Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2016-00002, to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw, at 196 Triangle Street (Map 11D, Parcel 85, R-G Zoning District), subject to the following conditions:

1. The parking shall be built and used substantially in accordance with the Site Plan prepared by Berkshire Design Group, dated August 3, 2015, including but not limited to the landscaped areas, shrubs, and wheel stops, as amended by the Board, and the following:
    a. There shall be no more than six cars parked on the property on a regular basis.
    b. The western edge of the parking spaces shall be delineated with 6 x 6 landscaped timbers or equivalent, anchored securely into the ground. The timbers may be partially submerged to aid in snow removal.
    c. The new parking area and driveway shall be constructed with a 12 inch compacted base and 2 inch top coat.
    d. The driveway and parking area shall be maintained seasonally or more often to prevent vegetation, puddeling of water, and or ruts.
    e. Areas of gravel to be removed shall be loamed and seeded with grass and maintained in grass thereafter. Said grass areas on plan shall be mowed and maintained as lawn.

2. Areas shown on the site plan as "grass" shall be mowed and maintained in accordance with the approved Management Plan.

3. Snow removal for the parking area shall be in accordance with the approved Management Plan.

4. An amended lease agreement for the property shall be prepared with a specific provision requiring that tenant's park in the spaces designated and shown on the approved plan.

5. Prior to completion, the site work shall be inspected by Inspection Services.

Mark Parent JB
Mark Parent, Chair
Amherst Zoning Board of Appeals

10/15/15
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Eagle Crest Property Management, 55 North Pleasant, Amherst, MA 01002

Date application filed with the Town Clerk: August 10, 2015

Nature of request: For a Special Permit to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw

Address: 196 Triangle Street (Map 11D, Parcel 85, R-G Zoning District)

Legal notice: Published on August 12, 2015 and August 19, 2015 in the Daily Hampshire Gazette and sent to abutters on August 13, 2015

Board members: Mark Parent, Keith Langsdale, Yuri Friman

Staff members: Jeff Bagg, Senior Planner, Building Commissioner, Rob Morra

Submissions:
- Application form, filed with the Town Clerk on August 10, 2015
- Application packet prepared by Berkshire Design Group, dated August 3, 20156
- Management Plan form, including additional information for apartments
- Existing conditions survey plan, prepared by Berkshire Design Group, dated July 31, 2015
- Proposed site plan, prepared by Berkshire Design Group, dated August 3, 2015
- Copy of standard lease, including three strikes provision
- Various email communications from between July 31, 2015 and February 21, 2014
- Rental Permit application and parking plan submitted in December 2013
- Town GIS lot coverage map
- Town GIS aerial photographs from 2004 and 2009

Site Visit: **August 25, 2015**

Mark Parent, Keith Langsdale, and Yuri Friman met the property owner, Jamie Cherewatti of Eagle Crest and consultant, Peter Wells of Berkshire Design Group, at the site. The location of the property on the south west corner of the intersection of Triangle Street and Smith Street was observed, along with the following:
- The existing, informal gravel parking area extending along the entire front of the two family house with un-delineated edges.
- The location of two curb cut/driveway entrances; one from Triangle Street close to the exit of the Amherst Regional Middle School and one from Smith Street.
- The location of existing 2-3 existing arbor vitae adjacent to Smith Street that would be relocated to accommodate the expanded parking.
- The approximate location of the proposed six parking spaces and the area of the curb cut adjacent to Triangle Street that will be removed and replanted with grass and some vegetation.

Public Hearing: August 27, 2015

The property owner, Jamie Cherewatti of Eagle Crest and consultant, Peter Wells of Berkshire Design Group were present.

Mr. Wells described the project as follows:

- The proposal is to formalize a change to the parking area at this property, which contains a two family dwelling.
- The property has always had two curb cuts; one on Triangle Street and one on Smith Street. The curb cut on Triangle Street is 20 feet wide and may create a conflict with cars exiting the Amherst Regional Middle School. The project would include removing this curb cut with the area being loamed and seeded with grass. In this location, three arbor vitae would also be planted to provide screening. The shrubs would be six feet at planting.
- The parking area would be re-organized to provide six parking spaces, each with a concrete wheel stopped anchored into the ground. A small area for vehicle maneuvering would be provided with 20 feet in between each space.
- The parking area would be upgraded and re-constructed to provide a 12 inch compacted gravel base and two inch top coat of gravel, as shown on the plan.
- The driveway width at Smith Street would be enlarged slightly from 9 feet to 10 feet.
- A new walkway, consisting of pavers, would be constructed to provide tenant access from the new parking area to the entrance of the dwelling on the north side.
- The proposed lot coverage on the property would be reduced from the existing 39.1% to 35.2 % where the maximum allowed is 40%.
- The changes to the site will provide a more efficient and safer parking arrangement for the six tenants.

