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PLANNING DIVISION
Planning & Community Development

AMENDMENT TO DECISION
May 16, 2023

MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Ceed Corp, d/b/a Cook Restaurant 101-105 Chapel Street, Needham, MA 02492
Application No. 91-01

(Original Decision dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Ceed Corp, Edison Gutierrez, President, d/b/a Cook Restaurant, 15 Nell Road, Revere, MA, 02151, (hereinafter referred to as the Petitioner) for property located at 101-109 Chapel Street (previously 101-105 Chapel Street), Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 51, Parcel 9 containing 7,761 square feet in the Center Business District.

This decision is in response to an application submitted to the Board on March 24, 2023, by the Petitioner to amend the decision by the Board dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 91-01, Section 4.2; and (3) a Special Permit Amendment under Section 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit a further parking waiver to permit the outdoor dining seats as further described in this decision, to allow the Petitioner to then proceed to the Select Board for permission to add 52 outdoor seats in the public parking lot between the months of April through November.

The outdoor dining is subject to approval by the Select Board, as the proposal is on public property.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order by the Chairperson, Adam Block on Tuesday, April 25, 2023 at 7:30 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the April 25, 2023 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1 - Application for Amendment to Major Project Site Plan Review Special Permit No. 91-1 and application under Section 6.9 of the By-Law, dated March 24, 2023.
- Exhibit 2 - Letter from Ceed Corp, Edison Gutierrez, President, dated March 15, 2023, revised letter dated April 24, 2023.
- Exhibit 3 - Plan entitled "Exterior Seating. COOK. Craft Kitchen and Bar," prepared by Scott Melching Architect, consisting of 3 sheets: Sheet 1, Cover Sheet, dated February 21, 2023; Sheet 2, entitled "Exterior Seating Plan," dated February 21, 2023; Sheet 3, entitled "Exterior Seating – Screen Detail at Jersey Barrier," dated February 21, 2023.
- Exhibit 4 - Plan prepared by Scott Melching Architect, entitled "COOK. Craft Kitchen and Bar, Interior Seating Plan," dated April 12, 2023.
- Exhibit 5 - Design Review Board approval, dated April 10, 2023.
- Exhibit 6 - Email from Timothy Bulger, 265 Harris Avenue, dated April 24, 2023.
- Exhibit 7 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated April 19, 2023, revised April 25, 2023; IDC to the Board from Tom Ryder, Town Engineer, dated April 18, 2023; IDC to the Board from Chief Dennis Condon, Fire Department, dated April 24, 2023; IDC to the Board from Chief John Schlittler, Police Department, dated April 5, 2023; and IDC from Dave Roche, Building Commissioner, dated April 25, 2023.

Exhibits 1, 2, 3 and 4 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 91-1, dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022, are ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 91-1, dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022, be amended permit a further parking waiver to permit the outdoor dining seats as further described in this decision, to allow the Petitioner to then proceed to the Select Board for permission to add 52 outdoor seats in the public parking lot between the months of April through November.
- 1.2 The Amendment to Decision of Major Project Site Plan Special Permit Decision No. 91-1, was most recently transferred to Ceed Corp, Edison Gutierrez, President, d/b/a Cook Restaurant by transfer decision dated December 19, 2022. Currently, Cook Restaurant is permitted as a full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter restaurant and with one take-out station and 126 seats inside at tables, with an additional 6 seats in the waiting area, for a total of 132 approved indoors seats. The restaurant may be open for business from 10:00 a.m. to Midnight on Saturday and Sunday, and 11:00 a.m. to Midnight Monday through Friday.
- 1.3 Under the By-Law, the parking requirement for a 132-seat restaurant with one take-out station is 54

parking spaces (1 parking space per 3 seats plus 10 parking spaces per take-out station). The Petitioner secured a waiver to reduce the number of required on-site parking spaces for the 132-seat restaurant use from 54 spaces to 0 spaces under the Original Major Project Site Plan Special Permit Decision No. 91-1, dated June 11, 1991, amended March 11, 1997.

- 1.4 The Petitioner now seeks to reduce the indoor seating at the restaurant from 132 seats to 96 seats and to add at this location 52 seats to a new outdoor dining space. The Petitioner also requests to thus revise the parking waiver to reflect the current circumstance.
- 1.5 The Petitioner has further requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) as relates the required parking for the year-round seating plan of ninety-six (96) indoor dining seats and fifty-two (52) outdoor dining seats. Under the By-Law, the parking requirement for a 96-seat indoor restaurant with one take-out station is 42 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 96 seats is 32 seats. As the Petitioner is requesting 52 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Thirty-two (32) outdoor seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 20 outdoor seats, which is a waiver of 7 additional parking spaces (1 parking space per 3 seats = 6.66, rounded up to 7). Accordingly, a waiver of 7 additional parking spaces has been requested while the outdoor dining is being utilized (which is proposed to be year-round). No parking is provided on-site. As the indoor parking space waiver is 42 spaces and the outdoor dining parking space waiver is for 7 spaces, the total parking waiver requested is 49 parking spaces for the current circumstance.
- 1.6 The Petitioner has requested to revise the Decision transferred on December 19, 2022, which previously stated: “The restaurant shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the plan sheet A1, prepared by kas I kripper architecture Studio, inc. 36 Bromfield, Suite 501, Boston, Massachusetts, dated May 23, 2017, and in accordance with applicable dimensional requirements of the By Law. Minor movement of fixed equipment, interior partitions, counters or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed “minor movement” to the plan shall require approval by the Board”, to now say “The restaurant shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the Plan prepared by Scott Melching Architect, entitled “COOK. Craft Kitchen and Bar, Interior Seating Plan,” dated April 12, 2023, and in accordance with applicable dimensional requirements of the By Law. Minor movement of fixed equipment, interior partitions, counters or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed “minor movement” to the plan shall require approval by the Board.”
- 1.7 The Petitioner has requested to revise the Decision amended on March 11, 1997, which previously stated: “2.2 The Petitioner shall, at all times, the premises are open for business, offer table service, with waiters or waitresses attending tables and counter seats provided on the premises. The restaurant shall contain a maximum of 132 seats of which no more than 126 seats shall be allocated for table and counter dining, and no more than 6 seats shall be in the waiting area. No food service shall be provided in the waiting area”, to now say “2.2 The Petitioner shall, at all times, the premises are open for business, offer table service, with waiters or waitresses attending tables and counter seats provided on the premises. The restaurant shall contain a maximum of 96 interior seats. No food service shall be provided in the waiting area.”
- 1.8 The Petitioner appeared before the Design Review Board on April 10, 2023 and obtained approval for the project.

- 1.9 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.10 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit No. 91-1, dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022, under Section 7.4 of the Needham Zoning By-Law and Special Permit 91-1, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to include the requirements and recommendations of the Board for approval and endorsement. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
- a) No Plan Modifications Required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 91-1, dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022, are ratified, and confirmed except as modified herein.

- 3.1 A parking waiver to accommodate the 96 interior seats and the proposed 52 outdoor seats is hereby approved, as previously described. The Select Board must approve the outdoor dining on public property.
- 3.2 The Decision transferred on December 19, 2022, is revised to say
“The restaurant shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the Plan prepared by Scott Melching Architect, entitled “COOK. Craft Kitchen and Bar, Interior Seating Plan,” dated April 12, 2023., and in accordance with applicable dimensional requirements of the By Law. Minor movement of fixed equipment, interior partitions, counters or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed “minor movement” to the plan shall require approval by the Board.”
- 3.3 The Decision dated March 11, 1997 is revised to say
“2.2 The Petitioner shall, at all times, the premises are open for business, offer table service, with waiters or waitresses attending tables and counter seats provided on the premises. The restaurant shall contain a maximum of 96 interior seats. No food service shall be provided in the waiting area.”
- 3.4 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions, or other agencies, including, but not limited to, the Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.5 No other changes were requested nor are permitted through this amendment.
- 3.6 This Site Plan Special Permit Amendment shall lapse on May 16, 2025, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to May 16, 2025. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 16th day of May, 2023.

NEEDHAM PLANNING BOARD

Adam Block
Adam Block, Chairman

Jeanne S. McKnight
Jeanne S. McKnight, Vice Chair

Paul S. Alpert
Paul S. Alpert

Artie Crocker
Artie Crocker

Natasha Espada
Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

May 23, 2023

On this 16 day of May, 2023, before me, the undersigned notary public, personally appeared Adam Block, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Alexandra Clee
Notary Public name: Alexandra Clee
My Commission Expires: March 9, 2029

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Ceed Corp, Edison Gutierrez, President, d/b/a Cook Restaurant, 15 Nell Road, Revere, MA, 02151, for Property located at 101-109 Chapel Street (previously 101-105 Chapel Street), has passed,

 and there have been no appeals filed in the Office of the Town Clerk or
 there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

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|-----------------------------------|---------------------------------------------------------------|---------------------|
| Petitioner-Certified Mail # _____ | Board of Selectmen | Board of Health |
| Town Clerk | Engineering | Director, PWD |
| Building Commissioner | Fire Department | Design Review Board |
| Conservation Commission | Police Department | |
| Parties in Interest | Ceed Corp, Edison Gutierrez, President, d/b/a Cook Restaurant | |