

  
**TOWN OF HINGHAM**  
**PLANNING BOARD**

**NOTICE OF DECISION**  
**SITE PLAN REVIEW IN ASSOCIATION WITH A BUILDING PERMIT**

**IN THE MATTER OF:**

**Applicant:** Merhej and Sons Realty, LLC  
**Premises:** 19-27 Whiting Street  
Hingham, MA 02043  
**Date:** December 14, 2020  
**Book/Page:** 48377/84



**Plan Reference:** "Site Development Plans Hingham Gas #19 & 27 Whiting Street Hingham, MA" dated 5/1/2020 last revised 10-30-2020, prepared by CHA, 24 sheets.

**Summary of Proceedings:**

This matter came before the Planning Board on the application of Merhej and Sons Realty, LLC, for Site Plan Review under §I-G and §I-I of the Zoning By-Law and a Special Permit A3 parking determination, with waivers if necessary, to redevelop and construct as new retail building at the properties located at 19 & 27 Whiting Street, located in the Business B and Accord Pond Watershed and Hingham Aquifer Protection District.

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 public meetings of the Planning Board were conducted by remote participation. The application was submitted on May 4, 2020 and the hearing was suspended to July 27, 2020 and suspended again to 9/14/20. The hearing was continued to 9/28/20, then to 11/2/20, then to 11/16/20, and continued to November 30, 2020 when it was acted on. Board members on the panel were Gary Tondorf-Dick, Kevin Ellis, Gordon Carr and Judith Sneath. Kevin Ellis missed the hearing of November 16, 2020 and completed a Mullins Affidavit after listening to the recording of the hearing. The Application was presented by Don Rose, CHA and Jeffrey Tocchio and Scott Golding, of Drohan, Tocchio and Morgan. The project was peer reviewed by John Chessia, Chessia Consulting, and Jeffrey Dirk of Vanasse and Associates.

**Description of Project:**

The property consists of .42 acres known as 19 Whiting Street and 1.26 acres of land known as 27 Whiting Street. Nineteen Whiting Street is improved with an automotive filling station and associated improvements. Twenty-seven Whiting Street is improved with a single family dwelling and attached garage and accessory shed. The application is to allow the redevelopment of the combined properties in order to construct a new retail store of approximately 2,531 square feet, and continue the filling station use. The combined properties will have 1.68 acres in area and 294 linear feet of frontage on Whiting Street. Access to the redeveloped site will be via 3 curb cuts total. One of the two existing curb cuts at 27 Whiting Street will be eliminated and a single westerly curb cut will provide egress from the site as a restricted right turn only for vehicles traveling westerly on Whiting Street. The development of the retail building will extinguish the nonconforming residential use which currently exists at 19 Whiting Street. The applicant will plan an additional 12 trees on the northern side of the site and the stockade fences are to remain. The adjacent properties are in commercial use and as such this project is not expected to result in any negative impacts to the adjacent properties.

The applicant is proposing 16 parking spaces where 15 are required however they expect that a portion of the customer traffic to the retail store will be by persons parked at the gas pumps. So although a one space parking waiver is requested it seems reasonable. The project requires a Notice of Intent from Conservation. The Board reviewed the traffic and circulation patterns and drainage design in depth. The applicant revised the plans to address all the comments raised by Jeffrey Dirk, of Vanasse and Associates.

**Site Plan Review Criteria:**

Board members then reviewed the project in accordance with the Site Plan Review Criteria contained in Section I-I (6) and made findings as follows:

- 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;*

The Board found that the project was reviewed by John Chessia PE for the Board. The drainage comments were addressed and Mr. Chessia has recommended only minor revisions which in his opinion can be conditions of any approval. The plans do not include a photogrammetric plan. The applicant indicates an intent to add lighting to the site. The Applicant states the intent to protect 12 trees along the new property lines and the tree line on the north of the site will be reinforced thus maintaining screening for abutters.

- 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;*

The Board found that Jeff Dirk, VAI, stated in the November 9, 2020 supplemental traffic review that he is satisfied that the Applicant addressed the comments raised and demonstrated that the access to the project site and internal circulation can be afforded in a safe and efficient manner with appropriate conditions relating to sightline maintenance at the driveways and the scheduling of fuel deliveries. The fire prevention officer has reviewed and commented on the plans and indicated he is satisfied with the design.

- 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;*

The Board found that the gfa on the convenience store including the storage is 3,209 square feet. The retail parking requirement is 5 spaces per 1000 sf thus 16 spaces are required and 15 are proposed. A Parking waiver and determination is required. It is reasonable to expect that some of the customers frequenting the convenience store will park at the fueling station and walk into the store.

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

The Board found that the project included two parcels which the applicant has stated will be combined. Until they are combined the setbacks are different. The lots should be combined prior to building permit issuance as this site design considers the proposal as a one lot proposal. Approval of this project should not be considered to be an interpretation of the allowed uses under zoning.

