



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463
(978) 433-0333

Zoning Board of Appeals Remote Meeting Minutes of July 13, 2022*

**This meeting was recorded for future cablecast by Pepperell Community Media*

**This meeting was held remotely via GoTo*

Present: Annette McLean (Chair), Alan Leao, Jr. (Clerk) and Clifton James. Also present, Cheryl Lutcza (ZBA Assistant)

Not Present: Heather Hampson

Attendees: Pepperell Community Media,

7:10P.M. Annette McLean, Acting Chair, opened the meeting at **7:10p.m.**, and introduced the other Board Members that were present as follows: Alan Leao, Jr. and Clifton James (Associate Member), as well as staff member Cheryl Lutcza, ZBA Assistant. Ms. McLean also provided an explanation of the remote meeting and hearing process.

1. Draft Meeting Minutes of June 15, 2022: *(taken out of order)*

Ms. McLean asked for a motion to approve the meeting minutes of June 15, 2022. So moved by Mr. Leao, seconded by Mr. James. All in favor.

2. 7:05P.M.: Public Hearing – 52 Shattuck Street (Locapo) – ZBA-2022-07:

The hearing was opened at 7:13p.m. by Ms. McLean.

Ms. McLean asked Ms. Lutcza if all fees associated with the application have been paid. Ms. Lutcza confirmed that they have been paid.

Mr. Leao read the Notice of Public Hearing into the record.:

An application has been submitted by Daniel J. Locapo, requesting a Zoning Board of Appeals SPECIAL PERMIT, under Sections 9300, 9221 and 3400-3440 of the Town of Pepperell Zoning Bylaw, which if granted, would allow an accessory apartment in the existing dwelling. Subject property is located at 52 Shattuck Street, Pepperell, MA, as shown on Tax Map 32 as Parcel 9-0. A public hearing on this matter will be held remotely on July 13, 2022, at 7:05P.M. Please see the Calendar on the Town of Pepperell Homepage (posted 48 hours prior to the Public Hearing) for a link to access this remote meeting from your phone or computer. All interested parties are invited to remotely attend the public hearing and provide oral and/or written comments to the Zoning Board of Appeals. Written comments should be submitted on or before July 6, 2022. The application may be reviewed on the Town's website at:
<https://town.pepperell.ma.us/478/Public-Hearings-and-Decisions>

Ms. McLean invited the Applicant, Mr. Locapo to address the Board. Mr. Locapo addressed the Board as follows:

- He has completely remodeled the property, which was somewhat blighted and uncared for a number of years into a beautiful home.
- It will serve him well to use the smaller space (accessory apartment) and rent out the larger portion of the house.

Ms. McLean asked if the Board Members had any questions. None

Mr. Leao read Responses from the following Town Boards and Departments, etc., into the record:

- Treasurer/Collector (Ex: D)
- Assessor's Office (Ex: E)
- Board of Health (Ex: G)
- DPW Director (Ex: H)
- Historical Commission (Ex: K)
- Board of Health - updated response (Ex: N)

Members of the public were present. No abutters were present. Ms. McLean asked if there were any comments from the public. None.

Ms. McLean asked if the Board Members had any questions.

Discussion ensued regarding Board of Health comments and number of bedrooms.

Ms. McLean asked for a motion to close the public comment portion of the hearing. So moved by Mr. Leao, seconded by Mr. James. All in favor.

Board entered into deliberations.

Board Members reviewed and documented the Findings and Conditions for the Decision.

Ms. McLean asked for a motion to grant the requested relief, a Special Permit to allow an accessory apartment at the subject property, 52 Shattuck Street, Pepperell, MA. So moved by Mr. Leao, seconded by Mr. James. All in favor.

Roll Call Vote Taken as follows:

Ms. McLean: Aye
Mr. Leao Aye
Mr. James: Aye

Ms. McLean asked for a motion to close the public hearing. So moved by Mr. Leao, seconded by Mr. James. All in favor.

Roll Call Vote Taken as follows:

Ms. McLean: Aye
Mr. Leao Aye
Mr. James: Aye

3. 7:20P.M.: Public Hearing – 8-16 South Road (Dee Bus Services, Inc.) – ZBA-2022-06:

The hearing was opened at 7:34p.m by Ms. McLean.

