



TOWN OF HINGHAM

Board of Appeals

NOTICE OF DECISION VARIANCE

IN THE MATTER OF:

Applicant/
Owner: Hingham 193 Whiting LLC
858 Washington Street, #309
Dedham, MA 02026

Property: 193 Whiting Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 48073, Page 35

Plan References: "Site Development Plans, Proposed Retail Building and Bank ATM for Hingham 193 Whiting LLC, 193 Whiting Street, Hingham, MA," prepared by Crocker Design Group, 2 Sharp Street, Hingham, MA, dated September 17, 2021 and revised through November 24, 2021 (8 Sheets);
"193 Whiting Street, Hingham, Massachusetts, Landscape Permit Submission Set," prepared by Hawk Design, Inc., dated November 23, 2021 (4 Drawings);
and
"Existing Conditions Plan," prepared by CHA, 141 Longwater Drive, Suite 104, Norwell, MA, dated August 22, 2017 and revised through May 19, 2021

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Hingham 193 Whiting Street (the "Applicant") for a Variance from §§ V-B and IV-C, 7 of the Zoning By-Law (the "By-Law") and such other relief as necessary to install a ground sign within required setbacks at 193 Whiting Street in the Business B District.

The Applicant simultaneously filed an application with the Board for a Special Permit A2 under § III-A, 4.11A of the By-Law and such other relief as necessary to redevelop a former gas/service station for retail use and locate a freestanding drive-up ATM with related parking and site improvements on the property.

The Board opened duly noticed public hearings concurrently at a meeting held remotely on November 16, 2021 via Zoom as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. A subsequent

session was held by remote participation on December 14, 2021. The Board panel consisted of regular members Robyn S. Maguire, Chair, and Paul K. Healey and associate member Jed Ruccio. The project team representing the Applicant included Jeffrey Tocchio, Esq. and Scott Goulding, Esq. of Drohan Tocchio & Morgan, PC, and Gabe Crocker, PE of Crocker Design Group. The Board was assisted in its review by Patrick G. Brennan, PE of Amory Engineers, and Jeffrey S. Dirk, PE, PTOE, FITE of Vanasse & Associates, Inc. At the conclusion of the review, the Board voted unanimously to grant the requested relief.

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 approximately 17,500 SF of land located on the northwest corner of the intersection of Whiting, Gardner and Derby Streets. It is currently improved by a single-story commercial building (ca. 1962) that was previously occupied by a gas station/service shop. The proposed plan calls for conversion of the existing building for retail use and construction of a standalone drive-up ATM. The site would otherwise be reconstructed to create 13 parking spaces and improve open space and landscaped buffers.

The property was the subject of land takings by eminent domain during the recent reconstruction of the Whiting/Derby intersections. A 145 sq. ft. area at the south corner of the property was taken in fee to provide an enhanced corner radius for the intersection. Prior to the taking, the former Mobil Gas Station that occupied the site maintained a ground sign that was located 1.84' from the front (southerly) lot line and 18.9' from the southerly corner of the lot. The taking reduced the setback of the existing sign foundation base to 6.2' from the new rounded corner.

The Applicant proposes to install a 12 SF ground sign set back slightly more than the existing sign base, resulting in the sign base being located 2' from the southerly front lot line along Whiting Street and 7.1' from the new curved lot corner at the intersection of Whiting and Gardner Streets. Since the state layout is substantially wider than the paved roadway and sidewalk, the sign base will appear to exceed the 10' minimum setback specified in Section V-B with 16.8' proposed from the back of curb and 11.7' from the edge of sidewalk at its closest point.

FINDINGS

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings in accordance with the approval criteria under § I-D, 2.c of the By-Law:

1. **Circumstances relating to the soil conditions, shape, or topography especially affect the land or structure(s) in question, but not generally the zoning district.** The property is located on a 5-way intersection, on the north side of Whiting Street (Rt. 53) at the corner at the intersection of Whiting Street, Gardner Street, and Derby Street. The property was the subject of land takings and impacted during the recent reconstruction of the intersection. Specifically, a 145 sq. ft. area at the south corner of the property was taken in fee to provide an enhanced corner radius for the Gardner Street/Whiting Street

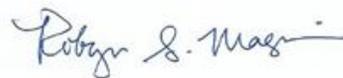
intersection – resulting in a curved lot shape at the southeasterly portion. This shape is atypical in the district.

2. **The literal enforcement of the provisions of the By-Law would involve substantial hardship, financial or otherwise.** Strict adherence to requirements of the By-law would result in location of the ground sign that is excessively set back from the street at a heavily trafficked 5-way intersection. Absent relief, a ground sign in a conforming location on the property would fail to provide for efficient and effective identification of the permitted uses on the site.
3. **Relief may be granted without substantial detriment to the public good.** The proposed signage location will enhance the visibility of the permitted use of the property and eliminate any potential traffic hazards as motorists and pedestrians will be able to identify the businesses more readily. There will be no adverse effects on the neighborhood and there will be no harm to the public good.
4. **Relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law.** Relief will permit placement of a sign in a location that will effectively promote the use of the property reduce potential congestion in the adjacent streets. The granting of a dimensional variance in this instance is consistent with the purposes of the By-Law.

DECISION

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously to grant the application of Hingham 193 Whiting Street for a Variance from §§ V-B and IV-C, 7 of the By-Law and such other relief as necessary to install a ground sign within required setbacks at 193 Whiting Street in the Business B District.

For the Board of Appeals,



Robyn S. Maguire, Chair
January 6, 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.