



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 24, 2017
Land Use Action Date: January 2, 2018
City Council Action Date: January 8, 2018
90-Day Expiration Date: January 22, 2018

DATE: October 20, 2017

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #132-14(2)**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #132-14(2) to amend the site plan at **49-51 Winchester Street**, Ward 5, Newton Upper Falls, on land known as SBL 51, 28, 30, containing approximately 79,500 sq. ft. of land in a district zoned Multi-Use 1. Ref: 7.3, 7.4, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision-making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent working session.



49-51 Winchester Street

EXECUTIVE SUMMARY

The property located at 49-51 Winchester Street consists of a 79,500 square foot corner lot located in the Mixed Use 1 (MU-1) zone in Newton Upper Falls. The site is improved with three buildings: a 19,000 square foot commercial building, a detached 3,600 square foot metal shed at the rear of the property used for storage, and a detached 1,378 square foot wooden shed at the front of the property used by a landscape materials company. The site is currently governed by two special permits: Board Order #219-05 allowed a for-profit educational use with designated parking; and Board Order #132-14 allowed an outdoor retail use in addition to legalizing the preexisting nonconformities of the parking facility (**Attachments A**). Additionally, the site recently was permitted for a day care use under Administrative Site Plan Review (**Attachment B**). The petitioner is proposing to install two outdoor play areas associated with the day care center and adjust some of the parking stalls on site. As a result, the petitioner requires an amendment to Board Order #132-14 to amend the site plan.

Day Care Centers are protected uses under M.G.L. Chapter 40A, section 3, also known as the "Dover Amendment". As such, day care centers are an allowed use in all zoning districts. The proposed changes to the site plan alter some parking arrangements previously approved by the City Council, as well as the circulation of the site associated with the Administrative Site Plan Review. The Planning Department is not concerned with the changes to the parking stalls regarding zoning. However, staff suggests the plan be updated to include all structures associated with the play structures and provide an update on the circulation of the site as well.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The site is an appropriate location for outdoor play areas associated with the day care center. (§7.3.3.C.1)
- The proposed outdoor play areas will not adversely affect the neighborhood (§7.3.3.C.2).
- The outdoor play areas will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is a corner lot with frontages on Winchester and Curtis Streets located in a transition zone between the Newton Highlands commercial district and the Needham Street Corridor. As a result, the immediate area contains a mix of zoning districts ranging from the Mixed Use 1 and 2 zones, Multi-Residence 1 zone to the

north and the Business 2 zone to the northeast. These zones contain many different conforming and nonconforming land uses, but generally include commercial and multi-family land uses.

B. Site

The property consists of 79,500 square feet of land and is improved with three structures, the largest of which is a 19,000 square foot commercial building. The site also includes a 93-stall surface parking facility that was legalized under Board Order #132-14. Lastly, the site has three curb cuts: one on Winchester Street, one at the corner of Winchester and Curtis Streets, and a third at the rear of the site along Curtis Street; this is a one-way driveway providing egress from the site.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property is and will remain a commercial parcel with retail, a for-profit school, and a day care center.

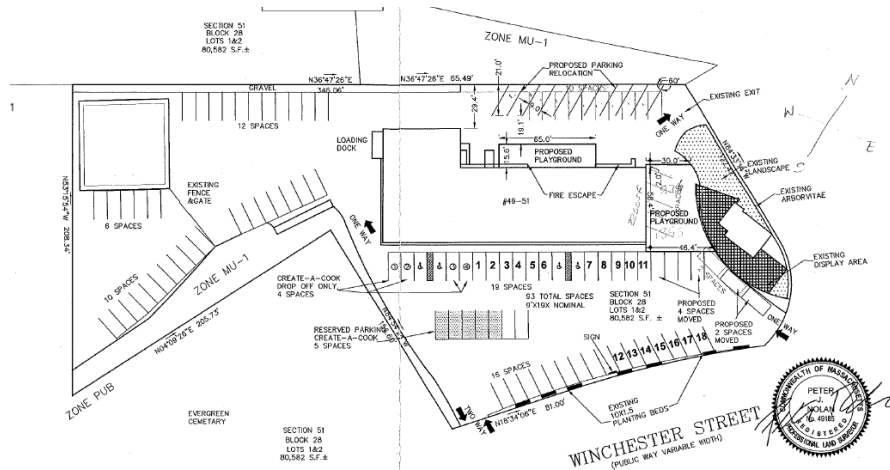
B. Building and Site Design

The petitioner is not proposing any exterior changes to the structures on site. The petitioner is proposing to install two outdoor play areas for the day care center. One area will be located at the rear of the commercial building and is approximately 1,014 square feet and the other is at the right side of the same commercial building. This play area is larger, at approximately 2,709 square feet. As these play structures are located near parking stalls and drive aisles, they will be protected with fencing, bollards, and large planters. The Planning Department has asked the petitioner to update the plan with these safety measures. The concrete within these designated areas will also be removed and replaced with a soft material in accordance with Office for Child Care Services regulations. Staff notes that this too should be updated on the plan. Finally, the Planning Department notes that there aren't any play structures shown on the plan. If the petitioner is proposing to provide such structures, their location should be shown on the plan with setback distances. These structures cannot be located in the setback without obtaining a waiver from the Commissioner of Inspectional Services under the Dover Amendment.

C. Parking and Circulation

The day care center is permitted to enroll 90 students and 18 staff members. Per the Ordinance, the parking requirement for the center is 32 stalls. When combined with the parking requirement for the existing uses on site, the total number of stalls required is 89. There are 93 stalls on site which satisfies the Ordinance. As noted above, the site is served by three curb cuts: two on Winchester Street and one on Curtis Street. The proposed outdoor play area at the rear of the building decreases

the drive aisle between the play area and the parking stalls to 19 feet, which can only accommodate one-way traffic per the Ordinance. As a result, the curb cut located at the northeast corner of the site will only allow egress onto Curtis Street. Additionally, due to the proposed location of the playground to the east of the building and the resulting new location of two parallel stalls, the curb cut at the southeast corner of the lot will also be too narrow to accommodate two-way traffic. As a result, this curb cut will only allow for access in to the site from Winchester Street. Furthermore, there is no longer a drive aisle to access the Curtis Street curb cut at the eastern portion of the building. Therefore, the only curb cut which allows access and egress is the curb cut on Winchester Street due south of the commercial building. The Planning Department will be meeting with a member of the Engineering Division to review the proposed circulation and will provide the Committee with an update at the public hearing.



As noted in the Administrative Site Plan Review memorandum, the Planning Department noted that the day care center has the rights to use 18 parking stalls during pick up and drop off which are from 7:30 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m. This fact should be communicated not only to the parents and guardians of the children enrolled at the center, but also to the employees and customers of the existing uses on site; the updated circulation plan should be communicated as well.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal with regard to zoning. The applicants are seeking the following reliefs:

- Amend Existing special permit (Board Order #132-14) and associated site plan.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

- Attachment A:** Board Order #132-14(2)
- Attachment B:** Administrative Site Plan Review
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order



2014 01686827

Bk: 01246 Pg: 80 Cert#: 223230
Doc: DECIS 12/02/2014 11:18 AM

#132-14(2)

SCANNED

CITY OF NEWTON
IN BOARD OF ALDERMEN

October 20, 2014

RECEIVED
Newton City Clerk
2014 OCT 23 PM 4:11
David A. Olson, City Clerk
Newton, MA 02459

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a second free-standing sign as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The erection of a second free-standing sign is in the public interest as it will improve way-finding along the Winchester Street corridor for customers of the establishment. (§30-20(1))
2. The site is an appropriate location for the proposed free-standing sign, since the establishment is separate from the other uses in the principal building and the proposed sign will further enhance the streetscape. (§30-24(d)(1))
3. The location of the proposed free-standing sign will not create a nuisance or serious hazard to pedestrians or vehicles, since the proposed sign will not impede the movement or visibility for pedestrians or vehicles. (§30-24(d)(3))

