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**TOWN OF NEEDHAM  
MASSACHUSETTS  
BOARD OF APPEALS**

**SPECIAL PERMIT &  
SPECIAL PERMIT AMENDMENT**

***Gordon's Fine Wines of Needham, Inc., Applicant  
150 Gould Street  
Map 79, Parcel 10***

***October 20, 2022***

Gordon's Fine Wines of Needham, Inc, applied to the Board of Appeals seeking relief for the following: a) Special Permit Amendment under Sections 3.2.1 for a retail establishment serving the general public and containing 5,750 or more gross square feet of floor area; b) Special Permit pursuant to Section 3.2.1 for a lawful purpose or special use not enumerated elsewhere in the Zoning By-Law; c) Special Permit pursuant to Section 3.2.1 for more than one non-residential use on a lot; d) Special Permit pursuant to 5.1.1.5, 5.1.2, 5.1.3 for waivers of strict adherence with parking and parking plan and design requirements; and any other applicable Sections of the By-Law. This application is in connection with the Applicant's planned use of one-half of the building for its logistics and retail distribution and planning facility. A public hearing was held remotely on Zoom, on Thursday, October 20, 2022 at 7:45p.m.

***Documents of Record:***

- Application for Hearing, dated July 18, 2022, Clerk stamped September 23, 2022.
  - Exhibit A – Letter authorizing application Renco Investments Associated, Limited Partnership, signed by Walter Angoff, President, dated September 21, 2022.
  - Letter from Michael Baker, Bakers' Best, dated June 22, 2022.
  - Plans Permit Set (A0.0-A0.1, A1.1-A1.2) prepared by Concise Design, dated May 2, 2022.
- 150 Gould Street – Interior Layout Plan, prepared by Jillson Company, Inc, dated July 9, 2019.
- Letter from David Roche, Building Commissioner dated October 11, 2022.
- Letter from Thomas Ryder, Assistant Town Engineer, October 11, 2022.
- Email from Tara Gurge, Assistant Public Health Director, October 11, 2022.
- Email from Tom Conroy, Chief of Department, Fire Department, September 29, 2022.
- Email from John Schlittler, Chief of Police, September 29, 2022.

- 150 Gould Street, ZBA Special Permit, March 23, 2006.
- 150 Gould Street, ZBA Special Permit Amendment, August 17, 2006.
- 150 Gould Street, ZBA Special Permit Amendment, October 19, 2006.
- 150 Gould Street, ZBA Special Permit Amendment, December 21, 2006.
- 150 Gould Street, ZBA Special Permit Amendment, July 11, 2019.
- 150 Gould Street, ZBA Special Permit Amendment, September 17, 2020.
- 150 Gould Street, ZBA Special Permit Amendment, August 10, 2022.
- Gordon's Fine Wines of Needham – Package Store License March 2022.

### **October 20, 2022**

The Board included Jon D. Schneider, Chair; Howard S. Goldman, Member and Peter Friedenbergl, Associate Member. Also participating was Nik Ligris, Associate Member. Mr. Tamkin, Vice-Chair, was present but recused himself as a voting member. Mr. Schneider opened the hearing at 8:36 p.m. by reading the public notice.

George Giunta, Jr., representing the Applicant, introduced Rob Muller of Bakers' Best ("Bakers") and Dave Gordon of Gordon's Fine Wines of Needham, Inc. ("Applicant"). He reported that the property was located in the Industrial 1 zoning district containing a 20,450 square foot, one-story building built in 1969. The building contains two-tenant spaces of approximately 10,000 square feet each. United Refrigeration occupied one space in 2003 selling HVAC parts and equipment. There were some retails sales, but the majority of sales involved deliveries to work sites. A large portion of the United space was used as a warehouse. In 2006, Bakers moved its commercial commissary operations with deliveries to clients in the other unit at the building. Bakers business grew appreciably. When United Refrigeration vacated its unit in 2019, Bakers applied for and was granted a Special Permit Amendment dated July 11, 2019 to expand into the entire building. Bakers lost 80% of its business due to the pandemic and did not expand into the vacant unit.

Bakers added an accessory take-out business, first through a temporary permit allowed from the Select Board and then for a two-year period provided by a Special Permit Amendment granted by the Board dated September 17, 2020. Prior to this period Bakers did not offer take-out. The Board extended the Special Permit Amendment on September 15, 2022 allowing take-out for an additional 18-month period.

Mr. Giunta indicated that the owners of the Applicant ("Gordon Family") have acquired the building with the associated parking. It will be acquiring Bakers within 30-60 days. Eventually the Gordon Family will own both businesses located at 150 Gould Street. The Applicant will sublease from Bakers the vacant space formerly occupied by United Refrigeration to operate the Logistics and Retail Distribution and Planning Facility ("Facility").

The Gordon Family operates four full liquor stores. The original store in Waltham was established in 1934. They currently have two locations in Waltham, one in Watertown and one in Newton. They also have an on-line business selling fine wines and food.

The Applicant obtained a liquor permit from the Select Board in May 2021. The proposed Facility will consist of three physical areas: offices, warehouse and retail/consultation space.

These areas will support remote order and delivery; and consultation regarding fine wines and food.

**Remote Orders/Deliveries:** Orders will be received remotely. The orders will be shipped from the warehouse area directly to the customers via four delivery vans. Over half of the space will be used for product storage. The vans will depart from 9:30a.m.-10:00 a.m. six days a week. The vans will be out all day and return around 3:00p.m.

**Retail/Consultation:** The retail/consultation space will support the curation and selection of product for events. 624 square feet is planned for tastings by appointment. This is not for retail sales to the public. However, anyone can make an appointment to taste, select and buy product. The appointments will be scheduled after 3:00p.m., with the majority between 4:00p.m. to 6:00p.m. Customers may sample selections and buy small quantities to evaluate elsewhere. There will be offices where consultations can be held by phone, zoom or in person.

Although only 624 square feet will be used for retail consultation and sales, some selections may be pulled from the warehouse area. A Special Permit for a retail business is required.

The Facility will be in operation Monday through Saturday, 9:00a.m. to 6:00p.m. There will be a maximum of four to six employees on site, plus delivery employees. There will be a maximum of four to six customers per day.

Four parking spaces will be allocated for the four vans and the van drivers.

Mr. Giunta noted that United Refrigeration had a similar warehouse and limited retail use as the Applicant. When Bakers applied to take over the entire building in 2019, it required 60 parking spaces.

Calculations for the combined Applicant and Bakers businesses indicate a parking requirement of 57 spaces. There are 33 parking spaces on site and 29 spaces leased by Bakers at 140 Gould Street for a total of 62 parking spaces. There are 5 spaces more than what is required. The demand with the Applicant occupying half the building is reduced from the parking needs projections made in 2019.

Mr. Giunta noted that Bakers' and the Applicant's business hours are staggered and do not operate simultaneously. Bakers business begins early and most employees leave by 3:00p.m. There is no customer traffic in the morning. The Applicant's consultation is 4:00p.m. to 6:00p.m. and does not conflict with Bakers' or the Applicant's delivery operation.

Mr. Goldman noted that Gould Street has had an increase in business in the area and wanted more information on the leased parking spaces. Mr. Giunta responded that the parking spaces at 140 Gould Street are locked up by a lease agreement as required by the Special Permit Amendment of 2019. Mr. Tamkin requested that the Board be provided a redacted copy of the lease. Mr. Schneider asked about the length of the lease. Mr. Giunta stated that the lease was for 5 years with a 5-year renewal. He will provide a copy of lease.

Mr. Mueller noted that 4,500 square feet of office space and 29 spaces are leased in a five/five year written lease at 140 Gould Street. The office space is used for training, meetings, conference, storage and new hire interviews.

Mr. Mueller will continue with Bakers and will continue to manage parking. Gordon's will not add to the parking use. Bakers has incentives for staff to use public transportation and provides a shuttle to the site. Even when Bakers had a maximum of 85 employees on the premises, no complaints from the neighbors were ever made. The Applicant has a work from home policy which may reduce the flow of people at the site.

