

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 17, 2009

Present: Ald. Mansfield (Chairman), Ald. Hess-Mahan, Fischman, Albright, Brandel, Vance, Merrill, and Sangiolo
City staff: Chief Planner Candace Havens, Senior Planner Alexandra Ananth, Associate City Solicitor Ouida Young, and Chief Committee Clerk Linda Finucane

#43-09 NSTAR ELECTRIC CO. petition to alter the grade in excess of three feet on a portion of the lot in order to construct a retaining wall at 48 ELLIOT STREET, Ward 5, NEWTON UPPER FALLS, on land known as Sec 51, Blk 29, Lot 38 containing approx 158,000 sf of land in a district zoned MANUFACTURING. Ref: Sec 30-24 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 8-0

NOTE: This is a request to increase the grade of a portion of a 3.6-acre lot accessed off Elliot St., but primarily bounded by the MBTA Green line right-of-way, a rail spur serving industrial sites on Needham St., and the City's DPW yard and Public Buildings Dept. offices. The site currently contains several electrical transformers and associated equipment, as well as various accessory structures and temporary construction facilities. Although the site is visible from the MBTA tracks, it is generally not visible from public ways or any residential properties. The site of the requested grade change is adjacent to the MBTA tracks, where a new transformer has been constructed (by right). The site drops off steeply behind the transformer pad to a ravine that separates the site from the slightly higher MBTA tracks. The petitioner has requested that a retaining wall and fill—approximately 18 feet in height at maximum—be installed behind the transformer pad to provide a 13-ft. wide level area that will allow vehicular access to service the transformer.

At the public hearing on March 10, 2009, Charles Quinn, representing NStar, explained that the new transformer is urgently needed to address loads in the area, which is experiencing demand growth of 2.4% per year. He also explained that NStar is currently meeting service needs by using a mobile transformer on this site, which will be removed once the new transformer goes on line. He added that the capacity is needed for current and future demands, including the Avalon apartments, the First Avenue area in Needham and the proposed Chestnut Hill Square. He reported that the City Forester had determined that no tree removal permit was required., that the Fire Department is satisfied with access to the site, and that the Associate City Engineer has also found that all technical needs are met, with the customary construction conditions required. Ald. Sangiolo asked whether the Riverside area is fed from this site and was told that it was. Ald. Fischman asked if the transformer had any off-site noise impact, or whether

construction of the retaining wall would have any impacts on MBTA operation. Mr. Quinn answered that construction would not affect the MBTA, and that he would provide detailed noise information for the working session. Ald. Albright asked whether, in conjunction with this petition, NStar could plan to reduce the number of double poles in the city. Mr. Quinn agreed to report back for the working session. Ald. Brandel said that the view of the site from MBTA trains is unpleasant, and asked if there was any way to improve this through screening associated with this project. Mr. Quinn replied that the segmented block wall would be seen from the MBTA, and would be more attractive than the current view. The Chair noted that the Planning Department had suggested that the entrance to the site from Elliot St., which faces a residential neighborhood, is sparsely planted and could benefit from some additional landscaping. Ald. Brandel suggested that any additional effort by the petitioner to improve the looks of the site would be appreciated.

The Committee agreed that since this site is not observable from roadways and access is limited for safety reasons, a scheduled site visit would be useful. On March 12, NStar representatives guided several Board members and Ms. Havens around the site. They agreed that because of the topography and the nature and height of the equipment, it would be difficult to fully screen the site from the MBTA, but that with the completion of construction and removal of some of the equipment associated with the temporary mobile transformer, the organization of the site and views of it could be improved.

At this working session, Ms. Ananth reviewed the characteristics of the site and noted that the expected increase in capacity is 16.7%, serving portions of Newton, Brookline, Needham and Wellesley. She added that NStar reported that the addition of this transformer should have no appreciable effect on the sound level generated by the equipment at this site. There are presently 3 transformers operating at 71 decibels each, while the new transformer will be quieter at 60 decibels. When all 4 are in operation, they will produce less than 85 decibels. Since the nearest residence is over 400 feet from the new transformer, residential property should not be adversely affected by the individual or combined noise level.

She also reported that NStar has agreed to purchase and install landscaping to improve the entrance to the site. Ald. Mansfield noted that the entrance, which also serves as access to the Public Buildings Dept., is completely unmarked. While there is no need to identify the NStar facility, which is not open to the public, he suggested that including a street number marker in the landscaping plan would be useful for public safety responders. Ald. Brandel continued to suggest that some attention be given to improving the looks of the site from the MBTA as well, similar to what has been done at an NStar substation adjacent to the Fenway Green Line station. Mr. Quinn replied that a chain link fence with a smaller mesh could be installed on top of the wall, where a fence will be required in any case. Ald. Merrill asked whether this project would have any effect on the NewTV property, which abuts the site at the rear, and was assured it would not. Ald. Sangiolo asked whether transfer to the new transformer would require a shut-off of power in the area, and Mr. Quinn replied that the transfer would be blind to the customer.

