

**COMMITTEE ON SPECIAL PERMITS**  
**JANUARY 29, 2018 at 7:06 PM**  
**WOBURN CITY HALL**  
**COMMITTEE ROOM**

Voting members: Chairman Richard Gately, Alderman Mark Gaffney, Alderman Joanne Campbell, Alderman Edward Tedesco, Alderman Darlene Mercer-Bruen

Non-voting members present: Alderman Mark Gaffney, and Alderman Michael Anderson, Alderman Lindsay Higgins and President Richard Haggerty

**On the petition of Subhadraben Patel for a special permit to allow fast food at 902 Main Street:** Representing the petitioner was Attorney Joseph Tarby, Murtha Cullina, 700 Unicorn Park Drive. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept from Attorney Tarby a proposed site plan for the premises at 902 Main Street; approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept from Attorney Tarby a proposed floor plan for the premises at 902 Main Street; approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept from Attorney Tarby a list of proposed conditions for the special permit at 902 Main Street; approved, 5-0. Attorney Tarby said a special permit is required for a fast food use in the Business Highway zoning district. Attorney Tarby said Krispy Krunchy Chicken has been in business for 28 years and maintains 2,200 locations in 41 states. The number of employees on-premises at any one time will be no more than three. Proposed hours of operation are from 10 a.m. to 11 p.m., seven days. Rubbish will be located in a receptacle in an enclosed area to the rear of the building. There will be four parking spaces on-site, according to Attorney Tarby. There will be one or two deliveries per week by a box truck, and the deliveries will take place via an exit door to the side of the building, Attorney Tarby said. The site plan and floor plan were provided to the City Council after discussions with the Building Commissioner and the Planning Board, in response to questions about parking on the site. Attorney Tarby noted the hours of operation allowed in the zoning district are from 6 a.m. to 11 p.m. and his client is requesting an opening hour of 10 a.m. Attorney Tarby said signage will comply with the zoning ordinance. He said the mitigation payment is \$3,300 and noted Alderman Tedesco will consult with the City Engineer regarding what that money will be used for. Attorney Tarby proposed the following conditions: 1. The Site Plan of Record shall be the Plan entitled "Site Plan, 902 Main Street, Woburn, MA 01801" prepared by ALAN Engineering LLC, 110 Winn St., Suite 209, Woburn, MA, hereinafter referred to as "the plan." 2. The dumpster shall be enclosed, by means of a fence, or wall, or landscaping in compliance with the Woburn Zoning Ordinance. 3. That the hours of operation for the fast food restaurant shall be limited to 10 a.m. to 11 p.m., seven days per week. 4. The Petitioner shall file with the City Clerk a snow storage plan prior to the issuance of a special permit. 5. That four parking spaces shall be provided on the premises as shown on the Plan. 6. That the Special Permit is granted to the Petitioner only. Any change in the operator of the fast food restaurant shall require an amendment to this Special Permit. 7. Mitigation for this special permit shall be \$3,300, which shall be used for \_\_\_\_\_. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to send a communication to City Engineer John Corey asking him to determine how the \$3,300 mitigation money would best be spent; approved, 5-0. Alderman Concannon suggested the council could start with a developmental

impact statement to determine if the mitigation money could be used to repair or enhance the area around the site. Alderman Tedesco asked Attorney Tarby if his client would be willing to close the restaurant at 10 p.m. on Sunday, to remain consistent with other restaurants in the area. Attorney Tarby said he does not believe his client will have a problem with that. Alderman Tedesco asked Attorney Tarby if his client was willing to accept a condition to limit deliveries to between 9 a.m. and 2 p.m., so there is no conflict with school arrival or dismissal, and no deliveries or trash removal on Sunday. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to revise condition #3 to read: "That the hours of operation shall be 10 a.m. to 11 p.m., Monday through Saturday, and 10 a.m. to 10 p.m. on Sunday" and to add a new condition #8 that reads: "Trash removal and deliveries shall be limited to between 9 a.m. and 2 p.m., Monday through Saturday, with no deliveries or trash removal on Sunday." Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept the proposed list of conditions as submitted by Attorney Tarby with the aforementioned amendments; approved, 5-0. Alderman Anderson suggested asking DPW Supt. John Duran for an assessment of the sidewalks and if the mitigation money should be spent on repairing those. Chairman Gately said he visited the area recently and the sidewalks are fine. Chairman Gately asked how many seats will be in the restaurant. Attorney Tarby said there will be no seats. Chairman Gately noted a previous version of the plan indicated there are three or four seats. Attorney Tarby said there are no seats and the restaurant will be a take-out only establishment. Motion made by Alderman Tedesco and seconded by Alderman Campbell to send a communication to Supt. Duran asking him to render an opinion on whether the mitigation money should be used to improve the sidewalks in the area of 902 Main Street; approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Campbell that the special permit be sent "back for action," pending the provision of comments from Supt. Duran and Engineer Corey; approved, 5-0.

