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Candace Havens

**ZONING REVIEW MEMORANDUM**

Date: April 26, 2012

To: John Lojek, Commissioner of Inspectional Services

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

ET

Cc: Stephen J. Buchbinder, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to waive the required parking for thirty additional seats and three additional employees on the largest shift

RECEIVED  
 Newton City Clerk  
 2012 MAY 25 PM 3:51  
 David A. Olson, CMC  
 Newton, MA 02459

Applicant: O'Hara's & Sons, Inc.	
Site: 1181-1189 Walnut Street	SBL: 52036 0001
Zoning: BU1	Lot Area: 3,618 square feet
Current use: Restaurant with 90 seats and retail store	Proposed use: Restaurant with 120 seats

**BACKGROUND:**

The property at 1181-1189 Walnut Street consists of a 3,618 square foot lot improved with a single story commercial building. The existing uses on the property include a retail jewelry store and a restaurant (O'Hara's). In 1994, the O'Hara's received a special permit (Board Order #188-94) to add an additional 16 seats to the then-existing 74-seat restaurant, creating the current total of 90 seats and permitting a restaurant use with more than 50 seats. The applicant proposes to expand the restaurant use into the space used by the retail store.

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

- Copy of Board Order #188-94
- Parking calculation, unsigned and undated
- Existing floor plan, by Donald Lang Architects, unsigned and unstamped, dated 3/22/12
- Proposed floor plan showing a net increase of 30 seats in the adjacent former retail store, by Donald Lang Architects, unsigned and unstamped, dated 3/22/12
- Existing and proposed site plan, by Verne Porter, Surveyor, unsigned and unstamped, dated 3/6/12
- Area plan, by Verne Porter, Surveyor, unsigned and unstamped, dated 3/6/12

**ADMINISTRATIVE DETERMINATIONS:**

1. The property is located in a Business 1 District. The proposed use (restaurant with greater than 50 seats) is allowed by special permit in this zone. In 1994, the applicant obtained a special permit permitting this use (B.O. #188-94). Therefore the use is permitted, but the applicant must obtain an amendment to the prior special permit from the Board of Aldermen to increase the number of seats.
2. Per Section 30-19, the applicant is required to provide adequate off-street parking. There is no conforming off-street parking located on the site. As the site was developed prior to the enactment of Newton's parking ordinances, the property retains a number of grandfathered parking credits equal to the parking requirement for the existing uses. Per Section 30-19(d)(13), restaurant uses must provide one off-street parking stall per three seats and one stall per three employees on the largest shift. Per Section 30-19(d)(10), retail uses must provide one off-street parking stall per 300 square feet of floor area and one stall per three employees on the largest shift. The applicant proposes to convert an existing 663 square foot retail space into a new dining room for O'Hara's restaurant, resulting in a net increase of thirty seats and three employees on the largest shift for the restaurant use. The number of additional parking spaces required is determined by the parking calculation in Section 30-19(c) (see the table below). To use the building as proposed, the applicant must obtain a special permit from the Board of Aldermen waiving seven required parking stalls.

<b>Proposed</b>	<b>Parking Formula</b>	<b>Required Parking</b>
Restaurant with 120 seats and 18 employees on the largest shift	1 stall per 3 seats and 3 employees	46 (A)
<b>Existing</b>	<b>Parking Formula</b>	<b>Parking Credits</b>
Restaurant with 90 seats and 15 employees on the largest shift	1 stall per 3 seats and 3 employees	35 (B)
663 square foot retail store with three employees on the largest shift	1 stall per 300 square feet and 3 employees	4 (B)
Off-street parking spaces		0 (C)
<b>Additional Spaces Required:</b>		<b>7</b>

Calculation per §30-19(c)(2): A (46) – B (39) + C(0) = Required number of parking stalls (7)

3. The existing structure is nonconforming with regard to the front setback along Floral Street. The applicant's site plan shows a small addition to the rear of the structure designed to improve circulation between the existing and proposed dining rooms. The addition is located within the required ten-foot front setback and represents an extension of a nonconforming structure. To construct the addition as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b) and an amendment to the site plan approved as part of B.O. #188-94.
4. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Use, Parking, and Site</i>	<i>Action Required</i>
§30-11(d)(9), special permit BO# 188-94	Permit a 120 seat restaurant in a Business 1 District	Amend S.P. BO #188-94
§30-19(c), §30-19(d)(13), §30-19(m)	Waive seven required parking stalls	S.P. per §30-24
§30-21(b)	Extend a nonconforming structure in the front setback	S.P. per §30-24 and amend approved site plan