

CITY OF NEWTONIN BOARD OF ALDERMEN

June 2, 2003

## 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, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL and EXTENSION of a NON-CONFORMING STRUCTURE to demolish portions of an existing building in order to reconstruct and enlarge such building for use as a Storage Center with additional retail uses in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the proposed retail and storage center uses are appropriate uses in the Mixed Use 1 District.
2. The Board finds that the increase in the building's floor area will not overburden the site or have a significant impact on the surrounding neighborhood.
3. The Board finds that the additional square footage of floor area and extensions of the nonconforming structure are not substantially more detrimental to the neighborhood than the existing structure.
4. The Board finds that the landscaping parking waiver is appropriate because literal compliance is impracticable due to the nature of the location, size, width, depth, shape and grade of the lot and location of the existing structure.
5. The Board finds that the proposed design and architecture of the reconstructed and enlarged building will fit in with the surrounding buildings in the neighborhood.
6. The Board finds that the site plan and design of the reconstructed and enlarged building will be a significant improvement to the corner of Needham Street and Christina Street and will upgrade one of the "gateway" entrances to the City of Newton.
7. The Board finds that the proposed retail use will enliven the street facade of the reconstructed and enlarged building and improve the streetscape of this area of Needham Street.
8. The Board finds that the site plan will facilitate pedestrian circulation along both

Christina and Needham Streets because pedestrian access and walkways will be improved.

9. The Board finds that the creation of an additional link to the rear access roadway system, through demolition of a portion of the east, rear portion of the existing building, provides an alternative for cars to move between sites from 188 Needham Street to Christina Street, thereby removing cars from Needham Street and eliminating the need for left turns out of these sites onto Needham Street.
10. The Board finds that the Petitioner will participate in re-cycling programs.
11. The Board finds that the proposed storage center and retail uses will be less detrimental to the neighborhood than the industrial/manufacturing use previously located at this site.
12. The Board finds that the Petitioner has met the criteria of Section 30-23 for site plan approval and the criteria of Section 30-24 for approval of special permits for the reasons set forth above.

PETITION NUMBER: #149-03

PETITIONER: 300 Needham Street LLC/Regalite Plastics Corp.

LOCATION: 300 Needham Street, Newton, Ward 8, Section 83, Block, 30, Lot 11, containing approximately 205,211 sq. ft. of land.

OWNER: Regalite Plastics Corp.

ADDRESS OF OWNER: 200 Public Square, Suite 36-5000  
Cleveland, OH

TO BE USED FOR: Retail and storage

CONSTRUCTION: Demolition of portions of the existing building and rehabilitation and construction of mixed use building and increase portions of the building from one story to three stories.

EXPLANATORY NOTE: Section 30-13(b)(1) allows the Board of Aldermen to grant a special permit to allow a retail structure with a minimum of 5,000 sq.ft. of gross floor area;

Section 30-13(b)(3) allows the Board of Aldermen to grant

a special permit to allow a storage or distribution facility;

Section 30-13(g)(2) allows the Board of Aldermen to grant a special permit for any addition(s) to an existing building containing 20,000 or more sq.ft. in gross floor area;

Section 30-15 (Table 3) allows the Board of Aldermen to grant a waiver from the Gross Floor Area, setbacks, and height in the Mixed Use 1 District;

Section 30-19(m) allows the Board of Aldermen to grant exceptions to the requirements for parking if it is determined that compliance is impracticable due to the nature of the site and that such exceptions would be in the public interest. The following waivers are granted pursuant to this section:

Section 30-19(i)(1)(a) requires that outdoor parking facilities containing more than 5 stalls be screened from abutting streets and properties;

Section 30-19(j)(1) requires that outdoor parking facilities containing more than five stalls shall maintain a minimum intensity of one (1) foot candle on the entire surface of the parking facility and shall be lighted and that all artificial lighting shall be arranged and shielded so as to prevent glare from the light source onto adjacent streets and properties;

Section 30-19(l)(3)(a) requires that off-street loading areas have loading bays that are at least 12 feet in height and include sufficient maneuvering space on-site;

Section 30-21(a)(2)(a), Section 30-21(a)(2)(b), Section 30-21(a)(2)(c), allows the Board of Aldermen to grant a special permit to allow the alteration, reconstruction, extension or structural change of a nonconforming structure to provide for its use in a substantially different manner; and

Section 30-21(b) allows the Board of Aldermen to grant a special permit to allow a non-conforming building or structure to be structurally or substantially altered, enlarged, or reconstructed;

Land referred to is located in Mixed Use 1 District.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, and other site features shall be located and constructed consistent with the following plans:
  - a. Site plans, consisting of eight sheets, prepared by Marchionda & Associates, L.P., including the following:
    - i.) "Cover Sheet," Sheet 1 of 7, revised April 28, 2003;
    - ii.) "Existing Conditions Plan," Sheet 2 of 7, revised May 21, 2003;
    - iii.) "Grading Plan," Sheet 3 of 7, revised May 21, 2003;
    - iv.) "Utility Plan," Sheet 4 of 7, revised April 28, 2003;
    - v.) "Layout Plan," Sheet 5 of 7, revised May 21, 2003;
    - vi.) "Detail Sheet," Sheet 6 of 7, revised April 28, 2003;
    - vii.) "Grade Plane Plan," Sheet 7 of 7, revised April 28, 2003; and
    - viii.) "Landscape Plan & Details," Sheet L-1 of 1, dated April 28, 2003.
  - b. Architectural plans, consisting of three sheets, prepared by ADD Inc., including the following:
    - i.) "Building Plans," Sheet A-1, dated April 28, 2003;
    - ii.) "Building Elevations," Sheet A-2, dated April 28, 2003; and
    - iii.) "Photometric Plan," Sheet A-3, dated March 28, 2003;
  - c. Detail plans, consisting of three separate drawings on one sheet, prepared by Huntress Associates, Inc., including the following:
    - i.) "Dumpster Enclosure," Sheet SKL-1, dated 5/21/03;
    - ii.) "Dumpster Enclosure Plan," Sheet SKL-2, dated 5/21/03; and

- iii.) "6" Diameter Steel Bollards," Sheet SKL-3, dated 5/21/03;
- d. Truck circulation plans, consisting of five separate 11" x 14" drawings, prepared by Rizzo Associates, including the following:
  - i.) "WB-50 Entering Maneuver From Christina Street," Sheet 1, drawn May 6, 2003;
  - ii.) "WB-50 Exit Maneuver to Christina Street," Sheet 2, drawn May 6, 2003;
  - iii.) "WB-50 Entering Maneuver From Christina Street," Sheet 3, drawn May 6, 2003;
  - iv.) "WB-50 Exit Maneuver To Christina Street," Sheet 4, drawn May 6, 2003; and
  - v.) "Traffic Sign Plan," Sheet 1, drawn May 6, 2003.
- 2. The Director of Planning and Development ("Planning Director") intends to pursue development of a shared driveway for the Petitioner's site and abutting property at 260 Needham Street and the creation of a pedestrian connection between the two properties, running from the northwesterly corner of the structure located at 300 Needham Street in a straight line to the property of 260 Needham Street. If requested by the Planning Director, the Petitioner shall participate in negotiations with the Planning Director and the owner of 260 Needham Street regarding development of a shared driveway and a pedestrian connection. If the Planning Director secures the agreement of the owner of 260 Needham Street for the creation of a shared driveway for 260 Needham Street and the Petitioner's property and/or a pedestrian connection, the Petitioner shall evaluate the proposed driveway and/or pedestrian connection from the perspectives of cost, loss of parking spaces and/or green space, and its effect on site circulation and pedestrian/vehicular safety. If no more than a total of seven (7) parking spaces are lost on the Petitioner's site, the site plan and circulation patterns are not negatively affected in the opinion of the City's Traffic Engineer and Planning Director, and the plan is approved by the Mass Highway Department, the Petitioner shall implement its portion of the shared driveway and/or pedestrian connection.

The time period for the obligations of evaluation and consideration by the Petitioner, the Petitioner's participation in negotiations under this condition, and the resultant preparation of a fully engineered and approved shared access driveway plan and/or pedestrian connection plan shall expire not earlier than four (4) months after the date that the Petitioner files its building permit application. If either the shared access driveway and/or the pedestrian connection is agreed to by the owner of 260 Needham Street and the Petitioner, the implementation of either or both possibilities and the related site plan and

parking modifications to the site plan will not require an amendment to Petitioner's special permit and site plan approval.

3. The demolition, rehabilitation and enlargement of the building will be done in two phases. The Petitioner shall comply with the Construction Management Plan, dated May 30, 2003 on file with the City Clerk, for 300 Needham Street, which covers both Phase I and Phase II of construction.
4. The Petitioner, its successors and assigns, shall use best reasonable efforts to recycle all materials used or generated in the operation of the businesses at the site and shall include this recycling requirement in any tenant lease.
5. No building permit shall be issued pursuant to the SPECIAL PERMIT and SITE PLAN APPROVAL until:
  - a. The Petitioner shall revise all site plans to reflect a 25'-wide curb cut on Christina Street, with the "mountable curb" consistent with the "Layout Plan," Sheet 5 of 7, revised May 21, 2003.
  - b. The Petitioner shall submit for review and approval by the Director of Planning & Development a revised photometric plan that depicts all 7 light fixtures on the east side of the building with 250 watt bulbs. All light bulbs shall be metal halide or equivalent, in order to produce a white light.
  - c. The Petitioner shall have met with the Director of Planning and Development to explore and to work out any appropriate opportunities to enhance the landscaping in the landscaped area at the intersection of Needham and Christina Streets as currently shown on the "Landscape Plan and Details" cited in Condition 1. Enhanced landscaping shall not require an amendment to this special permit. A landscape maintenance plan shall also be submitted for review and approval by the Director of Planning and Development. Any diseased or dying plants shall be replaced annually with comparable size and species of plants.
  - d. The Petitioner shall submit a revised landscape plan which removes those trees from the driveway entrance off Needham Street which in the opinion of the City Engineer impair sight lines of vision, to insure safety for vehicles and pedestrians. Said revised plan shall be reviewed and approved by the Director of Planning and Development.
  - e. The Petitioner shall submit to the Director of Planning and Development for review and approval the final elevations and proposed building and roof materials, as applicable, and paint colors for the renovation of the existing building.

- f. 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 and SITE PLAN APPROVAL and EXTENSION of a NON-CONFORMING STRUCTURE with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
  - g. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
6. No portion of the site subject to this SPECIAL PERMIT and SITE PLAN APPROVAL shall be occupied until:
- a. The Petitioner has filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development, a statement by a registered architect or registered engineer, certifying compliance with Condition #1 with regard to all Phase I work. The Petitioner shall also file a supplemental statement following the completion of Phase II work
  - b. There shall have been filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the retaining walls and drainage systems have been constructed to standards of the City of Newton Engineering Department.
  - c. The Petitioners shall have submitted to the City Engineer final as-built, record site engineering, utilities, and drainage plans, in digital and paper format, with the latter sealed by a licensed surveyor, prior to the issuance of any final occupancy permits for both Phase I and Phase II work.
  - e. There shall have been 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, and other site improvements related to this special permit.
  - f. Notwithstanding the provisions of Condition 6.e., the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for the addition to the building prior to installation of final landscaping provided that the Petitioner, 300 Needham Street LLC/Regalite Plastics Corp., 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 landscaping to secure installation of such landscaping.

Under Suspension of Rules  
Readings Waived and Approved  
22 yeas 2 nays (Ald. Johnson and Parker) 0 absent

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 June 5, 2003. 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) 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 its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that within the twenty days since the filing on June 5, 2003 of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on AN APPEAL to said decision pursuant to M.G. Laws Chapter 40, Section 17 was filed on June 25, 2003, however, said APPEAL was subsequently DENIED (Judgment Affirmed attached).

ATTEST:

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