



TOWN OF STOW ZONING BOARD OF APPEALS APPLICATION FOR:

- SPECIAL PERMIT
- DIMENSIONAL VARIANCE
- SIGN VARIANCE
- APPEAL of DECISION OF BUILDING INSPECTOR/ZONING ENFORCEMENT OFFICER/SIGN OFFICER

File one (1) copy of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Town Clerk.

Received and Filed with Town Clerk
Date _____
Stow Town Clerk

RECEIVED

NOV - 2 2021

TOWN CLERK
STOW, MA

File nine (9) copies of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Zoning Board of Appeals along with an Application fee payable to "Town of Stow" in the amount required by the Rules and Regulations. Refer to the Rules and Regulations for details on the information required.

APPLICANT'S NAME Mark D Forgues	PHONE # 508-951-7929 EMAIL: Mdf030@aol.com
MAILING ADDRESS: 39 Adams Drive, Stow, Ma 01775	
LOCATION AND STREET ADDRESS OF SITE 84-102 Great Road, Stow, Ma.01775	
AREA OF SITE <u>199,508.8</u> sq. ft./acres	FRONTAGE <u>473.07</u> linear feet
ZONING DISTRICT Business	TOWN OF STOW ASSESSOR'S 000083 MAP Number(s) <u>00R-29</u> Parcel Number(s) <u>00085A</u>
SOUTH MIDDLESEX REGISTRY OF DEEDS BOOK AND PAGE NO.(s): <u>Bk 443891 pg43</u> or LAND COURT CERTIFICATE OF TITLE NO.(s): _____	
PROPERTY OWNER(S) NAME Presti Family Limited Partnership c/o Presti Management Corporation	PHONE NO. _____ EMAIL _____
APPLICATION FEE MADE PAYABLE TO TOWN OF STOW	\$250.00 PLUS \$2.00 FOR EACH LISTED ABUTTER \$

TYPE OF APPLICATION

<input type="checkbox"/> Special Permit	Check the appropriate box below
	<input type="checkbox"/> Section 3.2.2 of the Zoning Bylaw (Residential District Use)
	<input type="checkbox"/> Section 3.3.3 of the Zoning Bylaw (Business District Use)
	<input type="checkbox"/> Section 3.9 of the Zoning Bylaw (Non-Conforming Use or Structure) (attach copy of form Appendix 7 for non-conforming vacant lots)
	<input type="checkbox"/> Section 4.1.3 of the Zoning Bylaw (Two or more dwelling houses)
	<input type="checkbox"/> Section 4.1.4 of the Zoning Bylaw (Floodplain)
	<input type="checkbox"/> Section 4.1.6 of the Zoning Bylaw (Single Family dwelling on non-conforming lot in single ownership)
	<input type="checkbox"/> Section 4.4 of the Zoning Bylaw (Table of Dimensional Requirements) for expansion of an existing non-conformity.
	<input type="checkbox"/> Section 5.1.1.7 of the Zoning Bylaw (Floodplain Overlay District – Mapping Error)
	<input type="checkbox"/> Other

<input type="checkbox"/> Variance (Section 4.4 (Dimensional Requirements) of the Zoning Bylaw)	Required Setback – Current Zoning Bylaw		Existing Setback	Proposed Setback	Variance Requested
	Front yard	___ feet	___ feet	___ feet	___ feet
	Side Yard	___ feet	___ feet	___ feet	___ feet
	Rear Yard	___ feet	___ feet	___ feet	___ feet
	Other	(Describe)			

<input type="checkbox"/> Variance – Section 6.3..7.7 (Signs) of the Zoning Bylaw	Attach description of and justification for variance.
<input checked="" type="checkbox"/> Appeal of Decision of the Building Commissioner/Zoning Enforcement Officer/Sign Officer	Attach description of and justification for appeal. <small>A new change/increase of use on a property should not need to wait for litigation from a different abutter. See original request for enforcement and e-mail communication string attached.</small>

DESCRIPTION AND JUSTIFICATION FOR THE PROPOSED REQUEST:

Attach detailed description and justification for request.


Any additional maps, plans, photographs, deeds, or documents which the Applicant wishes to submit should be enclosed with each copy of this Application.

=====

The undersigned hereby certify that the information on this Application and plans submitted herewith are correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

APPLICANT

Date:	
Name (print) Mark D Forgues	Signature 

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the Application presented above.

