



Town of Randolph

Office of

Zoning Board of Appeals

41 South Main Street

Randolph, MA 02368

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Town of Randolph
Zoning Board of Appeals
Findings and Decision
Appeal of Building Commissioner Decision
File # ZBA 01-2025
Public Hearing February 5, 2025

2025 MAR 19 A 9 11
RECORDED

Applicant Name: Town of Randolph Planning Board
Applicant Address: Planning Department 2nd Floor Town Hall Randolph, MA 02368
Property Owner Name in Appeal: JAMP II REALTY TRUST
Property Owner Address in Appeal: 62 COMMERCIAL WHARF
BOSTON, MA 02110-3878

Attorney for Property Owner:
Jonathan M. Silverstein Esq.,
Blatman, Bobrowski, Haverty
& Silverstein, LLC

Agent Address:
9 Damonmill Square, Suite
4A4,
Concord, MA 01742

Property Address:
19-141 Memorial Parkway
Randolph, MA 02368

Assessor's Map Location for
the Property: 54-B-001

Date of Application to ZBA:

December 13th 2024

Publication of Legal

Notice:

Published January 22nd/29th

Date(s) of Public Hearing: February 5th, 2025

Date of Vote: February 5th, 2025

Date of Written Decision: March 17th, 2025

**Date Written Decision Filed
With The Town Clerk:** March 19th, 2025

I. General Description:

- A. Property Location Map /Parcel 54-B-001 / 19-141 Memorial Parkway Randolph, MA 02368
- B. 19-141 Memorial Parkway is a large commercial property at which a number of businesses, including a Shaw's grocery store operate. The current site plan consists of parking spaces which cover approximately 200,975 square feet of paved surface.

II. The Building Commissioner Decision

A. By letter dated November 15, 2024, an attorney for the Property Owner requested the Building Commissioner to issue a formal opinion pursuant to M.G.L. c.40A, Section 7 as to whether the proposed repair and repaving activity at 19-141 Memorial Parkway required any zoning approvals under the Town's Zoning Ordinance and particularly a site plan approval.

B. By letter dated November 27, 2024 (the "Building Commissioner Decision"), the Building Commissioner stated:

"I do not believe that Site Plan and Design Review is triggered by this project and I decline to enforce the Site Plan and Design Review provisions of the Zoning Ordinance with regard to this project. ...

I do not believe that the project, as proposed, constitutes the creation of 'additional parking' or a change in 'parking lot design.' I also do not believe that the project, as proposed, constitutes a change in color. I do not believe that the project, as proposed, constitutes an alteration, a demolition, a removal or construction affecting the architectural appearance of the site. I do not believe that the project, as proposed, constitutes a change to existing sign types and faces.

As a result, I do not believe that Site Plan and Design Review is triggered by this project and I decline to enforce the Site Plan and Design Review provisions of the Zoning Ordinance with regard to this project. ...

In summary, I decline to take the zoning enforcement actions described in your November 15, 2024 letter regarding the proposed repair and repaving activity at 19-141 Memorial Parkway in Randolph, Massachusetts.”

III. The Planning Board Appeal

A. Subject-ZBA# 01-2025 Planning Board Appeal to the Zoning Board of Appeals of Formal Opinion Pursuant to M.G.L. Ch. 40A, section 7 concerning 19-141 Memorial Parkway issued November 27, 2024 by Building Commissioner Ronald Lum.

B. The Planning Board requested the Zoning Board of Appeals: 1. to overturn the decision of the Building Commissioner that Site Plan and Design review is not applicable to the paving work and; 2. to determine that the project is subject to Tier 1 site plan review pursuant to Section 200-21(f) of the Town’s Zoning Ordinances.

C. The Planning Board’s appeal states: In or around October 8, 2024, the owner of the property commenced milling some portion of a 200,975sf paved surface. That work began without any permits requested from or granted by the Town. Although the Planning Director objected to the work, asserting that the work required a permit, and that Site Plan and Design Review would need to be conducted prior to issuing any permit, the Building Commissioner disagreed and permitted the work to continue. After a portion of the property had already been repaved, the property owner requested permission to mill and repave an additional section of the property and submitted an online permit request, presumably for a paving permit pursuant to Town Ordinance in § 147-8(A), but did not include any supporting documentation. The Planning Director requested additional information. Ultimately a sketch of existing conditions (with insufficient dimensional details) was provided.

