



PLANNING DIVISION
Planning & Community Development

AMENDMENT TO DECISION
March 7, 2023

MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT

Sai Restaurant Inc., dba Masala Art
990 Great Plain Avenue, Needham, MA 02492

Application No. 2002-02

(Original Decision dated June 25, 2002, amended April 1, 2003 and December 7, 2004)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Sai Restaurant Inc., dba Masala Art, (hereinafter referred to as the Petitioner) for property located at 990 Great Plain Avenue, Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 64 containing 8,326 square feet in the Center Business Zoning District.

This decision is in response to an application submitted to the Board on February 7, 2023, by the Petitioner to amend the decision by the Board dated June 25, 2002, amended April 1, 2003 and December 7, 2004. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 2002-02, Section 4.2; and (3) a Special Permit Amendment under Section 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit 44 outdoor seats by Masala Art abutting the municipal parking lot and within the parking spaces of the private parking lot from April 1 through October 31. The original permit for the restaurant at this location permitted a one hundred (160) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter where the service was provided solely indoors. The original permit further limited the restaurants operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 70 of the 160 seats allocated for table dining. At all other times, the Petitioner was able to utilize all of the 160 seats allocated for table dining.

The outdoor dining proposed is seasonal running from April 1 through October 31. The private parking lot (7 parking spaces located behind the subject restaurant at 990 Great Plain Avenue) upon which the seating is to be located is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002, required that the 5 parking spaces located on the private lot be available to service all uses within the commercial building located at 990-994 Great Plain Avenue, Needham.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be

published, posted, and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order by the Chairperson, Adam Block on Tuesday, February 28, 2023 at 7:30 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Artie Crocker, and Natasha Espada were present throughout the February 28, 2023 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1- Application for the Amendment to 2002-02 and application under Section 6.9 of the Zoning By-Law, dated February 7, 2023.
- Exhibit 2 - Plan entitled "Outdoor Seating Plan, Masala Art" prepared by Form + Place, PO Box 610016, Newton Highlands, MA 02461, Sheet A-2.01, entitled "Seating Plan," dated January 13, 2023.
- Exhibit 3 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated February 13, 2023; IDC to the Board from Tom Ryder dated February 22, 2023; IDC to the Board from Chief Dennis Condon, Fire Department, dated February 21, 2023; IDC from Chief John Schlittler, Police Department, dated February 8, 2023; and IDC from Dave Roche, Building Commissioner, dated February 22, 2023 .

Exhibits 1 and 2 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2002-02, dated June 25, 2002, amended April 1, 2003 and December 7, 2004, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 2002-02, dated June 25, 2002, amended April 1, 2003 and December 7, 2004, be amended to permit 44 outdoor seats by Masala Art abutting the municipal parking lot and within the parking spaces of the private parking lot from April 1 through October 31.
- 1.2 The original permit for the restaurant at this location permitted a one hundred (160) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter where the service was provided solely indoors. The original permit further limited the restaurants operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 70 of the 160 seats allocated for table dining. At all other times, the Petitioner was able to utilize all of the 160 seats allocated for table dining.
- 1.3 The Petitioner is now requesting at this location a two-hundred four (204) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter during the outdoor dining season running from April 1 through October 31 distributed as follows: one hundred sixty (160) seats are to be available for indoor table dining and forty-four (44) seats are to be available for outdoor table dining. The Petitioner further proposes to continue to limit the restaurants indoor table operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 70 of the 160 seats allocated for table dining. At all other times, the Petitioner would utilize all of the 160 seats allocated for indoor table dining. The restaurant would return to the seating plan

contained within the original permit decision from November 1 through March 31 as described in Section 1.2 above.

- 1.4 Under the By-Law, the parking requirement for a 160-seat restaurant with one take-out station is 64 parking spaces (1 parking space per 3 seats = 53.33 rounded up to 54, plus 10 parking spaces per takeout station). The Petitioner secured a waiver to reduce the number of required on-site parking spaces for the 160-seat restaurant use from 45 spaces to 0 spaces (the total of 64 required parking spaces minus the parking requirement of the previous use, which was 19 spaces) under the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002.
- 1.5 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking for the seating plan proposed during the outdoor dining season running from April 1 through October 31. Under the By-Law, the parking requirement for a 160-seat restaurant with one take-out station is 64, as described above in Section 1.4. The original decision limited the seating during the midday hours to 70 seats. Under the By-Law, the parking requirement for a 70-seat restaurant with one take-out station is 34 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 70 seats is 24 seats. As the Petitioner is requesting 44 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Twenty-four (24) seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 20 seats, which is a waiver of 7 additional parking spaces. Accordingly, a waiver of the original 64 spaces plus the new waiver of 7 spaces for a total of 71 parking spaces has been requested during the outdoor dining season running from April 1 through October 31. No parking is provided on-site.
- 1.6 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed-use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.7 The Petitioner has requested to revise Section 3.1 of the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002, from the previous: “The use of the subject property shall be that of a one hundred sixty (160) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory to full-service restaurant shall be permitted.” to now say “From November 1 through March 31 the use of the subject property shall be of a full-service restaurant of no more than one hundred sixty (160) seats serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory use to a full-service restaurant shall be permitted. Notwithstanding the above, from April 1 through October 31 a total of two-hundred four seats (204) are permitted as follows one hundred sixty (160) seats are to be available for indoor dining and forty-four (44) seats are to be available for outdoor dining.”
- 1.8 The Petitioner has requested to revise Section 3.2 of the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002, from the previous: “The restaurant shall contain no more than 160 seats for on-site food consumption and one take-out station.” To now say “The restaurant shall contain no more than 160 indoor seats and 44 outdoor seats for on-site food consumption and one take-out station.”

- 1.9 The Petitioner has requested to revise Section 3.3 of the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002, from the previous: “The Petitioner shall limit the restaurant operation during the weekday lunch time period (11:00 a.m. - 2:00 p.m.) to seventy (70) of the one hundred sixty (160) total seats. At all other times, the Petitioner may utilize all one hundred sixty (160) of the permitted seats. to now say “The Petitioner shall limit the restaurant operation during the weekday lunchtime period (11:00 a.m. - 2:00 p.m.) to 70 of the 160 total indoor seats. From April 1 through October 31, the Petitioner may additionally utilize 44 seats allocated for outdoor table dining.”
- 1.10 No changes to the interior of the restaurant are proposed by this application.
- 1.11 The Petitioner appeared before the Design Review Board on February 27, 2023 and obtained approval for the project.
- 1.12 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.13 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit No. 2002-02, issued by the Needham Planning Board on June 25, 2002, amended April 1, 2003 and December 7, 2004, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2002-02, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner

before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2002-02 dated June 25, 2002, amended April 1, 2003 and December 7, 2004, are ratified, and confirmed except as modified herein.

- 3.1 A total of 44 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through October 31.
- 3.2 The 5 parking spaces located on the private lot upon which the outdoor dining seating is to be located shall be available to service the building located at 990 Great Plain Avenue, Needham, MA, during the off-season months of November 1 through March 31.
- 3.3 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.4 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of “Jersey barriers” as provided by the Town. If said barriers are no longer available, the Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.
- 3.5 Section 3.1 of the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002 is revised to say: “From November 1 through March 31 the use of the subject property shall be of a full-service restaurant of no more than one hundred sixty (160) seats serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory use to a full-service restaurant shall be permitted. Notwithstanding the above, from April 1 through October 31 a total of two-hundred four seats (204) are permitted as follows one hundred sixty (160) seats are to be available for indoor dining and forty-four (44) seats are to be available for outdoor dining.”
- 3.6 Section 3.2 the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002 is revised to say: “The restaurant shall contain no more than 160 indoor seats and 44 outdoor seats for on-site food consumption and one take-out station.”
- 3.7 Section 3.3 the Original Major Project Site Plan Special Permit Decision No. 2002-02, dated June 25, 2002 is revised to say: “The Petitioner shall limit the restaurant operation during the weekday lunchtime period (11:00 a.m. - 2:00 p.m.) to 70 of the 160 total indoor seats. From April 1 through October 31, the Petitioner may additionally utilize 44 seats allocated for outdoor table dining.”
- 3.8 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions, or other agencies, including, but not limited to, the Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.9 No portion of the outdoor dining area, subject to this Amendment, shall be occupied and utilized by the Petitioner until there shall be filed with the Board documentation of a satisfactory inspection by

the Building Commissioner of the as-built condition and the Commissioner certification of the project's compliance with the terms of this Decision.

- 3.10 No other changes were requested nor are permitted through this amendment.
- 3.11 This Site Plan Special Permit Amendment shall lapse on March 7, 2025, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 7, 2025. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 7th day of March, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairman

Jeanne S. McKnight

Natasha Espada

Artie Crocker

Paul S. Alpert

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2023

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Sai Restaurant Inc., dba Masala Art, for Property located at 990 Great Plain Avenue, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Sai Restaurant Inc., dba Masala Art

Board of Health
Director, PWD
Design Review Board