration is made for the purposes of conforming to the building code for health and safety purposes.

4.5.2.2 **Special Permit Required for Alteration to Nonconforming Use.** The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, alteration or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. To be considered insubstantial, the Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use and the proposed use is not different in its effect on the neighborhood.

FINDINGS

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. The Subject Property is located at 420 Providence Highway. Relief in the form of an amended Special Permit was requested. The Board of Appeals is the Special Permit Granting Authority.
2. The proposed use of the Subject Property includes Motor Vehicle Sales and Rental, Motor Vehicle General Repairs and Body Repair, and Motor Vehicle Light Service. These proposed uses were previously granted Special Permit relief by the Board in a decision dated January 10, 2005.
3. The proposed uses currently require Special Permit approval pursuant to Sections 4.1.5.8, 4.1.5.9, and 4.1.5.10.
4. In 2007, the Special Permit was amended to reflect change of ownership from Clair International to AMR Auto Holdings, PA – LLC.
5. In 2011, the Special Permit was further modified to reflect parking lot capacity and configuration.
6. The Petitioner proposes to amend the Special Permit to reflect a change of brand from Audi/Porsche to Mazda, with no alteration to the uses previously approved by the Board.
7. The prior relief also included approval under former Bylaw sections 6.2.8, 6.2.15 and 6.2.17 for signs that required special permit approval by the Board.
8. A revised sign package reflecting the Mazda brand change was not submitted in time for Board review. At the hearing, the Board and Petitioner agreed that relief for signage would be reviewed independently at a duly advertised public hearing if necessary. No sign relief was considered for an amendment to the Special Permit described in this Decision.
9. No changes were proposed to the existing parking lot capacity or configuration.
10. A public hearing pertaining to this Project has been scheduled by the Planning Board for February 2, 2021 where an Environmental Impact and Design Review will include further consideration of the proposed exterior changes, parking, traffic, and other impacts within the scope of EIDR.
11. Construction proposed by the Petitioner would be conforming to all setback requirements defined in the dimensional requirements of the Bylaw.
12. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioner's proposed amendment, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Petitioner's proposed construction will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.
13. The Petitioner has met all the requirements for a Special Permit pursuant to Section 8.5 of the Westwood Zoning Bylaw.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request to amend the Special Permit pursuant to current Sections 4.1.5.8, 4.1.5.9, and 4.1.5.10 of the Westwood Zoning Bylaw subject to the following conditions:

1. The Project shall be constructed in conformity with the submitted Existing Conditions Plan and Layout & Zoning Plan plan consisting of two (2) pages, prepared by Kelly Engineering Group, 0 Campanelli Drive, Braintree, MA 02184 and dated December 17, 2020 and Architectural Plans prepared by Curtis Architectural Group, 36 Burrage Road, Newton, MA 02459 consisting of eight (8) sheets, dated May 11, 2020 and further revised on July 27, 2020 and September 9, 2020. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
2. Condition 5 of the original Special Permit shall be amended to restrict the use of the property to exclusive Mazda sales, rental and service instead of Audi/Porsche.
3. Other references to Audi/Porsche shall be amended to reflect the proposed Mazda dealership brand.
4. Petitioner shall satisfy Environmental Impact and Design Review application requirements to Planning Board. Approval of this Special Permit shall be subject to such conditions set forth by Planning Board's EIDR decision.
5. Current relief granted in the original Special Permit for signs shall not be altered. In the case of a proposed change to signage that reflects the Mazda brand, the Petitioner shall approach the Board at later date with any proposed change to signage to be reviewed for a new Special Permit, or other such relief as applicable.
6. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
7. The persons exercising rights under a duly appealed special permit do so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.
8. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Prior to the expiration of the Special Permit, the Applicants may apply for an extension of the Special Permit for a period not to exceed one (1) year if the substantial construction or use thereof has not commenced for good cause.

RECORD OF VOTE

The following members of the Board of Appeals voted in favor of the Petitioners' request for a Special Permit amendment: John Lally, Douglas Stebbins, and David Belcher.

The following members of the Board of Appeals voted in opposition to the Petitioners' request for a Special Permit amendment: None.