

VILLAGE OF MAMARONECK
ZONING BOARD OF APPEALS

APPLICATION FOR RENEWAL OF SPECIAL PERMIT

SPECIAL PERMIT NO. 9 SP- 2019

Date: 9/21/2021

Name of Permittee: FORMULA FOOD SERVICES

Doing Business As: DUCK DONUTS MAMARONECK

Premises: 805 MAMARONECK AVE, MAMARONECK NY

Section: 8 Block: 69 Lots: 1

_____ hereby applies to the Village of Mamaroneck
Zoning Board of Appeals for a renewal of the above-referenced special permit,
which was originally granted on 3/7/2019, and which will expire
on 3/7/2022

Said special permit was granted for the following use at the above-noted property:

DONUT SHOP

1. All conditions of the special permit have been complied with.

Yes ☒ No ()

If "No", please explain: _____

2. Since the last application for this special permit, I have no knowledge nor have I been advised of any complaints made to the Village of Mamaroneck Building Department, Police Department, or any other department of agency of the Village in connection with the operation of the use allowed by the subject special permit.

Yes ☒ No ()

APPLICATION FOR RENEWAL OF SPECIAL PERMIT

page 2

If "No", please explain: _____

3. Since the last application for this special permit, no violations have been noticed, no violations have been cited, nor have any proceedings been commenced in connection with the operation of the use allowed by the subject special permit.

Yes (☒) No (☐)

4. I have read the attached "Instructions for Renewal Application" and have complied with same.

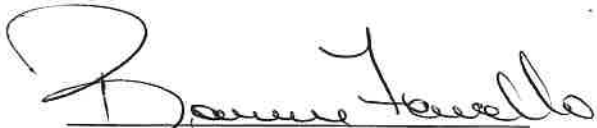
Yes (☒) No (☐)

If "No", please explain: _____

5. Please indicate any facts or changes in circumstances which may require a modification of the conditions previously set forth in connection with the subject special permit: _____

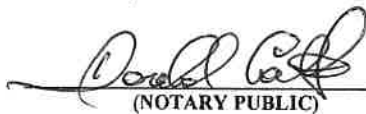
6. Please indicate any other information that you want the Board to consider: _____

THE UNDERSIGNED HEREBY AFFIRMS, UNDER PENALTIES OF PERJURY, THAT ALL STATEMENTS CONTAINED IN THIS APPLICATION ARE TRUE. THE UNDERSIGNED FURTHER ACKNOWLEDGES THAT THE ZONING BOARD OF APPEALS WILL RELY UPON THE TRUTH AND ACCURACY OF THE STATEMENTS CONTAINED IN THIS APPLICATION IN PROCESSING THIS REQUEST FOR RENEWAL.


(APPLICANT'S SIGNATURE)
RONNIE FORELLO
(PRINT NAME)

Sworn to before me this 22 day

of September, 2021


(NOTARY PUBLIC)

DONALD GOLDSMITH
Notary Public, State of New York
No. 01GO5021034
Qualified in Westchester County
Commission Expires Dec. 6, 2021

Applicant's Address: 885 MANAROWECK AVE
MANAROWECK, NY 10513

Applicant's Daytime Telephone Number: 914-610-8237

AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, CT
HELD ON MARCH 7, 2019, THE FOLLOWING RESOLUTION WAS ADOPTED:

APPLICATION NO. 9SP-2019

Name: David Foncello for Fortuna Food Service d/b/a Duck Donuts
Premises: 805 Mamaroneck Avenue
District: C-1

Section 8, Block 69, Lot 1

WHEREAS, David Foncello for Fortuna Food Service d/b/a Duck Donuts ("Applicant") has applied to this Board for a special permit for a new donut shop pursuant to §342-30 A(1)(i) and Article X of the Village Code at 805 Mamaroneck Avenue ("Premises") within a C-1 District, pursuant to §342-30 A(1)(i) and Article X of the Village of Mamaroneck; and

WHEREAS, after due notice, this Board held a public hearing on such application on March 7, 2019, at which time it heard all parties and received their evidence and proofs; and the public hearing having been closed; and members of this Board having made personal inspection of the Premises and being familiar therewith; and

WHEREAS, the Board discussed that the Village Code is unclear as to whether this type of food establishments was a fast food or carry out establishment and that in either case it was not clear if such use is permitted in the Village or in a C-1 zoning district but such uses have been permitted in the Village and in C-1 districts;

WHEREAS, whether the use is a fast food or carry out establishment, the Village Zoning Code does not specify the number of parking spaces required for such use;

