


**SCHLESINGER AND
BUCHBINDER, LLP**

ATTORNEYS AT LAW

1200 WALNUT STREET
NEWTON, MASSACHUSETTS 02461-1267

STEPHEN J. BUCHBINDER
ALAN J. SCHLESINGER
LEONARD M. DAVIDSON
HEATHER G. MERRILL
PAUL N. BELL
KRISTINE H.P. HUNG
KATHERINE BRAUCHER ADAMS
AMY C. EGLOFF
FRANKLIN J. SCHWARZER
JONATHAN A. GOLDMAN

TELEPHONE (617) 965-3500
FACSIMILE (617) 965-6824

OF COUNSEL
ROBIN GORENBERG
E-Mail: sjbuchbinder@sab-law.com

April 8, 2013

BY HAND

Ms. Linda Finucane
Chief Committee Clerk, Newton Board of Aldermen
1000 Commonwealth Avenue
Newton, MA 02459-1449

Re: Petition of Dana J. Katz, trustee, DK Realty Trust / 176 and 176R Boylston Street

Dear Linda,

RECEIVED
Newton City Clerk
2013 APR - 8 PM 2: 10
David A. Olson, CMC
Newton, MA 02459

Enclosed please find an original special permit application together with thirteen packets of information relative to the above matter consisting of the following:

1. A copy of the special permit application.
2. A copy of the zoning review memorandum.
3. Existing Conditions Plan dated March 4, 2013 by RJO'Connell & Associates, Inc.
4. Layout and Traffic Control Plan dated March 4, 2013 by RJO'Connell & Associates, Inc. (Proposed Conditions).
5. Area Plan dated March 4, 2013 by RJO'Connell & Associates, Inc.
6. Floor Plans by Arrowstreet, dated March 4, 2013 consisting of three (3) sheets as follows:
 - Area Plans (A1.00)
 - Existing Conditions (A2.00)
 - Plans and Views (A2.01)
7. Check in the amount of \$750.00 representing the filing fee.

SCHLESINGER AND BUCHBINDER, LLP

Ms. Linda Finucane

April 8, 2013

Page 2

We have requested relief as to certain aspects of the proposed new rear parking area in accordance with the Zoning Review Memorandum. In light of Commissioner Lojek's consistency ruling dated March 14, 2011, a copy of which is enclosed, such relief may not be necessary.

Please feel free to call me if you have any questions respecting the foregoing.

Very truly yours,



Stephen J. Buchbinder

SJB/mer
enclosures

cc: (By Hand, w/enclosures)

Ms. Eve Tapper, Chief of Current Planning, Planning and Development Department

Mr. John Daghlian, Associate City Engineer

Ouida C. M. Young, Associate City Solicitor

(By First Class Mail, w/enclosures)

Assistant Chief Paul Chagnon

Mr. Dana J. Katz

*goulston&storr*s
counselors at law

John E. Twohig

March 14, 2011

VIA HAND DELIVERY

John Lojek
Commissioner of Inspectional Services
Newton City Hall
1000 Commonwealth Ave
Newton, MA 02459

Re: 176 Boylston Street

Dear Mr. Lojek:

Enclosed please find an updated plan showing certain proposed minor modifications to the so-called Milton's site at 176 Boylston Street. In conjunction with the zoning and permitting process for the adjacent Chestnut Hill Square development, NED Chestnut Hill LLC has worked with Milton's and agreed to make these modifications as an accommodation to Milton's.

The plan previously reviewed and approved pursuant to a consistency review (on or about June 23, 2010) illustrated improvements primarily involving repaving and resurfacing, improved access geometry without any loss of parking and with increased open space, and some landscaping on the site. The enclosed plan maintains these improvements and converts the previously proposed parallel spaces to perpendicular spaces to gain an additional 21 zoning compliant parking spaces within the same general parking area shown on the June 23rd plan. Accordingly, the proposed changes are not material in nature and consistent with the previously reviewed plan.

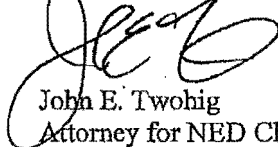
On behalf of NED Chestnut Hill LLC, we are requesting your confirmation that the modifications, as generally shown on the attached plan, are permitted pursuant to an administrative consistency review without requiring zoning relief, formal review or further action (except the issuance of a building permit, to the extent required).

RECEIVED
Newton City Clerk
2013 APR -8 PM 2:10
David A. Olson, CMC
Newton, MA 02459

March 14, 2011
Page 2

Thank you for your attention to this matter and please feel free to contact me with any questions.

Very truly yours,



John E. Twohig
Attorney for NED Chestnut Hill LLC

CONFIRMED:


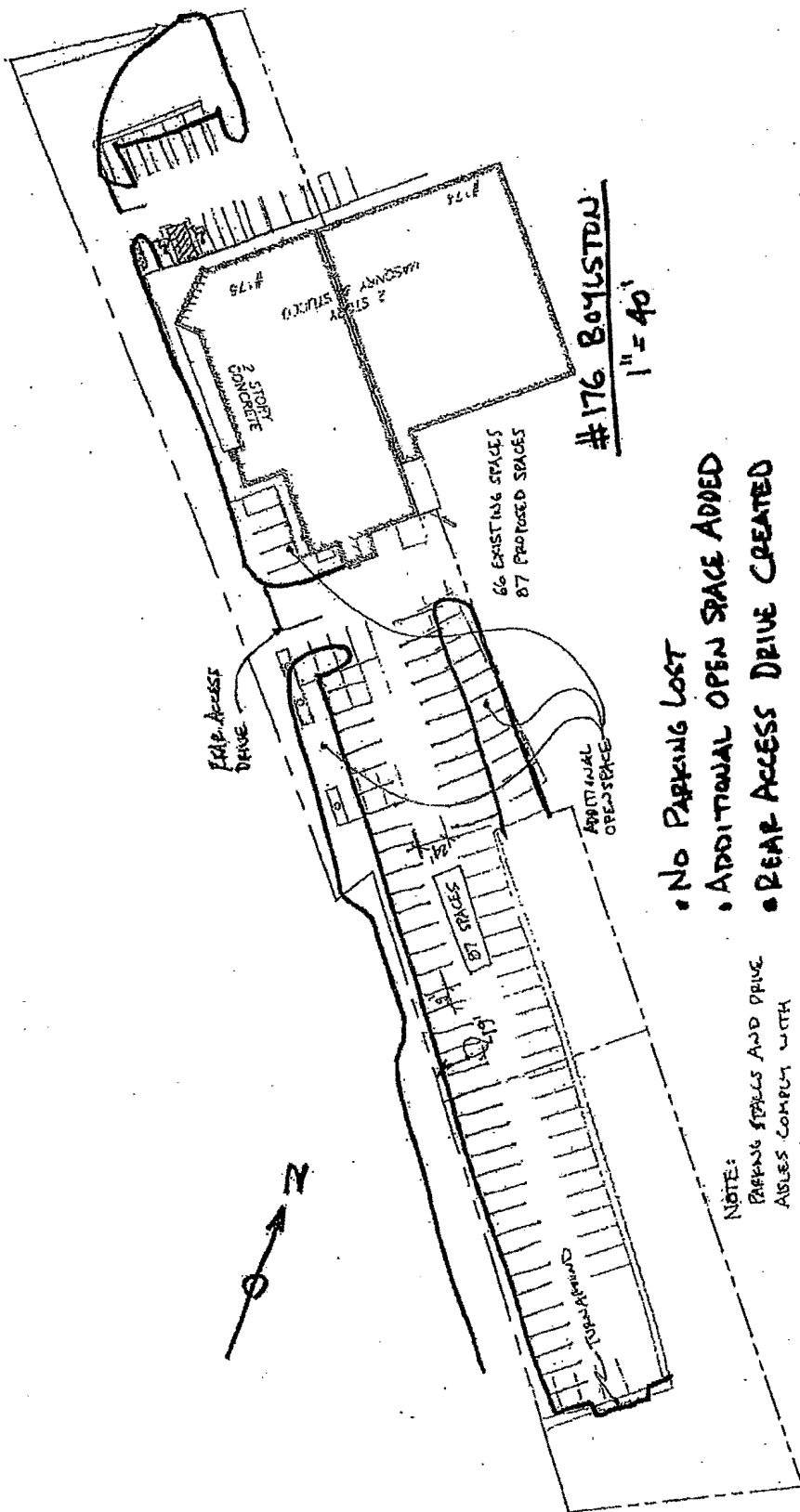

John Lojek
Commissioner of Inspectional Services

Exhibit A

[See Attached]



#176 BOSTON #1
 1" = 40'

- NO PARKING LOST
- ADDITIONAL OPEN SPACE ADDED
- REAR ACCESS DRIVE CREATED

NOTE:
 PARKING SPACES AND DRIVE
 AISLES COMPLY WITH
 NEWTON ZONING.

