

**OHRENBERGER,  
DE LISI &  
HARRIS, LLP**

ATTORNEYS AT LAW

WILLIAM H. OHRENBERGER, III  
JEFFREY A. DE LISI  
GREG E. HARRIS

September 13, 2022

RICHARD A. HENDERSON  
ALISON SMITH PIASECKI  
MATTHEW E. MITCHELL  
PATRICIA A. HOULIHAN  
MICHELLE L. BAKER

Lauren Lind,  
Planning and Zoning Director  
Cohasset Town Hall  
41 Highland Street  
Cohasset, Massachusetts 02025

Re: Application for Approval of Site Plan Review  
Joseph Sestito and Lilly Sestito  
534 Beechwood Street & 32 Doane Street

Dear Lauren:

This firm is counsel to Joseph and Lilly Sestito in connection with their Site Plan application pending before this Board. As I will not be available to appear at the September 28, 2022 meeting of the Planning Board, I wanted to comment briefly on two topics that occupied a portion of the Board's time at the last hearing: (1) Traffic and Safety Issues and (2) Zoning Considerations.

**(1) Traffic and Safety**

The Planning Board expressed concern that no crosswalks were depicted on the Site Plan from the baseball field to the lot on which the proposed renovated Beechwood Store is located; and it was suggested that this be addressed. Following that meeting the Site Plan was amended to depict two crosswalks, one at the corner of Beechwood Street and Doane Street running from the baseball field to the corner of the lot on Beechwood Street on which the renovated store is to be located and the other crossing Beechwood Street at or near the front entrance to the store. Upon that plan's completion, I met with Brian Joyce, the Town Engineer who made some suggestions concerning the location of one of the crosswalks. To ensure that the Site Plan as further amended is acceptable a meeting will take place on September 14, 2022 at the site among, Joseph & Lilly Sestito; their engineer, Brendan Sullivan; Brian Joyce and me. It is hoped that following that meeting a revised Site Plan will be prepared and filed with the Planning Board in sufficient time for its consideration at the September 28, 2022 meeting.

28 New Driftway | Scituate, MA 02066 | t (781) 545-0020 | f (781) 545-4712  
5 Brook Street | Cohasset, MA 02025 | t (781) 383-6700 | f (781) 383-6711  
9 Brook Street | Cohasset, MA 02025 | t (781) 383-9000 | f (781) 383-9005

[www.odhlegal.com](http://www.odhlegal.com)

## (2) Zoning Considerations

At the last meeting, the chairman pointed out that the Site Plan depicted a building to be used as a retail establishment as well as for two residential apartments. The chairman then inquired as to whether this zoning use was allowed. With the greatest respect to the chairman and the members of the Board, I am not sure that this an appropriate topic for the Planning Board site plan review other than acknowledging your responsibility to establish that an applicant who has the benefit of Site Plan approval uses the site consistent with any and other permits that are required. Such protection can be assured by simply imposing a condition in the Site Plan decision that the site can only be used consistent with other decisions and/or approvals.

The applicant currently has an application before the Zoning Board of Appeal which will be amended before hearings are resumed to reflect changes in circumstances, including changes in parking location and any other change that might arise from the Site Plan process.

As to the issue raise about use, the Applicant will seek before the Zoning Board of Appeals a finding that either the building has an existing non -conforming mixed-use status as a retail store with two residential units or seek a special permit to increase a non-conforming use. In pursuit of a finding that the site is a non-conforming mixed-use retail and two-family site, research is currently being conducted through Assessor's records, utility records, interviews, tax records and rental records to determine how the existing building has been used over the last century and one half. If following that research an affidavit cannot be filed to establishing that the site is a valid non-conforming retail multi -residential site, the applicant will seek a Special Permit to expand the existing non-conforming use of a business and single-family unit. The evidence is clear and will be supported by affidavit that for over several decades the site has been use as a business with at least one apartment.

The jurisdiction for making a finding of non-conforming use and/or the granting of special permit to increase a non- conforming use is currently solely within the purview of the Zoning Board of Appeals and it is to that Board that such information will eventually be submitted.

Thank you for your courtesy and cooperation.

Very truly yours,



Richard A. Henderson

RAH/ag

cc. Joseph and Lilly Sestito  
Brendan P. Sullivan, P.E., P.L.S  
Susan Hoadley  
Corina Martinez