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**TOWN OF MAYNARD
Zoning Board of Appeals
Office of Municipal Services**

195 Main Street
Maynard, MA 01754
Tel 978-897-1302

OMS@TownofMaynard.net www.townofmaynard-ma.gov

OCT 04 2024

Town Clerk's Office
Maynard, MA 01754

Findings and Decision

Application No.:	ZBA 24-05
Date Application Received:	May 23, 2024
Project Name:	1 Powder Mill Road (BP Gas Station)
Project Address:	1 Powder Mill Road
Map #/Parcel #	Map #15, Parcel #32
Property Owner:	Getty Properties Corp. 292 Madison Ave. 9th Fl. New York, NY 10017
Applicant:	Wooseok Chang 1 Powder Mill Road
Type of Request:	Special Permit
Zoning:	Business/Downtown Overlay District

Description of Request:

The subject property, 1 Powder Mill Road, is an existing BP gas station located in the Downtown Mixed-Use Overlay District (DOD) with underlying zoning in the Business ("B") district. The applicant seeks Special Permit approval to allow overnight storage of more than one commercial rental truck and trailer not to exceed 25,000 GVW (U-Haul) at the subject property.

I. Procedural History

- a. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an Application for a Special Permit per the ZBL was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on May 23, 2024.
- b. The application documentation and other submitted material were reviewed by Town Staff. The Building Commissioner reiterated that this existing use was new and must have a Special Permit to operate legally. There were no other staff objections to the application.

- c. A public hearing on the Special Permit Application was opened on June 26, 2024, and closed on September 23, 2024. Notice of the public hearing was published in the MetroWest Daily News on June 12, 2024, and June 19, 2024, and sent to parties in interest, as required by statute, by certified mail, return receipt requested, according to the Assessors' Certified Abutters List.

II. Regulatory Criteria

The Applicant requested overnight outdoor parking of up to 10 commercial vehicles not to exceed 25,000 GVW to allow the rental of vehicles at the existing gas station. The applicant indicated that trailers will be considered within the total of the ten vehicles.

The subject property is located in the Business Zoning District and is also included the Downtown Mixed-Use Overlay District (DOD). Section 3.1.2 Table A and Section 3.2.3 of the Town's Zoning By-laws (ZBL) require a Special Permit from the Zoning Board of Appeals for overnight outdoor parking of more than one commercial vehicle not to exceed 25,000 GVW.

Special Permit Criteria

Section 10.4.2 of the ZBL states that to grant a Special Permit, the Board must make a written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the ZBL, the determination shall include consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposal. *The Board determined a truck rental benefits the local economy and community need.*
- b. Traffic flow and safety, including parking and loading. *The Board determined the proposed parking plan (detailed in Exhibit "A") and the limitations placed on the proposed improved fencing and screenings are sufficient for the proposed use.*
- c. Adequacy of utilities and other public services. *No change proposed.*
- d. Neighborhood character and social structures. *The board determined a truck rental is generally consistent with a gas station and the immediate area.*
- e. Potential fiscal impact, including impact on town services, tax base, and employment. *The board determined the proposed use is a benefit to the tax base and may create local employment opportunities.*

Section 10.4.3 of the ZBL states that the special permit granting authority may impose additional conditions and limitations. Pertinent additional conditions for this request include screening of structures or principal and accessory uses from

view from adjoining lots or from a street, by landscaping, plantings, walls, fences, screening, or other devices.

Downtown Mixed-Use Overlay District Special Permit Criteria

Section 9.4.6 of the ZBL states that in order to grant a Special within the Downtown Mixed-Use Overlay District (DOD), the Board shall apply the following review criteria in addition to the criteria identified in Section 10.4 of this By-law:

- a. The proposal constitutes a high-quality development with regards to construction materials, architectural design, and site design, which will enhance the downtown and the immediate neighborhood and provide significant benefit to the residents of the Town of Maynard as provided in Section 9.4.1. *N/A: no structures proposed.*
- b. When applicable, the proposed development will provide effective protection of the Assabet River from storm water runoff from new impervious surfaces being proposed. *No change to the impervious surfaces or stormwater management system is proposed.*
- c. The proposed development will improve the functioning of the downtown by at least one of the following means:
 - Provide a significant improvement to the usage and/or number of public parking spaces in the downtown area. *N/A*
 - provide a significant improvement to the effectiveness of the parking space allocation of the downtown area. *N/A*
 - Provide a significant improvement to the pedestrian experience in downtown Maynard; *the board determined the Applicant's proposed mitigation of landscaping, fence/weed maintenance and screening constituted an improvement to the pedestrian experience by improving the aesthetic appearance.*
 - Provide a significant improvement to the water quality of current storm water runoff reaching the Assabet River. *No changes to the storm water system or impervious surfaces proposed.*
 - Increase views and access to the Assabet River. *N/A*
 - Provide a significant improvement to the functioning of the downtown area. *The board determined the Applicant's proposed mitigation of landscaping, fence/weed maintenance and screening constituted an improvement to the functioning of downtown by improving the aesthetic appearance.*
- d. The proposed development is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area. *The board determined this area was*

