

**ZONING BOARD OF APPEALS**

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ZBA 2009-61
Petition of TL Concepts
30 Benvenue Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 10, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of TL CONCEPTS requesting a Special Permit pursuant to the provisions of Section II A 8 (j) and Section XXV of the Zoning Bylaw for non-accessory use of off-street parking spaces in the vacant lot, at 30 BENVENUE STREET, in a Single Residence District, which is a use not allowed by right. The proposed parking will be temporary to accommodate the vehicles of patrons attending the Design Home event located at 169 Grove Street from October 15 to November 1, 2009.

On August 25, 2009 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 Tamra Tricky, TL Concepts (the "Petitioner"), who said that TL Concepts are the project coordinators. Also present was Dean Behrend.

Ms. Tricky said that the parking plan would allow for more than ample parking spaces for the projected charity tour.

The Board asked about the sizes of the parking spaces. The Board said that the parking plan shows that spaces in the bottom two rows are 8' x 16' and the spaces in the top row are 8' x 18'.

The Board asked if there will be any handicapped parking provided. Ms. Tricky that they can expand some of the spaces to create that. She said that the house tour will not be handicapped accessible. The Board said that notification should be given to the public that the event is not handicapped accessible.

The Board asked how many cars are anticipated for the event, in terms of average and in terms of peak hours. Ms. Tricky said that they based their projections on their experiences with two previous tours in Weston and Cohasset. She said that both tours had a total of just under 1700 people. She said that for a 12 day tour, they had an average of 141 people per day, which would translate, at the most, to 70 cars. She said that people tend to come two to four at a time. She said that the home takes approximately one half hour to tour. She said that there should be 10 to 15 cars parking during peak times. She said that during the peak hour there could be up to 30 cars. She said that the estimates are also based on experience with similar events around the country.

Ms. Tricky said that, based on her six years of experience, people have a tendency to spread themselves out over the four day period on a weekly basis. She said that she has seen up to 50 or 60 people in a home at one time but that would be a lot.

The Board said that the TL Concepts website shows as many as 350 people attending some events. Ms. Tricky said that if the website states an event number, it is for the entire 12 day period.

Ms. Tricky said that tickets for this event will cost \$20, one hundred percent of which will go to the Robert F. Kennedy (RFK) Childrens Action Corp. She said that most of the other tours around the country cost \$10. She said that the cost of the \$20 ticket should help to keep the numbers down. She said that they have seen a decline in the number of tickets sold with the recession. She said that the last two events in the Boston area were held during much different times. She said that this charity does generate a lot of support.

The Board asked about the parking lot holding 30 to 50 cars. Ms. Tricky said that number was projected before Mr. Behrend did a drawing to scale of the lot. She said that they found that they have more space than originally projected. She said that they expect to have 50 spaces once the areas are enlarged for the handicapped spaces.

The Board asked where the staff will park. Ms. Tricky said that there will be six people at the home at all times. She said that they will be parking at the 30 Benvenue Street lot. The Board said that will reduce the number of spaces for the public.

Ms. Tricky said that they have permission from Dana Hall School and Ten Acre School to use some of their parking areas if they are needed to handle overflow. She said that they do not anticipate needing that space.

The Board asked how people will know to go to those parking areas and/or to not park on the streets of Wellesley. Ms. Tricky said that they would like to handle that with "No Parking" and directional signs. She said that there will be a volunteer from RFK Childrens Action Corp monitoring the parking situation and will direct people to the overflow areas, if needed.

A Board member said that he could not find directions to the site on the TL Concepts website. Ms. Tricky said that there are directions on the site now. She said that there are several micro sites within the website. She said that there is button that should be selected to get to the tour information. She said that the letters may not be large enough to call attention to the micro site. The Board said that the letters should be made larger.

The Board asked if Mr. Behrend had confirmed with the Massachusetts Water Resources Authority (MWRA) that cars can be parked over the Sudbury Aqueduct without damaging it. Mr. Behrend said that they have a permit from the MWRA to install fill material over the aqueduct to dissipate the weight once the height of 8 feet is achieved. He said that they have done an extensive survey with Gannett Fleming for spreading the weight over the aqueduct with the extra fill.

The Board asked when the parking lot will be ready. Mr. Behrend said that it should be ready next week.

