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Director

ZONING REVIEW MEMORANDUM

Date: July 13, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Seana Gaherin, applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow a retaining wall greater than four feet in height in the setback, various waivers to the parking requirements, and a modification to Special Permit Order #501-94(2)

Applicant: Seana Gaherin, Dunn-Gaherin's	
Site: 342, 342A, 344-346 Elliot Street	SBL: 51041 0010, 51041 0011, 51041 0012
Zoning: BU1	Lot Area: 9,676 square feet
Current use: Restaurant with 69 seats	Proposed use: No change

BACKGROUND:

The properties at 342 and 344-346 Elliot Street are improved with a 69-seat restaurant known as Dunn-Gaherin's and a ten-stall surface parking area on 6,725 square feet of land. Board Orders #501-94 and #501-94(2) have been issued for the site, authorizing the seating capacity and waiving six parking stalls and dimensional requirements for the parking area.

The rear lot located at 342A Elliot Street was recently rezoned to Business 1, and subdivided into two lots. The applicant owns the parcel containing 2,951 square feet abutting the restaurant property. The remaining parcel produced by the division is owned by the abutter at 1076 Chestnut Street. The applicant proposes to combine the lots and construct six parking stalls for use by the restaurant on the new rear parcel.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Seana Gaherin, applicant, dated 4/26/2016
- Existing Wall Location – Proposed Subdivision Line and Parking, prepared by Verne T. Porter, surveyor, dated 4/17/2015
- Proposed Parking and Patio plan, prepared by Verne T. Porter, surveyor, dated 5/18/2015

- Existing Conditions Plan – Proposed Fence Location, prepared by Verne T. Porter, surveyor, dated 6/18/2015
- Proposed Parking and Patio Location, prepared by Verne T. Porter, surveyor, dated 6/18/2015
- Subdivision Plan of Land, prepared by Verne T. Porter, surveyor, dated 6/18/2015

ADMINISTRATIVE DETERMINATIONS:

1. The nonconforming configuration and conditions of the existing parking area were legitimized by the site plan approved in connection with Board Order #501-94(2). This application proposes to maintain the relief and conditions of the existing parking, and legitimize the new parking area subject to the requirements found in Section 5.1 of the Ordinance. A single site plan should be approved with the previously approved conditions, and those proposed by this application.
2. Section 5.1.8.A.1 requires that no parking stalls locate within side lot setbacks. The applicant's required side setback is 13.6 feet (half the building height). The six proposed parking stalls are located five feet from the side lot line, requiring a waiver from Sections 5.1.8.A.1 and 5.1.13.
3. Section 5.1.8.C.1 requires a 24 foot wide maneuvering aisle for two-way traffic. The applicant's aisle width in the newly created parking area is 20 feet. Previous special permits legitimized the existing 10 foot wide aisle at the front of the property, and these conditions will continue as they exist after the six new stalls are constructed. A waiver from the aisle width requirement of Section 5.1.8.C.1 is required for the newly constructed stalls.
4. Section 5.1.9.A.1 requires that outdoor parking facilities with more than five stalls be screened from abutting streets and properties with vegetation and/or fencing. The applicant proposes a six foot privacy fence and landscape area along the eastern property line, meeting the requirement. There existing fencing between the applicant's property and the restaurant and parking at 1064 Chestnut Street on the abutting property along the western property line. Because the fencing is on the adjacent property, and may be removed at the will of the abutter, a waiver from the screening requirements of Section 5.1.9.A.1 is required.
5. No lighting is shown on plans depicting the new parking area. Section 5.1.10.A requires security lighting for parking areas used after dark. To the extent that the proposed parking area does not meet the lighting requirements of Section 5.1.10.A, an exception through Section 5.1.13 is required.
6. The applicant intends to maintain and/or replace the existing retaining wall on the rear lot. After the division of the lot into two parcels, the retaining wall is located on the lot lines. Some sections of the wall exceed four feet in height. Section 5.4.2.B requires a special permit for a retaining wall over four feet in height located within a setback.

7. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Modify Special Permit Council Order #501-94(2)	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking in a side setback	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	To waive aisle width requirements	S.P. per §7.3.3
§5.1.9.A.1 §5.1.13	To waive screening requirements on the western property line abutting 1064 Chestnut Street	S.P. per §7.3.3
§5.1.10.A §5.1.13	Waive security lighting requirements	S.P. per §7.3.3
§5.4.2.B	Allow a retaining wall greater than 4 feet within a setback	S.P. per §7.3.3