

**OFFICE OF THE SELECT BOARD
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Select Board by 5/24/2022

ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.

Location: 594 Massachusetts Ave
Applicant's Name: Emily Shea
D/B/A: Kickstand Café
Telephone: 781-583-6110
Department: Sent Via E-mail

Date: 5/24/2022

Meeting Date: 5/26/2022

Re: OUTDOOR RESTAURANT AND RETAIL PERMIT

Board of Health

Building

Planning: Marisa Lau, Senior Planner

The proposed outdoor seating application provides two options. The first option is for 24 tables with 58 chairs; the second is for 30 tables with 70 chairs. Both seating proposals shown on the site plan would allow adequate pedestrian passage for ADA compliance. The Department of Planning and Community Development supports the issuance of a Outdoor Restaurant and Retail permit for either of the proposed seating options presented by the applicant at the discretion of the Select Board.

Any changes in signage, including signs in the window, and changes to the façade of the building may be subject to review by this Department. The Applicant is reminded that all signs, including re-lettering of the existing signs require a permit issued by the Building Department. Other provisions of the Zoning Bylaw may apply as determined by the Building Inspector.



THIS IS A RESUBMISSION OF THE Application submitted on 2/17/22, seeking clarification.

Outdoor Restaurant and Retail Permit Application

This is an application to the Select Board of the Town of Arlington Massachusetts, for a permit to place and maintain an outdoor seating or retail installation on the public right of way in Arlington, Massachusetts described below:

(PLEASE TYPE OR PRINT)

Business Name:

KICKSTAND CAFE (Blue October LLC)

Business Address/Location:

594 Mass. Ave

Phone Number/Email:

781 583-6110 thekickstandcafe@gmail.com

Length of Storefront (ft):

42 feet

Width of Sidewalk along Storefront (linear ft); *1:

n/a (there is no sidewalk)

Length of Proposed Sidewalk Café (linear ft); *2:

n/a, but patio is 42 feet long (no sidewalk)

Business Representative's Name:

Emily Shea

Width of Proposed Sidewalk Café (linear ft); *3:

see drawing/shape is irregular

Name & Address of Building Owner:

Paul Campbell, 594 Mass. Ave, Arlington MA 02476

of Tables

30 (24 if we are not allowed to use plaza)

of Seats

70 (58 if our use is limited)

*1: Measure from front Building Wall to inside of sidewalk granite curb edge.

*2: Measure from one outer edge of perimeter fencing/barrier to the other outer edge of perimeter fencing/barrier.

*3: Measure from front Building Wall to outer edge of perimeter fencing/barrier.

Do you plan to erect a tent?*: YES _____

NO ☒

*If "YES," a copy of your application for or copy of a Building Permit from the Inspectional Services Department should be provided as part of this application.

Outdoor dining and retail areas of appropriate design, configuration and appearance can be an attractive amenity throughout the warmer months of the year. Outdoor Restaurant and Retail (ORR) permit applications will be reviewed by Town staff for compliance with these guidelines and will be forwarded to the Select Board office for administrative approval in the case of installations that have no public parking impacts. For applications that involve installations in public parking spaces, which are only available for use between April 15 and November 15 annually (subject to change due to weather conditions), a hearing before the Select Board will be scheduled to analyze the parking impacts of such an installation. ORR permits must be reapplied for annually to assure that they remain in compliance with terms of the original approval and are adequately maintained from year-to-year.

1) SUBMISSION AND APPROVAL OF APPLICATIONS

- Applications for ORR permits shall be submitted to the Select Board office.
- The Select Board office will review the application and plan for outdoor dining or retail area for completion and will distribute it to the Department of Health and Human Services, the Inspectional Services Department, and Department of Planning and Community Development. Staff may also refer the application to the Department of Public Works or the Fire Department if the application contains elements that warrant their review, such as parklet barriers, accessible ramps, or outdoor heaters.

I have read and fully understand the above rules and regulations applying to the approval of this permit.

