

***Town of Weymouth
Massachusetts***

**Kathleen A. Deree
Town Clerk**

**Town Clerk's Department
781-340-5017
781-682-6129 (FAX)**



**Robert L. Hedlund
Mayor**

**75 Middle Street
Weymouth, MA 02189**

October 19, 2020

To Whom It May Concern:

I, Kathleen A. Deree, Town Clerk of the Town of Weymouth do hereby certify this to be the action taken by the Board of Zoning Appeals at their meeting held on September 9, 2020 on APPLICATION OF: RK Weymouth, LLC, Case # 3420.

No appeal was filed within the twenty (20) day appeal period.

Signed: _____

Kathleen A. Deree

A True Copy. ATTEST:

Kathleen A. Deree

Kathleen A. Deree
Town Clerk

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON SPECIAL PERMITS**

2020 SEP 28 PM 3:37

(To be mailed forthwith to the owner and applicant, if not the owner.)

Owner:	RK Weymouth LLC	Date:	September 28, 2020
Address:	50 Cabot Street, Suite 200 Needham, MA 02494		
Applicant:	RK Weymouth LLC	Case No.:	3420, Special Permits,
Address:	(same as above)		Sec. 120-24 (D), WZO, "jobbing or dispatching establishment," a "use" Special Permit,
			Sec. 120-40, WZO, parking determination;
Project Name:	Peapod Weymouth		and Sec. 120-122, WZO, fulfillment of Special Permit criteria
Representative:	Frank A. Marinelli, Esq. Marinelli Law Office 439 Washington Street Braintree, MA 02184	Site Address:	110-140 Main Street (the "Site")
		Sheet:	29
		Block:	329
		Lots:	7, 10, 12, 15, 21 and 26
Hearing Date:	09/09/2020	Advertised:	09/02/2020 & 09/09/2020

Zoning District: The Site is located in the B-1 zone, with Commercial Corridor Overlay District.

On August 25, 2020, the Applicant, RK Weymouth LLC ("RK Weymouth"), filed an application for Special Permits (Case No. 3420) and filed an ALTA plan of the Site, prepared by Control Point Associates, Inc. RK Weymouth seeks the grant of: (1) A "use" Special Permit to allow Stop & Shop's Peapod online order-filling and delivery service ("Peapod") to occupy approximately 49,500 s.f. of existing space in the southeast section of existing building at the Site; the southeast building is approximately 89,000 s.f.. Peapod will occupy the rear approximate 49,500 s.f. (the "Peapod space") pursuant to grant of the Special Permit(s), and Ocean State Job Lot or other conventional retail store, a use by right in the B-1 zone, will occupy the front 40,000 s.f. of the approximate 89,000 s.f. building section; (2) a determination under Section 120-40, WZO, that the proposed parking is adequate; and (3) a determination by the Zoning Board that the five (5) criteria for granting the Special Permit(s) under Sec. 120-22, WZO, have been met by the Applicant. In addition to the Application, prior to the September 9, 2020 public hearing, the Applicant submitted to the Zoning Board, without limitation, the following plans and materials: (1) Bohler Engineering "Overall Site Layout Plan," C-300 (the "Bohler Site Plan"); (2) vehicle trip generation letter from Kirsten Braun, P.E., Ron Muller & Associates; (3) conceptual floor plan for layout of the Peapod space; (4) narrative of the Peapod operation from Stop & Shop; (5) Bohler Engineering "Parking & Truck Turn Exhibit, C-300A; (6) form of Peapod Route Summary Report; (7) illustration of typical Peapod van; (8) written responses to questions of the Planning Director and the Principal Planner; (9) combined conceptual floor plan for Peapod space (approximately 49,500 s.f.) and front retail space (approximately 40,000 s.f.); (10) an article concerning "purpose-built dark store;" (11) letter to the Zoning Board from Guy P. Stutz, VP Real Estate, Stop & Shop dated September 8, 2020; said letter attached as Exhibit A to the report dated September 9, 2020 of Eric Schneider, Principal Planner (the "Principal Planner's Report"); (12) letter to the Zoning Board from David Katz, RK Weymouth LLC, dated September 8, 2020; said letter attached Principal Planner's Report as Exhibit B); (13) letter to

