

THE COMMONWEALTH OF MASSACHUSETTS

NEWTON

CITY

BOARD OF ALDERMEN

May 8, 19 90

NOTICE OF VARIANCE

Conditional or Limited Variance or Special Permit

(General Laws Chapter 40A, ~~Sections 21B~~ amended)

Notice is hereby given that a ~~Conditional or Limited Variance or~~ Special Permit ^{/SITE PLAN APPROVAL} has been granted

To Needham Street Investment Trust

Owner or Petitioner

Address 215-277 Needham Street

City Newton, Ward 5, on land known as Section 51, Block 28, Lot 8G

containing approximately 70,836 Square feet of land

Identify Land Affected

by the City of Newton Board of Aldermen affecting the

rights of the owner with respect to the use of premises ~~xxx~~ for a multi-level accessory parking facility at rear of existing building; conversion of office to retail (approx. 22,655 sf); conversion of basement space for manufacturing and delivery of food off-premises; parking waiver at 215-277 ~~Street~~ Needham Street

City Newton

the record title standing in the name of
Needham Street Investment Realty Trust

CITY OF NEWTON

IN BOARD OF ALDERMEN

April 17, 1990

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action 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, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted in accordance with the recommendation of the Land Use Committee and based upon the following specific findings, facts and conclusions, and the reasons given by the Committee therefor through its Chairman, Susan M. Basham:

1. The appearance of the site will be upgraded with improved facades for the existing building and increased landscaping.
2. The vehicular and pedestrian circulation will be improved with removal of utilities and transformer in parking area, signs, re-grading and one-way circulation off Needham Street and within the site.
3. Storm drainage will be improved and tied into the City drainage system.
4. Traffic will be studied after occupancy and the cost of any necessary improvements including signalization will be the responsibility of the owner.
5. Upon widening of Needham Street the owner will remove the portion of the building within the setback as necessitated for widening, and will not object to the widening or a taking.
6. The use of public transportation will be encouraged.
7. The waiver of the 19-foot stall length allowing an 18-foot stall length on the first and second levels of garage in order to provide a wider ramp is warranted.

Resolution number: 610-89
 Resolution: Needham Street Investment Trust
 Location: 215-277 Needham Street, Ward 5, section 52, Block 28, Lot 8G

Owner: Needham Street Investment Trust,
Marvin M. Glick, Trustee

Address of Owner: Paragon Properties
233 Needham Street
Newton, MA

To be used for: 3 level parking facility;
24,776 sf retail space and accessory
office and storage space;
90 seat restaurant and
2,389 sf manufacturing.

Construction: Structural steel and concrete for parking
facility

Explanatory notes: 1) Add a multi-level accessory parking
facility at rear of building,
Sections 30-13(b)(15) as accessory to
uses and building falling under 30-
13(b).

2) Convert 362-seat restaurant use
(formerly "Pufferbellies") and
engineering office on first floor to
approximately 22,655 sf of retail and
accessory storage, Section 30-
13(b)(2).

3) Convert basement storage to
approximately 2,389 sf for
manufacturing and delivery of food to
customers off-premises and 2,121 sf
of accessory retail storage space.

4) Waiver under Section 30-19(m) from
the parking requirement of 19-foot
length of stall to allow stalls
within the first and second floor of
the garage to be 18 feet in length in
order to provide for a wider (24-
foot) ramp width.

Land referred to is in: Mixed Use 1 District

Approved, subject to the following conditions:

1. That except as amended below, the building parking structure, parking stalls, driveways, maneuvering aisles, landscaping and other site features be constructed and located as indicated on plans entitled "215-217 Needham Street, Proposed Layout submitted December 13, 1989 and revised to March 30, 1990; Proposed Grading and Utilities submitted December 13,

1989 and revised to March 12, 1989; Proposed Planting submitted December 13, 1989 and revised to March 13, 1989; Post Development Watershed Analysis submitted December 13, 1989; Parking Structure First Level Plan and Parking Structure Second Level Plan dated December 13, 1989; Basement plan Proposed Usage dated December 13, 1989 and revised to February 7, 1990; Ground Floor Plan dated December 13, 1989 and revised to February 7, 1990; Parking Structure Exterior Elevations dated December 13, 1989 revised to February 12, 1990" by Architect: Woodbrier Associates, Inc., and Engineer: Andrews Survey and Engineering, Inc., submitted by the Petitioner.

2. That all utilities, including telephone, cable television and electrical service shall be installed underground from the street line and the location of an HVAC, transformer and chiller, and exterior mechanical systems which may be above ground shall be screened and approved by the Department of Planning and Development before installation.
3. That all solid waste and snow shall be removed from the site at the owner's expense by a private collector.
4. That the Petitioner at its own expense shall restore curbing along Needham Street to City standards subject to the review and approval of the City Engineer.
5. That a plan and key for site directional signs including the shared Needham Street drive and pavement markings shall be submitted to and approved by the Director of Planning and Development.
6. That the two existing free-standing signs be removed, and a new three foot by six foot (3'x 6') tombstone style sign indicating only the direction of parking and garage for the site be installed at the southwest corner of the Needham Street and Tower Road intersection.
7. That the Petitioner provide and install a City street sign for Tower road, the design and location to meet City standards and subject to review and approval of the City Traffic Engineer.
8. That deliveries to the retail tenant be limited to the hours of 9:30-11:30 PM and 6:00-9:00 AM, and that such condition be included in tenant leases.
9. That should the retail space at anytime be occupied by more than one primary tenant, the Petitioner shall return to the Board of Aldermen for an amendment to this approval to determine whether the land use, traffic and

parking have intensified and whether any remedial actions by the owner and/or its successors are necessary.

10. That employees shall be required to park on the top level of the parking garage and that such condition be included in tenant leases.
11. That it is understood that the MBTA Route 59 Watertown/Needham travels on Needham Street by Tower Road and that in order to encourage the use of public transportation the Petitioner/owner and its successor agree to do the following:
 - a. Post the schedule and maps of Route 59 and any other routes that serve the area in the main entry lobby;
 - b. make bus schedules available in all offices and central locations of employee working areas on a quarterly basis.
12. That should the T Route 59 Watertown/Needham bus become slated for termination and the City propose an effort to raise funds to assist the MBTA to keep Route 59 or any other route serving the area in service, the Petitioner/owner and its successor shall contribute its fair share of any reasonable cost in conjunction with other businesses on Needham street and Winchester Street.
13. That if attempts are made to establish a shuttle service for the businesses along Needham Street and Winchester Street for employees to travel to and from any fixed mass transit station, the Petitioner/owner and its successor will participate and contribute its fair share to such shuttle service.
14. That, in order to verify the Petitioner's assumptions and conclusions regarding traffic generation and impact, six (6) months after the date of opening for business of the retail store occupying the retail space the Petitioner/owner and its successor shall collect and present to the City Traffic Engineer and to the Planning and Development Department new traffic counts, turning movement information, level of service analysis, gap analysis, queuing analysis and signal warrant analysis for the Tower Road/Needham Street intersection and new traffic counts and turning movement information for the site driveways. Such information shall be gathered for peak PM weekday activity and peak Saturday hours as directed by the City of Newton Traffic Engineer. The City of Newton Traffic Engineer shall review the information and determine if the traffic volumes merit remedial action based on an analysis of the study findings. The remedial action, including but not

Limited to restriping, widening and design and installation of a signal, as determined by the City of Newton Traffic Engineer and Director of Planning and Development, shall be provided at the sole expense of the Petitioner/Owner and/or their successors,. If a signal at the intersection of Tower Road and Needham Street is warranted in accordance with the standards adopted by the Massachusetts Department of Public Works, the design and construction for the signal shall be at the expense of the Petitioner/owner and/or their successors and subject to the approval of the Massachusetts Department of Public Works and the City Traffic Engineer.

