

**ZONING BOARD OF APPEALS**

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ZBA 2008-64
Petition of Dunkin Donuts
951 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 11, 2008 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.

On August 25, 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 Bike Realty (the "Petitioner"), who said that he is the owner of Dunkin Donuts at 951 Worcester Street. He said that present with him was Jeffrey Dirk of Vanasse Associates.

Mr. Dirk displayed and distributed Existing Site Characteristics, Prepared by Vanasse & Associates, Inc., dated 9/11/2008, Existing Site Layout, prepared by Vanasse & Associates, Inc., dated 9/9/2008, Conceptual Parking and Access Improvement Plan, Alternative 1, prepared by Vanasse & Associates, Inc., dated 9/9/2008, and Conceptual Parking and Access Improvement Plan Alternative 2, prepared by Vanasse & Associates, Inc., dated 9/11/2008. He said that a condition of the permit that was issued in March, 2008 was that the Petitioner come back with documentation as to how the site is working under its present condition in terms of circulation, on-site queuing, and parking demands. The applicant was to look at some ways to enhance the site to address those issues.

Mr. Dirk said that the evaluation had been submitted to the Board. He reviewed the findings and discussed Vanasse's recommendations.

Mr. Dirk displayed on the site plan the location of the aqueduct that runs along the property boundary. He displayed the two curb cuts on the east and west side of the site. He described circulation on the site.

Mr. Dirk said that the speed limit westbound is posted at 50 mph. He said that they looked to see if there are sufficient sight lines for exiting traffic into traffic traveling at 50 mph. He said that it was determined that there are adequate sight lines in terms of safety.

Mr. Dirk said that they looked at the amount of volume the site is generating. They looked at the demand related to parking and the drive-through window during the morning peak period. They selected Wednesday, Thursday and Friday, as well as a Saturday. He said that the figures represent vehicles entering and exiting traffic to the site.

Mr. Dirk said that there are eight marked parking spaces. He said that vehicles also park parallel to Route 9.

Mr. Dirk said that the observations were made every 5 minutes. He said that the observations were for what was on the site 95% of the time.

Mr. Dirk summarized the parking demand and drive-through vehicle queue observations. He said that the site can handle a queue of eight vehicles. He said that the maximum queue that was observed was between ten and seventeen vehicles.

Mr. Dirk said that Alternative 1 looks at working with the existing site. He said that there are opportunities to re-stripe the parking area to create additional spaces for up to 12 vehicles, which would be within the 95th percentile.

Mr. Dirk said that the proposal is to narrow the existing wide driveways to limit the amount of exposure for pedestrians traveling along the sidewalk. He said that at the western curb cut, traffic exits from the drive-through and from the parking lot. He said that they could narrow the driveway and put traffic control signs there, create a one-way traffic circulation pattern that runs counter clockwise, and make the parking area function more efficiently. He said that traffic from the drive-through would exit directly onto Route 9. Traffic from the parking area would yield to the drive-through traffic. He said that although Alternative 1 would address traffic issues on the site, the queuing issue would remain.

The Board asked if the plans were discussed with the Police Department. Mr. Dirk said that they would typically review plans with the Police. He said that the State Highway requirements must be met. He said that they are trying to keep the traffic out of the right of way. He said that would involve work in the sidewalk area which the Town owns.

The Board said that the delivery point for the drive-through is at the southern corner. The Board asked if the configuration would have to change because of the proposed parking space. Mr. Dirk said that a landscaped island and berm will separate the parking from the drive-through operations.

The Board asked if it was observed that the handicapped space was being misused. Mr. Dirk said that for the majority of the time it was not misused but that it did happen occasionally when the parking lot was full.

The Board asked how Vanasse came up with the parking design. Mr. Dirk said that they looked at maneuvering dimensions. He said that there is not a lot of flexibility in terms of re-striping. He said that it is a tight site and they needed to allow for deliveries and for people backing out of spaces. The Board asked about narrowing the driveway eastward and have traffic travel parallel to the lot line. That would split the drive-through traffic from the vehicles that would be parking. Mr. Dirk said that would reduce the number of available parking spaces with maneuvering space.

Mr. Dirk said that Alternative 2 involves acquisition of a portion of the Cochituate Aqueduct from the Town. He said that would be the optimal condition. He said that they looked at the parameters for the existing site and looked to exceed demand by 5% to allow for flexibility. He said that the main issue was to contain the vehicle queue, as the parking demand could be addressed on the existing site.

Mr. Dirk said that Alternative 2 would include approximately ¼ acre of the Aqueduct land to expand the site in a northeasterly direction. He said that would allow them to improve the parking area to go from 8 to 21 parking spaces, which would exceed the parking requirements. He said that this plan would allow them to separate the parking area from the drive-through area. The drive-through area would go around the perimeter of the site. He said that 19 vehicles could queue on the site without blocking the sidewalk area. He said that is in excess of what they observed as the maximum queue. He said that there would be one way traffic along the front of the building because it is much more efficient and safer for pedestrians. He said the traffic control guidance would be provided at the western drive. He said that this plan deals with all of the issues of parking, queuing and vehicle circulation. He said that it allows for future changes.

The Board said that it had input from the Police on the previous petition. The consensus was that keeping the drive-through would be the safest way to continue operation. The Board asked if the sidewalk on the north side of Route 9 could be relocated onto the adjacent property. Mr. Dirk said that the State Highway Department does not want any portion of the State Highway to be used to help a business function.

Mr. Dirk said that they spoke with the MWRA about purchase of the Aqueduct land. He said that the Aqueduct is abandoned. He said that the right of first refusal would go to the Town. The Petitioner is willing to assist the Town financially with the purchase of that land.

Mr. Donovan said that his proposal was to provide funds to the Town for the purchase of the 3.9 acres of land. He said that he would need approximately 10,000 square feet of the land for his project, which he would lease from the Town. He said that he was not sure if the MWRA still owns the property or whether the Town has bought it.

Mr. Dirk said that the Petitioner would be able to implement Alternative 1 immediately. He said that ultimately the Petitioner would like to move forward with Alternative 2 after getting things squared away with the Town. He said that they would then come back before the Board to show what progress has been made.

The Board said that it cannot approve Alternative 2 because the Petitioner is not in control of the land. The Board said that it was mentioned that the queue length was controlled by the location of the order station. The Board asked about moving the order station. Mr. Dirk said that the system operates with two vehicles stored after placing orders to the pickup window. He said that has to do with how long it takes to fill the orders. Mr. Donovan said that the optimum operating number of vehicles is four to five. He said that this Dunkin Donuts has an electronic order taker which improves service time by 40-50 seconds over other locations.

The Board said that this Dunkin Donuts is different from other locations. Mr. Dirk said that there are order limitations for the drive-through at this location. He said that the two-car separation is possible with the limited menu whereas five car is the standard at other locations.

Mr. Donovan said that the least efficient queue would be the customer ordering at the window, followed by two down and three down, etc. He said that three to five seems to be the optimal number to move the line as quickly as possible. The Board said that it would be helpful to see those statistics quantified.

The Board asked if the plan is to implement Alternative 1 while pursuing Alternative 2. Mr. Donovan said the elements of Alternative 1 would be completely different from those of Alternative 2. He said that he would like to pursue Alternative 2. He said that if it is found that Alternative 2 is not feasible, he would implement Alternative 1 immediately.

The Board said that some of the features of Alternative 1 could be implemented immediately. Striping the two parking spaces that are parallel to Route 9 could be done easily. The additional space at the northeast property line could also be done.

Mr. Donovan said that he is willing to make those changes. He asked for an extension of two years to allow him time to pursue Alternative 2. He said that they would probably only need a sliver of the 10,000 square feet of Aqueduct land to implement Alternative 2. That would separate the drive-through traffic from the parking.

The Board said that two years is the maximum period allowed under the Special Permit.

The Board said that the Petitioner should research the effect of relocating the order board and that the Petitioner should come back before the Board in one year to assess the situation.

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 Bike Realty LLC.

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 September 8, 2008, the Planning Board reviewed the petition and recommended that:

BETA be asked to review and comment on VAI report and recommendations. If Alternative 1 recommendations are found to be workable and the expected results plausible they should be implemented forthwith with a follow-up monitoring study done within six months of project completion.

However, if BETA determines that a safe design for a drive-through window cannot be achieved on this constrained site the Planning Board recommends that the request be denied.

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. Parking spaces that are shown on Conceptual Parking and Access Improvement Plan, Alternative 1, shall be striped
3. The Petitioner shall continue to pursue acquisition of the Aqueduct land shown on Conceptual Parking and Access Improvement Plan, Alternative 2.

This Special Permit shall expire one year from the date time stamped on this decision.

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.

J. Randolph Becker, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm