

**CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD**

NOTICE OF DECISION- SPECIAL PERMIT APPROVAL

Section XI-D (12) Drive-up Retail, Business or Service Establishment, Drive-up or Drive-through Restaurant,
and Stand-Alone Kiosk, Drive-through or Walk-up

Case No. 2024-3
Date of Application: 05-06-24
Date of Hearing: 06-12-24
Date of Decision: 06-14-24

2024 JUN 14 AM 11:00

Petition of: NES Group, Inc.
905 S. Main Street, Building B
Mansfield, MA 02048

Owned by: Methuen Municipal Employee Federal Credit Union
P.O Box 295
Methuen, MA 01844

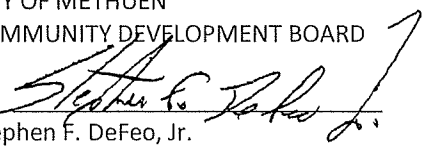
Premises Affected: 248 Broadway
Assessor's Map 612-120-11 and a portion of 612-120-10
Central Business District (CBD)

Referring to the above petition for a Special Permit from the requirements of Section XI-D (12) of the City of Methuen Comprehensive Zoning Ordinance to allow the expansion of the existing overhead drive-thru canopy by 130 SF and create an additional drive-thru lane.

At a public hearing held on June 12, 2024, the Community Development Board voted UNANIMOUSLY (6-0) to **APPROVE WITH CONDITIONS** the special permit for a drive through.

This is to certify that the above action was taken in compliance with the statutory requirements as set forth in Chapter 40A of the General Laws, and that a copy of this decision was filed with the City Clerk on **June 14, 2024.**

CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD

By: 
Stephen F. DeFeo, Jr.
Chairman, Community Development Board

Any appeal of this decision shall be made pursuant to the requirements of Massachusetts General Laws and shall be filed within twenty (20) days after the date the notice of decision was filed with the Methuen City Clerk.

I hereby certify that no appeal has been filed in the Methuen City Clerk's Office, within the twenty (20) day appeal period.

Anne J. Drouin, Methuen City Clerk

FINDINGS OF FACT:

NES Group, Inc. filed an application for a Special Permit on May 6, 2024. The applicant submitted a complete application, which was noticed and reviewed in accordance with Section XI Special Permits of the City of Methuen Comprehensive Zoning Ordinance and MGL Chapter 40A, Section 9.

The project site contains approximately 0.2 acres of land (the Site). The Site is located on the west side of Broadway and is bordered by an apartment complex to the north, a retail plaza to the south, an assisted living facility to the west, and a bank across Broadway to the east. The Site currently contains the Methuen Credit Union, which will remain.

The project is shown on a plan entitled: Proposed Site Plan Documents for NES Group; Proposed Site Improvements; Location of Site: 248 Broadway (Route 28), City of Methuen, Essex County, Massachusetts, Map 612, Block 120, Lot 11; Prepared by Bohler; dated 04/30/2024 as may be revised by this decision.

The public hearing on the above referenced application was opened and closed on June 12, 2024. The Board heard a presentation from Eric Dubrule, Bohler and reviewed correspondence from the City's Engineering Department, and the Board's peer review agent TEC. No abutters spoke either in favor or in opposition to the project. Upon a motion by Mr. Comei, seconded by Mr. Hunter, the Board voted unanimously (6-0) to close the public hearing. Upon a motion by Mr. Comei, seconded by Mr. Ford, the Board voted unanimously (6-0) to GRANT the Special Permit with Conditions.

The following Board members participated in the hearing and voted on the decision: Stephen DeFeo, Michael Comei, William Ford, Neal Hunter, Shadi Kasis, and Heather Plunkett.

This approval is granted subject to the accuracy of the information, reports and data presented. In the instance where the Board is of the belief that this material was inaccurate as presented or has subsequently become unreliable the Board may conduct a determination hearing to consider requiring further review or mandating current and reliable data and information for subsequent approval.

