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**THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS**

June 10, 2015

Certificate of Granting Modification of a Special Permit

Special Permit approval is granted to Empire Management Corporation, 171 Great Road, Acton, MA 01720 under the Lunenburg Protective By Law Section 4.6.3. to allow the continuance of an existing use, automotive sales and service, and to add an eight bay service garage (120x28) between the two existing dealerships and to pave an existing gravel vehicle storage/display area located at 739 Chase Road to the south of the North End Mazda dealership.

The petitioners were seeking to continue the existing use of automotive sales and service. The new parking layout of vehicles would include sales, storage, employee and customer parking. The property, which is the subject of this case, is located at 739, 747, 757 and 777 Chase 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 By-Law of the Town of Lunenburg.

Board Members present: Raymond Beal, Chairman, Alfred Gravelle, James Besarkarski, Paul Doherty and Hans Wentrup. Donald F. Bowen, Vice Chairman was present but not voting.

Special Permit modification has been granted to Empire Management Corporation, 171 Great Road, Acton, MA 01720, affecting the rights of the owner with respect to land and buildings at **739, 747, 757 and 777 Chase Road, Lunenburg, MA 01462**, Book 5933, Pages 330-333 and 6193, Page 301 recorded 11/15/2005 and 7/31/2006 respectively as described in plans submitted with the petition. Assessors Map 14 Parcels 1-4.

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

Lisa Normandin, Board secretary read the petition into the public record and a memo submitted by the Lunenburg Board of Health.

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Jim Almonte, Project manager from Waterman Design Associates spoke on behalf of the applicant and expanded on the petition. He indicated on the site plan the proposed eight bay garage that the petitioners are seeking approval to build located between the two existing dealerships. The applicants are also seeking approval to pave an area at 739 Chase Road for an additional car display/storage area. Mr. Almonte indicated that this plan was approved in the spring of 2014 by the Lunenburg Conservation Commission. Mr. Almonte said that additional lighting would be added to the parking area at 739 Chase Road and the new lighting would be dark sky compliant, he added that the bay doors for the proposed garage would face the rear of the property and would not create excessive noise in the front portion of the property.

Paul Doherty asked Mr. Almonte how the applicant was going to address the concerns brought up in the Board of Health memo regarding the increase in sewage flow to the sewage disposal system with regard to the new garage construction as well as the Department of Environmental Protection classification of an increased public water supply. In the memo the Board of Health indicated that the home located at 777 Chase Road must be in full compliance with Title V as it relates to the division of property that is proposed. Mr. Almonte said that they will work with the local Board of Health and are already addressing concerns outlined by Department of Environmental Protection. They are fully aware that the home at 777 Chase must be in full compliance with Title V prior to amalgamating the lot lines.

Alfred Gravelle had concerns with regard to the parking spaces that will be eliminated due to the garage construction, he was aware that the new paved area would compensate for many of the lost spaces. Mr. Almonte said that the lot area with regard to the by-law must have at least 243 parking spaces and they currently exceed that with customer, employee and display vehicle parking on the current plan layout.

Hans Wentrup asked how necessary it is to have the paved area at 739 Chase Road and the increase in lighting. Mr. Wentrup was concerned because an abutter on Windermere Drive had concern with lighting at a previous hearing. Mr. Almonte said new LED lighting would replace the outdated lighting and would not project on neighboring properties. Mr. Brian Lafferty of Empire Management indicated that the storage/display area was added by a Special Permit granting when they purchased the old bookstore at 739 Chase Road. The paving of the parcel will improve the existing environmental issue because it is raw soils and gravel and with a wetland area behind it. They do not want any erosion into the existing wetland. The paving of the area will help control storm water with a detention basin and some drainage improvements were created in 2007 when other areas of the property were paved. He indicated that swales will be put in place as part of the new proposal and this was preapproved by the Conservation Commission.

Hans Wentrup mentioned that the previous granting indicated that the parcel could not exceed 300 cars and this Special Permit would need to be amended as they are asking for 476 vehicles.

James Besarkarski asked if the applicants have spoken with the Fire Department regarding access for fire safety reasons. Mr. Lafferty and Mr. Almonte indicated that the proposal must go through the development plan review with the Lunenburg Planning Board and the fire department will be included in that process.