Mr. Leao read the Notice of Public Hearing into the record.:

An application has been submitted by Dee Bus Services, Inc., requesting a Zoning Board of Appeals **NON-CONFORMING USE SPECIAL PERMIT**, under Sections 3520, 3522 and Appendix A (Table of Principal Uses) of the Town of Pepperell Zoning Bylaw, which if granted, would allow a change from a non-conforming use to another non-conforming use (the parking of school buses). Subject property is located at 8-16 South Road, Pepperell, MA, as shown on Tax Map 40 as Parcel 47-0. A public hearing on this matter will be held remotely on July 13, 2022, at 7:20P.M. Please see the Calendar on the Town of Pepperell Homepage (posted 48 hours prior to the Public Hearing) for a link to access this remote meeting from your phone or computer. All interested parties are invited to remotely attend the public hearing and provide oral and/or written comments to the Zoning Board of Appeals. Written comments should be submitted on or before July 6, 2022. The application may be reviewed on the Town’s website at: <https://town.pepperell.ma.us/478/Public-Hearings-and-Decisions>

Ms. McLean asked Ms. Lutcza if all fees associated with the application have been paid. Ms. Lutcza confirmed that they have been paid.

Ms. McLean noted that the subject property owner (Gary Wilkins) Applicant, Dee Bus Services (Linda McDonald), and Attorney Paul Alphen (Alphen & Santos, Westford MA) were present.

Ms. McLean invited the Applicant to address the Board. Attorney Alphen addressed the Board on the Applicant's behalf as follows:

- Described the property and said that the Board had a copy of the Plan that was prepared for this application and that the property consists of 38 acres, however this application applies only to the paved portion of the property which is on Route 119/South Road.
- Although in our application we had anticipated the potential of enlarging the use of the property beyond the paved area, however based on the comments received from various departments, we are withdrawing any request to expand the area for the Special Permit, so it will apply only to the portion of the property along the roadway that is currently paved.
- Mr. Wilkins purchased the property in 1994. Before he bought it, it had some history. The property was zoned industrial, until a zoning change in 1973. Before the zoning change in 1973, the property was used for used-car sales and a repair garage. The repair garage was constructed in 1965, according to the Assessor's records. They also obtained a Special Permit in 1997 to bring back auto repair, apparently auto repair stopped for period of time and came back to join the used car sales business in 1997, according to the Assessor's records.
- Attorney Alphen re-emphasized that the request is now only applying to the paved portion of the property, and they are withdrawing their request for any further expansion.
- Dee Bus Services, Inc. is a third-generation, family-owned and operated school bus service provider. The company was founded in 1946 by Linda's grandfather, Leo Dee, and was then run by Linda's Dad, until his passing, and it is now run by his children, Linda, Sandra and Robert have run the business, and they are the co-owners and operators of the business today.
- Dee Bus Service's principal business is providing school bus services to municipal school districts, and it is an essential service and is required by State law in many circumstances, and certainly out in this area it required under most circumstances.
- Dee Bus Service currently has the contracts with the Groton-Dunstable (GDRSD) and North Middlesex Regional School Districts (NMRSD) to provide school buses transportation. The NMRSD contract requires that the school buses be parked within the school district, and this is not an uncommon requirement. The applicant has nine satellite facilities, within the area in order for the school buses to be in close proximity to the students and schools. This location we are talking about is just to provide the school bus service in this particular area.

