

MINUTES

Zoning Board of Appeals Meeting – September 21, 2021
115 Pleasant Street,
Gardner, MA 01440

Sitting in on Hearing:

Randall Heglin.
Mel Cornett.
Michael Gerry GETV

In Attendance:

Roland Jean Edward Lepkowski
Rachel Taylor Jake Modestow
Steve Rockwood Trevor Beauregard
Bonaventura Furtado. Andy Serrato

Meeting Called to Order by Acting Chairman Randall Heglin at 7 PM in the City Hall Annex Meeting Room 103, 115 Pleasant St, Gardner, MA. Mr. Heglin then went over the ground rules and the requirements that must be addressed for a Variance or Special Permit. He then noted that the meeting was being video, and audio taped and requested if anyone objected. There were no objections. Mr. Furtado informed the Board he was also recording the meeting as his legal Representative was not present.

Mr. Heglin reviewed the agenda for this meeting.

<u>Case #</u>	<u>Type</u>	<u>Address / Request</u>
Case #2021-06-02:	<u>SP</u>	BCF Group Inc (Con) 75 Oak St. Multi-Family Home.
Case #2021-08-05:	<u>V</u>	Frank Cefali 492 Main St, Bank of America ATM Signage.
Case #2021-06-01:	<u>V</u>	Amy Fantoni 308 W Broadway, Starbucks Signage.

Mr. Heglin opened the meeting with Case# 2021-06-02 Special Permit, 75 Oak St. Multifamily Home.

*Application, on behalf of BCF Investments, LLC, to operate **Three Residential Units at 75 Oak St, Gardner, MA Parcel ID #M27-24-57, located in the General Residential 3 zoning district (GR3) is denied as it does not comply with Chapter 675, Attachment 1:1 of City Code of Gardner. The zoning code states that your use requested #4 Three-Four Family Dwelling requires a Special Permit in the "GR3" zoning district.***

Mr. Heglin stated that a letter had been received from Attorney Christine Tree the legal representation for this case, requesting to withdraw this application without prejudice.

(Attachment 1)

Motion to accept withdrawal letter.

Unanimous vote to accept withdrawal without prejudice.

Case #2021-08-08 Variance 492 Main St. Bank of America ATM signage.

Application to construct a sign at 492 Main St., Gardner, MA Parcel ID #R22-22-40, located in the Industrial 1 zone (I1) is denied as it does not comply with the approved site plan for this property. Also, a variance for signage was granted for this property Aug. 23, 2012. (Decision attached)

Mr. Heglin opened the case to the applicant or Rep.

Mr. Jake Modestow – Representative for Stonefield Engineering, construction for Bank of America.

Mr. Modestow thanked the board for their time and addressed the case. 492 Main St is the current address of the Price Chopper, and the Bank of America has purchased a pad of land just off Sherman St and Main St. this is a sub divided lot of the parking lot. The plan is to build an ATM kiosk 12ft in height by 5' x 8' box. This will be a free-standing ATM not a walk-in building. BOA wants to install a larger illuminated sign on the corner of Sherman and Main St, 10 feet from the property line. The sign will not block the line of sight for traffic but will be noticeable from the road in all direction so as to inform the public of the close location of the ATM. The current pylon for Price Chopper is further down Main St and may cause patrons to miss the ATM location entirely. The ATM will be roughly 200ft from the signage.

Images were shared to show the location and size of sign. ([Attachment 2](#))

Mr. Cornett asked if the sign could be placed on the current pylon that holds the Price Chopper sign.

Mr. Modestow stated that the pylon sign would allow a smaller sign, but the applicant feels that a larger sign in the proposed location would better inform the public of the ATM location.

Mr. Cornett asked if the entrance for the ATM, will be off Sherman St or Main St, asking if there would be anything in place to discourage people parking on Sherman St and walking to the ATM.

Mr. Modestow clarified that the ATM would be set back 12ft from the street and there was no real way they could stop people parking on Sherman St.

Mr. Heglin asked if the site has common ownership

Mr. Modestow stated that the bank is leasing the plot and it is owned by Simrah Gardens, LLC.

Mr. Heglin requested more dimension of the proposed sign.

Mr. Modestow informed the Board that the sign would be 29.7 square feet, 6 feet from the ground and 8'6" across.

Mr. Cornett asked if the sign was internally lit or would there be external lights.

Mr. Modestow confirmed that all lights for the ATM and free-standing sign would be internally illuminated, and power is planned to be installed from Sherman St and billed directly to the Bank of America.

Mr. Heglin asked if the image shown was to scale and if vision of Sherman St would be hindered from main St with the location of the sign.

Mr. Modestow stated that the location of the sign would be ahead of the turning point for Sherman St so no loss of vision would occur.

Mr. Heglin asked why the sign could not be placed on the ATM and if it would be lit 24hours a day.

Mr. Modestow informed the Board they would have to apply to the ZBA no matter what size or location the signage so the first plan was to apply for the larger sign which would be the best option for the Bank of America.

Mr. Heglin requested the responses to the 3 Variance criteria.

- 1) A literal enforcement of the provisions of this Code would involve substantial hardship, financial or otherwise, to the Petitioner or Appellant owing to **circumstances relating to the soil conditions, shape, or topography of such land or structures** and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.

All signage will fit into the current code regulations but will still need a variance as the current use (Price Chopper) has already used up all the allowed signage granted. No Change to soil or topography as the kiosk will be in the current parking lot.

- 2) Desirable relief may be granted without **substantial detriment to the public good or creating or aggravating a safety hazard.**

No traffic or safety hazard is expected from the plan, the signage will increase visibility for the ATM.

- 3) Desirable relief may be granted without nullifying or substantially **derogating from the intent or purpose of this Code** but not otherwise.

The ATM will be good for the city and is much needed now the old bank is no longer in the city at all.

Mr. Heglin asked if there was a plan B should the Board refuse this application.

Mr. Modestow stated he would have to confirm this with the Bank, he is aware that other size signs may be available.

Any Reps from the City to Speak.

Mr. Roland Jean – City Building Commissioner and Zoning Enforcement Officer.

Mr. Jean asked where the power supply would come from for the kiosk and the sign.

Mr. Modestow reiterated that power would come from Sherman St power line and would be service billed to the Bank.

Mr. Jean asked if there was a real need for the sign to be on the corner of Sherman and Main when there is space available on the Price Chopper Pylon.

Mr. Modestow Stated that the location of the sign was so it could be clearly seen from all directions of travel. Images were shown of a street view. ([Attachment 3](#))

Mr. Trevor Beauregard – Community Development Director.

Mr. Beauregard Stated that this application had already been through the planning board for a site plan review in July. A condition at this review was that all signage must go through planning before coming to the zoning board. ([Attachment 4](#)) The board had voted in approval of the ATM, but the sign is overly large and seem to be over kill for just an ATM. The pad closer to the corner could be sold and developed at some point by another business then sign would be a hindrance to the new build.

Mr. Modestow stated that the location of the sign was far enough away from any buildable area that he could not see the being any problem and there is currently no offers or interest from anyone buying the pad in question yet.

Mr. Heglin asked if the land had been purchased from Simrah Gardens and if they still owned all the other lots around the area. A letter from the attorney for Simrah Gardens had been submitted with the application giving permission to build kiosk and seek any relief needed from the Zoning Board. ([Attachment 5](#)).

Mr. Beauregard confirmed that ownership had changed recently and that Simrah was the current owners. All rights would have passed with the deed. If this large of a sign is granted by the ZBA then other business to come may want equal sized signs which would over crowd the area and become a hazard.

Mr. Modestow stated that this was again speculation for predicted business growth and that should development happen that it will be the purview of the Zoning Board to allow such signage and thus control the crowding and locations.

Mr. Heglin asked if there was an option to make the sign smaller in anyway, and to clarify that this was just an ATM and banking location.

Mr. Modestow confirmed that this would be a full-service ATM but not a bank location. There are other sign options, but he would have to confer with the Bank. The proposed sign is what is used most often in this kind of location so its there go-to first proposal.

Mr. Gerry asked how many parking spaces the ATM would be taking up for the actual build and will there be designated space for the ATM use.

Mr. Modestow confirmed that 3 parking spaces will be used for the kiosk itself and no parking spaces would be reserved for just ATM use as there is so much parking already available.

