



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
*Assistant City Manager for
Community Development*

April 17, 1996

To: Robert W. Healy, City Manger

From: Susan Schlesinger *SS*

RE: City Council Order #23 of April 1, 1996 - North Massachusetts Avenue Overlay District
Special Permit Proposals.

There are currently three special permit applications before the Planning Board along Massachusetts Avenue north of Porter Square. Each concerns the conversion of an existing and operating gas station to another automobile service use, in two such cases quick oil change and lubrication operations, in the third case a muffler and brake replacement operation.

The standard procedures applicable to any special permit application apply in these cases. A public hearing before the Planning Board is required, notice of which is sent to abutters by law and a wider circle of neighbors in practice; in the three instances before the Board, more than 250 notices have been sent. A decision by the Board is required within 90 days of each hearing. All three hearings have been held, on March 19, April 2, and April 16, 1996, at which a significant number of neighborhood residents have been present. The Planning Board has indicated an intention to deliberate on the proposals respecting the special circumstances that may apply individually to each site. Each proposal, however, raises the same policy issues and concerns that must be addressed while considering those specific design and operational aspects of the individual development.

The enclosed memorandum, from the Community Development Department to the Planning Board, outlines the jurisdiction of the Planning Board to hear these cases and sets forth the standards by which the Board is to measure the requested relief. In those instances where the Board of Zoning Appeal would normally grant a special permit, Section 10.45 of the Zoning Ordinance allows the Planning Board to issue such relief. In one case, however, operation of the service station within the rear portion of the lot in a residence district, constitutes a use variance that must be heard by the Board of Zoning Appeal at a separate hearing.



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
Assistant City Manager for
Community Development

March 19, 1996

To: Planning Board

From: CDD Staff

Re: Criteria for Review of Massachusetts Avenue Overlay Special Permit Cases

Over the next month the Planning Board will be reviewing three requests for special permits on sites within the Massachusetts Avenue Overlay District: March 19, April 2, and April 16. While each case has a unique context that must be factored into any deliberation, the three cases have many common characteristics that relate similarly to the provisions of the Overlay District and the underlying objectives that shaped those provisions. Therefore it might be helpful to review the standards and criteria the Zoning Ordinance establishes for the kinds of relief being sought.

A. Business A-2 Base District Relief

1. Use Special Permit. Each of the proposals involves an auto service use that is only permitted in the base Business A-2 District by special permit. If the use is already established (as is true in each case: e.g. the existing gas stations are the same use category in the Zoning Ordinance as the lubrication/oil change uses proposed) a special permit is required to alter the site plan.

These auto service use special permits do not have a specific set of applicable standards or criteria to be met. Rather, the permits are subject only to the general criteria applicable to all special permits, which are set forth in Section 10.43 of the Zoning Ordinance. Section 10.43 can be paraphrased in part as follows:

Special permits will normally be granted where specific provisions of the Ordinance are met, except where particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

a. traffic generated would cause congestion, hazard, or substantial change in neighborhood character;

b. continued operation of, or development of, adjacent uses would be adversely affected;

c. nuisance or hazard would be created to the detriment of the health, safety, and/or welfare of the citizens of Cambridge;

d. the use would impair the integrity of the district, or an adjoining district, or otherwise derogate from the intent and purpose of the Zoning Ordinance.

Clearly the basic nature of the operation proposed is particularly relevant here: the cars generated and when, how they enter and exit the site, what happens with them on the site; the noise, dust, fumes, etc. that might emanate from the operations; the nearness to residential uses, the kind of screening provided, etc. As the Overlay District itself clearly establishes the intent and purpose of the Ordinance as it relates to Massachusetts Avenue, its provisions would be relevant in the analysis even if Overlay-specific permits were not necessary.

