



Town of Belmont  
Zoning Board of Appeals

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**APPLICATION FOR A SPECIAL PERMIT**

Date: March 30, 2023

Zoning Board of Appeals  
Homer Municipal Building  
19 Moore Street  
Belmont, MA 02478

To Whom It May Concern:

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, as amended, and the Zoning By-Laws of the Town of Belmont, I/we the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on 52 Church Street Street Road, hereby apply to your Board for a **SPECIAL PERMIT** for the erection or alteration on said premises or the use thereof under the applicable Section of the Zoning By-Law of said Town for \_\_\_\_\_  
Special Permit for Fast-Food Restaurant Use

(Maintain existing use as a Dunkin' Donuts operation with change of ownership only)

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Signature of Petitioner

Print Name Mark Pesce, Manager / Beantown Donuts LLC

Address 72 Junction Square Drive

Concord, MA 01742

Daytime Telephone Number (978) 206-2469



**OFFICE OF COMMUNITY DEVELOPMENT  
TOWN OF BELMONT  
19 Moore Street  
Homer Municipal Building  
Belmont, Massachusetts 02478-0900**

Telephone: (617) 993-2650 Fax: (617) 993-2651

Building Division  
(617) 993-2664  
Engineering Division  
(617) 993-2665  
Planning Division  
(617) 993-2666

March 16, 2023

Mark Pesce  
Beantown Donuts LLC  
72 Junction Square Drive  
Concord, MA 01742

RE: Denial to Operate a Fast-Food Restaurant

Dear Mr. Pesce,

The Office of Community Development is in receipt of your building permit application for your proposal to Operate a Fast-Food Restaurant at 52 Church Street located in a Local Business I (LBI) Zoning District.

Your application has been denied because it does not comply with the current Town of Belmont Zoning Bylaws. More specifically, Section 3.3 of the Zoning Bylaws require a Special Permit from the Zoning Board of Appeals to operate a fast-food restaurant in an LBI zoning district. A non-transferable Special Permit was approved by the Board of Appeals on March 1, 1999 and issued to Duarte Carvalho to allow for the operations of a Dunkin Donuts at this location.

Please contact the Office of Community Development to schedule an appointment with **Gabriel Distler**, Staff Planner at (617) 993-2650 or [gdistler@belmont-ma.gov](mailto:gdistler@belmont-ma.gov) in order to begin the process.

Sincerely,

Glenn R. Clancy, P.E.  
Inspector of Buildings

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PLANNING DIVISION  
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ALL ITEMS UNDERLINED IN RED MUST BE COMPLETED!



The Commonwealth of Massachusetts  
State Board of Building Regulations and  
Standards  
Massachusetts State Building Code  
780 CMR



Town of Belmont  
Office of Community Development  
19 Moore Street  
Belmont, MA 02478  
Revised 2/27/04

APPLICATION TO CONSTRUCT, REPAIR, RENOVATE, CHANGE THE USE OR OCCUPANCY OF, OR DEMOLISH ANY  
BUILDING OTHER THAN A ONE OR TWO FAMILY DWELLING

BPA-23-93

This Section For Official Use Only

Building Permit Number: \_\_\_\_\_

Date Received: 2/21/23

Signature: \_\_\_\_\_

Building Commissioner/Inspector of Buildings

Date Issued

**SECTION 1 - SITE INFORMATION**

**1.1 Property Address:**

52 Church Street

Belmont, MA 02478

**1.2 Assessors Map & Parcel Number**

28

28-137

Map Number

Parcel Number

**1.3 Zoning Information:**

4

Zoning District

Commercial - Small Retail  
Property Use

**1.4 Property Dimensions:**

5757.0

Lot Area (sf)

Frontage (ft)

**1.5 Building Setbacks (ft)**

Front Yard

Side Yards

Rear Yard

Required

Provided

Required

Provided

Required

Provided

**1.6 Water Supply (M.G.L. c.40. § 54)**

Public

**1.7 Flood Zone Information:**

Zone: \_\_\_\_\_

Outside Flood Zone

**1.8 Sewage Disposal System:**

Municipal  On site disposal system

**SECTION 2 - PROPERTY OWNERSHIP/AUTHORIZED AGENT**

**2.1 Owner of Record:**

Mark Pesce, Owner - Beantown Donuts LLC

Name (Print)

72 Junction Square Drive, Concord, MA 01742

Address

Signature [Signature]

(978) 206-2469

Telephone

**2.2 Authorized Agent:**

Name (Print) \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

Telephone \_\_\_\_\_

**SECTION 3 - CONSTRUCTION SERVICES FOR PROJECTS LESS THAN 35,000 CUBIC FEET OF ENCLOSED SPACE**

**3.1 Licensed Construction Supervisor:**

N/A

Licensed Construction Supervisor

Address \_\_\_\_\_

Signature \_\_\_\_\_

Telephone \_\_\_\_\_

Not Applicable <sup>1</sup>

License Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

**3.2 Registered Home Improvement Contractor**

N/A

Company Name

Address \_\_\_\_\_

Signature \_\_\_\_\_

Telephone \_\_\_\_\_

Not Applicable <sup>1</sup>

Registration Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

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**SECTION 4 – WORKERS’ COMPENSATION INSURANCE AFFIDAVIT (M.G.L. c. 152 § 25C (6) )**

Workers Compensation Insurance affidavit must be completed and submitted with this application. Failure to provide this affidavit will result in the denial of the issuance of the building permit.

Signed Affidavit Attached Yes ..... No.....

**SECTION 5 – PROFESSIONAL DESIGN AND CONSTRUCTION SERVICES – FOR BUILDINGS AND STRUCTURES SUBJECT TO CONSTRUCTION CONTROL PURSUANT TO 780 CMR 107.6 (CONTAINING MORE THAN 35,000 C.F. OF ENCLOSED SPACE)**

**5.1 Registered Architect:**

<u>N/A</u>	<u>Not Applicable</u>
<u>Name ( Registrant)</u>	<u>Registration Number</u>
<u>Address</u>	<u>Expiration Date</u>
<u>Signature</u> <u>Telephone</u>	

**5.2 Registered Professional Engineer(s):**

<u>N/A</u>	<u>Area of Responsibility</u>
<u>Name ( Registrant)</u>	<u>Registration Number</u>
<u>Address</u>	<u>Expiration Date</u>
<u>Signature</u> <u>Telephone</u>	

<u>Name ( Registrant)</u>	<u>Area of Responsibility</u>
<u>Address</u>	<u>Registration Number</u>
<u>Signature</u> <u>Telephone</u>	<u>Expiration Date</u>

<u>Name ( Registrant)</u>	<u>Area of Responsibility</u>
<u>Address</u>	<u>Registration Number</u>
<u>Signature</u> <u>Telephone</u>	<u>Expiration Date</u>

<u>Name ( Registrant)</u>	<u>Area of Responsibility</u>
<u>Address</u>	<u>Registration Number</u>
<u>Signature</u> <u>Telephone</u>	<u>Expiration Date</u>

**5.3 General Contractor**

<u>N/A</u>	<u>Not Applicable</u>
<u>Company Name</u>	
<u>Responsible In Charge of Construction</u>	
<u>Address</u>	
<u>Signature</u> <u>Telephone</u>	

Email Address

**SECTION 6- DESCRIPTION OF PROPOSED WORK (check all applicable)**

New Construction <input type="checkbox"/>	Existing Building <input type="checkbox"/>	Repair (s) <input type="checkbox"/>	Alteration (s) <input type="checkbox"/>	Addition <input type="checkbox"/>
Accessory Bldg. <input type="checkbox"/>	Demolition <input type="checkbox"/>	Other <input type="checkbox"/>	Specify: _____	

**Brief Description of Proposed Work:**

N/A

Operator ownership change ONLY

**SECTION 7- USE GROUP AND CONSTRUCTION TYPE**

		USE GROUP (Check as applicable)						CONSTRUCTION TYPE		
A	Assembly	<input type="checkbox"/>	A-1 <input type="checkbox"/>	A-2 <input type="checkbox"/>	A-3 <input type="checkbox"/>	A-4 <input type="checkbox"/>	A-5 <input type="checkbox"/>	1A <input type="checkbox"/>	1B <input type="checkbox"/>	
B	Business	<input type="checkbox"/>							2A <input type="checkbox"/>	2B <input type="checkbox"/>
E	Education	<input type="checkbox"/>							2C <input type="checkbox"/>	
F	Factory	<input type="checkbox"/>	F-1 <input type="checkbox"/>	F-2 <input type="checkbox"/>					3A <input type="checkbox"/>	3B <input type="checkbox"/>
H	High Hazard	<input type="checkbox"/>							4 <input type="checkbox"/>	
I	Institutional	<input type="checkbox"/>	I-1 <input type="checkbox"/>	I-2 <input type="checkbox"/>	I-3 <input type="checkbox"/>				5A <input type="checkbox"/>	5B <input type="checkbox"/>
M	Mercantile	<input type="checkbox"/>								
R	Residential	<input type="checkbox"/>	R-1 <input type="checkbox"/>	R-2 <input type="checkbox"/>	R-3 <input type="checkbox"/>					
S	Storage	<input type="checkbox"/>	S-1 <input type="checkbox"/>	S-2 <input type="checkbox"/>						
U	Utility	<input type="checkbox"/>	Specify: _____							
M	Mixed use	<input type="checkbox"/>	Specify: _____							
S	Special Use	<input type="checkbox"/>	Specify: _____							

**COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATIONS, ADDITIONS AND/OR CHANGE IN USE**

Existing Use Group: \_\_\_\_\_ Proposed Use Group: \_\_\_\_\_

Existing Hazard Index 780 CMR 34: \_\_\_\_\_ Proposed Hazard Index 780 CMR 34: \_\_\_\_\_

**SECTION 8- BUILDING HEIGHT AND AREA**

BUILDING AREA	Existing (if applicable)	Proposed
Number of Floors or stories include Basement levels		
Floor Area per Floor (sf)		
Total Area (sf)		
Total Height (ft)		

**SECTION 9- STRUCTURAL PEER REVIEW (780 CMR 110.11)**

Independent Structural Engineering Structural Peer Review Required Yes  No

**SECTION 10a - OWNER AUTHORIZATION - TO BE COMPLETED WHEN OWNERS AGENT OR CONTRACTOR APPLIES FOR BUILDING PERMIT**

I, \_\_\_\_\_ as Owner of the subject property hereby

Authorize \_\_\_\_\_ to act on my behalf, in all matters relative to work authorized by this building permit application.

