

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, NOVEMBER 17, 2009

Present: Ald. Mansfield (Chairman), Ald. Hess-Mahan, Sangiolo, Brandel, Vance, and Merrill; absent: Ald. Albright; also present: Ald. Baker, Danberg, Aldermen-elect Blazar and Crossley

City staff: John Daghlian (Associate City Engineer), Candace Havens (Chief Planner), Ouida Young (Associate City Solicitor), and Linda Finucane (Chief Committee Clerk)

#102-06(10) KESSELER DEVELOPMENT LLC request for a one-year extension of time in which to exercise Special Permit/Site Plan Approval #102-06(9), granted on November 17, 2008, for construction of a condominium complex consisting of 3 structures, 1 multi-family residence of 52 dwelling units and 2 single-family attached dwelling structures with a total of 10 units, for a total of 62 dwelling units with accessory parking on land located on LaGRANGE STREET, Ward 8; said extension will run from November 17, 2009 to November 17, 2010. Ref: Sec 30-24(c)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 7-0

NOTE: This is a request to extend by an additional year the second special permit approved for this petition on November 17, 2008. The Committee held this item on August 11. Although the petitioner's attorney had submitted a letter outlining the reasons for the requested extension, which include the high construction costs for the proposed development, the drop in market value and demand for this type of unit, and the lack of available financing, several Committee members felt that these reasons are not likely to change soon. There was a sense that there would not be as much concern if this were a private sector development. However, since it is a public-private partnership to which the City has committed \$5 million in CPA funds and the City is awaiting the residual land area that is due it and the money towards developing trails in the open space at completion of the project, the Committee asked that a representative be invited to answer its questions.

Ms. Young had pointed out that if these owners choose not to build and to sell the property, the City has the right of first refusal. She informed the Committee that the Cooperative Bidding Agreement between Cornerstone Corp. and the City had been amended again to allow alternative special permit projects if the applicant chooses not to go ahead with this 62-unit proposal. These alternatives are multi-family buildings up to 80 units or an assisted living complex up to 130 units. Either of these would require a new special permit.

This evening Tom Southworth from Kessler Development and its attorney Bud Shadrawy joined the Committee. Mr. Shadrawy explained that funding for expensive condominium projects had dried up. The petitioner is reviewing development and financing sources. Mr. Shadrawy reiterated that although the Cooperative Bidding Agreement has been amended with the potential to do a different development, it must be through the special permit process. At this time, no changes in the project are anticipated. The City will still receive the benefits: \$75,000 for a trail system to link the land that will be deeded to the City upon completion of the project and \$262,000 plus additional plantings under the tree removal ordinance.

Alderman Fischman moved approval of the extension of time, which motion carried 7-0.

Application for a Class 2 Automobile Dealer License

#292-09 AUTO ANNEX, INC.
249 Centre Street
Newton Corner 02458

ACTION: APPROVED 7-0

NOTE: Lessee Tom Hamilton and property owner Zohrab Sarkissian were present. Mr. Hamilton has a 10-year lease for this property. His family has been in the auto sales business for over 30 years and he has held a license in Watertown for 15 years. The site, formerly a gas station, is an existing legal non-conforming auto repair business. He expects to have no more than 4-5 vehicles for sale on-site. Alderman Merrill made a motion to approve the license, which motion carried 7-0.

Application for a Class 2 Automobile Dealer License

#161-09 REGAN INC.
2066 Commonwealth Avenue
Auburndale 02466

ACTION: APPROVED 7-0

NOTE: Mr. Regan and Attorney G. Michael Peirce were present: This site has been a gas station since the 1930's, owned by Mr. Regan's family since the 1980's. Along with gasoline sales, Mr. Regan has several auto repair bays. He does not foresee having more than 4-5 cars for sale on-site. Alderman Sangiolo moved approval of the license, which motion carried 7-0.

