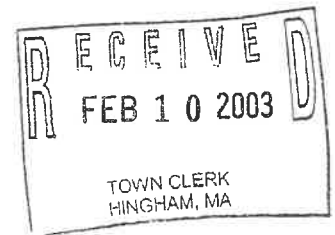


**TOWN OF HINGHAM
BOARD OF APPEALS**

210 Central Street
Hingham, MA 02043-2759



Telephone: (781) 741-1494
FAX: (781) 740-0239

IN THE MATTER OF:

Applicant: W/S/M Hingham Properties, LLC
c/o WS Development
1330 Boylston Street
Chestnut Hill, Massachusetts 02167

Premises: 100 Derby Street
Hingham, Massachusetts 02043
Book 9552, Page 31, Book 16895, Page 1 and Book 16895, Page 6

SUMMARY OF PROCEEDINGS:

This matter came before the Board on the application of W/S/M Hingham Properties, LLC ("Applicant") in connection with the Applicant's desire to expand and improve the existing shopping center on the Premises, presently known as "Hingham Plaza". The Applicant has requested the following zoning relief from the Board: (i) a Variance from the maximum lot coverage restriction of Section IV-A of the Zoning Bylaw; (2) a Special Permit A-2 and site plan review pursuant to Section III(E)(5)(b) to allow, within the South Hingham Development Overlay District, a retail group (III-A, 4.17), a sit down restaurant (III-A, 4.9A), and a bank automated teller machine (III-A, 4.11); (3) a parking waiver pursuant to Section V-A; (4) a Special Permit A-1 with Variances from Section V-B to display multiple building and ground signs, and (5) a Special Permit A-2 for earth removal.

A public hearing was duly noticed and held on Thursday July 11, 2002, and continued on August 1, 2002, September 5, 2002, October 10, 2002, November 7, 2002, December 5, 2002, January 2, 2003, and January 30, 2003. The public hearings and deliberations were conducted by a panel consisting of regular members Mario Romania, Jr., and Jerry Seelen, and associate member James Broderick. Mario Romania, Jr. served as Chairman.

BACKGROUND:

The Petitioner proposes additional retail and restaurant space and related improvements to the Premises, which is currently operated as a retail shopping center. The Premises, heretofore known as Hingham Plaza, was originally developed in the late 1950's and early 1960s. The parcel as it presently exists, with the possible exception of the recently renovated Kohl's building, is a 1950's style shopping center, and consists of approximately 309,990 square feet of retail space.

The Applicant's proposed redevelopment of the site (hereinafter, the "Project"), to be known as the "Derby Street Shoppes", involves the transformation of the Premises into a 424,500 square foot "lifestyle" shopping center, and would include significant on-site and off-site traffic, parking and utility improvements. Upon completion, the Project would be comprised of 371,200 s.f. of retail space, and 53,300 s.f. of restaurant space.

By its Decision dated December 12, 2002 (the "Phase I Decision"), the Board addressed and granted, with conditions, the following two types of relief requested by the Applicant: (1) the Variance from the maximum lot coverage restriction of Section IV-A of the Zoning Bylaw, and (2) the parking waiver under Section V-A of the Zoning Bylaw. At its November 7, 2002 hearing, at the Applicant's request, the Board voted on the two aspects of the requested zoning relief addressed in the Phase I Decision and continued the hearings with respect to the other areas of relief requested. This Decision (the "Phase II Decision") addresses (i) the Applicant's requested Special Permit A-2 and site plan review pursuant to Section III(E)(5)(b) of the Zoning Bylaw, and (ii) the Applicant's requested relief with respect to signage. This Phase II Decision also makes two minor amendments to the Phase I Decision.

The final plans (hereinafter the "Plans") submitted and reviewed by the Board for purposes of this Phase II Decision are identified on Schedule A attached hereto and incorporated herein.

REQUESTED RELIEF:

A. SPECIAL PERMIT A-2 AND SITE PLAN REVIEW

As noted above, Applicant is proposing a major redevelopment of the shopping center at the Premises. Zoning relief is necessary for particular uses at the site because the Premises is located within both the Industrial Park District and the South Hingham Development Overlay District. In particular, Section III(E)(5)(b) of the Zoning Bylaw requires the issuance of a Special Permit A2 for the following uses proposed by the Applicant: (i) sit-down restaurant, and (ii) retail group.¹

B. SIGNAGE

The Applicant has proposed extensive and detailed signage for this multi-tenant Project. These signs include both tenant specific building signage, and a number of shopping center identification signs, which in the latter case include both building and ground signs.

¹ Although the Applicant's original submittals to the Board also requested a similar Special Permit A2 for a bank automated teller at the Premises and a Special Permit A-2 for earth removal, during the hearing process the Applicant withdrew those two requests.

The Applicant's requested zoning relief for its signage can be broken down as follows:

1. Tenant Building Signs.

- a. A Special Permit A-1 pursuant to Section V-B of the Zoning Bylaw to allow multiple building signs for each tenant, provided that in the aggregate the maximum area of all such signage does not exceed the 10% of wall area limitation set forth in the Zoning Bylaw. It is anticipated that tenants may utilize a mix of primary signs, blade signs, awnings, under-walk signs and other signs in this regard.
- b. A Variance from the sign quantity limitations of Section V-B of the Zoning Bylaw to allow "multi-frontage" tenants located at the corners of buildings within the shopping center to include frontage of each side of the building for purposes of determining allowable signage.
- c. To the extent necessary, a Variance to allow awning signs within the Industrial Park District.
- d. To the extent necessary, a Variance to allow the use of "blade" signs within the allowable mix of building signage.
- e. A Variance from the quantity limitations of Section V-B to allow buildings facing Route 3 additional building signs.

2. Shopping Center "Common" Signs

- a. A Special Permit A-1 to allow additional shopping center accessory signs on the Pavilion Building towers (2 signs) and on the wastewater treatment plant building (1 sign).
- b. To the extent necessary, Variances to allow modification and continued internal illumination of the existing pylon sign located at the Derby Street entrance to the shopping center.

FINDINGS:

A. SPECIAL PERMIT A-2 AND SITE PLAN REVIEW

As noted above, this Project and the Applicant's requested zoning relief have been the subject of extensive review by various Town boards and departments, and by the Town's outside consultants. In addition, abutters and other interested parties actively participated in the Board's hearing process, both through the submission of written materials and through attendance and oral input. The existing shopping center in its current form is in a state of disrepair, and is not considered to be a particularly valuable asset to the Town.

However, the site has a long history of retail use, and its proximity to Route 3 suggests that a retail shopping center remains one of the site's most practical uses.

The Special Permit uses at issue in and of themselves are not controversial. In fact, the site has historically been used for these uses. Accordingly, the Board considers the site plan review process to be the most significant aspect of this Special Permit A-2 requested relief.

Through the hearing process, numerous parties commented upon the Applicant's Plans with respect to concerns relating to such issues as surface water drainage, wetland protection, on-site and off-site traffic flows, on-site parking requirements and access for emergency vehicles. As a result, the Applicant's Plans were significantly modified during the process, and the Board believes that the final Plans greatly improved the Project and sufficiently mitigated the foreseeable adverse impacts the Project may generate.

Ultimately, upon consideration of the specific site plan review criteria set forth as Section I-I(4) of the Zoning Bylaw, the Board made the following findings:

1. The proposed retail and restaurant uses are in harmony with the general purpose and intent of the Zoning Bylaw.
2. The proposed retail and restaurant uses comply with the purposes and standards of the relevant sections of the Zoning Bylaw.
3. The Premises is an appropriate location for such retail and restaurant uses, and such uses are compatible with the characteristics of the surrounding area.
4. The retail and restaurant uses as developed will create positive impacts and potential adverse impacts will be mitigated.
5. There will be no nuisance or serious hazard to vehicles or pedestrians.
6. Adequate and appropriate facilities exist or will be provided as part of the Project for the proper operation of the proposed retail and restaurant uses.
7. The proposal meets accepted design standards and criteria for the functional design of facilities, structures and site construction.

B. SIGNAGE

With respect to the signage generally, the Board found that the sign regulations applicable to the Industrial Park District do not adequately anticipate, and are not practical in application to, a large, multi-tenanted shopping center such as this Project. The Board recognizes that a viable shopping center must allow each tenant to promote its presence within the center, and that the shopping center as a whole needs to create an

identity through signage. In addition, customary signage concerns are of less significance in this particular case because the shopping center will for the most part be self-contained, meaning that most of the signage at issue will not be visible from adjacent roadways. The Board found that the requested signage relief was reasonable for the scope of the Project, and that it would not be detrimental to the surrounding area.

Accordingly, with respect to the signage Special Permit A-1's described above, the Board found that the location, nature and use of the Premises are such that the proposed signage may be permitted in harmony with the general purpose and intent of Section V-B of the Zoning Bylaw.

With respect to the signage Variances described above, the Board found that, owing to circumstances relating to conditions and shape of the existing and proposed shopping center buildings, which are unique to the Premises and are not common to the Industrial Park District as a whole, a literal enforcement of a prohibition of awning signs and blade signs and the prohibition of any signage on the side of the building fronting Route 3 would involve substantial hardship to the Applicant, and that the requested relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

RULINGS AND DECISION:

At the conclusion of the written and oral testimony received at the hearings, and on other information available to the Board, the Board took the following actions:

A. SPECIAL PERMIT A-2 AND SITE PLAN REVIEW

The Board voted to grant the Applicant's requested Special Permit A-2 with Site Plan Review, subject to the following conditions:

1. The terms and conditions of the Phase I Decision are incorporated herein.
2. The Project shall be developed in accordance with the Plans, and there shall be no increase in floor area beyond 424,500 s.f. absent subsequent relief from the Board.
3. Prior to the issuance of a Certificate of Occupancy for any additional space at the Premises (meaning space in excess of the existing 309,990 s.f.), Applicant shall demonstrate to the satisfaction of the Building Commissioner that all on-site and off-site improvements identified in the Plans have been substantially completed.
4. Applicant is to obtain a street opening permit from the Board of Selectmen and any and all other permits necessary in connection with the abandonment of the portion of Old Derby Street as shown on the Plans, and Applicant shall landscape such portion of Old Derby Street as required by the Board of Selectmen or other governing body.
5. It is acknowledged that the Applicant's Plans are subject in part to the Massachusetts Highway Department's ("Mass. Highway") plans for alterations to

Derby Street. To the extent that Mass. Highway's activities in this regard result in any change to the Applicant's Plans, the Applicant shall submit such changes to the Board for approval. Notwithstanding the foregoing, the Board acknowledges that the Zoning Administrator shall have the authority to approve minor changes to the Plans on behalf of the Board.

6. The Applicant shall seek approval from Mass. Highway for the following additional mitigation:

(a) Traffic signals proposed for the main entrance to the site and the existing lights at Cushing Street shall be sequenced for maximum safety and efficiency.

(b) Per request of the Police Department and A.G. Edwards, a direct abutter across Derby Street from the site, right turn on red lights shall be prohibited from Cushing Street to Whiting Street during peak morning commuting hours.

In the case that such initial improvements are not initially warranted by Mass. Highway standards, the Town may, from time to time, request that the Applicant submit the appropriate permit applications to Mass. Highway. If requested by the Town, the Town shall be a co-applicant in that the Town will have standing and opportunity to present such evidence as the Town may deem fit to support such application(s).

7. Applicant shall provide and install Opticom equipment (or comparable alternative equipment as directed by the Fire Department) at the traffic signals proposed for the main entrance to the site and at the existing lights at Cushing Street.

8. During the construction period, the Applicant shall exercise diligent efforts to provide temporary directional signs sufficient to ensure that construction vehicles' use of residential roads is minimized, and shall also exercise diligent efforts to keep both on-site and off-site roadways clean from construction debris and dust.

9. If at any time in the opinion of the Building Commissioner on-site snow storage is materially interfering with the Premises' need for on-site parking, the Applicant shall be obligated to remove the snow to an off-site location.

10. There shall be no tent sales or other promotions in parking areas at the Premises that may reduce the number of available parking spaces at the Premises.

11. The Applicant shall not allow any outdoor display of merchandise to the extent the same interferes with pedestrian access on or about the Premises.

B. SIGNAGE

The Board voted to grant the Applicant's requested Special Permits and Variances from the provisions of Section V-B of the Zoning By-law, subject to the following conditions:

1. Subject to item number 4 below relating to the pylon sign, this Decision incorporates the two documents entitled "Supplemental Sign Regulations for Derby Street Shoppes" and "Tenant Sign Design Criteria", each dated as of January 30, 2003 and prepared by ADD Inc., and the renderings submitted by the Applicant therewith (collectively, the "Sign Package") submitted by the Applicant to the Board. All signage at the Premises shall be consistent with the Sign Package. Except for the signage relief expressly granted in this Decision, the Applicant's signage for the Project shall at all times comply with both the requirements of the Zoning Bylaw and the Sign Package. To the extent that any provisions of the Zoning Bylaw and the Sign Package conflict, the more restrictive of the two shall govern.
2. To the extent that any tenant elects to use multiple building signs of the types described in the Sign Package, the aggregate area of such signs on any particular frontage may not exceed the "10% of wall area" requirement of the Zoning Bylaw.
3. The Variance allowing additional signage on the building facing Route 3 shall be limited to a maximum of four (4) tenant building signs, which otherwise shall comply with the requirements of the Zoning Bylaw.
4. This Decision does not grant any relief with respect to the existing pylon sign located at the Derby Street entrance to the shopping center, nor does it adopt any plans or specifications for the pylon sign contained in the Sign Package. At the Applicant's Request, the Board has continued the hearing process solely with respect to the relief requested for this pylon sign, and any action to be taken by the Board in that regard will be evidenced by a subsequent Decision.

