

**DECISION OF THE BOARD OF APPEALS
OF THE
TOWN OF WESTWOOD**

PROPERTY OWNER: Gregg J. Wilson Trustee
500 Yarmouth Road
Hyannis, MA 02601

PETITIONER: Aston Martin Boston
P.O. Box 66
Norwood, MA 02062

LAND AFFECTED: 340 Providence Highway
Westwood, Massachusetts
Map 24, Lot 078

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, September 20, 2023 at 7:00 PM via remote participation to consider the Petitioner's request to amend a Special Permit and Variance granted by the Westwood Zoning Board of Appeals on July 15, 2009 and recorded in the Office of the Town Clerk on August 3, 2009 and amended on September 11, 2009, corrected on October 9, 2009 and amended again on November 16, 2012. The original Special Permit was granted pursuant to previous Westwood Zoning Bylaws Sections §4.5.2.1 [Change or substantial extension of the use] and 6.2.17 [Special Permit]. The original Variance was granted pursuant to previous bylaw Section §6.2.6 [Permitted Signs in Residence Districts]. Petitioner is proposing to amend the Special Permit and Variance associated with the operation of an automobile dealership, as well as illuminated manufacturer brand wall signs and pylon signage at the existing commercial building located at 340 Providence Highway. The property is located in the Single Residence B (SRB) zoning district.

BOARD MEMBERS: John F. Lally, Chair
Michael L. McCusker
Linda Walsh

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

10.3 SPECIAL PERMITS

- 10.3.1 **Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.
- 10.3.2 **Application.** An application for a special permit for uses designated in the Zoning Bylaw shall be filed with the Town Clerk, who shall forthwith transmit it to the Special Permit Granting Authority. The Special Permit Granting Authority shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Failure to take final action within the ninety (90)-day period shall be deemed to be a grant of the special permit.
- 10.3.3 **Decision.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:
- 10.3.3.1 Social, economic or community needs which are served by the proposal;
 - 10.3.3.2 Traffic flow and safety, including parking and loading;
 - 10.3.3.3 Adequacy of utilities and other public services;
 - 10.3.3.4 Neighborhood character, aesthetics and social structures;
 - 10.3.3.5 Impacts on the natural environment; and
 - 10.3.3.6 Potential fiscal impact, including impact on Town services, tax base and employment.
- 10.3.4 **Procedures.** An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.
- 10.3.5 **Conditions.** Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.
- 10.3.6 **Plans.** An Applicant for a special permit shall submit a plan in substantial conformance with the requirements of the Special Permit Granting Authority.
- 10.3.7 **Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this Section.
- 10.3.8 **Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees

10.3.9 **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17 from the grant thereof) with the Town Clerk.

10.4 VARIANCES

10.4.1 **Permit Granting Authority.** Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a use not otherwise permitted in a particular zoning district shall not be granted.

10.4.2 **Application.** A petition for a variance shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action within the one hundred (100)-day period shall be deemed to be a grant of the variance.

10.4.3 **Findings.** Before granting a variance from the requirements of this Bylaw, the Board of Appeals must specifically find that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

10.4.4 **Procedures.** An application for a variance shall be filed in accordance with the rules and regulations of the Board of Appeals.

10.4.5 **Conditions.** Variances may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Board of Appeals may deem necessary to serve the purposes of this Bylaw.

10.4.6 **Plans.** An Applicant for a variance shall submit a plan in substantial conformance with the requirements of the Board of Appeals.

10.4.7 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of this Section.

10.4.8 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for variances.

10.4.9 **Lapse.** Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its

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 Petitioner is seeking to amend the previously issued Special Permit to extend the preexisting nonconforming use of motor vehicle sales, leasing, storage, parking, cleaning and preparation and all other uses incidental or related thereto in a residential district to the Class I Auto dealership Aston Martin Boston.
2. The Select Board granted conditional approval for a Class I Auto Dealer license to the applicant pending amended Special Permit approval by the Zoning Board of Appeals and the successful completion of the twenty (20) day decision appeal period
3. All service and repairs will be performed off-site at a facility under lease by the Petitioner located at 981 Boston Providence Hwy. Norwood, MA.
4. The Petitioner is also seeking amendments to the permits and variances in order to add a temporary sign to the front of the building, while waiting for the final sign package to be completed by the manufacturer. The Board of Appeals is the Special Permit granting authority
5. The Petitioner is seeking to temporarily replace the previously approved 4' x 20' aluminum framed internally lit sign and with a 2' x 48' unlit PVC sign that reads Aston Martin Boston with manufacturer logo.
6. The new sign remains consistent with what might be usual for the Highway Business District which is adjacent to this particular parcel. The property is located in the Single Residence B (SRB) zoning district.
7. The Petitioner is seeking to delete the language of Condition # 2 of the November 16, 2012 amended Special Permit and Variance, and replace with the following: Exterior lights other than security lighting shall be turned off one (1) hour after close of business.
8. Since the original grants, the Westwood Zoning Bylaw has been expanded, consequently, changing section numbers.
9. The Petitioner's proposal will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous because of traffic congestion, or other reason, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for amendments to the variances and special permits granted on August 3, 2009 and September 11, 2009 as corrected on October 9, 2009, and amended on November 16, 2012 pursuant to previous Westwood Zoning Bylaws Sections §4.5.2.1 [Change or substantial extension of the use] and 6.2.17 [Special Permit], and Variance pursuant to previous bylaw Section §6.2.6 [Permitted Signs in Residence Districts] and current Town of Westwood Zoning Bylaw Sections § 10.3 [Special Permits] and 10.4 [Variances]

