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PLANNING DIVISION
Planning & Community Development

**AMENDMENT TO DECISION
February 1, 2022**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Sol Soul Family Foods LLC
974 Great Plain Avenue, Needham, MA 02492
Application No. 2006-04**

(Original Decision dated December 5, 2006, amended January 16, 2007, March 6, 2007
And transferred on April 11, 2016 and amended June 4, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria (hereinafter referred to as the Petitioner) for property located at 974 Great Plain Avenue, Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 63 containing .45 acres in the Center Business Zoning District and the Needham Center Overlay District, Sub-District A.

This decision is in response to an application submitted to the Board on December 23, 2021, by the Petitioner to amend the decision by the Board dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019. 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. 2006-04, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 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 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot and within the maneuvering space of the private parking lot. The private parking lot (located behind the subject restaurant at 974 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.

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, Paul S. Alpert on Tuesday, January 18, 2022 at 7:30 p.m. by Zoom Web ID Number 826-5899-3198. The hearing was continued to February 1, 2022 at 7:00 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the January 18, 2022 and February 1, 2022 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 2006-04 and application under Section 6.9 of the Zoning By-Law, dated December 23, 2021 and January 4, 2022 respectively.
- Exhibit 2 - 2 sheets prepared by Scott Melching Architect, page 1, showing "Photos of Exterior Seating," dated December 9, 2021; page 2, showing "Exterior Seating Plan," dated December 9, 2021.
- Exhibit 3 - Plan entitled "Plan of Land, Chestnut Street", prepared by BSC Group, 425 Summer Street, Boston, MA, dated January 15, 1999, recorded in the Norfolk County Registry of Deeds as Plan No. 517 of 1999, Plan Book 467.
- Exhibit 4 "Easement Deed," Simon II Associates Limited Partnership grants to the Town of Needham, dated May 22, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 222.
- Exhibit 5 - "Easement Deed," Town of Needham grants to Simon II Associates Limited Partnership, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 226.
- Exhibit 6 - "Easement Deed," William Barrett grants to the Town of Needham, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13776, Page 555.
- Exhibit 7 - Email from Bernie Segaloff, dated January 13, 2022.
- Exhibit 8 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated January 12, 2022; IDC to the Board from Tom Ryder dated January 13, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated January 5, 2022; IDC to the Board from Chief John Schlittler, dated January 6, 2022.

Submitted for the Board's review following the close of the public hearing was the following exhibit:

- Exhibit 9 - 2 sheets prepared by Scott Melching Architect, page 1, showing "Photos of Exterior Seating," dated February 8, 2022; page 2, showing "Exterior Seating Plan," dated February 8, 2022.

Exhibits 1, 3, 4, 5, 6, and 9 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019 be amended to permit 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot (within the easement area shown as Easement B on Plan A recorded with Exhibit 4) and within the maneuvering space of the private parking lot.

- 1.2 The parking lot (located behind 974 Great Plain Avenue) is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Town has independently sought an amendment to the permit on the Chestnut Street parking lot to allow for outdoor dining to occur on parking spaces previously dedicated to municipal parking.
- 1.3 The original permit for the restaurant at this location permitted sixty-four (64) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter.
- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence to the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a restaurant is 1 parking space per 3 seats. 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. 30% of 64 seats is 19.2 (rounded down to 19) seats. As the Petitioner is requesting 33 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. 19 seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 14 seats, which is a waiver of 5 additional spaces.
- 1.5 No changes to the interior of the restaurant are proposed by this application.
- 1.6 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center 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.
- 1.7 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 issued by the Needham Planning Board on December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2006-4, Section 4.2; subject to 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 Inspector

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 Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector 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 Inspector 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. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 33 outdoor dining seats as shown in the plans as detailed in Exhibit 9 of the Decision are hereby approved for use year-round each year, within the easement area shown as Easement B on Plan A recorded with Exhibit 4.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 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.
- 3.4 Exercise of the rights under this permit are subject to approval by the Select Board as the holder of the parking lot easement at the affected property. See Exhibits 3-5 above.
- 3.5 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.
- 3.6 No other changes were requested nor are permitted through this amendment.

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 1st day of February, 2022.

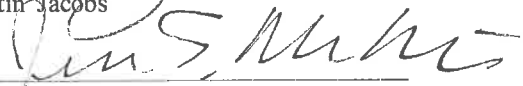
NEEDHAM PLANNING BOARD


Paul S. Alpert, Chairman


Adam Block


Natasha Espada


Martin Jacobs

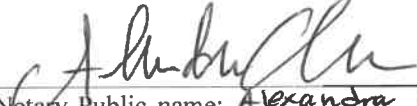

Jeanné S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Feb. 11 2022

On this 11 day of Feb., 2022, before me, the undersigned notary public, personally appeared Martin Jacobs, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known, 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: Alexandra Clee
My Commission Expires: March 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria, for Property located at 974 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 Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Ivan Millan Pulecio, Chef, Co-Owner

Board of Health
Director, PWD
Design Review Board
Robert Craig, Sol Soul Foods LLC