

Zoning Board of Appeals
Minutes
August 18, 2015

Members present: Paul Giunta – Chairman, Theodore Scott, Thomas Golden and Mitchell Gorka
50 Brigham St. (Safety-Kleen – the applicant) – Clean Harbor owns Safety-Kleen.

Representatives: Kendra Kinscherf, Esq. (Attorney) of Davis Malm & D’Agostine P.C. Attorneys at Law and David D. Paquette, Director Branch Engineering|Safety-Kleen.

The hearing was opened with the reading of the legal ad notice. An e-mail from Gina Ippolito of 168 Mill St. dated August 18, 2015 and the Building Commissioner’s denial letter dated June 15, 2015 were also read into the file.

Plans presented: Pavement Improvement Plans for Safety-Kleen, 50 Brigham Street, Marlborough, MA dated March 2015:

Sheet T-100.00	Cover sheet – Project Location & Scope of Work
Sheet C-100.00	Existing Conditions Map
Sheet C-110.00	Site Plan, Paving, Grading & Drainage Plan
Sheet C-120.00	Erosion Control Plan & Details
Sheet D-100.00	Drainage Details
Sheet D-200.00	Drainage Details

Site Landscaping Plan – Existing – dated 6/18/1996
Site Landscaping Plan – Proposed – dated 6/18/1996

A narrative was also included entitled: Petition of Safety-Kleen Systems, Inc., Impervious Surface Variance, 50 Brigham St.

According to their narrative and the Attorney’s statements:

- Safety-Kleen leases only a portion of the entire parcel
- Topography - the lot is fairly flat
- Safety-Kleen is designated as #50A – 50H Brigham St. of which has separate occupants and businesses (8 tenants)
- The parcel has 177.00 ft. of frontage on Brigham St.
- The applicant stated there is enough parking for their existing 11 employees and 6 additional employees by utilizing exclusive use parking and shared parking on the lot.
- Fencing – It was asked by one of the members why not expand the existing fenced area. Answer – It would upset their existing traffic pattern within the lot. Their narrative states the property was previously “grandfathered”.
- Nothing is stored underground.

- Trucks empty hazardous material into storage drums before they are parked on the lot.
Drums are normally stored for a week – 10 days.

Proposal: The proposed additional pavement is for parking their service trucks and storage of equipment, next to Building A.

Existing Conditions	Proposal	Required	Result
Existing - 2 catch basins in this area of the project.	Upgrade the existing 2 catch basins and add 2 new catch basins. This will upgrade their Storm Water Management and drainage. They stated the city's engineer approves of the plans for a system of oil/gas eliminator in new catch basins.		
Total acres = 2.55 Existing Lot Coverage - 1.80 acres of impervious surface (70.59%)	Propose Lot Coverage - 1.91 acres of impervious surface (74.90%)	Maximum required Lot Coverage = 60 %	Existing deviation = 10.59 % Adding 4.31% of new pavement Creating a proposed deviation of 14.90 %
	Landscaping – Add 18 Mint Julep along the new pavement area near Building A in order to provide additional landscaping and screening. Remove existing paving and add pervious landscaping along the exclusive parking area on the northern property line in order to come into compliance with the Ordinance's 5 ft. setback requirement, and add 24 Gold Mound Spirea and 4 silver maple trees along the front lot line.	These additions will add to the existing non-conforming landscaping requirements.	
Currently have 11 employees	Adding 6 employees		Total = 17 employees

Hardship as stated by Atty. Kinscherf:

1. Difficult to meet all the zoning requirements with so many existing business and buildings.
2. The property has not met the 60% maximum lot coverage on this 2.55 acre site since at least 1993 when the city approvals were obtained for an expansion project that resulted in 70.59% of lot coverage.
3. Without the addition of 4.31% of pavement, it will be difficult if not impossible for Safety-Kleen will not be able to merge with Clean Harbor of its facilities and increase its operations at the property and could not adequately serve an ever-increasing demand for handling Regulated Recyclable Materials.
4. As a result of the peculiar circumstances noted, complying with the maximum lot requirements of the Ordinance would be insufficient for the existing businesses on the property, and would prove to be a substantial hardship to Safety-Kleen.
5. Parking and storage are limited due to the following:
 - o Uniquely shaped buildings with 8 separate areas for different occupants which occupy nearly one-quarter of the property.
 - o Shape of lot is unique – a narrow rectangle in the front (approximately half of this is occupied by one of the buildings)
 - o A trapezoid in the back (almost entirely occupied by two clusters of buildings and a rail line.

Board member, Mitchell Gorka, asked if they have any other options vs. expanding their “lot coverage”. Mr. Gorka felt the applicant should be able to utilize what is existing on their lot. They are adding to an already non-conforming lot. **Answer:** The attorney stated they cannot take away existing parking spaces, because they will not meet the parking requirement code for the city. Also, it may create an unsafe traffic flow if they tried to utilize what is existing on the lot. The attorney felt the proposal is off to the corner of the lot and will be out of the way.

Board wants to see at the continued meeting the following:

- A letter signed by the owner of the lot that he is aware of this proposal.
- A full size “stamped” plan that is not so busy, and showing i.e. Lot coverage
- Check with the fire dept. if they have any issues. This office will forward to the fire department Ms. Ippolito’s e-mail.

With the consent of the applicant in order to provide the above additional information, the hearing was continued to Sept. 8, 2015 at 7:00 PM.

Respectfully submitted,


Paul Giunta
Chairman