

MAJOR MODIFICATION SPECIAL PERMIT/SPR APPROVAL
1835 Washington Street
PB File # 22-19

23
2/14/22 (CS)

TOWN OF HANOVER
2023 FEB 16 AM 11:51
TOWN CLERK



**PLANNING BOARD
TOWN OF HANOVER, MASSACHUSETTS**

**MAJOR MODIFICATION APPROVAL OF SPECIAL PERMIT/SITE PLAN REVIEW
Recorded at Plymouth County Registry of Deeds - Book 00622 Page 44**

LOCUS: 1835 Washington Street (Map 11 PLOT 26 & 30)

ZONING: Planned Shopping Center District
Wireless Communication and Adult Entertainment Overlay District

OWNER(S): Vermeulen Ranch Center LLC
2677 N. Main Street #930
Santa Ana, CA 92705

APPLICANT(S): Chick-Fil-A Bohler Engineering
5200 Buffington Road 352 Turnpike Road
Atlanta, GA Southborough, M 01772

**SURVEYOR/
ENGINEER:** Bohler Engineering
C/o Joey Fonseca & Josh Sterling (RPE #41697)
352 Turnpike Road
Southborough, MA 01772

SITE PLAN, DRAWINGS & REPORTS: (ALL INCORPORATED HEREIN BY REFERENCE)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-0.0 (Cover Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-1.0 (General Notes Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-1.0 (Demolition Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-2.0 (Site Plan)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-3.0 (Grading & Drainage Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-4.0 (Standard Details Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-4.1 (Standard Details Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-4.2 (Standard Details Sheet)

"Chick-Fil-A Hanover, 1825,1835 Washington St. Hanover MA FSR #04294" dated 12/15/22, stamped by Josh Sterling (RPE# 41697) of Bohler Engineering Sheet C-5.0 (Construction Sheet)

"Record Survey Chick-Fil-A 1825,1835 Washington St. Lots 26&30, Map 11 & portions of Lot 1 Map 12, Town of Hanover, MA "dated 4/20/2020 stamped by Gerry Holbert RPLS#49211 of Control Point Associates, Southborough, MA (Sheet 1 of 1)

**VOTE ON MAJOR MODIFICATION OF SPECIAL PERMIT/SITE PLAN REVIEW (PB# 22-19)
On February 13, 2023 (subject to the general and special conditions contained herein)**

Member Fornaro **MOTION** to vote approval of the Major Modification of Special Permit/Site Plan Review Decision PB #19-1 to allow modifications to the existing driveway entrance and drive-up aisles for window service of the existing Chick-Fil-A including reconfigurations of aisle widths, parking areas with landscaping, pavement and curbing modifications, within the existing site as shown on approved plans, second by Member Blanchard (Vote 5:0)

VOTE: (Y) MaryAnn Brugnoli (Y) Kenneth Blanchard (Y) Meaghan Neville-Dunne
(Y) Giuseppe Fornaro (Y) Bernie Campbell (A) Anthony Cavallaro (A) David Traggorth

(A) = Absent or not present during the entire hearing process and therefore not eligible to vote.

**MAJOR MODIFICATION APPLICATION
ORIGINAL 2019 SPECIAL PERMIT AND SITE PLAN APPROVAL (PB #19-1)**

Notice is hereby given in accordance with Massachusetts General Laws (MGL), Chapter 40A Section 9 and 11 (the Zoning Act) and the Hanover Zoning Bylaws Sections 6, 7, 8, 9, 10 and 11 in their entirety; that the Town of Hanover Planning Board held a public hearing on **Monday, January 9, 2023 at 7:00 p.m.** at Hanover Town Hall and also via Zoom video call for the purpose of hearing the application of Chick-fil-A Inc., c/o Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772. The proposal is to modify the existing Chick-Fil-A site by lengthening the existing dual drive-thru lanes further into the existing parking lot to improve the drive-thru service on the site; removing existing parking spaces and minor grade changes within the paved areas. The Planning Board considered the proposal as a Major Modification of the original Special Permit/Site Plan Review issued in 2019 (PB File #19-1). The site is located at: 1835 Washington Street, Hanover and is further identified as Map 11 Lot 26 & 30 consisting of 33,541 SF of lot area located in the Planned Shopping Center District and Wireless Communication and Adult Entertainment Overlay District. The original public hearing (January 9, 2023) was duly advertised and mutually continued to January 23, 2023 and February 13, 2023. The Planning Board voted approval on February 13, 2023

