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ZBA 2014-65
 Petition of GPT Phillips Park/
 ERP Operating Limited Partnership
 324 Washington Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 7, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of GPT PHILLIPS PARK (ERP OPERATING LIMITED PARTNERSHIP) requesting modification of Site Plan Approval (ZBA 86-4) pursuant to the provisions of Section XVI, Section XXI and Section XXV of the Zoning Bylaw to restore the parking area to the approved number of 48 spaces. There are currently 44 parking spaces at 324 WASHINGTON STREET, in a Business and a Residential District.

On July 21, 2014, 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 were Laura Boulé, Vice President of Investments, Equity Residential, Ethan Brown, former Property Manager, and Kari Clarke, current Property Manager.

Ms. Boulé said that the property that Equity Residential owns at 324 Washington Street was built in 1988. She said that the property was acquired by Equity in October of 2000. She said that, at the time of construction, the Parking Plan included in the Site Plan Approval (Original Parking Plan) required 48 spaces on site. She said that the submitted existing parking plan (Existing Parking Plan) shows there are currently 44 spaces on site, and that they do not believe that there were ever 48 parking spaces built. She said that the largest deficiency from the Original Parking Plan is in the east parking lot along the back line adjacent to the building. She said that originally the Original Parking Plan required 13 spaces to be built in that location. She said that they currently have nine. She said that they have had a survey done of the area and they will be able to fit 11 spaces there. She said that the other area where there is a deficit as compared to the Original Parking Plan is at the end of the drive from the north parking lot to Seaward Road. She said that the Original Parking Plan showed there were to be five spaces there. She said that three were shown on Existing Parking Plan. She said that there is a large tree and two additional spaces. She said that they currently have four spaces in that spot.

Ms. Boulé said that they asked the surveyor to maximize the number of parking spaces to bring the Existing Parking Plans into compliance with the Original Parking Plan, or, ideally, create additional spaces over the originally required 48 spaces. She said that the proposed parking plan (Proposed Parking Plan) that was submitted does show 48 spaces. She said that it was not possible to create more parking with the site limits and constraints of the currently existing parking lots. She said that they could not

increase the number of spaces without removing trees on the site or having the Town give up meter spaces to allow for a different entrance from Washington Street to the front of the site.

Ms. Boulé said that, prior to submittal of the Proposed Parking Plan, Mr. Brown worked hard with surrounding condo associations, church and other existing lots to achieve overnight parking. She said that there was no available parking at those sites.

Ms. Boulé said that there are several handicapped spaces currently shown on the Existing Parking Plan that were not approved by the ZBA. She said that the several handicapped spaces are not built to compliance and should not be there. She said that the Proposed Parking Plan that was submitted does not have as many handicapped spaces as before. She said that under Massachusetts General Laws two spaces were required. She said that will be a detriment to their residents as the residents currently require more than two handicapped spaces. She said that there is nowhere on the site to add more handicapped spaces.

The Board asked how the present situation came about. Ms. Boulé said that Equity always knew that there were parking issues. She said that residents told Equity that they were having difficulty finding parking in the evening. She said that it was not until Equity was approached by the Town that they realized that the required number of spaces was 48. The Board confirmed that the arrangement of the facilities on the land is different from what is shown on the Original Parking Plan. The Board said that the Proposed Parking Plan shows 13 compact spaces moved to the middle of the lot and doing a few refinements to the circular parking lot at the front entrance on Seaward Road. Ms. Boulé said that they had to have the entire plot re-surveyed. She said that to achieve the parking spaces shown on the Proposed Parking Plan there will be a few curbs that will have to be moved. She said that is where the Existing Parking Plan is showing 13 spaces in the east lot adjacent to the rear of the building. The Board said that the 11 spaces shown on the Proposed Parking Plan, none of which will be handicapped, are so-called compact spaces.

The Board said that the proposed solution calls for removal of cobble stone curbing. The Board said that when the project was originally done it was probably grass or plantings that would not survive there. The Board said that the cobble stones were a good solution and it would not like to see them removed altogether to have a car parked there. A Board member said that the way the parking is arranged now is preferable to what is being proposed.

The Board said that the Proposed Parking Plan does not say what will happen to the existing dumpsters. Ms. Boulé said that there is an area at the end of the east parking lot where the dumpsters are currently blocked off. She said that is the only location where the truck can come in and pick them up. She said that, due to the lot size, there is not a lot of room to move around. She said that several years ago they looked at putting the dumpsters on the right side but it would be too close to the lot line. She said that with the slope on the hill, a truck would not have enough room.

The Board asked about the different procedures that took place in 1986 when conversion of the school to housing and the parking arrangement were approved. The Board asked about provisions for the dumpsters at the time. The Board asked if there was any requirement as part of approval for more than the minimum number of handicapped spaces, given the age of the group of people living there. Ms.

Boulé said that their legal team looked into that but did not find any information from the records that they had.

The Board asked about snow in the wintertime. Ms. Boulé said that it goes straight down the access road from Seaward Road for deposit in the east lot next to the dumpsters. She said that there is limited space. She said that at the exit to Seaward Road from the east lot drive, at spaces 40-37, there is a large tree there and there is a little bit of room east of the tree for the snow. She said that there is a small lip before a fence at the back. She said that it is a very small space.