Mr. Cornett asked if any trees or vegetation would need to be removed for the construction.

Mr. Modestow said that the spot is pretty open, there is a tree that may need to be trimmed to allow a clear view of the ATM but no destruction of vegetation will be needed.

Mr. Cornett requested a site visit.

Mr. Heglin agreed and asked if a demonstration of the sign could be placed at the location so the Board could better judge the size and location proposed. How much time would be needed to make this happen?

Mr. Modestow stated that 30 days would be sufficient and that he will discuss the smaller signs with his client.

Mr. Heglin informed the applicant that October had a full agenda so it would be November before they could continue the case.

Mr. Modestow stated that the Bank had a dictated timeline for construction so maybe at this time could the Board decide on the ATM signage if they removed the free-standing sign from the application and just use the pylon space for now. The large free-standing sign could be left to the November meeting.

Mr. Jean stated that to do this there would need to be a separate application for the free-standing sign as all signage allowed had already been used by Price Chopper.

Mr. Heglin reviewed the ATM images and asked if the signs on the kiosk were also illuminated. Would there be additional lighting for safety and what wattage/brightness would the said lighting omit, would this cause glare or disruption to the abutters on Sherman St.

Mr. Modestow could not confirm the wattage of the lights used but insisted that it would be more of a glow. Safety lighting would be present but would be no more disruptive than the current parking lot lighting.

Mr. Jean reiterated that the option to use the pylon for signage is a better option and that should the applicant choose this option then a new plan will need to be submitted showing a plan of the size and location on the pylon of the new sign.

Mr. Heglin requested that a site visit be arranged and that the Board will continue to the October meeting despite the full agenda. Zoning Admin Rachel Taylor will reach out in the next few days to arrange a convenient time for all.

Case continued to October 19, 2021.

Case #2021-09-01 308 W Broadway, Starbucks Signage.

Mr. Heglin requested why the application was filed for a Special Permit and not a Variance which is what the need for signage falls under.

Mr. Serroto - Applicant

Mr. Serroto stated that he was not sure what to apply for and when asked for guidance he was told to hire a lawyer as legal advice can not be given from the Zoning Board of Appeals.

Mr. Heglin advised that the applicant review his application and return to the Board next month with a complete and correct application.

Mr. Gerry suggested that an extension fee be waived.

Mr. Serroto informed the board that there is a current building permit for the signage, which is allowed, and they will continue with those until they can be granted the variance for the larger size sign requested. Should the board members wish to drive by for a viewing they are very welcome.

Case continued the October 19, 2021.

Any further business

Minutes from past meetings and site visits.

Motion to accept minutes of: Meeting minutes August 17, 2021

Site Visit 262 Elm St, August 21, 2021

Site Visit 75 Oak St, August 26, 2021

Decision Meeting 242 Green St, August 17, 2021.

Unanimous vote to accept minutes.

Motion to adjourn meeting

Unanimous vote to adjourn

Meeting Adjourned at 7.50PM.



Randal Heglin, Acting Chair



Michael Gerry, Clerk



Mel Cornett, Member



Christine Tree Legal

Christine M. Tree
ctree@christinetreelegal.com
Anthony Zarrella, Of Counsel
azarrella@christinetreelegal.com

September 21, 2021

Gardner Zoning Board of Appeals
115 Pleasant Street, Room 101
Gardner, MA 01440

Re: Case #2021-06-02, BCF Group, Inc., 75 Oak Street

Dear Sir or Madam :

Please withdraw the Application for Special Permit without Prejudice regarding 75 Oak Street, Gardner, MA 01440.

