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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Needbobcon, Inc., applicant
South Street 4414 Holdings, LLC, owner
1257 Highland Avenue
Map 52, Parcel 3***

June 20, 2024

Needbobcon, Inc. applied to the Board of Appeals for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2., 5.1.3 and any other applicable sections of the By-Law to permit a restaurant serving meals for consumption on the premises and at tables with service provided by wait staff; to permit a take-out operation accessory to a restaurant; to permit more than one non-residential use on a lot; and waiving strict adherence to the number of required parking spaces and the parking plan and design requirements. The relief sought is associated with redevelopment of the premises for the location of “Conrad’s”, a full-service “casual dining” restaurant. The property is located at 1257 Highland Avenue, Needham, MA in the Business (B) Zoning District. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, on Thursday, June 20, 2024 at 8:15 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped May 24 2024.
- Cover Letter prepared by George Giunta, Jr., attorney, dated May 24, 2024.
- Memorandum in Support prepared by George Giunta, Jr., attorney, dated May 24, 2024
- Parking Demand Analysis, Vanasse & Associates, Inc., prepared by Jeffery S. Dick, PE, Managing Partner and Andrew J. Arseneault, Senior Transportation Engineer, dated May 16, 2024.
- Proposed Floor Plan.
- Parking Layout Plan, Radner Design Associate, Inc., Landscape Architect, dated October 4, 2022.
- Front Signage Concept Development, Pages 3-5, dated May 23, 2024.
- Letter of Authorization, signed by David B. Grossman, Authorized Signatory, dated May 16, 2024.

- Letter from Lee Newman, Director of Planning and Community Development, dated June 4, 2024.
- Email from Justin Savignano, Assistant Town Engineer, dated June 11, 2024.
- Email from Joseph Prondak, Building Commissioner, dated June 11, 2024.
- Email from Chief Tom Conroy, Fire Department, dated May 31, 2024.
- Email from Deputy Chief Christopher A. Baker, Police Department, dated June 5, 2024.
- Email from Tara Gurge, Assistant Public Health Director, June 10, 2024.
- Bertucci's Brick Oven Pizza, Application No 2002-1 – Site Plan Special Permit – Needham Planning Board, Clerk file March 20, 2002.
- 1257 Highland Avenue – Special Permit – 3-18-2021.

June 20, 2024

The Board included Jonathan D. Tamkin, Chair, Nikolaos Ligris, Member and Peter Friedenberg, Associate Member. Mr. Tamkin opened the hearing at 9:18 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that the applicant plans to locate a restaurant at 1257 Highland Avenue in the shopping plaza containing two buildings with multiple business tenants having addresses of 1257 Highland Avenue (north building) and 1299 Highland Avenue (south building) with a shared parking lot. The applicant proposes to occupy the space formerly occupied by Bertucci's Brick Oven Pizzeria ("Bertucci's") located in the north building. The premises is situated between Needham Wine and Spirits and Cookie Monstah and contains 6,165 square feet of interior space.

From 2002 until 2023, Bertucci's occupied the premises with a full-service restaurant with 130 seats and one take out station approved by a decision by the Planning Board (*Bertucci's Brick Oven Pizza - Application No 2002-1 – Site Plan Special Permit filed March 20, 2002*). After this decision, it was determined between the Building Commissioner, Planning Board and this Board that this Board had jurisdiction at this location.

The applicant has been successfully operating restaurants for over 30 years with locations in Norwood, Walpole and Foxboro. The applicant plans to open a restaurant with a full pub-style menu in Needham. The proposed Conrad's will contain 157 seats with one take-out station. The seats are divided between tables, booths and bar seats. No exterior changes are proposed. A floor plan was submitted illustrating the changes. There is an expectation that the floor plan will be fine-tuned when working with the Building Department in the final build-out stage.

Renderings of the front elevation of 1257 Highland Avenue showing changes proposed by the landlord were also provided for information and were not part of this application. When finalized they will be brought to the Design Review Board for a sign permit.

Conrad's main dining room will be open 11:30 a.m. to 9:30 p.m. Sunday through Wednesday and 11:30 a.m. to 10:00 p.m. Thursday through Saturday; extended hours for late night appetizers/snacks at the bar area will be from 9:30 p.m. to 11:30 p.m. Sunday through Wednesday and 10:00 p.m. to 12:30 a.m. Thursday through Saturday. The extended hours will

be subject to the terms of the liquor license from the Select Board. Mr. Tamkin asked how late Bertucci's was open. Mr. Giunta said 11:30 p.m. Mr. Giunta said that Robert Conrad was a seasoned restaurant owner with experience with late night closing which would minimize any possible issues.

Mr. Giunta reported there is an on-site parking lot of 87 to 88 spaces at the plaza. The recycling container which generally occupied a parking space has been relocated to the rear, making the total number of parking spaces at the lot 88. The parking plan and the application, however, are based on 87 on-site spaces.

There will be an increase in parking demand because of the additional seats associated with Conrad's from 130 to 157 seats. Vanasse and Associates, Inc. ("VAI") was hired to conduct a full parking study. VAI have conducted many studies for this site, including for both Bertucci's and Cookie Monstah.

The most recent parking study conducted for Cookie Monstah identified a total parking demand for the plaza of 134 spaces, which included Bertucci's parking numbers. With the increase of 27 seats for Conrad's, VAI determined that the parking demand has increased by nine spaces based the requirement in Section 5.1.2 sub-section 9 of the By-Law of one space for every 3 seats. The resulting parking demand for Conrad's is **63 spaces**, and the total parking demand for the plaza will increase from 134 spaces to **143 spaces**.

Mr. Giunta noted that VAI determined there was adequate spaces available as there are an additional 94 on-street parking spaces within walking distance of the premises. When added to the 87 spaces on-site parking spaces there is a total of 181 available spaces. When VAI did a count of unoccupied spaces during peak mid-day weekday, there was 53 spaces available on site and 56 spaces on-street, for a total of 109 parking spaces. A count of unoccupied spaces during peak evening hours on Saturday showed that there were 65 spaces on-site and 77 on-street for a total of 142 available spaces.

VAI also looked at the Conrad's in Norwood, a 7,800 square foot restaurant with 206 seats with a parking lot of 38 spaces. At all times, VAI observed at least three available spaces at the lot. Mr. Giunta concluded that based on observations of Conrad's in Norwood, there is adequate parking at the premises.

Mr. Tamkin concurred there was adequate parking for the current mix of business users, but noted that this could change if the use mix changes.

Robert Conrad, applicant and owner of the restaurant, said that Conrad's is a casual, comfort food dining experience that caters to families. The menu is extensive, comprised of appetizers, soups, salad, seafood and their signature steak tips. There are specials seven days a week. The restaurants utilize between 4,000 to 5,000 pounds of meat per week. Conrad's is similar to Not Your Average Joes but with a sports component without a bar atmosphere. TV screens broadcast sports games. Craft beers are available. The Needham location will be smaller than the other locations with a bar of only 13 seats. Take out is available. He reported that his General Managers are full time and have a minimum of 15 years with the business. Two managers are

always on site. Conrad's has a culture of community involvement with schools, churches and sports programs.

Mr. Tamkin was supportive of Conrad's coming to Needham and adding to the vitality of the plaza and the Town, especially after Covid. Mr. Tamkin asked for more information regarding the TV broadcasting sports. Mr. Conran responded the TVs are on as background without sound. He reported that he opened the Foxboro location 13 days before Covid and that its survival is a testament to the success of his business model. Even though there is a late night closing his restaurant does not cater to the young drinking crowd.

Mr. Ligris said he patronized the Norwood location with a group of 10 seventh graders after a sports event and half the children wanted to return. Mr. Conrad was asked if there would be Keno or live music at the location. He was not sure. Mr. Conrad noted that the restaurant may include a second small dining room for small events that take place during the day for up to 30 to 40 people.

Mr. Conrad reported that his restaurants do not participate in outside services like DoorDash nor do they deliver orders.

Paul Dawson, representative of the landlord, reported that the lease contains a clause that the applicant shall use reasonable effort to have employees park in the on-street parking spaces or on site after the closing hours of the businesses at 1299 Highland Avenue.

There were no comments from the public.

Comments received:

- The Police Department had no issue.
- The Planning Board had no comment.
- The Engineering Department had no comment or objection.
- The Building Department had no concerns.
- The Fire Department had no issues.
- The Health Department noted that as a food establishment a Food Permit Plan Review must be submitted on-line on ViewPoint Cloud for review and approval. Documents must be uploaded including a copy of a food service equipment layout plan, and any new equipment spec sheets and copies of staff Servsafe food training certifications, etc. Once the online permit fees are paid, pre-operation inspections must be conducted prior to issuance of a food permit, which must be issued prior to operation. Submission of detailed interior and exterior (if applicable) seating plans is required. Sufficient parking lot spaces must also be made available for two full-size dumpsters, one designated for trash and the other designated for recycling only. These dumpsters must be on approved dumpster pick up service schedules to accommodate sufficient proper trash and recycling containment and disposal, to prevent the risk of attracting pests and unsanitary conditions.

Mr. Ligris was supportive of the addition of a sit-down quality food restaurant in Needham with a late-night option.

Mr. Friedenbergr thought it was a great concept and a great addition to the Town.

Mr. Tamkin thought the business was a great fit for the location and was supportive of the business.

Mr. Ligris moved to grant a special permit (i) under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter; (ii) under Section 3.2.2 of the By-Law for a take-out operation accessory to a restaurant use; (iii) under Section 3.2.2 of the By-Law for more than one non-residential use on a lot; and (iv) under Section 5.1.1.5 of the By-Law waiving strict adherence with the requirements of Section 5.1.2 (required parking) and 5.1.3 (parking plan and design requirements) of the By-Law, conditioned upon

- The transfer or sale of the business either directly or indirectly shall require approval of the Board;
- There shall be a maximum seating of 157 seats;
- The hours of operation shall be from 10:00 a.m. to 12:30 a.m. Thursday through Saturday, and 10:00 a.m. to 11:30 p.m. Sunday through Wednesday;
- Employees shall be encouraged to park off-site and or to park on-site after the closing hours of the plaza businesses at 1299 Highland Avenue;
- There shall be no more than one take-out station;
- Waste shall be contained and controlled in a dumpster and shall be removed in a timely period, no less than two times per week;
- There shall be periodic pest and vermin inspection with treatment as necessary;
- Deliveries shall be made between 7:00 a.m. and 11:30 a.m.
- No noxious odors shall be permitted to emanate from the premises;
- The applicant shall provide a redacted copy of its lease to the Board showing its right to use all on-site parking spaces at the plaza, in common with other tenants and their customers; and
- All parking spaces at the plaza are to be used in common by all tenants of the plaza

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

The meeting adjourned at 9:56 p.m.

Findings:

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

1. The subject of this application is located at 1257 Highland Avenue in the Business District. It is part of the shopping plaza with multiple business tenants containing two one-story buildings numbered 1257 Highland Avenue and 1299 Highland Avenue, respectively, located on the north and south side of the lot. Between the two buildings there is a shared parking lot containing 87 spaces.

2. The applicant seeks zoning relief under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service by a waitress or waiter.
3. The premises consists of 6,125 interior square feet formally occupied by Bertucci's Brick Oven Pizzeria and located between Needham Wine and Spirits and Cookie Monstah. The applicant requests a Special Permit for more than one non- residential use under Section 3.2.2 of the By-Law. The proposed use by the applicant is consistent with the various other uses at the property and the uses are not detrimental to each other.
4. The applicant has 30 years of experience in the restaurant business and currently owns and operates three Conrad's in Norwood, Walpole and Foxboro, a family-friendly full-menu restaurant.
5. The applicant proposes to use the premises for a new Conrad's restaurant with 157 seats, and one take-out station.
6. There will be a full pub-style menu comprised of appetizers, soups, salad, seafood and their signature steak tips. There will be a daily special. Late night eating options will be offered.
7. The applicant proposes to operate Conrad's seven days a week from 10:00 a.m. to 12:30 a.m. Thursday through Saturday, and 10:00 a.m. to 11:30 p.m. Sunday through Wednesday, all subject to compliance with applicable Town By-Laws.
8. The applicant proposes to remodel the interior of the premises generally as shown on the plan submitted to the Board containing a main dining area, bar and a secondary dining area for small daytime functions. There will be no changes to the exterior or parking lot. The applicant intends to apply to the Select Board for a full liquor license.
9. The applicant has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking). The total parking requirement for the proposed restaurant as presented by the applicant and calculated based upon the 157 proposed seats and the 1 take out station is 63 parking spaces. This will be 9 spaces more than Bertucci's required per the By-Law. When added to the current parking requirements for the rest of the plaza there is a total parking requirement of 143 spaces.
10. According to a study by Vanasse & Associates, Inc. dated May 16, 2024, there are 87 on-site spaces, and an additional 94 on-street parking spaces located within close proximity, for a total of 181 available spaces. Vanasse observed there were 53 spaces unoccupied on-site and 56 spaces unoccupied on streets within walking distance to the premises at peak weekday midday; and during peak evening hours on Saturday there was 65 unoccupied spaces on-site and 77 unoccupied spaces on-street for a total of 142 spaces. VAI concluded that there is more than sufficient parking available.

11. The applicant shall use reasonable effort to have employees park at on-street parking or, after the closing hours of the businesses at 1299 Highland Avenue, on-site.
12. The Board finds that the parking is adequate and that special circumstances exist to waive the required number of parking spaces. The parking lot has existed in its current configuration for a number of years, and the combination of on-site parking and on-street parking in proximity to the plaza has adequately serviced a number of restaurants and retail stores in the plaza over time.
13. The applicant has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirement). The applicant proposed no exterior changes to the existing structure or changes to the parking lot. It would not be possible to comply with design requirements without reductions in the number of spaces. The Board finds there are special circumstances that justify waiver of the By-Law's design requirements.

Decision:

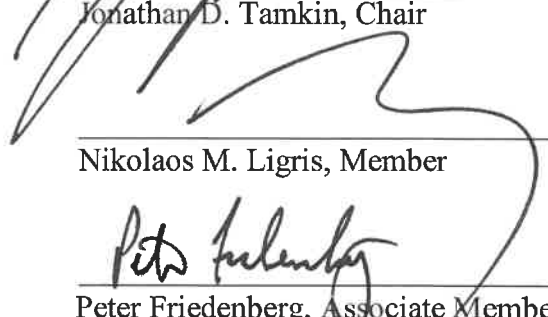
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote grants the applicant 1) a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter; 2) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot; 3) a Special Permit under Section 5.1.1.5 of the By-Law waiving strict adherence with the requirements of Section 5.1.2 (Required Parking), and 4) a Special Permit under Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, subject to the following conditions:

- A. The restaurant shall have a maximum seating capacity of 157 seats;
- B. The restaurant shall have not more than one take-out service station;
- C. The hours of operation shall be from 10:00 a.m. to 12:30 a.m. Thursday through Saturday; 10:00 a.m. to 11:30 p.m. Sunday through Wednesday;
- D. The applicant shall use reasonable effort to have employees park in the on-street parking or, after the closing hours of the businesses at 1299 Highland Avenue, in the on-site lot;
- E. All waste generated by the business will be controlled and stored in dumpsters with timely removal by a private contractor. Trash shall be picked up no less than two times per week. The outside area and surrounding neighborhood shall be kept free of trash and garbage. The dumpster shall be cleaned and operated in accordance with all regulations of the Board of Health;
- F. The applicant shall arrange for periodic pest and vermin inspection and treatment as necessary;

- G. All deliveries shall occur only between the hours of 7:00 a.m. and 11:30 a.m. Deliveries shall be timed and otherwise arranged so as to minimize interference by delivery trucks with the use of and circulation through the parking area;
- H. No noxious odors shall emit from the premises or any dumpsters used in the applicant's business.
- I. A redacted lease shall be provided to the Board confirming the applicant's right to use all of the on-site parking spaces in the plaza in common with other tenants of the plaza;
- J. This Special Permit is issued to the applicant only, and may not be transferred, set over or assigned, directly or indirectly, by the applicant to any other person or entity without the prior written approval of the Board of Appeals following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient. Any transfer of control by the person(s) or entities currently owning the applicant, whether directly or indirectly or by operation of law, shall be deemed a transfer/assignment requiring approval of the Board.
- K. Failure to comply with each and any of the foregoing conditions at any time may constitute cause for the revocation of this Special Permit by the Board after hearing with notice to the applicant and with such other notice as the Board, in its sole and exclusive discretion, shall deem due and sufficient.



Jonathan D. Tamkin, Chair



Nikolaos M. Ligris, Member



Peter Friedenberg, Associate Member