



Land Use Committee Agenda

City of Newton In City Council

Tuesday, September 20, 2016

Room 211

5:30 PM

Chairs Note: The Committee will continue a discussion on how to improve the Special Permit process and enforcement by Inspectional Services.

Chamber

7:00 PM

Request for a Consistency Ruling relative to 131-181 Needham Street requesting 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.

#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.

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton’s ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.



RECEIVED
By City Clerk at 10:53 am, Sep 15, 2016

VIA HAND DELIVERY

September 6, 2016

Mr. John Lojek
Commissioner of Inspectional Services
City of Newton
Newton City Hall, Room 202
1000 Commonwealth Ave.
Newton Centre, MA 02459

**RE: Newton Technology Park, LLC (Newton Nexus)
131-181 Needham Street - Special Permit (#19-15)**

**Request for Zoning Use Determination for Non-Profit – Boston Ballet School
Request for Consistency Ruling – Site Plan Changes**

Dear Commissioner Lojek:

BACKGROUND

At the time of the special permit process for the redevelopment of Newton Technology Park, a portion of the rear building (known as Building N 1) was occupied by New England Cryogenic, a general office use tenant. Crosspoint expected them to stay in occupancy through the redevelopment of the two other buildings on the site, known as Buildings N 2 and N 3. This tenant recently decided to vacate. Crosspoint was approached by the Boston Ballet School, presently located at 863 Washington Street, to lease them space in Building N 1 to replace some of the New England Cryogenic tenant space.

Boston Ballet School is a not for profit educational organization. See attached Exhibit "A" Designation of Boston Ballet's Non-Profit Educational Status. It has a long history of operating in Newton and it desires to provide its students a modern dance environment in an amenity rich center such as Newton Nexus. Boston Ballet School would occupy approximately 26,500 sf (space N101) in Building N 1.

REQUEST FOR ZONING USE DETERMINATION

Because the Boston Ballet School use is a non-profit school, it is allowed by right in all zoning districts in Newton, including the Mixed Use 1 zoning district in which Newton Nexus site is located. NZO section 6.3.14, and it is protected by MGL c. 40A, §3 and the so-called "Dover Amendment". In addition, the special permit for the Newton Nexus

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development (Board Order # 19-15, April 21, 2015 (a copy attached as Exhibit "B")) allows a mix of uses on the property including office, service, retail, restaurant and uses similar or accessory to those permitted. This special permit also included a shared parking special permit based on 3 or more uses. A diverse and complementary mix of uses were important considerations for the special permit granting authority to find that the project met the special permit criteria and to promote occupancies within Newton Nexus that have different traffic peaks and that encourages single vehicle trips to multiple locations (work, shopping, dining, and now dance class).

One purpose of this letter is to request your concurrence that the Boston Ballet use is a non-profit educational use allowed by right. We also request your concurrence that the special permit process and conditions in Board order #19-15 are sufficient to impose reasonable regulation on the Dover-protected use and that neither a special permit amendment nor an administrative site plan review are required.

REQUEST FOR CONSISTENCY RULING

A second purpose of this letter is to inform you of (i) some minor site plan changes and (ii) a minor building façade change to Building N 1 to accommodate Boston Ballet and to request your Consistency Ruling determination under Condition # 11 of the Special Permit that such changes meet all the criteria of the Special Permit for an affirmative consistency ruling. The minor changes are (i) the addition of a glass entry vestibule to the Boston Ballet space, as shown on the attached sketch plan (Exhibit "A-2"); (ii) a dedicated student drop off/pick up area in the parking lot adjacent to the proposed entrance to enhance safe and efficient student drop off and pick up into the secure vestibule; and (iii) a small enlargement of the approved Loading Area for Building N 2 to accommodate separate retail tenants of Building N 2. These changes are shown in Exhibit "C", as Revision Note #11 on the updated Layout and Zoning Plan, Sheet 5.

The Site Plan changes (i) and (ii) are all designed to improve safe access for the Boston Ballet students. The new Boston Ballet entrance will be located on the southwest side of Building N 1, away from the busy activity expected in the main courtyard between the three buildings. The vestibule will provide a secure waiting area for student drop off and pick up. The reserved parking areas will allow students to come and go to their parents' cars without crossing the internal site drive aisles. In addition locating the main entrance to the Boston Ballet space on the southwest side of Building N 1 will contribute overall to the improvement of internal site access and vehicular and pedestrian circulation. The loading dock modification to Building N 2 (iii) above, preserves a fully compliant and adequate drive aisle width at that location. See Exhibit "C", Site Plan.

