



TOWN OF HINGHAM

Board of Appeals

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NOTICE OF DECISION SPECIAL PERMIT

IN THE MATTER OF:

Owner: Cayton 140-150 North Street, LLC
4 Baker Hill Drive
Hingham, MA 02043

Applicant: Proprietors of the Square Café
Carol and Luke Draheim
233 Washington Street
Pembroke, MA 02359

Property: 150 North Street

Deed Reference: Plymouth County Registry of Deeds, Book 50922, Page 189

Plan References: "Plot Plan Outdoor Seating," prepared by Sara Foley, 489 Center Street, Hanover, MA, dated May 22, 2020 and revised through March 4, 2022 (1 sheet)

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Cayton 140-150 North Street, LLC for a Special Permit A2 under § III-A, 4.9A of the Zoning By-Law (the "By-Law") and such other relief as necessary to allow the Square Café (the "Applicant") restaurant to continue having outdoor seating, permanently, on the sidewalk, located along the front of the restaurant at 150 North street, which is located in the Business A District and the Downtown Hingham Overlay District.

The Applicant simultaneously filed an application with the Planning Board for Site Plan Review in association with a Special Permit A2 under §§ I-G and I-I and a Special Permit A3/Parking Determination under §§ V-A and I-J of the By-Law. The Boards' proceedings took place separately.

The Zoning Board opened a duly noticed public hearing on its Special Permit on February 15, 2022 via Zoom as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily suspending certain provisions of the Open Meeting Law. The Board continued the initial hearing without the receipt of testimony to allow time for the Planning Board to first issue

its related Site Plan Approval. A subsequent session was held by remote participation on March 15, 2022. The Board panel consisted of regular members Robyn S. Maguire, Chair, and Paul K. Healey and Jed Ruccio. The application was presented by Carol Draheim, one of the proprietors of the Square Café. At the conclusion of the review, the Board voted unanimously to grant the requested Special Permit with conditions set forth below.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND

The Applicant seeks permanent approval to maintain outdoor seating on the sidewalk located in front of the restaurant. They have applied to the Zoning Board and Planning Board to continue the outdoor seating allowed under the Town of Hingham's COVID-19 Temporary Policy Regarding Outdoor Table Service and hope to obtain all of the necessary approvals to maintain this outdoor seating option prior to the anticipated expiration of the current allowances on April 1, 2022.

The currently permitted number of interior restaurant seats is 75. The proposed plan would add an additional 30 seats to the patio.

The Planning Board opened concurrent hearings on its related applications on February 14, 2022 and continued to March 7, 2022 where the Planning Board voted to grant with conditions Site Plan Approval in Association with a Special Permit A2 under §§ I-G and I-I, along with a Special Permit A3/Parking Determination under §§ V-A and I-J of the By-Law.

The Planning Board approved the following conditions for this application:

1. Prior to starting operation of the outdoor dining area, the applicant shall have obtained a license from the Town for use of the public sidewalk. Operation of the outdoor dining area may only continue so long as such license remains in full force and effect.
2. After expiration of the current Outdoor Table Service Permit on April 1, 2022 and prior to operation of the outdoor dining area, the Applicant shall submit a revised plan for review and approval by the Community Planning Director and the Building Commissioner to demonstrate that a minimum of 3' is provided between tables and stanchions and that a minimum of 4' remains beyond the stanchions for an unobstructed public sidewalk.
3. The Applicant shall be responsible for regular cleaning of trash and food in the outdoor dining area and shall not allow trash, food or other nutrients to accumulate or be deposited (intentionally or unintentionally) into storm drains.
4. The establishment may be subject to periodic inspection for compliance with this Approval.

FINDINGS

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings in accordance with the approval criteria under § I-F, 2 of the By-Law:

1. **The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law, for the following reasons:** The proposed outdoor patio use is an extension of the existing restaurant use at the site and is consistent with the allowable uses within the Business A zoning district and the Downtown Hingham Overlay District. The Property is already developed for commercial use and has demonstrated that it can readily accommodate this addition.
2. **The proposed use complies with the purposes and standards of the relevant specific sections of this By-Law, for the following reasons:** As noted above, the proposed restaurant patio is an extension of the allowed use under the Zoning By-Law in this district.
3. **The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area, for the following reasons:** The plans submitted by the applicant demonstrate that the patio will be in compliance with ADA and other standards as required by the Building Commissioner, and as conditioned by the Planning Board vote of March 7, 2022.
4. **The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated, for the following reasons:** The Board finds that the proposed use, with the imposition of suitable conditions as listed below, will be an improvement in the Hingham Square streetscape and will not result in adverse impacts to the neighborhood. The location will be buffered from the abutting sidewalk by stanchions and planters.
5. **There will be no nuisance or serious hazard to vehicles or pedestrians, for the following reasons:** The patio is buffered by large planters and setback from the street. That said, there have been incidents with vehicles on this corner and thus jersey barriers have been in place to provide added protection for diners in this location. The applicants are required to obtain a license from the Select Board for the use of the sidewalk. During that process, safety mitigation may be discussed.
6. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use, for the following reasons:** The patio is an extension of the restaurant and therefore has restrooms and all other required utilities.

7. **The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** The patio will not impact stormwater as all of the items in the patio (tables, chairs, lanterns stanchions and planters) are temporary, moveable items and thus will not affect stormwater runoff.

DECISION

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously to GRANT the application of Cayton 140-150 North Street, LLC for a Special Permit A2 under § III-A, 4.9A of the By-Law, and such other relief as necessary, to allow the Square Café restaurant to continue having outdoor seating, permanently, on the sidewalk, located along the front of the restaurant at 150 North street, which is located in the Business A District and the Downtown Hingham Overlay District, subject to the following conditions:

1. The proposed work shall be completed and operated in accordance with the approved plans and representations made at the hearings before the Board.
2. All patrons shall vacate the patio by 10:00 p.m. Sunday through Thursday and 11:00 p.m. on Friday, and Saturday, and the evening before legal holidays.
3. Any outside music shall be kept at a low level appropriate as background for pleasurable dining.
4. In accordance with the provisions of the By-Law, the conditions imposed in the Planning Board Site Plan Review Decision, as voted on March 7, 2022, are binding conditions to this decision of the Board.
5. That the outdoor area stanchions located nearest Le Petite Maison (142 North Street) hold and keep clear 4' of distance from the stanchions toward North Street to allow for a clear sidewalk for pedestrians/ADA Compliance; and 3' on the inside of the patio area between the stanchions and the tables. The applicant also agreed to keep the 2 seats closest to 142 North Street two-top tables, and to file a plan with the Board showing these changes.

For the Board of Appeals,



Robyn S. Maguire, Chair
April 7, 2022

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.