MODIFICATIONS TO PHASE I DECISION:

The Phase I Decision is hereby amended as follows:

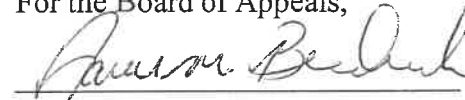
1. The Project plans were revised on one or more occasions after October 1, 2002 as a result of the Applicant's ongoing discussions with Town representatives, consultants and abutters. Accordingly, the "Plans" referenced in the Phase I Decision shall hereafter be deemed to refer to the Plans identified on Schedule A attached hereto and incorporated herein.
2. There is a typographical error on Page 7 of the Phase I Decision. Item 1 under the subheading "Lot Coverage Variance" should, and is hereby amended to, read as follows:

"1. The maximum building coverage for the Project shall be 21.81%."

The zoning relief granted herein shall not become effective until (i) the Town Clerk has certified on a copy of this Decision that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and (ii) a copy hereof has been duly recorded (indexed in the grantor index under the name of the owner of record of the Premises) with the Plymouth County Registry of Deeds.

February 6, 2003

For the Board of Appeals,


James M. Broderick

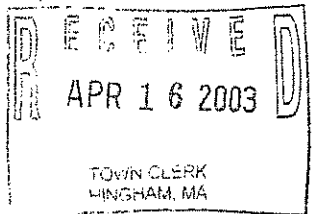
SCHEDULE A

PLANS

Title	Date, Rev, Date	Preparer
Cover Sheet	May 2, 2002, rev. 12/20/02	BSC Group
Existing Conditions, Sheet 2	May 2, 2002, rev. 12/20/02	Scott MacDonald, PLS
Existing Conditions, Sheet 3	May 2, 2002, rev. 12/20/02	Scott MacDonald, PLS
Existing Conditions, Sheet 4	May 2, 2002, rev. 12/20/02	Scott MacDonald, PLS
Layout Plan, Sheet 5	May 2, 2002, rev. 12/20/02	BSC Group
Layout Plan, Sheet 6	May 2, 2002, rev. 12/20/02	BSC Group
Grading Plan, Sheet 7	May 2, 2002, rev. 12/20/02	BSC Group
Grading Plan, Sheet 8	May 2, 2002, rev. 12/20/02	BSC Group
Utility Plan, Sheet 9	May 2, 2002, rev. 12/20/02	BSC Group
Utility Plan, Sheet 10	May 2, 2002, rev. 12/20/02	BSC Group
Landscaping Plan, Sheet 11	May 2, 2002, rev. 12/20/02	BSC Group
Landscaping Plan, Sheet 12	May 2, 2002, rev. 12/20/02	BSC Group
Details, Sheet 13	May 2, 2002, rev. 12/20/02	BSC Group
Details, Sheet 14	May 2, 2002, rev. 12/20/02	BSC Group
Details, Sheet 15	May 2, 2002, rev. 12/20/02	BSC Group
Layout and Grading Plan	September 20, 2002, rev. 11/5/02	BSC Group
Future Employee Parking Expansion Plan	September 20, 2002, rev. 11/5/02	BSC Group

TOWN OF HINGHAM
BOARD OF APPEALS

210 Central Street
Hingham, MA 02043-2759



Telephone: (781) 741-1494
FAX: (781) 740-0239

IN THE MATTER OF:

Applicant: W/S/M Hingham Properties, LLC
c/o WS Development
1330 Boylston Street
Chestnut Hill, Massachusetts 02167

Premises: 100 Derby Street
Hingham, Massachusetts 02043
Book 9552, Page 31, Book 16895, Page 1 and Book 16895, Page 6

SUMMARY OF PROCEEDINGS:

This matter came before the Board on the application of W/S/M Hingham Properties, LLC ("Applicant") in connection with the Applicant's desire to expand and improve the existing shopping center on the Premises, presently known as "Hingham Plaza". The Applicant has requested the following zoning relief from the Board: (i) a Variance from the maximum lot coverage restriction of Section IV-A of the Zoning Bylaw; (2) a Special Permit A-2 and site plan review pursuant to Section III(E)(5)(b) to allow, within the South Hingham Development Overlay District, a retail group (III-A, 4.17), a sit down restaurant (III-A, 4.9A), and a bank automated teller machine (III-A, 4.11); (3) a parking waiver pursuant to Section V-A; (4) a Special Permit A-1 with Variances from Section V-B to display multiple building and ground signs, and (5) a Special Permit A-2 for earth removal.

A public hearing was duly noticed and held on Thursday July 11, 2002, and continued on August 1, 2002, September 5, 2002, October 10, 2002, November 7, 2002, December 5, 2002, January 5, 2003, January 30, 2003 and March 20, 2003. The public hearings and deliberations were conducted by a panel consisting of regular members Mario Romania, Jr., and Jerry Seelen, and associate member James Broderick. Mario Romania, Jr. served as Chairman.

BACKGROUND:

The Petitioner proposes additional retail and restaurant space and related improvements to the Premises, which is currently operated as a retail shopping center. The Premises, heretofore known as Hingham Plaza, was originally developed in the late 1950's and early 1960s. The parcel as it presently exists, with the possible exception of the recently renovated Kohl's building, is a 1950's style shopping center, and consists of approximately 309,990 square feet of retail space.

The Applicant's proposed redevelopment of the site (hereinafter, the "Project"), to be known as the "Derby Street Shoppes", involves the transformation of the Premises into a 424,500 square foot "lifestyle" shopping

center, and would include significant on-site and off-site traffic, parking and utility improvements. Upon completion, the Project would be comprised of 371,200 s.f. of retail space, and 53,300 s.f. of restaurant space.

By its Decision dated December 12, 2002 (the "Phase I Decision"), the Board addressed and granted, with conditions, the following two types of relief requested by the Applicant: (1) the Variance from the maximum lot coverage restriction of Section IV-A of the Zoning Bylaw, and (2) the parking waiver under Section V-A of the Zoning Bylaw. At its November 7, 2002 hearing, at the Applicant's request, the Board voted on the two aspects of the requested zoning relief addressed in the Phase I Decision and continued the hearings with respect to the other areas of relief requested.