- e. adequacy of the methods of disposal of refuse and other wastes during construction and resulting from the uses permitted on the site including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter and sanitary wastes; provided, that discharge of refuse or other wastes into the municipal storm water system shall be expressly prohibited;*

The Board found that the project has an Operations and Maintenance plan for during construction and post construction which has been peer reviewed and found to be sufficient.

- 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;*

The Board found that the fire department has reviewed this project and provided initial comments dated 6-12-20 and supplemental comments dated November 2020 detailing their requirements. Police department has requested that the applicant consult with the police on the necessity of construction details.

*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 including the Massachusetts Storm water Handbook, the Massachusetts Erosion and Sediment Control Guidelines and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal storm water system;*

The Board found that the November 9, 2020 civil peer review letter from John Chessia, PE, indicates substantial responses to the review comments. There are some minor technical revisions still recommended which are proposed to be conditions of approval.

*h. assurance that appropriate Best Management Practices have been incorporated to minimize the amount of disturbed areas and protect natural resources, stabilize sites when projects are complete or operations have temporarily ceased, protect slopes on the construction site, protect storm drain inlets and armor all newly constructed outlets, install perimeter controls at the site, stabilize construction site entrances and exits to prevent off-site tracking of material, and to provide for regular inspection of storm water controls at consistent intervals;*

The Board found that an operations and maintenance plan has been provided and reviewed by John Chessia. Minor technical revisions are identified as conditions of approval however there is a comprehensive construction plan prepared.

*i. 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*

The Board found that this project has a net import of material. There are resource areas on site and the conservation commission is regulating those portions of the site.

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

The Board found that this project is consistent with the character and scale of the buildings in the vicinity. The project improves the conditions based the analysis and engineering response to the existing site conditions.

**DECISION AND VOTE:**

On a Motion made by Kevin Ellis and seconded by Gary Tondorf-Dick, the Board voted 4-0 with Ellis, Carr, Sneath and Tondorf-Dick in favor and none opposed to approve site plan review in association with a building permit for Merhej and Sons Realty, LLC. to redevelop and construct a new retail building at the properties located at 19 & 27 Whiting Street based on the presentations made at the hearings and as shown on the plans titled "Site Development Plans Hingham Gas #19 & 27 Whiting Street Hingham, MA" dated

5/1/2020 last revised 10-30-2020, prepared by CHA, 24 sheets, with the findings and subject to the following conditions:

1. The Applicant shall submit a photogrammetric plan prior to building permit demonstrating the lighting levels and that the lighting will not spill off the site.
2. The lighting shall be directed interior to the site so as to not create glare in the travel way.
3. All fixtures shall be low cutoff fixtures with recessed lenses.
4. The applicant shall protect 12 trees along the new property lines prior to the start of construction and reinforce the tree line on the north of the site as presented.
5. 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.
6. Plowing shall be done in such a manner to ensure the diagonal lanes remain clear.
7. The lots must be combined and proof of this must be provided to the assessor's office and planning department and building department prior to issuance of building permit.
8. The applicant must demonstrate compliance with use requirements under zoning to the satisfaction of the building commissioner prior to the issuance of the building permit.
9. Police details will be required at the discretion of the Police Chief during demolition and construction activity.
10. A pre-construction review meeting with inspection of the erosion control installation and marked limits of clearing is required. The preconstruction meeting shall include the Police Chief or his designee, the Director of Community Planning, and the DPW superintendent or his designee at a minimum.
11. Inspections shall be 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.
12. 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.
13. Prior to the issuance of the building permit the plans shall be revised to address minor comments from the November 9, 2020 Chessia Consulting letter, as follows: 1. the outlet pipe shall be installed without a bend; 2. Mass Dot must approve the proposed work in the State Highway Layout. A copy of the approval for the work as designed shall be provided to the planning department prior to or at the preconstruction meeting. If the drainage design changes applicant must provide the revised design to the planning department for the peer review engineer to determine if it still results in the storm water standard being met, and if the Planning Board needs to act on a plan modification; 3. Roof drainage design and analysis shall be provided to the planning department and peer review engineer prior to building permit; 4. The plans or

calculations shall be corrected relative to the outlet design from UG 1 outlet structure; 5. Fill materials next to UG 2 shall be specified on the plans and/or details; 6. The oil grit separators and isolation rows must be off line units in design; 7. The construction manager must be experienced in erosion and sediment control. The areas proposed for infiltration and leaching shall be shown on sheet C-003. A detail of the proposed sediment trap outlet shall be added to the plans. The temporary basin must have a skimmer outlet; 8. An observation port for the subsurface infiltration system shall be added to the plans.



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Kevin Ellis  
Chairman, Hingham Planning Board

Cc: Town Clerk; Building Department; Assessor; R. Sylvester, DPW; BOH; Don Rose; Scott Golding; Jeff Dirk; Jeff Kilroy, HPD; David Jones, Interim Police Chief; Conservation; J. Chessia; Fire Marshal.