



Planning Board

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**DECISION**

20-01

**Sweet Tomatoes Pizza**

**82 Powder Mill Road**

Sign Special Permit

May 8, 2020

GRANTED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Elysha Bemis of Sweet Tomatoes Pizza (hereinafter the Applicant) for the tenant space with the address 82 Powder Mill Road, located in the shopping plaza known as Powder Mill Plaza (100 Powder Mill Road) in Acton, MA, owned by Powder Mill Powder LLC / Powder Mill Power LLC, c/o Paramount-LMS, 120 North Point Blvd. #301, Lancaster, PA 17601. The property is shown on the Acton town map as parcels J3-34-8 (hereinafter the Site).

This Decision is in response to an application for a sign special permit, received by the Acton Planning Department on January 22, 2020 pursuant to Section 7.13 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Sign Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on May 7, 2020. It was originally scheduled for March 17, 2020 but it was postponed twice without discussion because of the COVID-19 Pandemic and scheduling conflict. Board members Mr. Derrick Chin (Chair), Mr. Sam Bajwa, Mr. Jon Cappetta, Mr. Anping Liu, and Mr. Ray Yacouby were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

**1 EXHIBIT**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Items and documentation required by the Rules consisting of:
  - A properly executed Application for a Sign Special Permit, received in the Planning Department on January 22, 2020 (with property owner sign-off on separate sheet);
  - Certified abutters list;
  - Location plan;
  - Sign rendering;

- License for and image of wall sign on parapet above.
- 1.2 Interdepartmental communication received from:
- Acton Health Department, 01/27/20.
  - Acton Planning Department, dated 03/03/20;
- 1.3
- Agreement of Continuation and Time Extension, April 21, 2020;
  - Agreement of Continuation and Time Extension, May 7, 2020;

Exhibit 1.1 is referred to herein as the Plan.

## **2 FINDINGS and CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the Powder Mill (PM) zoning district.
- 2.2 The Site is the location of Powder Mill Plaza, a single-story shopping plaza that has a covered walkway across the front of the store entrances. The Applicant's establishment occupies the eastern most unit of the plaza.
- 2.3 The business has a licensed wall sign in the gable parapet above the entrance facing the parking lot.
- 2.4 The requested special permit is a for an additional wall sign (hereinafter the Sign) on the brick wall beside the entrance that is recessed underneath the parapet.
- 2.5 The Planning Board may approve the Sign by special permit pursuant to the Bylaw, section §7.13.1.1.
- 2.6 The Sign appears to comply in all respects with the dimensional requirement of the Bylaw.
- 2.7 The Sign will be consistent with the intent and purpose of Section 7.
- 2.8 The Sign is consistent with the character and uses of the area and with the PM zoning district in which it is located.
- 2.9 The Sign has appropriate scale and proportion in its design and in its visual relationship to buildings in the area and to the general surroundings. It has been attractively designed and located, and will be compatible architectural elements of the building to which it principally relates, and it will be in harmony with other features in the general area.
- 2.10 The Sign will provide continuity with other Sign on the same or adjacent buildings or lots (e.g. window signs) with respect to dimension, proportion, mounting height, materials, and other important features.
- 2.11 The colors and materials of the Sign is restrained, and in harmony with the buildings.
- 2.12 The materials used for the Sign is appropriate and does not detract from the aesthetic qualities of the surroundings.
- 2.13 The number of graphic elements on the Sign is held to the minimum needed to convey their primary messages and is in good proportion to the area of the Sign's faces.
- 2.14 The Sign will not unduly compete for attention with any other signs in the area.
- 2.15 The Sign is necessary for adequate identification of the business at this Site.

- 2.16 The Sign as approved herein is appropriate for the Site; consistent with the Master Plan; and in harmony with the purpose and intent of the Bylaw, specifically Section 7; will not be detrimental or injurious to the neighborhood where it is proposed; and complies in all respects to the applicable requirements of the Bylaw and the Rules.
- 2.17 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

### **3 BOARD ACTION**

Therefore, the Board voted unanimously to GRANT the requested special permit, subject to and with the benefit of the following conditions and limitations.

#### **3.1 CONDITIONS**

The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Zoning Enforcement Officer (ZEO) in his administration of the sign permits under section 7.6 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any sign permit issued by the ZEO hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.1.1 Prior to erecting the Sign, the Applicant shall obtain a sign permit (license) from the ZEO pursuant to section 7.6 of the Bylaw.
- 3.1.2 The Sign's illumination, if any, shall meet the illumination standards in section 7.4.3 of the Bylaw.
- 3.1.3 The Sign shall be erected in accordance with the Plan approved and amended herewith, and shall otherwise comply with all applicable requirements of the Bylaw.
- 3.1.4 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of a sign permit.

#### **3.2 LIMITATIONS**

This special permit shall be limited as follows:

- 3.2.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed Signs as shown on the Plan.
- 3.2.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.2.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.

3.2.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

#### **4 APPEALS**

Appeals, if any, shall be made pursuant to MGL, ch. 40A, s. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Acton Planning Board



Roland Bartl, AICP, Planning Director  
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

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Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -  
certified mail # \_\_\_\_\_  
Owner

Land Use Department  
Town Manager Department

Town Clerk  
Engineering Department