



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 14-15**

**PROPERTY LOCATION: 14 King Street**

**PETITIONER: Andrew DeWolfe**

**PROPERTY OWNER: Office Equity Realty Trust 2**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 35374 Pg: 152**

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This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of Andrew DeWolfe for a Special Permit to allow the use of pre-owned vehicle sales on the property located at 12-14 King Street, Map 82, Parcel 22.

## APPLICATION

1. On October 21, 2014, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a **SPECIAL PERMIT** to allow the use of pre-owned vehicles on the property located at 12-14 King Street, on which he operates his auto repair shop, per Section 7-05-020G(6)(d), Classification of Uses, Business Uses, Vehicles Sales and Service, Auto Sales, of the Northborough Zoning Bylaw.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on November 10, 2014 and November 17, 2014 and was mailed to abutters and other parties in interest on November 4, 2014.

## EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1. Application for Hearing before the Zoning Board of Appeals, including:
  - a. A certified abutters list for parcels 300 feet from 12-14 King Street, including a cover sheet signed by Julie Brownlee, for the Town of Northborough Board of Assessors, dated October 20, 2014;
  - b. A plan entitled "Plot Plan in Northboro, Mass.", dated 10/31/83, signed by Theodore Brahm, Registered Land Surveyor;
  - c. A hand-drawn sketch identifying portions of the footprint of a building on King Street; and
  - d. A Quitclaim Deed for 12-14 King Street, Northborough, recorded at the Worcester District Registry of Deeds on 12/23/2004, Bk: 35374, Pg: 152.
2. A letter to the Zoning Board of Appeals from David M. Durgin, Fire Chief, dated October 30, 2014, Subject: 14 King Street Special Permit; and

3. An email message from The Poretsky Family to Kathy Joubert, sent Tuesday, November 25, 2014, Subject: ZBA meeting 11/25/2014, including a letter from Amy Poretsky dated November 24, 2014.

### **HEARING**

Applicant Andrew DeWolfe presented the Application at a duly noticed public hearing of the Board on November 25, 2014 in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Fran Bakstran, Robert Berger, Brad Blanchette and Mark Rutan were present throughout the proceedings.

Mr. DeWolfe stated he owns an auto repair and towing business, Mcfee & Newton Towing and Recovery, Inc., at 12-14 King Street, and is seeking a special permit to allow the accessory use of pre-owned car sales. He would like to display pre-owned vehicles on a grassed area in the front yard of the site. Mr. DeWolfe stated he frequently has abandoned vehicles that are towed to the site from the Police Department and would like to sell them at an auction he holds every few months. He stated the location on the lot of the pre-owned vehicles will not impede the view of drivers exiting the site from the driveway. They are mostly inexpensive passenger cars or small commercial vehicles. He stated if he wasn't able to locate the vehicles on the front of his property, it would most likely impact his ability to sell them. He noted he wants to obtain a Class II license for used-auto dealers from the Northborough Board of Selectmen, which will give him the ability to display unregistered pre-owned vehicles on the site and to charge his buyers sales tax based on the fair market value of the used car.

In a letter to the Zoning Board of Appeals from David M. Durgin, Fire Chief, dated October 30, 2014, Subject: 14 King Street Special Permit, Chief Durgin stated he has no comments on the Application as the permit does not require any changes to the footprint of the building or site access beyond possible vehicle parking changes.

Amy Poretsky, 45 Indian Meadow Drive, was present, had sent a letter to the board via an email, and expressed opposition to the Application.

The hearing closed on November 25, 2014.

### **FINDINGS OF FACT**

1. The subject property at 12-14 King Street is located in the Business West District and Groundwater Protection Overlay District Area 3.
2. The Applicant owns and runs a towing and auto repair business on the subject site.
3. As part of the Applicant's towing business, abandoned unregistered vehicles from the Police Department are frequently towed to the subject site and he occasionally holds auctions to sell the vehicles.
4. A Special Permit to allow the sales of pre-owned vehicles, as an accessory use of the Applicant's towing business, is required per Section 7-05-020G(6)(d) Classification of Uses, Business Uses, Vehicles Sales and Service, Auto Sales, of the Northborough Zoning Bylaw.



5. The Applicant plans to obtain a Class II Used Auto Dealer's license from the Northborough Board of Selectmen that will allow unregistered, pre-owned vehicles to be displayed on the site.
6. A Special Permit granted by the Zoning Board of Appeals in 2007 allowed a towing business, as well as the repair and storage of 10 to 15 vehicles on the subject site.
7. There is ample area for parking on the King Street side and the Southwest Cutoff side of the subject site.
8. The Applicant's towing and auto repair businesses on the subject site are located next to a used car dealership at 279 West Main Street and an office building at 21-25 Southwest Cutoff. In addition, another auto repair business is located at 29 King Street; Cramaro Tarpaulin Systems, suppliers of tarpaulins for the trucking industry, is located at 51 Southwest Cutoff; and Delgreco Landscape and Masonry Supply Company is located at 50 Southwest Cutoff.
9. The subject site is surrounded by commercial uses, including auto sales and auto repair shops. Therefore, the site is an appropriate location for the proposed accessory use of pre-owned car sales.
10. The addition of the sale of three to five pre-owned vehicles, as an accessory use to the Applicant's towing business, will not change the way the subject site looks or operates currently. Therefore, the accessory use proposed will not adversely affect the neighborhood, and there will be no nuisance or serious hazard to vehicles or pedestrians.
11. There is sufficient parking area on the site for the sale of pre-owned vehicles, as well as sufficient garage space. Therefore, adequate and appropriate facilities will be provided for the proper operation of the accessory use of pre-owned car sales on the subject site.
12. The proposed accessory use of pre-owned car sales to the Applicant's towing business on the site will conform to any special requirements of the special permit granting authority as stated in its written decision.

#### **DECISION**

1. On November 25, 2014, after due consideration of the Application, the Board voted 4 in favor, 1 opposed to **GRANT a SPECIAL PERMIT** per Section 7-05-020G(6)(d) Classification of Uses, Business Uses, Vehicles Sales and Service, Auto Sales, of the Northborough Zoning Bylaw, to allow the use of pre-owned vehicle sales as an accessory use to the Applicant's existing towing business on the site, on the property located at 14 King Street only, with the following conditions:
  - a. The subject pre-owned vehicles will not be displayed anywhere other than on the paved surfaces on the south side of the building identified as 14 King Street; and
  - b. No more than three vehicles shall be displayed at any one time.
2. Appeals, if any from this decision shall be made pursuant to Massachusetts General Laws, Ch. 40A, Sec. 17 and shall be filed within twenty (20) days after the date of filing of this decision in the office of the Town Clerk.

3. The **SPECIAL PERMIT** shall not take effect until a copy of the decision bearing the certificate of the Town Clerk is recorded with the Worcester District Registry of Deeds in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 11 and 15 stating that "twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied."
4. If the rights authorized by the **SPECIAL PERMIT** are not exercised within two years from the time of granting, it shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 10.

**TOWN OF NORTHBOROUGH, MASSACHUSETTS  
ZONING BOARD OF APPEALS**

A handwritten signature in cursive script, reading "Richard Rand", is written over a solid horizontal line.

**RICHARD RAND, CHAIRMAN**