

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED
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NAME: Donald Laing, DPW Inc.
dba Domino's Pizza
4 Boyden Road
Holden, MA 01520

On behalf of
Aaliyah, LLC
2138 Silas Deane Highway
Rocky Hill, CT 06067

ADDRESS: 403 Parker Street
Gardner, MA 01440

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

403-405 Parker Street

Parcel ID #M-22-2-52

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS Book 52446, Pages 327-329.

ON APPLICATION DATED July 21, 2015 FOR A Variance for: Off- street parking at 403 Parker Street, Gardner, MA, Parcel ID M22-2-52. A building permit denied by the Building Commissioner because it does not comply with Chapter 675, Article 750(b), Schedule of Parking Uses" of the City Code of Gardner.

The Gardner Zoning Board of Appeals at its September 15, 2015 meeting voted unanimously to grant a Variance to Donald Laing, DPW Inc., dba Domino's Pizza, on behalf of Aaliyah, LLC for relief of the off-street parking requirements of the Code.

The Public Hearing was held on August 11, 2015. Because of familiarity with the location by the Board, a site visit was not held.

The Applicant proposes to enlarge the existing Domino's Pizza by relocation an interior wall to accommodate three tables with a total of 8 seats and an additional bench for waiting customers. Taking into consideration the existing convenience store in the same building, a total of 33 spaces is needed. Thirteen spaces exist at the property including one disability parking spot.

The Applicant has also applied for a Special Permit from the Board for this activity.

At the Hearing, the Applicant addressed the conditions for a Variance.

The Applicant asserted that the granting of a Variance would not create or aggravate a safety hazard. The business has been in this location for more than 25 years. The work proposed is internal to the building. The parking lot is existing conditions.

A granting of a Variance would derogate from the intent of the Code. The Code requires additional on-site parking than can physically be obtained. As a majority of the business is delivery or pick-up of food, the turnover in spaces

will be constant. The business has existed for more than 25 years. The enlarging of the business will result in moving an interior wall reducing the size of an existing convenience store.

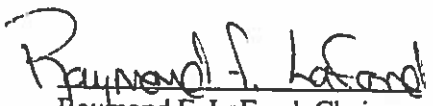
A hardship related to shape, topography or soil conditions does exist. The business owner is limited to existing parking conditions. To the west on the subject property is an automobile repair business. The property is also bound on the front and rear by roadways. There are residential properties to the east of the parking lot.

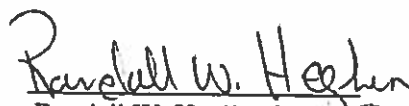
A Variance providing relief of Chapter 675, Article 750(b) of the City Code of Gardner is granted.

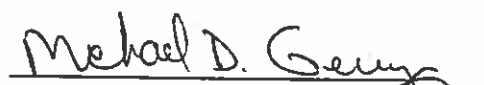
ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR 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 21ST DAY OF SEPTEMBER 2015



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 SEPTEMBER 21, 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.

OCTOBER 13, 2015
Dated


Alan L. Agnelli, City Clerk
TITI SIRIPHAN, ASSISTANT