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

**SECTION 10b- OWNER/AUTHORIZED AGENT DECLARATION**

I, Mark Pesce, as Owner/Authorized Agent hereby declare that the statements and information on the foregoing application are true and accurate, to the best of my knowledge and belief.

"Persons contracting with unregistered contractors do not have access to the guaranty fund (as let forth in MGL c.142A)"

Signed under the pains and penalties of perjury.

Mark Pesce, Owner - Beantown Donuts LLC

Print Name



2/16/2023

Signature of Owner / Agent

Date

**SECTION 11- ESTIMATED CONSTRUCTION COSTS**

Item	Estimated Cost (Dollars) to be completed by permit applicant	Official Use Only	
		Estimated Total - (a) Cost of construction from #4 rounded up to nearest \$1,000	
1. Building		Building Permit Fee (4/1/02) 15 x (a) + 1,000 (Minimum \$50)	
2. Mechanical (HVAC)			
3. Fire Protection		Check Number	
4. Total = (1 + 2 + 3)			

**SECTION 12- OFFICAL USE ONLY**

Notes:

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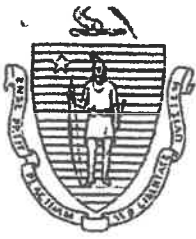
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The Commonwealth of Massachusetts  
 Department of Industrial Accidents  
 Office of Investigations  
 Lafayette City Center  
 2 Avenue de Lafayette, Boston, MA 02111-1750  
 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses

Applicant Information

Please Print Legibly

Business/Organization Name: Beantown Donuts, LLC DBA Dunkin'  
 Address: 52 Church Street  
 City/State/Zip: Belmont, MA 02478 Phone #: 617-489-6010

Are you an employer? Check the appropriate box:

1.  I am an employer with 11 employees (full and/ or part-time).\*
2.  I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required]
3.  We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]\*\*
4.  We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.]

Business Type (required):

5.  Retail
6.  Restaurant/Bar/Eating Establishment
7.  Office and/or Sales (incl. real estate, auto, etc.)
8.  Non-profit
9.  Entertainment
10.  Manufacturing
11.  Health Care
12.  Other \_\_\_\_\_

\*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.

\*\*If the corporate officers have exempted themselves, but the corporation has other employees, a workers' compensation policy is required and such an organization should check box #1.

I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information.

Insurance Company Name: The Hartford  
 Insurer's Address: Business Service Center 3600 Wiseman Blvd.  
 City/State/Zip: San Antonio, TX 78251  
 Policy # or Self-ins. Lic. #: 76 WEG AV5YWG Expiration Date: 1-10-2024

Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).

Failure to secure coverage as required under § 25A of MGL c. 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. Be advised that a copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

I do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct.

Signature: [Signature] HR Date: 2-15-2023  
 Phone #: 978-206-2469

Official use only. Do not write in this area, to be completed by city or town official.

City or Town: \_\_\_\_\_ Permit/License # \_\_\_\_\_

Issuing Authority (check one):

1.  Board of Health
2.  Building Department
3.  City/Town Clerk
4.  Licensing Board
5.  Selectmen's Office
6.  Other \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone #: \_\_\_\_\_







Blueprint Strategies  
A Division of TSG Consulting, LLC  
279 East Central Street, #252  
Franklin, MA 02038  
508-969-1314  
info@sweetgroupllc.com

March 30, 2023

Belmont Zoning Board of Appeals  
Homer Municipal Building  
19 Moore Street  
Belmont, MA 02478

**RE: Special Permit Application - 52 Church Street  
Beantown Donuts LLC**

Dear Members of the Zoning Board of Appeals:

On behalf of my client Beantown Donuts LLC, please accept this application for a Special Permit. This application reflects a change of ownership with no other building or operational changes for the existing 52 Church Street Dunkin' Donuts location.

The Petitioner Mark Pesce, Owner/Manager of Beantown Donuts LLC a subsidiary of The Pesce Network actively runs over 40 Dunkin' locations in the MetroWest and Greater Boston area, as well as The Needham General Store. Mr. Pesce and his wife Megan Pesce run their businesses with a truly family-owned and hands-on mindset. Their passion for exceptional customer service, incredible employees and clean/sanitary stores is seen throughout their business locations. The enclosed Attachment B further details the Petitioner's extensive experience as an owner/operator.

The 52 Church Street location is managed by the Petitioner who currently operates several Dunkin' Donuts locations, including the 353 Trapelo Road location. The Petitioner proposes to maintain the current operating hours from 5:00 AM to 11:00 PM daily. There are four to six employees on duty during the morning rush hours and two to three employees the remainder of the day; with management on duty seven days a week. An office is located on the premises, further assuring effective oversight over the operation.

Deliveries are made in a manner to minimize interference with other business/residential activities in the Waverly Square area. A van will deliver baked goods twice a day, one prior to opening and a second time during the morning hours. Dairy and dry good products are delivered twice a week. The existing bagel bake-off oven emits no exhaust, and products are reheated/microwaved on site. The existing mechanical systems are maintained through an active preventative maintenance program. All rubbish is stored in covered trash receptacles that are picked up and removed from the site at least once a week and more frequently as needed. The area and entire site are maintained by the Petitioner's staff and is patrolled at least twice daily.

The Petitioner has been issued applicable permits by the Belmont Health Department upon completion of a comprehensive plan review and change of ownership inspection.

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*Belmont Zoning Board of Appeals  
Beantown Donuts LLC  
52 Church Street  
March 30, 2023*

It is respectfully submitted that the current site presents an appropriate use within the Local Business I (LBI) Zoning District and will continue to benefit and serve the commercial and residential neighborhood. For all of the above reasons, relief should be granted as requested.

Sincerely yours,  
**Blueprint Strategies**



Bridget L. Sweet, LP.D.  
President & Principal Consultant  
Consultant/Agent for Beantown Donuts LLC

cc: Mark Pesce, Manager  
Beantown Donuts, LLC

Mark Pesce  
299 Simon Willard Road  
Concord, MA 01742

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**Attachment B**

To Whom This May Concern:

My family opened its first Dunkin' in January of 1988, in the city of West Medford. As a high school and college student I worked daily in the business in all facets. From waiting on customers, and cutting donuts, making muffins and baked goods to help manage the location. My family built 4 other locations in Winchester and Woburn over the next 10 years.

In 1995, I moved to Orlando, Florida to be the Director of Operations of five Dunkin locations. I oversaw the operations of the 5 locations, the commissary kitchen that supplied 30 cafeterias to Disney, and was the bookkeeper for all billing.

In 1997, I was hired at Dunkin' corporate as a Business Consultant. I oversaw the relationship with hundreds of Dunkin's and Franchisee's. I supported their business through sales building tactics, people systems and business planning. Also supported new store openings and development.

In 2003, I joined 2 partners and open my first franchise in Concord, MA. Over the next 16 years my 2 partners and I developed 60 Dunkin' locations, 25 stores in Pennsylvania, 25 in Maine and 10 in Massachusetts. We also developed our real estate portfolio and purchased many of the locations.

In 2019, I purchased the 10 Massachusetts locations from my partners, and they purchased my ownership in Maine and Pennsylvania. By January of 2023 we will have over 40 locations. Today my wife Megan and I oversee our own company of Dunkin' Franchises and Commercial Real Estate portfolio. We take great pride in the operations of our restaurants and believe very deeply in the connection and partnerships with every community we do business. We partner with schools, local sports, business partnerships and many other local organizations. We have two boys Andrew 18 and Jack 15. Both work part time at the stores and play hockey and lacrosse in their high schools.

Further I sit on the New England Advertising committee and member of the Profitability Committee for Dunkin'. We are an incredibly hard-working family and passionate about Dunkin and our communities. Please email me at [markypesce@gmail.com](mailto:markypesce@gmail.com) for any further information.

Sincerely,

  
Mark Pesce

January 18, 2023

Re: Mark Pesce

To whom it may concern:

I have known Mark Pesce for more than 50 years. We are first cousins and close friends. Mark is also a client of Robinson & Cole, LLP, where I have been a partner for more than 17 years.

Mark's work ethic is exceptional. He has more than doubled the size of his business (Dunkin' store locations, number of employees and revenue) in the past three years, an incredible accomplishment at any time, but even more incredible when you consider that he did it during a global pandemic and national labor shortage.

Mark's humility and leadership skills, however, allow him to realize that success is a team effort. His work ethic is matched by his generosity and commitment to his employees, customers and the communities in which his business operates. Mark treats everyone with respect and makes them feel like they are part of a team, and he gets involved and gives back to the community in many ways, including through donations to local high schools, food banks other charitable organizations.

I believe that Mark will be a valuable member of the Brookline business community and I give him the highest recommendation possible.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Matthew J. Guanci, Jr.

To Whom It May Concern:

It is with great pleasure that I recommend Mark Pesce. I've known Mark first as a neighbor and then in multiple business dealings. Mark and I have partnered to help him find more Dunkin Donuts locations in Greater Boston.

Mark displays a high level of integrity, responsibility, accountability, and determination. He has a strong work ethic, demonstrated by his ability to own and operate best-in-class Dunkin Donut locations. Employees are well-trained, treated fairly and display loyalty. Mark is invested in the community his locations serve.

Please contact me if you have any further questions.

Sincerely,

*W Gallivan*  
Whitney Gallivan

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## BILL OF SALE

**THIS BILL OF SALE** ("Bill of Sale") dated February 3, 2023 is made by and among CUSHING DONUTS, INC., a Massachusetts corporation (the "Seller"); and

**WHEREAS**, on or about October 7, 2022, Seller and its affiliated entities (the "Seller Affiliated Entities"), entered into that certain Asset Purchase Agreement (the "Purchase Agreement") with MAP Holdings, LLC, a Massachusetts limited liability company (the "Buyer"), as assigned to Beantown Donuts, LLC by that certain Assignment and Assumption of Asset Purchase Agreement dated and entered into on October 18, 2022, pursuant to which Seller and Seller Affiliated Entities agreed to sell and Buyer agreed to purchase all or substantially all of Seller and Seller Affiliated Entities' Purchased Assets used in connection with fourteen (14) Dunkin' Donuts franchised restaurants, as amended by that certain First Amendment to Asset Purchase Agreement dated and entered into as of January 26, 2023.

**WHEREAS**, pursuant to the Purchase Agreement the Seller has agreed to sell and Buyer has agreed to purchase, all or substantially all of Seller's Purchased Assets relating to the Dunkin' Donuts franchised restaurant identified as PC#335524, located at 52 Church Street, Belmont, Massachusetts.

**WHEREAS**, Seller desires to deliver to Buyer such instruments of sale, transfer, conveyance, assignment and delivery as are required to vest in Buyer all of Seller's right, title, and interest in and to the Purchased Assets.

**NOW, THEREFORE**, pursuant to the Purchase Agreement and in consideration of the mutual promises contained therein, and for other good and valuable consideration, the receipt and sufficiency of which Seller and Buyer each acknowledge, the parties agree as follows:

1. Each capitalized term used but not defined in this Bill of Sale shall have the meaning ascribed to in the Purchase Agreement.
2. Effective as of the date hereof, Seller hereby sells, assigns, transfers, and delivers to Buyer all of Seller's right, title and interest in and to all of the Purchased Assets, free and clear of any and all debts, mortgages, judgments, security interests, claims, pledges, conditional sales agreements, charges, conditions, options, rights of first refusal or restrictions of any kind, leases or other liens or encumbrances (collectively, the "Encumbrances").
3. Seller represents and warrants to Buyer that it has good and marketable title to the Purchased Assets and will warrant and defend the sale of the Purchased Assets to Buyer against the lawful claims and demands of all persons whomsoever.

4. Seller represents and warrants to Buyer that such Purchased Assets shall be transferred as of the date hereof in good working order and condition, normal wear and tear excepted, and compliant with the Franchisor's operational standards, including any Deficiency List generated in connection therewith, without express or implied warranty.

5. Nothing in this Bill of Sale shall be deemed to supersede, enlarge or modify any of the provisions of the Purchase Agreement, all of which survive the execution and delivery of this Bill of Sale as provided and subject to the limitations set forth in the Purchase Agreement. If any conflict exists between the terms of this Bill of Sale and the terms of the Purchase Agreement, the terms of the Purchase Agreement shall govern and control.

6. This Bill of Sale is made for the sole benefit of the parties hereto and their respective successors, executors and permitted assigns, and nothing contained herein, express or implied, is intended to or shall confer upon any other person any third-party beneficiary right or any other legal or equitable rights, benefits or remedies of any nature whatsoever under or by any reason of this Bill of Sale.

7. This Bill of Sale shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to any conflict of law rules thereof.

8. This Bill of Sale shall be effective as of the date hereof.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed and delivered as of the date first above written.

SELLER:

**CUSHING DONUTS, INC.**  
a Massachusetts corporation

By:

DocuSigned by  
*Duarte Carvalho*

Name: Duarte M. Carvalho

Title: President

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**ASSIGNMENT AND ASSUMPTION OF LEASE**  
**(Re: 52 Church Street, Belmont, MA)**

This ASSIGNMENT AND ASSUMPTION OF LEASE (the "Assignment"), made as of this 24th day of January 2023 and made effective as of the Effective Date (as defined herein), by and between CUSHING DONUTS, INC., a Massachusetts corporation ("Assignor"), BEANTOWN DONUTS, LLC, a Massachusetts limited liability company ("Assignee").

**RECITALS**

WHEREAS, reference is made to that certain Lease Agreement dated October 1, 1999, as amended by First Amendment to Lease Agreement dated as of September 19, 2013 (as amended, the "Lease"), by and between Assignor, as tenant, and WAVERLY CROSSING, LLC, a Massachusetts limited liability company (the "Landlord") for the premises identified as 52 Church Street, Belmont, MA 02478 (as such space is more particularly defined in the Lease, the "Premises"). A true, correct and complete copy of the Lease is attached hereto as Exhibit A, made a part hereof and incorporated herein by reference;

WHEREAS, Assignee intends to purchase the assets used in connection with the operation of Assignor's Dunkin' Donuts franchised restaurant located at the Premises (the "Transaction"); and

WHEREAS, as a condition to the closing of the Transaction, Assignor desires to assign to, and Assignee desires to assume, all of Assignor's right, title and interest as tenant in, to, and under the Lease, in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, each to the other paid, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions. Unless otherwise expressly defined herein, all capitalized terms used herein shall have the respective meanings ascribed to such term in the Lease.

2. Recitals. The above recitals are true and accurate and are hereby incorporated into this Assignment as if fully set forth herein.

3. Effective Date. The effective date of this Assignment is the closing date of the Transaction. If the Transaction does not close, this Assignment shall be null and void without the need for further action by the parties.

4. Assignment and Assumption. Effective as of the Effective Date, Assignor hereby assigns and transfers to Assignee all of Assignor's right, title and interest in and to the Lease, as



tenant, and in and to any alterations and improvements which the Assignor has made to the Premises and any security deposits and prepaid rent made by Assignor under the Lease. Assignee assumes the performance of and agrees to be bound by all the executory obligations of Assignor as tenant under the Lease arising on and after the Effective Date, including, without limitation, the obligation to pay monthly rent and other amounts provided for in the Lease, but specifically excluding any liabilities relating to any breach of the Lease, or otherwise, prior to the Effective Date or in connection with the assignment of the Lease.

5. Representations and Warranties of Assignor. Assignor hereby represents and warrants to Assignee and its successors and assigns that:

- a. Attached hereto as Exhibit A is a true, correct and complete copy of the Lease with all amendments.. The Lease has not been further amended or modified, changed, altered, extended, or supplemented. The Lease, including all exhibits thereto, is the only Lease or agreement between Assignor and Landlord affecting or relating to the real property and building located at the Premises. Assignor has a valid, existing, and continuing leasehold interest in the Premises. The Lease is in full force and effect, and the Assignor has fully performed all its obligations under the Lease and has paid all amounts owed under the Lease through the Effective Date, including rent, real estate taxes, insurance and common area expenses.
- b. As of the Effective Date, Assignor has not assigned or encumbered its interest in the Lease or sublet all or any portion of the Premises, nor are there any outstanding unpaid liens or security interests in any Assignor personal property, fixtures or equipment located in the Premises.
- c. No default, or any event or condition which with the passing of time or giving notice, or both, would constitute a default on the part of Assignor, exists under the Lease or in connection with the Premises.
- d. No casualty or condemnation has occurred with respect to the Premises or the parking areas or other common areas in which Assignor has rights under the Lease.
- e. The current term of the Lease expires on December 31, 2023, with the option to extend for two (2) additional five (5) year terms. The current monthly base rent due under the Lease is \$7,276.34 due on the 1<sup>st</sup> day of each month. Base Rent is current through January 2023.

In addition, the following amounts are payable (all of which are paid monthly unless otherwise specifically indicated) by the tenant:

Monthly		2023 Annual Totals
\$646.68	CAM charges	_____

6. **Successors.** This Assignment shall be binding upon and inure to the benefit of the parties hereto, their successors in interest and assigns. This Assignment may not be modified, discharged, terminated, or assigned verbally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors and assigns. Assignor acknowledges that Assignee is relying upon Assignor's representations and warranties contained in this Assignment in agreeing to take the assignment of the Lease from Assignor.

7. **Governing Laws.** This Assignment shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.

8. **Counterparts.** This Assignment may be executed in counterparts, and taken together such counterparts shall constitute one and the same instrument, valid and binding on the parties. Signature via facsimile, email, or similar electronic reproduction shall be deemed an original for the purposes of this Assignment.

9. Promptly upon written request of the other party, each party shall do, execute, acknowledge, and deliver, or cause to be done, executed, acknowledged, or delivered, to or at the direction of such party, all further acts, transfers, assignments, powers, and other documents and instruments as may be reasonably requested to give effect to the transactions contemplated hereby.

10. **Notices.** From and after the Effective Date, notices to Tenant under the Lease shall be addressed to Assignee at Beantown Donuts, LLC, 72 Junction Square, Concord, MA 01742 with a copy to Matthew Guanci, Robinson & Cole LLP, 280 Trumbull Street, Hartford, CT 06103. Landlords notice address is Waverly Crossing, LLC, P.O. Box 175, Belmont, MA 02178.

IN WITNESS WHEREOF, Assignor has signed this Assignment as of the day and year first above written.

**ASSIGNOR:**


**CUSHING DONUTS, INC.,  
a Massachusetts corporation**

By: Duarte M. Carvalho  
Name: **Duarte M. Carvalho**  
Title: **President**

IN WITNESS WHEREOF, Assignee has signed this Assignment as of the day and year first above written.

**ASSIGNEE:**

BEANTOWN DONUTS, LLC,  
a Massachusetts limited liability company

By:   
Name: Mark Pesce  
Title: Manager





RECEIVED  
TOWN CLERK  
APPLICATION TO THE BOARD OF APPEALS UNDER THE  
ZONING BY-LAW FOR SPECIAL PERMIT

FEB 8 11 12 AM '99

Belmont MA 02178

Date: 12-29-98

To the Board of Appeals  
Town Hall, 455 Concord Avenue  
Belmont MA 02178

Gentlemen:

Pursuant to the provisions of Section 9, chapter 40 A of the General Laws of the Commonwealth, and the Zoning By-Law of the Town of Belmont, I/We the undersigned, being the owner(s) of a certain parcel of land (with the Buildings thereon) situated on 44-54 CHURCH ST #38 LEXINGTON Street/Road and being Lot No. \_\_\_\_\_ hereby make application to your Board for a Special Permit for the erection or alteration on said premises or the use thereof under the applicable section of the Zoning By-Law of said Town

for SPECIAL PERMIT OPERATE A RESTAURANT

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED  
TOWN CLERK  
FEB 10 11 AM '99  
2:23 APR - 3 PM 4 12

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Signature of Petitioner(s)

Phone # 617-484-0887



**PETITION TO THE BOARD OF APPEALS UNDER THE  
ZONING BY-LAW FOR VARIANCE**

Date: 12-29-98

To the Board of Appeals  
Town Hall, 455 Concord Avenue  
Belmont MA 02178

Gentlemen:

Pursuant to the provision of General Laws, Chapter 40A S10, as amended, I/We, the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on CHURCH LEXINGTON STREETS and being Lot No. \_\_\_\_\_ said lot being \_\_\_\_\_ feet long by \_\_\_\_\_ feet wide, hereby petition your Board to vary the terms of the applicable section of the Zoning By-Law of the Town insofar as the same applies to the proposed erection of a \_\_\_\_\_ to be located \_\_\_\_\_ feet from the street line, \_\_\_\_\_ feet from the side line, \_\_\_\_\_ feet from the rear line of said lot; and \_\_\_\_\_ feet from the nearest building, in accordance with the plan attached hereto, on the ground that: (1) Owing to circumstances which relate to the soil condition, shape or topography of such land (or buildings thereon) and especially affecting such land (or buildings) but not affecting generally the Zoning district in which it is located, the literal enforcement of said provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the petitioner; and (2) desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of said By-Law.

The relief sought is that the petitioner(s) be permitted to construct VARIANCE  
OF 14 PARKING SPACES.

\_\_\_\_\_  
Signature of Petitioner(s)

\_\_\_\_\_  
Phone Number

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BELMONT, MA.  
FEB 8 11 12 AM '99

DEPARTMENT OF HEALTH

99-11

DONNA L. MOULTRUP, R.N., C.H.O.  
DIRECTOR OF HEALTH

(617) 489-8249  
Fax (617) 489-0021



TOWN HALL ANNEX  
BELMONT, MASSACHUSETTS 02478

BOARD OF HEALTH  
DAVID B. ALPER, D.P.M.  
DONNA S. DAVID, R.N., M.N.  
ROBERT M. EISENDRATH, M.D.

February 24, 1999

TO: Jeffrey Wheeler, Planning Coordinator

FROM: Donna Moultrup, Director *DM*

RE: Special Permit for 44-54 Church St.

I am writing to confirm that I have met with the applicants and discussed their plans for a Dunkin Donuts to be opened at the above address. Some changes were made to the initial plans to better comply with the Sanitary Code and I am satisfied that the current plans meet all of the requirements.

Further discussion concerning refinements of lighting, food service equipment, etc. will take place after the Board of Appeals hearing process has been completed.

Don't hesitate to call if you have any questions.

cc: Tom Gatzunis, Director, Community Development





COMMITMENT  
DEVELOPMENT  
MAR 10 9 04 AM '99

99-04

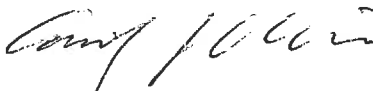
4 Church St.  
Belmont, MA 02478  
March 5, 1999

Zoning Board of Appeals  
Town of Belmont  
P. O. Box 56  
Belmont, MA 02478

Board Members:

As a business and property owner in Waverley Square (Oaks Hardware Co.) I would favor the approval of Dunkin Donuts proposal at the Desco Building. This area is currently in transition, with a few stores for rent. We are hoping for a diversity of businesses, important among them would be that type of food vendor. Of the customers and neighbors I have spoken with, all have been in favor of it. The Destefano's have shown considerable commitment in renovation and planning of the site, and I think will prove to be responsible property owners.

Very Truly Yours,



Anthony J. Oliveri

**ACTON MANAGEMENT, INC.**

P.O. Box 2350  
Acton, MA 01720

---

(978) 263-2989

FAX (978) 263-0403

Email: [actonmgt@tiac.net](mailto:actonmgt@tiac.net)

March 1, 1998

Zoning Board of Appeals  
Town of Belmont  
Belmont, MA

Dear Board Members:

I am the largest owner and the managing agent for Church Street Realty Trust, which owns the building at 30 Church Street. I believe our property and parking lot directly abut the site of the proposed Dunkin Donuts.

We are strongly opposed to the granting of the variance to allow this use.

The parking situation in this area is already very troublesome. Our parking lot is constantly used by automobiles that have no right to park there. These illegal parkers include neighborhood residents, apartment house tenants, commuters, and customers or employees of businesses that are not located in our building. We sometimes find it impossible to plow snow because trespassers park all night in our lot. One of our tenants has been forced to hire security personnel to discourage illegal parking.

Moreover, the small street to the rear of the property (and which parallels Church Street) is very narrow and can not possibly handle increased traffic.

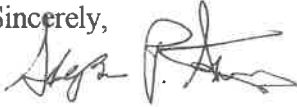
There is very limited public parking in this area. There are hardly any spaces on Church Street. The small public lot can not possibly accommodate the increased volume due to this kind of operation. I believe Church Street is also used for a taxi stand, bus stop, and commuter rail. It is already at its limit.

Dunkin Donuts is not the kind of operation that has a low volume of traffic. I have observed their operations in similar locations. They have hundreds and hundreds of automobiles coming and going at all times. Their traffic is not restricted to the morning hours. The argument that their customers may not stay long is by no means adequate to mitigate substantially the horrendous consequences of allowing this operation without any parking of its own whatsoever. Their customers will undoubtedly end up parking on my property and in the residential side streets near the restaurant, as well as resorting to double parking on Church Street.

March 1, 1999

The applicant states that he has no parking whatsoever on his own property. The granting of this variance will have a substantial negative affect on Church Street and the neighborhoods surrounding it. It would be far better to use this property for low impact office use or for apartments. When the property was recently converted, it was not contemplated for restaurant use; and it should not be allowed to be so used now.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen P. Steinberg". The signature is stylized with a large, sweeping initial "S" and a long horizontal stroke at the end.

Stephen P. Steinberg  
President

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TOWN CLERK  
BELMONT, MA.

APR 20 11 36 AM '99

BOARD OF APPEALS

99-11

Case No. 99-11  
Applicant: James R. and Joseph G. DeStefano  
Property Address: 44-54 Church Street/38 Lexington Street  
Date of Public Hearing: March 1, 1999  
Members Sitting: John W. Gahan III  
William D. Chin  
Anthony L. Leccese  
Thomas P. Callaghan, Jr.  
Carlo Tagariello

James and Joseph DeStefano (the "Applicant") are the owners of Property at 44-54 Church Street and 38 Lexington Street (the "Property") which is located in a Local Business I Zoning District. The Property was previously the subject of zoning relief to allow for conversion of certain residential units to office use (See Board Case No. 98-20). The Applicant wishes to rent space in the renovated building on the Property to Duarte Carvalho to allow Mr. Cavalho to operate a café style Dunkin Donuts with seating for 42 persons. The Applicant has petitioned for a variance from the requirements of the Zoning Bylaw that mandate that the Applicant provide a certain number of parking spaces (in this case, 21) for the use of the patrons of the restaurant. In addition, under the Zoning Bylaw, a special permit is required to authorize restaurant use.

After all requirements of notice and publication were satisfied, the Board held a public hearing at the Belmont Public Library on March 1, 1999. Sitting for the Board were Chairman John W. Gahan III, William D. Chin, Thomas P. Callaghan, Jr., Carlo Tagariello and Anthony Leccese.

The Applicant's presentation was made by their attorney. At the hearing, the Board was presented with a petition endorsing the application, signed by nearby 50 persons who live or work in the area. The Board was told that there are only three spaces on site and a variance is needed from the parking requirement if the requested seating is to be approved. The Property is across the street from a municipal parking lot, which the Applicant claims is under-utilized.

The operation would be managed by Mr. Carvalho who currently operates several Dunkin Donut restaurants, including the one in Belmont located on Trapelo Road. The proposed location would feature a European style theme, selling specialty coffees, deli sandwiches, croissants, hot and cold juices, as well as the more traditional coffee shop menu items. There would be no baking done on premises; food would be delivered between 4:00 a.m. and 4:30 a.m. to the side door of the building of 38 Lexington Street.

Many local business people spoke in favor of the application, citing the Applicant's commitment to the Property, the upgrade which has already occurred and the general revitalization of the Waverly Square area. There was one person (the owner of 30 Church Street) who spoke (and wrote) in opposition, citing the parking situation and the anticipated increase in traffic as the reasons for his opposition.

With respect to the restaurant use, the Board finds that the benefits derived from such use outweigh the detriments. The operator is experienced and operates a clean establishment. The Board of Health has reviewed the operation and will monitor activities to ensure that all code requirements are met. This location will service a number of businesses as well as the neighboring residential area. This location does not present the traffic and parking problems associated with the other Dunkin Donuts' proposals presented to the Board on Trapelo Road and Belmont Street. The location between two main through fares (Trapelo Road and Lexington Street) will attract passing traffic but that traffic presumably will turn onto Church Street or into the parking lot.