FINDINGS

After thorough analysis and deliberation, the Planning Board acting as the Special Permit Granting Authority (SPGA), reviewed and approved a major modification of the original Special Permit/Site Plan Review approval (PB File #19-1) that originally allowed for the development of a 4,858 SF Chick-Fil-A fast food restaurant with a drive-thru window and related site amenities as to utilities, parking area, canopies and landscaping at the former Burger King location at 1835 Washington Street. The SPGA finds that the applicants under the 2019 Decision general condition #4 have complied with all pertinent provisions of the Zoning By-Law for the Town as follows for the proposed major modification.

Section 6.300 (Planned Shopping Center District) The SPGA found that the proposed site modifications to the existing Chick-Fil-A site should improve operational efficiency on the site. The introduction of longer double service lanes within the site should provide for a more organized traffic circulation pattern to address peak service times of Chick-Fil-A and increase the vehicle que capacity. The original Special Permit/Site Plan Review Approval allowed a fast food establishment with a drive-thru window. The original Special Permit/Site Plan review (PB File #19-1) under condition #4 was complied with when the applicants made this filing for a major modification. The SPGA found the use compliant with this zoning district.

Under Section 7.00 (Dimensional Requirements) The proposed site modifications do not affect the existing building as to building setbacks and/or the lot & building coverage requirements as originally constructed in 2019. A variance was granted for relief and allowed an increase of the

maximum lot coverage to 73% in 2019 (ZBA File #19-2) with the original construction and site development. The proponents have maintained the 73% maximum lot coverage with the proposed site modifications as originally granted. The SPGA found the proposed modifications under Section 7 of the Zoning Bylaw including Section 7.530 are compliant as they relate to Planned Shopping Center District development is compliant.

Under Section 8 (Landscaping and Buffers) The increase aisle width for two service lanes into the drive-thru queuing area is accomplished with adjustments and balance to the existing pavement and landscaped areas. During the public hearing, discussions as to the interior landscape areas being disrupted would be loamed and seeded for site visibility and any of the tree replacement or shrubbery would be moved to the site's perimeter. The applicants agreed that a landscape plan will be provided to SPGA as a condition of approval (See condition #26). The original Special Permit/Site Plan Approval (PB #19-1) the findings addressed the unique shape of the site and the surrounding access points from Washington Street (Rte. 53) and the Connector Mall Drive of which the site can be accessed – no residential property abuts the site and therefore no vegetative buffers were required. The SPGA found the proposed modifications are compliant with this section of the Zoning Bylaw.

Under Section 9.010 (Off Street Parking and Loading Areas)

The SPGA considered the modifications as major due to the relationship to traffic circulation and parking therefore initiating a public hearing and review. The proposed two service lanes will be elongated from their current location westward towards the main entrance (eastward). Combined the lanes will be 25' LF in width. The proponents proposed the existing (12 spaces) parking area at southerly side of the lot to be dedicated to employee parking and signed as such, minimizing conflicts with backing out and repeat turnovers of these parking spaces during the peak hours' when customers would be using the drive-thru lanes. In addition, the proposed modifications call for the existing seating (indoor and outdoor-currently at 114 seats in total) to be reduced to 104 seats (88 inside and 16 outside). The reduced seating coincides with a reduced parking requirement and allows for site modifications that will remove pavement and/or parking spaces for additional aisle width but maintain the lot coverage and meet the parking ratio. The Hanover Fire department in an email dated 1/19/23 expressed no opposition to the modifications as they relate to access of the site. The applicants propose to have the site shut down for short term for construction. The SPGA found this section of the Zoning Bylaw has been addressed.

Section 10.000 (Site Plan Approval)

The proposed site modifications were circulated to the various Town Departments and responses from Conservation, Water and Fire Department responded and raised no objections to the proposal. The approved site plans depicted the proposed changes to occur on the site and have been conditioned accordingly. The conditions of the original Special Permit/Site Plan Review (PB #19-1) are carried forward within the decision for the major modifications and continue to pertain to the operation and maintenance of the site.

Under Section 11.000 (Mitigation of Development Impacts for Site Plans and Special Permits)
The proposed modifications did not trigger any increased thresholds that would require the applicant to address under this section.

DECISION

Now, therefore, by unanimous vote, the Planning Board hereby approves the subject application for a Major Modification of Special Permit/Site Plan Review Original Decision (PB#19-01) in accordance with the provisions of the Hanover Zoning By-law with authorization for the subject use in accordance with the above referenced and approved plans, subject to the below listed Special and General Conditions.

GENERAL CONDITIONS

- 1. ENDORSEMENT OF DECISION:** Within thirty (30) days of the expiration of the twenty (20) day appeal period, and after having obtained the signature of the Town Clerk indicating that there has been no notice of appeal, the applicant shall present an original of this decision to the Planning Board for endorsement by the Chairperson of the Board.
- 2. REQUIRED CERTIFICATION:** Prior to, or at the time of, submittal of the decision for endorsement, the applicant shall submit to the Planning Board a certification indicating, in effect, the following:

"I, Chad Baker as representatives of/for Chick-fil-A, Inc. on this date, 3/6/2023 do hereby certify that I (We) have completely read and do fully understand all General AND Special Conditions of Planning Board Decision, TPL #22-19, dated February 13, 2023, relative to the proposed Site Modifications at the existing Chick-Fil-A location and related site improvements at 1835 Washington Street, Hanover, MA 02339. In particular, I (We) have completely read and do fully understand the Procedure for Final Special Permit/Site Plan Completion, Town Planner/ Planning Board Sign-Off, and Issuance of Occupancy Permit as described on the final pages of the Decision. Furthermore, it is my (our) intention to comply fully, with the best of my (our) ability, with all aspects of the approved Special Permit/Site Plan and with all Special and General Conditions of the Decision.


Signature(s)

3. **RECORDING AT REGISTRY OF DEEDS:** Within sixty (60) days of the expiration of the twenty (20) day appeal period, the applicant shall record the endorsed Decision at the Registry of Deeds. Evidence of such recording shall be submitted to the Planning Board and to the Building Commissioner prior to the initiation of any construction activities.
4. **NO DEVIATION FROM APPROVED PLAN:** There shall be no deviation from the approved Special Permit/Site Plan and Conditions of this Decision without prior written approval of the Planning Board. In the event that the applicant anticipates that some deviation is either necessary or desirable, he (she) shall notify the Planning Board in writing requesting modification of the Plan or the Conditions. If the Planning Board determines that the requested modification is minor in nature, the Board may grant such request. If the Board determines that the modification is not minor in nature, no such request may be granted until after a subsequent Public Hearing conducted for the purpose of fully discussing such modification. In any event, no such modification shall be undertaken until such time as the Board has approved the request in writing. Any modification or deviation shall be fully processed in accordance with this General Condition prior to the applicant initiating a request for Final or Conditional Special Permit/Site Plan Sign-Off. In the event that the applicant intends to seek a Conditional Special Permit/Site Plan Sign-Off, any paving or landscaping relief shall be completely processed in accordance with this General Condition prior to the applicant initiating a request for Conditional Special Permit/ Site Plan Sign-Off.
5. **ZONING BY-LAW COMPLIANCE:** No aspect of this Special Permit/Site Plan Approval decision or of any Condition of Approval shall be construed in such a manner so as to alleviate an owner, applicant, assign, or successor from full compliance with all pertinent provisions and requirements of the Zoning By-Law for the Town. Unless otherwise called for in this decision, requirements shall be as specified under the Hanover Zoning Bylaw.
6. **CONDITIONS FOR DEVELOPMENT:** During the course of all development activities and throughout the period when uses and activities authorized by this Special Permit/Site Plan Approval decision are conducted, the applicant, owner, agents, assigns and successors shall comply with all provisions of Section 6.420 of the Zoning By-Law for the Town relative to odor, dust, smoke, noise, heat, vibration, etc.
7. **PRE-CONSTRUCTION MEETING:** (See Condition #27) At least four weeks prior to initiating any construction activities, the applicant(s) shall notify the Town Planner and Planning Board by certified mail of their intentions. A pre-construction meeting shall be conducted with the applicant's engineer, the on-site construction supervisor and representatives of the Planning Board, Board of Health, Building Commissioner, Conservation Commission, Department of Public Works and Fire Department.

8. **LANDSCAPING GENERAL:** Prior to the issuance of a Certificate of Occupancy for the subject construction, all parking areas and landscaping shown on the Plan referenced above shall be completed.
9. **LANDSCAPE MAINTENANCE:** In accordance with Section 8.320 of the Zoning By-Law, it shall be the responsibility of the owner(s) of the site to ensure that all vegetation and landscaping is maintained in a healthy condition and that any dead or dying materials be replaced at the earliest appropriate season. Any violation of this General Condition shall be considered a violation of this Special Permit/Site Plan Approval and of the Zoning By-Law for the Town and may be treated accordingly.
10. **CURBING REQUIREMENTS:** Whenever an approved Site Plan indicates a requirement for granite curbing, pre-cast concrete curbing, or sloped granite edging, all curb joints shall be grouted and sealed with a substance and in a manner compatible with the curbing material.
11. **REVIEW BY OTHERS:** The applicant shall secure all requisite permits prior to commencing any work under this Special Permit/Site Plan Approval. We specifically call your attention to the possibility of need for permits from the Board of Health, the Board of Public Works, the Select Board and the Conservation Commission. Additionally, regulatory agencies of the Commonwealth may have jurisdiction over this project.
12. **PLAN MODIFICATION BY OTHERS:** Should a permit from any other entity include provisions which require a revision of the Plan, such revision shall be submitted to and approved by the Planning Board prior to the start of any construction activities in accordance with General Condition 4, above.
13. **OFF-SITE WORK:** All work done off-site shall be to the satisfaction of the appropriate owner or public body having jurisdiction. In the case of Town roads, public ways, Town lands and Town easements, the work shall conform to the requirements of the Hanover Board of Public Works and to the satisfaction of the Planning Board. In the case of State roads, (Route 3, Route 53 and Route 139), the work shall conform to the requirements of the Massachusetts Highway Department.
14. **SITE CLEARING:** No trees larger than 3" caliper may be removed without the prior and specific approval of the Planning Board.
15. **TIME LIMIT APPROVAL:** If substantial use of the site under this permit or construction of this project does not begin within **three (3) years** of the date of filing of this decision with the Town Clerk, then the granting of this Special Permit/Site Plan Approval shall become null and void (See Zoning Bylaw). The applicant shall notify the Planning Board

by certified mail at least four weeks prior to commencing any work on the site. The Planning Board will thereupon schedule an on-site construction meeting. In attendance at said meeting shall be the applicant's engineer, construction supervisor and representatives of town agencies as specified in Section 10.300 of the Zoning By-Law. Furthermore, all work must be completed within two years of the on-site construction meeting. A new application and approval shall be necessary to proceed with such construction if no extension is granted by the Planning Board.

16. **APPROVAL SCOPE:** This Special Permit/Site Plan Approval, and the obligations of the applicant set forth in the conditions hereto, shall run with the land comprising the site and shall inure to and be binding upon the applicant, its successors and assigns (including lessees and tenants).
17. **SIGNS:** All signage shall be erected in conformance with the Hanover Sign By-Law and all permits shall be secured before proceeding. No waivers have been granted in this Decision, and the Board will not support any future waivers with regard to signs.
18. **SITE LIGHTING:** (See Condition #30) All site lighting shall be designed and erected in a manner such that no illumination shall spill onto adjacent lots or public ways. We specifically call your attention to the observation that the typical fixtures provided by utility companies or those generically known as "floodlights" are unlikely to provide acceptable lighting. The fixtures generically known as "sharp-cut-off" or "shoebox" are, when correctly adjusted, more likely to accomplish the required lighting.
19. **NO BUILDING PERMIT AND/OR OCCUPANCY PERMIT** shall be issued for construction/occupancy until all debts to the Town have been satisfied.
20. **SPECIAL PERMIT/SITE PLAN SIGN-OFF REQUIRED** No Occupancy Permit shall be issued for the proposed Building until the Town Planner certifies to the Building Commissioner in writing that all site work indicated on the above referenced plans has been substantially completed in accordance with said plans, this decision, and all applicable Zoning Bylaws and Planning Board Rules and Regulations. At least two (2) weeks prior to seeking an Occupancy Permit/Final Inspection from the Building Commissioner, the applicant shall submit a written request to the Town Planner to make such inspections as are necessary to verify said completion.
21. In as much as the asphalt plants cease operations and trees or shrubs may not be successfully transplanted during the winter months, it is incumbent upon the Applicant to carefully schedule the work of the Special Permit/Site Plan to completion prior to the onset of cold weather. If for documentable reasons, beyond the Applicant's control (e.g. water use ban, bankruptcy of the contractor, etc.) the work of the Special Permit/Site Plan will not be completed prior to winter, the Town Planner will conduct a

Conditional Final Inspection. The Town Planner and Planning Board may require a Performance Guarantee or evidence, in the form of executed and prepaid contracts, that the otherwise undone and undoable work will be completed, at the earliest possible date. If this procedure is deemed necessary and unavoidable, the Town Planner and Planning Board will recommend to the Building Commissioner that any Temporary Certificate of Occupancy he may issue be limited to a minimal period of time (in no case should this exceed 200 days) and tied to the completion of the Special Permit/Site Plan.

22. The Board reserves the right to treat as violations of the Zoning By-Law (Section 10) any uncompleted work which remains undone at the termination of the Final Inspection by the Building Department.
23. All construction shall be in accordance with the approved drawings and reports referenced above.
24. All water services and installations shall be in accordance with the requirements of the Town of Hanover Department of Public Works.

SPECIAL CONDITIONS

25. This Approval of this Major Modification to the original 2019 Special Permit/Site Plan Review Approval (File # PB 19-1) continues to be authorized and enforced under the original conditions as recorded in the Plymouth Registry of Deeds Book 00622 Page 44 in addition to the conditions of this Major Modification decision.
26. **Prior to the start of any site work:** the wayfinding signage plan shall have been submitted to the Planning Board for review before any site work or mobilization shall commence. All landscaping either new or proposed for relocation within the site shall be maintained a height as to not impede the line of sight of vehicles and pedestrians within the site.
27. **In accordance with condition #7 and prior to the start of any mobilization or site work,** a pre-development meeting with the Town Planner with the applicant, developer and site work contractor shall be held to review all conditions of the decision. At this meeting the following materials shall be provided to the Town Planner:
 - a. Name, Address and a 24/7 telephone number of General and/or Site Contractor
 - b. Estimated construction schedule and completion deadline – including if the existing facility will be closed during construction and the duration.
 - c. Proposed location of construction trailer, stockpiling and construction fencing depicted on a site plan.

- d. A designated area located on the site plan for all construction workers, including all general and subcontractors. Written notice (letter or email) to construction companies of the designated parking area shall be provided prior to the start of any work.
28. Should site work be occurring with the continued operation of Chick-Fil-A, a traffic circulation plan shall be provided by the applicant and general contractor prior to the start of any site work to the Planning Department. The Police and Fire Departments will review and approve said plan, discuss any alternatives or the need for police or fire details during peak operational times to ensure public safety.
29. During construction, the applicant and general contractor shall be responsible for keeping the site in a relatively clean and orderly manner, if material is being tracked out of the site onto adjacent ways the general contractor shall broom sweep daily such affected ways. Any catch basins located down gradient of the disturbed areas or on the paved surface of the designated truck route shall have catch basin inserts installed for the life of the construction to protect from sediment entering into the storm water discharge. In the event of any forecasted long inclement weather event, additional erosion control measures may be required for the site and around stockpile areas. At the end of each work day, the general contractor shall visually inspect and address any windblown debris with the construction fencing or outside the fencing occurring in the parking lot as a result of construction.
30. Should the proposed modifications require movement of any exterior light bollards or poles, replacement of these shall match the existing site lighting unless a total site replacement is proposed. If it is a total site light replacement, new lighting shall be equipped with timers shutting off all non-security lighting one hour after the close of business until the operation opens the following morning. Relocation of any lighting shall be shown on the As-Built plan to be submitted once the project is completed.

The Planning Board affirms that all provisions of Sections 9 & 11 of Chapter 40A of the Massachusetts General Laws and Articles 6, 7, 8, 9, 10 and 11 of the Hanover Zoning Bylaws were complied with as regards to procedures. This Special Permit/Site Plan Approval shall not be effective until the Planning Board receives evidence from the applicant of recording with the Plymouth County Registry of Deeds in accordance with M.G.L., Ch. 40A, §11.

HANOVER PLANNING BOARD


Maryann Brugholi, Chair

I hereby certify that twenty (20) days have elapsed from the date that this decision was filed with this office and no notice of appeal was received during that period.

A TRUE COPY ATTEST



Catherine Harder-Bernier
Town Clerk

Date: 3/28/23