

**SITE PLAN APPROVAL DECISION OF THE PLANNING BOARD
UNDER ZONING BYLAW
TOWN OF DOVER, MASSACHUSETTS
ON THE PETITION OF DAVE HARRINGTON AND JOHN DUFFY**

Applicant/Property Owner: Greater Heights Realty Trust/Craig Rafter
266 Main Street, Suite 34
Medfield, Massachusetts 02052
Site Address: 14 Dedham Street
Assessor’s Map/Parcel: Map 11, Parcel 36
Relief Sought: Site Plan Approval for an extension of use at this site

I. PROCEDURAL BACKGROUND

Pursuant to Section 185-46.1 of the Zoning Bylaw, the Applicant attended the Planning Board meeting of June 1, 2015 for preliminary site plan review of a proposed Dunkin Donuts at 14 Dedham Street (“the Site”). At that meeting, the Board determined the proposed use represents an “extension of use” under Section 185.46-1(E)(3), requiring an application for full site plan review. On June 11, 2015, the Applicant submitted an application and related materials (“the Application”), which the Board discussed at a meeting on June 15, 2015.

After an eight-month hiatus during which the Applicant met with the Board of Health, the Planning Board received revised site plans dated February 3 and March 3, 2016 (the “Site Plan”) and a traffic study (“the Traffic Study”) dated March 17, 2016. The Planning Board discussed the Application at length at five meetings on February 25, March 21, April 11, April 28, and May 9, 2016. There also were two site visits to review traffic, safety, and Site issues (“the Site Visits”). The Planning Board requested a site visit held on March 10, 2016 by the Applicant, Town Planner, Highway Superintendent, Police Chief, and Town Engineer. The Applicant requested an additional site visit with the Police Chief held on April 26, 2016.

II. APPLICATION AND OTHER MATERIALS SUBMITTED TO THE BOARD

As part of site plan review, the Board considered:

- (1) Application for Site Plan Review, dated June 11, 2015, including a Memorandum in Support of Site Plan Application plus 6 Exhibits (Proposed Floor Plan, Taffy Café Business Plan, Taffy Café Site Plan Decision, Traffic counts, Photo simulation of proposed building colors and signage, and a sketch of proposed parking;

- (2) Proposed signage and building simulation with signs, dated June 1, 2015.
- (3) Comments regarding traffic issues from Police Chief, dated June 26, 2015;
- (4) Comments regarding sight distance and signage from Board of Selectmen Chair Jim Dawley, dated February 23, 2016.
- (5) Comments regarding traffic issues from Police Chief, dated February 24, 2016;
- (6) Site Plan showing existing and proposed conditions by GLM Engineering Consultants, Inc., dated February 3, 2016 and revised March 3, 2016;
- (7) Traffic Impact and Access Study by Green International Affiliates, Inc., dated March 17, 2016;
- (8) Comments regarding impervious surface and drainage impacts from GLM Engineering Consultants, Inc., dated March 17, 2016;
- (9) Proposed building colors and updated simulations, dated March 21, 2016.
- (10) Comments regarding traffic and other Site issues from Police Chief, Town Engineer and Superintendent of Streets, dated April 8, 2016.
- (11) Comments regarding off-street parking and dumpster access from Town Counsel, dated April 8, 2016.
- (12) Comments regarding traffic and other Site issues from Town Engineer, dated April 11, 2016.
- (13) Comments regarding fire safety issues from Fire Chief, dated April 20, 2016.
- (14) Updated site plan from the Town Engineer showing pavement markings, dated April 21, 2016.
- (15) Comments regarding site visit from Police Chief, dated April 26, 2016.
- (16) Photographs of the site showing trees proposed for removal, April 28, 2016.
- (17) Photographs of signs in the Town center and at various Dunkin Donuts locations, April 28, 2016.
- (18) Proposed signage and awning/trim color sample, dated May 9, 2016.
- (19) Final site plan, renderings, and attachments, dated [tbd].
- (20) Numerous emails from citizens held on file at the Planning Board office.

II. FINDINGS

Based on its review and discussion of the above-referenced application, site plan, and related materials, the Planning Board makes the following findings:

General

- (1) This application is for a “restaurant or other place for serving food”, which is an allowed use in the Business District subject to site plan approval in the Schedule of Use Regulations (use #23) in Section 185-10.
- (2) The previous business at this location operated under the same use. Thus, the Application does not propose a “change of use” under Section 185-46.1(E)(2).
- (3) The use of the premises for a Dunkin Donuts presents a difference in quality and degree of use that will have different effects on the neighborhood. Thus, it is an “extension of use” under Section 185-46.1(E)(3) requiring full site plan review.
- (4) The proposed location is space within an existing building with another tenant.
- (5) Because the Application is for an extension of use, and not for the “erection or enlargement, change of use or conversion” of the building, the minimum off-street parking requirements under Section 185-34(A) do not apply. Public parking is available in the adjacent municipal parking lot. Additional parking is available in nearby on-street spaces.
- (6) The proposed signage conforms to the Sign regulations in Section 185-35. Approval of the proposed signage is subject to the conditions listed below.
- (7) The Application poses several important issues relating to harmony in architectural treatment and avoidance of incongruous or inappropriate character detrimental to the community. This decision addresses these issues in the criteria and conditions listed below.

