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#215-08(2)

CITY OF NEWTON

IN BOARD OF ALDERMEN

June 20, 2011

ORDERED:

13277 418

11 JUN 23 A 4:04 PM
CITY CLERK
NEWTON, MA 02459

That the Board, 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 Petition #215-08(2) to amend Special Permit #215-08 (which granted parking waivers) and waive an additional 6 parking spaces for a non-profit adult daycare at 149A CALIFORNIA STREET, Ward 1, NONANTUM, on land known as SBL 11, 1, 1A, containing approximately 71,755 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-19(d), and 30-19(m) of the City of Newton Revised Ordinances, 2007, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The Board finds that literal compliance with parking requirements is impracticable due to the nature of the use for the following reasons:
 - a. The proposed waiver of 6 additional on-site parking spaces (for a total waiver of 22 spaces) is appropriate because few, if any, of the clients drive.
 - b. A majority of the petitioner's employees do not drive single-occupant vehicles to the site.
 - c. The site is located in close proximity to MBTA bus service and the petitioner will provide incentives to current and future employees in an effort to encourage the use of public transportation.
 - d. The petitioner continues to offer a non-profit service to members of the community, while having no negative impact on the neighborhood.
 - e. The busing of clients to and from the site is in keeping with the objectives of the *Newton Comprehensive Plan's* goal of reducing the dependence on single-occupant vehicles.

PETITION NUMBER: 215-08(2)

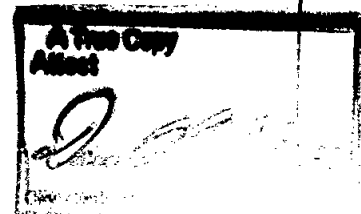
PETITIONER: Max Mazaev and Victor A. Nicolazzo

LOCATION: 149A California St, Section 11, Block 1, Lot 1A containing approximately 71,755 sq. ft. of land

149A California St
Newton

G. Michael Reice
60 Walnut St 4F12
Wellesley MA 02481

BK 13277 Pg 418



OWNER: Victor and Catherine Nicolazzo, Trustees, Bigelow Realty Trust

ADDRESS OF OWNER: 50 Tower Road, Newton Upper Falls, MA

TO BE USED FOR: Non-profit adult daycare

CONSTRUCTION: No changes are proposed

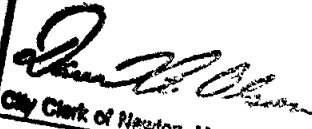
EXPLANATORY NOTES: Section 30-19(d) and 30-19(m) to waive an additional 6 on-site parking spaces, for a total waiver of 22 spaces, for a non-profit educational institution and amendments to Board Order #215-08.

ZONING: Manufacturing

This special permit amends and supersedes Board Order #215-08, and consolidates and incorporates herein those conditions and provisions that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in Board Order #215-08 not set forth in this special permit are null and void.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. "Site Plan Showing Existing Conditions at 149A California Street in Newton, Massachusetts," dated May 4, 2011, by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor.
2. The center shall have no more than 87 clients and 15 employees.
3. The special permit is for the petitioner and shall not be transferrable to any other person or use.
4. The petitioner shall maintain the planter boxes, including plantings at the front seating area, installed on the property in good condition with all-season plant material and replace any diseased or dead plant material with similar plant material.
5. The petitioner shall maintain all signage and directional markings, as well as the striped parking stalls as shown on the plan referenced in Condition #1.
6. The petitioner shall provide incentives, subject to review and approval of the Director of Planning and Development, to encourage employees to take public transportation to the site.

A True Copy
Attest

City Clerk of Newton, Mass.

- 7. In the event that the parking demand routinely exceeds what can be accommodated on site, the petitioner shall submit a parking management plan for review and approval by the Commissioner of Inspectional Services, the Engineering Division of the Department of Public Works, and the Planning Department.
- 8. No final approval for occupancy of the expanded use within this building shall be issued until the petitioner has:
 - a. recorded a certified copy of this Board Order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. submitted final plans showing an above-ground planter box near the entrance to the building for final approval by the Director of Planning and Development.
 - d. 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.

Under Suspension of Rules

Readings Waived and Approved

18 yeas 0 nays 6 absent (Aldermen Baker, Ciccone, Danberg, Sangiolo, Schnipper, and Swiston)

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 June 23, 2011. 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:

David A. Olson
 (SGD) DAVID A. OLSON, City Clerk
acting Clerk of the Board of Aldermen

I, David A. Olson, 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 6/22/11 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

David A. Olson
 (SGD) DAVID A. OLSON, City Clerk
acting Clerk of the Board of Aldermen

