



BOARD OF APPEALS
Jesse Geller, Chair
Johanna Schneider
Lark Palermo

Town of Brookline

Massachusetts

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-00073
1306 BEACON STREET

Petitioner Hops N' Scotch applied to the Building Commissioner for permission to construct a roof deck and exterior stairs. The application was denied and an appeal was taken to this Board.

The Board of Appeals administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed January 19, 2023, at 7:00 p.m., virtually as the date, time, and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) 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 January 5, 2023, and January 12, 2023, in the Boston Globe, a newspaper of general circulation in Brookline. A copy of said notice is as follows:

TOWN OF BROOKLINE – Zoning Board of Appeals
NOTICE OF HEARING

The Brookline Zoning Board of Appeals will hold a public hearing on

Date/Time: Thursday, January 19, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3VWzVSF>

Petitioner: JOSEPH I BANKS ET AL TRS

Address: 1306 Beacon Street

Subject: Proposed roof deck and exterior stairs

Nature of Action/Relief:

§5.09.2.A – DESIGN REVIEW

§8.02 - ALTERATION OR EXTENSION

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/3526>

Interested persons may provide comments at the public hearing or by submitting written comments by email to manthony@brooklinema.gov.

Assistive Listening Devices are available upon request:

<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>

Publish: 1/5/2023 & 1/12/2023

On January 19, 2023, the Zoning Board of Appeals held a public hearing. Present at the hearing were Chair Johanna Schneider and Board Members Randolph Meiklejohn and Wadner Oge. The case was presented by the attorneys for the Petitioner, Jennifer Dopazo Gilbert and Robert Allen, RLAW P.C., 300 Washington Street, Brookline, Massachusetts. Also in attendance was the owner of Hops N’ Scotch, David Ing, and the project architect, Shane Losi, Choo & Co. Inc., 1 Billings Road, Ste 2, Quincy, Massachusetts.

Zoning Board of Appeals Chair Schneider called the hearing to order at 7:00 pm. Chair Schneider reviewed the standard hearing procedure for virtual hearings and confirmed that all Board Members and staff could visually and auditorily engage in the hearing. Attorney Dopazo Gilbert waived a reading of the published notice.

Attorney Dopazo Gilbert presented the case for Petitioner. Attorney Dopazo Gilbert stated that the property at 1306 Beacon Street, the Hops N’ Scotch restaurant, is in a G-1.75 (Coolidge Corner) District. She continued that Hops N’ Scotch, having originally opened in August of 2012, has proven to be a successful local restaurant, even during COVID. Attorney Dopazo Gilbert then stated that the pandemic had instilled in local patrons the desire to experience outdoor seating arrangements. She noted that in light of this desire, Hops N’ Scotch had arrived at the current proposal. Attorney Dopazo Gilbert stated that the restaurant, which stands near the intersection of

Waldo, Beacon, and Pleasant Streets, currently consists of two stories and 4,400 square feet. She continued that the first floor contains a kitchen, two restrooms, and bar and table seating, while the second floor contains additional bar seating, a restroom, and an emergency exit.

Attorney Dopazo Gilbert then stated that the petitioner had previously received a Special Permit in 2014 for a similar project, though she noted that the permit had expired without any changes having been made to the property. She continued that the present zoning relief was even more straightforward, adding that unlike Washington square and Beacon Street, Coolidge Corner lacks large sidewalks. Attorney Dopazo Gilbert stated that because of the relatively small space available in the neighborhood and the desire that patrons have to enjoy outdoor dining, Hops N' Scotch sought to construct a 950 square foot deck with a wooden timber pergola structure, the maximum occupancy of which would be 45 seats. She continued that new code compliant exterior stairs on the backside of the restaurant would also be added to improve the safety of occupants and to increase the efficiency of existing seating arrangements.

Attorney Dopazo Gilbert then stated that the proposal meets the special permit standards enumerated in **Section 9.05**, noting the following: 1) Specific site is an appropriate location for such use: The property is located in a G-1.75 (Coolidge Corner) General Business District. The property at 1306 Beacon Street is an allowed use in this district and is surrounded by other restaurants, small businesses, and retail establishments. The increased popularity of outdoor seating has caused some restaurants, including some in Brookline Village, to intrude on public ways, whereas the present plan would be entirely within the confines of the property at 1306 Beacon Street. 2) Use will not adversely affect the neighborhood: The additions to Hops N' Scotch will not intrude onto the narrow sidewalk in-front of the building, while ingress and egress to the restaurant will be improved. No adverse effect is expected on the neighborhood, which consists mostly of other commercial enterprises, and there is no expected conflict with nearby residents. 3)

No nuisance or serious hazard to vehicles or pedestrians: The area around the restaurant offers plentiful transportation and parking options, mitigating any impact from the restaurant's increased capacity: An MBTA station is nearby, free parking is available on Beacon and Harvard Streets, and a number of municipal lots are located a short walk away from the restaurant. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use. Among other enhancements, the project will include new hand-railings, new stairs, new ingress and egress points, and carefully maintained planters. 5) Development will not have any effect on the supply on housing available for low-and moderate-income people.

Chair Schneider then inquired into the relief that Hops N' Scotch had previously received from the Board. Attorney Allen then clarified that a roof deck for 1306 Beacon Street had been approved in 2014, but that the demand for outdoor seating at that time was not sufficient for the owner of Hops N' Scotch to perform any changes while the permit was valid. He added that after COVID, the plan for the roof deck made much more sense.

Shane Losi, the project architect, then presented the site plans to the Board. In reliance on a digital presentation, Mr. Losi discussed the immediate area around 1306 Beacon Street, noting that it consists of a mix of one- and two-story buildings. He then presented pictures of the wider Beacon Street area, providing context for the design. Mr. Losi displayed the site plans for the roof deck, to be constructed on top of the existing roof. He continued that the only planned changes to the second floor consisted of an additional bathroom, to accommodate the extra seating, and a modified ingress and egress point. Mr. Losi noted that the existing ingress and egress point was not code compliant, whereas the new design would be. He continued that the additional structure would provide some 900 square feet, adding that its occupancy was 45 seats. Mr. Losi then displayed front and rear views of the proposed design, specifically noting the planned wooden timber pergola structure, the new planters that would be visible from street-level, and the new

code-compliant ingress/egress point. He further noted that the proposed changes had been specifically located to maximize the roof deck's accessibility, as the roof of 1306 Beacon Street was uneven at certain points.

Board Member Oge then inquired as to why the proposed pergola structure did not attach directly to the second floor of the existing restaurant. Mr. Losi responded that a change in elevation on the roof of the existing restaurant necessitated separating the two, as a step or ramp would have otherwise been required within the pergola structure. Attorney Allen added that while no final plans had yet been reached for the area between the pergola structure and the restaurant, it would nevertheless be code compliant and beneficial to the neighborhood.

Board Member Oge subsequently inquired as to whether the new ingress/egress point had considered present and future development in the area. Mr. Losi responded that the ingress/egress point had, in fact, avoided an existing passageway, adding that project would be consistent with future development. Board Member Oge concluded that he found the proposal agreeable and that he would vote in favor of the proposal.

Board Member Meiklejohn, having requested that Mr. Losi portray the first-floor plans, then inquired as to the ownership of the building on top of which the roof-deck would be built. Attorney Allen responded that all of the buildings involved were owned, as they long had been, by the Banks family, who, he noted, had enjoyed having David Ing, owner of Hops N' Scotch, as a tenant. He added that the proposed design had received the blessing of the current building owners. Board Member Meiklejohn then inquired as to the building permit process for the project. Paul Campbell, Deputy Building Commissioner, stated that a single building permit for 1306 Beacon Street could be issued to grant permission for the requested changes.

Chair Schneider then called for public comments in support of or in opposition to the proposal. Evan Banks, agent of record and one of the owners of Dell Realty, stated that his family

had, in fact, owned 1306 Beacon Street and its neighboring buildings since the 1970's. He continued that he was now responsible for managing the property, which, he noted, his father had purchased in the early 1970's. Mr. Banks added that the property in question constituted one single building, thus eliminating any concerns that the permission of other property owners would be required. Mr. Banks concluded that he and his fellow owners were in favor of the project and were excited about the prospect of increasing seating for Hops N' Scotch, despite the limited space available in Coolidge Corner.

Board Member Meiklejohn stated that his questions about the ownership of the property had been satisfactorily addressed.

Chair Schneider then called upon the Planner and Zoning Coordinator, Madison Anthony, to Present the Planning Board report.

FINDINGS

§5.09.2.A – DESIGN REVIEW

A special permit is required for any outdoor use on a lot any part of which is located in the G-1.75 (CC) district or which fronts Beacon Street.

§8.02 - ALTERATION OR EXTENSION

A special permit may be granted for alterations or extensions of a non-conforming structure under the provisions of **Article IX**.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that staff believes the proposed roof deck has an attractive design at a reasonable scale. She continued that the design is unlikely to generate adverse impacts to the surrounding neighborhood and would provide customers with the choice to dine outdoors, a valued option since the start of the pandemic. Ms. Anthony further stated that in addition to the planters surrounding the deck, the outdoor seating area is well screened by the existing second floor dining room and by the existing street trees along Beacon Street. She noted that there are few residential abutters in close proximity, and the deck will only be visible to residents living on the upper floors of 1280 Beacon Street that have windows looking out over Pleasant Street.

Ms. Anthony continued that the Planning Board, therefore, voted unanimously to recommend approval of the site plan by Boston Survey Inc., PLS, dated September 16, 2022, and architectural plans by Choo & Company Inc., dated September 15, 2022, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.
2. The applicant shall maintain substantial plantings and other screening materials in the roof deck planters in good condition.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning or designee; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

Chair Schneider then called upon Paul R. Campbell, Deputy Building Commissioner, to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department had no objections to the requested relief and added that should the Board grant the requested relief, the Building Department would work with the Petitioners to ensure conformance with the Board's decision and all applicable building codes.

The Board then deliberated. Board Member Oge stated that he believed the project would be an improvement to the neighborhood, as it would allow more patrons to visit the restaurant without interfering with available parking space. He added that he found the proposed ingress/egress addition to be a valuable improvement for public safety. Board Member Oge concluded by voting in favor of the proposed design.

Board Member Meiklejohn stated that he believed the proposal met the standards for design review under **Section 5.09.2(a)**. He continued that he appreciated that the design would add restaurant seating without intruding onto existing sidewalk or parking areas. Board Member

Meiklejohn also expressed relief that the restaurant’s seating arrangement would not interfere with Beacon Street’s bike lane, which, he noted, had been forced to merge with regular vehicle traffic as a result of expanded outdoor seating. He concluded that he, too, would vote in favor of the proposal.

Chair Schneider then remarked that she had previously supported the proposal when it had last been reviewed by the Board, as she believed it was a great idea to provide roof-top dining to patrons of the restaurant. She noted that the present design was even more appealing and wished luck to the owner of Hops N’ Scotch. Chair Schneider concluded that she would also vote in favor of granting the belief.

The Board then determined, by unanimous vote, that the proposal, as required by **Section 5.09.2.a**, met the requirements for a special permit under design pursuant to **Section 9.05**.

In addition, the Board made the following specific findings under **Section 9.05** based on the evidence submitted at the hearing and the Board’s deliberation:

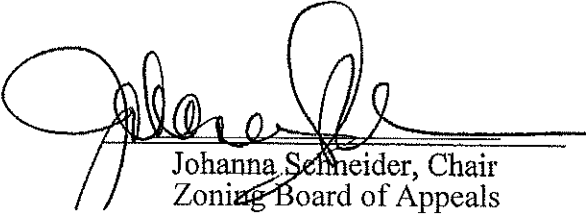
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low- and moderate-income people.

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

1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.

2. The applicant shall maintain substantial plantings and other screening materials in the roof deck planters in good condition.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning or designee; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals



Johanna Schneider, Chair
Zoning Board of Appeals

Filing Date: 3/8/23

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals