



3

CITY OF NEWTON
IN BOARD OF ALDERMEN

September 4, 2012

#189-12
2012 SEP -6 PM 2: 54
RECEIVED
Newton City Clerk
David A. Olson, CMC
Newton, MA 02459

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 for a restaurant with greater than 50 seats and for a waiver of up to eight parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

- 1) The site (Business 1 zone) is an appropriate location for a restaurant with up to 61 seats, and is consistent with the *2007 Newton Comprehensive Plan*, which supports viable businesses that contribute to the vitality of Newton's village centers.
- 2) A waiver for up to eight required parking stalls is appropriate given the site's proximity to public transportation and the availability of parking within the village at the peak hours of operation. The petitioner submitted a parking study which supports this finding.
- 3) Literal compliance with parking requirements is impracticable due to the size of the site which cannot accommodate additional on-site parking.
- 4) There will be no adverse effects on parking, traffic, and circulation in the Newtonville commercial district or on adjacent residential streets as a result of this petition.

2012 OCT 11 PM 2: 20
RECEIVED
Newton City Clerk
David A. Olson, CMC
Newton, MA 02459
1130-67

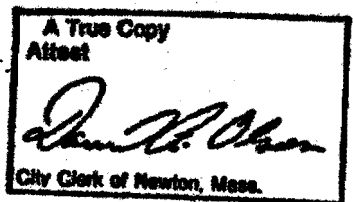
PETITION NUMBER: #189-12

PETITIONER: Rox Diner, Paul Louderback, John Fortin (restaurant owners); Norman Cubell, Trustee (property owner)

LOCATION: 335 Walnut Street, Newton, MA 02460
Containing 15,855 square feet

OWNER: Norman Cubell, Trustee

ADDRESS OF OWNER: American International Realty
180 Winchester Street, Trust



Brookline, MA 02446

TO BE USED FOR: Restaurant with up to 61 seats and 11 employees

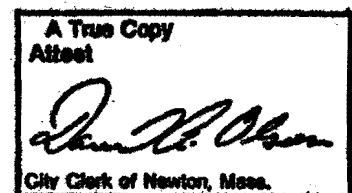
CONSTRUCTION: Existing masonry building, no new construction

EXPLANATORY NOTES: Section 30-11(d)(9) for a restaurant with greater than 50 seats; Section 30-19(c)(3), 30-19(d)(13), 30-19(m) to waive eight required parking stalls

ZONING: Business 1 District

Approved subject to the following conditions:

1. The petitioner may operate a restaurant with a maximum of 61 seats and up to 11 employees on the largest shift.
2. The petitioner agrees to make a donation of \$2,500 to the City to be used by the City for parking improvements and/or pedestrian accessibility or circulation improvements in the Newtonville vicinity to help mitigate parking impacts on the neighborhood.
3. The petitioner shall develop a parking management plan for its employees that encourages employees to arrive at the site via public transportation or carpooling, or to use the long-term parking available in the Newtonville area.
4. Any dumpsters relating to the subject property will be maintained and kept closed by the petitioner so that they are clean and the area is free of debris and odors.
5. Any changes to signage shall be subject to review by the Urban Design Commission and approval of the Director of Planning and Development.
6. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
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.
8. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. contributed \$2,500 to the City to be used for pedestrian, bicycle, and vehicular safety and improvement projects within the Newtonville Village Center.



Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Alderman Baker)

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 September 6, 2012. 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.

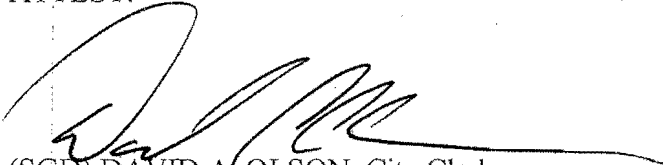
ATTEST:



(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 9/6 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

