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#524-00

CITY OF NEWTON  
IN BOARD OF ALDERMEN

April 2, 2001

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CITY CLERK  
NEWTON, MA 02459

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants the following SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE and SPECIAL PERMIT/SITE PLAN APPROVAL for various parking waivers, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the extension of the nonconforming use into two new greenhouse structures is not substantially more detrimental to the neighborhood than the existing nonconforming use for the following reasons:
  - a) The additional greenhouses are being constructed to protect the nursery stock, and will not significantly change or increase the intensity of the non-conforming nursery, florist, and greenhouse use of the site.
  - b) The Board finds that the two new greenhouses are located interior to the site and are not visible from the public way.
  - c) The site improvements associated with the proposed changes will improve on-site traffic flow and parking.
2. The Board finds that the proposed extension of the nonconforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure because the modifications to the front façade, through the replacement of the canopy with porches, will reduce the structure's encroachment into the front setback.
3. The Board finds that the requested relief from the parking setback requirements are appropriate since it is not practical to comply with these requirements due to the constraints of the site, because the proposed layout of the parking spaces permits better circulation on-site.

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site, and since the parking has been sited in the same general location for a long time.

- 4. The Board finds that the requested reduction below one (1) foot-candle of the average lighting levels of the parking facilities is appropriate since the site is located within a residential area.

PETITION NUMBERS: #524-00

PETITIONER: Winston Flowers, Inc. & Seltzer's Garden City

LOCATION: 11 Florence Street, Ward 8, Newton Centre, Section 82, Block 4, Lot 49

OWNER: Seltzer's Garden City

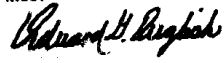
ADDRESS OF OWNER: 28 Highgate Road, Framingham, MA 01701

TO BE USED FOR: The modification to and expansion of existing greenhouse, florist and nursery non-conforming uses and structures, with the addition of two new greenhouses, and improvements to the parking facilities.

CONSTRUCTION: Two new traditional, modular glass green houses; existing brick/block structure to be refaced with new stucco finish, with new porches added to the south, west and east sides, and the existing front canopy is to be removed.

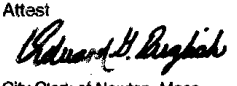
EXPLANATORY NOTE: Section 30-21(b) allows the Board of Aldermen to grant a special permit for the alteration, structural change or extension of an existing nonconforming structure and use. Section 30-19(m) allows the Board of Aldermen to grant waivers from the following parking requirements: Section 30-19(h), to reduce the minimum setback requirements for parking stalls and 30-19(j) to allow for a waiver to the minimum intensity of 1 foot-candle on the surface of the parking facility.

Land referred to is located in Multi Residence 1 District.

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Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping, fencing and other site features shall be located and constructed consistent with plans entitled:
  - a. "Plan of Land Located in Newton, MA," prepared by Boston Survey, Inc., dated December 11, 2000
  - b. "Plan of Land (Showing Proposed Conditions) Located at 11 Florence Street, Newton, MA," prepared by Boston Survey, Inc., dated January 31, 2001
  - c. Drawing No: 1, "Existing Parking at Seltzer's Garden City," prepared by Keith LeBlanc Landscape Architecture, dated 3/27/01.
  - d. Drawing No: L1, "Layout and Materials Plan," prepared by Keith LeBlanc Landscape Architecture, dated 1/12/01.
  - e. Drawing No: L2, "Grading Plan," prepared by Carter / Burgess, dated 3/27/01.
  - f. Drawing No: L3, "Planting Plan," prepared by Keith LeBlanc Landscape Architecture, dated 1/30/01.
  - g. Drawing No: L4, "Construction Details," prepared by Keith LeBlanc Landscape Architecture, dated 1/31/01.
  - h. Drawing No: L5, "Construction Details," prepared by Keith LeBlanc Landscape Architecture, dated 12/18/00.
  - i. Drawing No: L0, "Proposed Lighting," prepared by Keith LeBlanc Landscape Architecture, dated 3/27/01.
  - j. Architectural sketches, as prepared by Techler Design Group on three 11"x16" sheets, including the following:
    - i.) "Preliminary Design, Greenhouse (Plan & Elevation)," undated;
    - ii.) "Preliminary Design, Kiosk (Plan & Elevation)," undated;
    - iii.) "Preliminary Design, Section at Canopy," undated; and
    - iv.) "Elevation of Kiosk, Sheet SK.15b, dated 3/20/01
  - k. Architectural plans, as prepared by Techler Design Group, including the following:
    - i.) "Floor Plans," Sheet A.1.1, dated December 7, 2000;
    - ii.) "Reflected Ceiling Plans," Sheet A.1.2., dated December 7, 2000;
    - iii.) "Exterior Elevations," Sheet A.2.1., dated December 7, 2000;

