

Middlesex South Registry of Deeds

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Town of Boxborough



ZONING BOARD OF APPEALS

Decision No. 2023-01

Dated: February 28, 2023

Decision of the Zoning Board of Appeals ("the Board") on the Application for Special Permit made by the Applicant Campanelli-TriGate Boxborough Sub, LLC ("the Applicant"), pursuant to M.G.L. Chapter 40A and Boxborough Zoning Bylaw Sections 4700, 9100, and 9200. Subject property 500 Beaverbrook Road is shown on the Boxborough Assessor's Map 03-013-000.

This is an application for a Special Permit under Section 4700 of the Boxborough Zoning Bylaw to operate a restaurant in the Office Park district.

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted, and mailed as required by law, the public hearing was conducted on February 21, 2023. Zoning Board of Appeals members Mark White, Mark Barbadoro, Michael Toups, and Shawn McCormack were present throughout the proceedings. Nathaniel Stuntz was also present as an associate member. Russel Dion and Doug Ferriman were in attendance on behalf of the Applicant.

The hearing was closed on February 21, 2023.

The record of the proceedings and the submissions on which the Decision is based may be referred to in the Office of the Town Clerk.

The following were tendered as exhibits:

Exhibit A: Zoning Board of Appeals Special Permit Application received February 1, 2023.

Exhibit B: Fire Department email received February 1, 2023.

Exhibit C: Littleton Electric Light and Water Departments email received February 1, 2023.

Exhibit D: Police Department email received February 1, 2023.

Exhibit E: Memo of Information from the Applicant received February 14, 2023.

Exhibit F: Town Planner Memo dated February 16, 2023.

After due consideration of the application, the record of the proceedings and the exhibits submitted,

Property: 500 Beaver Brook Rd., Boxborough

the Board make the following findings of fact:

1. The subject property is located at 500 Beaverbrook Rd is shown on the Boxborough Assessor's Map 03-013-000. The subject property is located in the Office Park District.
2. The Applicant is seeking a Special Permit to operate 7,500 square foot, 200 seat, restaurant within the existing four (4) story building.
3. The proposed restaurant would be operated by Craft Food Halls, who operates a similar business in five (5) locations in the state of Massachusetts.
4. The proposed restaurant would occupy +/- 38.5 % of the original cafeteria foot print, and reuse the outdoor patio space.
5. The only modification to the building proposed is the replacement of two ground floor windows with an overhead glass door and a second entrance/egress door.
6. The proposed renderings show a variety of seating options, with a blend of table games, artistic features, and entertainment amenities. These would include lounge areas, staging, and meeting/conference space.

SPECIAL PERMIT CRITERIA

No application for a Special Permit shall be granted unless the Special Permit Granting Authority shall find that the structure(s) and/or use(s) proposed shall not have adverse effects which outweigh its benefits on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

1. Social and community needs which are served by the proposal.

The Board finds that this business will create a unique dining experience, unlike any other in Boxborough and many of the surrounding communities. The proposed business will be both an asset to the business park and a welcome amenity to the community at large.

2. Traffic flow and safety.

The Board finds that while there will be increased traffic during evening hours, the proximity to State Route 495 and 111 will allow for safe diversion of traffic predominantly away from residential neighborhoods.

3. Adequacy of utilities and other public or private services, including storage or disposal of sewage, refuse or other wastes, and drainage and/or retention of surface water.

The Board finds that the existing utilities are more than capable of handling the proposed usage

and that there will be no new construction to alter drainage on site.

4. Density of population, intensity of use, neighborhood character and social structures.

The Board finds that the use of the property as a restaurant is consistent with the market trends for industrial parks and will contribute positively to the community character as a new and unique business.

5. Impacts on the natural environment.

The Board finds there to be no anticipated impact on the surrounding conservation land or the greater natural environment. Trash shall be enclosed and handled in an expeditious manner so as to prevent litter or build up.

6. Impacts on health.

The Board finds that the proposed business will have no impact to public health and that the facilities intended to handle waste and water should be greater than what is needed to support the proposed new business.

7. Potential fiscal impact, including tax contribution, diminution or enhancement of neighboring property values, and creation of new employment opportunities.

The Board finds that the restaurant will support and diversify the Town's commercial tax base. Further, the proposed use will create year-round and seasonal employment. The addition of a restaurant in this location will also create secondary benefit to trash hauling businesses, local farms, and local agriculture.

DECISION

After due consideration of the foregoing, and the exhibits presented at the hearing, the Boxborough Zoning Board of Appeals **finds** that the proposed alteration does not have adverse effects that outweigh the benefits to the neighborhood and the community, and that the use is appropriate for the proposed location. Therefore, on February 21, 2023 the Boxborough Zoning Board of Appeals voted 4-0 to **GRANT WITH CONDITIONS** the Special Permit.

CONDITIONS OF DECISION

Approval of the special permit is made, contingent upon the applicant meeting all of the conditions herein. These conditions include:

1. Prior to the issuance of a Building Permit, the Applicant/Owner shall record the Decision with the Middlesex South Registry of Deeds and provide verification of the recording to the Town Planner and Building Inspector.
2. Prior to the issuance of a Building Permit, the applicant/Owner shall meet with the Police department and Littleton Electric Light and Water Departments to discuss the matters

referenced in their respective letters.

3. Hours of operation for the business must remain within 6:00 a.m. and 12:00 a.m.
4. The proposed business will conform to the description of the project as made in the application and all of the exhibits presented.
5. To encourage use of the business by the larger community, the applicant will conspicuously market the business at least twice annually. Marketing will be conducted online and in public spaces of Boxborough and the four (4) neighboring towns, from a period of November 15th to December 14th and a period of May 15th to June 14th.
6. Trash and garbage will be stored in enclosed containers and collected at least twice weekly, so as to prevent litter and protect the neighboring parcels.
7. All exterior lighting will be compliant with the Boxborough Zoning Bylaws, as prescribed in section 6200.
8. The Applicant/Owner shall pay all outstanding fees incurred for the Board's consultants including Town Counsel and the Board's Consulting Engineer, for the performance of any of the review and inspection services contemplated herein, and including any such fees incurred prior to the date of this Decision.
9. Violation of any of the conditions of this Decision, as acknowledge by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.

The foregoing restriction have been spelled out for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Boxborough Zoning Bylaw. The applicant, by acceptance of this decision and recording thereof, acknowledges the binding effect of the conditions of this decision.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within (20) days after the date of filing of the above referenced Decision with the Town Clerk.


This Special Permit shall not be Valid until recorded with the Middlesex South District Registry of Deed and evidence of such recording provided to the Building Commissioner.

Title Reference: Book 78084, Page 111

[Signature Page to Follow]

SIGNATURES

On behalf of the Zoning Board of Appeals:



Mark White, Zoning Board of Appeals Chairperson

I, Rebecca Harris, hereby do certify that this is a true copy of the above Board of Appeals Decision.



Rebecca Harris, Town Clerk

2/28/2023

Date Filed

TO WHOM IT MAY CONCERN

I, Rebecca Harris, hereby certify that the 20-day appeal period on this Decision has expired, and no appeals have been filed with this office.



Rebecca Harris, Town Clerk

3/21/2023

Date