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ASHLAND, MA
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Case No.: _____

Town of Ashland
Planning Department
101 Main St.
Ashland, MA 01721
508.881.0101

ashlandmass.com/316/Zoning-Board-of-Appeals

Application to Zoning Board of Appeals

Note: Application must be complete, with a certified plot plan and all application fees to be accepted.

1. Property Information:

Street Address: 399 Union Street
Zoning District: Industrial Overlay District: _____
Assessor's Map: 20 Lot: 9 Deed Book: 32052 Page: 194
Current Property Owner*: Retail Ashland LLC

2. Permit/Approval Sought:

Special Permit (Section 9.3) Amendment to Special Permit (Section 9.3) Variance (Section 9.2.2.2)
 Appeal of Building Inspector Decision (M.G.L. Ch. 40A) Comprehensive Permit (M.G.L. Ch. 40B)
Use Type: Residential: Commercial: Industrial:

3. Applicant Information: Owner: Tenant: Prospective Purchaser/Tenant:

Name: Retail Ashland LLC
Address: Salvatore Capital Partners, 858 Washington Street, Suite 309, Dedham MA 02026
Phone: (781)329-3000 Email: gsalvatore@salvatorecapital.com
Agent's Name: Jerry C. Effren Esq.
Agent's Address: The Law Offices of Jerry C. Effren, 25 West Union Street, Ashland MA 01721
Agent's Phone: (508)881-4950 Agent's Email: jeffren@effren.net

4. Additional Information:

Are all real estate taxes and other assessments to the Town current?: yes
Is the parcel on a scenic road?: no
Is this an amendment to a previously issued Special Permit? (attach approved permit): no
Date structure was built? (Buildings built before 1940 may need review by Historical Commission.): 2003
Is the property within 100 ft. of a wetland, within 200 ft. of a stream, or in a floodplain?: yes

Case No. _____

5. Description of the Relief Sought: (Attach Letter of Denial of Building Permit.)

Applicant seeks a Special Permit to allow a drive-thru fast-food Starbucks restaurant to be constructed on the premises.

What specific zoning bylaws is this application associated with?: Chapter 282, Section 9.3 (Special Permit), Section 5.1.4.5 (drive-thru facilities) and Section 5.1.4.5 (Restaurant fast-food)

6. Justification for why the application should be approved:

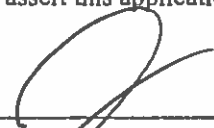
See Supplement to Application for Special Permit.

7. Existing use and condition of the property and surrounding neighborhood: (Please list all relevant non-conformities.)

Pharmacy use with a drive-thru.

By signing below you assert this application is complete and accurate to the best of your knowledge:

Signatures:

Applicant/Agent:  Applicant's Name: Jerry C. Effren

Email Address: jeffren@jeffren.net Phone Number: (508)881-4950

Agent's Relationship to Applicant: Attorney Firm: The Law Offices of Jerry C. Effren

Owner:  Owner's Name: Greg Salvatore

*Note: If the applicant is not the owner, the owner **MUST** sign above or submit a letter of permission with the application.

**ZONING BOARD OF APPEALS
ASHLAND, MASSACHUSETTS**

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**RETAIL ASHLAND, LLC's SUPPLEMENT TO
APPLICATION FOR SPECIAL PERMIT**

INTRODUCTION AND REQUESTED RELIEF

The Applicant Retail Ashland, LLC ("Applicant") submits this Memorandum in support of its Application for Special Permit, by which it seeks approval from the Zoning Board of Appeals (the "Board") for a fast food, drive-thru Starbucks restaurant for the property located at 399 Union Street, Ashland, MA ("Property") pursuant to Chapter 282, Section 9.3 (Special Permit Criteria) and 3.0 (Use Regulations) of the Ashland Zoning Bylaw (the "Bylaw"). The Applicant is proposing to develop and lease the Property for use as a Starbucks, which will include a drive-thru. The Table of Principal Use Regulations for Commercial Uses in an Industrial zone allows a restaurant as of right. However, the use of a fast-food restaurant with a drive thru requires Board approval.

