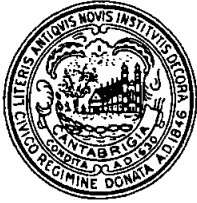


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City of Cambridge

MASSACHUSETTS



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BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

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OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: 10163

LOCATION: 61 Church Street Business A Zone
Cambridge, MA

PETITIONER: Riverside Management Group, LLC
D/B/A Dunkin Donuts - C/o James J. Rafferty, Esq.

PETITION: Special Permit To operate a fast order food establishment.

VIOLATION: Art. 4.000, Sec. 4.35.0 & Art. 11.000, Sec. 11.30 (Fast Order Food Establishment). Art. 10.000, Sec. 10.40 (Special Permit).

DATE OF PUBLIC NOTICE: September 23 & 30, 2011

DATE OF PUBLIC HEARING: October 13, 2011

MEMBERS OF THE BOARD:

BRENDAN SULLIVAN - CHAIR
CONSTANTINE ALEXANDER - VICE-CHAIR
TIMOTHY HUGHES
THOMAS SCOTT

ASSOCIATE MEMBERS:

MAHMOOD R. FIROUZBAKHT
DOUGLAS MYERS
SLATER W. ANDERSON
TAD HEUER

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout and other characteristics as well as the surrounding district.

Return to: Adams & Rafferty
130 Bishop Allen Dr.
Cambridge, MA 02139

Back 29/10/11

Case No. 10163
Location: 61 Church Street
Petitioner: Riverside Management Group, dba Dunkin Donuts – c/o James Rafferty

On October 13, 2011, Petitioner's attorney James Rafferty appeared before the Board of Zoning Appeal requesting a special permit in order to operate a fast order food establishment. The Petitioner requested relief from Article 4, Section 4.35.o of the Cambridge Zoning Ordinance ("Ordinance"). The Petitioner submitted application materials including information about the project, plans, and photographs.

Mr. Rafferty stated that the proposal was to operate a Dunkin Donuts from a storefront that was previously used as a restaurant. He stated that, being in Harvard Square, the use would be compatible and most trade would be walk in and so would not affect traffic. He stated that the petitioner felt the operation would fill a need and expected to be proven right by the market. He stated that the operation would use biodegradable materials, would police the trash in and around the restaurant, and would be accessible.

The Chair asked if anyone wished to be heard on the matter, no one indicated such.


After discussion, the Chair moved that the Board grant the special permit for relief in order to operate a fast order food establishment based on the finding that the proposal complied with the requirements of Article 11, Section 11.31 and Article 10, Section 10.43 of the Ordinance. The Chair moved that the Board find that the traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in the established neighborhood character. The Chair moved that the Board find that the continued operation of adjacent uses would not be adversely affected by the proposal. The Chair moved that the Board find that no nuisance or hazard would be created to the health, safety, and/or welfare of the occupant or the citizens of the city. The Chair moved that the Board find that the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance. The Chair moved that the Board grant the special permit on the condition that the restaurant operate in accordance with the proposed floor plans, submitted by the petitioner and initialed by the Chair.

The five member Board voted four in favor of granting the special permit (Hughes, Scott, Heuer, and Anderson) with the above condition and one opposed (Alexander). Therefore, the special permit is granted.

The Board based its decision upon all the information presented, the above findings and upon the following:

- 1) The meeting of the requirements of the Ordinance;
- 2) Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character;
- 3) The continued operation of or the development of adjacent uses as permitted in the Ordinance would not be adversely affected by the nature of the proposed uses;
- 4) Nuisance or hazard would not be created to the detriment of the health, safety and /or welfare of the occupants of the proposed use;
- 5) The proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the Ordinance, and in fact would be a significant improvement to the structure and benefit the neighborhood, and;
- 6) The new use or building construction is not inconsistent with the Urban Design Objectives set forth in Section 19.30 of the Cambridge Zoning Ordinance.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.



 Constantine Alexander, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 11-28-11 by Maria Quaresima, Clerk.

Twenty days have elapsed since the filing of this decision.

No appeal has been filed _____.

Appeal has been filed and dismissed or denied.

Date: December 21, 2011 Margaret Oring City Clerk.