Mr. Goldman asked about the delivery schedule for product coming to the Applicant. Mr. Giunta said the delivery schedule will be the same as Bakers. Delivery is limited to 7:00a.m. to 9:00p.m. and trash pick-up is limited to 7:00a.m. to 4:00p.m.

Mr. Tamkin inquired about the vans. Mr. Gordon said the vans are Ford Transit vans. Their deliveries last all day doing 15 to 30 stops a day. After hours they will park the vans in spaces in the back. Bakers' vans will park in the front of the building.

Mr. Ligris asked if there will be any exterior changes to the building. Mr. Gordon responded that the exterior needs upgrading, but no changes are planned to the exterior at this time. Mr. Ligris was concerned about the building looking like a liquor store. Mr. Gordon assured him it would not.

Comments received:

- The Fire Department had no concerns.
- The Police Department was concerned about the hours of operations and the impact on the neighbors, in particular about noise in the early morning and late evenings.
- The Planning Board recommends the Board confirm with the Select Board that the relevant liquor license rules and regulations have been met.
- The Health Department requires, if the Applicant plans to open a retail wine store, a Public Health Division Food Permit Plan Review and that there be sufficient parking to allow separate trash and recycling dumpsters with adequate service schedule to prevent risk of pests.
- The Building Commissioner noted that the application does not address the hours of operation and how shipping and receiving of product will be managed. He wanted to know the size of the commercial vehicles used in the operation and how they will maneuver through the parking lot to the loading area. Complaints have been received about the late night deliveries and noise coming from the building, he suggested that the Board condition the hours of operation including shipping and receiving in the decision. He also requested that the retail space be limited to 624 square feet. The trash removal schedule should be included in the decision; and the parking lot should be clearly striped for vehicles and loading areas and signage for accessible parking spaces shall be provided.
- The Engineering Department had no comment.

There were no comments from the public.

Mr. Goldman inquired about the Liquor License and whether it considered the warehouse/distribution and small retail consultation. Mr. Giunta responded that the Select Board approved the same floor plans that are included with included with the application with the same areas of use: retail, consultation and warehouse. The Applicant has to apply to the Alcohol Beverage Control Commission prior to the license being issued by the Select Board.

The license is then renewed yearly by the Select Board.

Mr. Schneider noted that the Building Commissioner's concerns have been addressed with the exception of the handicapped parking and the stripping of the parking lot. Mr. Guinta and Mr. Gordon noted there are two designated handicapped spaces and if needed the lot will be restriped and the handicapped designation will be provided.

Mr. Goldman moved to issue: a) Special Permit Amendment under Section 3.2.1 for a retail establishment serving the general public and containing 5,750 or more gross square feet of floor area; b) Special Permit pursuant to Section 3.2.1 for a lawful purpose or special use not enumerated elsewhere in the Zoning By-Law; c) Special Permit pursuant to Section 3.2.1 for more than one non-residential use on a lot; and d) Special Permit pursuant to 5.1.1.5, 5.1.2, 5.1.3 for waivers of strict adherence with parking and parking plan and design requirements conditioned upon the following:

- the retail/consultation space shall be limited to 624 square feet;
- the retail/consultation service hours of operation shall be limited from 3:00p.m. to 7:00p.m.;
- the in-person retail/consultation services shall be limited to appointment only;
- the delivery hours to the building shall be limited from 7:00a.m. to 9:00p.m.;
- trash pick-up shall be limited from 7:00a.m. to 4:00p.m.;
- the Applicant shall provide the Board with a copy of the written lease agreement for the 29 off-site parking spaces at 140 Gould Street;
- the parking lot will be restriped to clearly show vehicle parking spaces and loading zone areas;
- during the evening Gordon's delivery vans will be parked in the rear parking lot;
- per the 2019 Decision, vans will be angle parked at the loading docks and in front of dumpsters to prevent unauthorized deliveries and pick-ups outside the designated hours. The dumpsters will be locked during that period as well.

