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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

***Monsoon Indian Kitchen, Inc., Applicant
Petrini Corporation, Owner
324 Chestnut Street
Map 46, Parcel 19
November 20, 2024***

Monsoon Indian Kitchen, Inc. applied for a Special Permit to allow the use for a take-out establishment dispensing prepared foods, and more than one non-residential use on a lot under Section 3.2.2 and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, and 5.1.3 of the Zoning By-Law (the "By-Law"). The request is associated with the operation of a take-out Indian restaurant. The property is located in the Chestnut Street Business (CSB) zoning district. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue on Wednesday, November 20, 2024 at 8:00 p.m.

Documents of Record:

- Application for Hearing, dated October 24, 2024, Clerk stamped October 28, 2024.
- Letter from George Giunta, Jr., dated October 24, 2024.
- Memorandum in Support prepared by George Giunta, Jr. dated October 24, 2024.
- Letter from Paramjit Singh, dated October 10, 2024.
- Letter certifying authorization from Petrini Corporation, owner, signed by Robert J. Hentschel, October 11, 2024.
- Plan to Accompany Special Permit Application, prepared by Kelly Engineering Group, Inc., stamped by David Noel Kelly, Professional Engineer, and Steven M. Horsfall, Professional Surveyor, dated June 6, 2019.
- Proposed Catering Kitchen Floor Plan, A-1, TAJ Engineering, stamped by Hooshmand S. Afshar, Professional Land Surveyor, June 14, 2019.
- Letter from Joe Prondak, Building Commissioner, April 2, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, November 19, 2024.
- Letter from Thomas Ryder, Town Engineer, November 12, 2024.
- Email from Tara Gurge, Assistant Public Health Director, November 8, 2024.

- Email from John Schlittler, Chief of Police, Police Department, November 4, 2024.
- 324 Chestnut Street – ZBA Special Permit – 7-11-2019.
- Parking Study, Robert J. Hentschel, Director, Petrini Corporation, June 13, 2019.

November 20, 2024

The Board included Howard S. Goldman, Acting-Chair; Nikolaos Ligris, Member; and Peter Friedenberg, Associate Member. Also in attendance Valentina Elzon, Member. Mr. Goldman assigned Mr. Friedenberg as the voting member. Mr. Goldman opened the hearing at 8:25 p.m. by reading the public notice.

George Giunta, the attorney representing the applicant, and Paramjit Singh, associate of Monsoon Kitchen, were in attendance. Mr. Giunta reported that the location is situated in the Chestnut Street Plaza, a long narrow lot containing 27,932 square feet with 139.66 frontage. The premises is improved by a 10,916 square-foot, one-story commercial building containing a number of tenants including: Sweet Tomatoes, Elizabeth Grady, Dellaria Salons, Organics Nail Salon, Dragon Chef and Chestnut Street Animal Hospital. The businesses have addresses of 320-332 Chestnut Street. 324 Chestnut Street contains 1,179 square feet of space. It was most recently occupied by Home Kitchen, a take-out Indian restaurant. Monsoon Kitchen is proposing a similar business use as Home Kitchen. Prior to Home Kitchen the space was occupied by Prelude Gifts.

Monsoon Kitchen has a long successful history in the restaurant business. Their first location was located in Central Square in Cambridge in 1974 which is still in operation. Mr. Singh, a resident of Needham, wants to bring the success of Monsoon Kitchen to Needham. Mr. Singh has over 20 years of experience with traditional, healthy Indian cuisine.

The proposed business is to be open from 10:00 a.m. to 10:00 p.m., seven days a week. Peak business hours are expected to occur in the late afternoon to early evening hours during the weekdays; on the weekends peak will be noon to late afternoon.

The layout of the business will be the same as Home Kitchen with a kitchen in the back and a small retail area in the front. There are plans to reuse the existing equipment. Home Kitchen was granted a Special Permit for use along with parking waivers in the Decision *324 Chestnut Street – ZBA Permit – 7-11-2019*. So similar is the proposed business to Home Kitchen, Mr. Giunta posits that the application would have been a Special Permit transfer had Home Kitchen not closed in October of 2023.

There are a few minor changes proposed from Home Kitchen – a refrigeration beverage unit will be located in the front area and the addition of four to six stools around a railing bar for customers to sit while they wait for their take-outs. There will be no dine-in food service provided.

There will be a maximum of five employees on-site: the owner representative, a manager, the chef and two support staff. There is an expectation that as the business gets established over time the owner representative will no longer need to be on-site. Only the manager and owner

representative will park on-site. Rental housing has been secured for the chef and the two-support-staff in Needham. They will walk to work and will not be using parking spaces. Mr. Giunta noted that the use for a take-out operation of prepared food is allowed in the Chestnut Street Business District and is compatible with the other uses at the site as demonstrated by Home Kitchen.

Mr. Giunta reported that as a proposed take-out establishment the parking demand is 10 Parking spaces. He argued that the six stools are not for dine-in, which has a parking demand of one space for every three seats. He reasoned since the seats are not for food services or eating, they do not create a parking demand and should not be included in the calculations. He thought it would be double counting if the calculation included both the take-out space requirement and the seat requirement because the spaces are already included in the take-out parking calculation number. He noted that the Building Commissioner agreed with this interpretation.

Paramjit Singh reported that he grew up in the restaurant business, as his parents have been operating an Indian restaurant business since before he was born. As a Needham resident, he has observed a market need in the community for healthy, affordable prepared take-out Indian food. He added that his business peak parking demand occurs after 5:00 p.m. when three of the Plaza business are closed: the Chestnut Street Animal Hospital, Dellaria Salon, and Elizabeth Grady Salon. He did not believe he would have much lunch business during the day. He added that the parking demand was less on the weekend. He noted that that parking lot is busy during the daytime from the demand generated by the Plaza clientele. Mr. Goldman asked if there was documentation to substantiate Mr. Singh's parking claims.

Mr. Giunta said there was a parking count conducted in June of 2019 for Home Kitchen, which he thought was still relevant. Mr. Giunta said that the peak demand hours for this business will be from 4:30 p.m. to 5:00 p.m. The peak parking use for the plaza, however, is during the day. Mr. Giunta has observed that business employees of the area walk to their lunch destinations for takeout. The pedestrian lunch traffic peaks between 11:00 a.m. to 1:00 p.m. Mr. Singh reported that they will walk orders to the car or to pedestrians for on-line or by-phone orders.

Monsson Kitchen will be preparing Northern Indian style cuisine.

Mr. Ligris asked if the applicant will be using food ordering and delivery services such as DoorDash. Mr. Singh said they would be using the services. Mr. Ligris asked about the business hours of operation. Mr. Singh said that they expect to open the business at 11:30 a.m. and be closed at 9:00 p.m. followed with an hour for cleaning and shutting down. The application is for the business hours from 10:00 a.m. to 10:00 p.m. From his experience, Mr. Ligris has observed that the plaza parking lot is empty during the night. Ms. Elzon added, in contrast, she has observed the plaza parking to be busy during the day.

Ms. Elzon asked for clarification about the zoning relief of more than one non-residential use on a lot under Section 3.2.2 pertaining to manufacturing on the zoning table. Mr. Giunta said the Town historically has interpreted the need for relief for more than one non-residential use on a lot even though there is no association with manufacturing. He embraced the Building Commissioner's interpretation that relief under Section 3.2.2 was not necessary without a

manufacturing association. He noted, however, there was no practice in Town to support that interpretation. Mr. Friedenberberg disagreed with the Building Commissioner and thought that a Special Permit for the more than one-non-residential use on a lot was necessary.

Comments received:

- The Building Commissioner disagreed with the applicability of the requirement for a Special Permit under Section 3.2.2 of the By-Law for more than one use on a lot as there was no manufacturing involved. He agreed that the stools need not be included in the parking number calculation. He had no objection to the proposal.
- The Police Department had no concerns.
- The Health Department requires that the applicant fill out and submit an online Public Health Division Food Permit Plan with all the required documentation. Sufficient parking must be available to allow two full size dumpsters, one for trash and one for recycling with approved pick-up services to prevent pest and unsanitary conditions. The applicant met with the Health Department and addressed their concerns.
- The Engineering Department had no comment or objection.
- The Planning Board had no comment.

There were no comments from the public.

Mr. Friedenberberg moved to grant Monsoon Indian Kitchen, Inc. a Special Permit pursuant to Section 3.2.2 to allow the use for a take-out establishment dispensing prepared foods; a Special Permit pursuant to Section 3.2.2 to allow more than one non-residential use on a lot; and a Special Permit pursuant to Sections 5.1.1.5, 5.1.2, and 5.1.3 to waive strict adherence to the number of required parking and the parking plan and design requirements under the By-Law with the following conditions:

- the hours of operation will be from 10:00 a.m. to 10:00 p.m. seven days a week;
- the maximum number of on-site employees will be five;
- only two employees are allowed to park on the site;
- the Special Permit is issued to this applicant only and cannot be transfer or assigned to another entity without prior approval from this Board after a hearing with notice;
- failure to comply with this Special Permit may result in a public hearing and the revocation of the Special Permit.

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

The meeting adjourned at 8:35 p.m.

Findings:

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

1. The Premises consist of a building and associated off street parking for 42 vehicles and is numbered 320-332 Chestnut Street. It is situated in the Chestnut Street Business District and contains seven rental units occupied by various uses. The Applicant intends to take over the space previously occupied by Home

Kitchen, Inc. in the Chestnut Street Plaza.