generally dominated by the existing gas station and that vehicle rental was compatible with the surrounding corner/intersection area.

III. Vote of the Board and Decision

The ZBA deliberated the petitioner's request for overnight outdoor parking of commercial vehicles per Section 3.2.3 of the ZBL (Outdoor Parking of Commercial Vehicles) using the criteria of Section 10.4.2 of the ZBL (Special Permit Criteria) and Section 9.4.6 of the ZBL (DOD Special Permit Criteria).

- a. Board determined that the request meets the criteria for Special Permit as described in Section 10.4.2 of the ZBL when conditions are considered. (Board findings detailed in *italics* in Section II of this report).
- b. Board determined that the request meets the criteria for DOD as described in Section 9.4.6 of the ZBL when conditions are considered. (Board findings detailed in *italics* in Section II of this report).

A motion was made by Jerry Culbert, seconded by John Courville, to grant a Special Permit to allow overnight outdoor commercial vehicle parking at 1 Powder Mill Road of up to 10 commercial vehicles not to exceed 25,000 GVW at the existing gas station. The approval is subject to the following Conditions of Approval:

- a. There shall be no overnight parking of vehicles greater than 25,000 GVW.
- b. Overnight parking of trailers shall be included within the total number of 10 allowed vehicles.
- c. Overnight parking locations shall be as defined on diagram within Exhibit "A" (page 9)
- d. No rental vehicles or trailers shall be returned after 8 PM.
- e. On the Waltham Street (southern) side: the applicant shall:
 - i. Provide a 4-foot fence with screening sufficient to generally obstruct the view of the overnight parking area behind the building. If utilizing the existing fence, it shall be straightened. All fencing shall be regularly maintained to ensure a neat appearance. Screened fencing is not to be installed within about 35 ft. of the Powdernill sidewalk end of the fence line to provide visibility to turning and entering traffic (Exhibit "A" page 9 diagram). The fence shall be also cleaned or painted regularly to ensure a neat exterior appearance. This shall be completed within 60 days of the effective date of the special permit unless otherwise authorized by the ZBA Chair.
 - ii. Native drought resistant, salt tolerant shrubs, shall be placed, and maintained by the applicant along the perimeter of the Waltham Street fence. The shrubs shall not inhibit visibility to turning and entering traffic

at the Powdermill Rd intersection. The plants shall be selected from evergreen species as contained in Exhibit "B" or as approved as generally consistent with Exhibit "B" by OMS. The placing shall be generally consistent with Exhibit "B". Plantings shall be completed within by April 15, 2025, and maintained from thereon.

iii. Weed control shall consist of regularly ensuring there is no accumulation of weeds visible from Waltham Street. The applicant may utilize weed control cloth, crushed stone, or other means to minimize weeds. Any products to be used to treat weeds shall be verified as eco-friendly by the town Conservation Commission. This requirement shall be enforceable by Town staff as part of the zoning approval.

- f. On the northern side of the property, the applicant shall:
 - i. Install and maintain a 6-foot fence with screening capable of generally screening the interior of the lot. The fence shall be placed as depicted in Exhibit "A" (page 7) with no screening within about 40 ft of the Powdermill Rd. end of the fence (Exhibit "A" page 9 diagram) to ensure a line of visibility for safe vehicular operation, both ingress and egress on the property. The fence shall be also cleaned or painted regularly to ensure a neat exterior appearance. This shall be completed within 60 days of the effective date of the special permit unless otherwise authorized by the ZBA Chair.
 - g. Both northern and southern portions of fence screening shall be colored dark green per the Exhibit "A" page 6 image of the screening material. Metal fencing color shall be suitably color-matched.
 - h. The applicant shall appear at a regularly scheduled meeting of the ZBA within two years from the effective date of this permit to review the effectiveness of the board's conditions is all aspects of the permit. The ZBA reserves the right to adjust conditions as needed to meet the intent of this special permit. Unless otherwise authorized by the ZBA chair, failure to appear at a ZBA meeting within two years of the permit's effective date shall result in an automatic expiration of the special permit.
 - i.