By its Decision dated February 6, 2003 (the "Phase II Decision"), the Board addressed and granted, with conditions, the following relief requested by the Applicant: (1) the Special Permit A-2 and Site Plan Review for the Project, and (2) certain Special Permit A-1's and Variances relating to signage for specific tenant buildings and the shopping center as a whole. At its January 30, 2003 hearing, at the Applicant's request, the Board voted on the aspects of the requested zoning relief addressed in the Phase II Decision, and continued the hearings solely with respect to the Applicant's requested relief relating to the pylon sign for the Project. This Decision (the "Phase III Decision") addresses the Applicant's requested Variances relating to the Project's pylon sign located at the entrance to the shopping center on Derby Street.

The final pylon sign plans (hereinafter the "Plans") submitted by the Applicant and reviewed by the Board for purposes of this Phase III Decision are identified on Schedule A attached hereto and incorporated herein.

The Hingham Plaza shopping center has for years utilized an internally illuminated pylon sign located at the entrance to the shopping center on Derby Street. The existing pylon sign is currently (legally) nonconforming, because it exceeds the maximum size permitted for a pylon sign within the Industrial Park District as set forth in Section V-B of the Zoning Bylaw and, as mentioned above, because it is internally illuminated, which is no longer permitted by Section V-B of the Zoning Bylaw.

The Applicant intends to modify the existing pylon sign in connection with the redevelopment of the shopping center. Pursuant to Section V-B(7) of the Zoning Bylaw, a legally nonconforming sign loses its legal nonconforming status if it is "enlarged, redesigned or altered." Accordingly, the Applicant needs zoning relief if it desires to continue to utilize any currently nonconforming aspects of the existing pylon sign.

REQUESTED RELIEF:

A. VARIANCE FROM MAXIMUM AREA AND HEIGHT LIMITATION

The Applicant desires to continue use of the pylon sign in its current dimensions. Because Section V-B(7) of the Zoning Bylaw requires that the pylon sign as altered comply with the requirements of the Zoning Bylaw, the Applicant has requested a Variance from the Maximum Area and Maximum Height restrictions set forth in Section V-B(3)'s Schedule of Sign Regulations with respect to the pylon sign.

B. VARIANCE TO ALLOW INTERNAL ILLUMINATION

Again, because the existing pylon sign is being altered, and therefore loses its legally conforming status, the Applicant has requested a Variance from Section V-B(3)'s prohibition of internally illuminated signs in order to continue to use internal illumination for the Project's pylon sign.

FINDINGS:

A. AREA AND HEIGHT VARIANCE

The Board found that the size of the existing pylon sign was appropriate in light of the unique nature of the business it was intended for. The Board found that the sign regulations applicable to the Industrial Park District do not adequately anticipate, and are not practical in application to, a large, multi-tenanted shopping center such as this Project. In addition, the difficult sight lines and significant traffic volume along Derby Street make it desirable for the Project's pylon sign to be of sufficient size and height to adequately inform motorists of the approaching shopping center entrance. The Board found that this requested signage relief was reasonable for the scope of the Project, and that it would not be detrimental to the surrounding area.

Accordingly, the Board found that, owing to circumstances relating to shape and topography of the Premises and the abutting roadways, which are unique to the Premises and are not common to the Industrial Park District as a whole, a literal enforcement of the Zoning Bylaw's maximum area and height limitations for pylon signs would involve substantial hardship to the Applicant, and that the requested relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

B. INTERNAL ILLUMINATION

The Applicant proposed three alternative approaches to illumination for the pylon sign, as shown on the Plans. The first two, referred to as "Surface Illumination" and "Halo", respectively, are permitted as of right under the Zoning Bylaw, and therefore require no separate zoning relief. The third alternative, referred to as "Halo/Acrylic Halo", does involve internal illumination, and therefore the Board concluded that this approach could only be permitted by the grant of a Variance. The Board acknowledged that the "Halo/Acrylic Halo" approach is substantially similar to the "Halo" approach, and that it has advantages over the "Halo" approach including easier maintenance and enhanced visibility. However, the Board ultimately found that, in recognition of the Zoning Bylaw's clear prohibition of internal illumination, a Variance to allow the Applicant to adopt the "Halo/Acrylic Halo" alternative could not be justified.

RULINGS AND DECISION:

At the conclusion of the written and oral testimony received at the hearings, and on other information available to the Board, the Board took the following actions:

A. AREA AND HEIGHT VARIANCE

The Board voted to grant the Applicant's requested Variances from the provisions of Section V-B(3) of the Zoning Bylaw to allow the alteration of the existing pylon sign in accordance with the Plans.

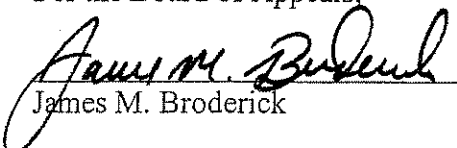
B. INTERNAL ILLUMINATION

The Board voted to deny the Applicant's requested Variance to allow internal illumination of the subject pylon sign.

The zoning relief granted herein shall not become effective until (i) the Town Clerk has certified on a copy of this Decision that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and (ii) a copy hereof has been duly recorded (indexed in the grantor index under the name of the owner of record of the Premises) with the Plymouth County Registry of Deeds.

For the Board of Appeals,

April 15, 2003


James M. Broderick

SCHEDULE A

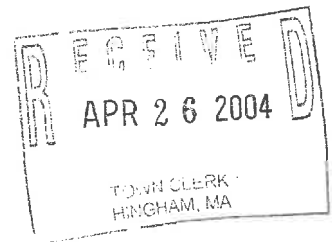
PYLON SIGN PLANS

Plans prepared by ADD Inc. dated March 17, 2003 consisting of the following:

1. Existing Pylon Sign
2. New Pylon Sign Details
3. New Pylon Sign Options (3 sheets)



**TOWN OF HINGHAM
BOARD OF APPEALS**



NOTICE OF DECISION

**MODIFICATION TO SPECIAL PERMIT AND VARIANCE SITE PLAN
DATED FEBRUARY 10 AND APRIL 16, 2003**

Applicant
and Property Owner:

W/S/M Hingham Properties, LLC
S. R. Weiner and Associates, Inc.
1330 Boylston Street, Chestnut Hill, MA 02167

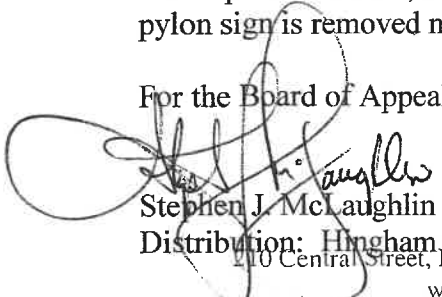
Premises:

