



**NORTH  
ASSOCIATION**

**END/WATERFRONT**

**RESIDENTS'**

**P.O. Box 130319  
Boston, MA 02113**

[www.newra.org](http://www.newra.org)

## **Zoning, Licensing and Construction Committee Report** **May 14, 2009**

### ***Upcoming City Hall Hearings***

**20 Parmenter St., Joseph Perroncello** has applied for Board of Appeal zoning relief to construct a one-story addition to the existing building known as the North End Union, not exceeding the 55-ft. height limit in zoning. The Board of Appeal hearing is scheduled to be held on Tuesday, May 19, 2009, at 10:30 AM in City Hall, Room 801. NEWRA will request postponement of the hearing until the application is reviewed by the community (see related discussion below, under "Recent Applications"). The Mayor's Office of Neighborhood Services has indicated it will also seek postponement of the hearing.

**Fairmont Battery Wharf, 377 Commercial Street** has applied to the Mayor's Office of Consumer Affairs and Licensing for a live entertainment license (see attached legal notice). The notice does not specify the entertainment location within the hotel complex. A hearing is scheduled to be held on Wednesday, May 27, 2009, at 11:00 AM in City Hall, Room 801.

### ***Recent Applications***

**5 North Square Restaurant, Gerald Riccio** applied to the Licensing Board earlier this year for removal of the "no bar" restriction in the existing Malt and Wine with Cordials license recently transferred to him from the previous restaurant owner. While NEWRA had voted to support the license transfer, the proposal to remove the "no bar" restriction has not been presented to the community. Mr. Riccio has not accepted NEWRA's invitation to present his bar plans. In spite of the lack of community review and the lack of any known action by the Licensing Board to remove the "no bar" restriction (see attached historical license approval), a bar is now in operation at this location, apparently in violation of the license.

**20 Parmenter St., Joseph Perroncello** has applied for Board of Appeal zoning relief to construct a one-story addition to the existing building known as the North End Union, not exceeding the 55-ft. height limit in zoning. The building is under complete renovation with construction of a basement parking garage. This application is scheduled to be presented and discussed at the ZLC Committee's May 26, 2009 meeting and is tentatively schedule to be presented to NEWRA members for consideration at the June 11 regular monthly meeting.

**109-111 Salem Street, Joseph Bono:** At the ZLC Committee's request, the applicant for the following two applications, Joseph Bono, temporarily withdrew the applications and will refile with the Licensing Board to postpone the Board's hearing until June in order to provide ample time for community review. It is also the ZLC Committee's understanding that one or both applications are being revised by Mr. Bono, but the substance of any revision is unknown at this time.

1. **Al Dente Restaurant, 109 Salem Street, Joseph Bono** has applied to the Licensing Board to amend the existing malt and wine with cordials license for the existing 40-seat restaurant to add outdoor patio service with 16 seats at the rear of the establishment.

2. **111 Salem Street, Joseph Bono** has applied to the Licensing Board for a new malt and wine license to be operated in a 40-seat restaurant planned in the space formerly Trani Ice Cream; including outdoor patio with 14 seats at the rear of the establishment.

### ***Tonight's Applications***

**Fairmont Battery Wharf, 377 Commercial Street** is applying to the Licensing Board for an amendment to the All Alcohol License with 2:00 AM closing for the hotel and restaurants to include all season, outdoor dining with alcohol service. Plans call for outdoor seating in three areas related to two restaurants serving the public and a café serving hotel guests only. Battery Wharf is also seeking a valet license from the Boston Transportation Department that would place valet restrictions on five parking spaces along Commercial Street adjacent to the underground garage's entrance. Mr. Don Birch is the official contact person for the Fairmont Battery Wharf and may be contacted at 617-422-7007.

The ZLC Committee continued a discussion of these applications and related issues with various abutters and other North End/Waterfront residents at its meeting on March 24. In addition, representatives of NEWRA's ZLC Committee, along with a representative of Burroughs Wharf and a long-term resident across Commercial Street, had met with Fairmont Battery Wharf managers on Thursday, March 5, for a site walk-through and discussion. On March 25, NEWRA's Executive Committee decided not to include the Battery Wharf applications on the agenda of the April 16 regular monthly meeting because many concerns and questions remained and because NEWRA had not received copies of the two applications. On April 8, 2009, NEWRA sent the Battery Wharf representatives a list of questions and concerns. Battery Wharf has agreed to present additional information addressing these concerns and questions at the next ZLC Committee meeting, on Tuesday, April 28, 2009, 7:00 PM at the Pilot House. We urge all interested residents to attend. The following is a summary of the issues NEWRA has raised:

#### **General**

The Battery Wharf applications for outdoor dining and valet parking restrictions raise concern among the North End/Waterfront community because the proposals are not consistent with the development commitments and public access plans that NEWRA and the community worked so hard to secure. We ask that Battery Wharf revise or limit these project changes to mitigate their impacts to the residents of the North End/Waterfront, and we trust the community will have continued cooperation from Battery Wharf as NEWRA continues to review the applications.

#### **Existing Licenses**

1. Clarification is needed regarding the validity of the Battery Wharf licensee's proposed use of the single C.V. 7-day Innkeepers All Alcohol License for service of alcohol by different business entities.
2. Clarification is needed regarding the existence, scope and conditions of live or recorded entertainment licenses issued by the City of Boston for interior or outside use.

#### **Application for Outdoor Patio Service**

Battery Wharf has proposed outdoor patio dining areas in the following locations and configurations:

- Adjacent to the west end of Building 30 only in the existing, raised patio area.
  - Under the 2<sup>nd</sup> floor public terrace of Building 20 and not beyond the existing building columns.
  - Adjacent to the east end of Building 50 while providing ample clearance closer to Building 40 for general public pedestrian passage
3. All outdoor areas surrounding the four Battery Wharf buildings, not just the Harborwalk, are freely accessible public space ("The exterior and interior public spaces at Battery Wharf will be accessible to the public free of charge...Exterior public space includes all areas outside of each building footprint and the marina dock on the north pier adjacent to the USCG Station. Exterior public space is open to the public 24 hours per day" *Hotel & Residences at Battery Wharf, Public Access Program and Management Plan, Waterways License No 7740, November 2008, RBW LLC, pg. 4.*) The proposed dining patios encroach on the designated public space. Therefore, these patios must be thoughtfully designed and

operated so they minimize encumbrance on public use. The outdoor patios should be limited in area and configured to preserve, and possibly enhance, welcoming, safe and enjoyable access for the general public.

4. Please clarify the hours of operation, closing time for alcohol service and closing time of the patio.
5. NEWRA's Alcohol License Policy prohibits outdoor bars. We also request that your application for license amendment propose a condition on the license that alcohol will be served in the outdoor patio areas only with food.
6. NEWRA does not support applications for live entertainment, indoor or outdoor. The ZLC Committee will recommend that NEWRA oppose any outdoor entertainment, live or recorded.
7. The alcohol license itself should clearly identify the location and dimensions of each outdoor patio, to alleviate concerns that the areas might casually expand or relocate in the future. Each outdoor patio should be operated only from the immediately adjacent dining establishment.
8. Battery Wharf has stated that the patio and adjacent café at Building 50 will not be for general public use, but be for certain hotel guests only. Because of the restriction on use, the closeness of this patio to abutting neighbors, and a potential to impair public access, we recommend this patio be eliminated from the license application.
9. Features that provide partial screening or otherwise set off each patio from the general public access areas should be incorporated into the patio designs.
10. The proposed patio adjacent to Building 20 will worsen what we believe to be unsafe and restricted passage currently existing along the portion of the Harborwalk next to Building 20 beginning at Commercial Street. This patio should not be included in the application unless Battery Wharf agrees to create greater clearance along this portion of the Harborwalk (also see comment #12, below).
11. Private functions should be prohibited from the exterior and interior public spaces, with the exception of the designated function and meeting rooms in the hotel.

#### **Harborwalk and Other Public Access**

12. All outdoor areas should be accessible by the general public. We greatly appreciate that Battery Wharf has designed and programmed most of the site to enhance the public experience, in accordance with the Chapter 91 License and commitments. There are, however, a few areas that need improvement.
13. A sign is needed at the entrance to Battery Wharf at Commercial Street indicating that the wharf is open to the general public, that the general public is invited in, and that public facilities, such as restrooms, as well as historical interpretive programming, such as the museum, are available.
14. The design elements at the entrance to the site currently signal that the wharf is private property. Contributing to the unwelcoming, private appearance of the entrance is the lack of sufficiently clear passage as required by Harborwalk regulations and Special Condition #6 of DEP Waterways License No. 7740, which require public walkways to have a minimum 12-foot clear width. We request that the planters in this area be reconfigured and that the adjacent drop-off area be removed or reconfigured. At a minimum, spherical bollards around this drop-off area should be changed to a slimmer design to increase the width of the adjacent walkway.
15. All of the low, spherical bollards along the access drive should be replaced with a different type of bollard that takes up less space. Many of the spherical bollards have already been damaged by vehicles.
16. The Battery Wharf construction has left a dangerously high curb along the portion of Battery Street leading into the below-grade Burroughs Wharf Garage.
17. We appreciate the presence of Battery Wharf security and concierge staff on the site to assist the public as needed. However, the staff should be careful not to have an overbearing presence that could make the casual public user feel unwelcome.

#### **Valet Parking Restrictions**

18. The proposed application for valet parking restriction along Commercial Street is contrary to on-street parking commitments that were made by the developer. These commitments called for residential spaces along Commercial Street. We are also concerned that valet spaces typically create traffic problems because, from our experience with other valet operations in the North End, valet operations often

encroach into the travel way, and valet spaces are often used for vehicle parking, both in violation of the license.

19. Insufficient information has been provided to NEWRA to explain the need for valet parking on Commercial Street and support the parking restriction proposal, which we understand from your presentation would be in effect 24 hours a day, 7 days a week.
20. Notwithstanding our request for additional information to support your application, there does not appear to be a valet queuing problem at this time, and we recommend that Battery Wharf reconsider the valet proposal entirely. There is little support for Battery Wharf's application for valet parking restrictions on Commercial Street.

## ***Development Updates***

20

### **Government Center Garage Redevelopment**

NEWRA submitted its comment letter on the Project Notification Form (PNF) and the Environmental Notification Form (ENF) to the BRA and the Mass. Executive Office of Environmental Affairs' MEPA Unit, respectively, on April 17, 2009. On May 1, 2009, the Secretary of Environmental Affairs issued its Certificate on the ENF, which lays out the required scope of a Draft Environmental Impact Report the developer must file. The BRA's scoping decision on the PNF is expected to be issued in the next few weeks. NEWRA's comment letter and the Secretary's Certificate on the ENF are posted on [www.newra.org](http://www.newra.org).

### **Harbor Garage Redevelopment Project**

Last month, the developer of the Harbor Garage Redevelopment Project, Chiofaro Company, filed a Project Notification Form with the BRA and an Environmental Notification Form with the Executive Office of Environmental Affairs' MEPA Unit. The Harbor Garage Redevelopment Project will be located at 70 East India Row on downtown Boston's waterfront, along the newly reconstructed Rose Fitzgerald Kennedy Greenway. It is bounded by Atlantic Avenue, Milk Street, and East India Row, and sits between the New England Aquarium and the Harbor Towers. The Project involves the replacement of the existing Harbor Garage with a 40-story office tower of approximately 560 feet in height, and an approximately 59-story residential and hotel tower reaching up to approximately 690 feet. An approximately 770-foot skyframe will connect the two towers and provide a sky-line visual and architectural link between the two buildings. The 1.5 million-square-foot project consists of an 860,000-sf office tower, 220,000 sf of luxury condominium space, and a 300,000-sf hotel with an additional 50,000 sf of hotel function space and amenities. Those elements will sit above a 70,000-sf retail podium that will connect the proposed buildings. A 1,200–1,400-space parking garage and service docks will be located below grade.

The BRA held a public meeting on the project on May 12, 2009, at the Marriott Long Wharf. It was attended by hundreds of nearby residents, community group representatives, ZLC Committee members, and other interested parties. It was announced at the meeting that the public comment period for the PNF and the ENF is now coterminous and has been extended by the developer to Thursday, July 3, 2009. The ZLC Committee plans to prepare a draft comment letter for review, discussion and vote by NEWRA members before the July 3, 2009 comment deadline.

### **Next ZLC Committee Meeting**

**Tuesday, May 26, 2009, 7:00 PM, The Pilot House, 2 Atlantic Avenue**

*For more information about these items or other ZLC Committee activities, contact David Kubiak, ZLC Committee co-chair, at 617-833-9564 or [zlc@newra.org](mailto:zlc@newra.org).*