



2014 00082769

Bk: 63772 Pg: 508 Doc: DECIS
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David A. Olson, DMC
Newton, MA 02459

2014 MAY 21 PM 1:56

RECEIVED
Newton City Clerk

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

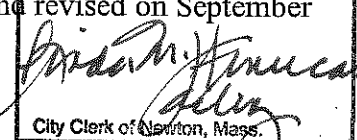
Prior special permits for this property include: Board of Alderman approval from 2005, Decision #219-05.

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.

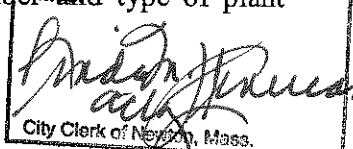
Approved subject to the following conditions:

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:

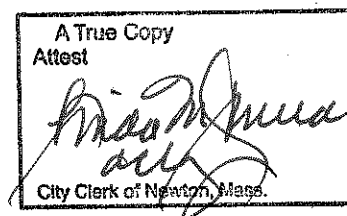
1. The petitioner in Board Order #219-05 shall install and maintain concrete wheel stops for existing parking stalls as follows: four(4) stops at the reserved parking stalls located in front of the building and approximately sixteen (16) stops for the parking stalls abutting the public sidewalk along 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

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David M. Finicane
acting
City Clerk of Newton, Mass.