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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

October 28, 2015

Certificate of Granting a Special Permit

A Special Permit was granted to Wal-Mart Store #2118, 301 Massachusetts Avenue, Lunenburg, MA 01462 under the Lunenburg Protective by- Law Section 4.6.3.1. (m).

Wal-Mart Store #2118 was seeking a Special Permit for the outdoor display of seasonal products. The property which is the subject of this case is located at **301 Massachusetts Avenue, Lunenburg, MA 01462 and owned by Centro GA Lunenburg Crossing, LLC, P.O. Box 4900, Dept. 124, Scottsdale, AZ 85261-4900.**

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit has been granted pursuant to the Protective By-Laws of the Town of Lunenburg.

Board members present: Chairman Raymond Beal, Donald F. Bowen, Alfred Gravelle, James Besarkarski and David Blatt.

A Special Permit has been issued to Wal-Mart Store #2118, 301 Massachusetts Avenue, Lunenburg, MA 01462 and affecting the rights of the owner with respect to land and buildings at **301 Massachusetts Avenue, Lunenburg, MA 01462.** Book 7339, Page 358, and dated January 11, 2011 and owned by Centro GA Lunenburg Crossing, LLC, P.O. Box 4900, Dept. 124, Scottsdale, AZ 85261-4900. The plans were submitted with the petition. Assessors Map 74, Lot 73.

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

Chairman Beal opened the meeting and Lisa Normandin; Administrative Assistant read the petition into the public record. The Board of Health issued a memo explaining that they had no issues with the request.

The applicant Wal-Mart Store #2118 was represented by their engineer Alan R. Carpenter, PE of CPH, 520 Hartford Turnpike, Vernon CT and store manager Mark Massicotte. The Wal-Mart Store #2118 is located at 301 Massachusetts Avenue, Lunenburg. Mr. Carpenter indicated that the area that they wanted to utilize for the outdoor display would be located to the left side of the store under the existing canopy in a 4x95 foot area.

Manager Mark Massicotte explained that the area would be used to display seasonal items from April 1st through November 1st similar to what was previously granted to the Hannaford Supermarket.

The area is currently used to store the shopping carriages, if an outdoor display was featured; Mr. Massicotte said that the carriages can still be stored in the area to the left of the display area and indoors. Mr. Massicotte indicated that they currently had excess shopping carts and their intent was to ship some of them off to another store. Mr. Massicotte went on to explain that he has been the store manager only since December of 2014 and since that time has cleaned up the perimeter of the store a great deal and was unaware that the store was in violation of the zoning by-laws. He added that when contacted by the building official he immediately removed the outdoor display and cleaned up the side and rear area of the garden center and has since tried to comply with all of the local ordinances.

David Blatt asked if the display items would be brought in in the evening, Mr. Massicotte indicated that they would remain outdoors and added that an employee would be there to assist customers during the day however, all financial transactions would take place indoors at the cash registers located inside. Mr. Blatt also asked if there would be sufficient room for customers to pass under the existing awning area around the displays. Mr. Massicotte indicated that there was ten feet from the display area to the existing pillars so there would be plenty of room for the customers to get by. Alfred Gravelle asked if consumers would be allowed to park in the fire lane to look at products on display and Mr. Massicotte insisted that there would be absolutely no parking in the fire lanes. Alfred Gravelle asked if there would be any additional lighting in the area of seasonal display. Mr. Massicotte said that currently it is served by recessed lighting and no additional lighting is planned. Raymond Beal indicated that he was unaware that the store was not permitted for the outdoor display of seasonal products. Raymond Beal told Mr. Massicotte that he should get in contact with Planning Director Adam Burney if the petition was approved as they would need to seek a Development Plan Review from their office.

Dave Blatt kindly asked the store manager if he would consider moving the smoking area so that patrons looking at the outdoor displays were not bothered by the smoke. Mr. Massicotte said that he would be in favor of doing that.

The Board members agreed that parameters must be placed on the area of display to 4 feet by 95 feet and all products must be placed against the building under the existing canopy as defined in the plan. Mr. Massicotte said that he is planning to paint lines on the existing walkway specifically to define the display area.

MOTION

After due deliberation Donald Bowen made a motion to grant the Special Permit as requested for the outdoor display area defined specifically as a 4x95 area to the left of the entrance to display seasonal items. Alfred Gravelle seconded the motion.

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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:

- 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.
- Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- Will be operated with reasonable regard for order and sightliness.
- 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 petitioner shall abide by all of the requirements of the Department of Public Works of the Town of Lunenburg and the Department of Public Works of the Commonwealth of Massachusetts with respect to ingress and egress at the property, and any other Board or agency.

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.

The granting of the Special Permit shall inure to the benefit of the applicant Wal*Mart Store #2118 and shall cease in the event the business is sold or sublet to another party.

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.

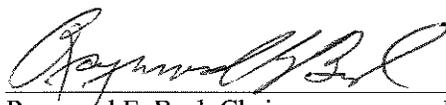
VOTE

Raymond Beal voted in favor of granting the Special Permit.
Donald Bowen 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.
David Blatt 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 10/28/15
Date

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PROPOSED 4' x 95'
SEASONAL OUTDOOR DISPLAY / SALES
AREA UNDER EXISTING BUILDING CANOPY.
TIME LIMIT:
BEGINS YEARLY APRIL 1
ENDS YEARLY NOVEMBER 1