PETITION NUMBER: #132-14(2)

PETITIONER: Stone Gallery / Cline Realty Limited

LOCATION: 49-51 Winchester Street on land known as SBL 51, 28, 30 containing a total of 79,500 square feet of land

OWNER: Cline Realty Limited

ADDRESS OF OWNER: 49 Winchester Street
Newton, MA 02461

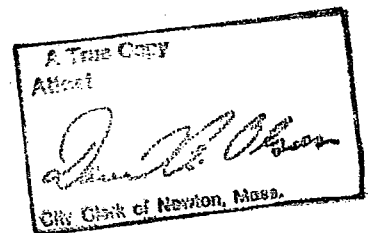
TO BE USED FOR: Free-standing Sign

CONSTRUCTION: Sign board and a stone veneered block wall

*Record owners:
Winchester Street Realty Trust*

LOT 1+2

223230-1246-80



EXPLANATORY NOTES: §30-20(f)(9) and §30-20(l), to allow the erection of a second free-standing sign.

ZONING: Mixed Use 1

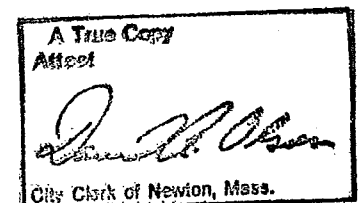
Prior special permits for this property include: Board of Alderman approvals #219-05 and #132-14.

This special permit supersedes the prior special permit and consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permit 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 132-14(2):

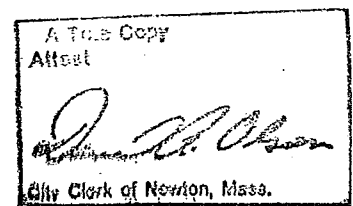
1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. Site plan, entitled "Plan of Land in Newton, MA for 49-53 Winchester Street, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated July 13, 2005 and revised on September 29, 2013, May 6, 2014, and September 23, 2014.
 - b. Plan set, entitled "Double Sided Dimensional Monument Wall Signs," for Stone Gallery, prepared by Countryside Signs, dated August 6, 2014, including two (2) drawings:
 - i. Page 1 of 2 - Indicating the signage on the stone veneered block wall; and
 - ii. Page 2 of 2 - Indicating the dimensions of the proposed signage.
 - c. Photo set, prepared by the petitioner, undated, and including two (2) images:
 - i. Photo 1 - Indicating the finished free-standing sign with landscaping; and
 - ii. Photo 2 - Indicating the placement and design of the display bed surrounding the free-standing sign.
2. 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 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the free-standing sign 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 Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

Conditions incorporated from Board Order #132-14:

4. All landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. Landscape Plan for Display Area, prepared by Landscape Studio 7 LLC, dated June 4, 2013, consisting of two sheets.
5. The petitioner shall install a bicycle rack on the site at a location approved by the City's Planning Department and Transportation Department.
6. Prior to the issuance of a Building Permit, the petitioner shall submit a tree removal plan to the City's Tree Warden for review and approval, and shall submit a copy of such plan to the Director of Planning and Development.
7. At such time in the future that the existing buildings are enlarged or demolished and the site is redeveloped, the site shall comply with the parking requirements in effect at the time, and the waivers of parking design controls, including waivers of dimensional, lighting, and landscaping requirements, granted by this special permit shall terminate.
8. The outdoor display and sale of goods permitted hereunder applies to the continued use of the outdoor display area for the display of natural and man-made stone for architectural and landscaping purposes and goods of a like nature only. In the event that the use of the outdoor display area for the display of such goods is abandoned, then the outdoor display use granted under this special permit shall terminate. For as long as the use of the outdoor display area continues, it shall be maintained in a neat and orderly condition and without unsightly debris and broken or damaged display materials, and in a manner similar to that shown in the approved site plan, landscaping plan, and rendering.
9. In the event that the use of the outdoor display area is abandoned, then the outdoor display area shall be returned to its natural and vegetated state.
10. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. 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 and/or Occupancy Permit for the portion of the building 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.



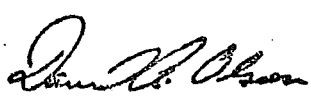
- b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
- c. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.

Conditions incorporated from Board Order #219-05:

- 13. The petitioner in Board Order #219-05 shall install and maintain concrete wheel stops for existing parking stalls as follows: four(4) stops at the reserved parking stalls located in front of the building and approximately sixteen (16) stops for the parking stalls abutting the public sidewalk along Winchester Street.
- 14. Should the cooking school use cease to operate at this property, the waiver of that provision of the zoning ordinance that prohibits reserved parking shall cease for the four parking stalls reserved for the cooking school use, and the signs at such reserved parking spaces shall be removed.
- 15. If the type of cooking appliances and equipment or the types of food ingredients change such that health, fire or other safety codes would require an upgrade in such health, fire or other safety safeguards, equipment or other protections (e.g., fire suppression equipment over cooking area, or additional sinks), then the applicant shall obtain any and all necessary permits and licenses and install such upgrades
- 16. The petitioner shall comply with the following provisions when establishing the class schedules:
 - a. The weekday classes for children shall start no earlier than 9:30 a.m.,
 - b. There shall be no more than 12 students or guests in an single class or birthday party session,
 - c. No more than two classes shall be scheduled at any given time, one in each of the two classrooms,
 - d. There shall be a minimum of 1 hour between classes scheduled within a given classroom, when classes are scheduled in both classrooms, there shall be a 15 minute stagger in the start and end times of the overlapping classes to assure that there is sufficient access to the designated pick-up and drop-off spaces for the students, and
 - e. The weekday adult evening classes shall begin no earlier than 6:00 p.m.

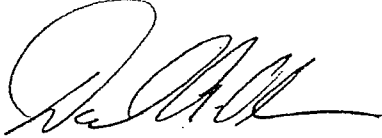
Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Alderman Harney)

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 October 23, 2014. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL

A True Copy
Attest

City Clerk of Newton, Mass.

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:



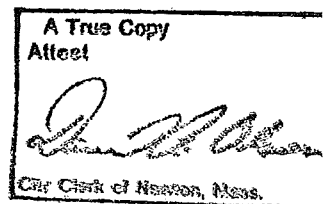
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

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 12/25 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



①

STONE (M) LLC
978.735-6180
TEL. 51
NAME: 179 W. Middlesex St
STREET ADDRESS: NEWTON, MASS
CITY OR TOWN: ZIP

Doc 01686827

Southern Middlesex Land Court
Registry District

RECEIVED FOR REGISTRATION

On: Dec 02, 2014 at 11:18A

Document Fee 75.00

Receipt Total: \$75.00

NOTED ON: CERT 223230 BK 01246 PG 80

ALSO NOTED ON:

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Official Receipt for Recording in: -----#

Middlesex South Registry of Deeds
208 Cambridge St.
Cambridge, Massachusetts 02141

Issued To:
WALKIN

Recording Fees

Document Description	Number	Cert Number	Recording Amount
DECIS	01686827	223230	\$75.00

Collected Amounts

Payment Type	Amount
Cash	\$100.00
	\$100.00

Total Received : \$100.00
Less Total Recordings: \$75.00

Change Due : \$25.00

Thank You
MARIA C. CURTATIONE - Register of Deeds
By: Christine D

Receipt# Date Time
1759821 12/02/2014 11:18a



Setti D. Warren
Mayor

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Barney S. Heath
Director

INTER-OFFICE CORRESPONDENCE

DATE: August 1, 2017

TO: John Lojek, Commissioner of Inspectional Services

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Senior Planner

SUBJECT: **Administrative Site Plan Review – §6.3.4 and §7.5.
49-51 Winchester Street**

CC: Mayor Setti D. Warren
Ward 5 Councilor Brian Yates
Ward 5 Councilor Deborah Crossley
Ward 5 Councilor John Rice
Law Department

In accordance with §6.3.4 of the Newton Zoning Ordinance (the Ordinance), which requires an administrative site plan review for a day care center, the Planning Department, in consultation with other City departments, has reviewed the plans for the proposed day care center at 49-51 Winchester Street (the Site) , submitted on June 2, 2017.



49-51 Winchester Street

Background

The subject property consists of approximately 79,500 square feet of land (1.83 acres) located in the Mixed-Use 1 (MU-1) zone in Newton Upper Falls. The site is a corner lot with frontages on Winchester and Curtis Streets located in a transition zone between the Newton Highlands commercial district and the Needham Street Corridor. As such, the immediate area contains a mix of zones and uses (**Attachments A & B**). The site is comprised of three buildings: a 19,000 square foot commercial building, a detached 3,600 square foot metal shed at the rear of the property used for storage, and a detached 1,378 square foot wooden shed at the front of the property used by a landscape materials company. Additionally, the site contains a 93 stall parking facility and a 4,800 square foot landscaped area. Lastly, the site has three curb cuts: one on Winchester Street, one at the corner of Winchester and Curtis Streets, and a third at the rear of the site along Curtis Street; this is a one-way driveway providing egress from the site.

The site is currently governed by two special permits: Board Order #219-05 allowed a for-profit educational use with designated parking; and Board Order #132-14 allowed an outdoor retail use in addition to legalizing the preexisting nonconformities of the parking facility (**Attachment C**). The current petition does not affect the conditions of those Board Orders; therefore an amendment is not required.

Project Overview

The Creative Kids Studio (the petitioner) is seeking to establish a day care center within the existing commercial building on site. The petitioner will occupy approximately 6,191 square feet in the structure. In total, the petitioner seeks to enroll 90 students and employ 14 staff members.

Technical Considerations

In accordance with §7.5 of the Ordinance, the petition and plans are to be reviewed for compliance with the dimensional standards laid out in §4.2.3 for All Building Types in Mixed Use Districts, for a day care center in the MU-1 zone, and for compliance with the parking requirements in §5.1. Based on this review, the petitioner is seeking an administrative site plan review for a day care center under M.G.L. Ch. 40A §3 (Dover Amendment).

I. COMPLIANCE WITH §3.1 (DIMENSIONAL REQUIREMENTS)

The petitioner is seeking to lease space within the existing commercial building on site. Since the petitioner is not proposing any changes to either the structure or site, there are no changes to the dimensional requirements.

II. COMPLIANCE WITH §5.1 (PARKING)

Section 5.1.4 of the Ordinance requires a day care center to provide one onsite parking stall per employee and one onsite stall for pickup and drop off per five students. The petitioner is proposing to enroll 90 students with 14 employees. As a result, the petitioner requires 32

stalls. To determine the overall parking demand for the site, these 32 stalls are added to the parking requirements for the existing uses, which results in a total demand of 89 stalls. There are currently 93 stalls on site; therefore the site is compliant with the parking requirements (**Attachment D**).

III. SITE PLAN REVIEW CRITERIA

Per §7.5.2.C of the Ordinance, the Director of Planning and Development may consider this project in light of the following criteria:

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible.

In an effort to mitigate congestion within the site, the petitioner submitted a Parking Management Plan (**Attachment E**). The plan states that 18 parking stalls will be designated at the front of the commercial building for parents to pick up and drop off their children between the hours of 7:30 a.m. and 9:00 a.m. and 4:00 p.m. to 6:00 p.m. Other than these hours, there will be no designated parking on site, with the exception of the stalls reserved for the for-profit educational use approved under Board order #219-05. As a result, staff members will be required to park elsewhere on site. Staff believes this is a good approach as the 18 stalls meet the requirements of the Ordinance, but the plan does not state how this will be communicated to parents, or other tenants of the site, including their employees and customers.

In addition, the plan does not address how circulation within the site will work. There are three curb cuts serving the site; two provide both access and egress to Winchester and Curtis Streets while the third provides only egress to Curtis Street. Also, there appears to be one-way circulation to the west of the office building, leading to the one-way egress at the northeast corner of the site (**Attachment F**). Staff believes the petitioner should update the plan to facilitate circulation within the site, including suggested access and egress for all users of the site.

Lastly, due to the number of children and employees visiting the site daily, combined with the daily volume of vehicles on Winchester Street, the Planning Department suggests the petitioner explore options to reduce the number of vehicle trips to the site. Staff notes other day care centers operating in the City have encouraged carpooling amongst parents, and provided transportation for children to and from the site.

2. Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage.

The petitioner is not proposing changes to the disposal of wastes or drainage.

3. Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site.

The petitioner is not proposing any changes to the existing loading areas for service vehicles or deliveries to the site.

4. Screening of parking areas and structures on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between any existing or proposed structures and the street shall be discouraged.

The petitioner is not proposing any changes to the existing site which is governed by Board Order #132-14.

5. Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas.

The petitioner is not proposing any changes to the topography of the site.

6. Location of utility service lines underground wherever possible. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines.

The petitioner is not proposing any changes to the existing site or structure.

7. Avoidance of the removal or disruption of historic resources on or off-site. Historical resources including designated historical structures or sites, historical architectural elements or archaeological sites.

The site is neither listed on the National Register of Historic Places, nor located within a local historic district. In addition, the petitioner is not proposing to alter the existing site or structure; therefore, historical review is not required.

III. CONCLUSIONS AND RECOMMENDATIONS

The petitioner is not proposing any changes to the structure(s) or site which would alter the existing dimensional controls. Additionally, the parking facility is able to accommodate all of the uses of the site. In addition to the items outlined below regarding parking, circulation and access, staff notes that the site is located within the project scope of the Massachusetts Department of Transportation's reconstruction of the Needham Street Corridor from Webster Street in Needham to Route 9 in Newton. This project is currently in its 75% design phase and construction is expected to start within a few years. As the layout of the right-of-way will change, access to the site may change with respect to the number and location of curb-cuts. The Planning Department suggests the petitioner, other tenants of the site, and property owner take a proactive approach to managing access and circulation upon completion of the final design and during construction. Such an approach may include attending public meetings, advertising changes within the site in advance of construction, and formulating a comprehensive traffic pattern within the site once construction is complete. Moreover, the

Planning Department would recommend that all of the following actions and submittals be completed prior to the issuance of a building permit:

- Prepare a comprehensive parking management plan for the site. This plan shall include how the 18 designated stalls for pickup and drop off for the day care center will be communicated to parents of the children enrolled in the day care center and other tenants of the site, including their employees and customers.
- Prepare a comprehensive circulation plan for the site not only for within the site, but for access and egress. The petitioner should detail how this plan will also be communicated to parents of the children enrolled in the day care center, and other tenants of the site, including their employees and customers.
- Explore initiatives to reduce the number of daily trips to the site, including but not limited to encouraging carpooling amongst parents, and providing transportation for children to and from the site.
- Upon reception of a Certificate of Occupancy, the petitioner shall provide licensure by the Office for Child Care Services Regulations to the Director of Planning and Development and the Commissioner of Inspectional Services.

