



TOWN OF HINGHAM

Planning Board

NOTICE OF DECISION SPECIAL PERMIT A3

IN THE MATTER OF:

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

Property: 96 Derby Street, Suite 325, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 20043, Page 290 and
Book 24538, Page 298

Plan References: "Derby Street Shoppes, Hingham, MA," preparer unknown, dated March
11, 2021 (2 Sheets)



SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of W/S/M Hingham Properties, LLC (the "Applicant") for a Special Permit A3 Parking Determination under § V-A of the Zoning By-Law (the "By-Law") and such other relief as necessary to allow Legal C Bar to retain a permanent seasonal outdoor seating area that includes four parking spaces adjacent to the restaurant located at 96 Derby Street in the Industrial Park and South Hingham Development Overlay Districts. The Applicant also submitted a related application for Site Plan Review with Waivers under §§ I-G and I-I of the By-Law.

The Board opened a duly noticed public hearing on its Special Permit A3 application concurrently with a hearing on the Site Plan Review application at a meeting held remotely on March 14, 2022 via Zoom as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily suspending certain provisions of the Open Meeting Law. The Board panel consisted of regular members Kevin Ellis, Chair, Gordon Carr, Judith Sneath, and Gary Tondorf-Dick. Victoria Maguire, representing W/S/M Properties, LLC, presented the application to the Board on behalf of Legal C Bar. At the conclusion of the review, the Board voted unanimously to grant a Special Permit A3 Parking Determination under § V-A of the By-Law 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

Legal C currently operates at Derby Street Shops and obtained approval to operate an outdoor dining area from the Select Board in both 2020 and 2021 under the Town of Hingham's COVID-19 Temporary Policy Regarding Outdoor Table Service (OTS) adopted pursuant to COVID-19 Order No. 35 and extended to April 1, 2022 by Order No. 50. The OTS area is located both along the Legal C Bar and Talbots facades as well as in 6 parking spaces in front of Legal C Bar and Williams Sonoma. The proposed permanent outdoor table seating would allow for 30 seats and the removal of 6 parking spaces on a seasonal basis. Of the 6 parking spaces, 4 are proposed for seating and 2 are proposed to be blocked off for proper distance in between the seating, parking, and sidewalk. The proposed 30 seats would be seasonally flexed from the restaurant's permitted indoor seats. No additional seats are proposed to the current count of 196 seats.

According to the latest Derby Street Shops Shared Parking Analysis, peak parking hours for Derby Street Shops occurs at approximately 1PM on weekdays and 2PM on weekends. As reflected in the Analysis, during peak demand in the months of May through September, the property maintains a surplus parking supply ranging from 438 spaces to 531 spaces. Conversely, the Shopping Center generates peak demand in the month of December that maxes out parking onsite. The amount of available parking during peak hours when outdoor table seating would occur seasonally remains ample. The seasonal removal of 6 parking spaces would not adversely affect parking needs of other businesses or customers in the Shopping Center.

The Board also considered potential impacts of the outdoor dining area on pedestrian circulation. The proposed plan depicts a minimum 4.5'-wide sidewalk to remain between the seating areas. The Zoning Board of Appeal Special Permit, dated August 20, 2020, allows certain activities, including community events and outdoor displays, to be located on sidewalks at Derby Street; however, the permit requires that the remaining portion of the sidewalk be maintained at a minimum width of 6'.

During the course of the hearing, the Board members expressed general support for the application, along with specific concerns about seasonal displacement of parking spaces. The Board then committed to review of the approval criteria and imposition of appropriate safeguards through conditions.

FINDINGS

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings in accordance with § V-A, 6 of the By-Law:

- a. The parking is sufficient in quantity to meet the needs of the proposed project;**

The Derby Street Shops Shared Parking Analysis confirms that there is a surplus of parking during peak hours of operation for the shopping center during those months in which the restaurant would offer outdoor dining. Additionally, the Applicant demonstrated that seasonal operation of the outdoor dining area pursuant to the Outdoor Table Service (OTS) permit originally issued by the Select Board on September 15, 2020 did not adversely affect parking availability within the shopping center, despite the displacement of 6 parking spaces.

b. Pedestrian access and circulation has been provided for;

Pedestrian access and circulation is largely unchanged as a result of this project. Ample space remains provided for along the sidewalk area for pedestrians.

c. New driveways have been designed to maximize sightline distances to the greatest extent possible;

No changes to entrances or sight distances are proposed.

d. It is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on-site or on the surrounding streets, or adversely affect the value of abutting lands and buildings; and

The seasonal flex of seating into the parking spaces will not result in or worsen parking or traffic on-site or the surrounding streets.

e. The granting of relief is consistent with the intent of this By-Law and will not increase the likelihood of accident or impair access and circulation.

The proposed seasonal flex of parking will not increase the likelihood of accident or impair access and circulation.

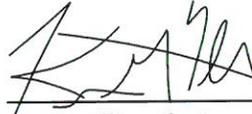
DECISION

Upon a motion made by Kevin Ellis and seconded by Gary Tondorf-Dick, the Board voted unanimously to GRANT the application of W/S/M Properties LLC for a Special Permit A3 Parking Determination under § V-A to allow Legal C Bar to seasonally maintain an outdoor dining area that displaces six parking spaces and a portion of the sidewalk adjacent to the restaurant located at 96 Derby Street in the Industrial Park and South Hingham Development Overlay Districts, subject to the following conditions:

1. The Applicant shall submit a request to the Board, following one year of operation of the outdoor dining area, to review project impacts on parking availability. With the request, the Applicant shall include any reports of parking or pedestrian complaints, non-compliance, and/or such other issues related to the outdoor dining area. The review shall take place during a noticed public hearing and the Board may modify the permit to address any identified issues.
2. The permit shall be limited to the current restaurant and will expire in the event that Legal C is no longer operating from this property.

3. After expiration of the current Outdoor Table Service Permit on April 1, 2022 and prior to operation of the outdoor dining area, the Applicant shall submit a revised plan for review and approval by the Community Planning Director and the Building Commissioner to demonstrate that a minimum of 3' is provided between tables and stanchions and that a minimum of 6' remains beyond the stanchions for an unobstructed pedestrian walk.
4. Outdoor table seating shall be permitted from April 1 through October 31.

For the Planning Board,



Kevin Ellis, Chair
April 12, 2022

In Favor: Kevin Ellis, Gordon Carr, Judith Sneath, and Gary Tondorf-Dick
Opposed: None