

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2010-71  
Petition of NDNE Lower Falls LLC  
27 Washington Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Tuesday, August 17, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of NDNE LOWER FALLS LLC requesting a Special Permit pursuant to the provisions of Section IXB and Section XXV of the Zoning Bylaw for use as an ambulatory surgery center and medical office, at 27 WASHINGTON STREET, in the Lower Falls Village Commercial District and a Residential Overlay District.

On August 2, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Robert C. Davis, Esq., Goulston & Storrs, who said that he was representing NDNE Lower Falls LLC, (the "Petitioner"). Also present were John J. O'Neil III and Mark L. Paris, National Development, Robert Corning and Frank Holmes, Stantec Consulting, and representatives from Newton-Wellesley Hospital.

Mr. Davis said that the Petitioner was seeking relief relating to the implementation of the tenancy of Newton-Wellesley Hospital in the commercial building to be constructed at the current location of 27 Washington Street. In addition, he said that the Petitioner has been informed by the Postmaster that the number will be changed to 25 Washington Street.

Mr. Davis said that the proposed facility involves the use of the entire second floor of the building and a portion of the first floor.

Mr. Davis said that the proposed use is for medical office and ambulatory surgery. He said that Section IXB B.8 of the Zoning Bylaw authorizes the Board to grant a Special Permit for a use that is similar to one that is enumerated in the bylaw. He said that Office Use is enumerated in the bylaw.

Mr. Davis said that they did a comprehensive review of the Zoning Bylaw to determine if the proposed use would fit within the parameters of the bylaw. He said that they looked at records of other properties in the vicinity and determined that there has been a tradition in the Town of construing office use in somewhat of a broad way for medical offices and related facilities.

Mr. Davis said that the Newton-Wellesley operation will have features that are typically found in office uses. He said that the hours will be Monday through Friday. He said that the space is laid out so that it will not be open to the general public. He said that there will be a reception area on the first floor.

Mr. O'Neil said that there will be preparation, surgery and recovery rooms on the second floor. He said that there will be a total of four operating rooms when the facility is fully utilized. He said that the Hospital plans to move into the operating rooms over time. He said that the facility will be for out-patient day surgery with an orthopedic focus, on a stand-alone basis. He said that there will be no overnight stays. He said that there will be no emergency room feature in connection with the facility.

Mr. Davis said that they had looked at the Planning Board recommendations. He submitted Proposed ZBA Conditions.

Mr. Davis said that the balance of the first floor will be devoted to retail use. He said that the proposed wording of the condition would give the Zoning Board flexibility in the future if there was a request to modify the restriction.

Mr. Davis said that the Board received a letter from BETA Engineering, the Town's Traffic Consultant, that discussed the traffic impacts of the proposed alternative use. He said that BETA concluded that there will be an overall decrease in the amount of traffic to be generated with the revised program as compared to the previously proposed development program.

The Board said that two alternatives for trip generation had been submitted, one with a Surgery Center and one with a Medical Office. The Board said that the Surgery Center is based on Newton-Wellesley data. The Board asked about the source of the data and how it compared to the Medical Office data. Mr. O'Neil said that Surgery Center use was not listed specifically in the Land Use Code (LUC), so they provided Newton-Wellesley data based on other locations. He said that they provided Medical Office use data, which generates higher volumes. He said that even if the facility was used completely as a Medical Office use, the counts would be below the counts that were approved under the Project of Significant Impact (PSI).

There was no one present at the Public Hearing who wished to speak to the petition.

#### Statement of Facts

The subject property is located at 27 Washington Street, in the Lower Falls Village Commercial District and a Residential Overlay District.

The Petitioner is requesting a Special Permit for a use as an ambulatory surgery center and medical office in the commercial building.

#### Submittals from the Applicant

- Application
- Addendum to Application for Special Permit for a Use Similar to a Use Specifically Authorized in the Lower Falls Village Commercial District
- Exhibit B, Item II.12 Number of Parking Spaces & Item III.1. Traffic

- Conley Associates, Memorandum re: Trip Generation Comparison – 27 Washington Street, Wellesley, Massachusetts, dated July 8, 2010
- BETA Group, Inc. Trip Generation Comparison, Alternative Use Proposal, 27 Washington Street, to Hans Larsen, dated July 9, 2010
- Cover Sheet, Retail Rendering Detail, dated 7/14/10, revised 8/4/10, prepared by Elkus/Manfredi Architects
- Retail Rendering Detail 01, dated 7/14/10, prepared by Elkus/Manfredi Architects
- Retail Rendering Detail 02, dated 7/14/10, prepared by Elkus/Manfredi Architects
- Layout and Materials Plan, L-2, dated 6/01/10, revised 6/18/04, prepared by Frank Holmes, P.E.
- Layout and Materials Plan, L-2, dated 6/18/04, revised 8/4/10, prepared by Robert M. Corning, Jr., L.A.
- Layout and Materials Enlargement Plan, L-3, dated 8/4/10, prepared by Robert M. Corning, Jr., L.A.
- Grading Plan, L-6, dated 6/01/10, revised 6/18/10, prepared by Frank Holmes, P.E.
- Planting Plan, L-13, dated 6/01/10, revised 6/18/04, prepared by Frank Holmes, P.E.
- Electrical Site Lighting Plan, Phase #1, E002, dated 6/1/10, revised 6/21/10, prepared by Mark F. Rattenbury, P.E.
- Electrical Site Lighting Plan, Phase #2, E003, dated 6/1/10, revised 6/21/10, prepared by Mark F. Rattenbury, P.E.
- First Floor Plan, dated 7/14/10, revised 8/4/10, prepared by Elkus/Manfredi Architects
- Retail/Office Roof Plan, dated 7/14/10, prepared by Elkus/Manfredi Architects
- Retail/Office Elevations, looking North & West, dated 7/14/10, prepared by Elkus/Manfredi Architects
- Retail/Office Elevations, looking South & East, dated 7/14/10, revised 8/4/10, prepared by Elkus/Manfredi Architects
- Building Sections 1 & 2, dated 7/14/10, prepared Elkus/Manfredi Architects
- Retail Office – Elevation looking North, dated 7/14/10, prepared Elkus/Manfredi Architects
- Partial Elevation – Looking West & East, dated 8/4/10, prepared by Elkus/Manfredi Architects

