

**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

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CASE NO. 23-13

APPLICANT: Beantown Donuts L.L.C. Mark Pesce

PROPERTY: 52 Church Street

DATE OF PUBLIC HEARING: May 2, 2023

MEMBERS SITTING: Nichols Iannuzzi Jr., Chair
Andrew Kelley
Teressa MacNutt
Casey Williams
Elliot Daniels, Associate Member

MEMBERS VOTING: Nicholas Iannuzzi Jr., Chair
Andrew Kelley
Teressa MacNutt
Casey Williams
Elliot Daniels, Associate Member

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Introduction

This matter came before the Board of Appeals (the “Board”) of the Town of Belmont (the “Town”) acting as Special Permit Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts (the “By-Law”) and Chapter 40A of the Massachusetts General Law (the “Zoning Act”). The Applicant, Mark Pesce (the “Applicant”), request one (1) Special Permit under Section 3.3 of the Zoning By-Laws to allow the operation of a fast-food restaurants in a Local Business I (LBI) Zoning District.

Proposal

The Board held a duly noticed hearing on the application on May 2, 2023. In addition to submitting an application and applicant statement, the Applicant submitted the February 3, 2023 Bill of Sale stating that the Applicant purchased the business from Duarte Carvalho (the Previous Owner), as well as the January 24, 2023 Assignment and Assumption of Lease document. The Applicant also submitted Mr. Carvalho’s application for a Special Permit from the Board of Appeals, which was time stamped on February 8, 1999, and the Board of Appeals March 1, 1999 Decision, granting Mr. Carvalho a non-transferable special permit. Lastly the Applicant submitted two letters of support with his application packet.

The Applicant presented a proposal at the hearing. The Applicant stated that he plans to operate the existing Dunkin Donuts franchise with the same hours of operation and does not plan to change the way the business is operated under Mr. Carvalho. The Applicant further stated that he has experience from operating 40 other Dunkin’ Donut locations across the Boston Metropolitan Area.

No members of the public spoke in support or opposition to the application.

Conclusion

On May 2, 2023, the Board deliberated on the Applicant’s request for one Special Permit under Sections 3.3 of the Zoning By-Laws to operate a fast-food restaurant at 52 Church Street located in a LBI Zoning District. The board proposed to maintain the conditions from the March 1, 1999 Decision, as follows:

1. The Special Permit is granted only to Mark Pesce or to an entity controlled by him and may not be assigned or transferred, in whole or in part, without the Board’s specific approval, following a public hearing on a new application.

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2. Hours of operation shall be from 5:00 AM to 11:00 PM, seven days a week and, if required, subject to the approval of the Select Board.
3. There is to be no dumpster on the Property. All trash will be stored and covered in barrels and stored in a shed. Trash shall be picked up and removed from the Site at least three times a week and more frequently if needed (as determined by the Board of Health). The operator shall patrol Waverly Square at least twice daily, picking up litter.
4. There is to be no on-site baking or cooking. Items may be reheated/microwaved on the premises. Suitable mechanical systems will be installed so no odors will be emitted outside the premises.
5. Deliveries will be made in a manner to minimize interference with other business/residential activities in Waverly Square. No deliveries are to be made to the Property after 10 PM and early morning deliveries shall be limited and no earlier than 5:00 AM.
6. All signage and lighting must comply with local codes. Use of the Property shall be in accordance with all other applicable licenses and permits issued by other Town Boards.
7. Parking relief is granted specifically for this use only. Any other use (including restaurant use) shall be subject to the parking regulations of the Bylaw as if a variance had not been granted. The applicant is to provide 14 spaces and is credited with the spaces onsite and the use of the municipal parking lot in satisfaction of that requirement. The seating capacity of the restaurant permitted is therefore limited to 28 seats.
8. This special permit for restaurant use shall be reviewed at the end of three years; the variance respecting parking spaces, as stated above, may be reviewed and the request for waiver of parking spaces renewed, after one year of operation. At the time of the review, the Board may renew or modify or refuse to re-issue the permit, reserving all rights to the Board to act on information then presented to the Board.

Accordingly, upon motion duly made by Teressa MacNutt and seconded by Nicholas Iannuzzi Jr. the Board voted 5-0 to grant the Applicant the requested Special Permits with conditions.

For the Board:

Dated: July 20, 2023



Gabriel S. Distler
Staff Planner
Office of Community Development