

3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to the petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list certified by the Assessor's Office, the Planning Board of the City of Everett and the Planning Boards of every abutting city or town.

4. On September 17th, 2012 a hearing was held at the Everett City Hall at which time an opportunity was given to all those interested to be heard in favor or opposition to said petition, application or appeal of 0 Charlton St. & 0 Broadway, Everett, MA 02149 at which hearing the petitioner GM Charlton LLC, C/O Greenfield Partners LLC, 50 North Water Street, Norwalk, CT 06854 was present speaking on their behalf was Attorney Richard O'Neil, 391 Broadway, Everett, MA 02149, after the hearing it was voted on by the board to table the matter until the October 1st, 2012 Board of Appeals hearing so that the members could review everything that was presented to them. On October 1st, 2012 John Christoforo motioned to take the petition off the table, and it was seconded by Mario Cornelio.

ALL THOSE IN FAVOR:

Mike McLaughlin – Councilor Ward 6
 Stephen Koury – 210 Broadway, Unit 401, Everett, MA 02149
 Board of Trustees – Charlestown Lofts, Everett, MA 02149
 Christopher Thack – Business Owner
 June Shank – 210 Broadway, Everett, MA 02149
 Kathleen McCormick – 19 Villa Ave., Everett, MA 02149
 Mike Russo – 43 Charlton St., Everett, MA 02149
 Alderman Sal Sacheta
 Lee McCoy – 63 Bow Street, Everett, MA 02149
 Christopher Karen – 210 Broadway, Everett, MA 02149
 Dennis DiBiase
 Joe McGonagle – 46 Corey St., Everett, MA 02149

ALL THOSE OPPOSED:

Mike Russo
 Richard Caruso – 33 Mystic Street, Everett, MA
 Millie Cardello – Alderwoman – Traffic Concern

After a discussion of the petition, a motion was made by Mario Cornelio and seconded by John Christoforo for Favorable Action. A roll call vote was taken as follows:

Joseph Desisto, III	Yes	John Christoforo	Yes
Richard Zullo	Yes	Mario Cornelio	Yes

Motion passed, petition granted.

Members present:

Joseph DeSisto, III John Christoforo Mario Cornelio Richard Zullo
 A TRUE COPY ATTEST


 CITY CLERK

4. *The Desired Relief May be Granted without Derogating from the Intent and Purpose of the Zoning Ordinance*

The requested variances do not derogate from any of the purposes of the Zoning Ordinance and instead encourage an appropriate use of the Property in the City. The proposed multifamily residential use is permitted by right in the River Front Overlay District, which, in part, encourages the transition of the area from industrial to urban residential and retail. The buildings and parking are sited and designed in such a way to maximize efficient use of the Property. The relief requested here enables a well-planned housing development in an appropriate scale and design for the surrounding neighborhood and City, which will provide benefits without substantial detriment to the public good. The Project will result in a positive effect on the public good, and is therefore consistent with the underlying intent and purposes of the Zoning Ordinance.

For the reasons described below, the Board finds that the Applicant has met the conditions below for issuance of variances under the Zoning Ordinance and Massachusetts General Laws Chapter 40A.

1. *Conditions Especially Affect the Property but Do Not Generally Affect the Zoning District in which the Property is Located*

As shown in the Petition, the Property is located near the Boston and Maine commuter rail/railroad freight tracks and a combination of railroad tracks and both public and private streets shape the lot in a way that makes the placement of buildings, access and parking difficult. In order to accommodate development in light of these conditions, the surface parking with units on the stories above was developed. Further, the soil conditions of the Property, including hazardous materials contamination in the soil and groundwater from the prior manufacturing use, limit the type and extent of development which can be supported on the Property. These conditions necessitate a building configuration for the Project that includes increased building height, smaller yards, additional units per acre, parking arrangements that vary from the standard number of spaces per dwelling unit and include parking within the yard setbacks, all of which conditions are specific to this Property and not characteristic of the River Front Overlay District generally.

2. *A Literal Enforcement of the Provisions of the Zoning Ordinance Would Involve Substantial Hardship, Financial or Otherwise, to the Applicant*

A literal enforcement of the provisions of the Zoning Ordinance with respect to the Project, which is an allowed use in the District, would involve a substantial hardship due to the economically impractical constraints on design and size that would result from a literal enforcement of these provisions at the Property. The shape and location of the Property and environmental conditions all substantially increase the cost of and limit the amount of development which can occur on the Property without zoning relief. All of these design constraints would render the Project economically impractical due to the substantial increased cost resulting in substantial economic hardship. The fact that the Applicant controls all of the Broadway Lofts sites and can design and develop all sites simultaneously creates a unique opportunity and efficiencies of scale necessary to transform the entire neighborhood.

3. *Desired Relief May be Granted without Substantial Detriment to Public Good*

As shown in the Petition, the Project meets the intent and spirit of the Zoning Ordinance by providing multifamily housing (an allowed use) in an efficient and appropriate location. As described above, the Project is located in a somewhat segregated location between the railroad tracks (with wetlands on the other side) and several private or public ways, cutting it off on most sides from direct abutters and neighboring properties not owned by the Applicant and leaving few abutters in the immediate vicinity. Increased height/stories, units per acre and yard setbacks and alternative parking on this Property will, therefore, present no substantial detriment to the public good. In contrast, the Project will add needed multifamily housing to an appropriate location for such a use, thereby further completing the neighborhood and connecting to the existing uses on the other side of Broadway.

After consideration, it was voted by the Board to grant said petition and authorize the Inspector of Buildings to issue permits for the same, for the following reasons:

A. Findings of Fact

The Board finds that the benefits of the proposed Project are numerous and include providing needed multifamily housing for the neighborhood and City in general. Based on the submitted materials, the result of the Project will be that the site and surrounding area will be significantly improved aesthetically as well as environmentally. The Project will include certain remediation of hazardous materials contamination from prior uses as well as implementation of current Best Management Practices for stormwater containment and cleaning in compliance with the Massachusetts Department of Environmental Protection (DEP) requirements. Granting the requested relief will enable the Project to move forward and provide a significantly improved transition area between the light industrial and commercial uses in the area and other nearby residential uses.

In accordance with the requirements of Section 11(1)(b) and Section 11(1)(c) of the Zoning Ordinance and Massachusetts General Laws Chapter 40A, the Board held a public hearing on September __, 2012 and October 1, 2012 and concluded that the conditions to granting special permits and variances for the Project were satisfied. In accordance with Section 11(1)(b) and Section 11(1)(c) of the Zoning Ordinance, the Board is authorized to grant the requested special permits and variances.

B. Compliance with Statutory Conditions Governing the Grant of Special Permits

For the reasons described below, the Board finds that the Applicant has met the conditions below for issuance of special permits under the Zoning Ordinance and Massachusetts General Laws Chapter 40A.

1. *The Uses Are in Harmony with the General Purpose and Intent of the Ordinance*

The proposed multifamily residential use is permitted by right in the River Front Overlay District, which, in part, encourages the transition of the area from industrial to urban residential and retail. This housing development will proceed in an appropriate scale and design for the surrounding neighborhood and City and occupy a currently undeveloped and underutilized site.

2. *The Applicant Will Provide Certain Open Space Amenities In Connection With the Increase in the Permissible Density of the Use*

While providing for increased density for the Project, the Applicant has also designed the buildings to provide certain open space improvements and amenities for the residents. The Project includes open space in the form of roof decks/courts on a portion of the surface parking areas as shown on the Plans, which are designed to provide residents with the maximum amount of easily accessible open space. These are significant amenities in the urban environment in which the Project is located.

C. Compliance with Statutory Conditions Governing the Grant of Variances

reconvening on October 1, 2012, the Applicant provided supplemental information relating to its traffic study.

The Applicant also separately submitted application materials, including a detailed supporting narrative, for Site Plan Review for Broadway Lofts, which was granted by the City of Everett Planning Board on September __, 2012.

In exercise of its discretionary powers, the City of Everett Board of Appeals voted unanimously on October 1, 2012 to GRANT the Petition of the Applicant and issue the special permits and variances described below.

at the public hearing on Sept. 17th

The voting members were Joseph Desisto, III – Chairman, Mario Cornelio – Member, John Christoforo- Member, Vincent Caruso – Member, James Lenehan – Member, Richard Zullo – Assoc. Member, ~~Michael Dentone – Assoc. Member and Rose Ann Venezia - Clerk.~~

~~CONFIRM~~

Decision of the Board

The Applicant requested and the Board hereby grants the following relief:

I. Special Permit

Floor Area Ratio. The Applicant requested a special permit for the floor area ratio for the Project, which will be approximately 2.41 to 1. Pursuant to Section 26(c)(6) of the Zoning Ordinance the maximum allowed floor area ratio for a project in the District is 2.25 to 1, and the Board may grant a special permit for a floor area ratio of up to 4 to 1.

