



NewGov - Newton, MA

09/28/2022

ZBA-22-6

Zoning Board of Appeals Application

Status: Active

Date Created: Aug 19, 2022

Applicant

Josh Ehrenfried
putt4birdie@yahoo.com
78 Winston Road
Newton Center, MA 02459
6179352567

Primary Location

140 BRANDEIS RD
NEWTON CENTRE, MA 02459

Owner:

CITY OF NEWTON SCHOOL DEPT-NEWTON
SOUTH HIGH
1000 COMM AVE NEWTON, MA 02459

Applicant Information

The individual submitting this application is the
Petitioner

Do you have an attorney/ other representative who should be associated with this application?
Yes

Is the property owner a company, corporation, or other entity?
Yes

Property Owner Information

Name	Address
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City/Town	State
--	--
Zip Code	
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Attorney/Other Representative Information**Name**

Brian Hurley

Address

One Federal Street, 20th Floor

City

Boston

State

MA

Zip Code

02110

Telephone Number

6173092600

Email

bhurley@verrill-law.com

Please list all the names and addresses of the principals, officers, and/or managers**Name**

Jon & Jill Bovarnick

Address

62 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Denys & Marina Glushkov

Address

54 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Josh & Dahlia Ehrenfried

Address

78 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Matthew Theall

Address

91 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Mikhail & Marina Turestsky

Address

94 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Babak Allabadi & Leila Jalinous

Address

77 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Leonid & Olga Gorelik

Address

69 Winston Road

City

Newton

State

MA

Zip Code

02459

Name

Tamar Frankel & Ray Atkins

Address

61 Winston Road

City

Newton

State

MA

Zip Code

02459

Name	Address
Galina Elbert	86 Winston Road
City	State
Newton	MA
Zip Code	
02459	

Appeal Information

Relationship to Subject Property (i.e. owner, abutter, etc.)

Abutter

What decision are you appealing--is it an inability to obtain a building permit, the issuance of a building permit, an order or decision of the Commission of Inspectional Services or a zoning violation?

Issuance of a building permit

Date of Decision/Order/Permit/Notice you are appealing

07/22/2022

State the basis or grounds for contesting the decision, providing any information that you feel will aid the Board in its review of your appeal:

On October 4, 2021 with no notice to residents, the Mayor announced plans to light Brandeis Field. This caught us by surprise then and since for the following reasons: (a) In a public meeting 3.5 years ago, the City promised not to put lights on this (Brandeis) field when they voted to light the Winkler stadium field 1000 feet away, (b) Parks & Rec [PRC] offered 3 reasons to justify this project but we can prove that they are either wholly untrue or extremely misleading and exaggerated--this project meets only one need: Lighting ~1 hour of extra M-TH practice in October and early November exclusively for freshman and sophomore student athletes (varsity sports has practices at Winkler Field) for no more than 50-75 hours annually, all at a cost of ~\$700,000 using COVID-relief funding from Federal taxpayers, (c) current needs could alternatively be met by purchasing \$30,000 mobile, LED, battery powered lighting rather than the proposed, permanent \$700,000 lighting (d) Public memos from the Mayor's office falsely declare that resident feedback was solicited and residents have accepted protocols though feedback was never actively solicited or regarded, no protocols have been agreed upon as abutters have been and remain strongly opposed, and over 150 residents within 1/4 mile (nearly everyone) have signed a petition opposed to this project, (e) abutters are concerned this is proceeding without protocols agreed upon and with PRC having broken protocols previously agreed upon at the recently lit Winkler Field and tennis courts, (f) the declining grade of the terrain from abutter's homes to Brandeis field and proximity and direction of these lights presents serious concerns and potential dangers to abutter's well-being (the PRC Commissioner herself once suggested the effects of these lights will be like pointing car headlights into our homes), (g) to mitigate these effects, PRC is literally doing nothing, (h) to mitigate abutter concerns and hazards, abutters offered 25 suggestions to PRC, which promptly and wholly rebuffed every one of the 25 suggestions, (i) the Sunshine Protection Act was unanimously approved by the Senate and awaits House approval and would make daylight savings permanent so that in fall 2023, NSHS sports would regain the hour of

daylight lost when they pushed back the school start time that initiated NSHS AD Gonzalez's request to simply have lights for October practices, thereby rendering this project without any singular basis to proceed, (j) No public hearing was conducted for this project and nor have abutters received any public forum to air their grievances in a way similar to what is written here, (k) under City Ordinance 21-2, the School Committee (not PRC or the mayor) is in charge of the "control," "use," and "layout" of their fields while PRC's duty is limited to "management, care and maintenance" (on a recorded webinar this summer, the School Committee appeared unanimously concerned that they were hearing about this project only for the first time and appeared alarmed about its justifications, source of funding, and that it has proceeded in spite of strongly opposed neighbors with legitimate concerns). In spite of this City Ordinance, the School Committee's proper jurisdiction of this project was promptly obfuscated after this webinar. Since the "use" of this field WILL change from a daytime field only (for 60 years since NSHS was built) to a daytime and nighttime field if this project proceeds, the School Committee has jurisdiction, not PRC. (l) the City Council's voice has also been obfuscated by the mayor's funding this project with Federal taxpayer COVID-relief money that is explicitly not intended for recreational purposes but that she has exercised authoritarian domain over, (m) when an independent study was requested of PRC by abutters and PRC promised to comply, PRC furnished a one-page document that is not a study nor independent as it was authored by a non-profit that appears to have been founded by and funded by the same light company they contracted to do the Brandeis lights installation.

State all sections of the Newton Zoning Ordinance implicated in the appeal

Newton City Ordinance 21-2, Zoning Sec. 1.2, Sec. 2.1.2E & F, Sec. 6.3.14, Sec. 7.3, Sec. 7.4, Sec. 7.5.2, Sec. 7.8.2

Link to Zoning Ordinance:

<https://www.newtonma.gov/home/showpublisheddocument/29823/637444168451970000>

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Explain why you are aggrieved by the decision/order/permit/notice being appealed:

Newton City Ordinance 21-2 dictates that the School Committee should govern here, not PRC. Yet, the School Committee's control has been obfuscated after they demonstrated serious concerns about this project as already noted above.

Per Sec. 1.2, this project has moved quickly and does not encourage the most appropriate use of land nor has consideration of the comprehensive plan adopted by the Planning Board and the City Council.

Per Sec. 2.1.2E, PRC offered no plan to create a meaningful buffer to mitigate the light pollution or noise that this project will create in the dark and dead of night (i.e. after-dark) and after children's and senior's bedtimes.

Per Sec. 2.1.2F, this project creates multiple hazards for the "general health, safety, and welfare" of taxpaying, home owners including abutters and other concerned residents nearby.

Per Sec. 6.3.14, to our knowledge this project has not proceeded with the required "Administrative Site Plan Review" nor a "Special Permit."

Per 7.3, a special permit has not been filed nor reviewed by City Council and the Department of Planning and Development. Only "building" and "electrical" permits have been filed, which we are appealing here.

Per 7.4, the City aims to "protect the health, safety, convenience and general welfare of the inhabitants of the City" but as noted above and due to the grave proximity and angles and land grading between abutting homes and this field and lack of any meaningful mitigation from PRC, this project puts abutters "health and safety" at great risk while providing clear benefit only for < 100 hours for 13-15 year old NSHS student athletes in only October and early November and for practices, not games and at great cost. Note that abutters of the tennis courts have recently complained to PRC that their families cannot sleep and are getting headaches due to PRC extended the lighting of this area past the longstanding "off" time of 8pm until 930pm without regard for residents nearby.

Per Sec. 7.5.2, to our knowledge PRC has not filed the required site plan application 60 days prior to the application of this building permit per 7.5.2.A and no notice has been given to the ward councilors, clerk, or abutters of such site plan application per 7.5.2.B. And per 7.5.2.C.3a, "convenience and safety of...properties" has not been respected.

Sec. 7.8.2, this project clearly changes the use of the field from daytime only to include nighttime, which has severe implications for abutters and nearby residents. Sec. 7.8.2.C.1 suggests that "special permit from the City Council shall be required for any alteration, reconstruction, extension or structural change of such building or structure to provide for its use in a substantially different manner or greater extent than the existing use"

What outcome do you request if your appeal is granted?

This project should be cancelled, judged upon the unbiased facts as unnecessary, wasteful, and inappropriate spending of COVID-relief money (or City money, if re-budgeted).

Why? NSHS already has a lit stadium field sufficient for games and varsity and many JV practices. At great cost, this incremental and expensive lighting project will benefit only very few underclassmen for only 10-12% of the year while putting a serious burden on the well-being, physical, and mental health of abutters, cause likely declines in abutter property values via noise and light pollution and trash, which will also serve as a detriment to the entire nearby neighborhood, which was never asked our opinion in this process but has voiced grave concerns the whole way since this project was announced. To boot, PRC has not offered to mitigate any ill effects on abutters nor agreed to any of our requested protocols despite publicly suggesting otherwise.

If considered at all, this project should at least follow a process consistent and respectful of all relevant City regulations (i.e. School Committee governance, special permits filed and considered by all parties noted above, including intelligible considerations for the City and nearby residents and not weak data from biased parties including the contractor itself and a non-profit arm of the contractor that benefits from the project) and with some true regard for neighborly considerations.



Digital Signature

I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this application. I (we) certify that I (we) have read the Board's Rules and Procedures before submitting to ensure the completeness of my (our) application. The undersigned, being the applicant, hereby certifies under the pains and penalties of perjury, that: the information above is true accurate to the best of my understanding and belief.

Joshua H Ehrenfried

08/19/2022

Attachments

-  Owner Authorization Form (signed).pdf
Uploaded by Josh Ehrenfried on Aug 19, 2022 at 12:13 pm
 -  copy of buidling permit.pdf
Uploaded by Brenda Belsanti on Sep 1, 2022 at 2:43 pm
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