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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: April 3, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Jason Rosenberg and Lawrence Lee, Attorneys
The Stoney Gallery, LLC, Tenant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

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 David A. Olson, CMC
 Newton, MA 02459

RE: Request for a retail use in a Mixed Use 1 district, and to allow for assigned parking

Applicant: Cline Limited Partnership	
Site: 49-51 Winchester Street	SBL: 51028 0030
Zoning: MU1	Lot Area: 79,500 square feet
Current use: Office, storage and a cooking school	Proposed use: Same + retail

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. The applicant, The Stone Gallery, will have its primary office space within approximately 900 square feet of space in the main commercial building, adjacent to the outdoor display area. They also propose to use the wooden shed and an approximately 4,800 square foot landscaped area on which it is located as a display area incidental to a retail and wholesale business for the sale of marble, stone and other architectural materials and general landscaping materials for use in gardens, landscaping, patios, building and paving. The proposed use involves both indoor and outdoor display of materials for sale.

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.

The applicants are requesting that the two parking stalls in front of the wooden shed be reserved exclusively for their use. Submitted plans show the potential for 93 striped parking stalls on site, however there is no striping at present.

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

- Zoning Review Application, prepared by Rosenberg, Freedman & Lee, attorneys, dated 2/20/2014
- Tenant List, undated
- Area Plan of Newton, signed and stamped by Bruce Bradford, dated 7/13/2013, revised 4/24/2013
- Plan of Land, signed and stamped by Bruce Bradford, dated 7/13/2013, revised 4/24/2013
- City of Newton Board Order #219-05, dated 9/6/2005
- Letter of determination, signed by John Lojek, Commissioner of Inspectional Services and Jane Santosuosso, Chief Zoning Code Official, dated 3/13/2013

ADMINISTRATIVE DETERMINATIONS:

1. Per section 30-13(b)(1), a retail establishment requires a special permit in the Mixed Use 1 district. The use of the outdoor space adjacent to the principal commercial building and wooden shed for display of materials for sale is accessory to the retail use within the commercial building, and permitted by special permit per section 30-13(b)(16), as a use similar or accessory to the use allowed by 30-13(b)(1).
2. The site has an existing parking lot with the potential for 93 stalls, as shown on the site plan submitted with the application. The current uses on site require 70 parking stalls, with nine of those stalls reserved exclusively for Create-A-Cook by Board Order #219-05. Sections 30-19(d)(10) and 30-19(d)(14) explain the parking requirement for this particular use. Section 30-19(d)(10) requires one stall per each 300 square feet of gross floor area for a retail use, plus one stall per each three employees at the highest shift. The applicants are proposing to use approximately 900 square feet of the commercial building, with no more than three employees working at one time, thus requiring four stalls. Section 30-19(d)(14) requires one stall for every 600 square feet of outdoor space for open-air retail. The estimated 4,800 square feet of landscaped area will require eight parking stalls accordingly. Therefore, the total parking requirement for this use is twelve stalls. Should the overall measurement of the landscaped area change significantly, the requirement may change. No parking waiver is required.
3. Although the parking conditions indicated on the submitted plans appear to be consistent with those which were permitted in 2005 and are therefore considered grandfathered, there is no indication that the proposed nonconforming situation was legalized by Board Order #219-05. To legalize the parking facility as proposed, a number of special permit waivers must be obtained.
4. The submitted plans show a two-way aisle with angled parking in the northern section of the parking area adjacent to the proposed display area which is 14 feet wide. Section 30-19(h)(3)(b) requires a maneuvering aisle for two-way traffic to be a minimum of 20 feet wide. A special permit is necessary to waive this requirement.

5. Section 30-19(h)(4)(a) requires an entrance and exit driveway be at least twenty feet wide for two-way use. The entrance off of Curtis Street measures 18.4 feet, and requires a special permit to waive this requirement.
6. Section 30-19(h)(1) states that no parking shall be located within any required setback. There are 16 parking stalls located within the front setback. A special permit is required to waive this provision.
7. Section 30-19(i)(1) requires parking lots be screened from abutting streets and properties. The parking area extends to the sidewalk with no landscaping or screening present and there is no landscaping providing screening from abutters and abutting streets on the site, other than a wooded area in the northern section of the lot, which is proposed to be used as the display area for The Stone Gallery. To maintain the present condition, a special permit to waive the requirements of section 30-19(i)(1) is necessary.
8. Section 30-19(i)(2) requires interior landscaping for facilities greater than 20 stalls. There is no interior landscaping on site, and a special permit is required to waive these provisions.
9. No lighting is shown on the submitted plans. Section 30-19(j)(1) addresses the requirements for lighting of parking facilities. The applicant shall either comply with the provisions of the Ordinance, or should apply for a waiver from the requirements of 30-19(j)(1).
10. There is currently no striping within the parking facility. Section 30-19(j)(2)(c) requires paved surfaces to be marked with four-inch painted lines or some other method to indicate stalls. If the applicant does not stripe the lot, a waiver from Section 30-19(j)(2)(c) is required.
11. Section 30-19(k) requires bicycle parking facilities. There is currently no bike parking on site, or indicated in the submitted plans. A waiver from this section is required.
12. Under the terms of their lease, the applicants have the right to the exclusive use of the two parking stalls directly in front of the wooden structure. Section 30-19(c)(4) prohibits assigned parking, therefore a waiver from this provision is required by section 30-19(m).
13. If the applicant proposes to remove any protected trees from the proposed outdoor display area, the Tree Preservation Ordinance may apply.

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 2011 APR 15 9:42 AM

14. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-13(b)(1), 30-13(b)(16)	To allow retail use, and associated outdoor display of goods in the Mixed Use 1 district	S.P. per §30-24
§30-19(h)(3)(b), 30-19(m)	To waive minimum aisle width for two-way traffic	S.P. per §30-24
§30-19(h)(4)(a), 30-19(m)	To waive the minimum width of entrance and exit drive	S.P. per §30-24
§30-19(h)(1), 30-19(m)	To allow parking in the front setback	S.P. per §30-24
§30-19(i)(1), 30-19(m)	To waive requirements for landscape screening	S.P. per §30-24
§30-19(i)(2), 30-19(m)	To waive interior landscaping requirements	S.P. per §30-24
§30-19(j)(1), 30-19(m)	To waive lighting requirements	S.P. per §30-24
§30-19(j)(2)(c), 30-19(m)	To waive the requirement for striping of parking stalls	S.P. per §30-24
§30-19(k), 30-19(m)	To waive the requirement for bicycle parking facilities	S.P. per §30-24
§30-19(c)(4), 30-19(m)	To allow for exclusive rights of use of two parking stalls	S.P. per §30-24