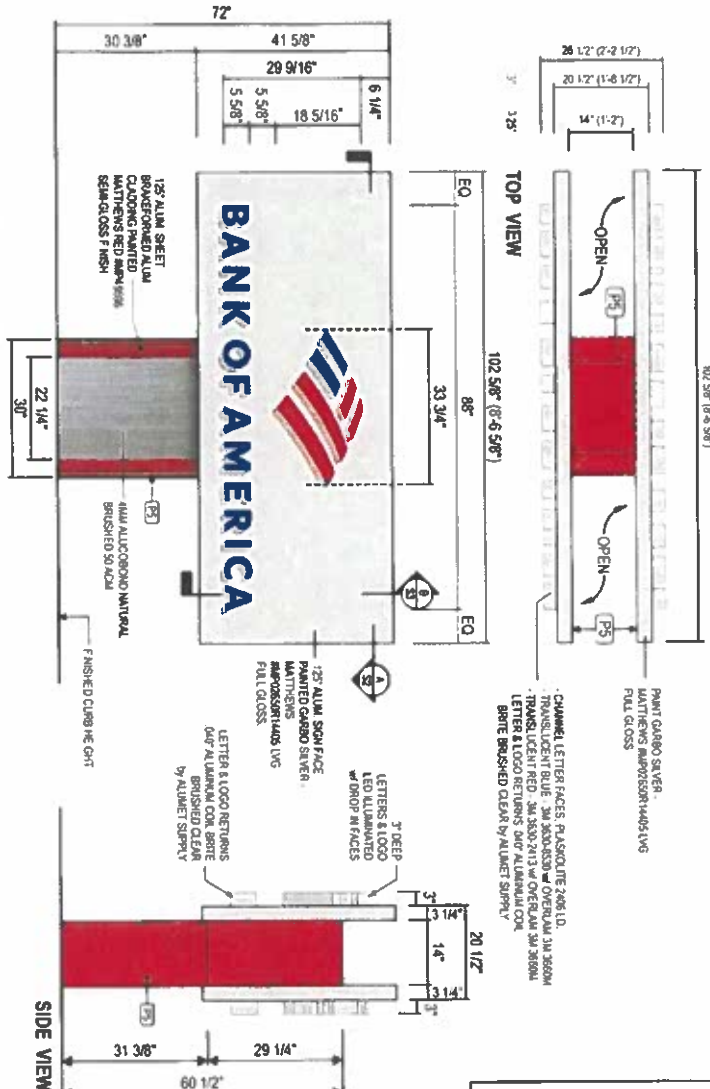
If you have any questions, please do not hesitate to contact our office.

Sincerely,

Christine M. Tree, Esq.

CMT/WMT
Enclosures

Attach 2



1 B29g - 6' D/F ILLUMINATED MONUMENT 29.7 SQ FT
 QTY: 1
 STANDARD SPECS - SEE COLOR SPECIFICATION LIBRARY

FIELD VERIFICATION IS REQUIRED FOR ALL GROUND SIGNS TO ENSURE THAT THE RECOMMENDED SIGN WILL FIT IN THE RECOMMENDED LOCATION, TAKING INTO ACCOUNT ALL SET-BACKS, OBSTRUCTIONS, UNDERGROUND UTILITIES, ETC. IF A PROBLEM IS DETECTED BY THE FIELD VERIFICATION, AN EIR SHOULD BE SUBMITTED FOR MODIFICATION BY MONITGE ASSOCIATES PRIOR TO ANY MANUFACTURING. INSTALL NEW SIGNAGE USING EXISTING PRIMARY ELECTRICAL VERIFIY IF ADDITIONAL CIRCUITS ARE REQUIRED FOR NEW SIGN RESTORE GROUND MATERIAL TO BASE OF NEW SIGN

STRUCTURAL STEEL SPECIFICATIONS:

- SUPPORT MEMBERS SHALL BE FREE FROM DEFECTS. THERE SHALL BE NO CRACKS, WELD SPATTER, OR OTHER DEFECTS THAT WEAKEN THE FIELD STRENGTH OF MEMBER.
- 4600 PSI F.P.S. F.P.S. SHALL MEET ASTM A53 GRADE B, WITH A MINIMUM YIELD STRENGTH OF 30000 PSI FLAKE AND ANGEL SHALL MEET ASTM A57.
- MEMBER BOLT SHALL BE 2HC COATED A533 UNLESS OTHERWISE NOTED.
- WELDS SHALL BE MADE WITH EPOXY ELECTRODES BY PERSONS QUALIFIED IN ACCORDANCE WITH AWS STANDARDS WITHIN THE PAST TWO YEARS. BARS SHALL COMPLY WITH ASTM A615 GRADE 60 WITH DEFORMATION IN ACCORDANCE WITH ASTM A-308.
- WELDED CONNECTIONS SHALL BE STRENGTHENED OR REINFORCED.
- ANCHOR BOLTS SHALL BE ASTM A307-4 OR GREATER OR ROUND STOCK.
- ANCHOR BOLTS SHALL BE EITHER GALVANIZED OR HOT DIPPED BRASS TO PREVENT CORROSION.

