



Land Use Committee Report

City of Newton **In City Council**

Tuesday, September 20, 2016

Present: Councilors Laredo (Chair), Lennon, Auchincloss, Cote, Crossley, Schwartz, and Lipof;
absent: Councilor Harney; also present: Councilors Albright, Baker, Brousal Glaser and Fuller

Chairs Note: The Committee continued its discussion from the August 9, 2016 Land Use meeting on how to improve the Special Permit process and enforcement by Inspectional Services. The goal of these discussions is to address concerns that the special permit process is not as efficient as it could be. The Committee, Planning, and Inspectional Services Departments are stepping back and looking at the process from beginning to end to identify efficiencies to implement.

Special Permit Orders

The discussion started with whether to consolidate any existing special permits on a property into one consolidated special permit. The Committee agreed that there should be only one special permit for any property except for properties with multiple special permits that have ongoing conditions that the property owner must continue to meet. Properties with ongoing special permit conditions are generally large commercial properties. The Chair asked Commissioner Lojek if he would be able to work with the exceptions to consolidating the special permit order into one, and the Commissioner stated that it would not be a problem.

The new consolidated special permit would contain language identifying the status of all of the previous special permits on the property. This change should bring order and consistency between old special permit conditions and new conditions.

Neighborhood Outreach

The Planning staff currently encourages petitioners and anyone else involved in a planned project to communicate with neighbors about what their plans are for their property before filing an application for a special permit. The planners give this advice verbally and it is included in the department's Special Permit Brochure, which special permit applicants receive. The Committee felt that this was appropriate and should continue.

Need for an Attorney

The Planning Department is currently advising special permit petitioners that it is not necessary to engage an attorney for routine special permit projects. The Planning staff lets petitioners know that they are there to guide them through the special permit process and offer constructive advice. The Committee would like to see the Planning Department continue these practices.

Land Use Meeting Schedule

The Committee decided to continue with the current schedule for meetings: the first, second, and fourth Tuesday following the first Monday of each month. The Committee generally devotes the first meeting of the month to larger scale projects, the second meeting is usually for routine projects, and the third meeting is usually dedicated to ongoing special permit discussions. In addition, the Committee felt that for the time being it was appropriate to continue providing estimated times for hearings on the Land Use Agenda, as it is helpful to petitioners and abutters.

Previous Special Permits

The Planning Department is requesting special permit applicants identify any special permits associated with their property or certify that there are no special permits on the property. Although, the Planning Department does its own research to determine if there are any special permits, it would be helpful to know about any existing permits earlier on in the process. As some petitioners may not be aware of whether or not there is special permit on the property or how to find out, Committee members would like to see an option for the petitioner to respond "I don't know." The Planning Department does provide information on how to find special permits on the Registry of Deeds website. In addition, The City Clerk's Office or archivist has records for special permits. The Committee requested that the Planning Department revise the language to incorporate a response of "I don't know" and circulate the new language to the Committee via e-mail.

Zoning Review

In the past, there was concern regarding timely completion of zoning reviews before an applicant files for a special permit. There was a suggestion that the Planning Department may need additional staff for zoning reviews. Chief Planner Alexandra Ananth explained that the Planning Department staff has never missed the deadline of 45 days to complete a review. There is no problem managing the workload. Several planners are cross-trained in zoning review and serve as backup to the Chief Zoning Administrator. Zoning review is usually complete within three weeks of submittal. The Zoning Administrator reviews projects in order of receipt of application. The process seems to work with one person doing the reviews and if there is a need, there is staff within the department that can help. The Committee still had concerns as the study of the Planning Department noted a bottleneck in the zoning review process. The Planning Department staff believes the process is working. The department is cognizant of the deadlines for filing special permits and complete zoning reviews based on those deadlines.

Scanning Project

Commissioner of Inspectional Services John Lojek updated the Committee on the scanning project. The project is ongoing and about 20 to 25% complete. Unfortunately, the City does not have additional resources to dedicate to the scanning project. Therefore, it will take some time to

complete. The Commissioner is also working with City Clerk David Olson to upload all special permits onto the City's CommunityPlus program. It is important to have a searchable database of special permits particularly for Building Inspectors and the public.

Engineering Review Memo

The Planning Department believes that the engineering review memos provided to the Land Use Committee for each special permit petition are more harmful than good. It may make sense not to do review memos. The memos may not add value to the process and can delay a petition for clarification on a misunderstood statement in the memo. In addition, the review requires that petitioners provide costly plans for the review before receiving their special permit. The City Engineering standards require a petitioner to meet all the standards before issuance of a building permit. Engineering reviews are required for all projects that increase impervious surface area by more than 4% of the lot size or that alters landscape that changes the runoff of water to abutting properties or soil erosion. It is Engineering's job to ensure that petitioners meet all engineering standards.

With or without the memos, the Planning Department will continue to work closely with the Engineering Division on reviews and Engineering would be involved early in the Planning Department's design review process. There was suggestion that Planning include a paragraph from Engineering related to the engineering on the site in the Planning memo for the project. The Engineering Division and Planning Department could exercise discretion on how much information to include in the Planning Department memo. A representative of the Engineering Division could attend Land Use and comment on any project that has a significant engineering component. The consensus of the Committee is to give the Planning Department some leeway in determining whether there needs to be an Engineering memo for a project. The Committee members expect to continue discussion regarding whether there should be thresholds for a requirement for an engineering review memo. For example, it may make sense to require an engineering review memo for larger projects. The Committee requested a list of the City's engineering standards.

Survey

Councilor Auchincloss provided the attached draft survey. It is a two-part survey that is designed to determine how likely a petitioner is to recommend pursuing a special permit to others and defines outcomes that are important to a petitioner but are not being satisfied, which can then be improved upon. The Chair questioned whether the question regarding the use of an attorney was necessary. Other committee members felt that the question was appropriate. A Committee member suggested that there should be a revision to the question related to the number of phone calls and trips to City Hall into two questions. Consider instead two questions measuring satisfaction in the time it took to apply for the special permit to the public hearing and a second question on the time from the public hearing to actual receipt of the special permit. There could also be a question with a feedback section asking what the petitioner felt was the most time consuming part of the process. The Committee is looking for baseline information from petitioners

on the special permit process. The Committee agreed that Councilor Auchincloss should make minor modifications to the survey and send it out to special permit petitioners that have gone through the process in the last three years. Committee members are encouraged to provide Councilor Auchincloss with additional input on the survey before it is sent out.

Conclusion

As there are a number of issues that the Committee still needs to discuss like the City's website and tracking software, the plan is to continue the discussion later in October.

Request for a Consistency Ruling relative to Special Permit #19-15 for 131-181 Needham Street granted on April 21, 2015 to make changes to the rear building façade including: a glass vestibule, dedicated student drop off/pick up area and loading area enlargement to locate Boston Ballet at the site.

NOTE: Commissioner Lojek presented the request. Boston Ballet, a non-profit educational organization, is looking to lease space in a rear building at 131-181 Needham Street, which will require some minor site plan changes and a minor façade change to the rear building. The minor changes include a glass vestibule to the space for the school, a dedicated student drop off and pick-up area adjacent to the proposed entrance to the school, and a slight increase to the loading area for that building. The changes are to provide safe access for the Boston Ballet students. The petitioner would like confirmation that the changes do not require a special permit amendment or administrative site plan review and that the Boston Ballet is a non-profit educational use allowed by-right. Commissioner Lojek and the Committee agreed that the proposed changes are consistent with the special permit.

#261-16 Special Permit Petition to allow site and building improvements at "The Street"
CHESTNUT HILL SHOPPING CENTER LLC. petition for **SPECIAL PERMIT/SITE PLAN APPROVAL** to **ALTER A NONCONFORMING STRUCTURE** to construct new buildings for existing and new commercial uses including banking, office, medical office, theatre, health club, retail, restaurant and parking, to allow buildings in excess of 20,000 sq. ft., allow a building up to 60' in height, site plan review for buildings within 300' of a great pond, allow parking within a setback, extend Farmers Market special permit 230-14, update signage special permit 417-12, allow parking stalls in garage to be reduced stall depth, allow reduced parking facility lighting and waive interior landscaping requirements at 1-55 Boylston Street, Ward 7, Chestnut Hill, on land known as SBL 63037 0025, 63037 0026, containing approximately 859,444 sq. ft. in a district zoned BUSINESS USE 4. Ref. 7.3.3, 7.4, 4.1.2.B.1, 4.1.2.B.2, 4.1.2.B.3, 5.6, 5.1.8, 6.4.22, 5.8.2.C, 5.1.8.B, 5.1.10.A, 5.1.9.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Continued; Land Use Held 6-0**