#172-98(2) WALCOTT CORPORATION petition to amend SPECIAL PERMIT/SITE PLAN APPROVAL #172-98 by increasing the number of seats in an existing restaurant from 74 to 99-100 seats and to waive ten additional parking spaces at 118 NEEDHAM STREET, Ward 5, NEWTON UPPER FALLS, on land known as Sec 83, Blk 12, Lots 3, 4, 5, and 6, in a district zoned MIXED USE 2. Ref: 30-24, 30-23, 30-13(e)(12), 30-19(c)(2), 30-19(d), 30-19(m) of the City of Newton Rev Zoning Ord, 2007 and special permit #172-98)

ACTION: APPROVED 6-0 (Fischman recused)

NOTE: A public hearing on this petition was held on October 20, 2009. Attorney Ann Sobolewski of Posternak, Blankstein, and Lund represented the petitioner. There was no public comment and the hearing was closed.

A special permit was granted in 1998 to expand an existing restaurant space from 42 seats to 74 seats, with 50 seats available at lunch, permission to serve alcohol in a restaurant over 50 seats, and a parking waiver of 13 spaces. A subsequent restaurant operated on-site for several years, but when its lease terminated it relocated to a larger space in Needham. A new owner purchased the property several years ago. When the petitioner began this special permit process, he was seeking to market the space. Now, there is a new tenant, Finbarr Griffin, who owns Tommy Doyle's on Watertown Street in Nonantum. Mr. Griffin wishes to increase the seating from 74 seats to 99 seats, which requires a waiver of 10 additional parking spaces. The petitioner is seeking to amend special permit #172-98, to increase the seating and waive 10 more spaces. Ms. Sobolewski said the space is huge and could accommodate 144 seats; 74 seats are not viable. She explained that the lease penalizes the owner contingent on the receipt of the special permit, i.e., it contains a two-tier rent depending on the number of seats.

The two buildings on the site contain several other commercial uses: Plaster Fun Time, a mattress store, Pro-Trainers, and a law office. There are 50 parking spaces shared by the tenants. The petitioner conducted parking counts on three days in April and three days in June before the previous restaurant quit the site. Daily peaks occurred at approximately 12:30 PM for lunch and 6:30 PM for dinner. Five out of the six days there were more than ten stalls available during the lunch peak. On two of the six evenings, there was insufficient capacity to meet the projected increase. Although the parking counts were done over the Patriot's Day weekend (a school vacation week) and in June, the Planning Department believes that the parking demand on this site actually may be lower than what is required because of the mix of surrounding uses that result in patrons walking to the restaurant and the different hours of operation and parking demand of the on-site businesses. To provide for any increase in the parking demand, the tenant has entered into an agreement with Salon Fabio on Kenneth Street to allow restaurant guests and employees to park in the 12 spaces in the salon's adjacent lot in evenings, when the salon is closed. This is an informal arrangement. The special permit application does not include a request to locate parking off-site.

In response to a question from the Committee whether or not there were sidewalks on Kenneth Street, the petitioner said no, Kenneth Street is unpaved and has no sidewalks and residents wish it to remain so to discourage cut through traffic. Kenneth Street is a private way owned partially by the petitioner. The Planning Department suggested that the Salon Fabio lot be dedicated to employee parking so that patrons can park closer to the restaurant. The Planning Department noted that there is no bicycle rack as required in special permit #172-98. The petitioner has agreed to install a rack for at least six bicycles that will be visible from Needham Street.

There are no proposed changes or additions to the existing landscaping or lighting. Although several Committee members suggested using some hanging planters on the

front of the building like the ones at Tommy Doyle's and at O'Hara's in Newton Highlands. Mr. Griffin agreed to do so.

The proposed hours of operation are 11:00 AM to 1:00 AM. Food will be served from 11:00 AM to 11:00 PM. Mr. Griffin expects to have 9-10 employees on-site. Initially, Mr. Griffin suggested providing a van service to shuttle employees, but now anticipates that some employees will carpool and he expects no more than 3-4 employee cars. Employee parking will be provided in striped spaces on Kenneth Street behind the building, where the entrance will be restricted to employee use. Signage will indicate parking for employees and patrons.

The petitioner has paved Rockland Street twice since acquiring this property; however, several Committee members noted the poor condition of the sidewalk on the Needham Street frontage. The Engineering Division has recommended that the petitioner replace the deteriorated concrete sidewalk and construct an ADA compliant ramp to the driveway on the adjacent property according to City standards. The petitioner has argued that the existing sidewalk does not connect to another sidewalk and it makes no sense to improve it because of the projected reconstruction of Needham Street. The cost of replacing the sidewalk could be as high as \$35,000. It is unknown if utilities are beneath the sidewalk and it is the wrong time of year to be doing this type of work. Mr. Daghlian agreed that the cost could be high and suggested that removing the existing concrete panels and installing a 4" gravel top with asphalt would be acceptable to the City as long as the reconstruction was ADA compliant and to City standards. The petitioner asked if he might have until June to complete this work or post a bond for 135% of the cost linked to the certificate of occupancy. This seemed reasonable to the Committee and Mr. Daghlian. The petitioner will need to obtain approval from the Massachusetts Department of Transportation. The Committee felt that although the reconstructed sidewalk may be an isolated segment, even piecemeal installation and reconstruction along different frontages eventually will facilitate and improve pedestrian mobility along the entire street.

Alderman Brandel moved approval of the petition finding that the site is appropriate for an expanded restaurant and that the expanded restaurant will increase the vitality of Needham Street consistent with the Comprehensive Plan; the waiver for 10 parking spaces is appropriate because the peak time for the restaurant is in the evening when the other on-site businesses on site are often closed and overflow parking is provided on the adjacent site and will have no adverse impact to the parking and traffic circulation along Needham Street or adjacent residential neighborhoods; installation of the bike rack and encouraging employee carpooling will reduce trips to the site; the sidewalk improvements will enhance the environment for pedestrians and provide handicapped access.

Alderman Brandel's motion to approve the petition carried 6-0, with Alderman Fischman recused.

#272-09 HERRICK ROAD REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to erect at 39 HERRICK ROAD, Ward 6, NEWTON CENTRE (Lot 7) a 3-story mixed-use building containing 4 dwelling units and ground floor commercial space with a 75-seat restaurant, with underground parking and associated parking waivers (allow 1¼ parking spaces per housing unit; allow off-street parking facilities to be located on a separate lot; waive 9 parking spaces; waive 3 bicycle parking spaces; allow frontage to be measured along a public footway) and to construct a retaining wall greater than 4 feet within the rear/side setbacks and waive 18 existing parking spaces on Lot 7 Herrick Road, on land known as Sec 61, Blk 35, Lots 6 and 7, in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-19(d)(2), (8), (9), 30-19(f)(1), (2), 30-19(k), 30-19(m), 30-15(b)(2), 30-15 Table 3, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HELD 7-0

NOTE: A complete report will be provided when the Committee takes final action on this petition.

#242-09 PANERA, LLC/LINEAR RETAIL NEWTON #1, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE for a restaurant in excess of 50 seats and a parking waiver of 25 spaces at 1239-1243 CENTRE STREET, Ward 6, NEWTON CENTRE, on land known as Sec 64, Blk 28, Lots 21 and 24, containing approximately 11,860 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(m), 30-11(d)(9) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0-2 (Mansfield, Sangiolo abstaining; Merrill not voting)

NOTE: The petitioners propose to locate a Panera Bread “Bakery/Café” of 111 seats in existing vacant first-floor retail space of approximately 4,078 s.f. at 1239-1243 Centre St, on the first block of Centre St. north of Beacon Street and south of Pelham St. Directly across the street is a portion of Centre Green park and beyond that the so-called “Triangle” municipal parking lot abutted by Beacon St. and Langley Rd. Directly behind the site is the Pelham St. municipal parking lot, which is bordered on the opposite side by one and two-family homes. To the north of the Pelham St. lot is the Pleasant St. municipal lot, which can be accessed from either Pelham or Pleasant Streets. Pelham St. is one-way westbound, and all traffic leaving the Pelham St. lot must exit via the residential section of that street, or travel through the Pleasant St. lot and return to Centre St. via Pleasant St. (which is one-way eastbound).

The petitioners are seeking a special permit to allow a restaurant in excess of 50 seats, which is a use allowable only by special permit. They are also seeking a parking waiver of 25 parking stalls, based on the calculated need for on-site parking generated by the proposed number of seats and the expected number of employees on the largest shift, and taking into account parking “credits” from the previous use, a women’s retail clothing store. The petitioners have stated that there will be a maximum of 9 employees at the lunch hour, expected to be the busiest time. They have proposed, however, to operate the

restaurant from 6:00 AM to 10:00 PM seven days a week. Furthermore, they are proposing that only 66 of the 111 seats will be inside in fully heated space. Fourteen seats will be in an enclosed three-season room with a fireplace, open March 1 to October 31, and the remaining 31 seats would be on an outdoor patio at the rear of the building, available from May 1 to September 30 each year. This patio and the restaurant itself would have an entrance directly from the Pelham St. lot, in addition to its front entrance on Centre St. Although a portion of the seats are seasonal, the full parking waiver is required to operate the business. However, in effect, only a 10-space waiver would be required to satisfy the need projected by the Zoning Ordinance during the winter months from November through February.

Finally, the petitioners have requested special permit relief for the extension of a non-conforming commercial structure. The existing structure is non-conforming with respect to setbacks, and the petitioners propose adding a 340 s.f. walk-in freezer at the northwest corner of the building (at the rear on their own land). This relief is required even though the proposed construction does not increase any of the existing non-conformities.

Public Hearing

The hearing for this petition was opened and closed on October 6, 2009. The petitioners' attorney, Steven Buchbinder, described the site and the proposed operation. He described the three proposed seating areas, noting that the 3-season room and the main dining room would be separated by a large see-through fireplace, and that the seating from the proposed patio and 3-season room would not be moved inside in the winter. The restaurant, he said, will include a bakery area, coffee bar and sandwich station. He also described a portion of the land owned by the petitioner that presently is used for private parking with access off Pelham St. He said that a portion of this land would be used for the freezer room addition, the dumpster location and a portion of the patio, but that 8 stalls would remain to be used, as now, for private parking for owners and merchants in the building.

The petitioners also presented a parking study prepared by Planning Horizons of Natick, based on data gathered in June and July, 2009, of parking stall utilization in the area at the breakfast, lunch and dinner hours. The study found that, on average, there were 166, 58 and 90 available spaces at these three times respectively. The area studied included the Pelham and Pleasant St. lots, two rows of parking stalls closest to the site in the "Triangle" lot, and metered on-street spaces on Pelham St., Centre St. and Langley Rd. Only 1- to 3-hr. metered stalls were included, and not the longer term stalls. Lou Mercuri of Planning Horizons noted that at the time of lowest parking availability—lunch time—he would expect the majority of Panera customers to be walk-ins from neighboring businesses or shoppers already in the Centre for other trips. The Committee noted that data gathered in the summer months may not reflect conditions during the rest of the year, and asked that additional samples be taken in the fall.

The petitioners' attorney suggested that Panera would not be a "destination location," especially at lunch time, and reported that was found that to be the experience at a location of the petitioner's with similar characteristics in Coolidge Corner in Brookline.

He also said that at the Brookline location, of 46 employees (on all shifts), only two drive to work because public transportation is available as it is in Newton Centre. The Committee asked for more empirical data from the Brookline location.

The attorney also stated that Panera had no intention to make use of the basement space in this building, which is currently vacant, saying that its use, if any, would be an independent decision of the building owner. He offered to contribute to the cost of a pedestrian warning signal, currently proposed by the Traffic Council for the crosswalk at the intersection of Centre St., Pelham St. and Langley Rd., but he did not agree to pay the full cost of the signal. He said that the co-founder and CEO of Panera lives in Brookline and the corporation has offices in Needham. The company, he said, supports Children's Hospital and donates bakery goods to local food banks.

Ald. Vance asked about how the size of the proposed restaurant compares to other Panera facilities. The operator of the Brookline café said that they are typically 125-160 seats, and generally not less than 100 interior seats, so this proposal is small in comparison (80 interior seats). Attorney Buchbinder also reported that in Newton Centre, Union Street has 126 seats, Johnny's has 88 seats, and Appetito has 83 seats, by comparison. Ald. Vance asked if there is any data to quantify the theory that this use would generate multi-destination trips. Attorney Buchbinder was aware of none, but Ms. Havens noted that shared parking programs are common in the design of malls, where the petitioner's café's are frequently located.

The Chair asked about the design of the refrigeration unit and whether its operation will have any noise impacts. Mr. Buchbinder replied that it will be freestanding, but he would have to look into the question of noise. Ald. Albright asked if the patio would be open to the public (non-customers), and she was told that it would. Ald. Brandel asked if it would be possible to combine the private parking with the public lot for better circulation, and Mr. Buchbinder agreed to look at that. Ald. Mansfield asked what the by-right restaurant use would be for this site. Mr. Buchbinder replied that with the parking constraints, it would be a maximum of 46 seats, but that his client would not open a restaurant of that size. Of course, there are many other retail uses that could occupy this site by right.

At least 26 residents and local business owners and proprietors testified at the hearing. Of those, 10 spoke in support, 12 in opposition, two expressed ambivalence, and two simply asked questions. Just before the close of the hearing, when many who had come for this item had already left (the audience had previously filled the chamber and expanded to the balcony), the Chair asked for a show of hands of those who hadn't spoken and determined that there was a nearly even split of those in favor and opposed.

Attorney Jonathan Levin spoke on behalf of seven retail merchants in Newton Centre and asked that the Committee recommend denial of the petition. He listed his clients as Rosenfeld's Bagels, Pie Bakery, Mosher's Men's Store, Tango Mango, Sweet Tomatoes, Johnny's Luncheonette, and Sandwich Works. He contended that the Board is required to reject the petition since he argued that the petitioner's operation meets the definition of

“fast food” in the Zoning Ordinance, which is not allowed in this Business-1 Zoning District. He also reported that the average Panera Bread writes almost 5,000 customer checks per week, noting that this volume is out of scale with Newton Centre. He also asked that the Committee require a peer-reviewed traffic and parking study. Attorney Levin subsequently submitted a 7-page brief on October 23, 2009.

Two owners of businesses on the same block as the proposed site spoke—one in favor and the other opposed. Dana Mosher (men’s clothing) argued that Newton Centre needs more high-end stores, and Panera will lead the area to becoming a strip mall like Needham St. Gary Ruell (wine merchant) welcomed the foot traffic he expected Panera to bring, and noted that CVS, which also has no parking of its own, generates a high volume of business without negative impact. Some business people who spoke disagreed strongly with the parking data, saying that the Pelham St. lot was often completely full. Residents from Newton Centre and elsewhere in the city spoke both in support of the proposed restaurant as a catalyst that could revive Newton Centre, and opposed it as a giant operation that will change the village center into a retail area dominated by national franchises that will destroy its local character and diversity. Many said the village was overrun with banks and salons, but that this type of business was equally undesirable. Others praised the product that Panera offered and its service to family dining, but many said they would rather go elsewhere (e.g., Needham) to patronize it.

The hearing was closed when all who wished to speak had done so, but significant additional information was requested of the petitioner and the Planning Department.

In the interim between the hearing and the working session, the petitioner met twice with Chairman Mansfield and Ald. Danberg (Ward 6) on the site, along with representatives of the Planning and Public Works Departments, and an engineer and landscape architect hired by the petitioner. The objective was to scope out proposed improvements to the Pelham St. parking area—especially upgrading the handicapped parking stalls, a potential combining of the public lot and the petitioner’s private parking area, improved pedestrian circulation, landscaping, and an enhanced rear entrance to the restaurant. During the same period, the petitioners conducted 8 additional lunchtime counts of parking availability and expanded the study to include 17 metered stalls on Beacon St. west of Centre St. They also hired a consultant to conduct a customer survey at the Brookline Panera location to determine the shopping patterns and transportation options of lunchtime customers at that location.

Working Session

At the working session on this date, Ms. Havens presented an overview of the parking and traffic studies done a few years ago by the Newton Centre Task Force. She reported that, according to the Assistant City Traffic Engineer, traffic in Newton in general has not changed significantly in the last 5 years. The NCTF found that parking stall utilization throughout the Centre peaked at 70% on weekdays, and 55% on Saturdays. The “Triangle” lot itself, when considered alone, often reached 100%, especially mid-day on Saturday and some evenings (when there are sports events in Boston). She said it is the very high utilization of this very visible lot that convinces people that there is no

available parking elsewhere in the Centre. She also reported that in terms of modal splits, 64% of those who work in Newton Centre drive there alone, while 11% walk or bike. (The Northeast average for drive-alone work trips is 73-82%, she said.) Another finding was that meter-feeding by business owners and employees was high, ranging from 11-21% of the stalls.

Ms. Havens then reported on the additional parking studies done by the petitioner's consultant. Of the 217 stalls surveyed, 71-72% were occupied at lunchtime, but 66 spaces were available on average (as compared to 58 when surveyed last summer, without the Beacon St. spaces in the study). The customer survey at the Brookline Panera showed that 69% of the respondents walked to the site, 22% drove and 9% biked or took public transportation. Of those who drove, 69% drove alone. After discussion, however, the Committee and Ms. Havens agreed that this survey was not representative of conditions in Newton Centre.

The Planning Department also found that since 1982, only 21 parking stalls have been waived as the result of three previous petitions in Newton Centre.

Ms. Young disputed the contention that Panera Bread could be considered "fast food" as defined in the Zoning Ordinance and as has been interpreted over the years by ISD and by the Zoning Board of Appeals. The latter was a determination made regarding a Newton Centre business known as Chicken City. Ms. Young pointed out that while a business like Panera prepares food in such a way that allows the customer to take it out, the provision of 111 seats for patrons (which Chicken City did not have) is further evidence that this is a sit-down restaurant, not primarily a fast food or take out operation. In fact, she said, her conclusion is that the only type of take out restaurant that fits the Ordinance's fast food definition is one that is totally surrounded by paved driveways and parking areas.

Mr. Buchbinder said that his clients had concluded that the merger of the Pelham St. lot and their private parking area is not a preferred option, since it would limit future potential for development of that land. He said they would agree, however, to rebuild the handicapped spaces and to improve the landscaping that separates the municipal lot from the private land.

He also explained that baking will be done on the premises at night, and that one baker will be on duty then who will be locked in the building with no visitors allowed. No cooking odors are anticipated, since there will not be frying or grilling. The two elements in the refrigeration system that can cause noise are the compressor and the exhaust fan. The petitioner's data shows that this sound will be 75-76 dBa at its source, the level of sound produced by normal conversation or a telephone dial tone. The dumpster will be emptied up to four times a week between 7 AM and 10 AM. Deliveries will occur at the rear of the site (private lot) during the same times. except that twice a week there will be deliveries by tractor trailer, which can only be accomplished on Centre St. These were proposed to occur before 7 AM or after 7 PM, but the Committee requested that they be

made only after 10 PM, when the business closes and traffic and parking on Centre St. diminishes.

The Committee also reviewed the signage as approved by the Urban Design Commission on both the front and rear of the building. In addition to wall signs, it also includes a small hanging sign at the front. The petitioner noted that his parking consultant had suggested and that he was willing to design a sign package for the City to make the public aware of and direct them to available parking in the Pelham and Pleasant St. lots, and to pay for the signs themselves if the City will install them. The petitioners' attorney also reiterated that they were willing to contribute \$25,000 as mitigation improvements related to this petition, but that they would prefer other public benefits associated with the parking lots rather than the pedestrian signal alone. Specifically, however, he said he would like the Committee to decide, and he would provide the \$25,000 for the signal or for the improvements to the handicapped spaces, and do the signage improvements with either alternative. The Chair asked the Committee's preferences, and three preferred the funds be allocated to the handicapped improvements (Hess-Mahan, Brandel & Vance), while three thought the safety benefits of the signal were paramount (Fischman, Sangiolo & Mansfield). Upon seeing that equal importance was being given to both improvement packages, Mr. Buchbinder conferred with his clients and then offered to do the handicapped improvements with reasonable support from the DPW, as well as offer \$25,000 to be used for the pedestrian signal, while still agreeing to provide the directional sign package as well. He added, however, that they wanted to retain their private, 8-stall lot for employee parking.

Ald. Vance said that he was supportive in general of the project, and accepts the parking data that has been presented despite testimony from some merchants and residents to the contrary, but that he remains concerned with the magnitude of this waiver for a single user, given the total number of spaces waived in this village center (21) over the past 27 years.

Ald. Fischman said that he was impressed with the survey results from the Brookline site, and then moved approval of the petition. He adopted the following findings:

- The location is appropriate for a restaurant use of more than 50 seats that will serve shoppers, employees and the surrounding neighborhood.
- The proposed use will increase the vitality of the Newton Centre area and will compliment other uses in the immediate vicinity.
- The proposed outdoor seating will enhance the rear facade of the building through active use and landscape improvements.
- The proposed expansion of the structure will not be more detrimental than the existing building.
- The parking study submitted shows adequate public parking available nearby to absorb the expected increased demand during peak periods.
- The evidence from a survey of customers of the petitioner's Brookline location reveals that a substantial number do not drive to the site.

- The waiver of 25 spaces will not have an adverse effect on parking, traffic and circulation in the Newton Centre commercial district or adjacent residential streets.
- The petitioners will improve public safety through the contribution of \$25,000 towards the installation of a pedestrian-activated signal at the intersection of Centre St. and Pelham St.
- The petitioners are also proposing to improve handicapped parking, pedestrian access and landscaping in the Pelham St. municipal lot.
- The petitioners are proposing to improve parking signage to direct drivers to available municipal lots.
- The proposed use is consistent with the *Newton Comprehensive Plan* because it increases the vitality of the commercial district.

In addition to the above contributions to mitigate the effects of the project, and standard conditions of approval, Ald. Fischman's motion also adopted the following conditions:

- That the petitioners will submit a transportation demand management plan to the Planning Director for approval before occupancy to encourage employees not to drive to work and to avoid the use of short-term municipal spaces.
- That the petitioners will submit a directional parking sign package to the Urban Design Commission and the Planning Director for approval before a building permit is issued. Upon approval, the petitioner shall prepare and deliver the signs with the sign package to the City Traffic Engineer
- That hours of operation shall be from 6 AM to 10 PM daily.
- That deliveries and trash collection will take place at the rear of the building after 7 AM.
- That deliveries on Centre St. shall be before 7 AM or after 10 PM.
- That the restaurant shall have no more than 111 seats, and no more than 66 seats from November 1 to March 1.

Ald. Hess-Mahan commented that some of the findings may be overstated, but that he would support the petition. Ald. Sangiolo said that she would associate herself with the remarks of Ald. Vance. Ald. Brandel suggested that cars will come to Newton Centre as long as there is capacity there to accept them. But Ald. Vance countered that unless there is new parking created by City action, we are going to run out of spaces. He also mentioned his interest in considering a payment in lieu of parking provision in the Ordinances. Ald. Mansfield said that he intended to abstain on the vote and continue to work with the petitioner to try to find better ways to utilize the potential of the Pelham St. lot in collaboration with the petitioner's private lot.

The motion was approved by a vote of 4-0-2, with Ald. Sangiolo and Mansfield abstaining, and Merrill not voting.

2010 Auto License Renewals

#304-09 CLARK & WHITE INC.
777 Washington Street

- Newtonville
ACTION: APPROVED 6-0 (Merrill not voting)
#305-09 CLAY NISSAN OF NEWTON INC.
431 Washington Street
Newton Corner
- ACTION: APPROVED 6-0 (Merrill not voting)
CLASS 2
#306-09 FROST MOTORS, INC.
624 Washington Street
Newtonville
- ACTION APPROVED 6-0 (Merrill not voting)
#308-09 AUTO EUROPA INC.
38 Ramsdell Street
Newton Highlands
- ACTION: APPROVED 6-0 (Merrill not voting)
#309-09 CICCONI MOTORS
259 Walnut Street
Newtonville
- ACTION: APPROVED 6-0 (Merrill not voting)
#315-09 MAP DEVELOPMENT & INVESTMENTS
d/b/a ALBEMARLE MOTORS INC.
175 North Street
Newtonville
- ACTION: APPROVED 6-0 (Merrill not voting)
#317-09 NEWTON AUTO GROUP INC.
1235 Washington Street
West Newton
- ACTION: APPROVED 6-0 (Merrill not voting)
#318-09 NEWTON CENTRE SHELL, INC.
1365 Centre Street
Newton Centre
- ACTION: APPROVED 6-0 (Merrill not voting)
#319-09 NEWTON TRADE CENTER
103 Adams Street
Nonantum
- ACTION: APPROVED 6-0 (Merrill not voting)
#320-09 OLD TIME GARAGE LTD.
1960 Washington Street
Newton Lower Falls
- ACTION: APPROVED 6-0 (Merrill not voting)
#322-09 R.S. SERVICE INC.
361 Washington Street
Newton Corner
- ACTION: APPROVED 6-0 (Merrill not voting)
#323-09 ROBERT'S TOWING INC.
926R Boylston Street

ACTION: Newton Highlands
#324-09 APPROVED 6-0 (Merrill not voting)
THE TRAVIS CORPORATION
d/b/a THE CAR STORE

19 Rolling Lane

Chestnut Hill

ACTION: APPROVED 6-0 (Merrill not voting)
#326-09 WASHINGTON STREET SUNOCO
875 Washington Street

Newtonville

ACTION: APPROVED 6-0 (Merrill not voting)
#327-09 CITY OF NEWTON

1000 Commonwealth Avenue

ACTION: APPROVED 6-0 (Merrill not voting)
CLASS 2 & 3

#328-09 ECHO BRIDGE SALVAGE INC.

16-24 Maguire Court

Newtonville

ACTION: APPROVED 6-0 (Merrill not voting)
#329-09 SCHIAVONE BROTHERS INC.

16-24 Maguire Court

Newtonville

ACTION: APPROVED 6-0 (Merrill not voting)

NOTE: A Class 1 license holder must be a recognized agent of a motor vehicle manufacturer with which it has a signed contract. A Class 2 dealer buys and sells only used vehicles; and Class 3 deals in junk vehicles. The criteria for issuing a license are whether it is the applicant's principal business, he/she is a "proper person," and has available a "suitable place of business." The following licenses, all renewals, were approved because they meet the statutory licensing criteria, i.e., are proper persons with suitable places of business, have no outstanding zoning complaints and owe no taxes to the City. All Class 2 dealers have posted a \$25,000 bond with the City.

Frost Motors, which has been a General Motors Cadillac dealership with a Class 1 license in Newton Corner for 75 years will close in January. It will continue operating its pre-owned business at 624 Washington Street with a Class 2 license.

Since the Committee's resident auto expert Alderman Merrill had left the meeting, Alderman Brandel moved approval of the licenses, which motion carried unanimously.

The meeting was adjourned at approximately 12:40 AM.

Respectfully submitted,
George E. Mansfield, Chairman