



TOWN OF HINGHAM

Board of Appeals

NOTICE OF DECISION SPECIAL PERMIT MODIFICATION

IN THE MATTER OF:

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

Property: 94 Derby Street, Suite 217, Hingham, MA 02043

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

Plan References: "Nomai, Derby Street Shops, Hingham, MA," prepared by Sousa Design
Architects, 81 Boylston Street, 2nd Floor, Brookline, MA, dated August 5, 2021
(1 Sheet)

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of W/S/M Properties, LLC (the "Applicant") to Modify plans approved in connection with a Special Permit A2, issued August 20, 2020, as amended, under § III-A, 4.17 of the Zoning By-Law (the "By-Law"), and such other relief as necessary to permanently enclose an existing 982 SF patio with retractable windows at 94 Derby Street, Suite 217 (Nomai) in the Industrial Park & South Hingham Overlay Districts.

The Applicant simultaneously filed a related application with the Planning Board for Site Plan Review under § I-G and § I-I of the By-Law. The Boards' respective proceedings took place separately. The Planning Board found that the proposed work constituted a minor site plan and voted to waive Site Plan Review on September 13, 2021.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on October 12, 2021 via Zoom as an alternative means of public access pursuant to an 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. The Board panel consisted of regular members Robyn S. Maguire, Chair, and Paul K. Healey, and associate member Jed Ruccio. Victoria Maguire of W/S/M Properties, LLC, appeared to present the application to the Board. At the conclusion of the hearing, the Board voted unanimously to grant the requested Special Permit Modification, subject to a condition 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 AND DISCUSSION

A new restaurant, Nomai, plans to open in space previously occupied by Rustic Kitchen at the Derby Street Shops. The space includes a covered patio that serves as seasonal outdoor table seating. Nomai plans to enclose the patio in order to extend the outdoor dining season. The Board noted that while the space will be enclosed, which entails exterior work, the project will not materially affect any of the conditions governed by the special permit approval criteria. The shopping center will not be expanded, so parking and wastewater demand remains the same. Stormwater management on the property likewise will not be affected since the seating area is located on an existing impervious patio. The proposed enclosure is in keeping with the surrounding area and massing of the overall center will not be affected.

FINDING

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting, the Board determined that the proposed modifications do not materially affect the findings made in connection with the Special Permit A2 Decision, originally issued December 13, 2002, as amended and restated on August 20, 2020, under § III-A, 4.17 of the Zoning By-Law.

DECISION

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously to GRANT the request from W/S/M Properties LLC to Modify plans approved in connection with a Special Permit A2, issued August 20, 2020, as amended, under § III-A, 4.17 of the Zoning By-Law, to permanently enclose an existing 982 SF patio with retractable windows at 94 Derby Street, Suite 217 in the Industrial Park and South Hingham Overlay District subject to the condition that all conditions of the August 20, 2020 Decision, as amended, remain in full force and effect.

For the Board of Appeals,



Robyn S. Maguire, Chair
January 6, 2022

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.