Site Plan Criteria

- (1) *Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air;*
 - (a) The only new construction proposed in the Application is the addition of a dumpster located at the rear of the building and screened by a wood fence painted the same (brown) color as the building. The Site Plan also includes the placement of a freezer on the north side of the building. The freezer shall open on the inside of the building and the exterior shall be sided in the same manner and with the same materials and (brown) color as the rest of the building.

- (b) The Site Plan also proposes to modify the north side of the building for an entryway and an ADA-compliant ramp for handicapped access. These changes will not increase the existing footprint of the building.
 - (c) The proposed increase in impervious surface is limited to 276 square feet, as documented by an engineer, and is *de minimis* as defined in the Massachusetts Stormwater Management Standards.
 - (d) All proposed lighting on and around the building casts downward and is unlikely to be detrimental. This decision includes specific conditions to assure harmony with the neighborhood and to limit any detrimental impacts.
 - (e) The Site plan does not call for the removal of any trees, except in the rear of the building as needed to install the additional tank for wastewater and the dumpster. It includes new plantings as vegetative buffers. Trees and brush to be removed were marked for viewing and are indicated in photographs attached to this decision.
 - (f) The Site plan does not include any changes to the exterior of the building or grounds that will materially impact surface water drainage.
 - (g) The primary visual impacts will be the proposed changes to the exterior of the building noted in (a) and (b) above, color change (to shades of brown), signage, and potential litter. This decision includes specific conditions to assure harmony with the neighborhood and to limit any detrimental impacts.
 - (h) The primary sound impact will be from daily and weekly deliveries and weekly dumpster pick-up. The building is located adjacent to the Town Garage and is thus already frequented by trucks and heavy equipment. This decision includes specific conditions to assure harmony with the neighborhood and to limit any detrimental impacts from additional trucks.
- (2) *Safety and convenience of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;*
- (a) Traffic and safety issues are among the most important issues posed by the Application.
 - (b) The Planning Board requested and received the Traffic Study and discussed traffic and safety issues at each of its meetings on this Application. These issues also were discussed at the Site Visits and in written comments by the Chairman of the Board of Selectmen, Highway Superintendent, Police Chief, Town Engineer, and several citizens.
 - (c) Discussion of these issues generated specific recommendations relating to the Application. This decision includes conditions based on those recommendations and designed to meet this criterion in this particular case.

(d) The Application prompted a broader discussion of traffic and safety considerations in the Town Center beyond the scope of site plan review in this particular case. The Board will continue that discussion with the Board of Selectmen, Highway Superintendent, Police Chief, and Town Engineer to develop specific recommendations to enhance safe vehicular and pedestrian movement in the Town Center independent of the Application and decision in this case.

(3) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

- (a) The Board of Health has granted conditional or provisional approval of a septic system modification to handle wastewater. This decision to approve the Site Plan is strictly conditioned on final approval of that system by the Board of Health.
- (b) A dumpster is proposed to be located at the rear of the Site facing the Highway Department parking lot. Access to the dumpster as shown in the Site Plan is through the municipal parking lot. The Planning Board consulted Town Counsel and the Selectmen's office regarding access to the dumpster through that lot. Per local custom allowing public use of the parking lot, the Town at the discretion of the Board of Selectmen allows its use for this purpose without requiring a lease, license, or written permission.
- (c) This decision includes conditions to ensure the Applicant is responsible for monitoring and collecting litter at and around the Site resulting from the proposed use.

(4) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;

- (a) The entire building on the Site is approximately 2,500 square feet for parking requirement purposes. The Application proposes to use approximately 1,059 square feet of the building.
- (b) Because the Application does not propose the "erection or enlargement, change of use or conversion", the minimum off-street parking requirements under Section 185-34(A) are not triggered in this case.
- (c) Public parking is available in the adjacent municipal parking lot. Additional parking is available in nearby on-street spaces.
- (d) The Planning Board consulted Town Counsel and the Selectmen's office regarding the use of the municipal parking lot in this case. To date, the adjoining municipal parking lot and environs have been used as public parking and for public access by prior tenants of the Site and others at the discretion of the Board of Selectmen without being required to obtain written permission, a license, or a lease.