2. There was a prior Board Decision issued at this address to Home Kitchen, Inc.: *324 Chestnut Street – Special Permit-7-11-2019* to allow a take-out establishment engaged in dispensing foods. That business closed its operation in 2023.
3. The Applicant seeks a special permit to operate a take-out Indian food restaurant with no eat-in service seating. There will be no more than six stools along a bar counter for customers waiting for their take-out orders only. Hours of operation would be from Monday through Sunday from 10:00 a.m. to 10:00 p.m.
4. A maximum of five employees on-site is proposed by the Applicant. Only two employees will park on-site. The proposed use will result in the need for 10 parking spaces under Section 5.1.2(9) of the By-Law. The Applicant stipulates that no more than 2 parking spaces at the site will be used by staff at any time.
5. The restaurant use with take-out is allowed with a special permit under Section 3.2.2 and Section 7.5.2 of the By-Law.
6. The existing parking spaces, built prior to current design requirements, do not comply with the design requirements of Section 5.1.3 of the By-Law and would require a waiver under Section 5.1.1.5 of the By-Law. No changes in the building footprint or in the parking lot are contemplated.
7. With the Applicant's proposed use at the Premises, 10 parking spaces are required. Though there will be six stools, they need not be included in the restaurant parking calculations of one space per 3 seats as they are seats for customers' convenience only who are waiting for their take-out order.
8. The parking analysis from the owner of the Premises, Petrini Corporation dated June 13, 2019 submitted with the prior Special Permit was referenced. This parking analysis counted 12 on-street parking spaces on Marsh Road and Chestnut Street and 42 parking spaces in the off-street lot for the Premises, for a total of 54 parking spaces. The parking analysis shows that the peak parking demand occurs at 1:30 p.m. when 11 parking spaces are available from the main off-site location.
9. The proposed use is consistent with the general purpose of the Zoning By-law, is compatible with the characteristics of the surrounding area, is not detrimental to the other uses at the Premises, and is in harmony with the general intent and purposes of the By-Law pursuant to the requirements of Section 7.5 of the By-Law.

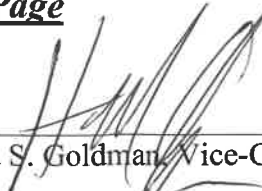
Decision:

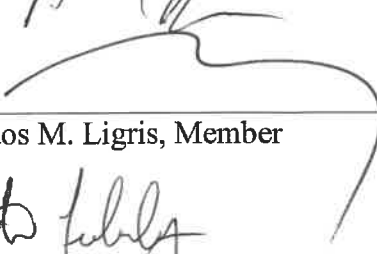
On the basis of the foregoing findings, following due and open deliberation, upon motion duly

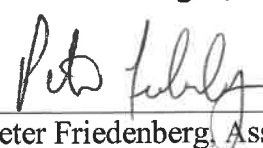
made and seconded, the Board, by unanimous vote, grants the Applicant (1) a Special Permit under Sections 3.2.2 and 7.5.2 of the Zoning By-Law for a take-out establishment primarily engaged in the dispensing of prepared foods at 324 Chestnut Street, (2) a Special Permit under 3.2.2 of the Zoning By-Law to allow more than one residential use at the premises where such uses are not detrimental to each other, and (3) a Special Permit under Sections 5.1.1.5, 5.1.2 and 5.1.3 of the Zoning By-Law to waive the strict adherence to the parking and design requirements, subject to the following conditions:

1. The restaurant will dispense fresh take-out, prepared Indian foods and with only one take out station;
2. The hours of operation will be limited to 10:00 a.m. to 10:00 p.m. seven days a week;
3. There will be a maximum of five employees on-site;
4. No more than two employees will be allowed to park at the Premises at any one time;
5. There will be no more than six stools along a bar counter as a convenience for customers waiting for their take-out orders. These stools will not be used for dine-in eating;
6. The Applicant will make efforts to prevent the release of noxious odors and harmful chemicals;
7. Waste generated by the Applicant will be controlled and stored in rubbish containers for timely removal from the Premises. The outside area and surrounding neighborhood will be kept free of trash and garbage;
8. This Special Permit is issued to the Applicant only, and may not be transferred, set over or assigned by the Applicant to any other person or entity without the prior written approval of the Board of Appeals following such hearing and notice, 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 owning the business, directly or indirectly, or by operation of the law, shall be deemed a transfer/assignment requiring approval of the Board.
9. 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 discretion, shall deem due and sufficient.

Signatory Page


Howard S. Goldman, Vice-Chair


Nikolaos M. Ligris, Member


Peter Friedenberg, Associate Member

Twenty-Day Appeal Certification

I certify that the 20-day statutory appeal period for this Decision by the Needham Zoning Board of Appeals has passed,

☐ *and there have been no appeals filed in the Office of the Needham Town Clerk or*

☐ *there has been an appeal filed.*

Date

Louise Miller, Town Clerk