



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

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TOWN OF BROOKLINE

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BOARD OF APPEALS  
CASE NO. 2013-0039  
**Owner: Coolidge Corner Associates, LLC**

Petitioner, Steve Peljovich, applied to the Building Commissioner for permission to extend the capacity of his restaurant from 12 to 24 seats. The application was denied and an appeal was taken to this Board.

On April 4, 2013 the Board met and 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 June 13, 2013 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its 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 May 30 and June 6, 2013 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. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:**

Petitioner: Steve Peljovich

Owner: Coolidge Corner Associates, LLC

Location of Premises: 256 Harvard Street

Date of Hearing: **June 13, 2013**

Time of Hearing: **07:00 p.m.**

Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor.**

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A public hearing will be held for a variance and/or special permit from

- 1. 6.01.2; General Regulations Applying to Required Off-Street Parking Facilities**
- 2. 6.02, Paragraph 1; Table of Off Street Parking Space Requirements**
- 3. 6.02.1.b; Off Street Parking Space Regulations**

Of the Zoning By-Law to increase capacity from 12 to 24 seats.

At 256 Harvard Street

Said Premise located in a G-1.75(CC) (General Business) Business district.

*Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.*

***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 programs and services of the Town of Brookline are invited to 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 e-mail [atrsneirson@brooklinema.gov](mailto:atrsneirson@brooklinema.gov)***

**Jesse Geller  
Christopher Hussey  
Jonathan Book**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members, Jonathan Book and Mark Zuroff.

Derek Choi, architect, business address 380 Harvard Street, Brookline, presented the case for the petitioner.

Mr. Choi described the property, 256 Harvard Street, as currently occupied by Michael's Deli. The property is located in Coolidge Corner, and is on the southwest corner at the intersection of Harvard and Beacon Street. The building is a one-story commercial structure with stone, metal and glass storefronts on both Beacon and Harvard Street.

Mr. Choi said his client is proposing to expand the seating in the deli from 12 to 24 total seats. The increased number of seats will reduce the customer walking/standing area by roughly two feet. No exterior changes are being proposed to accommodate this increase. Mr. Choi said the restaurant currently has one accessible bathroom. Steve Peljovich said the extent of work consists of adding new tables and chairs.

Chairman Geller asked if there is a need for employee parking. Mr. Peljovich said no because most of his employees are commuters. Mr. Peljovich went on to say the new seating will better accommodate the line that forms inside the store. He said most people will leave and not purchase food if they cannot sit down. He said most of his clients arrive via public transit or walk.

Board Member Book asked where the recycling area, cited in the plans to be removed, was going to go. Mr. Choi said it will remain, but will be modified to accommodate the new seats. Mr. Zuroff asked if there would be enough room to maneuver within the restaurant with the addition of the seats. Mr. Choi said, as proposed, the interior meets all the building code requirements.

Ms. Hayes said the Planning Board is supportive of the applicant's proposal to increase the number of seats in the restaurant from 12 to 24. The applicant is currently required to have 2 parking spaces that serve the restaurant. The increased number of seats requires two additional spaces, which is a total of 4 spaces to serve the restaurant. The addition of 12 seats is not anticipated to have an impact on parking in the area due to the proximity of public transit, and the general nature of pedestrian foot traffic in Coolidge Corner.

**Therefore the Planning Board recommends approval of the proposal and the floor plan by XChange Architects, LLC, dated 3/1/13, subject to the following conditions:**

1. Prior to the issuance of a building permit, a final floor plan indicating all table locations, including total square footage, shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final floor plan stamped and signed by a registered engineer or architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the relief requested can be granted by special permit. He said the petitioner has been a pleasure to work with and this relief would allow the business to remain competitive. Mr. Yanovitch said the Building Department does not have any objections to the request for relief.

The Chairman asked if anyone in attendance wished to speak in favor to the petition. No one spoke in favor of the petition. The Chairman asked if anyone wished to speak in opposition to the petition. No one spoke in opposition.

The Chairman called upon Lara Curtis Hayes, Planner, to deliver the comments of the Planning Board.

**FINDINGS**

**Section 6.01.2– General Regulations Applying to Required Off-Street Parking Facilities**

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

**Section 6.02.1.b – Off Street Parking Space Regulations**

The Board of Appeals shall consider the following items when waiving parking spaces.

1. The operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements
2. The peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area
3. The need for and provision of employee parking
4. The availability and/or shortage of existing public parking and transit facilities in the area

Design of Parking Requirements	Required	Existing	Proposed	Relief
<b>Total Parking Spaces</b>	5	0	0	Special Permit*

\* Under **Section 6.02.1.b**, the Board of Appeals may waive 10 parking spaces or 50% of the increased parking requirement, whichever is greater, by special permit.

The Board deliberated on the merits of special permit relief. The Board determined that the requirements necessary for the grant of a special permit granting relief from the provisions of Sections 6.01 and 6.02 paragraph 1 of the Zoning By-Law pursuant to Sections 6.02.1.b and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not 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.

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

1. Prior to the issuance of a building permit, a final floor plan indicating all table locations, including total square footage, shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final floor plan stamped and signed by a registered engineer or architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

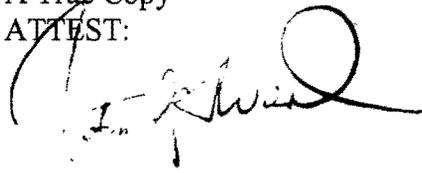
Unanimous Decision of

The Board of Appeals

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TOWN OF BROOKLINE  
TOWN CLERK  
Filing Date: July 25, 2013  
2013 JUL 25 P 12:48

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:



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Patrick J. Ward  
Clerk, Board of Appeals