Dated April 27, 2022

By:

Emily Shea

(Signature)

(Print Name & Address) EMILY SHEA 29 Draper Ave, Arlington MA 02476

Attachments:

- ① SITE PLAN - showing overview of patio space.
- ② SEATING PLAN showing table placement if the "cut-through" must be kept open, and also showing where additional tables will fit if perimeter can be enclosed.
- ③ PROOF OF INSURANCE
- ④ Statement from Kickstand owner describing the current situation and the history of Kickstand's patio during COVID.

KICKSTAND
PATIO

SITE PLAN

See close-ups
for table
placement.

↑ MORE PARKING ↑

SWAN PLACE



NOT TO SCALE
SPACE IS AS WIDE AS CURB CUT.

BIKE PARKING

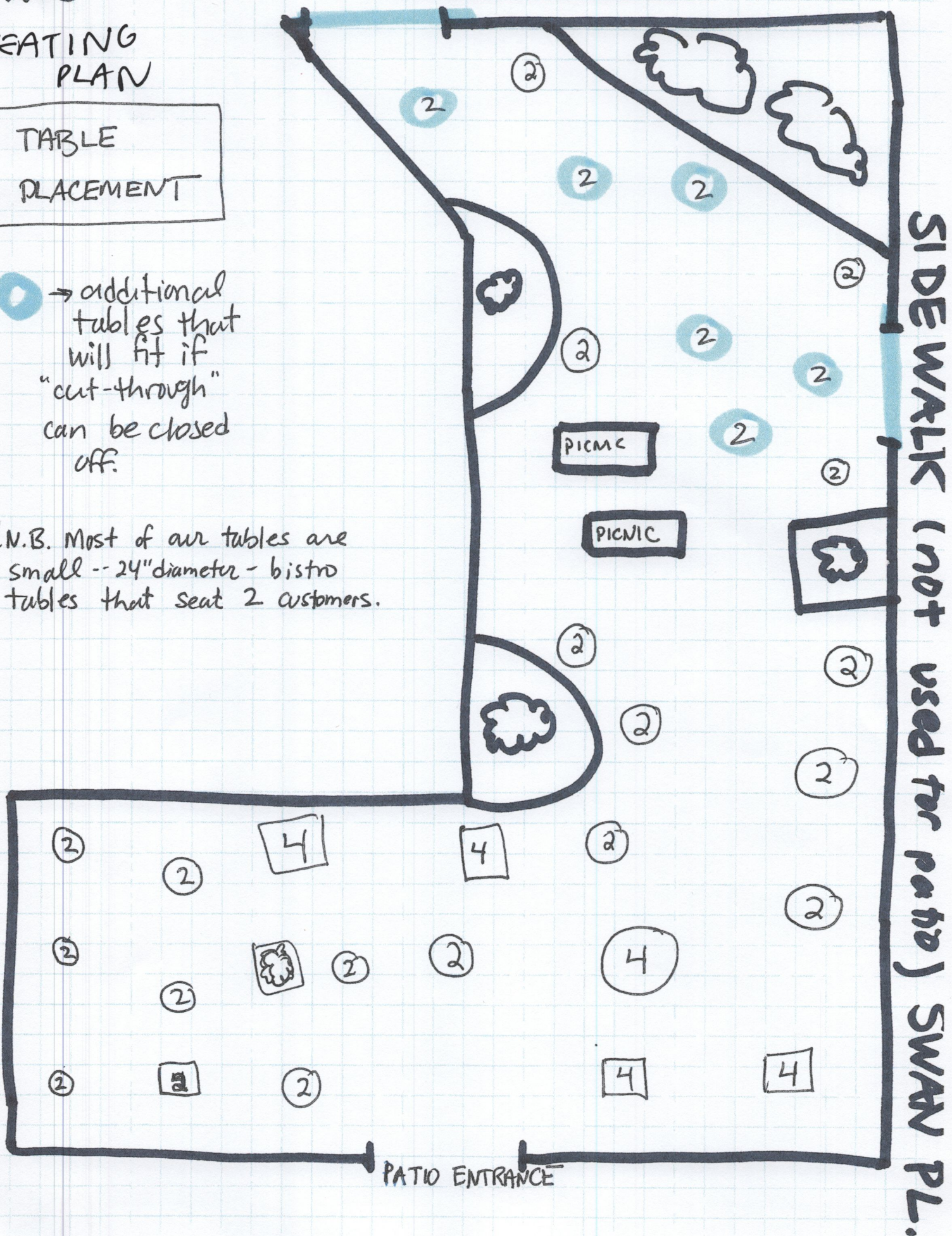
PICK UP TENT

KICKSTAND

SIDE WALK

TABLE PLACEMENT

(N.B. Most of our tables are small -- 24" diameter - bistro tables that seat 2 customers.





KICKST1

OP ID: CM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Rush-Kent Insurance Agency Inc
9 Court Street
Arlington, MA 02476

781-648-5800

CONTACT NAME: Rush-Kent Insurance Agency

PHONE (A/C, No, Ext): 781-648-5800

FAX (A/C, No): 781-643-6885

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Associated Employers Ins Co

INSURER B: Quincy Mutual

15067

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED Blue October, LLC D/B/A
The Kickstand Cafe
594 Mass Ave
Arlington, MA 02474

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
X	COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						EACH OCCURRENCE \$ 2,000,000
X	Businessowners Liability			BO200588	10/10/2021	10/10/2022	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person) \$ 10,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY \$ 2,000,000
	OTHER:						GENERAL AGGREGATE \$ 4,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	AUTOMOBILE LIABILITY			BO200588	10/10/2021	10/10/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	<input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per person) \$
X	<input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WCC-500- 5012601-2021A	11/05/2021	11/05/2022	PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Cafe

CERTIFICATE HOLDER

ARLI002

Town of Arlington
730 Mass Ave
Arlington, MA 02476

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Cynthia Mantia

Statement of Emily Shea, owner of Kickstand Cafe

As the owner of Kickstand Cafe, located at 594 Massachusetts Avenue, I am seeking clarification from the Select Board about the scope of Kickstand's permit for outdoor dining and requesting that our permit clearly state that we may continue to use the "plaza" (more fully described below) that is partially owned by us and partially contained in the former railroad bed that the town (or another governmental entity) owns.

