



TOWN OF HINGHAM

Board of Appeals

NOTICE OF DECISION SPECIAL PERMIT

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 Special Permit A2 under § III-A, 4.11A of the Zoning By-Law (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 at 193 Whiting Street in the Business B District.

The Applicant simultaneously filed an application with the Board for a Variance from §§ V-B and IV-C, 7 of the By-Law to install a ground sign within required setbacks, along with related applications with the Planning Board for Site Plan Review under §§ I-G and I-I and a Special Permit A3/Parking Determination under § V-A of the By-Law. The Boards' proceedings took place

separately. The Planning Board voted on November 29, 2021 to conditionally approve both the Site Plan Review and Special Permit A3 applications.

The Board opened a duly noticed public hearing on its Special Permit A2 application concurrently with a hearing on the Variance application 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 Special Permit. In accordance with § I-I, 2.c, the conditions imposed by the Planning Board in its Site Plan Approval are binding conditions to this Decision.

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. The property is currently improved by a single-story commercial building (ca. 1962) that was previously occupied by a gas station/service shop. The majority of the lot is paved so the site is nonconforming with respect to open space in addition to landscaping requirements along the street frontage. Four existing curb cuts (two each from Whiting and Gardner Streets) served the prior gas station.

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. Two curb cuts would be eliminated, one each on Gardner and Whiting Street, and circulation adjusted to accommodate the drive-up ATM. In terms of stormwater, runoff would be reduced post construction. Roof runoff from the existing building and stormwater from the western portion of the parking lot would be collected in drains that discharge to a subsurface infiltration system consisting of plastic chambers surrounded by crushed stone. An existing septic system, which is partially located under the redeveloped parking lot, would serve the retail building.

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-F, 2 of the By-Law:


1. **The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law, for the following reasons:** Redevelopment of the property from an abandoned service station to a permitted retail use and drive up ATM will fulfill general purposes of the By-Law. Four existing curb cuts will be reduced to two, lessening congestion in the adjacent streets. The value of the existing building and surrounding area will be improved through redevelopment of the vacant property. The proposed use will not adversely affect the health, safety or welfare of any prospective occupants, abutters, or the Town.
2. **The proposed use complies with the purposes and standards of the relevant specific sections of this By-Law, for the following reasons:** Retail is a permitted use under § III-A, 4.1 and a drive-up ATM is an allowed use by special permit under § III-A, 4.11A of the By-Law in the Business B District. Additionally, the Planning Board voted on November 29, 2021 to issue Site Plan Approval under §§ I-G and I-I and a Special Permit A3/Parking Determination under § V-A of the By-Law.
3. **The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area, for the following reasons:** The Property is an appropriate location for the proposed use for retail and a drive-up ATM, as it is located on the north side of Whiting Street (Route 53) on the corner of the intersection between Whiting Street, Gardner Street and Derby Street, and is centrally located in the Business B District.
4. **The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated, for the following reasons:** The proposed redevelopment will eliminate or reduce existing nonconformities related to open space requirements and features buffers and current lighting technology appropriate for the location.
5. **There will be no nuisance or serious hazard to vehicles or pedestrians, for the following reasons:** The proposed drive aisle through the site is continuous from Gardner Street to Whiting Street, and the proposed aisle width is greater than the minimum required width, enhancing vehicle circulation through the site. Additionally, adequate length for the queuing of three (3) vehicles dedicated to the ATM is provided outside of the drive aisles. All walkways and driveways for the site are designed to be ADA compliant.
6. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use, for the following reasons:** The proposed redevelopment includes off-street parking that complies with requirements related to parking space and driveway dimensions, grading, and landscaping. The proposed project includes thirteen (13) parking spaces to serve the proposed retail space. The proposed plan also includes an appropriately screened trash enclosure to support the use at the site.
7. **The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** The

proposed redevelopment introduces accepted design features to a previously developed site. The current site has no stormwater treatment, and the redevelopment will capture stormwater from the roof and west portion of the site and discharge it a subsurface infiltration structure. Surface runoff will also be reduced through the reduction of the impervious area and the introduction of landscape areas. The application includes a Construction Phase Operation and Maintenance Plan that includes Best Management Practices to minimize potential construction impacts.

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 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 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.