



Town of Stow
PLANNING BOARD

380 Great Road
Stow, Massachusetts 01775-1122
(508) 897-5098
FAX (508) 897-4534

NOTICE OF DECISION and DECISION

**Special Permit and Site Plan Approval Reissuance
148 - 156 Great Road**

--

Kostas and Eftihia Asprogiannis

06.27.2023

1. Petition

This Document is the **DECISION** (hereinafter the Decision) of the Planning Board (hereinafter the Board) on the Reissuance of the existing Special Permit and Site Plan Approval, for grading and site improvements for the purpose of siting of approximately 5000' square feet of outdoor dining on property owned by Kede Realty Trust (hereinafter the Petitioner).

This Decision is in response to the Planning Board's motion to reopen the public hearing for Special Permit and Site Plan Approval pursuant to Sections 3.3.2.4, 3.3.2.5, Section 7, 9.2 and 9.3 of the Stow Zoning Bylaw and the Rules and Regulations for Special Permit and Site Plan Approval (hereinafter the Rules).

2. Applicant/Owner

Kede Realty Trust
156 Great Road
Stow, MA 01775

3. Location

Said property is shown on the Stow Property Map Sheet R-29 as Parcel 92A (hereinafter the Site), as more fully described in the Petition.

4. Board Action

After due consideration, the record of proceedings, and based upon the findings set forth below, on June 27, 2021, by a vote of four (4) members present throughout the proceedings, the Board voted to **APPROVE** the Reissuance of Special Permit and Site Plan Approval in accordance with the Findings, Plan Modifications and Conditions contained herein.

5. Proceedings

At their meeting of May 2, 2023, the Planning Board motioned to reopen the public hearing for Special Permit and Site Plan Approval under the provisions of MGL Chapter 40A, Section 9. The Board considered the Reissuance and reviewed materials at a duly noticed Public Hearing opened on June 6, 2023, at the conclusion of which the Public Hearing was closed. Notice of the hearing was duly published and sent to all parties in interest in accordance with MGL Chapter 40A. Board Members Lori Clark, Karen Kelleher, Margaret Costello and Associate Voting Member Mark Jones were present throughout the proceedings. The record of the proceedings and submissions, upon which this Decision is based, may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

6. Exhibits

The Board considered the following documents:

- 6.1** Special Permit and Site Plan Approval Decision dated June 2, 2021
- 6.2** Plans entitled "Proposed Outside Dining Area, Stow House of Pizza, Stow Massachusetts" dated September 30, 2020 and prepared by Lakeview Engineering Associates

Exhibits 6.1 and 6.2 are referred to herein as the Plan.

7. Findings and Conclusions

Based upon its review of the Exhibits and the record of the proceedings, the Board finds and concludes the following:

- 7.1 Finding:** The Special Permit and Site Plan Approval for the creation of an approximately 5000 square foot outdoor seating arrangement and associated grading of a gravel slope adjacent to the existing parking area would lapse two (2) years from the date of the original decision as substantial use or construction has not commenced.
- 7.2 Finding:** Reissuance of the June 2, 2021 Special Permit and Site Plan Approval would allow the Applicant additional time to address the remediation of unpermitted work and resolution of non-compliance issues as conditioned in the 2021 decision.

Compliance Timeline

- 7.3 Finding:** The Planning Board finds that this Decision governs the remediation of unpermitted work and resolution of non-compliance issues, and therefore should provide the Applicant with an adequate amount of time to complete the work as conditioned herein and in the June 2, 2021 Special Permit and Site Plan Approval, prior to a request for the Zoning Enforcement Officer to reinstate the notice of zoning violations and any relevant fine schedule.
- 7.4 Finding:** Section 7.8 of the June 2, 2021 Special Permit and Site Plan Approval includes a condition around a compliance timeline as follows:

Condition: The Applicant shall submit the required Plan Modifications within 60 days from the time the Town Clerk certifies that the statutory appeal period has ended. The Applicant shall complete all work as conditioned herein within 120 days from the time that the Town Clerk certifies that the statutory appeal period has

ended. The Planning Board may extend the construction completion period for good cause upon written request by the Applicant.

Condition: Section 7.8 of the June 2, 2021 Special Permit and Site Plan Approval shall be revised to state the following:

The Applicant shall submit a preliminary plan incorporating the required Plan Modifications as detailed with the June 2, 2021 Special Permit and Site Plan Approval within 30 days from the time the Town Clerk certifies that the statutory appeal period has ended. A final plan reflecting the Plan Modifications as detailed with the June 2, 2021 Special Permit and Site Plan Approval shall be submitted to and approved by the Planning Board within 60 days from the time the Town Clerk certifies that the statutory appeal period has ended. The Applicant shall complete all work as conditioned herein within 120 days from the time that the Town Clerk certifies that the statutory appeal period has ended. The Planning Board may extend the construction completion period for good cause upon written request by the Applicant.

- 7.5 Condition:** A final plan reflecting the Plan Modifications described in this Decision shall be submitted to and approved by the Planning Board prior to any further remediation, construction or site disturbance.
- 7.6 Condition:** Site work may only commence in accordance with an approved Site Plan.
- 7.7 Condition:** Except as stated herein, all Findings, Conditions, and Plan Modifications described in the June 2, 2021 Special Permit and Site Plan Approval remain in full force and effect.

Outdoor Dining

- 7.8 Finding:** The applicant is currently in violation of Condition 7.12 of the June 2, 2021 Special Permit and Site Plan Approval.

Condition: Outdoor dining is prohibited until such time as all remediation work has been completed to the satisfaction of the Board and the Applicant receives approval to modify the Special Permit to include Outdoor Dining from the Board. Any existing outdoor dining at the Site must immediately be removed.

Legal Provisions

- 7.3 Condition:** This approval shall not be deemed approval by any other authority having its separate jurisdiction and inspection requirements.
- 7.4 Condition:** The site shall be in compliance with all other applicable state, local and federal rules and regulations not specifically conditioned or referenced as part of this Decision.
- 7.5 Condition:** This Special Permit/Site Plan Approval shall lapse in two (2) years from the date of this Decision, unless substantial use or construction has commenced

- 7.6 Finding:** The Board reserves the right to enter the property to review ongoing compliance with the conditions imposed within the Special Permits approved herein.
- 7.7 Condition:** The Petitioner shall grant permission to agents of the Town of Stow, as said agency is determined by the Stow Planning Board, to enter, inspect and take whatever related actions are necessary to ensure compliance with the terms of this Special Permit Decision.
- 7.8 Condition:** The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Petitioner, its successors in interest and assigns, and shall be enforceable by the Town of Stow.
- 7.9 Condition:** The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Decision, with or without a public hearing, upon the request of the Applicant or upon its own motion.
- 7.10 Condition:** This Special Permit shall be recorded in the Middlesex South Registry of Deeds and duly indexed or noted on the Owner's Certificate of Title. Prior to commencement of any site disturbance, a copy of the recorded Decision, certified by the Registry, or notification by the Owner of the recording, including recording information, shall be furnished to the Town Clerk, the Building Commissioner and the Planning Board.

8. APPEALS

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

Witness our hands this 27th day of June, 2023.

Lori Clark

Karen Kelleher
Karen Kelleher

Margaret Costello
Margaret Costello

Mark Jones
Mark Jones, Voting Associate Member

Received and Filed
Volume II, Page 638-1

Linda E. Hathaway
Linda Hathaway, Town Clerk

July 11, 2023
Date

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.

Linda Hathaway, Town Clerk

Date