

William Ambrosino, Chairman
Damon Tinio, Vice Chairman



Barry Iadarola
John Vandersluis
James Quirk

TOWN OF MENDON
PLANNING BOARD
Mendon Town Hall
18 Main Street
Mendon, Massachusetts 01756
Telephone: (508) 473-2679 Fax: (508) 634-2909

Site Plan Decision
49 Milford Street

Decision: Approved

Town of Mendon Planning Board

Re: Site Plan/Special Permit
Construction of an Adult Entertainment Establishment
49 Milford Street

This is the decision of the Mendon Planning Board on the Application for Site Plan Approval filed by George Funari on behalf of Showtime Entertainment, LLC, hereafter referred to as the "Applicant," pursuant to Section Mendon Zoning Bylaw 4.02, which the Planning Board heard, considered, and approved. This single document Decision is intended to evidence approval of the Site Plan Approval requirements.

BACKGROUND

The Applicant submitted the application for Site Plan Approval on at a public meeting on January 27, 2020. Public hearings were held on March 9 and August 24, 2020, at 7:00 P.M. in the Mendon Town Hall.

The Applicant seeks to obtain the approval of the Planning Board to construct a one story building at 49 Milford Street, which the Applicant owns.

Notice of each hearing was sent to those abutters named on the Certified List of Abutters, and notice of the General Laws of the Commonwealth and of each hearing was read into the record on each day of the hearing.

In attendance at each hearing were Planning Board Members William Ambrosino, Chairperson; Damon Tinio, James Quirk, Barry Iadarola, and John Vandersluis. Also in attendance on behalf of the Town was Jeffery Walsh P.E. of Graves Engineering. The Applicant was represented by Attorneys Thomas Lesser and Michael Aleo, as well as Dale MacKinnon, PE of Guerriere & Halnon, Inc.

After opening the hearing, Chairperson Ambrosino addressed the members of the public and informed them as to the procedure and the scope and nature of the Planning Board's review. After doing so, Chairperson Ambrosino asked the Applicant to make a presentation.

Thomas Lesser began by introducing Mr. Funari and the Applicant's engineer and then discussing the nature of the proposed project. Mr. MacKinnon then offered a detailed explanation of the existing conditions of the subject parcel and the proposed project.

Jeffery Walsh P.E., Graves Engineering, was retained to review the Site Plan application. Based on Mr. Walsh's comments, the Applicant amended the Site Plan. At the final hearing, Mr. Walsh confirmed that the Applicant had satisfied any concerns that he had and that the application met the standards of site plan review included in Mendon's Zoning Bylaws.

During the hearings, the Applicant answered questions posed by the members of the Planning Board relating to the vegetative buffer, outdoor smoking area, valet parking, lighting, water access, traffic, previous litigation relating to the project, and the emergency access driveway that permits the fire department access to the site in case of an emergency. The Applicant and the Applicant's engineer responded to these questions to the satisfaction of the Board.

The Chairman also fielded questions from the public. Several residents, including the fire chief, raised questions. The Applicant's attorney and engineer heard and responded to several concerns raised by the public to the satisfaction of the Board.

The Applicant did not require any waivers to comply with the Site Plan review criteria laid out in the zoning bylaws.

At the hearings, the Board considered all the evidence presented and determined that the project satisfied the criteria established in the zoning bylaws, including that the project would have a negligible impact on the neighborhood and abutting properties and that approval of such an Application would not be detrimental to the public health, safety or welfare, and that the Applicant's proposal, as conditioned, would be a benefit to the Town and fulfill the purpose and intent of the Mendon Zoning By-Laws.

After hearing all the comments from the audience and the Applicant, the Chairman entertained a motion on August 24, 2020, to approve the project, and the Board voted five (5) in favor, zero (0) opposed to grant the Site Plan Approval.

SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- a. Application for Site Plan Approval (Form N), submitted January 27, 2020
- b. Certified Abutters List
- c. Filing Fee
- d. Project Narrative and Supporting Documents, submitted January 27, 2020, including:
 - i. Original Site Plans
 - ii. Summary of Compliance with By-Laws
 - iii. Hopedale Agreement to Provide Water Services
 - iv. The Applicant's Alcohol License

- v. The Applicant's Entertainment License
 - vi. The Applicant's Certificate of Organization
 - vii. Development Impact Assessment Narrative
 - viii. The Applicant's Traffic Study
 - ix. The Applicant's Percolation Tests and Soil Assessment
 - x. Performance Criteria Narrative
- e. Correspondence from Graves Engineering dated March 2, 2020
 - f. Correspondence from Guerriere & Hanlon Inc. dated March 5, 2020, including revised Site Plans
 - g. Correspondence from Lesser, Newman, Aleo & Nasser dated March 9, 2020, including copies of three court decisions relating to the project

CONDITIONS

1. Any Order of Conditions and/or permits issued by the Mendon Conservation Commission with respect to this application are hereby incorporated by reference and constitute a condition to this Special Permit decision.
2. It shall be the duty of the Building Inspector to enforce the conditions of the site plan approval.
3. The Building Inspector may suspend any permit or license when work is not performed as required.
4. In accordance with Section 4.02(M) of the ZBL, this Site Plan Approval shall lapse within eighteen (18) months if a substantial use or construction thereof has not commenced and continued through to completion expeditiously, except for good cause; provided, however, that the Planning Board in its discretion and upon written application by the applicant of such rights may extend the time for an additional period not to exceed eighteen months; and provided, further, that the application for such extension is filed with the Planning Board prior to the expiration of the initial eighteen month period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the expiration of the initial eighteen-month period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section. The time required to pursue and await determination of a judicial appeal pursuant to M.G.L. c. 40A shall not be included within the initial eighteen-month time limit.
5. Any significant changes to the approved site plan must be submitted to the Planning Board with a written description of the proposed modifications and reasons for such modification. No significant changes to the approved site plan shall be authorized unless (1) the Planning Board makes a written determination that the changes are minor and do not require a public hearing or (2) the changes are approved at a public hearing held in accordance with and subject to the requirements of this section. A copy of the Planning Board's

determination and revised plans shall be filed with the Town Clerk and the Building Inspector.

6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
7. By recording this Special Permit and Site Plan Approval Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in the Special Permit and Site Plan Approval Decision.

By vote of the Planning Board

| | | |
|-----------------------------------|-----|---|
| William Ambrosino Chair Person | Yes | <u>William Ambrosino</u> <u>1/27/21</u> |
| Damon Tinio | Yes | _____ |
| Barry Iadarola | Yes | _____ |
| James Quirk | Yes | _____ |
| John Vandersluis | Yes | _____ |

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11 and will file copies of this decision with the Town Clerk. The board further certifies that it has taken into consideration all testimony rendered at the public hearing, the comments and suggestion of other boards which have reviewed and made comments on the plans, and all plans and documents submitted by the applicant.