



**TOWN OF WINTHROP
OFFICE OF THE BOARD OF APPEALS**

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MEETING MINUTES 9-9-2021

Chairman Baird pursuant to Mass General laws, we are holding this hearing remotely it is being recorded. He opened the meeting to discuss case #025 of 2021 Daniel Hebert and Patricia Hames for 413 to 415 Shirley Street. This is a continuation from our hearing held on August 26 2021. To this special meeting on September 9 2021. Sitting on this as myself, Irene Dwyer and John Young. Attorney Cipoletta, we had continued this to get information on the required parking and how much parking was provided. And I know that you submitted information to the board, would you mind walking the board through what it is that you submitted?

Attorney Cipoletta addressed the Board- Thank you, Mr. Chairman. Yes, when we last were in session, the board requested a breakdown of the parking and also a seating chart and floor layout of the ice cream restaurant, which we all know now is twist and shake. I received a plan that was drawn and dated September 8 2021. And have submitted that for the record. The plan shows for small tables, two seats at each table for a total of force. Eight seats, so beginning with twist and shake or the ice cream restaurant. So the requirement is one parking space for every four seats, and since there are eight seats, I tallied that to be to one parking space for every three employees. And based on the information provided last hearing, I calculated one space on the conclusion that there would be three employees working. The daycare is two spaces for every three staff members. I calculated the requirement to be two spaces. The ambulance was a little bit more I kind of alluded, the best I could do was by gross square footage. I've calculated

two parking spaces for the ambulance service, although that might be one high but I wanted to at least indicate that the maximum would be to Dan's OSHA training, which is an educational use requires one space for every six seats. Now I know that Dan said that his class sizes vary and if they are large, he takes he does the training on off site. But I did calculate for what we thought would be the max and designated two seats, rather than one to account for at least 12 people. That totals up to nine parking spaces required. The number of parking spaces shown on the plan the plot plan that was submitted with the application is nine. Now, I did put a little asterisk there at the bottom of the calculation And we did talk about this with the building inspector at site plan review and some of the other department heads. I reconnected with him again this week to find out if there was anything else we ought to know. And did he think that we would require more spaces than what he had he had a site plan review committee had estimated, he said he didn't think so. Although, I think we might remember that Dan Hebert had testified last hearing that he runs his classroom, generally when the daycare would not be in session. And probably when the ice in the ice cream parlor would probably be operating as well, in an overlapping timeframe with the daycare. So I did thought it made some sense to cite section 17.20 point oh, six oh, unshared spark cache barking? Because this might be one of those situations where that is applicable. So if the board finds that there are more than nine spaces required than I think we might then slide into that 17 2006 Oh, area, and leave it to the building inspector to make that determination when the uses are established? I think that is do you all get the plan as well. Okay. So I think that was what the Boyd was looking for. To reiterate what we are requesting and way of relief use variances for the restaurant, which is not allowed. daycare, which had been installed as a use, but has been abandoned by the table view says it's not allowed. So we're looking for a use variance for that special permit to offer extended non-conforming structure as the building is non-conforming. The other two, the ambulance and the educational use are both allowed as a matter of right. So our request for relief has at this point not changed.

Chairman Baird- I'll open it up to any questions from members of the public with regard to the information that was submitted around parking. Going once going twice, comments from the public? Third and final, any questions or comments from the public? Seeing no hands will take a motion for me there, Mr. Young or miss Dwyer to close public comment.

Chairman Baird, Irene Dwyer and John Young voted to close public comment.

Chairman Baird- I honestly think that nine spaces there will be more than sufficient. I think it does satisfy the underlying zoning requirements. And I would suggest that, you know, as a failsafe, it probably does not hurt if we're inclined to grant this to grant. If we're granting the relief requested for the extension, although, I guess it's technically because there's internal renovations being made. I don't have a problem granting relief for, I guess the alteration, not expansion, but the alteration of a preexisting non conforming structure because there's internal alterations going in going on there. And then for the variances for the both the daycare use and for the ice cream shop use within the building because those aren't permitted as a matter of right. And that, you know, with a specific finding that there be nine parking spaces on the property, to be maintained and used as accessory for this building in this building only in the uses in this building and that if and to the extent that, the building inspector determines that peak demands may require, or that you can utilize shared parking to meet peak demands, if it's underutilized at any one time. So, I think that's fine, I think we'd make those standard findings, if people are agreeable under 40, a section 10, in the variance findings, given sort of the unique nature of this building in the district that it's within, to allow these uses, it's not situated like any other building within the district. So I think we can make that finding pretty easily. Because of that unique nature of the building, as a commercial building, really in a residential zone, that enforcing and having literal enforcement, district enforcement of zoning, would in fact, create a hardship, especially given that a daycare was there previously, and other commercial enterprises have been where the ice cream shop is going. I think that it's not substantially more detrimental or than what was there than what's there, currently, and would not create a public health safety or welfare issue that such that we wouldn't, they would override the hardship if we didn't grant the variances

Irene Dwyer- I move that we grant the relief requested to the property at 413 415 Shirley Street to allow for ice cream parlor and a daycare facility as use variances. This finding that this building is unique it is already commercial building in the location. That is the amount of parking has been calculated, and that is agreeable to the building inspector.

Chairman Baird- subject to the fact making findings consistent with those that have been mentioned under 40, a section 10. That granting the variance relief as well as the special permit for the alteration of a non-conforming use are appropriate in this instance. And that to the extent that the building inspector feels that it should utilize the shared parking provisions of the ordinance that were cited by the applicant, that we will allow that in the in the building inspectors discretion.

Irene Dwyer- can I make motions just as what he said. So, so moved. Do I have a second Mr. Young?

I, whatever was you said I second.

Chairman Baird- Okay. So, as moved and seconded, we'll take a vote to we'll take a vote by roll call. Chairman Baird? Yes. Irene. Yes. JOHN? Yes

Relief has been granted, both as to the special permit and the variances. Attorney Cipoletta, if you put together the decision, and file it, we'll review it, issue it in due course. There's a 20 day appeal period, assuming nobody appeals and I'm assuming no one's going to appeal because no one's here to be speak against it, then you got to record it before you can get your alteration permit

All right. Yeah. That is massive that they that was the commercial use when I first moved here was a flooring company. They occupied.

Chairman Baird took a motion to adjourn at 7:30pm. Motion to adjourn. Do I have a second? Second, Mr. Young, all those in favor of a journey at 7:30pm by roll call. Chairman Baird Yes, john. Yes, Irene. Yes. Tom. Tom. Yes.