Special Permit Condition # 11 (Exhibit "B"), authorizes you to make Consistency Ruling determinations when 5 criteria are met. Those 5 criteria are:

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- a) The first criteria for a consistency ruling is that the changes do not involve Conservation Commission jurisdiction. The changes do not expand or enlarge the buildings and the work is well outside the 200' riverfront setback (see Exhibit "C" Sheet No. 5 – Layout and Zoning Plan by Kelly Engineering Group, Inc.). All the work is to impervious areas of the existing parking lot. The changes do not affect the approved storm water management design.
- b) The second criteria for a consistency ruling is that the change in use and addition of an entry vestibule and drop off area do not give rise to an increase in the zoning parking demand for the overall project. In fact, the 26, 500 square feet of office space would have a zoning parking demand of 100 parking stalls under NZO section 5.1.4. See Exhibit "E", Parking Calculations. By contrast, a school primarily serving children under age 14 has a zoning parking demand for the staff and employees. NZO Section 5.1.4. Boston Ballet has informed us that on the largest shift it expects to have 20 staff and employees on site. This produces a zoning parking demand of 20 spaces. Thus, there is in fact a significant decrease in the zoning parking demand associated with the change in use. See Exhibit "E", Parking Calculations. Note also that the parking calculations include the approved retail use of 7,000 square feet of Building N 1 as Retail in substitution for the balance of the former New England Cryogenic office space. The net change in the total number of parking stalls on the site is from 518 to 514. Pursuant to the 1/3rd shared parking special permit, the required minimum number of zoning parking spaces is 438 spaces. Thus, there remains 76 surplus parking stalls in the parking supply to meet the revised zoning parking demand. In addition, the Special Permit (Conditions # 8 and 9) require both a traffic after study and a parking utilization after study following full occupancy. This will provide an opportunity to assess and respond to any traffic or parking related impacts associated with the mix of uses within the project.
- c) The third criteria for a consistency ruling is that no new zoning relief is required for the change. Here, as documented, the use is "by right" and the physical changes conform to all applicable zoning requirements.
- d) The fourth criteria for a consistency ruling is that there is no reduction in useable open space. There is no change to useable open space for the change in use or the site plan revisions.
- e) The fifth criteria for a consistency ruling is that any façade modification does not deviate from the vibrancy of the mixed use development. This criteria was added because of a design objective that the Needham Street facades on Building N 2 and N 3 contribute to the Needham Street pedestrian streetscape with "store entrances and the use of glazing and attractive materials". See Exhibit "B", Special Permit Condition #13. The changes do not affect the fronts of Buildings

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Mr. John Lojek
September 1, 2016
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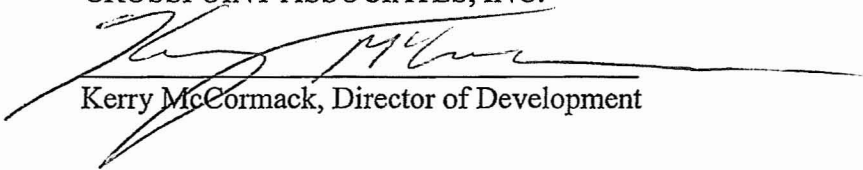
N 2 or N 3. Further this change brings a complementary tenant to the Nexus location to complement the retail locations, and it does so by adding a building entry which was promoted during the design review process.

For these reasons, we request your consistency ruling determination. If you have any questions, please do not hesitate to contact me,

Email: kmccormack@crosspointassociates.com
Phone: 781.916.8680

Very truly yours,

NEWTON TECHNOLOGY PARK, LLC
By its authorized agent,
CROSSPOINT ASSOCIATES, INC.



Kerry McCormack, Director of Development

I concur in the determination that the Boston Ballet School is a "by right" use and is consistent with the Special Permit # 19-15. No further review of the use is required. I also determine that the façade vestibule addition and the secure drop off/pick up area to Building N 1 are minor changes and consistent with the approved design in the Special Permit. I will notify the Land Use Committee through the Planning Department of these Determinations.

CITY OF NEWTON INSPECTIONAL SERVICES COMMISSIONER

By: John Lojek, Commissioner

Attachments:

- Exhibit A – Boston Ballet Non-Profit Documentation
- Exhibit A-2 – Boston Ballet/Newton Nexus 8/11/2016 Sketch Plan and vestibule photograph
- Exhibit B – Special Permit #19-15
- Exhibit C – Sheet #5, Layout and Zoning Plan, Kelly Engineering revised August 29, 2016

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