

SPECIAL PERMIT APPLICATION

TO THE NEWTON CITY COUNCIL

The undersigned hereby makes application for a permit to erect and use, to alter and use, or to make such uses as may be hereinafter specified of a building or buildings at the location and for the purpose hereinafter specified under the provisions of Chapter 30 of the Revised Ordinances, 2015, as amended, or any other sections.

PLEASE REFERENCE SECTION(S) OF THE ORDINANCES FROM WHICH RELIEF IS REQUESTED:

4.4.1; 5.1.8.A.1; 5.1.8.B.1; 5.1.8.B.2; 5.1.8.B.4; 5.1.8.C.1; 5.1.8.E.1; 5.1.8.E.2; 5.1.9.A; 5.1.10; 5.1.13; 5.2.3; 5.2.8; 5.2.13.A; 6.10.3.D; and 7.3.3.

- PETITION FOR:**
- Special Permit/Site Plan Approval
 - Extension of Non-Conforming Use and/or Structure
 - Site Plan Approval
 - Amendment of Board Order #774-85

STREET 232 Boylston Street WARD 7
 SECTION(S) 82 BLOCK(S) 002 LOT(S) 0009
 APPROXIMATE SQUARE FOOTAGE (of property) 16,570 square feet ZONED BU2
 TO BE USED FOR: Marijuana Retailer
 CONSTRUCTION: brick

EXPLANATORY REMARKS: Special permit sought for the operation of an adult use marijuana retail establishment (Marijuana Retailer) pursuant to Section 6.10.3.D. A. The following waivers are sought, to the extent necessary, pursuant to Section 5.1.13: (i) parking in side setback (Section 5.1.8.A.1); (ii) parking stall dimensions (Section 5.1.8.B.1, 2, and 4); (iii) minimum aisle width (Section 5.1.8.C.1); (iv) tandem parking (Section 5.1.8.E.1 and 2); (v) perimeter screening requirements (Section 5.1.9.A); and (vi) lighting requirements (Section 5.1.10.A). Additionally, permission is sought to allow a freestanding sign and allow an oversized directional sign (Section 5.2.8). Finally, the applicant seeks to amend Board Order #774-85 to eliminate its prohibition on wall signs and permit two secondary wall signs (Section 5.2.3 and 5.2.8). See attached Exhibits 1 through 8, inclusive.

The undersigned agree to comply with the requirements of the Zoning Ordinance and rules of the Land Use Committee of the City Council in connection with this application.

PETITIONER (PRINT) MME Newton Retail, LLC

SIGNATURE *Katherine Braucher Adams*
By: Katherine Braucher Adams, its attorney duly authorized

ADDRESS 50 Congress Street, Suite 420, Boston, MA 02109

TELEPHONE N/A E-MAIL N/A

ATTORNEY Stephen J. Buchbinder, Esquire (617) 538-7392 (c) / Katherine Braucher Adams, Esquire (617) 571-3133 (c)

ADDRESS 1200 Walnut Street, Newton, Massachusetts 02461-1267

TELEPHONE 617-965-3500 E-MAIL sjbuchbinder@sab-law.com/kadams@sab-law.com

Planning & Development
Department Endorsement

PROPERTY OWNER (PRINT) Dacos Realty LLC

SIGNATURE 
By: David Walker, duly authorized

ADDRESS 232 Boylston Street, Chestnut Hill, MA 02459

TELEPHONE N/A E-MAIL N/A

Exhibit 1 – Special Permit Criteria (Pursuant to Section 6.10.3)

The applicant is seeking permission to operate a Marijuana Establishment (“ME”) pursuant to Section 6.10.3 at 232 Boylston Street.

Pursuant to the requirements of Section 6.10.3.E:

- (1) The proposed ME is not within a radius of 500 feet from an existing public or private k-12 school.
- (2) The applicant received a Provisional License from the Cannabis Control Commission (“the CCC”) on October 8, 2020.
- (3) The applicant understands that the proposed special permit may only be exercised by MME Newton Retail, LLC for its operation at 232 Boylston Street.
- (4) Home delivery to customers will be available to the extent that same is allowed by the CCC.
- (5) The site as designed contains sufficient parking for the proposed use.
- (6) Signage shall comply with the requirements of 105 CMR 725.105(L) and 935 CMR 500.105(4) and to the requirements of Section 5.2.
- (7) The applicant proposes the following hours of operation: 9:00 a.m. until 9:00 p.m. Monday through Saturday, and 12:00 noon until 6:00 p.m. on Sunday. These hours are designed to mitigate any adverse impact on the neighborhood and to avoid conflicts with both the morning rush hour traffic.
- (8) There are currently three licensed Marijuana Retailers in the City at this time.
- (9) 24-26 Elliot Street (Cypress Tree Management) is located approximately 2.4 miles to the west of the proposed site.
- (10) N/A.
- (11) The proposed facility would be 4,825 square feet.
- (12) The applicant will make the required security submission to the Police Department prior to the issuance of a final Certificate of Occupancy.
- (13) The applicant will make the required emergency response submission to the Police Department and Fire Department prior to the issuance of a final Certificate of Occupancy.

- (14) The applicant will make the required Operation and Management submission to the Inspectional Services Department and the Planning Department prior to the issuance of a final Certificate of Occupancy.
- (15) The proposed facility will exceed the 25% transparency requirement pursuant to submitted plan.
- (16) N/A
- (17) The applicant will design the building to ensure compliance with 6.10.3.E.17.a and b.
- (18) N/A
- (19) The ME shall not directly engage in home delivery to customers unless or until the same is permitted by the City.