The Board discussed the nature of the request. Mr. Bagg explained that the use of the property as a two family dwelling has existed since at least 1963 as shown on the Town Assessor's records. In 1964 the Zoning Bylaw changed to require additional lot area for two units and the use became non-conforming. In 1971, the Zoning Bylaw changed again to require a Special Permit for the use. Since the property has neither, it is considered pre-existing non-conforming, thus requiring a Special Permit under Section 9.22 to alter or extend the use or make significant changes to the site. Upon submission of the Rental Permit application in December 2013, it was identified that, based on review of the Town's aerial photographs from 2004 and 2009, at some point after purchasing the property in 2009, the owner expanded the parking on the property from two small driveways capable of parking four vehicles to an undefined gravel area with proposed parking for 8-9 vehicles. Since February 2014, the Town has been working with the owner to either bring the property back to the previous conditions or seek the necessary Special Permit.

The Board discussed how the perimeter of the gravel parking area would be delineated. Mr. Parent expressed concern with the potential for the gravel to creep and expand after plowing every winter. Mr. Wells stated that the concrete wheel stops will be mounted into the ground with rebar and would hold back the gravel from spilling over. Mr. Parent stated that something such as a landscape timber or concrete curb would need to be installed along the west side adjacent to the house. Mr. Cherewatti stated that he preferred to keep it open to aid in plowing and noted that perhaps low growing plants could be planted. The Board determined that the western edge should be delineated with a 6 x 6 landscape timber partially submerged or a similar concrete curb along the parking spaces closest to the house.

The Board discussed how the tenants would be informed where to park. Mr. Parent noted that a provision in the lease should be added that identifies that tenants shall park in the designated parking spaces pursuant to the site plan. The Board determined that a copy of that lease should be submitted to the Planning Department.

The Board discussed the approval process for removing the driveway along Triangle and widening it on Smith Street. Mr. Bagg stated that he had not heard from the DPW in response to the transmittal but expected that a curb cut permit might be required for either change. The Board determined that if for some reason the DPW objected to the proposal that the owner would come back to the Board at a public meeting to review any alternative plan.

The Board made the following findings under Section 9.22 of the Zoning Bylaw:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board found that the proposal is not substantially more detrimental to the neighborhood for the following reasons:

- The proposed plan will provide for six parking spaces, which is less than the eight shown on the Rental Permit plan.
- The proposal will provide for an organized, delineated, and improved parking area for use by the tenants
- The proposal will remove a potentially dangerous driveway on Triangle Street in close proximity to the exit of Amherst Regional Middle School
- The proposal will provide shrubs to shield the parking area from Triangle Street and will remove some gravel areas to be replanted with grass.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The proposal to formalize parking for six vehicles on this property containing two units is suitably located and compatible with other uses in the vicinity.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The proposal will provide an upgraded parking area in terms of material and arrangement and includes the removal of a curb cut onto Triangle Street which will provide for safer entering and exiting the property. The proposal provides for additional landscape screening of the parking area.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The proposal provides three parking spaces per unit which is greater than the minimum of two parking spaces per unit. This provides for parking spaces for each of the tenants in the units. The parking area will be reconstructed to meet the design standards of Section 7.101. Each space will be delineated by wheel stops and other areas will be delineated by landscape timbers or equivalent. Areas taken out of gravel will be loamed and seeded with grass.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. As a result of the Rental Permit program, the proposal formalizes changes to the existing parking area and provides for a more efficient and organized parking area for the two rental units.

Zoning Board Decision

Mr. Langsdale MOVED to approve the application with conditions. Mr. Friman SECONDED the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2016-00002, to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw, at 196 Triangle Street (Map 11D, Parcel 85, R-G Zoning District), subject to conditions.

Mark Parent — MARK PARENT

Keith Langsdale — KEITH LANGSDALE

Yuri Friman — YURI FRIMAN

FILED THIS 15th day of October, 2015 at 12:19 pm,
in the office of the Amherst Town Clerk Sandra J. Burger
TWENTY-DAY APPEAL period expires, November 4 2015.
NOTICE OF DECISION mailed this 16th day of October, 2015
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2015.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
in the Hampshire County Registry of Deeds.

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Eagle Crest Property Management

For a Special Permit to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw

On the premises of 196 Triangle Street
At or on Map 11D, Parcel 85, R-G Zoning District

NOTICE of hearing as follows mailed (date) August 13, 2015
to attached list of addresses and published in the Daily Hampshire Gazette
dated August 12, 2015 & August 19, 2015

Hearing date and place August 27, 2015 (Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on *Thursday, August 27, 2015*, at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:
PUBLIC HEARING:
ZBA FY2016-00002 –Eagle Crest Property Management – For a Special Permit to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw, at 196 Triangle Street (Map 11D, Parcel 85, R-G Zoning District)
ZBA FY2016-00003 – Hess Retail Operations, LLC – For a Special Permit for a new owner, Speedway, LLC, to continue operations of an existing gasoline station and convenience store with changes to exterior signs and building facades, pursuant to Condition # 15 of ZBA FY2005-00007, under Sections 3.381, 3.350.1, and 10.33 of the Zoning Bylaw, at 468 West Street (Map 20C, Parcel 10, B-VC Zoning District)
MARK PARENT, CHAIR
AMHERST ZONING BOARD OF APPEALS
3336574 August 12, 19

