

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERK'S OFFICE
GARDNER MA

NAME: New England Wooden Ware Corporation
ADDRESS: 205 School Street, Suite 201, Gardner, MA 01440

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

188 Sherman Street, Parcel ID #R22-12-48 and R22-7-22

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

BOOK 7708 PAGE 229 (Parcel A)
BOOK 49619 PAGE 376 (Parcel B)

ON APPLICATION DATED May 9, 2013 FOR A **Special Permit** TO:

Demolish the existing single family dwelling and place a warehouse in the same footprint, with regard to the front setback, at 188 Sherman Street, Gardner, MA, Parcel ID #R22-12-48 and R22-7-22 (also known as 75 Logan Street) (split lot General Residential 3 and Industrial 1). Denied a building permit by the Building Commissioner because it does not comply with Section 4 Use Regulations, 423.3 reconstruction after Catastrophe or Demolition, in General Residential 3 Zoning District of the Gardner Zoning Ordinance.

The Gardner Zoning Board of Appeals at its July 8, 2013 meeting voted unanimously to grant with conditions a Special Permit to New England Wooden Ware Corporation to demolish an existing single family dwelling and construct a warehouse on Parcel R22-12-48 & R22-7-22 at address now or formerly known as 188 Sherman Street.

The application for Special Permit was filed with the office of the City Clerk on May 9, 2013.

Public Hearing held on June 18, 2013. A site visit was held on July 8, 2013.

The Applicant proposes to demolish an existing single family dwelling located at 188 Sherman Street and in its place construct an approximately 5,124 square foot warehouse to store paper roll stock for use at the adjoining New England Wooden Ware (NEWW) factory. The proposed structure is to be a stand-alone structure with frontage on Sherman Street. The warehouse is proposed to be located approximately 10 feet from the Sherman Street line, which is set back slightly further than the existing house. The paper roll stock that is planned to be stored in this structure is roll stock that arrives by rail car on a rail spur that abuts the rear of the proposed warehouse. Roll stock would periodically be transferred into and out of the building from either the rail cars or moved to other locations on NEWW property as part of the production process.

The Applicant has proposed the demolition of a single family dwelling. The Applicant indicated that demolished materials would be removed through NEWW property, not over the sidewalk and Sherman Street. The Board is sensitive to demolition activities and the potential effect on neighbors and addresses these concerns in conditions in the granting of this special permit.

The Applicant also recognized that this section of Sherman Street is residential in nature and is abutted by well-maintained residential properties. In an effort to blend the structure architecturally with the neighborhood, the applicant's proposed siding and windows as the exterior of the building. The Board is

aware of the significant total square footage of the southern and northern elevations of the proposed building and is concerned of the potential undesirable aesthetic effects a large blank wall can have on abutting properties. To address this concern, the Board requested of the Applicant that the exterior of the building through siding and other details (windows, trim, etc.), the design be sensitive to the residential character of the abutting properties and to design architectural components of the building to be consistent with the abutting properties. The Board addresses this concern in a condition in the granting of this special permit. At the site visit, the Applicant also indicated that several mature trees along the south side of the property to the greatest extent possible would remain.

At the Public Hearing, the Applicant addressed the nine conditions outlined in Section 1182 of the Ordinance and are summarized below:

The proposal is compatible with the use in the neighborhood. The area is zoned General Residential 3 and abuts Industrial 1 District and a railroad siding. The proposed structure is to be utilized for storage only. No manufacturing is to take place within the building. Concurrent with this Special Permit Application, the Applicant is seeking a Variance for the warehouse activity. The proposal abuts residential properties to the north, south and west. To the east is the rail siding and the NEWW factory. The proposed use will have limited effect on the neighboring residential abutters.

The proposal will provide convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets, properties and improvements. The new building will not have physical access to Sherman Street, with the exception of an emergency access door that will not be used except when necessary for safety. All access will be from the NEWW property to the east.

All parking and loading spaces associated with the structure will be located on the industrial site to the east. As the structure is proposed to be a warehouse and no staff is proposed to be stationed there, no permanent parking is needed.

The project as proposed will not contain facilities for sewerage as the facility will not contain industrial processes using water within the building and there will not be lavatories within the building. Employee presence in the building will be transient only. Refuse generation is expected to be minimal. No operations will intentionally produce solid waste. Waste that is generated will be collected and disposed of using the existing waste disposal system in place within the NEWW factory. Storm Water flow from the new structure will flow to the rear of the property toward the NEWW property.

The Applicant indicated and the Board generally concurs that the proposal will not constitute a nuisance due to air or water pollution, erosion, flood, noise, odor, dust, vibrations, lights, or visually offensive structures or site features. The Board recognizes that noise from the demolition phase of the project may impact abutters and to address this concern, set hours of work as a condition for the granting of this Special Permit.

The project shall not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The proposed structure is intended to be constructed to look in character with the abutting properties. As all activities are to take place from the rear of the property, placing the new structure at essentially the same setback as the existing house should not have an impact on abutters, vehicles, or pedestrians.

The construction of a warehouse where a single family home currently stands is typically not in harmony with the general purpose and intent of the ordinance, but the Board recognizes the use that the structure will receive, how the structure abuts an existing railroad siding and is directly connected to NEWW factory property. Also, the property that is proposed to be razed has fallen into significant disrepair and as evidenced at the site visit has become an attractive nuisance with regard to vandalism and the like.

The construction a warehouse for industrial use would not have a detrimental impact on city services, tax base, and employment opportunities. The Applicant indicated that should this project not be approved, they will be forced to seek alternatives for the storage of these paper rolls, which likely would be off their

current site. Moving the rolls of paper to an offsite storage facility and then back to the NEWW factory when needed would result in added on-road truck traffic which may not be the most desirable alternative.

The improvement or enhancement of businesses should be consistent with the City's Community Development Plan or Master plan.

A Special Permit is granted with the following conditions:

- Hours of demolition shall be
 - M-F 7 AM – 5 PM
 - No work on Saturday, Sundays, Holidays, or beyond these hours unless approved in advance by the Building Commissioner.
- All applicable permits must be obtained prior to commencement of work.
- All waste materials from the demolition or clearing process to be moved or transported to the rear of the property onto and through the NEWW property.
- Demolition equipment – i.e. excavator, front end loader, etc. to only enter the property from Sherman Street if necessary. All equipment to exit the property through the NEWW property to the rear.
- Demolition to include the existing single stall garage located on the south side of the property. Mature trees on the south side of the property to the greatest extent possible to remain.
- New building to be sprinklered for fire protection.
- Storm Water Drainage – Applicant to provide detailed site drainage plan to City Engineer for approval prior to issuance of Building Permit. Drainage to be directed to NEWW property not abutting property.
- Construction to include appropriate Best Management Practices to minimize construction and erosion runoff.
- Applicant to provide to the ZBA for approval architectural elevations for the north and south side of the building. Plan to include materials of construction. Western elevation to be substantially as shown on plan on file with the Board dated 4/25/13 by Soren Rono Designs. The proposed drawings to be consistent with the residential character of the abutting properties.

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 16th DAY OF July, 2013

Raymond F. LaFond^{dk} *Randall W. Heglin*^{dk} *Michael D. Gerry*^{dk}
Raymond F. LaFond, Chairman Randall W. Heglin, Clerk 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 JULY 16, 2013 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.

AUGUST 8, 2013
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk

