

## **ZONING BOARD OF APPEALS**

TOWN OFFICES/BUCKLEY CENTER  
AVON, MASSACHUSETTS 02322-1496  
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TOWN OF AVON  
2021 AUG -5 P 4:51  
TOWN CLERK

**June 1, 2021**

Mr. Chuck Comeau, member announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Subchapter 20 and the Governor's March 23, 2020 Order imposing limitations on the number of people that may gather in one place, this hearing of the Zoning Board of Appeals will be conducted via remote participation. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings as provided for in the Order. Chairman Comeau reminded the viewing audience that persons who would like to view this meeting while in progress may do so by joining the Zoom link for the videoconference in session.

Mr. Chuck Comeau, member called the meeting to order at 7:00 p.m. with all members present. Each Board member acknowledged their presence at the meeting by responding in the affirmative during the roll call.

The following were present:

Appeals Board Members: Kevin Foster, Charles Comeau, Edward Mekjian

Members not present: Peter Crone; Christopher Canducci, Gerald Picardi

Visitors: Kesner and Marie Derosla of 28 Nichols Ave., Chris Lucarelle, Ed Conley, Peter Richer representing Waste Management of Massachusetts, Inc., Robert Borden, Building Inspector.

### **Case # 21-1 28 Nichols Avenue**

The Public Hearing for Case # 21-1, 28 Nichols Avenue opened at 7:05 p.m. The members of the board and visitors introduced themselves and the board noted that the Public Hearing Notice(s) had appeared in The Enterprise on May 14, 2021 and May 21, 2021 in the Legal Notice section. Chuck Comeau, member read the Public Hearing Notice for 28 Nichols Avenue.

Notice is hereby given that a Public Hearing will be held via remote participation on Tuesday, June 1, 2021 at 7:00 PM to hear the following petition(s) requesting a Special Permit from the Avon Zoning By-Laws. Case # 21-1 Petitioner, Kesner and Marie Derosla, 28 Nichols Avenue, request relief in the form of a Special Permit under Section 255-7.5M, for an extension or alteration of a preexisting nonconforming structure and a Variance of the front yard setback of requirement of 25 feet to a proposed 24 feet at the property

located and known as 28 Nichols Avenue, Avon, Massachusetts. The Board of Appeals further advised the attendants that all abutters, as certified by the Town Board of Assessors, to the property located at 28 Nichols Avenue Plot # D3-2-5, Avon, Massachusetts and concerned parties had been notified of the intent of this hearing. All the requirements had been met with reference to notifications, publications, and postings, as mandated by Laws Governing the action of Public Hearings and the Board of Appeals (*Massachusetts General Laws, Ch. 40A § 11*); and, Town of Avon Board of Appeals Procedures for Applicant(s)/Petitioner(s), effective January 1, 2001.

The Petitioner is requesting a Special Permit from the Avon Zoning By-Laws. Case # 21-1 Petitioner, Kesner and Marie Derosla, 28 Nicholas Avenue, request relief in the form of a Special Permit under Section 255-7.5M, for an extension or alteration of a preexisting nonconforming structure and a Variance of the front yard setback of requirement of 25 feet to a proposed 24 feet at the property located and known as 28 Nichols Avenue, Avon, Massachusetts.

### **Discussion:**

The Chair recognized the Petitioner, Kesner and Marie Derosla of 28 Nichols Avenue requesting relief in the form of a Special Permit under Section 255-7.5M, for an extension or alteration of a preexisting nonconforming structure and a Variance of the front yard setback of requirement of 25 feet to a proposed 24 feet at the property at 28 Nichols Avenue. The Petitioner states that they are requesting a 5 x 8 feet wide mudroom that will be attached to the existing closed porch.

The Board of Appeals reviewed the plans and requested clarification. Kevin Foster asked for clarification regarding a handicap ramp in the rear. There were no questions from abutters. Mr. Borden, Building Inspector stated that the building permit will not be approved until the Board of Health approves it and there are no zoning restrictions on handicap ramps. Chuck Comeau asked if there were any further questions or concerns. See none. No Comments from the public regarding 28 Nichols Avenue.

### **Motions:**

A motion was made by Ed Mekjian to request relief in the form of a Special Permit under Section 255-7.5M for an extension or alteration of a preexisting nonconforming structure, seconded by Kevin Foster. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Ed Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.

A motion was made by Kevin Foster to grant a Variance of the front yard setback of the requirement of 25 feet to a proposed 24 feet at the property located and known as 28 Nichols Avenue, Avon, Massachusetts, seconded by Ed Mekjian. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Ed Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.



## **Case # 21-2 20 Ledin Avenue**

The Public Hearing for Case # 21-2 Waste Management of Massachusetts, Inc. was opened at 7:45 pm. The members of the board and visitors introduced themselves and the board noted that the Public Hearing Notice(s) had appeared in The Enterprise on May 14, 2021 and May 21, 2021 in the Legal Notice section. The Public Hearing is the result of the Petitioner Waste Management of Massachusetts, Inc. 20 Ledin Ave., Avon, MA. 02322. Chuck Comeau, member read the Public Hearing Notice for 20 Ledin Avenue.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, June 1, 2021 at 7:30 PM to hear the following petition(s) requesting a Special Permit and Variance from the Avon Zoning By-Laws. The hearing will be conducted via remote participation. The meeting link can be found at <https://www.avon-ma.gov/node/63/agenda/2021>. Case # 21-2 Petitioner, Waste Management of Massachusetts, Inc., of 20 Ledin Ave. request a Special Permit for the processing material for recycling at 20 Ledin Ave. as required by Section 255-5.3, G-11 of the Avon Zoning Bylaw. The petitioner also request a Variance of the parking capacity requirement for an industrial warehouse of the Zoning Bylaw section 255-806 #8 of the "Table of Off Street Parking Regulations".

The Board of Appeals further advised the attendants that all abutters, as certified by the Town Board of Assessors, to the property located at 20 Ledin Ave., Assessors Map B6-1-16, Avon, Massachusetts and concerned parties had been notified of the intent of this hearing. All the requirements had been met with reference to notifications, publications, and postings, as mandated by Laws Governing the action of Public Hearings and the Board of Appeals (*Massachusetts General Laws, Ch. 40A § 11*); and, Town of Avon Board of Appeals Procedures for Applicant(s)/Petitioner(s), effective January 1, 2001.

### **Discussion:**

The Chair recognized the Petitioner, Chris Lucarelle received a letter on behalf of the Petitioner that discussed the owner of 20 Ledin Ave., Boston Brace International Inc. has authorized Waste Management of Massachusetts, Inc. to seek approval of all necessary land-use permits to construct a proposed building addition and associated site improvement to 20 Ledin Ave. property. The proposed building addition and associated site improvements will be for the sole purpose to develop the 20 Ledin Ave. property for recycling operations by WMMA.

Chris Lucarelle explained that the rear of the property will be modified from a current undeveloped area to a paved lot with three catch basins, including one water quality unit, three drainage manholes, and an infiltration chamber with a retaining wall along the east and south of the property. The stormwater system in the rear of the property is designed to capture rainfall on the rear of the property, as well as from the property to the west, 40 Ledin Avenue, that flows onto the property, and to prevent stormwater system from draining o the adjacent property to the east, 10 Ledin Avenue. The proposed stormwater system will better capture stormwater when compared to the existing system, and will

provide water quality measures and an infiltration system. In addition, an existing stormwater catch basin located adjacently east of the building, as well as the roof drain leading to the catch basin, and the drainage culvert draining away from the catch basin, will be replaced. The expansion will include a canopy and siding on the east wall to minimize debris from being blown from the facility. The south facing wall will remain open for vehicle ingress and egress to and from the facility. The proposed roof expansion does not increase the existing floor area of the building or impervious area on the site, and would have no impact on existing utilities, landscape features, walkways, parking or site drainage. Internal vehicular and pedestrian circulation would be minimally impacted as the expansion simply partially encloses existing site operation. The project promotes the health, safety and general welfare of the community by better managing stormwater runoff and overall improving the management of the site, without any negative impacts to the groundwater table or surface waters.

