

- The area proposed for the project is in one of the prime entry/exit areas in Westport especially to and from the higher value north shore lakefront homes, thus it is the first and last impression one might have of the community.

b. Will not be detrimental to adjacent uses.

Finding: The adjacent uses are moderate to low value residential lots west and north of the proposed project, forest to the east, and ravine with ~~brook~~ an intermittent stream leading to Lake Champlain on the south which adjoins an ~~open field~~ potential residential lot whose highest and best use is for high value residential development because of with spectacular views of Lake Champlain. The proposed project will detrimentally affect all these uses. It will limit any increases in value for the residential lots to the north and west because they are most affected by the visual, noise, and traffic impacts and they look out at varying numbers of parked trucks and wrecked cars on an open, non-vegetated lot. After construction of the metal building, the residential character of the neighborhood will be affected by a commercial-looking metal building. The project will affect the forest because if it will most likely continue to expand into the forest area where trees will may be cleared to park vehicles and deposit waste and other materials. The ravine, which has already had been filled along its edges, will likely may continue to be filled to expand the parking area. The ~~field~~ potential residential lot with views of Lake Champlain where higher value residential homes may be located will not have views of the proposed project except as the future residents enter or exit their properties. They will likely not hear much of the back-up alarms or compressor noises but will most likely be aware of their non-residential neighbor.

c. Will not adversely affect the availability of affordable housing in the Town.

Finding: The project will not adversely affect the availability of affordable housing because it will keep the value of the neighboring properties low and affordable because of its visual, noise, and traffic impacts. It should be noted that an expected strategy to attain the goal of providing for affordable housing is to have reasonably sized houses on smaller lots. It was not envisioned that a means to accomplish the goal would be to have conflicting land uses on nearby properties decrease property values.

d. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking and will be accessible to fire, police and other emergency vehicles.

Finding: The project will not have increased traffic but not cause undue traffic congestion. The tow trucks may impair pedestrian safety but to a limited extent because their use will not dominate the use of the road. There will be adequate parking, perhaps not appropriate for the adjacent residential uses, but not in a dangerous way. The project will not nor affect fire, police, or other emergency vehicles. The driveways into the towing service are safer because they are farther south of the sharp turn on Lakeshore Road.

e. Will not overload any public water, drainage, or sewer system, or any other municipal facility or degrade any natural resource or ecosystem.

Finding: The project will not affect public water, drainage, sewer system, or other municipal facilities. It may degrade the quality of the ~~brook~~intermittent stream and ravine if materials are dumped on the slope. Clearing of trees may affect the adjoining forest. The biggest threat would be to Lake Champlain which is 0.3 miles downstream from the project area and ~~thus could be~~ affected by sediments and chemical releases that get into waters that flow toward and into the lake.

f. Will be suitable for the property on which it is proposed., considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

Finding: The proposed project has varying degrees of suitability to the property.

- Size – It is appropriate for the size of the property although for a project like this, having suitable lands to expand onto would be better. This property is hemmed in by forest, the sponsor's residential lot, and the ravine.
- Location – The project is not suitable for the location because it is prominent in one of the entry/exit points to Westport. ~~Lakeshore Road leads to higher value lake-front properties; thus it detracts from Westport's scenic qualities for those landowners, their visitors, other Westport residents, and people driving past the project area.~~
- Vegetation, soils, natural habitat – The project has cleared vegetation from the site and covered the soils with item ##4 fill. The natural habitat of the ravine and ~~brook~~intermittent stream is affected by removal of trees and shrubs which may cause more erosion.
- Hydrology – The project sponsor reports that bedrock is within one foot of the soil surface so any chemical spills will have little amount of absorptive soil before hitting bedrock and then flowing toward the ~~brook~~intermittent stream and downstream to Lake Champlain.
- Ability to be buffered or screened by neighboring properties and public roads – A planting of vegetative screening and/or a fence would limit visibility from the public road, especially because those traveling on the road who would have a momentary glimpse of the project area. For nearby residences which may have a line-of-sight toward the ~~driveways~~project, there may be limited benefits from screening. Nevertheless, screening could limit negative visual impacts, especially if the screening was vegetative.

g. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances.

Finding: The ~~proposed~~ project has the potential for excessive noise, ~~however a~~ At the public hearing there was mention of but were no complaints about the beeping of trucks going in reverse. If the property becomes a tire-sales and changing operation, air compressor powered lug-wrenches ~~will may~~ add additional noise; but these actions would most likely take place indoors. There is little risk of dust because of the item #4 fill and clay soils; also, not much threat of odors. The sponsor ~~is already placing~~ placed solid waste along the ravine and in the eastern part of the project area. The solid waste appears to be comprised of waste building materials and yard waste. The proposed project does not appear to be a generator of solid waste so the sponsor should limit taking in solid waste for temporary or permanent placement on the

property. As for glare, the parking of vehicles could cause glare however, this was not mentioned at the public hearing.

h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.

Finding: The proposed project could be subject to conditions that would promote compatibility with surrounding uses and protect the natural, historic, and, scenic resources of the Town. The Sponsor indicated the hours of operation for the repair facility will be 8 am - 5:30 pm.

i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development, and locating non-residential uses that are incompatible with residential use on well-buffered properties.

Finding: It would not be appropriate to place this project near retail or residential areas of the village. In fact, there are few places outside of an industrial area where the project would be consistent with nearby land uses. The proposed project site is not consistent with the neighborhood, however it has conducted business here for over a year. With proper screening it may limit its impact. Additional development of the site, especially if it were to become a gas station, as the sponsor mentioned, would be "strip commercial development" which is inconsistent with this goal.

j. Will comply with the criteria in Section 5.063 of the Land Use Law relating to Site Plans.

- **Layout and Design – Finding:** The project is not integrated with other structures which are mostly residential. It does have convenient vehicular access. It does not adhere to traditional forms found in the Town of Westport, although two of the other three entry/exit points to/from the hamlet of Westport are currently characterized by junk vehicles, parked trucks, and at least one trash strewn residential lot.
- **Landscaping – Finding:** The property is not now landscaped. The visual effects of the project could be lessened with appropriate placement and maintenance of shrubs and/or trees. Vegetation, except grass, would not be appropriate for the rest of the project area because of the vehicular use.
- **Parking, circulation, and loading – Finding:** The project meets these criteria.
- **Access from public highways – Finding:** The Essex County Highway Department is reviewing and approved the access. The Planning Board feels the access is appropriate, especially because the main entry/exit points have been moved away from the sharp curve on Lakeshore Road.
- **Miscellaneous Standards – Finding:** Fences and vegetative screening should be attractive. There will be conditions limiting lighting of the night sky and adjacent properties. Further filling of the ravine should be addressed will be prohibited. Drainage should be addressed if it becomes a problem. There shall be no disposal of construction or demolition wastes.

k. Will have no greater overall impacts on the site and its surroundings than would full development of uses of the property permitted by right; considering environmental, social,

and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

Finding: After review of all presented above, the project will have greater impact on the site and its surroundings than full development by right, which would be “single-family dwelling” or “home occupation.”

Section 24.120 Findings:

The Planning Board finds that the ~~Proposed~~ **McGee’s LLC Property Services, Towing and Recovery, and Small Engine Repair project** will comply with Section 5.042 of the Town of Westport Land Use Law except for the following three subsections:

- a. The project is not “ in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.”*
- b. The project will “be detrimental to adjacent uses.”*
- k. The project will have greater overall impacts on the site and its surroundings than would full development of uses of the property permitted by right; considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.*

VIII. Decision

In view of the Westport Planning Board’s Negative Declaration under SEQR, the foregoing findings and criteria noted above, and the requirement for adherence to the following conditions in Section IX. (Conditions), the Westport Planning Board hereby grants a Special Permit with Continuing Jurisdiction for the ~~proposed~~ project. Such Special Permit is subject to all provisions of the Town of Westport Land Use Law, other applicable local, state, and federal laws and regulations, and the conditions listed below. ~~No building permit shall be granted unless the applicant is in compliance with following applicable conditions.~~

IX. Conditions

1. The applicant shall install and maintain vegetative screening so that the vegetation limits views of the property from Lakeshore Road and adjoining properties. Planting and maintaining cedar trees, willow shrubs, or a similar species ~~at areas noted on Exhibit A (NEED SKETCH FROM MCGEE)~~ will address this impact. The planted vegetation must be pruned to allow for appropriate site distance for those entering Lakeshore Road. If and when any vegetative screening dies, new replacements must be planted during the growing season and maintained on a year-round basis ~~beginning in the present, or if after September 1st, the next growing season.~~
2. The applicant shall install a fence or other demarcation noting where the proposed action cannot expand eastward into the forest or south into or along the top of the ravine.

3. The applicant shall not place or store tires outside without being covered.
4. The applicant shall not place ~~other~~ waste materials on the site.
5. Sponsor shall submit plans for the approved metal structure to the Westport Planning Board for Site Plan Review before beginning construction and shall not begin such construction before approval is granted by the Planning Board.
6. Prior to commencing construction of any improvements requiring a building permit, the applicant shall apply for and receive such building permits, and shall comply with all applicable regulations of the New York State Department of Motor Vehicles and other agencies with jurisdiction over the project.
7. Exterior lighting shall be shielded and directed downward so as not to cast light onto adjoining properties or illuminate the night sky.

~~A lighting plan that complies with Section 5.063(d)(2) of the Land Use Law shall be submitted to and approved by the Planning Board prior to the granting of any Building Permits.~~

~~Prior to commencing construction of any improvements that involve water, sewer, or other utilities, the applicant shall obtain approval from agencies with jurisdiction and furnish such approvals to the Zoning Inspector.~~

~~The applicant shall allow inspections of the property on an annual basis or as determined necessary by the Zoning Inspector and or the Planning Board, with 24 hours prior notice to the applicant, to ensure compliance with the conditions in this Special Permit and other, applicable laws, except that during the construction period, the Zoning Inspector may inspect without notice for compliance with building and life safety codes those portions of the property where construction related activities, are occurring.~~

~~The applicant shall comply with all regulations of the Westport Water District #1 in relation to extensions, hook-ups, and usual and customary billing arrangements.~~

8. The applicant shall properly maintain the property's drainage system to minimize off-site run-off.
 9. Excluding the applicants' spouse and children, ~~the~~ Special Permit may not be transferred to another person, party, business, corporation, or entity. ~~A transfer of ownership will require the new owner to obtain a new Special Permit.~~
 10. The applicant must clean up the site upon closure of the business.
 11. Upon closure of the business, the applicant shall contract to have a Phase I Environmental Assessment of the Property and shall comply with all recommendations and requirements of that Assessment and any subsequent Assessments (Phase II and Phase III).
- Any expansion of the business beyond what has been described in the application and the permit will require an amendment to this Special Permit.
12. ~~The project shall comply with the Americans with Disabilities Act to the extent applicable.~~
 13. The applicant shall have a maximum of ~~two~~ three (32) years to complete planting of the project vegetated screening. ~~Such period shall begin at the time of application for the first building permit.~~
 14. The applicant shall reimburse the Town of Westport for its legal costs to enforce and litigate

compliance with this Special Permit and/or to rescind the Special Permit if a court of law or other legal proceedings decide that the Sponsor has violated any of its conditions. The Town of Westport may place a lien on the Property to ensure receipt of those funds.

In the event that any conditions above cannot be satisfied for reasons beyond the control of the applicant or due to changed circumstances, the applicant may request a modification of such conditions from the Planning Board except where a Special Permit Amendment is required by the terms of this Special Permit or the Land Use Law

X Record of Vote

The following vote was taken by roll call of the Planning Board members

Chris Maron, Chairman	<u>Yes</u>	Cynthia Fairbanks	<u>Yes</u>
Dwight Anson	_____ <u>Absent</u>	_____	David Reckahn <u>Yes</u>
Mary Lou Fitzgerald	<u>Yes</u>	_____	Ken White <u>-Yes</u>
Alan Hipps	<u>Yes</u>		

Filed with the Town Clerk on: _____ {date}
Town Clerk on: _____ {date}

Copy of the permit, findings, and decision mailed to applicant on: [date]

TOWN OF WESTPORT PLANNING BOARD
22 Champlain Avenue, P.O. Box 465
Westport, NY 12993
(518) 962-4419
FAX (518) 962-2098

SPECIAL PERMIT

McGee's LLC Property Services, Towing and Recovery, and Small Engine Repair

I. Findings and Decision

Re: Application by McGee LLC for a Special Permit under Section 5 of the Town of Westport Land Use Law

Date of Application: July 16, 2014

Date of Decision: January 27, 2016

Summary of Decision: The Town of Westport Planning Board hereby grants a Special Permit for the **McGee's LLC Property Services, Towing and Recovery, and Small Engine Repair** under the terms and conditions stated below. All such terms and conditions must be satisfied for the continuance of operation taking place on the property that are not now permitted. These terms and conditions are legally enforceable under the Land Use Law of the Town of Westport.

II. Use

The proposed use is to be Commercial Use in the Village Growth Area which may be approved pursuant to a Special Permit granted in accordance with Section 5 of the Land Use Law.

The parcels in question are 66.2-2-24.200 and 66.2-2-24.120.

III. Project Description

The McGee's LLC Property Services, Towing and Recovery, and Small Engine Repair Project will upgrade the Special Permit for the existing small engine repair facility on Tax Parcel Number 66.2-2-24.200 to include vehicle tire changes, oil changes, light mechanical repair, and state-licensed inspection of vehicles as well as approve a towing service with parking of tow-trucks, pick-up trucks, and flatbed auto carriers, and temporary storage of wrecked and insurance-recovery vehicles on Tax Parcel Number 66.2-2-24.120 that has been in place for over a year without a Special Permit. The project would include the construction of a 42' x 30' metal storage building on 66.2-2-24.120. Access to the repair shop would be by the existing driveway to the shop and the applicant's residence. Access to the tow-truck lot would be by two driveways that may have existed before the property was put into its present use.

IV. Procedural History

1. The applicant had a special permit for a small engine repair shop on Tax Parcel 66.2-2-24.200 (Home Lot). He acquired the neighboring lot, 66.2-2-24.120 (Adjacent Lot) and began parking tow trucks and temporarily storing wrecked vehicles there. On July 18, 2014, he submitted a revised application to amend the special permit. This was not complete and while the Planning Board could have revoked his Special Permit, the Board granted several extensions of the Special Permit to allow him to continue being in business while he prepared a new application.
2. July 23, 2014, the Westport Planning Board granted a 90-day extension on the Special Permit for the small engine sales and repair business on tax parcel 66.2-2-24.200 for the applicant to check with the Adirondack Park Agency about their jurisdiction over the business of providing tow service and temporary storage of wrecked cars on tax parcel 66.2-2-24.120. The APA responded by not taking jurisdiction on the project.
3. November 19, 2014, despite the fact that the applicant did not submit an application for a Special Permit for Commercial Use on the Adjacent Lot, the Westport Planning Board voluntarily extended the Special Permit on the Home Lot for 90 days, or until February 19, 2015. Meanwhile applicant continued his actions on the Adjacent Lot without a Special Permit.
4. February 25, 2015, the Planning Board voluntarily extended the Special Permit on the Home Lot for 60 days, until April 26, 2015 and again, applicant's actions continued on the Adjacent Lot without a Special Permit.
5. April 22, 2015, Applicant submitted an updated Special Permit Application, Short Environmental Assessment Form, and Application for Commercial Uses Supplemental Information Request. This application was deemed by the Planning Board to be incomplete on May 15, 2015.
6. May 15, 2015, Planning Board sent letter to Applicant describing what must be done to make the application complete.
- 7.. June 24, 2015, Applicant resubmitted the Application for Commercial Uses Supplemental Information Request.
8. July 22, 2015, Planning Board deemed the resubmission incomplete.
9. August 6, 2015, Planning Board sent letter to Applicant describing what must be done to make the application complete.
10. October 27, 2015, Applicant resubmitted application.
11. November 18, 2015, Applicant submitted picture of property and drawing of proposed location of building and activities. Planning Board deemed application complete and set public meeting for December 16, 2015.

12. November 24, 2015, Town notified adjacent property owners of public meeting and information sent to Plattsburgh Press Republican about a Public Hearing scheduled for December 16, 2015.
13. December 9, 2015, Entire packet submitted to Essex County Planning Board.
14. December 15, 2016, Essex County Planning Board responded that applicant apply for county work permit for project that would directly impact a county road.
15. December 16, 2016, Westport Planning Board held public meeting and completed its part of the SEQR Form.
16. The Town of Westport Planning Board approved a Negative Declaration under SEQR on January 27, 2016, the date of this Special Permit with the conditions noted in Section IX.
17. As a result of the foregoing actions, the Town of Westport Planning Board approved this Special Permit.

V. Criteria for Granting Major Project Special Permits

Under Section 5.042 of the Town of Westport Land Use Law, the Planning Board must make specific written findings as to whether the proposed Major Project:

- a. Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.
- b. Will not be detrimental to adjacent uses.
- c. Will not adversely affect the availability of affordable housing in the Town.
- d. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking, and will be accessible to fire, police, and other emergency vehicles.
- e. Will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.
- f. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- g. Will not result in excessive noise, dust odors solid waste, or glare, or create any other nuisances.
- h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with -surrounding uses and to protect the natural, historic, and scenic resources of the Town

- i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development and locating non-residential uses that are incompatible with residential use on well-buffered properties
- j. Will comply with the criteria in Section 5 063 of the Land Use Law relating to Site Plans.
- k. Will have no greater overall impact on the site and its surroundings than would-full development of uses of the property permitted by right, considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

VI. Criteria for Granting Special Permit

The Planning Board evaluated if McGee’s LLC Property Services, Towing and Recovery, and Small Engine Repair Project complies with:

- 1. The criteria for to all Major Project Special Permits listed in Section V above,
- 2. The criteria stated in the short EAF which the Planning Board completes, and
- 3. All other applicable laws.

VII. Findings

The Town of Westport Planning Board developed the following findings for the “Criteria for Granting Major Project Special Permits” as to whether the project:

a. Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.

Finding: The Project requires a special permit use pursuant to Sections 5 of the Land Use Law of the Town of Westport. The Project is in area zoned under Section 31.059 as “Village Growth Area” which is “where residential growth can best be accommodated.” The intended use of this zoning designation is to promote residential development. The Project, which has already been established without a permit, has the potential to detract from the desirability of this area for residential use because:

- There is now and will likely continue to be a cleared area devoid of vegetation in a prominent location within the Village Growth Area;
- There is parking of numerous vehicles including tow trucks, flatbed auto carriers, pick-up trucks, and cars.
- There is “temporary” storage of wrecked vehicles. While each individual wrecked vehicle may only be parked for several days, the combined effect of temporarily stored wrecked vehicles is that there may always be wrecked vehicles on the lot.
- There will be increased noise from the back-up alarms on the tow trucks and similar vehicles as well as air compressors and air-powered lug wrenches to remove lug nuts holding tires onto vehicles. The applicant stated that these activities would occur inside his buildings which would reduce the noise levels.

- The area proposed for the project is in one of the prime entry/exit areas in Westport, thus it is the first and last impression one might have of the community.

b. Will not be detrimental to adjacent uses.

Finding: The adjacent uses are residential lots west and north of the proposed project, forest to the east, and ravine with an intermittent stream leading to Lake Champlain on the south which adjoins a potential residential lot with spectacular views of Lake Champlain. The proposed project will detrimentally affect all these uses. It will limit increases in value for the residential lots to the north and west because they are most affected by the visual, noise, and traffic impacts. After construction of the metal building, the residential character of the neighborhood will be affected by a commercial-looking metal building. The project will affect the forest if it continues to expand into the forest area where trees may be cleared to park vehicles and deposit waste and other materials. The ravine, which has already had been filled along its edges, may continue to be filled to expand the parking area. The potential residential lot with views of Lake Champlain will not have views of the proposed project except as the future residents enter or exit their properties. They will likely not hear much of the back-up alarms or compressor noises but will most likely be aware of their non-residential neighbor.

c. Will not adversely affect the availability of affordable housing in the Town.

Finding: The project will not adversely affect the availability of affordable housing.

d. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking and will be accessible to fire, police and other emergency vehicles.

Finding: The project will not cause undue traffic congestion nor affect fire, police, or other emergency vehicles. The driveways into the towing service are safer because they are farther south of the sharp turn on Lakeshore Road.

e. Will not overload any public water, drainage, or sewer system, or any other municipal facility or degrade any natural resource or ecosystem.

Finding: The project will not affect public water, drainage, sewer system, or other municipal facilities. It may degrade the quality of the intermittent stream and ravine if materials are dumped on the slope. Clearing of trees may affect the adjoining forest. The biggest threat would be to Lake Champlain which is 0.3 miles downstream from the project area and could be affected by sediments and chemical releases that get into water that flow toward and into the lake.

f. Will be suitable for the property on which it is proposed., considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

Finding: The proposed project has varying degrees of suitability to the property.

- Size – It is appropriate for the size of the property although for a project like this, having suitable lands to expand onto would be better. This property is hemmed in by forest, the sponsor's residential lot, and the ravine.
- Location – The project is not suitable for the location because it is prominent in one of the entry/exit points to Westport.
- Vegetation, soils, natural habitat – The project has cleared vegetation from the site and covered the soils with item #4 fill. The natural habitat of the ravine and intermittent stream is affected by removal of trees and shrubs which may cause more erosion.
- Hydrology – The project sponsor reports that bedrock is within one foot of the soil surface so any chemical spills will have little amount of absorptive soil before hitting bedrock and then flowing toward the intermittent stream and downstream to Lake Champlain.
- Ability to be buffered or screened by neighboring properties and public roads – A planting of vegetative screening and/or a fence would limit visibility from the public road, especially because those traveling on the road who would have a momentary glimpse of the project area. For nearby residences which may have a line-of-sight toward the project, there may be limited benefits from screening. Nevertheless, screening could limit negative visual impacts, especially if the screening was vegetative.

g. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances.

Finding: The project has the potential for excessive noise. At the public hearing there was mention of but no complaints about the beeping of trucks going in reverse. If the property becomes a tire-sales and changing operation, air compressor powered lug-wrenches may add additional noise; but these actions would most likely take place indoors. There is little risk of dust because of the item #4 fill and clay soils; also, not much threat of odors. The sponsor placed solid waste along the ravine and in the eastern part of the project area. The solid waste appears to be comprised of waste building materials and yard waste. The proposed project does not appear to be a generator of solid waste so the sponsor should limit taking in solid waste for temporary or permanent placement on the property. As for glare, the parking of vehicles could cause glare however, this was not mentioned at the public hearing.

h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.

Finding: The project could be subject to conditions that would promote compatibility with surrounding uses and protect the natural, historic, and, scenic resources of the Town. The Sponsor indicated the hours of operation for the repair facility will be 8 am - 5:30 pm.

i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development, and locating non-residential uses that are incompatible with residential use on well-buffered properties.

Finding: It would not be appropriate to place this project near retail or residential areas of the village. In fact, there are few places outside of an industrial area where the project would be consistent with nearby land uses. The project site is not consistent with the neighborhood, however it has conducted business here for over a year. With proper screening it may limit its impact.

j. Will comply with the criteria in Section 5.063 of the Land Use Law relating to Site Plans.

- **Layout and Design – Finding:** The project is not integrated with other structures which are mostly residential. It does have convenient vehicular access. It does not adhere to traditional forms found in the Town of Westport.
- **Landscaping – Finding:** The property is not now landscaped. The visual effects of the project could be lessened with appropriate placement and maintenance of shrubs and/or trees. Vegetation, except grass, would not be appropriate for the rest of the project area because of the vehicular use.
- **Parking, circulation, and loading – Finding:** The project meets these criteria.
- **Access from public highways – Finding:** The Essex County Highway Department reviewing and approved the access. The Planning Board feels the access is appropriate, especially because the main entry/exit points have been moved away from the sharp curve on Lakeshore Road.
- **Miscellaneous Standards – Finding:** Fences and vegetative screening should be attractive. There will be conditions limiting lighting of the night sky and adjacent properties. Further filling of the ravine will be prohibited. Drainage should be addressed if it becomes a problem. There shall be no disposal of construction or demolition wastes.

k. Will have no greater overall impacts on the site and its surroundings than would full development of uses of the property permitted by right; considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

Finding: After review of all presented above, the project will have greater impact on the site and its surroundings than full development by right, which would be “single-family dwelling” or “home occupation.”

Section 24.120 Findings:

The Planning Board finds that the **McGee’s LLC Property Services, Towing and Recovery, and Small Engine Repair project** will comply with Section 5.042 of the Town of Westport Land Use Law except for the following three subsections:

a. The project is not “ in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law. ”

b. The project will “be detrimental to adjacent uses.”

k. The project will have greater overall impacts on the site and its surroundings than would full development of uses of the property permitted by right; considering environmental, social,

and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

VIII. Decision

In view of the Westport Planning Board's Negative Declaration under SEQR, the foregoing findings and criteria noted above, and the requirement for adherence to the following conditions in Section IX. (Conditions), the Westport Planning Board hereby grants a Special Permit for the project. Such Special Permit is subject to all provisions of the Town of Westport Land Use Law, other applicable local, state, and federal laws and regulations, and the conditions listed below.

IX. Conditions

1. The applicant shall install and maintain vegetative screening so that the vegetation limits views of the property from Lakeshore Road and adjoining properties. Planting and maintaining cedar trees, willow shrubs, or a similar species will address this impact. The planted vegetation must be pruned to allow for appropriate site distance for those entering Lakeshore Road. If and when any vegetative screening dies, new replacements must be planted during the growing season and maintained on a year-round basis.
2. Continuing Jurisdiction—The planning Board will review the planting and screening progress over a three year period every 6 months to determine the progress of the required screening and if additional screening is needed, in order to satisfy the objective of the Special Permit.
3. The applicant shall install a fence or other demarcation noting where the proposed action cannot expand eastward into the forest or south into or along the top of the ravine.
4. The applicant shall not place or store tires outside without being covered.
5. The applicant shall not place waste materials on the site.
6. Sponsor shall submit plans for the approved metal structure to the Westport Planning Board for Site Plan Review before beginning construction and shall not begin such construction before approval is granted by the Planning Board.
7. Prior to commencing construction of any improvements requiring a building permit, the applicant shall apply for and receive such building permits, and shall comply with all applicable regulations of the New York State Department of Motor Vehicles and other agencies with jurisdiction over the project.
8. Exterior lighting shall be shielded and directed downward so as not to cast light onto adjoining properties or illuminate the night sky.
9. The applicant shall properly maintain the property's drainage system to minimize off-site run-off.
10. Excluding the applicants' spouse and children, the Special Permit may not be transferred to another person, party, business, corporation, or entity.
11. The applicant must clean up the site upon closure of the business.

12. Upon closure of the business, the applicant shall contract to have a Phase I Environmental Assessment of the Property and shall comply with all recommendations and requirements of that Assessment and any subsequent Assessments (Phase II and Phase III).
13. Any expansion of the business beyond what has been described in the application and the permit will require an amendment to this Special Permit.
14. The applicant shall have a maximum of three (3) years to complete planting of the vegetated screening.
15. The applicant shall reimburse the Town of Westport for its legal costs to enforce and litigate compliance with this Special Permit and/or to rescind the Special Permit if a court of law or other legal proceedings decide that the Sponsor has violated any of its conditions. The Town of Westport may place a lien on the Property to ensure receipt of those funds.

In the event that any conditions above cannot be satisfied for reasons beyond the control of the applicant or due to changed circumstances, the applicant may request a modification of such conditions from the Planning Board except where a Special Permit Amendment is required by the terms of this Special Permit or the Land Use Law

X Record of Vote

The following vote was taken by roll call of the Planning Board members

Chris Maron, Chairman	Yes	Cynthia Fairbanks	Yes
Dwight Anson	Absent	David Reckahn	Yes
Mary Lou Fitzgerald	Yes	Ken White	Yes
Alan Hipps	Yes		

Filed with the Town Clerk on: _____ {date}
 Town Clerk on: _____ {date}

Copy of the permit, findings, and decision mailed to applicant on: [date]

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The next one we talked about was noise levels, back-up[alarms on tow trucks and similar vehicles --- The applicant stated that these activities would occur inside his buildings which would reduce the noise levels”.

Mr. Anson – I don’t know about back-up alarms.

Mr. Reckahn – He said he turned them off sometime at night.

Mr. Hainer – Don’t let OSHA catch you with a back-up alarm, off.

Mr. Reckahn – That’s what he talked about that evening.

Mr. Anson – Maybe on his trucks, but if somebody came in with another tow truck, to take one away, that’s going to happen the minute you put it in reverse.

Chairman Maron – The thing was the air compressor, taking the tires off at night. If it takes place in the building, it wouldn’t have that much affect on people. So we’re saying that’s going to be in the findings and it’s not be that big of a deal.

Page 5, took out the statement about higher-value homes. This was addressed regarding people driving through the area. We acknowledge that it’s in a prime area next to Westport.

Will not be detrimental to adjacent to uses, took out “moderate to low value”, “brook”, added “an intermittent stream” the field south of there, added, “ potential residential lot”-

c. Will not adversely affect the availability of affordable housing in the Town. There’s a lot of verbiage, didn’t need to add anything, the sum total was “it will not adversely affect the availability of affordable housing in the Town.”

d. “traffic congestion ---- We said, “no”, nor affect fire, police, etc. and added, “the driveways into the towing service -----.

e. Public water – again changed from brook to intermittent stream.

f. Pages 3F –R were each read individually, but the deletions and additions are indicated as previously mentioned.

Under Conditions:

Reference to Mr. Hainer’s “continuing jurisdiction” made a suggestion to add another “condition” which is number 2, and the way this reads is, “The Planning Board will review the planting and screening progress over a three-year period, every six (6) months to determine the progress of the required screening and if additional screening is needed in order to satisfy the objective of the Special Permit. That’s something new, and again look it over the next month and really that is putting in a condition and that’s going to be going on to be sure that there’s going to be “continuing jurisdiction” to make sure the screening is working effectively.

Reviewed the 14 conditions with additions and deletions, (with some of the following comments).

I will note that there were a lot of tires out there last week not covered.

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The Permit is not transferable to anybody, but it was felt he could transfer it to spouse and children.

Mr. Hipps – Chris, I forgot something that we must have talked about last time and if we don't deal with the lighting, when is that done, at the time of the building permit, is that what happens, George?

Mr. Hainer – As far as the exterior lighting?

Mr. Hipps – Yes, site lighting.

Chairman Maron – The exterior lighting talks about that, but the lighting plan –

Mr. Hipps – There it is, I read past number 7.

Chairman Maron – The other thing, number 15 (number 14 on page 9, due to addition of “continuing jurisdiction), the applicant shall reimburse the Town of Westport – somebody brought up we say he's in violation and he's not, does he still have to pay for the Town taking him to court to find out he isn't guilty of what he could be guilty of –

Ms. Fairbanks – Just by accepting, agreeing to this, it's not like he wouldn't sign something, he understands –

Chairman Maron – I did check with the Attorney for the Town, Gary Wilson, he said that's ok to have in here and if it goes to court, the courts many times will say, “yes or no” the Town can get a call back or whatever that the judge will make any kind of determination and having this in here is ok but may not carry the weight of what a court might say. The whole purpose is if applicants are in violation and the code enforcement officer goes out there and the applicant says, “sue me” and the Town doesn't want to spend the money to sue them, and it's not enforced, this at least has something to say you are going to pay us and do it.

We'll be looking at the vegetative screening at the next meeting, we can formally approve these, then, have another month to look at it.

That was the main thing on our Agenda tonight, is there anything, any “Other” we should bring up?

Ms. Fairbanks -- What was the email correction that we received.

Mr. Hainer – That was for the Verizon tower on the Boyle Road. They're swapping out antennae and they had determination from the Park that it was just a maintenance upgrade and nothing that they needed a new amended permit for. These towers call from time to time, they swap out the different arrays and they come up with more efficient ones and swap them out.

Mr. Anson – What did the height of that one on Boyle Road come out to be?

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Mr. Hainer – I think 81 feet, it's shorter than what they initially proposed. By the way the Wadhams one is not going to start till next Spring, 2017, I don't know the reason.

Chairman Maron –Going back to Bobby, you have this clean copy of the Special Permit, and also the findings, I would say just really read those, they're the ones that have the changes, and you can see what they were.

Mr. Reckahn – We still have to approve that?

Chairman Maron – We did say it's "approval" and just draft the permit.

Mr. Hipps – and we still have the vegetative screening.

Chairman Maron – so just use the next month to review it. Is there a Motion to adjourn.

Mr. Hipps – I will adjourn.

Ms. Fairbanks – I will second.

Chairman Maron – All in favor, carried. Meeting adjourned 7:45 P. M.

Respectfully submitted,

Barbara Breyette, Secretary