

**ZONING BOARD OF APPEALS**

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ZBA 2011-67  
Petition of Dunkin Donuts  
951 Worcester Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 6, 2011 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of DUNKIN DONUTS requesting renewal of a Special Permit pursuant to the provisions of Section XI, Section XIVE and Section XXV of the Zoning Bylaw to continue to allow its premises at 951 WORCESTER STREET, in a Business District and a Water Supply Protection District, to be used for a drive-through window where business is transacted from the vehicles of customers or patrons, which is a use not allowed by right in a Business District.

Property Owner: Donovan Services, Inc.

On September 19, 2011, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was William Donovan, property owner, representing Dunkin Donuts (the "Petitioner"). Mr. Donovan said that the request is for renewal of a Special Permit for a drive-through.

The Board asked if there has been any progress in the plans to acquire the aqueduct land. Mr. Donovan said that the situation became somewhat moot with the opening of the Dunkin Donuts across the street. He said that the stacking situation has been dissipated. He said that they will still pursue acquisition of the aqueduct land if it becomes available. He said that he was busy with other projects and put the aqueduct issue on the back burner. He said that the reason for pursuing the acquisition was to accommodate a larger drive-through. He said that with the building across the street the issues of stacking in the drive-through have gone away. He said that they did not anticipate that so much traffic would be diverted across the street.

The Board asked when the lot will be re-striped. Mr. Donovan said that the engineers and architects went to the site last week and will prepare a full set of plans for a major remodel to take place in January. He said that the remodeling will be interior to the existing building and exterior cosmetic work. He said that they will work on the lot and the plantings.

The Board said that a condition of the previous approval was that traffic data be submitted with the application for subsequent review of the Special Permit. Mr. Donovan said that he did not have that done because any issues with traffic backing onto the street have gone away. He said that he could provide the data.

The Board asked if there is cash register data that keeps a customer count. The Board said that if there were customer counts before and after the opening of the eastbound Dunkin Donuts, that could corroborate the indication that there is less traffic.

The Board said that one of the features of the traffic analysis was that it compared the traffic on-site to the traffic on Route 9 and that gave a sense of what was going by on Route 9 and what was showing up on the parking lot.

The Board asked if the character of the traffic on the 951 Worcester site changed. Mr. Donovan said that there are not a lot of larger trucks using the site. He said that many of the customers have remained loyal to this store. He said that when westbound customers have the opportunity to make the u-turn or are able to come at an unrestricted time, they can get sandwiches at the eastbound store.

The Board discussed the traffic analysis. Mr. Donovan said that they were on the cusp when they engaged the traffic engineer a few years ago. He said that the Board recommended changes and those changes were implemented. He said that the changes did help to alleviate the traffic backup. He said that the difference now is that the store across the street was opened last October. He said that the store business has steadily grown. He said that as the eastbound store traffic grows, the westbound store traffic decreases.

The Board said that it was willing to have Condition #2 deleted.

The Board said that if empirical or traffic data is submitted to show that traffic has been reduced at the 951 Worcester Street store, the baseline should be before the new store opened.

There was no present at the Public Hearing who wished to speak to the petition.

#### Statement of Facts

The subject property is located at 951 Worcester Street, in a Business District, on a 12, 255 square foot lot and is owned by Donovan Services, Inc.

The Petitioner is requesting renewal of a Special Permit to continue the use of the drive-through window at the rear of the premises, which is a use not allowed by right in a Business District.

The width of the drive-through lane is 10 feet, and 8 vehicle queuing spaces, varying in length from 10 feet to 10 feet 4 inches, have been provided.

On October 5, 2011, the Planning Board reviewed the petition and recommended that action on the Special Permit be deferred.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The use of a drive-through window in a Business District requires a Special Permit, as it is a use not allowed by right in a Business District.

It is the opinion of this Authority that the Petitioner has complied with all of the Special Permit Use Standards enumerated in Section XXV of the Zoning Bylaw. Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, subject to the following conditions:

1. Between the hours of 6 am and 10 am, only a limited menu shall be available to drive-through window customers. A notice of this limited menu and the aforesaid hours shall be posted on signs that are visible to customers before the customer reaches the drive-through window.
2. Traffic or empirical data shall be submitted to show that traffic has been reduced at the 951 Worcester Street Dunkin Donuts location.
3. This Special Permit shall expire one year from the date time stamped on this decision.

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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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J. Randolph Becker, Acting Chairman

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Robert W. Levy

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David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
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