The Board said that both the Planning Board and the Board of Selectmen raised Police details issues. The Board said that one of its concerns is that there are a lot of school children traversing the area between the hours of 2:15 p.m. and 3:30 p.m. The Board said that there should be a Police detail during that period.

The Board asked about the peak hours. Ms. Tricky said that the peak hours are both mid-day on Saturdays and Sundays, between 12:00 p.m. and 2:00 p.m. She said that Thursdays and Fridays will be much lighter.

The Board said that the parking lot drawing does not show how wide the driveway is. Mr. Behrend said that the curb cut is 12 feet wide and it flares to 16 feet wide at the lot. The Board said that will be tight for cars going in and out. Mr. Behrend said that is what the permit that was applied for was for the house that was to be built there. The Board said that this petition is not for the house but for a parking lot. Mr. Behrend said that he used the plan that he had presented to the Board Of Selectmen. He said that the Town Engineer had approved the curb cut under the Large House Review. He said that he could widen the driveway if the Board approves it.

The Board asked about the gravel surface and stormwater runoff. The Board said that it appears that runoff will flow from the existing White Pine toward Benvenue Street and toward the back of the property. Mr. Behrend said that Benvenue Street is about 6 to 8 feet above the lowest point in the lot. He said that coming in off of Benvenue Street, the lot goes down over the course of approximately 70 feet and then tapers up to a flat plateau at the other boundary. He said that all of the water sheds from the northern boundary to the entrance of Benvenue.

The Board said that the drawing shows the high point at an elevation of 160 at the existing White Pine and slopes downward to the back of the property and steeper down toward Benvenue. The Board asked if the contours shown on the plan are what it will be or what it is. Mr. Behrend said that it is what it will be and what it is.

Mr. Behrend said that they were working with the existing grade off of the street in two foot increments down the hill. He said that the numbers were reversed by accident. He said that the drawing was put together quickly. He said that the water will flow over and dissipate partially over the gravel and then settle in the grass area. The Board said that it will need to see a drawing with correct numbers. The Board said that the drawing should show that runoff will not flow to the neighbors' yards or to the street.

The Board asked how parking will be controlled in the parking lot. Ms. Tricky said that vehicles will be directed into the lot through signage. She said that there could be volunteers in the parking lot to make sure that people park in the right spaces. She said that the majority of the parking will be at the end of the lot at the back of the home. The Board said that having the staff park there could establish a pattern.

The Board said that if the cars do not pull up close enough to the home, there will not be enough room for a 24 foot travel lane. Mr. Behrend said that one of the choices was to put orange cones as markers for the spaces. He said that vehicles will be encouraged to go up to the back boundary of the three existing homes. He said that there is a boundary of stakes going across the back. He said that vehicles can pull up to that line and the cones will separate the spaces.

The Board asked about the pedestrian entrance for the parking lot. Ms. Tricky said that there will be a pedestrian opening at Lot 2, where the home is. She said that will bring the visitors onto the driveway of the home and around to the front entrance of the home. The Board said that should be shown on the plan.

The Board asked about construction traffic to get the gravel onto the site. Mr. Behrend said that approximately 10 gravel trucks will come to the site over the course of one day. He said that the proper heavy equipment will be used to spread the gravel.

Mr. Behrend said that there will be a base of crushed stone with gravel on top. He said that they have been using the easement for access which has kept the disturbance to a minimum going out to Grove Street. He said that there is a processed gravel access off of Benvenue Street that is approximately 80 feet long. He said that the trucks will travel quite a distance over that before tracking any material out onto the street.

The Board asked how people will be prevented from entering and exiting from the entrance off of Grove Street. Ms. Tricky said that there will be a barrier there that will only allow for pedestrians to get through. Mr. Behrend said that he was hoping to use a sign on an orange cone. He said that there will be a row of cones along the easement at five foot intervals, parallel to the pavement. He said that they will have access to 17 utility poles that will go down the easement.

David Himmelberger, said that he is an attorney representing the Monthly Meeting of Friends, who are the abutters to 30 Benvenue Street. He said that the Friends are concerned that there not be any parking on the easement. He said that since the parking area is not going to be striped, there is a concern that parking will in-fill as guests arrive. He said that the Petitioner stated at the hearing that there will be an attendant in the parking lot. He said that varies from what was listed in the application, wherein it was stated that there would be two parking attendants at 30 Benvenue Street. He said that two attendants would be the minimum number required to maintain an orderly flow.

Mr. Himmelberger said that the driveway that was approved is for a single family home. He said that Mr. Behrend was willing to expand the driveway. Mr. Himmelberger said that Benvenue Street is a scenic road. He said that there are limitations as to how the driveway may be widened. He said that there are large trees and boulders that have historically lined Benvenue Street. He said that many of the boulders have been moved.

The Board asked about the size of the existing driveway flare. Mr. Behrend said that it flares to 16 feet. The Board said that the drive should be widened at the 16 foot flare to 20 feet, where it is off of the road.

Mr. Himmelberger said that the Friends hope that the drainage will not flow onto their property. He said that there have been substantial changes to the original topography. He said that there will be 8 feet of fill over the aqueduct to dissipate the weight. He said that there should be some sort of a plan that shows how the drainage is going to work. The Board said that it had requested an updated topographical plan.

Mr. Himmelberger said that there is a representation in the application that the parking lot had been reviewed by the Chief of Police, and that the Chief felt that there were no issues with respect to an increased traffic flow from the event. He asked if the Board had received anything from the Chief of Police to confirm that. Mr. Himmelberger said that the only letter that he had seen in the file was from

Lieutenant Pilecki, who indicated in the final sentence, that if a very large number of people show up at the same time, the traffic flow would be impacted, with a serious impact to the neighborhood.

Mr. Himmelberger said that the charity and the applicant's websites indicate that any number of additional events within the showcase will be held, such as afternoon teas, trunk shows, fashion shows, art shows and music. He said that those events may draw a greater than average flow.

Ms. Tricky said that Lieutenant Pilecki visited the site several times. She said that the letter was drafted after his first visit. She said that she spoke with him on September 1, 2009, after the site had been cleared for the parking and he could get a good feel for it. She said that she discussed the parking plan and experience with previous events. She said the Lieutenant Pilecki was comfortable with the plan. She said that Lieutenant Pilecki said that if there is sufficient parking for the number of projected visitors, there would be no need for Police details.

Ms. Tricky said that the additional events are in keeping with the previous events that they held in Weston and Cohasset. She said that they are intended to be more of a traffic draw but it does not happen that way. She said that they are there to provide points of interest to the people touring the home. She said that the Robert F. Kennedy Childrens Action Corp. is responsible for scheduling many of the events. She said that a representative was present at the hearing to answer any questions.

The Board asked if the events were ticketed separately. Ms. Tricky said that the majority of the events are amenities for the people who purchased tickets for the house tour. She said that there is one charity event that they would like to hold on the first evening. She said that a select group of people would be invited to the \$50 a ticket event. She said that she spoke with Lieutenant Pilecki about that event.

The Board asked where the charity event is described in the application. Ms. Tricky said that the event had not been planned at the time that the application was submitted.

The Board asked about lighting in the parking lot. Mr. Behrend said that they can supply lighting. He said that they can set up two poles. He said that the Wellesley Municipal Light Plant (MLP) is donating some poles. He said that they can put halogen lights on the poles. The Board said that the pathway to the house must be lighted and that there should be no light spillover to the neighbors.

The Board asked about the hours of the preview party. Ms. Tricky said that it will end at 9:00 p.m. the Board said that all lights should be off by 9:30 p.m.

The Board said that the list of events should be put in writing.

The Board said that the hours of operation are different on the website than those listed in the application. Ms. Tricky said that they would like to request a modification of the hours. She said that they felt that the 12:00 p.m. to 6:00 p.m. hours would cut into commuter time. She said that they would like to move the tour times up to 10:00 a.m. to 5:00 p.m., to be less disruptive to the neighborhood.

The Board asked if the Petitioner had looked into other events that might be occurring in the neighborhood at the same time. Ms. Tricky said that Dana Hall School will have their homecoming on the first weekend of the home tour. She said that she spoke with Lieutenant Pilecki about that. She said

that he did not feel that a Police detail was necessary, as long as there was ample parking. She said that is the only other event that they are aware of during the three weeks of the home tour.

Mr. Himmelberger asked if there should be confirmation from the Police that they are satisfied with arrangements for parking and traffic. The Board said that an updated letter from the Police should be submitted.

Susan Tarantino, 14 Ingraham Road, said that she is the abutter to the rear of 30 Benvenue Street. She said that she did not realize before this evening that there were evening events planned. She said that she is concerned with the impact on the neighborhood, particularly the lighting in the parking lot. The Board said that lighting is something that it considers to be necessary. Ms. Tarantino said that her property is approximately 15 feet below 30 Benvenue Street. The Board said that the lights will be off at 9:30 p.m. The Board said that there will be just one night time event.

Statement of Facts

The subject property is located at 30 Benvenue Street, in a Single Residence District.

The Petitioner is requesting a Special Permit for non-accessory use of off-street parking spaces in the vacant lot, at 30 BENVENUE STREET, in a Single Residence District, which is a use not allowed by right. The proposed parking will be temporary to accommodate the vehicles of patrons attending the Design Home event located at 169 Grove Street from October 15 to November 1, 2009.

A letter dated 7/22/09, signed by Tamra Tricky, TL Concepts LLC Project Coordinator, was submitted by the Applicant.

A letter dated 8/26/09, signed by Lieutenant John F. Lyons, Town of Weston Police Department, was submitted.

A letter dated 7/23/09, signed by Lieutenant Jack Pilecki, Town of Wellesley Police Department, was submitted.

Parking Directions and Driving Directions to the Home of Distinction by Dean Behrend Construction were submitted.

A Proposed Layout Plan with parking lot dimensions, was submitted.

On August 31, 2009, the Planning Board reviewed the petition and had no objection to granting the request and recommended:

That the Engineering Division verify that the Sudbury Aqueduct can hold the additional weight of the parked cars.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public Hearing. A Special Permit is required pursuant to the provisions of Section II A 8 (j) of the Zoning Bylaw, as the requested use of the vacant lot for non-accessory off-street parking is a not a use allowed by right in a Residential District.

It is the opinion of this Authority that the use of the property at 30 Benvenue Street for non-accessory use of off-street parking spaces shall not cause significant disturbance or disruption of any residential neighborhood, shall not detract from the use of the lot for the accessory use, or reduce landscaping or screening areas.

Therefore a Special Permit is granted, subject to the following conditions:

1. A revised plan shall be submitted with the correct topography, driveway width and all other changes by the Proponent to control traffic into and parking at 30 Benvenue Street, including signage.
2. There shall be pedestrian access from the parking lot at 30 Benvenue Street to the Design Home at 169 Grove Street.
3. "No Parking" signs shall be posted on Benvenue and Grove Streets on Thursdays through Sundays, throughout the event.
4. The driveway into 30 Benvenue Street, once it is beyond the current 16 foot opening, shall be widened to 20 feet.
5. Signage indicating "No Access" and "No Parking" shall be placed at the easement so that visitors will not enter onto the easement.
6. There shall be two people monitoring the parking lot at all times.
7. No stormwater runoff shall be discharged to Benvenue Street or to abutting properties.
8. There shall be a Police detail between the hours of 2:15 p.m. and 3:30 p.m on Thursdays and Fridays, throughout the event.
9. There shall be a Police detail between the hours of 5:30 p.m. and 9:30 p.m. on Thursday, October 15, 2009.
10. There shall be a Police detail between the hours of 12:00 p.m. and 4:00 p.m. on Saturday, October 17, 2009 and Sunday, October 18, 2009.
11. There shall be a Police detail between the hours of 12:00 p.m. and 4:00 p.m on Saturday, October 24, 2009.

12. The parking lot on 30 Benvenue Street shall be lit on Thursday evening, October 15, 2009 during the preview party from 6:00 p.m. to 9:00 p.m.
13. All lighting shall be directed into the parking lot. Every effort shall be made to not have light spillage onto abutting properties.
14. Lights are to be shut off at 9:30 p.m.
15. An updated letter from Lieutenant Pilecki shall be submitted that addresses any concerns that the Police Department may have.
16. The Proponent shall submit an estimate of average and peak daily and hourly attendance and parking.
17. The parking areas and travel aisles shall be marked with cones and/or other suitable devices for directing traffic.
18. The northerly property line at 30 Benvenue Street shall be lined with telephone poles or other suitable devices to preclude traffic from exiting the parking lot through the right of way to Grove Street.

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

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm