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June 20, 2013

**BY HAND**

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

RECEIVED  
Newton City Clerk  
2013 JUN 20 PM 3:38  
David A. Oison, OMC  
Newton, MA 02459

Re: Board Order #143-13/DK Realty Trust/176 Boylston Street

Dear Linda,

Enclosed please find a copy of the above-referenced Board Order which was filed with the Land Registration Office of the South Middlesex Registry District of the Land Court on this date as Document No. 1644319.

Please feel free to contact me if you have any questions respecting the foregoing.  
Best wishes.

Sincerely,



Stephen J. Buchbinder

SJB/mer  
Enclosure

cc: (By Hand, w/enclosure)  
Mr. John Lojek, Commissioner  
Inspectional Services Department  
Ms. Candace Havens, Director  
Department of Planning and Development  
(By First Class Mail, w/out enclosure)  
Mr. Dana J. Katz

CITY OF NEWTON

IN BOARD OF ALDERMEN

May 20, 2013

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming structure, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess Mahan:


RECEIVED  
Newton City Clerk  
2013 MAY 23 PM 4:11  
David A. Olson, City Clerk  
Newton, MA 02459  
RECEIVED  
Newton City Clerk  
2013 MAY 20 PM 3:38  
David A. Olson, City Clerk  
Newton, MA 02459

1. The existing structure is nonconforming with respect to height. The proposed extension of the nonconforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the proposed additions will maintain the existing height and not exceed it.
2. The proposed exceptions to the parking requirements are appropriate as literal compliance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest. The newly reconfigured lot improves access and converts previously parallel spaces to perpendicular spaces to gain an additional 21 parking stalls. Although the proposed parking area to the southeast of the building will be two (2) feet from the side lot line, the lot line runs parallel to the interior access drive serving Chestnut Hill Square, and as such will not negatively affect abutters.
3. The site plan has been designed to relate to Chestnut Hill Square, immediately west of the subject property, and the proposed circulation plan includes appropriate vehicular and pedestrian connections between sites.
4. The proposed project is in keeping with Newton's *Comprehensive Plan* as the new addition will support an existing business and add additional space for a new business along a major commercial corridor where some growth is appropriate. There is sufficient parking to accommodate the proposed addition and there is a net gain in landscaping and open space on the site.

ITC BUYER'S OFFICE  
Newton State CTR 222427

PETITION NUMBER: #143-13

PETITIONER: Dana J. Katz, Trustee, DK Realty Trust

A True Copy  
Attest  
  
City Clerk of Newton, Mass.

LOCATION: 176 Boylston Street, Ward 7, on land known as Section 82, Block 002, Lot 18 and 18A, containing approximately 64,007 sq. ft. of land

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

ADDRESS OF OWNER: 176 Boylston Street  
Newton, MA 02467

TO BE USED FOR: Existing retail store

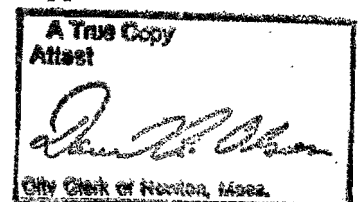
CONSTRUCTION: masonry and steel-framed building

*EXPLANATORY NOTES:* Sections 30-19(m), 30-19(h)(1), 30-19(i)(1)a, 30-19(i)(2), 30-19(j)(1), and 30-19(k) for exceptions to the parking requirements including the setback distance of parking stalls from the side setback, for landscaping requirements, for interior landscaping requirements, for lighting requirements, and for bicycle parking requirements; 30-21(b), to extend a nonconforming structure

ZONING: Business 1/Business 4

Approved subject to the following conditions:

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:
  - Area Plan AR-1, signed and stamped by John J. Stoy, Professional Engineer, dated 3/04/13
  - Existing Conditions Plan EX-1, signed and stamped by John J. Stoy, Professional Engineer, dated 3/04/13
  - Layout and Traffic Control Plan C-1, signed and stamped by John J. Stoy, Professional Engineer, dated 3/04/13 and Revised 3/22/13
  - Area Plans A1.00, not stamped or signed, prepared by Arrowstreet, dated 3/04/13
  - Existing Conditions (interior) Plan A2.00, signed and stamped by James Batchelor, Registered Architect, dated 3/04/13 and Revised 4/17/13
  - Plans & Views A2.01, signed and stamped by James Batchelor, Registered Architect, dated 3/04/13 and Revised 4/17/13
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 occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- 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 Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.

Under Suspension of Rules  
Readings Waived and Approved  
22 yeas 0 nays 1 absent (Alderman Fuller) 1 vacancy

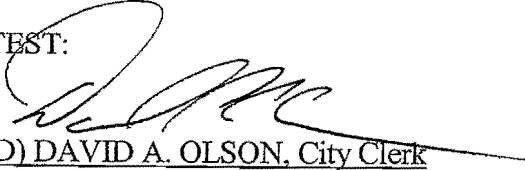
The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on \_\_\_\_\_. The undersigned further certifies that all 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.

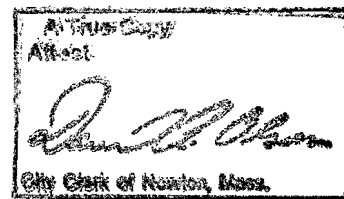
ATTEST:

  
(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 5/23 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



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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	01644319	184555	\$75.00
DECIS	01644319	222427	\$75.00
			\$150.00

Collected Amounts

\*-----\*

Payment Type		Amount
Check	3528	\$75.00
Check	3556	\$75.00
		\$150.00

Total Received :	\$150.00
Less Total Recordings:	\$150.00
	\$0.00
Change Due :	\$0.00

Thank You  
MARIA C. CURTATONE - Register of Deeds

By: Christine D

Receipt#    Date    Time  
1587505    06/20/2013    11:19a