ATTACHMENTS:

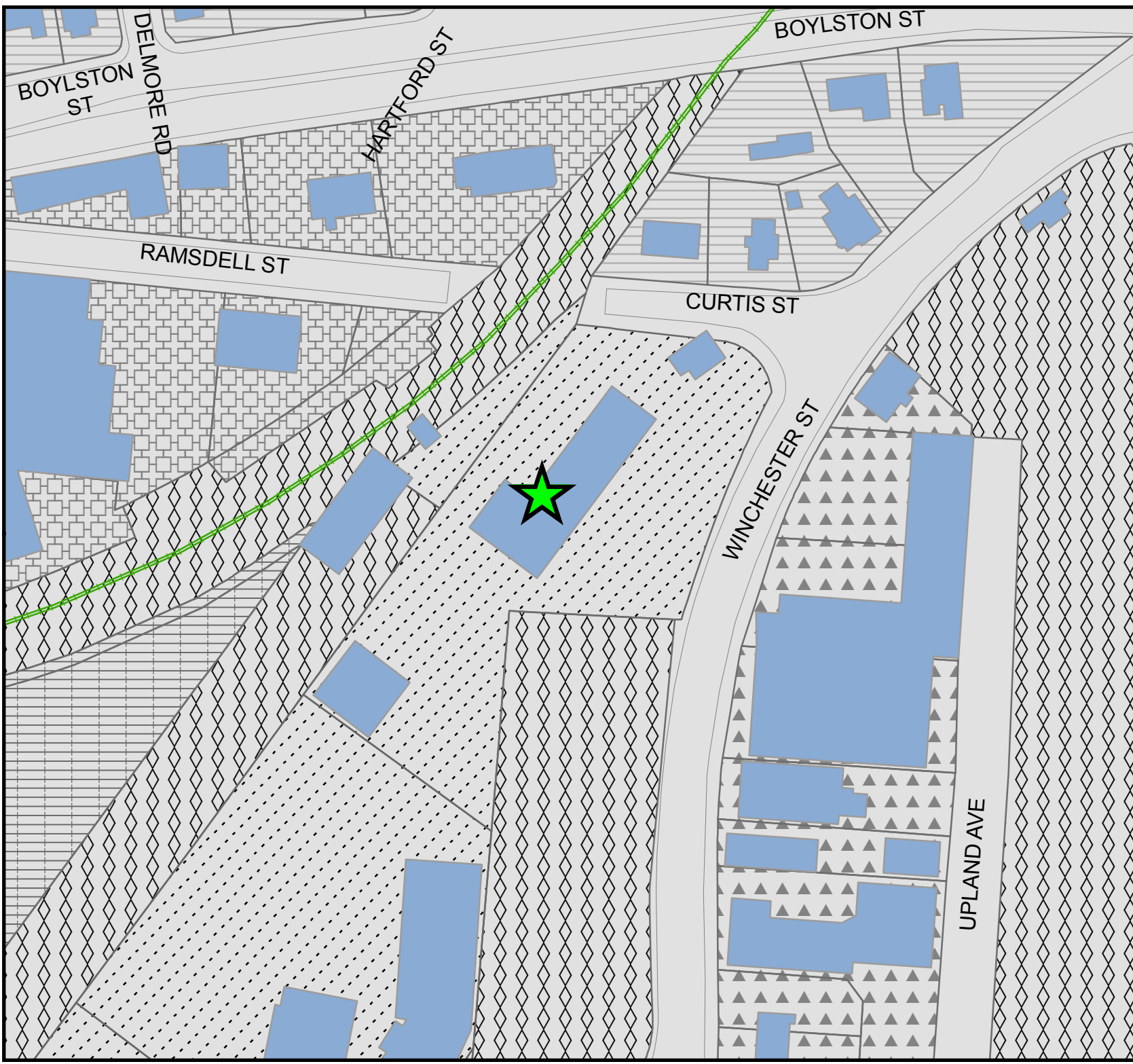
ATTACHMENT A:	Zoning Map
ATTACHMENT B:	Land Use Map
ATTACHMENT C:	Board Order #132-14
ATTACHMENT D:	Zoning Review Memorandum
ATTACHMENT E:	Parking Management Plan
ATTACHMENT F:	Proposed Site Plan

MATERIALS REVIEWED:

- Administrative Site Plan Review Filing, submitted June 2, 2017 Consisting of the Following Materials:
 - Administrative Site Plan Review Application.
 - General Permit Application
 - Proposed Site Plan, signed and stamped by Peter Nolan, Professional Land Surveyor, dated February 1, 2017
 - Existing and Proposed Layout Plans, signed and stamped by Richard A. Volkin, Professional Engineer, dated March 21, 2017
 - Handicap Detail Plan, signed and stamped by Richard A. Volkin, Professional Engineer, dated February 6, 2017
 - Parking Management Plan
 - Project Description
 - Board Order #132-14

Attachment A Zoning Map Winchester St., 49-51

*City of Newton,
Massachusetts*

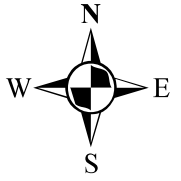


Legend

- Building Outlines
- Streets - Pavement Edge
- MBTA GREEN LINE

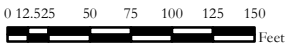
Zoning

- Multi-Residence 1
- Business 2
- Manufacturing
- Mixed Use 1
- Mixed Use 2
- Public Use



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.











CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

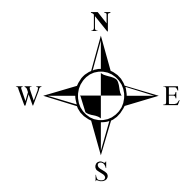


Attachment B Land Use Map Winchester St., 49-51

*City of Newton,
Massachusetts*

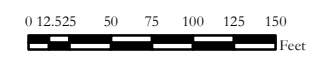
Legend

-  Building Outlines
-  Streets - Pavement Edge
- MBTA Transit Lines**
-  MBTA GREEN LINE
- Land Use**
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

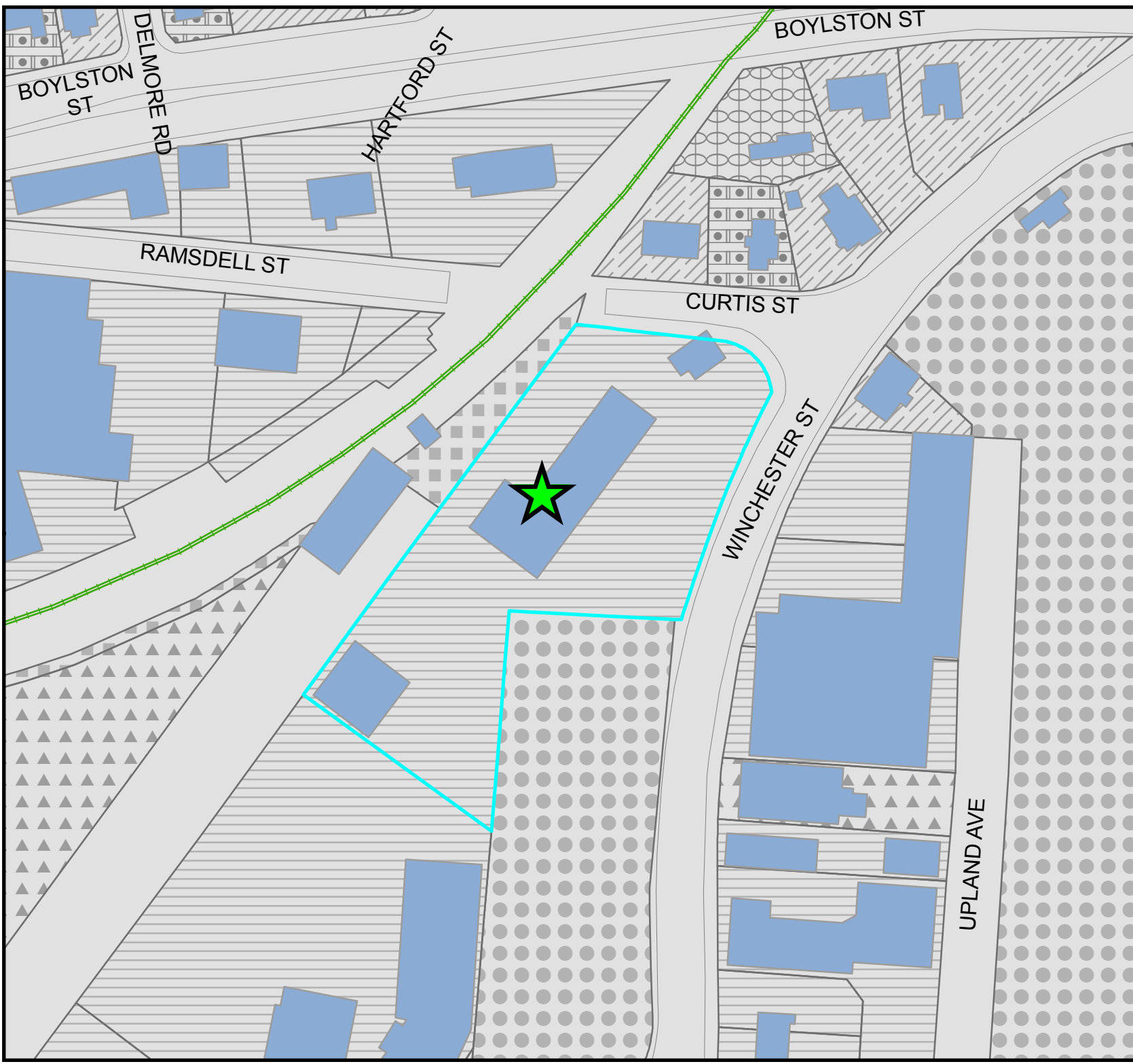


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: August 01, 2017





2014 00082769

Bk: 63772 Pg: 506 Doc: DECIS
Page: 1 of 5 06/18/2014 02:21 PM

RECEIVED
NEWTON CITY CLERK
2014 MAY 21 PM 1:56
#132-14
DAVID A. OLSON, DMC
NEWTON, MA 02459

CITY OF NEWTON

IN BOARD OF ALDERMEN

May 19, 2014

ORDERED:

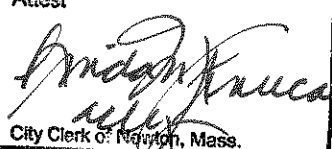
That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to allow a retail use and associated outdoor display of goods with various waivers from dimensional and design controls for parking facilities including; minimum aisle, entrance, and exit widths; parking in the front setback; landscape screening; lighting; bicycle parking; and the exclusive use of two parking spaces, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The site, which is within the Needham Street commercial corridor, is an appropriate location for the proposed retail use and display area. (§30-24(d)(1))
2. The proposed retail use and display area as developed and operated will not adversely affect the surrounding neighborhood, as its impact in terms of noise and traffic will be consistent with other uses within the corridor, and the display area will be mostly screened from residential areas. (§30-24(d)(2))
3. The proposed retail use and display area will not change the existing vehicle circulation on the site and therefore will not result in a nuisance or serious hazard to vehicles or pedestrians in the surrounding neighborhood. (§30-24(d)(3))
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§30-24(d)(4))
5. The requested waivers of the dimensional and design controls for parking facilities are appropriate because literal compliance with the dimensional parking requirements is impracticable due to the existing use and development patterns present on the subject property. (§30-19(h)(2),(3), and (4), §30-19(i)(2), §30-19(j)(2), §30-19(k) and §30-19(m))

PETITION NUMBER: #132-14

PETITIONER: Stone Gallery / Cline Realty Limited

A True Copy
Attest



Bridget Krause
City Clerk of Newton, Mass.

RETURN TO:
ROSENBERG FREEDMAN & LEE LLP
246 WALNUT ST. SUITE 201
NEWTON MA 02460.

LOCATION: 49-51 Winchester Street on land known as SBL 51, 28, 30 containing a total of 79,500 square feet of land

OWNER: Cline limited Realty

ADDRESS OF OWNER: 49 Winchester Street
Newton, MA 02461

TO BE USED FOR: Commerical

CONSTRUCTION: Brick

EXPLANATORY NOTES: §30-13(b)(1) and §30-13(b)(16), to allow a retail use, and associated outdoor display of goods in the Mixed Use 1 district; §30-19(h)(3)(b) and §30-19(m), to waive minimum aisle width for two way traffic; §30-19(h)(4)(a) and §30-19(m), to waive the minimum width of entrance and exist drives; §30-19(h)(1) and §30-19(m), to allow parking in the front setback; §30-19(i)(1) and §30-19(m), to waive requirements for landscape screening; §30-19(i)(2) and §30-19(m), to waive interior landscaping requirements; §30-19(j)(1) and §30-19(m), to waive lighting requirements; §30-19(k) and §30-19(m), to waive the requirement for bicycle parking facilities for a portion of the number of required bicycle parking spaces; §30-19(c)(4), and §30-19(m), to allow for the exclusive rights of use of two parking stalls

ZONING: Mixed Use 1

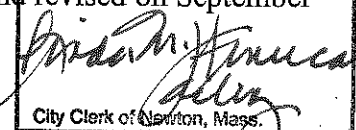
Prior special permits for this property include: Board of Alderman approval from 2005, Decision #219-05.

This special permit supersedes the prior special permit and consolidates and incorporates herein those conditions and provisions from such prior special permit that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permit not set forth in this special permit are null and void.

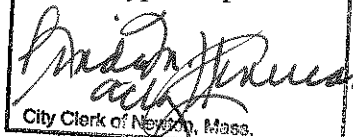
Approved subject to the following conditions:

Conditions associated with this Special Permit/Site Plan Approval, Board Order 132-14:

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. Plan of Land, prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford Professional Land Surveyor, dated July 13, 2015, and revised on September 24, 2013, and May 6, 2014.

Attest

City Clerk of Newton, Mass.

- b. Site Plan, prepared by Landscape Studio 7 LLC, dated June 4, 2013.
 - c. Landscape Plan, prepared by Landscape Studio 7 LLC, dated June 4, 2013.
2. The petitioner shall install a bicycle rack on the site at a location approved by the City's Planning Department and Transportation Department.
 3. Prior to the issuance of a Building Permit, the petitioner shall submit a tree removal plan to the City's Tree Warden for review and approval, and shall submit a copy of such plan to the Director of Planning and Development.
 4. At such time in the future that the existing buildings are enlarged or demolished and the site is redeveloped, the site shall comply with the parking requirements in effect at the time, and the waivers of parking design controls, including waivers of dimensional, lighting, and landscaping requirements, granted by this special permit shall terminate.
 5. The outdoor display and sale of goods permitted hereunder applies to the continued use of the outdoor display area for the display of natural and man-made stone for architectural and landscaping purposes and goods of a like nature only. In the event that the use of the outdoor display area for the display of such goods is abandoned, then the outdoor display use granted under this special permit shall terminate. For as long as the use of the outdoor display area continues, it shall be maintained in a neat and orderly condition and without unsightly debris and broken or damaged display materials, and in a manner similar to that shown in the approved site plan, landscaping plan, and rendering.
 6. In the event that the use of the outdoor display area is abandoned, then the outdoor display area shall be returned to its natural and vegetated state.
 7. 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 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 8. No Final Inspection and/or Occupancy Permit for the portion of the building 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 Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. 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.

A true copy

City Clerk of Newton, Mass.

Conditions incorporated from Board Order #219-05:

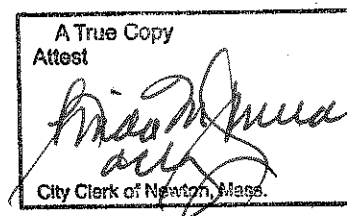
1. The petitioner in Board Order #219-05 shall install and maintain concrete wheel stops for existing parking stalls as follows: four(4) stops at the reserved parking stalls located in front of the building and approximately sixteen (16) stops for the parking stalls abutting the public sidewalk along Winchester Street.
2. Should the cooking school use cease to operate at this property, the waiver of that provision of the zoning ordinance that prohibits reserved parking shall cease for the four parking stalls reserved for the cooking school use, and the signs at such reserved parking spaces shall be removed.
3. If the type of cooking appliances and equipment or the types of food ingredients change such that health, fire or other safety codes would require an upgrade in such health, fire or other safety safeguards, equipment or other protections (e.g., fire suppression equipment over cooking area, or additional sinks), then the applicant shall obtain any and all necessary permits and licenses and install such upgrades
4. The petitioner shall comply with the following provisions when establishing the class schedules:
 - a. The weekday classes for children shall start no earlier than 9:30 a.m.,
 - b. There shall be no more than 12 students or guests in an single class or birthday party session,
 - c. No more than two classes shall be scheduled at any given time, one in each of the two classrooms,
 - d. There shall be a minimum of 1 hour between classes scheduled within a given classroom, when classes are scheduled in both classrooms, there shall be a 15 minute stagger in the start and end times of the overlapping classes to assure that there is sufficient access to the designated pick-up and drop-off spaces for the students, and
 - e. The weekday adult evening classes shall begin no earlier than 6:00 p.m.

Under Suspension of Rules

Readings Waived and Approved

21 yeas 0 nays 2 absent (Aldermen Albright and Baker 1 vacancy

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 May 21, 2014. 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 M. Finicane, acting
(SGD) ~~DAVID A. OLSON~~, City Clerk
Clerk of the Board of Aldermen
LINDA M. FINICANE

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 5/21 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

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

A True Copy
Attest
David M. Finicane
acting
City Clerk of Newton, Mass.



Setti D. Warren
Mayor

Attachment D

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM
Administrative Site Plan Review

Date: July 17, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Winchester Street Realty Trust, Applicant
Laurence Lee, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Site Plan Review to locate a day care center at 49-51 Winchester Street**

Applicant: Winchester Street Realty Trust	
Site: 49-51 Winchester Street	SBL: 51028 0030
Zoning: MU1	Lot Area: 79,500 square feet
Current use: Mixed use and office	Proposed use: Mixed use and day care center

BACKGROUND:

The property at 49-51 Winchester Street consists of a 79,500 square foot lot in a Mixed Use 1 zone. The site is at the corner of Winchester and Curtis Streets and is improved with a 19,000 square foot commercial building, a detached 3,600 square foot metal shed used for storage in the rear of the property and a detached 1,378 square foot wooden shed at the front of the property used by a landscape materials company, as well as an approximately 4,800 square foot landscaped area on which it is located as a display area.

The commercial building is currently occupied by several tenants with varying uses. Approximately 14,560 square feet of the building are dedicated to office space between four tenants. The remaining space is used for storage and a cooking school. The cooking school tenant, Create-A-Cook, was approved by special permit Board Order No 219-05 as a for-profit educational use in 2005. Special Permit #132-14 was issued in 2014 allowing for the outdoor retail use, as well as approving the existing nonconformities of the parking lot.

The applicant proposes to locate a for-profit day care center on the first floor in a portion of the existing general office building, occupying approximately 6,191 square feet.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Laurence Lee, Attorney, dated 6/2/2017
- Proposed Plan of Land, signed and stamped by Peter J. Nolan, surveyor, dated 2/1/2017
- Addendum, submitted 6/2/2017

ADMINISTRATIVE DETERMINATIONS:

1. The proposed day care center is subject to the administrative site plan review procedure per Section 7.4.5 and the standards for day care centers found in Section 6.3.4.3 of the Newton Zoning Ordinance. These procedures govern the review of uses protected under MGL Chapter 40A, section 3, also known as the “Dover Amendment”.
2. The subject site is located in the Mixed Use 1 zoning district and must comply with the dimensional standards of Section 4.2.3. As no changes are proposed to the footprint of the building, there are no issues with regard to dimensional controls for the building.
3. There are 93 parking stalls on the property, and no changes to the parking configuration or count are proposed. All nonconformities of the existing parking lot were approved under Special Permit #132-14, which incorporated the prior Special Permit #219-05 allowing Create-A-Cook to operate.

The applicant is proposing 90 students and 14 staff members for the day care facility. Section 5.1.4 of the Ordinance requires that a day care center provide one on-site parking stall per each five students for drop-off, and one stall per each employee. Per the Ordinance, the applicant is required to provide 18 stalls for drop-off and 14 stalls for employees, for a total of 32 stalls. The proposed day care center has been given 36 unassigned parking stalls under a signed lease with the owner of the property. There will be 18 parking stalls located at the front of the property along Winchester Street that will be designated for pick up and drop off during specified hours, but otherwise available to tenants and visitors of the building. The proposed drop off and pick up hours are 7:30-9:00 am, and 4:00-6:00 pm.

With the previous office use in the proposed location for the day care, the overall parking requirement for the entire property was 82 stalls, with 25 stalls necessary for the office. To replace that office use with a day care use increases the parking requirement to 89 stalls total, which is less than the 93 stalls available on the property. No parking waiver is required.

Administrative Site Plan Review

Ordinance		Action Required
§7.4.5 §6.3.4.3	Administrative Site Plan Review for a day care use	A.S.P.R. per §7.4.5

Parking Management Plan
Accompanying Administrative Site Plan Review
For
The Creative Kids Studio (“Studio”)
At
49 Winchester Street, Newton, Massachusetts

Background:

The subject premises is located in a MU1 zone and is improved with a general office building. The building is used as offices and a cooking school called “Create A Cook” that occupies a portion of the building and as permitted under a Special Permit granted by the City of Newton Board of Aldermen (now City Council) under Special Permit No. 219-05. The Board of Aldermen also granted a subsequent Special Permit (No. 132-14) for the Stone Gallery that primarily occupies the detached structure located on the northerly side of the land. Said Special Permit No. 132-14 superseded and incorporated the conditions of Special Permit No. 219-05.

Parking Lot:

A 93-space parking lot currently serves the building (NO proposed changes to parking lot). All non-conformities of the existing parking lot were approved by the former Board of Aldermen (now City Council) under Special Permit No. 132-14. Said Special Permit No. 132-14 superseded and incorporated the prior special permit No. 219-05. No changes to the existing parking lot will be made under this petition. As the parking lot has already been approved under a special permit, Section 6.3.4.B.3 of the NZO as to improvements to the parking lot requirements have been satisfied. The parking lot has two access points and three exit points. The site is situated and designed for commercial traffic use and is suitable to handle the additional limited traffic points during drop-off and pick-up times described below.

Drop-Off Procedure:

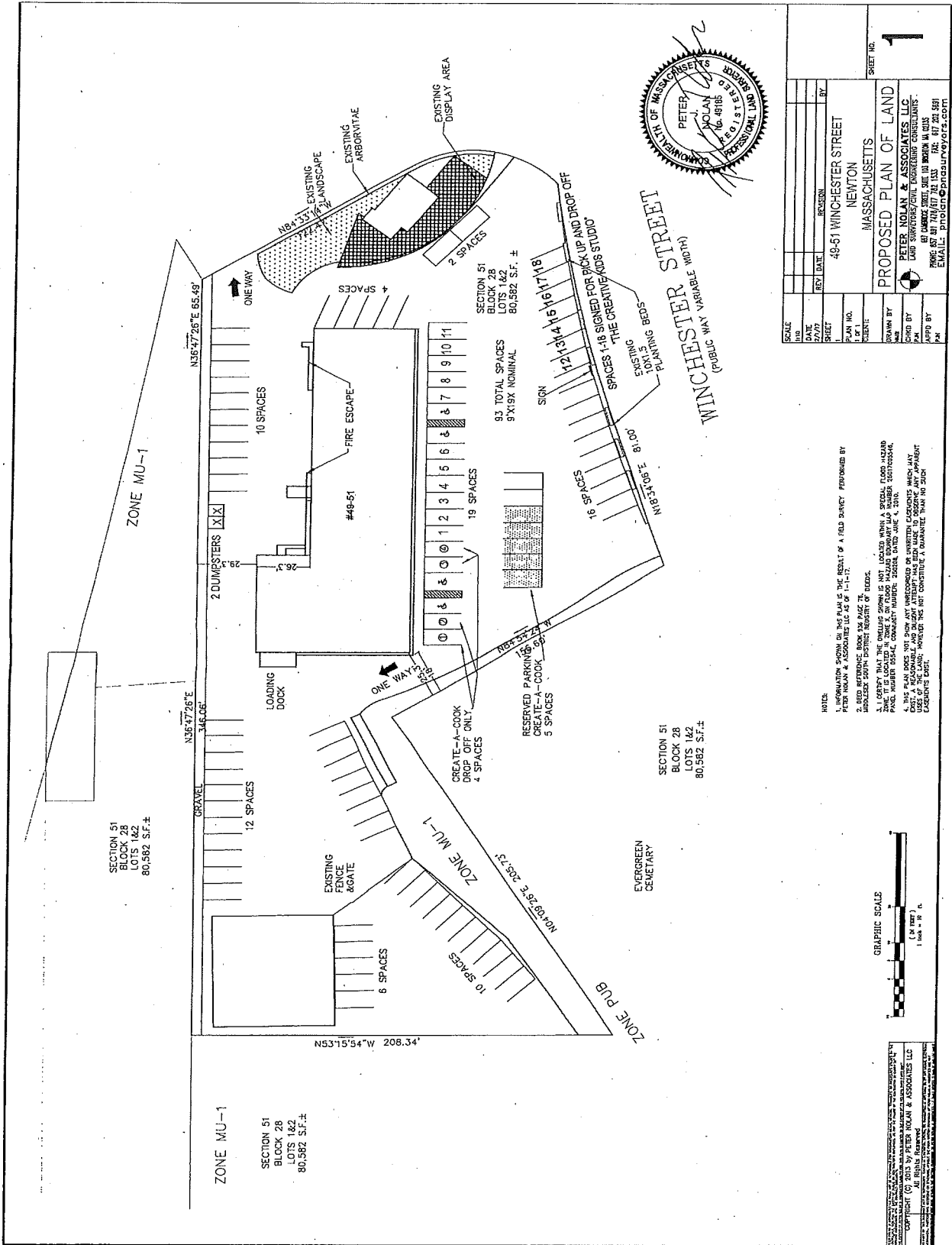
From Monday through Friday, during the hours of 7:30 AM to 9:00 AM, eighteen (18) parking spaces near the front door of the building (as shown on the submitted site plan) are to be used by The Creative Kids Studio for that limited period of time. Parents will walk their children through the front door and into the Studio, settle the children with the help of the Studio’s staff, and leave. The Studio has rights to use 36 unassigned parking spaces, therefore, extra parking spaces are available should there be the need to use spaces in excess of 18. Each drop off will be approximately 10-15 minutes.

Pick-Up Procedure:

From Monday through Friday, during the hours of 4:00 PM to 6:00 PM, the same eighteen parking spaces will be used primarily for Pick-Up. The Studio’s staff will assist parents in getting kids ready

for pick-up so as to make the process as efficient as possible. Parents will come into the Studio, pick-up the children, and walk them to their cars. Likewise with drop-off, extra parking spaces are available for use, if needed, and each pick-up time will be approximately 10-15 minutes.

Note: The above-mentioned eighteen parking spaces are otherwise unassigned and are available for use by other tenants, guests and visitors of the Building outside of the Drop-Off and Pick-Up times.



SCALE	DATE	BY
1" = 10'	2/2/17	PN
SHEET	DESCRIPTION	
1	49-51 WINCHESTER STREET NEWTON MASSACHUSETTS	
PLAN NO.		
TITLE		
DRAWN BY		
CHECKED BY		
APP'D BY		
DATE		

PROPOSED PLAN OF LAND

PETER NOLAN & ASSOCIATES, LLC
LAND SURVEYORS/CIVIL ENGINEERS/CONSULTANTS
60 LAURENS STREET, SUITE 100, BOSTON, MA 02114
PHONE: 617 749/0732 FAX: 617 749 3891
EMAIL: PN@pnsurveyors.com



Setti D. Warren
Mayor

Attachment C

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 18, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Winchester Street Realty Trust, Applicant
Terry Morris, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend the existing site plan at 49-51 Winchester Street

Applicant: Winchester Street Realty Trust	
Site: 49-51 Winchester Street	SBL: 51028 0030
Zoning: MU1	Lot Area: 79,500 square feet
Current use: Mixed use and office	Proposed use: Mixed use and day care center

BACKGROUND:

The property at 49-51 Winchester Street consists of a 79,500 square foot lot in a Mixed Use 1 zone. The site is at the corner of Winchester and Curtis Streets and is improved with a 19,000 square foot commercial building, a detached 3,600 square foot metal shed used for storage in the rear of the property and a detached 1,378 square foot wooden shed at the front of the property used by a landscape materials company. The shed is located in an approximately 4,800 square foot landscaped area used as a display showcase for the landscape materials.

The commercial building is currently occupied by several tenants with varying uses. Approximately 14,560 square feet of the building are dedicated to office space between four tenants. The remaining space is used for storage and a cooking school. The cooking school tenant, Create-A-Cook, was approved by special permit Board Order No 219-05 as a for-profit educational use in 2005. Special Permit #132-14 was issued in 2014 allowing for the outdoor retail use, as well as approving the existing nonconformities of the parking lot.

A for-profit day care center was administratively reviewed in July 2017 to locate on the first floor in a portion of the existing general office building, occupying approximately 6,191 square feet. The day

care center seeks an amendment to the previously approved site plans to locate two playgrounds on the property, to relocate four parking stalls from the side of the building to the front, and to re-orient ten existing parking stalls at the rear of the property.

The following review is based on plans and materials submitted to date as noted below.

