

Middlesex South Registry of Deeds
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RECEIVED
Newton City Clerk
2015 MAY - 1 PM 12:46
David A. Olson, OMO
Newton, MA 02459

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.cambridgedeeds.com

4 PP

RECEIVED
CITY OF NEWTON
#40-15
15 APR -9 PM 3:13
CITY CLERK
NEWTON, MA 02459

CITY OF NEWTON
IN BOARD OF ALDERMEN

April 6, 2015

ORDERED:

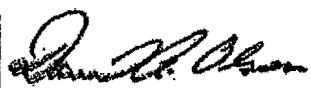
That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the 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 and EXTENSION OF A NONCONFORMING STRUCTURE to construct additions to the existing building for a total of 362 square feet, to increase the number of restaurant seats from 116 to 146, and to grant a waiver of 11 parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

95-97 ELM STREET, NEWTON
DEED REF. BOOK 35817, PAGE 204

1. The waiver of 11 parking stalls is appropriate, as literal compliance with the parking requirements is impracticable due to the size of the lot. (§30-19(d)(13), and (m))
2. The proposed addition to the north side of the existing building will extend an additional one foot and three inches into the side setback, and the sum of all of the proposed additions will increase the already nonconforming Floor Area Ratio from 1.15 to 1.31. The proposed additions will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood, and will improve handicap accessibility to the restaurant. (§30-21(b))
3. The expansion of the restaurant by 30 seats will not significantly increase the amount of traffic, parking, or noise generated by the use, and is not substantially more detrimental than the existing nonconforming use is to the neighborhood. (§30-21(b)).
4. The specific site, which is located in a mixed use area and is abutted by two commercial properties and one multi-family dwelling, is an appropriate location for the proposed addition and expansion of the existing restaurant. (§30-24(d)(1))
5. The expansion of the restaurant by 30 seats will not adversely affect the neighborhood, as the site is located in a mixed use area with commercial uses. (§30-24(d)(2))
6. The expansion of the restaurant by 30 seats will not create a nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(3))
7. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§30-24(d)(4))

PETITION NUMBER: #40-15

A True Copy
Attest



CITY CLERK of Newton, Mass.

PETITIONER: Curtis P. O'Hara, John O'Hara and Karl J. O'Hara, Trustees of the BB&G Realty Trust

LOCATION: 95-97 Elm Street, Ward 3, on land known as SBL 33, 13, 11 containing approx. 3,506 sq. ft. of land

OWNER: Curtis P. O'Hara, John O'Hara and Karl J. O'Hara, Trustees of the BB&G Realty Trust

ADDRESS OF OWNER: 1185 Walnut Street, Newton, MA 02465
Newton, MA 02465

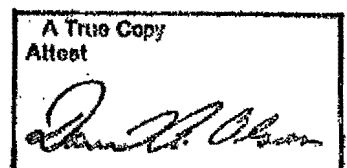
TO BE USED FOR: Restaurant

EXPLANATORY NOTES: §30-15 Table 3 and §30-21(b), to extend the nonconforming Floor Area Ratio from 1.15 to 1.31; §30-15 Table 3 and §30-21(b), to extend the nonconforming side setback on the north side from 6.3 to 5 feet; §30-19(d)(13) and §30-19(c)2(a), to waive 11 parking stalls; §30-11(d)(9) and §30-21(b), to extend a nonconforming restaurant with more than 50 seats from 116 to 146 seats.

ZONING: Business 1 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. Area Plan, prepared, signed and stamped by Verne T. Porter Jr, Professional Land Surveyor, dated February 6, 2015.
 - b. Existing Parking Plan, prepared, signed and stamped by Verne T. Porter Jr, Professional Land Surveyor, dated February 6, 2015.
 - c. Existing Conditions Plan, prepared, signed and stamped by Verne T. Porter Jr, Professional Land Surveyor, dated February 6, 2015.
 - d. Proposed Addition Plan, prepared, signed and stamped by Verne T. Porter Jr, Professional Land Surveyor, dated February 6, 2015.
 - e. Proposed Addition Plan Detail, prepared, signed and stamped by Verne T. Porter Jr, Professional Land Surveyor, dated February 6, 2015.
 - f. Floor Plans and Elevations, prepared by DLA Architecture, signed and stamped by Donald Lang, Registered Architect, dated February 6, 2015, consisting of the following fourteen (14) sheets.
 - i. Cover;
 - ii. Sheet EX1.0 – Existing Basement Floor Plan;



- iii. Sheet EX1.1 – Existing Ground Floor Plan;
 - iv. Sheet EX1.2 – Existing Second Floor Plan;
 - v. Sheet EX1.3 – Existing Roof Plan;
 - vi. Sheet EX2.0 – Existing East and North Elevations;
 - vii. Sheet EX2.1 – Existing West and South Elevations;
 - viii. Sheet A1.0 – Proposed Basement Floor Plan;
 - ix. Sheet A1.1 – Proposed Ground Floor Plan;
 - x. Sheet A1.2 – Proposed Second Floor Plan;
 - xi. Sheet A1.3 – Proposed Roof Plan;
 - xii. Sheet A2.0 – Proposed East and North Elevations;
 - xiii. Sheet A2.1 – Proposed West and South Elevations; and
 - xiv. Sheet A5.0 – Proposed Stairway Sections.
2. Prior to the issuance of any building permit, the petitioner shall submit a final parking management plan subject to review and approval by the Director of Planning and Development in consultation with the Director of the Transportation Division of Public Works. Such plan may include obtaining revocable parking licenses or other parking rights from nearby properties to the extent they may be available from time to time, encouraging and incentivizing employee and patron use of nearby MBTA owned lots, and incentivizing employee use of public transit.
 3. The petitioner shall screen the dumpster with a wooden fence, or similar material as approved by the Director of Planning and Development.
 4. The petitioner agrees to make a voluntary donation of \$2,500 to be used by the City for parking improvements and/or pedestrian accessibility or circulation improvements in the West Newton vicinity to help mitigate parking impacts on the neighborhood.
 5. 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 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 parking management plan for review and approval by the Director of Planning and Development in consultation with the Director of the Transportation Division.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
 6. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner 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.

A True Copy
Attest




- 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.
- c. Made a voluntary contribution of \$2,500 to the City of Newton to be used by the City for parking improvements and/or pedestrian accessibility or circulation improvements proximate to the site to help mitigate parking impacts on the neighborhood due to the proposed use.

Under Suspension of Rules
Readings Waived and Approved
24 yeas 0 nays

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 April 9, 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 4/9 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

