



## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02181-5992

1998 JUN -2 A 8:09

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ZBA 98-53

Petition of The Federation of Massachusetts Farmers' Markets  
496 Washington Street (American Legion Post #72)

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 25, 1998 in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of THE FEDERATION OF MASSACHUSETTS FARMERS' MARKETS requesting a Special Permit pursuant to the provisions of Section II A 8 (b) and Section XXV of the Zoning Bylaw to allow the organization to use the grounds at 496 WASHINGTON STREET (AMERICAN LEGION POST #72), in a General Residence District, as a Farmers' Market for between 8 and 12 farmers to sell fresh farm produce on Thursdays between 3 p.m. and 7 p.m. from August 6, 1998 through October 8, 1998. This is not a by-right use in said district.

On June 8, 1998, 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 Charles Touchette, Executive Director of the Federation. Mr. Touchette said that the Federation is a private non-profit organization, charged to foster the development of Farmers' Markets throughout Massachusetts. Their goal is to allow farmers within the state a place to sell their produce directly to customers, who might not otherwise have access to fresh local products.

Mr. Touchette explained that there are about 95 Farmers' Markets throughout the state. The Federation works closely with 25 of them and directly oversees 15 markets, including markets in Copley Square, Cold Spring Park in Newton, Great Barrington and Springfield.

Mr. Touchette stated that the Federation was approached in August, 1996 by several town residents, who were interested in establishing a Farmers' Market in Wellesley. The group searched for a market location for 18 months until, this spring, they found support in the American Legion.

The Board expressed concern regarding the quality of the produce sold and wanted assurance that the site would be cleaned up every Thursday before the farmers left. The Board also questioned whether the trucks would be limited to the space shown on the submitted plan, and how many trucks were expected.

ZBA 98-53

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Mr. Touchette said that between 8 and 10 farmers were expected by the end of the season. The plan shows 6 trucks, which would be large trucks. Eight or ten smaller trucks could be parked in the space shown on the plan rather than 6 large ones. The Federation is not expecting to expand beyond the space shown on the plan.

The Board asked if there would be any additional lighting provided, particularly toward the end of September when the days are shorter. Mr. Touchette said there would be no lighting. Schedule adjustments are made toward the end of the season.

The Board asked if there would be any signage on the property. Mr. Touchette said there would be a temporary sign each Thursday, so drive-by customers would be aware that the Market was open. There will be no canned music. Occasionally, there might be special events.

Mr. Touchette explained that all participating farmers agree to abide by a 12 page document prepared by the farmers themselves regarding standards. There is also a 4 page application, which becomes a contract by which the farmers agree that if they do not abide by the regulations, the Market Manager has the right to evict them. In the markets managed by the Federation, an on-site manager is hired to oversee all operations of the market, including the quality of the produce.

The Board expressed concern regarding parking, traffic management and insurance. Mr. Touchette said that the Federation has a two million dollar umbrella policy covering all the markets they operate. Additionally, each farmer must provide his own insurance coverage.

In regard to traffic, the Federation has not contracted for a police detail. The Market Manager will watch the traffic situation closely, and if it is deemed necessary, the Federation will contract for a police detail.

Mr. Touchette stated that in the Wellesley market, due to the short season, they will try to establish a pilot program to determine community acceptance of the market. At the end of the season, the results will be reviewed to determine if the program will be continued.

The neighborhood concerns focused on traffic management and parking. Virginia Ghattas, 18 Atwood Street, a rear abutter, said that the site is next to the St. Paul School, which uses the Legion property as a drop-off and pick-up area for the students. She is concerned that if the lot is not available, parents will park on Atwood Street and walk through to the school.

William Thibodeau, 20 Atwood Street, asked if the trucks would be driving in and out of the parking area. He added that if the market takes the Legion parking lot, school traffic will increase on Atwood Street, where the traffic is now horrendous. Mr. Touchette said that the trucks will arrive about 2 p.m. and by 2:45 p.m. the access will be closed until the market is closed. All customer parking will be on Washington Street.

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Barbara McMahon, 6 Morton Street, said that the neighborhood is trying to work with St. Paul's school to solve the traffic problem. She expressed concern that the use of the premises for a market will set a precedent for other groups to request use of the premises. She also expressed concern that the rat problem at the duck pond could increase due to farm debris on the Legion site. Mr. Touchette said that the Market Manager oversees cleanup, and that the market area will be cleaner at closing time than it was at the opening.

