



2015 00134341

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#93-15

CITY OF NEWTON

IN BOARD OF ALDERMEN

July 13, 2015

RECEIVED
Newton City Clerk
David A. Olson, CMC
Newton, MA 02459

2015 JUL 20 PM 12:35

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 waive five parking stalls and associated waivers of the design and dimensional controls for the proposed parking facility, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The requested waiver of five parking stalls at this site is appropriate because literal compliance with the required number of parking stalls for the type of land use proposed to occupy the site is impracticable due to the nature of the proposed use; the location, shape, and size of the lot; and the development patterns present on the subject property and in the surrounding neighborhood. (§30-19(d)(13) and §30-19(m))
2. The requested waivers to the design and dimensional controls for the parking facility are appropriate because literal compliance with these controls is impracticable due to the location, shape, and size of the lot, and the development pattern of the subject property. (§30-19(h)(1), §30-19(h)(3)(b), §30-19(h)(4)(b), §30-19(h)(5)(a), §30-19(i)(1) and (2), §30-19(m))
3. The specific site is an appropriate location for the proposed restaurant use, which is allowed by right in the Business 2 district, because it is located within a mixed use area. (§30-24(d)(1))
4. The proposed use, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))
5. The requested waivers will not result in the creation of a nuisance or hazard to vehicles or pedestrians on the site or in the surrounding neighborhood. (§30-24(d)(3))

PETITION NUMBER: #93-15

PETITIONER: Capasso Realty/Packard Cove Associates, LLP

LOCATION: 339 River Street, Ward 4, on land known as Section 44, Block 15, Lot 13, containing approx. 10,150 square feet of land

City Clerk's office
1000 Commonwealth Ave
Newton, MA 02459

RECEIVED
Newton City Clerk
David A. Olson, CMC
Newton, MA 02459
2015 AUG 17 PM 4:57

A True Copy
Attest

City Clerk of Newton, Mass.

OWNER: Packard Cove Associates, LLP

ADDRESS OF OWNER: 49 Lexington Street
Newton, MA 02465

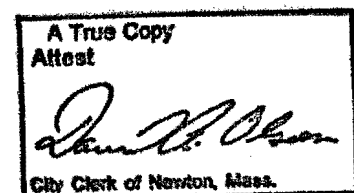
TO BE USED FOR: Waiver of parking stalls and waivers to design and dimensional controls for the parking facility

EXPLANATORY NOTES: §30-19(d)(13) and §30-19(m), to waive five required parking stalls; §30-19(h)(1) and §30-19(m), to allow parking in the front and side setbacks; §30-19(h)(3)(b) and §30-19(m), to allow a 14½-foot wide maneuvering aisle; §30-19(h)(4)(b) and §30-19(m), to allow a driveway entrance in excess of 25 feet in width; §30-19(h)(5)(a) and §30-19(m), to allow tandem parking; §30-19(i)(1) and §30-19(m), to waive the parking lot screening requirements; and §30-19(j) and §30-19(m), to waive the parking lot lighting requirements.

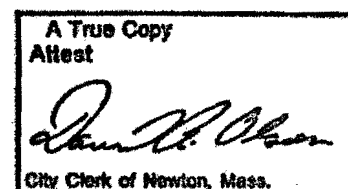
ZONING: Business 2 district

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:
 - a. Site Plan titled "339 River Street, Newton, MA – Existing Conditions Plan and Proposed Parking", prepared, signed, and stamped by Verne Porter, Jr., Professional Land Surveyor, dated December 24, 2014 and revised on May 27, 2015.
 - b. Architectural Plan Set titled "DePasquale's 339 River Street Newton, MA 02466 – Proposed Renovation and Alteration," prepared, signed, and stamped by Ronald Jarek, Registered Architect, dated December 5, 2014. The plan set consists of the following Eleven (11) sheets:
 - i. Cover Page, Sheet A-1;
 - ii. Notes & Materials, Sheet A-2;
 - iii. Proposed Floor and Equipment Plans, Sheet A-3;
 - iv. Proposed Equipment Plan and List, Sheet A-3a;
 - v. Proposed Reflected Ceiling, Roofing, and Attic Plans, Sheet A-4;
 - vi. Proposed Elevations, Sheet A-5;
 - vii. Equipment List and Details, Sheet A-6
 - viii. Sections, Misc. Details, Sheet A-7;
 - ix. Materials and Misc. Details, Sheet A-8;
 - x. Existing Plans, Sheet X-1; and
 - xi. Existing Building Elevations, Sheet X-2.



2. The trash enclosures shall be maintained in a sanitary condition with the gate remaining closed at all times when not in use. The collection/emptying of such receptacles shall only occur on weekdays between 8:00 a.m. and 5:00 p.m.
3. Snow shall not be stored on the site.
4. All landscaping associated with this Special Permit/Site Plan Approval shall be maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
5. Signage shall conform to City standards. The Urban Design Commission and the Director of Planning and Development shall review and approve all by-right signs.
6. If in the future the existing building is enlarged or demolished, all existing parking stall waivers and waivers of parking facility requirements shall be null and void, and the site shall comply with all then current and applicable requirements of the Newton Zoning Ordinance.
7. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners has:
 - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval 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. Submitted a final parking management plan for review and approval by the Director of Planning and Development.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
8. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioners has:
 - 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 by a licensed surveyor.
 - c. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, fencing, signage and parking areas.
9. Notwithstanding the provisions of Condition #8c above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, signage and parking areas provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping, fencing, signage and parking areas.



Under Suspension of Rules
Readings Waived and Approved
21 yeas .0 nays 3 absent (Aldermen Ciccone, Lipof, and Sangiolo)

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 July 20, 2015. 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 7/20 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