SITTING BOARD and VOTE TAKEN:
To grant a Special Permit, ZBA FY2016-00002, to alter and expand a parking area from four to six spaces associated with a pre-existing non-conforming two family dwelling, under Section 9.22 of the Zoning Bylaw, at (Map 11D, Parcel 85, R-G Zoning District), subject to conditions

Mark Parent – Yes Keith Langsdale – Yes Yuri Friman – Yes

DECISION: APPROVED with conditions

OMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town

NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted
To Eagle Crest Property Management
Address 55 North Pleasant Street
City or Town Amherst, MA 01002

Identify Land Affected: 196 Triangle Street
(Map 11D, Parcel 85, R-GN Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner with respect to the use of the premises on

196 Triangle Street _____ Amherst
Street **City or Town**

The record of title standing in the name of
Good Ol Daves, LLC c/o Eagle Crest Property Management
Name of Owner

Whose address is 55 North Pleasant St. Amherst MA 01002
Street **City or Town** **State** **Zip Code**

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 10047 Page 156
or
Hampshire Registry District of the Land Court, Certificate No. _____,
Book_____, Page_____
The decision of said Board is on file, with the papers, in ZBA FY2016-00002
In the office of the Town Clerk Sandra J. Burgess

Certified this _____day of _____

Board of Appeals:

_____ Chairman
(Board of Appeals)

_____ Clerk
(Board of Appeals)

_____ at _____ o'clock and _____minutes ___.m.
Received and entered with the Register of Deeds in the County of Hampshire
Book_____ Page_____

ATTEST_____
Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

Parcel_ID	Parcel_Address	Owner1	Owner2	Address	CityStZip
11D-42	29 COTTAGE ST	W D COWLS INC		134 MONTAGUE RD, P.O. BOX 9677	NORTH AMHERST, MA 01059-9677
11D-96	86 KELLOGG AVE	DOMIAN, JOHN P & CHERYL A		86 KELLOGG AVE	AMHERST, MA 01002
11D-81	MATTOON ST	AMHERST PELHAM REG SCHOOL DIST		21 MATTOON ST	AMHERST, MA 01002
11C-1-328	NORTH PLEASANT ST	TOWN OF AMHERST		TOWN HALL	AMHERST, MA 01002
11C-274	15-33 PRAY ST	JONES PROPERTIES LTD PARTNERSHIP		15A PRAY ST	AMHERST, MA 01002
11C-282	14 SMITH ST	LIND, MEREDITH E		14 SMITH ST	AMHERST, MA 01002
11D-93	15 SMITH ST	WEINBAUM, EVE S & PAGE, MAX		84 MCCLELLAN ST	AMHERST, MA 01002
11D-88	22 SMITH ST	HAMILTON, CLAIRE E		22 SMITH ST	AMHERST, MA 01002
11D-87	24 SMITH ST	ANDREWS, JESS THOMPSON TRUSTEE		24 SMITH ST	AMHERST, MA 01002
11D-270	TRIANGLE ST	TOWN OF AMHERST RECREATION		TOWN HALL	AMHERST, MA 01002
11D-91	160 TRIANGLE ST	THORNBOROUGH, MARGARET M		160 TRIANGLE ST	AMHERST, MA 01002
11D-278	167 TRIANGLE ST	JONES PROPERTIES LTD PARTNERSHIP		15A PRAY ST	AMHERST, MA 01002
11D-83	169 TRIANGLE ST	DORAN, ROBERT	NIDITCH, SUSAN R.	169 TRIANGLE ST	AMHERST, MA 01002
11D-90	176 TRIANGLE ST	BERKSHIRE TERRACE PARTNERS LLC		55 NO PLEASANT ST	Amherst, MA 01002

Parcel_ID	Parcel_Address	Owner1	Owner2	Address	CityStZip
11D-85	196 TRIANGLE ST	GOOD OL DAVES LLC	C/O EAGLE CREST PROPERTY MNGMT	55 NORTH PLEASANT ST	AMHERST, MA 01002
11D-40	203 TRIANGLE ST	JONES PROPERTIES LTD PARTNERSHIP		15A PRAY ST	AMHERST, MA 01002
11C-7-269	228 TRIANGLE ST	DONALD TEAGNO REALTY LLC		228 TRIANGLE ST #7	AMHERST, MA 01002
11C-8-269	228 TRIANGLE ST	DONALD TEAGNO REALTY LLC		228 TRIANGLE ST #8	AMHERST, MA 01002
11C-2-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11C-3-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11C-4-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11C-5-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11C-6-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11C-1-269	228 TRIANGLE ST	THE SHAFIE FAMILY TRUST		99 WILDFLOWER DR	AMHERST, MA 01002
11D-257	WINDRIDGE RD	COLONIAL CON CORP OF DEERFIELD		WINDRIDGE RD	AMHERST, MA 01002
11D-92	18 WINDRIDGE RD	HOPKINS, CHARLES F	C/O MAHON, MAURA E	80 BLUE HILLS RD	AMHERST, MA 01002