TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2002-60
Petition of Cosmo-Ray Realty Trust
3-13 Washington Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 11, 2002 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of COSMO-RAY REALTY TRUST requesting Site Plan Approval pursuant to the provisions of Section XVIA, Section IXB and Section XXV of the Zoning Bylaw to demolish 895 square feet of the existing building at 3-13 WASHINGTON STREET in the Lower Falls Village Commercial District, and construct 1,007 square feet of new footprint, with a partial first story and full second story addition totaling 9,251 square feet of floor area on a 14,803 square foot lot, with a floor area ratio of .9995. Fourteen parking spaces and associated landscaping will be provided.

On June 4, 2002, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Public Hearing – July 11, 2002

Presenting the case at the hearing was Raymond DiLucci, Trustee of the Cosmo-Ray Realty Trust. Mr. DiLucci was accompanied by Donald Lang and Leonard Roberts, project architects, and Jason LaVoie, project engineer.

Using a model of the proposed building, Mr. Lang said they are demolishing the first 10 feet of the building and adding 10 feet in the rear, which will result in creation of a 20 foot pedestrian zone extending from the new storefronts to the street. There will be a sidewalk café on the private portion of that area. The café would be in operation only during the summer months.

The proposed basement will contain a sprinkler room, an electrical room, elevator machine room and elevator shafts. The second floor will have a restaurant/dining room across the front of the building with elevator and stair access from the café below; six office suites of 600 square feet apiece and common bathrooms devoted to offices and separate restrooms devoted to the restaurant. There will be a separate office lobby on the west side with a separate elevator.

The Board asked if the level of the pedestrian sidewalk was the same as the town sidewalk. Mr. Roberts said they have to connect the existing floor levels of the stores, so the accessibility is from the upper portion of the site. Steps would extend from the town sidewalk to the café. The difference between the café sidewalk and the town sidewalk on the Mica Lane side would be 15 inches. There will be a railing for protection. Handicap accessibility via a ramp and walkway will be available at the rear of the building.

Mr. Roberts said that the Design Review Board and Planning Board were very clear that the rear of the building was not to be treated as a maintenance area because the Master Plan for the area is to develop Mica Lane. The rear is treated as storefront units similar to the front façade.

The new portion at the rear will extend beyond the existing building. There will be a 5 foot covered portion at the front of the building. The additional footprint will be 1,007 square feet. The height of the building to the peak of the towers will be 36 feet from average grade.

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A discussion of the required number of parking spaces ensued. Mr. Roberts said that the first floor is exempt from parking regulations as it was constructed prior to the existence of parking requirements. Only the increase in the floor area in excess of the existing building footprint is relevant. The second floor construction requires 2 parking spaces for every 1,000 square feet of upper floor space in excess of 4,000 square feet pursuant to the Lower Falls Village Commercial District requirements. Although 9 spaces are required, 14 spaces will be provided.

The Board asked where construction workers would park. There are 4 spaces on the site plan designated for construction workers, but more than 4 workers could be on the site at any one time. They cannot park on the street or in the town lot. The Board stated that the petitioner would have to submit a definite construction parking plan and a permanent parking plan prior to Board approval.

The Board asked about snow storage. Mr. Roberts said all snow would be removed from the lot.

The Board asked about lighting on Mica Lane. Mr. Roberts said lights would be mounted on the Mica Lane side of the building as well as in the rear. Lights will be mounted in the soffit 16 feet above the ground, beneath the second floor. The lighting will be ship's bell fixtures, which shine down, and will be on timers. The front of the building will be lit by small stem projecting fixtures, which will shine back on the signs.

The Board asked about the vertical compactor, the noise factor and the frequency of use. Mr. Roberts said it works when it is loaded, which might be several times a day. It would be emptied twice a week, which would be a noisier operation than the compacting. The Board requested noise reduction spec sheets on the compactor.

The Board asked what type of safety device would be used for the compactor. Mr. Roberts said it would be enclosed by an 8 foot fence and key activated. The Board stated that controlled access to the compactor would be a condition of the decision.

The Board requested that the parking plan (L-1) show all the parking lot dimensions. The plan should state that any space not marked "compact" is 8.5 foot by 18 feet.

The Board stated that the bylaw states that half of the landscaping required be in the interior of the lot, which is not possible in this situation. Mr. Roberts said that issue arose at the Design Review Board and Planning Board meetings. Both Boards felt the lot was so small that it would not be feasible, and wanted the landscaping on the perimeter of the parking lot for visual definition of the lot.