Exhibit 2 – Description of Activities (Pursuant to Section 6.10.3.F.1)

MedMen: Description of Activities

Description of Activities. A narrative providing information about the type and scale of all activities that will take place on the proposed lot, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP’s), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

MME Newton Retail, LLC (“MedMen” or the “applicant”) will operate an adult-use Marijuana Establishment where it will sell marijuana, marijuana infused products, and vaporizers on site. MedMen’s operations will be compliant with all regulations imposed by the Cannabis Control Commission and the City of Newton with regard to the dispensing of marijuana. The hours of operation will be as noted in Exhibit 1.

Access to MedMen’s facility is limited to individuals 21 years of age and older. A MedMen agent will inspect all customers’ proof of identification and determine the individual’s age. An individual will not be admitted into the facility unless the retailer has verified that the individual is 21 years of age or older.

Once inside the retail area, customers will be free to move around the expansive sales floor and obtain individualized service from the sales agents. Once the order is placed with the sales agent, it is pulled from the night vault and assembled in the day vault. All products will follow applicable regulations to ensure products are tamper-resistant/child-resistant and in resealable packages. A MedMen agent will affix a label generated by the point of sale system, indicating the date, strain name, cannabinoid profile, and all applicable warnings detailed in 935 CMR 500.105, to applicable products.

Agents will be able to check customers out using a state of the art point-of-sales station, which will provide an additional level by monitoring for daily limit compliance. Upon checkout, customers will be required to confirm their identities and age a second time.

There will also be an express area where customers can pick up items that were pre-ordered online or over the phone.

Per M.G.L. c. 94G § 7, sales are limited to one ounce of marijuana flower, five grams of active tetrahydrocannabinol in marijuana concentrate, or five-hundred milligrams of active tetrahydrocannabinol per customer in a single day. All required taxes will be collected at the point of sale.

MedMen will provide educational materials designed to help consumers make informed marijuana product purchases. MedMen's educational materials will describe the varying types of products available at MedMen, as well as the types and methods of consumption. The materials will offer education on cannabis titration, the method of using the smallest amount of a given marijuana product necessary to bring about the desired effect.

MedMen will contract with a professional security and alarm company to design, implement, and monitor a comprehensive security plan to ensure that the facility is a safe and secure environment for employees and the local community. MedMen's state-of-the-art security system will consist of perimeter windows, as well as duress, panic, and holdup alarms connected to local law enforcement for efficient notification and response in the event of a security threat. The system will also include a failure notification system that will immediately alert the executive management team if a system failure occurs. The site will have a redundant alarm to ensure that active alarms remain operational if the primary system is compromised. Interior and exterior HD video surveillance of all areas that contain marijuana, entrances, exits, and parking lots will be operational 24/7 and available to the Newton Police Department. These surveillance cameras will remain operational even in the event of a power outage.

The exterior of the dispensary and surrounding area will be sufficiently lit, and foliage will be minimized, to ensure clear visibility of the area at all times. Only MedMen's registered agents and other authorized visitors (e.g. contractors, vendors) will be allowed access to the facility, and a visitor log will be maintained in perpetuity. All agents and visitors will be required to visibly display an ID badge, and MedMen will maintain a current list of individuals with access. MedMen will have security personnel on-site during business hours.

Exhibit 3 – Service Area (Pursuant to Section 6.10.3.E.2)

N/A – Section 3 only applies to RMDs

Exhibit 4 – Transportation Analysis (Pursuant to Section 6.10.3.F.3)

Please see Traffic Memorandum by VHB dated November 9, 2020.

Exhibit 5 – Photometric Plan (Pursuant to Section 6.10.3.F.4)

Please see enclosed plan entitled “Photometric Plan” dated November 4, 2020.

Exhibit 6 – Context Map (Pursuant to Section 6.10.3.E.5)

Please see enclosed area plan which depicts all properties within a 1,000 foot radius of the site.

Exhibit 7 – Registration Materials (Pursuant to Section 6.10.3.E.6)

This document has been delivered electronically to the City Clerk due to the fact that it is several hundred pages in length.

Exhibit 8 - Parking Calculation

Proposed Use –Marijuana Retailer

Proposed Retail Use

1 parking stall per 300 square feet and 1 parking stall per 3 employees

2,973 square feet	10 parking stalls
21 employees	7 parking stalls
	17 parking stalls required

Proposed Storage and Mechanical Use

1 parking stall per 2,500 square feet and 1 parking stall per 4 employees

1,852 square feet **1 parking stall required**

Total Requirement: **17 + 1 = 18 parking stalls required**

19 parking stalls provided

Section 5.1.3(B) Formula for Change in Use

Previous Retail Use

1 parking stall per every 300 square feet plus 1 parking stall per 3 employees

3,515 square feet 12 parking stalls
3 employees (estimate) 1 parking stalls
13 parking stalls required

Previous Storage and Mechanical Use

1 parking stall per 2,500 square feet and 1 parking stall per 4 employees
(no imputed employees)

590 square feet **1 parking stall required**

Previous Medical Office Use

1 parking stall per every 200 square feet plus one per every 3 employees in lab or pharmacy

2,120 square feet **11 parking stalls required**
(not a lab or pharmacy)

Previous Parking Requirement = 13+1+11 = **25 parking stalls required**

Onsite Parking

Current - 16

Proposed - 19

A (required for new use) – B (required for old use) + C (number stalls) = required number of parking stalls provided that this number shall not exceed A

18-25+19=12