

**CITY OF WALTHAM**  
**ZONING BOARD OF APPEALS**

**September 27, 2011**

The Zoning Board of Appeals held a public hearing at 7:00 P.M., Tuesday, September 27, 2011 in the Auditorium of the Arthur Clark Government Center, 119 School Street, Waltham, MA. In attendance were Chair Barbara Rando and members Glenna Gelineau, Gordon LaSane, John Sergi and Edward McCarthy.

The chair called the meeting to order at 7:00 P.M.

Mrs. Rando: Tonight we have two cases before us, one continued case and one new case: Case 2011-13, NSTAR Electric Company, 1433 Trapelo Road, and Case No. 2011-20 which is Watch City Venture, LLC, 180, 185, 224, 261 and 267 Crescent Street

The first action this evening is for a motion to accept the minutes of September 13<sup>th</sup>.

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to accept the minutes of September 13, 2011.

Mrs. Rando: Would the Clerk please read the petition in Case No. 2011-13?

The clerk then read the petition of NSTAR Electric Company in an application for variance and application to amend decision in Case No. 2000-20. The locus presently consists of a large parcel of land with two transformers situated thereon. The petitioner proposes to add a third transformer and associated equipment thereto. Location and Zoning District: 1433 Trapelo

Road, a/k/a 1435 Trapelo Road, Residence A-3 Zoning District.

Mrs. Rando: I received a letter this afternoon dated September 27<sup>th</sup> from Joseph M. Connors, Esquire requesting a continuance of this case due to a death in the Attorney's family. (This letter is on file in the City of Waltham Law Department.)

Since we received this letter, I will entertain a motion to continue Case 2011-13 to October 18<sup>th</sup> as Attorney Connors requested if it's okay with every board member.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to continue Case 2011-13 to October 18<sup>th</sup>.

The roll being called: Mr. Sergi, yes; Mr. McCarthy, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: Would the clerk please read the petition in Case No. 2011-20.

The clerk then read the petition in Case No. 2011-20 Watch City Ventures LLC, in an application for variances, modification of variances and modification of a special permit. The locus consists of three parcels:

The first parcel is the site of the former Waltham Watch Factory located on Crescent Street with an existing legal non-conforming structure and associated parking located thereon (Watch Factory Lot). The building contains up to seven stories. The current uses of the building are commercial (office and restaurant).

The second parcel is the lot located at the intersection of Brown and Crescent Street (Brown Street Lot), which has existing parking located on it.

The third parcel is the lot located at the intersection of Cherry Street and Crescent Street (Cherry Street Lot), which has existing parking located on it.

The Petitioner proposes to convert the Watch Factory building into multiple uses, including residential and commercial uses on all floors and restaurant uses on the first floor, which will serve alcohol. The Petitioner proposes to alter the existing building by constructing the interior second floor to Building 23, a parking deck on the southerly side of the locus and three maintenance sheds.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative please?

Michael Connors, Esquire, Law Offices of Connors and Connors, 6 Lexington Street, Waltham came forward.

Mr. Connors: I am here tonight on behalf of our client; Watch City Ventures LLC, a joint venture between Berkley Investments and the First American Corporation of America. As you are aware, Watch City Ventures has been and is proposing tonight to continue to redevelop the historic Waltham Watch Factory which is on the east bank of the Charles River. The petitioner and the majority of the petitions should be very familiar to this board as Clerk McCarthy tonight listed all of them in the petition. I tried to include that just to help the board and the members of the public to flag those items that have been specifically dealt with before and almost everyone has. In fact, as I said, some of the variances and the special permit sought tonight have previously been granted by this board, the same type of special permit.

The redevelopment was included and will continue to include interior renovations, building envelope improvements of the historic buildings, demolition of the more recently constructed buildings and the historical buildings will be converted into office, restaurants and residential space. The historic nature of the site the petitioner is trying to preserve leads to the need for the special permit and the number of variances as can be expected when applying today's standards to a building that parts of which were first built in the 1850's. The changes and uses will not only bring vitality to a city treasure but they will also necessitate additional maintenance sheds and the parking structure to accommodate those uses. The phasing plan has always included some sort of parking structure which is believed to be a parking structure on the

southerly side of the locus that this petition as you will note has a parking deck there due to the fact of the change of the residential use. The reason that there has always been a part for that is as the space goes up once again the Watch Factory was built at a time prior to the advent of automobiles so employees coming to work at the Watch Factory wouldn't be coming in their own personal vehicles.

