

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED
2015 MAR 30 PM 12 40
CITY CLERK'S OFFICE
GARDNER MA

NAME: Cumberland Farms, Inc.
ADDRESS: 100 Crossing Boulevard
Framingham, MA 01702

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED AT FOLLOWING PARCELS:

Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41; Main Street

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN THE FOLLOWING DEEDS DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

Parcel M22-10-1	Book: 13175	Page: 37
Parcel M22-10-39	Book: 48349	Page: 327
Parcel M22-10-40	Book: 51658	Page: 255
Parcel M22-10-41	Book: 16322	Page: 217

ON APPLICATION DATED December 16, 2014 FOR A Variance to: construct driveway access for a 4738 sf retail store with 12 pump fuel dispensing facility at Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41 on Main Street, Gardner, MA. Denied a building permit as the proposal does not comply with section 675-770.A.1.a(3) of the City of Gardner Code which requires that driveway access shall be 200 feet apart, where the project proposes a separation of approximately 77.50 feet.

The Gardner Zoning Board of Appeals at its March 17, 2015 meeting voted to grant with a Variance to Cumberland Farms, Inc. to construct a driveway access for a 4738 sf retail store at Parcel ID #M22-10-1, M22-10-39, M22-10-40 and M22-10-41 on Main Street, Gardner, MA.

The Public Hearing was held on January 20, 2015 and continued to February 17, 2015.

The Applicant proposed to construct a new retail store 4738 square feet, open 24 hours, with 12 fuel pumps under a canopy. The parcel is 2.08 acres in total with most of the property fronting rear Main Street. The Property is split between Commercial and Industrial Zoning Districts. A vacant dry cleaning business and existing residential multifamily building are to be razed for this project. This project is immediately adjacent and to the north of the City's new police station.

During the site plan review process with the Planning Board, the Planning Board requested that the applicant locate the proposed store perpendicular to Main Street on the northern property line. In accommodating this request, the driveway access to the property could no longer comply with the City Code.

The Applicant's representatives presented documentation that there is adequate maneuvering room on the property for tanker truck deliveries with the driveways as proposed as well as vehicular traffic entering and exiting the property. Additionally, the sight distances from both driveways comply with AASHTO recommended sight distances to the south and the north.

Approved site plan of record is titled "Site Plan Set for Cumberland Farms, Store # TBD, Station # TBD, 124-150 Main Street (RT-68), Gardner, MA 01440, prepared by Civil Design Group, LLC., dated August 6, 2014, latest revision date 1/29/2015.

The granting of this Variance does not create or aggravate a safety hazard. The Board considered the traffic flow within the proposed lot. The Applicant and its consultants adequately addressed the concerns of the Board.

The granting of this Variance does derogate from the intent of the Zoning in that the distance between the driveways is less than that allowed by Code. It was at the request of the City through the site plan process that the location of the building was moved thereby making the location of the driveway nonconforming.

In the issuance of this Variance, a hardship related to shape, topography or soil conditions of the property is not applicable in this case. It is the City that created the hardship for the Applicant by requesting the relocation of the building on the lot.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 30TH DAY OF MARCH 2015

Raymond F. LaFond
Raymond F. LaFond, Chairman

Randall W. Heglin
Randall W. Heglin, Clerk

Michael D. Gerry
Michael D. Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on MARCH 30, 2015 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

21-April-2015
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk