

ZONING BOARD OF APPEALS – Minutes of Meeting(s)  
DATE: June 27, 2018  
PLACE: Lawrence J. Chaffee Hearing Room  
TIME: 7:30 P.M.



CASE NO.: 2018-13  
Applicant: Campbell Lewis/Hutton for O'Reilly Auto Parts  
Property Address: 217 Centre Avenue

A public hearing was held at 7:30 P.M. on June 27, 2018 in the Lawrence J. Chaffee Hearing Room, Town Hall, 242 Union Street, Rockland MA on the petition submitted by Campbell Lewis/Hutton, 736 Cherry Street, Chattanooga, TN 37402 for O'Reilly Auto Parts to allow the construction of an Auto Parts Retail Store at 217 Centre Avenue. The Applicant is seeking a Special Permit as per §415-14.C.1. The Applicant is also requesting several variances regarding building setback and landscape buffer areas. The owner of the property is Robert J. Norris, 295 Centre Avenue, Rockland, MA 02370. The site is located at 217 Centre Avenue and is further identified as Lot #93 on the Rockland Assessor's Map #56. A copy of this application is on file in the Town Clerk's office and is available for inspection during regular office hours.

**ATTENDANCE: Board Members: Chairman Robert Manzella, Stanley Cleaves, Rita Howes and Robert Rosa.**

**Also present: Land Use Counsel Robert W. Galvin and Building Commissioner/Zoning Enforcement Officer Thomas Ruble.**

**MEMBERS VOTING: Robert Manzella, Gregory Tansey, Stanley Cleaves, Rita Howes and Robert Rosa.**

**DISCUSSION:** Chairman Manzella read the advertisement from the Patriot Ledger.

The Chairman stated that the Board did receive correspondence from Lee and Lori Soper, 200 Centre Avenue, Rockland, MA.

Mr. Casey J. Burch, Project Manager, Solli Engineering, LLC, 501 Main Street, Monroe, CT 06468 came before the Board to make his presentation on behalf of O'Reilly Auto Parts.

Mr. Burch testified that the existing site is triangular with Central Street on the North side and Centre Avenue on the South side. Mr. Burch testified that this is a corner lot; the building setback is 25 feet, the rear setback is 30 feet, the landscaping setback is 20 feet and the rear landscaped setback is 10 feet. Mr. Burch testified that the foundation of the existing Piano Mill property use to be a

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bar way back then; the foundation alone is 14,700 sq. ft.; there are 5 curb cuts; it is 85 feet to Centre Avenue; there will be an axis drive; there is a 28 foot curb cut from Thayer Terrace and Central Street was just paved.

Mr. Burch testified that the Auto Parts store will be 7,465 sq. ft.; there will be storm-water quality features and can fit 80 x 100 in existing building now.

Mr. Burch testified that the plan is 103 x 72 and if we shift to the NW, we would need a waiver for the rear setback – 15 feet and a waiver for the northern setback.

The Chairman stated that the plan shows a rear setback.

Mr. Burch testified that they need a waiver for landscaped buffer from 10 feet to 5 feet to accommodate a dumpster and also requesting a 5 foot buffer for the southern side for parking and loading with a truck for turning movements.

Mr. Burch discussed the variance for the driveway width – 415-33(b) as follows: Northern is 30 feet = 6 feet more; South is 40 feet = 16 more and the reason for asking for this variance is to take a left out onto Centre Avenue.

Mr. Burch testified that he talked to DOT and are only providing 2 curb cuts instead of 5 curb cuts; will be reducing impervious 10,000 sq. ft.; there will be more landscape and grass and there will be extensive landscaping done near the abutter to the West.

Mr. Burch read a letter from the Architect regarding the landscaped buffer and testified that there will be layered planted buffers and deciduous trees and the original application filing with the ZBA has a landscaped plan.

The Chairman stated that DOT moved the driveway 82 feet to the west with a previous hearing the Board had back in 2015 and the reasoning was to get away from the intersection.