Alfred Gravelle asked if the new service garage with the eight bays would incorporate the Subaru or Mazda dealership. Mr. Lafferty indicated primarily most of the service bays would be used for the Subaru dealership but the bays have not been given any special designation yet.

Chairman Beal pointed out the zoning map that was distributed to the board members and the delineation of the commercial and outlying districts. Mr. Almonte was unclear where the zoning line was exactly in relationship with his current plan. Mr. Beal indicated that it would most likely be a question that should be addressed during the development plan review process and Jim Almonte said that they would update their plan prior to going to the Planning Board so that the zoning line is delineated. The intent is to remove the existing home at 777 Chase Road from the land occupied by the existing dealership,

The Board then reviewed the conditions that were approved in the previous granting. Hans Wentrup had questions regarding the number of vehicles on the lot. Chairman Beal indicated that the number did include employee and customer parking. The Board members agreed that a Development Plan Review was before the Planning Board and felt comfortable that any outstanding issues would be addressed with their Board

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John Herrick, 99 Boucher Road an abutter had concerns regarding where the property lines meet in the corner. Mr. Herrick indicated that old tires and oil tanks that have been discarded behind the dealership near wetlands and he had concerns with this. Mr. Lafferty said that the Board of Health, DEP and the Lunenburg Conservation Commission has walked the site at numerous occasions. They also had their own environmental consultants on the property many times over the fourteen years that they have owned the property. Mr., Lafferty went on to explain that there was an issue in a rear corner of the lot that ATV's were riding through on a cart road and they have since blocked off the area, he does not feel that the items in question are even on their property. Mr. Herrick alleges that the debris was covered up with loam but has since resurfaced this spring. The Board members took note of Mr. Herrick's concern and will pass the information on to both the Lunenburg Conservation Commission and the Planning Board.

MOTION

After due deliberation Hans Wenstrup made a motion to amend the Special Permit requested to continue the automobile dealership with subject to the conditions outlined below. Paul Doherty seconded the motion subject to the following conditions.

CONDITIONS

1. The cars must be placed twenty (20) feet from Chase Road.
2. No more than three hundred vehicles (476) may be stored onsite until the Lunenburg Fire Department approves the parking layout with regard for ingress and egress and that number of vehicles approved by the Lunenburg Fire Department will become part of this permit.
3. All of the vehicles that are for sale shall be ready and maintain inspections as required by the Registry of Motor Vehicles.
4. All loading and unloading of vehicles to be done off-street for safety purposes
5. No parts, materials or tools shall be displayed or stored out of doors.
6. 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 work 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.
7. The business hours for the sale of used cars will be 8:00 A.M. to 8:00 P.M. Monday through Friday, and Saturday 8:00 A.M. to 5:00 P.M. and Sunday 12:00 P.M. to 4:00 P.M.
8. The petitioners shall conduct the business at all times in a manner so as not to be offensive to the residential abutters.
9. The granting of this special authorization shall inure to the benefit of the applicant, and shall cease in the event the business is sold or sublet to another party.
10. The permit will be subject to a periodic review by this Board or the Zoning Enforcement Officer. If the restrictions noted as part of this granting of this permit are not adhered to, or if operated in any way offensive or detrimental to the neighborhood, this Board would ask the enforcement officer to begin the procedure to rescind this permit.
11. The petitioners shall abide by all requirements of the Department of Public Works of the Town of Lunenburg and the Department of Public Works of the State of Massachusetts with respect to ingress and egress at the property.
12. The petitioners must comply with the Town of Lunenburg Zoning By-law regarding signage.

13. Any additional lighting shall not be offensive to the abutting properties.
14. No spray painting to be done at this site.
15. Minor car repair will be permitted inside the garage area only.
16. Detail work may be done out of doors.

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.

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.
- 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 Empire Management Group 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.

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.

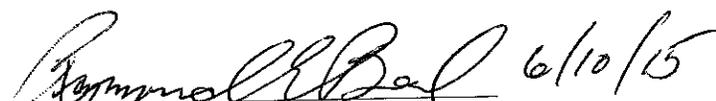
VOTE

Raymond Beal voted in favor of granting the Special Permit
Alfred Gravelle voted in favor of granting the Special Permit.
James Besarkarski voted in favor of granting the Special Permit.
Hans Wentrup voted in favor of granting the Special Permit.
Paul Doherty 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


Raymond E. Beal, Chairman Date 6/10/15

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