- (5) *Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this chapter; and*
- (a) Proposed changes to the building and Site are minimal. The relationship to other existing structures and natural landscape are not significantly affected by the Application beyond the aesthetics of the building and Site already noted above (e.g., entrance changes, color and signage).
 - (b) The landscape will be slightly impacted by the addition of an underground tank subject to approval by the Board of Health and a dumpster.
 - (c) The potential impact on the normal operation of the Highway Department are addressed through the required traffic pattern and parking changes listed in the conditions below. The Planning Board consulted the Superintendent of Streets regarding the Highway Department's use of the parking lot.
- (6) *Impact on the Town's resources, including the effect on the Town's water supply (where present) and distribution system, fire protection and streets.*
- (a) The Application proposes the use of a private water system and will have no direct, immediate impact on the Town's water supply. The Planning Board notes the importance of, and ultimate limitations on, reliable water supplies as a common natural resource relied upon by the Town and its residents.
 - (b) The proposed extension of use in the existing building and the proposed changes to the Site will not affect fire protection. The Planning Board consulted the Fire Chief, who confirmed that there are no code requirements for an automatic sprinkler system and that the building has an existing fire alarm system. The Fire Chief and the Building Inspector will confirm fire safety conditions in issuing permits for the Site.
 - (c) The potential impact on streets in the Town Center is addressed through the required traffic pattern and parking changes listed in the conditions below.

III. DECISION AND CONDITIONS

After duly considering the extension of use proposed in the Application, the Board hereby approves the Site Plan subject to the following conditions:

- (1) The actual operation of the business will be as represented in the Site Plan and related materials submitted to the Planning Board as part of this site plan review.
- (2) The actual appearance and configuration of the building and the Site will be as represented in the Site Plan and related materials submitted to the Planning Board as part of this site plan review.
- (3) Prior to endorsement of the Site Plan by the Planning Board, the Site Plan shall be revised to address all of the conditions listed herein.

Traffic and Safety

- (4) The Site Plan shall be revised to reflect the following changes in traffic patterns based on discussions of traffic and safety in the Planning Board meetings, at the Site Visits, and comments from the Police Chief, Superintendent of Streets, Town Engineer, and citizens during the site plan review process. These changes will be paid for by the Applicant but will be completed under the supervision of the Superintendent of Streets.
 - (a) The area along Dedham Street beyond the Legion along the approach to the Site shall be designated by curb and/or pavement markings as “No Parking”.
 - (b) Pavement markings such as arrows, lanes, and/or lettering shall be added to the entrance of the parking lot to help guide the safe and orderly flow of traffic into and out of the lot in all directions.
 - (c) One of the two parking spaces at the front of the building off Dedham Street shall be eliminated and the remaining space shall be designated as handicapped.
 - (d) The first parking space adjacent to the Site at the entrance of the parking lot shown on the Site Plan shall be eliminated and designated by curb and/or pavement markings as “No Parking”.
 - (e) Only the two other parking spaces shown on the Site Plan shall be allowed adjacent to the Site, and they shall not interfere with access to the dumpster.
 - (f) The area just north of the entrance to the parking lot (adjacent to First Parish Church) shall be re-stripped and re-painted to reinforce the existing “No Parking” restrictions.
- (5) The existing signpost at the corner of the approach to the Site from Dedham Street shall be removed to avoid impairment of sight lines.
- (6) The Planning Board concurs with the Board of Selectmen’s request to minimize new signs for parking or vehicular and pedestrian movement to, from, or within the Site resulting from the Application. New traffic signs shall be limited to those deemed necessary by the Police Chief, Superintendent of Streets, and Town Engineer.
- (7) Traffic and safety issues, including deliveries to the Site, shall be reviewed by the Police Chief, Superintendent of Streets, Town Engineer, and Planning Board within six (6) to eight (8) months of the issuance of an occupancy permit. Approval of the Site Plan is conditional on making any changes required by the Planning Board after such review. Subsequent traffic or safety issues at the Site shall be resolved by the Applicant in consultation with the Police Chief and Superintendent of Streets.
- (8) The business operator is responsible for the removal of snow, ice, or other debris from the adjoining parking lot to provide adequate parking for its customers. The Town will not plow the parking lot for this specific use. The movement of snow, ice, or debris within the parking lot is subject to approval by the Superintendent of Streets.