Mr. Rosa testified that he would like the Board to consider putting in speed bumps down the middle of the driveway.

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The Applicant testified that O'Reilly is a tenant with a 30 year lease and is fine with the speed bumps down the driveway. The Applicant testified that they will do anything necessary as they are liable for any accident in the parking lot.

Mr. Rosa testified that he sees the possibility of cutting the corner. Mr. Rosa asked the Applicant about lighting. Mr. Burch testified that there will be dark-sky compliance lighting, zero lit candles and that is what the current plan shows. Mr. Rosa asked the Applicant what kind of signage they would have. Mr. Burch testified that there will be signage on the building. Mr. Rosa testified that other O'Reilly stores in Brockton and Hanover have pole signs, so will you mimic those signs without a pole sign. The Applicant testified there will be no pole sign.

Ms. Howes discussed the landscaping with the Applicant. Mr. Burch testified that the rear is 8 feet in as there is a low lying area in which the grade slopes down. Ms. Howes asked the Applicant if the building will be facing the corner of the lot. Mr. Burch replied, yes. Ms. Howes asked the Applicant if there will be any plantings there. Mr. Burch testified that the lawn area is being used for the storm-water. Ms. Howes testified that she does not recommend anything in the triangle. Mr. Burch testified that we are providing a new sidewalk. Ms. Howes asked the Applicant to show her on the plan where the egress was now. Mr. Burch testified that there is one facing Thayer Terrace, one at the intersection, two on the corner/front and one on Central Street.

The Chairman asked the Applicant what the hours of the business would be. The Applicant testified that the hours would be 9:00 A.M. to 8 or 9:00 P.M. weekdays and on the weekends they will open at 10:00 A.M. to 9:00 P.M.

Mr. Tansey asked the Applicant if the roof run-off would be going into the spreader. Mr. Burch testified there is a vegetated filter strip – grass. Mr. Tansey testified it would be hard piping the run-off into a level spreader. Mr. Burch replied, yes, shows the drainage by referring to the plans and testified that everything drains to the corner catch basin on Centre Avenue. Mr. Tansey asked the Applicant if they performed hydrologic calculations. Mr. Burch testified that there is a pipe analysis reducing the impervious by 10,000 sq. ft. Mr. Tansey asked the Applicant what was the loading operation schedule of the trucks delivering supplies. Mr. Burch

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testified that their trucks are designed for a 36 foot long truck bed. Mr. Tansey asked the Applicant how often the deliveries are made. The Applicant testified that deliveries are once per week as well as the dumpster for trash pick-up. The Applicant testified that the O'Reilly truck is like the size of a UPS truck.

Mr. Burch testified we are including another dumpster for recycling and O'Reilly uses a wood fence for dumpster enclosures.

Mr. Tansey asked the Applicant if there was going to be a loading bay. The Applicant testified that it would be used like a garage door.

Mr. Cleaves asked if there would be handicapped parking. Mr. Burch testified that there are two van handicapped parking spaces as well as 26 more parking spaces. Mr. Cleaves asked the Applicant what driveway would be used when entering the property. Mr. Burch testified they would enter off of Centre Avenue. Mr. Cleaves asked the Applicant how many employees they would have working in the store. The Applicant testified that there would be 6-8 employees all the time – two shifts with a total of 3 shifts. Mr. Cleaves asked if there would be a sign on the building. Mr. Burch replied, yes. Mr. Cleaves asked if the sign would be illuminated. The Applicant testified that there would be lighting around the letters.

The Chairman asked the Applicant if the water would be coming off the spreader area sheeting into the sidewalk. Mr. Burch testified that they would be bringing it to this end (by looking at the plan). The Chairman asked the Applicant if they have permission from the State to dump water into their system. Mr. Burch testified they will be working on it. The Chairman asked the Applicant if they have the size of the sign. The Applicant replied, not yet.

Mr. Ruble testified that they need to go before the Planning Board for Site Design and Review and they also need to see the Fire Department.

