

Westhampton Zoning Board of Appeals Decision

Application SP-224

On August 10, 2021 the Westhampton Zoning Board of Appeals, following a legally held public hearing, voted to issue a special permit to Jesse & Wesley Fortier, DBA Rock Valley Heating and Air Conditioning, allowing them to move their business to the property at 1 Main Road in Westhampton. This public hearing and decision was in response to Application SP-224, from the Fortiers, to comply with Westhampton Zoning Bylaws, sec.3.32.

The public hearing was opened on July 22, 2021, at 7:00 pm, and continued to August 10, 2021, at 7:15 pm, with a number of public citizens attending. Both sessions were held at the Westhampton Town Hall with mask wearing required.

The Fortiers were represented by attorney Amanda Kemp, and stated they were seeking a property to house their business, which they could own, as opposed to renting as they now do in Florence Mass. They state that most of their property would be used for storage of materials and equipment, and that the office would be used approximately three days a week. Some light fabrication work would be done there, but most of their work is done at the various job sites. Two van type trucks will be garaged on the property nights and weekends. These trucks will be loaded each morning for that day's work, then returned about 4:00 pm, at the end of work. Deliveries of materials occur two or three times a month by truck, but almost never by trailer trucks. Currently, a landscaping company is renting garage space in the back building, and that would continue as long as it is beneficial to both companies. Mark Reed of Heritage Surveying, presented a site plan of the property, for the Fortiers, and explained the boundaries and structures, and other items. This site plan was improved and more detailed at the August 10 session, in response to questions from the July 22, session.

There was opposition to this application by a concerned citizen, because this property at 1 Main Road has no frontage in Westhampton, even though the property is primarily in Westhampton. Also, this objector feels this property, with previous owners, had been merged with property at 3 Main Road, and should not have been separated.

The second objector, Maureen McMahon who is the resident abutter across Main Road, is represented by Attorney John McLaughlin. She is concerned about possible lights and noise caused by this new business. They also were concerned about the possible merger of lots 1 and 3. Attorney McLaughlin and the concerned citizen presented written materials documenting their concerns.

After the public input portion of the hearing was closed, the Board discussed all of the presented information. It was decided we should submit the presented written materials to Town Counsel for review, and continue the hearing to August 10, at 7:15, which was our next regular meeting night. This was moved and unanimously agreed to.

At the August 10th continuation, no new information was presented from the public, except the previously mentioned site plan.

The response from Attorney Jonathan Eichmann, Town Counsel, stated that if the Board found that a lawful use of this lot was established prior to 1986, and lawfully continued to the present, a merger or lack of a merger, would not prevent the applicant from obtaining a special permit to extend or alter that lawful use.

The Board then considered as follows:

Findings:

1. After contacting the City of Northampton, through Carolyn Misch, Assistant Director of Planning, the frontage is not an issue. Even though the lot and structures are primarily in Westhampton, and the frontage is in Northampton; the 206 feet of frontage exceeds the Northampton requirement of 175 feet, and is considered a legal lot.
2. Town Counsel does not feel "the materials presented are sufficient to determine whether the subject lot "merged" with an adjoining lot as suggested"
3. Records show that parcel 1 (3 Main Rd.) and parcel 2 (1 Main Rd.) have never been recorded on one deed, and have never been recorded with the exact same owners.
4. The lot at one (1) Main Road has been used for lawful business uses since 1950, under three different owners. Each of these businesses has had components inside and outside of the buildings, which were accessory to the business.
5. The Board feels, after much study, that the proposed business would not be more detrimental to the neighborhood than previous businesses.
6. Some portion of 1 Main Road has been in continuous use since the retail portion closed in 2019.
7. Even though not necessary, the Board feels that the Covid 19 Pandemic has caused enough disruption of normal activities, that the past year should not be considered in the context of normal operation.

Based on these findings the following motion was made by Richard Tracy:

The Westhampton Zoning Board of Appeals grants Special Permit Application (SP-224) for Wesley and Jesse Fortier, doing business as Rock Valley LLC, permission to continue a pre-existing, non-conforming use and operate a business at 1 Main Road, in accordance with the Zoning by-laws of the Town of Westhampton, Section 3.32, and subject to the following five conditions:

1. Specific activities, such as loading and unloading of materials, deliveries, and light manufacturing and fabrication, will occur Monday through Friday between the hours of 7:30 am and 5:30 pm, except for occasions when there is a documented emergency.
2. As soon as possible, the applicant will install a row of evergreens, with a minimum height of four feet, in order to block the view of the property from 1504 Main Road, Northampton, MA.
3. The signage for the property will remain in the same location, without lighting, and will not exceed the dimensions of the existing sign.

4. Light from exterior lighting will not extend beyond the property lines or into the sky.
5. The applicant agrees to attend a regularly scheduled meeting of the Westhampton Zoning Board of Appeals to ensure compliance with the above conditions (1-4) in or around six (6) months after the transfer of deed of 1 Main Road to Wesley and Jesse Fortier, dba Rock Valley LLC.

John Kelsey seconded the motion. No further discussion. All in favor (Sanders, Ignatovich, Kelsey, Loven, Tracy).

A motion to close the public hearing was made by John Kelsey, seconded by Peter Ignatovich. The hearing was closed at 8:45 pm.

Richard W. Tracy, Chair

*August 18, 2021 Received & posted
Katrin Kaminsky, Town Clerk*