

## PERMIT APPLICATION REPORT

Type of License: Outdoor Furniture Permit

Name of Applicant: Tom Godfrey for Bierbrier Development

Address: 1398 Massachusetts Ave.

The following Departments have **no objections** but have made comments or conditions regarding the issuance of said license: (see attached)

- Planning   x
- ADA Compliance   x

Note: Board of Health and Building Inspections does not have to report.

PLEASE NOTE: ALL APPROVALS WILL BE SUBJECT TO CONDITIONS SET FORTH (SUCH AS DEPARTMENT CONDITIONS, CERTIFICATE OF INSURANCE ETC.)

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Board of Selectmen by **Wednesday, February 12, 2016**

**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 1398 Massachusetts Avenue  
Applicant's Name: 1398 Massachusetts Avenue, LLC c/o Bierbrier Development  
D/B/A:  
Telephone: 781-258-1199 email. Tomg10@comcast.net  
Department: (date sent out): 1.19.16

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**Meeting date: February 16, 2016**

**RE: OUTDOOR FURNITURE LICENSE**

Inspected by: Board of Health  
Building  
**Planning** – Ted Fields, 2.11.2016  
ADA Compliance

Inspection Report Comments:

1398 Massachusetts Avenue is an existing block of stores on a 35,632 square foot lot in the Arlington Heights commercial district. Business tenants include Message Envy, Prime the Butcher and, in the near future, a Doctors Express urgent care clinic (in the former Bagleville storefront). The former Jenny Craig space on the eastern end of the block is vacant. All of these are small enterprises serving residents of Arlington Heights and East Lexington. It is located in a B3 (Village Business) zoning district. The sidewalk abutting the block is nine (9) feet wide and the structure's façade along Massachusetts Avenue is approximately one hundred and fifteen (115) feet long.

Proposal Details

The applicant proposes to place **one small planter** (four feet long, two feet wide and one & one half feet high) and **two long planters** (each nine feet long, two feet wide and one & one half feet high) by the driveway curb cut leading to the parcel's rear parking lot (see the attached pictures and application). As proposed, these planters are two feet away from curb along Mass. Avenue, leaving at least four (4) feet of width for unobstructed travel along the public sidewalk, meeting the recommended standard (4 feet).

Planning Department's Recommendations

The Dept. of Planning and Community Development has no objection to the issuance of the Sidewalk Fixture license to the applicant at the location in question.

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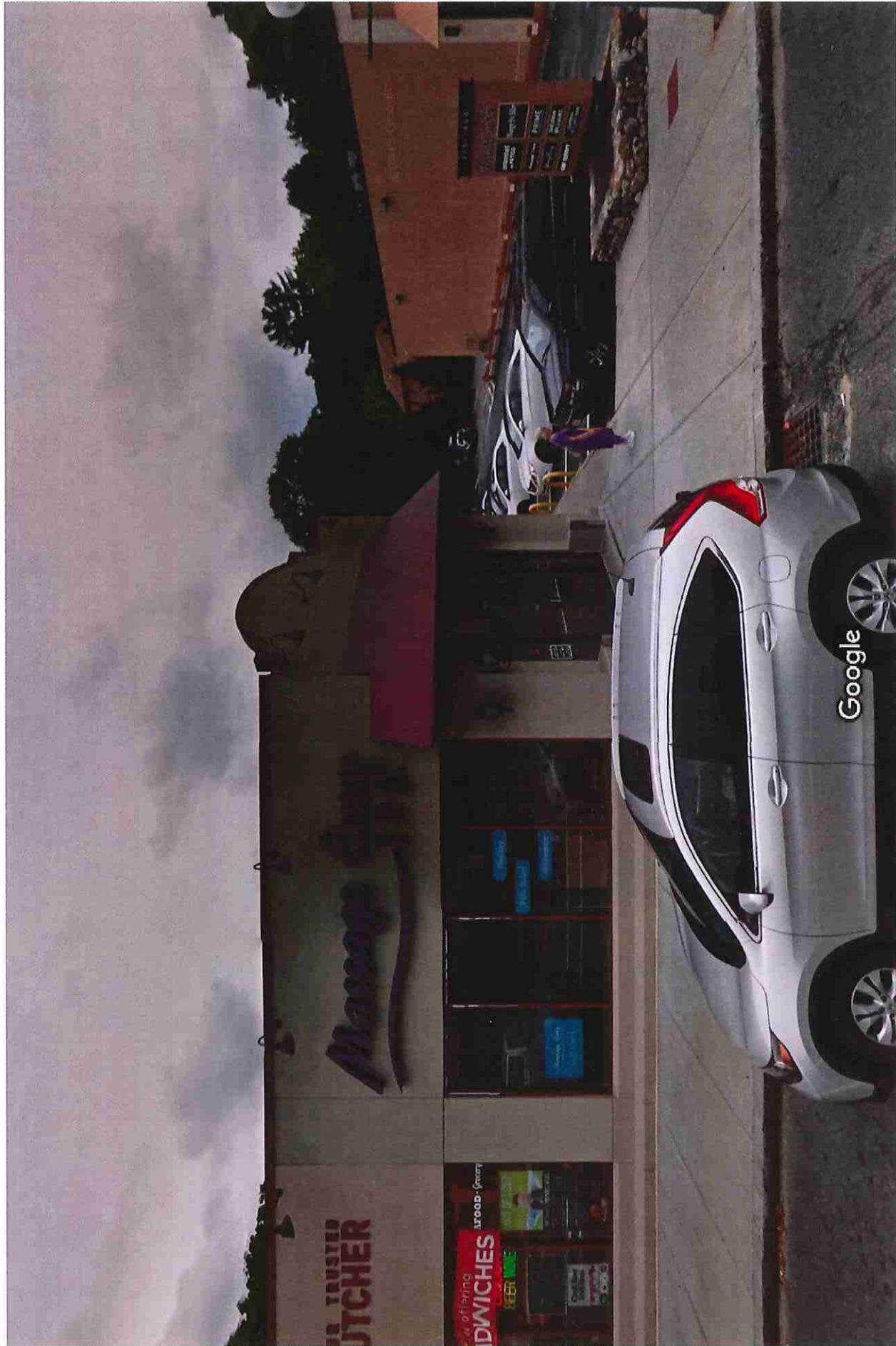
Applicant Section:

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicant's risk.

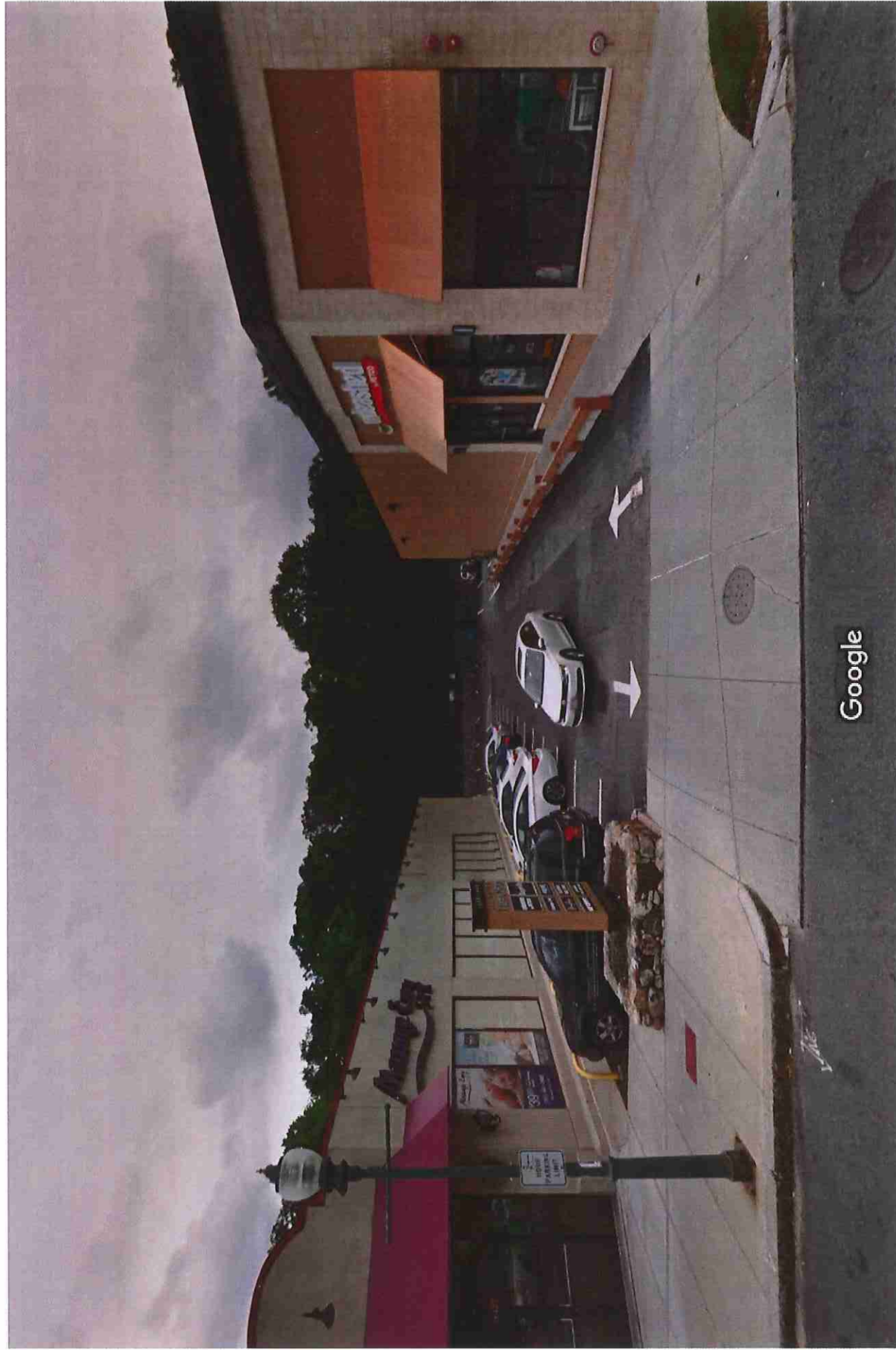
Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

Google Maps 1381 Massachusetts Ave



# Google Maps 1385 Massachusetts Ave



Google

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Board of Selectmen by February 2, 2016

**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 1398 Massachusetts Ave.  
Applicant's Name: 1398 Massachusetts Avenue, LLC c/o Bierbrier Development  
D/B/A:  
Telephone: 781 258-1199 email: tomgl10@comcast.net  
Department (date sent out): 1.19.16

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**Meeting Date: FEBRUARY 16, 2016**

**RE: OUTSIDE FURNITURE LICENSE**

Inspected by: Board of Health

Building

Planning

☒ ADA Compliance

Comments by each Division or Department:

As stated in the Sidewalk Fixture(s) Permit Application an unobstructed pedestrian path of at least 36 inches, preferably 48 inches clear excluding curbing must be provided.

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**Applicant Section:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicant's risk.

Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Sidewalk Fixture(s) Permit Application - Town of Arlington, MA

This is an application to the Board of Selectmen of the Town of Arlington Massachusetts, for a permit to place and maintain fixture(s) on sidewalks on the public right of way in Arlington, Massachusetts described below:

### (PLEASE TYPE OR PRINT)

Business Name:

1398 Massachusetts Avenue, LLC

Business Address/Location:

1398 Massachusetts Avenue

Phone Number/Email:

781-258-1199/tomg10@comcast.net

Business Representative's Name:

Tom Godfrey

Name & Address of Building Owner:

1398 Massachusetts Avenue, LLC

c/o Bierbrier Development, Inc.

420 Bedford Street, Suite 335

Lexington, MA 02420

Length of Storefront (ft):

see attached

Width of Sidewalk along Storefront (ft); \*1:

see attached

Length of Proposed Sidewalk Café (ft):

N.A.

Width of Proposed Sidewalk Café (ft); \*2:

N.A.

\*1: Measure from front Building Wall to inside of sidewalk granite curb edge.

\*2: Measure from front Building Wall to outside of the sidewalk fixture(s).

### Application Submittal Requirements:

- 1.) Fee: An annual permit fee of \$50.00 payable to the Town of Arlington filed with the Selectmen's Office. The Board may prorate its fee for applicants in their initial term to reflect the number of months the permit sought will be held.
- 2.) Site Plan: Furnish a **Site Plan** (scale diagram) showing the location of the sidewalk fixture, as well as a **picture or photograph of the proposed fixture(s)** in compliance with the following requirements:
  - No person or entity shall cause to be placed within the public ways any furniture/fixture(s) without applying for a permit and receiving approval from the Board of Selectmen of the Town. This permit shall be considered separate and distinct from others issued by the Town, including those for common victuallers.
  - Ordinarily, the location of the sidewalk fixture(s) must be directly in front of the business operating the storefront, and may not extend beyond the side property lines. It shall be sited as close to the building façade as practicable and in no event to exceed twelve (12) feet from the food service door of the establishment.

- Under limited circumstances, sidewalk fixture(s) may be approved adjacent to a storefront, grouped at a distance from the storefronts, or allowed in both positions if a scaled plan showing dimensions clearly establishes:
  - a) The requested location(s) create the least obstruction for pedestrian access to storefronts, crosswalks and pedestrian circulation, and/or
  - b) the location does not extend substantially beyond the side edges of the business (allowing for up to 10 feet of latitude where landscaping, public facilities, utility poles or adjacent seating areas obstruct the front of the business premises), and/or
  - c) in every case, the additional sidewalk fixture(s) does not violate zoning, building, or other code as determined by the Director of Inspectional Services.
- Further, sidewalk fixture(s) shall be located so that they do not impede, endanger or interfere with pedestrian traffic, with a minimum width of three (3) feet and a recommended width of four (4) feet of unobstructed passage for pedestrian traffic.
- In addition, no sidewalk fixture(s) shall be affixed, erected, installed, placed, used or maintained **within five (5) feet** of any marked or unmarked crosswalk or handicapped ramp; or within five (5) feet of any fire hydrant, fire lane, call box, or bus stop.
- Unlicensed fixture(s) within the public ways of the Town will be subject to removal with the cost thereof to be borne entirely by the owner. In addition, fines may be imposed by the Board of Selectmen not to exceed \$100 for removal, storage or destruction.
- No fixture(s) or device(s) shall be attached to the sidewalk or other public area. The property owner is responsible for the restoration of the sidewalk or public-right-of-way if any damage is caused by the sidewalk fixture(s).

3.) **Insurance:** The applicant business-owner shall furnish a **certificate of insurance** providing commercial insurance coverage for bodily injury, death, disability, and property damage liability in the following amounts:

- **At least ten thousand (\$10,000)** the Town of Arlington shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the fixture(s). In the event the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked. The permit holder shall immediately inform the Selectmen's Office if insurance under this provision is revoked and shall not operate with the sidewalk fixture until insurance is restated in accordance with this requirement. An insurance certificate naming the Town as an additional insured must be provided to the Office of the Board of Selectmen before any Sidewalk Fixture(s) Permit will be issued.



4.) Indemnification and Acknowledgement of Rights: The applicant shall also furnish a signed agreement to indemnify the Town of Arlington for its use of public property from any and all claims that may be brought against the Town in connection with such use. Such a signed agreement shall also acknowledge the Town's rights with respect to its property and the limitations of the permit (attached hereto).

5.) Compliance Requirements: By signing this application, the Applicant agrees to accept and comply with the following requirements:

- Permit holders must ensure that the requirements for operation are met. These include:
  - All areas within and surrounding a sidewalk fixture must be maintained in a clean, neat, and sanitary condition.
  - All permit holders shall be required to abide by all federal, state, and local laws.

6.) Other Regulations: By receiving a sidewalk fixture(s) permit, applicants are not exempted from other federal, state, and local laws and regulations. Among other regulations, permit holders must comply with local zoning and state building code requirements and Board of Selectmen regulations. Applicants are strongly advised to ensure their plans comply with zoning and state building requirements by contacting Inspectional Services.

7.) Revocation: The sidewalk fixture(s) permit may be revoked for failure to maintain the standards required for the initial permit. A notice of intent to revoke a sidewalk fixture(s) permit shall be given in writing 10-days prior to actual revocation and shall specify the area or areas of failure to meet requirements and maintain conditions the Town may have imposed. If, during that period, proof of compliance is made to the satisfaction of designated Town Inspectors by the holder of the permit, the permit shall be continued in force.

- Applicant certifies that all current property taxes due on its licensed premises are paid if property is owned by the Applicant.
- Applicant agrees to permit the Town to periodically verify the accuracy of information contained in this Application and agrees to provide information requested to verify the accuracy of the information and the Certifications contained in this Application.

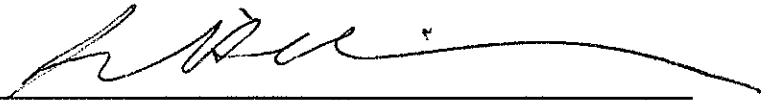
8.) Term & Non-Transferability: Each Sidewalk Fixture(s) Permit is valid for one calendar year from the January 1<sup>st</sup> through December 31st and is non-transferable.

**I have read and fully understand the above rules and regulations applying to the approval of this permit.**



Dated 1/13, 2016

By: \_\_\_\_\_



(Signature)

(Print Name & Address) \_\_\_\_\_

Len Bierbrier

c/o Bierbrier Development

420 Bedford Street, Suite 335

Lexington, MA 02420

OFFICE OF THE BOARD OF SELECTMEN



TOWN OF ARLINGTON

**SIDEWALK FIXTURE(S) PERMIT INDEMNIFICATION AGREEMENT & ACKNOWLEDGEMENT**

On behalf of the business applying for a Sidewalk Fixture(s) Permit from the Town of Arlington Board of Selectmen, I, as a duly authorized agent of **1398 Massachusetts Avenue, LLC**, a licensed business operating within the Town of Arlington, acknowledge that I seek permission to use a portion of the public sidewalk in front of (or where permitted, adjacent to) the business premises to for a sidewalk fixture(s). I understand that a sidewalk fixture(s) permit does not give my business any right, title, or interest in any part of the sidewalk space approved for use.

Furthermore, I, as a duly authorized agent of **1398 Massachusetts Avenue, LLC**, agree to hold harmless the Town of Arlington, its officers and employees, for any loss or damage arising from the use of the public sidewalk or the discontinuance of use resulting from an order, demand, or notice of any governmental agency with jurisdiction.

I understand that Board of Selectmen and/or any government agency with jurisdiction may revoke my permit to use public sidewalk space at any time for any reason whatsoever. The permit can be revoked for failure to comply with any terms and conditions of the permit or any agreements between my business and the Town of Arlington or for violation of any of the rules and regulations enforced by Board of Selectmen, the Department of Inspectional Services, the Police Department, or the Board of Health. I understand there will be no refund of any fees or compensation paid to the Town of Arlington.

I further agree to promptly remove any property placed on the sidewalk space or reimburse the Town of Arlington for the cost of moving my business' property upon receipt of any written notice, demand, or order to vacate the sidewalk space from a governmental agency with jurisdiction.

I certify that I have read and agree with the terms and conditions outlined both here and within the Sidewalk Fixture(s) Permit Application.

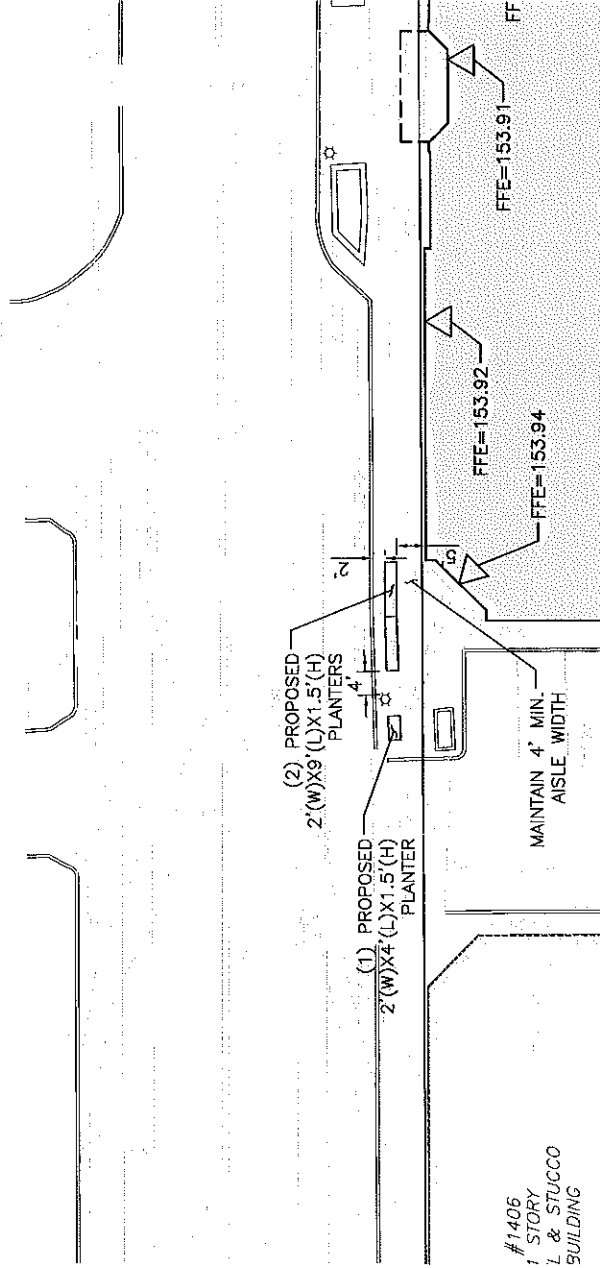
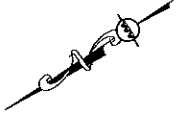
Signature

Date

1/13/16

# MASSACHUSETTS AVENUE

(PUBLIC - VARIABLE WIDTH)



GRAPHIC SCALE



1 inch = 20 ft

N:\PROJECTS\1477-02A\CIVIL\DRAWINGS\CURRENT\1477-02A - LINework.DWG

## APPLICANT/OWNER:

BIERBRIER DEVELOPMENT, INC.  
420 BEDFORD STREET  
LEXINGTON, MA 02420

## PROJECT:

1398 & 1408  
MASSACHUSETTS AVE.  
ARLINGTON, MA

PROJECT NO. 1477-02A DATE 10-15-2015

SCALE: 1"=20' DWG. NAME: C-1477-02A

DESIGNED BY: ND CHECKED BY: SC

PLANT AREA (SQ)



ALLEN & MAJOR  
ASSOCIATES, INC.

civil & structural engineering • landscape architecture  
environmental consulting • interior design • historic preservation  
www.allenmajor.com

100 CONSUMERS WAY

P.O. BOX 3118

WOBURN MA 01888-0118

TEL: (781) 935-6889

FAX: (781) 935-2896

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DRAWING TITLE:

PLANTERS PLAN

P-1

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**1398 Massachusetts Avenue, LLC  
c/o Bierbrier Development, Inc.  
420 Bedford Street, Suite 335  
Lexington, MA 02420**

December 22, 2015

Town of Arlington  
Board of Selectman  
c/o Marie Krepelka, Administrator  
730 Mass Ave  
Arlington, MA 02476

Re: 1398 Mass Ave  
Arlington, MA.

Arlington Board of Selectman,

1398 Massachusetts Avenue, LLC (the "Owner") hereby requests a license to allow for the placement of three (3) landscape planters on the sidewalk in front of 1398 Massachusetts Avenue.

The landscape planters are 24" wide, 18" high and 4' to 9' long and will be planted with seasonal flowers and small shrubs. Owner (or Owner's landscape service) would maintain the landscape planters as part of its regular maintenance. A picture of the proposed planters is attached for reference.

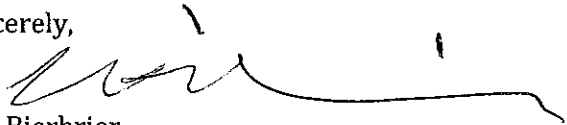
The landscape planters have been carefully located on the sidewalk to maintain an accessible (ADA) pedestrian path of at least 4' in width and will be installed such there is no conflict with automobile doors that may park along the street.

There currently exists a large swath of concrete, approximately 9' in width, in the area where the landscape planters are proposed. The landscape planters will continue the greenspace theme already established by the permanent sidewalk planters that exist in the area.

As it is our understanding that the Engineering Division may be asked to perform a plan review and provide a recommendation, the engineering firm of Allen & Major has prepared a detailed plan (attached) showing the location and dimension of the area.

If you have any questions or need any additional information, please contact Tom Godfrey at 781-258-1199.

Sincerely,



Len Bierbrier  
Manager

Enclosure