Attorney Galvin stated that he did not see the transition yard in your variance – there is minimum yard – Distance B; Landscape – A to C; there is no mention of 3B

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(rear of building). Attorney Galvin stated it looks like existing 18' – they need to apply for that. Attorney Galvin stated that there is a new storm-water management by-law and they would need a permit from the Planning Board (Article #63 of the May 7, 2018 Town Meeting). Mr. Burch testified that they need to deal with that. Attorney Galvin asked the Applicant if they needed all of that parking. Mr. Burch testified that O'Reilly wants 36 spaces but are trying to maintain it to 26 spaces. Attorney Galvin stated that the dumpsters are right near the property line – next to house. Attorney Galvin asked the Applicant what was up front. Mr. Burch testified that it is a vegetated buffer strip. Attorney Galvin stated that the dumpster might be an issue for emptying – the Board might want to consider a mixture of landscaping plus a fence along the property line as two neighbors are really close. Attorney Galvin stated that landscaped and fencing buffer might take care of sound and visual barrier. Attorney Galvin asked the Applicant what was the height of the building. The Applicant testified it was 17 feet in height. Attorney Galvin asked the Applicant about the loading on the side of the building and what the loading schedule is. The Applicant testified that the side spaces are for employees. Attorney Galvin asked the Applicant if there would be signage for the employees and how many would there be working. The Applicant testified that would be 5-8 at a time.

Attorney Galvin asked the Applicant about the lighting plan and was it on file with the Board. Mr. Burch testified that the lighting plan was not on file with this Board as another company did the site lighting and are preparing it for the Site Design and Review with Planning Board.

Attorney Galvin asked Mr. Tansey about the bituminous concrete vs. granite curbing. Mr. Tansey testified that concrete, granite or cape-cod berm would be better.

Attorney Galvin stated that they are getting close to neighbors and that is why I asked about lighting and if they should include baffles.

The Chairman asked the Applicant if there would be a need for lighting in the back. The Applicant testified that there is a wall pack over the overhead door.

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Attorney Galvin stated to the Applicant - for the ZBA to grant relief – you might need to tell them about security lighting. Mr. Burch testified that there is no security door. Attorney Galvin asked the Applicant if there was anything to keep the kids from hanging out back. Mr. Burch testified there will be heavy screening. Attorney Galvin stated that they need an entrance variance.

Mr. Cleaves asked the Applicant what they intend to do with snow removal. The Applicant testified that the plows will go up into the northern area. Mr. Burch testified that there is a small depression in the vegetated area.

Mr. Tansey testified that a cape-cod berm would be more appropriate if plowing snow.

Attorney Galvin asked if the granite curb was more stable. The Chairman stated that the plows bounce off it.

The Chairman asked the audience if there was anyone in favor or against this petition.

An abutter residing at 62 Central Street testified that this was too close to his house.

An abutter residing at 25 Central Street had questions regarding deliveries and would prefer no tractor trailer deliveries; asked how many trucks will be making deliveries; had problems when Robbins furniture tractor trailers drove across his front lawn to make the turn; where will the snow be stored as the visibility is hard to get out onto Route 123; when they take out the concrete pad out, how will they do that and where are the loading areas and dumpster location for the trash.

The Applicant thinks the slab will go out with a lift and showed the abutter where the dumpster would be located on the plan.

The Applicant testified that there would never be any tractor trailer deliveries at this site.

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Mr. Richard Wells of 45 Central Street testified that they just repaved Central Street and does not think there is a curb cut on that street; his issue is 9:00 P.M. closing; and would there be cutouts on Central Street. The Applicant testified that O'Reilly has minimal traffic. Mr. Burch testified that when he spoke to Highway, they said no cutting into it. Mr. Wells testified that he would rather see granite curb installed. The Applicant testified that they will do this.

Mr. Rosa asked the Applicant where the granite curb would go. The Chairman stated that the granite curb would go where the sidewalk is. Mr. Burch testified that they are proposing an area into the site. The Chairman stated that the state will mandate granite.

