



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0075
OWNER: FRED SHAUGHNESSY JR
1003 BEACON STREET, BROOKLINE, MA

Petitioner, Tzurit Or, applied to the Building Commissioner to expand bakery seating from eight (8) to thirty-five (35) at 1003 Beacon 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 February 25, 2016 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 February 11, 2016 and February 18, 2016 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:

1003-1005 BEACON ST – EXPAND BAKERY SEATING FROM 8 TO 35 (TATTE) in an L-1.0, Local Business, zoning district, on February 25, 2016, at 7:00 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: Tatte Bakery and Café c/o Tzurit Or) *Precinct 1*

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

- 1. Section 6.02, Paragraph 1: Table of Off-Street Parking Requirements**
- 2. Section 6.02.1.b: Off-Street Parking Regulations**
- 3. Section 8.02.2: Alteration or Extension**
- 4. Any Additional Relief the Board May Deem Necessary**

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: February 11, 2016 & February 18, 2016

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board Chairwoman Johanna Schneider and Board Members Jonathan Book and Christopher Hussey. The Petitioner, Tzurit Or, presented project details to the Board. Ms. Or stated that she has owned and operated Tatte Bakery at 1003 Beacon Street since 2008. Ms. Or considered various opportunities to expand her bakery operations at this location since 2008 with the intent to improve customer service and overall kitchen facilities. Ms. Or stated that the attached commercial unit at 1005 Beacon Street was recently vacated presenting an ideal

opportunity for expansion. Ms. Or stated that interior renovation will increase the bakery square footage by approximately 900 square feet and create 27 additional customer seats, as well as two public restrooms.

Ms. Or confirmed that this seating expansion triggers the need for additional off-street parking, which the Board of Appeals may waive by special permit.

Board Chairwoman Schneider requested that the Petitioner describe the number of bakery employees and the current number of parking spaces that are specifically designated for these employees. Ms. Or stated that the expanded bakery operations will require ten to twelve employees and two off-street parking spaces will be provided. Ms. Or further stated that the majority of these employees utilize public transportation to commute to work but the bakery manager does often drive to work.

Board Member Christopher Hussey questioned whether all attached commercial units from 999 to 1009 Beacon Street are located on the same lot and if the parking area located at the rear of this lot is utilized by all commercial tenants. Zoning Coordinator Jay Rosa confirmed that all commercial units are under common ownership and located on the same lot (Parcel ID #112 2526). Ms. Or stated that additional parking spaces at the rear of the lot that are not specifically assigned to commercial tenants do operate on a "first come first serve" basis.

Board Chairwoman Schneider called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented.

Board Chairwoman Schneider requested that Mr. Rosa review the findings of the Planning Board.

FINDINGS

Section 6.02, Paragraph 1 – Table of Off Street Parking Requirements

Section 6.02.1.b – Off-Street Parking Regulations

L-1.0 District	Required	Existing (Tatte)	Parking Credit (Attached Retail Space)	Proposed	Finding
Parking Spaces	8.75	2	4	2	Special Permit*

**Under Section 6.02.1.b the Board of Appeals may waive up to 10 parking spaces, or 50% of increased parking requirements, whichever is greater, for the expansion of a non-residential use within a business district after considering business operating hours, parking demand, area public parking, and proximity to public transit.*

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing nonconforming structure.

Mr. Rosa stated that the Planning Board unanimously recommended approval of the bakery expansion. The Petitioner has been a long-time business owner in Brookline and this upper portion of Beacon Street is pedestrian-friendly and provides a variety of public transit options. Therefore, the Planning Board recommended approval of the floor plan submitted by David McMahon, dated 12/3/2015, subject to the following conditions:

1. Prior to the issuance of a building permit the applicant shall submit a final floor plan including all proposed seating for review and approval by the Assistant Director for Regulatory Planning or designee.
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.

Board Chairwoman Schneider requested that Mr. Rosa also review the findings of the Building Department. Mr. Rosa stated that the Building Department has no objection to the relief as requested. Mr. Rosa clarified that the proposed seating increase actually necessitates 8.75 off-street parking spaces total, which is rounded to nine (9) parking spaces as required by the Zoning By-Law. Mr. Rosa further stated that the bakery currently provides two (2)

designated parking spaces and the adjacent retail space to be taken over provides an existing parking credit of four (4) spaces based on the gross floor area for a ground-floor retail use. Following this evaluation, Mr. Rosa confirmed that the Petitioner is requesting a parking waiver of three (3) off-street parking spaces and the Board has the authority to waive up to ten (10) spaces under By-Law Section 6.02.1.b. Mr. Rosa confirmed that the Building Department will work with the Petitioner to ensure compliance with imposed conditions and building codes should the Board find that the requirements for the grant of a special permit are satisfied

The Board deliberated on the merits of special permit relief as requested. Board Member Jonathan Book agreed that the subject property is located in close proximity to various forms of public transportation. Mr. Book stated that this seating expansion essentially replaces the adjacent retail use at 1005 Beacon Street and he is comfortable waiving the net increase in required parking by special permit.

Board Member Hussey concurred with Mr. Book's comment. Mr. Hussey described the requested parking relief as being modest and he believed that the proposed seating expansion will not significantly diminish from the availability of existing area parking.

Board Chairwoman Schneider agreed that the subject property is highly accessible in terms of walkability and access to public transportation. Ms. Schneider stated that the requested parking relief associated with the proposed seating increase meets the standards for the grant of a special permit.

Board Members also confirmed that requested alteration or extension of the pre-existing nonconforming structure under Section 8.02.2 of the Zoning By-Law specifically relates to the parking relief in question.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 9.05 and 6.02.1.b of the Zoning By-Law, granting relief from the provisions of Sections 6.02, paragraph 1 and 8.02.2 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.
- The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people

Accordingly, the Board voted unanimously to grant special permit relief, subject to the following conditions:

1. Prior to the issuance of a building permit the applicant shall submit a final floor plan including all proposed seating for review and approval by the Assistant Director for Regulatory Planning or designee.
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.

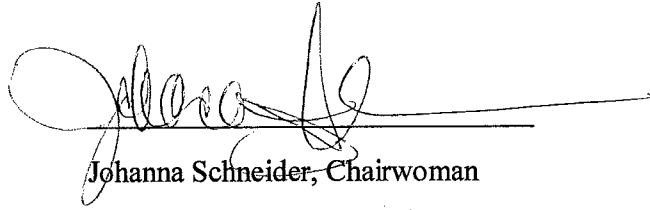
RECEIVED
TOWN OF BROOKLINE
TOWN CLERK

2016 MAR 15 P 4: 17

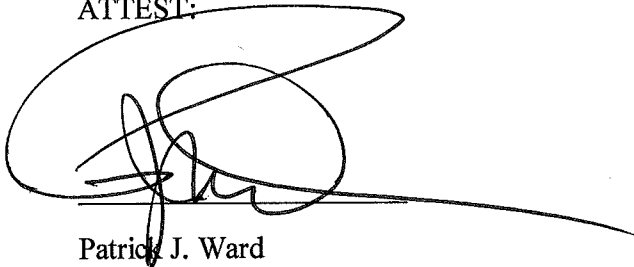
**Unanimous decision of the
Board of Appeals**

Filing Date: 3/15/16

A True Copy


Johanna Schneider, Chairwoman

ATTEST:



Patrick J. Ward

Clerk, Board of Appeals