



# TOWN OF HINGHAM

## Planning Board

### NOTICE OF DECISION SPECIAL PERMIT MODIFICATION

#### IN THE MATTER OF:

Applicant/Owner: Merhej and Sons Realty, LLC  
87 Derby Street  
Hingham, MA 02043

Agent: Jeffery Tocchio, Esq.  
Drohan, Tocchio, & Morgan, P.C.  
175 Derby Street, Suite 30  
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



#### SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of Merhej and Sons Realty (the "Applicant") to modify plans approved in connection with a Special Permit A3 Parking Determination, issued December 14, 2020 under § V-A of the Zoning By-Law (the "By-Law") and such other relief as necessary to add an additional pump island to the existing filling station at 19 Whiting Street in the Business B District and Accord Pond Watershed and Hingham Aquifer Protection Overlay District.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on December 5, 2022 via Zoom as an alternate means of public access pursuant to Chapter 107 of the Acts of 2022 temporarily suspending certain provisions of the Open Meeting Law. A second substantive public hearing was held on January 9, 2023. The Board panel consisted of regular members Judith Sneath, Chair, Gordon Carr, Rita DaSilva, Kevin Ellis, and Gary Tondorf-Dick. Jeffrey Tocchio, Esq., presented the application to the Board. The Board was assisted in its review by Jeffrey Dirk, P.E., PTOE, FITE, of Vanasse & Associates, Inc. At the conclusion of the review, the Board voted to unanimously grant the Special Permit A3 Modification under § V-A of the By-Law with conditions set forth below.

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

## **BACKGROUND & DISCUSSION**

The subject property consists of 1.68 ± acres of land that was previously configured into two separate, independently improved parcels of land at 19 and 27 Whiting Street. 19 Whiting Street is currently improved by Hingham Gas (ca. 1960), while 27 Whiting Street consists of vacant land, previously improved by a since-demolished single-family dwelling. The existing automotive filling station has two fueling pump islands with four pumps (8 fueling spaces), a 1,760 SF overhead canopy, a 192 SF retail building, and 10,094 SF of impervious pavement. The Applicant received Site Plan Approval and a Special Permit A3 in December 2020 to combine the two properties and in turn be able to retain the gas station, raze the single-family dwelling and 192 SF retail building, construct a new 2,531 SF retail/convenience store, and integrate the site to reduce the number of curb cuts.

The Applicant now seeks approval to construct a third pump island with two pumps (4 fueling spaces) to the north of the existing islands and to convert the previously approved area around the proposed pump from asphalt to concrete. No changes are proposed to the existing pumps, underground storage tanks, or canopy that extends over the existing pumps and 192 SF retail building. Additionally, no new tanks are required to accommodate the proposed pumps and the proposed area of disturbance is less than 5,000 SF.

In addition to staff, the Board's Traffic Peer Review Engineer, Jeffrey Dirk, P.E., PTOE, FITE, of Vanasse and Associates reviewed this project as it relates to traffic, parking, and circulation. Mr. Dirk's report confirms that as a result of the modification, the net increase in vehicle trips to Whiting Street would not be readily apparent, the three access points to the site will allow for proper trip dispersion and vehicle queueing, proper site lines will be provided, and through proposed conditions of approval, proper vehicle turning and site circulation will also be provided. With respect to parking, under § V-A, 2. two parking spaces per bay for Motor Vehicle Filling Stations are required. From a practical standpoint, Mr. Dirk further confirmed that fueling positions accommodate 1 vehicle each so the requisite parking is provided on a per position basis since only 1 vehicle per position can be fueled, supported the granting of a waiver of the parking requirement with the aforementioned rationale as the basis.

During the course of the hearing, the Board raised questions pertaining to the parking, circulation, and site access. No public comment was provided during or prior to the hearing.

## **WAIVER**

A waiver is required under § V-A, 2. to allow 1 parking space per Motor Vehicle Filling Station instead of the 2 required.

**FINDINGS**

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the hearings, the Board made the following finding under § V-A of the By-Law:

That the proposed modifications do not materially or adversely affect conditions governed by the Special Permit A3 Findings issued December 4, 2020 and set forth in § V-A of the Zoning By-Law.

**DECISION**

Upon a motion made by Gary Tondorf-Dick and seconded by Kevin Ellis, the Board voted to GRANT the application of Merhej and Sons Realty to modify plans approved in connection with a Special Permit A3 Parking Determination, issued December 14, 2020 under § V-A of the Zoning By-Law, with a waiver under § V-A, 2. related to the number of parking spaces required, to add an additional pump island to the existing filling station at 19 Whiting Street in the Business B District and Accord Pond Watershed and Hingham Aquifer Protection Overlay District, subject to the following conditions:

1. Trash/refuse pick-up shall be scheduled to occur during off-peak hours or while the fueling facility is closed to customers. Prior to a scheduled pick-up, the on-site attendant shall place cones or otherwise close the northern fueling positions to customers.
2. The Applicant shall submit a revised plan to the Community Planning Department to show "One Way" and "Do Not Enter" signs with accompanying arrow pavement markings for the northern fueling positions prior to issuance of a building permit and prior to commencing operations. The one-way direction shall be from west to east to reflect the predominant fueling side for vehicles.
3. Fuel deliveries must be scheduled to occur while the site is closed to customers or during overnight hours, such as between 9 PM and 6 AM, or similar. Further, the fueling facility will need to be closed prior to the arrival of the fuel truck.

For the Planning Board,



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Judith Sneath  
March 1, 2023

**In Favor:** Judith Sneath, Gordon Carr, Rita DaSilva, Kevin Ellis, and Gary Tondorf-Dick

**Opposed:** None

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.