Our 2022 application was originally submitted on February 17, 2022 and approved on March 9, 2022. However, since then, an issue has arisen regarding the scope of our permit. This document is intended to provide some background information and request that we be allowed to use the patio exclusively, at least during the hours when we are open.

We are submitting an updated application that includes our proof of insurance, a detailed seating plan, and an amended number of tables/chairs.

BACKGROUND

2020:

In June 2020, the Select Board moved quickly to expedite a permitting process to allow restaurants to shift to outdoor dining due to the pandemic. We applied as soon as the application was available and received a permit. The plan we submitted with our application outlined a patio that comprised an area covering 6 existing parking spots (all on our private property, and leaving 16 parking spots still available for customers), and an area that included the "plaza," the brick-surfaced area, partially owned by us and partially owned by the town (and/or the MBTA)). We created a rough perimeter composed of wooden planters, bungee cords and banners.

That perimeter enclosed the brick plaza (as indicated on the drawing submitted with our application). This provided us with substantial flexibility in planning a patio space that allowed us to keep tables adequately spaced (a minimum of 6 feet of space was required between each table/chair arrangement) and also provide enough seating that we stood a chance of recovering some of the lost revenue that approximately 3 months of closure had caused.

The sidewalks on Massachusetts Avenue and Swan Place have always remained completely clear. Our patio has never encroached on the sidewalks and pedestrians are in no way prevented from proceeding down Massachusetts Avenue or Swan Place and following the intended route across Swan Place.

Making this change to outdoor dining allowed our business to survive. It also created a pleasant outdoor space where customers could come and feel relatively safe from the perils and stresses of the pandemic. Given the uncertainties of the pandemic, we worked very hard to cost-effectively make the patio space pleasant and filled with plants and flowers. We received

an overwhelmingly positive response, and we did, in fact, make up for some of our financial losses caused by the early months of the pandemic.

2021:

For the 2021 outdoor dining season, we applied again for an outdoor dining license, and submitted a drawing indicating the same space for our patio. Again, we received a permit, and operated much the same way we had the previous year. And again, the large and flexible space allowed us to seat many customers (often reaching capacity in good weather) and make up for some of the losses to our business caused by the pandemic. As in 2020, we placed a series of planters, banners and ropes to mark the perimeter of the space and utilized the space covering the 6 parking spots and the space covering the brick plaza. This was the space indicated on our permit application, as in 2020.

By 2021, the requirements for social distancing outside were lifted, so we were able to add some additional small tables and increase our capacity (still keeping the tables spaced so that customers felt comfortable and had plenty of space/accessibility). Again, the space we were permitted to use allowed us to do a vigorous business and make up for some of the losses caused by the pandemic.

2022:

When the application for the 2022 permits became available, we promptly filed for an Outdoor Dining Permit and submitted a drawing indicating our proposed use of the same space we have used since 2020. That application was submitted on February 17, 2022 and we received a notice that our permit had been granted on March 9, 2022. We began planning the set-up for the patio. Our successful patio seasons in 2020 and 2021 made us comfortable investing more funds in a perimeter that would both be more aesthetically pleasing and safer than our bungee cord/banner set up of the previous seasons. As plans were underway for these improvements, we learned that there was an issue with the continued use of the plaza space. (Our plans are on hold until this matter is sorted out).

Inspectional Services informed us that we had to leave the brick plaza open for the public to cut through (rather than stay on the sidewalk, which our patio in no way encroaches on). This has limited the space available for us to use for tables and cut down on our capacity to seat and serve customers safely. It has also caused a marked increase in pedestrians crossing Swan Place in the middle of the street (where there is no crosswalk), rather than at the marked crosswalk on Massachusetts Avenue. (When a person cuts across the plaza, that short cut takes them away from the sidewalk and away from the crosswalk and leaves them to cross Swan Place in the middle of the street (or vice versa if they are coming off the bike path; rather than turning right on Swan Place and proceeding to the crosswalk at Massachusetts Avenue, pedestrians now frequently walk off the bike path, and jay-walk across Swan Place). In addition, bicyclists now frequently ride through the plaza, either on their way to the bike path or coming off the bike path, rather than following the clear directions pointing them to the intended crossing spot with the traffic light.

OUR REQUEST

We respectfully request that we be allowed to use the plaza space and enclose its perimeter as part of our Outdoor Dining Permit. We would much prefer to have permission to use the space exclusively during outdoor dining season; however, if required, we can construct a moveable perimeter and open the cut-through during the hours we are closed. (Our current hours are Wednesday and Thursday from 8am-2pm and Friday, Saturday and Sunday from 8am-3pm). We hope that the Board will bear in mind that opening this cut-through encourages pedestrians and bicyclists to cross Swan Place where there is no crosswalk.

One final note about the plaza: the brick pathway (which prior to the reworking of the Swan Place/Mass Ave intersection was the designated way from the bike path to Mass Ave – and connected to the bike path by a crosswalk painted across Swan Place) is partly on our private property and partly on the railroad bed right of way. We have maintained and cared for the entire area, including rebuilding the 2 picnic tables and bench on two occasions. We keep it clean and sanitary (including the not infrequent cleaning of human feces left near the picnic table – a problem we have been working with the police to resolve). We are likewise willing to spend funds to beautify the entire area (and shore up some of the areas where the tree roots have displaced bricks and created an uneven walking surface).

In conclusion, we hope that the Select Board will clarify that our permit includes the use of the plaza space and allow us to continue to use and maintain the patio as we have since 2020. If the Board determines that the cut-through must be left open (which, again, encourages pedestrians and bicyclists to divert from the intended safe crossing, and puts them in harm's way on Swan Place), we request that this requirement be limited to the hours when we are closed.

Respectfully,

Emily Shea
Kickstand Owner