

## **NOTICE OF DECISION OF THE WAREHAM ZONING BOARD OF APPEALS**

### **Petition #33-16**

**Applicant: Douglas and Michael Bourgault**

**Owner: Robert S. Dugin, Trustee**

**Owner Address: 730 Bearse's Way Hyannis, MA**

**Subject Property Address: 3057 Cranberry Highway, Wareham, MA**

**Subject Property Parcel ID: Assessors Map 12 – Lot LC3B**

**Date of Public Hearing: August 10, 2016**

**Date of Notice: July 21 and July 28, 2016**

### **Decision/Reason:**

At the regular meeting of September 14, 2016, the Board voted to grant a Special Permit to reconstruct a pre-existing non-conforming structure that was destroyed and is to be rebuilt as a new commercial building in a very similar yet somewhat smaller footprint, as shown on the plans entitled: **Cape and Islands Tire, Site Development for Building Reconstruction, 3057 Cranberry Highway, Wareham, Massachusetts**, prepared by G.A.F. Engineering Inc., as drawings DWG 1 to 8, dated July 13, 2016 with the Board finding the following:

1. Pre-existing conditions on the site and within the district allow the building reconstruction as proposed.
2. The convenience and safety of vehicular movement is accommodated.
3. The character of the structures within the site and in relation to existing structures within the district is compatible.
4. Compliance with all applicable sections of the Zoning By-Law has been demonstrated.
5. The proposal meets the standards for issuance of a Special Permit as proposed and hereby attached Conditions of approval.

The granting of the Special Permit is subject to the following Conditions:

### **Conditions:**

1. The project is to be built per revised plans prepared in accordance with these conditions.
2. No pre-existing foundation is to remain outside the 'footprint' of the new structure. The remains of the existing loading dock in the front of the building façade shall be reconstructed so it may not be used as a loading dock, and further, will not appear from the public street to be a loading dock.
3. The stormwater management plan and calculations shall be submitted to the Town Engineer for review and approval prior to issuance of a building permit.
4. The curb cut permit(s) shall be secured prior to issuance of a Certificate of Occupancy. The project shall comply with all requirements necessary for obtaining road opening permits for driveways and utilities prior to issuance of a Certificate of Occupancy.
5. The Planning Office and its staff or designee shall have access to the project site to ensure that these conditions are complied with.
6. Any plan revisions shall be submitted to and approved by the Board and construction shall conform to those final plans so approved. The Board reserves the right to approve any minor modifications without the need for a new noticed public hearing.
7. Inspections shall be required for all site work as noted on the approved plans and the road opening and closing. Adequate notice, in no case less than 24 hours, shall be given to the Board or its designee to make inspections of the work. A schedule of inspections shall be agreed upon the petitioner, the petitioner's contractor and the Board or its designee prior to the commencement of any work on the site.
8. During construction, debris shall be removed and disposed of properly, portable toilets shall be provided, and no work shall be done on Sundays or holidays unless approved by the Building Inspector. No stumps or other debris shall be disposed of on site.
9. Applicant shall comply with all bylaws of the Town of Wareham and the approvals and conditions of all Town Boards and Commissions and the Wareham Fire District.
10. The landscaping plan is to be submitted to the Town Planner for review and approval, and installed and approved, prior to issuance of a Certificate of Occupancy.
11. A final inspection shall be made by the Board or its designee prior to the issuance of a certificate of occupancy. No certificate of occupancy shall be issued unless the project is completed according to the Plans. If particular items are not complete at the time of inspection the Board may require security for the completion of those items.

12. For this decision to become effective, a copy of said decision and notice thereof must be filed at the Plymouth County Registry of Deeds and must bear the certification of the Town Clerk that twenty (20) days have elapsed and no appeals have been filed, or that if such appeal has been filed, that it has been dismissed or denied. A certified copy of said recording must be thereafter filed with the Board of Appeals.
13. Any relief not expressly granted hereunder is hereby denied.
14. If substantial use or construction permitted by this Special Permit has not commenced within two years from the date of which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for an appeal period to expire and the amount of time required to pursue and await the determination of any such appeal, then this Special Permit shall expire in so far as the foregoing statement is modified by Chapter 195 of the Acts of 1984. Any person exercising rights under a duly appealed Special Permit does so at the risk that a court may reverse the permit and any construction performed under the permit may be ordered undone.
15. Any person aggrieved by this decision of the Zoning Board of Appeals may file an appeal pursuant to the provisions of M.G.L. Chapter 40A, section 17 within twenty (20) days of the filing of this decision in the office of the Town Clerk. If no appeal is taken within the allotted time, the Clerk will so certify.

**VOTE: (5-0-0) By the Wareham Zoning Board of Appeals**