The reconfiguring of the uses to a larger percentage of residential as opposed to office space will result in 422 fewer automobile trips to the locus each day. And the petitioner with the parking deck that will be level to Crescent Street as opposed to like I said to the multi level structure which will hurt site lines along the Charles River.

This new plan has been approved this month by the Conservation Commission and the Traffic Commission. Just prior to the hearing, I have passed those out and highlighted specifically on the Traffic Commission comments from the City's Traffic Consultant GPI that the modifications result in overall reduction in site generated traffic. I will also mention that further relief will be needed from the City Council for the Special Permit. We obtained in the packets in the exhibits an Overlay Special Permit which allows these different uses, its trying to promote these type of uses along the Riverfront to bring people down in back to the river in the residences as well as the parking deck will now necessitate a fuel storage permit from the City Council.

So, in sum, we are here tonight seeking a special permit and variances to build an interior second floor to Building 23 which is the building tucked back behind the office space and locate restaurants that can serve alcohol at the locus. Once again, this was granted by the Board of Appeals in 2008-25 at the time the Fitch School had been closed and now its taken the next step of being surplus so some of the issues there I think have been removed. It is still considered a school so we still applied for the variance. Locate residential uses in the Watch Factory with the commercial uses and provide the maintenance building, parking deck to serve those uses.

So, at this time, Madam Chair and members of the Board of Appeals I hope this

clarifies both the hurdles the petitioner faces as well as where we have been and why we are in front of you tonight. I provided the board with a brief two weeks ago and in that this is our third time in front of this board with this phase development, I don't know if it's the board's wish that I continue with the presentation of the brief or whether field specific questions.

Mrs. Rando: Why don't we hear if there's any questions. I have one.

You went in front of the Conservation and the Traffic Commission.

Mr. Connors: Correct. We touched all the bases the first time through and now we are coming through with this reconfigured plan which has more residential and less office. So in doing that, that brings the parking deck in and that's why we went to the ConCom, now we are down near the river obviously with that structured parking which is level with Crescent Street.

Mrs. Rando: And you state that you need more relief from the City Council for the fuel?

Mr. Connors: Any time you have five or more cars under a roof even though it's a deck and not a garage, people like entering underneath the deck will go down closer to the railroad, take a left and go over on the far left side of this phasing plan here. So since they are housed underneath the Fire Department wants to check and say do you have the proper equipment, there's automobiles so we are not dealing with big league but being near the river also the Conservation Commission touched on those aspects, have you thought of those things? So we go in front of the council and they hopefully will issue a fuel storage permit.

Mrs. Rando: What else do you need from the Council?

Mr. Connors: Nothing else from the council other than much like we are here tonight on things that were already granted. Your decisions are subject to the plans. Theirs are also. So the last time when we went through we said we were going to be building office in Building 6, 7, 8 which are now in orange. Those will be residential. So that's a major change, as

I said, for the better, I think for the people in the neighborhood. It will bring more life to the area. There will just be a parking deck as opposed to a multi structure and the 422 fewer car trips per day to the locus which should all be a benefit.

Mrs. Rando: And what are the arguments of going in front of our board before you go in front of the council?

Mr. Connors: The city council actually has their own rule, Rule 65A, that states the petitioner needs to go to the Board of Appeals. They have to do it before they come to the Council.

Mrs. Rando: And they include our conditions?

Mr. Connors: Correct. In the packet I will file this board's decision with the council. They will be aware of it and they can make further, more stringent, I guess, for instance we went with a landscape plan the last time and they asked us to add some more trees, so along those lines. But if they ever asked for a change other than what was granted by this board we would have to come back to this board to modify the decision.

Mrs. Rando: Now, do you have to go in front of the Historical Commission?

Mr. Connors: We have been in front of the Historical Commission and when I go back in front of the city council we go through the Development Prospectus process because it is for a special permit. At that time I will speak to almost every department head in the city to get a sign off once again updating them on the changes to the special permit plan. So everyone from the Library Director, the Recreation Director, there will be residential units here so even though a small number of school age students will be in there just because of the type of apartment there still will be a small impact and so the Superintendent of Schools for instance will comment on how much it will cost to educate a child.

Mrs. Rando: Are there any other questions from Board Members?

Mr. Sergi: Just two clarifications. I remember the first time this case was before this board; there was discussion about the snow removal. The way I understand this is that you are going to provide more area that you can place more right on the lot.