John Locke, State Representative, said that residents have been searching for a location for a long time. The Legion site is not ideal, but is the only available site. They are willing to work with the neighbors, and if the market is not successful, they will revisit the issue.

The Board asked if Mr. Touchette had any projection as to the maximum traffic density. He said that based on counts at other markets, he projected a traffic flow of about 100 cars per hour. Generally, the season begins around June 8-10 and ends around October 20th.

Brady Barrett, 22 Abbott Street, said that three quarters of the Legion site was surrounded by a residential area, and asked why the market was not located on Town property. Mr. Touchette said that the Federation has a small number of markets that abut residential areas, and there have been no problems. Mr. Locke stated that NRC had opposed the use of the bandstand area.

Sissy Sullivan, 35 Hundreds Road, expressed support for the petition.

Bill McMahon, 6 Morton Street, questioned the Federation position that there will not be a lot of traffic or customers, as it is the purpose of every business to increase the number of customers. He was concerned that the westbound traffic, looking for parking spaces, will back up beyond the light at Kingsbury Street. The market, which will be open during rush hour, will only add to the congestion.

The Board agreed that if a special permit was granted, conditions would have to be placed on the use. A condition shall be included that if the police chief determines that the presence of a police officer is necessary during the hours of operation of the market, the Federation will have to provide one. Furthermore, the number of trucks on the premises shall be limited to no more than seven, and the special permit shall contain language stating that it is granted not for one year, but only through October 8, 1998.

#### Statement of Facts

The subject property is located at 496 Washington Street, in a General Residence District, and is owned by American Legion Post #72. The Federation of Massachusetts Farmers' Markets has received permission from the American Legion to use the premises pending the grant of a Special Permit from the Board of Appeals.

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Petition of The Federation of Massachusetts Farmers' Markets  
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The petitioner is requesting a Special Permit to use said premises for the conduct of a Farmers' Market for between 8 and 12 farmers to sell fresh farm produce on ten Thursdays from 3 p.m. to 7 p.m. from August 6, 1998 through October 8, 1998.

A site plan and a letter of clarification were submitted by Chris Wychorski, Director of Market Operations. Copies of the "Agreement" and "Indenture" signed by representatives of the American Legion Post No. 72 and Charles Touchette, representing the Federation, were also submitted.

On June 23, 1998, the Planning Board reviewed the petition and recommended approval of the request.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that the use of the premises by the Federation of Massachusetts Farmers' Markets for the sale of fresh farm produce will not substantially reduce the value of any property within the district, and will not be injurious or offensive to the neighborhood.

Therefore, a Special Permit is hereby granted pursuant to the provisions of Section II A 8 (b) of the Zoning Bylaw, as voted unanimously by this Authority at the Public Hearing, to allow said use, subject to the following conditions:

1. The hours of operation of the Farmers' Market shall be restricted to between 3 p.m. and 7 p.m. on ten Thursdays from August 6, 1998 through October 8, 1998.
2. No more than 7 farmer's trucks shall be parked on the premises on any given Thursday and shall be parked as designated on the submitted site plan. No truck shall be allowed to enter the premises after 2:45 p.m. on the designated Thursdays; and no truck shall exit the premises prior to 7 p.m. on said Thursdays.
3. There shall be no additional illumination of the site at any time.
4. All temporary signage shall be removed from the premises every Thursday at the close of each Farmers' Market.
5. The Chief of Police shall monitor the traffic situation, and shall determine if a police detail is necessary to manage traffic and/or to assist pedestrians in crossing Washington Street. If a police detail is determined to be necessary, the Federation shall assume the cost of said detail.

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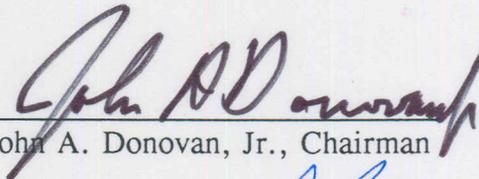
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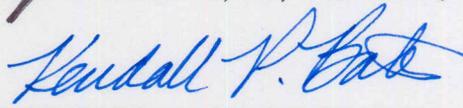
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6. All conditions contained in the "Agreement" and "Indenture" described in the foregoing Statement of Facts are hereby incorporated into this decision.
7. This Special Permit shall expire at the close of operations on Thursday, October 8, 1998.

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.

cc: Planning Board  
Richard R. Dillon  
Joseph Gagnon, Chief of Police  
Rep. John Locke  
Inspector of Buildings

  
John A. Donovan, Jr., Chairman

  
Kendall P. Bates

  
Robert A. Bastille

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