

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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TELEPHONE
(781) 489-7450

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ZBA 2025-12
Petition of The Grossman Companies
35 Grove Street (Truly's)

PFb 20 PH2

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, February 6, 2025, on the petition of The Grossman Companies requesting a Special Permit pursuant to the provisions of Section 2.12 and Section 6.3 of the Zoning Bylaw for a temporary commercial freezer to be located in front of 35 Grove Street (Truly's) and used to store ice cream for sale at 39 Grove Street.

On January 6, 2025, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing was Jay Adrian, who said that the request is for a special permit to allow for a temporary outdoor commercial freezer on private property in front of 35 Grove Street, which is the site of the original Truly's location. He said that the special permit will allow them to operate at their current location at 39 Grove Street continuously while a construction project is finishing up. He said that ice cream is currently stored at the 35 Grove Street location. He said that the temporary external commercial freezer will be located in front of 35 Grove Street where they currently have a public bench.

Mr. Adrian said that the private property extends 16 feet from the edge of the building. He said that they are proposing to place the freezer lengthwise in front of 35 Grove Street, where it will be accessed from the private property sidewalk. He said that the freezer door will be on the left side. He said that they have power accessibility from the landlord. He said that an electrician will be taking care of it.

Mr. Adrian said that one of the purposes of renting 35 Grove Street is to store three gallon tubs of ice cream. He said that they will lose four freezers during construction. He said that they don't have space for the freezers at 39 Grove Street. He said that there will be no external sales from the temporary freezer. He said that the freezer will be locked. He said that the deliveries will go straight to the external freezer. He said that, as needed, they will unlock the freezer to get ice cream and bring it to 39 Grove Street where they operate out of.

Mr. Adrian said that delivery trucks typically come between 10 am and 1 pm. He said that Truly's is one of the few independently operated ice cream shops that is open all year. He said that their driver has a key to 35 Grove Street to drop off ice cream if no one is there to let them in. He said that the driver parks the

truck, puts the ice cream in the freezer and leaves. He said that if there is space, the driver will park on Grove Street, and if not, he will park on the tee off of Grove Street. He said that the driver uses a hand truck to bring the ice cream to 35 Grove Street. He said that Truly's has its own cart to transport ice cream from 35 to 39 Grove Street.

Mr. Adrian said that said that it takes about 30 minutes for the commercial freezer to be delivered from a flatbed and positioned. A Board member confirmed that the freezer will be elevated off the sidewalk and that the electrical connection will be secure enough to be free from vandalism.

Mr. Adrian said that he's been told that the timeframe of the project is six to eight weeks. He said that he was asking for three months to allow time for approval of a special permit and expiration of the appeal period. He said that they don't have permission from the town yet. He said that the project will probably start in March or April and run through May. He said that he does not have an exact start date.

The Chairman discussed concerns about the duration of the special permit and control of the schedule. Michael Grant, Inspector of Buildings, suggested that the Board add a condition to the special permit that the freezer be removed a maximum of one week after the final inspection of the project. He said that would take into account any delays in the project.

Board members discussed concerns about congestion for pedestrians with the tables and freezer at the front of 35 Grove Street. Mr. Adrian said that they have enough linear feet in front of 35 Grove Street to ensure that they are on the private property of that building. He said that they are trying to not inhibit the sidewalk, which is why the 8 by 10 freezer will be placed lengthwise, parallel to the building, to ensure that the width of the freezer will not inhibit even two feet of additional sidewalk space. He said that they want the sidewalk to be as clear as possible and utilize as much seating as possible for summer guests.

Mr. Adrian said that they will be moving the project along as fast as possible. He said that they go through hundreds of three gallon tubs of ice cream each week. He said that although business is slow now, it will ramp up by March. He said that they want to keep as much ice cream within the property to continue operations.

No member of the public wished to speak to the petition.

Statement of Facts

105 FEB 20 PH:2:25

The subject property is located at 35 Grove Street, in the Wellesley Square Commercial District.

The Petitioner is requesting a Special Permit pursuant to the provisions of Section 2.12 and Section 6.3 of the Zoning Bylaw for a temporary commercial freezer to be located in front of 35 Grove Street (Truly's) and used to store ice cream for sale at 39 Grove Street.

Plan SK0029, dated 11/25/24, prepared by Lenox Design Studio, was submitted.

On February 5, 2025, the Planning Board Staff reviewed the petition and recommended that action be delayed.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. A special permit is required pursuant to Section 2.12 of the Zoning Bylaw, as items for sale kept outside of a retail store having less than 50,000 square feet is not a use allowed by right in the Wellesley Square Commercial District.

It is the opinion of this Authority that location of a temporary commercial freezer in front of 35 Grove Street (Truly's) to store ice cream for sale at 39 Grove Street is in harmony with the general intent and purpose of the Zoning Bylaw.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, to allow a temporary commercial freezer to be located in front of 35 Grove Street (Truly's) and used to store ice cream for sale at 39 Grove Street, subject to the following conditions:

1. The term of the special permit shall run from issuance of the special permit until one week after the final inspection by the Inspector of Buildings.
2. The freezer shall be located as close as possible to the building in order to not block pedestrian access down the street.
3. At the discretion of the Building Inspector, the tables shall be located to not inhibit pedestrian circulation.

2025 FEB 20 PM 12:25

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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.

J. Randolph Becker (am)
J. Randolph Becker, Chairman

David G. Sheffield (am)
David G. Sheffield

Peter Covo (am)
Peter Covo

ZBA 2025-12
Applicant The Grossman Companies
Address 35 Grove Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2025 FEB 20 PM 12:26

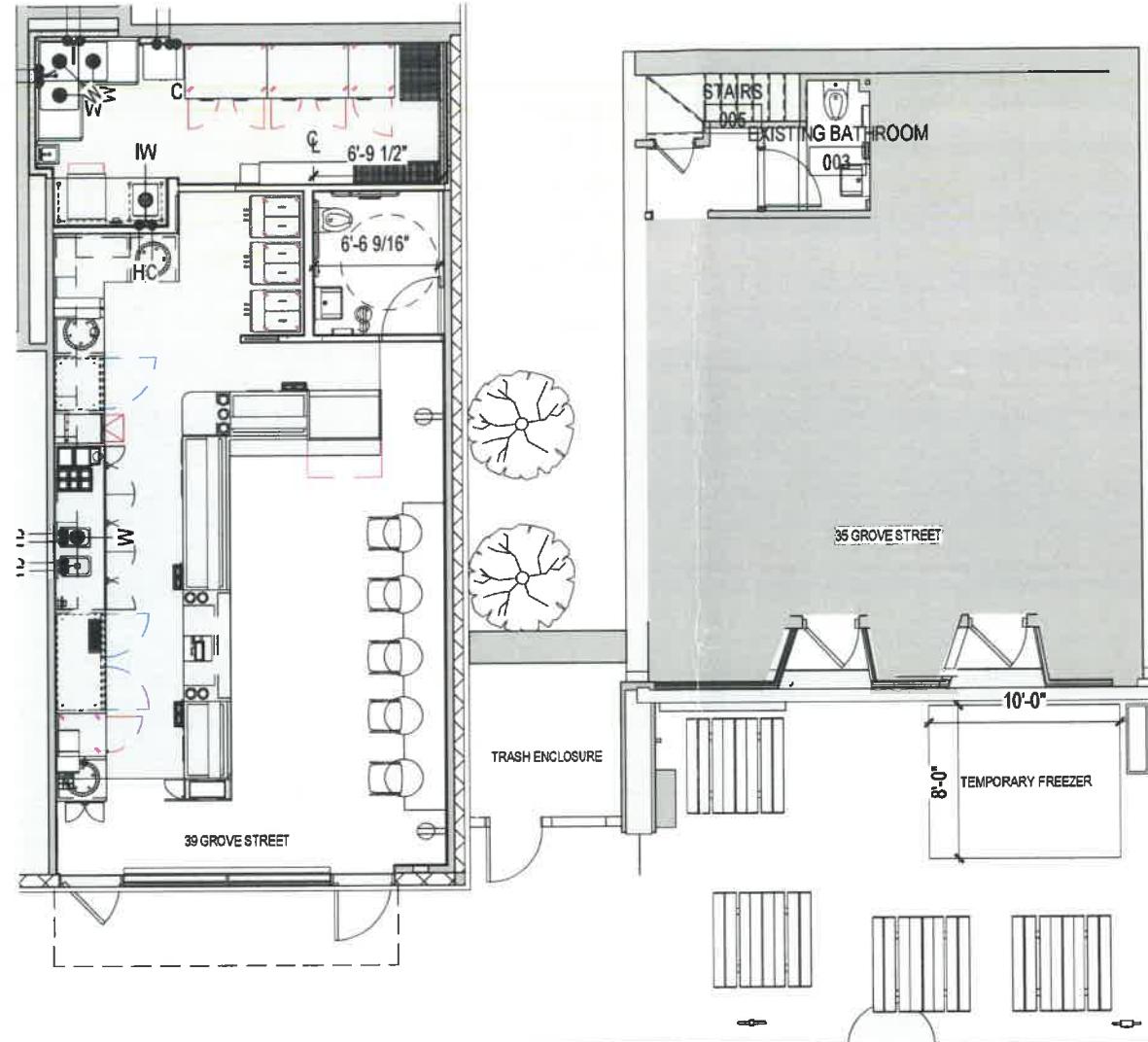
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



LENOX
DESIGN STUDIO

TEMPORARY 8' X 10' FREEZER
TRULY'S
35 GROVE STREET
WELLESLEY, MA 02482

REF: _____
DATE: 11/25/2024
SCALE: 1/8" = 1'-0"
PROJ #: 35 GROVE ST

SK0029