Mr. Connors: That's correct. That's a slight modification of that variance and it is correct in that we still need a variance but we have provided more area for the snow storage on the Cherry Street lot and that is directly connected to once again that there will be more residential area so there's fewer spaces needed over all. So they were able to reconfigure it to the extent that there's more snow storage allowed on that Cherry Street lot.

Mr. Sergi: There's about 2000 square feet the way I see it, additional. We struggled with that, I remember, the first time.

Could you tell me what were the major changes between this and the last variances? The maintenance sheds; is there any specific differences in the maintenance sheds, size, location?

Mr. Connors: No and really that's just to make the site work better as far as the maintenance sheds go. The Watch Factory is unique in that we are considering it as one building but as you can see on the plans we have always referred to them as a number of buildings. So if someone has residential trash on one side, you wouldn't want to bring it necessarily to a common area every day so there's different areas for the trash or you wouldn't want to be dragging it from one side of the site, so there are smaller ones located throughout the site. It's the maintenance sheds. Then also I had made mention of building 23 which is located in the middle. It's a stand alone building and that's going to have a second floor. The interior is just going to be added to be built out just to allow for more square footage. Maybe it will be a stand alone one tenant user. It will be about 7000 feet total and then as I stated the parking deck. Other than that the changes are really as to what uses are going to be on what floors but the last time we did get the variances for the both uses on all of the floors. The difference on building 7 is that's the only part of the structure that goes above six stories. So when Clerk McCarthy read it in he made mention that

this time there will be a seventh floor residential. Before it was going to be office space but now since building 6, 7 and 8 are residential it makes sense to keep that as a residential.

Mr. Sergi: Thank you for that clarification. I appreciate that. That's what I thought. I just wanted to make sure I was on board. Thank you.

Mr. McCarthy: I am just curious. It's always a first place I drive with the kids after a big flood and the last time we had one that road all along the Charles was under water. Are they doing anything in this project to guard against that happening especially when they are going to having residential units on that first floor or the basement area?

Mr. Connors: There is continual work being done along the Riverwalk, I guess. It's a road in that you could slide a vehicle through there. It's not open to the public. But as I made mention they recently and throughout the process have been going to the Conservation Commission and they are always asking as far as drainage and all of those aspects, so. I also have Eric Ekman from Berkley Investments here and he might be able to speak a little bit further to that point.

Eric Ekman, Project Manager, Berkley Investments, 121 F Street, South Boston: I have been working on this for over five years now.

Mr. Ekman: In the storm of March of last year, when we had the heavy rains for over three days. We had that Venice effect in the back of the complex where the water was over the Riverwalk and against the building, as I am sure you saw, which was quite unique. We didn't have any flooding in occupied space. The benefit of the complex is that there are sub-basements throughout so that the water that did make in into the complex was into sub-basements and eventually just drained out. So despite this phase 1 area being occupied in this back area with tenants, there is no water damage, flood damage in those basements and it would be the same situation for this building here. And in addition we have had a flood of last year. They redrew the boundaries and we had to go through a pretty thorough process with flood determination, insurance requirements and I certainly incorporated the ramifications of that design and went



back to the Conservation Commission just recently.

Mrs. Rando: Is there anyone in the audience that is in favor of this petition?

Doris Donovan, Kings Way, Waltham: Not only have I followed it all but I lived on Orange Street and Robbins Street, those two streets opposite it, and at one time I even worked in that building. So I have grown up in the area. I am glad to see that the School Department gave up the school because the school is in terrible shape interiorly and so there was no purpose of not going forward with that. So I think that the developer must be pleased that that was going to happen because the last meeting that we were at, a lot of people were interested in what was going to be the parking? Where was going to be the parking especially having to do with the condos and the apartments. And I think most of their questions were answered and a lot of them did say, you know we do need that parking. So it's good the School Department gave it up. It hasn't been used for years and it's just sitting there just rotting away. So I was pleased to hear that.

So I just think that the developer has just been more than bending over and listening to the people. Every meeting that I have been to on this, there's always been good rapport between the people at the meeting and the developers and I really appreciate that.

Is there anyone in the audience that is in favor of this petition?

Jerry Despres, 28 Ash Street, Waltham: What these guys are doing is a good job. You were asking about the water, the flood. In the twenty years I've been there I've seen it once. That was with the heavy rains that we had that hurricane that came down Ash Street and Crescent Street. That's the only time I've ever seen any flood on that street. These guys are doing a good job. As the lady said, that school needs some help but everything else around the neighborhood, you can't ask for anything more. These guys are doing a good job.

