

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

THURSDAY, JANUARY 20, 2011

Present: Ald. Hess-Mahan (Chairman), Merrill, Blazar and Fischman; absent: Albright Crossley Harney and Schnipper; also present: Ald. Ciccone
City staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

#300-10 1479 WASHINGTON STREET LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE and STRUCTURE to expand an existing funeral home use; construct a retaining wall greater than 4 feet in the side and rear setback, ~~to waive 38 parking stalls~~; and, to locate a parking stall in the front setback and closer than 5 feet to the street at 1479 WASHINGTON STREET, Ward 3, West Newton, on land known as SBL 33, 5, 4, containing ≈8,990 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-21(b), 30-19(d)(6), (g)(1), and (m), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: WAIVER FOR 38 PARKING STALLS WITHDRAWN WITHOUT PREDJUDICE 4-0
ITEM APPROVED 4-0

NOTE: The public hearing on this item was opened and closed on December 14, 2010. The petitioner was represented by Attorney Peter Harrington. The subject funeral home, located on Washington Street just outside of West Newton Square, is bound on the west by Simms Court, a private way with two residences to the rear, and to the east by the Mass Turnpike ring road. Constructed in 1840, the building has been used as a funeral home since 1939 and is a legally nonconforming structure and use. The petitioner wishes to add a 4,930 square-foot addition and move the public use space designated for paying respects to the deceased to the first floor of the new portion of the building and increase the amount of office and storage space to 3,047 square feet. The public space which is currently comprised of three viewing rooms will decrease from 2,828 square feet to 2,580 square feet, with one less viewing room. The main ceremonial entrance will be relocated from Washington Street to the Simms Court side of the building. There are no substantial changes proposed to the front of the building; the significant changes are proposed to the side and rear of the building. The proposed building height will increase from 27.5 feet to 29.5 (24 feet is allowed by-right). The petitioner received a special permit in 1995 for an addition that was 490 square feet larger, but that permit was never exercised.

There were no parking requirements in 1939. There is currently one parking space provided in a garage on the site. The petitioner proposes a new two-car garage and two surface parking spaces, one of which would be located within the front setback, closer than five feet to the property line along Simms Court. Since 1995, the petitioner has leased the parking lot across Simms Court at 1487 Washington Street from the Roman Catholic Archdiocese of Boston. The lot is not landscaped and has dimensionally noncompliant spaces. Because the petitioner renews its lease with the Archdiocese every five years, it has not requested relief to provide parking on a different lot but has requested instead a straightforward waiver of 38 parking spaces.

The petitioner disagrees with the Planning Department's inclusion of the non-public space to determine the number of parking spaces required. According to the Planning Department's calculation 12 spaces are required; the existing use requires 71 spaces, which are parking credits, the petitioner has one space on-site and proposes to add 3 more, which leaves a 38-space deficit. The Planning Department is concerned about the petitioner losing its lease with the Archdiocese and being unable to provide additional parking and has suggested that should the special permit be approved it include a condition that the petitioner must cease its funeral home business until it finds alternate parking or obtains a new special permit. The petitioner said it has the right of first refusal should the Archdiocese decide to sell the parking lot. The Planning Department is also concerned about the queuing of funeral processions on Washington Street. The Planning Department suggested that the petitioner widen and resurface Simms Court and continue granite curbing from Washington Street to the north side of the Archdiocese parking lot and provide a drainage system as well. The petitioner said that Simms Court is over 200 feet long and the cost would exceed \$25,000 to \$30,000 for each side. Since the petitioner has not agreed to undertake the proposed infrastructure improvements, it believes the existing drainage system is satisfactory. The petitioner has agreed to delineate the Archdiocesan parking lot by adding a strip of low screening along Simms Court. The Planning Department asked the petitioner to provide profiles and specifications for the proposed retaining wall greater than four feet along the rear and side property lines. A photometric plan was provided this evening. A construction management plan will be submitted if and when a building permit is sought.

Proposed landscaping includes an "English garden" near the entrance on Simms Court; island beds on Simms Court; and, foundation plantings on the Washington Street façade. Several flowering pear trees on the site that will be removed for construction will be replaced.

William Gately, 15 Simms Court, submitted a letter dated January 18, 2011 offering his complete support of the petition. There was no public comment.

At this evening's working session the Committee reviewed a memorandum dated January 14, 2011 from Commissioner of Inspectional Services John Lojek in which he concluded that Section 30-19(d)(6) should be used to determine the parking requirements for these areas of the funeral home that are used by the public for circulation and viewing. The other sections of the building should have parking requirements based on their uses, i.e., office, storage, etc., not the general "...one stall for each 40 square feet of floor space within a funeral home open to the public use." Based on the Commissioner's calculation, the petitioner requires no parking relief and actually has a net surplus of 2 parking spaces.

Everyone agrees that exiting the site via Simms Court is dangerous because of the poor sight lines and vehicles coming around the corner from West Newton Square. The petitioner suggested closing Simms Court with a breakaway gate or restricting travel at the intersection of Washington Street with signage. The Planning Department believes neither of these are viable solutions. It would like to see Simms Court remain a means of circulation to the site. The Planning Department suggested that Simms Court be made one-way, however, that is outside the Board of Alderman's purview. The petitioner proposed widening the entrance at Allen Place, which runs parallel to Simms Court, for access through the rear of the parking lot so that vehicles can take Allen Place to Prospect Place to exit at the traffic light at Prospect Street. This circulation would avoid queuing on Washington Street and is how the residents of Simms Court exit to Washington Street. The petitioner proposes to erect a "Do Not Exit" sign on Simms Court to Washington Street to discourage visitors from taking a left turn onto Washington Street. The petitioner noted that this type of signage, which is only directional to visitors, would not be enforceable by the city. Any signage would be placed on the petitioner's property. The Planning

Department pointed out that improvements to Allen Place are beyond the scope of this petition. There was some discussion about providing police details at Simms Court and Washington Street. The petitioner explained that detail officers are often provided, depending on the size of the wake and funeral. The petitioner will submit a more comprehensive parking management plan to include when details will be provided.

The petitioner has agreed to install granite curbing on the east side of Simms Court, but prefers not to install it on the west side along the parking lot, where it proposes a row of low plantings. The proposed retaining wall in the rear and side setbacks will provide for one of the two surface on-site parking spaces. A revised site plan with minor changes was submitted this evening

Since relief for 38 parking spaces is no longer necessary, the Committee upon a request from Mr. Harrington voted 4-0 to allow that portion of the petition to be withdrawn without prejudice. Alderman Merrill, noting that the City has only four funeral homes, none of which have much on-site parking, said this is an important service to the community and moved approval of the petition with the findings and conditions contained in the draft special permit board order dated February 7, 2011. Alderman Merrill's motion carried 4-0.

#268-02(2) DANIEL HAVERTY/KENMORE REALTY CORPORATION petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a restaurant having over 50 seats (increase from 48 to 76 seats) and to waive the additional number of parking spaces (3) required for a restaurant located at 1349 WASHINGTON STREET, Ward 3, on land known as SBL 33, 12, 1, in a district zoned Business 1. (Ref: Sec 30-24, 30-23, 30-11(d)(9), 30-19(c)(2), (3), and (d), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0

NOTE: The public hearing was opened and closed on this item on January 20, 2011. Mr. Haverty leases from Kenmore Realty Corporation the space in which his business the Cherry Tree Bar & Grille is located in West Newton Square. Mr. Haverty started working at the Cherry Tree in 1986 and has owned and operated it since 1992. He obtained a special permit in 2002 for a seven-space parking waiver when the business moved to its current location from its prior location at 1359 Washington Street. He wishes to expand his business to the adjacent vacant retail space formerly occupied by International Dancesport Studios. The total parking requirement is 29 spaces; the restaurant has a credit of 18 spaces, with an additional 8-space credit from the International Dancesport Studios. The proposed increase in seating from 50 to 76 seats triggers a requirement for three additional parking spaces, for which the petitioner is seeking a parking waiver. The property has eight parking spaces, which are shared with three other tenants and used mostly for employee parking. Although there is no on-site parking for patrons, there is a municipal parking lot at the rear of the building. The petitioner said there is more than ample parking for employees and patrons because the other businesses are closed after 6:00 PM, when he is busiest. The petitioner anticipates up to nine employees on the largest shift. The restaurant has 14 bar seats and 34 dining seats. The petitioner is not proposing any additional bar seating. Currently, there is a one-stall handicapped women's room for which the petitioner obtained a waiver; the proposed expansion will allow the petitioner to install a compliant two-stall handicapped-accessible women's room, providing two bathrooms on each floor, conforming to ADA requirements.

The Planning Department has suggested and the petitioner has agreed to a cash contribution for the installation of pedestrian countdown signal heads to an existing traffic signal at Cherry/Washington Streets to provide information on how much time is left to safely cross the street. The petitioner in response to another suggestion from the Planning Department has

spoken with Kenmore Realty about fencing in the dumpster to the rear of the building and about the placement of bike racks. Explaining the cost factor, the petitioner has at this time no plans to remove one of the front entrances; however, only one doorway will be used. He does plan to install another awning to unify the front façade. The existing awning is externally lighted.

John Sisson, 45 Greenlawn Avenue, representing and speaking on behalf of *Newton Villages*, said this is a great small business of the sort that the City should encourage instead of holding hostage to parking spaces. He would like to see outdoor seating. He also suggested that the City not require the petitioner to install a bike rack, since the City is getting 109 bike racks to install city-wide.

The Committee asked the Planning Department to provide for the working session a map or list of available parking in West Newton Square.

This evening the Committee reviewed the Planning Department's working session memorandum, which included parking areas available in West Newton Square. Again, the petitioner noted that although he would like to unify the front, it would be too costly at this time. He would like to upgrade the rear façade as well but the other tenants and owner would have to be consulted and again, cost is a factor. He will fence his dumpster. He also reiterated his commitment to funding pedestrian countdown signal heads at the Cherry Street/Washington Street intersection.

Alderman Merrill moved approval of the petition with the findings and conditions included in the draft special permit dated February 7, 2011.

The meeting was adjourned at approximately 9:30 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman