

DATE April 11, 2014

TO THE HONORABLE BOARD OF ALDERMEN, CITY OF NEWTON:

The undersigned hereby makes application for permit to erect and use, to alter and use, or to make such uses as may be hereinafter specified of a building or buildings at the location and for the purpose hereinafter specified under the provisions of Chapter 30 of the Revised Ordinances, 2004, as amended or any other sections:

30-24 special permit;

30-23 site plan approval;

30-13(b)(1), 30-13(b)(16) to allow retail use, and associated outdoor display of goods in a Mixed Use 1 district;

30-19(c) (4), 30-19(m) to allow for exclusive rights of use of two parking stalls;

*30-19(h)(3)(b), 30-19(m) to waive minimum aisle width for two-way traffic;

*30-19(h)(4)(a), 30-19(m) to waive minimum width of entrance and exit drive;

*30-19(h)(1), 30-19(m) to allow parking in the front setback;

*30-19(i)(1), 30-19(m) to waive requirements for landscape screening;

*30-19(i)(2), 30-19(m) to waive interior landscaping requirements;

*30-19(j)(1), 30-19(m) to waive lighting requirements;

*30-19(k), 30-19(m) to waive the requirement for bicycle parking facilities;

*30-19(c)(4), 30-19(m) to waive the requirement for bicycle parking facilities

**Petitioner asserts that none of the earmarked waivers are necessary in that the entire parking lot was built along with the construction of the building between 1960 and 1962, which was prior to the adoption of design requirements for accessory parking lots in the Newton Zoning Ordinances; and therefore the parking lot as configured and built is a lawful nonconforming accessory use under section 30-21 and MGL ch. 40A, §6. Note: the striping of the lot has faded due to the severe winter weather, and restriping of the lot will take place in May, 2014.*

RECEIVED
Newton City Clerk
2014 APR 15 PM 4:11
David A. Olson, City Clerk
Newton, MA 02459

PETITION FOR: Special Permit/Site Plan Approval XX
Extension of Non-conforming Use and/or Structure XX
Parking Waivers As To Various Dimensional Requirements XX

STREET/WARD Winchester Street, Ward 5

SECTION(S) BLOCK(S) LOT(S) SECT. 51, BLOCK 28, LOTS 30; APPROXIMATE AREA: 79,500 sf

TO BE USED FOR: sale to homeowners and contractors of various manufactured and natural stone products for landscaping and architectural uses

CONSTRUCTION: outdoor displays consisting of various manufactured and natural stone products for landscaping and architectural uses

EXPLANATORY REMARKS: see continuation sheet attached hereto

LAND IS LOCATED IN MU-1 ZONED DISTRICT.

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

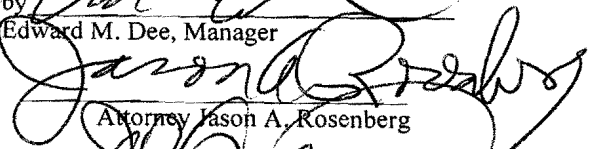
PETITIONER: Stone Gallery LLC
35 Comstock Drive, Wrentham, MA 02093

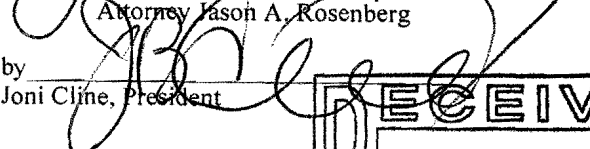
c/o Attorney Jason A. Rosenberg, 246 Walnut Street,
Newtonville, MA 02460 TEL: 617 964 7000

OWNER: Cline Realty Limited
By Cline Realty, Inc. Partner:

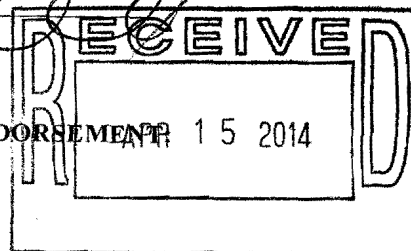
49 Winchester Street, Newton, MA 02461
telephone: 617 332 7710

by 
Edward M. Dee, Manager


Attorney Jason A. Rosenberg

by 
Joni Cline, President

PLANNING AND DEVELOPMENT DEPARTMENT'S ENDORSEMENT 15 2014



Continuation Sheet
Application for Special Permit –Stone Gallery LLC

The primary requests are two-fold: to sell at retail on the site to various contractors and homeowners architectural stone, both man-made and natural, for use in landscaping and for facades; and to be able to have outdoor displays for these products. As shown on the two sheets prepared by Landscape Studio, the outdoor display will be located in the north/northeast corner of the site where there is a small outbuilding last used as the "Alarm Shack", and a cluster of trees. The trees will not be cut down, but rather the ground surfaces and the façade of the outbuilding will be used to display the various stone materials. That is also the location where two parking spaces will be reserved for customers.

The office of Stone Gallery will also be located within the main building numbered 49-53 Winchester Street.

The property has a surplus of parking spaces and the building and land are underutilized. The location is perfect for the display and sales uses because there is steady vehicular traffic and an excellent unobstructed view of the location of the displays. The displays also will provide an aesthetic improvement to the north/northeast corner of the property.

In the application, the petitioner has stated that it does not believe that waivers for the parking lot under section 30-19(m) from the specific requirements listed on the first page is necessary. The building was constructed between 1960 and 1962, and at that time the Zoning Ordinances of Newton did not require a parking facility for commercial buildings. In addition, the site in fact has been continuously striped. The EM Brooks site plan in the 2005 petition for Create A Cook is the same as accompanying this petition in 2014. The only difference is that the striping has completely worn off due to the winter weather, and the landlord has represented that it will have the surface cleaned and painted this Spring. Prior photos taken for the 2005 submission, the City 2008 aerial in the current assessor's website, and the City's GIS 1994 and 2000 and 1979 aerials show the parking exactly the same as in the 2005 and 2014 EM Brooks plans. It is Petitioner's and the Landowner's belief that the parking lot is "grandfathered" and falls within section 30-21 and MGL ch 40A, §6 as lawfully nonconforming, and as such only the waiver to allow 2 spaces to be reserved by the outdoor display would be necessary.

If the determination is that the waivers are necessary, the petitioner's petition is an extremely modest use of the site, and requests that its application should not be the basis to require the landowner to bring the entire parking lot up to current standards; and accordingly the waivers noted by an asterisk should be granted.

Granting the special permit requested will serve the public convenience and benefit. The proposed use will not generate traffic volumes, which would cause an adverse impact upon Winchester and Needham Streets; and will provide a visual aesthetic improvement on the site.