RECEIVED
 Newton City Clerk

2013 APR - 8 PM 2: 10

David A. Olson, CMC
 Newton, MA 02459

TO THE HONORABLE BOARD OF ALDERMEN, CITY OF NEWTON:

The undersigned hereby makes application for a permit to build or alter a structure and/or use of a facility as described below in the proposed location in accordance with the provisions of Chapter 30 or any other sections of the City's current Ordinances.

PLEASE REFERENCE SECTION(S) OF THE ORDINANCES FROM WHICH RELIEF IS REQUESTED:

30-11(j)(2); 30-19(h)(1); 30-19(i)(1)a); 30-19(i)(2); 30-19(j)(1); 30-19(k); 30-19(m); 30-21(a)(2)b); 30-23(b)(4)

RECEIVED
Newton City Clerk
2013 APR - 8 PM 2: 11
David A. Olson, CMC
Newton, MA 02459

PLEASE CHECK ALL REQUESTED APPROVALS THAT APPLY:

- Special Permit/Site Plan
- Site Plan Only
- Extension of Non-Conforming Use(s) and/or Structure(s)
- Amendment of Board Order # 505-98 (as to site plan)

STREET 176 and 176 R Boylston Street WARD _____

SECTION(S) 82 BLOCK(S) 002 LOT(S) 0018 and 0018A

APPROXIMATE SQUARE FOOTAGE (of property) 64,007 ZONE BU-1 and BU-4

TO BE USED FOR: existing men's retail clothing store

CONSTRUCTION: 2-story masonry and steel-framed building with concrete floor structure and drywall walls. The roof is flat with interior roof drains.

EXPLANATORY REMARKS: Special permit sought in connection with two-story, 1,280 square foot addition to existing building which is presently nonconforming as to height (27.73 feet whereas 24 feet allowed by right). Height of addition would also be 27.73 feet. Thus, approval required pursuant to Section 30-21(a)(2)b) for the extension of a nonconforming structure. Site plan approval also required pursuant to Section 30-11(j)(2) for an addition to an existing building between 10,000 square feet and 19,999 square feet which increases the total gross floor area to less than 20,000 square feet (15,886 square feet to 17,288 square feet) with a corresponding amendment to the site plan referenced in Board Order #505-98. Additionally, to the extent necessary, the applicant is seeking to obtain waivers pursuant to Section 30-19(m) for setback distances of parking stalls from the side setback pursuant to Section 30-19(h)(1); the landscaping requirements of Section 30-19(i)(1)a); the interior landscaping requirements of Section 30-19(i)(2); the lighting requirements of Section 30-19(j)(1); and the bicycle parking requirements of Section 30-19(k).

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

PETITIONER (PRINT) Dana J. Katz, Trustee, DK Realty Trust

SIGNATURE *Stephen J. Buchbinder* PHONE N/A E-MAIL N/A

ADDRESS 176 Boylston Street, Newton, MA 02467

ATTORNEY Stephen J. Buchbinder, Esquire PHONE 617-965-3500 E-MAIL sibuchbinder@isablaw.com

ADDRESS 1200 Walnut Street, Newton, Massachusetts 02461-1267

PROPERTY OWNER Dana J. Katz, Trustee, DK Realty Trust

OWNER'S ADDRESS 176 Boylston Street, Newton, MA 02467

SIGNATURE OF OWNER *Stephen J. Buchbinder*

DATE April 8, 2013 *ATTORNEY FOR OWNER*

RECEIVED
PLANNING AND DEVELOPMENT DEPARTMENT ENDORSEMENT
APR - 8 RECD
CITY OF NEWTON
PLANNING & DEVELOPMENT

