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PLANNING DIVISION
Planning & Community Development

DECISION AMENDMENT
March 28, 2022
(Original Decision dated September 8, 2015)

Major Project Site Plan Special Permit No. 2015-06
Town of Needham
Existing Municipal Parking Lot on Chapel Street

DECISION of the Planning Board of the Town of Needham, Massachusetts, (hereinafter together with any entity succeeding the powers of said Planning Board referred to as the "Board") on the petition of the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, (to be referred to hereinafter as the "Petitioner"), for property at the location of the Existing Municipal Chapel Street Parking Lot, shown on Assessor's Map No. 51 as Parcel 8 containing .79 acres in the Center Business zoning district.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); and (2) a Special Permit under Section 5.1.1.6, of the By-Law to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement).

The requested Major Project Site Plan Review Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 2015-06 dated September 8, 2015. The decision concerns the Town of Needham's municipal parking lot located on Chapel Street.

The current permit does not, presently contemplate or authorize the use of parking spaces within the municipal parking lot for seasonal or year-round outdoor seating. The requested amendment would allow seasonal or year-round outdoor dining to occur within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert, on Monday, March 28, 2022 at 7:45 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Adam Block, Martin Jacobs, Jeanne S. McKnight, and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submissions upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2015-06 to seasonal outdoor dining to occur within the Chapel Street municipal parking lot., dated December 21, 2021.
- Exhibit 2 - Letter to Planning Board Members from Attorney Christopher H. Heep, dated February 25, 2021.
- Exhibit 3 - Detail Plan entitled "Proposed Dumpster Location, Chapel Street, Municipal Parking Lot", prepared by the Needham Engineering Department, PSAB Building, 500 Dedham Avenue, Needham, MA, dated August 14, 2015.
- Exhibit 4 - Proposed Site Plan entitled "Proposed Dumpster Location, Chapel Street, Public Parking Lot", prepared by the Needham Engineering Department, PSAB Building, 500 Dedham Avenue, Needham, MA, dated August 14, 2015.
- Exhibit 5 - Second License and Memorandum of Understanding between Elizabeth Heffernan, Trustee of the Heffernan Associates Nominee Trust (owner of 1013 Great Plain Avenue), Triantos and Dina Thomas (owners of 1027 Great Plain Avenue), and the Town of Needham dated March 2, 2022.
- Exhibit 6 - Inter-Departmental Communication (IDC) to the Board from Chief Dennis Condon, Fire Department, dated March 4, 2022.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

- 1.1 The subject property is located in the Center Business zoning district and is the location of the Existing Municipal Chapel Street Parking Lot, shown on Assessor's Map No. 51 as Parcel 8 containing .79 acres. The property is owned by the Petitioner.
- 1.2 The subject property is currently occupied by a municipal parking lot, pursuant to the approval of an Amendment to the Major Project Site Plan Special Permit No. 2015-06, dated September 8, 2015. Section 3.3 of said amendment states, in part, "A total of 118 parking spaces shall be provided at all times."
- 1.3 The Petitioner is proposing to amend the prior decision to allow seasonal or year-round outdoor dining to occur within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate. The Petitioner notes that the total number of available spaces available in the municipal parking lot will be reduced to accommodate such seasonal or year-round outdoor seating.
- 1.4 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and

conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhoods inherent use.

- 1.5 The Board finds that all its findings and conclusions contained in Major Project Site Plan Special Permit No. 2015-06, dated September 8, 2015, is applicable to this Amendment, except as specifically set forth in this Amendment.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law; and (2) a Special Permit under Section 5.1.1.6, of the By-Law to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement); subject to and with the benefit of the following Plan modifications, conditions, and limitations.

CONDITIONS AND LIMITATIONS

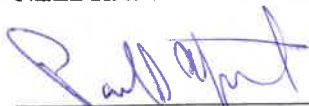
- 2.1 Major Project Site Plan Special Permit No. 2015-0-6, issued to the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated September 8, 2015, is hereby incorporated by reference, and all plans, conditions, and limitations therein approved remain in full force and effect except as further modified by this decision.
- 2.2 Outdoor dining (whether seasonally or year-round, at the discretion of the Select Board) is hereby permitted within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants wishing to provide such seasonal or year-round outdoor seating obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.
- 2.3 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham. Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit Amendment Decision shall not take effect until the Applicant has delivered written evidence of recording to the Board.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD



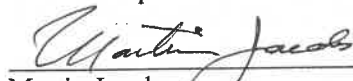
Paul S. Alpert, Chairman



Adam Block



Natasha Espada



Martin Jacobs



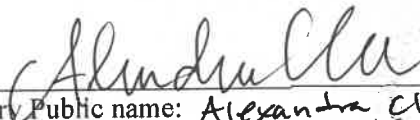
Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

April 7 2022

On this 7 day of April, 2022, before me, the undersigned notary public, personally appeared Jeanne McKnight, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.



Notary Public name: Alexandra Clee

My Commission Expires: March 9, 2029

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, for Property at the location of the Existing Municipal Parking Lot on Chapel Streets, shown on Assessor's Map No. 51 as Parcel 8, has passed,

_____ and there have been no appeals filed in the Office of the Town Clerk or
_____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Christopher Heep, Attorney

Board of Health
Director, PWD
Design Review Board