



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 28, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Stephen J. Buchbinder, attorney
Katherine Braucher Adams, Attorney
Seltzers Realty LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request for a zone change to BU4, and a special permit to construct elderly housing with services and for associated dimensional waivers

Applicant: Seltzers Realty LLC	
Site: 11 Florence Street and 318 Boylston Street	SBL: 82004 0049, 82004 0047
Zoning: BU2 and MR1 (to be rezoned to BU4)	Lot Area: 82,945 square feet
Current use: Greenhouse/nursery and parking	Proposed use: Elderly housing with services facility

BACKGROUND:

The subject site is comprised of two lots with a total area of 82,945 square feet: 11 Florence Street is zoned Multi Residence 1, contains 75,487 square feet; and is improved with a greenhouse and garden nursery; 318 Boylston Street is zoned Business Use 2, contains 7,458 square feet, and is used for parking for the greenhouse.

The applicant proposes combine and to rezone the parcels to BU4, raze the structure, and construct an elderly housing with services facility containing 95 living units with 120 beds in a five-story building of approximately 92,791 square feet with underground garage and surface parking. The proposed project will provide a total of 46 parking stalls on site.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 3/18/2022
- Project Information, submitted 3/18/2022
- Existing Conditions Plan of Land, prepared by VHB, dated October 5, 2021
- Site Layout and Materials Plan, prepared by VHB, dated 7/30/2021, revised 3/15/2022

- Landscape Plan, signed and stamped by Andrew D. Leonard, landscape architect, dated 7/19/2021, revised 3/15/2022
- Floor Plans, signed and stamped by Mark K. Moeller, architect, dated 3/28/2022

ADMINISTRATIVE DETERMINATIONS:

1. The site is comprised of two properties. The property along Florence Street is zoned MR1, while the lot on Boylston Street is zoned BU2. The applicant requests to combine the parcels and rezone the site to BU4.

The administrative determinations and relief requested by this application assume that the entire site is zoned BU4.

2. The applicant proposes to construct an elderly housing with services facility. Per section 6.2.10, an elderly housing with services facility is defined as “elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.” Section 4.4.1 requires a special permit for elderly housing with services in the BU4 zoning district.
3. The applicant proposes to raze the building and construct a five-story building of approximately 92,791 square feet, excluding the underground parking facility. Section 4.1.2.B.1 requires a special permit for any development in a Business district of 20,000 square feet or more of new gross floor area.
4. The applicant proposes to construct a five-story structure at 60 feet in height. Section 4.1.2.B.3 requires a special permit for four stories or more in the Business 4 zoning district with a maximum FAR of 2.25. A special permit allowing five stories legitimizes the proposed height and FAR allowed per section 4.1.3.
5. A retaining wall varying in heights up to approximately 6 feet is proposed within the western side setback. Per section 5.4.2.B, a special permit is required for a retaining wall in excess of 4 feet in a setback.
6. The facility will contain 95 living units with 120 beds. Each living unit will contain sleeping and sanitary facilities, but no separate individual cooking facilities. Per Section 1.5.1.E, a dwelling unit is defined as “one or more rooms forming a habitable unit for one family, with facilities used or intended to be used, in whole or in part, for living, sleeping, cooking, eating and sanitation.” As the units will lack cooking facilities, they do not meet the definition of a dwelling unit.
7. The applicant proposes to construct 46 parking stalls on site, with 31 stalls located in the proposed underground garage and 15 surface stalls. Per Section 5.1.4.A, an elderly housing with services facility requires one parking stall per every two dwelling units, one per every four nursing beds, plus one stall per three employees. As stated, the proposed facility will not have “dwelling units” as defined by the Ordinance, as each unit will not provide independent cooking facilities. Nor will the units provide nursing beds, as the facility will not provide skilled nursing care. However, for the purposes of determining the parking requirement, the number of beds and employees will be used, as there are no dwelling units. The parking requirement for 120 beds and 30 employees at the busiest shift is 40 stalls. As 46 stalls are provided, no waiver from the number of parking stalls is required.

8. The applicant proposes to construct 10 surface parking stalls with an entrance off of Boylston Street and five along the front entrance drive off of Florence Street. Section 5.1.8.A.1 requires that no parking be located within a front or side setback. Several parking stalls within the two lots are located within the required 24-foot front setback from Florence Street requiring a special permit per section 5.1.13.
9. Section 5.1.10.A requires outdoor parking facilities used at night to provide security lighting with a minimum intensity of 1-foot candle. The applicant did not indicate lighting on the proposed plans for the two surface parking facilities, requiring a special permit per section 5.1.13.
10. A free-standing sign is proposed in a landscape wall along where Florence Street frontage meets with Boylston Street. The proposed signs are both approximately 28 square feet. Per section 5.2.13, free-standing signs require a special permit.
11. Section 5.11.11 requires that Elder Housing with Services meet certain requirements of the Inclusionary Housing provisions. This contribution may be residential units, beds, or a cash payment.

BU4 Zone	Required	Existing	Proposed
Lot Size	25,000 square feet	82,945 square feet	No change
Setbacks			
• Front (½ Building Height)	30 feet	10.3 feet	40 feet
• Side (East)	30 feet	55.5 feet	45.9 feet
• Side (West)	30 feet	58.5 feet	30.7 feet
• Rear	30 feet	63.5 feet	84.2 feet
Building Height	36 feet (96 ft by SP)		60 feet*
Max Number of Stories	3 (8 by SP)	2	5*
FAR	2.25	±.15	1.12

Zoning Relief Required

<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Request to rezone parcel to BU4	
§4.4.1 §6.2.10	To allow an Elder Housing with Services facility	S.P. per §7.3.3
§4.1.2.B.1	Development of 20,000+ square feet of gross floor area	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To allow a building with five stories	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall in excess of 4 feet in a setback	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking within the front setback	S.P. per §7.3.3
§5.1.10.A §5.1.13	To waive lighting requirements	S.P. per §7.3.3
§5.2.13	To allow a free-standing sign	S.P. per §7.3.3