- Dee Bus Service has a larger facility in Shirley, MA, and all larger repairs will be done on location at the Shirley facility. Very little will be done, in terms of repairs, at the subject property at 8-16 South Road. Should the special permit be approved, the types of repairs that we done would be repairs such as repair of flat tires, fire extinguisher inspections and windshield wiper replacement, however no major repairs will be done at the 8-16 South Road property.
- Although the property is currently zoned residential, properties on both sides of the street have been used historically for commercial purposes, partly because the history of the property was zoned industrial. The Zoning Bylaw allows a non-conforming use to be changed to another non-conforming use with the Special Permit we've applied for.
- Dee Bus has been parking buses across the street (from the subject property) for about 20 years. Before that there was another school bus company that had their buses parked there. When Dee Bus got the contracts about 20 years ago, they just replaced the existing user who was parking buses across the street.
- We are aware of some of the particular concerns regarding traffic, and in order to mitigate those concerns, we first want to make it clear that we are not bring a new use to the area, this is a use that has been pre-existing across the street for about 20 years.
- We are not going to increase the number of buses that are parked in the area. We anticipate that there will be approximately 20-24 buses, with the exact number of buses being required by the school district and the number of school-aged children, so that number is not static, however it is what we are reasonably anticipating.
- He discussed comments on increase in traffic in relation to the site being used for a used car sales business. He said they will not be adding any additional traffic to Route 119, they are just moving the business to the other side of the street.
- In terms of when traffic occurs, the school bus runs are twice a day. In the morning they generally start between 6:10a.m. and 6:30a.m.; and return from the morning runs between 9:00a.m. and 9:15a.m. The afternoon runs are around 1:15p.m. and they return between 4:00p.m. to 4:15p.m.
- There are no plans to expand. They will clean up the site and remove the refuse and other odd things that are there.
- The existing repair garage would like to stay, however we leave that up to the Board, if they decide these two uses could co-exist, however at the end of the day, the more important use is the school bus parking use.
- They have plans to relocate buses, to other locations, in the event flooding is predicted.
- They do not anticipate that there will much in the way of the use of the building. The building will remain, and they will continue to use the building. They anticipate one person will be in the building.
- There will be a bottled-water service in the building.
- You have a report from the Board of Health that the septic system is sufficient for those purposes. Generally, the school bus drivers use the restrooms in the schools they go back and forth to, however there is also a facility at the garage.

- In summary, the property and proposal are a change from one non-conforming use to another non-conforming use, and we believe that use is less detrimental, and we are reducing the net amount of traffic and business in the area and moving an existing business across the street to the subject property.
- The use of the property is primarily dormant, and not much happens in the evenings or weekends.

Attorney Alphen said they would be happy to answer any questions the Board has.

Ms. McLean asked if the Board Members had any questions.

Mr. James asked Attorney Alphen to elaborate on the minor repairs. Attorney Alphen said only tire changes, fluid checks, and minor repairs, such as fixing a broken mirror would be done at the subject property. No oil changes would be done at the subject property. All major repairs would be done at the Shirley site. Mr. James asked about idling buses and how many residents live in the area. Attorney Alphen said that there is only one residence in the area. Gary Wilkin, said he believes there is only one residence, and the new location would be further away from the residence than the current location. Discussion ensued.

Mr. Leao read Responses from the following Town Boards and Departments, etc., into the record:

- Treasurer/Collector (Ex: D) – Discussion ensued regarding non-payment of taxes and DPW fees. Mr. Wilkins said taxes have been paid and he will provide receipts for the payments to the ZBA Office.
- Assessor’s Office (Ex: E)
- DPW Director (Ex: H)
- Conservation Commission (Ex: I)
- Board of Health (Ex: L)

Members of the public were present. Abutters were present. Ms. McLean asked if there were any comments from the public. None.

Ms. McLean asked if the Board Members had any questions.

Ms. McLean said that she had question on details brought up in the DPW Director’s comments regarding that there are currently 19 buses, and that the applicant is going for a range of 19-24 buses. Mr. Alphen said that was correct. Ms. McLean about the traffic pattern of the buses (going left and going right at the across traffic) from the current location and what will change to the traffic pattern if the buses move to the subject property.

Linda McDonald, Reedy Meadow Road, Groton, MA, said that she is a co-owner of Dee Bus Services. Discussion ensued regarding the breakdown of buses that go to GDRSD and NMRSD. She said that at the current location a little bit more than half turn left; and if they moved to the subject location, a little bit less than half will turn left.

Ms. McLean asked where the bus driver's put their personal vehicles while they are driving the buses. Ms. McDonald said they come to the lot and park their personal vehicles while they are driving the buses. Ms. McLean asked where on the graphic do they park their personal vehicles. Ms. McDonald said there is some area in the front.

Ms. McLean asked Attorney Alphen if he could share the plan on his screen.