II. Variances

Yards. The Project requires variances to have (1) a front yard of approximately 8 feet (which is less than the front yard requirement of 10 feet in Section 26(c)(2) of the Zoning Ordinance); (2) a rear yard of approximately 8 feet (which is less than the rear yard requirement of 25 feet in Section 26(c)(4) of the Zoning Ordinance); (3) side yards of approximately 8.5 feet and 9.5 feet along certain sides as shown on the Plans and a total side yard of 18 feet (which is less than the side yard requirement of 30 feet total with a 10 foot minimum in Section 26(c)(3) of the Zoning Ordinance); and (4) landscaping in the front, side and rear yards of approximately 8 feet (which is less than the landscaping requirement in the front, side and rear yards of 10 feet in Section 26(d)(1) of the Zoning Ordinance).

Units per Acre. The Project requires a variance to allow 95 units on the Property, which is 24 units greater than the maximum units per acre of 70 units allowed by Section 26(c)(7) of the Zoning Ordinance.

Parking. The Project requires a variance to allow 96 parking spaces, which is 94 spaces less than the required 2 spaces per dwelling unit in Section 17(A)(2) of the Zoning Ordinance. Additionally, variances are required to allow parking within the front yard setback, side yard setback and rear yard setback (which is prohibited by Section 26(e)(1) and Section 17(K) of the Zoning Ordinance).

not the required 10 feet. (13) The building proposed parking is 94 spaces under the required amount of 190.

Overview

A determination was made by the City of Everett Zoning Board of Appeals (the “**Board**”) to grant a special permit and variances under Sections 11(1)(b) and 11(1)(c) of the City of Everett Zoning Ordinance and Map (the “**Zoning Ordinance**”) to GM Charlton, LLC (the “**Applicant**”) for multifamily residential projects to be developed simultaneously on 0 Charlton Street (the “**Property**”) and two adjacent properties located at Broadway and Charlton Street in Everett, Massachusetts to be known as Broadway Lofts.

The Property is located in the River Front Overlay District (the “**District**”) and is shown as Map HO, Block 02, Lot 000015 and Lot 000015A of the Assessor’s Maps.

The Property is currently an unimproved parcel that operate as surface parking. The Applicant proposes to undertake construction of a new four story residential building above one level of surface parking containing 95 units and 96 parking spaces, and is referred to in the Plans (defined below) as “Building Three” (collectively, the “**Project**”).

The Project, together with the development of two adjacent sites, will be known as Broadway Lofts and includes a total of approximately 329 total residential units and approximately 487 total parking spaces, consisting of 161 units and 309 spaces at 27-41 Charlton St., 73 units and 82 spaces at 0 Broadway, and 95 units and 96 spaces at 0 Charlton St. (collectively, “**Broadway Lofts**”)

Summary of Submissions and Hearing

The Applicant filed an application for a building permit for the Project on August 21, 2012. In response, as is typical practice in the City, on August 27, 2012, the City of Everett Inspectional Services Department issued a letter denying the building permit to the Applicant and setting forth the violations of the Zoning Ordinance requiring special permits and variances. The Applicant submitted an Application for Zoning Determination (the “**Application**”) to the Town Clerk on August 28, 2012.

The Property and the Project are shown on the set of plans containing 15 sheets and submitted with the Application, entitled “Broadway Lofts; Building 3” prepared by Columbia Design Group, LLC and Sheskey Architects, dated August 16, 2012 (the “**Plans**”). The Application and the Plans, together with the additional information provided at the hearing and otherwise to the City, are collectively referred to herein as the “**Petition**”, a copy of which is on file with the Board.

A Notice of Public Hearing was posted on September 11, 2012. The first Notice appeared in the Everett Leader Herald on August 30, 2012 and the second Notice appeared on September 6, 2012. The public hearing was opened on September 17, 2012 and closed on September 17, 2012. During the Board’s discussion Member Zullo requested additional detail regarding potential traffic impact. The Board’s Chairman suggested that such information could be submitted to the Board’s Secretary prior to the next meeting. Following discussion by the Board a motion was duly made, seconded and the Board voted unanimously to table the matter until October 1, 2012. All notices were provided and/or published as required by law and regulation. All persons interested were duly notified to be present at said hearing. Prior to the Board