

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-09
Petition of Dunkin Donuts
951 Worcester Street

Petition of DUNKIN DONUTS requesting renewal of a Special Permit pursuant to the provisions of Section XI and Section XXV of the Zoning Bylaw to continue to allow its premises at 951 WORCESTER STREET, in a Business District, to be used for a drive-through window where business is transacted from the vehicles of customers or patrons, a use not allowed by right in a Business District.

On January 23, 2006, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Bill Donovan, who said that he is representing Dunkin Donuts. He said that they are seeking renewal of the Special Permit issued in 2004.

The Board said that there have been traffic backups onto Route 9 in the morning.

The Board said that sign that was installed at the front of the building does not really limit the menu. The signs says, "No Large Orders." The Board said that a specific limit should be set, beyond which customers will have to park and come into the facility.

The Board asked Mr. Donovan to define what Dunkin Donuts considers to be large orders. Mr. Donovan said that would be dozens of donuts or sandwiches. Mr. Donovan said that they could set a limit of six items.

Mr. Donovan said that the sandwich orders cause the backups. They have installed an electronic order taker that is designed to move the window orders faster. He said that it clocks each transaction for the people inside. Tracking has shown that it does move the orders.

The Board asked if a warmed bagel with cream cheese is considered a sandwich. Mr. Donovan said that it is not. The Board asked if any toasted items could be avoided in the line.

The Board said that once the customer is in the line, they will get what they want. Mr. Donovan said that the order is made at the menu port. He said that the employees are instructed to refuse orders that are not allowed. The Board said that the problem is customers getting into the line whether or not they are served. Customer may spend a few minutes arguing about not being served.

Mr. Donovan said that once the customer is in line, the only thing that Dunkin Donuts can do is to enforce the restrictions. He said that they have improved the flow substantially from what it was before. He said that traffic does go out onto the street occasionally. He said that they have made efforts with the signage, the restricted menu and the electronic order taker to alleviate the problem.

The Board said that the biggest problem occurs between 6:00 and 9:00 a.m. The Board said that Dunkin Donuts should start handing out flyers describing the limitations and explaining the need due to traffic safety issues. Passing the flyers out for a couple of months should catch most of the customers.

Mr. Donovan said that the limited menu restrictions are currently in effect between 6:00 and 11:00 a.m. The Board said that it would be willing to move that back.

Mr. Donovan said that Dunkin Donuts has had the Special Permit for approximately 12 years. He said that the initial Special Permit had no restrictions. He said that when backups began occurring they installed a sign that said, "No Large Orders." He said the sign was later changed to include, "No Sandwiches." He said that they have purchased bigger coffee makers and other equipment over the years to speed service.

The Board said that with the location of the sign, once the customer is in line, it is too late to do anything about it. The Board asked if the menu board could be programmed to show what is not allowed.

Mr. Donovan said that the "No Large Orders" sign is located at the front of the building before the drive-through lane. He said that customers who do not look at the sign and do get into the drive-through are told to drive through and park out front if they want a large order or sandwich. The Board said that customers not served in the line cannot go around and park because traffic turns are restricted to the opposite direction.

The Board said that the parking lot is not big enough for the kind of business that Dunkin Donuts does. Mr. Donovan said that he has asked the Town about leasing the aqueduct property that it has recently acquired.

The Board said that there is a serious safety issue with traffic backing out onto Route 9. Mr. Donovan said that he does understand that. He said that they used to sell about 100 sandwiches in the morning and they do not sell those anymore. Although Dunkin Donuts and the customers are not happy about that, public safety comes first.

The Board asked if there have been any accidents on Route 9. Mr. Donovan said that there have been no accidents there.

The Board said that it could renew the Special Permit for one year. The Board would need to see, before the end of the month, a new sign that will make it very clear to people how limited their ability to purchase will be between 6:00 and 10:00 a.m. The Board said that the sign needs to be bigger and be clear as to the number of items the customer will be able to order.

ZBA 2006-09
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Mr. Donovan asked if the Board would like to see more than one sign. He said that he could install another sign at the menu board. He said it might be helpful to the workers because they can tell the customer to read the sign. The Board said that it had no objection to putting that sign there as it would not be visible from the road.

Statement of Facts

The subject property is located at 951 Worcester Street, in a Business District, on a 12,255 square foot lot and is owned by Donovan Services. The petitioner, William Donovan, is requesting renewal of a Special Permit to continue the use of the drive-through window at the rear of the premises, which is a use not allowed by right in a Business District.

The width of the drive-through lane is 10 feet, and 8 vehicle queuing spaces, varying in length from 10 feet to 10 feet 4 inches, have been provided. Peak use of the drive-through window is 40-45 cars per hour. The total time required to service each vehicle is between 30 and 90 seconds.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The use of a drive-through window in a Business District requires a Special Permit pursuant to Section XI of the Zoning Bylaw, as it is a use not allowed by right in a Business District.

It is the opinion of this Authority that the petitioner has complied with all of the Special Permit Use Standards enumerated in Section XXV of the Zoning Bylaw. There, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, subject to the following conditions:

1. Between the hours of 6 a.m. and 10 a.m., only a limited menu shall be available to drive-through window customers. A notice of this limited menu and the aforesaid hours shall be posted on signs that are visible to customers before the customer reaches the drive-through window.
2. A drawing of the new signs stating what the limitations will be between the hours of 6 a.m. and 10 a.m. shall be submitted to the office of the Board of Appeals within 19 days of the Public Hearing. The location of the new signs shall also be shown on the drawing.

This Special Permit shall expire one year from the date time stamped on this decision.

ZBA 2006-08
Petition of Dunkin Donuts
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

David G. Sheffield

Robert A. Bastille

cc: Planning Board
Inspector of Buildings
lrm