

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON SPECIAL PERMIT
1255 MAIN STREET**

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

Owner:	Bike Realty LLC	Date:	July 29, 2015
Address:	72 Sharp Street A-7 Hingham, MA 02043		
Applicant:	Bike Realty LLC	Case #:	3254
Address:	72 Sharp Street A-7 Hingham, MA 02043		
Representative:	Joe Murray	Site Address:	1255 Main Street
Address:	72 Sharp Street A-7 Hingham, MA 02043	Sheet:	53
		Block:	593
		Lot:	7

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TOWN OF WEYMOUTH
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Zoning District: HT (Highway Transition)

Zoning Board of Appeals application for a Special Permit filed on April 17, 2015. The petitioner filed for the following relief from the requirements of the Weymouth Zoning Ordinance:

After a public hearing on May 27, 2015, continued to June 17, 2015, and July 8, 2015, and advertised in the Weymouth News on May 13, 2015, and May 20, 2015, the Board of Zoning Appeals at its meeting of July 8, 2015,

VOTED TO GRANT THE SPECIAL PERMIT under the Weymouth Zoning Ordinance Article V1B Section 120-22.8E Restaurant (less than 20 seats) with Drive Through, to grant relief for the petitioner to move an existing Dunkin Donuts from retail unit 1 & 2 to retail unit 5 located on the south side of an existing single story building and to add a drive through window; as shown on "Existing Conditions Plan for 1255 Main Street in Weymouth, MA": by Ross Engineering Company, Inc., dated April 17, 2015, and "Site Plan for Drive Through" by GEC, signed and stamped by Anthony A. Esposito, RPE, dated April 17, 2015

SPECIAL PERMIT FINDINGS:

The Board found that the applicant has met the following criteria under Section 120-22D:

1. That the specific site is an appropriate location for such a use
The site already had a Dunkin donuts there and are looking to relocate it down the building to create a drive thru.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town.
It's an existing site, just looking to add a drive thru and there is sufficient space for queuing 25 vehicles.

3. There will be no nuisance or serious hazard to vehicles or pedestrians.
Looking ahead at the buildout for Route 18, there will be 2 lanes on either side and will improve traffic situations.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
You can queue up to 25 cars minimum.
5. The public convenience and welfare will be substantially served.
This should create more business and tax revenue for the Town of Weymouth.


Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk 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, and (3) the Record of Proceedings. The petitioner shall record these documents with the Norfolk 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.

Decision filed with the Town Clerk on July 29, 2015

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 the Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.



James Clarke, Director of Planning and Community Development

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, May 27, 2015**

Members Present: Richard McLeod, Chairman
Ed Foley, Vice Chairman
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty

Also Present: Jim Clarke, Director of Planning
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:05 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

Case # 3254 – 1255 Main Street – Public Hearing

The petitioner, Bike Realty LLC, for property located at 1255 Main Street, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 7, located in a HT (Highway Transition) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Article VIB Section 120-22.8E Restaurant (less than 20 seats) with Drive Through and minimum lot size land area shall be 43,560 SF.

Presently located on the premises is a ~9500 SF single story building with five potential retail units. The petitioner is proposing to move the existing Dunkin Donuts from unit 1 & 2 to unit 5 on the south side of the building and seeks to add a drive through window.

Sitting Members: Richard McLeod
Ed Foley
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty

Chuck Golden made a motion to open the public hearing on Case # 3254 1255 Main Street and was seconded by Jonathan Moriarty. Voted unanimously

Chuck Golden made a motion to waive the reading of the publication and was seconded by Jonathan Moriarty. Voted unanimously

Appearing before the Board was Bill Donovan, Brian Donahoe, Tony Espasito, Attorney Daniel McDonald and Jeffrey Derk.

Jeffrey Derk, Vanesse Associates stated the entire building is practically empty. They will move Dunkin Donuts to the left side of the building to add queuing lanes going around the back of the building. A traffic study was done and has been provided to the board. The average queue is 5-9 vehicles. They can accommodate the maximum of 14-15 vehicles easily.