Mrs. Rando: Is there anyone in the audience in opposition to this petition that would like to stand? You may continue.

Doris Donovan: I have received quite a few inquiries as to would the developer being doing anything with the residue from Nuttings. So that is the structure at the bridge, you know all that is in there is just the posts now. I had some people say to me well do you think they will do something with those pilings or anything? I know it's not in your purview to have top do it. I know it's not in your purview to have to do it but I just wondered because I have been receiving questions about it.

Mr. Ekman: That area is owned by DCR. We do plan on submitting plans to the Conservation Commission for proposing some dock features and a boardwalk extension along our Riverwalk. We will do that this year and hopefully the DCR will be in a position to partner with us and help us construct those improvements. It would be our responsibility to design, permit and then hopefully with their permission construct them. I have a vision for those blocks and it just consists simply of some art work mounted on the blocks. I think maybe something that speaks to the history of the Watch Factory, so I do plan on incorporating that thought into our proposal to the DCR and back before the Conservation Commission.

Mrs. Rando: Thank you. Attorney Connors, do you plan on coming before us again for this project?

Mr. Connors: Not at this time with this phasing plan. One of the things with the phased development and why we came the last time with the offices, you don't know what is going to come with the economy. We think at this point we have something that they can move forward with but they are constantly funding the project from the project itself. That's why, the first Board of Appeals case that we were here we were just making way for one tenant to connect a couple of buildings. They were able to do some other office build out and then move on to the next step. So at this time, no, we don't plan on being in front of the Board of Appeals again.

Mrs. Rando: All right. You may continue with your proposed findings of fact.

(Mr. Connors read his proposed findings of fact into the record.)

Mrs. Rando: Attorney Connors, the parking deck, will that fit into the landscape and to the historical look of the building?

Mr. Connors: Where it is a deck, it will be built at street level with Crescent Street so it's not as descript where it wouldn't have anything architecturally standing up from it. I think historically in that since the 50's the people have been parking there.

(Mr. Connors presented a rendition of the parking deck to the board and went over it with them.)

Mrs. Rando: They do have to put oil run off traps or whatever for gas and oil.

Mr. Connors: Right, in that it will be a new structure, it will be and also as I mentioned it will be next to the river.

Mrs. Rando: Right, and it will be lighted.

Mr. Connors: It will be lit for safety.

Mrs. Rando: All right. Are there any changes on the proposed findings of fact?

Mr. LaSane: Just one question. The deck itself, is it going to be precast or are you going to bring in panels?

Mr. Ekman: There will be some steel.

Mr. LaSane: Like Legos. The deck itself, you bring in supporting beams.

Mr. Ekman: I am not a hundred percent clear because the design is still evolving. We only priced out something somewhat conceptually. We don't have a complete design but this shows I

think a hundred percent concrete version (referring to the rendition) where you have physically T's that are consistent of a support structure and then the poured concrete on top of it and then I think the hybrid approach involves steel in the deck portion and they would still pump poured concrete. And this plan is somewhat dated in that when we went to the Conservation Commission they asked for what we can do to add a little more green with this surface deck, so we added an island right here and propose a tree there so it will be a little mitigate thing when we get it finished.

Mr. LaSane: How are you going to mitigate any water problems with that deck?

Mr. Ekman: We have a pretty large drainage structure that's underneath the surface parking area here (referring to the rendition). So all the drainage slopes to that and then below it's tied into our catch basin system.

Mrs. Rando: All right, you may continue with your decision.

Mr. Sergi: Madam Chair, may I make a motion to waive the reading since this has been on file at the legal department?

Mrs. Rando: I have a motion by Mr. Sergi to waive the reading of the proposed decision, do I have a second?

Mr. LaSane seconded the motion and the board voted to waive the reading of the proposed decision.

Mrs. Rando: All right. I am ready to entertain a motion of the proposed findings of fact.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to accept the proposed findings of fact to be the board's findings of fact.

The roll being called: Mr. Sergi, yes; Mr. McCarthy, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the proposed decision?

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted that the board accept the proposed decision to be the board's decision and grant the variances, modification of variances and modification of a special permit in Case No. 2011-20.

The roll being called: Mr. Sergi, yes; Mr. McCarthy, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

There being no further business, on motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to adjourn at 7:50 P.M.

*Barbara Rando, chair*

Mrs. Rando: One more motion is in order.