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### ZONING REVIEW MEMORANDUM

Date: July 12, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning

Cc: Alan Schlesinger, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to allow the construction of a new retail building

RECEIVED  
Newton City Clerk  
2012 AUG 22 PM 3:52  
David A. Olson, CMC  
Newton, MA 02459

<b>Applicant: Michael Sokolowski, 1081 Washington Street Realty Trust</b>	
<b>Site:</b> 1081 Washington Street	<b>SBL:</b> 31009 0006
<b>Zoning:</b> BU2	<b>Lot Area:</b> 8,736 square feet
<b>Current use:</b> Two-family dwelling and farm stand	<b>Proposed use:</b> Retail store

**BACKGROUND:**

The property at 1081 Washington Street consists of an 8,736-square foot lot located in the Business 2 zone, currently improved with a two-family dwelling and a farm stand. The applicant proposes to demolish the existing structures and construct a new, two-story commercial building for a retail use.

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

- Proposed site plan, signed and stamped by Bruce Bradford, Surveyor, dated 5/29/12
- Existing site plan, signed and stamped by Bruce Bradford, dated 3/26/12
- Architectural plans, signed and stamped by Mark A. Armstrong, Architect, dated 4/30/12
  - First Floor Plan
  - Second Floor Plan
  - Site Plan
  - 3D Renderings
  - Landscaping Plan

**ADMINISTRATIVE DETERMINATIONS:**

1. Per Section 30-11(a)(2), the applicant's proposed retail use is allowed by right in the Business 2 (BU2) zone.
2. The property is in the BU2 zone and must comply with the dimensional standards of Section 30-15, Table 1 and Table 3 (see chart below).

<b>BU2 Zone</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 feet	8,910 square feet	No change
Frontage	80 feet	60 feet	No change
Setbacks			
• Front	7 feet*	4.6 feet**	4 feet
• West Side	0 feet (equal to the side setback of abutter)*	10.6 feet	0.3 feet
• East Side	13.3 feet (1/2 building height)*	0 feet	5 feet
• Rear	15 feet*	41.2 feet	75.6 feet
FAR	1.0	.53	.67
Building Height	24 feet by right or up to 48 feet by special permit	38.9 feet	26.6 feet
Maximum Stories	2 by right, or up to 4 by special permit	2.5	2

\* Per Section 30-15, Table 3, Footnote 1, the front setback shall be the average of the setbacks of the buildings on either side ( $4+10/2=7$ ); per Section 30-15, Table 3, Footnote 2, the side setback shall be  $\frac{1}{2}$  the building height or a distance equal to the side yard setback of the abutting property; per Section 30-15, Table 3, Footnote 3, where abutting a residential zone, the rear setback shall be  $\frac{1}{2}$  the building height or 15 feet, whichever is more.

\*\* The existing awning extends 3.1 feet over the public sidewalk but does not count as part of the structure for the purposes of setbacks.

3. The existing structures are legally nonconforming with regard to front and side setbacks. The applicant proposes to locate the new structure closer to the front lot line and expand the degree of nonconformity by adding a second story that extends nearly the width of the property within the front setback. The applicant's plans show the proposed building to be located farther from the east side lot line than the existing farm stand but to extend higher and longer within the side setback than the existing structures. To construct the proposed building, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b).
4. Section 30-15, Table 3 allows a building height of up to 24 feet by right or up to 48 feet by special permit in the BU2 zone. The applicant's plans show a proposed 26.6-foot structure. To construct the structure as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-15, Table 3. In the alternative, the applicant may apply to extend the nonconforming building height of the existing residential structure with a larger building at a lower peak height by obtaining a special permit from the Board of Aldermen per Section 30-21(b).
5. The development must also comply with the parking requirements of Section 30-19. The existing uses include a 1,300 square foot retail store and two dwelling units. Per Section 30-19(d)(1), two parking stalls are required for each dwelling unit for a total of four stalls. Per Section 30-19(d)(10),

retail stores must provide one stall per 300 square feet of floor area and one stall per three employees on the largest shift for a total of six stalls. The property currently contains four nonconforming parking stalls for the residential units. The applicant proposes to create a new 5,820-square foot retail space with up to three employees on the largest shift. The existing uses provide a grandfathered parking credit for the proposed uses based on the formula  $A - B + C$  in Section 30-19(c), see the table below. Section 30-19(c) requires a total of 15 parking stalls be provided for the proposed use. The applicant's site plan shows eight parking stalls. To use the site in the manner proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-19(d)(m) to waive seven required parking stalls.

<b>Proposed</b>	<b>Parking Formula</b>	<b>Required Parking</b>
5,820 square feet retail with 3 employees on the largest shift	1 stall per 300 square feet and per 3 employees	21 (A)
<b>Existing</b>	<b>Parking Formula</b>	<b>Parking Credits</b>
2 dwelling units	2 stalls per DU	4 (B)
1,300 square feet of retail with 3 employees on the largest shift	1 stall per 300 square feet and per 3 employees	6 (B)
Off-street parking spaces		4 (C)
<b>Total Parking Requirement</b>		<b>15</b>
<b>Parking Stalls Proposed</b>		<b>8</b>
<b>Additional Spaces Required:</b>		<b>7</b>

Calculation per §30-19(c)(2):  $A (21) - B (10) + C(4) =$  Required number of parking stalls (15)

6. The applicant's proposed eight-stall parking facility must meet the design requirements of Sections 30-19(h), (i), and (j). The applicant proposes to locate five parking stalls in the required side setback from the east property line as prohibited by Section 30-19(h)(1). The applicant's site plan shows conforming parking stalls that are 9'x17' employing the two foot curb overhang, allowed by Section 30-19(h)(2)d). The proposed maneuvering aisles, exit and entrance drives and provision of handicap parking are conforming. To construct the parking facility as proposed, the applicant must obtain a special permit per Section 30-19(m) to locate parking stalls in a required side setback.
7. Per Section 30-19(i), landscape screening is required for outdoor parking facilities containing more than five stalls. The applicant's site plans and landscaping plans show a five-foot buffer, including a three-foot tall fence, meeting the requirements of Section 30-19(i)(1)a)(ii). No additional zoning relief is required.
8. Per Section 30-19(j), the parking facility must be adequately lighted, surfaced, and maintained. The applicant's plans do not note lighting, surfacing material, presence of curbing, drainage plan, or maintenance procedures. The applicant must satisfy the requirements of Section 30-19(j) or obtain a special permit, waiving strict compliance, from the Board of Aldermen per Section 30-19(m).
9. Per Section 30-19(l), retail stores of between 5,000 and 50,000 square feet of gross floor area require one off-street loading facility. The applicant's plans do not show a loading facility per the requirements of Section 30-19(l). To use the site in the manner proposed, the applicant must

obtain a special permit from the Board of Aldermen per Section 30-19(d)(m) to waive the required loading facility.

10. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Building</i>	<i>Action Required</i>
§30-15, Table 3; §30-21(b)	Allow a new structure to expand a nonconformity with regard to front and side setbacks	S.P. per §30-24
§30-15, Table 3 or §30-21(b)	Allow a 26.6 foot tall structure where 24 feet is allowed by right, or allow the extension of a nonconforming structure with regard to height	S.P. per §30-24
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(c), (d)(1), and (d)(10); §30-19(m)	Waive seven required parking stalls	S.P. per §30-24
§30-19(h)(1); §30-19(m)	Locate five parking stalls in a required side setback	S.P. per §30-24
§30-19(l); §30-19(m)	Waive one required loading dock facility	S.P. per §30-24
§30-19(j); §30-19(m)	Comply with lighting, surfacing, and maintenance requirements or obtain a waiver	S.P. per §30-24