Derby Street Shoppes
100 Derby Street, Hingham, MA 02043

At its regularly scheduled and posted meeting on April 8, 2004 the members of the Board of Appeals (Messrs Stephen McLaughlin, Mario Romania, Jr. and Robert Bersani constituting the panel) considered the requests for minor modification contained in a letter dated April 2, 2004 from Robert L. Devin, attorney, on behalf of the owner. The Board's initial site plan review included review of the promotional materials planned for shopping center, and the Applicant prepared a sign protocol for building signs for the members' approval. The protocol was adopted and incorporated in the Board's February 6, 2003 decision. As the tenants have presented actual sign plans to the developer, it has become apparent that the protocol is deficient in certain minor ways, for example in the allowance for sign area for tenants at the corners of buildings and in the provisions made for signs underneath the walkway area of the Pavilion Building. Rather than bring multiple "exceptions" to the Board as modifications to the original protocol, the Applicant has proposed the revision that accompanied Attorney Devin's letter. The second request is to clarify the actual construction sequence and location for the pylon sign on Derby Street at the main entrance. Because certain stores are open during the construction period and others will come on line in advance of the full center opening, the Applicant would like to construct the new sign while maintaining the existing pylon sign in place. The new pylon will be located in compliance with the 10' zoning setback, and its size and height have already been approved by the variance decision dated April 15, 2003.

The members accepted both proposals as neither significant nor material to the overall shopping center permits issued, and voted unanimously to approve both requests, provided that the current pylon sign is removed not later than 30 days following the new center's grand opening date.

For the Board of Appeals,



Stephen J. McLaughlin

Date:

4/22/04

Distribution: Hingham Town Clerk, Building Commissioner, R. Devin, Esq.

110 Central Street, Hingham, MA 02043-2759 • Telephone: (781) 741-1494 • Fax: (781) 740-0239

www.hingham-ma.com • email: mjsultz@hingham-ma.com





TOWN OF HINGHAM

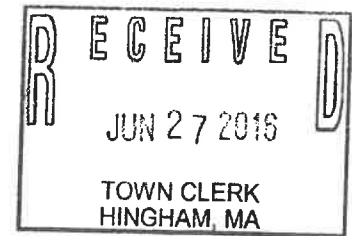
Board of Appeals

NOTICE OF DECISION VARIANCE MODIFICATION

IN THE MATTER OF:

Applicant and
Property Owner: W/S/M Hingham Properties, LLC
33 Boylston Street
Chestnut Hill, MA 02467

Premises: Derby Street Shoppes
90 Derby Street
Hingham, MA 02043



Deed Reference: Plymouth County Registry of Deeds, Book 30816, Page 261

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of W/S/M Hingham Properties, LLC (the "Applicant") to modify the Derby Street Shoppes Signage Criteria, originally authorized by both a Special Permit A1 and Variance, dated February 10, 2003, as amended (the "Original Decision"), and specifically to revise the eligibility criteria for "Highway Frontage Signs" from 10,000 SF tenants to 7,000 SF tenants to allow Legal C Bar to install an additional sign at 90 Derby Street in the Industrial Park and South Hingham Development Overlay District.

The Board opened hearing on a related Special Permit A1 Modification application on April 11, 2016. During the hearing, the Board informed the Applicant that the relief could not be authorized by Special Permit. The Applicant then filed a revised application requesting a Variance Modification, which the Board heard at a duly advertised and noticed public hearing on May 2, 2016. At the conclusion of the hearing, the Board voted unanimously to grant the requested relief.

The Board of Appeals panel consisted of its regular members Joseph M. Fisher, Chairman, Joseph W. Freeman, and Robyn S. Maguire. The Applicant was represented by Attorney Robert L. Devin, Derby Street Shoppes General Manager Bill Hamilton, and WS Development Project Manager Andrew Manning.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND AND DISCUSSION

The Original Decision for the Derby Street Shoppes included multiple forms of relief. Through variances and special permits, the Board and the Applicant crafted unique signage regulations for the shopping center. One of the signs permitted under these Criteria is a "Highway-Frontage Sign." Tenants occupying a minimum of 10,000 GFA within 150' of Route 3 are allowed to mount a wall sign with a maximum height of 42" and maximum length of 20' on a secondary building wall. The Applicant requested modification of these criteria to allow a 7,000 GFA tenant to install a Highway-Frontage Sign. The Applicant represented to the Board that Legal C Bar would be the only additional tenant that would benefit from the Modification.

As noted above in the Procedural Summary, the Board determined during the initial hearing that Highway Frontage Signs were initially allowed through variance as opposed to special permit. Footnote 4 to the Schedule of Sign Regulations under § V-B limits the maximum number of wall signs permitted for each business establishment in a multi-tenant building to one. The footnote also suggests that business establishments with more than one public entrance may install a secondary sign, but only if the secondary sign is a maximum of half the primary sign's area.

FINDINGS AND DECISION

Based on the information submitted with the application and presented during the hearing, the Board found that the proposed modification to the eligibility criteria for Highway Frontage Signs would not affect the specific findings made by the Board in conjunction with its Original Decision for the Derby Street Shoppes Signage Criteria. Additionally, the Board found the Special Permit A1 Modification application to be withdrawn by the revised Application for Hearing Form 2 filed with the Town Clerk on April 14, 2016.

Upon a motion made by Robyn S. Maguire and seconded by Joseph W. Freeman, the Board voted unanimously to APPROVE the requested Variance Modification to revise the eligibility criteria for "Highway Frontage Signs" from 10,000 SF tenants to 7,000 SF tenants, allowing Legal C Bar to install an additional sign at 90 Derby Street, subject to the following conditions:

1. No additional Highway Frontage Signs, including Legal C Bar's, shall be installed unless the proposed plans and specifications are submitted to the Board for review and approval at a regularly posted public meeting prior to application for a Building Permit.
2. Highway Frontage Signs must conform to the requirements under § V-B of the By-Law, except to the extent that the regulations have been previously modified by the Derby Street Shoppes Signage Criteria.
3. Unless specifically modified by this Decision, all other conditions and limitations of the

Original Decision and the Derby Street Shoppes Signage Criteria shall remain in effect.

This decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded with the Plymouth County Registry of Deeds and/or the Plymouth County Land Court Registry, and indexed in the grantor index under the name of the record owner or is recorded and noted on the owner's certificate of title.