2. Relief from Article 6.000 (Parking) Provisions, Article 5.000 (Dimensions), or Other Base District Requirements. Certain provisions of Article 6.000 may be modified by special permit (e.g. curb cut widths and number, reduction in required parking) if: *the Board determines that a modification would facilitate traffic movement and safety* among other factors. Expanding a non conforming building by more than 25% (Speedy Muffler), reestablishing a commercial use in a residential district (Valvoline), failure to meet a required transition setback requirement (Valvoline) all require issuance of a variance to permit the activity. The granting of a variance is, by state law, required to meet a very high standard, summarized as follows:

A variance may be issued only if the following findings can be made:

a. that a literal enforcement of the provisions of the ordinance would involve a substantial hardship;

b. that that hardship is owing to circumstances related to the soil conditions, shape, or topography of the land or structures specifically affecting the subject site but not the district as a whole;

c. that the relief may be granted without substantial detriment to the public good and without nullifying or derogating from the intent and purpose of the Ordinance.

These are very difficult standards to meet.

B. Massachusetts Avenue Overlay District Relief

Each of the proposals requires relief from one or more of the provisions of the Massachusetts Avenue Overlay District. The Overlay District does permit such relief with the issuance of a special permit from the Planning Board.

Section 11.100 - Massachusetts Avenue Overlay District sets forth a number of purposes that serve to define the nature of the specific regulations that follow. In summary those purposes are:

- a. to create a more harmonious and consistent image for development along the Avenue;*
- b. to encourage good building design;*
- c. to enhance pedestrian amenities;*
- d. to ensure that development on the Avenue is compatible with the abutting residential neighborhoods;*
- e. to encourage the retention of historic buildings; and*
- d. to discourage new development having an inappropriate scale and inappropriate design.*

Three requirements of the Overlay District are fundamental to advancing those purposes. They are:

- a. that the area between the main facade of a building and any street must be devoted to green area or other pedestrian space;*
- b. that the ground floor of a building facing Massachusetts Avenue shall contain office, residential, institutional and non open air and non drive-in retail uses;*
- c. that facades are required to have a minimum area of glass, and principal entrances are required to face Massachusetts Avenue.*

Each of these requirements can be modified by special permit from the Planning Board (Section 11.108) using the following standards:

- a. that the development as proposed will better serve the objectives of the Overlay District than if the standards were followed.*
- b. that the Northern Massachusetts Avenue Urban Design Guidelines are used as a*

guide in the deliberations, that the variations proposed are appropriate to the specific location, and that careful attention to design details be a controlling factor.

Clearly the three proposals before the Planning Board do not present an ideal redevelopment of the gas station sites as measured against the character of the Avenue contemplated by the Overlay District. Nor, perhaps, are there facets of the proposed plans that are measurably better alternatives to a complying redevelopment scheme. However, each proposal brings some improvements to the current development state of their respective lots, and in some instances may come close to meeting, or do meet, one or more of the requirements of the Overlay District. Whether the objectives of the Overlay District are better served by these intermediately conforming proposals may rest, in part, on an assessment of the likelihood of a preferable redevelopment option at some point in the future and the likely continuance of the existing circumstances into the future if some flexibility in the application of the Overlay District requirements is not granted.

Conclusion

Each of the proposals presents a very similar set of issues and concerns to be considered and analyzed, with the appropriateness of the uses proposed primary among them. And with the exception of variations in building orientation, access and landscaping as a result of the specific context of each proposal, each should receive a similar analysis with regard to its relationship to the Overlay District and the general public good that may be achieved by granting or denying the permit. One slight exception may be in examining the nature of the operation of the use itself as two applications are for oil change and lubrication operations and one is for muffler replacement services; whether those two activities differ with regard to their impact on adjacent properties is of course a relevant consideration, although it may in fact be difficult to distinguish these differences with a high degree of certainty.



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
Assistant City Manager for
Community Development

To: The Planning Board
From: CDD Staff
Subject: North Mass Ave Overlay District
Valvoline, Speedy Muffler, and Jiffy Lube
Requests for Special Permits & Variances

At its meeting on April 2, the Board expressed its intent that these three cases dealing with auto service uses be judged together in a fair and consistent way that adequately addresses the provisions of the Ordinance. Even though the Overlay District criteria are not fully met by any of the schemes, the Board is allowed to permit relief if a project is deemed to "better serve the objectives" of the District. Below is a list of those objectives with our comments, followed by a summary of the pros and cons of granting the permits, based on the criteria in the base zoning and in the North Massachusetts Avenue Overlay District. This analysis does not address the variances that are being sought as they are not central to the overarching policy questions that are raised by requests for relief from the provisions of the Overlay District.

1. Provisions of the Massachusetts Avenue Overlay District

The following is a recapitulation of the specific provisions of the Massachusetts Avenue Overlay District, Section 11.100, with reference to relief being sought in the present cases.

a. To create a more harmonious and consistent image for development along the Avenue.

The basic question is whether to accept the degree of upgrading that the auto service facilities may bring to the Avenue now, or wait for more thorough improvements later.

b. To encourage good building design.

While auto service buildings can be more or less attractive, they are inherently for auto use, and they rarely have the architectural interest of buildings that are primarily meant for people.

c. To enhance pedestrian amenities.

The proposed redevelopments would provide more carefully controlled exit and entry to the sites, and would thus improve safety for pedestrians compared to the existing gas stations; there may be substantial improvements to the sidewalks themselves. There are some differences in that the Speedy Muffler project has two curb cuts on Mass Ave and two on Hadley Street, while the Valvoline project has two on Mass Ave, and the Jiffy Lube has one on Mass Ave. However, each impacts the principal sidewalk on Mass Ave more than would be desirable.

d. To ensure that development on the Avenue is compatible with the abutting residential neighborhoods.

The bulk of the buildings in each case is less than could be possible with office or residential uses, so there is somewhat less shading of abutting residential uses. Each of the proposals would provide screening along the side and rear yards. However, extensive auto use on the Avenue is arguably not compatible with the abutting neighborhoods, even though such uses now exist and provide some service to neighbors.

e. To encourage the retention of historic buildings.

While this is not directly relevant in that no historic buildings are on any of the sites, the Speedy Muffler proposal is situated between two historic buildings that should be shielded from any impacts: the Fire Station and the Henderson Carriage Building.

f. To discourage new development having an inappropriate scale and inappropriate design.

Although the relatively small size of the buildings in question may have less shadow impact on neighbors than might be the case with projects built closer to the allowable floor area, the suburban scale and the design character inherent to auto service buildings will not create the positive relationship to the sidewalk or to the neighborhood environment that is envisioned in the Overlay District.

Three requirements of the Overlay District that are fundamental to advancing the above purposes follow.

A. That the area between the main facade of a building and any street must be devoted to green area or other pedestrian space.

Each project fails to meet this criterion.

B. That the ground floor of a building facing Massachusetts Avenue shall contain office, residential, institutional, and non open-air and non drive-in retail uses (as specified in Section 4.35).

Again, each project fails to meet this criterion; both Valvoline and Jiffy Lube are drive-in service uses (Section 4.36) and Speedy Muffler is automotive repair (Section 4.37).

C. That facades are required to have a minimum area of glass, and principal entrances are required to face Massachusetts Avenue.

The Speedy Muffler and Valvoline facilities have large service bays facing the Avenue; while those may be glass, they would not meet the intent of the regulation, which is to create an inviting visual connection between activity inside the building and the sidewalk. The Jiffy Lube project would have an office and customer waiting area facing the Avenue.

2. Summary of Choices

While there are differences in the details, these cases are similar in the general principles that are relevant; a concern for maintaining a consistent policy would suggest either approving all of them or denying all of them. This points to the importance of the decisions, in that they will help to set the character of development along North Massachusetts Avenue for some time.

Approval could be based upon the following points.

The proposals would upgrade the image of auto service uses along the Avenue.

Each of the sites now has a gas station on it, and the environmental character of each is roughly the same, i.e. simple buildings with minimal landscaping and a lot of signs. Each of the proposals could be required to provide improved landscaping, more attractive new structures, better lighting, reduced curb cuts and improved sidewalks, and conforming signage.

Traffic will not be worse.

The proponents have all argued that there will be lower trip generation than for gas stations, although more vehicles will be visible on the sites at many times. Thus, approvals could be given on the basis that the overall traffic situation will be better than at present.

Alternate uses, given today's weak market, might not be implemented for many years.

The realistic choice may be seen to be between the existing gas stations and the proposed new auto service uses; a future use that would be more consistent with the Overlay District may be seen as too uncertain to justify denials of the current proposals.

Denial could be based upon the following points.

The image would be contrary to that envisioned in the Overlay District.
Even though there are currently gas stations on each site, the Overlay District clearly outlines "a more harmonious and consistent image for the development along the Avenue," and prohibits "areas devoted to vehicular use" along the street frontage. While existing stations have every right to remain, the goal of the District for new development was not to reinforce the image of an "auto-mile" strip, as the approval of these new projects would do.

The necessary criteria are not adequately met.

The Overlay District criteria are not met by any of the schemes in regard to Green Area facing the street in that each has significant areas of asphalt between the sidewalk and the building. In addition, the provision of clear glass (that was intended to create a positive connection between the public way and the interior of ground floor uses) will not help "create an environment pleasant and inviting for the pedestrian;" rather, it will expose auto service activities for Speedy Muffler and for Valvoline.

Traffic will be different, but not necessarily improved.

It seems likely to be true that trip generation will be less, by replacing many trips in and out primarily for brief servicing with fewer cars staying longer. However, in the two lube operations, there will be engines idling and cars maneuvering as the queues wait to be serviced. The Speedy Muffler operation will be more like a traditional repair shop, with many cars on site going to and from the service bays. The argument that traffic will be improved thus would seem not to be a compelling reason for approving these projects.

Alternate uses may be expected some time in the future.

Since the Overlay District was enacted a decade ago, redevelopment that is consistent with its goals has been slow in coming, but there has been some progress. For example, Marino's Restaurant on the north side and the Health Club on the south side, which were developed several years ago, generally meet the standards; in the last year, the housing proposals on Hollis and Russell Streets have been approved as consistent with the Overlay District. Continued progress towards the image being sought may be less likely if three new auto service facilities are put in place.



CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

BENJAMIN C. BARNES
Chairman

CHIEF KEVIN J. FITZGERALD
Fire Department
Commission Member

CAPTAIN HENRY W. BREEN
Police Department
Commission Member

RICHARD V. SCALI
Commission Executive Officer

Date: April 11, 1996

To: Robert W. Healy, City Manager

Fr: Richard V. Scali, Executive Officer

Via: Benjamin Barnes, Chairman

Re: Council Order #023 dated 4/1/96
Permit process necessary for New or Expanded Uses of
Automotive Related Businesses

In response to the above order, the License Commission processes and hears applications for garage and gasoline storage, and new, used and junk vehicles.

All applications require zoning sign off before they are heard and building, fire and traffic department approval before they are issued. Each application is advertised in the Chronicle and Tab and is on our agenda which is mailed to approximately 125 interested parties whether they be new or expanded applications.

The License Commission has no preconceived notion as to which application is approved or denied. It hears all parties before it makes a decision. The application to be approved, would have to meet all standards of public need and lack of harm to the common good. Issues of noise, traffic, and trash are also considered.

If you need further information, please let me know and I will be happy to respond.

cc: Mary Ellen Vera; Robert Bersani, Director; Susan Schlesinger, Asst. City Manager

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RS



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

April 5, 1996

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subject: Council Order #023, dated 4/1/96 RE: PERMIT PROCESS
NECESSARY FOR NEW OR EXPANDED USES OF AUTOMOTIVE RELATED BUSINESSES

In response to this Council Order, the inspectional Services Department will coordinate closely with the Community Development Department and the License Commission to insure required Zoning Ordinance conditions and regulations are met prior to issuing permits for automotive related businesses in the North Massachusetts Avenue area.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. R. Bersani".

R. R. Bersani

RECEIVED
96 APR -8 PM 1:24
OFFICE OF THE CITY MANAGER



EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

April 29, 1996

To The Honorable, The City Council:

With reference to Awaiting Report Item No. 29, regarding the permit process necessary for new or expanded uses of automotive related businesses, please find attached responses from Assistant City Manager for Community Development Susan Schlesinger, Executive Officer of the License Commission Richard Scali, and Inspectional Services Commissioner Robert Bersani.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachments

Consnt Agenda #7

1 S-234

Relative to Awaiting Report Item
number 29 regarding the permit process
necessary for new or expanded uses of
automotive related businesses.

In City Council April 29, 1996

Placed on file.