

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED
2013 OCT 1 PM 1 58
CITY CLERK'S OFFICE
GARDNER MA

NAME: Rebecca Wilson
ADDRESS: 130 New Templeton Road, Hubbardston, MA 01452

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

28 Central Street

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

BOOK 50582 PAGE 369

ON APPLICATION DATED August 20, 2013 FOR A **Use Variance** TO:
Operate a dance school at 28 Central Street (Parcel R27-17-13), Gardner, MA. (Denied zoning approval by the Building Commissioner because it does not comply with Section 4 Use Regulations, 415 Table of Uses, Description of Use #49 indoor amusement or recreational place or place of assembly, in General Residential 3 zoning district of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its September 17, 2013 meeting voted unanimously to grant a Use Variance to Rebecca Wilson to operate a dance school at 28 Central Street, Gardner, MA.

The Public Hearing held on September 17, 2013.

The Applicant proposes to conduct a dance school at the 28 Central Street location. The building in question is a two-story building, the main floor fronting on Central Street which has historically housed a convenience store, a restaurant and a restaurant with bar and function rooms. The lower level which fronts on Chestnut Street historically housed miscellaneous small businesses such as barbers, hair salons, and laundromat and other convenience retail to support the neighborhood.

The Applicant proposes to utilize the main floor as a dance studio. The Applicant currently has a dance studio located in downtown on Parker Street and has outgrown the current location. Relocating to the Central Street address will provide additional needed square footage to permit the business to grow and allow multiple sized classes concurrently.

There is no current proposed use for the lower level at this time.

The proposed use will occur entirely within the existing building. The business will operate within normal business hours. Currently, the business operates at various hours daily per week, ranging between the hours of 9AM and 8:15PM. The use will be significantly less detrimental and disruptive to the neighborhood than the past uses of the building where patrons of the restaurant and bar were disruptive to the neighborhood.

The granting of the Use Variance does not create or aggravate a safety hazard. All activities are to occur within the building. The Applicant indicated that she would advise patrons who were dropping off young students to do so at the adjoining municipal parking lot.

The granting of the Use Variance does derogate from the intent of the Zoning Ordinance in that this activity is not permitted in a General Residential 3 district. The building exists and has been vacant for several years. Its historical use as a restaurant and bar was problematic to the neighborhood. The existing building is well suited for the proposed use.

In the issuance of this Use Variance, a hardship related to shape, topography or soil conditions of the property is not applicable in this case. A literal enforcement of this requirement would result in the detriment of the neighborhood in that the building would likely remain vacant and continue to fall into disrepair and become a nuisance and fire hazard to abutters.

This Use Variance was granted concurrent with the granting of a separate Variance seeking relief from the Parking Requirements of Ordinance.

The Use Variance is unanimously granted without conditions.

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 October, 2013

Randall W. Heglin dK Michael D. Gerry dK Anthony J. Asmar
Randall W. Heglin, Acting Chairman Michael D. Gerry, Clerk Anthony J. Asmar, Third Member dK

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 OCTOBER 1, 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.

OCTOBER 19, 2013
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk

