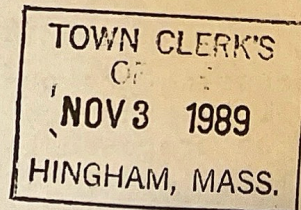


TOWN OF HINGHAM

BOARD OF APPEALS



APPLICATION FOR SPECIAL PERMIT A-2 FOR A
RESTAURANT AT 19 MAIN STREET IN THE PRIDE BUILDING

A public hearing on this matter was duly held at the Town Office Building on Thursday, October 26, 1989, before a panel consisting of Martha J. Horn, Chairman, Alexander A. Randall, Regular Member, and Alternate Member Victor Baltera.

Peter D. Costello, the Applicant, was represented by Roberta Sawyer, Esq. The Pride Building is owned by Hingham Square Realty Trust, and Jane Dickey and Stephanie Wasser of The Grossman Companies represented the landlord.

To grant a Special Permit A-2, the Board must find that the proposed use is in harmony with the general purpose and intent of the Zoning By-Law, that the specific site is an appropriate location for such use, that the use as developed will not adversely affect the neighborhood, that there will not be a nuisance or serious hazard to vehicles or pedestrians using adjacent or nearby ways, and that the specific site has, or will provide, adequate private and/or municipal support facilities.

The Applicant proposes to open a restaurant known as The Country's Best Yogurt (TCBY) in 1458 sq. ft. of the downstairs retail space of The Pride Building which has replaced the former Sprague Building at the corner of Main and South Streets. The new building footprint and square footage closely match that of the former building and the parking is grandfathered for a retail use.

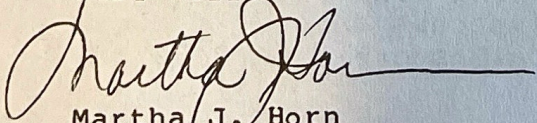
TCBY expects to operate daily from 11:00 a.m. to 10:00 p.m., and weekends and summer evenings to 11:00 p.m. Typical store counts submitted with the application show that the peak hours of operation are anticipated to be from 6:00 p.m. to 10:00 p.m., well after most of the other businesses in the Square have closed. Seating will be provided at several in-store tables; take-out is also proposed. The parking required for a sit-down/take-out restaurant with 28 seats matches the grandfathered parking requirement for a retail store with 1458 sq.ft. (7 spaces).

In discussing the proposed restaurant, the Board was able to make all the required findings with the exception that the store, as proposed, would create a nuisance or serious hazard to vehicles and pedestrians because it lacked a rear entry/exit to which deliveries could be made. Members felt strongly that delivery vehicles will park in the street in front of the store, impeding traffic and blocking parked cars. The landlord's representatives suggested that on-street delivery is a fact of life in a downtown area and that there is no way to create a rear exit/entry to this particular retail unit. Their initial solution to the problem was to have trucks park in the delivery space in the rear alley and have the driver wheel the goods around to the front door of the building, a situation which Members felt would result in on-street parking, human nature being what it is. Members felt that the downtown area is already congested, and pedestrians and motorists on Main Street should not have to bear the burden of delivery traffic caused by poor design. The landlord's representatives promised a solution which would meet the Board's requirements. Accordingly, the Board voted unanimously TO GRANT the Special Permit A-2, subject to conditions. On the morning following the hearing, a new plan showing a rear entrance from the main interior hallway was received by the Board. This rear door places the delivery area less than 20 ft. from the store, and solves the problem.

CONDITIONS:

1. The restaurant shall be constructed and operated in substantial accordance with the plans and representations made in the written application and at the hearing; proposed changes in operation shall first be the subject of written requests for modification of the Special Permit.
2. All deliveries shall be made through the rear door from the delivery area in the alley. On-street parking of delivery vehicles shall be grounds for revocation of the Special Permit.
3. Due to a continuing trash problem with take-out operations in the downtown area, the applicant is required to police the sidewalk and street area near his store on a regular basis and to encourage proper disposal of wrappers, etc.

We look forward to seeing The Pride Building tenanted, and wish TCBY well.


Martha J. Horn
for the Board of Appeals
November 1, 1989