Ms. McDonald said that looking at the far left of the plan it says employee parking (looking at the plan from Route 119). Attorney Alphen said the plan was provided to the Board. Ms. McLean said that her plan does not say "employee parking".

Ms. McLean asked Attorney Alphen to provide a screen share of the entire Plot Plan. Attorney Alphen said that the Google Earth picture provided by the DPW Director is a better view, and he provided it via screen share, and Attorney Alphen provided an overview of where the employee parking area would be. Ms. McLean asked how many employee cars would be there. Ms. McDonald said approximately 14 employee (bus driver) vehicles would be parked there. Attorney Alphen provided an overview of the parking areas on the Certified Plot Plan submitted with the application.

Ms. McLean asked if the employees leave the buses on the subject property at night. Ms. McDonald said yes.

Mr. James asked about the differing times the buses leave in the morning and asked what time they return. Ms. McDonald said they typically return between 9:00a.m and 9:15a.m., however if there is a hold up it could be 9:30a.m.

Mr. Leao asked if there is a sketch that identifies how the buses themselves will fit across in the parking area and where exactly they will be placed. There will be 19 buses and 14 cars on that lot, how will they fit. Could there be painting to designate the parking spaces for these buses, so that we know there are 19 buses in there. As a life-long resident of Pepperell, I know that the site floods. Attorney Alphen asked if Mr. Leao wants a different sketch, depicting where the buses will be parked, and the drivers will be parked. Mr. Leao said he did, and he wanted the plan to be to scale. Ms. McLean said she agreed with Mr. Leao on this. Attorney Alphen said there is a scale on the sketch plan showing the parking layout. Ms. McLean said that sketch plan is not sufficient, as it doesn't have a bar scale on it, and it is cut off. Attorney Alphen said that he can get that to the Board. Mr. Leao asked about the painted parking lines and identifying where the 14 employee cars will be parked while the buses are in use.

Mr. Leao asked about the office space in the building, which is currently being used by the auto repair garage and wanted to know if it will be used by the bus company too. Attorney Alphen said that is up to the Board and Dee Bus Services has the priority to use it exclusively if the Board decides that that auto repair business cannot co-exist on the property. Ms. McLean said that from her understanding of the Zoning Bylaw that the two businesses cannot coexist, it can be one or the other, but not both. \

Ms. McLean asked Jennifer Gingras, Town Planner, if she could provide any further explanation on this. Ms. Gingras asked if the question was on the auto repair, or the used car dealership being replaced. Mr. Leao asked about the shared office space, what if both businesses cannot be on the property. Ms. Gingras said technically, there could be the two uses, however that is not what was proposed in the application, and she would be hesitant for the Board to make a determination on two uses, where in the application it was described as the bus services are replacing both of the existing uses that are there. The Plan depicts only a bus storage yard. There are other factors to take into consideration if you are having both uses there. In addition to the flood issues, there are water issues that currently exist on site. The Board of Health and Engineering Department all reviewed the application on only a bus storage service being on site. They did not review it with two uses. So if that is what is being proposed, I would suggest continuing the meeting until a better plan is made on what is actually being proposed.

Gary Wilkins, 601 Main Street, Groton, MA, said he is the subject property owner of 8-16 South Road. He addressed the Board and said this meeting is just about the bus company being located at the subject property, which is the agreement. Ms. McLean said we are not discussing two businesses being at the property. The application was to replace one for the other/one for both.

Mr. Leao asked what the stated plan of action would be if flooding occurs on the subject property. What is the contingency plan that you mentioned. Ms. McDonald said they have been there when it flooded in the past, so they have a plan in place. She said that they have used the church, they have used Wilkins Farm and they've also used the schools. Ms. McLean asked if they have that in writing, i.e., a written emergency document that explains this. Ms. McDonald said they did not. They just all "pulled together" and they said that if we ever needed to park there again in the future they could. Mr. Leao said that it would be prudent to have a written plan and agreement with the property owners.

Mr. Leao said that we need official verification that the property taxes have been paid.

Mr. Leao commented that the DPW Director had noted that the application was incorrect and stated Route 111 (not route 119), so that is obviously a clerical error.

