

**Town of Auburn, Massachusetts
Minutes of the Meeting
Zoning Board of Appeals
Auburn Town Hall Selectmen's Meeting Room
June 19, 2019 - 7:00p.m**

Members Present: Michael Marin, Vice Chair, Richard Kusy, J. Laurence Ciccolo, and Peter Jones, Alternate

Members Absent: Robert Tatro, Chairperson, Meghan Roche and Karen Blais

Also Present: Caleb Moody, Building Commissioner and Dena Daoust, Recording Secretary

Michael Marin, Vice Chair, called the meeting to order at 7:00p.m. The Town cable staff was present, and the meeting was recorded and televised. No other attendee was recording the meeting.

Richard Kusy motioned to open the meeting, J. Laurence Ciccolo seconded it. All in favor, 4-0-0.

7:00pm Applicant: Auburn Industrial Development Corp., appealing the issuances of a building permit without a public hearing, under Sections 9.4.6.15, 9.4.8.1, 10.1.1 of the Auburn Zoning Bylaws and Mass General Laws 40A Sections 7,8,+15, on property located a 33 Sword St., Map 11, Parcel 7.

Mr. Marin asked for clarification on what this hearing was about. Caleb Moody said they are either challenging the issuance of the building permit or challenging the Planning Board for allowing a minor change without notifying abutters. Per Mr. Moody, they can challenge the issuance of the building permit but cannot challenge the Planning Board here, as the Zoning Board of Appeals does not oversee the Planning Board. Mr. Ciccolo asked what they should base their decision on and Mr. Moody suggested they hear both sides but remember, they can only challenge the issuance of the building report here.

Mr. Ciccolo opened the public hearing, Richard Kusy seconded it. All in favor, 4-0-0.

Dale Kiley, attorney from Bourgeois White LLP, was here representing the client. He explained that yes, they are challenging the validity of the building permit being issued as they feel that Site Plan review is part of the building permit review process. Mr. Kiley explained that the Site Plan changes that came about after the project passed the Zoning Board of Appeals is more than just a parking lot change. They said there were be big changes to traffic patterns that were not there at first and this has created new safety issues. As the abutters were not notified of these changes, they had no say in this. Mr. Kiley also said that they have brought a traffic expert to speak to the new traffic patterns and issues they feel will now come up due to these changes.

Marty Risner of the Auburn Industrial Corp spoke next. He stated that they own 31 Sword St, which is right next door and other buildings in the Industrial Park as well. They have many tenants in the park and both as owners and on behalf of their tenants, they are here to voice their concerns and protect their rights. Mr. Risner stated they believe this new Site Plan will create issues with traffic and cause problems for their tenants.

Mr. Marin pointed out that the Zoning Board cannot rule on Site Changes as the ZBA has nothing to do with that. Mr. Kiley stated their belief is the proposed changes are major ones that should have triggered a new hearing. Again, Mr. Marin told him this hearing needs to be about the Building Permit, not whether or not the Site Plan modification was major or minor. Mr. Kiley stated that the Building Permit was denied for a long time as Site Plan approval was required for issuance. On February 6, 2019, the Building Permit was finally issued after a February 26th Planning Board meeting approved the site changes, deeming them to be minor. Mr. Moody stated he cannot challenge the Planning Board's decision and has no say in whether the changes were minor or major. Site Plan approval was needed so once that was granted, he issued the permit.

A few abutters expressed worry about traffic issues. Mr. Ciccolo asked what was in this building before FW Webb bought it. Mr. Risner stated it was a distribution warehouse. Mr. Ciccolo asked if trailer trucks came in and out of there before and was told that yes, they did. The original site plan allowed for an easement between 31 and 33 Sword St. Mr. Ciccolo asked if the former tenant used the easement and was told it wasn't a defined easement so it's hard to answer that. Mr. Ciccolo then clarified that there never was an easement before and now there still isn't. Mr. Marin again asked how the Building Permit is in violation of the Zoning Board bylaws and Mr. Kiley stated they believe the revised Site Plan violates the bylaws so the Zoning Board should demand they look at it again. Peter Jones asked if they can challenge the Planning Board and was informed they can only do that in Supreme Court.

Paul Furgal of McMahon Transportation spoke next. He stated he had completed a traffic study on the proposed business at 33 Sword St. He feels the proposed Site Plan changes will cause a dangerous situation for vehicles trying to pull in and out of the business, creating a safety hazard and that it would also create difficult traffic patterns for the surrounding businesses.

Mr. Kusy motioned to close the public hearing. Mr. Ciccolo seconded it. All in favor, 4-0-0.

Mr. Marin stated we are looking to see if the Building Permit should be voided. Mr. Jones agreed, stating he believes this means the Zoning Board would be saying the Planning Board did something wrong. Mr. Kusy also agreed, stating the main point seems to be that abutters had no say in the Site Plan changes and it does not seem we can overturn the Building Permit for that, as we have no control over the Planning Board.

Mr. Ciccolo motioned to deny the request. Mr. Kusy seconded it. Both Mr. Jones and Mr. Marin concurred. All denied 0-0-4.

Mr. Ciccolo closed the hearing. Mr. Kusy seconded it. All in favor, 4-0-0.

7:10pm Applicant: Dana Berger, requesting a Special Permit under Section 3.2.6.3 of the Auburn Zoning Bylaws, to allow the operation of an auto sales and service business in the Aquifer III Zone, on property located at 496 Washington St., Auburn, MA. Map 57, Parcel 135.

Dana Berger was present to request permission to operate an auto sales and service business at 496 Washington St. He has a paintless dent and scratch repair business that he has run as a mobile business for 18 years and he is now looking to change to a retail location. This site allows him the opportunity to do both that and have a small car lot too. He uses no spray paint, chemicals or oil. The lot has 20 spots and while he is hoping to eventually fill them all, he plans

to start small. Matthew Dumas the owner of the business also was present. Mr. Berger is his new tenant and will be running the same type of business that has been approved for this location since 2016.

Mr. Marino asked if any abutters were present, there were none.

Mr. Ciccolo motioned to close the public hearing. Mr. Kusy seconded it. All in favor.

Mr. Ciccolo motioned to approve. Mr. Jones seconded it. All in favor.

OTHER BUSINESS:

**SIGNATURES for DECISIONS: 23 Sunrise Ave. Bonneville Variance, 519 Washington St.
NJ Realty SP**

MINUTES APPROVED:

Motion to adjourn by Mr. Jones, seconded by Mr. Ciccolo. All in favor.

Meeting adjourned at 8:45 pm.

Next meeting will be July 18, 2019 at 7 p.m.

Respectfully Submitted: Dena Daoust

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www.auburnguide.com and click the “Playback of Government Meetings” link on
the homepage.**

The Minutes of June 19, 2019 meeting were approved on August 15, 2019.