1. The Board voted unanimously to grant the Petitioner's request to amend the previously issued Special Permit to extend the preexisting nonconforming use of motor vehicle sales, leasing, storage, parking, cleaning & preparation and other uses incidental or related thereto in a residential district to the Class I Auto dealership Aston Martin Boston.
2. The Board voted unanimously to grant the Petitioner's request to amend the existing Special Permit and Variances in order to add a temporary sign to the front of the building, while waiting for the final sign package to be completed by the manufacturer.
3. The Board voted unanimously to grant the Petitioner's request to delete the language of Condition # 2 of the November 16, 2012 amended Special Permit and Variance, and replace with the following: Exterior lights other than security lighting shall be turned off one (1) hour after close of business.
4. The Project shall be constructed in substantial conformity with the submitted proof titled "Proof: Aston Martin Lotus Norwood" and sign invoice titled, Aston Martin Boston, dated July 22, 2022 both prepared by Tawk 23B Kennedy Road Gloucester, MA 01930 and parking layout plan titled, "Parking Layout Exhibit 340 Providence Highway Westwood, MA" prepared by Norwood Engineering dated May 13, 2020 and memorandum prepared by Town Planner Abby McCabe to Planning Board File titled 340 Providence Highway Planning Approval dated July 14, 2020
5. The Petitioner must make formal application to the Zoning Board of Appeals to review final manufacturer signage unless the Building Commissioner determines the proposed new signage is compliant with the previously approved signage in the existing Special Permit and Variance.
6. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
7. If the Project, or any Condition imposed in this Decision, requires permit, license, or other approval from any other board, committee, or agency of the Town of Westwood or other regulatory agency of the Commonwealth or the federal government, the Applicant shall make an appropriate application for the same, and shall obtain all required approvals prior to the start of any work.
8. This Special Permit and Variance 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.

9. **The person exercising rights under a duly appealed special permit or variance does so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**

10. 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.

11. This grant of variance shall be exercised in accordance with Section 10.4. entitled Variances and Section 10.4.9 entitled Lapse as follows:

10.4.9 Lapse. Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its discretion and upon the written application of the Applicant, may extend the time for exercise of the variance for a period not to exceed six (6) months provided that the application for such extension is filed with the Board of Appeals prior to the expiration of the one (1) year period. If the request for an extension is not granted, the variance may be reestablished only after notice and new hearing pursuant to M.G.L. Chapter 40A, Section 10.

RECORD OF VOTE

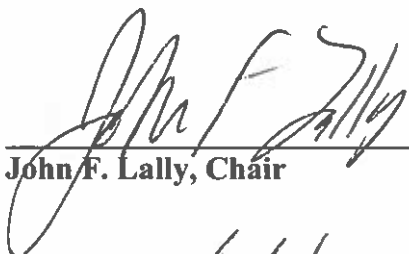
The following members of the Board of Appeals voted in favor of the Petitioners' request for a Special Permit and Variance amendment: John Lally, Michael McCusker, and Linda Walsh.

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

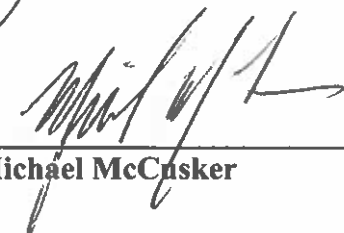
Received September 28, 2023 @ 3:56PM
Westwood Town Clerk



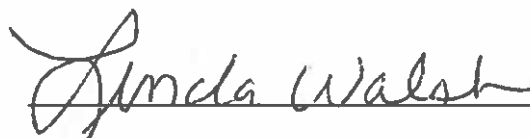
WESTWOOD ZONING BOARD OF APPEALS



John F. Lally, Chair



Michael McCusker



Linda Walsh

9-28-23
Date

340 Providence Highway