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CITY CLERK
NEWTON, MA 02159

CITY OF NEWTON
IN BOARD OF ALDERMEN

September 7, 2010

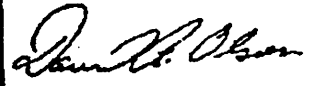
ORDERED:

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/EXTENSION OF A NONCONFORMING USE in order to expand the number of seats and to waive the side setback requirement for the parking facility as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

101
Title Ref. Book 31126, Page 262

1. The expanded nonconforming use at the rear will not be substantially more detrimental than the existing use, as the site is an appropriate location for a restaurant use and the site has sufficient parking to accommodate cars on-site.
2. The allowance of parking in the side setback is appropriate for the following reasons:
 - a. Literal compliance is impracticable because the site is constrained by adjacent uses, and parking in the side setback is preferable to either reducing the number or size of parking stalls or reducing the maneuvering aisle width.
 - b. The petitioners will screen the parking area with landscaping along the perimeter and extend the grass berm along the street in front of their property.
3. The petitioners have arranged for employee parking off-site starting at 4 p.m. seven days a week in order to keep all spaces in the parking area available for patrons.
4. The petitioners have agreed to offer valet parking Thursday through Saturday evenings, and to place signs on-site directing cars to the rear parking area and reminding cars not to park on abutting parking lots so as not to impact the surrounding neighborhood.
5. The petitioners are making accessibility improvements to the site that will help serve the needs of people with disabilities in the community.
6. The petitioners have agreed to raise the chimney two feet in height in order to help with exhaust and smoke.
7. The proposed use is consistent with the *Newton Comprehensive Plan* because it increases the vitality of the area by offering an amenity to the community.

Stephen J Buchbinder
Schlesinger & Buchbinder
1200 Washington St., Boston, MA 02461

A True Copy
Attest

City Clerk of Newton, Mass.

PETITION NUMBER: #140-10

PETITIONER: Another Café Fiorella, Inc.

LOCATION: 187 North Street, Section 21, Block 12, Lot 10 containing approximately 24,108 square feet of land

OWNER: Michael J. Penta, Susan Sgarzi Penta and Angelo D. Paolini, Trustees of the SMC Trust

ADDRESS OF OWNER: 483 Pleasant Street, Watertown, MA 02472

TO BE USED FOR: Restaurant with up to 114 seats

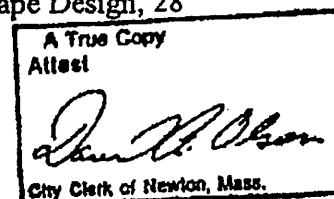
CONSTRUCTION: Existing stucco-faced building to be expanded with stucco-faced concrete block addition with rubber roof, asphalt parking area

EXPLANATORY NOTES: §30-21(a)(2)(a) and 30-21(b) to expand a nonconforming use; §30-19(h)(1) and 30-19(m) to allow parking in the side setback; §30-23 for site plan approval; and §30-24(d) for special permit approval

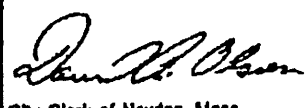
ZONING: Manufacturing District

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 the plans including:
 - "Area Plan of Land Newton, Massachusetts at #187 North Street," dated April 21, 2010, stamped and signed by Joseph R. Porter, Professional Land Surveyor
 - "Topographic Site Plan Newton, Massachusetts, showing existing conditions at #187 North Street," dated February 18, 2010, signed and stamped by Joseph R. Porter, Professional Land Surveyor
 - "Proposed Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #187 North Street," dated April 21, 2010, and Revised July 21, 2010, signed and stamped by Joseph R. Porter, Professional Land Surveyor and Stephen E Pool, Professional Engineer
 - Sheet A-1, "Fiorella's Restaurant, Proposed 50 seat addition, 187 North Street, Newton, MA," dated 11-19-2009, last revised 7-19-2010, signed and stamped by C. George Elanjian, Registered Architect
 - "Schematic Planting Plan, Fiorella's Restaurant, 187 North Street, Newtonville, MA 02460" dated July 25, 2010 by Andrea W. Kelley, Landscape Design, 28 Putnam St., W. Newton, MA 02465.



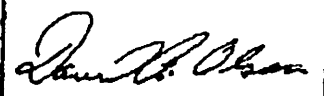
2. The petitioner may operate a restaurant with a maximum of 114 seats and up to 15 employees on the largest shift.
3. So long as the restaurant use authorized by this special permit operates at this location, any plant material installed by the petitioner or its successor that becomes diseased or dies shall be replaced on an annual basis with similar material.
4. Dumpsters relating to the subject property will be kept closed and maintained by the petitioner so that they are clean and the area is free of debris and odors. The dumpster shall be screened with fencing as shown on approved plans.
5. The petitioner will place signage on-site directing customers to park on its lot and not to park off-site on adjacent properties.
6. All signage shall be subject to review by the Urban Design Commission and the approval of the Director of Planning and Development.
7. The petitioner has leased 10 stalls for employee parking after 4:00 p.m. seven days a week. Should the petitioner lose the ability to lease these ten parking spaces, the petitioner shall replace such stalls with a suitable, equivalent alternative for employee parking after 4:00 p.m. seven days a week, subject to the approval of the Commissioner of the Inspectional Services Department and the Director of Planning and Development. The petitioner shall have up to sixty days from the termination of the lease of said parking spaces to propose a suitable, equivalent alternative.
8. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
9. The petitioner shall utilize valet parking from 5:30-9:30 p.m., Thursday through Saturday throughout the year in order to alleviate the parking demand at the busiest times and to help ensure restaurant patrons park on-site.
10. The petitioner may operate with 20 outdoor seats provided that the equivalent number of seats is taken off line inside the restaurant so that no more than 114 seats are in use at any time.
11. Prior to final occupancy the petitioner shall increase the height of the chimney by two feet and will remove the existing manhole in the northeast corner of the lot.
12. 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 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.

A True Copy
Attest

City Clerk of Newton, Mass.

- c. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
13. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
- a. provided a copy of the parking agreement for up to ten parking spaces for employees of the restaurant after 4:00 p.m. seven days a week for the expanded use.
 - b. 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.
 - c. submitted to the City Engineer final as-built plans in both digital format and hard copy.
 - d. submitted to the Director of Planning and Development and the Inspectional Services Department final as-built plans in digital format.
 - e. increased the height of the chimney by two feet and removed the manhole on the northeast corner of the lot.
 - f. the petitioner shall place signage on-site directing customers to park on their property and not on adjacent lots.
 - g. filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, bike rack and directional signage.
14. Notwithstanding the provisions of Condition #13.g. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of the bike rack, directional signage and landscaping provided 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 improvements to ensure their completion.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Alderman Albright)

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 9/21/10. 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.

A True Copy
Attest

City Clerk of Newton, Mass.

ATTEST:

David A. Olson
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen
acting **LINDA FINIKAE**

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 9/9/10 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:

David A. Olson
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen
acting

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Attest
David A. Olson
City Clerk of Newton, Mass.