**Leo Realty Holdings LLC for special permits to allow for eight (8) residential units above first floor in commercial structure at 375 Main Street; and to amend a prior special permit to allow for an addition to 371 Main Street:** Appearing on behalf of the petitioner were Attorney Mark Salvati, 10 Cedar Street, Woburn, and Nicholas Leo, Leo Realty Holdings, 17 Concord Ave., Cambridge. Referencing a previous discussion about windows, Attorney Salvati said the plans for the residential units in the interior of the building will include open light wells. Attorney Salvati suggested keeping the matter in committee while his client and Sean Coakley, an abutting property owner, meet to try to work out an agreement. Attorney Salvati said he and City Solicitor Ellen Callahan Doucette have looked at a couple of options that depend upon how close his client's building and Mr. Coakley's building can go. Mr. Coakley said a site visit would have brought a lot of light to the issues between him and Mr. Leo. He said he and Mr. Leo have not met on-site, and he would have to see the plan is before he renders an opinion. Mr. Coakley said he cannot support the construction of a building that blocks the light to his building. He suggested inquiring with the Fire Department to determine what the appropriate setback should be. Mr. Coakley said he is concerned about the depreciation of his property. Mr. Leo said he has told Mr. Coakley he will give him a 3-foot setback. Mr. Leo said he wonders if Mr. Coakley's building is legal because he put it on the lot line. Mr. Leo said it's not his fault Mr. Coakley did something wrong on his property. Attorney Salvati said he asked Mr. Coakley what setback distance Mr. Coakley would be comfortable with, and said it has to balance with Mr. Leo's right to build. Alderman Mercer-Bruen asked if the Fire Chief has signed off on the application. Attorney Salvati said the Fire Chief has not yet seen the plan. Alderman Mercer-Bruen said she

would like to hear from the Fire Chief that what Mr. Leo is proposing is acceptable from a fire prevention standpoint. Attorney Salvati said he intends to meet with the Fire Chief to find that out. President Haggerty said he reached out to the City Solicitor Ellen Callahan Doucette and she indicated this is an unusual situation that has not been previously before the Council. President Haggerty said the Council has a responsibility to understand what it can review, and that the City Solicitor is doing some work in that regard. Attorney Salvati said Solicitor Callahan Doucette has asked him if he is going to seek a continuance of the public hearing, which is set to resume on February 6. Alderman Anderson said he is concerned about the two interior units. Attorney Salvati said the plans have to be approved by the Fire Chief. Alderman Anderson said if those two interior units are not deemed to be safe, he's not going to vote in favor of the petition. Alderman Campbell said she would rather see four 2-bedroom apartments. Mr. Leo said he is trying to get a good mix of units in the building. Alderman Campbell said it seems like Mr. Leo is trying to squeeze as many units as he can out of the space. Alderman Campbell noted four apartments would only require eight parking spaces, as opposed to eight units requiring 16 spaces. Attorney Salvati replied one of the defects in the zoning code is the requirement of two spaces per unit no matter how big the units are. Alderman Campbell said if the project can be accomplished in a way that requires fewer parking spaces, she would be in favor of that. Attorney Salvati said there may end up being six units, and at this point his client does not know the number. Mr. Leo said he thinks there will be fewer cars if there are eight 1-bedroom units. Alderman Campbell said she is concerned about the size of the proposed function room. Attorney Salvati said the function room will have 100 seats, but it will be rare an event will have 100 people attending. Attorney Salvati said the municipal lot was build to accommodate functions like the ones that will be held in Mr. Leo's function space. Mr. Leo said most of the functions will attract 35-45 people, many of which will be held at off-peak times. Chairman Gately said the Council will need to see a letter from the Fire Chief regarding the safety of the building and a letter from the City Solicitor that Mr. Leo's proposal is not going to have a negative impact on Mr. Coakley's property. He noted Woburn does not have a shadow law. Mr. Leo said it seems Mr. Coakley is never going to be happy. Chairman Gately said the matter will be kept in Committee. Attorney Salvati said he will submit a letter requesting the public hearing to be continued until February 20. Chairman Gately said there will be no action on the matter.

**Petrogas Group New England Inc. for a special permit to allow the addition to and renovation of an existing building currently used as gasoline service station and convenience store at 325 Washington Street:** Appearing for the petitioner were Attorney Joshua Lee Smith, Bowditch & Dewey, 311 Main Street, Worcester, MA; and Huseyin Sevincgil, MHF Design Consultants, 44 Stiles Road, Salem, NH. Motion made by Alderman Campbell and seconded by Alderman Tedesco to accept and make part of the permanent record the following items submitted by Attorney Smith: A photograph of an aerial view of the premises at 325 Washington Street, a panoramic photograph of the premises at 325 Washington Street taken from Cedar Street; draft copies of the site plan at 325 Washington Street; a draft copy of the proposed signage for 325 Washington Street; and, three pages of photographs of the flora proposed for 325 Washington Street; approved, 5-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to accept and make part of the permanent record a letter from Woburn Police Sgt. Raymond Mooney regarding the traffic safety conditions at 325 Washington Street. Alderman Mercer-Bruen said Sgt. Mooney's report indicating he has no public safety concerns about the location of the curb cuts makes her feel better. She said

President Haggerty had previously asked for a landscaping plan and asked the petitioner's representatives to go over it. Mr. Sevincgil noted the City Council requested more landscaping and the plan shows the proposed addition of a mix of plants where mulch currently exists now. Alderman Mercer-Bruen asked if the new plants will be annuals. Mr. Sevincgil said the plants are perennials that will come back each year. Alderman Mercer-Bruen she thinks the landscape plan looks great. President Haggerty agreed the landscaping plan looks great. President Haggerty asked about the proposed signage. Mr. Sevincgil said the existing Dunkin' Donuts signs will be replaced with 7-Eleven signs and directional signs will be added in the parking lot. President Haggerty said he is not sure he is in favor of adding new signs. Mr. Sevincgil said the signage is allowed by right. He noted Petrogas withdrew an application from the Board of Appeals for modifications to the signage and all signage in the revised plan complies with the city's zoning ordinance. President Haggerty asked what are the dimensions of the proposed directional signs. Mr. Sevincgil said they are 3-square-feet. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to send a communication to Building Commissioner Thomas Quinn asking him to review the plans and determine whether the signage complies with the city's zoning ordinance; approved, 5-0. Chairman Gately noted the plans include the rounding off of a curb at the entrance to the property off Cedar Street, as the Council had requested. Chairman Gately asked if there is a dumpster on the property, if it is fenced in, and if so what condition is the fence in. Mr. Sevincgil said the dumpster is fenced in and the fence does not look that bad. Chairman Gately said the petitioner might want to improve the fence. President Haggerty asked if the gasoline pumps are going to add LED illumination to the price point mechanism, like they do at McSheffrey's Mobil in the South End. Mr. Sevincgil said the gasoline component will remain at it is now. He said the lighting component in the canopy over the pump islands will change in that the sag lenses will be replaced with flat lenses but noted everything under the canopy will stay as it is. President Haggerty asked Mr. Sevincgil to find out whether the price point signs will be illuminated. In response to a question from Alderman Mercer-Bruen, Mr. Sevincgil said there will be a new sign on a new post at the handicapped-accessible parking spot. Referring to a memo from Commissioner Quinn, Alderman Mercer-Bruen said she takes no exception to the proposed hours of operation of 5 a.m. to midnight Sunday-Thursday and 5 a.m. to 1 a.m. on Friday and Saturday, which Attorney Smith noted are consistent with the Speedway station on Washington Street and less than the 24-hour operation at 7-Eleven store at the Four Corners. Alderman Mercer-Bruen proposed the following conditions to the special permit: 1.) No vending or ice machines outside the building; 2.) A snow removal plan must be submitted to the city's Building Dept.; 3.) The on-site dumpster must be enclosed within a fence and the fence must be maintained; 4.) Signage for employee parking must be posted for the employee parking spaces in the back of the building; 5.) The sign indicating the handicapped-accessible parking space must be maintained and the handicapped-accessible parking space itself must be painted and maintained; 6.) Trash removal must be in accordance with the municipal code and there shall be no trash removal before 7 a.m.; 7.) There shall be no used car sales on the lot; 8.) The landscaping must comply with the plan of record dated January 26, 2018; 9.) The parking lot must be kept clean and free of trash; 10.) Hours of operation shall be from 5 a.m. to 12 a.m., Sunday-Thursday and 5 a.m. to 1 a.m. on Friday and Saturday; 11.) Parking spaces must be striped and maintained as indicated on the plan of record. President Haggerty proposed the following condition: 12.) There shall be no sales of wine and beer. Attorney Smith asked about a condition that the special permit is not transferable, and if that is common practice in Woburn. Chairman Gately said a new owner who tries to modify the use has

to come back to the Council for a new special permit. Attorney Smith asked if that would apply to a new lessee. Alderman Mercer-Bruen said a new use would be determined by the Building Dept. Alderman Mercer-Bruen suggested a condition 13 could include language indicating the special permit is not transferable unless the new use is similar. President Haggerty said the Council could work on the language. Attorney Smith suggested a similar use would technically involve an amendment to the special permit. Chairman Gately said if the use isn't changing, the Council typically tells the new applicant to have a nice day, but there have been issues when the use has changed and the Council wants to know who is coming in. Alderman Mercer-Bruen suggested sending the petition "back for action" and reviewing the conditions on the floor. Attorney Smith noted the public hearing is scheduled to resume on February 20. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to send the petition "back for action" with 13 proposed conditions; approved, 5-0. Alderman Mercer-Bruen thanked Attorney Smith and Mr. Sevincgil for the work they did on the landscaping plan.

Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to adjourn, all in favor, 5-0. Chairman Gately adjourned the meeting at 8:09 p.m.

Attest: \_\_\_\_\_  
Gordon Vincent  
Clerk of Committees