

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

RICHARD L. SEEGEL, CHAIRMAN  
J. RANDOLPH BECKER, VICE CHAIRMAN  
DAVID G. SHEFFIELD

LENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208  
web: [www.wellesleyma.gov](http://www.wellesleyma.gov)

ROBERT W. LEVY  
WALTER B. ADAMS  
DEREK B. REDGATE

2018 FEB 15 AM 10:00

ZBA 2018-06  
Petition of C.E. Holman Limited  
583 Washington Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 1, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of C.E. Holman Limited requesting a Special Permit pursuant to the provisions of Section XXIIA and Section XXV of the Zoning Bylaw for installation of: (1) a wall sign with 18 inch letters, where 14 inches is allowed; (2) four identical awning signs where one awning sign is allowed; (3) a blade sign, where an additional wall sign requires a special permit; (4) five white decal signs applied to the interior of five glass panels on the front façade, where two signs are allowed; (5) a directory sign that meets bylaw requirements; (6) a door pull wall sign, where an additional wall sign requires a special permit; and (7) an awning sign at the rear entrance. The Petitioner is requesting a Special Permit pursuant to the provisions of Section IXC and Section XXV of the Zoning Bylaw for outdoor dining accessory to a restaurant use, at 583 Washington Street, in the Wellesley Square Commercial District.

On December 29, 2017, 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 were David Himmelberger, Esq., Peter Niemitz, Architect and Peter Baker, General Manager, Smith & Wollensky. Mr. Himmelberger said that he was representing the owner of the Holman Block and the tenant, Smith & Wollensky, who will occupy the premises at 583 Washington Street.

Mr. Himmelberger said that the request is for a special permit pursuant to Section IXC of the ZBL for an outside dining area, accessory to the restaurant, with wait staff, as well as a number of special permits for signs. He said that as to the patio area, the Petitioner has gone before the Board of Selectmen for and received common victualers and alcohol licenses with extensions for both of those uses in an outdoor patio area.

Mr. Himmelberger said that when his client went before the Design Review Board (DRB) for signs and changes to the façade, the DRB raised issues about clearance between a tree and the outdoor patio area. He said that the area was modified. He submitted drawings that show the modifications. He said that the patio shows accommodation for 18 patrons and shows at least 5 feet 3 ½ inches of clearance to the trunk of the tree, which is more than the four foot minimum. He said that DPW raised concerns about ADA compliance. He said that he spoke with Josh Van Houten, who suggested that a grate be placed on the tree box, which would be compliant as long as it is flush with the ground. He said that the town has done that in the past. A Board member said that he was concerned that the grating around the tree could

be trickier than expected because you have to have smaller holes in it to accommodate someone with a walker.

Mr. Himmelberger said that Mr. Van Houten confirmed in an email that he had spoken with Mike Quinn in the Park & Tree Department about the proposed outdoor seating. He said that DPW would prefer to have a removable railing that is removed in the winter and is adjusted for ADA compliance. He said that the railing will be removable. He said that the dirt mulch and bricks could be replaced with a metal grate. He said that DPW would require review and approval of the proposed specifications for the grate and installation methods, prior to installation. He said that the request is for the Board to condition its approval of the auxiliary use of the outdoor space as configured, subject to the satisfaction of DPW that the area is in compliance with ADA regulations. He said that the sidewalk use is wholly within the tenant's space.

Mr. Himmelberger said that the BOS granted his client permission to have an outdoor space, consistent with the drawings. He said that they need the Board's permission to actually use that permission. He said that they are asking for permission to use the outdoor space, consistent to and in compliance with the drawings as provided, subject to satisfying DPW that an installed grate on the tree mulch area will meet ADA compliance. The Chairman said that the railing must be totally removable and removed in the winter. Mr. Himmelberger said that it will be removed from November 1<sup>st</sup> to March 31<sup>st</sup>.

Mr. Himmelberger said that there will be no external lighting in this area. He said that there will be ambient light from street lights, the interior and candles.

The Chairman asked if there is any intention to use outdoor heaters. Mr. Baker said that there is no intention to use them.

A Board member asked how the fence posts will be secured to the ground. Mr. Niemitz said that the newell posts will have 12 by 12 steel plates on the bottom. He said that they will be able to move them in and out quickly.

Mr. Niemitz said that the awnings will project two feet from the pilasters and 30 inches from the windows. He said that they will be fixed in place.

Mr. Niemitz said that the outdoor dining area will be host seated full service seats. He said that patrons will have to go to the host first and request outdoor dining. A Board member said that it appears that some of the tables can accommodate a wheelchair. Mr. Niemitz said that the tables will not be fixed in place and can be moved to accommodate.

A Board member asked if any music systems are proposed. Mr. Baker said that they are not proposing them outside.

Mr. Niemitz said that as part of the construction they will restore the storefront above the awnings. He said that the existing awning obliterated the transom and over the years was filled with plywood. He said that the façade will be restored and opened up with clear glass. He said that the ceilings will be raised in the front bar and lounge.

Mr. Himmelberger said that a sign package was submitted that shows modifications pursuant to the DRB recommendations.

Mr. Niemitz said that the primary sign is proposed to be in the sign band over the entry to give prominence to it. Mr. Himmelberger said that the sign will be pin mounted, black anodized, halo lit with 18 inch letters. He said that the maximum allowed letter height is 14 inches but the greater height of 18 inches better balances the appearance of the sign within the architectural façade of the building. He said that DRB called out support for 18 inch lettering. He said that entirety of the sign square footage is well within the permitted 50 square feet. He said that the request is for a special permit for the 18 inch letters.

Mr. Himmelberger said that Sign 2 is comprised of four identical awning valences with 8.75 inch S & W lettering where 8 inch letters are allowed.

Mr. Himmelberger said that Sign 3 is a blade sign that will extend from the pillar at the left of the Smith & Wollensky sign. He said that it is a unique sign in that it is a cut out of a steak knife.

Mr. Himmelberger said that Sign 4 is comprised of five 5 small white vinyl decals of S & W applied to the interior of the five panels of glass that face Washington Street. He said that the height of the signs will be 4 5/8 inches, which is well below the permissible height of eight inches. He said that each sign will be .41 square feet, for a combined total of the five signs of 2.05 square feet. He said that only two of these signs are permitted as of right but the decals serve to break up the large expanse of window and help serve as indication of the window abutting an exit door.

Mr. Himmelberger said that Sign 5 is an hours of operation directory sign that meets the bylaw requirements at 1 square foot.

Mr. Himmelberger said that Sign 6 is a brass door pull on the main front entrance. He said that it is three pieces of brass and an oval with engraved black S & W lettering affixed to door pulls. He said that it will be 9 inches tall and 11 11/16 inches wide for a combined area of .57 square feet.

Mr. Himmelberger said that Sign 7 is an awning sign at the rear entrance of the restaurant from the parking lot. He said that it will have white vinyl lettering on a Sunbrella canvas awning, with 8.75 inch lettering and an overall width of 5 feet 1/2 inch, for a total area of 3.67 square feet, which is less than ten percent of the awning's area of 39.55 square feet.

Mr. Himmelberger said that the combined area of all of the signs will be 40.39 square feet, which is less than the 50 square feet that is allowed. He said that they believe that the requested signs will be in harmony with all of the purposes set forth in Section XXIIA of the Zoning Bylaw and that all of the requested signs will meet the criteria for issuance of a special permit in that the overall scale, dimensions and appearance enhance the architectural elements of the building, are in scale for passersby, and are in harmony with the general signage for the block. He said that one of the members of the DRB is the proprietor of a major department store next door and was supportive of the signage, including the blade sign. He said that the DRB was supportive. He said that his clients believe that the signage passes muster with the criteria set forth in the bylaw for the issuance of special permits.

The Chairman said that he did not agree with Mr. Himmelberger. He said that he found the sign package to be excessive and inappropriate. He said that there is nothing comparable to the proposed blade sign in Wellesley Center. He said that he will not allow that sign. He said that the sign over the main entrance is fine at 14 inches, not 18 inches. He said that there was an internationally known restaurant previously located there that fully complied with the sign bylaw and was very successful. He said that he is willing to grant the sign at the rear of the restaurant. He said that he is not willing to have all of the awnings with anything on them except for what is allowed by right. He said that he did not think that the window decals are appropriate.

A Board member said that he did not have a problem with the awnings or the lettering on the awnings. He said that the Board has been rigid about the sign bylaw to limit the height of lettering and he agreed with the Chairman that the lettering on the primary sign will be fine at 14 inches. He said that he had no problem with the window signs or with the door sign. He said that he liked the awning over the door. He said that he did not have a problem with the knife blade sign other than safety concerns if it were to fall down. He said that it might be a little large but is not unreasonably sized. He said that he is okay with the awning at the back but was concerned about access to those doors because the sidewalk seems to be raised from the parking area. Mr. Niemitz said that the rear entrance is ADA accessible. He said that the approach is straight on from the parking lot.

A Board member said that people do not need to be told 10 times that it is Smith & Wollensky, with four awnings, four window signs, a door sign and a sign band. He said that is excessive. He said that some balance that would get closer to the overall site requirements in terms of the number of signs would be worthwhile. He said that, in looking at other things that have been done in the Wellesley Square area, blade signs are more effective because people can see them from far down the street whereas a sign in the sign band can best be seen across the street. He said that overall, the request is for too many signs.

The Chairman said that he agreed with 90 percent of the Planning Board comments that the size of the signs is reasonable, however the letter height is not reasonable in relation to nearby development scale and sign sizes, the quantity of signs is excessive and the length of the store does not merit having additional signs.

Mr. Himmelberger asked if the Board would be willing to entertain the removal of the window signs, a reduction of the band sign to 14 inches, removal of the blade sign, retaining only the small S & W's on the valences of the awnings, the awning at the rear entrance and the door pool.

A Board member asked about the use of the door that accesses the outdoor seating area. He asked if it would be better to have signage on the second door rather than the awning signs. Mr. Baker said that door will just be for service. The Board member asked why there is an opening in the fence in front of it. Mr. Niemitz said that it is a designated means of egress. He said that they need to have a three foot gap for fire egress. He said that if they did not have the opening in the patio area, the door would have to be reversed to swing inward and you would have to egress through the restaurant.

An abutter from Wiswall Street said that there will be a lot of illumination. Mr. Niemitz said that only one sign will be halo lit. The Chairman said that the lighting on the sign can only be on during hours of operation. Mr. Baker said that it will be on a time clock.

Mr. Niemitz said that there will be two recessed lights over the front door. He said that the door is set back from the façade. He said that the lights will shine down at the entrance way. Mr. Baker said that there is a light fixture under the canopy at the rear to illuminate the sidewalk.

Mr. Niemitz said that the hours of operation sign meets the guidelines in the bylaw.

The Chairman said that Applicant should resubmit the sign package, as voted by the Zoning Board.

#### Statement of Facts

The Petitioner is requesting a Special Permit pursuant to the provisions of Section XXIIA and Section XXV of the Zoning Bylaw for installation of: (1) a wall sign with 18 inch letters, where 14 inches is allowed; (2) four identical awning signs where one awning sign is allowed; (3) a blade sign, where an additional wall sign requires a special permit; (4) five white decal signs applied to the interior of five glass panels on the front façade, where two signs are allowed; (5) a directory sign that meets bylaw requirements; (6) a door pull wall sign, where an additional wall sign requires a special permit; and (7) an awning sign at the rear entrance. The Petitioner is requesting a Special Permit pursuant to the provisions of Section IXC and Section XXV of the Zoning Bylaw for outdoor dining accessory to a restaurant use, at 583 Washington Street, in the Wellesley Square Commercial District.

Sign Information, Letter to Zoning Board of Appeals, dated 11/17/17, from Peter Niemitz, Justification for Requested Signs, Letter to Zoning Board of Appeals, dated 12/6/17, from David J. Himmelberger, Esq., Front Existing Conditions, Rear Existing Conditions, Materials Board, Front Elevation and Outdoor Seating Plan, Rear Elevation and Floor Plan, Detail # 1 and #2, Detail #3: Blade Sign, Detail #4: Canopy Sign, Detail #5, #6, #7, dated 11/30/17 & revised 2/2/18, prepared by Niemitz Design Group, and Town of Wellesley, MA Hollis Street Corner Clearance Utility Figure were submitted.

On December 14, 2017, the Design Review Board reviewed the application and voted unanimously to recommend approval of the signs, in accordance with revised plans.

On January 25, 2018, the Planning Board reviewed the petition and recommended that the special permit for outdoor seating be granted and the special permit for signage be denied.

On January 24, 2018 and January 31, 2018, Joshua Van Houten, Civil Engineer, Town of Wellesley, reviewed the petition and submitted comments.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject signs are: a wall sign with 14 inch letters; four identical awning signs with 6.5 inch S & W lettering; a directory sign that meets bylaw requirements; a door pull wall sign; and an awning sign at the rear entrance.

It is the opinion of this Authority that installation of a wall sign with 14 inch letters; four identical awning signs with 6.5 inch S & W lettering; a directory sign that meets bylaw requirements; a door pull wall sign; and an awning sign at the rear entrance will be in harmony with the general purpose and intent of Section

XXIIA of the Zoning Bylaw, as the sign scale will be will in reasonable relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures; sign size, shape, and placement will serve to define or enhance architectural elements of the building and will not unreasonably interrupt, obscure or hide them; sign design will be in reasonable continuity with the mounting location, height, proportions and materials of other signage on the same or adjacent structures; sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and sign size, location design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic.

Therefore, a Special Permit is granted for installation of a wall sign with 14 inch letters; four identical awning signs with 6.5 inch S & W lettering; a directory sign that meets bylaw requirements; a door pull wall sign; and an awning sign at the rear entrance, subject to the following condition:

- Lighting shall be on only when the restaurant is open.

The Inspector of Buildings is hereby authorized to issue a permit for the sign upon receipt and approval of a sign application and any other materials he may require. No sign shall be installed until said permit has been issued.

It is the opinion of this Authority that accessory use for outdoor dining at 583 Washington Street, in the Wellesley Square Commercial District, is specifically authorized upon granting of a special permit pursuant to Section IXC and Section XXV of the Zoning Bylaw.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for accessory use for outdoor dining at 583 Washington Street, subject to the following conditions:

1. A railing around the eating area shall be removable and shall be removed between November 1<sup>st</sup> and March 31<sup>st</sup> of each year
2. The Applicant shall comply with all instructions of DPW with respect to the ADA so that wheelchairs can maneuver the sidewalk around the existing tree, which means replacing what covers the tree ground with a metal grate that is satisfactory to the DPW.

12019 FEB 15 A 11:10

ZBA 2018-06

Petition of C.E. Holman Limited

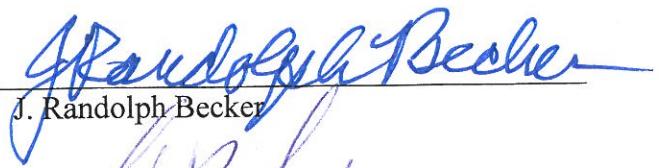
583 Washington Street

PLANNING BOARD

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.



Richard L. Seegel, Chairman

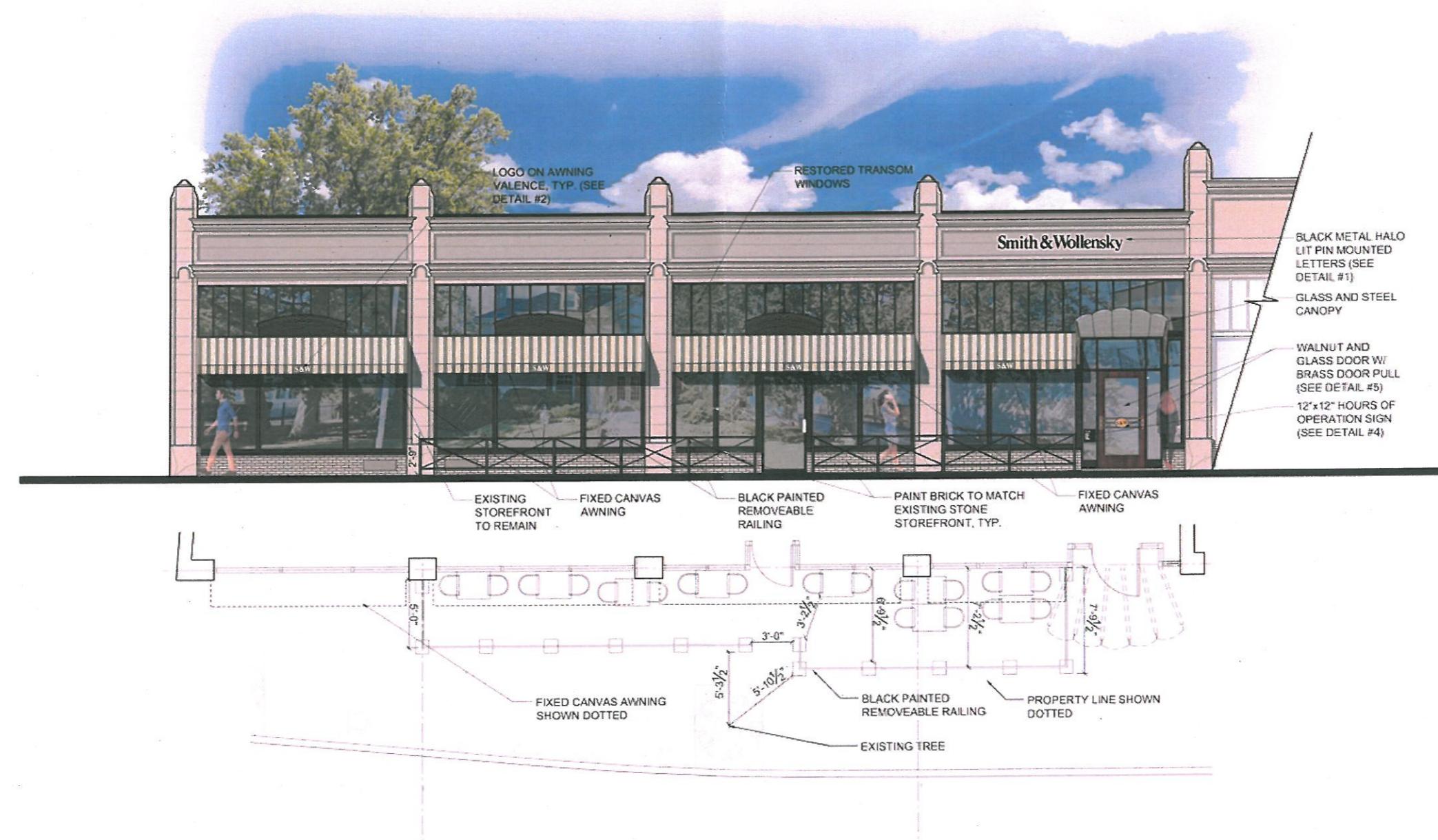


J. Randolph Becker



Walter B. Adams

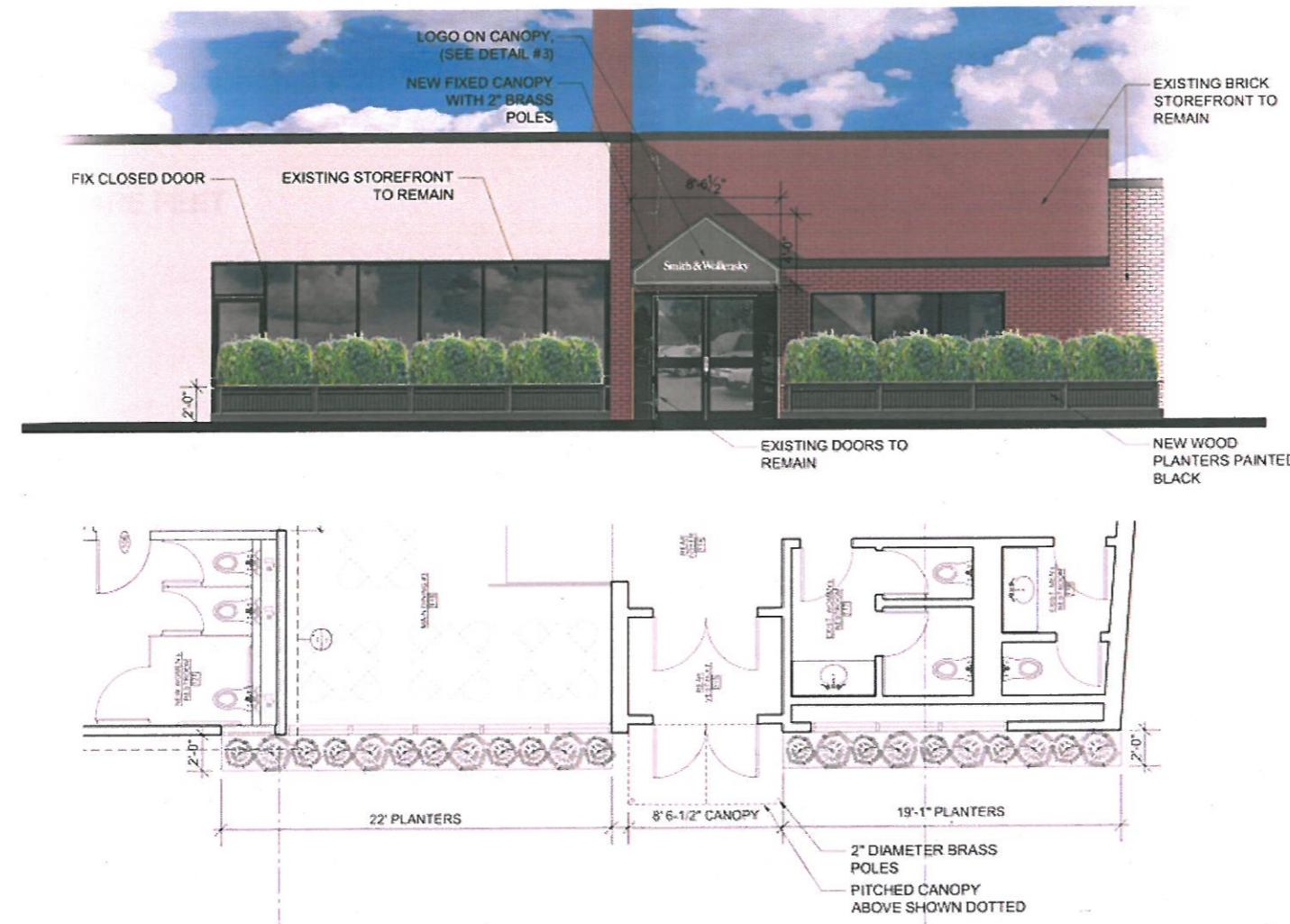
cc: Planning Board  
Inspector of Buildings  
lrm



SMITH & WOLLENKY STEAKHOUSE  
583 WASHINGTON STREET  
WELLESLEY, MA 02482

FRONT ELEVATION AND OUTDOOR SEATING PLAN  
SCALE: 1/8" = 1'-0"

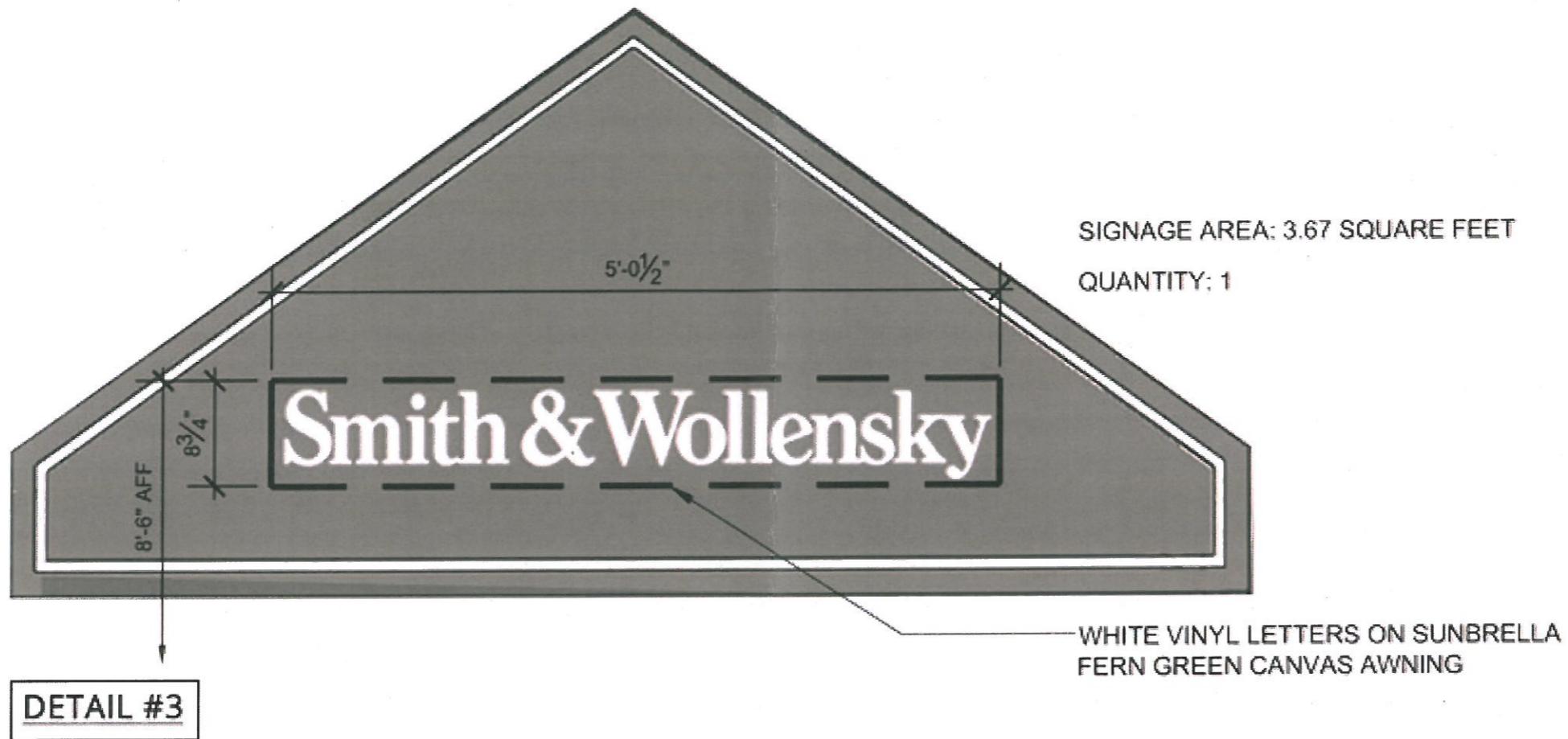
FEBRUARY 2, 2017  
NIEMITZ DESIGN GROUP



SMITH & WOLLENKY STEAKHOUSE  
583 WASHINGTON STREET  
WELLESLEY, MA 02482

REAR ELEVATION AND FLOOR PLAN  
SCALE: 1/8"=1'-0"

FEBRUARY 2, 2017  
NIEMITZ DESIGN GROUP

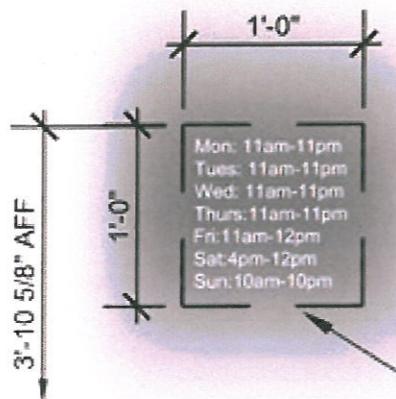


---

SMITH & WOLLENKSY STEAKHOUSE  
583 WASHINGTON STREET  
WELLESLEY, MA 02482

DETAIL #3: CANOPY SIGN  
SCALE: 3/4"=1'-0"

FEBRUARY 2, 2018  
NIEMITZ DESIGN GROUP

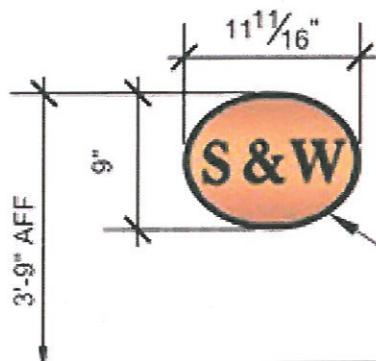


SIGNAGE AREA: 1 SQUARE FOOT

QUANTITY: 1

1" WHITE VINYL DECAL APPLIED TO  
INTERIOR CLEAR GLASS

DETAIL #4



SIGNAGE AREA: .57 SQUARE FEET

QUANTITY: 1

SOLID POLISHED BRASS W/  
ENGRAVED BLACK LETTERS ON 3  
HORIZONTAL DOOR PULLS

DETAIL #5

---

SMITH & WOLLENKSY STEAKHOUSE  
583 WASHINGTON STREET  
WELLESLEY, MA 02482

DETAIL #4, #5  
SCALE: 3/4"=1'-0"

FEBRUARY 2, 2018  
NIEMITZ DESIGN GROUP