



TOWN OF ASHLAND, MASSACHUSETTS

101 MAIN STREET, ASHLAND, MA 01721

OFFICE OF THE ZONING BOARD OF APPEALS



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John Trefethen, ZBA Chairman

Peter Matchak, Town Planner
Emma Snellings, Assistant Town Planner

ZONING BOARD OF APPEALS DECISION CASE Special Permit 5-22

MAP 26, LOT 003

LOCUS: 225 Pond Street
PETITIONER: McDonald's USA
PROPERTY OWNER: Gazard 225 Pond Street LLC

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At the Public Hearing on May 10, 2022, the Zoning Board of Appeals (the "Board") voted 3-0 to grant a special permit at 225 Pond Street (the "Locus").

McDonald's USA petitioner, applied for a Special Permit per Chapter 40A, Section 9 of the Massachusetts Zoning Act and Chapter 282, Sections 3.1 (Principal Uses) and 9.3 (Special Permits) of the Ashland Bylaws to allow for the expansion of the existing drive-thru operation to a dual order point configuration consisting of two lanes and two order points. The property in question is located at 225 Pond Street, Assessors Map 26, Lot 003 and is within the Highway Commerce Zoning District.

The Project shall be constructed and operated in accordance with the terms and conditions hereinafter specified.

BACKGROUND AND PROCESS

1. The Zoning Board of Appeals (the "Board") received an Application for a Special Permit on February 8, 2022.
2. The application packet for a Special Permit contained the following:
 - a. Completed Application case I.D. SP5-22.
 - b. Abutter's List dated February 2, 2022
 - c. Property Card
 - d. Owner Authorization Letter dated January 19, 2022
 - e. A ten (10) sheet Set of Proposed Site Plans titled "Proposed Site Plan Documents for Existing McDonald's with Drive-Thru Location of Site 225 Pond Street, Town of Ashland, Middlesex County, MA Map 26 Lot 3; Dated January 14, 2022 holding a revision dated of April 22, 2022; developed by Bohler":

Sheet:	Description:	Plan Date:	Revision Date:
C-101	Cover Sheet	January 14, 2022	April 22, 2022
C-102	General Notes	January 14, 2022	April 22, 2022
C-201	Demolition and Erosion Control	January 14, 2022	April 22, 2022
C-301	Site Layout	January 14, 2022	April 22, 2022
C-401	Grading and Drainage	January 14, 2022	April 22, 2022
C-701	Landscape	January 14, 2022	April 22, 2022
C-702	Landscape Notes	January 14, 2022	April 22, 2022
C-901	Detail	January 14, 2022	April 22, 2022
C-902	Detail	January 14, 2022	April 22, 2022
1	Boundary and Topographic Survey	January 14, 2022	April 22, 2022

3. Materials received during the Public Hearing
 - a. Fire Truck Turn Exhibit dated March 2, 2022
 - b. Ashland Police Chief comments dated March 3, 2022
 - c. Ashland Fire Chief comments dated March 9, 2022
 - d. Email exchange regarding accessible spaces between William Joyce and Daniel Allen, dated March 30, 2022
 - e. McDonald's ADA Stall Location Examples, undated
 - f. Ashland Building Commissioner email dated April 6, 2022
 - g. Continuance request dated April 12, 2022
 - h. Continuance request dated April 20, 2022

The foregoing memoranda and letters were read into the record and are incorporated in this decision by reference and made a part hereof.

FACTS & EVIDENCE

This request was received on February 8, 2022 and a public hearing was scheduled for March 8, 2022 at 7:00 PM. Notice of the public hearing was published in the MetroWest Daily News on Monday, February 18, 2022 and Monday, February 25, 2022.

The public hearing was posted in the Ashland Town Hall and on the Town of Ashland website and provided to all "parties of interest," including all abutters, as required by MGL Chapter 40A, Section 11.

The public hearing commenced as scheduled on March 8, 2022. The public hearing was continued to March 22, 2022 and May 10, 2022. The following members were seated on the public hearing: Mr. Forestal, Mr. Siegel, and Mr. Tikhomirov. Mr. Trefethen recused himself, and Mr. Band was absent.

At the public hearing on March 8, 2022 and March 22, 2022, the applicant presented testimony citing the desire to expand the drive through to a dual order point drive through. The Board heard

public comment at the hearing on March 8, 2022. At the public hearing on May 10, 2022, the Board voted to close the public hearing and enter into deliberations.

FINDINGS BY THE BOARD

The Board, after review of the facts, plans, and evidence presented at this hearing, and after deliberations reviewing all submitted material, the Board makes the following findings for Special Permit application of McDonald's USA, zoning case SP5-22 at 225 Pond Street. The Zoning Board concludes the following:

- A. The desired Special Permit may be granted without nullifying or substantially derogating from the intent and/or purpose of the Zoning By-Laws. The Board finds that the current use on the Locus includes a single lane drive through, which is an allowed use by Special Permit in the Commercial Highway district. The Board finds that expanding the use to a dual order point configuration, consisting of two lanes and two order points, shall not be more detrimental than the current use.
- B. Based on the use, 20 parking spaces, including 2 accessible parking spaces, are required. Currently the site has 55 parking spaces, including 3 accessible parking spaces. The proposed changes will reduce the parking to 44 spaces with 2 accessible spots, which meets Ashland's parking requirements and accessibility standards.
- C. The Board had concerns about the safety of the proposed location of the accessible spaces, and the final plans show the accessible spaces in the south westerly area of the parcel, which the Board found satisfactory.
- D. Both the Ashland Police Chief and Ashland Fire Chief shared concerns about traffic backing up onto Route 126. The dual order point drive through will increase the number of cars able to be in the drive through lanes.
- E. In reference to the criteria for granting a Special Permit in Chapter 282 Section 9.3.2 of the Ashland By-laws, the Board found that:
 - The project will serve community need. The Special Permit would allow the development of a dual order point drive through, which will allow traffic to flow more quickly and safely through the site.
 - Traffic flow and parking will not be negatively affected by the proposed dual order point drive through. The number of parking spaces meets zoning requirements, and the new drive through configuration will improve traffic flow.
 - The proposed project will have no impact on public services or utilities.
 - The existing neighborhood is a commercial corridor. No changes to the building or primary use are proposed.
 - There are no impacts to the natural environment from this project.
 - There will be no adverse fiscal impacts on the town services due to the new drive through configuration.

CONDITIONS

In accordance with Chapter 282 Section 3.1 (Principle Uses), and with the criteria set forth in Chapter 282 Section 9.3 (Special Permits) of the Ashland Zoning Bylaws, and on the basis of the foregoing findings, following a motion made and recorded, and after due and open deliberation, the Board by unanimous vote grants McDonald's USA a Special Permit to construct a dual order point configuration consisting of two lanes and two order points. at 225 Pond Street, subject to the following conditions:

1. The Applicant shall comply with any and all other relevant By-Laws.
2. The Applicant shall comply with any and all Ashland and Massachusetts State Building Codes.
3. During construction, the applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roadways. The applicant shall at all times use all reasonable means to minimize inconvenience to nearby residences and businesses. Hours of construction shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday, with no construction on Sunday or any state or federal holiday.
4. The applicant shall comply with any requirements of the Building Department.
5. This Decision shall be recorded at the South Middlesex Registry of Deeds. Proof of such recording shall be submitted to the Ashland Building Department and Planning Department prior to issuance of a Building Permit.

The following members sat and voted on this hearing:

Brian Forestal, Member, voted to grant the Special Permit 5-22 as stated.

Stuart Siegel, Associate Member, voted to grant the Special Permit 5-22 as stated.

Anton Tikhomirov, Associate Member, voted to grant the Special Permit 5-22 as stated.

Pursuant to Section 9.4.17 of the Ashland Zoning Bylaws, any appeal to this decision shall be made in accordance with M.G.L. c. 40A, § 17 and shall be filed within 20 days of the date this decision was stamped by the Town Clerk's Office.

TOWN OF ASHLAND – ZONING BOARD OF APPEALS DECISION

The Board voted in favor of granting Special Permit 4-22 in order to construct a dual order point configuration consisting of two lanes and two order points, subject to conditions as outlined above, for the property located at 225 Pond Street, Map 26, Lot 003.

Date: 6/7/22

Brian Forestal
Brian Forestal, Member

Stuart Siegel
Stuart Siegel, Associate Member

Anton Tikhomirov
Anton Tikhomirov, Associate Member

Filed with the Town Clerk on:

Date: 6/7/22

Cynthia T. Livingstone
Cynthia T. Livingstone, Town Clerk
Christy P. Sullivan, Deputy Town Clerk

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK'S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

Date: September 7, 2022

Cynthia Livingstone
Cynthia T. Livingstone, Town Clerk