

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

ZONING BOARD OF APPEALS

ARLINGTON, MASSACHUSETTS

In the matter of)	
)	
10 Sunnyside Avenue)	
Arlington, Massachusetts)	Docket Number:
)	
MB Realty Group, LLC, Petitioner)	

ZONING MEMORANDUM OF FACT AND LAW
IN SUPPORT OF
REQUEST FOR SPECIAL PERMIT

Robert J. Annese, Esquire
1171 Massachusetts Avenue
Arlington, MA 02476
(781) 646-4911
law@robertannese.com

STATEMENT OF FACTS

Petitioner proposes to modify the existing garage/auto repair shop located at 10 Sunnyside Avenue which requires a special permit in accordance with Section 5-33 of the Zoning Bylaw.

The property is located in a B4 zone.

Petitioner operates a health-oriented business located at 339 Massachusetts Avenue in Arlington and would use the modified and refurbished space for its executive management team in conjunction with its business activities at its business office.

The intent would be to use the space both for office space and conference space.

The renovations will take place within the existing building and will be minimal.

With respect to Section 5.3.19, the Petitioner has submitted a Google aerial depiction showing the property in the B4 zone and showing the relation of the property to residential zoning districts located near the property.

The Google aerial depiction and the comments of the Petitioner's architect indicate that 10 Sunnyside Avenue is located approximately 165'0" to the beginning of the R1 zone on Michael Street looking north as denoted with a white line and arrow.

The 10 Sunnyside Avenue property is located approximately 252'0" to the beginning of the R2 zone on Sunnyside Avenue looking northeast as denoted with a yellow line and arrow shown on the Google aerial depiction.

The lot contains 16,500 square feet of land area and the proposed development will transform a prior automobile use from a blighted site and the proposal is in line with the definition of a B4 zone as defined in Section 5-25 subsection 5.5.1 further subsection E of the Zoning Bylaw which provides as follows:

"B4: Vehicular Oriented Business District. The Vehicular Oriented Business District provides for establishments that are primarily oriented to automotive traffic, which means they require large amounts of land in proportion to building coverage. This district also consists of establishments devoted to the sale or servicing of motor vehicles, the sale of vehicular parts and accessories and service stations. Arlington has an abundance of automotive and automotive accessory sales and service establishments. As these businesses gradually close, the Town has encouraged conversion of the property to other retail, service, office, or residential use, particularly as part of mixed-use development."

Historically, the property has been the subject of two separate applications filed with the ARB for potential mixed-use developments, the first requesting a mix of retail and residential use containing approximately twenty-two residential units and the second involving a mix of residential and office use with much fewer residential units.

Both applications have been withdrawn before the ARB and the present application before the Zoning Board does not consist of a mixed use proposed development which results in the ARB not having jurisdiction to hear the request for zoning relief because in accordance with the provisions of Section 3.4, i.e. Environmental Design Review, further subsection 3.4.2 subsections A. through M., the substance of the application does not fit within the definition of any of those subsections which would vest jurisdiction in the ARB.

The property has 150.2 feet of frontage on Sunnyside Avenue and there will be no change to the dimensional aspects of the property since all of the work in connection with the building will be completed within the existing footprint of the building. In addition, there will be no changes to the exterior of the building including the height of the building. The provisions of the zoning bylaw would require eleven parking spaces and the proposal contains thirteen parking spaces.

The proposed landscaped square feet would be 4,392 square feet and the proposed usable open square feet would be 4,392 square feet and once again, there will be no exterior changes to the footprint of the building as it presently exists.

According to the assessing records for the Town the building was built in the year 1920 and there were renovations made to the building, none of which changed the use of the building for automotive repair business.

The site lies within the Alewife Brook Watershed but is not located within the 100-year flood plain and is not located within a flood zone as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the Town of Arlington, Map#25017C0419E, dated June 4, 2010.

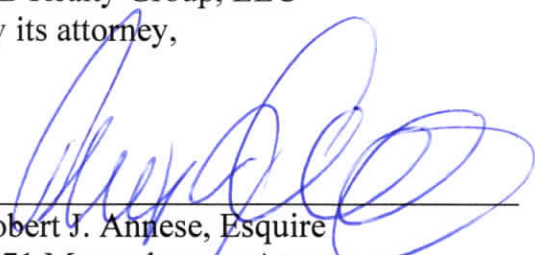
With respect to the special permit criteria contained in Section 3.3.3 of the Bylaw, Petitioner states the following:

- A. **The use requested is listed as a special permit use in the use regulations for the applicable district.** (*See* Section 5.33);
- B. **The requested use is essential or desirable to the public convenience or welfare.** The requested use which is an extension of the business use of Column Health, an Arlington business located at 339 Massachusetts Avenue would allow the members of that business organization to have much needed room for both office and conference use as the property at 339 Massachusetts Avenue is essentially being used to capacity.
- C. **The requested use will not create undue traffic congestion nor unduly impair pedestrian safety.** The initial proposal before the ARB approximately 2½ years ago, had proposed twenty-two residential units and retail space which would have resulted in an increase in traffic at the site; however, the present petition will have a limited number of employees of Column Health using the office and conference space within the building and the parking spaces provided exceed the number required by the Zoning Bylaw.
- D. **The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.** The requested use will not overload any municipal systems.
- E. **Any special regulations for the use as may be provided in this Bylaw are fulfilled.** There are no special regulations which are applicable.
- F. **The requested use will not impair the integrity or character of the district or adjoining districts nor will it be detrimental to the health or welfare.** The requested use will be an improvement to the

integrity and the character of the neighborhood in which the property is located because a former automotive and repair shop use will be transformed to office and business conference use which will be a much cleaner use than the prior automotive oriented use with respect to the impact of the use upon individuals residing in the neighborhood of the property.

- G. **The requested use will not by its addition to a neighborhood cause an excess of the use that could be detrimental to the character of said neighborhood.** There will not be an excess of the use in the neighborhood in which the property is located if the petition for zoning relief is approved by the Board.

Petitioner,
MB Realty Group, LLC
By its attorney,



Robert J. Annese, Esquire
1171 Massachusetts Avenue
Arlington, MA 02476
BBO #019880
(781) 646-4911 - Telephone
(781) 646-4910 – Facsimile
Email: law@robertannese.com