The Board asked about the construction plan for the Mica Lane side of the building. Mr. DiLucci said they have eliminated the construction fence. As they are not allowed to place scaffolding in Mica Lane, they are using a swing staging system suspended from the structure. The construction fence will be built at the rear of the property.

The Board noted the roof plan shows a mechanical enclosure. Mr. Roberts said it is totally enclosed by a 5 foot wall, but open at the top. The wall will be a metal fence system specifically manufactured for the proposed equipment.

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The Board complimented the petitioner on the storm drainage system. The Board decided to include Attachment E/Post Construction Plan in the decision.

The Board asked about the Health Department concerns with the existing building. Mr. Roberts said the Health Department has found the existing conditions to be challenging. They have agreed that when the store fronts are being replaced, when the steel is installed and when the water is connected and the electricity is changed over, the food service stores will be closed and will reopen after the work has been completed. They will try to coordinate the different processes in order to reduce the number of required inspections by the Health Department. All the food service businesses will be brought up to code.

The Board asked if the 20 foot wide utility easement on Mica Lane was existing or proposed. Mr. Roberts said it existed. The Board asked about the sidewalk. Mr. Roberts said they were asked by both the Design Review Board and Planning Board to define a pedestrian way. Mica Lane is 21 feet of asphalt, with no differentiation between vehicular and pedestrian passage. They have created a 3 foot concrete sidewalk flush with the asphalt which will indicate pedestrian use. The deed line goes to the center of Mica Lane.

Frank Ouellet, owner of 12-14 Mica Lane expressed concern about the parking. Adding more businesses to the area without creating any additional parking is going to create a more difficult situation in an area where parking is already a problem.

The Board voted unanimously to continue the Public Hearing to September 5, 2002 to give the petitioner an opportunity to submit a new parking plan for construction workers and equipment, a revised landscape/parking plan showing the dimension of the spaces, and to resolve the problem of parking for construction workers.

Public Hearing – September 5, 2002

The Board opened the hearing with a discussion of the required parking. Prior to 1982 no parking spaces were required. Mr. DiLucci's building was constructed prior to 1982, and is therefore exempt as to the existing building. Only 9 parking spaces are required due to the new construction.

The Board stated that no information had been submitted as to where the construction workers would park, which was also an issue at the last hearing.

Mr. Roberts said a revised landscape/parking plan (L-1) has been submitted. A note regarding the dimensions of the parking spaces has been added. The second plan submitted was a revision of the Construction & Traffic Management Plan (EX-4). There are 6 designated customer parking spaces for

store customers, which will be available throughout construction. There are also 3 spaces labeled "intermittently available" because they are under the new construction. When the columns are built, they will not be available. Each tenant is allocated 2 parking spaces. There will be 4 active tenants in the building during construction. One tenant is leaving, and that tenant's space will be devoted to the construction office. They do not need a trailer on site. Carpooling will be required for the store employees, who will park in the morning and not move until the end of the day. There are also 3 spaces under the building for construction workers.

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The Board said it is still concerned with construction worker parking. There could be from 8 to 20 workmen on the site at any one time. Mr. Roberts said the construction workers will be parking in the Temple Reyim parking lot in Newton. The temple attorney called to discuss the terms of the parking contract, which should be finalized within the next several weeks.

The Board stated the language on Plan EX-4 states that the 4 parking spaces abutting the property on Washington Street are "to remain open during construction". The language should be changed on the plan to "public parking shall remain open to the public at all times".

The Board noted there would be no fence around the transformer. It would be surrounded by arbor vitae. Mr. Lang said the MLP wanted to be able to drive their truck up to one side of it, and as MLP owns the transformer, they have complied.

The Board said the noise generated by the compactor is very loud at 72 to 76 decibels. The town does not have a noise control bylaw, but the Board is concerned about the effect on the office building, which faces the compactor. Mr. Lang said they could line the inside wall of the fence facing the office building with weatherproof acoustic materials, which would lower the decibel level. They have looked at a sound attenuation panel, which is a 50 decibel sound reduction panel. The Board decided to make the installation of the acoustic material on the interior of the eastern fence portion a condition.

The Board stated that the noise might also be an issue with the building tenants and customers, if the compactor runs during the day. Mr. Roberts said the compactor runs on a 27 second cycle. The model chosen was requested by the Board of Health. The restaurant trash would be taken out at the end of the day when offices had closed.