Mr. Friedenbergs seconded the motion. The motion was unanimously approved.

The meeting adjourned at 9:31p.m.

### **Findings:**

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The premises is a one-story commercial building built in 1969 containing approximately 20,450 square feet of space located in the Industrial-1 District.
2. Bakers' Best has operated a food catering business occupying half the building since the issuance of a Special Permit dated March 23, 2006. ("2006 Special Permit"). In 2006, the other half was occupied by United Refrigeration which sold parts for HVAC systems with a limited retail business conducted on the premises.
3. In 2019, the 2006 Special Permit was amended to allow Bakers' Best to occupy the entire building. United Refrigeration had vacated the premises. The 2019 Special Permit superseded the 2006 Special Permit and required Bakers' Best to acquire and keep the right to park 29 vehicles on an adjacent property. It also required that Bakers' Best continue a shuttle system for employees from public

transportation. Due to adverse effects of Covid, Bakers' Best never occupied the second half of the building as authorized by the 2019 Special Permit.

4. In 2020, the 2019 Special Permit was amended to allow limited retail sales from the premises through October 31, 2022. In a Decision dated September 15, 2022, the Board extended the authorization for retail sales through April 25, 2024.
5. The Applicant intends to acquire ownership of Bakers' Best in 30-60 days and to continue its catering business. In a Decision dated August 10, 2022 the Board authorized the transfer of the 2019 Special Permit to the Applicant upon completion of the acquisition.
6. The owners of the Applicant have been in the liquor business since 1934 and operate four retail locations in Waltham, Watertown and Newton. The locations sell culinary products and have an active internet business for the sale of wines and food. In 2021, the Select Board issued the Town's last available full retail liquor license to the Applicant.
7. The Gordon Family who own the Applicant has acquired ownership of the premises through G4 150 Gould Street, LLC.
8. The Applicant proposes to occupy the half of the building formerly occupied by United Refrigeration as a "Logistic, Retail Distribution and Planning Center". Baker's Best will continue to occupy the other half of the building.
9. The Applicant proposes to use approximately 7000 square feet as a warehouse, 3000 square feet for offices and 624 square feet for consultation with customers.
10. The Applicant's principal business will be the acceptance of remote orders received over the internet or phone with delivery to customers using four delivery vans. The vans will be loaded in the morning departing generally around 9:00pm and returning to the premises around 3:00 pm.
11. The Applicant will also provide consultation on fine wines and food for individuals and events. While much of this business will take place remotely over the phone or video conference, some will take place in person on the premises. Consultation will be by appointment only between 3:00 and 7:00 pm. Monday through Saturday. Customers will be able to taste wine and food in the 624 square feet of space designated for consultation. In some cases, customers will purchase samples or product to take home.
12. The premises has only 33 parking spaces including two handicapped spaces. There are 26 spaces in front of the building and 7 behind the building. The front spaces are not set back from the street and do not comply with design requirements as to size, maneuvering aisle, landscaping and other requirements of the By-Law.
13. Bakers' Best leases 4500 square feet of office space and 29 parking spaces on the adjacent property. Maintenance of the 29 spaces was a condition of the 2019 Special Permit. The lease runs for 5 years from 2019 with a 5 year renewal.

14. Calculation of the parking requirement under the By-law for Bakers' Best is complex because it does not fit under one of the defined categories. Depending on the method of calculation, the requirement for the half of the building to be occupied by Baker's Best is 28 to 38 spaces. Currently, the average number of employees is 22 with a maximum of 37. Many of the employees car pool or are transported by shuttle from the MBTA in Newton. Bakers' Best has always managed parking and there have been no complaints about parking in inappropriate places. Most of the employees depart by 3:00 pm. Moreover, the Applicant expects that the number of on-site employees will decrease because they will encourage office staff to work remotely.
15. The By-law parking requirement for the half of the building to be occupied by the Applicant is 19 parking spaces, calculated as follows: 7,500 s.f. warehouse space @ 1 space per 850 s.f = 9 spaces (rounded up) plus 3,000 s.f. retail, storage and office space @ 1 space per 300 s.f. = 10 spaces. The actual number of parking spaces required for the Applicant's use during normal operations is likely to be much less since there are only 6 employees on the premises and 4 delivery drivers. Consultations after 3:00 pm are not expected to exceed 6.
16. The overall requirement in the By-law for parking is a maximum of 57 (38 +19) and there are 62 available spaces, (33 on-site and 29 leased on the adjacent property).
17. The Applicant is not expanding the building. The limited parking has existed and worked for many years. The Applicant could not comply with design requirements without elimination of a large number of parking spaces. Special circumstances exist to support a waiver of the design requirements.
18. The issuance of the Special Permits requested are consistent with Section 7.1.2.5.

### Decision

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants a) Special Permit under Section 3.2.1 for a retail establishment serving the general public and containing more than 5,750 square feet of floor area, b) Special Permit under Section 3.2.1 for a special use not enumerated in the Zoning By-law, c) Special Permit under Section 3.2.1 for more than one non-residential use on a lot, and d) Special Permit under Section 5.1.1.5 waiving parking design requirements, subject to the following conditions:

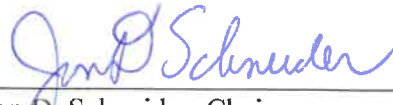
1. Retail space for consultation with customers and sale of wine and liquor is limited to 624 square feet as shown on the plans presented with the application;
2. Consultations with customers on the premises are by appointment only and between 3:00 and 7:00 pm Monday through Saturday;

3. Deliveries of wine and liquor to the Applicant are limited to between the hours of 10:00 am and 2:00 pm. Bakers' Best may receive deliveries between 7:00 am and 9:00 pm as provided in the 2019 Special Permit;
4. Trash pickup is limited to 7:00 am to 4:00 pm. The trash area shall be locked outside these permitted hours;
5. Bakers' Best or the Applicant must maintain a lease for the parking of 29 cars on the adjacent property at 140 Gould Street. The Applicant shall deliver a fully-executed copy of the current lease to the Board with economic terms redacted to the extent desired by the Applicant prior to occupancy by the Applicant. The Applicant shall further deliver to the Board fully-executed copies of any future lease for such 29 parking spaces (or any lease amendment), with economic terms redacted if desired by the Applicant, promptly after executing the same. In the event the lease terminates or neither Bakers Best nor the Applicant has the right any longer to park 29 cars on the adjacent property, the Applicant will notify the Board in writing within 30 days and promptly schedule a hearing for amendment of Special Permits granted in this Decision and the 2019 Special Permit. At such hearing, the Board shall have the right to amend any or all of the Special Permits so as to restrict the use of space so that building complies with the number of parking spaces required under the By-law;
6. The Applicant's delivery trucks will be parked behind the building at night;
7. The Applicant will re-stripe the parking spaces so that they are clearly visible to users;
8. The Applicant will manage parking so that there is no parking on the streets or at unauthorized locations; and
9. These Special Permits are personal to the Applicant and may not be transferred or assigned without the prior approval of the Board upon such notice as the Board deems appropriate. A transfer of a controlling interest in the Applicant shall be considered a transfer requiring such approval.

Failure to comply with any condition of this Decision shall be grounds for revocation of the Special Permits granted hereunder after a hearing with notice to the Applicant and such other notice as the Board shall deem appropriate.



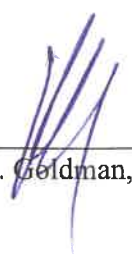
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Jon D. Schneider, Chair

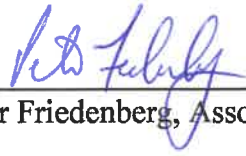
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Howard S. Goldman, Member

**SIGNATORY PAGE – 150 GOULD STREET**

A handwritten signature in blue ink, appearing to read "Peter Friedenber", is written over a horizontal line.

Peter Friedenber, Associate Member