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**TOWN OF ASHLAND MASSACHUSETTS  
OFFICE OF  
PLANNING BOARD  
101 MAIN STREET**

RECEIVED  
TOWN CLERK  
ASHLAND, MA  
2022 MAY -6 AM 11:52  
Patricia Kendall, Chairman  
Peter Matehak, Town Planner

**Certificate of Approval  
Site Plan Approval  
355 West Union  
Map 23, Lot 255 and 295**

In Accordance with Massachusetts General Law (MGL), Chapter 40A (The Zoning Act) and Chapter 282, section 9.4 (Site Plan Review), and section 9.6 (Design Plan Review) and of the Ashland Bylaws, the Planning Board (the "Board") received an application on May 18, 2021 (the "Application") and subsequently held a public hearing for the Application of John Tomasz, seeking Site Plan Approval for the construction of an outdoor dining area adjacent to the existing restaurant.

The property in question is located at 355 West Union Street, Assessors Map 23, Lots 255 and 295 in the Highway Commerce District.

The Public Hearing and continuances were held pursuant to notice published in the Metro-West Daily News on May 26, 2021 and June 6, 2021 and mailed to Parties of Interest.

The Board opened the public hearing as advertised on June 10<sup>th</sup> and subsequently continued the hearing to June 24, 2021, July 15, 2021, July 22, 2021, Aug 12, 2021, and Sept 9, 2021 due having an incomplete application. On October 14, 2021 the Planning Board opened the public hearing and accepted testimony and public comment. Public discussion of the aforesaid application was therefore continued on Nov 18, 2021, Dec 9, 2021, Feb 10, 2022, and March 3, 2022. The public hearing was closed on March 17, 2022. Due to the Covid-19 Massachusetts State of Emergency Planning Board public hearing were held via video conference. Meeting were held in full compliance with Massachusetts Open Meeting guidelines as modified by Governor Charlie Baker's Emergency Order dated March 12, 2020 suspending certain provisions of the Open Meeting Law. Agendas and meeting material were available on the Town of Ashland website.

***Documents of Record***

The Application was received and stamped at the Town Clerk's Office on May 18, 2021, and contained:

- Application for Site Plan Review filed with the Ashland Town Clerk on May 18, 2021.
- A letter summarizing the application holding no date or signature.
- Site Information for Site Plan review, including the following:
  - Ashland GIS imagery showing the site pre pandemic
  - Hopkinton GIS imagery showing that portion of the site (parking/access/egress)
  - Google Earth Imagery of Historic Existing Conditions
  - Ashland GIS imagery "expanded scale" showing the approximate locations of the patio and concrete block protection, and annotated traffic access/egress arrows.
  - Path of traffic flow + location of patio dining areas as an overall configuration representing the current location.
  - Two schematics of the actual patio areas (upper deck and on-ground patio) with dimensions.
- Letter addressed to Mr. Peter Matchak, Planner and Ashland Planning Board from George Connors, Connorstone Engineering, Inc., RE: Hopash, INC., DBA TJ Food and Spirits – Outdoor Seating Conversion – 355 West Union St. Dated Oct 7, 2021.
- Letter and existing conditions addressed to Mr. Peter Matchak, Planner and Ashland Planning Board from George Connors, Connorstone Engineering, Inc., RE: TJ's Spirits. Dated Oct 28, 2021.
- Proposed renderings of the outdoor seating parking area submitted to the Planning Board on Dec 7, 2021.
- Letter and site renderings addressed to Mr. Peter Matchak and Ashland Planning Board from George Connors, Connorstone Engineering, Inc., RE: TJ's Spirit. Dated Feb 3, 2021.
- A one (1) sheet Set of Site Plans titled "Proposed Plan Outdoor Seating Area, 355 West Union Street in Ashland, MA. Dated September 24, 2021 holding a revision dated of March 22, 2022; Scale: 1"= 20'; developed by Connorstone Engineering Inc., 10 Southwest Cutoff, Suite 7, Northborough, MA 01532":

Sheet:	Description:	Plan Date:	Revision Date:
1	Proposed Outdoor Seating	Sept 24, 2021	March 22, 2022

***Materials Submitted During the Public Hearing:***

- a) Continuance request from George Connors, dated Oct 25, 2021
- b) Continuance request from George Connors, dated Nov 15, 2021
- c) Continuance request from George Connors, dated Jan 10, 2022
- d) Continuance request from George Connors, dated Jan 24, 2022
- e) Continuance request from George Connors, dated March 3, 2022
- f) Other correspondence from abutter(s), neighbor(s), resident(s) and/or others relative to the Project.

***Facts and Findings***

Based on the evidence presented by the Applicant, the Board makes the following findings outlined in Chapter 282, Section 9.4.6 (Site Plan Review Criteria) of the Ashland Zoning Bylaws:

1. The project proposal includes development of a new permanent 700 sq. ft. outdoor patio seating area that will allow the placement of thirty two (32) seats. Site development shall include an accessible entrance to the seating area surrounded by a low (“dead man barrier” style) concrete block wall. Concrete or grout shall be used to infill over the lifting rebar on the blocks, forming a continuous and smooth surface. The concrete wall facing West Union Street shall be screened with a continuous row of planter boxes as represented in the approved renderings included in the Feb 3, 2022 letter to the Planning Board. The patio area shall contain seating furniture including tables and chairs. Gas heaters shall be allowed via permitting and inspection from the Ashland Fire Dept. Due to the Covid-19 pandemic the Massachusetts State Legislature granted permission to local food establishments to temporarily develop and open outdoor dining/seating areas allowing customers and patrons to visit and enjoy local businesses in safe spaces. Due to the overwhelming success the applicant is hereby applying to permanently develop the described outdoor seating area.
2. The building and outdoor seating area with street frontage along West Union Street has been designed to be both easily visible and blend into the surrounding area while being inviting to the public with accessible public access to the proposed new outside seating area.
3. Based on the evidence presented by the Applicant, the Board is required to apply the criteria found in Chapter 282 section 9.4 (Site Plan Review) of the Ashland Zoning Bylaw as it applies to the proposed uses which are set forth in Sections 3.1 (Use Regulations), as follows:
  - a. Minimize use of wetlands, steep slopes, floodplains and hilltops;  
Finding: The proposed outdoor seating area has been designed within the current asphalt parking area. No natural geographical features shall be altered and or disturbed.

- b. Minimize obstruction of scenic views;  
Finding: West Union Street also known as Route 135 is a numbered state road and a local route connecting Hopkinton and Ashland. West Union Street is also part of the Boston Marathon Route. The Planning Board finds that proposed outdoor seating area as proposed will allow the applicants to expand their outdoor seating area in a safe manner while respecting the local area and scenic way routes in Ashland.
- c. Preserve unique natural or historical features;  
Finding: There are no unique natural or historical features on the locus.
- d. Minimize tree, vegetation and soil removal and grade changes;  
Finding: The proposed outdoor seating area shall remove no existing trees on the site. The seating area will reused an existing asphalt area abutting the existing outdoor deck currently used for seating.
- e. Maximize open space retention;  
Finding: The Applicant has proposed outdoor seating area that will expand the outdoor seating option for patrons of TJ's Spirits and add life and vitality in the spring, summer and fall to the otherwise bleak parking area.
- f. Screen objectionable features from neighboring properties and roadways;  
Finding: Objectionable features have been screened from neighboring properties and vehicles driving by the locus along West Union Street. The Planning Board has reviewed and approved the renderings submitted within the Feb 3, 2022 letter to the Planning Board through the use of planter boxes, plantings and lattice screening under the existing deck.
- g. Consideration shall be given to the impacts of the project on town services and infrastructure  
Finding: The impacts of the project on town services and infrastructure has been considered and are not detrimental to the town.
- h. Electric, telephone, cable television, gas, water, sewer drainage and other such utilities shall be underground except in the case of extreme physical and environmental constraints  
Finding: This application is an expansion of the outdoor seating area. No infrastructure shall be altered.
- i. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors and those using public ways from objectionable features. Such areas shall not be impede the flow of traffic on public ways.  
Finding: Fencing and screening shall be placed in a manner which serves to screen objectionable features from neighbors and those using public

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ways. Screening has been representing on the approved site plan dated March 22, 2022 and within the letter addressed to the Planning Board on Feb3, 2022.

- j. When applicable, the site plan shall show measures to reduce and abate noise generated from the site that will impact surrounding properties  
Finding: The proposed use has been considered to be not detrimental to the town and surrounding neighborhood.
- k. The site plan shall comply will all zoning requirements for parking, loading, signage, dimensions and environmental performance standards and all other provisions of this By-law  
Finding: The site plan complies with all relevant zoning requirements for parking, loading, signage, dimensions and environmental performance standards.
- l. The site plan shall be consistent with the objectives of the Comprehensive Plan and other applicable specific plans adopted by the Planning Board  
Finding: The site plan is consistent with all applicable plans.

***Decision***

Following presentations by the Applicant and its consultants, a review by the Planning Board and its consultant and members of the public, the Planning Board voted 5-0-0 to approve the project proposal per Section 9.4 (Site Plan Review) and Section 9.6 (Design Plan Review) of the Ashland Zoning Bylaws. The Planning Board finds in favor of the application proposing the construction of a 700 sq. ft., 32 seat outdoor seating area. The project will use existing the parking area and ingress and egresses for the site.

With said vote the Planning Board approves the submitted plan of record which includes Civil, Landscaping, and Architectural renderings. The approved Civil Plans are titled "Proposed Plan Outdoor Patio Seating Area, 355 West Union Street", 355 West Union Street, Ashland, MA, holding a date of September 24, 2021, with a revision date of March 22, 2022. Along with renderings showing materials are dated February 3, 2022.

***Documents of Record Subject to the Following Conditions***

As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors and assignees and the term "Board" shall mean the Planning Board, whoever its members shall be from time to time.

**Special Project Conditions**

1. **Lighting**  
There shall be no new lighting. All existing lighting of the proposed outdoor seating area shall meet State Building Code and shall be sufficient, safe and shall not spill over into other areas of the locus.
2. **Accessibility**  
The proposed outdoor seating area shall be in compliance with the standards and requirements of the Americans with Disabilities Act and 521 CMR: Massachusetts Architectural Access Board (MAAB)
3. **Outdoor Furniture**  
The storage of outdoor furniture and equipment when seasonally not in use shall be out of sight of the public way.
4. **Use of Propane/Electrical Equipment**  
Use of propane and electrical equipment in the proposed outdoor seating area shall be in compliance with all requirements of the Ashland Fire Department.
5. **Compliance with the Massachusetts Alcoholic Beverages Control Commission**  
Service of alcoholic beverages in the proposed outdoor seating area shall be in compliance with all requirements of the Massachusetts Alcoholic Beverages Control Commission.
6. **Final Inspection**  
Prior to the commencement of use of the proposed outdoor seating area, the Applicant shall contact the Ashland Planning Office for a final inspection to confirm compliance with the approved Site Plan.

**General Project Conditions**

**Building and Site Design**

1. Construction drawings and details must be submitted to the Ashland Inspectional Services Department and shall reflect the civil drawings and architectural renderings approved by the Planning Board.
2. All building envelope materials (i.e. siding, roofing, and trim) shall be of high quality.

**Building Use**

3. The owner of the proposed building shall limit the time of dumpster pick up / rubbish pick up to reasonable hours to minimize inconvenience to residents in the general area. All dumpster pick up / rubbish pick up activities shall not commence

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on any day before 7:00 AM and shall not occur after 6:00 PM. All activities on the site shall conform to Section 204-1: Nuisance Noise of the Ashland Bylaws.

**Pre-Permit Procedures**

4. No land disturbance or demolition of the existing structure shall occur on the locus, nor shall any building permits issue, until the Applicant has first obtained all necessary permits, to the extent required, from all municipal town departments including but not limited to the Ashland Conservation Commission, Board of Health, Department of Public Works, Ashland Water and Sewer Department and the Select Board.
5. In accordance with Section 9.4.14, of the Ashland Zoning Bylaws, Site Plan Approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Site Plan Approval may, for good cause, be extended in writing by the Planning Board upon written request from the Applicant.
6. Pursuant to Section 9.4.17 of the Ashland Zoning Bylaws, any appeal of this decision of the Board shall be made in accordance with M.G.L. Ch. 40A, Section 17, to a court of competent jurisdiction.
7. This approval decision shall be recorded at the South Middlesex Registry of Deeds. A copy of the recorded documents and approved plans bearing the date of recording and the book and page number shall be delivered to both the Planning and Building Departments prior to the issuance of all town permits and the commencement of work.
8. This Planning Board approval shall not be effective until the Planning Office receives documentation and or receipt from the Applicant and or an agent of the recording of said document with the Southern Middlesex Registry of Deeds in accordance with M.G.L., Ch. 40A, and Section 11.

**Site Work Procedures**

9. Prior to any grading activities, perimeter erosion controls shall be installed around the entire construction site. Sediment runoff is not permitted to leave the site. Perimeter erosion controls standards will be set by the Ashland Conservation Commission. Untreated stormwater discharge into public roadways or stormwater systems may result in fines from the Department of Public Works.

10. To prevent soil erosion, all slopes within the construction site shall be adequately stabilized by temporary erosion control matting or other means until permanent stabilization is established during the post-construction phase of the project.
11. All erosion control devices on the site shall be inspected at a minimum once per week and within 24 hours of a rain event consisting of more than 0.1 inches of rainfall. All erosion control devices shall be maintained to ensure continued functionality and prevent untreated stormwater discharges from the construction site. In the event of a failure of the perimeter controls resulting in any untreated stormwater discharges off the site, the Conservation Commission and the Department of Public Works of the Town of Ashland shall be notified immediately.

### **Construction Procedures**

12. During construction the Applicant shall be vigilant about dust control. Additionally, the Applicant shall be responsible for any damage to the critical root zones of the abutting trees on surrounding property lines. Water shall be available onsite to control dust at all times. If dust is unable to be controlled, the Applicant shall cover or vegetate all exposed soil surfaces.
13. During construction, the Applicant shall be vigilant concerning dust and construction trackout onto West Union Street. As necessary, West Union Street shall be swept and cleaned of all debris after each work day. The Applicant shall be responsible for any damage within the roadway that may occur during construction and shall be properly repaired in compliance with the Department of Public Works prior to the release of occupancy.
14. There shall be no parking or standing of vehicles on West Union Street. If a truck must be unloaded on West Union Street, the Applicant shall contact the Ashland Police Department to determine if a detail is needed; and the truck in question shall not stand or be unloaded on West Union Street until after 9 AM Monday through Friday. The Applicant shall make diligent effort to avoid interrupting commuter traffic along West Union Street.
15. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction activities shall not commence on any day before 7:00 AM and shall not continue beyond 7:00 PM. There shall be no construction activities on any Sunday or on federal legal holidays, unless and except as may be required pursuant to the condition describing night work above.

16. During construction, all local, state, and federal laws shall be followed regarding noise, vibration, dust, refueling and blocking of town roads, as well as all applicable directives in the Operations & Maintenance Plan.

**Planning Board Vote:**

**Site Plan Review Approval**

VOTE: APPROVED WITH PERMIT CONDITIONS (5-0)

VOTE: (Y) Tricia Kendall, Chair                      (Y) Marcelo Arjona

(Y) Lakshmi Krishnan, Clerk              (Y) Deepa Venkat              (Y) Anna Tesmenitsky

(NA) Kevin McClean, Associate Member


*(A) = Absent or not present during the entire hearing process and therefore not eligible to vote.*

*(NA) = Associate Member no vote cast*

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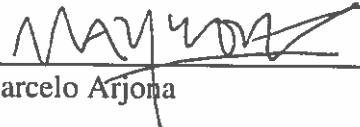
**Town of Ashland Planning Board**

  
\_\_\_\_\_  
Tricia Kendall, Chair

  
\_\_\_\_\_  
Lakshmi Krishnan, Clerk

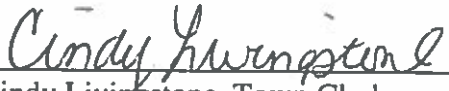
  
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Deepa Venkat

  
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Anna Tesmenitsky

  
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Marcelo Arjona

Filed with the Town Clerk on:

Date: 5/6/2022

  
\_\_\_\_\_  
Cindy Livingstone, Town Clerk

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK'S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Cindy Livingstone, Town Clerk