The study was done with the Route 18 improvement project and the build out of Southfield in mind. Route 18 will be widened on both sides to two lanes. This is a benefit for a left hand turn into Dunkin Donuts. It is difficult to make a left turn coming out of the lot back onto Route 18.

Three locations used for the study were Dunkin Donuts at:
1534 Commercial Street
174 Bridge Street
39 Winter Street

Chuck Golden stated that the Dunkin Donuts at Park Avenue is the busiest in the world and you didn't use that one as a comparison and it is only 1.5 miles away. The applicant stated that the queuing at that site is an abnormally large. They have never seen anything like it in the commonwealth. It gets cars from Park and Main Street and has a drive thru kiosk as well.

Jim Clarke stated that the town's traffic engineer reviewed this and the Commercial street drive thru is very active, Bridge Street is another 4 lane road that is similar to the current site. Jim Clarke stated that he is satisfied with the study.

Chairman McLeod stated that the one on Winter Street is not a similar location and the Park Avenue is very similar.

Jonathan Moriarty agrees the Park Avenue Dunkin Donut site is the same traffic and has the same layout and would like to see a traffic study using that site.

This was all done using the build out date of 2022. The volume during the peak traffic is projected at 300 vehicles per hour. Saturday mid-day is 280 going southbound and 180 going northbound. The volume of traffic grows about 1% per year over the next 7 years. Site lines of about 500 feet for vehicles at 40 mph. It is also estimated that 80-90% will be existing traffic that is just turning into Dunkin Donuts.

Brian Donohue, Tony Espazito stated that they have already been before Conservation and that public hearing has been continued to next week. They have been working with the DPW, Conservation and the Planning Department. The brook will be cleaned out and a guard rail with a chain link fence will be put in to keep debris out of it.

Jim Clarke referred to an email from Maryellen Schloss, Conservation Administrator who is moving forward in getting her issues addressed.

Kemal Denizkurt stated that the ordinance said the requirements should be stated. There will be 16 seats in the restaurant.

Public Comments:

Robert Thomas, Washington Street – stated that he is in support of this project. When the state widens the street there will be some takings done, will they still have 43,000 sq ft left? The bridge is right beyond the entrance way. People will make a left hand turn into DD but he is concerned about how they will get out, maybe a police detail needs to be added. There is a stream that runs along it and he is concerned about the taking of the area near it. All chemicals need to be kept out of the stream as he is concerned about pollutants going into a watershed area. The loading dock needs to be relocated. A dumpster needs to be covered and a location needed. Handicap parking requires 3 spaces and one needs to be van accessible. Highway Transitional Zone needs to have 25% greenery. Traffic controls and a snow management plan needs to be in place. He is not opposed to this project but it needs environmental safe guards put in place.

Kemal Denizkurt asked what the snow plan and dumpster plan is? It was stated that the snow plan is to use the right side of the building in the vegetation area. Dumpsters are in the back and are covered. The loading docks will be removed as they are not needed.

Ed Foley asked if we have a police detail at Bridge Street or Commercial Street locations during peak hours and Mr. Clarke stated no.

Jim Clarke will check on the amount of handicap spaces with the building department.

It was asked if land is taken by eminent domain will Dunkin Donuts still have enough land? It was stated that land taken with eminent domain does not impact the requirements of the bylaw.

Jim Clarke stated that any left turn out of the 4 lane highway is not easy, but there is a passing lane.

Employees will have dedicated parking spaces and chairman stated the 5 spaces next to the exiting queuing would be the best location for them.

