



TOWN OF HINGHAM
PLANNING BOARD

NOTICE OF DECISION
Special Permit A3 with Site Plan Review

Certified Mail # 7017 1000 0000 1995 8565

Applicant: Gregory McKee, South Central, LLC.
184 Whiting Street
Hingham, MA 02043

Premises: 103-107 South Street
Hingham, MA 02043

Date: August 20, 2019



Summary of Proceedings

The application before the Board is for a Special Permit A3 for parking waivers and Site Plan Review associated with paving improvements made on the property, drainage concerns, and the proposed uses on the site. The applications were submitted on February 28, 2019. The Board opened the hearings at a duly notice public hearing on March 25, 2019 and subsequently continue the hearing to the meetings of April 8, 2019, May 6, 2019, May 21, 2019, July 15, 2019, July 22, 2019 and August 5, 2019 at which time the Board deliberated and voted on the applications.

Planning Board members seated on the applications were Gordon Carr, Gary Tondorf-Dick, William Ramsey, and Judith Sneath. Associate Member Ted Matthews was seated on the Special Permit A3. Judith Sneath was not at the meeting of August 5, 2019 and did not act on the applications. The Applicant was represented by Ward Eisenhaure; Jeff Hassett, P.E., Morse Engineering; and Greg McKee, owner. The immediate abutter and owner of 99 South Street, Bob Shepard, also participated in the hearings and helped to represent the Applicant. The Planning Board consulted with Patrick Brennan, Amory Engineers (civil engineering) who acted as a consultant to the Planning Board pursuant to Section I-I (2) of the Zoning By-Law.

Project Description

The project as proposed is in large part an after the fact permitting process because the application was submitted to response to a violation notice from the Building Commissioner regarding construction of a roof overhang structure without permits. At the same time the Building Commissioner received drainage complaints from the immediate abutters on Forget-Me-Not Lane and 115 South Street who stated that the recent paving and improvements made to the gravel parking lot has altered the drainage patterns and resulted in flooding on their properties because the topography was altered. The parking lot is existing and not dimensionally

compliant. The uses on the site have changed over time and a previously approved ice cream store will no longer be coming to the site. During a review of the records it came to light that the middle unit did not have a certificate of occupancy on site or records of all the required inspections. This permitting process is intended to help mitigate the concerns of the abutters first and foremost and then also resolve the existing violations and clearly document the uses on the site at this time. The access drive is shared with the adjacent property, 99 South Street, in that it straddles the property line. This is an existing condition and the current owner of the adjacent property does not object to vehicles accessing the parking lot partially over his property but he does not want to grant a legal easement at this time.

The Board heard and received numerous comments from the abutters during the process and when considering conditions of approval they took care in working to ensure that at the completion of construction the drainage issues would be resolved and the proposed fence would be on the subject property also. The Board engaged Pat Brennan as the civil peer review consultant. Upon reviewing the final design he stated that, with implementation of the project as proposed, there would no longer be storm water flowing onto 5 Forget Me Not Lane or 115 South Street, and that runoff to 4 Forget Me Not Lane and 99 South Street would not be increased from the pre-paving conditions. The Board discussed the ongoing maintenance of the drainage and the importance of it and identified appropriate conditions regarding maintenance. The Board also discussed that a portion of the existing structure was required to be removed by the Building Commissioner as it was previously required but never done. The Board also placed conditions regarding inspections and a preconstruction meeting, as well as requiring the submittal of an as-built plan in an effort to ensure the project is completed per the approval and representations made at the hearings. The abutters indicated that they wanted the work to be completed as soon as possible, and the property owner stated an intent to do the work right away.

Findings

After discussion, the Planning Board reviewed the Site Plan Review Criteria, and made the following findings:

- a. protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.*

Findings: The Board found that a fence is proposed along the west property line on top of the curb to screen the parking lot and headlights from impacting the neighbors. The Board also found that recent paving changed the drainage patterns; this site design is intended to mitigate concerns and manage storm water onsite. The Board found that, in his letter of July 25, 2019 Mr. Brennan states that with the implementation of the improvements proposed, runoff will not flow onto property of 115 South St and 5 Forget Me Not Lane from the subject property and that runoff to 4 Forget Me Not Land and 99 South Street will not be increased from the pre-paving conditions at the site.

- b. convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent*

streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;

Findings: The Board found that this is an existing parking lot serving an existing building and that the site requires a Special Permit A3 for dimensional relief.

- c. adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;*

Findings: The Board found that a modification to the Special Permit A3 is required.

- d. adequacy of open space and setbacks, including adequacy of landscaping of such areas;*

Finding: The Board found that this is a small developed site with some landscaping existing but little opportunity for more.

- e. adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site*

Finding: The Board found this is not applicable.

- f. prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;*

Finding: The Board found that no adverse impacts are anticipated.

- g. assurance of positive storm water drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and storm water pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Storm Water Management Policy and Standards, and Massachusetts Erosion and Sediment Control Guidelines.*

Findings: The Board found that the project was peer reviewed by Mr. Pat Brennan, Amory Engineers. This application formalizes how the storm water is managed in accordance with the Storm water Guidelines and accounts for the 100 year storm. The proposed concrete curb will be constructed as a reinforced concrete retaining wall on a reinforced concrete footing along the western property line. Permission from the abutting property owners is required to construct the curb and footing as proposed.

- h. protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations;*

Finding: The Board found that this is not applicable.

- i. minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.*

Finding: The site is already developed. This approval will enable final inspections and issuance of CO for the central unit, and mitigation of drainage problems caused by the paving of the lot.

Planning Board members Ramsey, Tondorf-Dick and Carr then voted to Approve the request for the Partial Waivers of Site Plan Review Submittal Requirements I-I.4.a, c, e, f, g, h, and i beyond the information as submitted finding that the information requested to be waived is either inapplicable to the project or does not adversely affect the ability of the Board to review the project.

WAIVERS AND FINDINGS – SPECIAL PERMIT A3

The Applicant requested several waivers from the dimensional requirements in the By-law. The Board discussed each one individually as follows:

- a. **Section V-A.3:** To allow a parking space length of 18' with no overhang spaces #6, 7, 8 & 9. The Board found that there is room for the overhang for spaces 8 & 9 but there are evergreen trees planted there.
- b. **Section V-A.3:** To allow aisle width of 19'4" where 24' is required. The Board found that this is a low speed and low volume parking area.
- c. **Section V-A.3:** To allow driveway width of 9'1" feet where 12' is required for a one way drive. The Board found that the applicant is increasing the available driveway width on the subject property by demolishing a portion of the existing structure. Traffic patterns will still likely utilize the width of the existing paved driveway. Warnings signs are posted to enhance the safety. A proposed condition is that if a fence is constructed along the shared property line with 99 South Street the applicant shall return to the Planning Board for a discussion on the permit.
- d. Waivers from **Section V-A.5.g** to not require curb stops/bumpers for spaces 6-9. The Board found that Bollards have been proposed instead of curb stops, and that Bollards serve the same purpose and are sufficient.
- e. Waiver of **Section V-A.5.c:** requirement for a loading space. The Board found that the uses on site have infrequent deliveries; Deliveries for Kate's Table arrive at the abutting property; Delivery truck for salon pulls up on the street.

Planning Board members Ramsey, Tondorf-Dick, Carr and Associate member Matthews then voted to approve the requested Waivers to Section V-A.3, V-A.5.c. and V-A.5.g., based on the findings as discussed.

Planning Board members Ramsey, Tondorf-Dick, Carr and Associate member Matthews then reviewed the Special Permit A-3 criteria in Section V-A.6 and made findings, as follows.

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

The Board found in the affirmative, stating yes.

b) Pedestrian access and circulation has been provided for;

The Board found there is no change to the existing conditions.

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

The Board found that this is not applicable.

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 Board found in the affirmative, stating yes.

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.

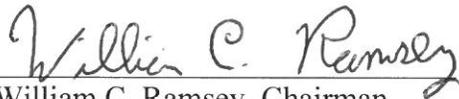
The Board found in the affirmative, stating yes.

Decision

With a Motion made by William Ramsey and seconded by Gary Tondorf-Dick, the Board then voted to Approve the Special Permit A3 with Site Plan Review as presented at the hearings and as shown on the plans titled "Parking & Drainage Plan of Land in Hingham, Massachusetts, 103-107 South Street", prepared for South Central, LLC., prepared by Edward Eisenhaure, PE., dated February 20, 2019, revised to July 30, 2019, 1 sheet, with the findings and the waivers, subject to the following conditions:

1. An on-site preconstruction meeting is required with the Building Commissioner, the applicant, the abutters and Mr. Brennan prior to the start of work.
2. Maintenance of the stone trench shall include semiannual inspections, removal of accumulated sediment from the crushed stone and grass depression, and, replacement of crushed stone as required.
3. Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must demonstrate substantial conformance with the storm water system design and performance standards of the approved project plans.
4. A detail for the fence installation on the western property line shall be added to the plan. Detail to include sleeves in the design.
5. The slope at the contact grade shall be adjusted to a gentler slope to prevent erosion.

6. Any change of use or tenants requires modification of the permits due to the constrained parking area.
7. Should the intensity of the use at the site increase, in the opinion of the Building Commissioner, the applicant shall return to the Planning Board for any necessary relief.
8. If a fence is constructed along the shared property line with 99 South Street the applicant shall return to the Planning Board for a discussion on the permit.
9. A pre-construction review meeting with inspection of the erosion control installation and marked limits of clearing is required.
10. Inspections are required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control during construction and the approved drainage and storm water system installed for the project.
11. Applicant must have permission (consent) from the abutting property owners prior to the start of installation of the curb along the western property line.



William C. Ramsey, Chairman
Hingham Planning Board

EXECUTED this 27 day of August, 2019

Votes:

In favor, Site Plan Review: Ramsey, Carr, and Tondorf-Dick

Opposed: none

In favor, Special Permit A3: Ramsey, Tondorf-Dick, Carr, Matthews

Opposed: none

Cc: Town Clerk; B. Shepard; J. Hassett; W. Eisenhaure; P. Brennan; Building Department; Assessors.