The Board asked about the number of units in the development. Ms. Boulé said that there are 49. The Board said that, at the time it was approved, there was an expectation that at least 48 of the residents would have a place to park. Ms. Boulé said that they have allowed over time more than one space to certain residents. She said that they currently have 48 registered cars. She said that a possibility going forward could be that, if there is no capacity past that 48, to rent to people who do not have vehicles. The Board said that a Phillips Park Parking Policy had been submitted that stated that parking will be limited to one car per apartment.

The Board said that this property crosses two zoning districts but the plot plan does not show where that is. The Board said that the new plan shows it diagrammatically. The Board said that it is difficult to understand what is in the commercial district and what is in the residential district. Ms. Boulé said that she did not have a plan that shows that. She said that they did not have the surveyor survey the whole site. She said that they did not have the front of the property that faces Washington Street surveyed because there is no parking available there.

The Board said that before the conversion to housing, there were two structures on the property, a former school/Town office building called the Intermediate Building in the Business District and the Phillips Elementary School in the Residential District.

The Board clarified that the petition before the Board is for a modification of an existing Site Plan Approval (SPA). The Board questioned the standard of review. The Board said that the question is whether to go back to the original SPA standards, which was part of an agreement between the Selectmen and the Developer, and in some sense approved by Town Meeting, or is this subject to current standards. Ms. Boulé said that they could achieve 49 spaces with the old standards. She said that the handicapped spaces require more area. The Board said that there are other requirements such as maneuvering aisles and screening to the Residential District that are also included in the current parking standards.

The Board said that the circulation is substandard under what is proposed. The Board said that an 8.5 foot parking space is small but it is a standard Wellesley size parking space. The Board said that 7.5 feet is really tight, almost unusable unless you have a true compact car. The Board said that it seemed that they were trying to make up for the four spaces by having a significant amount of compact spaces. Ms. Boulé said that they do not have the space for additional cars. She said that they avoided removal of a very large tree at the front by the four spaces. She said that it could be detrimental to the views for the residents who live in that building. She said that could be very expensive because they would have to take the tree down, regrade, and redo drainage because it is a steep slope from that tree forward toward the access aisle to the east parking lot.

Peter Palmer, 324 Washington Street, said that the original plan that he had was dated January 26, 1987. He said that he did not see the new plan. The Board said that the three plans (Original, Existing, and Proposed) have been available in the Zoning Board of Appeals office.

Mr. Palmer said that most of the residents have mid-sized cars. He said that at the last residents' meeting they asked for a show of hands for residents who have handicapped placards. He said that eight hands were raised. He said that someone mentioned that two people who were on vacation also have handicapped placards. He asked if that could be taken into account in the ZBA's consideration of the modification of the SPA. He said that the parking problem seems to have been exacerbated during the past few years. He said that when he moved to 324 Washington Street in 2006, there did not seem to be any parking problems. He said that, through the years, people have had aides, guests and friends come in and stay overnight. He said that people using the nearby field with their children park in the lot. He said that even though there are signs that say that parking is for residents only and others will be towed, that has not happened. He said that one of the reasons that he moved there was because it is so convenient. He said that people have been observed parking there and then going on to their business elsewhere. He said that with parking being so limited, something has to be done so that other people do not park there. He said that they currently have five handicapped spaces at the front and three at the back, and that is not enough. The Board confirmed that Mr. Palmer was asking for better management of the parking with stickers or a gate.

Mr. Palmer said that the plan makes everything difficult with the snow. He said that there are no assigned spaces. He said that people go out to clear a space and then come back later after shopping to find that someone else has taken their space.

Mr. Palmer asked if the driveway could be widened to 24 feet. He said that it is currently 18 feet. Ms. Boulé said that there is not enough room to do that. Mr. Palmer said that the plan does not show the spot for emergency vehicles and does not show a walkway at the right rear. The Board asked if, at some point the space and half had to be marked as non parking, as required by some organization. Ms. Boulé said that when they re-stripped the parking area they put their own walkway in to aid with dumpster roll out without having to move a car or take down the cobblestone walkway. She said that has been removed from the Proposed Parking Plan.

The Board said that the normal process with parking lots is that the proponent looks at the bylaw and says, this is my building's use and the bylaw says this is how many parking spaces you have. The Board said that the bylaw also has requirements for size and number of normal and compact spaces. The Board said that the Zoning Bylaw (ZBL) allows up to 30 percent of the parking spaces to be for compact cars. The Board said that there are other requirements for the number of handicapped spaces, based on the number of spaces in the lot. The Board said that it does not have the authority to act on things such as management or widening the drive aisles. Ms. Boulé said that a Parking Management Plan was submitted.

The Board said that this lot was created through the development process for the conversion of the buildings from their prior uses to residential uses. The Board said that a whole set of plans was developed and agreed upon between the Town and the Developer, and approved by Town Meeting. The Board said

there are differences between the requirements for parking in the bylaw and what the agreement said. The Board said that the question for the Board is whether to use the 1986 Agreement as the standard or the ZBL. Mr. Palmer said that the Phillips Park bylaws say that there will be one parking space per residential unit. He said that is far from what they have. The Board said that a portion of the property is in a Residential District where there is no requirement for parking. The Board said that a Residential District does not anticipate the use that this building has. The Board said that there is nothing in the ZBL that says how many spaces this development should have. Mr. Palmer confirmed that the 1.5 space requirement does not apply here.

Catha Hesse, 324 Washington Street, said that it was her understanding, after speaking with the BOS, that the residents would be promised, through the ZBA approval, assigned spaces. She said that in the wintertime, snow is a problem and assigned parking spaces would help to alleviate the problem.