Ed Foley made a motion to close the public hearing on Case # 3254 and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to take Case # 3254 under advisement and was seconded by Jonathan Moriarty. Voted unanimously

Case # 3254 – (6/17/2015) For Deliberation - 1255 Main Street – Public Hearing Closed 5/27/15 *sitting members McLeod, Foley, Denizkurt, Golden, Moriarty*

The petitioner, Bike Realty LLC, for property located at 1255 Main Street, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 7, located in a HT (Highway Transition) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

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Presently located on the premises is a ~9500 SF single story building with five potential retail units. The petitioner is proposing to move the existing Dunkin Donuts from unit 1 & 2 to unit 5 on the south side of the building and seeks to add a drive through window.

Sitting Members: Richard McLeod
Ed Foley - Absent
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty

Deliberation:

Jim Clarke stated the staff submitted a memo recommending approval of this permit. They are cleaning up the area along the intermittent stream and landscaping.

Jonathan Moriarty asked if the town is satisfied with the traffic study and Mr. Clarke stated yes, the traffic engineer reviewed it and feels it is effective and appropriate. Jonathan Moriarty asked if there will be sidewalks when the road is widened? It was stated yes by Mr. Clarke.

Jonathan Moriarty would have liked to have seen the Dunkin Donuts on Park Avenue used in the traffic study as he believes this is more comparable to this project. Mr. Clarke said there are two reasons it is not comparable, (one) its on a corner and (two) it has a kiosk.

Jonathan Moriarty does not have an issue with the queuing, it's the left turn he is concerned about. Mr. Clarke said you would have to compare it to all left turns off Route 18.

As the board is missing one member this evening that applicant has requested to continue deliberations to July 8 and not take a vote this evening.

Kemal Denizkurt made a motion to continue Case # 3254 and was seconded by Jonathan Moriarty. Voted unanimously.

Case # 3254 – (7/8/2015) For Deliberation - 1255 Main Street – Public Hearing
Closed 5/27/15; Deliberation - 6/17/17 *sitting members McLeod, Foley, Denizkurt, Golden, Moriarty*

The petitioner, Bike Realty LLC, for property located at 1255 Main Street, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 7, located in a HT (Highway Transition) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

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Sitting Members: Richard McLeod
 Ed Foley
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty

Ed Foley stated he listened to the testimony and had some concerns and questions which were directed to the staff and answered to his satisfaction.

Deliberation:

Jonathan Moriarty stated his main concern was the queuing from the left hand turn coming in from traffic going Northbound on Route 18 and it was addressed to his satisfaction. Conservation issues have all been addressed and he has no concerns with that either.

Chuck Golden stated his main concern was the traffic, queuing and parking. The applicant submitted a professional traffic report and our traffic engineer agrees with it, therefore he is comfortable with his concerns.

Ed Foley made a motion to approve the application for a Special Permit on Case #3254.

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
The site already had a Dunkin Donuts there and are looking to relocate it down the building to create a drive thru.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
Its an existing site, just looking to add a drive thru and there sufficient space for queuing 25 vehicles.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
Looking ahead at the buildout for Route 18, there will be 2 lanes on either side and will improve traffic situations.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
You can queue up to 25 cars minimum.
5. That the public convenience and welfare will be substantially served with the proposal.
This should create more business and tax revenue for the Town of Weymouth.

Jonathan Moriarty seconded. Voted unanimously

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

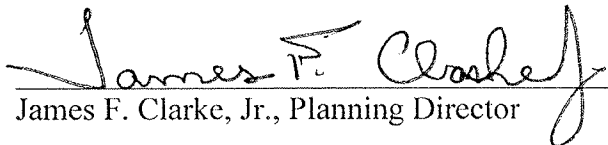
BOARD OF APPEALS

July 29, 2015

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 Bike Realty LLC, 72 Sharp Street A-7, Hingham, MA 02043 affecting the rights of the owner with respect to land or buildings at 1255 Main Street, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 7, 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.


James F. Clarke, Jr., Planning Director

Kathleen Deree, Town Clerk

Case # 3254

Date of Hearing 5/27/2015, continued to 6/17/2015 & 7/8/2015