

CITY OF NEWTON

IN CITY COUNCIL

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #132-14(2) to waive the screening requirement for an outdoor play area for a day care center by substituting the previously approved site plan with the plan cited herein in Condition #1.a. as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The site is an appropriate location for the outdoor play area associated with the day care center because the playground will allow the children to remain on site. (§7.3.3.C.1)
2. The proposed outdoor play area as proposed will not adversely affect the neighborhood because the site is located in a transition zone comprised of varying uses. (§7.3.3.C.2)
3. The outdoor play area as proposed will not create a nuisance or serious hazard to vehicles or pedestrians because the play area will be protected with bollards and enclosed with a six foot tall fence. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the site is located on a heavily trafficked corridor with designated access and egress points. (§7.3.3.C.4)

PETITION NUMBER: #132-14(2)

PETITIONER: The Creative Kids Studio, LLC

LOCATION: 49-51 Winchester Street on land known as SBL 51, 28, 30 containing a total of 79,500 square feet of land

OWNER: Cline Limited Realty

ADDRESS OF OWNER: 49 Winchester Street
Newton, MA 02461

TO BE USED FOR: §6.3.4.B.3 and §7.3.3 to waive the screening requirements for outdoor play areas associated with a day care center

CONSTRUCTION: Not Applicable

EXPLANATORY NOTES: Special Permit to amend Board Order #132-14(2)

ZONING: Mixed Use 1

Prior special permits for this property include: Board of Alderman approvals #132-14(2), #132-14, and #219-05.

This special permit supersedes the prior special permit and consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permit not set forth in this special permit are null and void.

Approved subject to the following conditions:

Conditions associated with this amended Special Permit/Site Plan Approval, Order 132-14(2):

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. Site plan, entitled "Proposed Playground 49-51 Winchester Street", signed and stamped by Peter Nolan, dated 3/31/17, revised 8/30/17, 10/25/17 and 10/30/17.
 - b. Plan set, entitled "Double Sided Dimensional Monument Wall Signs," for Stone Gallery, prepared by Countryside Signs, dated August 6, 2014, including two (2) drawings:
 - i. Page 1 of 2 - Indicating the signage on the stone veneered block wall; and
 - ii. Page 2 of 2 - Indicating the dimensions of the proposed signage.
 - c. Photo set, prepared by the petitioner, undated, and including two (2) images:
 - iii. Photo 1 - Indicating the finished free-standing sign with landscaping; and
 - iv. Photo 2 - Indicating the placement and design of the display bed surrounding the free-standing sign.

2. The day care shall be limited to ninety (90) students and eighteen (18) staff members on-site at any one time. If the petitioner would like to increase the number of students to more than ninety (90), it must seek an amendment to this special permit.
3. The petitioner shall notify the parents and guardians of the enrolled children of how to access and egress the site and which stalls are available to them during pickup and drop off times. The petitioner shall work with the property owner to communicate these items to the employees and customers of the other uses on site.
4. 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.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection and/or Occupancy Permit for use 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.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

Conditions incorporated from Board Order #132-14:

6. All landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the plan cited in Condition #1.a. above which replaces the plan referenced in Condition #1.a. of Order #132-14.
7. The petitioner shall install a bicycle rack on the site at a location approved by the City's Planning Department and Transportation Department.
8. The petitioner shall submit a tree removal plan to the City's Tree Warden for review and approval, and shall submit a copy of such plan to the Director of Planning and Development.
9. At such time in the future that the existing buildings are enlarged or demolished and the site is redeveloped, the site shall comply with the parking requirements in effect at the time, and the waivers of parking design controls, including waivers of dimensional, lighting, and landscaping requirements, granted by this special permit shall terminate.
10. The outdoor display and sale of goods permitted hereunder applies to the continued use of the outdoor display area for the display of natural and man-made stone for architectural and landscaping purposes and goods of a like nature only. In the event that the use of the outdoor display area for the display of such goods is abandoned, then the outdoor display

use granted under this special permit shall terminate. For as long as the use of the outdoor display area continues, it shall be maintained in a neat and orderly condition and without unsightly debris and broken or damaged display materials, and in a manner similar to that shown in the approved site plan, landscaping plan, and rendering.

11. In the event that the use of the outdoor display area is abandoned, then the outdoor display area shall be returned to its natural and vegetated state.

Conditions incorporated from Board Order #219-05:

12. The petitioner in Board Order #219-05 shall install and maintain concrete wheel stops for existing parking stalls as follows: four(4) stops at the reserved parking stalls located in front of the building and approximately sixteen (16) stops for the parking stalls abutting the public sidewalk along Winchester Street.
13. Should the cooking school use cease to operate at this property, the waiver of that provision of the zoning ordinance that prohibits reserved parking shall cease for the four parking stalls reserved for the cooking school use, and the signs at such reserved parking spaces shall be removed.
14. If the type of cooking appliances and equipment or the types of food ingredients change such that health, fire or other safety codes would require an upgrade in such health, fire or other safety safeguards, equipment or other protections (e.g., fire suppression equipment over cooking area, or additional sinks), then the applicant shall obtain any and all necessary permits and licenses and install such upgrades
15. The petitioner shall comply with the following provisions when establishing the class schedules:
 - a. The weekday classes for children shall start no earlier than 9:30 a.m.,
 - b. There shall be no more than 12 students or guests in a single class or birthday party session,
 - c. No more than two classes shall be scheduled at any given time, one in each of the two classrooms,
 - d. There shall be a minimum of 1 hour between classes scheduled within a given classroom, when classes are scheduled in both classrooms, there shall be a 15 minute stagger in the start and end times of the overlapping classes to assure that there is sufficient access to the designated pick-up and drop-off spaces for the students, and
 - e. The weekday adult evening classes shall begin no earlier than 6:00 p.m.