The petitioner also submitted a table summarizing the double-pole status in the city as of 3/11/09. It showed that there were currently 961 such poles. Mr. Quinn explained that NStar is waiting for the City to transfer its street light and/or fire alarm equipment from 353 of these poles, more than 1/3 of the total number, before they can remove the old pole. For another 319, Verizon must remove its equipment, and for 122, the cable providers must do the same. NStar has agreed to try to push each of these along. He also reported that an additional 159 poles will be addressed in a planned circuit upgrade this year. Ald. Albright suggested that the Board Clerk obtain a map showing the locations of the 961 poles and the name of a direct NStar contact for this work. She also agreed to docket a continuing item on this matter before the Public Facilities Committee. The Chair thanked the petitioner for their cooperation.

Ald. Brandel then moved approval of the petition, asking that the Planning Department approve a sample of the wall material, and finding that the grade change would improve internal circulation and access on the site, that it would have no adverse effects on abutters, that it will be partially obscured by existing vegetation and will provide a more orderly appearance of the site, that the landscaping on Elliot St. will be more attractive for the residential neighborhood and passersby, and that the proposal will enhance capacity and assure continued electrical supply. He added the conditions that the Planning Director review and approve both the landscaping and identification sign at the Elliot St. entrance and the retaining wall block and fencing materials. Ald. Sangiolo added a condition that the ravine area be cleaned up during construction, and that the petitioner assume a continuing obligation for removing the trash and debris that may accumulate on their property at the foot of the retaining wall, to which Ald. Brandel agreed.

The motion was approved by a vote of 8-0.

Renewal Applications for 2009 Class 2 Auto Dealer Licenses

#411-08 VELOCITY MOTORS INC.
 14 HAWTHORN ST
 NONANTUM

ACTION: APPROVED 8-0

#412-08 ENZO's AUTO SALES
 10 HAWTHORN STREET
 NONANTUM

ACTION: APPROVED 8-0

NOTE: Both these applications met all the criteria for renewal, according to Ms. Finucane, and were approved unanimously on the motion of Ald. Merrill.

New Application for a 2009 Class 2 Auto Dealer License

#74-09 WASHINGTON STREET SUNOCO, INC.
 875 Washington Street
 Newtonville

ACTION: APPROVED 8-0

NOTE: The owner of this business was present, and shared a plan of the site showing adequate room for the storage of approximately three vehicles for sale, under the free standing sign. Ald. Albright moved approval, and the motion passed unanimously.

REFERRED TO PROG. & SERV., PUB. FAC., AND LAND USE COMMITTEES

#329-08 ALD. JOHNSON, ALBRIGHT & LINSKY requesting amendment to §20-13, *Noise Ordinance*, of the City of Newton Ordinances to prohibit the City from exceeding the parameters of time and decibel restrictions unless it receives approval from the Land Use Committee of the Board of Aldermen. [09/02/08 @ 12:00 PM]

PROGRAMS & SERVICES NO ACTION NECESSARY 7-0 (Parker not voting) on 3/4/09

ACTION: NO ACTION NECESSARY 7-0 (Sangiolo not voting)

NOTE: Ald. Albright explained that the Mayor would not agree to sign a Board Order, if approved, that would limit his power to grant exceptions to the Noise Ordinance, because in many cases he is called upon to act quickly. He added that he typically grants such exceptions once or twice a week, she reported. Therefore, the Programs and Services Committee voted NAN on this item, and docketed #329-08(2) below, a resolution that would ask the Mayor to involve the Ward Aldermen in his determination of these exemptions. The Mayor has agreed to abide by this resolution.

The Chair noted that in the reconstruction of two MBTA bridges in Newton Highlands and Newton Center in the past two years, the Mayor had granted such exemptions with a significant and successful public information process, in conjunction with the Ward 6 Aldermen. Ald. Brandel asked that a review of this experience and the public process put into place by the MBTA be provided to the Board.

Ald. Albright then moved No Action Necessary on this item, as well as Approval of the following item, and both Motions were approved 7-0, with Ald. Sangiolo not voting as she had left the meeting.

REFERRED TO PROG.& SERV., PUB. FACIL. AND LAND USE COMMITTEES

#329-08(2) ALD. JOHNSON, ALBRIGHT AND LINSKY requesting that His Honor the Mayor implement policies and procedures that engage the Ward Alderman, as appropriate, in the determination of exemptions from the noise ordinance. [02/25/09 @ 11:24 AM]

PROGRAMS & SERVICES APPROVED 7-0 (Parker not voting) on 3/4/09

ACTION: APPROVED 7-0 (Sangiolo not voting)

NOTE: [See above item.]

The meeting was adjourned at 8:45 PM.

Respectfully submitted,
George E. Mansfield, Chair