- Site Plan, signed and stamped by Peter Nolan, surveyor, dated 3/31/2017, revised 8/30/2017

ADMINISTRATIVE DETERMINATIONS:

1. The property is subject to the conditions of Special Permit #132-14, including the site plan associated with that special permit. The proposed modifications to the site require an amendment to the approved site plan on record with Special Permit #132-14.
2. The applicant proposes to relocate four existing parking stalls from the northeast corner of the lot between the building and the Stone Gallery display area to construct an approximately 2,200 square foot play space. This location for the play space will also require that two stalls in front of the Stone Gallery's shed will be shifted towards Winchester Street into the front parking setback of 20 feet per section 4.2.3. Section 5.1.8.A.1 requires that no parking shall locate within any required setback distances from street and side lot lines. Previous special permits have already allowed for parking in the front setback.
3. The two parallel stalls in front of the Stone Gallery measure 19 feet long, where section 5.1.8.B.2 require that parallel stalls measure 21 feet. The stalls' dimensions were previously approved by Special Permit #132-14, and remain unchanged.
4. A second playground with 1,014 square feet is proposed for the rear of the building adjacent to the fire escape. Ten stalls at the rear of the property will be reoriented from 90 degrees to angled 60 degree parking to accommodate the aisle width needed for the vehicles to back out and the new play space. The driveway will become one-way only to exit to Curtis Street, and the aisle width will be reduced to 19.1 feet, which meets the minimum aisle width requirement of 19 feet for one-way traffic per section 5.1.8.C.1.
5. To accommodate the creation of the two play areas and changes to parking, the applicant proposes to make the entrance at the corner of Winchester and Curtis Streets a one-way into the property, but maintain two-way access at the other Winchester Street entrance. The rear driveway to Curtis Street will be designated for exit only. This is necessary as the proposed play space between the building and the Stone Gallery will cut off through-traffic, and the rear play space will make the driveway too narrow with only 19.1 feet in width, where 24 feet is required for two-way traffic.
6. There are 93 parking stalls on the property, and the proposed changes to the parking configuration will maintain that number of stalls. All nonconformities of the existing parking lot were approved under Special Permit #132-14, which incorporated the prior Special Permit #219-05 allowing Create-A-Cook to operate. Aside from the two parallel parking stalls mentioned above, all other modified stalls will conform to the current dimensional requirements of section 5.1.8.B.

7. Section 6.3.4.B.3.a requires that outdoor play areas associated with a day care must provide a dense year-round vegetative buffer of at least four feet in width and six feet in height along the perimeter of the play area. Fences required by the Office for Child Care Services must be located within the required vegetative buffer. No vegetation or fencing is shown on the proposed plans. To the extent that the proposed play spaces do not meet the requirements for screening per section 6.3.4.B.3.a, a Dover Waiver from the Commissioner of Inspectional Services is required.

Required Relief		
Ordinance		Action Required
	Modify site plan associated with Special Permit #132-14	
§6.3.4.B.3	To waive the screening and fencing requirements for an outdoor play space associated with a day care use	Dover Waiver

CITY OF NEWTON

IN CITY COUNCIL

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a second free-standing sign as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The site is an appropriate location for the outdoor play areas associated with the day care center because the playground will allow the children to remain on site (§7.3.3.C.1).
2. The proposed outdoor play areas will not adversely affect the neighborhood because the site is located in a transition zone comprised of varying uses. (§7.3.3.C.2).
3. The outdoor play areas will not create a nuisance or serious hazard to vehicles or pedestrians because the play areas will be protected and screened from view (§7.3.3.C.3).
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the site is located on a heavily trafficked corridor with designated access and egress points (§7.3.3.C.4).

PETITION NUMBER: #132-14(3)

PETITIONER: The Creative Kids Studio, LLC

LOCATION: 49-51 Winchester Street on land known as SBL 51, 28, 30
containing a total of 79,500 square feet of land

OWNER: Cline limited Realty

ADDRESS OF OWNER: 49 Winchester Street
Newton, MA 02461

TO BE USED FOR: Outdoor Play Areas Associated with a Day Care Center

CONSTRUCTION: Not Applicable

EXPLANATORY NOTES: Special Permit to amend Board Order #132-14(2)

ZONING: Mixed Use 1

Prior special permits for this property include: Board of Alderman approvals #219-05 and #132-14(2).

This special permit supersedes the prior special permit and consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permit 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 132-14(3):

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, entitled "Proposed Playground 49-51 Winchester Street", signed and stamped by Peter Nolan, dated 3/31/17, revised 8/30/17
2. The day care shall be limited to ninety (90) students and eighteen (18) staff members on-site at any one time. If the petitioner would like to increase the number of students to more than ninety (90), it must seek an amendment to this special permit.
3. The petitioner shall notify the parents and guardians of the enrolled children of how to access and egress the site and which stalls are available to them during pickup and drop off times. The petitioner shall work with the property owner to communicate these items to the employees and customers of the other uses on site.
4. 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 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection and/or Occupancy Permit for use 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 Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

Conditions incorporated from Board Order 132-14(2):

6. 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, entitled "Plan of Land in Newton, MA for 49-53 Winchester Street, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated July 13, 2005 and revised on September 29, 2013, May 6, 2014, and September 23, 2014.
 - b. Plan set, entitled "Double Sided Dimensional Monument Wall Signs," for Stone Gallery, prepared by Countryside Signs, dated August 6, 2014, including two (2) drawings:
 - i. Page 1 of 2 - Indicating the signage on the stone veneered block wall; and
 - ii. Page 2 of 2 - Indicating the dimensions of the proposed signage.
 - c. Photo set, prepared by the petitioner, undated, and including two (2) images:
 - i. Photo 1 - Indicating the finished free-standing sign with landscaping; and
 - ii. Photo 2 - Indicating the placement and design of the display bed surrounding the free-standing sign.

Conditions incorporated from Board Order #132-14:

7. All landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. Landscape Plan for Display Area, prepared by Landscape Studio 7 LLC, dated June 4, 2013, consisting of two sheets.
8. The petitioner shall install a bicycle rack on the site at a location approved by the City's Planning Department and Transportation Department.
9. Prior to the issuance of a Building Permit, the petitioner shall submit a tree removal plan to the City's Tree Warden for review and approval, and shall submit a copy of such plan to the Director of Planning and Development.
10. At such time in the future that the existing buildings are enlarged or demolished and the site is redeveloped, the site shall comply with the parking requirements in effect at the time, and the waivers of parking design controls, including waivers of dimensional, lighting, and landscaping requirements, granted by this special permit shall terminate.
11. The outdoor display and sale of goods permitted hereunder applies to the continued use of the outdoor display area for the display of natural and man-made stone for architectural

and landscaping purposes and goods of a like nature only. In the event that the use of the outdoor display area for the display of such goods is abandoned, then the outdoor display use granted under this special permit shall terminate. For as long as the use of the outdoor display area continues, it shall be maintained in a neat and orderly condition and without unsightly debris and broken or damaged display materials, and in a manner similar to that shown in the approved site plan, landscaping plan, and rendering.

12. In the event that the use of the outdoor display area is abandoned, then the outdoor display area shall be returned to its natural and vegetated state.
13. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #7.
14. No Final Inspection and/or Occupancy Permit for the portion of the building 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 Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. 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.

Conditions incorporated from Board Order #219-05:

13. The petitioner in Board Order #219-05 shall install and maintain concrete wheel stops for existing parking stalls as follows: four(4) stops at the reserved parking stalls located in front of the building and approximately sixteen (16) stops for the parking stalls abutting the public sidewalk along Winchester Street.
14. Should the cooking school use cease to operate at this property, the waiver of that provision of the zoning ordinance that prohibits reserved parking shall cease for the four parking stalls reserved for the cooking school use, and the signs at such reserved parking spaces shall be removed.
15. If the type of cooking appliances and equipment or the types of food ingredients change such that health, fire or other safety codes would require an upgrade in such health, fire or other safety safeguards, equipment or other protections (e.g., fire suppression equipment over cooking area, or additional sinks), then the applicant shall obtain any and all necessary permits and licenses and install such upgrades
16. The petitioner shall comply with the following provisions when establishing the class schedules:

- a. The weekday classes for children shall start no earlier than 9:30 a.m.,
- b. There shall be no more than 12 students or guests in a single class or birthday party session,
- c. No more than two classes shall be scheduled at any given time, one in each of the two classrooms,
- d. There shall be a minimum of 1 hour between classes scheduled within a given classroom, when classes are scheduled in both classrooms, there shall be a 15 minute stagger in the start and end times of the overlapping classes to assure that there is sufficient access to the designated pick-up and drop-off spaces for the students, and
- e. The weekday adult evening classes shall begin no earlier than 6:00 p.m.