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Town of Southborough
BOARD OF APPEALS
SOUTHBOROUGH, MASSACHUSETTS 01772

9 CORDAVILLE ROAD
SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-485-0717 ext. 1

James F. Hegarty
Town Clerk
Town House
17 Common Street
Southborough, Massachusetts 01772

August 28, 2023

Notice of Decision of an Application for a Special Permit

Property Address: 264 Cordaville Road, Southborough, MA 01772
Map 9, Lot 11
Deed Book & Page: Book 38084, Page 231

Appellants: P&H Management Corp.

Application Filed: May 1, 2023

Public Hearing: June 28, 2023 at 7:00 P.M.
Virtual meeting through Zoom

Sitting as a Board: June 28, 2023: David Williams, Chair
Craig Nicholson
Paul Drepanos
Michael Robbins
Doris Cahill
Jamie Mieth, sitting as alternate member

August 16, 2023: David Williams, Chair
Craig Nicholson
Paul Drepanos
Doris Cahill
Jamie Mieth

For the Appellants: John McAuliffe, Attorney

Procedural History:

1. An application for a Special Permit was filed in the Office of the Southborough Building Department and the Office of the Southborough Town Clerk on May 1, 2023.
2. The application for the Special Permit is for an alteration to a pre-existing, nonconforming use to increase the number of used vehicles for sale. The existing limit of two cars on the site was established by a 1982 Special Permit. Relief was requested under Chapter 174 Article V, Section 174-19 and 174-9.
3. The record owner of the subject property is P&H Management Corp.
4. The current tenant of the subject property is RZND Motors. The tenant was granted a Class II license by the Southborough Select Board on December 6, 2022 for the sale of up to 8 used cars, along with other conditions.
5. A public hearing before the Zoning Board of Appeals was duly noticed in the Metrowest Daily News on June 14, 2023, and June 21, 2023.
6. The applicant was heard at the June 28, 2023 and August 16, 2023 Zoning Board of Appeals meeting after describing that they are looking for a Special Permit to allow 14 used cars for sale on the lot.
7. The public hearing opened on June 28, 2023 and closed August 16, 2023.

Plans/Documents:

1. Letter from Town Administrator Mark Purple to RZND Motors re: Class II license amendment, dated March 28, 2023
2. Zoning Board of Appeals Application Form
3. Project Narrative – 264 Cordaville Road
4. Deed – 264 Cordaville Road
5. Proposed Site Plan – 264 Cordaville Road
6. Revised Site Plan – 264 Cordaville Road, dated August 15, 2023
7. Proposed Traffic Management Plan – 264 Cordaville Road, prepared by Engineering Design Consultants
8. Zoning Board of Appeals Special Permit Notice of Decision dated September 9, 1980 – 264 Cordaville Road
9. Zoning Board of Appeals Special Permit Notice of Decision dated December 21, 1982 - 264 Cordaville Road
10. Zoning Board of Appeals Special Permit Notice of Decision dated July 10, 1985 – 264 Cordaville Road
11. Zoning Board of Appeals Special Permit Notice of Decision dated November 4, 1987 – 264 Cordaville Road
12. Agreement for Judgement dated December 3, 2015
13. Minor Site Plan Approval – Application, Decision, and Approved Plan dated August 4, 2015
14. Class II Licenses – 2015-2023
15. Certified Abutters List – 264 Cordaville Road
16. Legal Ad Billing Agreement
17. Abutter Correspondence:
 - a. Letter of Opposition from Laura Angle- Vaughan, dated June 9, 2023
 - b. Letter of Opposition from Nancy Falconi, dated June 14, 2023
 - c. Videos of 264 Cordaville Road car delivery from Nancy Falconi, recorded June 13, 2023
 - d. Letter regarding Auto Leasing from Laura Angle-Vaughan, dated June 16, 2023
 - e. Letter regarding sight lines and snow removal from Ed Young, dated June 21, 2023

- f. Letters regarding Select Board Jurisdiction from Nancy Falconi, dated June 22, 2023
- g. Letter and photographs regarding number of cars for sale from Nancy Falconi, dated June 23, 2023
- h. Letter from Laura Angle-Vaughan, dated June 30, 2023
- i. Letter from Nancy Falconi, dated July 2, 2023, with videos dated June 29, 2023 and June 30, 2023, and photograph dated August 9, 2023
- j. Letter and video from Laura Angle-Vaughan, dated August 12, 2023

18. Letter from Building Commissioner, Casey Burlingame, regarding the number of used cars for sale on the lot, dated June 26, 2023

19. Letter from Building Commissioner, Casey Burlingame, regarding a site visit on July 31, 2023, dated July 31, 2023

Findings:

1. The property is located in the Residence B District.
2. The use is pre-existing, nonconforming, originally as a service and gas station and changing to include the sale of used cars with the approval of the Special Permit from the Zoning Board of Appeals, decision dated December 21, 1982.
3. The applicant is seeking to increase the number of used cars for sale, from two, to 14.
4. The subject property received a Minor Site Plan approval, dated August 4, 2015, for the existing use for the sale of cars and repair of cars at 264 Cordaville Road with conditions. Such Site Plan Approval could not have operated to increase the number of cars that could be offered for sale at the property.
5. The owner and/or tenant has been granted a Class II license, by the Town of Southborough Select Board, for the sale of up to 8 used cars, and other conditions, on the following dates:
 - a. December 1, 2015
 - b. December 6, 2016
 - c. December 19, 2017
 - d. December 4, 2018
 - e. September 8, 2020
 - f. February 2, 2022
 - g. December 6, 2022

Such licenses did not and cannot operate to increase the number of cars that could be sold on the site, in accordance with the 1982 permit.

6. Town Counsel opined that the prevailing decision governing the number of used cars for sale is the Southborough Zoning Board of Appeals decision dated December 21, 1982, which allowed for the sale of two used cars, with other conditions.
7. The Zoning Board of Appeals found that the proposal and evidence presented, per the revised site plan dated August 15, 2023, proposed traffic management plan, and conditions listed herein will result in improved traffic flow on the lot, a reduction in traffic and safety issues on the adjacent roadways, and an enforceable limit to the number of cars on the lot, which meet the following criteria to grant the Special Permit:
 - a. The extension or alteration is not substantially more detrimental to the neighborhood.
 - b. The extension or alteration will not increase the extent of nonconformance in size or in impact.
 - c. The use sought and its characteristics are in harmony with the intent and purpose of the bylaw.

- d. The use sought and its characteristics are not in conflict with public health, safety, convenience and welfare.
- e. The use sought and its characteristics are not substantially detrimental or offensive to the neighborhood or destructive of property values therein.
- f. The continuation of the pre-existing, nonconforming use on an existing lot will:
 - i. benefit nearby uses and will not result in issues with respect to providing adequate water or drainage or substantial environmental damage due to wetland loss, habitat disturbance, or damage to valuable trees or other natural assets.
 - ii. continue to contribute to the diversity of services available locally.
- g. Visual consequences of the subject lot and use on the surrounding neighborhood were considered in the conditions listed herein with regards to site arrangement and screening.
- h. Access to the location will not increase existing traffic and will provide safe and convenient pedestrian and vehicular movement while lowering the impact on the abutting properties.

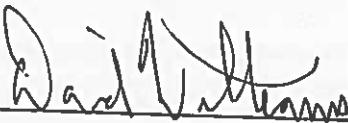
Decision and Vote of the Board:

At its meeting on August 16, 2023, the Zoning Board of Appeals voted unanimously (5-0-0) to approve the Special Permit pursuant to Town of Southborough Code Chapter 174 Article V, Section 174-19 and Section 174-9 to allow an alteration to a pre-existing, nonconforming use to allow for a total of 12 cars for sale and "in transition" combined per the site plan dated August 15, 2023 with the following conditions:

1. The approval is subject to a new Site Plan Approval by the Planning Board, with special consideration given to:
 - a. fencing and screening along Woodland Road.
 - b. the removal of the concrete island along Cordaville Road that used to accommodate gas pumps.
 - c. the restriction of 3 spaces towards the southern corner of the lot for employee parking only.
 - d. ingress and egress of delivery vehicles from the south of Cordaville Road and exiting to the north only.
 - e. hours of operations of the sales office.
 - f. no idling of delivery vehicles along Woodland Road.
 - g. clear demarcation of for sale and "in transition" or sold cars.
2. No further approval by the Zoning Board of Appeals is necessary unless the Planning Board approves a number greater than 12 parking spaces for "for sale" or "in transition" cars.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted unanimously (5-0-0) on a motion made by Mr. Nicholson and seconded by Mr. Drepanos, with members voting by roll call as follows to approve the requested Special Permit:

| | |
|-----------------|-----|
| Doris Cahill | Aye |
| Craig Nicholson | Aye |
| Jamie Mieth | Aye |
| Paul Drepanos | Aye |
| David Williams | Aye |



David Williams, Chair

Signing on behalf of the Zoning Board of Appeals

The Board of Appeals calls to the attention of the owner or applicant that pursuant to M.G.L. c. 40A, § 9, this Special Permit shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. c. 40A, § 17, if substantial use thereof has not sooner commenced, except for good cause.

Any person aggrieved by the action of the Zoning Board of Appeals may appeal said action in accordance with M.G.L. c. 40A, § 17.

M.G.L. c. 40A, § 11 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 in the Office of the Town Clerk and no appeal has been filed or that, if such appeal 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 fee for such recording or registering shall be paid by the owner or applicant.

**** NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: _____

Date: _____

James F. Hegarty, Town Clerk
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