

**TOWN OF PLYMPTON ZONING BOARD OF APPEALS
CERTIFICATE OF DECISION ON
APPLICATION FOR SPECIAL PERMIT**

RECEIVED
SEP 11 2017
TOWN CLERK'S OFFICE
PLYMPTON

To: Plympton Town Clerk
Plympton Town Hall
Five Palmer Road
Plympton, MA 02367

Re: **APPLICANT:** Gene Beliveau
APPLICATION: Special Permit, Storage of Commercial Vehicles
PROPERTY: 0 Winnetuxet Road, Map 21, Lot 1-24
ZONING: Agricultural-Residential, Business

This matter concerns a parcel of land located at 0 Winnetuxet Road (Assessors Map 21, Lot 1-24) and the Applicant's proposal to store more than three but less than ten commercial vehicles on the subject property. The Application was filed in response to a Cease and Desist Order issued by the Zoning Enforcement Officer on May 4, 2017.

On May 30, 2017, the Applicant filed an application with the Zoning Board of Appeals (the "Board") for a special permit to store more than three but less than ten commercial vehicles on the subject property. The completed application was received by the Town Clerk on July 6, 2017. The Board advertised and noticed a public hearing regarding the application and the public hearing opened on August 15, 2017 and was continued to August 24, 2017 and September 7, 2017. During the public hearing, the Applicant, through its authorized representatives presented evidence and testimony, and the Board took additional evidence and testimony from members of the public and the Zoning Enforcement Officer. The Board conducted a site visit on August 23, 2017 at 10:00 a.m.

The following Board members were present at the public hearings at which substantive testimony and other evidence was presented and then deliberated toward a decision in this matter: Kenneth A. Thompson, Arthur B. Morin, Jr. and David F. Alberti.

FINDINGS OF FACT

1. The public hearing for the Application was duly noticed and advertised and duly mailed to the Applicant and Abutters.
2. The Applicant was represented at the hearing by Mr. Gene Beliveau, Manager, Plymouth County Paving, LLC and Attorney Kathleen A. Reagan, Esq.
3. The property is located at 0 Winnetuxet Road (Assessors Map 21, Lot 1-24) (hereinafter referred to as the "Property"), and is located partially within the Business Zoning District and partially within the Agricultural-Residential Zoning District.

4. The Property is comprised of a total of 27.2 acres of land. The Business Zoning District extends to a point 400 feet from the center of Center Street. The remainder of the Property is located in the Agricultural-Residential Zoning District.
5. The Property abuts property located at 376 Main Street, which is the principal place of business for Plymouth County Paving, LLC.
6. Plymouth County Paving LLC, provides residential and commercial asphalt paving and maintenance services, excavation and demolition, and commercial-industrial snow and ice management for properties located off-site.
7. 376 Main Street is also used for another commercial business, Outback Arms, which is a retail firearms establishment.
8. The Property also abuts 364 Main Street, which is occupied by Winnetuxet River Provide, a commercial landscaping materials business.
9. Main Street is a major thoroughfare through the Town and the neighborhood surrounding the Property is a mixture of commercial, residential and agricultural uses.
10. The Applicant uses a portion of the Property for the storage of commercial vehicles, equipment and supplies related to the business of Plymouth County Paving, LLC. Such vehicles and equipment are not visible from Main Street. The Board was not made aware of any complaints regarding the use of commercial vehicles at the Property.
11. The remainder of the Property is forest land, subject to a Forest Management Plan. According to said Plan, the management objective is to maintain the property for open space and wildlife habitat, and to keep a land buffer around the area used by the paving company.
12. Based on the Board's observations during the site visit, the area used by the paving Company is concentrated to the area closest to the 376 Main Street property.
13. The Applicant provided the Board with the registrations for nine vehicles that will be kept at the Property if the special permit is granted. The registrations are on file with the Zoning Enforcement Officer.
14. The Applicant seeks a special permit to store more than three, but less than ten, commercial vehicles at the Property, solely within the portion of the Property located in the Business Zoning District.

DETERMINATIONS

On September 7, 2017, following all of the testimony and evidence presented during the public hearing, the Board voted 3-0 to make the following determinations:

1. The property is located at 0 Winnetuxet Road (Assessors Map 21, Lot 1-24) (hereinafter referred to as the "Property"), and is located partially within the Business Zoning District and partially within the Agricultural-Residential Zoning District.
2. The storage of more than three but less than ten commercial vehicles is permitted in the Agricultural-Residential and Business Zoning Districts by Special Permit Only.
3. Pursuant to Section 7.1 of the Town's Zoning Bylaws, special permits may be issued for specified uses only which are in harmony with the general purpose and intent of the Bylaws and shall be subject to such conditions, safeguards and limitations on time, space and use as the Board may reasonably require.
4. Pursuant to Section 7.2 of the Town's Zoning Bylaws, in considering a Special Permit for storage of more than the allowed number of commercial vehicles the Board shall consider the proposed use and character of the surrounding neighborhood. In granting such a permit, the Board may impose conditions on the number and size of additional vehicles, their hours of use, and other conditions it deems necessary.
5. The Board finds that, if kept in accordance with the conditions set forth in this decision, the keeping on more than three but less than ten commercial vehicles on the portion of the Property located within the Business Zoning District is in harmony with and consistent with the character of the surrounding neighborhood, particularly the commercial uses at 376 and 364 Main Street.
6. As set forth in Section 7.1.2 of the Zoning Bylaw, the Board further finds that, if kept in accordance with the conditions set forth in this decision:
 1. The proposed use is not noxious, harmful or hazardous, is socially and economically desirable and will meet an existing or potential need;
 2. The advantages of the proposed use outweigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be significantly greater than could be expected from development which could occur if the special permit were denied; and
 3. The applicant has no reasonable alternative available to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood.


DECISION

On motion made and seconded, the Board voted 3-0, based upon the Findings and Determinations made above, to grant the application for special permit allowing the Applicant to keep more than three but less than ten commercial vehicles on the property located at 0 Winnetuxet Road (Assessors map 21, Lot 1-24), subject to the following conditions:

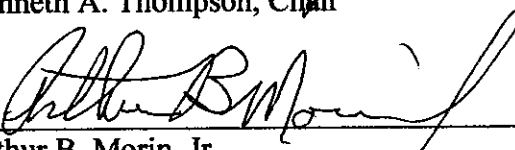
1. The Applicant shall only be permitted to keep the nine vehicles identified at the public hearing and whose registrations shall be kept on file by the Zoning Enforcement Officer. Any identified vehicle may be replaced by another vehicle if the Zoning Enforcement Officer is notified of the vehicle being replaced, the vehicle being replaced is permanently removed from the Property and the new vehicle's registration is provided to the Zoning Enforcement Officer;
2. The vehicles shall be kept only on the portion of the Property that is located within the Business Zoning District, i.e. within 400 feet from the center line of Main Street;
3. The vehicles kept at the Property must be duly registered and in operable condition at all times; and
4. The vehicles shall be operated at such times and in such manner so as not to disturb residents in nearby residential properties.

The following Board members certify the above decision is a true record of the actions and votes of the Board.

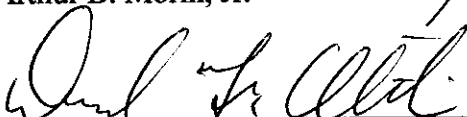
TOWN OF PLYMPTON ZONING BOARD OF APPEALS



Kenneth A. Thompson, Chair



Arthur B. Morin, Jr.



David F. Alberti.

DATED: September 7, 2017

FILED:

October 2, 2017

Any person aggrieved by this decision may appeal to a court of competent jurisdiction pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within twenty days after the date of filing of such notice in the office of the Town Clerk.