NOTE: SIGN IS TO BE WIRED WITH 14 GAUGE STRANDED 1,000 WIRE PER PER DIAPHRAM ON BALLAST ELECTRICAL LEADS TO BE 14 GAUGE SOLID 600 V WIRE. THIN, SIGN MUST BE GROUNDED WITH 14 GAUGE SOLID 600 V GREEN WIRE.

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF SIGN.

SIGN INTERIOR TO BE PAINTED FLAT WHITE FOR MAXIMUM REFLECTIVITY

PROTECT ANCHOR BOLTS, NUTS AND WASHERS FROM CORROSION WITH BITUMINOUS COATING

USE WHITE SILICONE TO CONCEAL LIGHT LEAKS

TOLERANCE ± 1/16" ON ALL DIMENSIONS

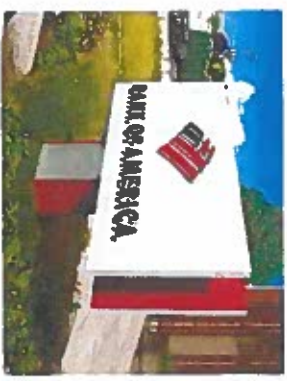
THIS SIGN TO BEAR THIS MARK

ELECTRON BEAM

AREA/WEIGHT

SIGN SQUARE FOOTAGE: 29.7 SQ. FT.

ESTIMATED SIGN WEIGHT: 400 LB.



DESIGN LOADS:

T15 MPH WIND LOAD

RISK CATEGORY II, EXPOSURE C, 2015 INTERNATIONAL BUILDING CODE, ASCE 7-10

Drawing prepared by: **RECOMMENDATION**

Location: 560 Main Street, Gardner, MA 01440

Project #: 4305

Client: **BANK OF AMERICA**

Address: Acova/BANKS/Bank Of America/2020/Locations/4305_56011_Gardner_MA_R2.cdr

Date: 03/22/11

Time: 08:30

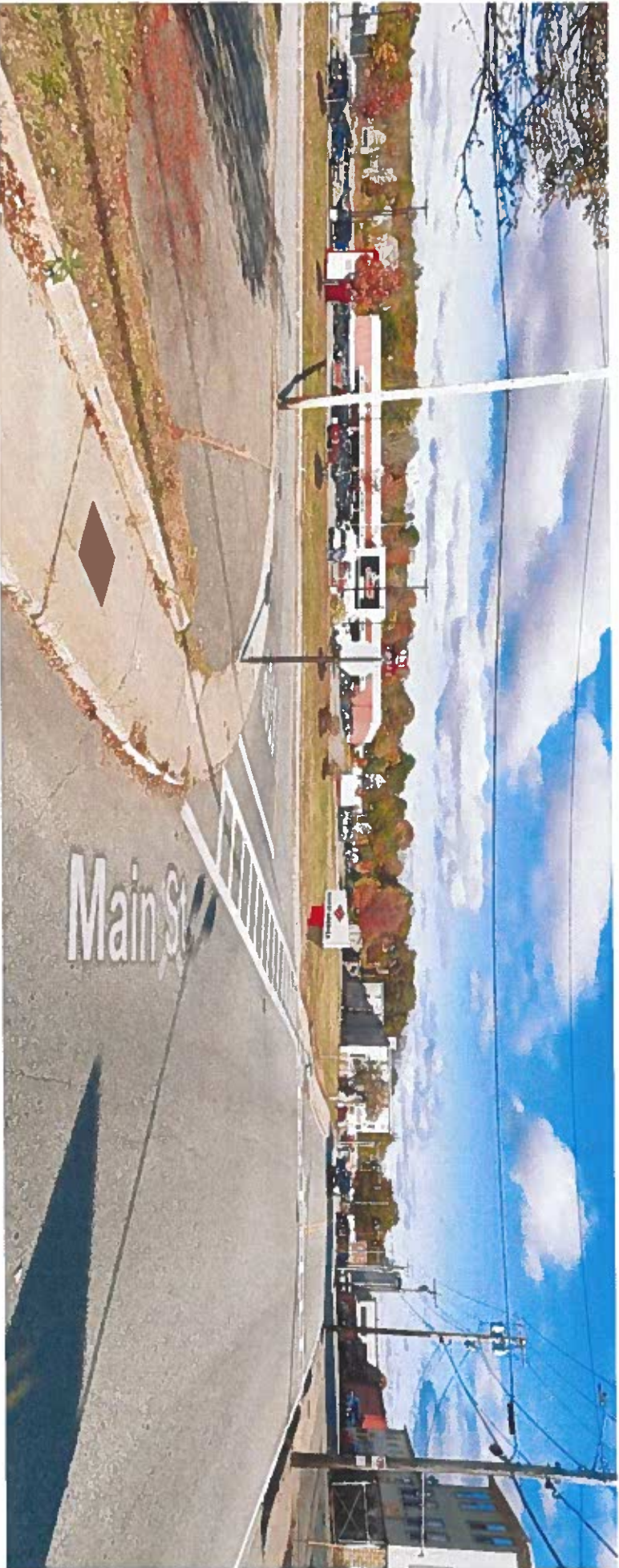
Scale: 3/8" = 1'-0"



Rev #	Date	Rev	Desc	App	By	Rev #	Date	Rev	Desc	App	By
01	03/22/11	01	Issue for review	CD	MAZ	02	03/22/11	02	Update to new standard	CD	MAZ
02	03/22/11	02	Issue for review	CD	MAZ	03	03/22/11	03	Update to new standard	CD	MAZ
03	03/22/11	03	Issue for review	CD	MAZ	04	03/22/11	04	Update to new standard	CD	MAZ
04	03/22/11	04	Issue for review	CD	MAZ	05	03/22/11	05	Update to new standard	CD	MAZ
05	03/22/11	05	Issue for review	CD	MAZ	06	03/22/11	06	Update to new standard	CD	MAZ
06	03/22/11	06	Issue for review	CD	MAZ	07	03/22/11	07	Update to new standard	CD	MAZ
07	03/22/11	07	Issue for review	CD	MAZ	08	03/22/11	08	Update to new standard	CD	MAZ
08	03/22/11	08	Issue for review	CD	MAZ	09	03/22/11	09	Update to new standard	CD	MAZ
09	03/22/11	09	Issue for review	CD	MAZ	10	03/22/11	10	Update to new standard	CD	MAZ



STONEFIELD



STONEFIELD

**GARDNER PLANNING BOARD
115 Pleasant Street, Room 201
Gardner, MA 01440
SITE PLAN REVIEW DECISION**

**TO: Black Point Realty LLC
Attention: Donald Irving
ADDRESS: 232 Sherman Street, Gardner, MA 01440**

The Planning Board on June 20, 2011 by a vote of 4-0

APPROVED the following site plan: Proposed Site Development Plans for Proposed Mixed-use Development in Gardner, Massachusetts, off Main Street + Sherman Street dated May 2011, last revised 06/07/11, prepared for Black Point Realty, LLC, by Whitman & Bingham Associates, LLC.

CONDITIONS: See Attached.

Planning Board Approval

<u>Allen L. Gross</u>	Allen L. Gross, Chairman
<u>Robert J. Bettez, Sr.</u>	Robert J. Bettez, Sr., Vice Chairman
<u>Not Present</u>	Laura M. Casker, Member
<u>Peter J. Sabettini</u>	Peter J. Sabettini, Member
<u>Mark M. Schafron</u>	Mark M. Schafron, Member
<u>Robert L. Hubbard</u>	Robert L. Hubbard, Director

cc: Board of Health	Conservation Commission
Building Inspector	Department of Public Works
City Clerk	Fire Department
City Engineer	Police Department
Municipal Grounds	

GARDNER PLANNING BOARD
115 Pleasant Street, Room 201
Gardner, MA 01440
SITE PLAN REVIEW DECISION

TO: Black Point Realty LLC
Attention: Donald Irving
ADDRESS: 232 Sherman Street, Gardner, MA 01440

The Planning Board on June 20, 2011 by a vote of 4-0

APPROVED the following site plan: Proposed Site Development Plans for Proposed Mixed-use Development in Gardner, Massachusetts off Main Street + Sherman Street dated May 2011, last revised 06/07/11, prepared for Black Point Realty, LLC by Whitman & Bingham Associates, LLC.

This Site Plan Approval is granted with the following conditions:

1. Submit Proposed Landscaping Plan, Proposed Lighting Plan and Proposed Phasing Plan acceptable to the Planning Director and City Engineer prior to issuance of a building permit.
2. The adequacy of water and sewer systems capacity to handle water consumption and sewerage discharge by the proposed project, and fees related to water and sewer connections are to be determined by the Director of Public Works. Materials and methods used in the installation of water and sewer utilities are to be approved by the Director of Public Works.
3. Design plans for installation of traffic control signals at the project's Main Street entrance shall be approved by the City Engineer. The traffic control signals and all other off-site improvements shall be installed and fully operational prior to issuance of an occupancy permit.
4. Prior to issuance of any building permit in the project's Phase 2, the Planning Board may require Black Point Realty, LLC to update to the Traffic Impact Analysis
5. Acceptable delivery truck routes on site shall be clearly signed. Delivery trucks shall be prohibited from using the Sherman Street entrance.
6. Black Point Realty, LLC shall provide access to professional engineering services to assist the Department of Community Development and Planning with preparation of a grant application to the MassWorks Infrastructure Program for installation of a traffic control signal at the intersection of Main and Chestnut Streets.
7. References to Black Point Realty, LLC also apply to any entity that subsequently owns the proposed mixed-use development.
8. Noise and dust control for all phases of construction shall meet the requirements of the Board of Health.
9. Construction work shall not commence Monday through Saturday before 7 a.m. and shall not continue beyond 5 p.m. No work shall be permitted on Sundays and legal holidays recognized by the City. Exceptions to this condition may be granted by the Building Commissioner.

(Handwritten initials)

GARDNER PLANNING BOARD
115 Pleasant Street, Room 201
Gardner, MA 01440

SITE PLAN REVIEW DECISION

- * 10. Any application for a variance to the City's sign ordinance shall be approved by the Planning Board prior to submission to the Zoning Board of Appeals.
- 11. Any proposed change to the approved Site Development Plans shall be submitted to the Planning Director to determine if the proposed change is significant. If the Planning Director determines the proposed change to be significant, the proposed change shall be submitted to the Planning Board for review and consideration.

- END -



Robert L. Hubbard
Director

WICKSTROM MORSE, LLP

Counselors at Law

Timothy P. Wickstrom
Elizabeth W. Morse
Thomas J. Wickstrom
Mark P. Wickstrom
Deborah Gresco-Blackburn

60 Church Street
Whitinsville, MA 01588
Tel: (508) 234-4551
Fax: (508) 234-8811

Other Offices:
446 Main Street
Worcester, MA 01608
Tel: (508) 756-7740
Fax: (508) 756-9740

6 Court Street
Uxbridge, MA 01569
Tel: (508) 278-4500
Fax: (508) 278-9850

Of Counsel: John A. Wickstrom

Please respond to the Whitinsville
Office

Via Fax 978-632-3313
Town of Gardner
Zoning Board of Appeals
City Hall Annex, Room 101
Gardner, Ma 01440

July 20, 2021

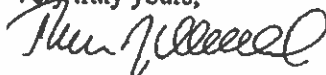
Re: Property of Simrah Gardens LLC, ZBA Petition by CBRE and Bank of America
Property: 492 Main Street, Gardner, Ma

Dear Sir/Madam:

Please be advised that this office represents, and I am the Manager of Simrah Gardens, LLC the owner of the property located at 492 Main Street and the abutting property at 560 Main Street in Gardner. Attached hereto is the deed for the 492 Main Street property. I have signed the Petition and hereby authorize Bank of America and CBRE to make said application and seek the Zoning relief necessary to construct the ATM project as requested.

Thank you for your attention to this matter and if you need anything further, do not hesitate to contact me.

Very truly yours,



Thomas J. Wickstrom, Esq

cc: Mohiuddin Ahmed
Mirajuddin Ahmed