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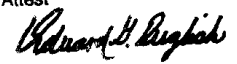
- iv.) "Interior Elevations," Sheet A.3.1., dated December 7, 2000; and
  - v.) "Interior Elevations," Sheet A.3.2., dated December 7, 2000.
2. The driveways shall be limited, from this point forward, to one-way travel, with the western-most access point being restricted as an entrance only to the site and the eastern-most access point, as an exit from the site.
  3. That the petitioner shall submit revised plans, in accordance with the City Engineer's February 22, 2001 review memorandum, which is on file with the City Clerk, for review and approval prior to the issuance of any building permits.
  4. The new landscaping and fencing approved by this board order shall be maintained in good condition and any plant material that becomes diseased or dies shall be replaced annually with similar material.
  5. The petitioner shall replace all exterior lighting, with exception of security lighting, with "shoe box" fixtures utilizing metal halide or equivalent lamps. The light fixtures shall be arranged so as to prevent glare from the light sources onto adjacent street and properties.
  6. No building permit shall be issued pursuant to this SPECIAL PERMIT/SITE PLAN APPROVAL and SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE until:
    - a. The petitioner shall have submitted final building facade plans as well as facade and roof building materials and colors to the Director of Planning and Development for review and approval.
    - b. The petitioner shall have submitted a final landscaping plan, consistent with Condition #1 of this special permit, indicating the location, number, size and type of landscaping and landscape materials to be installed to the Director of Planning and Development for review and approval, and statement certifying such approval for consistency with the plans cited in Condition #1 shall have been filed with the City Clerk and the Department of Inspectional Services.
    - c. The City Engineer has reviewed and approved final site grading and drainage plans, and a statement by the City Engineer, certifying such approval, shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
    - d. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL and SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE.

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City Clerk of Newton, Mass.

- e. A certified copy of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
7. No building or structure, or portion thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL and SPECIAL PERMIT TO EXTEND A NON-CONFORMING USE AND STRUCTURE shall be occupied until:
- a. The Petitioner shall have filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition 1 has been complied with.
  - b. There shall have been filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking area, and drainage systems have been constructed to standards of the City of Newton Engineering Department.
  - c. There shall have been submitted to the City Engineer final as-built, record site engineering, utilities, and drainage plans, sealed by a licensed surveyor, prior to the issuance of any final occupancy permits.
  - d. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, fencing and parking areas.
  - e. Notwithstanding the provisions of Section 7.d. hereof, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development 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.

Under Suspension of Rules  
 Readings Waived and Approved  
 21 yeas 0 nays 3 absent (Ald. Gentile, Sangiolo, and Lipsitt)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen 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 April 5, 2001 by The undersigned

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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) EDWARD G. ENGLISH, City Clerk  
Clerk of the Board of Aldermen

I, Edward G. English, as the Clerk of the Board of Aldermen 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 Board of Aldermen in the Office of the City Clerk on 4/5/01 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



(SGD) EDWARD G. ENGLISH, City Clerk  
Clerk of the Board of Aldermen