The Applicant has owned the Property for more than twenty years, on which it originally constructed a Brooks Pharmacy, which it later leased to Rite Aid Pharmacy and currently leases to Walgreens Pharmacy. The Walgreens lease is set to expire and has not been renewed. Applicant has now leased the Property to Starbucks. Performance under the lease is subject to, among other things, receipt of all final approvals necessary to construct and operate the Starbucks at this location. Starbucks is an iconic brand and will be a significant upgrade to this location on Route 135, which is best described as a gateway to Ashland on the marathon route. The upgrade will begin with demolishing the existing 9,754 square foot structure and replacing it with a much smaller 2,575 square foot building footprint that is both energy efficient and modern in design. (*Site Plan, Sheet C-2, filed separately.*) While the current Walgreens structure served its purpose well for these many years, this Starbucks project will be something that residents can look at with pride as thousands of runners pass by every year.

BACKGROUND

The Property is located in an Industrial Zoning District at 399 Union Street, Ashland, Massachusetts. (*Exhibit 2: Deed; Exhibit 6: Property Card.*)¹ The Property and each of the

¹ Except when otherwise indicated, all Exhibits are attached the Appendix of Exhibits filed herewith.

pharmacy tenants have operated utilizing the same three driveways that currently exist, a drive-thru component, and the rights afforded by the parking special permit and sign variance issued by the Board in 2003.

The Applicant's current proposal is for a significantly reduced building footprint of a 2,575 square foot building for a Starbucks Restaurant. (*Exhibit 9: Elevation and Floor Plans.*) With the reduction in the size of the building footprint, this Starbucks will no longer need the parking special permit the pharmacy uses required as there is more than sufficient proposed parking for the restaurant under the Bylaw. There will be 46 seats indoors and 28 seats for an outside seating area, as well as a drive-thru. (*Site Plan, Sheet C-3; Exhibit 9: Prototypical Floor Plan.*) The reduction in the proposed building's square footage has allowed the Applicant to increase the number of available parking spaces and design a project that will allow for safe and efficient circulation of vehicles on the Property without need for a parking special permit. (*Exhibit 3: Queuing Plan; TIS, pp. 25-26, filed separately; Site Plan.*) The driveway access and egress will essentially be the same as existed for more than two decades with slight modifications to maximize safety and efficiency. (*Site Plan, Sheets C-2 and C-3.*) Historically, Starbucks has served coffee drinks and hot and cold breakfast and lunch items on a Monday through Sunday basis, which is anticipated for this new location.

DISCUSSION

A. Special Permit Criteria

Pursuant to Bylaw Section 9.3.2, "[s]pecial permits shall be granted by the Special Permit Granting Authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site." Factors to be consider in making this determination include consideration of the following: (1) Community needs served by the proposal; (2) Traffic flow and safety, including parking and loading; (3) Adequacy of utilities and other public services; (4) Neighborhood character and social structures; (5) Impacts on the natural environment; and (6) Potential fiscal impact, including impact on town services, tax base, and employment.

Two subsections of Section 5.1.4 of the Bylaw are applicable here. For projects involving drive-thru facilities in an Industrial district, Bylaw Section 5.1.4.5, provides as follows:

Drive-thru Facilities. Sufficient on site reserved space to permit the stacking of vehicles waiting to be served at a drive-thru window shall be provided to eliminate

conflicts with parking vehicles and eliminate interference with the flow of traffic on the adjacent roadway.”

Bylaw Section 1.4.6 provides further specific criteria for the Board’s consideration for fast food restaurants, as follows:

Restaurant, fast food, drugstore. There shall be at least four spaces provided between the pickup window and order point, at least four spaces provided in advance of the menu board, one space at the order point, and one space at the menu board.

