



IN CITY COUNCIL

Marlborough, Mass., AUGUST 25, 2014

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:
Bank of America Corporation
100 North Tryon St.
Charlotte, NC 28255
Order No. 14-1005785C

Locus:
223 East Main St.
Assessors Map 58, Parcel 94

DECISION

The City Council of the City of Marlborough hereby GRANTS the application of Bank of America Corporation as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: September 5, 2014

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 5th day of September, 2014.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 26th day of September, 2014.

Given under Chapter 40A Section 17 of the Massachusetts General Laws.

A TRUE COPY
ATTEST

City Clerk



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DECISION ON A SPECIAL PERMIT IN CITY COUNCIL

Special Permit
Bank of America Corporation
Order No. 14-1005785C

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 14-1005785C

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to 223 East Main Street LLC (the "Applicant Landlord") and Bank of America Corporation (hereinafter "Applicant Tenant"), for an existing drive-through facility at the existing bank at 223 East Main Street, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant Landlord is a duly organized and existing Limited Liability Company with its principle address at P.O. Box 2158 Natick, MA 01760. The Applicant Tenant is a duly organized corporation with a principle place of business at 100 North Tryon Street, Charlotte, NC 28255, which operates locally at 223 East Main Street, Marlborough, MA and has duly filed with the City Clerk of Marlborough to operate at the subject location.

2. The Applicant Landlord owns the premises known and numbered as 223 East Main Street, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 58, Lot 94 (hereinafter, the "Site"). As the operator of the existing bank and drive-through located at the Site, the Applicant Tenant proposes to modify the existing drive-through at the Site (hereinafter, the "Project").

3. Applicant Tenant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Section 650-17 of the Zoning Ordinance of the City of Marlborough, Applicant Tenant is seeking permission for a drive-through, since they are proposing to modify the existing drive-through, and the original construction pre-dated the need to obtain a special permit.



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4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.

5. In connection with the Application, Applicant Tenant has submitted a certified list of abutters, filing fees, site plan, proposed elevations, demolition and construction plans titled "Bank of America Drive-up ATM – 223 East Main Street, Existing Site Conditions", prepared for Bank of America by Gensler, One Beacon Street, 3rd Floor, Boston, MA 02108 and dated 4/23/2014 (hereinafter, the "Plans").

6. The Plans were certified by the Building Inspector of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, June 16th, 2014.

9. Applicant Tenant, through its architectural consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic. No individual in attendance at the public hearing spoke in opposition to the project.

10. The Applicant Tenant intends the proposed drive-through modification to incur no change to the existing site and building beyond the drive-through as indicated on the Plans. The existing vehicle circulation around the building will remain. The drive-through modifications will include lane striping to improve vehicle circulation and safety. Under the proposed conditions, the same number of drive-through lanes will remain.



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BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

A. Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant Tenant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS Applicant Landlord and Applicant Tenant a Special Permit to modify and operate the drive-through lanes as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on Applicant Landlord an Applicant Tenant, its successors and/or assigns:

1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until Applicant Tenant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.



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3. Applicant Tenant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant Landlord's facility.

4. The locations and design of any future signage shall be reviewed and approved by the City of Marlborough in accordance with the sign ordinance of the City of Marlborough without variance therefrom.

5. On both sides of the exit driveway, the Applicant Tenant shall install 24" x 24" signs which prohibit a left turn, said signs to be compliant with the most recent version of the Manual on Uniform Traffic Control Devices. In addition, the Applicant Tenant shall, on the pavement of the exit driveway, paint a large "right turn only" arrow, which arrow shall thereafter be repainted by the Applicant Tenant prior to June 1 of each year and as necessary in the determination of the City.

6. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant Tenant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

7. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow or increase the size of the drive-through facility shown on the Plans.

8. The hours of operation for the drive-through will continue to be 24 hours per day, 7 days per week.

9. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

10. During construction, no vehicles shall be staged on public ways.



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11. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant Tenant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before Applicant Tenant, its successors and/or assigns has applied to the Building Inspector for a building permit concerning the Project. Applicant Tenant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 9 – Abstained: 2

Yea: Page, Elder, Tunnera, Irish, Landers, Ossing, Pope Robey & Oram

Abstained: Delano & Clancy

Signed by City Council President
Patricia A. Pope

ADOPTED
In City Council
Order No. 14-1005785C