



CITY OF SALEM PLANNING BOARD

Decision

Site Plan Review, Flood Hazard Overlay District, and Drive-Through Facilities Special Permit

203 Canal Street (Map 33, Lot 0011)

June 4, 2021

Z & M Realty Trust
42 Blodgett Avenue
Swampscott, MA 01907

RE: Site Plan Review, Flood Hazard Overlay District, and Drive-Through Facilities Special Permit Decision

Procedural History

1. An application for a Site Plan Review, Flood Hazard Overlay District, and Drive-Through Facilities Special Permit under Sections 9.5, 8.1, and 6.7 of the City of Salem Zoning Ordinance was made by Z & M Realty Trust and filed with the Planning Board January 14, 2021.
2. The Planning Board of the City of Salem opened the public hearing on Thursday, March 4, 2021. No testimony was heard, and the public hearing was continued to Thursday, March 18, 2021, Thursday, April 15, 2021, and Thursday, May 20, 2021.
3. The Planning Board closed the public hearing on Thursday, May 20, 2021.
4. The plans and other submission material were reviewed by the Planning Board. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

Site Plan Review Findings

The Planning Board hereby makes the following findings pertaining to the City of Salem Zoning Ordinance, Sec. 9.5 Site Plan Review:

The Planning Board finds that the proposed project as conditioned complies with all review criteria as identified in Site Plan Review, Sec. 9.5.6. The Plan meets accepted site planning standards and promotes such standards such that the development takes place in a manner which shall in all aspects be an asset to the City.

Drive-Through Special Permit Findings

The subject property is located at 203 Canal Street (Map 33, Lot 0011). The applicant proposes removal of the vehicle entrance on Canal Street and creation of one entrance and exit off of Forest Avenue for a new drive through and parking lot layout. The project includes an updated point of sale and order board windows, increased site landscaping, improved parking layout with increased mobility within the site and an updated ADA accessible entrance. The proposed modification to the 203 Canal Street Bagel World drive through facilities layout will improve traffic conditions on Canal Street, as well as the interior traffic and pedestrian circulation. During the course of review, the applicant updated the site plan to include a five (5) foot landscape strip on the back of the sidewalk along Forest Avenue for the planting of additional trees and the removal of the proposed second parking lot pass through lane. The applicant additionally added a bio-detention area with two (2) trees to the northeast of the parking lot, while also eliminating a parking space; and revised drawings propose the removal of only one(1) tree on the north of the site, instead of the originally proposed removal of three (3) trees; installation of a bike rack; revised curb layout of drive through and walkway transition to smooth the radius; the revision of interior stamped asphalt pedestrian walkways to concrete pedestrian walkways; and the addition of outdoor seating. The applicant will additionally ensure Sand Base Structural Soil (SBSS) connection between the Canal Street tree and the designated snow storage area behind the site wall.

There is an existing curb cut of approximately 40 feet along the Canal Street edge of the site and a 50-foot curb cut along the Forest Avenue portion of the site. The proposed modifications to the site circulation result in the elimination of the Canal Street curb cut and the installation of two 25-foot curb cuts along Forest Avenue that are set 103.2 feet apart. A reduction of the 200-foot curb cut in this instance improves upon the existing conditions and, therefore, is not a detriment to the public good and does not substantially derogate from the intent and purpose of the Drive-Through Facilities Special Permit. Additionally, neither of the proposed curb cuts exceed 25 feet and each replace curb cuts that significantly exceed 25 feet, at approximately 50 and 40 feet respectively.

FHOD Findings

Pursuant to Section 8.1.2.2.(a) of the Salem Zoning Ordinance, the FHOD includes all special flood hazard areas within the City of Salem designated as Zone A, AE, or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by FEMA. A portion of the site is within FEMA Flood Zone AE. Therefore, in considering approval of the Flood Hazard Overlay District Special Permit, the Planning Board makes the following findings:

- 1) The proposed use will comply in all respects to the uses and provisions of the underlying district in which the land is located.
 - a) The subject property is located in the B4 zoning district and the Entrance Corridor Overlay District. The project complies in all respects to these uses and provisions.

