



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

Town Hall - 242 Union Street, Rockland, Massachusetts 02370
Phone: 781-871-0154, ext. 1195; E-MAIL: zoning@rockland-ma.gov

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Date: August 15, 2022

Decision: Grant of Special Permit

Applicant: Douglas Mendes Andrade
d/b/a Andrade Auto Services and Sales

Owner: Gholamali (Al) Shahanaghi and Nila Shahanaghi
10 Grove Street, #2, Belmont, Massachusetts 02478

Property Address: 250 Webster Street, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application submitted by Douglas Mendes Andrade, 18B Bates Street, Abington, MA 02351, for a Special Permit pursuant to *Section 415-15.C(4)*, Automobile service stations, repair shops and agencies, to allow applicant to repair, display and sell used cars. The Special Permit will allow the applicant to seek a Class II License from the Board of Selectmen. The tenant of this property is Douglas Mendes Andrade d/b/a Andrade Auto Services and Sales. The site is located in an I-1 zone located at 250 Webster Street and is further identified as Lot #29 on the Rockland Assessor's Map #35. The owner of the property is Gholamali (Al) Shahanaghi and Nila Shahanaghi, 10 Grove Street, #2, Belmont, Massachusetts 02478.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

Advertised: April 19, 2022, and April 25, 2022, in the Patriot Ledger.

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Hearing Dates: May 3, 2022 and July 19, 2022

The Board lastly has taken into consideration testimony of the applicant, the applicant's attorney, the public, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A Remote Public Hearing was held, after notice and publication, virtually via Zoom on May 3, 2022, at 7:30 P.M., and a continuance public hearing was held on July 19, 2022, at 7:30 P.M. at the Rockland Town Hall. Both meetings were recorded and shown on WRPS Rockland TV, the local cable access tv station.

ATTENDANCE:

May 3, 2022:

Board Members: Chairman Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Timothy Haynes, Robert Baker, Sr. and Stephen Galley (alternate).

Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

July 19, 2022:

Board Members: Chairman Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr. and Stephen Galley (alternate).

Timothy Haynes was not present.

Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

MEMBERS VOTING: Chairman Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr., and Stephen Galley.

DISCUSSION ON MAY 3rd, 2022

(All Board members were participating remotely)

The Chairman of the Zoning Board introduced the members of the Board advising the public that all are participating remotely. The Chairman asked the members of the ZBA for a roll call vote to open the public hearing. The ZBA members then took a roll call vote:

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Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Sr., Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote was unanimous, and the public meeting was opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of May 3, 2022.

The Applicant, Douglas Andrade, spoke about the business operation.

Mr. Ruble said that he had 3 issues: cars on the left and right sides of the structure, the buffer zone and the number of cars on the property.

Mr. Tansey had issues with cars being in the buffer zone and the landscaping and that there needed to be a lot more control of the operation.

Mr. Haynes voiced a concern that the applicant was the tenant and not the owner of the property.

Attorney Galvin stated that since the owner did not comply with the 2016 conditions, he must be in compliance and there should be a one (1) year lookback.

Chairman Rosa stated that the plan lacks information and the parking lot striping is faded.

Mr. Shahanaghi stated he is very happy with the applicant.

The Board had questions about the buffer zones and the owner mentioned the "dirty land."

Mr. Ruble explained that there could be no digging on the property and per DEP the tar cannot be disturbed.

Mr. Shahanaghi said he would take care of the front buffer area.

Mr. Baker, Sr. mentioned stated that cars and a dump truck were parked on the left side of the building and 4 cars parked for service on the right side; there was no numbering of spaces; no handicap spaces; no signage and that the buffers were not being maintained.

The Board asked the Owner how long it would take to clean up the property to the September 6, 2016, plan and once complied with, come back for the special permit to be issued.

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Mr. Baker, Jr. discussed the Class II license and repair and sales.

Attorney Galvin opined that the Class II license for Mr. Andrade had not been approved and the previous licensee left in December of 2021, that the Class II license and previous special permit were no longer in effect and if there was no compliance, the special permit was up in the air.

Mr. Galley had no questions.

Mr. Tansey stated he wanted to continue the hearing for compliance, but he did not feel that the applicant should be doing business.

The Board discussed that the owner was not in compliance but the majority did not want to shut the applicant's business down.

Attorney Galvin suggested that they give the owner a reasonable period of time to comply.

The owner asked for 30 days, and explained that the previous tenant had destroyed the property while he was away.

