

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF BOXBOROUGH

BOARD OF APPEALS

July 21, 1983

Decision of the Board of Appeals on the appeal and petition of GERALD HINES DEVELOPMENT BOSTON, LTD., 27 State Street, Boston, MA 02019, for property located at 1414 Massachusetts Avenue, Boxborough, Massachusetts.

This is an application for a Variance from Section 6.3.5. of the Zoning By-Laws to reduce the dimensions of individual automobile spaces in a parking facility from the required 10' x 20' to 8½' x 19' (excluding handicapped parking spaces), and/or for a Special Permit for a reduction of the number of parking spaces required in a common parking facility pursuant to Section 6.3.4. of the Zoning By-Laws; and for an Amendment of the Special Permit under Sections 4.3.2. and 7.3.1.2. of the Zoning By-Laws for office use in the Industrial-Commercial Zoning District granted by the Board on September 23, 1982, to allow for the addition of 11,000 square feet of new mezzanine floor space for office use to a 160,000 square foot building under construction.

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted and mailed to the petitioner, abutters, Board of Health, Board of Selectmen, Conservation Commission, Inspector of Buildings, Planning Board and Town Clerk as required by law, Glen A. Schricker, Chairman of the Board of Appeals, called the hearing to order at 8:00 p.m. on Thursday, June 16, 1983 at the Boxborough Town Hall. Members Glen A. Schricker, Walter F. John, Dexter L. Loring and Sven E. Siemen were present throughout the proceedings. The petitioner was represented by Paul D. Messina of Hines Industrial; John J. Griffin, Jr. and Steven Mastrovich, of the law firm of Rackemann, Sawyer & Brewster; and Bruce E. Tyson of John G. Crowe Associates, Inc. The record of the proceedings and submission upon

which permit is based may be referred to in the office of the Town Clerk.

The Board met to deliberate on the proceedings on June 30th and July 21st, 1983.

Submitted for their deliberations were the following exhibits:

- Exhibit A - Summary letter, dated June 16, 1983, signed by John J. Griffin, Jr. Attorney for Gerald Hines Development Boston, Ltd.
- Exhibit B - Plan entitled NEC Information Systems, Inc., 2nd Floor Revised Layout, latest revision 4-29-83.
- Exhibit C - Plan entitled NEC Information Systems, Inc., Site Layout Plan, dated 3-17-83.
- Exhibit D - Report of the Planning Board, dated June 15, 1983 and signed by Kathleen Vorce, Chairman of the Planning Board.

After due consideration of the application, the record of proceedings and the exhibits, the Board makes the following findings:

1. Relative to the application for Variance to reduce the dimensions of individual automobile spaces in a parking facility from the required 10' x 20' to 8½' x 19', the Board found:

a. That the applicant failed to demonstrate that a literal enforcement of the provisions of the Zoning By-Laws would involve substantial hardship, financial or otherwise, to the applicant;

b. That the applicant failed to demonstrate that the desired relief may be granted without substantial detriment to the public good and without nullifying the Zoning By-Laws; and

c. That the applicant failed to demonstrate that the desired relief could be granted without substantially derogating from the intent or purpose of the Zoning By-Laws.

Therefore, the Board, on July 21, 1983, VOTED UNANIMOUSLY to DENY the application for Variance to reduce the dimensions of the individual automobile spaces in a parking facility from the required 10' x 20' to 8½' x 19'.

2. Relative to the application for Special Permit for reduction of the number of parking spaces required in a common parking facility, the Board found:

- a. That the Special Permit sought was in keeping with the intent and purpose of Section 6.3.3. of the Zoning By-Laws;
- b. That the granting of the Special Permit would be without substantial detriment to the public good; and
- c. That ample land was available and could be reserved in the event future parking should become necessary.

Therefore, the Board, on July 21, 1983, VOTED UNANIMOUSLY to GRANT the application for Special Permit for reduction of the number of parking spaces from 500 to 445 spaces, pursuant to the provisions of Section 6.3.3. of the Zoning By-Laws, with the following restrictions: (1) That sufficient land, suitable for the construction of 55 additional parking spaces, remain in reserve; and (2) That the implementation of the reserve parking area to accommodate the facility can be required by the Inspector of Buildings upon finding that the 445 parking spaces are inadequate.

3. Relative to the application for an Amendment of the Special Permit under Sections 4.3.2. and 7.3.1.2. of the Zoning By-Laws for office use in the Industrial-Commercial Zoning District granted by the Board on September 23, 1982, to allow for the addition of 11,000 square feet of new mezzanine floor space for office use to a 160,000 square foot building under construction, the Board found:

- a. That the request for Special Permit is in keeping with the intent and purpose of the Zoning By-Laws; and
- b. That the request for Special Permit poses no detrimental effects in the district and is in harmony with the other uses in the district.

Therefore, the Board, on July 21, 1983, VOTED UNANIMOUSLY to GRANT the application for an Amendment of the Special Permit under Sections 4.3.2. and 7.3.1.2 of the Zoning By-Laws for office use in the Industrial-Commercial Zoning District granted by the Board on September 23, 1982, to allow for the addition of 11,000 square feet of new mezzanine floor space for office use to a 160,000 square foot building under construction, with the following restriction: That all previous requirements and

conditions of the Special Permits granted by this Board on September 23, 1982, remain in effect and apply to the additional 11,000 square feet granted under this Special Permit.

The foregoing restrictions have been spelled out for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Boxborough Zoning By-Laws.

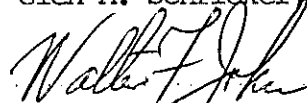
Under the provisions of the Boxborough Zoning By-Laws, Section 7.3.2.3., the Board shall have power to modify or amend the terms and conditions of a special permit on the application of the owner, lessee or mortgagee of the premises or upon its own motion. All the provisions of this paragraph applicable to approval shall, where apt, be applicable to such modification or amendment. Such power is hereby reserved.

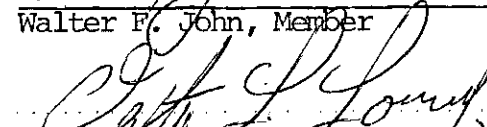
Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within twenty (20) days after the date of filing of the above-referenced decision with the Town Clerk.

WITNESS our hands this 21st day of July, 1983.

BOXBOROUGH
BOARD
OF
APPEALS


Glen A. Schricker, Chairman


Walter F. John, Member


Dexter L. Loring, Member


Sven E. Siemen, Clerk

I, Virginia B. Richardson, hereby do certify that this is a true copy of the Board of Appeals' Decision.

July 22, 1983
Date filed


Virginia B. Richardson, Town Clerk