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CASE NO. 20-08

NOTICE OF PUBLIC HEARING BY THE
ZONING BOARD OF APPEALS

ON APPLICATION FOR 1 SPECIAL PERMIT

Notice is hereby given that the Belmont Zoning Board of Appeals will hold a public hearing on Monday, March 2, 2020 at 7:00 PM in the Wellington School Community Room, 121 Orchard Street, to consider the application of Bruegger's Bagels, Kenneth G. Bedrosian, agent, located at 41 Leonard Street in Local Business I (LBI) zoning district for one (1) Special Permit under Section 3.3 of the By-Laws to revise the hours of operation previously approved by the Board, Case # 90-32, to allow new hours of operation, Monday through Sunday 5:00am to 9:00pm. Special Permit, 1.- Revisions of Special Permits are allowed by the Board of Appeals.

ZONING BOARD OF APPEALS



Town of Belmont
Zoning Board of Appeals

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APPLICATION FOR A SPECIAL PERMIT

Date: January 22, 2020

Zoning Board of Appeals
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

To Whom It May Concern:

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, as amended, and the Zoning By-Laws of the Town of Belmont, I/we the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on 41 Leonard Street/Road, hereby apply to your Board for a **SPECIAL PERMIT** for the erection or alteration on said premises or the use thereof under the applicable Section of the Zoning By-Law of said Town for _____

Revision of operating hours from 5:00 am through 9:00 pm.

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Signature of Petitioner

KG Bedrosian

Print Name

Kenneth G. Bedrosian, President

Address

KGB Project Services, Inc.

44 Bedford Road, Carlisle, MA 01741

Daytime Telephone Number

978-837-8188

KGB Project Services, Inc.
44 Bedford Road
Carlisle, MA 01741
kgbprojectservices@comcast.net
978-371-7797 office 978-837-8188 cell

January 22, 2020

Town of Belmont
Zoning Board of Appeals
Homer Municipal Building
Belmont, MA 02478-0900

Dear Board of Appeals Members,

On behalf of Bruegger's Bagels I would like to thank you for your consideration of this matter. I have been retained by Bruegger's Bagels to represent them in the application for modification to the Special Permit conditions (Board of Appeals SP 90-32) approved November 5, 1990. This request is to grant operational hours from 5:00 am through 9:00 pm, Monday through Sunday in lieu of the 6:30 am through 9:00 pm previously approved by the Board in 1990.

This would allow Bruegger's Bagels to service our early morning patrons, and the opportunity to be competitive in its hours with other local establishments which provide similar services in the Belmont Center Business district.

Trash collection and delivery hours will remain the same.