The rest of this page intentionally left blank.

The Board voted as follows ("Y" to approve):

Paul Scheiner (Chair)	Y
Page Czepiga	Y
John Courville	Y
Leslie Bryant	Y
Jerry Culbert	Y



Paul Scheiner, Chair
For the Zoning Board of Appeals

Date



10/3/2024

**PLEASE NOTE: THIS DECISION MUST BE RECORDED WITH THE REGISTRY
OF DEEDS PRIOR TO APPLYING FOR BUILDING PERMITS.**

EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

BP GAS STATION FENCE SCREEN

U-Haul Truck

HOW WE COULD MAKE IT FIT TO THE COMMUNITY...

EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

ONE POWDER
MILL RD. &
WALTHAM ST.

<CURRENT>



EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

**IDEA OF SCREENING BP'S
FENCE TO COMPLY WITH
THE MAYNARD TOWN'S
CONCEPT**

- We have looked around our neighbors such as Jimmy's Garage, Enterprise Rent-A-Car, Budget Car Rental, and Avis Car Rental etc. to check how they have their fences done in Maynard.

■ Why We Choose Screen for Chain Link Fence!

1. LESS AFFECTED
(price changes or weather)
2. DURABLE (Long-lasting)
3. EASY REPAIR



EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD-DECISION FINAL

CHAIN LINK FENCE SCREEN Waltham St side

- To Cover: 5 Chain Link Fence from the back corner with Screen which is Durable and Strong.
- If ZBA votes 10 panel, then will do 10 panel screen.
- For the Bottom Part Which Is Sidewalk side – Weed Control
- Optional Mulch or planting to boost business; rather than permit condition



EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD-DECISION FINAL

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Jiffy Lube Side Fence

- Same Material and Color Slat or Screen for Jiffy Lube Side as well for DESIGN CONSISTENCY
- 4' (or 6') Fence Screen installation for Jiffy Lube Side
 - 1. To Screen The U-Haul Trucks Parked
 - If ZBA votes to install 6', we will do so 5 panels (from the 4th chain link fence to all the way back of the parking lot).
 - 1. To Screen the U-Haul Trucks Parked
 - 2. To Secure clear eye-sight for travelling traffic on Powder Mill Rd. when backing out.



EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD - DECISION FINAL

CHAIN LINK FENCE SCREEN

- To cover: Chain Link Fence Screen
- JiffyLube side - Three Chain Fence Panels from sidewalk side will remain as they are after repair and painting.
- Five Chain link fence panels to be screened.
- To secure eye-sight for any on-going traffic on Powder Mill Rd. esp. when backing out onto the road.

■ Angel Sar

246 ft. x 0.15 ft. 1 Gauge Polyvinyl Chloride Chain Link Fabric Roll, Privacy Tape

EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD - DECISION FINAL



EXHIBIT "A" TO ZBA 24-05 | POWDER MILL ROAD - DECISION FINAL

EXHIBIT "A" TO ZBA 24-05 | POWDER MILL ROAD - DECISION FINAL



EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD - DECISION FINAL

OVERNIGHT PARKING PLAN

- Our policy is that we manage, and direct customers-drop-schedule only during our BP store hours which is from 7:00 am to 8:00 pm.
- Historically we had only three customers dropped Uhal rented at out of store hours for the last year due to advertisement 24/7 self return.
- After fixing this issue, no after-hour return.
- Attendant makes it clear when dispatch.
- 10 (Max.) trucks for overnight parking

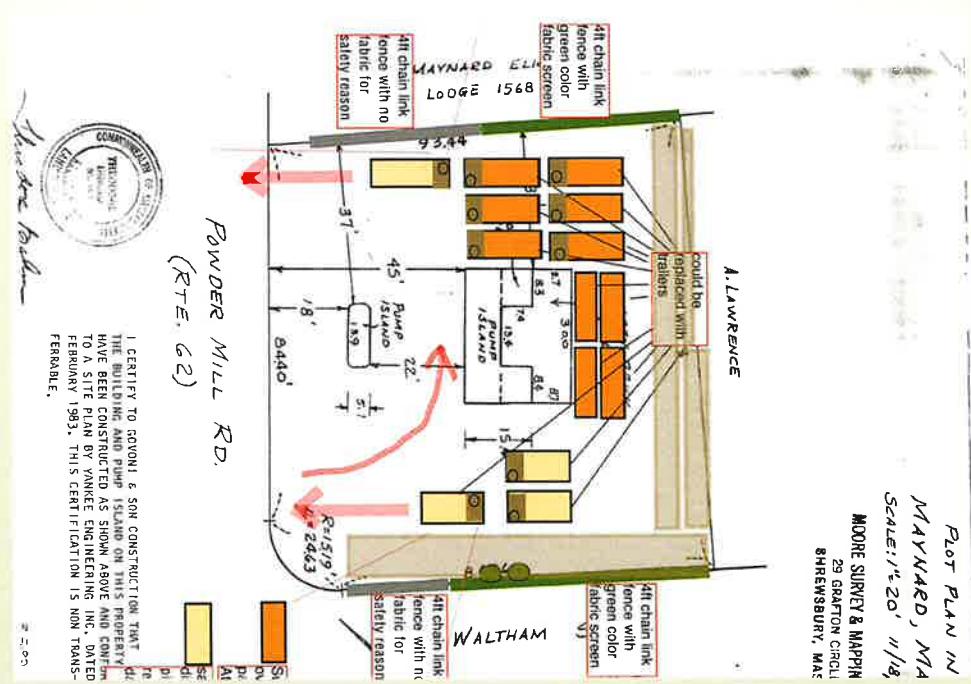


EXHIBIT "A" TO ZBA 2405 1 POWDER MILL ROAD - DECISION FINAL



EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

ANY QUESTION?

HOW WE COULD MAKE IT FIT TO THE COMMUNITY...

EXHIBIT "A" TO ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

EXHIBIT "B" To ZBA 24-05 1 POWDER MILL ROAD - DECISION FINAL

From: Danny Schissler <dschis01@gmail.com>
Sent: Wednesday, August 7, 2024 9:54 PM
To: Bill Nemser <bnemser@TownofMaynard.net>
Subject: Re: 1 Powder Mill

Hi Bill: thanks for connecting about this.

I hear you on the concerns.

If I wanted to improve this site on a budget, here's what I would do.

1. Hire a landscaping company to kill off and cut back the existing invasive plants along the fence line.
2. Put down weed barrier fabric along the fence line and mulch over it to a depth of 3-5 inches.
3. String trim the rest of the planting area, on a weekly basis. Routine maintenance will be critical to keep this from reverting back into the invasive mess that's there now.
4. Fix the fence and plant native vines along it. Virginia creeper (*Parthenocissus quinquefolia*) is readily available and extremely hardy with great fall color. It will take over in no time.
5. Plant some trees and large shrubs along the slope every 10-12 feet. The strip is about 90 feet long. That's about 9 plants. At \$100 a plant, that's about a grand.
6. Plant some small-medium shrubs to fill in the gaps. May 10-15 shrubs, at \$50-75 each, plus the vines. That's another grand.

All things said, I think this could be done for around 3-4k plus weekly maintenance. The plants would need to be watered through establishment.

In terms of plants, here are some drought and salt tolerant native plants that would make sense for that space:

1. Chokeberry (*Aronia melanocarpa*), low suckering shrub
2. Shadbush (*Amelanchier* sp.), medium suckering shrub
3. Sweet-fern (*Comptonia peregrina*), low suckering shrub
4. Yellow bush honeysuckle (*Diervilla lonicera*), suckering low shrub
5. Shrubby St. John's-wort (*Hypericum prolificum*), small shrub
6. Bayberry (*Morella caroliniensis*), medium suckering shrub
7. Bear oak (*Quercus ilicifolia*), small bushy tree
8. Dwarf chinkapin oak (*Quercus prinoides*), small tree
9. Pitch pine (*Pinus rigida*), medium evergreen tree
10. Gray birch (*Betula populifolia*), medium multi-stemmed tree
11. Eastern red cedar (*Juniperus virginiana*), medium evergreen tree
12. Sumac (*Rhus* spp.), large colonizing shrub

The ones I've highlighted are particularly well-suited. The Eastern Red Cedar is evergreen and extremely hardy.

Hope this is useful, and please let me know what else I can do to help with this.

Lastly--did Jiffylube request a 6-ft fence? If not, could the existing fence remain? Could be a good way to cut costs.

Best,
Danny