With respect to parking, the Board notes that across Church Street from this location there is a municipal parking lot. This should help alleviate congestion caused by patrons. The Board expects there will be more "foot traffic" in this area. On the other hand, the Board is reluctant to waive entirely the parking requirement imposed by the Bylaw and therefore only grants the variance, currently, for 14 spaces of relief, with the understanding that one year after full operations the Applicant may return to the Board and request review of whether the seven other parking spaces needed to be provided in order for the operation to have 42 seats should be waived. This limitation is intended by the Board to reduce seating to 28 persons, which the Board believes is reasonable and, by virtue of this decision, all that is permitted at this time. This relief can be granted without substantial detriment because there is a parking facility in the area which the Board believes is not currently used to capacity. The Board also notes that, under the Bylaw, an annual access fee could be tendered by the Applicant if the seats "lost" by the limited variance are operationally essential.

In any event, the permit for operation of a Dunkin Donuts at this Property to be managed by Duarte Carvalho is granted subject to the following:

1. The grant is to Duarte Carvalho only and may not be assigned or transferred, in whole or in part, by him without the Board's specific approval, following a public hearing on a new application.
2. Hours of operation shall be from 5:00 a.m. to 11:00p.m., seven days a week, subject to the approval of the Board of Selectmen.
3. There is to be no dumpster on the Property. All trash is to be stored in covered 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 premises. Suitable mechanical systems will be installed so no odors will be emitted outside the building.
5. Deliveries will be made in a manner to minimize interference with other business/residential activities in the Waverly Square area. No deliveries are to be made to the Property after 10:00 p.m. and early morning deliveries shall be limited to one earlier than 5:00 a.m.
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. With respect to parking spaces, relief is granted specifically to this use only. Any other use (including another restaurant use) shall be subject to the parking regulations of the Bylaw as if the variance relief had not been granted. The Applicant is to provide 14 spaces and is credited with the spaces on site and the use of the municipal lot in satisfaction of that requirement. The seating capacity of the restaurant permitted hereby 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.

For the Board

A handwritten signature in cursive script, appearing to read "James P. Brown", with a stylized flourish at the end.

April 16, 1999

Case No. 99-11  
44-54 Church Street

For the Board,

John Brown  
K. P. Callaghan  
W. D. ...  
Carl ...  
Al ...

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BELMONT, MA.

FEB 8 2 44 PM '99

CASE NO. 99-11

NOTICE OF PUBLIC HEARING BY THE  
ZONING BOARD OF APPEALS

ON APPLICATION FOR SPECIAL PERMIT AND VARIANCE

Notice is hereby given that the Zoning Board of Appeals of the Town of Belmont will hold a public hearing on **MONDAY, MARCH 1, 1999, AT 7:30 PM** in the **ASSEMBLY ROOM, BELMONT PUBLIC LIBRARY, 336 Concord Ave., Belmont, MA** to consider the application of **JAMES AND JOSEPH DESTEFANO/DUARTE CARVALHO** for a **SPECIAL PERMIT** under Section 3.3 of the Zoning By-law and a **VARIANCE OF 21 PARKING SPACES** (21 spaces required, none existing or proposed) in order **TO OPERATE A RESTAURANT (DUNKIN DONUTS)** at **44-54 CHURCH STREET** in a **LOCAL BUSINESS III ZONING DISTRICT**.

BOARD OF APPEALS

Belmont Citizen Herald  
TO BE PUBLISHED FOR 2 WEEKS:  
Weeks of FEBRUARY 11 and 18, 1999



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BOARD OF APPEALS

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BOARD OF APPEALS

Belmont Citizen Herald  
TO BE PUBLISHED FOR 2 WEEKS:  
Weeks of FEBRUARY 11 and 18, 1999

MAP & PARCEL	OWNERS NAME		MAILING ADDRESS	PROPERTY LOCATION	CASE
28-120	FORMATO	E	102 UNION ST WATERTOWN MA 02172-2527	14-18 THAYER RD	99-11
28-121	PALLOTTA ETAL TRS JEFFREY PALLOTTA F		234 PALFREY ST WATERTOWN MA 02172-1836	18-20A DAVIS ST	99-11
28-122	DEMAGISTRIS	N	19 ALEXANDER AVE BELMONT MA 02178-4802	14-16 DAVIS ST	99-11
28-123	DEMASI III TE JOH DEBRA R DEMASI		10 DAVIS ST BELMONT MA 02178-1330	10-12 DAVIS ST	99-11
28-124	ZONA JT IRENE M KENNETH R MARTIN J		103 SYCAMORE ST BELMONT MA 02178-1344	101-103 SYCAMORE ST	99-11
28-125	VAN HORN TE ROBE PAULA Z VAN HORN		97 SYCAMORE ST BELMONT MA 02178-1344	97 SYCAMORE ST	99-11
28-126	SALFITY TE VICTORIA G SALFITY	J	110 GRAYMORE RD WALTHAM MA 02154-2202	61-63 LEXINGTON ST	99-11
28-127UU57	MACCORMAC	B	PO BOX 79109 WAVER BELMONT MA 02179-0109	57-59 LEXINGTON ST	99-11
28-127UU59	SCHMIDT	E	57-59 LEXINGTON ST BELMONT MA 02178-1333	57-59 LEXINGTON ST	99-11
28-127A	CROSS ROADS EVANGE		51 LEXINGTON ST BELMONT MA 02178-1333	51 LEXINGTON ST	99-11
28-128	PLUMMER TE ESTHER F PLUMMER	W	45 LEXINGTON ST BELMONT MA 02178-1332	45 LEXINGTON ST	99-11
28-129	GREENE TE DEBRA J GREENE	J	41 LEXINGTON ST BELMONT MA 02178-1332	41-43 LEXINGTON ST	99-11
28-133	OLIVERI	J	75 NYACK ST WATERTOWN MA 02172-1419	488-494 TRAPELO RD &	99-11
28-134	CORBETT JT ALEXANDER E CORBET	A	12-20 CHURCH STREE BELMONT MA 02178	12-20 CHURCH ST	99-11
28-135	CHURCH STREET REAL ATTN D DELISE		P O BOX 2350 ACTON MA 01720-6350	30 CHURCH ST	99-11
28-136A	VARTANIAN TRS C/O PETER MOONEY/W	S	480 TRAPELO RD BELMONT MA 02178	22-26 CHURCH ST	99-11
28-137	VENUTI JT JOSEPHINE G VENUTI	C	16 CAMBRIDGE ST BELMONT MA 02178-1947	44-54 CHURCH ST	99-11
28-138	TURNER JR TE MARY L TURNER	R	22 THAYER RD BELMONT MA 02178-1349	40-42 LEXINGTON ST	99-11
28-139	GIRDVAINIS TE JOAN GIRDVAINIS	J	46 LEXINGTON ST BELMONT MA 02178-1361	46 LEXINGTON ST	99-11
28-140	QUAN TE WONG YAN QUAN	Y	10 THAYER ST BELMONT MA 02178-1303	10 THAYER ST	99-11
28-141	CARREIRO TE NANCY M CARREIRO	C	12 THAYER ST BELMONT MA 02178-1303	12-14 THAYER ST	99-11
28-142	MAGUIRE JT HOPE ETAL		6-8 THAYER ST BELMONT MA 02178-1303	6-8 THAYER ST	99-11
28-143	LECORPS TE ARAL YOLETTE LECORPS		2 THAYER ST BELMONT MA 02178-1303	2-4 THAYER ST	99-11
28-147	YAZEJIAN ETAL TRS 15-17 THAYER ST RE		17 THAYER ST BELMONT MA 02178-1302	15-17 THAYER ST	99-11
28-148	CONSTANTINO JT P MARY C CONSTANTINO		23 THAYER ST BELMONT MA 02178-1302	21-23 THAYER ST	99-11
28-149	GALLAGHER TRS THAYER REALTY TRUS	K	25-27 THAYER ST BELMONT MA 02178-1302	25-27 THAYER ST	99-11
28-150	HESSION	B	95 PARKVIEW RD WALTHAM MA 02154-8028	29-31 THAYER ST	99-11

28-151	HESSION	B	95 PARKVIEW RD WALTHAM MA 02154-8028	33-39 THAYER ST	99-11
28-152	CHEN TE DONGSHU XIAOHONG SU		50 LEXINGTON ST BELMONT MA 02178-1337	50 LEXINGTON ST	99-11
28-153	BURLESON TE CHRIS JANE M BURLESON		54 LEXINGTON ST BELMONT MA 02178-1337	54 LEXINGTON ST	99-11
28-154	STEFANIS TC PANT DEMITRIOS A STEFAN		47 CHANDLER ST BELMONT MA 02178-1327	60 LEXINGTON ST	99-11
28-155	DWYER LE	N	63 SYCAMORE ST BELMONT MA 02178-1310	63 SYCAMORE ST	99-11
28-156	FRANCE JT GEORGE JEANNE K FRANCE		61 SYCAMORE STREET BELMONT MA 02178-1310	61 SYCAMORE ST	99-11
28-157	SHORTER	H	72 GODEN ST BELMONT MA 02178-2936	55-57 SYCAMORE ST	99-11
28-158	LEWIS ETAL TRS C/O J LEWIS	M	243 GROVE ST N CONWAY NH 03860-5312	49 SYCAMORE ST	99-11
28-159	MACKENZIE JT ETAL	A	47 SYCAMORE ST BELMONT MA 02178-1310	45-47 SYCAMORE ST	99-11
28-171	WOOLFREY PATRICIA		70 LEXINGTON ST BELMONT MA 02178-1338	70 LEXINGTON ST	99-11
32-11	BELMONT PARK ASSOC C/O MR TOCCI		430 TRAPELO RD BELMONT MA 02178-1420	521 TRAPELO RD	99-11
32-11A	MASSACHUSETTS BAY		45 HIGH ST BOSTON MA 02110-2302	1020 PLEASANT ST	99-11
32-12	RTK CORPORATION		493 TRAPELO RD BELMONT MA 02178-3107	495-505 TRAPELO RD	99-11
32-19A	RUMAY CORPORATION C/O WAVERLEY INSUR		493 TRAPELO RD BELMONT MA 02178-1419	TRAPELO RD	99-11
33-8-1	POLCARI TRS WAVERLEY PLACE RLT	R	P O BOX 79191 BELMONT MA 02179	17-19 THAYER RD	99-11
33-8-2	POLCARI TRS WAVERLEY PLACE RLT	R	P O BOX 79191 BELMONT MA 02179	21-23 THAYER RD	99-11
33-9	POLCARI TRS WAVERLEY PLACE RLT	R	PO BOX 79191 BELMONT MA 02179	9-15 THAYER RD	99-11
33-10	FLETT TRS JAMES W MOBIL ADMIN SERV C		PO BOX 290 DALLAS TX 75221-0290	LEXINGTON ST	99-11
33-11	NATALE TRS ALBERT 11 LEXINGTON ST RE		76 BEECH ST BELMONT MA 02178-4703	LEXINGTON ST	99-11
33-11A	MASSACHUSETTS BAY		45 HIGH ST BOSTON MA 02110-2302	15 LEXINGTON ST	99-11
33-11B	LAFauci TRS LAFauci REALTY TRU	N	50 MORaine ST BELMONT MA 02178-1343	MORaine ST R	99-11
33-11C	MASSACHUSETTS BAY		45 HIGH ST BOSTON MA 02110-2302	17 LEXINGTON ST	99-11
33-12	TOMASSIAN ETAL TRS ASHLEA REALTY TRUS		20 BRIANT DRIVE SUDBURY MA 01776	11 LEXINGTON ST	99-11
33-13	TOMASSIAN TRS ARARAT REALTY TRST	C	5-9 LEXINGTON ST BELMONT MA 02178-1333	5-9 LEXINGTON ST	99-11
33-19	LAFFEY TE EUNICE E LAFFEY	P	66 DARTMOUTH ST BELMONT MA 02178	5-7 AGASSIZ AVE	99-11
33-20	MCMANN TRS MCMANN BELMONT TRU	M	16 CRESCENT ST WESTON MA 02193	1-3 AGASSIZ AVE	99-11
33-90	MASSACHUSETTS BAY		45 HIGH ST BOSTON MA 02110-2302	LEXINGTON &	99-11
33-90A	BELMONT WAVERLEY SQUARE	I	590 TRAPELO RD BELMONT MA 02178	(	99-11
33-90B	BELMONT	I	CHURCH ST	586 TRAPELO RD (	99-11

MUNICIPAL PARKING BELMONT MA 02178

W A T E R T O



## TOWN OF BELMONT - NOTICE OF DECISION

Notice is hereby given, acting on the petition of **James and Joseph DeStefano/Duarte Carvalho** that the Board of Appeals **Granted a Special Permit and Variance** relative to the property located at **44-54 Church Street** in order to operate a restaurant (Dunkin Donuts) and a variance of 21 parking spaces.

The Finding of Facts of the decision was **filed** with the Town Clerk, Town Hall, Belmont, MA on **April 20, 1999**. Any appeal of this decision must be made pursuant to Section 17 of Chapter 40A of the General laws and shall be filed within twenty days after the date of filing of the Finding of Facts with the Town Clerk.

### BOARD OF APPEALS

Case No. 99-11  
April 20, 1999

## TOWN OF BELMONT - NOTICE OF DECISION

Notice is hereby given, acting on the petition of **James and Joseph DeStefano/Duarte Carvalho** that the Board of Appeals **Granted a Special Permit and Variance** relative to the property located at **44-54 Church Street** in order to operate a restaurant (Dunkin Donuts) and a variance of 21 parking spaces.

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### BOARD OF APPEALS

Case No. 99-11  
April 20, 1999

99-11

Filed at ZBA PUB. HRC,  
3/1/99 JAW

**Petition re: Dunkin' Donuts  
44-54 Church Street and 38 Lexington Street**

To the Zoning Board of Appeals:

We, the undersigned, have no objection to the grant of a special permit or variance to permit the use of the first floor of 44-54 Church Street and 38 Lexington Street as a Dunkin' Donuts.

<u>Name</u>	<u>Address</u>
William E Plummer	45 Lexington St Belmont
Esther Plummer	45 Lexington St, Belmont
Ruby E McDermogh	45 Lexington St. Belmont
Ruby E. Nelson	111 Lexington St Belmont
William	70 WHITE BELMONT
Subj. Person	5 Lexington St Belmont
Jamun Smithy	839 Belmont St. Belmont
Cecile Turnbull	37 Bradshaw St. Watertown
Wm M. M...	27 Lexington St. Belmont
Emile Bourcier	20 Morraine Belmont
Mary Ann Herlihy	46 Chandler St "
Angela Orlando	16 Thayer Rd Belmont
Miss Lynn	40 Chestnut St BELMONT MA
Pat B...	1 Bridgman Ave Watertown
Dud Pyzell	32 Thayer Rd BELMONT
Annaly J. Blain	4 Church St. Belmont
ST Roche	181 Stone St Belmont 5
Santa Zaganari	33 Chandler St Watertown
Quisilla M. Warr	38 Lexington St Belmont
P. Veltte	321 Cross St Belmont
Jerusa Vidette	321 Cross St Belmont
Pat Veltte	" " "

63-65  
White  
Street  
Damen

Name	Address
Dorothy Adams	202 Waverley St. Belmont
Philip Pogreus	73 Parkway Rd. Belmont
Joseph A. Kelly	33 Hazel Rd Belmont
James Kelly	27 Chandler St Belmont
John D. [unclear]	83 Beech St Belmont
John H. [unclear]	22 Waverley St Belmont
John C. [unclear]	123 D Sycamore St Belmont, MA
Michael Patrick Black	36 Greeley Road, Belmont.
Ann Powell	50 Wild St, Belmont.
Mary Rita Berman	115 Sycamore St. Bel.
Paul [unclear]	521 Traperon Rd Bel
Alexandra [unclear]	12-14 Church Street Belmont
Lana Socke	31 Gilbert Rd Belmont
Robert B. [unclear]	84 Agassiz Ave Belmont.
Mrs Robert B. [unclear]	84 Agassiz Ave Belmont
Josephine Kanuti	16 Cambridge St. Belmont
[unclear]	51 Drew St. Belmont
Constance Venuti	16 Cambridge St Belmont
[unclear]	51 Drew St Belmont Ma.
Mary Stone	50 Edgmore Rd Belmont MA







RECEIVED  
TOWN CLERK  
BELMONT, MASS.

APR 20 11 35 AM '99

BOARD OF APPEALS

99-11  
5/3/99

Case No. 99-11

Applicant: James R. and Joseph G. DeStefano

Property Address: 44-54 Church Street/38 Lexington Street

Date of Public Hearing: March 1, 1999

Members Sitting: John W. Gahan III  
William D. Chin  
Anthony L. Leccese  
Thomas P. Callaghan, Jr.  
Carlo Tagariello

*Jim,*  
Please read &  
let me know  
your opinion on  
the appeal.  
*Steve*

James and Joseph DeStefano (the "Applicant") are the owners of Property at 44-54 Church Street and 38 Lexington Street (the "Property") which is located in a Local Business I Zoning District. The Property was previously the subject of zoning relief to allow for conversion of certain residential units to office use (See Board Case No. 98-20). The Applicant wishes to rent space in the renovated building on the Property to Duarte Carvalho to allow Mr. Cavalho to operate a café style Dunkin Donuts with seating for 42 persons. The Applicant has petitioned for a variance from the requirements of the Zoning Bylaw that mandate that the Applicant provide a certain number of parking spaces (in this case, 21) for the use of the patrons of the restaurant. In addition, under the Zoning Bylaw, a special permit is required to authorize restaurant use.

After all requirements of notice and publication were satisfied, the Board held a public hearing at the Belmont Public Library on March 1, 1999. Sitting for the Board were Chairman John W. Gahan III, William D. Chin, Thomas P. Callaghan, Jr., Carlo Tagariello and Anthony Leccese.

The Applicant's presentation was made by their attorney. At the hearing, the Board was presented with a petition endorsing the application, signed by nearby 50 persons who live or work in the area. The Board was told that there are only three spaces on site and a variance is needed from the parking requirement if the requested seating is to be approved. The Property is across the street from a municipal parking lot, which the Applicant claims is under-utilized.

The operation would be managed by Mr. Carvalho who currently operates several Dunkin Donut restaurants, including the one in Belmont located on Trapelo Road. The proposed location would feature a European style theme, selling specialty coffees, deli sandwiches, croissants, hot and cold juices, as well as the more traditional coffee shop menu items. There would be no baking done on premises; food would be delivered between 4:00 a.m. and 4:30 a.m. to the side door of the building of 38 Lexington Street.

Many local business people spoke in favor of the application, citing the Applicant's commitment to the Property, the upgrade which has already occurred and the general revitalization of the Waverly Square area. There was one person (the owner of 30 Church Street) who spoke (and wrote) in opposition, citing the parking situation and the anticipated increase in traffic as the reasons for his opposition.

With respect to the restaurant use, the Board finds that the benefits derived from such use outweigh the detriments. The operator is experienced and operates a clean establishment. The Board of Health has reviewed the operation and will monitor activities to ensure that all code requirements are met. This location will service a number of businesses as well as the neighboring residential area. This location does not present the traffic and parking problems associated with the other Dunkin Donuts' proposals presented to the Board on Trapelo Road and Belmont Street. The location between two main through fares (Trapelo Road and Lexington Street) will attract passing traffic but that traffic presumably will turn onto Church Street or into the parking lot.

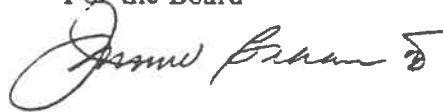
With respect to parking, the Board notes that across Church Street from this location there is a municipal parking lot. This should help alleviate congestion caused by patrons. The Board expects there will be more "foot traffic" in this area. On the other hand, the Board is reluctant to waive entirely the parking requirement imposed by the Bylaw and therefore only grants the variance, currently, for 14 spaces of relief, with the understanding that one year after full operations the Applicant may return to the Board and request review of whether the seven other parking spaces needed to be provided in order for the operation to have 42 seats should be waived. This limitation is intended by the Board to reduce seating to 28 persons, which the Board believes is reasonable and, by virtue of this decision, all that is permitted at this time. This relief can be granted without substantial detriment because there is a parking facility in the area which the Board believes is not currently used to capacity. The Board also notes that, under the Bylaw, an annual access fee could be tendered by the Applicant if the seats "lost" by the limited variance are operationally essential.

In any event, the permit for operation of a Dunkin Donuts at this Property to be managed by Duarte Carvalho is granted subject to the following:

1. The grant is to Duarte Carvalho only and may not be assigned or transferred, in whole or in part, by him without the Board's specific approval, following a public hearing on a new application.
2. Hours of operation shall be from 5:00 a.m. to 11:00p.m., seven days a week, subject to the approval of the Board of Selectmen.
3. There is to be no dumpster on the Property. All trash is to be stored in covered 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 premises. Suitable mechanical systems will be installed so no odors will be emitted outside the building.
5. Deliveries will be made in a manner to minimize interference with other business/residential activities in the Waverly Square area. No deliveries are to be made to the Property after 10:00 p.m. and early morning deliveries shall be limited to one earlier than 5:00 a.m.
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. With respect to parking spaces, relief is granted specifically to this use only. Any other use (including another restaurant use) shall be subject to the parking regulations of the Bylaw as if the variance relief had not been granted. The Applicant is to provide 14 spaces and is credited with the spaces on site and the use of the municipal lot in satisfaction of that requirement. The seating capacity of the restaurant permitted hereby 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.

For the Board



April 16, 1999

Case No. 99-11  
44-54 Church Street

For the Board,

And Bruce  
K. P. Callaghan  
W. D. W.  
C. J. W.  
A. W. W.



ANDREW J. CASNER, JR.  
(1974-1988)  
THOMAS D. EDWARDS  
(1978-1987)  
WALTER M. MAYO III  
MARTIN E. GREENBLATT  
CHARLES M. MAHANN  
ROBERT A. MURPHY  
ROBERT S. COWDEN III  
JOHN M. ARNEY  
DOUGLAS K. WANSFELD  
ANDREW M. HIBBES  
FERRANCE J. HAMILTON  
ANITA W. ROSSOY

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DAVID J. CHAVOLLA  
ROBERT M. MENDELLO  
STEPHEN M. PERRY  
PETER A. CARO  
GARY L. HOFF  
JOAN M. GRYFFIN  
GREGG S. BLACKBURN  
LINDA A. OUELLETTE  
DONNA B. MACKENNA  
GARY L. KEMP  
MATTHEW T. MURPHY  
MARK W. WILLIAMSON  
VICTOR M. DAY

July 16, 1999

**BY HAND**

Office of the Clerk  
Land Court Department  
20-24 New Chardon Street  
Boston, MA 02114-4703

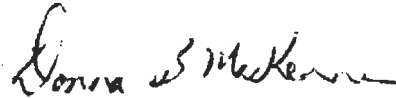
Re: Church Street Realty Trust v. Board of Appeals  
Misc. Action No. 256342

Dear Sir/Madam:

Enclosed for filing please find a Stipulation of Dismissal of the above entitled action. Please be advised that this matter was set for an early intervention conference on Wednesday, July 21, 1999 at 2:00 p.m. which may now be canceled.

Thank you.

Sincerely yours,



Donna B. MacKenna

DBM:kk  
Enclosure

cc: Jacob C. Diemert, Esquire (w/copy of enclosure) (via fax and first class mail)  
Robert J. Morrissey, Esquire (w/copy of enclosure) (via first class mail)  
James G. and Joseph G. DeStefano (w/copy of enclosure) (via first class mail)

5731.002/3561758

RECEIVED  
TOWN CLERK  
JULY 20, 1999  
2023 APR -3 PM 4:12



ANDREW J. CASNER, JR.  
WALTER H. MAYO III  
MARTIN E. GREENBLATT  
CHARLES M. HAMANN  
ROBERT A. MURPHY  
ROBERT E. COWDEN III  
JOHN H. ASHBY  
DOUGLAS K. MANSFIELD  
ANDREW M. HIGGINS  
TERRANCE J. HAMILTON  
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ROBERT S. KUTNER

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JOAN M. GRIFFIN  
DONNA B. MACKENNA  
GARY L. KEMP  
MATTHEW T. MURPHY  
MARK W. WILLIAMSON  
KATHLEEN B. CARR

December 15, 1998

Board of Appeals  
Town Hall  
Belmont, MA 02478

Re: 44-54 Church Street and 38 Lexington Street  
Application for Special Permit and Variance

Gentlemen:

This is an application for a special permit to allow a 42 seat Dunkin Donuts restaurant at 44-54 Church Street and 38 Lexington Street ("the premises") and for a variance from the parking requirements of the Belmont Zoning By-law ("the By-law").

The applicants are James R. and Joseph G. DeStefano, the owners of the premises. The restaurant will be operated as a Dunkin Donuts franchise by Duarte "Duke" Carvalho who has been a Dunkin Donuts franchisee since 1977 and currently operates at eight locations, six in Watertown, one in Belmont and one in Harvard Square.

The premises are located in Waverley Square - the heart of one of the three major retail districts in Belmont - immediately across from the starting point of the MBTA trolley line to Harvard Square and a municipal parking lot providing 40 parking spaces. The area is zoned Local Business I. Restaurants are permitted in such zoning districts by special permit.

The proposed restaurant will be the cornerstone of a redevelopment of the premises and a general upgrading of the Waverley Square business district.

The proposed restaurant will be operated in a clean and efficient manner. There will be no dumpster on the premises. It is anticipated that trash generated by the restaurant will be stored in large covered barrels complying with building code requirements which will be stored in a shed. Pick-up will be every other day or daily as required by trash volume. The operators of the restaurant will patrol Waverley Square twice daily for the removal of litter.

The restaurant itself will be operated in a sanitary manner. There will be hand washing sinks in each of two areas where food will be prepared and a three compartment sink which will rinse, wash and sanitize containers, utensils and any dishware used in the operation.

CASNER & EDWARDS, LLP

Board of Appeals  
December 15, 1998  
Page 2

It is anticipated that the restaurant operation will emit no odors outside the building in which it will be located. There will be no baking on the premises. A bagel bake-off oven which will be located there emits no exhaust.

There will be four employees on duty during the morning rush hours and two employees the rest of the day. There will be a manager on duty seven days a week. The owners will have an office on the premises, further assuring effective oversight over the operation of the restaurant.

The proposed hours of operation are from 5:00 a.m. in the morning until 11:00 p.m. in the evening. The first and last hours are subject to approval by the Board of Selectmen.

Deliveries will be managed in a way intended to minimize interference with traffic and other activities in the Waverley Square area. A van will deliver baked goods twice a day, one prior to opening and a second time during the morning hours. A truck will deliver dairy products and dry goods twice a week. In the event of shortages, there will be occasional deliveries in a small Dunkin Donuts van.

The exterior of the premises will be maintained largely in the condition to which they have now been restored. Signage and lighting will comply with By-law requirements. A gold lettered sign lighted indirectly from the front is proposed--not a traditional, multicolored, backlighted Dunkin Donuts sign.

The only area of non-compliance with By-law requirements is with regard to parking. Section 5.1.2(d) of the By-law requires one parking space per two persons seating capacity. Under the By-law, a 42 seat restaurant should be serviced by 21 parking spaces. In this case, there are seven countable spaces to service the restaurant business. Three are located on the premises behind the building. Four are located between the side lot lines of the premises on the same side of the street. See By-law, §5.1.1(d).

A shortfall in meeting parking requirements of the By-law is a common concurrence for new businesses and buildings located in Belmont's historic business districts. What is unique about the hardship affecting these premises is their strategic location across from an underutilized public parking lot. That lot is rarely, if ever, full. Most often only a small fraction of the 40 available parking spaces are actually in use. The unused parking spaces substantially exceed the parking spaces required for this restaurant. In addition, there are parking spaces on adjacent streets which are frequently available.

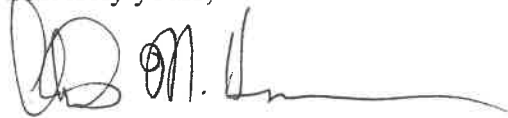
Board of Appeals  
December 15, 1998  
Page 3

It is worth noting that, in cases where Design and Site Plan Review is required (not the case here), the Planning Board may reduce the number of required on-site spaces where there are "special circumstances". By-law, §5.1.1(b). Because of the availability of parking in the area, there are "special circumstances" here and the requested variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-law. In fact, if the benefit to the Waverley Square business district from allowing the operation of the proposed restaurant there is taken into consideration, the proposed deviation from the parking requirements of the By-law will also produce a public benefit.

The owners have consulted with owners and operators of abutting businesses and residences and have received an enthusiastic reception to their proposal from most quarters. There is a feeling in the Waverley Square area that the square, long the step-child among Belmont business districts, is finally on the move.

For all of the above reasons, relief should be granted as requested.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'C. M. Hamann', with a long horizontal flourish extending to the right.

Charles M. Hamann  
Counsel for the Applicants

CMH:kk

cc: James R. DeStefano  
Joseph G. DeStefano  
Duarte "Duke" Carvalho

5731.002

135512

DOCKET: Case # 256342  
 Commonwealth of Massachusetts  
 and Court  
 Complaint, Appeal from Zoning  
 Board  
 Chap. 40A Sec. 17  
 and in Belmont on

Complaint Filed: 05/07/99

Tracks: X

PLAINTIFFS

Church Street Realty Trust

DEFENDANTS

Gahan, John W. ET AL

ATTORNEYS' APPEARANCES

PLAINTIFFS' ATTORNEYS

05/07/99 Jacob C. Diemert, Esq.  
 PA Kristin A. Bullwinkel  
 Wilson & Orcutt, P.C.  
 201 Great Road  
 Acton, MA 01720  
 (978) 264-4770

DEFENDANTS' ATTORNEYS

1 David C. Hawkins 05/14/99  
 Morrissey & Hawkins  
 Two International Place  
 Boston, MA 02110-4102  
 (617) 345-4500  
 2 Appears for / /  
 John W. Gahan, ET AL., as D  
 they are Members of the  
 Board of Appeals of the  
 Town of Belmont  
 3 Charles M. Hamann 05/20/99  
 Donna B. MacKenna DA  
 Casner & Edwards LLP  
 One Federal Street  
 Boston, MA 02110  
 (617) 426-5900 / /  
 4 Appears for D  
 James G. DeStefano and  
 Joseph G. DeStefano

	ENTRY	DATE
1	XAC Complaint, Appeal from Zoning Board, Chap. 40A Sec. 17, Filed	05/07/99
2	AOS Affidavit of Service Pursuant to M.G.L., Chapter 40A, Section 17, filed	05/14/99
3	Notice of ADR Conference (to be heard Wednesday, July 14, 1999, at 2:00 P.M.), filed	06/08/99
4	Stipulation of Dismissal (Early Intervention conference scheduled for July 21, 1999 at 2:00pm	/ /
5	Cancelled), filed	07/16/99

66. HV 88 01 23 00V  
 AUG 23 10 38 AM '99  
 DEVELOPMENT  
 COMMUNITY





## OFFICE OF COMMUNITY DEVELOPMENT

### INTERNAL MEMO

MEMO TO: Zoning Board of Appeals

FROM: Thomas G. Gatzunis, P.E. *TGG*

SUBJECT: Case #99-11 Dunkin Donuts  
44-54 Church Street

DATE: July 28, 1999

Attached please find a copy of a letter dated 7/26/99 from the property owners and the business owner of 44-54 Church Street, Dunkin Donuts. Specifically, the applicants request permission to add the "ToGo" logo to the building signage. According to the applicants, "ToGo" is a Division of Dunkin Donuts and is the supplier of the deli products. Furthermore, incorporation of the logo will in no way change nor affect the operations of the establishment.

Please advise if you have any concerns or if you would like this to come to the Board for a formal review and approval.

2003 APR -3 PM 4:12

RECEIVED  
TOWN CLERK  
BELMONT, MA

Mr. Thomas Gatzunis  
Director of Community Development  
Town Hall Annex  
Belmont, Ma. 02478-0900

July 26, 1999

Dear Tom,

We are in the final stages of executing our plans to open a "cafe style" Dunkin Donuts, establishment at Waverley Crossing. As such, we are assembling the "Deli Sandwich" portion of our menu. The sandwiches we will be offering will have a "west coast style" twist to them known as a "ToGo". Quite simply a "ToGo" is a sandwich concept developed by Dunkin Donuts to further identify the uniqueness of its sandwich (warm breads, vegetable spreads etc.) Question: Would incorporating the name "ToGo's" violate any signage/zoning bylaw as outlined in Mr. Gahans outline of conditions, specifically; page 3, condition #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." Please advise me of your opinion as soon as possible.

Sincerely,



Joseph DeStefeno



James DeStefeno



Duarte Carvalho



## OFFICE OF COMMUNITY DEVELOPMENT

TOWN OF BELMONT  
19 MOORE STREET  
TOWN HALL ANNEX  
BELMONT, MASSACHUSETTS 02478-0900

BUILDING DIVISION  
(617) 489-8221  
ENGINEERING DIVISION  
(617) 489-8220  
PLANNING DIVISION  
(617) 489-8221  
FAX (617) 489-9156

TO: Thomas G. Gatzunis  
FROM: Jeffrey A. Wheeler  
DATE: August 18, 1999

RE: Togos Sign for Dunkin Donuts

As requested, I spoke to John Gahan, Chair of the Zoning Board of Appeals, about the additional "Togos" sign for Dunkin Donuts at 44-54 Church Street. According to him, he did not have a problem with the "Togos sign as long as:

1. the sign complies with the Zoning By-laws and,
2. the appeal of the Zoning Board's decision was dismissed.

If these criteria are not met, then the "Togos" sign should not be allowed.

If you have any questions regarding this, please do not hesitate to contact me.

Thank you.



**Watertown  
Savings Bank**

COMMUNITY  
DEVELOPMENT  
MAR 16 10 54 AM '99

99-04

March 11, 1999

Mr. John Gahan, Chairman  
Zoning Board of Appeals  
19 Moore Street  
Belmont, MA 02478

Dear Mr. Gahan:

I am writing to you concerning the variance sought by Dunkin Donuts to place a café restaurant on Church Street.

Watertown Savings Bank is the primary tenant at 30 Church Street, a site that abuts the site in question. Additionally, the bank controls the parking spaces that are closest to the proposed site of Dunkin Donuts. Further, we periodically employ a Belmont Police detail to assure that parking remains conveniently available to bank customers.

Notwithstanding, Watertown Savings Bank has no opposition to this petition of Dunkin Donuts. We believe the café nature of the restaurant will serve to enhance the Waverley Square area and be another stepping stone to revitalization of the square.

The position of our landlord, Acton Management, in no way represents the position and attitude of Watertown Savings Bank to this project.

Sincerely,



Frederick Proia  
Vice President

FP:b  
CERTIFIED MAIL

WILSON & ORCUTT, P.C.  
COUNSELORS AT LAW  
201 GREAT ROAD  
ACTON, MASSACHUSETTS 01720

TELEPHONE: (978) 264-4770  
FACSIMILE: (978) 263-7142  
EMAIL: WWW.WILSONORCUTT.COM

PHILIP A. WILSON (1938-1967)  
CHARLES E. ORCUTT, JR. (1962-1996)  
RICHARD M. COTTER  
DANIEL B. GREENBERG  
JACOB C. DIEMERT

JOHN R. McNAMARA  
CHRISTINE M. MORGAN  
MARK BURRELL  
KRISTIN A. BULLWINKEL

May 13, 1999

Clerk's Office  
Land Court  
20-24 New Chardon Street  
Boston, Massachusetts 02114

Re: Church Street Realty Trust v. Board of Appeals of the Town of Belmont  
and James R. DeStefano and Joseph G. DeStefano  
Misc. Action No. 256342

Dear Sir or Madam:

Enclosed for filing in the above-referenced matter you will find an Affidavit of Service.

Thank you for your attention to this matter.

Very truly yours,



Kristin A. Bullwinkel

KAB:pm

Enclosure

cc: Client

Board of Appeals of the Town of Belmont  
Mr. John W. Gahan, III  
William D. Chin  
Anthony L. Leccese  
Thomas P. Callaghan, Jr.  
Carlo Tagariello  
James R. DeStefano  
Joseph G. DeStefano

COMMUNITY  
DEVELOPMENT  
MAY 14 11 39 AM '99

***Wilson & Orcutt, P.C.***  
***Counsellors at Law***  
***201 Great Road***  
***Acton, Massachusetts 01720***

PHILIP A. WILSON (1938-1967)  
CHARLES E. ORCUTT, JR. (1967-1996)  
RICHARD M. COTTER  
DANIEL B. GREENBERG  
JACOB C. DIEMERT

TELEPHONE (978)264-4770  
FACSIMILE (978)263-7142  
WEB PAGE WWW.WILSONORCUTT.COM

JOHN R. McNAMARA  
CHRISTINE M. MORGAN  
MARK BURRELL  
KRISTIN A. BULLWINKEL

May 12, 1999

**Via Certified Mail**  
**Return Receipt Requested**

To the Town of Belmont Board of Appeals, Municipal Building, 455 Concord Avenue, Belmont, Massachusetts 02178, and its members, consisting of John W. Gahan, III, William D. Chin, Anthony L. Leccese, Thomas P. Callaghan, Jr., and Carlo Tagariello, and James R. DeStefano and Joseph G. DeStefano:

**NOTICE OF ACTION PURSUANT TO M.G.L. c. 40A, Section 17**

I, Kristin A. Bullwinkel, attorney for the Plaintiff, Church Street Realty Trust, hereby provide notice that Plaintiff has appealed the Decision of the Town of Belmont Board of Appeals, dated April 16, 1999, and filed with the Town Clerk on April 20, 1999, for a special permit and variance.

A copy of the Complaint filed on May 7, 1999 and the appealed Decision are attached hereto, all pursuant to M.G.L. c. 40A, Section 17.



Kristin A. Bullwinkel

Attorney for Church Street Realty Trust

Dated: May 12, 1999

COMMUNITY  
DEVELOPMENT  
MAY 17 9 14 AM '99

**Wilson & Orcutt, P.C.**  
**Counsellors at Law**  
**201 Great Road**  
**Acton, Massachusetts 01720**

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CHRISTINE M. MORGAN  
MARK BURRELL  
KRISTIN A. BULLWINKEL

May 7, 1999

**BY HAND DELIVERY**

Ms. Catherine T. Stafford  
Town Clerk  
Town of Belmont  
Municipal Building  
455 Concord Avenue  
Belmont MA 02478

RECEIVED  
TOWN CLERK  
BELMONT, MA.  
MAY 7 11 33 AM '99

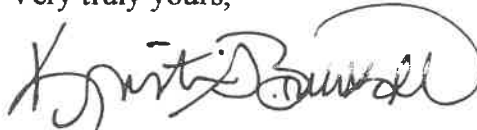
Re: Notice of M.G.L. c. 40A, Section 17 Appeal  
Church Street Realty Trust v. Board of Appeals

Dear Ms. Stafford:

Pursuant to M.G.L. c. 40A, Section 17 of the Massachusetts General Laws, notice is hereby given that an appeal has been filed in connection with the decision of the Board of Appeals file with your office on April 20, 1999, granting a special permit and variance.

A copy of the Complaint filed with the Land Court is attached hereto as required by M.G.L. Chapter 40A, Section 17.

Very truly yours,



Kristin A. Bullwinkel  
Attorney for Church Street Realty Trust

Attachment

cc: Client