- 2) There are adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from waterbodies or high runoff.
 - a) The site has been designed to meet all of the City’s zoning requirements for parking stall and aisle dimensions. Pedestrian access from Canal Street to the building is improved and safer, and vehicular circulation is safer due to the revised layout. The site drive and parking area will be graded to direct stormwater runoff to multiple drainage features on site which will promote positive flow of water from the site and minimize ponding. Therefore, the project meets this condition. Additionally, the proposed design reduces the amount of surface water runoff entering abutting properties and Forest Avenue compared to existing conditions.
- 3) Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, short-circuiting, grounding or igniting or any other damage due to flooding.
 - a) The only earthwork proposed for this project includes the installation of curb islands for traffic management, curb cuts with sidewalk, and regrading and resurfacing of the existing parking lot to better accommodate drainage.
- 4) Where the proposed use will be located within a coastal high hazard area (Zone VE on the FEMA Flood Insurance Rate Maps), the Planning Board shall also find the following conditions to be fulfilled: New structures or substantial improvements shall be located landward of the reach of mean high tide. The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.
 - a) The project is not located within a coastal high hazard area (Zone VE).

The Planning Board, after a public hearing and review of submitted materials and testimony, hereby finds that the project meets the provisions of the City of Salem Zoning Ordinance, Sec. 6.7 Drive-Through Facilities Special Permit, Section 8.1 Flood Hazard Overlay District Special Permit, and Sec. 9.5 Site Plan Review.

Decision

In view of these findings, the Planning Board decided at a regularly scheduled meeting on May 20, 2021 by a vote of eight (8) in favor, none (0) opposed to approve the proposed amendment subject to the following conditions:

1) Conformance with the Plan

- a) Work shall conform to “Bagel World – Salem, 203 Canal Street, Salem, MA 01970, Planning Board Review,” with the sheets listed below:

Drawing Title	Sheet No.	Prepared By	Issued	Revised
Cover Sheet	A000	Jones Architecture	01.14.2021	04.08.2021 and 05.13.2021
Site Layout	C-100	Bobrek Engineering; Jones Architecture	01.14.2021	03.10.2021, 03.29.202, and 05.10.2021
Grading & Drainage	C-200	Bobrek Engineering; Jones Architecture	01.14.2021	03.10.2021, 03.29.2021, and 05.10.2021
Civil Details	C-300	Bobrek Engineering; Jones Architecture	01.14.2021	03.10.2021, 03.29.2021, and 05.10.2021
Planting Plan	L-100	Crowley Cottrell, LLC; Jones Architecture	01.14.2021	03.11.2021 and 05.13.2021
Overall Site Demolition Plan	AD100	Jones Architecture	01.14.2021	04.08.2021 and 05.13.2021
Enlarged Site Demolition Plan	AD101	Jones Architecture	01.14.2021	04.08.2021
Proposed 1 st Floor Plan	A100	Jones Architecture	01.14.2021	04.08.2021 and 05.13.2021
Proposed 1 st Floor Plan	A101	Jones Architecture	01.14.2021	04.08.2021
Details	A501	Jones Architecture	01.14.2021	04.08.2021 and 05.13.2021
Perimeter Fencing Details	A502	Jones Architecture	04.08.2021	05.13.2021

- b) Revised Plans reflecting all conditions and incorporating by reference this decision must be submitted to and approved by the City Planner for consistency with this decision prior to the issuance of a foundation permit.

2) Amendments

- a) Any further amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Should the applicant determine that the project may not be completed as presented and conditioned herein, proposed changes shall be reviewed by the City Planner, and brought to the

Planning Board if deemed necessary, prior to making any changes in the field. Any waiver of conditions contained within shall require the approval of the Planning Board.

3) Transfer of Ownership

- a) In the event of the transfer of the site as a whole, within five (5) days of such transfer, the Owner shall notify the Board in writing of the new owner's name and address. The terms, conditions, restrictions, and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

4) Pre-Construction Conference

- a) Prior to mobilizing equipment on site for the start of work, a pre-construction conference as necessary shall be scheduled with the City Planner, the City Engineer (or his designee), the Building Commissioner, the Health Agent, Tree Warden and any other departments that may be necessary. The Owner shall submit a construction schedule at the time of the pre-construction conference. The schedule shall include a description of how construction will be phased and staged and what the impacts will be to the sidewalks and roadways.

5) Traffic & Circulation

- a) To ensure that safe vehicular, bicyclist, and pedestrian circulation is maintained throughout construction, applicant shall submit to the City Planner, prior to issuance of a Building Permit, a plan detailing site access for construction vehicles, material delivery, debris removal, and any other vehicular activity associated with the project's construction.
- b) The developer shall coordinate construction activities with the City Engineer.

6) Signage

- a) Prior to issuance of Building Permits, the applicant shall provide a signage plan to the City Planner for approval. This plan shall include:
 - i) Clearly marked entrances to the stacking lane a minimum of twenty (20) feet from the curb cut measured at the property line.
 - ii) Specific menu board designs.

7) Landscaping

- a) An as built landscaping plan accompanied with a letter from a Registered Landscape Architect certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.
- b) Maintenance of all landscaping on the site shall be the responsibility of the Applicant, its successors or assigns, and any tree or shrub that does not survive shall be replaced.

8) Maintenance

- a) Refuse removal, ground maintenance, and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, successors, or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b) Winter snow in excess of snow storage areas on the site shall be removed off- site.

9) Fire Department

- a) All work shall comply with the requirements of the Salem Fire Department.

10) Building Inspector

- a) All work shall comply with the requirements of the Salem Building Inspector

11) Board of Health

The owner shall comply with the following specific conditions issued by the Board of Health:

- a) The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b) If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site meets the DEP standards for the proposed use.
- c) A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- d) A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- e) The developer shall adhere to a drainage plan as approved by the City Engineer.
- f) The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent.
- g) The developer shall maintain the area free from rodents throughout construction.
- h) The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- i) The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- j) The Fire Department must approve the plan regarding access for fire fighting.
- k) Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the property line.
- l) The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.

- m) The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of Health.
- n) The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

12) City Engineer & Utilities

- a) All work shall comply with the requirements of the City Engineer.

13) Construction Practices

- a) **All construction shall be carried out in accordance with the following conditions:**
 - i) Rock crushing and material mixing shall not be allowed at the site in order to reduce potential dust.
 - ii) All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
 - iii) All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
 - iv) Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
 - v) All construction and staging will occur on site. No construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
 - vi) A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the issuance of a building permit.
 - vii) Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.
 - viii) All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
 - ix) All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
 - x) All construction vehicles left overnight at the site, must be located completely on the site.
 - xi) Should contaminated materials be encountered onsite, all construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
 - xii) The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

14) **As-built Plans**

- a) As-built Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy.
- b) The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.
- c) A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.

15) **Violations**

- a) Violations of any condition contained herein shall result in revocation of this permit by the Planning Board, unless the violation of such condition is waived by a majority vote of the Planning Board.

Record of Vote

The following members of the Planning Board voted eight (8) in favor and none (0) opposed to approve the Site Plan Review application, Drive-Through Facilities Special Permit, and Flood Hazard Overlay District Special Permit subject to the above-stated terms and conditions: Chair Bill Griset, Kirt Rieder, Helen Sides, Noah Koretz, DJ Napolitano (signed Mullins affidavit), Carole Hamilton, Tom Furey, and Todd Waller.

Recused: Sarah Tarbet

I hereby certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Planning Board. The Special Permit shall not take effect until a copy of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the owner of record is recorded on the owner's Certificate of Title. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.



Bill Griset
Chair