Attorney Galvin looked at the O'Reilly site on-line and noticed that the Brockton site hours were 7:30 A.M. to 9:00 P.M. and 9:30 A.M. to 8:00 P.M. Attorney Galvin asked the Applicant if they do limited auto repair, do they collect fuel and batteries and if so, where would they store them. Mr. Burch testified that would have to be internal.

Mr. Ruble asked the Applicant if the building was sprinkled. The Applicant replied, no, the outside of the building is 7,465 and already spoke to the Fire Chief.

Attorney Galvin stated that they might have to ask for the other variance and have the Board continue this hearing.

The Chairman asked the Applicant if they have a list of what they are looking for. Attorney Galvin stated that they said what they are asking for on the plan. The Chairman stated this was advertised loosely.

The Applicant testified that they are looking for variances on the north and south side of the building.

Attorney Galvin stated that you are supposed to be 20 feet in the rear.

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The Chairman stated to the abutters that this is a B-2 zone.

The Chairman stated to the Applicant that if this petition is approved, you would need to go to the Planning Board for Site Design and Review after the appeal period.

The Chairman closed the open portion of this hearing and explained to the Applicant the appeal process, the filing of the decision with the Town Clerk, and if

the Special Permit and/or variances are granted, the Applicant must receive from the Town Clerk a Certificate of no appeal after the 20 day appeal period and then proceed to the Registry of Deeds to record the approved decision together with a Certificate of no appeal and proof of recording must be submitted to the Building Department before receiving a building permit.

**DELIBERATION:** The Chairman stated to the Board that the Applicant is seeking a Special Permit as per §415-14.C (1) for O'Reilly Auto Parts to allow the construction of an Auto Parts Retail Store and the Applicant is also requesting several variances regarding building setback and landscape buffer areas – Variances requested: Building Setback – 5' variance; Landscaped buffer – 5' variance on west side; Parking setback – 15' variance on south side and 15' variance on north side; Max. Driveway width – Centre Avenue - 6' variance and Central Street – 16' variance.

Attorney Galvin stated it sounds like a redevelopment project and they might need additional variances.

Mr. Tansey testified it is important as an abutter stated it would be too close to his house, but the Board can also look at the shape of the lot.

The Chairman stated that the Piano Mill was closer, but does agree the dumpster is too close to the house.

Mr. Rosa testified that the paving is way from the property.



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The Chairman stated that this proposal is better than the Mobil One proposal back in 2015.

Mr. Rosa testified he agrees that this is way better than Mobil One but he would like to see a speed bump.

Attorney Galvin stated that the Board could condition limit of trash pick-up and hours for pick-up.

Attorney Galvin discussed the property line fence and they want a 10' landscaped buffer.

The Chairman stated that a fence and landscaped buffer would soften the sound. The Chairman read the conditions the Board had with Mobile One hearing.

Attorney Galvin stated that you need a condition that the Applicant needs to comply with the Storm-water Management By-law from Article #63 at the May 7, 2018 Town Meeting.

Mr. Ruble asked the Board if there were more parking spaces than they really need; if they move the dumpster away from the house, they will minus some spaces.

The Chairman stated that they could put the dumpster in front of the building.

Mr. Rosa testified that they did discuss double dumpsters - one for trash and one for recycling.

Mr. Ruble testified it is something to think about.

Mr. Tansey testified we could look at the back of the building.

The Chairman talked about dark sky – no lighting on the rear – they need a Special Permit.

Mr. Ruble testified that he will classify this as a retail store.

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Attorney Galvin stated that the Board needs to amend the motion that the Applicant shall get Planning Board approval for storm water management and to include a variance for the transitional yard setback requirement. Attorney Galvin stated that this is supposed to be a landscaped buffer and this is called a yard regulation.

Mr. Tansey testified that they need a 5-foot variance.

**DECISION AND VOTE ON DECISION:**

**Special Permit:** Mr. Rosa made a motion to grant the Special Permit with the following condition(s). Mr. Tansey seconded the motion. The vote of the Board was unanimous (5-0).

CONDITIONS:

- (1). Removal and properly dispose of old concrete foundation and slab from the previous structure.
- (2). There shall be speed bumps installed across the parking lot west to east direction.
- (3). There shall be no major engine or body work done on the site.
- (4). There shall be no outside storage of parts or inventory.
- (5). Applicant must comply with the new Town of Rockland Storm Water Management By-Law (Article #63 – ATM on May 7, 2018).
- (6). The dumpster shall be fenced in with a solid 6 foot fence around the dumpsters with gates to allow access.
- (7). The dumpster pick-up of debris and recyclables shall be scheduled between the hours of 8:00 A.M. to 5:00 P.M. There shall be no Sunday hours.
- (8). Lights shall be dark sky compliant.
- (9). There shall be no lights in the rear of the building (west side).
- (10). There shall be an 8-foot solid fence installed along the west property line along with trees (arborvitaes) and landscaping starting 20' in from the south property line and extending all the way to the north property line.
- (11). The Applicant must secure a DOT access permit.
- (12). The Applicant must obtain a trench permit from the Town.
- (13). The hours of operation shall be Monday through Saturday 9:00 A.M. to 9:00 P.M. Sunday hours of operation shall be 10:00 A.M. to 6:00 P.M.

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(14). Lighting shall not go beyond the property lines.

(15). There shall be no gas or diesel sold or stored on the site.

(16). The lights shall be turned off at the end of the business day except for security lights.

(17). The building shall be laid out as shown on the Plan provided in the Zoning Application packet prepared by Solli Engineering, 501 Main Street, Monroe, Connecticut 06468 dated May 10, 2018 for Civil Design Plan Set and dated March 6, 2018 and May 14, 2018 for Architecture Plan Set except for minor deviations that the Planning Board approves of during their Site Design and Review.

(18). The Applicant shall submit an Application to the Planning Board for a Site Plan and Design Review hearing.

(19). A copy of this decision shall be filed with the Registry of Deeds and Proof of recording this Decision and the Certificate of No Appeal must be presented to the Building Department prior to applying for a building permit.

**Variance:** Mr. Rosa made a motion to amend the application to include a variance under §415-22 (transition yard requirement). Mr. Tansey seconded the motion. The vote of the Board was unanimous (5-0). Mr. Rosa made a motion to grant the following listed variances for the building setback and the landscaped buffer along the property line. (Variances requested: Building Setback – 5' variance; Landscaped buffer – 5' variance on west side; Parking setback – 15' variance on south side and 15' variance on north side; Max. Driveway width – Centre Avenue - 6' variance and Central Street – 16' variance). Mr. Tansey seconded the motion. The vote of the Board was unanimous (5-0).

**REASONS FOR DECISION:** Upon motion duly made and seconded, the Board found that the Applicant is seeking the construction of an Auto Parts Retail Store at 217 Centre Avenue. The Applicant is seeking a Special Permit as per §415-14.C.1. The Applicant is also requesting several variances regarding building setback and landscape buffer areas

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The Board found that the site use to be a bar prior to zoning. The Board found that it was then converted and an addition was put on for a furniture store and then it housed the Piano Mill business.

The Board found that the building was destroyed by a heavy snow fall in 2015. The Board found that the site is a B-2 triangular shaped lot between two streets (Central Street and Centre Avenue). The Board found that the shape of the lot would make the lot unusable.

The Board found that the existing site did not have a buffer zone. The Board found that the noise would be minimal.

The Board found that after hearing all the evidence presented before them, the Board found that the Applicant showed the hardship criteria relating to the Soil, Shape or Topography for the landscaped buffer.

The Board found that the location of the proposed structure on the lot is a condition that specifically affects the lot and does not effect the zoning district as a whole. The Board found that the variances would not derogate from the intent or purpose of the Zoning By-Law or be detrimental to the public good, therefore the Board found by granting the variances, it would only affect the lot and not the whole zoning district.

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 By-Laws and would be in harmony with the surrounding neighborhood.