The Planning Director, with consent of the Planning Board chairman, declined the permit request asserting that Site Plan and Design Review was required. An attorney on behalf of the property owner then submitted a request to the Zoning Enforcement Officer (who is also the Building Commissioner), requesting an opinion as to whether the proposed repaving activity at the property required any zoning approvals under the Town’s Zoning Ordinances, particularly Site Plan and Design Review.

The Building Commissioner determined that no Site Plan and Design review is required for this project. It is that decision **that** the Planning Board is appealing.

The Planning Board determined that the project is subject to Site Plan and Design Review pursuant to Zoning Ordinance Section 200-21 Construction Requirements. Subsection F of that section states & quote new and renovated parking areas are to be constructed with the guidelines in Article XI, Site Plan and Design Review § 200-94B(2)(f) & quote; The Board asserts that milling, grading and repaving that recently took place and is continuing to take place constitutes "e; renovation.& quote; Therefore the work completed by the applicant and the request to continue such work must be subject to Site Plan Design and review in order to ensure that the work complies with the standards set forth in section 200-94B(2)(f).

IV. ZBA Public Hearing:

A. After giving all notice required pursuant to applicable law, the ZBA held a public hearing on February 5, 2024 in compliance with all applicable law.

B. The following ZBA members were present and sitting at the public hearing in this matter:

- Acting Chair Alexander Costa
- Kevin O'Connell
- Barry Reckly
- Amanda George

C. In addition, individuals present in the audience at the public hearing included the following:

ZBA Clerk Joseph Dunn
 Planning Director Michelle Tyler
 Town Councilor Jim Burgess
 Planning Chair Tony Plizga
 Building Commissioner Ron Lum,

D. Individuals present at the public hearing via Zoom included the following:

Hickey,
 Attorney John Hucksam representing the Zoning Board of Appeals
 Attorney Noemi Kawamoto representing the Planning Board
 Attorney Jonathan Silverstein representing the Property Owner
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V. ZBA Deliberations and Findings.

1. The distinction between renovation and repair was a concern to the Zoning Board of Appeals.
2. The State law protections for pre-existing structures were discussed by the Zoning Board of Appeals.
3. The Zoning Board of Appeals agreed with the Building Commissioner determination and found that the repaving does not constitute a renovation requiring site plan review, as it maintains the existing conditions without adding new features or changing the layout.
4. The Zoning Board of Appeals voted to uphold the Building Commissioner's decision dated November 27, 2024, confirming that site plan review plan is not applicable for the current paving project
5. The Zoning Board of Appeals voted by a vote of 3-1 to deny the Planning Board's appeal and to uphold the Building Commissioner Decision.

The roll call vote was:
Chair Alexander Costa Yes
Kevin O'Connell No
Barry Reckley Yes
Amanda George Yes

VI. APPEALS:

Appeals of this Decision, if any, shall be made pursuant to M.G.L. ch.40A, §17 and shall be made within twenty (20) days after the date of filing of this written decision in the office of the Town Clerk.

Note: The Appeal Process and requirements were explained to the General Public by the Attorney for the ZBA Acting Chairman, Mr. Alexander Costa, at the end of the ZBA #01-2025-2/05/2025 when inquiry occurred

VII. CERTIFICATION OF FILING:

It is hereby certified that that ZBA has complied with all statutory requirements for the issuance of any relief, variances or special permits contained in this Decision and that copies of the Decision and all plans referred to in the Decision have been filed with the Planning Board, Building Department and Town Clerk of the Town of Randolph.

ATTEST: TOWN OF RANDOLPH ZONING BOARD OF APPEALS, ACTING AS THE APPEAL, SPECIAL PERMIT GRANTING AND VARIANCE GRANTING AUTHORITY PURSUANT M.G.L. CHAPTER 40A AND BY AND UNDER THE APPLICABLE ZONING ORDINANCE FOR THE TOWN OF RANDOLPH:


Acting Chairman Alexander Costa


Clerk Joseph P Dunn

Date Filed with Town Clerk: March 19, 2025