



# TOWN OF HOPKINTON

OFFICE OF  
**BOARD OF APPEALS**

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TOWN HALL  
18 MAIN STREET – 3<sup>RD</sup> FLOOR  
HOPKINTON, MASSACHUSETTS 01748-3209

WAYNE R. DAVIES, Chairman  
ROBERT W. FOSTER, Vice Chairman  
THOMAS J. GARABEDIAN, Clerk

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June 7, 2005

## DECISION

**RE:** Application for Special Permits filed by **Able Limousine, Inc.** of 102 East Main Street, Hopkinton, MA, 01748 regarding property at 102 East Main Street, Hopkinton, MA, 01748 (Assessors' Map U13, Block 10 Lot 0; Middlesex South District Registry of Deeds **Book 15543** at **Page 363**), Hopkinton, MA, 01748 (hereinafter the "Property").

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### Introduction

The Massachusetts Zoning Act having been duly complied with regarding notice, a Public Hearing was held on April 27, 2005 at 8:30 PM in the Hopkinton Town Hall.

### Requested Relief

The Applicant seeks relief to change a pre-existing, nonconforming use with respect to property at 102 East Main Street, Hopkinton, MA referenced above. The pre-existing use was an auto body repair shop. The proposed use is the operation of a limousine service business.

Section 210-128 of the Hopkinton Zoning Code bars any change in a pre-existing, nonconforming use, except through the grant of a special permit by the Zoning Board of Appeals upon finding that the proposed change is not substantially more detrimental to the neighborhood.

Section 210-128A of the Hopkinton Zoning Code allows a finding that a proposed use is not more detrimental if it is a similar or more restricted use.

The applicant requests a Special Permit for relief under this Section 128.

### **Special Permit Review Standard**

Special Permits, where granted, must be in harmony with the general purpose and intent of the zoning by-laws. Special Permits are granted for those specific uses which are deemed necessary or desirable but which are not allowed as of right because of their potential for incompatibility with the characteristics of the zoning district. Special Permits are granted only after weighing the benefits and detriments of a proposal. No one possesses a “right” to a Special Permit and the Board may deny an application for such relief in its discretion. In all matters on which it has jurisdiction to act, the Board of Appeals shall give due consideration to promoting the public health, safety, convenience and welfare, shall encourage the most appropriate use of land, and shall permit no building or use injurious, noxious, offensive, or detrimental to the neighborhood. To this end, it may prescribe appropriate conditions and safeguards in each case.

### **Discussion**

The Applicant, Michael Callahan, owner of Able Limousine, appeared at the public hearing and presented his proposal for the operation of a limousine service business. Applicant was represented by Timothy Nealon, Esq. The applicant intends to operate a business with approximately 18 vehicles with office hours of between 8:30AM and 8:00PM. The facility would serve for parking of vehicles not in use and routine maintenance, but not repair. Applicant intends to park limousines inside the facility to the extent space permits with the remainder of the vehicles parked outside. Applicant contends that the proposed use is similar and/or more restrictive than the existing use.

### **Decision**

Based on the application, presentation of the applicant, documentation and testimony

presented at the Public Hearing, the Zoning Board of Appeals finds that the proposed use is not more detrimental to the neighborhood and is a similar or more restrictive use than the pre-existing, nonconforming use.

1. A special permit was granted under Section 210-128 to allow a change in use at the subject property to the use of a limousine service business with associated office use, parking of limousines, sedans, mini-bus, and other vehicles owned or leased by Able Limousine and used in the ordinary course of the limousine business subject to the following conditions:

a. All other pre-existing, nonconforming uses protected under MGL Chapter 40A Section 6 are extinguished and the property shall otherwise be used exclusively in conformity with existing zoning bylaws.

b. Premises shall not be used for the sale of vehicles and, to the greatest extent possible, vehicles will be stored inside the premises.

c. There will be no storage of gas, diesel, or other fuels on the premises.

On a motion to grant, the Special permit was granted as aforesaid by the following vote:

Wayne R. Davies, Chairman	Yes
Thomas J. Garabedian, Clerk	Yes
Vascen J. Bogigian	Yes
Henry R. Kunicki	Yes
Michael DiMascio	Yes

The Application for Special Permit is hereby **GRANTED**.

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Thomas J. Garabedian, Clerk

**Any and all plans or specifications submitted to the Board of Appeals that detail construction or improvements to be undertaken or performed in conjunction with the relief granted hereunder, are hereby made express conditions of the issuance of this Decision and are incorporated herein by reference. Unless this Decision expressly provides otherwise, the rights and privileges granted under a Variance run with the land; and the rights and privileges granted under a Special Permit and Appeal are personal to the Applicant or Appellant and do not run with the land; except for a Special Permit issued pursuant to Zoning By-law 210-119 for relief from side and rear set back requirements, which shall run with the land.**

**No Variance or Special Permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed, shall be recorded at the Middlesex District Registry of Deeds in Cambridge, Massachusetts in accordance with MGL c. 40A s. 11. Appeal of this Decision, if any, shall be made pursuant to MGL c. 40A s. 17 and shall be filed within twenty (20) days after the date of filing of this Decision with the office of the Town Clerk.**