



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 23, 2013

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Application of:
Irene Kantor of Ki Nema LLC
257 Maple St., Unit 1
Marlborough, MA 01752
Order No. 13-1005483C

Locus:
38 Brigham St.
Map 104, Parcel 27

DECISION

The City Council of the City of Marlborough hereby GRANTS the application of Irene Kantor of Ki Nema LLC, as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: September 23, 2013

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 4th day of October, 2013

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 25th day of October, 2013

Given under Chapter 40A Section 11 of the Massachusetts General Laws.

A TRUE COPY
ATTEST

A handwritten signature in black ink, appearing to read "Lisa M. [unclear]".

City Clerk



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DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 13-1005483C

The City Council of the City of Marlborough hereby GRANTS the application for a special permit of Irene Kantor, 28 Angelica Drive, Framingham, MA 01701, as follows:

FINDING OF FACTS-RULINGS AND CONDITIONS

1. The Applicant, Irene Kantor, is a manager of KI NEMA LLC, a duly organized and existing Limited Liability Company with its principal place of business temporarily located at 257 Maple St., Unit 1, Marlborough, MA 01752.
2. Pam Realty, Inc., with a principal office located at 171 Locke Drive, #102, Marlborough, MA 01752, is the title owner of the land and building located at 38 Brigham Street, Marlborough, MA 01752 and more particularly described as Map 104, Parcel 27 on the Marlborough Assessors Maps ("the Site").
3. The Applicant seeks permission to utilize the existing building as a family recreational establishment or facility, specifically, a martial arts studio d/b/a "New England Martial Arts." The Applicant, either as an individual or as a nominee LLC, intends to purchase the Site from the current owner and then to lease it to KI NEMA LLC.
4. The Applicant, Irene Kantor, a manager of KI NEMA LLC, on July 3, 2013 filed with the City Clerk of the City of Marlborough, an Application for a Special Permit pursuant to Chapter 650, entitled "Zoning," of the Code of the City of Marlborough, Article V, Section 650-17.
5. The Site was improved with parking, driveways and a building thereon in 1986 in accordance with a plan filed and approved by the Building Department at that time.
6. The location of New England Martial Arts will be within the majority of the existing vacant structure which previously housed a printer and contractor, now both closed.



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7. Applicant's Application is for a Special Permit seeking the establishment of a family recreational establishment or facility which will utilize the existing large indoor open space for use as a Martial Arts Studio including accessory "as built" offices and lady's and men's bathroom facilities. The Site is situated in the Industrial zoning district. Private or commercial recreation establishments, such as proposed by Applicant, are allowable by special permit in the Industrial zoning district.
8. The City Building Inspector, on behalf of the City Planner, has certified pursuant to § 650-59.C (7) of the Rules and Regulations promulgated by the City Council for issuance of special permits, that the application is complete and conforms to said Rules and Regulations and that the site plan meets all prior referenced informational requirements of Rule 7 and that said plan conformed in all respects to the Code of the City of Marlborough as of the date of construction and improvement of the Site.
9. Pursuant to § 650-59.C(1)(c) of said Rules and Regulations, the Applicant has distributed sets of Application materials to the City officials listed therein.
10. Further, pursuant to the said Rules and Regulations and the provisions of MGL c. 40A, as amended, the City Council established a date for a public hearing for the Application, and the City Clerk caused to be advertised said date in the MetroWest Daily News, and sent written notice of said Public Hearing to those abutters entitled to notice under applicable law.
11. The Marlborough City Council pursuant to the appropriate provisions of MGL c. 40A, as amended, held a public hearing on the Application on August 26, 2013.
12. The Applicant presented evidence at the public hearing detailing the project and its limited impact upon municipal services, the neighborhood and traffic.

REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT

The Marlborough City Council, having caused to be established a detailed record of its Conditions and Reasons for granting the Special Permit, makes the following findings:



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- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council for application of a special permit.
- B. The use of the existing building located at the Site for a family recreational establishment or facility is an appropriate use of said property and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions as hereinafter set forth.
- C. The City Council, pursuant to its authority under MGL c. 40A, as amended, **GRANTS** the Applicant a Special Permit to operate a private or commercial recreational establishment as per its Application filed with the City Council and City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS**, which shall also be applicable to Applicant's successors and assigns, and a violation of which shall be a violation of this Special Permit:
1. Applicant shall comply with any and all requirements necessary to obtain a certificate of use and occupancy for the facility as it presently exists.
 2. Signage. Any signage installed or erected on the premises shall meet the requirements of the Sign Ordinance of the City of Marlborough without variance and shall not include flashing signs, message boards or LED signs. All such signs shall be illuminated only during hours of operation and shall be extinguished on or before 10:00 p.m.
 3. Application and Documents. All plans, drawings, site evaluations and documentation provided by the Applicant as part of this Application or later filed with the Urban Affairs Committee are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same.
 4. Compliance with Local, State, and Federal Laws. The Applicant agrees to comply with all rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and the federal government as they may apply to the maintenance and operation of the facility.



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5. Public Peace and Good Order. In the event that the Chief of Police determines that either the business of the Applicant is, or the clientele of the Applicant are, creating a condition that is contrary to the public peace and good order, the Chief shall, in writing, notify the Applicant and demand that corrective measures be put into effect within seven (7) calendar days. Upon failure or inability of the Special Permit holder to correct such condition, the Police Chief may require the Applicant to employ one or more police detail officers during such hours and days as the Police Chief, in the exercise of his or her sole discretion, determines to be necessary for the purpose of correcting the condition.

6. Abutter Conditions. Following publication of the notice of Applicant's Application and notices of same having been sent by certified mail to abutters as required, no abutter has come forward on the record before, during or after the public hearing to raise any objection or to support or to question Applicant with respect to any aspect of the Application. In the interest of establishing and maintaining amicable relations with neighbors in the vicinity of the Site, Applicant agrees as follows:
 - a. In the absence of prior written authorization from the City of Marlborough, no additional lighting will be erected or additional wattage added by the Applicant to the existing outdoor parking lot lighting, except for security lighting required by the City of Marlborough Police Department.
 - b. No delivery vehicles are required or will be needed by the Applicant in the operation of the business.
 - c. The operation of the business does not require the maintenance of a dumpster or other outside trash receptacle.
 - d. All martial arts activity shall take place inside the facility between the hours of 8:00 a.m. and 10:00 p.m., Monday through Saturday only, and all noise created by the operation of the business will at all times be in compliance with the City's noise ordinance.
 - e. All completed CORI forms shall be kept and maintained by Applicant and in accordance with Massachusetts law.
 - f. Accommodations for overflow parking shall be provided off-site for large competitions, tournaments and other like events, if any. A copy of the formalized agreement with any third party for off-site parking, if any, shall be provided to the Marlborough City Clerk. In the event the permit holder is unable to obtain a formalized off-site parking agreement with any third party, large competitions, tournaments and other like events requiring overflow parking shall not be held on the premises.



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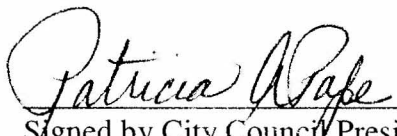
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- g. No on-street parking shall be permitted on Brigham Street or any other abutting side street or public way.
 - h. No alcoholic beverages shall be served on the premises.
7. Recordation. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for any permits concerning the family recreational facility. When the Applicant applies for its certificate of use and occupancy, Applicant shall provide a copy of the recorded Special Permit to the Building Inspector's office, as well as a copy to the City Council's office and to the City Solicitor's office.

Yea: 11 – Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Robey & Oram


Signed by City Council President
Patricia A. Pope

ADOPTED
In City Council
Order No. 13-1005483C