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Mim's in Roslyn Estates / Google Maps image

## Court sides with LI restaurant in parking dispute

By: [David Winzelberg](#) October 27, 2016 0

A popular restaurant in Roslyn Estates can continue to use its parking lot after a state appellate court ruling last week.

The Town of North Hempstead had imposed a five-year limit on the use of a parking lot at Mim's restaurant on Roslyn Road. The town's Board of Zoning and Appeals enacted the restriction in April 2015, because part of the lot lies within a residential zone.

The restaurant then filed an Article 78 lawsuit, seeking to annul the town's durational limit, but its petition was denied by the state Supreme Court in Nov. 2015.

But last week on Oct. 19, the court's Appellate Division overturned the lower court's decision, ruling that the town's BZA does not have the authority to impose a durational limit on the restaurant's parking lot because the town code doesn't confer the power to limit the life of the approval.

The Roslyn restaurant property initially received a conditional variance to use the parking lot but was forced to re-apply for the variance every few years.

It's not uncommon for local zoning boards to impose time limits on various approvals for commercial uses and it's done so the municipality can regularly seek renewed permission for ongoing operations. However, businesses often object to these restrictions as being unfair burdens on their property rights.

“The towns think it gives them control over you,” said Christian Browne, a partner with the law firm of [Sahn Ward Coschignano](#), who represented Mim’s in the case. “But if you’re obeying the law, why do they need you to come back?”

Browne was assisted by Nicholas Cappadora, an associate with the firm.

“We are pleased with the court’s decision,” Browne said. “We believe it strikes the proper balance between the rights of a commercial property owner and the need for the town to protect the interest of the surrounding neighborhood.”