Jim Casteris, 324 Washington Street, read an excerpt from Section VIA.A.g. PARKING of the ZBL. He asked about the rules when this property was built. He said that the property at 324 Washington is not compliant for 1.5 parking spaces (editorial note: Section VIA does not apply to 324 Washington Street). He asked for a delay for the residents to better determine what the rules say, and what the rules were when the project was built. He said that there is such a discrepancy with 49 apartments built and far less than that number of spaces. He said that one of the residents researched enough to find out that the plan was never stamped approved. The Board said that the controlling document at the time was not the ZBL but the Development Agreement between the BOS and the Developer. The Board said that the Original Parking Plan shows 48 parking spaces. The Board said that was what was approved, notwithstanding what the ZBL said. The Board said that part of the property is in a Residential District and there is no parking requirement in a Residential District. The Board said that it cannot look at the current ZBL and determine that this property should have a certain number of parking spaces. Mr. Casteris said that if the residents choose to pursue this, they will have to have some sort of legal help to confirm the rules. He said that it is not rational to have fewer parking spaces. He said that he has four grown children who visit and stay over. He said that there are not enough spaces. He said that there are spaces along the driveway, although he did not know the requirements for width. He said that there could be spaces there that are painted and used. He said that there is a paved area between the old building that faces Washington Street and the next building. He said that area could easily handle some cars. He asked if that would be possible. The Board said that question should be directed to Equity Residential, not the ZBA.

The Board said that the only way to get more parking spaces is to build at least two levels of structured parking above the parking lot. The Board said that it seems very unlikely that that will happen. The Board said that is not part of the plan that is before the Board. The Board said that it deals with the ZBL and does not design the projects. Mr. Casteris asked that the modification of SPA not be approved tonight, August 7, 2014, to give the residents more time to do additional research.

Marguerite Hasbrouck, 324 Washington Street, said that she lived in Wellesley for almost 20 years and then was away for a bit. She said that when she came back, the big brick building was the Intermediate Building and the Advisory Committee met there. She said that she was a member of the Advisory Committee. She said that behind the Intermediate Building was the Phillips School and she was a member of the School Committee.

Ms. Hasbrouck said that it was her understanding that the original plan had never been signed off by the Town and that was recently discovered. The Board said that the principal device that the Town uses to indicate that the construction has been completed is the certificate of occupancy. Ms. Hasbrouck asked if Equity owns the property. She said that according to the last deed recorded at the Registry of Deeds, it is owned by GPT Phillips Park. Ms. Boulé said that there are multiple names for the property and entities but it is Phillips Park, owned by Equity Residential. She said that their formal tax id is ERP Operating Limited Partnership. She said that Equity Residential acquired the property on October 31, 2000. Ms. Hasbrouck said that it would be helpful to get the page and number at the Registry of Deeds.

Ms. Hasbrouck said that the ADA Act takes precedence over any town bylaws, if there are significant alterations or changes. The Board said that is something that not even the Building Inspector can enforce. The Board said that ADA is enforced through a complaint being filed and the matter taken up by the Court system. Ms. Hasbrouck said that the ADA Act does say that, for handicapped parking, there has to be 90 inches for the car and 60 inches for the space between the cars. She said that the number of handicapped spaces should depend on the number of residents requiring those spaces. The Board said that the requirement is based on the number of cars in the lot. The Board said that this lot is only required to provide two handicapped spaces. Ms. Hasbrouck said that the Massachusetts Architectural Access Board, MGL C22 513A, 521 CMR says that there shall be no alteration to decrease accessibility below the regulation for new construction. She said that having fewer handicapped spaces will decrease the accessibility. The Board said that a complaint could be filed with MAAB, who would come out and work with the property owners. The Board said that current regulations do say that you cannot reduce the amount of accessibility. The Board said that it is debatable about whether what is there now is compliant. Ms. Boulé said that what is there now never went through the approval process. The Board said that the existing handicapped spaces do not meet the current Architectural Access Regulations. Ms. Boulé said that, at the time that the plan was approved, none of the handicapped regulations applied. She said that the proposed handicapped spaces shown on the Proposed Parking Plan will comply. The Board said that Ms. Hasbrouck is correct in that, if the parking lot is altered today, it must meet the current handicapped parking regulations. The Board said that there is no grandfathering of accessibility.

Ms. Hasbrouck said that the project was set up as age restricted 55+ living. She said that quite a few of the residents are handicapped. She asked that the Board be considerate of the fact that at least 10 residents are handicapped and that having two handicapped spaces would decrease accessibility.

Mr. Palmer asked for more time to be able to look at the Proposed Parking Plan before the Board makes its decision. The Board said that all of the abutters were sent notice of the hearing and were told that the plans were available at Town Hall.

Ms. Hesse said that she spoke with Meghan Jop in the Selectmen's Office. She said that the only information that Ms. Jop gave her was by phone or by email. She said that she received a copy of the Original Parking Plan but has not received any updates regarding the Proposed Parking Plan. She requested that the ZBA delay its decision until the residents have a chance to look at the Proposed Parking Plan.

The Board discussed continuing the petition to the next hearing. The Board said that it needs information regarding the process that led to the approval of the conversion of the buildings to housing. The Board said that it has a copy of the SPA and a copy of the exhibits.

