

Sullivan Realty Trust  
P.O. Box 122  
Newton, MA 02456

Hand Delivered

October 12, 2012

Ald. Ted Hess-Mahan, Chairman  
Land Use Committee  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

RECEIVED  
Newton City Clerk  
2012 OCT 12 AM 11:25  
David A. Olson, CMC  
Newton, MA 02459

Subject: #213-12; Notice of intent to appeal any finding by the Board of Alderman approving the proposed new development or any resemblance thereof of the "so-called" Needham Street Village Shops for under-representing the necessary relief in the legal notice.

Dear Chairman,

I am the managing agent of the property at 60 Needham Street, a direct abutter of the proposed new development at 49, 55, & 71 Needham Street.

The bottom-line is Sullivan Realty Trust (SRT) opposes the project for two reasons. One, the petitioner is asking the Alderman to allow 64 parking spaces where 101 are required. Two, the petitioner is asking for 3 ingress/egress locations where the petitioner has not demonstrated any reason why this is necessary. A primary means to reduce congestion on Needham Street should be to reduce the curb openings especially in such instances in the case of new developments when the Aldermen hold that discretion.

SRT's grounds to appeal rest solely on the petitioner's representation in the legal ad regarding the requested relief to satisfy Sec. 30-19. Parking and loading facility requirements.

The legal notice provided a request for a waiver of 20 parking spaces (84-20) resulting in 64 spaces to be provided when 113 spaces are required. In days prior to the public hearing held on September 11, 2012 the petitioner reduced the two proposed restaurant uses from a total of 150 seats to 110 seats resulting in a waiver of only 8 parking spaces when 101 spaces are required.

The petitioner has made a great blunder and the planning staff did not correct the blunder prior to the public hearing as it was necessary for the petitioner to request a waiver of 49 spaces originally, then 37 spaces once they decided to reduce the number of restaurant seats.

The petitioner relied on Sec. 30-19 (c) (2) which could have allowed the petitioner to use the A-B+C if the proposed relief is based on "enlargement or extension of the gross floor area in a building or structure". Section 30-18 (c) (2) is not ambiguous. B in the formula expressly implies this formula is to apply to existing "building or structures". In this instance the petitioner is merging several parcels, demolishing all structures and attempting to extend relief that may exist to re-develop Skipjack's and take advantage of that relief to the new, larger, merged development. This is not the intention or the legal relief available under Sec. 30-19 (c) (2).

Even if the petitioner finds some precedent that the City has allowed A-B+C in the past in the case of new, larger, merger of parcels then this relief still fails. Sec. 30-19 (c) (2) b) prohibits the petitioner from using the number of seats in the case of a restaurant use to calculate B in the formula. The calculation for B must be calculated based on the "existing floor area of the existing structure and not the seating capacity thereof". When A-B+C is correctly computed under subparagraph 30-19 (d) (10) or (11) the correct use of A-B+C provides 101 spaces are still required resulting in a waiver of 37 spaces not 8 spaces.

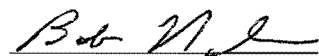
There has been a long history of employees, customers, and vendors of the various restaurant uses at 55 Needham Street unlawfully parking on SRT's property. This date's back to Tang Dynasty, then, Lampara's, and most egregiously more recently with Skipjack's. Efforts to tow vehicles and policing of SRT's lot has been almost futile. Although necessary, towing of cars is a nuisance. Skipjack's made no effort to stop its customers or employees from parking on SRT's property and a matter of fact the owner's policy was to prohibit his employees from using the restaurant parking. Any new development on Needham Street must be self-sufficient with parking for its patrons and employees. There are no public parking options on Needham Street or abutting streets. A continuation of the same unacceptable trespassing on abutter's properties is inevitable with this proposed use.

The Aldermen may still find this project desirable but in SRT's opinion the only relief available to the petitioner to get this project approved is under Sec. 30-19 (m) *Exceptions*. But SRT believes there is absolutely no justification for the Aldermen to grant relief based on the "nature of use, or the location, size, depth, shape, or grade of the lot" or "in the interests of safety or environmental features". The only possible relief the Aldermen could find is under the notion "that such exceptions would be in the public interest". But here, there is no justification to waive 37 parkings spaces (a reduction of 37%) of the required parking on a brand new development on Needham Street when no public parking is available and very limited public transportation is available.

I respectfully ask you advise the petitioner to re-advertise the public notice, re-hold the public hearing, all in the context that the petitioner needs to request a waiver of 37 spaces versus the 8 spaces that was requested at the public hearing.

Please call if you have any questions. My number is 617-835-1788.

Sincerely,



Robert C. Nealon, Managing Agent

cc. Jean Greer  
Joan McEvoy