



TOWN OF ASHLAND, MASSACHUSETTS
101 MAIN STREET, ASHLAND, MA 01721
OFFICE OF THE
ZONING BOARD OF APPEALS

John Trefethen, ZBA Chairman

Peter Matchak, Town Planner
Emma Snellings, Assistant Town Planner

ZONING BOARD OF APPEALS DECISION
CASE Special Permit 1-21

MAP 13, LOT 090
BOOK: 71572, PAGE: 050

LOCUS: 10 Metcalf Avenue
PETITIONER: Judith Barbieri



At the Public Hearing on December 29, 2020, the Zoning Board of Appeals (the “Board”) voted 3-0-0 to grant a special permit to allow for the construction of a 30’ x 40’ building on an existing non-conforming lot (the “Project”) at 10 Metcalf Avenue (the “Locus”).

Judith Barbieri, owner, applied for a Special Permit per Chapter 40A, Section 6 of the Massachusetts Zoning Act and Chapter 282, Sections 3.3 (Nonconforming Uses and Structures) and 9.3 (Special Permits) through the Ashland Bylaws to allow for the construction of a 30’ x 40’ building on an existing non-conforming undersized lot as shown on the plans and documents submitted to the Town of Ashland on November 10, 2020. The locus is located at 10 Metcalf Avenue, Assessors Map 13, Lot 090, in the Industrial Zoning District.

The Project shall be constructed and operated in accordance with the terms and conditions hereinafter specified.

DOCUMENTS OF RECORD

1. The Zoning Board of Appeals (the “Board”) received an Application for a Special Permit on November 10, 2020.
2. The application packet for a Special Permit, stamped in by the Town Clerk on November 10, 2020, contained the following:
 - a. Completed Application case I.D. SP1-21, including Abutters List and Property Card.
 - b. Site Plan, titled “Proposed Site Plan of 10-12 Metcalf Avenue in Ashland, MA; Scale 1’ = 20’; Date September 25, 2020; prepared by Connorstone Engineering Inc. 10 Southwest Cutoff, Suite 7, Northborough, MA 01532; 2 Sheets” Signed and stamped by Vito Colonna, Registered Professional Engineer No. 47635
3. Other documents submitted:
 - a. Public Comment from Adam West, dated December 7, 2020

The foregoing memoranda and letters were read into the record and are incorporated in this decision by reference and made a part hereof.

FACTS & EVIDENCE

This request was received on November 10, 2020 and a public hearing was scheduled for December 15, 2020 at 7:00 PM. Notice of the public hearing was published in the MetroWest Daily News on November 30, 2020 and December 7, 2020

The public hearing was posted in the Ashland Town Hall and provided to all “parties of interest,” including all abutters, as required by MGL Chapter 40A, Section 11.

The public hearing commenced as scheduled on December 15, 2020. The public hearing was continued to December 29, 2020. The following members were seated on the public hearing: Mr. Trefethen, Mr. Forestal and Mr. Siegel. Due to the Covid-19 Massachusetts State of Emergency, the Zoning Board of Appeals public hearing was held via video conference. Meetings were held in full compliance with Massachusetts Open Meeting guidelines as modified by Governor Charlie Baker’s Emergency Order dated March 12, 2020 suspending certain provisions of the Open Meeting Law. Agendas and meeting material were available on the Town of Ashland website.

At the public hearing on December 15, 2020, the applicant’s representative George Connors Esq. presented testimony citing the need to build a 1200 square foot metal building to be used for a landscaping building, and how the use would be an improvement over the existing use. The lot is a pre-existing non-conforming lot because it is undersized and does not have adequate frontage. The Board then voted to close the public hearing and enter into deliberations at the public hearing on December 29, 2020. Public comment from all meetings can be found in the approved meeting minutes for the public hearing.

