



The Zoning Board of Appeals

TOWN OF WESTHAMPTON

TOWN HALL

1 SOUTH ROAD

WESTHAMPTON, MASSACHUSETTS 01027

Minutes of the Meeting - Westhampton Zoning Board of Appeal

Wednesday, July 20, 2022, at 7:00 PM

The Westhampton ZBA scheduled a regular meeting on Wednesday, July 20, 2022, at 7:00 PM.

Call to Order

The meeting was called to order at 7:05 PM

PRESENT IN PERSON: Bill Tracy, Peter Ignatovich, John Kelsey, Laurie Sanders,

ALSO PRESENT: Douglas Finn, Attorney Amanda Kemp, Attorney John McLaughlin, John Shaw (Westhampton), representatives from Rock Valley HVAC

Public Hearing: 1 Main road – Rock Valley HVAC

In accordance with Section 3.3 of the Westhampton Zoning Bylaw, the Westhampton Zoning Board of Appeals scheduled a public hearing on Wednesday, July 20, 2022 at 7:00 PM, at the request of Charles T Conner, Taylor Real Estate, on behalf of North Country Properties, LLC (Owner) to: (1) operate the existing General Retail Store as a Heating, Ventilation and Air Conditioning (HVAC) business; (2) use the existing storage space for storage of tools and supplies associated with an HV AC business; (3) Store service vehicles and such associated equipment on the Property; and (4) Light fabrication work as an accessory use to the HV AC business. Application is submitted pursuant to a remand order from the Land Court, relative to an appeal taken from a prior permit issued to the applicant by the board. The property is located at 1 Main Road, Assr. Pcl. 28-2.

The Chair opened the public hearing at 7:06 PM.

Presentation / Findings

- The application is consequent to a remand order, issued by the Land Court Department of the Trial Court, Case No. 2021 MISC. 000438 (HPS), dated May 31, 2021.
- Conditions have been imposed as part of the Land Court order and agreement among the parties; the ZBA may add additional conditions as it sees fit.
- Any action taken would amend the previous Decision of this Board, regarding Application SP-224, as voted unanimously at the Deliberations on August 10 2021.
- Amanda Kemp Attorney for the applicant, noted that the site plan, and proposed conditions, have been agreed upon by both parties, and asked that both be included in any decision.
- Attorney McLaughlin noted one discrepancy, which was corrected with the agreement of both parties.

After brief deliberation, it was MOVED by Kelsey, SECONDED by Ignatovich
To close the public hearing.

VOTED: 4, 0, 0 (7:11 PM)

Deliberation / Decision

Mr Lovin arrived at 7:12 PM.

The board recognized that very little had changed 'on the ground', and that the use continued to meet the criteria necessary to qualify for a special permit; the board further agreed that while the proposed conditions might be a burden to the applicant, they would not represent a detriment to the Town.

Mr. John Shaw noted that, due to his late arrival, Mr. Lovin would be unable to vote on the matter; the chair concurred.

After further brief deliberation, it was MOVED by Kelsey SECONDED by Ignatovich

To amend the decision of the Zoning Board of Appeals from August 2021, granting a special permit to the applicant, amending that decision to replace original conditions with the list of conditions dated July 20, 2022, as distributed at the meeting, as further amended, and incorporated here by reference.

VOTED: 4, 0, 1. (7:19 PM).

Standard Conditions for Special Permits

- This special permit is not in effect until the applicant has filed a certified copy of the decision or certificate with the registry of deeds. A copy of same shall be provided to the Planning Board and Building Inspector.
- The construction shall conform to the application considered and approved by the Planning Board, including all plans and documents submitted in support of same, and approved by the Planning Board.
- This special permit shall run with the land.
- Outdoor lighting shall be limited to that required by the building code and shall be down-lit only and fully shielded when viewed from the top and sides. Mercury vapor lighting and “bug zappers” are prohibited.
- Prior to issuance of a building permit, the above specified plans will be compared to the construction documents submitted to the Building Inspector for verification and correspondence. If the Building Inspector determines that there are significant differences, the applicant shall be required to apply for a Modification to this Special Permit.
- Substantial activity authorized by the Special Permit must commence no later than one year from the date of final action by the Zoning Board of Appeals.

Additional Conditions

1. On the property known as One Main Road, Westhampton (the “subject property”) the operation of the heating and air conditioning business which installs, services, and repairs heating and air conditioning equipment off-site shall consist of the following activities:
 - a. use of the main structure for (i.) the storage of materials used in Rock Valley HVAC, (ii.) fabrication of sheet metal, (iii.) assembly of materials by employees for off-site work, (iv.) loading and unloading of materials from company vehicles, (v.) related office work; and (vi.) the delivery of materials by third-party suppliers;
 - b. use of the shed (barn) located at the rear of the property, for: deliveries and pickups, which, on occasion and not as a regular use, will include the use of

- forklifts; storage; and any other permissible uses, so long as the uses are only associated with the operation of the Rock Valley HVAC heating and air conditioning business;
- c. parking for owner and employee vehicles during work hours (see plan referenced below); and
 - d. parking or storage of Rock Valley HVAC vehicles and equipment after work hours (See plan referenced below.).
2. The following activities are not permitted in any structure or on the subject property:
- a. deliveries from tractor trailers or semi-tractor trailers;
 - b. use of the existing concrete loading dock for loading or offloading any deliveries or pickups;
 - c. use of the existing greenhouse for any purpose other than recreational agricultural use;
 - d. storage of materials used in connection with an affiliated business, The Seal Team, Inc.;
 - e. lease or rental of structures or property at One Main Road, Westhampton, MA to any person, business, or corporate entity, including current tenant (s), for uses not associated with the operation of Rock Valley HVAC without an amendment to this Special Permit.
3. Hours of operation: Rock Valley HVAC activities will occur on Monday through Friday between the hours of 7:30 a.m. and 5:30 p.m. and shall not occur on weekends. The fabrication and assembly of sheet metal and duct work and the use of associated tools and equipment shall be limited to the same hours and shall not be conducted on weekends or state and federal holidays. In the event of an occasional emergency, which shall be documented in its business records, the HVAC activities may be performed outside of the usual business hours.
4. Use of the main structure and the shed shall be limited to the Rock Valley HVAC activities as described in paragraph 1 above.
5. Deliveries of HVAC materials and supplies shall be made only to the “proposed delivery area and entrance” at the side of the main structure. The existing concrete loading dock identified on the Plan (See plan referenced below) shall not be used as a loading dock. The travelway used by third-party suppliers shall follow the “gravel travelway” marked on the Plan in a counter-clockwise direction over the property situated in Northampton and Westhampton (See plan referenced below) Rock Valley HVAC may create additional delivery areas and entrances at the rear of the main structure or the “Shed” provided that prohibited activities as described in paragraph 1 are not undertaken.
6. Rock Valley HVAC shall endeavor to load and unload Rock Valley HVAC vehicles only at the “proposed delivery entrance” (See plan referenced below) and not from the entrance at the front of the main structure. Rock Valley HVAC may create additional loading and unloading areas for its vehicles at the rear of the main structure or “Shed” provided that prohibited activities as described in paragraph one are not required. Rock Valley HVAC may also make structural changes to the rear of the main structure or to

- the shed without amending this Special Permit, so long as these changes are to effectuate the loading or unloading of vehicles at the rear of the property.
7. The travel-way used by Rock Valley HVAC vehicles in connection with loading and unloading shall follow the “gravel travelway” (See plan referenced below.) marked on the Plan in a counter-clockwise direction over the property situated in Northampton and Westhampton. The gravel travel-way shall not be used as a parking area for Rock Valley HVAC vehicles or employee vehicles except for unusual circumstances. The gravel travel-way shall be kept open except for unusual circumstances such as snow removal and/or road maintenance.
 8. The fabrication and assembly of sheet metal and duct work and the use of associated tools and equipment, including, but not limited to, duct hammer, air compressor, the “brake,” table saw and step sheer, Pittsburg lock machine, and hammers, shall be conducted in a manner to minimize the sound levels emitted from the main structure. Specifically, all windows and doors shall be shut during sheet metal fabrication and the assembly of ductwork. The air compressor shall be located in the furnace room located to the rear of the main structure.
 9. On or before June 30, 2023, Rock Valley HVAC shall take actions to remediate the emission of sound that occurs during the fabrication and assembly of sheet metal and duct work, to achieve the condition that the sound associated with this work shall not: be unreasonably loud at the property line; be at a volume so as not to affect adversely the abutting properties; and, as to the property lines in Northampton be of decibel volume which would violate Northampton zoning ordinance § 350-12.1 A (8). Rock Valley HVAC may make structural changes to the principal building without amending this Special Permit, so long as these changes are to remediate the emission of sound to effectuate compliance with this condition.
 10. Parking for two vehicles of Rock Valley HVAC Owners shall be available as designated on the Plan (See plan referenced below). Employee personal vehicles may be parked during business hours on the property situated in Westhampton, as designated on the Plan (see plan referenced below).. Parking of Rock Valley HVAC vehicles shall be as designated on the Plan to the rear of the Westhampton property. Parking or storage of Rock Valley HVAC equipment (i.e. trailers) shall also occur to the rear of the Westhampton property, as designated on the Plan (see plan referenced below).. No parking of employee personal vehicles or Rock Valley HVAC service vehicles, trucks, or storage of equipment shall occur on the One Main Road property situated in Northampton except for unusual circumstances.
 11. The use of a dumpster and storage of waste or recyclable materials shall occur to the rear of the Westhampton property, so as to minimize the impact on abutters. In no event shall the collection from said location occur between the hours of 10 PM and 7 AM.
 12. The existing curb cut situated on the Northampton property shall be the only curb cut providing access to the One Main Road property.
 13. If title to the subject property is conveyed to Rock Valley HVAC or its captive entity and the weather is such that a landscaper would recommend the plantings referenced