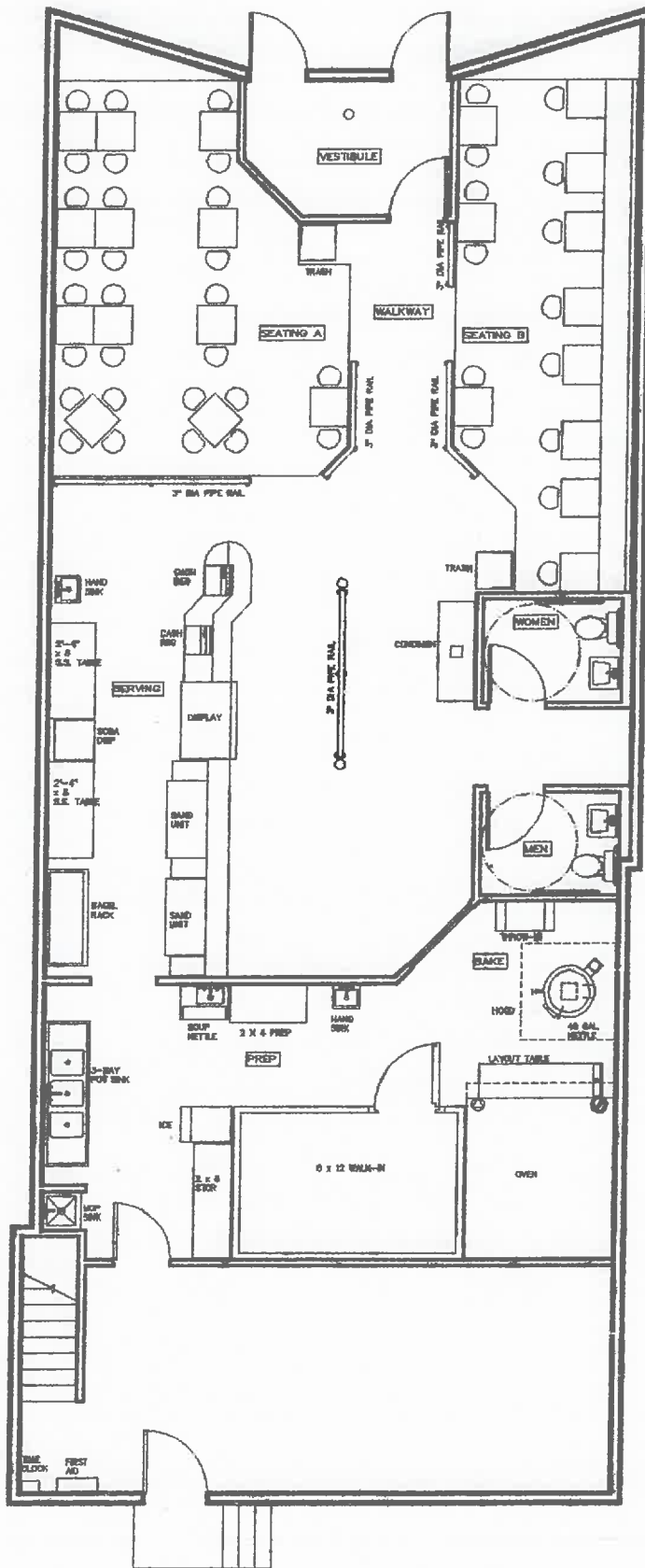
Sincerely,


Mr. Kenneth G. Bedrosian, President

KGB Project Services, Inc.

Cc: Scott Tellier, Landlord, J G Tellier Realty Trust
Cody Shank, Director of Operations, Bagel Brands
Tom Leoni, District Manager, Bruegger's Bagels
Fred Leon, Director of Facilities, Coffee and Bagels
Pete Papula, Regional Facility Manager, Coffee and Bagels
Therese Marshall, Director Lease Portfolio, Legal Department Coffee and Bagels

Case 90-32



(50 SEATS)

BRUEGGER'S BAGEL BAKERY

BELMONT

41 LEONARD STREET
BELMONT, MA

UPRIGHT
CONSTRUCTION, CO.

P.O. BOX 562, BURLINGTON, VT
05402 (802) 864-7344

TOWN OF BELMONT
BOARD OF APPEALS
GRANTING OF A SPECIAL PERMIT

Case No. 90-32

Applicants:	J.G. Tellier Realty Trust and Bruegger's Bagel Bakery, Inc.
Location:	41 Leonard Street
Hearing Date:	November 5, 1990
Members Present:	John W. Gahan, III, Chairman James D. Harrington Charles T. Reardon Mary Ellen Rigano Vincent Shanley Sally Tanner, Clerk

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This is a proceeding before the Board of Appeals of the Town of Belmont (the "Board") acting pursuant to Massachusetts General Laws, Chapter 40A, as amended, and the Zoning By-law of the Town of Belmont (the "By-law") on the application of J.G. Tellier Realty Trust (the "Trust") and Bruegger's Bagel Bakery, Inc. ("Bruegger's") for a special permit.

The relief sought is that the applicants be allowed to operate a restaurant/bakery with a 50 seat capacity at 41 Leonard Street, Belmont Center. The trust owns the premises. The restaurant/bakery will be operated by Bruegger's.

After all requirements of notice were satisfied, a public hearing was held on Monday evening, November 5, 1990 at 7:30 p.m. in the Town Hall Annex Legion Hall, Belmont, Massachusetts. Present for the Board were John W. Gahan, III, Chairman, James D. Harrington, Charles T. Reardon, Mary Ellen Rigano and Vincent J. Shanley. Also present was Sally Tanner, Clerk of the Board.

Bruegger's specializes in the sale of bagels and bagel sandwiches. It also serves cream cheese mixes (Bruegger's supreme cheese), soups and a limited number of desserts. Bruegger's presently operates stores in Auburndale and Wellesley Hills as well as in other Massachusetts locations. The proposed operation in Belmont will include a bakery (the bagels will be baked on the premises in view of the customers) and a sit-down restaurant. The proposed hours of operation are 6:30 a.m. to 9 p.m., Monday through Saturday, and 8 a.m. to 5 p.m. on Sunday. Bruegger's describes its operation as "upscale".

No relief from this Board is required for the bakery part of the operation which is permitted as of right under the By-law.

The special permit is required because of the restaurant operation.

The Board finds that the proposed operation is in harmony with the general purpose and intent of the By-law and that it will be of benefit to Belmont Center. More specifically, the Board finds the following:

1. There is an important need for a sit-down restaurant other than a pizza parlor or a Chinese food establishment in Belmont Center. Bruegger's will meet this need.

2. In view of the present difficult economic climate in Massachusetts, it is difficult to find prospective tenants of the quality of Bruegger's. There are several empty store fronts in Belmont Center. It hurts the image of the Center, and consequently the profits of remaining retailers, to have this situation continue.

3. Empty stores cost the Town tax revenues. At a time when Belmont faces serious budgetary problems, it does not make sense for the Town's tax base to be devalued by empty store fronts or unproductive stores.

4. Bruegger's and the Trust will be making substantial improvements to the premises. These improvements will further enhance the value of the premises and, consequently, the tax revenues generated by the operation.

In summary, the Board finds that Bruegger's will bring a sound operation to the Town, fill a need in Belmont Center and generate needed tax revenues.

The Board does, however, have two concerns. One is that the premises not pass into the hands of a less qualified restaurant operation. Secondly, in keeping with its decision in prior cases involving applications for special permits, the Board has required reapplication to the Board for a renewal of the special permit after a certain number of years. The reason for such a review is not to reexamine de novo whether the special permit should be granted but simply to determine whether there has been compliance with the conditions of the special permit and applicable rules and regulations of the Belmont Board of Health. Also, the Board believes that Bruegger's should be limited to the hours of operation mentioned by its counsel in his presentation to the Board.

In accordance with the foregoing findings and its vote of November 5, the Board grants a special permit to the applicants for a special permit as requested subject to the following conditions:

A. The hours of operation shall be limited to between 6:30 a.m. to 9 p.m., Monday through Saturday, and 8 a.m. to 5 p.m. on Sunday, or such shorter hours of operation as the operator may determine.

B. The right granted by this special permit to operate a restaurant may be exercised only by Bruegger's, subject to the following exceptions:

(1) Bruegger's or any assignee or sublessee which satisfies these exceptions may from time to time assign its lease or sublease of the premises at 41 Leonard Street ("the lease") to a

lender as security for a loan, and any such lender may further assign the lease or sublease, all without approval of any kind.

(2) Bruegger's or any assignee or sublessee which satisfies these exceptions may from time to time assign the lease or sublease, or sublet, to any controlling or controlled entity or to any affiliate or subsidiary of such an entity without approval of any kind.

(3) Bruegger's or any assignee or sublessee which satisfies these exceptions may from time to time assign the lease or sublease, or sublet, to any person or entity not described in subparagraphs (1) or (2) for the purpose of conducting any activity of a type which does not require a special permit under the By-law, without approval of any kind.

(4) Bruegger's or any assignee or sublessee which satisfies these exceptions may assign the lease or sublease, or sublet, to any person or entity not described in subparagraphs (1) or (2) for the purpose of conducting any activity of a type which requires a special permit under the By-law, subject to review by the Board for compliance with the following standards:

(a) The proposed assignee or sublessee agrees to operate a line of business which is the same as or similar to that operated by Bruegger's and of the same or similar quality;

(b) The proposed assignee or sublessee is willing and able to comply with the conditions set forth in this special permit; and

(c) The proposed assignee or sublessee agrees to operate the business in accordance with all applicable rules and regulations of the Board of Health of the Town of Belmont.

The Board will approve the application for a special permit if the standards set forth in clauses (a) through (c) above are reasonably satisfied and will not unreasonably withhold or delay action on such application.

(5) This condition will not apply in the case of a mere change in identity, form or place of organization of Bruegger's or any entity described in subparagraphs (1), (2), (3) or (4)."

C. Bruegger's or any assignee or sublessee described in paragraph B above which becomes such on or before November 5, 1993, will apply to the Board on or before said date to extend the special permit for the purpose of the Board's review of compliance with the conditions of this special permit and all applicable rules and regulations of the Belmont Board of Health. The Board will approve the application for such extension if such compliance is established to its reasonable satisfaction.


For the Board:


John W. Gahan, III

Dated: Nov 12, , 1990

I, Ann Cresine Wilson, Town Clerk, hereby certify that twenty days have elapsed after the decision was filed in the Office of the Belmont Town Clerk on November 21, 1990 at 8:32 a.m. and I further certify that no appeal has been filed with regard to the granting of said special Permit with Conditions.

March 1, 1991


Ann Cresine Wilson
Town Clerk