Date:	
Name (print)	Signature

TRUST, CORPORATION OR COMPANY KNOWLEDGE AND CONSENT

Date:	
Name (print)	Signature

Mark D Forgues
9 White Pond Road
39 Adams Drive (Mailing Address)
Stow, Mass 01775
Cell # 508-951-7929
E-Mail Mdf030@aol.com

11/02/2021

To The Zoning Board of Appeals

On October 4, 2021, I sent an email and certified letter to the Zoning Enforcement Officer (Frank Ramsbottom) requesting a Cease and Desist of increase/change in use for the property at 92-102 Great Road. Upon application from a new auto dealership the Select Board granted an additional 3rd Class II auto dealership license increasing the use. I then received an e-mail communication back from Mr. Ramsbottom on October 5, 2021, stating that the town was in litigation and that it was inappropriate for him to act on this matter until the courts have given him direction on this matter. I responded back on October 6, 2021, stating I am not in litigation with the town and that this is a new increase/change of use and needs to be addressed in that way.

As I was driving by the property at 92-102 Great Road on October 13, 2021, I saw Mr. Ramsbottom and Mr. Presti along with someone else I did not recognize having a meeting in the parking lot. It would seem that Mr. Ramsbottom was pursuing my request for enforcement with the property owner.

If Mr. Ramsbottom's answer to me was his decision, why did he reach out to Mr. Presti and not just wait for the courts decision as he told me.

On October 28, 2021, I sent a note to Mr. Ramsbottom asking for an update on my cease and decess request and as of today he has not responded.

Below is some history of the property which should be considered in your decision.

According to the laws and by-laws the property may have been grandfathered in up until the Apexx Car Dealership left the property back in 2007 and the license expiring on January 01, 2008. The property was then vacant of any car dealership until November 27, 2012, when the Select Board approved a new license for Infinite Auto and then occupied the property.

This time frame was approximately **3 years and 11 months**. After 2 years the property lost its right to grandfathering and any new dealership should be required to get a Special Permit. No cars were sold on the property during this time period according to the property owner (Rich Presti).

Stow's Zoning By-Law (3.9.3 If the NON-CONFORMING USE is **discontinued** or **abandoned** for a period of two (2) years or more, it shall not be re-established except upon a special permit granted by the Board of Appeals.)

Massachusetts General Law G.L.C. 40A, 6.P.3. states A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.

Massachusetts Department of Motor Vehicles states the following:

Class II Dealer License

You need a Class II dealer license if your primary business is selling used motor vehicles.

These are LAWS and FACTS about the property.

A used car dealer must be engaged as their primary business and hold a Class II license to be considered an active business. Holding a class II license alone is not a dealership.

I have included this note along with the string of e-mails sent to the Zoning Enforcement officer for your review.

On August 10, 2021 the Select Board approved a Class II Auto dealers license which will be an added change/increase use of the property. This dealership will be opening and selling vehicles which makes the property have 2 active auto dealers. This is the change of use and the increase.

I am requesting that the Board take action on my request and instruct the Zoning Enforcement Officer to order a Cease-and-Desist Order on the property until a Special Permit is applied for and approved.

Please let me know if you need anything else from me at this time.

Thank You

A handwritten signature in blue ink, appearing to read 'Mark D Forgues', written in a cursive style.

Mark D Forgues

From: mdf030@aol.com,
To: building@stow-ma.gov, building2@stow-ma.gov,
Cc: mdf030@aol.com,
Bcc: katefisher@aol.com,
Subject: 92-102 Zoning Enforcement Request
Date: Mon, Oct 4, 2021 2:02 pm

Mark D Forgues
9 White Pond Road
Mailing Address
39 Adams Drive
Stow, Mass 01775
508-951-7929
10/04/2021

Dear Mr. Ramsbottom,

I am writing to you today to request Zoning Enforcement at 92-102 Great Road. Recently, the Selectboard approved a 3rd Class II auto dealership license for this property. This increase in use from one dealership to three requires a Special Permit. The owner of the property boasts that the property is grandfathered in but that would be for a single dealership, not multiple. Between 2007-2011 there were no dealerships on the property and not a single car was sold at this property by the owners own admission. This according to the Mass General Laws G.L.C.40A, 6.P.3 and Stow's Zoning By-Laws (3.9.3 If the NON-CONFORMING USE is discontinued or abandoned for a period of two (2) years or more, it shall not be re-established except upon a special permit granted by the Board of Appeals.) is not allowed.

The history of this property prior to the 1968 Zoning by Laws is this property was zoned as part business and part residential. The Erkinen Auto Dealership (A Single Dealership) was on the property. The residential zoned area was changed to business use on May 17, 2004, which is way after the start of the 1968 Zoning Bylaws.

To make this as simple as possible I would like you to order a Cease-and-Desist Order of any Auto Sales or Repair Shops on this property until a Special Permit is applied for approved by the Town of Stow. This is a requirement that should have been followed before Infinity Auto took occupancy back in 2011 and when the property was rezoned in 2004 and now with an increase in use.

I look forward to your response.

Thank You

Mark D Forgues

From: mdf030@aol.com,
To: building@stow-ma.gov, building2@stow-ma.gov,
Cc: mdf030@aol.com,
Bcc: katefisher@aol.com,
Subject: Re: 92-102 Zoning Enforcement Request
Date: Thu, Oct 28, 2021 9:55 am

Good Day Mr. Ramsbottom,

Would you please give me an update on my Cease-and-Desist request regarding 92-102 Great Road. I appreciate your time and efforts in this matter.

Thank You

Mark Forgues

Mark D Forgues
Cell # 508-951-7929

-----Original Message-----

From: mdf030@aol.com
To: building@stow-ma.gov <building@stow-ma.gov>
Cc: mdf030@aol.com
Sent: Wed, Oct 6, 2021 10:09 am
Subject: Re: 92-102 Zoning Enforcement Request

Good Day Mr. Ramsbottom

First, I would like to thank you for your quick response.

I can't imagine that any litigation is in process regarding the new change/increase of use as of August 10th of this year. The license was just issued by the SelectBoard that date.

It wouldn't seem logical that a property owner can change/increase their uses just because it is in litigation with someone else for previous offenses. For example, if the property owner decided to open a store that sold fireworks or marijuana and an abutter asked for enforcement I certainly would hope you would take action even though litigation is in process with someone else. I am not presently in litigation with the town.

It is in my opinion that it is appropriate for you to take enforcement action. Once again I ask that you act on my request and initiate a Cease-and-Desist Order of any Auto Sales or Repair Shops on this property until a Special Permit is applied for and approved by the Town of Stow.

I look forward to your response.

Thank You

Mark D Forgues

-----Original Message-----

From: Frank Ramsbottom <building@stow-ma.gov>
To: mdf030@aol.com <mdf030@aol.com>
Sent: Tue, Oct 5, 2021 3:38 pm
Subject: RE: 92-102 Zoning Enforcement Request

Good afternoon Mr. Forgues.

Thank you for your email and the historical information on the property.

Currently the matter you are referring to is in litigation. It is not appropriate for me to take action on a matter until the courts have given us their direction.

Respectfully

Frank Ramsbottom
Stow Building Commissioner/ Facilities Manager

978-897-2193

From: mdf030@aol.com <mdf030@aol.com>
Sent: Monday, October 04, 2021 2:03 PM
To: Frank Ramsbottom <building@stow-ma.gov>; Courtney Poulson <building2@stow-ma.gov>
Cc: mdf030@aol.com
Subject: 92-102 Zoning Enforcement Request

Mark D Forgues

9 White Pond Road

Mailing Address

39 Adams Drive

Stow, Mass 01775

508-951-7929

10/04/2021

Dear Mr. Ramsbottom,

I am writing to you today to request Zoning Enforcement at 92-102 Great Road. Recently, the Selectboard approved a 3rd Class II auto dealership license for this property. This increase in use from one dealership to three requires a Special Permit. The owner of the property boasts that the property is grandfathered in but that would be for a single dealership, not multiple. Between 2007-2011 there were no dealerships on the property and not a single car was sold at this property by the owners own admission. This according to the Mass General Laws G.L.C.40A, 6.P.3 and Stow's Zoning By-Laws (3.9.3 If the NON-CONFORMING USE is discontinued or abandoned for a period of two (2) years or more, it shall not be re-established except upon a special permit granted by the Board of Appeals.) is not allowed.

The history of this property prior to the 1968 Zoning by Laws is this property was zoned as part business and part residential. The Erkkinen Auto Dealership (A Single Dealership) was on the property. The residential zoned area was changed to business use on May 17, 2004, which is way after the start of the 1968 Zoning Bylaws.

To make this as simple as possible I would like you to order a Cease-and-Desist Order of any Auto Sales or Repair Shops on this property until a Special Permit is applied for approved by the Town of Stow. This is a requirement that should have been followed before Infinity Auto took occupancy back in 2011 and when the property was rezoned in 2004 and now with an increase in use.

I look forward to your response.

Thank You

Mark D Forgues

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by Mimecast, a leader in email security and cyber resilience. Mimecast integrates email defenses with brand protection, security awareness training, web security, compliance and other essential capabilities. Mimecast helps protect large and small organizations from malicious activity, human error and technology failure; and to lead the movement toward building a more resilient world. To find out more, visit our website.