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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT AMENDMENT

Bakers' Best, Inc., applicant

150 Gould Street

Map 79, Parcel 10

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts 2020)

September 17, 2020

Baker's Best, Inc, applicant, made application to the Board of Appeals for a Special Permit Amendment under Sections 1.4.6, 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law to allow a take-out restaurant or other eating establishment in connection with the existing commercial catering and commissary; to waive strict adherence with the off-street parking requirements, parking plan and design requirements associated with the additional use. The property is located at **150 Gould Street**, Needham, MA in the Industrial-1 District. A public hearing was held remotely on Zoom Meeting ID Number 869-6475-7241, on Thursday, September 17, 2020 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped August 24, 2020.
- Cover Letter from George Giunta, Jr., dated August 21, 2020
- Interior Layout Plan, prepared by The Jillson Company, Inc., dated July 8, 2019.
- Letter from Dave Roche, Building Commissioner, dated September 10, 2020.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated September 8, 2020.
- Letter from Lee Newman, Director of Planning and Community Development, dated September 8, 2020.
- Email from Tara Gurge, Assistant Health Director, September 9, 2020.
- Email from Chief Dennis Condon, Fire Department, August 27, 2020.
- 150 Gould Street – ZBA Special Permit Amendment – 7-11-2019.
- 150 Gould Street – ZBA Special Permit –3-23-2006.

The Board held this meeting virtually as allowed under "Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20."

The Board included Jon D. Schneider, Chair; Howard Goldman, Member; and Kathy Lind Berardi, Associate Member. Also participating was Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 8:13 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that Bakers' Best, Inc., has

been in operation for 36 years. Established in Newton Highlands 17 years ago it expanded to Needham where it located its corporate kitchens at 150 Gould Street. In 2006 Bakers' Best was granted a Special Permit to operate a food catering and commissary in half of the premises. In July 2019 the applicant was granted an amendment to occupy the entire building and a parking waiver.

Bakers' Best is a catering operation. With businesses working remotely and the restrictions of large gatherings, Bakers' Best lost most of its corporate and large event catering opportunities as a result of Covid19. This resulted in the applicant reducing its staff by 80%. The downturn hit them especially hard as it coincided with the expansion of their operations.

In response to Covid19, the applicant sought and was granted a temporary curb side pick-up permit from the Select Board. This permit will expire in October. It may be years before Bakers' Best will return to its pre-pandemic catering demand levels. The applicant wants to offer take-out on a more permanent basis.

Prior to Covid19, Bakers' Best received orders by phone or on-line, filled the order and delivered the order to the event or business. Currently, under the take-out permit, they fill orders received on-line or by phone, the customer calls prior to pick-up, staff meets and delivers the order to the customer outside with proper social distancing measures. The service has had little or no impact on the site or neighbors.

The applicant now wants to institute take-out on a more permanent basis so that they don't have to continue to seek extensions from the Select Board. Mr. Giunta noted that take-out is allowed under Section 3.2.1 of the By-Law with a Special Permit. He added that a parking waiver is necessary because the By-Law requires an additional ten parking spaces for the food take-out use.

The *Special Permit Amendment, July 11, 2019* identified a need of 60 parking spaces serving a staff of 42-71 employees. They have available 62 parking spaces – 33 spaces on site and 29 spaces secured off-site. The off-site parking will continue. Providing for the take-out services and the current reduced staff, the current parking demand at peak is twenty spaces. With 62 available parking spaces, Mr. Giunta assured there is plenty of parking and no traffic issues.

Michael Baker, owner of Bakers' Best, Inc., noted that the pick-up is located at the front of the building. They fill an average of ten to twenty pick-up orders a day.

Mr. Schneider asked what will happen when Covid19 ends. Mr. Baker was not optimistic about the return of corporate catering to the pre-Covid19 levels because the in-office work model has been replaced by remote work. His most optimistic projection was a return to 50% of the previous peak business level.

Ms. Berardi inquired if they would continue with take-out if corporate catering returned. Mr. Baker responded that take-out is not substantial. He was agreeable to give up take-out services when corporate and event catering business returns. Presently he has a staff of 20 from a pre-Covid19 staff of 100.

There was a discussion on how to handle the take-out services if corporate catering returns at full capacity with the higher employee parking demand. Options discussed were to limit the number of employees or to issue a temporary permit.

Mr. Baker preferred a two-year limited permit as this would allow him to promote and market take-out services.

Mr. Goldman was supportive of granting the relief. He was a business tenant at 160 Gould Street and found them to be good neighbors.

Comments were received from:

- The Building Commissioner reported that the applicant has resolved early delivery issues that disturbed neighbors.
- The Engineering Department had no comment or objection.
- The Planning Board requested that if the relief is not temporary, the Board consider the effect of any additional traffic and parking on the neighborhood.
- The Fire Department had no comment.
- The Health Department stated that the applicant has met the protocols for pick-up and Food Code Safety and Covid19 protocols under the temporary take-out permit issued by the Select Board. These protocols will be required for continued take-out use under a Board permit.

There were no comments from the public.

Ms. Berardi moved to grant a Special Permit Amendment to allow a take-out restaurant or other eating establishment in connection with the existing commercial catering and commissary; to waive strict adherence with the off-street parking requirements, parking plan and design requirements associated with the additional use at **150 Gould Street** with the condition that the permit shall expire in two years from the date the Decision is filed with the Town Clerk unless extended or amended by the Board. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:33 p.m.

Findings:

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

1. The applicant operates a food catering business under a Special Permit dated July 11, 2019. The applicant has been at the current location since 2006 and substantially expanded its operations in 2019.
2. The applicant's food catering business has been devastated by the current pandemic and the applicant has had drastic reduction in work force. The applicant indicates that it is currently operating with an 80% reduction in employees.
3. The applicant has been operating a food take-out business under a temporary permit issued by the Select Board. Orders are taken by phone or online. Customers pick up the food at the front of the building. Currently, there are 10 to 20 orders per day. The applicant seeks a more permanent authorization for take-out so it can continue and expand the take-out business.

4. The premises is located in the Industrail-1 District where an eat-in or take-out eating establishment is a permitted use under Section 3.2.1 upon the issuance of a Special Permit.
5. There has been no public opposition to the requested relief. The take-out business is critical to the survival applicant that has been a longtime employer and member of the business community. Granting a Special Permit is consistent with the criteria of Section 7.5.2.
6. A take-out food use requires 10 more spaces than the previous uses at the premises. Under Section 5.1.1.3 the applicant must comply with the By-Law as to the number of parking spaces and the design requirements for the parking unless the Board issues a Special Permit waiving those provisions.
7. Waivers of the number of spaces and design requirements were issued under the 2019 Special Permit at a time when the applicant had 85 employees in its largest shift. With the current number of employees reduced to 20, there is more than adequate parking for those employees and the operation of a take-out food establishment. There are special circumstances that support the grant of a waiver.
8. The Board is concerned that there may be a parking problem if the applicant were to prosper and return to the former number of employees. Rather than have the Board place a limit on the number of employees, the applicant prefers to have the Special Permit for take-out limited in time and subject to renewal only after a hearing before the Board.

Decision:

On the basis of the evidence presented at the hearing, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, amends the Special Permit dated July 11, 2019 to allow take-out food service for a period of two years from the date this Decision is filed with the Town Clerk and grants a Special Permit waiving the By-Law requirements as to the number and design of parking spaces relating to the take-out food service for a period of two years. This amendment allowing take-out food service and this Special Permit waiving parking requirements is subject to extension or renewal upon application to the Board.

SIGNATORY PAGE – 150 GOULD STREET

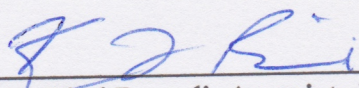

Jon D. Schneider, Chair

SIGNATORY PAGE – 150 GOULD STREET



Howard S. Goldman, Member

SIGNATORY PAGE – 150 GOULD STREET



Kathy Lind Berardi, Associate Member