The Board agreed that the applicant could continue to operate a repair business but not sell cars and that Mr. Ruble would conduct a site visit when the previous conditions were completed and then they could discuss the special permit for a Class II license.

Th owner agreed. Then asked if he could continue the hearing for at least 45 days as he was going to be out of the country.

A motion was made by Robert Baker, Sr. to continue the hearing to July 19, 2022, at 7:30 p.m.

Mr. Tansey seconded the motion.

A roll call vote was taken: Mr. Rosa – Yes, Mr. Tansey – Yes, Mr. Baker, Jr. – Yes, Mr. Haynes – Yes, Mr. Baker, Sr. – Yes, Stephen Galley – Yes.

DISCUSSION ON JULY 19, 2022

At 7:30 P.M. the Chairman of the Zoning Board introduces the members of the board. The Chairman asked the members of the ZBA for a roll call vote to open the public hearing. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Robert Baker, Sr.,

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Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote was unanimous, and the public hearing was opened.

The Chairman read the advertised notice in the Patriot Ledger and stated that the meeting was being recorded.

The owner of the property, Gholamali (Al) Shahanaghi, told the members of the Board that everything was done, he initially had a problem with the striping but it was corrected and everything was done according to the plan.

Mr. Ruble stated that he had done a site inspection and that the owner was in compliance with the 2016 plan.

Mr. Baker, Jr. and Mr. Galley had no questions.

Mr. Baker, Sr. said that there were cars parked angled to the building and were being worked on. The applicant disputed this. Chairman Rosa reiterated that there was to be no parking on either side of the building. The applicant advised that sometimes cars were dropped off on that side of the building but were not being worked on. Chairman Rosa stated that minor things, such as jump starting a vehicle to get it into the building would be fine, but nothing was to be worked on outside. The applicant stated that it would not happen.

Mr. Ruble stated that he was happy with the owner after the site visit.

Mr. Baker, Sr., made a motion to close the public hearing.

Mr. Baker, Jr. seconded the motion.

A vote was taken: Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Robert Baker, Sr., Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote was unanimous, and the public portion of the hearing was closed.

DELIBERATION:

Chairman Rosa stated that he had no problem since the owner understands and corrected the issues that the Board had and that the applicant is seeking a Special Permit for the display and sale of used vehicles, the Applicant is seeking a Special Permit as per Section 415.16.C.2 and the applicant seeks permission from the ZBA for a Special Permit to apply to the Board of Selectmen for a Class II License for the display and sale of 25 vehicles.

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DECISION ON SPECIAL PERMIT:

Robert Baker, Sr. made a motion to grant the Special Permit with conditions. Mr. Galley seconded the motion. The vote of the Board was unanimous (5-0).

CONDITIONS:

Approved by Board on August 2, 2016

As Modified: September 6, 2016

As further Modified: July 19, 2022

- 1) Only vehicle antenna banners are allowed. NOT ALLOWED: other additional advertising with banners, flags, streamers, string banners or string pennants, balloons, strobe flashing lights, open hoods, signs, etc.
- 2) There shall be NO additional outside illumination.
- 3) There shall be NO outside display or storage of parts or anything else other than the permitted vehicles at any given time.
- 4) There shall be NO junk cars on display or stored at any given time.
- 5) MODIFIED CONDITION: There shall be no trucks above 12,000 lbs. GVW with more than 6 wheels, trailers, tractor trailers or cabs stored on the property at any given time. There shall be no trucks other than those fitting in appropriate parking spaces.
- 6) There shall be NO spray painting allowed at any given time on the property.
- 7) There shall be NO pressure washing or washing of engines, transmissions or undercarriages at any given time on the property.
- 8) There shall be NO detailing of cars other than those vehicles that are for sale or displayed at 250 Webster Street. All washing of vehicles has to be done inside the building where the drain is located. The Applicant must meet 248 CMR: Board of State Examiners of Plumbers and Gas Fitters code Section 10:09: Interceptors, Separators and Holding Tanks; (b) Separators or Holding Tanks Required. 1. Requirements. a and b. i. thru vi.

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- 9) HOURS OF OPERATION FOR CAR SALES AND/OR REPAIR:
Monday through Friday: 8:00 A.M. – 6:00 P.M.
Saturday: 8:00 A.M. – 3:00 P.M.
Sunday: 10:00 A.M. – 3:00 P.M. (Sales only)
- 10) MODIFIED CONDITION: There shall no NO signs or other signage shown on approved plan named Parking Lot Striping Site Plan – revised date March 7, 2022 (copy to be recorded at the Plymouth County Registry of Deeds with this Decision).
- 11) Any A-frame or sandwich board signs must be approved with a permit issued by the Building Department.
- 12) MODIFIED CONDITION: The Applicant must maintain vegetated buffer zone as shown on the revised site plan of March 7, 2022, approved by the Board – (West Side Buffer): The existing pavement shall remain. The Applicant shall install twelve (12) planters, three (3) feet in diameter with perennials. The planters shall be installed starting at the utility pole located near the left corner of the building. The planters shall be installed ten (10) feet on center along the west buffer zone approximately seven (7) feet from the property line. The planters are to be maintained by the applicant. There shall be no vehicles parked along the west buffer zone. The planters on the west side of the property can be moved to another location during the months of November 15 to April 1 so that this area can be used for snow storage as shown on the revised Site Plan dated September 12, 2016. (Front buffer): The existing pavement shall remain. There shall be planters, three (3) feet in diameter with perennials installed in the front of the following parking spaces: HC1, D24 and the center of CP1. The planters are to be maintained by the applicant. (East side buffer): The buffer along with east side of the property shall be grass as shown on revised Site Plan dated September 12, 2016, and shall start off with a 15 foot vegetated buffer gradually increasing to 30 foot vegetated buffer zone as laid out on the attached revised Site Plan dated September 12, 2016, and the back right corner buffer shall be a vegetated buffer zone as shown on the revised Site Plan dated March 7, 2022.
- 13) MODIFIED DECISION: This Special Permit is subject to review in one (1) year from the date of this hearing (July 19, 2022).
- 14) MODIFIED CONDITION: This Special Permit is granted to Douglas Mendes Andrade, applicant. If there is a change in ownership of the building and/or site, the new owner shall file an application for a public hearing for a new Special Permit before the Zoning Board.

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- 15) MODIFIED CONDITION: A formal site As-Built Plan shall be submitted to the Zoning Board of Appeals for review, approval and recording at the Plymouth County Registry of Deeds. Recording information is to be given to the Building Department and Zoning Board of Appeals prior to submitting an application to the Board of Selectmen for a Class II license showing the following: (1) parking of cars for sale or display; (2) buffer zones; (3) customer parking; (4) repair parking; (5) employee parking; (6) location of buildings; (7) location of service/repair of cars; (8) location of dumpster and (9) location of snow storage and (10) reinforced concrete tire stops. All spaces are to be numbered according to Site Plan revised March 7, 2022.
- 16) There shall be NO offsite and/or street parking at any given time.
- 17) The business of 250 Webster Street shall be confined and operated with said boundaries of landscaped buffer zones.
- 18) There shall be NO other business added to the existing business and the used car sales business at this location without ZBA approval.
- 19) Outside lighting shall be baffled as not to allow light from the fixtures to be visible from abutting properties.
- 20) MODIFIED DECISION: The location of the 25 permitted vehicles for sale/display or unregistered shall be located in the spaces provided as shown on a Site Plan filed with this decision. The 25 number of permitted vehicles is the maximum number of vehicles allowed which may be displayed/or for sale. There shall be a total of 33 parking spaces on the lot for the following vehicles: one handicapped parking space, three customer parking spaces, two repair parking spaces, two employee parking spaces; and twenty-five used car for sale/display or unregistered parking spaces. No vehicle can be parked on site unless within a parking stall.
- 21) There shall be NO parking of vehicles within the 10-foot buffer zone that is to be maintained between the vehicles and the property lines.
- 22) There shall be NO PARKING ON TOWN PROPERTY – INCLUDING THE SIDEWALK ON WEBSTER STREET.
- 23) There shall be NO gasoline and/or diesel fuel for sale or stored at this location.
- 24) MODIFIED CONDITION: The parking lot shall be striped and spaces numbered as shown on revised plan dated 3/7/22 and filed with this decision.

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Repair Parking Spaces shall be numbered as follows: R1, R2, R3, R4, and R5.

Sale/Display Parking spaces shall be numbered as follows: D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, D12, D13, D14, D15, D16, D17, D18, D19, D20, D21, D22, D23, D24 and D25.

Employee Parking Spaces shall be numbered as follows: EMP 1 and EMP2.

Customer/Handicapped parking spaces shall be numbered as follows: HC1, CP1, CP2 and CP3. (Parking spaces shall be laid out with a 4-inch wide yellow strip indicating each space and numbered accordingly as shown on the plan filed with this decision prior to commencement of use).