the Zoning Board from Guy P. Stutz, VP Real Estate, Stop & Shop dated September 2, 2020; said letter attached to the Principal Planner's Report as Exhibit C; (14) letter to the Zoning Board from Evan Portno, Director, Store Development, Ocean State Job Lot of MA 2021, LLC ("OSJL") dated September 9, 2020; and (15) the Principal Planner's Report to the Zoning Board dated September 9, 2020 with four (4) proposed conditions for approval of the Application. As used herein, the term "Applicant" shall mean RK Weymouth LLC, its successors and assigns.

On September 9, 2020, the Board of Zoning Appeals (the "Board"), having provided proper notice of the public hearing under M.G.L. c. 40A, opened the public hearing (WebEx Meeting) for the described Special Permit(s), Case No. 3420. On September 9, 2020, the Board heard testimony and received evidence from the Applicant and its representatives. The Board asked various questions, which were answered by the Applicant and its representative(s). On September 9, 2020, the Board then closed the public hearing for Case No. 3420, and the Board then deliberated.

On September 9, 2020, regarding **Case No. 3420**, on a motion duly made and seconded, the Board:

VOTED 5-0 TO GRANT THE REQUESTED SPECIAL PERMIT(S): (1) Use of the approximate 49,500 s.f. at the Site for the operation of Peapod Weymouth (jobbing or dispatching establishment under 120-24(D), WZO; (2) determination that parking shown on the Bohler Site Plan is adequate for the Site and its uses; and (3) the criteria for granting Special Permit(s), Sec. 120-122 (D), WZO, were fulfilled. Board members Richard M. McLeod, Chairman, Kemal A. Denizkurt, Robert Christian, Brandon Diem and Jonathan Moriarty voted in favor of the Special Permit(s) requested by the Applicant, and based upon the following Findings and Conditions:

SPECIAL PERMIT FINDINGS:

1. The specific Site, RK Weymouth Center, being over 17 acres with over 140,000 s.f. of existing building, is an appropriate location for the Peapod operation (located in approximately 49,500 s.f. of space in the southeast section of existing building. Peapod will add a loading platform for Peapod vans as shown on the Bohler "Overall Site Layout Plan," C-300 (the "Bohler Site Plan"). The Site is bordered by Routes 18 and 53 and proximate to Route 3 expressway, and also has a signalized intersection, an improvement installed by RK Weymouth since acquiring the Site in 2007. Sec. 120-122(D) (1), WZO.
2. The use involved, Peapod, will not be detrimental to the established or future character of the neighborhood or Town. Sec. 120-122(D) (2), WZO. Peapod, an online order-filling and grocery delivery service, serves public convenience and public welfare. Peapod - online retail ordering, order-filling and delivery - presents a growing sector of retail (and accelerated by prevailing COVID circumstances). Peapod presents the opportunity to occupy approximately 49,500 s.f. of vacant commercial space at the Site, vacant since approximately December 2017 when National Wholesale Liquidators vacated the Site. Peapod is a reputable and established consumer and household grocery packing and delivery service operated by Stop & Shop, and which has served consumers for decades.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. Sec. 120-122(D) (3), WZO. Since acquisition of the Site in 2007, the Applicant has invested over \$2.2 million in Site improvements including installation of a signalized intersection at Main Street. With Peapod, because customers don't come to the Site but are served by Peapod delivery vans, there is

significant reduction of vehicle trips to the Site during weekdays and Saturdays. The majority of larger truck deliveries to Peapod (shelf stock) are prior to other retail uses opening at the Site. The Applicant has provided a Truck Route plan showing the anticipated routes of ingress, egress and circulation of vans and trucks.

4. Adequate and appropriate facilities will be provided for the proper operation of the Peapod use. Sec. 120-122(D) (4), WZO. See finding nos. 1-3 above incorporated herein. Peapod has successfully operated for decades. The over 17-acre Site and approximate 49,500 s.f. of building space provide for proper operation of the Peapod order-filling and delivery service for consumers and households.
5. The public convenience and welfare will be substantially served. Sec. 120-122(D) (5), WZO. Peapod serves a growing number of consumers and households, particularly during COVID circumstances. The “dark store” Peapod space (approximately 49,500 s.f.) allows Peapod workers to fill customer on-line grocery orders within the dark store, which contains all goods found in a Stop & Shop supermarket (except customers cannot enter). Peapod employees gather and pack in totes the groceries and products ordered online, load the orders onto Peapod vans and deliver the grocery orders to consumers and households.
6. Parking at the Site is determined by the Board to be sufficient for the Peapod use and the other retail uses at the Site. As shown on the zoning legend of Bohler Site Plan, the 579 parking spaces shown comply with the zoning ordinance requirement for parking for the Peapod dispatch use and for the other retail uses at the Site.

SPECIAL PERMIT CONDITIONS:

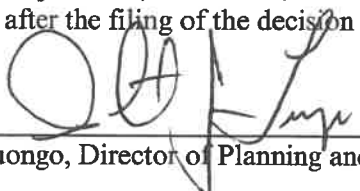
1. All Peapod delivery vans will be registered in the Town of Weymouth with vehicle excise taxes being paid to the Town of Weymouth
2. Exhibit A of the Principal Planner’s Report (letter of Stop & Shop dated September 8, 2020) summarizes the expected volume and timing of tractor trailer deliveries. Any significant change in the expected volumes will require re-evaluation by Town departments and potential additional restrictions to be placed by the Town’s Traffic Engineer.
3. Exhibit B of the Principal Planner’s Report (letter of RK Weymouth dated September 8, 2020) details previous infrastructure improvements made by RK Centers as well as future plans for additional landscaping and islands to be added. Per this letter, it is the Town’s expectation that these improvements shall be made at the completion of RK’s acquisition of additional National Grid land.
4. Exhibit C of the Principal Planner’s Report (letter of Stop & Shop dated September 2, 2020) confirms that no restrictions exist in the lease with RK Center that would prohibit RK Center from leasing to another retail grocery seller.

5. Per a letter from Stop and Shop dated 09/2/2020, the company is committed to a major renovation of their existing store on Middle Street in Weymouth. Per the same letter, the renovation is slated for 2023.

Under MGL Chapter 40A, Section 11, the approval of the Zoning Board of Appeals will not take effect until the petitioner records, at his or her expense, a copy of this Decision with the Norfolk County Registry of Deeds. After the twenty (20) day appeal period has passed, the Town Clerk will send to the petitioner: (1) the certificate that no appeal was filed, (2) the certificate of granting of variance and/or special permit(s), and (3) the Record of Proceedings. The petitioner shall record these documents with the Norfolk County Registry of Deeds, Dedham, MA, with the appropriate filing fee.

When a receipt from the Registry of Deeds is presented to the Building Inspector (to show that the decision has been recorded), the proper permit will be issued. This Decision, Case No. 3420, was filed with the Town Clerk on **September 28, 2020**.

IMPORTANT: Notice is further given that any person aggrieved by this decision may appeal, according to MGL Chapter 40A, Section 17, and said appeal, if any, must be filed with Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.



Robert Luongo, Director of Planning and Community Development

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

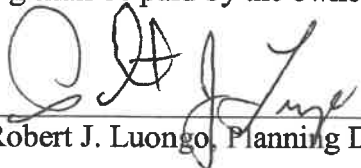
BOARD OF APPEALS

September 28, 2020

Certificate of Granting of Variance or Special Permit
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Weymouth hereby certifies that a Variance or Special Permit has been granted to RK Weymouth LLC, 50 Cabot Street, Suite 200, Needham, MA 02494, affecting the rights of the owner with respect to land or buildings at 110-140 MAIN STREET also shown on the Weymouth Town Atlas Sheet 29, Block 329, Lots 7, 10, 12, 15, 21 and 26, and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that 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 or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.


Robert J. Luongo, Planning Director


Kathleen Deree, Town Clerk

Case #3420

Date of Hearing: 09/09/20