The Board said that the only thing that the Petitioner is asking the Board to do is to look at parking improvements on the site. The Board said that on the Proposed Parking Plan, the front access drive to the east lot at Seaward Road looks to be more accessible to emergency vehicles, which is an improvement. The Board said that some sort of chart that explains what the Petitioner is trying to do and what the Petitioner is trying to accomplish would be very helpful. The Board said that it needs to understand that if the parking lot will not meet certain standards, what are the standards and why will the requirements not be met.

The Board said that what was approved was never actually constructed. The Board said that it did not see anything in the original SPA about where a dumpster would be located. The Board said that it would like to get a sense of whether it was even discussed. The Board questioned whether today's parking standards are the yardstick by which the ZBA measures this proposal or is it what was approved under the special permit that was granted in 1986. The Board voted unanimously to continue the hearing to September 4, 2014.

September 4, 2014

Presenting the case at the hearing were Laura Boulé, Ethan Brown, and Kari Clarke. Ms. Boulé said that they submitted a summary of various changes to the Proposed Parking Plan and why the changes were made. She said that the previous plan had two handicapped parking spaces and the revised plan has four spaces because they were able to move a piece of curbing. She said that they were able to convert spaces 43 and 44 to handicapped spaces.

Ms. Boulé said that the ZBA does not have any jurisdiction over assigning passes, parking policy or guidelines. She said that if the project is approved, Equity will have a residents' meeting where they will walk the residents through the approved plan. She said that guidelines can always be changed. She said that the parking plan will not be implemented immediately because it will take some time to bid out the construction project.

The Board said that there is a 20 day appeal period during which the Proponent could move ahead with their plans but that is at their own risk. The Board said that if an appeal is filed, the Proponent may find that they do not have the permit that they thought they had.

A Board member said that he researched the history of the project. He said that it was contentious. He said that, at one point, the BOS and the Neighborhood Association all sued the Developer over this project. He said that they ultimately came to an agreement for 48 parking spaces that somehow did not get built.

The Board said that the parking requirements have not changed since 1986.

The Board asked about the two sloped granite curb areas at each end of the center parking aisle in the east lot. Ms. Boulé said that the engineer thought that the two ends were necessary for traffic flow. She said that the "T" and the "L" of it will remain. She said that they were able to widen the drive lanes to comply with ZBL requirements by moving the granite curbing at the center in. She said that the hope was that it will make it easier for residents to get in and out of the compact parking spaces. She said that the drive lanes have been widened to 24 feet. She said that they may have to lose the curbing at the middle. She said that they will reduce the width of the center island by 1.5 feet. She said that the landscaping will remain. She said that the granite at the ends will remain.

The Board asked about screening at the area in the east lot at the corner adjacent to the pedestrian access where the parking spaces face the playground. The Board said that there are a couple of trees there but no screening at all. Ms. Boulé said that there are no plans to put screening there. The Board said that, at the time that the parking lot was constructed, there was supposed to be screening there. The Board said that there was and is a requirement in the bylaw for screening there. The Board said that the original development plan does not show screening there. The Board said that the question is whether compliance was required to the ZBL or the BOS Development Agreement. The Board said that the Developer did agree to comply with some of the more contentious issues such as the setbacks. The Board said that there was an agreement to protect a sloped hillside for sledding in the winter but that did not happen. The Board said that it would seem that Equity has the capability to provide screening now. The Board said that, at the time of the original agreement, there was a lot of concern about the interface between the parking lot and the playground.

The Board said that what is before it is an amendment to the existing SPA. The Board said that the starting point is the Existing Parking Plan. The Board said that whether it complied with the bylaw or not, it is what it is. The Board said that the 1986 bylaws and today's bylaw have to be applied in light of the existing SPA.

The Board said that screening is an issue in two places, one at the southeast corner and the other at the circle at the front. The Board said that whether it originally complied with the bylaw or not, it is there. The Board said that one thing that did not comply was the maneuvering aisles and that has now been changed. The Board said that the parking plan does not comply with the bylaw for screening and the number of spaces. The Board said that the proposal is to taking the screening at the circle out and put parking spaces in.

The Board said that the proposed plan as designed would provide 48 spaces. The Board said that if the space at the front turnaround was eliminated there would be 47 spaces. The Board said that the number of spaces would be down to 41 if there were full sized spaces. The Board said that it has to balance the need for parking against the residents' desire to have full size spaces. The Board said that screening along the park area would be good. The Board said that there are a lot of things that did not get into the existing condition that nobody can explain how and why it happened. The Board said that it has the opportunity to rectify some of that. The Board said that it has to decide on the number of parking spaces. The Board said that on the plan that was submitted, it is hard to figure out access to the dumpsters if the parking spaces facing the building are full size.

The Board said that there is nothing in the plan to indicate that the 13 compact spaces will be marked as compact only. Ms. Boulé said that they will stripe it.

The Board said that this was the first school to be disposed of. The Board said that it was also the first opportunity that the Town had to create a rental project that had moderate as well as market rents. The Board said that the SPA that was ultimately approved did not comply with the ZBL at that time. The Board said that was part of the Court issue that was settled. The Board said that it should try to keep as close to the original agreement as it can and provide as many parking spaces as possible.

The Board asked about the importance of the number at 48 spaces. The Board said that the existing screening is gorgeous. The Board said that the existing screening sets a tone that may outweigh the value of the 48th space. Ms. Boulé said that they removed the screening because they thought that they had to get to 48 spaces. She said that they currently have 48 cars and that does not include guest or caretakers parking. She said that many of the residents went to the Board of Selectmen complaining that there was not enough parking in the evenings. She said that they currently do not have enough spaces to accommodate the need that they have. The Board confirmed that the project is being done for market reasons and not for compliance with the SPA.

Ms. Boulé said that they have people coming to the complex to view apartments and to service the buildings. She said that there is a part time manager and a full time service technician. The Board said that, at the time the project was approved, it was for 48 spaces, one space per unit. Ms. Boulé said those spaces were not assigned originally. She said that the original plan shows 49 units, possibly for a manager without a parking space.

The Board said that although the size complies with the ZBL, 7.5 foot compact spaces are really tight. The Board questioned whether people can actually effectively park in such a small space. Ms. Boulé said that they tried to get as big and as many spaces as possible. She said that the submitted plan was the best that the surveyor could do.

Catha Hesse, 324 Washington Street, said that the residents have not had any meetings with Equity. She said that it is difficult for them because they have not had an opportunity to ask questions. She requested that the residents and Equity hold a meeting before the Board makes its decision. The Board said that there are time constraints in the ZBL that dictate somewhat when the Board has to take action.

Jack Hesse, 324 Washington Street, said that he was representing a group of residents with executed leases with Equity. He said that most people are generally satisfied with Equity's management. He said that there are deep concerns about how Equity has handled the parking situation and how it proposes to handle the parking situation. He said that what is proposed may be abridging what the Town voted for in how to handle 48 parking spaces and 48 apartments. He said that when they executed their leases, they were led to believe that the right to a parking space was part of the right to an apartment. He said that others have been told that there will be parking spaces but they will be a little tight. He said that they wanted to make the Board aware of some of the problems that exist. He said that Equity has failed to provide leases with assigned parking spaces. He said that it appears to be reasonable to conclude that the assignments were a viable means to carrying out the Town vote. He said that in some instances Equity has granted two parking spaces to two residents and three parking spaces to another resident. He said that

it is out of the need for a 49th parking space to accommodate its decision to convert its manager's office to an apartment. The Board said that in all of the material that he had reviewed, it had been discussed as a 48 unit project. He said that having the residents and healthcare aides parking on the premises has created chaotic conditions, particularly in the winter or late evening. He said that is abusive to elderly residents and is contrary to all of the efforts in the Commonwealth to accommodate elderly residents without abuse. He said that Equity has promised to execute a lease that states that a parking space will be available. He said that there has to be an assigned parking space in order for the plan to work. He asked that the Board reject the proposal. He said that the residents want to see a workable plan between Equity and the residents. He said that they would like to see a plan that locks into the original vote. He said that if Equity rents the 49th apartment, it does not carry a parking right. He said that the residents would like to see that the Board rejects the proposal so that the residents and Equity have time to develop an alternative that will work for all parties. The Board said that many of the things that Mr. Hesse discussed were operational and not under the jurisdiction of the ZBA. Mr. Hesse said that the residents think that an interpretation has to be made on the vote with respect to assigned spaces and what the Town intended. The Board said that the issue before the Board is to amend the SPA to accommodate the parking that is shown on the plan.

Peter Palmer, 324 Washington Street, said that the new plan has a new title. He said that the compact spaces will not only be tight, they will be almost impossible. He submitted a sketch of compact car widths circa 2014. He said that the present plan includes 14 compact parking spaces. He questioned why there are 14 spaces. The Board said that the documents suggest that it is an attempt to maximize the number of spaces in the limited land area that is available for parking. Mr. Palmer said that he went to the Wikipedia site on the internet. He said that with a car width of 72 inches, 18 inches of space to open the car door is probably not going to be enough, especially for senior citizens. He said that with two cars parked side by side, only one could open its door. He said that if the other car parks against the white stripe, there will be only has 11 inches to get out of the car. The Board asked if the preference is for larger and fewer number of spaces.

Mr. Palmer said that 7.5 feet was on the original plan. He said that he went back to the internet and found out that the size of a compact car back then was 62 inches. He said that most of the residents do not have compact cars.

The Board asked if Mr. Palmer was asking for larger and fewer number of spaces. Mr. Palmer said that the plan should be redrawn because it does not reflect reality. He said that the spaces do not mean anything because they are almost impossible to use. He said that as the day goes on and people come back from shopping, they will take the larger spaces. He said that others will be forced to park in the compact spaces where they may not be able to get out of their cars. He said that they may park a little off center so that they have enough room to get in and out of the car. He said that one time he could not get a parking space and had to call the police. He said that, after giving them his information, he was allowed to park in the street for that one night.

Ms. Boulé said that they have continued to try to work with the Town.

Mr. Palmer said that the towing program needs clarification. He said that they have not been able to discuss anything with Equity and the residents have a lot more questions. He said that the original SPA

and the proposed changes do not take into account changes in car widths. He said that 7.5 foot parking spaces are not only impractical for today's compact cars but also for the residents. He said that most of the residents do not own compact cars. He said that the original plan called for 48 parking spaces but they now have 49 apartments. He asked that the petition be continued to allow for the parties to look at the issues. He said that the site plan needs to be redrawn.