For the Board of Appeals,



Joseph W. Freeman

June 27, 2016



TOWN OF HINGHAM

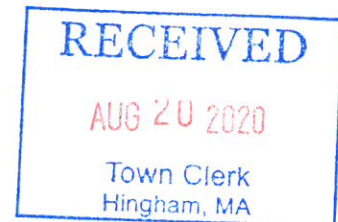
Board of Appeals

NOTICE OF DECISION SPECIAL PERMIT

IN THE MATTER OF:

Applicant/Owner: W/S/M Hingham Properties LLC
33 Boylston Street
Chestnut Hill, MA 02467

Agent: Attorney Robert L. Devin
Devin, Barry & Austin, P.C.
80 Washington Street, Bldg S
Norwell, MA 02061



Premises: 90-100 Derby Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 30816, Page 261 and
Book 24538, Page 298

Plans and Submittal References:

- Plan set entitled, "Derby Street Shops Expansion, 100 Derby Street in Hingham Massachusetts," prepared by BSC Group, 803 Summer Street, Boston, MA, dated March 9, 2018 and revised through July 13, 2018 (11 sheets), including a Layout & Material Plan (Sheet C-103), Grading & Drainage Plan (Sheet C-104), and Utility Plan (Sheet C-105), revised through September 10, 2018
- Traffic Management and Parking Plan, Derby Street Shops, Hingham, Massachusetts, Dated September 13, 2018, revised to November 29, 2018
- Restricted Use Plan with respect to Fitness Use, Outdoor Event, and Existing Financial Use Areas, dated March 9, 2020
- Technical Memorandum, dated October 29, 2019, prepared by Desman Design Management
- Shared Parking Models, submitted by Derby Street Shops on October 29, 2019, revised to March 8, 2020

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of W/S/M Hingham Properties, LLC (the "Applicant") for a Modification of the Special Permit A2 Decision, originally issued December 13, 2002, as amended, under § III-A, 4.17 of the Zoning By-Law (the "By-Law") and such other relief as necessary to allow all uses provided as subsets of the Shopping Center use in addition to the following uses under § III-A: 3.3 Private School, 3.4 Nursery School, 3.8A Clinic, 4.13 Commercial Outdoor Amusement, and § V-E Personal Wireless Service Facility to locate within the Derby Street Shops. The Applicant also submitted, and the Board simultaneously heard, a request to modify the Special Permit A1 and Variance Decision, originally issued February 10, 2003, as amended, under § V-B of the Zoning By-Law and such other relief as necessary in order to update the applicable Signage Criteria at 90-100 Derby Street in the Industrial Park and South Hingham Development Overlay Districts.

The Applicant additionally filed a related application with the Planning Board for Site Plan Review under § I-G and § I-I of the By-Law, along with an application for a Special Permit A3/Parking Determination under § V-A of the By-Law. The Boards' respective proceedings took place separately. The Planning Board voted on June 18, 2020 to conditionally approve the applications within its jurisdiction.

The Board opened the initial, duly noticed public hearing on the applications during a meeting held in Hingham Town Hall on November 19, 2019, but continued the matter without the receipt of testimony. Substantive sessions of the hearing were held on December 2, 2019, December 17, 2019, and January 13, 2020. Pursuant to (1) the Order issued by the Governor of Massachusetts, dated March 12, 2020, Suspending Certain Provisions of the Open Meeting Law and applicable provisions of the Open Meeting Law found at 940 CMR 29 et seq., the Board also held substantive hearings on the matter by remote participation on June 23, 2020 and June 30, 2020. The Board panel consisted of regular member Paul K. Healey, Acting Chairman, and associate members Joseph Ruccio and Andy Touchette. The Applicant was represented during the hearings by Victoria Maguire, Development Manager, WSDDevelopment, and Sherri D'Alessandro Schuler, General Manager of the Derby Street Shops. Attorney Robert Devin also appeared to represent the Applicant. During the hearing, the Applicant modified the request to eliminate the inclusion of Uses 3.3 (Private School), 3.4 (Nursery School) and 4.13 (Commercial Outdoor Amusement). At the conclusion of the hearing, the Board voted unanimously to grant the requested relief and permits, as modified during the hearing process by the Applicant, with conditions set forth below.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND AND DISCUSSION

The application generally seeks to (i) clarify and update the allowed uses within the Shopping Center and (ii) consolidate seventeen years of special permit modifications, and relevant conditions of approval, into a single permit.

Use Modification

The original Special Permit for the Derby Street Shops allowed a "Retail Group," which at the time was a use allowed by Special Permit with Site Plan Review under the South Hingham Development Overlay District. The By-Law has since been amended by replacing the use "Retail Group" with "Shopping Center." The By-Law provides that Shopping Centers may consist of a mix of uses, including retail stores, commercial service establishments, restaurants, professional offices, financial institutions, indoor amusement or health clubs, hotels, and gas stations. However, the initial Special Permit for the Derby Street Shoppes referenced only retail and restaurant uses. Additional uses have been permitted by the Board on a case-by-case basis since the issuance of the original permit. A summary of the more significant allowances follows:

In 2009, the Board issued a Modification specifically allowing a Health Club, consisting of a yoga studio with retail (Use 4.12A), to occupy a 2,105 SF, second floor space within the shopping center. The Dancing Crow Yoga Studio operated pursuant to the Modification from 2009 and 2013 with a maximum capacity of 50 persons.

In 2013, the Applicant sought a minor modification of the original Special Permit to allow a Financial use (Use 4.10), Charles Schwab, to occupy existing tenant space. The Board approved the request, but noted in the decision that the approval could not be viewed as a "precedent allowing any such future application."

In 2016, the Applicant sought further modification of the Special Permit to allow a second financial use, Capital One, and a related 48-seat cafe, to occupy two retail tenant spaces.

In 2017, the Board issued a modification of the original Special Permit to add Health Clubs to the mix of permitted uses within the Derby Street Shops, as allowed within the Shopping Center use category. The allowance was limited to three locations and a maximum capacity of 75 persons (up from the 50 person maximum established for the Dancing Crow Studio). The Decision also restricted health clubs from leasing space in particular areas of the center, specifically within the Whole Foods side of the Pavilion Building and near the Apple Store, so that parking is able to turnover more frequently in these higher-demand parking areas.

In June 2019, the Board allowed another Financial Institution, Chase Bank, to locate at Derby Street Shops. The Decision included a condition that not more than 2.72% of the gross leasable floor area of the Shopping Center be occupied by Financial Institution, nor more than 4 Financial Institutions be permitted within the Shopping Center.

During each prior hearing process, the Applicant emphasized that a lack of flexibility in terms of allowed uses limited its ability to respond in a timely way to a changing retail industry. Board members in turn expressed some level of frustration about repeated modification requests. Staff also noted apparent discrepancies between the permitting processes required for different

subsets of the Shopping Center use. While inclusion of Health Clubs and Financial Institutions triggered a formal hearing process, Consumer Service Establishments, such as hair salons, located at Derby Street Shops without any modification process. The present application seeks to address all of these concerns, while still maintaining certain controls worked out through prior modifications. These include the cap on Financial Institutions and location limitations for Health Clubs.

Other Requested Uses

The Applicant additionally requests approval to locate other uses allowed within the Industrial Park District, but not contemplated as a specific use within a Shopping Center. The proposed additional uses follow:

Use 3.8A (Clinic) – During the hearing, the Board considered whether this use would be universally compatible with other permitted uses within a Shopping Center. A Clinic operated in connection with a pharmacy may be an appropriate use for the Derby Street Shops. Conversely, a clinic offering treatment for drug addiction may not. The Applicant noted that this particular request is more related to cosmetic or health related clinics or accessory uses to a potential pharmacy.

V-E (Personal Wireless Service Facility) – The Applicant requested approval to install antennas on existing light poles in order to improve cell service for customers visiting the Shopping Center.

As noted in the Procedural History, the Applicant modified the request to eliminate Use 3.3 (Schools, Private) since the intended educational uses, such as language, painting, and calligraphy classes, would instead be permitted under Use 4.2 (Consumer Service Establishment), which is an allowed subset of a Shopping Center. The Applicant likewise withdrew from consideration Use 3.4 (Nursery School/Daycare). The Applicant indicated that any prospective tenants that fall under this use would be subject to its own Special Permit A2 application and further modification of this Special Permit. Finally, Use 4.13 (Commercial Outdoor Amusement) was withdrawn since the use is not permitted as either a subset of the Shopping Center or within the Industrial Park District. A Commercial Outdoor Amusement would therefore require a use variance.

Accessory Uses

The application includes a request to allow accessory community events to be held in common areas, not including parking lots, within the Shopping Center. The existing Special Permit, as modified, contemplated such events, though these are largely limited to the “green” between REI and Kohls or the Hidden Pond (ice skating/movies). The Applicant asks instead that the Board allow such events to similarly be located elsewhere in the Shopping Center as long as a clear and accessible pedestrian route is maintained.

In connection with this request, staff noted Derby Street Shops and Town Hall departments had

informally developed an administrative review process for special events to ensure public safety and accessibility. The review is conducted by the Zoning Administrator, Building Commissioner, Fire Prevention Officer, Police Department and, if food and/or alcoholic beverages are to be served, the Board of Health and Licensing Commission/Selectmen. The Board committed to maintaining this review for all authorized "Outdoor Programming Areas" identified on the Restricted Use Plan, dated March 9, 2020, through imposition of appropriate conditions.

The Applicant additionally asks the Board to clarify whether temporary outdoor display of merchandise is permitted. A 2003 Special Permit Modification included the following condition: "No outdoor display of merchandise to the extent the same interferes with pedestrian access on or about the Premises." Whole Foods has maintained an outdoor display area at its main entrance with no reported problems. The Applicant indicated that REI and other retailers may also periodically display merchandise on sidewalks. No parking spaces would be displaced by outdoor displays. The Applicant also agreed that a minimum 6'-wide pedestrian path would be maintained when locating temporary outdoor displays.

Traffic Impacts

The Planning Board engaged a traffic engineer, Jeffrey Dirk of Vanasse & Associates, Inc., to peer review the submitted plans. The Planning Board imposed conditions in its permits to address any concerns related to the proposed dynamic parking model, including a limit on the term of the Special Permit A3 to 3 years. Additionally, the Traffic Management and Parking Plan approved in connection with the approved Building 5 expansion project shall be incorporated by reference into all permits so that it remains in effect.

Dimensional Regulations

Applicable intensity regulations for Retail Groups in the underlying Industrial Park District limited the use to a maximum 20% building coverage, whereas 40% building coverage is permitted for other development. The original Decision for Derby Street granted relief from this requirement to allow up to 22% building coverage. Through the incorporation of additional land area in 2018, the property was brought closer to the Retail Group standard such that the overall development post construction of Building 5 (approved to be located proximate to the Rite Aid) would have a building coverage of 20.8%. To the extent that the By-Law has since been amended by replacing the Retail Group use with "Shopping Center," the Board agreed that the original Variance can be vacated as the limitation is no longer applicable.

FINDINGS

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting, the Board made the following findings:

1. That the proposed modifications do not materially affect the findings made in connection with the Special Permit A2 Decision, originally issued December 13, 2002, as amended, under § III-A, 4.17 of the Zoning By-Law.
2. The additional uses proposed under § III-A: 3.8A (Clinic) and § V-E (Personal Wireless Service Facility), which are allowed in the Industrial Park District, are compatible with principal use under § III-A, 4.17 (Shopping Center).
3. That the amendment and restatement of the prior Decisions to reflect all conditions currently in force and effect as of the date hereof is in the interest of the project and the Town of Hingham inasmuch as it will allow for the efficient review of project compliance with such conditions.

DECISION

Upon a motion made by Jed Ruccio and seconded by Andy Touchette, the Board voted unanimously to amend and restate the Special Permit A2 Decision, originally issued December 13, 2002, as amended, under § III-A, 4.17 of the By-Law, and to grant a Special Permit A2 allowing the additional uses under § III-A: 3.8A Clinic and § V-E Personal Wireless Service Facility within the Derby Street Shops Shopping Center at 90-100 Derby Street in the Industrial Park and South Hingham Development Overlay Districts, subject to the following limitations and conditions:

1. The Applicant shall operate the property in accordance with the approved plans and representations made to the Board in the application and during the public hearing, modified as follows:
 - a. The following subsets under § III-A, 4.17 (Shopping Center) shall be allowed by-right: Use 4.1 (Retail store); Use 4.2 (Craft, consumer, or commercial service establishments); Use 4.9A (Sit-down restaurant); Use 4.9B (Fast-food/Take-out restaurant); Use 4.18 (Retail sale of alcoholic beverages);
 - b. The following subsets under § III-A, 4.17 (Shopping Center) shall be allowed with limitations:
 - i. Use 4.11 (Bank or other financial institution), provided that not more than 2.72% of the gross leasable floor area of the Shopping Center shall be occupied by a bank or other financial institution, nor shall more than four banks/other financial institutions/ATMs be permitted within the Shopping Center;
 - ii. Use 4.12 (Commercial indoor amusement or recreation place or place of assembly) shall not include a movie theater;
 - iii. Use 4.12A (Health club), provided that health clubs shall not be located in those areas identified on the Restricted Use Plan, dated March 9, 2020; and
 - iv. Use 5.1 (Automotive "filling" station or service station) only to the extent that this use consists of electric charging stations.

- v. The following subsets under § III-A, 4.17 (Shopping Center) shall not be permitted: Use 4.10 (Business or professional offices or agencies) and Use 4.16 (Hotel or motel).
- vi. Use 3.8A (Clinic) shall be allowed within the Shopping Center only to the extent that the use is operated in connection with a consumer service establishment (i.e. spa or med spa) or a retail store (i.e. pharmacy or drug store).
- vii. Personal Wireless Service Facilities on Host Structures shall be permitted, subject to the requirements under § V-E, 8, provided however, that Roof-Mounted Personal Wireless Service Facilities shall not be permitted.
- viii. Personal Wireless Service Facilities within Host Structures shall be permitted, subject to the requirements under § V-E, 9.

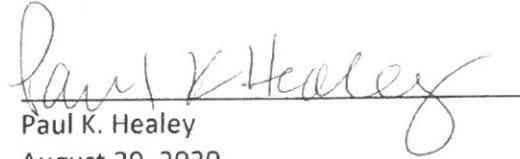
The Building Commissioner may refer any building, occupancy, or change of use permit to the Zoning Administrator for a determination of compliance with the above referenced uses, as allowed, modified, or limited. Any of the above limitations may, upon application or by referral of the Zoning Administrator, be further modified through issuance of a Special Permit A2 by the Board.

- 2. Community events shall be confined to the "Outdoor Programming Areas" identified on the Restricted Use Plan, dated March 9, 2020, provided that any sidewalks are maintained at a minimum 6'-width. This condition shall not limit tenants from holding periodic events (i.e. book readings, story hours, musical programming) within interior space. A layout plan shall be presented to the Zoning Administrator, Building Commissioner, Fire Prevention Officer and Police Chief for administrative review to ensure public safety and accessibility standards a minimum of 14 days prior to the scheduled event.
- 3. Temporary outdoor displays shall be permitted, provided that sidewalks are maintained at a minimum 6'-width.
- 4. The Applicant shall complete installation of the raised traffic island and/or other improvements intended to prevent left-turn maneuvers from the Service Road onto Derby Street prior to issuance of an Occupancy Permit for the expansion of Building 5.
- 5. In accordance with the provisions of the By-Law, the conditions imposed in the Planning Board Site Plan Review Decision, as voted on June 15, 2020, are binding conditions to this decision of the Zoning Board of Appeals.

This decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded with the Plymouth County Registry of Deeds and/or the

Plymouth County Land Court Registry, and indexed in the grantor index under the name of the record owner or is recorded and noted on the owner's certificate of title.

For the Board of Appeals,

A handwritten signature in cursive script, reading "Paul K. Healey", written over a horizontal line.

Paul K. Healey
August 20, 2020



TOWN OF HINGHAM

Board of Appeals

RECEIVED

MAY 12 2022

Town Clerk
Hingham, MA

NOTICE OF DECISION

IN THE MATTER OF:

Applicant/Owner: W/S/M Hingham Properties LLC
33 Boylston Street, Suite 3000
Chestnut Hill, MA 02467

Agent: Victoria Maguire, Director of Development
WS Development
33 Boylston Street, Suite 3000
Chestnut Hill, MA 02467

Premises: 90-100 Derby Street & 124 Old Derby Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 30816, Page 261 and
Book 24538, Page 298

Plans Reference: "Derby Street Shops, Tenant Sign Criteria," Final Amended Version
- Dated April 27, 2022

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of W/S/M Hingham Properties, LLC (the "Applicant") to update a Special Permit A1 under § V-B of the Zoning By-Law and such other relief as necessary to update the signage criteria to use logos on signage and to provide additional clarity to decision making around signage size at Derby Street Shops in Industrial Park / South Hingham Development Overlay Districts.

Pursuant to the Board's Rules and Regulations, the application was heard by the Zoning Administrator, Jennifer Oram, at a duly noticed public hearing held remotely on April 26, 2022, via Zoom, as an alternative means of public access pursuant to Chapter 20 of the Acts of 21, suspending certain provisions of the Open Meeting Law. The Applicant, Victoria Maguire, Director of Development for WS Development, and Caroline Hessberg, General Manager of the Derby Street Shops, appeared during the public hearing to represent the request.

At the conclusion of the hearing, the Zoning Administrator granted the requested modification to the Special Permit.

BACKGROUND & DISCUSSION

The Board amended and restated Special Permit A1 and Variance Decisions, originally issued February 10, 2003, and amended again on December 1, 2020, in order to modify the Tenant Signage Criteria approved for the Derby Street Shops. The present application seeks further modification to the Special Permit A1 to update the Signage Criteria to allow the use of logos as part of their tenant's signage, and to provide additional clarity to guide decision making around signage size, as well as decal size, and adding additional building Number 500 to the signage criteria.

At the hearing, the Applicant, Ms. Maguire, noted that the Tenant Signage Criteria has become an extremely helpful guiding document for them to work from, and then reviewed the requested modifications. The first was to add Building number 500 to the Signage Criteria as it is not currently included. Building 500 previously held the Rite Aid Pharmacy, and is presently under renovation. The new lay out will open up space to two new tenants in the Derby Street Shops.

The Applicant would also like to now allow logos for tenants who consider logos as part of their branding. Logos are currently not permitted under the existing Signage Criteria. The Applicant has seen an increase in requests from existing and new tenants who want the ability to have a logo as part of their signage. During the discussion at the hearing, it was agreed upon that the logo size would be controlled by the existing lettering dimensional requirements.

The Applicant also requested continued flexibility of logos/branding on awnings, and the ability to approve temporary window decals that would be larger than that what are allowed permanently. All logos and decals would be considered on a case by case basis and the applicants would keep the Town apprised of these requests from their tenants.

FINDINGS

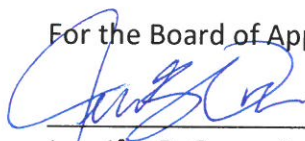
Based on the information submitted and presented during the hearing, and the deliberations and discussions held during the meeting, the Zoning Administrator made the following findings:

1. That the proposed modifications do not materially affect the findings made in connection with the Special Permit A1, originally issued February 10, 2003, and amended on December 1, 2020, under § V-B of the By-Law.
2. That the amendments and restatement of the prior Decisions to reflect all conditions currently in force and effect as of the date hereof is in the interest of the project and the Town of Hingham insomuch as it will allow for the efficient review of project compliance with such conditions.

DECISION

That the Special Permit A1, originally issued February 10, 2003, and amended December 1, 2020, under § V-B of the By-Law, and such other relief as necessary in order to update the applicable Tenant Signage Criteria, to use logos on signage and to provide additional clarity to decision making around signage size, at Derby Street Shops in Industrial Park / South Hingham Development Overlay Districts is **GRANTED**.

For the Board of Appeals,



Jennifer B. Oram, Zoning Administrator

May 12, 2022

This decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded with the Plymouth County Registry of Deeds and/or the Plymouth County Land Court Registry, and indexed in the grantor index under the name of the record owner or is recorded and noted on the owner's certificate of title.