

RECEIVED

2022 MAY -4 AM 8:09

#223-22

55-67 Border Street

CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

May 2, 2022

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking in the front setback and grant exceptions to certain interior screening and lighting requirements for parking facilities as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

- The specific site is an appropriate location for the proposed site changes and parking and landscape waivers due to its location in the Manufacturing Zone. (§7.3.3.1)
- The proposed site changes and parking and landscape waivers will not adversely affect the neighborhood as the proposed changes largely reflect the existing layout of the site and the petitioner is proposing landscaping where there currently is none. (§7.3.3.2)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.3)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.4)
- Granting the requested exceptions to the requirements of Section 5.1 related to parking in a front setback (§3.2.3, §5.1.8.A.1), interior landscaping (§5.1.9.B), and lighting requirements (§5.1.10) is appropriate because literal compliance is impracticable due to the nature of the use and such exceptions are in the public interest. (§5.1.13)

PETITION NUMBER:

#223-22

PETITIONER:

55 Border Street LLC

LOCATION:

55-67 Border Street, on land known as Section 33 Block 13
Lots 17 and 20, containing approximately 38,036 square feet

of land

OWNER: 55 Border Street LLC

ADDRESS OF OWNER: 45 Border Street
Newton, MA 02465

TO BE USED FOR: Expansion of parking facility

CONSTRUCTION: Site Work Only

EXPLANATORY NOTE: Special Permit per §7.3.3 to:

- allow parking in the front setback (§5.1.8.A.1; §5.1.13)
- waive interior landscaping and lighting requirements (§5.1.9.B; §5.1.10; §5.1.13)

ZONING: Manufacturing (MAN)

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with:
 - a. A plan entitled "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Parking at #55 Border Street." prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated June 13, 2019, as revised through January 15, 2021
 - b. A plan entitled "55 Border Street, Newton, MA, Planting Plan (Sheet No. L-1)," prepared by Leone Company, signed and stamped Randall Clemence, dated November 17, 2019
2. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall record at the Middlesex Registry of Deeds an Approval Not Required (ANR) plan, in accordance with Massachusetts General Laws Chapter 41, Section 81P, combining the separate lots into a single one lot.
3. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall submit a Construction Management Plan (CMP) for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development and the City Engineer. At a minimum, the CMP must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
4. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall

submit to the Engineering Division for its review and approval an Operations and maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities. Once approved the O&M plan must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

5. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. Provided a Final Landscape Plan for review and approval by the Director of Planning and Development. Said plan shall provide for the installation of parking blocks and/or other features to prevent vehicle from travelling off the property along Border Street from any location aside from the curb cut along that street.
 - f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
6. No Occupancy Permit/Final Inspection for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to

the standards of the City of Newton Engineering Division.

- d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
7. Notwithstanding the provisions of Condition #6 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
8. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.

Under Suspension of Rules
Readings Waived and Approved
22 yeas 0 nays 2 absent (Councilors Noel and Grossman)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on May 4, 2022. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) CAROL MOORE, City Clerk
Clerk of the City Council

I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on May 4, 2022 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

(SGD) CAROL MOORE, City Clerk
Clerk of the City Council