The Board of Appeals reviewed the plans and requested clarification regarding the height of the building and what will happen to the existing building along with additional questions regarding parking spaces and the amount of trucks that will be coming through on a daily basis. Mr. Lucarelle explained that the proposed building height will be 38.7 feet and the existing building will stay the same. Two larger trucks and eight other trucks will be in and out on a daily basis. Mr. Lucarelle is also proposing a chain link fence for protection at the back side of the property along with a retaining wall. Chuck Comeau asked if there were any further questions or concerns. Mr. Ed Mekjian discussed that being a member of the Conservation Commission, they are happy with drainage on both lots, the Conservation Commission will meet again after the Planning Board reviews the plans. Kevin Foster, being appointed from the fire department to the committee, he discussed his concerns with the fire alarm suppression system. Mr. Foster discussed 527-CMR rules and regulations fire suppression systems and/or will be governed by the building permit and Building Department. The original layout of the building, there were shunts or shut offs put in for fire fighter safety, which terminates the conveyers. This will be a similar situation in the new complex of the addition for fire fighter safety. He has witnessed several conveyers or pits that were brought back into the building, and asked the Petitioner if they are sure at this juncture that there is no room for expansion instead of asking six months from now asking for more expansion. Mr. Lucarelle is on board with Mr. Foster's request regarding fire suppression system. Mr. Lucarelle discussed there are limitations that have been used for the past twenty years. Their intention is to purchase the property at 20 Ledin Ave. Ed Mekjian asked what is done regarding pest control. Mr. Lucarelle stated that a pest control company comes in on a monthly basis. No questions from the public.



### **Motions:**

A motion was made by Kevin Foster to grant a Special Permit under section 255-5.3 G11 to allow processing of material for recycling in the industrial zoning district, seconded by Edward Mekjian. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.

A motion was made by Kevin Foster to grant a variance under Section 255-8.6 Table of Off Street Parking Regulations number 8 for reduction of the required 41 spaces to 31 spaces as shown and depicted on the proposed site plan, seconded by Ed Mekjian. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye.

A motion was made by Kevin Foster as an amendment to the above motion regarding the variance under Section 255-8.6 Table of Off Street Parking Regulations number 8 for reduction of the required 41 spaces to 29 as spelled out on the proposed site plan, seconded by Ed Mekjian. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye.

A motion was made by Kevin Foster to find that the extension, alteration/addition is not more substantially detrimental to the neighborhood as listed under the Avon Zoning bylaw 255-9.2 seconded by Ed Mekjian. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye.

### **Warrants:**

A motion was made by Chuck Comeau to pay the warrant for \$ 5,062.50 for the invoice for Jacobs Driscoll Engineering, Inc. for JoAnna Road, Stonebridge Homes, Inc., seconded by Kevin Foster. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.

### **Discussion:**

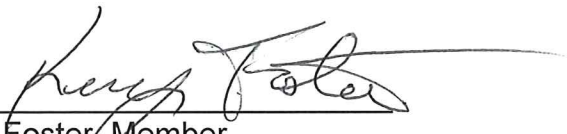
A motion was made by to approve the meeting minutes of March 2, 2021 by Kevin Foster, Edward Mekjian seconded. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.

A motion was made by Kevin Foster to schedule the Public Hearing for 85 Oak Street to July 20, 2021 at 7:15 p.m., seconded by Edward Mekjian. A roll call vote was taken. Kevin Foster voted aye, Edward Mekjian voted aye, and Chuck Comeau voted aye. The motion carries.

The Zoning Board of Appeals members discussed realigning the board at the next meeting.

A motion was made by Edward Mekjian to adjourn the meeting at 8:35 p.m., seconded by Kevin Foster. A roll call vote was taken. Ed Mekjian voted aye, Kevin Foster voted aye, and Chuck Comeau voted aye. The motion carries.

Approved by:

  
Kevin Foster, Member

#### **List of Documents**

1. June 1, 2021 Meeting Agenda
2. 20 Ledin Ave. Application for Special Permit and Variance
3. 20 Ledin Ave. Site Plan
4. 20 Ledin Ave. Public Hearing notice
5. 28 Nichols Ave. Site Plan and application
6. 28 Nichols Ave. Public Hearing notice
7. Warrant for Gate House Media for \$ 434.20
8. Warrant for Tat and Howard for \$489.11
9. Warrant for Mead Talerman & Costa LLC for \$140.00