25. MODIFIED CONDITION: There shall be NO other vehicles parked and/or stored on the site other than employee parking, customer parking, vehicles for sale, or vehicles to be repaired that were previously sold on site or are to be sold on site (inoperable and unregistered vehicles are allowed if the vehicles are to be sold on site, to be repaired for a future sale on site).

26) Cars shall not be displayed on stands, jacks or on a raised elevation. All wheels shall be on the same plain as all other displayed vehicles.

27) The asphalt on the west side of the garage shall be marked with the wording "NO PARKING" with a minimum of one (1) foot in height lettering.

28) SNOW REMOVAL: In the event of a large snow storm or multiple storms, there shall be no piling of snow and all snow is to be removed from all parking spaces. Excess snow shall be removed within 24 hours of the completion of the snow event. For small snow storms less than 3 inches, temporary storage may be piled in the location marked "Snow Storage Area" which is to be shown on the Site Plan.

29) There shall be an EXIT ONLY sign on the right side of the driveway opening located on the west side. The sign shall face towards Webster Street and an ENTER and EXIT ONLY sign located at the east side. The sign shall be to the right of the driveway and face towards Webster Street as shown on said plans. Signs are to be installed as shown on the plan so that they are visible to the general public from Webster Street.

30) MODIFIED CONDITION: Railroad ties or the like that are used as part of the landscaped buffer SHALL NOT BE USED as tire stops. Commercially recycled rubber tire stops shall be permanently installed using #5 rebar 24" long driven into the asphalt. There shall be a minimum of two (2) rebars or each tire stop and the stops shall not be removed. The tire stops shall be 2 feet

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off the buffer zone. The tire stops shall be allowed to be removed during snow storms for snow removal and reinstalled within 12 hours after the end of the storm.

- 31) There shall be NO additional asphalt added to the site without approval from the ZBA.
- 32) In no event shall any part of a vehicle be within or overhang the buffer zone.
- 33) There shall be NO cueing of cars or double parking in the travel lane. The travel lanes shall be kept unobstructed.
- 34) Parking spaces with the exception of the handicapped space shall be 10 x 20 (70%) and 9 x 18 (30%) – refer to Section 415-22A.1. There shall be no stacking of parked vehicles.
- 35) MODIFIED CONDITION: Vegetated grass buffers and/or planters shall be maintained excepting that planters may be removed from November 15 to April 1 for winter storage.
- 36) MODIFIED CONDITION: The owner must provide the manager with a copy of the recorded decision regarding the Special Permit with the list of conditions when signing a lease with the Owner of the property.
- 37) MODIFIED CONDITION: If there is any change in manager/tenant, the replacement manager or tenant shall meet with the Zoning Enforcement Officer so that they may be made aware of the above conditions.
- 38) MODIFIED CONDITION: There shall be no storage of boats, campers, RV's, ATVs, motorcycles or the like on the premises.
- 39) The applicant shall comply with the conditions by other Boards and Commissions.
- 40) MODIFIED CONDITION: This Special Permit filed with the Town Clerk's office on August 15, 2022, and the revised Site Plan dated March 7, 2022, to be recorded herewith, must be recorded with the Registry of Deeds and proof of recording must be provided to the building department.
- 41) The applicant shall be required to obtain a Class II License from the Rockland Board of Selectmen after being in compliance with all of the 42 conditions of this decision.

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42) Any complaints concerning the operation of the business shall be diverted to the Building Department/Zoning Enforcement Officer for enforcement in accordance with M.G.L. Chapter 40A, Section 7. If warranted, the ZBA will advertise and notify the abutters for a public hearing to discuss the revocation of the Special Permit and/or reduction of number of vehicles.

REASONS FOR DECISION:

Upon motion duly made and seconded, the Board found that the applicant is seeking a Special Permit for used car/display vehicles at 250 Webster Street. The Board found that the lot contains 1.180 acres.

The Board found that the lot is an I-2 zone abutting a residential zone and the display and sale of used cars is an allowed use by a Special Permit. The Board found that the Special Permit will be issued to the applicant of the property but the owner of the property will oversee his tenant renting out the space.

The Board found that by granting the Special Permit with the conditions set forth would not be a derogation to the intent of the Zoning ByLaws and would be in harmony with the surrounding neighborhood.

NOTE:

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

Signature page follows.

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FOR THE ZONING BOARD OF APPEALS

By:


Robert C. Rosa, III
Chairman