

ORIGINAL

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERKS OFFICE
GARDNER, MA

NAME: Gardner Little League, Inc.
ADDRESS: P.O. Box 762, 50 Manca Drive, Gardner, MA 01440

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

94 – 96 Mechanic Street

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

BOOK 43028 PAGE 341

ON APPLICATION DATED April 28, 2010 FOR A **Special Permit** TO:
Change the elevations and re-grade the lot at 94-96 Mechanic Street, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 10 – Supplemental Regulations, 1060 Earth Moving and Alteration, in General Residential III Area, of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its June 24, 2010 meeting voted unanimously to grant with conditions a Special Permit to Gardner Little League Inc. to regrade the lot at 94-96 Mechanic Street, Gardner, MA.

A Public Hearing on the application was held May 18, 2010. The Applicant proposes to construct a little league field including appurtenances at property that was once a manufacturing facility. To accomplish this, it is necessary to regrade the lot and to also bring in some fill to bring the playing field to the desired elevation.

The Applicant addressed the nine conditions outlined in Section 1182 of the Ordinance and are summarized below:

The proposed construction is compatible with the use in the neighborhood. The goal of this project is to construct a little league baseball field on a former manufacturing site creating a beneficial reuse of a formerly blighted property.

While the work to construct a facility will have a minor effect on the safe passage of vehicular and pedestrian traffic at the property, any inconvenience is during the duration of the construction which is temporary. The property is located on the dead end of a street that was cut off when Route 2 was constructed in the 1960s. Across the street is an office building which contains medical offices. That location has on site parking and should not be affected by the construction.

The facility proposed does include two on-site parking areas. It is likely that during games, these lots will be at capacity and on street parking will occur. The road is a dead end with the property located at the very end. There is no through traffic.

At this present time, there are no plans to install permanent bathroom facilities. The site plan presented to the Board indicated a future concession stand which may include restrooms. The current plans for the facility include a dumpster for the collection of refuse and portable bathroom facilities.

No permanent nuisance was proposed to be created by the project. While construction is ongoing, typical noise from a construction site will exist. Appropriate measures will have to be implemented to prevent erosion during and post construction in compliance with the requirements of the Gardner Conservation Commission. The proposal also included the installation of lights for the field. The Applicant indicated that the lights would be pointed away from the residential abutters.

The proposal was proposed to not be an inconvenience or hazard to abutters, vehicles or pedestrians. No contact was made by the applicant to the abutters. No abutters were also present at the Public Hearing. As indicated above, during games, overflow parking may occur on the roadway. During that time, abutters may be temporarily impacted. The Board considered the optimization of the utilization of the parking lots and includes a condition to ensure the parking area is maximized.

The proposal is in harmony with the general purpose and intent of the Ordinance. An athletic facility for the City's youth is encouraged.

The construction of a little league field will not have a significant detrimental impact on city services, tax base, or employment opportunities.

The construction of a youth little league field should be consistent with the City's Community Development or Master Plan.

On whether the proposal should be considered consistent with the City's Community Development Plan or Master Plan is not applicable to this Application.

In consideration of this Special Permit and in accordance with Section 1025 (2) (a) of the Zoning Ordinance, the Board considered the minimum conditions set forth by Ordinance and incorporate those in the granting of this Special Permit.

This Special Permit is granted with the following conditions:

- On-site dumpster to be enclosed by fencing.
- Property policing for removal of all litter and trash within 24 hours of the conclusion of all events.
- Applicant to provide plan for curb cuts for the property to City Engineer for approval.
- Construction entrance and egress to not exceed two locations.
- The parking areas to be appropriately marked or delineated for parking spaces and travel lanes meeting the requirements of the Ordinance. All travel lanes in the lots and entrance and egress from the property shall be established and clearly marked. All markings shall be maintained on an as needed basis to ensure their visibility during the periods when the site is used.

- Proposed retaining wall must be approved by the Building Commissioner and/or City Engineer in addition to any other permits that may be required.
- Hours of construction traffic for the removal, relocation or placement of fill to be limited to Monday through Saturday 8AM to 6PM.
- All equipment on site after working hours must be rendered inoperable.
- Construction site to be secured to prevent unauthorized access or left at the close of each day in a condition that is not dangerous or create attractive nuisance.
- The total length of construction to not exceed 90 days.
- All activities to comply with the Order of Conditions issued by the Gardner Conservation Commission.
- Appropriate traffic control signage should be in place during construction activities to provide adequate warning for the safe passage of pedestrians and vehicular traffic on Mechanic Street.
- The grading of the site to comply with the site plan provided to the Board. No finish grade shall exceed 2.5 horizontal to 1 vertical (2.5:1).
- Top soil to be at least 4 inches in depth.

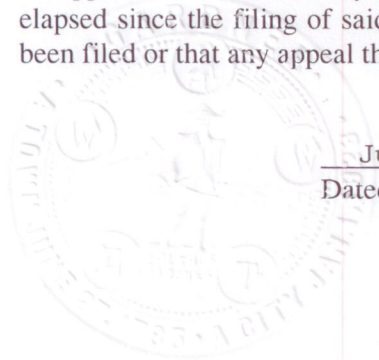
ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR 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 1st DAY OF July, 2010

Raymond F. LaFond (d) *Randall Heglin (d)* *Michael Gerry (d)*
 Raymond F. LaFond, Chairman Randall Heglin, Clerk Michael 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 July 1, 2010 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.



July 29, 2010
 Dated

Alan L. Agnelli
 Alan L. Agnelli, City Clerk