

Matthew Heins

From: David Norman <david.norman@aholddelhaize.com>
Sent: Wednesday, May 06, 2020 7:02 PM
To: Matthew Heins
Subject: 50 Mattakeesett St. / Garage and/or Storage (Site Plan #SP1-20)

Matthew:

Hello; I hope you are staying safe and well during these challenging times. During the May 4th Planning Board Meeting, Chairwoman Coletta wisely indicated that if Site Plan #SP1-20 is allowed, it should be with conditions related to ancillary use; generally (paraphrasing) that the storage building must be and remain an ancillary use to an allowed primary use and that the storage operation will not be allowed as a primary use now or in the future; i.e., if the real estate (or other allowed primary use) ceases to operate, the storage building will cease to be an allowed ancillary use. Before approving the Application, however, I would ask the Board to consider a couple points.

You may recall that I submitted a fairly detailed letter about ancillary use regarding the first Site Plan Proposal for 50 Mattakeesett St, and that letter is attached to the April 8, 2019 Planning Board Minutes. I certainly do not wish to re-hash all of those points, but I think that a couple items remain relevant:

1. The discussion should be about ancillary services, not about ancillary uses (Pemb. Zoning Bylaws 7(A)(3)). An allowed use (7(A)) may be derived from an ancillary service (7(A)(3)), but there is no ancillary use, *per se*. This general construct is consistent throughout the PZB, everywhere that the word “ancillary” appears. The Board may decide that this is a distinction without a difference, but I believe that a service (something done for a client or customer) is different than a use (much broader, i.e., could be done for a client OR for one’s self). In this case, the Applicant is not providing an ancillary service because the storage is not for customers or clients, but the proposed storage of their own items may be an ancillary use (if the PZB are read too liberally). If the Application is allowed, the conditions should note ancillary service, not ancillary use.
2. Given the minor operations in the main building, I question whether the storage operations would be subordinate and merely incidental. I urge the Board to compare the proposed storage operation to the existing operation at 50 Mattakeesett St and not to the aggregate operation of the Applicant’s business across Eastern Mass. The Board may decide that the proposed storage of staging furniture and equipment and internal office equipment truly is subordinate and incidental to the Primary allowed real estate office use at 50 Mattakeesett St. This may be a reasonable result, but it should be arrived at by applying this narrow approach. Similarly, the conditions should require that the storage activity be and remain ancillary to the primary allowed use at 50 Mattakeesett St.

Please share this note with the Planning Board Chairwoman, Members, and Town Counsel, as you see fit.

Thank you and the Board for your time and consideration,

David Norman

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