15. After the process described in Condition 14 has been completed, if and when the Massachusetts Department of Public Works and/or the City of Newton make the decision to install a signal at the intersection of Tower Road and Needham Street, the Petitioner/Owner and its successor agree to make a proportional contribution to any such construction based on a formula reflecting the site's contribution to the necessity of the signalization. Such formula shall be based upon an adjusted 48-hour count of actual trips generated from the site drive. The counts shall be taken for peak generation rates at the determination of the City Traffic Engineer.
16. That in the event the City of Newton or Commonwealth of Massachusetts widens Needham Street and such widening requires removal of any portion of the building which is within the current frontyard setback area, the applicant waives the right to object to the widening of taking and understands that upon receipt of a notice of taking from the City of Newton or the Commonwealth of Massachusetts the applicant shall remove said portion of the building up to the setback line.
17. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL until:
 - a. A sign and circulation plan as referenced in Condition 5 shall have been reviewed and approved by the Director of Planning and Development.
 - b. The two free-standing signs shall have been removed.
 - c. A final landscape plan including lighting and fixture and shield design, indicating the location, number, size and type of landscaping and landscape materials to be installed shall have been submitted to and approved by

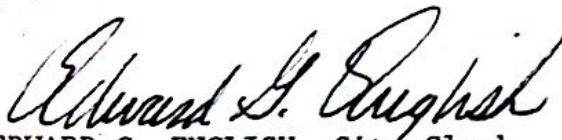
- d. That the Director of Planning and Development shall have reviewed and approved architectural plans including the facade, awning, roof and garage facade materials and colors. Plans of the Needham Street facade shall incorporate square windows replacing the existing round windows. Stucco shall match the color of the existing brick facade.
- e. The City Engineer shall have reviewed and approved the plans for site grading and storm and sewer drainage, water service, sidewalk and restored curbing along Needham Street as referenced in Condition 4, the underground installation of all utilities, and a statement by the City Engineer certifying such approval shall have been filed with the City Clerk, the Inspectional Services Department, and the Department of Planning and Development.
- f. The Fire Department shall review and approve the stamped Site Plan as to consistency of emergency access and a statement by the Fire Chief certifying such approval shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
- g. The Petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
- h. A certified copy of such recorded notice shall have been filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development.
18. That no building or structure, or portions thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL shall be occupied until:
 - a. The Petitioner shall have filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition 1 has been complied with.
 - b. There shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, any sidewalks, curbing, and utility installations have been constructed to the standards of the City of Newton Engineering Department.

- c. There shall have been filed with the City Clerk and the Inspectional Services Department a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, parking areas, and lighting installation.
- d. Notwithstanding the provisions of Sections a-c, hereof, the Commissioner of Inspectional Services may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to installation of final landscaping provided that the Petitioner shall have first filed with the Director of Planning and Development a bond, letter of credit, cash or other security in a the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
- e. A statement by the Inspectional Services Department that it intends to issue the Certificate of Occupancy which documents the compliance of the buildings with the Massachusetts State Building Code, including any permits issued by said Department, and that the premises are suitable for occupancy shall have been filed with the City Clerk and the Department of Planning and Development.
- f. A statement by the Commissioner of Health that there has been full compliance with the State Sanitary Code, Chapter X, "Minimum Sanitation Standards for Food Establishments" shall have been filed with the City Clerk, the Inspectional Services Department, the City Engineer and the Department of Planning and Development.

Under Suspension of Rules
Readings Waived and Approved as Amended
22 yeas 0 nay 2 absent
(Ald. Barker and Mansfield)

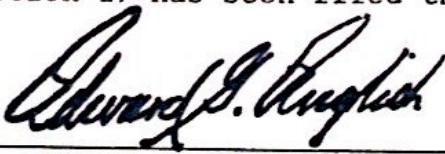
The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on April 17, 1990. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT and SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the Planning and Development Board and the City Clerk.

ATTEST:



(SGD) EDWARD G. ENGLISH, City Clerk
Clerk of the Board of Aldermen

I, Edward G. English as the Clerk of the Board of Aldermen and keeper of the records and as the City Clerk and official keeper of the records of the CITY OF NEWTON hereby certifies that Twenty days have elapsed since the filing of foregoing decision of the Board of Aldermen in the Office of the City Clerk April 17, 1990 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.



ATTEST

EDWARD G. ENGLISH, City Clerk