

**SOUTH HADLEY PLANNING BOARD PUBLIC HEARING CONTINUATION
ON SITE PLAN REVIEW WAIVER REQUEST**

BY DM TOWING LLC-U-HAUL LEASING.

MINUTES OF MAY 23, 2011

(As Approved August 29, 2011)

Present: Joan Rosner, Chair; Mark Cavanaugh, Member; Helen Fantini, Member; Jeff Squire, Member; Melissa O'Brien, Member; and Richard Harris, Town Planner

Ms. Rosner called the public hearing to order at 6:47p.m. She introduced the members of the Board, the Town Planner and explained the procedures for conducting the hearing. She also emphasized the importance of the public to voice their comments and questions. Since this is a continuation of the public hearing, Ms. Rosner stated that they will not read the public hearing notice.

David Bartley, attorney representing the applicants, reviewed a letter and revised parking plan which depicts more than enough parking spaces to accommodate the UHaul business which is subject of the public hearing and the existing DM Towing operation.

Mr. Cavanaugh inquired as to how many parking spaces are provided. Mr. Harris indicated the plan provides at least 14 spaces (4 inside and at least 10 outside). He also noted that the trailers need storage spaces, but not necessarily parking spaces.

Ms. O'Brien inquired about the present use of the area proposed for the inside parking. William Forget, one of the owners of the applicant, stated that there would be no change as they currently use the area to park some of their towing trucks and equipment.

Ms. Fantini queried about handicapped parking accommodations. Mr. Harris stated that he understood that the handicapped parking space would only be necessary for customers and would be provided within the building via the "garage" door. David Bartley and William Forget stated that the site grades towards the street; however, there is a flat area in the building which would be best used for handicapped parking.

Mr. Harris noted that his review of the plan indicates that 15 parking spaces are proposed for vehicles with additional space available for storage/display of equipment including trailers.

Mr. Cavanaugh asked about the distance between the building and some of the spaces. Ms. O'Brien, in a related question, queried about the size of the spaces and the trucks. Darlene Forget, one of the owners of the applicant, indicated that the largest UHaul vehicle is 26 feet and they have provided spaces which are at least that deep.

Edward Kivari, attorney at 95 State Street, Springfield; representing Mr. and Ms. Archambaults offered comments regarding the following:

- The focus on parking is a “red herring” and not the real issue which should be the Board’s focus
- The definition of “vehicle” includes “mobile construction equipment”; therefore, a parking space should be provided for each piece of equipment including trailers
- The Site Plan Review process is the only process available to the Planning Board to regulate development in the Industrial A zoning district
- This is a “mixed use” area with residential, commercial, and industrial uses present
- Why isn’t a Special Permit required?
- The towing business is a 24/7 operation within beeping and other noises being constant disruptions to the neighborhood
- The Bylaw allows for a waiver, but it must meet conditions and should be used sparingly
- The Planning Board should deny the request. He reviewed the objectives of the Zoning Bylaw and noted the 24/7 hours of operation.
- Due to the previous use, he suggested that this operation could be subject to a Chapter 40A, Section 6 challenge
- An October 2009 letter was sent to Mr. Steve Reno – but no response was provided
- The Site Plan Review is equivalent to a Subdivision Review

Ms. Rosner and Mr. Harris explained the Site Plan Review process, the provision for an “exception”, and the process that has been used in considering this “waiver” request.

Attorney Kivari asked the Board to deny the request and “engage in the Site Plan Review process”.

Mr. Cavanaugh stated that the Board, the applicants, and Mr. Kivari’s clients have been engaged in the process for over 2 weeks. He inquired how the process would be different if the waiver was denied.

Attorney Kivari stated that if the full Site Plan Review process were followed, the parties would be able to focus on the real concerns.

Mr. Squire stated he did not see this as a major change or a site with major concerns.

Attorney Kivari stated that the concerns center around the egress/ingress, noise, hours of operation, etc.

There was discussion and disagreement as to whether a “trailer” met the definition of a “vehicle” in the Zoning Bylaw with Attorney Kivari asserting that it did but members of the Board and Mr. Harris disagreeing with that assertion.

Mr. Harris stated that the revised parking plan appears to meet the Zoning Bylaw's parking requirements.

Attorney Kivari inquired about the Board's position on the landscaping business which recently moved to a site on Old Lyman Road.

Ms. Rosner noted that the landscaping business is not part of this public hearing and was not on the agenda.

Attorney Bartley stated that his client merely wants to operate the UHaul business in the Industrial A district as allowed. He stated that if a complaint was raised, his client would try to address the complaint and suitably respond.

Christine Archambault, 259 Old Lyman Road stated that the business operates at all hours.

Mr. Squire queried about the UHaul drop offs. William Forget stated that they have a designated area and it is not very busy.

Ms. Fantini inquired if the parking lot was striped. Mr. Harris stated that the Zoning Bylaw does not require striping of the parking lot. Mr. Cavanaugh and Mr. Squire expressed disagreement with Mr. Harris' assertion.

Attorney Bartley noted that his clients would not object to striping of the spaces. However, he queried as to whether his clients would be subject to a violation if a vehicle was parked across a parking space line – particularly if the lot was not filled. Mr. Harris suggested that it would not be a violation, but offered that the Board members may wish to comment. None of the members indicated that such a parking space infraction would be a violation.

Mr. Squire suggested that the applicants did not need to hire a company to do the painting. Rather, he suggested a "Sherwin Williams – like" traffic paint and a roller would be sufficient.

Mr. Cavanaugh expressed the belief that the spaces should be striped within 30 days. Attorney Bartley suggested 90 days.

Mr. Cavanaugh inquired about the limits of the storage area. There was discussion as to whether the "storage/display" area along the frontage should be limited to 2, 3, or 4 items.

Ms. Fantini asked about landscaping. Mr. Harris stated that has not typically been required in these types of circumstances.

Darlene Forget queried as to what they would need to do if the landlord did not approve of striping the parking spaces. Mr. Harris suggested that they would need to come back to the Board for revision of the Board's approval.

Mr. Cavanaugh inquired as to how often there is an “after hours” drop off. William Forget, without having a specific number, responded that is not often. There was discussion about hours for drop off – whether or not to restrict.

Ms. Rosner inquired if there were any further comments/questions. She noted that once the public hearing is closed, the public’s opportunity for comment and discussion is over.

Martha Terry, 25 Brainerd Street, inquired as to why this is not public. Ms. Rosner noted that pursuant to advice from Attorney David Martel, the decision phase is limited to the Board and the Town Planner (staff).

Ms. Fantini asked about the sidewalk. There was discussion that the sidewalk that is present is likely used as access for the building and not a public sidewalk.

Christine Archambault, 259 Old Lyman Road inquired about compliance with the Americans with Disabilities Act. Mr. Squire responded that there are limited circumstances in which that would apply to conversion of an existing building and it would not appear to apply in this instance because the renovations are minor.

There being no further public comment, Ms. Rosner stated that the hearing is closed at 7:57 p.m.

Respectfully submitted,

As Approved

Richard Harris, Recorder