Waste

- (9) The premises shall be limited to one dumpster in an enclosed area of ten (10) feet by twelve (12) feet, as shown in the Site Plan.
- (10) The dumpster shall be fully fenced, with the gate(s) closed and secured at all times when not being loaded or emptied, to prevent animals, unauthorized access, litter, and a direct view to the inside of the fence.
- (11) The dumpster fence shall have wood panels as shown in Exhibit 3 dated March 21, 2016. The wood panels shall be painted the same (brown) color as the building.
- (12) The dumpster shall be emptied at least once per week during business hours in a manner intended to minimize interference with vehicular and pedestrian traffic in the adjoining parking lot.
- (13) The dumpster shall be emptied from the back of the Site rather than from the active parking area to the side. This accommodation is made in recognition of safety concerns and in consultation with the Superintendent of Streets regarding the normal operations of the Highway Department.
- (14) The Site in and around the dumpster shall be kept clear of all trash and litter. The dumpster shall not be allowed to overflow and shall be kept closed at all times when not being loaded or emptied.
- (15) At least two trash receptacles shall be located inside the building to minimize litter on and around the Site and in the adjoining parking lot.
- (16) The Planning Board prefers, and understands the Applicant intends, no trash receptacles in any exterior location on the Site. However, one receptacle shall be allowed if necessary to meet condition (17). Any such outside trash receptacle shall have a lid which fully closes automatically and shall not be left open or allowed to overflow.
- (17) The Applicant shall keep clear of all trash and litter, subject to littering and related fine(s), the entirety of the Site, the adjacent parking lot, and the abutting streets.

Signage

- (18) All signage shall conform to the sign bylaw in Section 185-35 and the sign regulations in Chapter 246, and shall meet the final approval of the Planning Board in order to promote harmony in the Business District under Section 185-37.
- (19) All signage shall use traditional colors, such as gold lettering on a black or brown background, compatible in color and style with the architecture and character of the building and its location in the Town. The signage shall not use unmuted colors, such as bright pink or bright orange.

- (20) Signage shall be limited to the number and types of signs shown in the Site Plan and consistent with the final renderings attached to this decision.
- (a) There shall be at most two signs fixed to the building: one sign on the front of the building and one rooftop sign. The rooftop sign shall not extend beyond any top or side edge of the roof.
 - (b) The sign on the front of the building shall be lit by a downward-casting gooseneck light(s). The rooftop sign shall not be lit.
 - (c) There may be one awning on the front of the building bearing company lettering and/or logos. The awning shall not be lit and shall be compatible with the color of the building, such as the “Rhumba Orange” (SW6642) presented to the Board during site plan review.
 - (d) There shall be no additional sign(s) elsewhere on the building.
- (21) New or additional signage of any kind, including signage on awnings, umbrellas, chairs, or tables requires a sign application and Planning Board approval under Section 185-35.

Lighting

- (22) Consistent with the Site Plan, no new lights other than the gooseneck light(s) over the sign shall be added to any side of the building other than the north side to provide safe entry and exit into and out of the building and to the parking lot.
- (23) No new lighting shall be added in the area of the dumpster, as there is existing lighting in the parking lot.
- (24) The four bollard style lights shown in the Site Plan closest to the building in the garden landscape area may be removed if not deemed necessary for safety.
- (25) Given the more intense use of the parking lot due to the proposed expansion of use, at the discretion of the Police Chief, Superintendent of Streets, and Town Engineer, the Applicant shall improve the quality of lighting in the parking lot to provide for safe movement of vehicles and pedestrians.

Hours

- (26) The operating hours of the business shall be limited to 6:00am to 8:00pm.
- (27) Deliveries to the premises shall meet the following conditions:
- (a) Food and beverages may be delivered by box truck once per day outside of the morning or evening rush hours.
 - (b) Supplies may be delivered by a larger truck once per week, except Sundays, outside of the morning or evening rush hours. Such truck must be able to enter and exit the adjoining parking lot without interfering with the safety of vehicular and pedestrian movement in the lot.

Other

- (28) The exterior of the building shall be painted in brown tones consistent with the renderings and color samples submitted to the Planning Board as part of site plan review. For compatibility in color and style with the architecture and character of the building, and to promote harmony in the Business District, no part of the exterior of the building, including trim and awnings, shall use unmuted colors, such as bright pink or bright orange.
- (29) The existing historic marker on the front of the building shall remain and shall be maintained.
- (30) No external speakers (e.g., for music or announcements) shall be installed or used.
- (31) External seating and/or umbrellas may be used outside of the building on the Site, provided that they are consistent with conditions (20) and (28) above, well-maintained, secured, and compatible in color and style with the architecture and character of the building, such as black wrought iron patio furniture.

The vote was as follows:

Mark Sarro	Yes
Kate Bush	Yes
John Dougherty	Yes
Henry Faulkner	Absent
Carol Lisbon	Yes

PLANNING BOARD OF DOVER

(acting under the Dover Zoning Bylaw, Sections 185-37 and 185-46.1 in effect at the time of the Application)

Mark Sarro, Chairperson

Date

I, _____, Consulting Planner for the Town of Dover
certify that copies of this decision have been filed with the Dover Town Clerk and the
Planning Board on _____, 2016.