



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0063
Owner: Harvard Street II LLC c/o Walter Gelerman

Petitioner, **David Iknaian (Panelli's Pizza and Parm)**, applied to the Building Commissioner for permission to expand restaurant seating from nine to seventeen at **415 Harvard Street**. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed December 4, 2014 at 7:00 p.m. in the Selectmen's conference room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on November 13, 2014 and November 20, 2014 in the Brookline TAB, a newspaper published in Brookline. A copy of said notice is as follows.

Notice of Hearing

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

415 HARVARD ST – INCREASE SEATING FROM 9 TO 17 SEATS in an L-1.0 LOCAL BUSINESS DISTRICT on

December 4, 2014, at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: DAVID IKNAIAN; Owner: HARVARD STREET II LLC C/O GELERMAN WALTER) Precinct 8

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

Section 6.01, Paragraph 2: Table of Off-Street Parking Space Regulations

Section 6.02.1.b: Off-Street Parking Regulations

Modification, as required of BOA case #2082 May 27, 1976

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in Town programs and services may make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneirson@brooklinema.gov.***

Jesse Geller, Chair

Christopher Hussey

Jonathan Book

Publish: November 13, 2014 & November 20, 2014

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair Johanna Schneider, and Board Members Jonathan Book and Christopher Hussey. Architect, Eric Robinson, presented the case on the applicant's behalf.

Mr. Robinson described 415 Harvard Street as a single-story Classic Revival style commercial structure. The structure contains 4 separate commercial units of varying square footage (Dok Bua Thai Restaurant, Durty Harry's Pet Boutique, and 4A Coffee). The Panelli's space itself consists of 738 square feet of ground floor kitchen/commercial space and 750 square feet of rear/basement storage space (1,488 total s.f.). The property's main entrance fronts onto Harvard Street with rear entry accessible from Fuller Street. A private rear parking lot provides 9 spaces and trash facilities for the entire structure.

The property is located in the JFK Crossing neighborhood within the L-1.0 (Local Business) Zoning District and the Coolidge Corner Design Overlay District. The area consists primarily of single-story commercial structures along Harvard Street, with multi-family residential structures set behind this commercial corridor. Metered street parking runs the length of Harvard Street from Beacon Street to Commonwealth Avenue. The Fuller Street Municipal Parking Lot is also located directly across the street from the property.

Mr. Robinson stated that the applicant is proposing to increase customer seating for Panelli's Pizza and Parm restaurant from 9 to 17. Additional seating will be in the form of two-chair table seating along the northwest wall of the restaurant. A 3 foot wide walkway is proposed to separate customer seating from restaurant activity, and to allow for movement to a rear restroom and exit. Adequate square footage for the proposed seating increase has been achieved by moving kitchen and sales counter features back from the primary entrance that is accessible from Harvard Street. The applicant felt that this layout is a more effective use of the space for both ownership and patrons.

Existing rear parking (9 spaces) is shared by all commercial tenants and is not specifically designated for Panelli’s Pizza and Parm customers. The applicant also participated in sign and façade design review with the Planning Board and received unanimous support for exterior alterations to the restaurant.

The applicant stated that business hours of operation are 11:00am-10:30pm on Mondays through Saturdays, and 11:00am to 6:00pm on Sundays. Mr. Iknaian also described peak business hours as being after school (3:00-4:00pm) due to close proximity to the Devotion School, and dinner time hours around 6:00pm. The restaurant provides sit-down and take-out food but no delivery service.

The Board Chair called for any public comment in favor of or in opposition to the applicant’s proposal. No members of the public wished to comment.

The Board Chair called upon Jay Rosa, Zoning Coordinator, to deliver the findings of the Planning Board:

FINDINGS

Section 6.01, Paragraph 2: Table of Off-Street Parking Space Regulations – Conversions
Section 6.02.1.b: Off-Street Parking Regulations

L-1.0 District	Required	Existing	Proposed	Finding
Parking Spaces	2	9 shared by all commercial tenants	0	Special Permit *

* Under Section 6.01.2.b the Board of Appeals may waive up 10 parking spaces, or 50% of increased parking requirements after considering business operating hours, parking demand, area public parking, and proximity to public transit.

Eating establishments that are less than 5,000 square feet require 1 parking space per four seats in a zoning district with an allowed FAR of 1.0. Whenever there is an extension of a use which increases parking requirements by 15 percent or more, the total additional requirements

for that extension shall be provided in accordance with applicable off-street parking requirements. The additional 8 seats require a total of 2 parking spaces. Under Section 6.02.1.b of the Zoning By-Law, the Board of Appeals may waive up to 10 parking spaces of any increased requirement when a non-residential use in a business district expands.

Modification, as required, of BOA case #2082 May 27, 1976

BOA case #2082 granted relief necessary to construct a rear addition and perform façade and sign upgrades. No interference with 9 existing parking spaces is the only condition of this prior special permit that pertains to the applicant's proposal. The applicant has indicated no alteration to rear parking layout or availability. It appears that no modification is necessary.

Mr. Rosa stated that the Planning Board was supportive of this proposal to expand restaurant seating at 415 Harvard Street from 9 to 17. The applicant engaged in interior and exterior property improvements to the benefit of the property owner and the wider neighborhood. The applicant also worked closely with the Planning Board to develop appropriate and attractive signage within a primary commercial corridor.

415 Harvard Street is located in close proximity to metered street parking, off-street municipal parking, and public transit. Additionally, the applicant is seeking minimal parking relief (2 spaces) for this proposed use expansion. Daytime hours of operation do conflict with existing area businesses, but the short-term nature of customer activity is not anticipated to place significant strain on area parking availability.

Therefore the Planning Board recommended approval of floor plans submitted by RODE Architects Inc., dated 9/19/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit to the Assistant Director of Regulatory Planning for approval: 1) a final floor plan stamped and signed by a registered architect; and 2) a final site plan showing all parking spaces, stamped and signed by a registered land surveyor or engineer.
2. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final floor plan, stamped and signed by a registered architect; 2) a final site plan showing all parking spaces, stamped and signed by a registered land surveyor or engineer; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Board Chair called upon Michael Yanovitch to deliver the comments of the Building Department. Mr. Yanovitch stated that Panelli's Pizza and Parm is an asset to the Coolidge Corner area. The location is also easily accessible for pedestrians and via public transportation. Mr. Yanovitch explained that special permit relief under Section 6.02.1.b of the Zoning By-Law is included precisely to promote projects that are similar to the applicant's proposal. Therefore the Building Department was not opposed to the expansion of restaurant seating from 9 to 17 at 415 Harvard Street, and intends to work closely with the applicant to ensure compliance with all relevant building codes.

The Board, as well as Planning and Building Department representatives, determined that a final site plan should not be required as a condition of the special permit because no exterior modification is proposed.

The Board deliberated on the merits of special permit relief as requested. The Board was satisfied that the proposal met requirements for a parking waiver upon evaluating operating characteristics, peak parking demand, the need for employee parking, and the availability of existing public parking and public transit. The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections, **6.01 and 6.02.1.b** of the

Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- The specific site is an appropriate location for such a use, structure, or condition.
- The use as developed will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use

Accordingly, the Board voted unanimously to grant the requested relief subject to the following amended conditions:

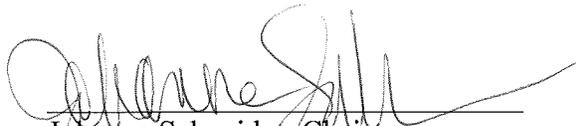
1. Prior to the issuance of a building permit, the applicant shall submit a final floor plan stamped and signed by a registered architect to the Assistant Director for Regulatory for review and approval.
2. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final floor plan, stamped and signed by a registered architect; and 2) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

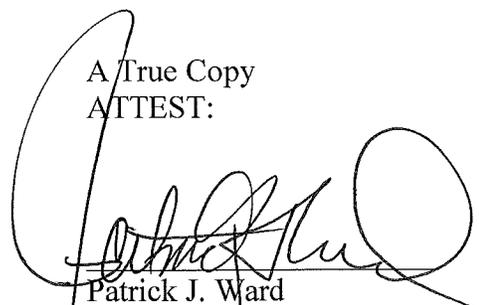
Unanimous decision of the
Board of Appeals

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TOWN OF BROOKLINE
TOWN CLERK

2014 DEC 16 A 10:33

Filing Date: 12/16/14


Johanna Schneider, Chair

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals