

**ZONING BOARD OF APPEALS**

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ZBA 2008-11
Petition of Dunkin Donuts
951 Worcester Street

Petition of DUNKIN DONUTS requesting renewal of a Special Permit pursuant to the provisions of Section XI and Section XXV of the Zoning Bylaw to continue to allow its premises at 951 WORCESTER STREET, in a Business 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.

On February 19, 2008, 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 Bill Donovan of Donovan Services, who said that he was requesting renewal of the Special Permit for the drive-through window.

The Board said that one of the conditions of the Special Permit, ZBA 2007-10, was that a traffic count be conducted. Mr. Donovan said that the hourly vehicle counts for eight days that had been submitted were counts for the vehicle queue for the drive-through. He said the count was the number of vehicles that pass the drive-through window in an hour.

The Board said that the traffic study should show whether the site can handle a queue of eight cars as well as the number of times that the queue exceeded eight cars and spilled out onto Route 9. The study should include an actual count of the cars in the queue, at what time periods the queues occurred and for how long.

Mr. Donovan said that the spillover onto Route 9 does not happen for extended periods. He said that it happens occasionally when many cars arrive at the same time. He said that this happens at their other locations as well.

Mr. Donovan said that the tracking system that was installed at 951 Worcester Street tracks a recognition time from the time at the order menu board through the time when the vehicle leaves the drive-through window. He said that the vehicles are passing through at an average of 45 seconds. The use of high-tech equipment inside the facility has helped to move vehicles through faster.

Mr. Donovan said that the menu at the drive-through is limited between 6 and 10 a.m. He said that no prepared foods, sandwiches, dozens, or large orders are served at the drive-through between 6 and 10 a.m. He said that data submitted for the average ticket at the drive-through reflect that customers are placing "grab & go" orders during that time.

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The Board said that a traffic study should be conducted by a traffic consultant. A traffic engineer can look at the queues and may be able to design a solution to reduce or eliminate queue spillover onto Route 9. The Board said that queue spillover occurring several times during peak hours during the day is unacceptable.

Mr. Donovan said that they have made changes over the years to reduce the queue spillover problem. He said that queue spillover does not occur every day or multiple times during an hour. He said that he will be looking into leasing or buying land which the Town no longer uses.

The Board said that it shares the Police Department's concern that eliminating the drive-through window could create a worse problem on Route 9.

The Board said that the Special Permit will be extended for six months to give the petitioner time to hire a traffic engineer to do the queue counts, evaluate the problem and come up some specific recommendations for fixing the problem.

The Board said that it would like to see the evaluation of the parking striping that it had asked for at the public hearing in 2007. The Board would like to see on-site circulation plans.

Todd Clark, 25 Old Colony Road, said that he goes to Dunkin Donuts on Route 9 and has never been part of a queue onto the road. He said that recent staff changes have resulted in the lines moving quicker.

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.

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 February 25, 2008, the Planning Board reviewed the petition and recommended that renewal of the Special Permit not be granted.

On March 5, 2008, the Police Department reviewed the petition and expressed concerns that if the drive-through was eliminated, there would be more congestion in the parking lot and a greater spillover of vehicles onto Route 9.

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, extension of the Special Permit, ZBA 2007-10, is granted, as voted unanimously by this Authority at the Public Hearing, subject to the following conditions:

- 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.
- A traffic study shall be conducted by a traffic consultant. The traffic study shall show whether the site can handle a queue of eight cars as well as the number of times that the queue exceeded eight cars and spilled out onto Route 9. The study shall include an actual count of the cars in the queue, at what time periods the queues occurred and for how long. The study shall include recommendations to reduce or eliminate queue spillover onto Route 9. The study shall include analysis of parking striping and on-site circulation.

This Special Permit shall expire six months from the date time stamped on this decision.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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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.

Cynthia S. Hibbard, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm