

Exhibit 11
Zoning

Comprehensive Permit granted November 28, 2001 by the
City of Newton Zoning Board of Appeals

367.01(2)



CITY OF NEWTON, MASSACHUSETTS

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ZONING BOARD OF APPEALS
Pamela D. Hough, Board Secretary

CITY CLERK
NEWTON, MA. 02159

#33-01

Detailed Record of Proceeding and Decision

Petition #33-01 of CASCAP, INC., of 678 Massachusetts Avenue, Cambridge, requesting a COMPREHENSIVE PERMIT in accordance with M.G.L., Chapter 40B, Section 20-23 (Chapter 774 of the Acts of 1969) for the construction of a three story wood frame apartment building containing 35 one bedroom units for affordable elderly housing located at 243-245 WATERTOWN STREET, Ward 1, Section 11, Block 12, a portion of Lot 20A containing approximately 30,500 square feet in the Multi Residence 2 District.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on Tuesday, October 23, 2001 at 5:30 p.m. in the Aldermanic Chambers at City Hall, Newton, Massachusetts.

The following members of the Board were present:

- Catherine Clement, Acting Chairman
- Trudy A. Ernst
- Robert Corbett
- Bernard Shadrawy

Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the News Tribune a newspaper of general circulation in Newton, Massachusetts.

Accompanying the petition were plans entitled "Existing Conditions" dated revised September 6, 2001, "Grading Plan" and "General Site & Layout Plan" and dated revised September 5, 2001 by Douglas W. Thompson PLS, "Utilities & Drainage Plan" dated revised September 5, 2001 and "Section" dated September 4, 2001 by David Giangrande PE, "Detail Sheet #1" dated revised March 19, 2001 and "Detail Sheet #2" dated revised March 15, 2001 by William L. Soper PE, all of Design Consultants, Inc. 265 Medford Street, Somerville, MA; and title sheet with 6 plans entitled "Nonantum Village Place"; "A1-Site Plan/Plot Plan/landscape Plan" "A2-First Floor Plan" "A3-Second Floor Plan" "A4-Third Floor Plan" "A5-Elevations" "A6-Sections" all dated revised September 14, 2001 by Americo Andrade & Associates, Architects, 1130 Massachusetts Avenue, Cambridge, MA. Also included was a plan entitled "Preliminary subdivision Plan" dated October 17, 2001 by Douglas W. Thompson PLS. The plan also showed a proposed series of easements affecting the site and two parcels adjacent to the site. Among these easements is a newly designated access drive.

[Signature]
 City Clerk of Newton, Mass.

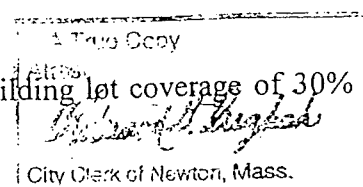
FACTS:

The petitioner was represented Attorney James L. Buechl of 27 School Street Boston, MA.

The petitioner, a non-profit organization requested a comprehensive permit to allow the construction of a three story wood frame apartment building containing 35 affordable elderly housing units on the rear portion of Lot 20A (formally know as St. Jeans Church) including 12 parking stalls on a proposed subdivided 30,500 square foot rear lot. The proposed conversion of the rear of the church property would create all one-bedroom units with one bathroom and a kitchen/living room accessed off a common hallway. One of the units would be provided to a resident manager. The petitioner proposed that 7 of the units be fully handicapped accessible. The reconfigured driveway would be shared and provide access to 12 parking stalls and a circular drop off area. West Suburban Elder Services would provide support services to the frail elderly. The services would include service coordination, personal care, homemaking, meals, programs, nutritional counseling, referral services and transportation.

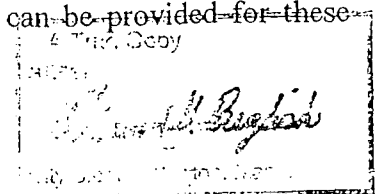
The petitioner requested exceptions from the requirements of the City of Newton Revised Zoning Ordinance for the following:

1. Special Permit from the Board of Aldermen under Section 30-9(d)(1) for construction of multi-family housing in the Multi Residence 2 District.
2. Variance from Section 30-15 Table I that requires a minimum of 3,000 square-feet of lot area per dwelling unit for a Multi Family Dwelling, as allowed by Section 30-9(d)(1). The proposed site contains approximately 30,500 square feet. The project shall provide approximately 847 square feet of lot area per dwelling unit.
3. Variance from Section 30-9(e) that requires a minimum of 1,500 square feet per subsidized elderly dwelling unit in a garden apartment. The proposed site contains approximately 30,500 square feet. The project shall provide approximately 847 square feet of lot area per dwelling unit.
4. Special Permit under Section 30-15(b)(4) authorizes the Board of Aldermen by special permit to satisfy the frontage requirement by allowing the frontage to be measured along the rear lot line of the lot in front. The proposed rear lot has no frontage on a public street while the Ordinance requires 80 feet of street frontage in the Multi Residence 2 District.
5. Variance from Section 30-15, Table 1 imposes a maximum building height of thirty feet for a Multi-Family Dwelling . The maximum height of the proposed building is approximately thirty-two feet along the three-story portion of the proposed building.
6. Variance from Section 30-15, Table 1 imposes a maximum number of stories allowed of 2.5 stories for the proposed building. As shown in the plans submitted with this application, a portion of the building will contain three stories.
7. Variance from Section 30-15, Table 1 imposes a maximum building lot coverage of 30%



