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2015 AUG 12 AM 11:14
DAVID A. OLSON, CMC
NEWTON, MA 02459

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.cambridgedeeds.com

5 PP

#121-15

CITY OF NEWTON

IN BOARD OF ALDERMEN

July 13, 2015

ORDERED:

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 SPECIAL PERMIT/SITE PLAN APPROVAL to waive five parking stalls and associated waivers of the design and dimensional controls for the existing legally nonconforming parking facility, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The requested waiver of five parking stalls at this site is appropriate because literal compliance with the required number of parking stalls for the expanded retail use and the mix of other uses on the site, many of which have different peak parking demand times, is impracticable due to the current parking configuration and the development patterns present on the subject property and in the surrounding neighborhood. (§30-19(d)(10) and §30-19(m))
2. The requested waivers to the design and dimensional controls for the legally nonconforming parking facility are appropriate because literal compliance with these controls is impracticable due to the size and shape of the existing parking lot, and development patterns present on the subject property. (§30-19(h)(1), §30-19(i)(1) and (2), §30-19(j), and §30-19(m))
3. The specific site is an appropriate location for the expanded retail use because it is located within a mixed use area and a village center. (§30-24(d)(1))
4. The proposed use, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))
5. The requested waivers will not result in the creation of a nuisance or hazard to vehicles or pedestrians on the site or in the surrounding neighborhood. The petitioner's voluntary contribution of funds or in-kind services for the construction of a sidewalk, curbing, and two driveway aprons along the frontage of the property bordering the parking lot off of Windsor Road is a public benefit to the City that will enhance the safety of pedestrians and improve vehicular movements in the surrounding neighborhood. (§30-24(d)(3))

77-1 Windsor Road, Newton
2/16/12 1641 Beacon Street, Newton
Deed Ref: Book 12758, Page 260

RECEIVED
Newton City Clerk
2015 JUL 20 PM 12:30
DAVID A. OLSON, CM
Newton, MA 02459

RECEIVED
Newton City Clerk
2015 AUG 12 PM 11:11
DAVID A. OLSON, CM
Newton, MA 02459

A True Copy
Attest
David A. Olson
City Clerk of Newton, Mass.

PETITION NUMBER: #121-15

PETITIONER: The Neighborhood Hardware Group, Inc.

LOCATION: 2-12 Windsor Road (1641 Beacon Street), on land known as Section 53, Block 29, Lot 2A, containing approx. 54,198 square feet of land

OWNER: The DTS Trust and Gael T. Daly

ADDRESS OF OWNER: 251 Harvard Street, Suite 12
Brookline, MA 02446

TO BE USED FOR: Waiver of parking stalls and waivers to design and dimensional controls for the existing parking facility

EXPLANATORY NOTES: §30-19(d)(10), to waive five parking stalls; §30-19(h)(1), to allow parking in the front and side setbacks; §30-19(i)(1), to waive the parking lot screening requirement; §30-19(i)(2), to waive the interior landscaping requirement; and §30-19(j), to waive the parking lot lighting requirements.

ZONING: Business 1 district

This special permit supersedes, consolidates, and restates provisions of prior special permits #388-11 and #90-98 to the extent that those provisions remain applicable. Only those conditions and provisions from such prior special permits set forth below that remain applicable, and are still in full force and effect, are set forth in this special permit. Any conditions in such prior special permits not set forth in this special permit are null and void.

Approved subject to the following conditions:

Conditions associated with this Special Permit/Site Plan Approval, Board Order #121-15 (petitioner – The Neighborhood Hardware Group, Inc.) :

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. "Plot Plan showing Potential Parking Layout at 1649 Beacon Street, Newton, MA", prepared by Neponset Valley Survey Associates, Inc., unstamped and unsigned, dated March 30, 2012.
 - b. "Existing Floor Plans", prepared, signed, and stamped by Donald Lang, Registered Architect for DLA Architecture, dated April 16, 2015.
 - c. "Proposed Floor Plans", prepared, signed, and stamped by Donald Lang, Registered Architect for DLA Architecture, dated May 28, 2015 and revised on June 18, 2015.

2. The property owner may submit a revised parking layout that increases the number of parking stalls on the site to the Director of Planning and Development for review and approval. Any revised parking layout plan shall not create new nonconformities on the site.
3. All trash and recycling areas used by the hardware store, or subsequent occupant, shall be maintained in a sanitary condition at all times. The collection/emptying of such receptacles shall only occur on weekdays between 8:00 a.m. and 5:00 p.m.
4. The property owner may store snow on-site in designated snow storage areas, or otherwise shall have snow removed from the site. If the property owner chooses to store snow on-site, a snow storage plan shall be submitted to the Director of Planning and Development and the City Engineer for review and approval prior to July 31, 2015.
5. Signage for the hardware store, or subsequent occupant of the hardware store's commercial unit, shall conform to City standards. The Urban Design Commission and the Director of Planning and Development shall review and approve all by-right signs.
6. Prior to issuance of any building permit, the petitioner shall submit a final site plan, designating a trash and recycling area for the hardware store, for review and approval by the Director of Planning and Development.
7. Prior to issuance of any building permit, the petitioner shall provide a final parking management plan for review and approval by the Director of Planning and Development.
8. Prior to issuance of a certificate of occupancy, the petitioner, at its sole expense, shall either (a) contribute \$2,500 for the pedestrian and vehicular safety improvements as noted below, or (b) complete the said pedestrian safety improvements at its sole expense. The pedestrian and vehicular safety improvements consist of the installation of curbing, sidewalks and two driveway aprons along the frontage of the property bordering the parking lot off of Windsor Road. If the petitioner chooses to complete the improvements at its sole expense (Option (b)), the petitioner shall submit final details and plans for such improvements to the City Engineer for review and approval.
9. If in the future the existing building envelope is enlarged or demolished, except as a result of an involuntary act, all existing parking stall waivers and waivers of parking facility requirements shall be null and void, and the site shall comply with all then current and applicable requirements of the Newton Zoning Ordinance.
10. 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 Board 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 Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Submitted a final site plan, designating a trash and recycling area, for review and approval by the Director of Planning and Development.
 - d. Submitted a final parking management plan for review and approval by the Director of Planning and Development.

- e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
11. No Final Inspection/Occupancy Permit 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 by a licensed surveyor.
 - c. Contributed funds in an amount not to exceed \$2,500 for pedestrian and vehicular safety improvements referenced in Condition #8, above, or completed the same, at its expense, all consistent with the plans to be approved by the City Engineer. The petitioner shall submit a final as-built plan for the foregoing proposed improvements to the City Engineer for review and approval in the event the petitioner elects to construct the forgoing improvements.

Conditions incorporated from Board Order #388-11 (petitioner/tenant - Kouzina, Inc.):

11. All site features associated with this special permit/site plan approval shall be located and constructed consistent with the following plans:
 - a. "Existing Basement Floor Plan & Proposed First Floor Layout" dated May 19, 2011, not signed or stamped but prepared by DLA Architecture 1643 Beacon Street, Suite 22, Waban, MA.
12. The tenant may operate a restaurant/bar with a maximum of 46 seats and up to five employees on the largest shift.
13. The tenant shall place signage in the restaurant and on its website indicating that parking is available behind the building in the rear shared parking lot.
14. Hours of operation shall not exceed 11 a.m. to midnight, Monday through Friday and 9a.m. to midnight on Saturday and Sunday.
15. The tenant shall use best efforts to recycle all materials used in connection with the restaurant.

Conditions incorporated from Board Order #90-98 (petitioner - Arthur Rodman for Barry's Deli):

16. That the petitioner shall inform customers through exterior signs and other means that there is parking at the rear of the building.
17. That this special permit shall run with the petitioner's sublease of the additional 600 square feet of floor area.

Under Suspension of Rules
Readings Waived and Approved
21 yeas 0 nays 3 absent (Aldermen Ciccone, Lipof, and Sangiolo)

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 July 20, 2015. 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) DAVID A. OLSON, City Clerk
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 7/20 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



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