FINDINGS BY THE BOARD

The Board, after review of the facts, plans, and evidence presented at this hearing, and after deliberations reviewing all submitted material, makes the following findings for the Special Permit application of Judith Barbieri, case SP1-21 in order to allow the construction of a 30’ x 40’ building on an existing non-conforming undersized lot at 10 Metcalf Avenue. The Zoning Board concludes the following:

- A. The property at 10 Metcalf Avenue, is 12,540 square feet, has 147’ of frontage and is located in the Industrial zoning district.
- B. The Industrial zone has a minimum lot size of 30,000 square feet and 150’ of frontage.
- C. The current use of the lot is storage of materials and vehicles, it is an open gravel lot. The proposed use is an improvement to the site.
- D. An abutter spoke in support of the project.
- E. The desired Special Permit may be granted without nullifying or substantially derogating from the intent and/or purpose of the Zoning By-Laws as the proposed use is not more detrimental than the existing use.

F. In reference to the criteria for granting a Special Permit in Chapter 282 Section 9.3.2 of the Ashland By-laws, the Board found that:

1. The project will serve community need. The Special Permit would allow the construction of a building to be used for a landscaping business, and this is an improvement over the existing use.
2. Traffic flow and parking are addressed, and parking will be behind the building.
3. Adequate public utilities, including public water and sewer, are available at the locus.
4. The existing neighborhood is industrial with some residential units. The project will be consistent with the character of the existing neighborhood.
5. There are no impacts to the natural environment from this project.
6. There will be no adverse fiscal impacts on the town services due to the proposed building, and will improve the site by providing employment.

CONDITIONS

In accordance with Chapter 282 Section 3.3 and Section 9.2.2 (1) and Section 9.3.1 and with the criteria set forth in Chapter 282 Section 9.3.2 of the Ashland Zoning Bylaws, and on the basis of the foregoing findings, following a motion made and recorded, and after due and open deliberation, the Board by unanimous vote grants Judith Barbieri a Special Permit to construct a 30' x 40' building on an existing non-conforming undersized lot at 10 Metcalf Avenue as substantially shown on the Site Plan titled "Proposed Site Plan of 10-12 Metcalf Avenue in Ashland, MA; Scale 1' = 20'; Date September 25, 2020; prepared by Connorstone Engineering Inc. 10 Southwest Cutoff, Suite 7, Northborough, MA 01532; 2 Sheets" Signed and stamped by Vito Colonna, Registered Professional Engineer No. 47635, subject to the following conditions:

1. The Applicant shall comply with any and all other relevant By-Laws.
2. The Applicant shall comply with any and all Ashland and Massachusetts State Building Codes.
3. Prior to the issuance of an occupancy permit, the Applicant shall install a fence and appropriate vegetation on the northerly side of the Locus which abuts a residential parcel known as Map 13, Parcel 91 to provide a buffer.
4. During construction, the applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roadways. The applicant shall at all times use all reasonable means to minimize inconvenience to nearby residences and businesses. Hours of construction shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday, with no construction on Sunday or any state or federal holiday.
5. The applicant shall comply with any requirements of the Building Department.
6. This Decision shall be recorded at the South Middlesex Registry of Deeds. Proof of such recording shall be submitted to the Ashland Building Department and Planning Department prior to issuance of a Building Permit.

The following members sat and voted on this hearing:

John Trefethen, Chair, voted to grant the Special Permit 1-21 as stated.

Brian Forestal, Member, voted to grant the Special Permit 1-21 as stated.

Stuart Siegel, Member, voted to grant the Special Permit 1-21 as stated.


Pursuant to Section 9.4.17 of the Ashland Zoning Bylaws, any appeal to this decision shall be made in accordance with M.G.L. c. 40A, § 17 and shall be filed within 20 days of the date this decision was stamped by the Town Clerk's Office.

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TOWN OF ASHLAND – ZONING BOARD OF APPEALS DECISION

The Board voted in favor of granting Special Permit 1-21 in order to construct a 30' x 40' building on an existing non-conforming lot, subject to conditions as outlined above, for the property located at 10 Metcalf Avenue, Map 13, Lot 090.

Date: December 30, 2020

By: 
John Trefethen, Board Chair

Filed with the Town Clerk on:

Date: December 30, 2020


~~Tara M. Ward, Town Clerk~~
Cindy Livingstone, Assistant Town Clerk

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK'S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

Date: _____

Tara M. Ward, Town Clerk