

**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

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TOWN CLERK
BELMONT, MA

CASE NO.

20-13

2020 JUN -8 AM 7:50

APPLICANT:
owner

The Vintage Tea and Cake Company, Adel Donegan,

PROPERTY:

129 Belmont Street

DATE OF PUBLIC HEARING:

April 6, 2020

MEMBERS SITTING:

Nick Iannuzzi, Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Phil Ruggerio
Casey Williams (Associate Member)
Andrew Kelley (Associate Member)
Teresa MacNutt (Associate Member)

MEMBERS VOTING:

Nick Iannuzzi, Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Phil Ruggerio
Teresa MacNutt (Associate Member)

Introduction

This matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as Special Permit and Variance Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts (the "By-Law") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The Applicant, Vintage Tea and Cake Company, Adel Donegan, owner ("Applicant") requests a Special Permit under Section 3.3 of the Zoning By-Laws to operate a Fast Food Restaurant at 129 Belmont Street located in a Local Business III (LBIII) Zoning District.

Proposal

The Board held a duly noticed hearing on the proposal on May 18, 2020 conducted via ZOOM videoconference (in connection with current restrictions regarding social distancing in connection with COVID-19).

The applicant presented her case and indicated that she has been at this location for the past 5 years as a bakery and catering business. Her 5 year lease will expire and that it has been difficult to continue her business at this location as a bakery without expanding the business by offering sit down service, take-out and private functions. The hours of operation would continue to be weekdays 8:00am to 6:00pm and weekends 11:00am to 4:00pm. She is proposing to have

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16 seats and 2 staff. The Town of Belmont By-Law considers the proposed as operating a fast food restaurant which is allowed by a Special Permit granted by the Board of Appeals.

The Board had received an email from Steve and Jackie Hardy, residing at 3 Exeter Street Belmont, MA 02478 and a letter of opposition from Angeline B. Kounelis, 55 Keenan St., Watertown, MA 02472-2904, both abutters had concerns about the additional parking that this new business will add to an already congested parking condition in the neighborhood.

Board members recognized that the parking situation in the neighborhood was challenging with growing existing businesses as Shangri Lai and Eastern Lahmajun in the Town of Belmont, Sofra in the city of Cambridge, Conley's Pub & Grill in the Town of Watertown and others.

Section 5.1.2(d) of the By-Laws require 1 parking space for 2 persons seating capacity for restaurants, whereas section 5.1.2 (g) for retail services considers 250 square feet of the ground floor area for each parking space and 400 square feet of the basement (other floors) floor area for each parking space. The accumulative gross floor area of the store allows for 5 parking spaces to be considered as grandfathered. The total required for the proposed restaurant for 16 seating is 8 parking spaces. The Special permit requested by the applicant includes a waiver from the Board for the 3 additional parking spaces.

At the meeting Mr. and Mrs. Hardy expressed their concerns about the parking and added that some of the patrons visiting those stores will park in front of their property and block their driveway. No one else spoke in favor or in opposition to the case. Ms. Donegan proposed to have a sign placed at her storefront to remind customers to be courteous about the parking situation and respect the neighbors' rights.

Chair Iannuzzi asked the applicant if she wishes to have the case continued to give her a chance to resolve the parking matters with the neighbors. Ms. Donegan responded that a delay of the decision will result in terminating her lease with the owner and moving to another location.

Conclusion

On April 6, 2020 the Board deliberated on Adel Donegan ("Applicant") request for a Special Permit under Section 3.3 of the Zoning By-Laws operate a Fast Food restaurant at 129 Belmont Street located in a Local Business III Zoning District.

The Board considered the additional 3 parking spaces to be allowed as the change of the character of the proposed space to a fast food restaurant. It determined that the impact was de minimis and that penalizing a local business because of growing and expanding other similar uses in the vicinity where other neighboring Towns and cities have more relaxed parking requirements was unfair to local businesses and is not to the best interest of the Town as a whole.

The Board found that the change of use would not be substantially more detrimental to the neighborhood than the existing conditions.

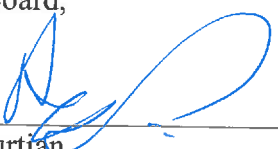
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Accordingly, upon motion duly made by Teresa McNutt and seconded by Phil Ruggerio, the Board voted 4-1 to grant the Applicant's One Special Permit as requested conditional upon the following:

- a.) Special Permit issued to Adel Donegan is not transferable.
- b.) Occupancy is limited to 16 seating and 2 staff.
- c.) Hours of operation weekdays 8:00am to 6:00pm and weekends 11:00am to 4:00pm.
- d.) The applicant will place a sign for patrons to obey with parking restrictions.

For the Board,

Dated: June 4, 2020



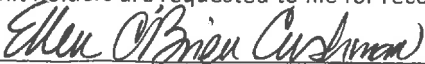
Ara Yogurtian
Assistant Director
Office of Community Development

CERTIFICATION BY TOWN CLERK

I, Ellen O'Brien Cushman, hereby certify that twenty (20) days have elapsed after the decision was filed in the office of the Belmont Town Clerk on June 8, 2020, and further I certify that no appeal has been filed with regard to the granting of said One (1) Special Permit with four (4) conditions.

Statutory appeal periods, and thus the issuance of Certificates of No Appeal, have been temporarily affected by Court Standing Orders, available at www.mass.gov/guides/court-system-response-to-covid-19. Applicants, abutters and interested parties should consult the Standing Orders to determine their next actions. Any decision by a permit holder to proceed is at their own risk, and the permit holder is urged to consult their own legal counsel.

Under Section 17 of Chapter 53 of the Acts of 2020, the requirement to record permit decisions with the Registry is suspended for so long as the Registry is "closed or subject to rules and procedures restricting public in-person access." However, such recording will still be required upon the full reopening of the Registry. The Middlesex County Registry of Deeds continues to accept filings by postal mail during this period, and permit holders are requested to file for recording through this method to the extent possible.



Ellen O'Brien Cushman, Town Clerk
Belmont, MA

July 14, 2020