On August 16, 2010 the Planning Board reviewed the petition and recommended that the Special Permit be granted with conditions.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of the Zoning Board of Appeals (the “Board”) that (i) the proposed use as a Medical Office, Ambulatory Surgery, and General Medical Care Facility meets the requirements of Section IXB.B of the Wellesley Zoning Bylaws, and (ii) the standards set forth in Section XXV of the Bylaws have been met, based on the findings set forth below.

1. Vehicular Circulation: The internal traffic circulation pattern shown on the site plan approved by the ZBA's decision on April 15, 2010 (the "Site Plan") would be altered slightly. To facilitate patient access to and from the Commercial building, a drop-off area would be constructed to the rear of the Commercial Building, as depicted on the revised site plans. To accommodate the location of the drop-off area and the internal parking area modifications, a total of nine parking spaces would be eliminated. The commercial building would still have parking spaces in excess of those required by the Bylaw. The introduction of the drop-off area would not adversely affect visibility for motorists and pedestrians using the parking area and would not adversely affect the use of the sidewalks which have been included in the layout of the parking facility to foster pedestrian safety.

Incident to the Applicant's development of the property, the Applicant, in concert with the Town, will be implementing a number of traffic mitigation measures which were carefully reviewed and approved as part of the PSI process before the Planning Board and the Board of Selectmen. These measures were specifically intended to enhance and improve traffic safety in the Washington Street corridor. These improvements, which will include a left-hand turn lane into the property for east-bound traffic, will reduce accident potential at the proposed driveway and at other intersections in the surrounding area.

2. Driveways: The driveway to service the project is not located within 50 feet of any street intersections and, accordingly, no favorable recommendation is required from the Town's Traffic Engineer.
3. Vehicle Queuing Lanes: The queuing lanes in both the parking areas and in the access drive equal or exceed nine feet in width. The layout of the parking, access drives and pedestrian improvements have been designed so as to not encroach on sidewalk areas or designated fire lanes or otherwise to interfere with the movements of vehicles either onto or exiting from the site or within the site.
4. Compatibility with Surroundings: The design of the Commercial Building is the same which has been vetted with and approved by the Design Review Board as part of Design Review Approval and with the Planning Board as part of the PSI process. The design and location of the Commercial Building is consistent with the recommendation contained in the Lower Falls Zoning, Urban Design and Landscape Guidelines conducted by the Town.
5. Pedestrian Safety and Connection: The proposed project benefits from a wide road layout line along its Washington Street frontage ranging from +/- fourteen feet to almost twenty feet in depth from the existing road layout curb line. This widening allows for a generous sidewalk width along the property frontage. Closing the subject site's existing east side curb cut will further enhance pedestrian safety in the village area by elimination of one potential source of vehicular/pedestrian conflict.

Internal to the site, sidewalks are included from the parking areas to both proposed buildings/uses and to Washington Street where they connect to the sidewalk along Washington Street.

The Applicant also proposes a pedestrian connection from Washington Street to the river utilizing both on-site property of the Applicant and a portion of the Town of Wellesley Right of Way.

The Applicant committed to certain off-site traffic, pedestrian and safety improvements related to the project. The existing Washington Street crosswalk near Ledyard Street and Glen Road will have a new pedestrian signal to enhance public safety. Additionally, the existing pedestrian signal located at Ledyard/Glen Road will be relocated to a slightly relocated Washington Street crosswalk in front of 15-21 Washington Street (CK Shanghai), together with certain curb modifications to enhance pedestrian visibility and safety.

In the opinion of the Zoning Board of Appeals, the application meets the requirements of Section XXV.D of the Wellesley Zoning Bylaws, based on the above findings.

Therefore, a Special Permit is hereby granted, as voted unanimously by this Authority at the Public Hearing for use as an ambulatory surgery center and medical office, in the Lower Falls Village Commercial District and a Residential Overlay District, subject to the following conditions:

1. Medical uses in the commercial building shall be restricted to ambulatory surgery, general medical care and medical office which shall not include an emergency room.
2. The portions of the ground floor of the commercial building not indicated on the plans submitted with the application for this special permit as being part of the ambulatory surgery and medical office use shall be devoted to retail use unless the Zoning Board of Appeals otherwise approves by an amendment of this decision.

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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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Richard L. Seegel, Chairman

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J. Randolph Becker

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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