for a Multi-Family Dwelling. The proposed percentage of the lot to be occupied by a building is approximately 35.22%.

8. Variance from Section 30-15, Table 1, requires 50% of the lot to be devoted to open space for a Multi-Family Dwelling. The proposed project devotes approximately 29.6% of the lot to open space.
9. Variance from Section 30-15, Table 1 and Section 30-15(e) require a 25-foot setback from the rear lot line of the lot in front of the proposed project. The proposed building provides a 0.25 ft. setback from this lot line.
10. Special Permit under Section 30-5(b) of the Ordinance requires a special permit from the Board of Aldermen if the proposed project calls for the placement or removal of sod, loam, clay, gravel, stone, or other solid material if this results in a change in the existing grade contours on the site by three feet or more.
11. Special Permit under Section 30-19(d)(2) requires one parking space for each four dwelling units to be occupied by the elderly if the project is built under a state or federal program. The proposed project is being built with federal financing under the HUD Section 202 Program. The site plan depicts that twelve parking spaces shall be provided.
12. Special Permit under Section 30-19(m) exceptions to the design, location and procedures for obtaining approvals for off-street parking also require the following exceptions from the Zoning Ordinance:
 - a. Section 30-19(e) requires submissions to and a permit from the Commissioner of Inspectional Services if five or more spaces are to be provided. The proposed project shall provide twelve parking spaces.
 - b. Section 30-19(f) requires all off-street parking to be provided on the same lot with the principal use served. As shown on the site plan for the project, all parking spaces will be on the rear lot. However, access to the seven parking spaces on the easterly side of the building will be via easement from the Newton Housing Authority.
 - c. Section 30-19(h)(1) of the Zoning Ordinance prohibits off-street parking from being located within any required side yard setback. The seven parking spaces on the easterly side of the proposed building are located within the side yard setback.
 - d. Section 30-19(h) and (j) also regulate the design and maneuvering aisles of off-street parking together with access drives, lighting and surfacing.
 - e. Section 30-19(i) requires screening of the parking facilities containing more than five spaces from abutting properties. Because the seven parking spaces on the easterly side of the proposed building are on the lot line, no screening can be provided for these spaces.



1.5% or more of the land area zoned for residential, commercial or industrial use (excluding publicly owned land) contains subsidized housing; and 3) the land area developed for subsidized housing in any one calendar year does not exceed 3/10 of one percent of total City land (as determined by 2.above) or 10 acres, whichever is larger.

The petitioner stated and/or submitted information that the amount of subsidized housing in the City does not meet either of the first two criteria. The number of subsidized units in the City (1,601) represent 5.29 percent of the City's total housing units (30,263). The land area used for subsidized housing (12.45 acres) represents 1.06 percent of the City's total land area (11,731 acres). The proposed development would not result in development of housing on sites which constitute more than 3/10 of one percent of the total land area in one year (21.68 acres). Total land area for subsidized developments expected to be constructed in 2002 would be approximately 2.04 acres. The State-mandated goal for affordable housing is 10% of a community's housing stock. According to the City's Department of Planning and Development, Newton has a total of 1,601 affordable housing units, or 5.29% of the total 30,263 housing units.

The petitioner stated and/or submitted information that at present, there are only 177 affordable elderly units in the City. This project would increase the supply of affordable elderly housing in Newton by the addition of 34 affordable units or .021% increase in the affordable housing supply. The City's Comprehensive Plan states that all housing strategies and policies be sensitive to the individuality and character of existing neighborhoods. The proposed development will serve as housing for low income people over 62 years with incomes at less than 50% of AMI.

The petitioner stated that it would be necessary to remove up to 10 mature trees, in order to develop the site, and that it would be a financial burden to comply with the Tree Ordinance. The petitioner hoped that the Board would exempt CASCAP from this requirement, given that CASCAP has agreed to extend the affordable time limit from 40 years to 80 years.

The following people spoke in favor:

Mr. Alvin Mandel, Chairman of the Newton Housing Authority.

Mr. Robert Engler Chairman of the Newton Housing Partnership.

Ms. Alice Webber, Chairman of the Nonantum CDBG Advisory Group of 159 Adams Street.

Ms. Hazel Brock, a resident of a subsidized project spoke in favor.

Reports were also submitted by various city departments: Engineering, Inspectional Services, and the City Traffic Engineer.

FINDINGS AND DETERMINATION:

After a discussion of the merits and facts of the petition, the Board of Appeals determined that the proposed development would be consistent with local needs for very low income housing for the elderly as defined by Chapter 774 of the Acts of 1969. Accordingly, a motion was made by Mr. Shadrawy and duly seconded by Ms. Ernst to approve the Comprehensive Permit with conditions, which motion passed four in favor and none opposed. Therefore, the petition is granted totaling 35 units of very low income housing for the elderly, subject to the following conditions:

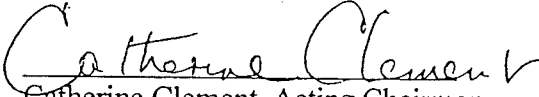
City Clerk, Newton, Mass.

1. Prior to the issuance of a building permit the City Engineer shall review the final site plan, stamped by a Professional Land Surveyor, and final grading and drainage plans including the installation of under ground utilities.
2. Prior to the issuance of a building permit, the Director of Planning and Development shall review the final design and facade plans and shall approve building colors and roof materials.
3. Prior to the issuance of a building permit, the petitioner shall submit a final landscape plan for review and approval of the Director of Planning and Development.
4. The landscaping approved by this Comprehensive Permit shall be maintained in good condition and any plant material that has become diseased or dies shall be replaced annually with similar material.
5. The petitioner may remove up to 10 trees from the site without complying with the City's Tree Ordinance.
6. There shall be no outside light overspill onto residential properties and the light source of all lighting fixtures shall be shielded. Lighting shall not be placed on the building, and that Metal Halide lighting or equivalent shall be used.
7. All utilities shall be underground from the street.
8. Twice a year the gas and oil traps in catch basins, the catch basins and retention basin shall be cleaned and the petitioner shall submit a statement certifying that such cleaning has been done to the City Engineer and the Inspectional Services Department.
9. The Commissioner of Public Works shall approve the method of solid waste disposal.
10. The Fire Department shall review and approve site access and final building plans.
11. The housing units shall include a provision for preference for local Newton residents up to the maximum allowed by law.
12. That the petitioner shall provide safe pedestrian access to Watertown Street with a handicapped accessible sidewalk.
13. The petitioner shall be required to obtain and record permanent easements from the Newton Housing Authority and owner of the front parcel for vehicular and pedestrian access from Watertown Street to the rear parcel.
14. The proposed CASCAP subdivision plan should be the same as that before the Board of Aldermen and, Upon submission of a final CASCAP subdivision plan to this Board, such

True Copy
By Clerk of Board of Aldermen
Date: 10/11/2008

plan to be in the same form as the preliminary subdivision plan submitted with the application for a Comprehensive Permit. The Zoning Board of Appeals authorizes the Chair of this Board to sign an endorsement on the plan to approve the proposed subdivision in accordance with this decision.

15. Prior to the issuance of a building permit the City Engineer shall review and approve the additional changes outlined within the City of Newton Engineering Division Memorandum dated October 22, 2001.
16. The maximum amount of office space shall not exceed 350 square feet.
17. That the petitioner provide a minimum of 7 handicapped accessible units.
18. All of the permits required or necessary for the subject project must be applied for within 18 months from the date of this decision, and construction shall commence within 24 months from date of this decision, and the building shall be ready for issuance of certificate of occupancy within 42 months of the date of this decision.
19. That the property be used for low income housing for the elderly for eighty (80) years.
20. That one of the 35 units maybe used as a care taker unit.

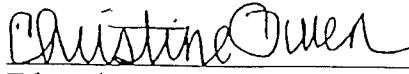

Catherine Clement, Acting Chairman

AYES: Catherine Clement
Trudy A. Ernst
Robert Corbett
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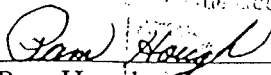
Copies of this decision and all plans referred to in this decision have been filed with the Planning and Development Board and the City Clerk.

The decision was filed with the City Clerk on *11-28-01*

The City Clerk certified that all statutory requirements for the issuance of a COMPREHENSIVE PERMIT have been complied with and that 20 days have lapsed since the date of filing of this decision and no appeal, pursuant to Section 21, Chapter 40A has been filed.


~~Edward English, City Clerk~~
Christine Owen, Acting

I, Pam Hough, am the Clerk of the Zoning Board of Appeals and the Keeper of its records. This is a true copy of its decision.


Pam Hough
City Clerk of Newton, Mass