



# ZONING BOARD OF ADJUSTMENT

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## MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, January 16, 2018 – 7:00 p.m. – Town Hall Conference Room

*Members Present:* George Baryames, Liz Cummings, Steve Gerrato, Leonard Schwab

*Staff:* Jim Marchese – Building Inspector

Vice Chair Cummings opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Chair explained the procedures of the Zoning Board of Adjustment, stating that a quorum was present, and the meeting was being recorded.

Vice Chair Cummings stated that the Chairman had resigned since the last meeting. She advised the applicant there were only four members at this time and the policy was to proceed with the application. Three members must vote in favor and not a simple majority. Had only three members been present, the applicant would have had the choice to proceed or continue to the next meeting.

After a very brief discussion, the Board opted to have Vice Chair Cummings continue as acting Chair.

1. 45 & 47 Alden Avenue – Maps R20, 58 & R20, 59 - Commercial B Zone  
Request for a Variance  
Owner/Applicant: Jason Battistelli, Battistelli Properties, LLC  
A Variance is requested from Greenland Zoning Ordinance Article III – Establishment of Districts and Uses, Section 3.6 – Table of Uses, Subsection L, Item 2.3, to allow the use of two commercial condo units in connection with the applicants existing abutting auto service and repair business at 43 Alden Avenue; there will be no fueling.

Chris Ratte, attorney and representing Jason Battistelli, addressed the Board. Attorney Ratte stated there would be no changes to the site plan. J. Battistelli owns Mirror Image Automotive which is located in Autumn Pond Park and abuts Units 45 & 47. Those units will be used in connection with the existing auto repair service. There are other repair services in the Autumn Pond condominium development. In addition, there are numerous commercial and light industrial uses that are similar.

The application meets all the Variance requirements and meets the spirit of the Ordinance since it's surrounded by similar businesses. The zone itself is surrounded by other commercial and industrial zones in which auto repair is allowed by Special Exception. It will have no effect on the neighboring property values because it fits in with what is already there. Substantial justice would be done: the abutting property is a similar use. It would not adversely affect the neighborhood or the spirit of the ordinance. Unnecessary hardship: the applicant meets both requirements; there isn't any substantial relationship between the prohibition of auto repair service and the use in that area. It's exactly in line with what currently exists. If he was allowed to use one property but not the exact abutting property, it would be a substantial hardship. He would have to find space off-site for his business. However, he has

property that's available to his business and would not adversely affect the Town, the neighborhood or abutters.

Attorney Ratte explained that Mirror Image Automotive is auto repair. There will be no fueling due to the large amount of wetlands in the area; they are repairing cars and don't want a gas station. The additional two units will be used in conjunction with the existing business to include office space, employee lunch room, storage for materials and equipment, and maybe some work space for what doesn't fit in the existing unit. There will be no hazardous material stored on site; there are paint and solvents in the existing unit. J. Battistelli explained that the paint booth is located in the existing unit, and is self-contained in an explosion proof room.

Most of the work will remain in its current location, with the two units used for overflow. Vice Chair Cummings asked specifically if they were planning to do, or intending to do, any auto repair in the two new units, or was the auto repair was going to stay where it is currently. Attorney Ratte responded that the majority would stay in the existing location; that's where the equipment is located. He couldn't guarantee cars wouldn't be repaired in the additional space; that wasn't the intent right now. Vice Chair Cummings stated it would change the use. Attorney Ratte responded that auto repair and service would include all those uses. Vice Chair Cummings stated that even though it may be an employee lounge and storage and it's tied to the business, it's not actually doing auto repair. G. Baryames noted he was obviously increasing his square footage; would it be used solely for storage or to expand the business to service more cars. Attorney Ratte responded it was service the cars he's already doing. It would make more efficient use of the space getting the cars in and out. J. Battistelli added that most of their work is body work and accident repair. They can only work on a set amount of cars with the paint booth and work flow; they can prime one or two vehicles per day and one paint session in the afternoon. J. Battistelli's goal is to get parts storage out of the existing building, allowing more room to work. He may occasionally put cars together in the two units, but doesn't plan to use them as a work facility. They will not be adding spray booths. There won't be any additional cars.

S. Gerrato clarified that it was an auto body and not auto repair. Collision repairs may involve auto repair (changing alternators, etc.). It's primarily auto body with occasional mechanical repairs. J. Battistelli has purchased the two units. The current unit was an existing auto body shop and didn't require a Variance. The two units he purchased were a pet crematorium. S. Gerrato added that the purchase of those units will give him more parking.

The majority of car and truck washing is done off-site; occasionally salt and sand is rinsed off cars. Most repair work is done dry. Long-term parking of vehicles was a concern for S. Gerrato. L. Schwab mentioned other auto repair shops on Alden Avenue and asked the Building Inspector if they were all non-conforming uses and if the owners had gone for a Variance or Special Exception. J. Marchese responded that the history he found was that many of the businesses were approved prior to the recent zoning change. The Commercial B District was added in 2011; it was all in the Industrial Zone prior to that and required a Special Exception. Most of the businesses obtained a Special Exception. L. Schwab clarified it was prior to 2011. J. Marchese added that 2011 was the key date when the Commercial B Zone was created.

L. Schwab had trouble continuing to grant Special Exceptions or Variances on a "onesie-twosie" basis. Vice Chair Cummings stated that was a Planning Board decision; the Board changed the zoning. L. Schwab felt the Planning Board should reconsider rezoning the Alden Avenue area; Vice Chair Cummings reiterated that wasn't before the Board. G. Baryames questioned why that area was rezoned. Mirror Image was in that location prior to the rezoning. The ZBA's job was to look at requests for Variances and

Special Exceptions from a particular zoning article. If the ZBA sees a consistent problem, hopefully the Planning Board would take notice.

Vice Chair Cummings explained that a Special Exception deals with a permitted use: you can have this as long as you meet the additional requirements. A Variance: the use or item is not permitted.

L. Schwab stated he would like to send G. Baryames' question to the Planning Board asking why the area was rezoned. Vice Chair Cummings added that anything dealing with autos is allowed in that zone. The motor vehicle side doesn't address the current application. It addresses automotive service stations; this isn't an automotive service station. "Fueling, service and repair" are noted; there is no fueling. ZBA members felt there was a void. Vice Chair Cummings felt the application before them was closer to light industry, which is permitted with a Special Exception. It's not permitted in the Commercial B Zone. She continued that there is a problem with the wetlands in that area. Vice Chair Cummings will draft a letter to the Planning Board expressing the ZBA's concerns.

L. Schwab questioned if a Special Exception for light industry is permitted on Alden Avenue, could the ZBA say it's equivalent to a Variance. Vice Chair Cummings stated that it would be a Special Exception. If they felt it shouldn't be under "Automotive" but rather "Industrial Use of Light Industry" the requirements would be different. That wasn't before the Board; they needed to deal with the application before them and why it wasn't approved. Vice Chair Cummings reiterated the ZBA couldn't change zoning; they could grant Variances. They try to fix anything that might be considered arbitrary. 2011 was the magic date when zoning was residential or commercial A and B.

MOTION: S. Gerrato moved to grant the Variance for 45 and 47 Alden Avenue with the following conditions: no fueling, no washing of vehicles, and no unrepairable vehicles on site for more than 45 days. Second – Vice Chair Cummings

Discussion: L. Schwab stated he would like a 30 day limit on outside parking of unregistered vehicles on site. J. Battiselli asked about rinsing salt off vehicles. S. Gerrato responded that the last applicant was required to wash vehicles off site; the Board had to be consistent. Vice Chair Cummings added that they didn't want salt in the wetlands; bubbles and salt were the biggest concerns. There were no drains in the floors. S. Gerrato stated the only way to clean up the wetlands was not to use them as a dumping station.

Vice Chair Cummings reviewed the criteria for a Variance. The applicant, in their presentation, has clearly and concisely outlined the requirements for the granting of a Variance. They accurately covered the requirements of a Variance. By addressing them as such, Vice Chair Cummings considered them individually acknowledged.

AMENDED MOTION: S. Gerrato moved to grant the Variance for 45 and 47 Alden Avenue with the following conditions: no fueling, no washing of vehicles on site, no unrepairable vehicles on site for more than 45 days, and no outside parking of unregistered vehicles for longer than 30 days. Second – Vice Chair Cummings; three in favor, one abstain (L. Schwab). MOTION CARRIED

## 2. Approval of Minutes: Tuesday, November 21, 2017

Vice Chair Cummings apologized for missing the meeting on Tuesday, November 21, 2017. L. Schwab questioned a partial statement in the minutes.

MOTION: Vice Chair Cummings moved to strike to the partial statement in question (“or wouldn’t be square”). Second – L. Schwab; three in favor, one abstain (L. Cummings). MOTION CARRIED

MOTION: Vice Chair Cummings moved to approve the minutes of Tuesday, November 21, 2017 as amended. Second – S. Gerrato; three in favor, one abstain (L. Cummings). MOTION CARRIED

3. Other Business

Vice Chair Cummings stated she would like to send a letter to John Samonas, former Chairman, thanking him for his years of service and efforts on the Board. The Board wishes him “fair sails”.

L. Schwab questioned if someone would be appointed to the Board. Vice Chair Cummings noted there is an election in March. Mr. Samonas’ position will be for one year. An alternate can be appointed until March.

4. Adjournment

MOTION: S. Gerrato moved to adjourn at 7:34 p.m. Second – L. Schwab; all in favor. MOTION CARRIED

NEXT MEETING
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Tuesday, February 20, 2018 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: Tuesday, March 20, 2018