The Board asked how late the Mica Lane lights would be illuminated. Mr. Lang said there are 3 wall fixtures on the eastern wall, two pole lights at the rear, and fixtures on the rear wall, which would be lit all night. The Board decided to make that a condition of the decision.

Frank Ouellet, owner of 12-14 Mica Lane, again objected to the Town's lack of planning in regard to parking.

The Board discussed the conditions under which Site Plan Approval would be granted.

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Statement of Facts

The subject property is located at 3-13 Washington Street in the Lower Falls Village Commercial District, on a 14,803 square foot lot. The property is bounded by Washington Street to the south, Mica Lane to the west and by property zoned Limited Business to the north and east. The existing one-story building, which was constructed prior to 1982, has a footprint of 6,440 square feet.

The petitioner is requesting Site Plan Approval to allow the demolition of 895 square feet at the front of the building, and construct 1,007 square feet of new footprint, with a partial first floor addition and a full second story addition totaling 9,251 square feet of new floor area. The proposed floor area ratio will be .9995. Fourteen parking spaces and associated landscaping will be provided.

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The following plans were submitted:

1. C-1 Plot Plan (Building Permit)	4/15/02	Todd P. Chapin, Registered Land Surveyor
2. C-2 Existing Site Features	4/15/02	Todd P. Chapin, Registered Land Surveyor
3. C-3 Utilities Site Plan & Details	4/15/02 revised 5/29/02 revised 7/10/02	Kevin E. O'Leary, Registered Professional Engineer
4. C-4 Site Development, Grading, & Drainage	4/15/02 revised 5/29/02	Kevin E. O'Leary, Registered Professional Engineer
5. C-5 Utilities Site Plan & Profile	4/15/02	Kevin E. O'Leary, Registered Professional Engineer
6. L-1 Landscaping/Parking Plan & & Details	6/3/02 revised 9/5/02	Roger L. Washburn, Registered Landscape Architect
7. EX-1 Existing Basement Floor Plan	6/3/02	Donald Lang, Registered Architect
8. EX-2 Existing First Floor Plan	6/3/02	Donald Lang, Registered Architect
9. EX-3 Existing Roof Plan	6/3/02	Donald Lang, Registered Architect
10. EX-4 Const. & Traffic Mgt. Plan	6/3/02 revised 9/5/02	Donald Lang, Registered Architect
11. A-1 Proposed Site Plan	6/3/02	Donald Lang, Registered Architect
12. A-2 Proposed Basement Plan	6/3/02	Donald Lang, Registered Architect
13. A-3 Proposed First Floor Plan	6/3/02	Donald Lang, Registered Architect
14. A-4 Proposed Second Floor Plan	6/3/02	Donald Lang, Registered Architect
15. A-5 Proposed Roof Plan	6/3/02	Donald Lang, Registered Architect
16. A-6 Proposed Section	6/3/02	Donald Lang, Registered Architect
17. A-7 Proposed North & South Elevations	6/3/02	Donald Lang, Registered Architect
18. A-8 Proposed East & West Elevations	6/3/02	Donald Lang, Registered Architect
19. M-1 HVAC Legend & Schedules	6/3/02	Semoon Oh, Registered Professional Engineer
20. M-2 Basement Level HVAC Plan	6/3/02	Semoon Oh, Registered Professional Engineer
21. M-3 First Floor HVAC Plan	6/3/02	Semoon Oh, Registered Professional Engineer
22. M-4 Second Floor HVAC Plan	6/3/02	Semoon Oh, Registered Professional Engineer
23. M-5 Roof Level HVAC Plan	6/3/02	Semoon Oh, Registered Professional Engineer
24. P-1 Plumbing Legend & Schedules	6/3/02	Semoon Oh, Registered Professional Engineer
25. P-2 Basement Level Plumbing Plan	6/3/02	Semoon Oh, Registered Professional Engineer
26. P-3 First Floor Plumbing Plan	6/3/02	Semoon Oh, Registered Professional Engineer

27. P-4	Second Floor Plumbing Plan	6/3/02	Semoon Oh, Registered Professional Engineer
28. P-5	Roof Level Plumbing Plan	6/3/02	Semoon Oh, Registered Professional Engineer
29. FP-1	Basement Level Fire Protection Plan	6/3/02	Semoon Oh, Registered Professional Engineer
30. E-1	Electrical Site Plan & Details	6/3/02	Samuel Zax, Registered Professional Engineer

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The following written materials were submitted: Official Development Prospectus; Hydrological Analysis and Storm Water Drainage Calculations for "Site Development Grading & Drainage" Plan of land dated 4/15/02 and revised 5/29/02, dated May 29, 2002, prepared by the Jillson Company, Inc; Boring Logs dated 4/12/02, prepared by Geo Login, Inc.; "Self-Contained Compactor/Containers, prepared by Marathon Equipment Company; Flat blade Centrifugal Blower, prepared by Cook; Packaged Rooftop Conditioners & Air Handlers, revised October, 1997, prepared by AAON; Product data prepared by Carrier on Single Package Rooftop Units and Air Conditioner.

On November 15, 2002, the Wetlands Protection Committee issued an Order of Conditions (DEP 324-376) for the project.

On January 3, 2002, the Planning Board issued a Special Permit for an increase in the maximum floor area ratio, not to exceed a ratio of 1.0, and to provide off street parking in accordance with the provisions of Section IXB, XXI and XXV of the Zoning Bylaw.

The Design Review Board held a Preliminary Review of the project on May 24, 2001, and a Final Review on June 28, 2002, which was continued to September 27, 2001. At that time, the Board voted to accept the submission as presented.

All submitted plans and written materials were also sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health, Fire Chief and Municipal Light Plant, as required by Section XVIA of the Zoning Bylaw. Written responses from each of the above were received and are on file at the ZBA office.

On June 27, 2002, the Planning Board stated the site plans for the project were consistent with those reviewed for the Special Permit, and made no further review of the site plan.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public Hearings. The petitioner's proposed demolition of 850 square feet, and construction of 1,007 square feet of new footprint and 9,251 square feet of new floor area constitutes a Major Construction Project pursuant to Section XVIA of the Zoning Bylaw because it includes the construction of 2,500 or more square feet of gross floor area.

It is the opinion of this Authority that the proposed plans for demolition and construction at 3-13 Washington Street as noted in the foregoing Statement of Facts, comply with the Zoning Bylaws of the Town, protect the safety, convenience and welfare of the public, minimize additional congestion in public and private ways, and insure adequate protection for water, sewerage and drainage. Furthermore, compliance with Section XVI, Section XXI and Section XXII of the Zoning Bylaw is ensured.

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Therefore, Site Plan Approval is granted, as voted unanimously by this Authority at the Public Hearing on September 5, 2002, pursuant to Section XVIA, and Section IXB of the Zoning Bylaw, subject to the conditions attached hereto as Addendum A.

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.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

Robert W. Levy

Cc: Planning Board
Department of Public Works
Health Department
Wetlands Protection Committee
Inspector of Buildings
Edg

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ADDENDUM A

1. The Order of Conditions (DEP 324-376) issued by the Wetlands Protection Committee on November 15, 2001 is hereby incorporated into this Decision.

2. The Special Permit issued by the Planning Board on January 3, 2002 is hereby incorporated into this Decision.

3. All parking on Washington Street abutting 3-13 Washington Street shall be maintained for public use. Plans EX-4 and L-1 shall be revised to reflect this condition. Copies of the revised plans shall be submitted to the Department of Public Works and the office of the Board of Appeals.

4. All work shall be performed in accordance with the last revision of the plans submitted and to be submitted to the Board of Appeals.

5. All design and construction shall comply with all applicable state and local codes.

6. All requirements of the Town of Wellesley Fire Department shall be met.

7. All requirements of the Department of Public Works and the Municipal Light Plant shall be met including, but not limited to the requirement that water, sewer and electric connections, together with drainage connections be made in accordance with DPW and MLP standards and installed and maintained at no cost to the Town of Wellesley.

8. A weatherproof acoustic liner shall be installed inside the easterly side of the fence surrounding the trash compactor.

9. Controlled access to the compactor area shall be provided. The compactor shall be key activated.

10. Lighting on the west and rear sides of the building, as well as the parking lot, shall remain on all night.

11. All construction worker vehicles shall be parked off site, except for parking in the 3 designated spaces at the rear of the building.

12. The storm water drainage system shall be maintained in accordance with the Operation and Maintenance Plan outlined in Section E of the Hydrological Analysis & Storm Water Drainage Calculations dated May 29, 2002, prepared by The Jillson Company, Inc.

13. There shall be no on-site snow storage.

14. Upon completion of the project, a complete site of site utility plans shall be submitted to the Department of Public Works.

15. A copy of the Certificate of Occupancy issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.

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