As required by the City of Methuen Comprehensive Zoning Ordinance Effective July 28, 2008, **Section XI-B (2)**, based upon the applicant's testimony, plans submitted and information provided, the Community Development Board makes the following findings:

- A. **The proposal serves social, economic and community needs.** The proposed site improvements will allow the community greater options for using the existing Methuen Credit Union. As drive -thru services have become increasingly preferable to users, the additional drive-thru lane will better serve the needs of the community.

- B. **The proposed use will result in no impact on traffic flow.** The proposed traffic patterns through the site will be consistent with the flow through of the existing drive-thru on site, with the additional drive-thru land allowing for more efficient traffic flow through the site. This will consist of two drive-thru lanes and one drive-thru bypass lane to maintain emergency egress around the building. The site will maintain the existing ADA parking space and location. The drive-thru lanes and parking spaces have been designed to adhere to the applicable requirements of the Zoning Ordinance.
- C. **The proposed use will utilize no public services.** The existing utility connections that serve the site will be suitable to accommodate the proposed site improvements.
- D. **The neighborhood character and social structure will not be impacted by the proposal.** The subject site is located within a commercial area. Surrounding uses are largely commercial located in the Central Business District. Operation of the facility will be consistent with the existing operation and with other commercial uses in the vicinity of the site.
- E. **The proposed use has no impact on the natural environment.** The developed portion of the site is to remain largely consistent with existing conditions, with no expansion of the existing development footprint and a slight reduction of impervious area.
- F. **The proposed use will have no impact on City services.** The proposed site improvements will allow an existing business to continue to function and improve its services to its customers and the surrounding community.
- G. **The proposal is consistent with the most recent City of Methuen Master Plan.**

In accordance with **Section XI-D (12)(d)**, based upon the applicant's testimony, plans submitted, and information provided, the Community Development Board makes the following findings:

- i. **The drive-up retail, business or service establishment shall not constitute a nuisance of any type.** There is currently an existing drive-thru lane servicing the establishment. The project proposes the addition of one drive-thru lane to accommodate the bank's proposed pneumatic tube system. However, the facility is anticipated to function like existing operations with improved drive-thru efficiency.
- ii. **Access to such drive-up service shall conform to Section VI-B-5 Yard Requirements, for all Districts.**
- iii. **The drive-up retail, business or service establishment shall not operate after Midnight without an additional special permit from the Community Development Board.**
- iv. **The drive-up retail, business or service establishment complies with the Methuen Municipal Code Article VI Section 9-61. Regulation of Loudspeakers, Amplifiers, and Paging Systems.**

SPECIAL CONDITIONS:

The Community Development Board finds that this project generally complies with the City of Methuen Zoning Ordinance requirements as listed in Section XI-D (12) but requires conditions to be fully in compliance. The Community Development Board hereby grants an approval to the applicant provided the following conditions are met:

- 1) Due to the limited on-site parking, the adjacent property owner, Janice Fisichelli as trustee of Am-Fis Realty Trust has agreed to amend the existing Access and Parking Easement to project owners Preferred Construction LLC to allow for additional designated parking on this site.
- 2) **Prior to the endorsement of the plans** by the Community Development Board, the Project Owner must comply with the following:
 - a) The final plans must be reviewed and approved for accuracy and conformance with the terms of this Approval by the City's Engineering Department, the City's Peer Review consultant (as may be required by the Board), and the Community Development Department. The final plans must be revised in accordance with comments received by the City of Methuen staff members and peer review agents as follows:
 - i) The plans must be revised to show the proposed offsite parking spaces and these parking spaces must be designated for the Methuen Credit Union only with appropriate signage.
 - b) The project owner must submit the revised Access and Parking Easement and Plan referenced above for review and approval by Community Development Board.
- 3) **Prior to the start of any site work and building permit issuance:**
 - a) The Community Development Board must endorse the final site plan mylars and three (3) copies of the signed, recorded plans must be delivered to the Community Development Office.
 - b) One certified copy of the recorded decision must be submitted to the Community Development Office.
 - c) A bond in the amount of **five thousand (\$5,000) dollars** shall be posted for the purpose of insuring that the site is constructed in accordance with the approved plan and that a final as-built plan is provided showing the location of all on-site structures.

- d) Prior to any construction activity of any kind associated with the project, the Project Owner shall submit to the Community Development Department a proposed phased construction sequence schedule (timetable/bar chart), said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage system, stabilization, earth removal and stockpiling. This schedule once established shall not be deviated from and may only be modified by agreement between the Project Owner and the Community Development Department.
- e) A pre-construction meeting must be held with the developer, their construction employees, Community Development Department, and other applicable departments to discuss scheduling of inspections to be conducted on the project and the construction schedule.
- f) The Project Owner will provide supervisory contact personnel along with emergency telephone numbers that are answered on a 24-hour basis (answering machines or voice mail are not acceptable).

4) During Construction:

- a) Construction activities on the site shall conform to the City of Methuen's Ordinances relating to such work.
- b) Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, or other proper storage and disposal methods.
- c) It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Off-site erosion will be a basis for the Community Development Board making a finding that the project is not in compliance with the plan; provided however, that the Community Development Board shall give the Applicant written notice of any such finding and ten days to cure said condition.

5) Prior to the Issuance of the Certificate of Occupancy:

- a) The Project Owner must submit a letter from the engineer of the project stating that the building, landscaping, lighting, and site layout substantially comply with the plans referenced in this decision as endorsed by the Community Development Board.
- b) A final as-built plan showing final topography, the location of all on-site utilities, structures, curb cuts, parking spaces and drainage facilities, including invert

elevation of all storm water structures shall be submitted to the Community Development Department and the Engineering Department for review and approval.

- c) If all site related issues, including landscaping, have not been completed at the time the building itself is ready for occupancy, the Community Development Board may authorize the Project Owner to post a security sufficient in the opinion of the Community Development Board, to cover the cost of the City of completing the remaining site items.
- 6) **Prior to the final release of all funds:** The Community Development Board must, by majority vote, make a finding that the site is in conformance with the approved plan and decision.
- 7) **Other Conditions:**
 - a) **Due to the limited room on the project site, deliveries and dumpster service must be scheduled outside hours of operation where feasible.**
 - b) To reduce noise levels the Project Owner shall keep in optimum working order, through regular maintenance, all equipment that shall emanate sounds from the structures or site.
 - c) Any plants, trees, or shrubs that have been incorporated into the Landscaping Plan approved in this decision that die within two years from the date of planting shall be replaced by the owner. All plantings and screening depicted on the approved plans shall remain in perpetuity over the life of the project.
 - d) Within five (5) days of the transfer of ownership of this site in whole or in part, the Project Owner shall notify the Community Development Department of the name and address of the new owner(s). The Project Owner shall provide the new owner(s) with a copy of these conditions.
- 8) The Community Development Board hereby reserves the right to serve notice on applicant of a cease-and-desist work order should a violation of the endorsement, the approval, the conditions or the restrictions be found to exist. Such cease and desist work order, when served in writing, directing itself to the violation occurring, shall act to prohibit all work on the areas as mentioned in such order.
- 9) This Special Permit shall be deemed to have lapsed two years after the date of the grant of this approval if a substantial use thereof has not sooner commenced, except for good cause. Such approval may, for good cause, be extended in writing by the Community Development Board upon the written request of the applicant.

10) The following documents and plans shall be deemed part of the decision:

- a) Proposed Site Plan Documents for NES Group; Proposed Site Improvements; Location of Site: 248 Broadway (Route 28), City of Methuen, Essex County, Massachusetts, Map 612, Block 120, Lot 11; Prepared by Bohler; dated 04/30/2024 as may be revised by this decision.
- b) Methuen Credit Union – Proposed Bank Canopy Addition and Drive-thru improvements Drainage Memo for 248 Broadway, Methuen, MA; prepared by Bhler; dated April 30, 2024.

