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**ZONING BOARD OF APPEALS, TOWN OF WEST BOYLSTON**

140 WORCESTER STREET  
WEST BOYLSTON, MASSACHUSETTS 01583

**Notice of Decision to Grant a Special Permit**

**Applicant:** James M Ricciardi (Ricciardi Bros. Inc.)

**Address:** Lot 1 Century Drive

**Date Petition Filed with the Town Clerk:** December 26, 2023

**Nature of Request:** Special Permit for Use as a Construction Contractors yard under Section 3.2.G.6 in the Industrial District

**Board Members:** Christopher E. Olson, Chair  
David Femia  
Barur R. Rajeshkumar  
John Benson  
Christopher Mitchell

On December 26, 2023, the Petitioner, James M Ricciardi (Ricciardi Bros. Inc.), filed a Petition with the Zoning Board of Appeals, Town of West Boylston, Massachusetts, for a Special Permit under the Zoning Bylaws, Section 3.2.G.6, for use as a construction contractors yard.

Under Sections 3.2.G.6 and 6.2.E of the Zoning Bylaws, the Zoning Board of Appeals ("the Board") shall issue a Special Permit if the Board finds "...such conditions and safeguards as required by this by-law have been made, and only after a determination that such grant would not be detrimental to the public health, safety, welfare, comfort or convenience of the community, would not be adverse to the Town's economy and environment and is in harmony with the intent and purpose of this bylaw."

Notice was duly given as required by Section 11, Chapter 40A, Mass. General Laws, as well as notices sent to all persons deemed to be affected thereby, as they appear on the most recent tax list, and at which hearing all parties desiring to be heard were given an opportunity to speak.

The Zoning Board of Appeals of the Town of West Boylston, Massachusetts held a public hearing on February 15, 2024 and March 21, 2024 in person and via remote participation over the internet.

The above noted Board members voted on this Petition.

**Submissions:** The Petitioner submitted along with the Petition a Request for Findings of Fact (Form B), an Abutters and Planning Boards Form (Form C), a certified list of abutters, a proposed contractors yard plan dated December 14, 2023, and a Zoning Interpretation Form from the Zoning Enforcement Officer dated December 6, 2023.

## **FACTS AND FINDINGS:**

The Zoning Board of Appeals (the Board), after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

1. The Board finds through testimony of the Petitioner and evidence submitted that Ricciardi Bros. Inc. is the optionee of certain land situated at Lot 1 Century Drive in the Town of West Boylston, described in a Deeds recorded with the Worcester District Registry of Deeds, Book 95 (Land Court), Page 32 (Land Court Cert. 18832) and with the West Boylston Board of Assessors northern portion of Map No. 181, Lot Number Parcel 3. The owner of said land is Birdland Hill, LLC whose address is 14 Putnam Lane, Worcester, MA 01604.
2. The Board finds said land is situated in a district classified under the Town of West Boylston Zoning Bylaws as Industrial.
3. The Board finds that presently located on the premises is a vacant lot.
4. The Board finds through testimony and evidence that the Petitioner desires to use said land (described as Lot 1 in the site plans provided by the Petitioner) to build a building (Building #1) and adjacent yard area which are proposed to be utilized for a contractors yard. Lot 1 is currently part of a larger lot of more than 20 acres. The Petitioner intends to subdivide the current lot into 4 lots, with Lot 1 having an area of approximately 11.87 acres. The Board notes that the minimum lot size currently allowed in the Industrial district is 2 acres.
5. The Board finds through testimony and evidence that the petitioner duly applied for a Building Permit to use said site for said purposes but was refused for non-compliance with the zoning bylaws, as evidenced by the Zoning Interpretation Form dated December 6, 2023.
6. The Board finds through testimony and evidence that the proposed use relates to site utility contractor activity. Given the current conditions of the site, the Petitioner anticipates about 4-5 years of site preparation before building. Site preparation will include removal of current materials in order to prepare the proper topography and site conditions. Accordingly, the Earth Removal Board has been engaged by the Petitioner and it is expected that the

proper approvals will be sought and that a bond will be secured so as to ensure stable soil conditions throughout the project.

7. The Board finds through testimony and evidence that the Petitioner has previously requested and been granted Site Plan Review (SPR) approval by the Planning Board for this lot. It is noted that SPR was granted on the existing lot of more than 20 acres and not only Lot 1. The Board acknowledges that the proposal for Lot 1 is substantially the same as what was proposed to and granted approval by the Planning Board.

8. The Board finds through testimony and evidence that the proposed use will include outside storage and material processing relating to the proposed utility contractor use.

9. The Board finds through testimony and evidence that ingress and egress to the property has been addressed by the construction of a road sufficient to service the site.

10. The Board finds through testimony and evidence that the neighborhood includes several businesses along Century Drive as well as a residential area to the east in the town of Boylston. The Petitioner is aware of the nearby residences in the town of Boylston and has proposed a graded area on the eastern portion of the lot which will not be used substantially for the construction of a building or outside storage/material processing.

11. The Board finds through testimony and support that, pursuant to Section 6.2.E.4.b of the zoning bylaws:

- i) Ingress and egress to the property and structure with reference to automotive and pedestrian safety and convenience, off-street parking and loading areas, traffic flow and control, and access are satisfactorily provided for by the proposed use;
- ii) The proposed use will not create any danger of pollution to public or private water facilities.
- iii) The proposed use will result in no excessive noise, vibration, glare, dust, smoke, heat, or odor observable at the lot lines.
- iv) Satisfactory arrangements for refuse disposal can be accommodated as any other building in the district.
- v) The lot shall contain required setbacks, yards and other open spaces.
- vi) The use shall be in general compatibility and harmony with adjacent properties and other properties in the district.
- vii) All other provisions of this by-law shall be complied with where applicable.

12. The Board further finds that the proposed use is in harmony with the general purpose and intent of the town's bylaws.

13. The Board finds that the proposed use would NOT be substantially more detrimental to the neighborhood than the existing use.

14. The Board further finds that the proposed use would NOT be detrimental to the public health, safety, welfare, comfort or convenience of the community, would NOT be adverse to the town's economy and environment and IS in harmony with the intent and purpose of the town of West Boylston zoning bylaws.

**DECISION:**

The Board finds and so votes, by a vote of five (5) in favor and none (0) opposed, to grant a Special Permit under Section 3.2.G.6 of the Zoning Bylaws of the Town of West Boylston, for use of the property as a construction contractors yard.

Decision of the Town of West Boylston Zoning Board of Appeals Action: The Board, by the Chair's signature below, voted as follows for the above-referenced Special Permit:

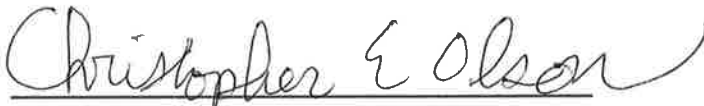
Christopher E. Olson, Chair – “yes”

David Femia – “yes”

Barur R. Rajeshkumar – “yes”

John Benson – “yes”

Christopher Mitchell – “yes”



Christopher E. Olson

Chair

Notice is hereby given that any appeal from this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty (20) days after the date of the filing of this Decision in the Office of the Town Clerk of West Boylston, MA.

Filed with the Town Clerk on APRIL 1st 2024.



Attest True Copy