below within 90 days of the conveyance of title then, no later than 90 days after the conveyance, the existing row of arborvitae trees along Westhampton Road will be extended to at or near the entrance of the property. The additional trees shall be 5-6 foot green giant arborvitae or similar species spaced 15' on center to allow for growth and development. Said trees shall be maintained to have a healthy appearance and any dead or diseased trees shall be replaced in a reasonable manner (See plan referenced below). Optimally, the planting should be done in the spring or summer of 2022; otherwise, the planting should be undertaken before May 2023.

14. No later than the time frame associated with the planting of the arborvitaes (above), the concrete wall facing Westhampton Road (part of the "concrete loading dock" as designated on Plan) shall be hidden from view by new plantings of trees or shrubs, which shall be maintained to have a healthy appearance, and any dead or diseased plantings shall be replaced in a reasonable time.
15. The existing trees, shrubs or plantings along the One Main Road property that abuts the property situated at 1472 Westhampton Road and owned by Eve Andrade shall not be disturbed or removed and Rock Valley HVAC activities shall not encroach or disturb the trees, shrubs or plantings situated at 1472 Westhampton Road, Northampton.
16. Any lighting added to the property shall be "dark sky lighting."
17. The existing sign and the structure on which it is placed will remain the same except the words on the sign. There shall be no lighting placed on or directed at the sign. No other permanent signage shall be added to the property.
18. The Shed shall be used only by Rock Valley HVAC in connection with its HVAC activities as described in paragraph one and shall not be leased or rented to third parties.
19. The Plan "Site Plan of Land in Westhampton & Northampton, prepared for Northcountry Properties, LLC, scale 1" = 30', prepared by Heritage Land Surveying dated August 6, 2021, revised April 21, 2022, is hereby incorporated into this decision.
20. An individual from the applicant agrees to attend a regularly scheduled meeting of the Westhampton Zoning Board of Appeals to ensure compliance with the above conditions in or around six (6) months after the transfer of deed of 1 Main Road to Rock Valley Heating and Air Conditioning, Inc.
21. Rock Valley HVAC shall take actions before the Northampton Zoning Board of Appeals or Planning Board to seek to effectuate zoning relief in Northampton in conformity with this special permit.

7:30 PM - PUBLIC HEARING: 44 Pine Island Lake, Janna Ugone

Emily Estes Baillargeon, Estes Architecture and Design, LLC, on behalf of Janna V. Ugone (Owner) to move an existing dwelling approximately 23 degrees so the house is parallel with the waterfront; there will be no change to the existing footprint, or substantial change to the existing non-conforming structure; use will continue to be seasonal.

The property is located at 44 Pine Island Lake, Assr. Pcl. Map 13, Lot 20.

The public hearing was opened at 7:32 PM.

Mr. Finn recommended that, due to failure to publish the notice in the newspaper, that the hearing be continued to a date certain, with no presentation or deliberation taken.

It was MOVED by Ignatovich, SECONDED by Kelsey

To continue the public hearing to August 9, 2022 at 7 PM.

VOTED: 5, 0, 0. 7:33 PM

Application Receipt / Review

Mr. Finn noted an application in hand From Scott and Melissa Start. Mr. Tracey noted that the public hearing would be scheduled for September 13, 2022.

Zoning Bylaw Review Committee Presentation

Mr. John Shaw asked if the board would be interested in hearing a presentation from the Zoning Bylaw Committee. After some discussion, it was agreed to hear a presentation on August 9, 2022, at 8 PM.

Adjourn

It was MOVED by Kelsey, SECONDED by Ignatovich

To adjourn.

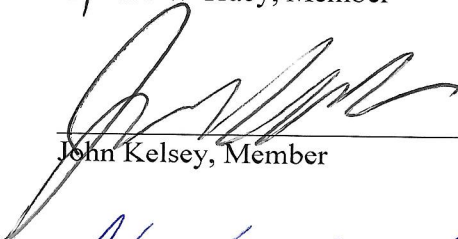
VOTED: 5, 0, 0. (7:37 PM)

Respectfully submitted,

Douglas C. Finn.


Approved by vote of the Board at a regular meeting held on _____.


Richard W Tracy, Member


John Kelsey, Member


Peter Ignatovich, Member


Laurie Sanders, Member


Dave Loven, Member