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Candace Havens  
Director

**ZONING REVIEW MEMORANDUM**

Date: September 28, 2012

To: John Lojek, Commissioner of Inspectional Services

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

*SZ*

Cc: Paul Feinberg, representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RECEIVED**  
 Newton City Clerk  
 2012 OCT -9 PM 2:39  
 David A. Olson, CMC  
 Newton, MA 02459

RE: Request to permit a change in use

Applicant: Evelyn P. Greenspan Trust	
Site: 35-41 Lincoln Street	SBL: 52008 0018
Zoning: BU1	Lot Area: 15,000 square feet
Current use: Retail commercial building	Proposed use: Retail commercial building

**BACKGROUND:**

The property at 35-41 Lincoln Street consists of a 15,000 square foot lot improved with a commercial building with six retail bays. Behind the building is a small parking facility. The applicant intends to change the mix of uses in the building in such a way as would increase the parking requirement for the parcel. The applicant proposes to legalize an existing noncompliant striping pattern in the rear parking facility to provide the additional parking required.

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

- Building permit, showing original buildings, dated 12/19/30
- Building permit, showing rear addition, dated 4/30/40
- Plot plan for the creation of a rear parking facility, showing nine parking stalls, dated 9/5/67
- Schematic plan showing six retail bays, by Edwards and Kelcey, Architects and Engineers dated 4/24/06
- Proposed parking plan showing 18 parking stalls, unsigned, unstamped, and undated
- Parking calculations, unsigned, unstamped, undated

**ADMINISTRATIVE DETERMINATIONS:**

1. In 1967, a building permit was issued showing a layout for a nine-stall parking facility to the rear of the building. The applicant has submitted a new, proposed plan for an 18-stall parking facility which

reflects the current use of the rear parking lot. However, this 18-stall configuration was never approved by the City and is noncompliant with regard to several of the dimensional standards for a parking facility per Section 30-19(h) of the Newton Zoning Ordinance.

2. Per Section 30-19(d)(10), a number of parking stalls must be provided for each commercial establishment on the parcel. (See the following table).

Proposed	Parking Formula	Required Parking
Highland Opticians, 1,765 square feet retail with 6 employees on largest shift	1 stall per 300 square feet and per 3 employees	8
Village Kids, 2,930 square feet retail with 4 employees on largest shift	1 stall per 300 square feet and per 3 employees	12
Flower store, 824 square feet retail with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	4
Jewelry store, 557 square feet, with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	3
Tailor/Cleaners, 594 square feet, with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	3
Bank of America ATM 165 square feet	1 stall per 300 square feet and per 3 employees	1
Beauty salon, 1,306 square feet with 15 employees on largest shift	1 stall per 300 square feet and per 3 employees	10
<b>TOTAL REQUIREMENT</b>		<b>41 (A)</b>
Existing	Parking Formula	Parking Credits
Highland Opticians, 1,765 square feet retail with 6 employees on largest shift	1 stall per 300 square feet and per 3 employees	8
Village Kids, 2,930 square feet retail with 4 employees on largest shift	1 stall per 300 square feet and per 3 employees	12
Flower store, 824 square feet retail with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	4
Jewelry store, 557 square feet, with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	3
Tailor/Cleaners, 594 square feet, with 2 employees on largest shift	1 stall per 300 square feet and per 3 employees	3
Women's clothing store, 1,471 square feet with 3 employees on largest shift	1 stall per 300 square feet and per 3 employees	6
<b>TOTAL REQUIREMENT</b>		<b>36 (B)</b>
Existing, legal off-street parking spaces		<b>9 (C)</b>
<b>Parking Stalls Required*</b>		<b>14</b>
Parking Stalls Proposed		<b>18</b>

\* Calculation per §30-19(c)(2): A (41) – B (36) + C(9) = Required number of parking stalls (14)

Per Section 30-19(c)(2), a total of 14 parking stalls are required for the proposed mix of uses. The applicant has provided a parking plan that shows 18 parking stalls, with dimensional standards that

do not comply with the requirements in Section 30-19(h). The applicant must obtain waivers for these dimensional standards (see #3 below) or must obtain a waiver of the number of required parking spaces (see#6 below).

3. Per Sections 30-19(h), (i), and (j), parking facilities of greater than five stalls must meet certain design requirements. The applicant's parking plan shows an 18-stall facility that does not meet many of these requirements, summarized as follows. Per Section 30-19(h)(1), parking facilities may not be located within required setback distances. Per Section 30-19(h)(2)a) and b), parking stalls must have a minimum dimension of 9'x19.' The applicant's plan shows the proposed parking stalls as either 8'x18' or 8.5'x18.' The applicant's plans do not show the required handicapped parking stall, per Section 30-19(h)(2)c). The applicant's plans do not show the required maneuvering space, per Section 30-19(h)(2)e), for the stalls at the north-west corner of the lot and for the tandem parking stalls. Per Section 30-19(h)(3), a minimum maneuvering aisle width of 24 feet is required for a parking facility with 90-degree parking stalls. The applicant's plans indicate a maneuvering aisle of approximately 16 feet. The previous plot plans show the existing exit and entry drive to be approximately ten feet in width, instead of the 12 feet required by Section 30-19(h)(4). Per Section 30-19(h)(5), parking facilities shall be designed so that each vehicle may proceed to and from the space without moving any other vehicle. The applicant's site plan shows six proposed tandem parking stalls in the north-east corner of the site. To stripe and utilize the parking facility as proposed, the applicant must obtain a special permit from the Board of Aldermen, per Section 30-19(m) to waive compliance with the design requirements.
4. The original parking layout, approved in a building permit dating to 1967, was not set back from adjacent properties, as now required by Section 30-19(h)(1), and provides no landscape buffer, as is now required by Section 30-19(i). Therefore, the parking facility is nonconforming with regard to the setback and landscaping buffer. As the applicant does not propose to worsen these nonconforming characteristics, no additional zoning relief is required.
5. Per Section 30-19(j), parking facilities must meet lighting, surfacing, curbing, and maintenance standards. The applicant's plan has not indicated compliance with these requirements. The applicant must either comply with the lighting, surfacing, curbing, and maintenance standards or obtain a further special permit waiver from the Board of Aldermen per Section 30-19(m).
6. Alternatively, instead of waiving the dimensional requirements to allow for the proposed 18-stall parking facility, the applicant may return the parking facility to the layout originally approved in 1967 and obtain a waiver for five required parking stalls from the Board of Aldermen, per Section 30-19(m).
7. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(h)(2)a), (2)b), (2)c), and (2)e); §30-19(h)(3); §30-19(h)(4); §30-19(h)(5); §30-19(m)	Waive the required stall dimensions, maneuvering aisle widths, end-stall maneuvering space, minimum entrance and exit driveway widths, and number of handicapped parking stalls and allow tandem parking	S.P. per §30-24
§30-19(j); §30-19(m)	Waive or comply with the lighting, curbing, surfacing and maintenance requirements	S.P. per §30-24
§30-19(c); §30-19(d)(10); §30-19(m);	Alternatively waive five required parking stalls	S.P. per §30-24