As is set forth below, the Applicant has been mindful of these criteria during the planning phase of the project, which more than meets this standard. (*See Site Plan; Queuing Plan; TIS.*)

B. Traffic Flow and Safety

The Applicant’s traffic consultant assessed potential impacts to the nearby roadways based on trip generation data published in accordance with the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition. (*See TIS, p. 16.*) As set forth in the TIS, access to the Property is currently provided via three driveways, one full access and egress driveway on Summer Street (the “North Site Driveway”), one full access and egress driveway on Union Street (Route 135) that contains one entry and one exit lane for left and right turns (the “East Site Driveway”), and one right-turn exit only driveway on Union Street (the “West Site Driveway”).

With this design, the traffic engineer has concluded that during the weekday morning peak hour period, a total of 215 additional vehicle trips (109 entering and 106 exiting) are estimated to be using the proposed Starbucks restaurant compared to the existing Pharmacy trips. (*TIS, p. 16, Table 1.*) The weekday afternoon peak hour period is estimated to generate a total of only 38 additional vehicle trips (16 entering and 22 exiting) using the Starbucks as compared to the Pharmacy use. (*TIS, p. 16, Table 1.*) Not all of these trips, however, are considered “new” trips as a significant portion will be “pass-by” trips of vehicles already using the roadways. Therefore, the total traffic volume analyzed by McMahon is reduced by the “by-pass” trips, from which McMahon has concluded that during the weekday morning peak hour period, a total of 110 new vehicle trips (57 entering and 53 exiting) and, during the weekday afternoon peak hour period, a total of 44 additional trips (22 entering and 22 exiting). (*TIS, p. 17, Table 2.*)

Based on the ITE Trip Generation methodology, the proposed Starbucks restaurant with drive-thru window service is not shown to have a significant impact on the overall traffic operations or the safety of the study area roadways and intersections.

C. Fast-Food Restaurant with Drive-Thru

Here, as is shown on the Queuing Plan, the drive-thru criteria under Section 5.1.4.6 have been met and exceeded, which is illustrated in the following chart.

Drive-Thru Capacity and Queuing		
	Required	Provided
Between pickup window and order point:	4	5
In advance of menu board:	4	5
At order point:	1	1
At menu board:	1	1
Total Queuing Capacity:	10	12

The requirements of Section 5.1.4.5 have also been met as the design provides for appropriate stacking of vehicles in manner that eliminates conflicts. (*Exhibit 3: Queuing Plan; TIS, pp. 25-26.*) As can be seen on the Queuing Plan, none of the twelve (12) queued vehicles contemplated by this design will conflict with cars attempting to park or leave a parking space. Vehicles entering the Property will be directed to join the queue without conflict with those already waiting. There is also a bypass lane provided around the building to permit vehicles to enter from both the North Site Driveway and the East Site Driveway and exit out of any of the three driveways and circulate around the queue. (*TIS, p. 26.*) Similarly, none of the those queued vehicles will interfere with customers attempting to enter or leave the Property at any of the driveways contemplated by the Site Plan. (*Site Plan, Sheet C-3; Queuing Plan.*)

D. Parking

There is more than sufficient parking to accommodate the restaurant, which will also aid in limiting the impact vehicles entering the Property may have on traffic. The restaurant parking shall include many more than required one parking space for every 4 seats. Here, there will be a total of 74 seats (46 inside and 28 on the outside patio) which requires 19 spaces under the Bylaw. The plan allows for 41 spaces which is essentially double the required amount. (*Site Plan, Sheet C-3; Exhibit 9: Prototypical Floor Plan.*) It is also notable that Starbucks has a well-developed mobile ordering system under which customers are able to order (and pay) before they arrive at the restaurant, which allows Starbucks' employees to prepare those mobile orders before customers arrive and should result in faster turnover of parking spaces.

Additional Special Permit Criteria Have Been Met

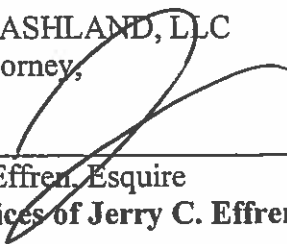
As set forth above, this Application meets all of the required criteria for the Board of Appeals to issue a Special Permit for a Drive Thru under Section 282 of Ashland's Zoning By Law. The proposed structure is sensible in size and a significant reduction in size (9,754 square feet down to 2,575 square feet) from the existing pharmacy building, which will be razed in connection with this project. (*Site Plan; Exhibit 9: Floor and Elevation Plans.*) The new construction will replace the old building with a new modern structure and will impact the environment positively as it will result in a net decrease of impervious surface. (*Site Plan, Sheet C-4; Exhibit 4: Landscape Plan.*) This location on Route 135 is effectively the gateway to Ashland and is located on the Marathon route. The Starbucks building contemplated by this project will be a significant visual upgrade from what exists there now and will be something that the residents can look at with pride on television as thousands of runners pass by every year. (*Compare Exhibit 7 and Exhibit 8.*) The redevelopment will upgrade the lighting, landscaping, and stormwater treatment to incorporate to all current best practices with respect to such technologies.

Additionally, the project is consistent with the nature and character of the neighborhood and meets Starbucks' very high standards and specifications for new construction. The Property is in close proximity to other restaurants and stores, which will allow for seamless integration with the character of the neighborhood. Those families and others using Stone Park will be very pleased see a Starbucks replace the pharmacy. The Starbucks will also provide value to the community by creating many jobs, as well as commercial tax benefits to the Town of Ashland, all while providing its residents with an experience that is unique to Starbucks. In short, the proposed development of a Starbucks on the subject Premises will be a welcomed addition to the neighborhood.

Conclusion

For the foregoing reasons, the Applicant respectfully requests the Board issue a Special Permit, pursuant to Section 282 of Ashland's Zoning Bylaw, allowing a fast-food restaurant with drive thru on the Property on such conditions as the Board deems appropriate.

RETAIL ASHLAND, LLC
By his attorney,



Jerry C. Effren, Esquire
Law Offices of Jerry C. Effren

Dated: July 13, 2022

To The Zoning Board of Appeals
 399 Union Street
 Retail Ashland LLC
 Abutter To Map 20 Parcel 9

PARCEL ID	PARCEL LOCATION	OWNER NAME 1	OWNER NAME 2	MAILING ADDRESS	CITY/TOWN	STATE	ZIP
14-055-00-000	167 CHERRY ST	BORR LAURIE	STONE PARK	167 CHERRY ST	ASHLAND	MA	01721
14-056-00-000	85 SUMMER ST	TOWN OF ASHLAND	AVAKIAN VARTAN & GALINA	101 MAIN ST	ASHLAND	MA	01721
14-314-00-000	86 SUMMER ST	PRUCHNIAK MICHAEL & AVAGYAN TATYANA		86-88 SUMMER ST	ASHLAND	MA	01721
14-315-00-000	82 SUMMER ST	RAMALHO JOHN J	CHERYL L RAMALHO	82 SUMMER ST	ASHLAND	MA	01721
14-316-00-000	80 SUMMER ST	MUMFORD ROBERT M	CASSANDRA MUMFORD	80 SUMMER ST	ASHLAND	MA	01721
14-317-00-000	76 SUMMER ST	JIA JEFFREY J	CHROMILOVA VERONIKA	76 SUMMER ST	ASHLAND	MA	01721
14-318-00-000	7 LINDEN ST	DIANA ANN L		7 LINDEN ST	ASHLAND	MA	01721
14-319-00-000	11 LINDEN ST	ROGERS CELIA L	MIKHAIL A ROGERS	11 LINDEN ST	ASHLAND	MA	01721
20-001-00-000	0 CHERRY ST REAR	PAPADELLIS CHRIS S	TRUSTEE NIPALO RLTY NOMINEE TR	730 OLD CONNECTICUT PATH / PO BOX 1236	FRAMINGHAM	MA	01701
20-002-00-000	171 CHERRY ST	DONALD ALANSON J III	HALLORAN-DONALD BRENDA E	171 CHERRY ST	ASHLAND	MA	01721
20-003-00-000	0 CHERRY ST REAR	K PLAZA LLC		875 WAVERLY ST	FRAMINGHAM	MA	01702
20-004-00-000	175 CHERRY ST	K PLAZA LLC		875 WAVERLY ST	FRAMINGHAM	MA	01702
20-005-00-000	1 WEST UNION ST	K PLAZA LLC		875 WAVERLY ST	FRAMINGHAM	MA	01702
20-006-00-000	15 WEST UNION ST	UNION VILLAGE INC		P O BOX 325	ASHLAND	MA	01721
20-010-00-000	373 UNION ST	KASSAHUN SEIFE SINTAYEHU		373 UNION ST	ASHLAND	MA	01721
20-011-00-000	369 UNION ST	TRAI TUAN		369 UNION ST	ASHLAND	MA	01721
20-012-00-000	363 UNION ST	MACOMBER STANLEY III & DEVIN	JUSTIN & CONNOR MACOMBER	363 UNION ST	ASHLAND	MA	01721
20-013-00-000	361 UNION ST	BARROSO MAYZA R		361 UNION ST	ASHLAND	MA	01721
20-151-00-000	101 PRESIDENTS ROW	ASHLAND COMMONS ASSOCIATES		500 WEST CUMMINGS PARK / SUITE 6050	WOBURN	MA	01801
20-155-00-000	12 WEST UNION ST	OUELLETTE ALAN R AND JUNE E	TRUSTEES OUELLETTE REALTY TRUST	1 GODFREY LN	MILFORD	MA	01757
20-157-00-000	2 WEST UNION ST	ASH REALTY LLC		159 CAMBRIDGE ST	ALSTON	MA	02134
20-158-00-000	384 UNION ST	ASH REALTY LLC		159 CAMBRIDGE ST	ALSTON	MA	02134
20-159-00-000	372 UNION ST	ASH REALTY LLC		159 CAMBRIDGE ST	ALSTON	MA	02134
20-160-00-000	13 METROPOLITAN AVE	13 METROPOLITAN LLC	MARQUEZ SAMANTHA	4 BROOKSIDE RD	SOUTHBOROUGH	MA	01772
20-209-00-000	10 METROPOLITAN AVE	MCKETCHNIE RYAN		10 METROPOLITAN AVE	ASHLAND	MA	01721
20-210-00-000	8 METROPOLITAN AVE	ROBIN KEVIN ASHLEY		8 METROPOLITAN AVE	ASHLAND	MA	01721
20-211-00-000	368 UNION ST	DABRITZ CHARLES A & DONNA A	TRUSTEES DABRITZ FAMILY IRREVOCABLE	368 UNION ST	ASHLAND	MA	01721
20-212-00-000	366 UNION ST	DRAKE ROBERT C	ANNE MARIE DRAKE	366 UNION ST	ASHLAND	MA	01721
20-213-00-000	364 UNION ST	DUDA ADAM JOSEPH	ELORA-DANON ELIZABETH DUDA	364 UNION ST	ASHLAND	MA	01721
20-214-00-000	362 UNION ST	CAVALIERI RONALD J & DEBORAH J	TRUSTEES OF THE 362 UNION STREET REALTY TRUST	362 UNION ST	ASHLAND	MA	01721

The above reflects the latest information available on our records.

Richard E. Ball

Richard E. Ball, M.A.A.
 Director of Assessing

6/28/22
 Date