

The May 13, 2015 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 6:45 p.m. with the following members present:

Matthew Zuker, Chairman
James DeCelle, Vice Chairman
Craig Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member (arrived at 7:05 pm)
Timothy Foley, Associate Member

Mr. Zuker declared that under G.L. c.30A, §21 (b) (3) and (4), the purpose of the executive session will be to discuss litigation strategy regarding litigation known as Thomas C. Taylor and Martha B. Taylor v. Walpole Zoning Board of Appeals because a discussion of litigation strategy in open session could compromise the purpose of the executive session and with the Board to return to open session at the conclusion of the executive session.

A motion was made by Mr. DeCelle, seconded by Mr. Hiltz, to go into executive session, under G.L. c.30A, §21 (a)(3), for the purposes and reasons declared by the Chairman and with the Zoning Board of Appeals to return to open session thereafter.

A Roll Call vote was taken and the vote was **5-0-0 in favor**. (Mr. Zuker – Yes; Mr. DeCelle – Yes; Mr. Hiltz – Yes; Ms. Coffey – Yes; Mr. Foley – Yes)

The Board returned to open session at 7:04 p.m.

7:00 p.m. – David Senatore – Case # 2-15 (cont'd from 4/15/15) (Zuker, DeCelle, Hiltz, Coffey, Murphy, Foley)

Mr. Zuker read the public hearing notice for **DAVID SENATORE, Case #2-15**, with respect to property located at 269 Pleasant Street, East Walpole, MA and shown on the Assessors Map 28 and Lot No. 23, General Residence Zoning District.

The application is for:

A VARIANCE under Section 6C of the Zoning Bylaws to allow proposed addition to exceed allowed height to setback parameter.

Mr. Zuker explained that this meeting is a continuation from the April 15, 2015 public hearing.

David Senatore the Applicant said that he met with his architect. Part of the effort was to lower the height. The issue is the lot has a sudden drop off. For us to meet the setback parameter we would have to level the grade. That would require a retaining wall. The plan we worked out was to build the retaining wall and raise the grade so our height met the setback requirement. We do not want to do that. We would have to put the wall close to Ms. Connolly's property which would impose on her property. The Applicant said he would like to submit new plans to the record. The front part of the addition is in compliance.

Mr. DeCelle said the big thing he asked to have on the plans was the elevation put on by an engineer or surveyor. He mentioned that he still does not see that.

The Applicant said the previous drawing shows the overall height.

Mr. DeCelle said that is not what the bylaw asks for. There is nothing on the plan that shows the Board what we need. He explained to the Applicant that if he did not meet the Bylaw that would be the basis for the Board to grant the variance. The Board needs to see that cross section height.

The Applicant wanted to know if he could just tell the Board what the cross section would be.

Mr. DeCelle said it has to be done by a professional.

The Applicant stated that he would hate to ask for another extension but he believes that it would be in the best interest for him and his neighbors.

Mr. Hiltz said that as the roof raises the edge of your property moves out. How do we know that the roof does not rise faster?

Mr. Zuker said that at some point it has to be higher.

The Applicant said that on the numbers he ran he comes out of compliance somewhere in the rise of the roof then it comes back into compliance. The Applicant stated that he understands he needs to have hard data from a certified person.

Mr. Hiltz asked why he could not have the addition extend backward since the Applicant's property extends back. He was curious as to why the Applicant would make the addition so close to the property line. If you have the addition going out the back we could come up with a lot of different alternatives. For the Board to grant a variance you would need to have a hardship.

Ms. Murphy stated the hardship could be the slope.

Mr. Hiltz said the plans do not show the topology. There are no topographical lines on the plan.

Mr. Zuker stated that there may be a way to design these plans in a way that would work without a variance.

The Applicant said that he is still having an issue with the property dropping off. It would still be out of compliance.

Mr. Zuker said that the Applicant should get revised plans. An Engineer should be able to put the information the Board needs on the plans. With a red box that shows the violation to the Bylaw. Without seeing that, the Board does not know what they are giving a variance on. Mr. Zuker went on to say that the Engineer has to read the Bylaw to understand exactly what the Board needs. It will take some more work and thought from your Engineer.

Ms. Murphy said the Board would need some more information about the back of the property to explain why the Applicant could not extend the house back instead of to the side.

Mr. Zuker said there is an argument he could make on the slope but the Board does not have enough information. He then asked if there was anyone at the meeting who would like to comment on the project.

Dorothy Connolly of 265 Pleasant Street stated that she does not understand half of what the Board is talking about. She did mention that she does not like the idea of a retaining wall because it looks terrible.

Mr. Zuker stated that he understands her not liking the retaining wall but he was curious about how she felt about the proposal and the structure that the Applicant is proposing, going next to her.

Ms. Murphy explained that the addition is a lot bigger than a retaining wall.

Ms. Connolly wanted to know what the retaining wall would do to the water level.

Ms. Murphy said that there are some strange water levels in that area of town and explained that the retaining wall would change that.

Tom Harney of 273 Pleasant Street explained that the area has a high water table. The back floods with heavy rain. The water table is at 7 feet. They had to pump for a while. Way in the back is where it starts to flood. When there is heavy rain the street floods to the top of the curb. Ms. Connolly has the lowest backyard on the street. Everything goes to her yard. That is the actual lowest point on the whole street. I am concerned with the water.

Mr. Zuker explained that if the addition met the bylaws he could do the addition by right. There could be a water issue but he is looking for a variance.

Mr. Harney stated that he could build the most expensive house because then his property value will go up. As long as it is legal with the Board he is OK.

Mr. Hiltz said that they have to start where the lot exists. Can you develop the lot without a substantial hardship? We start with the lot that is there, and then we look at the bylaw and figure out if there is something there that would be a hardship. Turning the addition or slopping the roof we start to question what the hardship is.

Mr. Zuker stated to get a variance is difficult. Variances, unlike special permits are not granted easily.

The Applicant said that he could do the addition with the retaining wall he just doesn't believe that is what anyone wants to see.

Mr. Zuker explained that sometimes as a Board we might not agree with the bylaw. If there is another way the Applicant can to do this addition where he would not need a variance. Or you can come back and show us why we should allow you to do it. If you are going to go the variance route the more information you can give us the better. We need more information or facts to make the decision one way or another.

The Applicant said that he needs to figure out what other options there are and get more information.

Mr. Zuker said that if there is a reason why you cannot put the addition in the back it would be helpful for you to show that.

The Applicant submitted some pictures to the record that showed the lots and how close they are. He also showed where the retaining wall would go. He explained that his neighbor has a tree right on the line that

she does not want to get rid of. The pictures also show the drop off. Some of the pictures showed the view from the street in case the Board is not familiar with the area.

Mr. Zuker asked which meeting date the Applicant would like in order to get all of the information the Board has asked from him.

The Applicant stated that June 3rd would work.

A motion was made by Mr. Hiltz, seconded by Ms. Murphy to continue the hearing to June 3, 2015 at 7:00 p.m. in the Main Meeting Room of the Town Hall.

The vote was **5-0-0 in favor** (Zuker, DeCelle, Hiltz, Coffey and Murphy voting).

7:00 pm – Twins Realty Trust – Case #3-15 (DELIBERATION) (Zuker, DeCelle, Hiltz, Coffey, Murphy, Foley)

Mr. Zuker explained that the Board is now deliberating on Case #3-15 for a Special Permit.

Ms. Coffey said there seemed to be some concerns about the hours of operation on the other property.

Mr. Zuker said that he thinks limiting the hours would be good. He explained that he does not like the carte blanche. He would be OK if it was limited on the times. He believes everyone was OK with the other building that was the Dunkin Donuts correct.

Mr. DeCelle said his only concern was the corner, he felt that was unsafe but the traffic report says otherwise.

Mr. Zuker said that the building could be a bank, pharmacy or a dry cleaner with a drive through. The hours of operation would be 7:00 a.m. – 9 p.m. if they want it to be something different then they can come back before the Board.

A motion was made by Mr. Zuker, seconded by Mr. Hiltz, on behalf of the Applicant, to grant a **Special Permit** under Section 5B.4q.ii of the Zoning Bylaws to allow drive-in or stand for dispensing of food, beverage or goods from inside a building to persons standing or seated outside for Assessors Lot No. 49-6

The vote was **(5-0-0) in favor** (Zuker, DeCelle, Hiltz, Coffey & Murphy voting); therefore the application for a **Special Permit** is hereby **GRANTED, subject to the following conditions:**

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the property (Lot No. 49-6) will be a bank, pharmacy or dry cleaner. The applicant would have to come back before the Zoning Board if they would like the building to be something different.
2. As stipulated by the applicant at the public hearing, the hours of operation for Lot No. 49-6 will be 7:00 a.m. - 9:00 p.m.
3. As stipulated by the applicant at the public hearing, Lot No. 49-6 cannot have a 24 hour drive thru, however the Board will allow the applicant to come back before the Board to get a modification on the drive thru if necessary.

4. As stipulated by the applicant at the public hearing, there will be no call box for the drive thru on Lot No. 49-6.
5. The Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaw, which requires that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;

As discussed above, the proposed work complies with the special permit provisions of Section 5B.4q.ii of the Zoning Bylaw. Per the By-law, there is less than 1000 feet along the street on which the use has its principal business access.

(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure will not have vehicular or pedestrian traffic that will adversely affect the immediate neighborhood. The site is nearby to the intersection of Old Post Road and Providence Highway, a four (4) lane state highway and major through fare. In the immediate vicinity to this site is a restaurant, two motels, liquor store and sandwich shop, fence store and an office building. The Applicant has submitted a Traffic Impact Assessment revised February 2015 by Gillon Associates with Technical Memorandum dated March 12, 2015 describing the adequacy of the drive-through lanes and the traffic impact that the Applicant project will likely have at this location. This Traffic Impact Assessment asserts that the proposed development and generated traffic will not adversely affect roadways in either Walpole or Sharon. The Gillon Associates Traffic Assessment states “The Old Post Road/Route One intersection facilitates about 2,900 vehicles in the morning peak hour and 3,100 vehicles during the evening peak hour and approximately 39,000 vehicles per day. Thus, this proposed development and generated traffic will not adversely affect the roadway operation in either Walpole or Sharon. “ (Technical memorandum dated March 12, 2015 p.4). This particular lot abuts residential lots, with the imposed conditions limiting the permitted uses and hours of operation the Board finds that the proposed structure will not have vehicular or pedestrian traffic that will adversely affect the immediate neighborhood. The Board finds this requirement is therefore met.

- (c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed structure in in the Highway Business zoning district. The Applicant's project will not have a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood. As described herein above, the project involves two (2) buildings for retail use. There will be no residents on this site. Building A (12,900 SF) may likely have approximately 6-10 employees working during the peak house. Building A may have approximately 100-125 customers and visitors to the site during any peak hours, which are late morning and early afternoon. Additionally, the applicant has stipulated to a condition to limit the hours of operations. The Applicant's property 985-995 Old Post Road is near the intersection of Old Post Road and Route 1, Providence Highway. The Property is in the Highway Business zone. There are several businesses within the immediate neighborhood, including a restaurant, motels, liquor store and sandwich shop, fence store and office building. The Board finds this requirement is therefore met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the proposed structure meets the various dimensional requirements of the Zoning Bylaw including lot coverage and that this criterion is therefore met. There are no buffer zone requirements associated with this use.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that the proposed use is not known to be dangerous due to fire, explosion, emission of wastes, or other causes. The Walpole Fire Department supports this project. As such, the Board finds that this criterion is met.

- (f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed structure is not known to be typically associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. Although the drive through is immediately adjacent to a residential lot, the applicant has stipulated to a condition not to have a call box. There will be no on-site stove cooking. The products are heated or cooked by microwave. As such, the Board finds that this criterion is met.

- (g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds that the property in question is an industrial space that is being made into a commercial use lies within an area with other businesses. The Building is also on a main highway and that the proposed structure is reasonable for the neighborhood. The Board therefore finds that this criterion is met.

(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the proposed commercial structure is appropriate for the Highway Business District which allows and encourages the type of uses (i.e. retail) for this proposed development. There are retail establishments in the immediate neighborhood (restaurant, two hotels, liquor store, sandwich shop and fence business). The proposed drive-thru and outdoor dining area is consistent with the character and purposes of the Highway business district. As such, the Board finds that this criterion is met.

A motion was made by Mr. Zuker, seconded by Mr. DeCelle, on behalf of the Applicant, to grant a **Special Permit** under Section 5B.4q.ii of the Zoning Bylaws to allow drive-in or stand for dispensing of food, beverage or goods from inside a building to persons standing or seated outside for Assessors Lot No. 49-7

The vote was **(5-0-0) in favor** (Zuker, DeCelle, Hiltz, Coffey & Murphy voting); therefore the application for a **Special Permit** is hereby **GRANTED, subject to the following conditions:**

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a Dunkin Donuts as shown on the plan submitted at the public hearing.
2. The Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaw, which requires that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;

As discussed above, the proposed work complies with the special permit provisions of Section 5B.4q.ii of the Zoning Bylaw. Per the By-law, there is less than 1000 feet along the street on which the use has its principal business access. The proposed dining area is on the same premises as the restaurant (namely: the Dunkin Donuts). Accordingly, the Applicant meets this requirement.

(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure will not have vehicular or pedestrian traffic that will adversely affect the immediate neighborhood. The site is nearby to the intersection of Old Post Road and Providence Highway, a four (4) lane state highway and major through fare. In the immediate vicinity to this site is a restaurant, two motels, liquor store and sandwich shop, fence store and an office building. The Applicant has submitted a Traffic Impact Assessment revised February 2015 by Gillon Associates with Technical Memorandum dated March 12, 2015 describing the adequacy of the drive-through lanes and the traffic impact that the Applicant project will likely have at this location. This Traffic Impact Assessment asserts that the proposed development and generated traffic will not adversely affect roadways in either Walpole or Sharon. The Gillon Associates Traffic Assessment states “The Old Post Road/Route One intersection facilitates about 2,900 vehicles in the morning peak hour and 3,100 vehicles during the evening peak hour and approximately 39,000 vehicles per day. Thus, this proposed development and generated traffic will not adversely affect the roadway operation in either Walpole or Sharon. “ (Technical memorandum dated March 12, 2015 p.4).The Board finds this requirement is therefore met.

(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure in in the Highway Business zoning district. The Applicant’s project will not have a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood. As described herein above, the project involves two (2) buildings for retail use. There will be no residents on this site. Building B (3,000 SF) may likely have approximately 9-10 employees working during the morning peak period. Building B may likely have approximately 172 customers and visitors to the site during a morning peak hour. The number of employees, customers and visitors to the Applicant’s site will not adversely affect the immediate neighborhood. The Applicant’s property 985-995 Old Post Road is near the intersection of Old Post Road and Route 1, Providence Highway. The Property is in the Highway Business zone. There are several businesses within the immediate neighborhood, including a restaurant, motels, liquor store and sandwich shop, fence store and office building. Based on the Applicant’s extensive experience operation several other Dunkin Donuts coffee shops in Walpole, Massachusetts, the numbers of customers drop off substantially after 10:00 a.m. In addition there are five (5) Dunkin Donuts shops within a 3± mile radius of this site on Old Post Road. The Applicant’s experience and knowledge has shown that the vast majority of Dunkin Donuts customers visit a Dunkin Donuts shop while on their normal route. In other words, generally, Dunkin Donuts shops are not destination locations. The Board finds this requirement is therefore met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the proposed structure meets the various dimensional requirements of the Zoning Bylaw including lot coverage and that this criterion is therefore met. There are no buffer zone requirements associated with this use.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that the proposed use is not known to be dangerous due to fire, explosion, emission of wastes, or other causes. There is no on-site stove cooking. Products are heated or cooked by microwave. As such, the Board finds that this criterion is met.

- (f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed structure is not known to be typically associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. There will be no on-site stove cooking. The products are heated or cooked by microwave. As such, the Board finds that this criterion is met.

- (g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds that the property in question is an industrial space that is being made into a commercial use lies within an area with other businesses. The Building is also on a main highway and that the proposed structure is reasonable for the neighborhood. The Board therefore finds that this criterion is met.

- (h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed commercial structure is appropriate for the Highway Business District which allows and encourages the type of uses (i.e. retail) for this proposed development. There are retail establishments in the immediate neighborhood (restaurant, two hotels, liquor store, sandwich shop and fence business). The proposed drive-thru and outdoor dining area is consistent with the character and purposes of the Highway business district. As such, the Board finds that this criterion is met.

A motion was made by Mr. Zuker, seconded by Mr. Hiltz, on behalf of the Applicant, to grant a

Special Permit under Section 5B.4q.i of the Zoning Bylaws to allow outdoor dining area accessory to a restaurant or hotel on the same premises for Assessors Lot No. 49-7

The vote was **(5-0-0) in favor** (Zuker, DeCelle, Hiltz, Coffey & Murphy voting); therefore the application for a **Special Permit** is hereby **GRANTED, subject to the following conditions:**

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a Dunkin Donuts as shown on the plan submitted at the public hearing.
2. The Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaw, which requires that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;

As discussed above, the proposed work complies with the special permit provisions of Section 5B.4q.i of the Zoning Bylaw. Per the By-law, there is less than 1000 feet along the street on which the use has its principal business access. The proposed dining area is on the same premises as the restaurant (namely: the Dunkin Donuts). Accordingly, the Applicant meets this requirement.

(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure will not have vehicular or pedestrian traffic that will adversely affect the immediate neighborhood. The site is nearby to the intersection of Old Post Road and Providence Highway, a four (4) lane state highway and major through fare. In the immediate vicinity to this site is a restaurant, two motels, liquor store and sandwich shop, fence store and an office building. The Applicant has submitted a Traffic Impact Assessment revised February 2015 by Gillon Associates with Technical Memorandum dated March 12, 2015 describing the adequacy of the drive-through lanes and the traffic impact that the Applicant project will likely have at this location. This Traffic Impact Assessment asserts that the proposed development and generated traffic will not

adversely affect roadways in either Walpole or Sharon. The Gillon Associates Traffic Assessment states “The Old Post Road/Route One intersection facilitates about 2,900 vehicles in the morning peak hour and 3,100 vehicles during the evening peak hour and approximately 39,000 vehicles per day. Thus, this proposed development and generated traffic will not adversely affect the roadway operation in either Walpole or Sharon. “ (Technical memorandum dated March 12, 2015 p.4).The Board finds this requirement is therefore met.

(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure in in the Highway Business zoning district. The Applicant’s project will not have a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood. As described herein above, the project involves two (2) buildings for retail use. There will be no residents on this site. Building B (3,000 SF) may likely have approximately 9-10 employees working during the morning peak period. Building B may likely have approximately 172 customers and visitors to the site during a morning peak hour. The number of employees, customers and visitors to the Applicant’s site will not adversely affect the immediate neighborhood. The Applicant’s property 985-995 Old Post Road is near the intersection of Old Post Road and Route 1, Providence Highway. The Property is in the Highway Business zone. There are several businesses within the immediate neighborhood, including a restaurant, motels, liquor store and sandwich shop, fence store and office building. Based on the Applicant’s extensive experience operation several other Dunkin Donuts coffee shops in Walpole, Massachusetts, the numbers of customers drop off substantially after 10:00 a.m. In addition there are five (5) Dunkin Donuts shops within a 3± mile radius of this site on Old Post Road. The Applicant’s experience and knowledge has shown that the vast majority of Dunkin Donuts customers visit a Dunkin Donuts shop while on their normal route. In other words, generally, Dunkin Donuts shops are not destination locations. The Board finds this requirement is therefore met.

(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;

The Board finds that the proposed structure meets the various dimensional requirements of the Zoning Bylaw including lot coverage and that this criterion is therefore met. There are no buffer zone requirements associated with this use.

(e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;

The Board finds that the proposed use is not known to be dangerous due to fire, explosion, emission of wastes, or other causes. There is no on-site stove cooking. Products are heated or cooked by microwave. As such, the Board finds that this

criterion is met.

(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

The Board finds that the proposed structure is not known to be typically associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. There will be no on-site stove cooking. The products are heated or cooked by microwave. As such, the Board finds that this criterion is met.

(g) Shall not adversely effect the character of the immediate neighborhood; and

The Board finds that the property in question is an industrial space that is being made into a commercial use lies within an area with other businesses. The Building is also on a main highway and that the proposed structure is reasonable for the neighborhood. The Board therefore finds that this criterion is met.

(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the proposed commercial structure is appropriate for the Highway Business District which allows and encourages the type of uses (i.e. retail) for this proposed development. There are retail establishments in the immediate neighborhood (restaurant, two hotels, liquor store, sandwich shop and fence business). The proposed drive-thru and outdoor dining area is consistent with the character and purposes of the Highway business district. As such, the Board finds that this criterion is met.

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MINUTES:

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the **February 5, 2015** meeting minutes as written.

The vote was **4-0-0 in favor**. (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the **February 25, 2015** meeting minutes as written.

The vote was **4-0-0 in favor**. (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the **March 11, 2015** meeting minutes as written.

The vote was **4-0-0 in favor**. (Zuker, Decelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle, to approve the April 1, 2015 meeting minutes as written.

The vote was **4-0-0 in favor.** (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the April 15, 2015 meeting minutes as written.

The vote was **5-0-0 in favor.** (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the April 29, 2015 meeting minutes as written.

The vote was **4-0-0 in favor.** (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to adjourn the meeting at 8:05 p.m.

The vote was **5-0-0 in favor.** (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

Craig W. Hiltz
Clerk

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Minutes were approved on June 3, 2015.