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**TOWN OF NEEDHAM  
MASSACHUSETTS  
BOARD OF APPEALS  
SPECIAL PERMIT**

**Just Salad 669 Highland Avenue, LLC, applicant  
Mercedes Realty Trust, owner  
673 Highland Avenue  
Map 77, Parcel 10**

**July 20, 2023**

669 Highland Avenue, LLC, applicant, applied to the Board of Appeals for a Special Permit under Sections 3.2.1 for an eat-in or take-out restaurant or other eating establishment; 5.1.1.5, 5.1.2 for waiving strict adherence with off-street parking requirements; 5.1.3 for waiving strict adherence to parking plan and design requirements and any other applicable Section of the By-Law. This request is associated with the renovation and reconfiguration of the existing building for Just Salad, a fast-casual restaurant. The property is located at 673 Highland Avenue, Needham, MA in the Industrial (Ind) District. A hybrid public hearing was held in person in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, with livestream Zoom on Thursday, July 20, 2023 at 7:30 p.m.

***Documents of Record:***

- Application for Hearing, Clerk stamped June 26, 2023.
- Cover Letter prepared by George Giunta, Jr. dated June 26, 2023.
- Letter from Mercedes Realty Trust, signed by Zachary Tuck, Trustee, dated June 21, 2023.
- Memorandum in Support; prepared and signed by George Giunta, Jr. dated June 30, 2023.
- Parking Demand Assessment, prepared by Jeffrey S. Dirk, Managing Partner, Vanasse and Associates, Inc., dated June, 20, 2023.
- Proposed Renovation(s) Plot Plan and Existing Conditions Plot Plan, prepared and stamped by Christopher C. Charlton, Professional Land Surveyor, dated June 21, 2023, and June 9, 2023, respectively.
- Proposed Renovation(s) Plot Plan prepared and stamped by Christopher C. Charlton, Professional Land Surveyor, dated July 18, 2023.
- Plans:
  - Proposed Site Plan & Trash Details prepared by Just Salad, dated May 23, 2023.
  - Proposed Floor Plan, prepared by Just Salad, dated May 16, 2023.
  - Proposed Signage, prepared by Just Salad, dated May 15, 2023.

- Proposed Signage Elevations, prepared by Just Salad, dated April 21, 2023.
- Proposed Floor Plan, prepared by Just Salad, dated May 16, 2023.
- Email from Chief John Schlittler, Police Department, July 11, 2023.
- Email from Tara Gurge, Assistant Public Health Director, July 6, 2023.
- Email from Joe Prondack, Building Commissioner, July 10, 2023.
- Letter from Thomas A. Ryder, Town Engineer, July 11, 2023.
- Letter from Lee Newman, Director, Planning and Community Development, July 11, 2023.

### **July 20, 2023**

The Board included Jon D. Schneider, Chair; Howard S. Goldman, Member, and Nik Ligris, Associate Member. Mr. Schneider chaired the meeting and opened the hearing at 7:30 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that the applicant had difficulty with its proposed name when it attempted to file with the Secretary of the Commonwealth. They filed under the name: *Just Salad 669 Highland Avenue, LLC*. which is the name that should be used for the proposed Special Permits.

Mr. Giunta noted that the property has been referred to as 669 Highland Avenue; 669-671 Highland Avenue, 669-673 Highland Avenue and 673 Highland Avenue. All these designations refer to the same property. The parcel is identified on Town Assessor Map 77, Parcel 10. Mr. Giunta will use 673 Highland Avenue as the address for this project since that is the designation in the Town Assessor's Records.

The property is situated on the corners of Highland Avenue, Arbor Street and Putnam Streets. The property consists of 19,080 square feet of land with 96 feet of frontage on Highland Avenue. The property is improved by a single-story building consisting of 2,393 square feet on the first floor with a 920 square foot mezzanine and an outdoor patio. There is also a dilapidated shed at the property.

Since 1967, the property has been used and occupied for food services - International House of Pancakes (IHOP), Bickford's and Three Squares. Since the closure of Three Squares in the Fall of 2020 the interior has remained unchanged and is ready for food service use. Currently the parking lot has been leased on a temporary basis to Temple Beth Shalom.

The Board issued a Decision to Three Squares in 2014 (*669-673 Highland Avenue – Special Permit – June 19, 2014*) to allow the addition of a patio for 26 outdoor seats with a waiver of parking number and design requirements. When the IHOP was constructed in 1967, the property was located in a Manufacturing District, in which restaurants were allowed. The zoning was later changed to require a special permit for restaurants and the IHOP use became non-conforming.

The new tenant, *Just Salad*, will continue the food services use. No changes to the exterior or patio are planned except for paint, new awnings, and signage. There will be fewer interior seats and two more seats in the patio.

Just Salad is a fast-casual restaurant established in 2006. Their menu includes salads, soups, bowls, wraps and smoothies of high-quality fresh food. Currently they have 50 locations in

New York, New Jersey, Florida, Illinois, Pennsylvania, North Carolina, and Dubai. Two locations are planned in Massachusetts – Boston and Needham. Boston is scheduled to open in a week or two. Needham is their expansion into the suburbs.

Mr. Giunta reported that the food use in the Industrial District requires a Special Permit and relief is required for parking number and parking design.

Just Salad will need a total of 45 parking spaces based on the By-Law. The proposed restaurant will have 46 interior seats and 28 exterior seats for a total of 74 seats. Based on calculations required by the By-Law of 1 space for 3 seats ( $74 \text{ seats} / 3 \text{ spaces} = 24.67 \text{ spaces}$ ) 25 spaces are required. Just Salad will be operating with two registers. The By-Law requires 10 parking spaces per register. Based on the register calculations 20 spaces are required.

The current parking lot consists of 39 spaces. There is one less than the 40 spaces available for Three Squares. This space was eliminated with the Highland Avenue and sidewalk reconstruction. Furthermore, the Building Commissioner noted that the space between the two handicapped parking spaces near the front entrance is an accessible loading zone and cannot be counted as parking spaces. Mr. Giunta clarified that the two handicapped spaces qualify as van loading spaces and that the space between was incorrectly identified as a parking space. In the revised *Proposed Renovation(s) Plot Plan* dated July 18, 2023 (“Revised Plan”) the handicapped loading space is correctly identified.

Mr. Giunta identified two additional parking spaces proposed to be added in the Revised Plan 1) a compact car space at the southeast corner fronting Highland Avenue and 2) a space adjacent to the back of the building on the north side - making a total of 41 parking space available.

With the parking spaces available on site and the 45-parking space requirement per the By-Law, a parking waiver is required. Mr. Giunta thought the 10 spaces per register to be excessive overstating the actual parking demand observed at other Just Salad locations. Customers may choose take-out or eat-in without full table-service. The eat-in experience has a quick turnaround time of less than an hour. In addition, a Parking Demand Assessment by Vanasee & Associates, Inc. identified that the peak parking demand is expected to be for 25 spaces for both customers and employees.

Mr. Ligris asked if the business was corporately owned. Mr. Giunta said it was.

Mr. Goldman requested a further explanation of the business. Jennifer Richter, a Just Salad representative, said that the business originated in New York City. The food is made to order with fresh ingredients. There are multiple choices of lettuce and ingredients when ordering salads. There are also smoothies, soups, and bowls. A chocolate chip cookie is being introduced to the menu. The business is conscious of sustainability and offers a reusable blue bowl.

Mr. Giunta thought the use was appropriate for the location. The business has no take-out window. Customers have an option to sit outside or in and the operation does not have the parking demand of a full sit-down restaurant.

Mr. Schneider asked for a summary of the parking design waivers requested. Mr. Giunta provide a brief overview:

Parking Illumination – the parking lot will not meet the illumination level of an average of one foot candle. The existing lighting in place for Three Squares will continue and there have been no complaints or safety issues concerning lighting at the location. There are gooseneck lighting fixtures above the awning along the front and side of the building. There are two light poles at the end of the patio. There are no free-standing light poles.

Setbacks – the property does not meet the required parking lot setbacks as it abuts streets along three sides of the property.

Parking Space Size – not all parking spaces comply with the width required. The spaces are compliant in length.

Width of Maneuvering Aisle – The required 24-foot aisle width exists at the entrance and in the back of the lot. It narrows to 21 feet in the middle of the lot.

Landscaping - The parking lot does not comply with landscaping. If the lot were to be complaint with landscaping, parking spaces would have to be eliminated. There is some landscaping in the back northeast corner and in the patio area.

Trees – the lot is non-compliant with the required minimum of 4 trees. There are a couple of trees on the northeast corner.

Bicycle Racks – no bicycle racks exist or are proposed for the minimum of two bicycles. Mr. Goldman thought with the reconstructed street bike usage is encouraged. Mr. Giunta thought bike use and racks were aspirational and will not get much usage if offered. If the Board wanted a bike rack, it could be arranged.

Mr. Ligris inquired about the status of the parking lot lease and usage by the Temple. Mr. Giunta responded that the lease was temporary and was expiring soon. Mr. Goldman noted that the recent Temple's parking expansion and reconstruction is completed.

Mr. Ligris asked if there was a dedicated parking space for deliveries. Mr. Giunta said that there are no dedicated parking spots for deliveries. Based on Just Salad's operations at other locations, deliveries are not a big component of the business and there has been no need for creating designated delivery parking space.

Mr. Schneider asked for information regarding the dumpster and trash service; and delivery schedule. Mr. Giunta noted that the dumpster location is the historic location for all the prior businesses. Currently the dumpster enclosure is gone and will be replaced with a new fence. There is space for a grease bin in the dumpster area if needed, however, because of the nature of the business, a grease container may not be needed.

The operating hours are from 10:30 a.m. to 9:00 p.m., Monday through Sunday. Mr. Giunta asked if the hours of operation be allowed from 10:00 a.m. to 10:00 p.m., Monday through Sunday. The business is not open for breakfast.

Deliveries may be limited from 7:00 a.m. to 10:30 a.m.

Trash services to be limited from 7:00 a.m. to 9:00 p.m.

Comments were received from:

- The Building Commissioner noted that the space shown which lies in between the two accessible spaces near the front entrance of the building must be eliminated as a parking space because this is an accessible loading zone for vans transporting persons with access needs. With the elimination, the number of parking spaces is 39, not 40 spaces. He found the parking study reasonable; and had no objection to the proposal.
- The Police Department had no issues.
- The Engineering Department had no objections. The proposed infiltration system needs to be coordinated with the downstream abutter before replacing asphalt pavement in the parking lot.
- The Planning Board had no comment.
- The Health Department noted that a Food Plan needs to be submitted on Viewpoint Cloud for a complete review.
  - Full compliance with the food code is required. Pre-operation inspections must be conducted prior to issuance of a food establishment permit. A permit must be issued prior to operation.
  - There must be sufficient parking lot spaces to allow for accessible trash and recycling dumpsters with proper containment. A licensed waste hauler with a sufficient service schedule will be obtained to prevent risk of pests. It is recommended that a drain inside the dumpster enclosure area be installed to allow the area to be sprayed down and cleaned and that wastewater can be appropriately disposed of. The Health Department recommends that the trash enclosure be moved 5 feet from the property line to prevent trash going onto the neighboring property and causing a public nuisance.
  - The proposed dumpster enclosure area must have sufficient space for a waste grease barrel for proper grease disposal; also, to be on a sufficient service schedule to present risk of attracting pests.
  - If catering is to be offered, this must be noted on the application to the Health Division so it can review equipment, protocols, refrigeration methods and information regarding food transport.

Mr. Giunta responded that adding a drain to the trash area is not planned; and moving the dumpster would eliminate one to two parking spaces. The dumpster that has been in the same location since the 1960s.

Kevin Pichetti, 194 Webster Street, asked that trash to be picked up from Highland Avenue and not be accessed from Putnam Street. Mr. Giunta responded that the property is not accessible from Putnam Street because of a fence that provides a buffer and separates the abutting residential neighbors from the business.

Mr. Pichetti was concerned about the trees in the area. Mr. Giunta assured that no existing property trees are proposed for removal.

Mr. Goldman asked if the sign instructing customers not to park in the adjoining property conditioned in the prior decision was still posted. Mr. Giunta thought the sign is likely in place since there have been no changes since Three Squares closed. However, the parking demand for Just Salad will be less intensive than for Three Squares, a full-service, dine-in restaurant that had longer term customer parking needs.

Mr. Ligris inquired if there were any opportunities to add landscaping along Putnam Street. Mr. Giunta was hesitant about adding any landscaping along Putnam Street as it is a private way. The fence was installed ten years ago by the developer of the residential development. The Putnam Street residential abutters sit well below grade. Mr. Schneider was reluctant to require landscaping in a public way which might prevent use of the right-of-way.

Mr. Ligris advocated for beautifying the parking lot. He proposed that the two spaces along Highland Avenue be considered for improved landscaping such as trees, bushes and other plantings.

Ms. Richter objected to trees and proposed low plantings so that the business signage and street access remain visible. Just Salad has plans to replant the existing garden beds.

There was agreement that the two spaces along Highland Avenue could be landscaped with shrubs and low plantings.