Jim Casteris, 324 Washington Street, read a letter from Marguerite Hasbrouck (retained by proponent) The letter included concerns about the suitability of the number of handicapped spaces meeting the minimum requirement for 49 parking spaces. She said that, in making the plan, Equity has not considered that the Code also says that the requirement cannot be altered if it decreases or has the effect of decreasing accessibility or usability of a building or facility. Ms. Hasbrouck's letter said that the reduction in number of handicapped spaces in the existing parking lot to the proposed altered lot does decrease accessibility or usability for elderly residents. Further, it is also stated that the number of spaces shall not be limited in number and shall be provided to meet the needs of the dwelling unit occupants. Further, she asked that the ZBA consider what number of handicapped parking spaces are appropriate to meet the needs of the occupants of Phillips Park. She asked that the Board consider the real result of the number of proposed compact spaces. She said that she is an environmentalist and has enthusiastically taken part in recycling. She said that she is pleased to see more compact cars on the roads that use better sources of energy than oil. She said that most of the seniors drive cars that they had before they retired. She said that the plan could result in fewer usable spaces. She said that Equity's proposed plan is just redrawn lines and does not accomplish anything. She said that Equity did that to provide the number of spaces that they were told they must provide. She hoped that the Board would consider this as something that could make matters worse.

The Board said that the sentiment of the public is that they want a larger parking lot. The Board said that does not seem to be a reasonable possibility. The Board said that it is left with trying to make the most accommodating decision to allow the managers of property to proceed with alterations to try to provide more spaces than they have now. The Board said that it was hoping to get a better sense from the residents, given the limited size of the parking lot, whether they would prefer fewer and larger parking spaces. A Board member said that he would vote to approve the design as submitted with the elimination of the parking space at the turnaround at the front of the building and the addition of screening at the southeast corner of the parking lot adjacent to the park. The Board said that the result will be 47 spaces within the existing area of the parking lot.

Mr. Casteris said that on the original plan there were five spaces and a tree at the top of the driveway. The Board said that the question is whether it is important to have more spaces or the screening that is there. The Board said that it heard that the space is needed for market reasons. Ms. Boulé said those will be easy spaces for the residents to park in.

The Board agreed that the existing screening outweighs the need for one parking space. Ms. Boulé said that Equity would rather keep the existing landscaping in place.

The Board asked if Equity was doing anything with the BOS to amend the Development Agreement. Ms. Boulé said that they were not. She said that Equity is in the process of trying to go before the BOS to

work out other arrangements for additional parking, possibly at municipal lots for parking for caretakers and guests.

The Board said that if it approves a plan, it does not mean that Equity has to implement it. The Board said that it just gives them the right to do it but they do not have to do it.

The Board said that if the residents have issues with handicapped parking, they should go to the BOS, who may be able to help.

Statement of Facts

The subject property is located at 324 Washington Street, on an 82,895 square foot lot in a Business District and a 10,000 square foot Single Residence District.

The Petitioner is requesting modification of Site Plan Approval (ZBA 86-4) pursuant to the provisions of Section XVI, Section XXI and Section XXV of the Zoning Bylaw to restore the parking area to the approved number of 48 spaces. There are currently 44 parking spaces.

Original Site Plan and Existing Space Layout and Count as of June 2014 on the Site Plan, dated 12/16/85, stamped by James Haley, Parking Layout Plan, C-1, dated 7/9/14, revised 8/21/14, prepared by Nitsch Engineering, Phillips Park Parking Policy, updated on 6/19/14 by TD & LB, Memorandum, dated 8/21/14, from Chris Hodney to Laura Boulé, re: Phillips Park Basis of Design, Ownership Information, dated 7/15/14, and photographs were submitted.

On August 6, 2014, the Planning Board reviewed the petition and recommended that the petition be deferred.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that modification of Site Plan Approval (ZBA 86-4) pursuant to the provisions of Section XVI, Section XXI and Section XXV of the Zoning Bylaw to restore the parking area to the approved number of 48 spaces may be granted, having found that the Design and Operation Standards are adequately satisfied and not otherwise prohibited.

Therefore, modification of Site Plan Approval (ZBA 86-4) pursuant to the provisions of Section XVI, Section XXI and Section XXV of the Zoning Bylaw to restore the parking area to the approved number of 48 spaces is granted, subject to the following conditions:

1. A revised site plan shall be submitted that eliminates parking space 48 in the front in the landscaped area.

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ERP Operating Limited Partnership
324 Washington Street

2. A revised site plan shall be submitted that shows screening as defined in the ZBL along spaces 29 to 36 between those spaces and the park across from it.

The Board said that there will be a total combination of 47 compact, full size and handicapped parking spaces.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

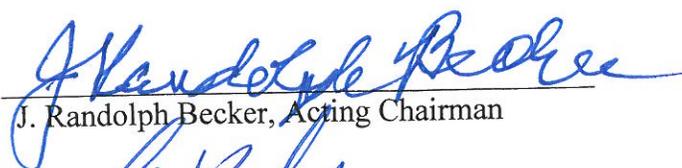
If construction has not commenced, except for good cause, this modification of SPA shall expire two years after the date time stamped on this decision.

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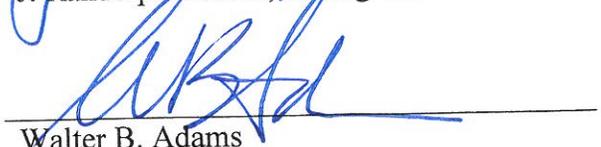
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(ERP Operating Limited Partnership)
324 Washington Street

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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.



