



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair

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. 2012-0042

Petitioner, Nadide Gurel, applied to the Building Commissioner for permission to expand the capacity of the restaurant at 1002 Beacon Street. The application was denied and an appeal was taken to this Board.

On June 28, 2012, 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 July 26, 2012, at 7:15 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 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 **July 12 and 19, 2012**, 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: NADIDE GUREL
Owner: NADIDE GUREL

Location of Premises: **1002 Beacon Street**
Date of Hearing: **July 26, 2012**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th Floor**

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

1. **6.02; Table of Off-Street Parking Requirements, variance required**
2. **6.02.1.b; Of Off-Street Parking Requirements, special permit required**
3. **8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to construct an addition in the rear yard and move a bulkhead to the side yard of their home at **1002 BEACON STREET**

Said Premise located in a L-1.0 (Local 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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller**

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. The case was presented by the Attorney for the petitioner, Robert L. Allen, Jr., of 300 Washington Street, 2nd floor, Brookline, MA 02445.

Attorney Allen explained that he represented the Petitioner, Nadine Gurel, who was not able to attend. Ms. Gurel has owned the property since 1974 and has been running a business there ever since, most recently as Ginza. She is looking to retire and found a strong tenant in Gyu Kaku Restaurant to

lease the space. Attorney Allen introduced the architect for the restaurant, Mark Hershman, and explained that Gyu Kaku is a very popular Japanese BBQ restaurant specializing in food that's grilled by the diner at the table over an inlaid grill, and the goal is to make 1002 Beacon Street its twenty-third location in the United States and first in Massachusetts.

Attorney Allen described 1002 Beacon Street as being a corner lot at the intersection of Beacon Street and St. Mary's Street. The building houses both residential units and the former Ginza Restaurant located on Beacon Street with a Laundromat behind it with a St. Mary's Street entrance. The building has a second story that is setback from Beacon Street, and there are terraces for the residential units above the restaurant. There is no off-street parking on the site. The proposal is to enlarge the existing restaurant at 1002 Beacon Street by expanding into the adjacent Laundromat. The existing restaurant is 2,359 square feet and has ninety-nine seats. The proposal is to enlarge the restaurant by an additional 1,050 square feet, reduce the number of seats in the existing restaurant to ⁹⁷ninety-seven, and add an additional ⁵⁸fifty-eight seats in the new area in the former Laundromat. Mark Hershman, the project Architect, gave a detailed presentation of the layout of the restaurant.

Board Member Zuroff questioned where employees would be parking. Attorney Allen reminded the Board that the Petitioner was cited under Section 8.02.2 of the Zoning By-Law (Alteration or Extension) and Section 6.02 of the Zoning By-Law (Off Street Parking). Attorney Allen explained that Public Assembly uses in L-1.0 Districts require one parking space per every four seats. The existing restaurant has ninety-nine seats and requires twenty-five parking spaces, thereby creating a theoretical parking credit of twenty-five spaces. The existing Laundromat, as a retail use, has a theoretical parking credit of 5 parking spaces, bringing the total theoretically credited parking spaces for the commercial uses on the lot to thirty spaces. The additional fifty-six seats proposed for the expanded restaurant require fourteen parking spaces, less the five parking spaces credited, for a total new requirement of nine

additional parking spaces. Attorney Allen suggested that under Section 6.02.1.b of the Zoning By-Law, the Board of Appeals, by *Special Permit* may waive up to 10 parking spaces for any increased parking requirement when a change or expansion of a non-residential use in a business district is proposed. Mr. Allen stated that the Petitioner qualifies for relief under this Section of the Zoning By-Law and the applicant is requesting a waiver of nine parking spaces.

Attorney Allen submitted that the elements of a special permits have been met for the following reasons: (a) the specific site is an appropriate location for such a use, structure, or condition as this is a business district with numerous other restaurants surrounding it; (b) the use as developed will not adversely affect the neighborhood as is evidenced by the full support of Planning Board with no opposition by the neighborhood and, in fact, extension of the restaurant will be more beneficial to the neighborhood than the Laundromat, which mainly served the student population outside the Town line, and the Applicant has agreed to implement a subsidized employee T-pass program to minimize employee parking and traffic, which has proved successful in the past; (c) there will be no nuisance or serious hazard to vehicles or pedestrians, already evidenced by the numerous restaurants in this location ; and (d) adequate and appropriate facilities will be provided for the proper operation of the proposed use. Mr. Allen Also noted that there is parking available on Beacon Street within a block or two, the location is easily accessible by public transportation and it is anticipated that the restaurant will be frequented on foot by the neighboring community. As a result Attorney Allen asked the Board to issue the requested relief by Special Permit. Chairman Geller asked whether anyone in attendance wished to speak in favor of or against the proposal. No one spoke.

Lara Curtis Hayes, Senior Planner delivered the findings of the Planning Board.

FINDINGS

Section 6.02 – Table of Off-Street Parking

Public Assembly uses in L-1.0 Districts require 1 parking space per every four seats. The existing restaurant has 99 seats and requires 25 parking spaces, thereby creating a theoretical parking credit of 25 spaces. The existing Laundromat, as a retail use, has a theoretical parking credit of 5 parking spaces, bringing the total credited parking for the commercial uses on the lot to 30 spaces. The additional 56 seats require 14 parking spaces, less the 5 parking spaces credited, for a total new requirement of 9 additional parking spaces.

Section 6.02.1.b – Off-Street Parking Space Regulations

The Board of Appeals, by *special permit* may waive up to 10 parking spaces for any increased parking requirement when a change or expansion of a non-residential use in a business district is proposed. The applicant is requesting 9 parking spaces to be waived. *Special permit required.*

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use.

Ms. Curtis Hayes, reported that the Planning Board is supportive of this proposal. This property has continuously been used as a restaurant without any parking since 1972. Although the new restaurant will be larger and have more seats, the property is located in a very pedestrian friendly location and there is wide availability of public transit and street parking. As such, the additional fifty-six seats are not anticipated to generate a substantial amount of new traffic and there should be no detriment to the neighborhood caused by additional patrons. Finally, in order to reduce the amount of long term parking needed by employees, the Planning Board recommends the restaurant implement a subsidized employee T-pass program.

Therefore, the Planning Board recommends approval of the application for a special permit to waive 9 parking spaces and plans by MSH Architecture, dated 6/29/2012, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final floor plan indicating the total number of seats proposed subject to the review and approval of the Assistant Director of Regulatory Planning.
2. The restaurant's management shall implement an employee T-pass program, where management subsidizes at least 50 percent of the cost of monthly subway and bus T-passes for all of the restaurant's employees.
3. 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 site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, for the report from the Building Department. Mr. Yanovitch stated that the Building Department is supportive of this proposal and felt that the location could handle the additional capacity, and that should the Board grant the requested relief, that he would ensure that the project is completed in accordance with the approved plans and the requirements of the State Building Code.

The Board, having heard all the testimony, deliberated on the merits of the application and having considered the foregoing testimony, concluded that it is desirable to grant the Special Permits as requested and that the petitioner has satisfied the requirements necessary for relief as outlined by Attorney Allen. Chairman Geller stated that 6.02.1.b was meant to encourage this type of use in a local business district. Also, the Board made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- 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, the applicant shall submit a final floor plan indicating the total number of seats proposed subject to the review and approval of the Assistant Director of Regulatory Planning.**

2. The restaurant's management shall implement an employee T-pass program, where management subsidizes at least 50 percent of the cost of monthly subway and bus T-passes for all of the restaurant's employees.

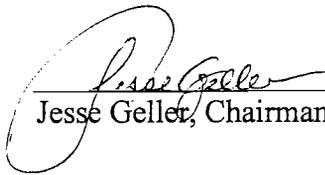
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1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

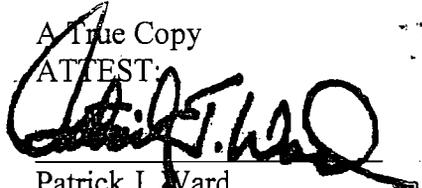
Unanimous Decision of
The Board of Appeals

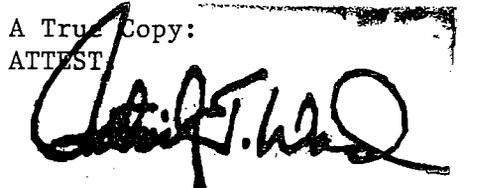
RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
AUG 10 2012

Filing Date: August 10, 2012


Jesse Geller, Chairman

Twenty days have elapsed
and no appeal has been filed.

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals

A True Copy:
ATTEST:

Patrick J. Ward
Town Clerk

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