Mr. Leao asked if the water/sewer service is all set. He asked about the bottled water. Attorney Alphen said that yes, there would be bottled water service. Nashoba Board of Health took a look at the septic system and sent an email that they were satisfied.

Mr. James said that the Applicant had earlier mentioned 24 buses, however we are discussing 19 parking spaces for buses, are you going to provide confirmation that there will be 24 buses and 24 bus parking spaces. Attorney Alphen said they will submit a better-looking plan, with a better scale on it. The plan we submitted shows 19 spaces, but we will fix the plan to show where 24 buses will be parked and where the employees and office occupant cars will be parked.

Ms. McLean said she would like to request a better count of the buses going left and right in the afternoon, and also a written document that actually explains what the procedures are for an oncoming severe storm event that could create flooding conditions. Attorney Alphen said they will provide that.

Mr. James asked where the supplies for the buses will be kept. Attorney Alphen said that all of the equipment and spare parts are stored at their location in Shirley, MA. No repair/replacement parts will be stored at the subject property and no replaced old parts will be stored at the subject property.

Mr. Leao asked if the plan is to remove all the junk that is currently on the subject property. Attorney Alphen said that is the plan.

Ms. McLean asked if the only water service that will be provided will be bottled water for drinking water. Ms. McDonald stated that they have/will have Poland Springs deliver bottled water to the subject property and she will provide that in writing.

Ms. McLean asked Attorney Alphen to confirm that they will only be using the paved area, and none of the grassy areas. Attorney Alphen confirmed that was correct.

Mr. James asked if that means no other buildings/facilities on that property. Attorney Alphen said that is correct.

Ms. McLean asked Attorney Alphen for a recap of the list of Action Items the Board has requested at this evening's hearing:

- A better parking plan to show where all the parking will be for the 24 buses, all of the drivers and the employee who will be in the building. The new plan has to contain a scale so that you can easily scale out the plan.
- A written plan describing what will happen if a flood is predicted, including whether vehicles will be parked at other locations, and evidence that the property owners have granted that permission to park the buses at the other locations.
- Proof of payment of the unpaid taxes.
- Evidence that bottled water will be used at the site and no potable drinking water will be used on site.
- We stated for the record that the site will be cleaned up, so no additional documentation is needed for that.
- A count of the buses that are going left; and a count of the buses that are going right. Ms. McLean said that needs to be an actual count for both morning and afternoon trips, like a typical traffic study, but condensed.

Ms. McLean asked about plans for lighting. Attorney Alphen confirmed with Ms. McDonald that they were not intending to put any lighting up, other than what is currently on the site.

Mr. James asked if they would be adding any signage. Attorney Alphen said there would be no signage added to the site.

Ms. McLean asked if there were any public comments. None.

Ms. McLean asked about snow storage removal. Attorney Alphen said they will add that to the revised plan.

Ms. McLean asked if the Board Members had any questions. None.

Ms. McLean asked if Attorney Alphen or the Applicant had any further questions or comments. None.

Discussion ensued regarding the selection of a remote public continuation hearing date.

Ms. McLean asked for a motion to continue the remote public hearing to Thursday, August 4, 2022, at 7:05p.m. So moved by Mr. James, seconded by Mr. Leao. All in favor.

4. Old & New Business: *(Matters that may arise that the Chair didn't reasonably anticipate)*

- None

5. Future Meetings:

- August 4, 2022 – 7:00p.m.

6. Adjournment:

Ms. McLean asked for a motion to adjourn the meeting. So moved by Mr. James, seconded by Mr. Leao. All in favor. Meeting adjourned at 9:06 p.m.

These Zoning Board of Appeals Meeting Minutes of July 13, 2022, were accepted/approved by the Board at their meeting on October 12, 2022.

Respectfully submitted by:

**Cheryl Lutcza,
Assistant to the Zoning Board of Appeals**

cc: Town Clerk
Agenda Center
Inspector of Buildings
ZBA Members (via email)
ZBA Application File: (ZBA-2022-06): 52 Shattuck Street (Locapo)
ZBA Application File: (ZBA-2022-07): 8-16 South Road (Dee Bus Services)
ZBA Minutes file