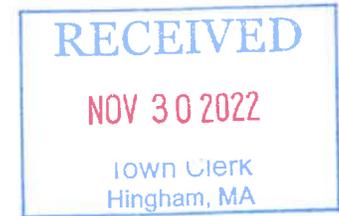




TOWN OF HINGHAM

Board of Appeals



NOTICE OF DECISION SPECIAL PERMIT

IN THE MATTER OF:

Applicant/
Owner: Merhej and Sons Realty, LLC
19 Whiting Street
Hingham, MA 02043

Property: 19 Whiting Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 48377, Page 84; and
Plymouth County Registry of Deeds, Book 53055, Page 135

Plan References: Application for a Special Permit A1 Dated October 11, 2022 and Supporting
Statements and Requested Findings; and

Site Plan entitled "Hingham Gas #19 Whiting Street, Hingham, MA 02043,"
prepared by CHA, 141 Longwater Drive, Suite 104, Norwell, MA 02061,
dated October 11, 2022 and revised November 7, 2022 (1 Sheet)

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Merhej and Sons Realty, LLC (collectively the "Applicant") for a Special Permit A1 under Section III-A, 5.1 of the Zoning By-Law (the "By-Law"), and such other relief as necessary, to add an additional pump island to an existing independent automotive filling station located at 19 Whiting Street in Business District B and the Accord Park Watershed and Hingham Aquifer Protection District.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on November 17, 2022 via Zoom as an alternate means of public access pursuant to Chapter 107 of the Acts of 2022 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. The Board panel consisted of Paul K. Healey, Acting Chair, Member Jed Ruccio and Associate Member, Michael Mercurio. The Applicants representatives, Jeffrey A. Tocchio, Esq. of Drohan, Tocchio & Morgan, P.C. and CHA Consulting, Inc. presented the request. At the conclusion of the review, the Board voted unanimously to grant the requested Special Permit 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

The subject property consists of 1.68± acres of land on the north-side of Whiting Street. The property was previously two separate parcels (19 Whiting Street and 27 Whiting Street); 19 Whiting Street has operated as a filling station since approximately 1960, and 27 Whiting Street was improved with a single-family dwelling.

In 2020, the applicant was granted Site Plan Approval and Special Permit A3 Parking Determination / Waivers under § V-A of the By-Law from the Planning Board to combine the properties, retain the existing filling station, raze the single-family dwelling located at 27 Whiting Street and conduct other extensive site work.

For this application, the applicants filed for relief under Section III-A, 5.1 of the Zoning By-Law to construct a new gas island with two additional gas pumps (4 fueling spots) and convert the approved asphalt area to concrete. The proposed also complies with Special Condition 2 of Section III-B; the proposed island, gas pumps and canopy comply with all setback requirements of the property. There is a minimum of 1,000 square feet of paved area per pump and the 26 foot width and curbing also complies.

In addition to the subject property being located in the Business B district, it is also located in the Accord Park Watershed and Hingham Aquifer Protection District. Where no new tanks are being installed to support the proposed new island and additional gas pumps, this section of the Zoning By-Law is not triggered and thus no relief is required.

During the hearing, the Board heard from one abutter, Francis X. Collins, who resides at 1193, A-1 Main Street. Mr. Collins expressed concern about the proposal stating that he would be impacted by additional traffic and noise from the tanker trucks filling the tanks at the station. The Applicant's engineer was able to show that Mr. Collins' residence was more than 300' from the filling station and noted that the station has been in existence since 1960. Based on this information, the Board members agreed he would not be impacted by the proposal.

FINDINGS

Based on the information submitted and presented during the hearing, and the deliberation and discussion of the Board during the meeting, the Board made the following findings in accordance with the approval criteria under § I-H, 2 of the By-Law:

- a. **The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law, for the following reasons:** The filling station is located in Business District B and has been operating in nearly the same capacity since 1960. The station existed prior to the requirement for SPA1; that said, the use is in harmony with the general purpose and intent of the Zoning By-Law as it is a business operating in a business district.
- b. **The proposed use complies with the purposes and standards of the relevant specific sections of this By-Law, for the following reasons:** The proposed gas pumps, existing gas station canopy, existing pumps, underground storage tanks, comply will all setback and other dimensional standards specified in the Zoning By-Law, including those found in Special Condition 3 of Section III-B.
- c. **The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area, for the following reasons:** The property is located on Route 53, a heavily used roadway. The gas station is surrounded by several other businesses, including automotive, commercial and retail.
- d. **The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated, for the following reasons:** There will be no adverse impacts resulting from the addition of the proposed gas island. The Site has been updated to address traffic flow on and off the site, parking and circulation on the site. The addition of two additional gas pumps will not create adverse impacts as they will meet all required dimensional setbacks.
- e. **There will be no nuisance or serious hazard to vehicles or pedestrians, for the following reasons:** The current traffic pattern (as approved by the Planning Board by a Special Permit A3 Parking Determination Waiver) will not be altered by the proposed additional gas island. All internal drive aisles will continue to comply with applicable dimensional requirements and no additional parking will be required.
- f. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use, for the following reasons:** Adequate facilities are in place or will be constructed as part of the previously approved redevelopment of the parcel.

- g. **The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** The proposed gas island meets the accepted designs standards and criteria for structures and the site design as previously approved by the Planning Board.

DECISION

Upon a motion made by Michael Mercurio and seconded by Jed Ruccio, the Board voted unanimously to **GRANT** the application of Merhej and Sons Realty, LLC for a Special Permit A1 under § III-A, 5.1 of the By-Law, and any other relief as necessary to install a new concrete gas island with two additional gas pumps at **19 Whiting Street** located in the Business B District & Accord Pond Watershed and Hingham Aquifer Protection District, subject to the following condition:

- 1. The Applicant shall construct the project in a manner consistent with the approved plans and the representations made at the hearings before the Board.

For the Board of Appeals,



Paul K. Healey

Acting Chair

November 30, 2022

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) 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 that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.