



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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CASE NO: 7229

LOCATION: 65 John F. Kennedy Street Business B Zone
Cambridge, MA

PETITIONER: Elliot Street Cafe, Inc.
James J. Rafferty, Attorney

PETITION: Special Permit: To occupy premises as a fast
order food establishment & operate a coffee style
restaurant.

VIOLATIONS: Art. 4.000, Sec. 4.35 & Art. 11.000, Sec. 11.30
(Fast Order Food Establishment).

DATE OF PUBLIC NOTICE: April 8 & 15, 1996

DATE OF PUBLIC HEARING: April 25, 1996

MEMBERS OF THE BOARD:

John Miller, Chairperson
Lauren Curry
Charles Pierce
Michael Wiggins
John O'Connell

 X
 X

ASSOCIATE MEMBERS:

Susan Spurlock
Theodore Hartry
Arch Horst
Laura Kershner
James Daniel
David Gray Hanson

 X

 X

 X

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.

OWNERS TRINITY REALTY TRUST

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Case No.: 7229
Location: 65 John F. Kennedy Street
Petitioner: Eliot Street Cafe, Inc.
James J. Rafferty, Attorney

On April 25, 1996, Attorney James Rafferty and Mr. Duarte Carvalho, President of Eliot Street Cafe, Inc., appeared before the Board of Zoning Appeal seeking a special permit to occupy the premises as a fast order food establishment and to operate a coffee style restaurant at 65 John F. Kennedy Street. The applicants submitted plans, drawings and photographs detailing the proposed project.

Attorney Rafferty explained that the applicant is requesting permission to operate a fast order food establishment and that there is approximately 1,500 square feet of space for a cafe. He mentioned that there is parking in the building, and that the other criteria set forth in Article 11.0, Section 11.31 of the Cambridge Zoning Ordinance will be met as part of the proposed conditions to the granting of the special permit. He further stated that the hours of operation will be from 6:00 am to midnight, Sunday through Saturday.

There was support from the Harvard Square Defense Fund and the Harvard Square Advisory Committee. John Moot of the Harvard Square Defense Fund stated that they supported this proposal because it was preferable to the present fast food operation existing at the site. A letter from the Harvard Square Defense Fund in support of the petition was read into the record. John DiGiovanni, also of the Harvard Square Defense Fund, indicated to the Board that the applicant had met with the Harvard Square Defense Fund, and was able to resolve the concerns and issues of the neighborhood. A letter from the Harvard Square Advisory Committee was submitted in support of the proposal. There were no other persons appearing in support of or opposition to the proposed project.

After discussion, the Chair proposed that the Board find the existence of the underlying requirements for the issuance of a fast order food establishment: 1) that the operation of the establishment will not create traffic problems, reduce available parking, threaten public safety in streets and sidewalks, or encourage or produce double parking on the adjacent public streets; 2) that the physical design, including color and use of materials, is compatible with and sensitive to the visual and physical characteristics of other buildings and public spaces and uses in the location; 3) that the establishment fulfills a need for such a service in the neighborhood, and 4) that the establishment will attract patrons primarily from a walk-in trade. The Chair then moved that the board find that the present proposal meets those criteria, which will be the basis for granting a special permit. The five member board voted unanimously in favor of these findings.

The Chair then moved that the special permit for the operation of a fast order food establishment at the premises at 65 JFK Street be granted with the following conditions, which are the first thirteen conditions which are enumerated in a document called Cambridge Board of Zoning Appeals Special Permit Application Case Number 7229, for 65 JFK Street, Cambridge, Massachusetts, to be incorporated as they are written, with two exceptions, the amendment of Number 6, which the Chair has handwritten onto the copy that will go in the file, and the amendment of Number 11 regarding the characteristics of delivery trucks; and that the fourteenth condition be that the Petitioner be allowed to sell on the premises only the list of food products that be enumerated to the Board, including donuts, bagels, cookies, rolls, muffins, croissants, and fresh baked goods usually found in a coffee or breakfast shop, and an expansive food cafe type item, with specialty soups, individually prepared sandwiches, gourmet salads, and coffee related products such as iced coffees, flavored coffees, cappuccinos, and espressos, and soft drinks, juices and milk products, and their coffee-related, fresh baked goods, and that the fifteenth condition be that there is no additional signage approved by the Board other than that which already existing and compliance with the sign ordinance. The first thirteen conditions are as follows:

- 1) that the exterior design will be a cafe style compatible with the brick building in which it is located and will not include the usual Dunkin' Donuts facade, logos and colors. This design will be subject to HSDF review and approval, which shall not be unreasonably withheld;
- 2) that the awning over the windows of the building shall bear the name "Eliot Street Cafe" only, with no indication of the Dunkin' Donuts affiliation. Window signage may include the words "Dunkin' Donuts" under the name "Eliot Street Cafe" on the condition that the size of the letters does not exceed six inches (6") in height and the top of the letters does not exceed five feet (5') measured vertically from the sidewalk pavement adjacent to the building;
- 3) that the interior design shall be altered from the usual signage, decor and layout, by eliminating all neon lighting and photographs of food products. Non-disposable cups will be displayed along with disposable cups in such a manner so as to promote consumption of beverages on the premises. The design will be as shown on the attached photographs, subject to HSDF review and approval, which shall not be unreasonably withheld;
- 4) that non-disposable cups, plates and utensils will be used for the consumption of food on the premises;
- 5) that only biodegradable materials for packaging shall be used for food taken off the premises;
- 6) that the menu will be expanded to include a wide variety of diverse food products not normally available at a Dunkin' Donuts, including individually prepared sandwiches, gourmet salads, specialty soups, etc., a majority of which will be prepared on the premises;
- 7) that the existing interior seating capacity of forty-two

will be maintained;

8) that a suitable number of waste receptacles will be maintained inside and outside the premises which shall be emptied by employees of the establishment periodically as necessary to prevent litter from overflowing;

9) that the establishment shall employ a person whose responsibility shall be to ensure that the packaging materials, utensils and other products generated by the establishment are properly disposed of. Such person shall be responsible for picking up and properly disposing of any such materials existing on the sidewalks and streets in and adjacent to the City block where the establishment is located, including both sides of Eliot and Winthrop Streets and the west side of John F. Kennedy Street. Such clean-up shall occur at least twice each day during the period the establishment is open for business. The operator shall participate with the City and other merchants in the Trust created, inter alia, for the purpose of keeping Winthrop Park clean and neat and free of litter;

10) that the establishment shall use reasonable measures to ensure that its customers fully comply with the traffic and parking requirements of the City of Cambridge, including posting a notice on the entrance door and inside advising patrons that parking on Eliot Street and double parking on J.F.K. Street is prohibited and strictly enforced by the police. If violations occur with regularity, the operator shall alert the police and request enforcement action;

11) that to the extent feasible, deliveries to the establishment shall be made prior to 7:00 A.M. Delivery trucks shall not be equipped with more than two (2) axles, except for the truck delivering dairy products which shall not be equipped with more than three (3) axles;

12) that the establishment shall be open for business no earlier than 6:00 A.M. and shall close no later than 12:00 midnight, and

13) that these conditions shall be included in the special permit issues by the Board of Zoning Appeal and in the common victualer's license issued by the License Commission; and shall be enforceable by the Board, the Inspectional Services Department and/or the Commission. Any violations of the conditions will risk revocation of the special permit and the common victualer's license or other disciplinary action taken by the Inspectional Services Department, the Board or Commission after notice and hearing.

The Chair further stated that a condition of the continuing effectiveness of the special permit be compliance with the last three paragraphs of Article 11.0, Section 11.31 of the Cambridge Zoning Ordinance with regard to use of biodegradable materials, convenient waste receptacles, compliance with State and Local Ordinances and, should there be any change in the site, compliance with Article 11.0, Section 11.32 of the Cambridge Zoning Ordinance. The five member board voted unanimously to grant the special permit.

The Board based the decision upon 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 use;
- 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, and;
- 5) The proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the Ordinance, and would in fact be a significant improvement to the structure and benefit the neighborhood.

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 regulation of other local agencies, including, but not limited to the Historical Commission, License Commission and the Rent Control Board and/or compliance with requirements pursuant to the Building Code and other applicable codes.

Lauren Curry
Lauren Curry, Chairperson

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on May 22, 96 by Maia Pacheco, 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 JUN. 27 1996

K. Margaret Drury City Clerk.