Note: Attorney Frank Stearns of Holland and Knight, Richard Askin and Katie Wetherbee of WS Development presented the petition. The petitioners provided the Committee with a PowerPoint

presentation that details proposed changes to the site, which can be found on the City's website under the Special Permit link on the home page. The petitioner is proposing a redevelopment of portions of the buildings that make up "The Street," a shopping center at 1-55 Boylston Street. The redevelopment will include additional retail and office space. In 2011, the petitioner received a special permit to allow for more uses at the site including retail, a health club, and offices; as well as allowing for a shared parking program in order to create "The Street." The petitioner is proposing replacing the building at 27 Boylston Street with a two-story building with a larger footprint than what exists today, infilling two sections of the building at 55 Boylston Street, and adding two one-story pavilions in proximity of the edge of Hammond Pond for retail use. The proposal also includes changes to the parking configuration on the site. Approximately 200 above ground parking spaces will be lost but the petitioner is planning to add an additional 289 spaces in a new parking garage under 27 Boylston Street. In addition, the petitioner is seeking approval to decrease the size of some of the parking spaces in the garage in order to remove some of the parking near the pond. The petitioner has done community outreach in the area and met with the Chestnut Hill Historic District Commission and continues to meet with the Conservation Commission. The petitioner hopes to create a more vibrant, pedestrian friendly retail area with many community events.

The new building at 27 Boylston Street will be slightly lower than the existing building, as the petitioner intends to level the existing slope. The petitioner's plan includes a pedestrian mews in between 27 Beacon Street and 33 Boylston Street. There will be additional landscaped planters and café tables added to that area. The infill space at 55 Boylston Street will add an expanded area on the second floor for a restaurant with outdoor seating that provides a view of the pond. The total Floor Area Ratio (FAR) for the site is increasing from .48 to .49, where 1.5 is allowed by right. The planned pavilion buildings are located near the edge of the pond on what is currently pavement. Each building is an addition of a little over 10,000 square feet of space.

The petitioner is requesting special permit relief for a number of components of the project including the extension of a non-conforming structure, to allow a building in excess of 20,000 square feet of gross floor area, to allow a building height of up to 60', to allow construction within 300' of a great pond, to allow a waiver for parking stall depth, to allow parking stalls within a setback, to allow sign waivers and to allow for waivers of the lighting and interior landscaping requirements for parking facilities containing more than five stalls.

The petitioner is working with the City's Conservation Commission on upgrading the rain gardens, rebuilding wetlands, and creating a safe and level walkway along the edge of Hammond Pond. The petitioner will continue to meet and work with the Conservation Commission regarding the proposed project particularly the buildings along the pond's edge.

Planner Neil Cronin reviewed the project, which included the requested relief and what criteria to consider relative to this special permit request. The plan is consistent with the City's Comprehensive Plan. The Planning Department expects further discussion regarding the pond buildings and the potential uses, particularly the impact on the pond and the abutters. The Planning Department's presentation and memo on the project can be found on the website at the following link:

http://www.newtonma.gov/gov/aldermen/special_permits/special_permits_2016.asp

The Chair stated that after public comment, it is his intention is to continue the public hearing for a future meeting. The Councilors should ask questions of the petitioners who will provide answers during the next discussion of the petition.

Questions & Comments:

- 1) How many parking spaces will be lost? How does the parking work on site?

There is a loss of 200 parking spaces on the ground but the underground parking lot will have 300 new spaces.

- 2) What will be inside the pavilions? The petitioner may want to consider downsizing the pavilion structures to give more public access to the pond. The petitioner should not block the view of the pond with retail stores. It is important to protect the pond and it is hard to understand the necessity of the pavilions.

The pavilions are intended to be retail structures.

- 3) Could the pavilions be limited to specific uses? What are the plans for the area around the pond? What is the vision for the pavilion spaces? Provide your thoughts on what uses would be considered for those buildings?

- 4) Is there any intention of adding the dock seen on the plans?

The project does not include anything over the water but it may be considered at a later date.

- 5) The petitioner is still working with the Conservation Commission and will be back before the Commission to discuss the project. The Land Use Committee will not vote on the petition until the Conservation Commission has completed review of the project. It is important that the petitioner continue to work with the Department of Conservation and Recreation and the City to undo the damage done to Hammond Pond over the years.

- 5) There is only one lane of traffic in each direction to traverse the site from east to west. Traffic needs to flow in both directions and people need to get in and out of the site while external traffic still flows around the site. If there is a backup of that lane it could cause congestion on Route 9. It is important to make sure that the traffic circulation plan on site is right to avoid additional impact to the site's abutters. How easy would it be to add an additional east/west lane through the site?

- 6) The petitioner should look at who is willing to park underground. It is a challenge to get

people to park underground. It may makes sense to ask employees to park in the underground garage in order to leave as many above ground parking spaces available as possible.

- 7) What are the advantages and disadvantages of the pavilion buildings? Why are they are better for the pond than green space?
- 8) Was there any consideration to adding residential and/or additional office space to the shopping center? Why is it mostly retail space with a small amount of office space?
- 9) The buildings on the edge of the pond change the aspect of the space around the pond, especially the public space.
- 10) Provide more information on the planned green rooftops for the pavilion buildings.
- 11) What is the plan for addressing the pond's water quality now and in the future?
- 12) Provide an image of the garage entrance at 27b Boylston Street.
- 13) Why does retail work on the second floor at this site?
- 14) The Container Store is moving to the Second Floor of 55 Boylston Street. Is there a plan for an elevator in that building?
- 15) What noise constraints will be in place for the planned outside dining area and the pavilion buildings?
- 16) Provide more details on the planned boardwalk along the pond's edge including the present condition of the pond's edge.
- 17) The petitioner may want to have a conversation with the Chestnut Hill Historic District Commission.
- 18) Clarify the Conservation Commission's position on the pavilion buildings and the pond. It is important to understand in detail whether the plans are better or worse for the pond.
- 19) What is happening to the large tree by the current Container Store location?

Public Hearing:

Gloria Gavris, 21 Monadnock Road, Member of the Chestnut Hill Association, would like to see WS Development, the City, and the Community to work to save the pond by leveraging resources to preserve the pond. The kettle pond is a unique resource and she would suggest that the City

partner with WS Development to develop a maintenance plan. She would like to know what the setback requirement is for the pavilion buildings by the pond and would suggest a community space by the pond. In addition she questioned whether 100 new parking spaces were enough and what the snow storage and removal plan was for the site.

John Grandin, 42 Lawrence Road , WS Development has been a good partner and a number of good things have been done with the shopping center. It was surprise to see the buildings along the edge of the pond. It is a public space that will last for generations. Mr. Grandin likes almost everything else about the site. He likes retail use less than a restaurant use for the pavilion spaces.

David Frieze, 25 Moorfield Road, is a direct abutter as his home is adjacent to the shopping center. He has met with WS Development and likes the plans but has some concerns. He would prefer not to have the pond buildings. Mr. Frieze also has concerns related to noise, where deliveries will be mad. He is would also like to know if there is outdoor seating planned for at 27 Boylston Street. He added that the pond is a natural resource that should be shared. There is a significant amount of wildlife around the pond that should be protected.

Liane Glazer – 545 Hammon Street, WS Development has been good about meeting with neighbors; however, the final product is a little different than what was discussed. The proposed buildings are close to her property line and she just invested in improving her backyard. Ms. Glazer would like to see the petitioner consider lowering the building height at 27 Boylston Street, provide a traffic study, and to study the loading bay and entrance to the garage. She also has concerns with the noise from the proposed outdoor dining area.

No one else wished to speak on the petition at this point in the process. The Chair stated that the public hearing remains open and the Committee adjourned at 9:10 PM.

Respectfully submitted,

Marc C. Laredo, Chair