

**AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF
MAMARONECK, HELD ON JANUARY 6, 2022, THE FOLLOWING RESOLUTION WAS
ADOPTED:**

APPLICATION NO._____

Name: Fortuna Food Services (Duck Donuts)
Premises: 805 Mamaroneck Avenue
District: C-1
Tax I.D.: Section 8, Block 69, Lot 1

WHEREAS, Fortuna Food Services (Duck Donuts) has applied to this Board for renewal of its special permit to operate a previously permitted “donut shop” at 805 Mamaroneck Avenue (“Premises”) within a C-1 District pursuant to Article X Chapter 342 (Zoning) of the Code of the Village of Mamaroneck; and

WHEREAS, this Board previously granted a special use permit for the “donut shop” as a “fast food” or “carry-out” restaurant on the Premises, dated March 7, 2019 (“Prior Resolution”), which expires on March 7, 2022; and

WHEREAS, the Applicant was required to file an application to renew its special use permit for the Premises four (4) months in advance of its expiration and did so by the renewal application dated September 21, 2021; and

WHEREAS, in the C-1 zoning district, “restaurants” are permitted subject to § 342-45 with a special use permit from this Board; and

WHEREAS, pursuant to Zoning Code § 342-45:

No food service establishment or tavern shall provide outdoor counter, drive-in or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than 20% of all indoor seats in a food service establishment or tavern shall be counter seats. In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than 200 linear feet to another existing fast-food restaurant, carry-out restaurant or delicatessen on the same side of the avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

WHEREAS, the Zoning Code § 342-3 defines a “food service establishment” as:

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. No drive-up or car service shall be permitted.

WHEREAS, the Zoning Code § 342-3 defines a “carry-out restaurant” as:

A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code. No drive-up or car service shall be permitted.

WHEREAS, based on the above, the proposed Duck Donuts restaurant on the Premises should be classified as a “carry-out restaurant”. This designation is simply to ensure that the use of the Premises is correctly defined within the Zoning Code and does not indicate that any changes have been made to the existing use; and

WHEREAS, after due notice, this Board held a public hearing on such application on November 4, 2021;

WHEREAS, on November 4, 2021, the public hearing was closed; and

WHEREAS, the Board deliberated on the application at its December 2, 2021 meeting; and

WHEREAS, the application is a special use permit renewal with no change in size or use, and there are no open violations on file; and

WHEREAS, the proposed action is a Type II pursuant to the New York State Environmental Quality Review Act (“SEQRA”); and

NOW, THEREFORE BE IT RESOLVED, that, after duly reviewing the application and related materials, and considering the same, the Board hereby grants the requested special permit renewal to operate the existing “carry-out Restaurant” on the Premises.

BE IT FURTHER RESOLVED, the following conditions shall apply:

- A. That the special use permit granted herein shall terminate upon any change in the use, a change in the intensity of the use, a change in services provided, a change in operations and/or a change in the configuration of the Premises.
- A. 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.
- B. 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.
- C. Deliveries will be made at 7:00 am Mondays and Thursdays.
- D. The Applicant shall require 10 parking spaces for this business and the shopping center will need to allocate 10 spaces for this business.
- E. That the failure to observe and perform any of these conditions shall render this permit invalid.

BE IT FURTHER RESOLVED, that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of ZBA member _____ seconded by ZBA member _____ the foregoing resolution was adopted with all ZBA members voting as follows:

David Neufeld, Chair
Robin Kramer
Meg Yergin
Gretta Heaney
Brian Glattstein

David Neufeld, Chair, Zoning Board of Appeals

Meg Yergin, Secretary, Zoning Board of Appeals

DATED:

Mamaroneck, New York
January __, 2022

DRAFT