Mr. Goldman moved to grant a Special Permit to Just Salad 669 Highland Avenue, LLC under Sections 3.2.1 for an eat-in or take-out restaurant or other eating establishment; 5.1.1.5, 5.1.2 for waiving strict adherence with off-street parking requirements; 5.1.3 for waiving strict adherence to parking plan and design requirements associated with the renovation and reconfiguration of the existing building for Just Salad, a fast-casual restaurant. conditioned on the following:

- the hours of operations be from 10:00 a.m. to 10:00 p.m., seven days a week;
- trash services shall be no earlier than to 7:00 a.m.;
- trash services and deliveries shall be accessed from Highland Avenue only;
- lighting illumination shall not spill over onto to the neighbors' properties;
- no water runoff will be allowed onto neighbors' properties;
- the two handicapped spaces and handicapped van access space will be preserved (per Revised Plan – July 18, 2023);
- landscaping will be provided on the two spaces adjacent to Highland Avenue;
- the installation of a bike rack is suggested;
- the parking lot will have a minimum of 39 spaces, with the proposed back space adjacent to the building on the north side to be optional (per Revised Plan-July 18, 2023);
- no outdoor amplified music;
- no music after 7:30 p.m.;
- the Special Permits cannot be transferred without a public hearing and written approval from the Board;
- if designated employee parking spaces is provided the spaces designated be those in the back north side along Putnam Street;
- the restaurant will have a total seating capacity of 74 seats – 46 interior seats and 28 exterior seats;
- the applicant will have two cash registers/take-out stations;
- the applicant will conduct periodic inspections for pests;
- the trash and recycling area will be sufficient to allow for accessible separate contained trash and recycling dumpsters and a barrel for waste grease.
- the dumpster area will be enclosed.
- the outside area will be kept free of trash;

- the applicant will have equipment necessary to prevent the emission of odors from the premises and the dumpsters into the neighborhood.

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

The meeting adjourned at 8:33 p.m.

### **Findings:**

Based upon the evidence presented at the hearing, the Board finds as follows:

1. The premises is a 19,080 square foot lot located in the Industrial District improved with a commercial building containing 2393 square feet on the first floor and 920 square feet in a mezzanine. The site has an outdoor patio and small shed. Substantially all the open space is a paved parking lot.
2. The premises has been occupied by restaurants for many years. The latest of these, Three Squares, opened in 2013 and closed in 2020.
3. In a Decision dated June 14, 2014, the Board authorized the addition of a 25 x 23.7 patio with 26 seats to the front of the building. The Decision imposed various restrictions on use of the patio including a limitation that it could be used only from May 1 until October 31 and that outside music could not be amplified or provided after 7:30 pm.
4. The previous restaurants were a non-conforming use, but that use has been abandoned since the premises has not been used as a restaurant for more than 2 years.
5. For the past several years, the premises has been leased to Temple Beth Shalom (located across Highland Avenue) for parking. The lease is about to expire.
6. The applicant proposes to open a restaurant on the premises under the name "Just Salad". Just Salad is a fast casual restaurant serving made to order salads, soup, wraps, bowls, smoothies and related food items. Just Salad has over 50 locations including a new one located in Boston scheduled to open soon after this hearing. This Needham site will be their second restaurant in Massachusetts.
7. An eat in or take-out restaurant is allowed in the Industrial District under Section 3.2.1 by Special Permit. Given the long use of the premises for similar restaurants, the issuance of a Special Permit is consistent with the intent of the Zoning By-Law and the criteria of Section 7.5.2.
8. The applicant proposes to have 46 interior seats and 28 exterior seats for a total of 74 seats. The prior restaurant had 90 interior seats and 26 exterior seats on the patio for a total of 116 seats. The applicant proposes to have two cash registers, while the prior occupant had only one.

9. The required parking under the By-Law is one space for every three seats and ten spaces for every take-out station. Each cash register is treated as a take-out station, so the By-law requirement is for 45 parking spaces.
10. The current configuration of the parking lot provides 39 spaces including 2 handicapped spaces near the front door. When the prior restaurant was operating, there were 40 spaces, but one was lost in the recent widening of Highland Avenue. The applicant submitted a "Proposed Renovations Plot Plan" that would add one compact space near the entrance and a possible space in the rear of the building bringing the total to 41 spaces.
11. The applicant argues that the By-Law requirement of ten spaces for every cash register is excessive when applied to their proposed operation and that the applicant's business will not require parking for the same length of time as the prior full-service restaurant. The applicant is reducing the number of seats from 116 to 74. The applicant submitted a parking assessment from Vanasse & Associates, Inc. stating that the peak parking demand under industry standards (including employee parking) would be 25 spaces.
12. The existing parking of 39 spaces is a sufficient number of spaces for the proposed operation.
13. The parking lot does not meet many of the design requirements of Section 5.1.3. including required illumination, parking space size, width of maneuvering aisles, setbacks, landscaping, trees and bicycle racks. The parking lot has been in use for many years. The applicant is not proposing any increase in the size of the building or material change to the parking lot. Compliance with the design requirements would result in the loss of many parking spaces. Special Circumstances exist to waive the required number of spaces and the design requirements.
14. With respect to illumination, the applicant indicates that there are lights on the building providing sufficient light for safety purposes – but the applicant is not sure that the lighting would meet the precise requirements of the By-Law.
15. With respect to landscaping, the Board would like to see shrubbery or other plantings along Highland Avenue. There is room for landscaping to the left of the entrance where a full parking space was lost during the reconstruction of Highland Avenue. There is safety question with respect backing out of the proposed new compact space to the right of the entrance and it is an appropriate location for landscaping.

**Decision:**

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, the Board grants

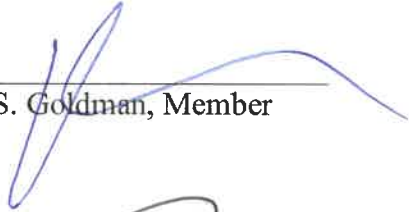
- a) a Special Permit under Section 3.2.1 for the operation of an eat in and take-out restaurant,
- b) a Special Permit under Section 5.1.1.5 waiving the required number of parking spaces,

- c) a Special Permit under Section 5.1.1.5 waving the design requirements for parking all the subject to the following conditions:
1. The restaurant shall have no more than 46 interior seats and 28 exterior seats and no more than two cash register/take out stations.
  2. Hours of operation shall not exceed 10:00 am to 10:00 pm seven days per week.
  3. The applicant shall construct a new trash area to the rear of the building in the approximate area of the “trash pad” shown on the parking plan that will be enclosed with a fence. The area shall have a dumpster in accordance with the requirements of the Board of Health and a grease barrel if required by the Board of Health. The dumpster shall be serviced only through the parking lot from Highland Avenue. Dumpster pick up shall be limited to the hours of 7:00 am to 9:00 pm.
  4. The parking lot and outside area shall be kept free of trash.
  5. There will be periodic inspection for pests and vermin and the applicant will provide treatment necessary to control pests and vermin.
  6. There will be no noxious odors emitted from the operation and the applicant will provide exhaust fans and other equipment sufficient to control all odors.
  7. There shall be no amplified music outdoors or outdoor music after 7:30 p.m.
  8. The parking lot shall be maintained with a minimum of 39 spaces substantially in accordance with the “Proposed Renovation Plot Plan” dated July 18, 2023 presented at the hearing except that the proposed new space to the rear of the building which would be a 40<sup>th</sup> space shall be at the option of the applicant and the area of the proposed new space to the right of the entrance shall be landscaped.
  9. The applicant shall landscape along Highland Avenue both the partial parking space to the left of the entrance and the parking space to the right of the entrance with shrubbery and other plantings.
  10. The applicant shall maintain lights on the building sufficient to provide safety illumination for the entire parking and there will be no light spillage onto adjacent properties.
  11. There shall be no water runoff onto neighbor’s property.
  12. If there are designated spaces for employee parking, they shall be the spaces to the rear of the property abutting Putman Street.
  13. Installation of bicycle racks is encouraged, but not required.
  14. These Special Permits are issued to the applicant and may not be transferred, set over or assigned, directly or indirectly, to any person or entity without the prior written approval of the Board following such notice and hearing as the Board in its sole discretion shall deem appropriate. A change of control of the applicant shall be deemed a transfer of the Special Permits that must be approved by the Board.
  15. Failure to comply with each and every of the foregoing conditions at any time may constitute cause for revocation of the Special Permits by the board after hearing and notice to the applicant and such other notice as the Board, in its sole discretion, shall deem appropriate.



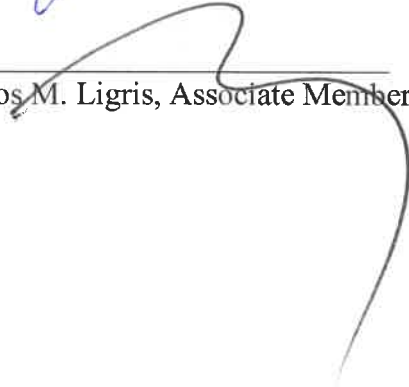
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Jon D. Schneider, Chair



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Howard S. Goldman, Member



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Nikolaos M. Ligris, Associate Member