J. Randolph Becker, Acting Chairman



Walter B. Adams



Derek B. Redgate

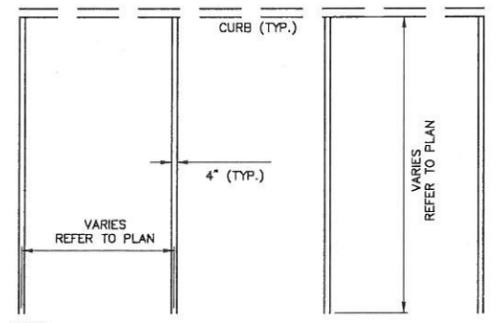
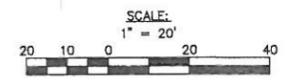
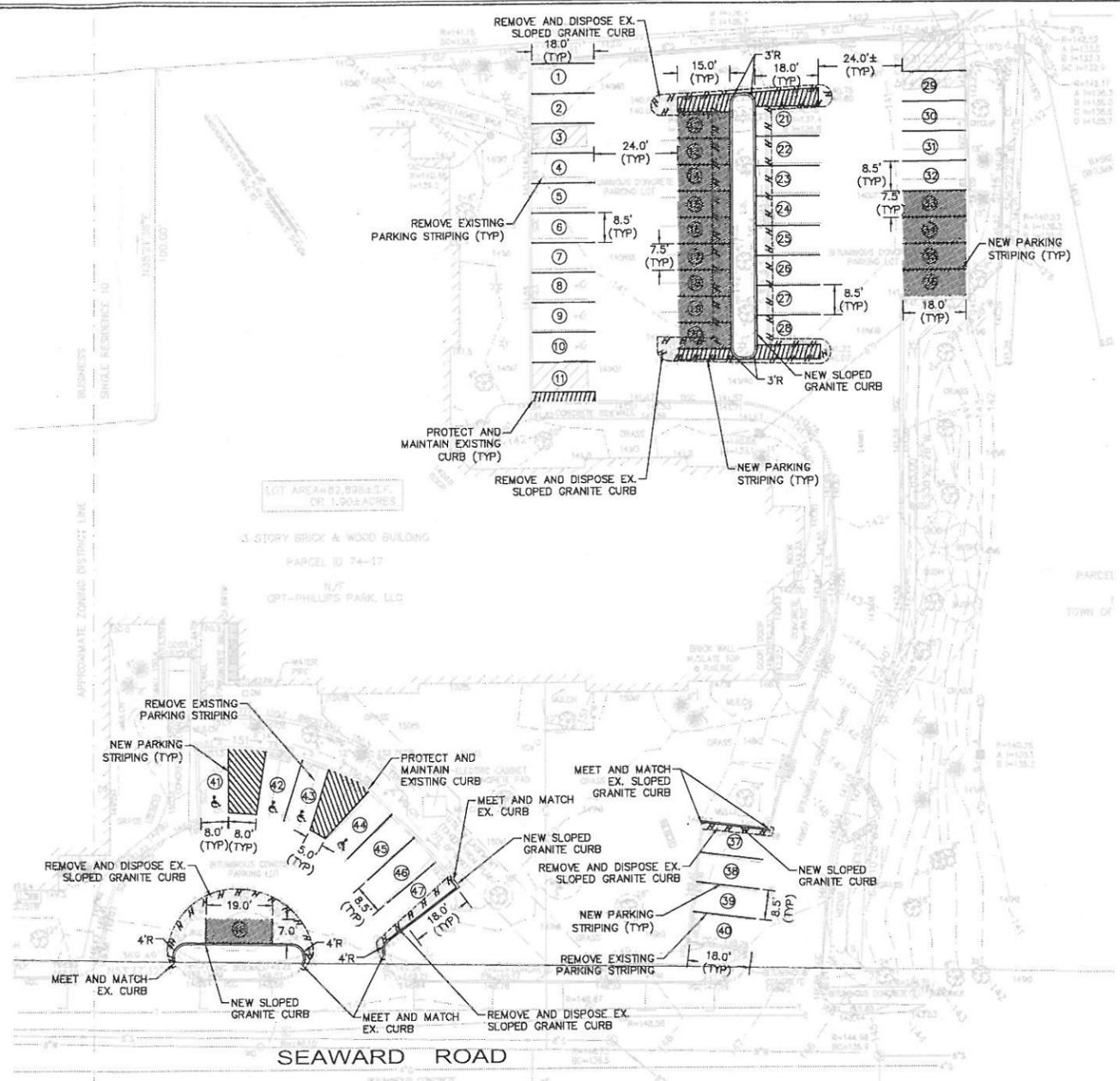
cc: Planning Board
Inspector of Buildings
lrm

GENERAL NOTES

1. TOPOGRAPHIC DATA, PROPERTY LINE INFORMATION, AND EXISTING SITE FEATURES WERE OBTAINED FROM A PLAN ENTITLED "TOPOGRAPHIC PLAN, PHILLIPS PARK APARTMENTS", PREPARED BY NITSCH ENGINEERING, DATED MAY 21, 2014.
2. THE LOCATIONS AND ELEVATIONS OF ALL EXISTING UTILITIES SHALL BE CONSIDERED APPROXIMATE AND MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY UTILITY CONNECTIONS OR CROSSINGS OF PROPOSED UTILITIES AND EXISTING UTILITIES. THE CONTRACTOR SHALL CONTACT THE RESPECTIVE UTILITY COMPANIES RELATIVE TO THE LOCATIONS AND ELEVATIONS OF THEIR LINES. THE CONTRACTOR SHALL KEEP A RECORD OF ANY DISCREPANCIES OR CHANGES IN THE LOCATIONS OF ANY UTILITIES SHOWN OR ENCOUNTERED DURING CONSTRUCTION. ANY DISCREPANCIES SHALL BE REPORTED TO NITSCH ENGINEERING.
3. THE CONTRACTOR SHALL COMPLY WITH MASSACHUSETTS GENERAL LAWS CHAPTER 82, SECTION 40, AS AMENDED, WHICH STATES THAT NO ONE MAY EXCAVATE IN THE COMMONWEALTH OF MASSACHUSETTS EXCEPT IN AN EMERGENCY WITHOUT 72 HOURS NOTICE, EXCLUSIVE OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, TO NATURAL GAS PIPELINE COMPANIES, AND MUNICIPAL UTILITY DEPARTMENTS THAT SUPPLY GAS, ELECTRICITY, TELEPHONE, OR CABLE TELEVISION SERVICE IN OR TO THE CITY OR TOWN WHERE THE EXCAVATION IS TO BE MADE. THE CONTRACTOR SHALL CALL "DIG SAFE" AT 1-888-DIG-SAFE.
4. THE CONTRACTOR SHALL COMPLY WITH MASSACHUSETTS GENERAL LAWS CHAPTER 82A, ALSO REFERRED TO AS JACKIE'S LAW, AS DETAILED IN SECTION 520 CMR 14.00 OF THE CODE OF MASSACHUSETTS REGULATIONS.
5. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS AND SAFETY CODES IN THE CONSTRUCTION OF ALL IMPROVEMENTS.
6. THE CONTRACTOR SHALL TAKE ADEQUATE PRECAUTIONS TO PROTECT ALL WALKS, GRADING, SIDEWALKS AND SITE DETAILS OUTSIDE OF THE LIMITS OF REGRADING AND WORK AS SHOWN ON THE DRAWINGS AND SHALL REPAIR AND REPLACE OR OTHERWISE MAKE GOOD AS DIRECTED BY THE ENGINEER OR OWNER'S DESIGNATED REPRESENTATIVE ANY SUCH OR OTHER DAMAGE SO CAUSED.
7. THE CONTRACTOR SHALL REMOVE FROM THE SITE ALL RUBBISH AND DEBRIS FOUND THEREON. STORAGE OF SUCH MATERIALS ON THE PROJECT SITE WILL NOT BE PERMITTED. THE CONTRACTOR SHALL LEAVE THE SITE IN SAFE, CLEAN, AND LEVEL CONDITION UPON COMPLETION OF THE SITE CLEARANCE WORK.
8. THE CONTRACTOR SHALL REMOVE FROM THE AREA OF CONSTRUCTION PAVEMENT, CONCRETE, GRANITE CURBING, CEMENT CURBING, POLES AND FOUNDATIONS, ISLANDS, TREE BERMS AND OTHER FEATURES WITHIN THE LIMITS OF CONSTRUCTION AS REQUIRED TO ACCOMMODATE NEW CONSTRUCTION WHETHER SPECIFIED ON THE DRAWINGS OR NOT.
9. ELEVATIONS REFER TO NAVD88.
10. CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES.

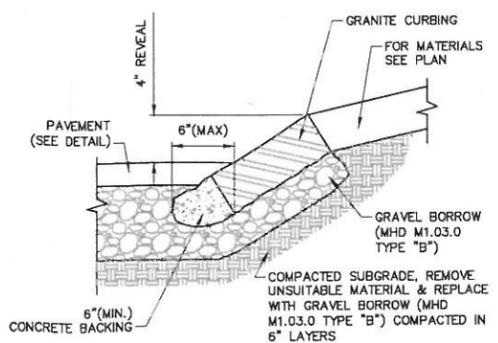
LEGEND

-  COMPACT PARKING SPACE
90° SPACE: 7.5' < WIDTH < 8.5'
PARALLEL SPACE: 7.0' WIDTH
-  PROPOSED PARKING SPACE
-  REMOVE AND DISPOSE CURB
-  SAWCUT

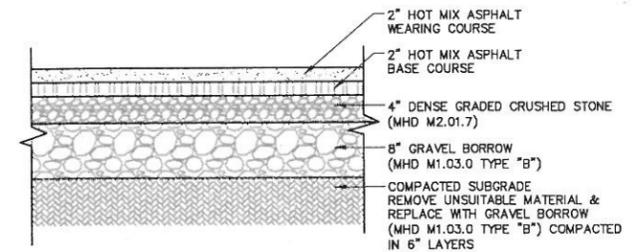


NOTE:
STRIPING SHALL BE INSTALLED PER SPECIFICATIONS

TYPICAL PARKING STRIPING DETAIL
NOT TO SCALE



SLOPED GRANITE CURB
NOT TO SCALE



HOT MIX ASPHALT PAVING (TWO COURSES)
NOT TO SCALE

REV.	COMMENTS	DATE

NITSCH PROJECT # 10247
 FILE: 10247CLO.DWG
 SCALE: AS NOTED
 DATE: 08/21/14
 PROJECT MANAGER: JJA
 SURVEYOR:
 DRAFTED BY: CDH
 CHECKED BY: JJA