WHEREAS, the applicant proposed 5 spaces based on the standards for a restaurant but the Board determined that the restaurant parking standard was not adequate for a fast food or carry-out use;

WHEREAS, the use would be located in a shopping center where the Board had previously granted variances for parking that would allow 125 parking spaces where 241 would be required for all the uses proposed to be established in such center pursuant to the Village Code;

WHEREAS, the owner of the shopping center said that there were unallocated spaces available and the center could allocate 10 spaces to the Applicant;

WHEREAS, the Board considered that 17 spaces had been provided in connection with a similar use on East Boston Post Road, but that as this use was in a TOD zoning

district which anticipated a large number of pedestrians and fewer cars;

WHEREAS, after duly considering all the proofs and evidence before it, this Board finds as follows:

1. The location and size of the use, the nature and intensity of the operation, and the traffic involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to the type, arrangement, and capacity of streets giving access to it, are such that the use, as set forth by the Applicant, will be in harmony with the appropriate and orderly development of the district in which it is located.

2. The location, nature, and height of buildings, walls and fences, and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings. The proposed restaurant will utilize existing commercial space at the Premises.

3. The operation in connection with the use, as set forth by the Applicant, will not be objectionable by reason of noise, fumes, smoke, dust, vibration, glare, intensity, or flashing lights.

4. The use, as set forth by the Applicant, will not adversely affect the public health, safety and welfare, and the comfort and convenience of the public in general, and of the residents of the neighborhood in particular.

5. The application is in compliance with special permit standards and requirements as set forth in Sections §342-30 A(1)(i) and Article X of the Code of the Village of Mamaroneck.

6. The Applicant is entitled to the granting of the special permit under the circumstances of this application.

NOW THEREFORE, on motion of Chair Kramer, and seconded by Member Wenstrup:

BE IT RESOLVED, this Board finds that the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA), and it is further;

BE IT RESOLVED, this Board finds that the Village code is less than clear if this use is permitted in the C-1 district and there are no parking standards for Food Service Establishments other than Restaurants provided in the Village Code; and

RESOLVED, that in accordance with the vote of this Board taken on March 7, 2017

that the application for such special permit is hereby granted, subject to the following conditions:

- A. That the special permit granted herein shall be valid for an initial probationary period of three (3) years beginning March 7, 2019, with the renewal application having to be made by Applicant no less than four (4) months prior to the expiration date; and, upon the Applicant's failure to make said renewal application, the special permit granted herein shall expire without further notice to the Applicant.
- B. That the special permit is granted to the Applicant and shall expire upon a transfer of ownership or a change in the use of the Premises.
- C. That any work done hereunder shall be in strict compliance with the plans as filed with this application, except as expressly modified by the conditions herein or as approved by the Building Inspector.
- D. That the granting of this application shall not be deemed to relieve the Applicant of the need to obtain approval of any other board or agency or officer prescribed by law or ordinance with regard to the plans or construction or any other phase of the proposed project.
- E. That the Applicant shall procure a building permit from the Building Department within one (1) year where necessary to comply with federal, state, or local codes, laws, regulations or requirements and all work shall be completed within one (1) year from the date of the building permit, otherwise this application is denied; and any request for extending the time within which to obtain said building permit shall be filed no less than sixty (60) days prior to the expiration of the one (1) year period.
- F. The hours of operation shall be (7) seven days a week, Tuesday through Saturday from 7:00 am to 7:00 pm and Sunday and Monday from 9:00am to 3:00pm.
- G. Deliveries will be made at 7:00 am Mondays and Thursdays
- H. The Applicant shall require 10 parking spaces for this business and the shopping center will need to allocate 10 spaces for this business.
- I. That the failure to observe and perform any of these conditions shall render this permit invalid.

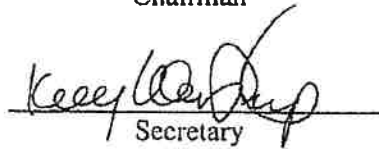
<u>In favor:</u>	Kramer, Neufeld, Wenstrup, Heaney
<u>Opposed:</u>	Yergin
<u>Absent:</u>	None

03 07, 2019 9SP 2019, David Forcelio for Fortuna Food Service c/b/a Duck Donuts 805 Mamaroneck Avenue

Dated: March 7, 2019
Mamaroneck, N.Y.

A handwritten signature in black ink, appearing to be "D. K.", written over a horizontal line.

Chairman

A handwritten signature in black ink, appearing to be "Keeey A. D.", written over a horizontal line.

Secretary