



City of Waltham

COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

LEGAL NOTICE

DATE FILED: November 6, 2018

THE ZONING BOARD OF APPEALS OF THE CITY OF WALTHAM WILL HOLD A PUBLIC HEARING IN THE GOVERNMENT CENTER, 119 SCHOOL STREET, WALTHAM, MA ON December 11, 2018 AT 7:00 P.M. ON THE FOLLOWING:

Case #: 2018-38. **Petitioner:** 343 Winter Bldg LLC. **Owner:** c/o Hobbs Brook Management LLC. **Nature of Appeal/Petition:** Appeal from Decision of the Building Inspector under M.G.L. c. 40A § 3, para. 9 and Modification of Board of Appeals Case No. 00-8. **Subject Matter:** The locus is a large (240,723 ± square feet, 5.53 ± acres) parcel of land located on the northerly side of Winter Street in the Limited Commercial Zoning District. The locus has an existing three-story office building, two-story maintenance garage, and associated surface parking thereon. The Petitioner proposes to construct, use, and maintain three new solar panel structures over portions of the existing surface parking lots in front of the building to provide solar power to the building, along with a new connector driveway to the abutting property at 81 Wyman Street as well as a walkway connecting the two properties, all of which will result in reconfiguration of the existing parking. **Location and Zoning District:** 343 Winter Street is located in a Limited Commercial Zoning District.. **Provisions of Zoning Ordinance Involved:** § 4.11, § 4.232, and § 7.2. **Specific Relief Sought:**

THE DOVER AMENDMENT M.G.L. c. 40A § 3 (para. 9):

No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

Front Yard Setback:

§4.11, the Table of Dimensional Regulations states that the front yard setback requirement for an accessory building (hereinafter also referred to as “solar panel structure”) is “As required by district.” The front yard setback requirement in the Limited Commercial Zoning District is 150 feet pursuant to § 4.11. Here, the first of the three solar panel structures will be located no closer than 121.3 feet from Winter Street.

The Petitioner contends this Limited Commercial front yard setback requirement as applied to this first proposed solar panel structure is not reasonable under M.G.L. c. 40A, § 3, para. 9, in that such a large setback (150 feet) for a solar panel structure is not “...necessary to protect the public health, safety or welfare.”

Therefore, the Petitioner respectfully requests that the Board of Appeals make a determination and declare that the 150 foot front yard setback requirement in the Limited Commercial Zoning District is unreasonable as applied to this solar panel structure, and to set such provision of the Zoning Ordinance aside pursuant to G.L. c. 40A, § 3 para. 9.

Accessory Buildings/Solar Panel Structures:

§ 4.232 provides in pertinent part that an accessory building in the Limited Commercial Zoning District "...may be erected [only] in the side yard or rear yard area..." The "Front Yard" is defined in § 2.322 as "The required setback extending across the entire width of the lot between the street line and the required [150 foot] setback line" of § 4.11. Although the first solar panel structure will be partially located within the "Front Yard", it will be no closer than 121.3 feet to Winter Street.

The Petitioner contends that prohibiting this first solar panel structure, which will be located no closer than 121.3 feet from Winter Street, from the "Front Yard" of the locus is not reasonable under M.G.L. c. 40A, § 3, para. 9, in that such a large front yard setback of 150 feet for a solar panel is not "... necessary to protect the public health, safety or welfare."

Therefore, the Petitioner respectfully requests that the Board of Appeals make a determination and declare that the locating of this first solar panel structure in the "Front Yard" at least 121.3 feet from Winter Street is not unreasonable and to set aside § 4.232 of the Zoning Ordinance pursuant to M.G.L. c. 40A, § 3, para. 9 as applied to said first solar panel structure.

Modification of Case No. 00-8:

§ 7.2 allows the Zoning Board of Appeals to amend previous Decisions.

Since Case No. 00-8 and prior to the ownership of this locus by the Petitioner, the parking lots had been reconfigured by the prior owners to add additional parking spaces neither addressed in Case No. 00-8, nor shown on the Plans approved in that Case. Furthermore, the installation of the new solar panel structures and the connecting driveway and walkway to 81 Wyman Street will result in a further reconfiguration of the parking spaces. The 253 parking spaces that will result from the above will exceed the 211 parking spaces set out in Case No. 00-8 and the 219 parking spaces required by the Zoning Ordinance.

Accordingly, the Petitioner seeks to modify the Decision in Case No. 00-8 by substituting the Plans in that Case with the Plans filed in the present Case and making the conditions consistent with the zoning relief outlined above to allow the Petitioner to construct, use, and maintain one new solar panels structure in the front yard setback, but no closer than 121.3 feet from Winter Street, and two other new solar panel structures in front of the existing building in order to provide solar power to the building, along with a new connector driveway and a new connector walkway to the abutting property at 81 Wyman Street, all of which will result in reconfiguration of the existing parking as shown on the Plans filed in this Case.

Further information and plans concerning this case may be viewed at the Zoning Board of Appeals' Office, 119 School Street, Waltham, Massachusetts 02451; Hours: Monday -

Friday 8:30-4:30. **MEMBERS:** Chair Barbara Rando, Michael Cotton, Mark Hickernell, John Sergi, Glenna Gelineau. **ASSOCIATE MEMBERS:** Edward McCarthy, Oscar LeBlanc, Marc Rudnick, Michael Squillante, Sarah Hankins.