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February 16, 1984

I, Mary R. McDonough Town Clerk of the Town of
Lexington, Massachusetts, do hereby certify that twenty days have
Selectmen
elapsed since the decision of the Board of ~~Appeals~~ on

Sydney Noyes Anderson, Inc.

Muzzey Jr. High School Conversion

was filed in the office of the Town Clerk on January 5, 1984

and no appeal has been filed in the office of the Town Clerk.



Mary R. McDonough

Town Clerk
Lexington, Massachusetts

SPECIAL PERMIT, HEARING AND DECISION

BOARD OF SELECTMEN : THE TOWN OF LEXINGTON

Hearing Date: November 28, 1983

The Board of Selectmen of the Town of Lexington, Massachusetts, acting as the Special Permit Granting Authority under the Lexington Zoning By-Law and G.L. Chapter 40A. having received a written petition addressed to it by

SYDNEY NOYES ANDERSON, INC.

92 Main Street

Gloucester, Massachusetts

held a public hearing on November 28, 1983, in the Selectmen's Meeting Room, Town Office Building, Lexington. Notice of the hearing was given by publication in the Lexington Minute-Man newspaper and by posting in the town hall, and parties in interest were notified, all as required by law. Five members of the Board were present and acted on the petition. A copy of the petition, a certificate of mailing and a copy of the legal notice are attached hereto.

The petitioner seeks a special permit under Section 9.3 of the Zoning By-Law of the Town of Lexington (the "Zoning By-Law") for the conversion of the former Muzzey Junior High School into 71 condominium dwelling units and one senior activities center unit (the "Condominium") in accordance with the petitioner's proposal to the Town Meeting of February 14, 1983, and vote thereof approving the sale, use and site plan of the property described in the proposal, and in accordance with the site plan (the "Site Plan"), floor plans and elevations submitted with the petition. Changes in exterior architectural features will be limited to incidental alterations as necessary to complete work illustrated on the drawings attached to the petition. Alterations to the site include parking, plantings and walks reflective of the intended residential use proposed.

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R. Kirk Noyes, president of the petitioner, developer, and Robert Schafer, Esquire, attorney, represented the petitioners. The Board has received the report, pursuant to Section 9.3.4 of the Zoning By-Law, of the Planning Board unanimously recommending the granting of the special permit. The Board has also received letters and memoranda from the Conservation Commission, Building Commissioner, Town Engineer, Recreation Committee, Board of Health, and others with regard to the petition.

FINDINGS AND DECISION

Pursuant to Sections 3 and 9.3:

After site plan review under Section 3.4 of the Zoning By-Law, consideration of recommendations from the Planning Board, Conservation Commission, Recreation Committee, Town Engineer, Board of Health, and Building Commissioner and in accordance with Section 9.3, the Board of Selectmen finds:

1. If the proposed conversion is carried out in conformance with the provisions of this Decision and with the development proposal approved by the Town Meeting on February 14, 1983, (which proposal is incorporated herein by reference) with such minor deviations as are contained in that certain Land Disposition Agreement dated October 31, 1983, by and between the Town of Lexington and Sydney Noyes Anderson, Inc., to be recorded herewith, and as are shown on the plans submitted with the application for special permit, which plans conform substantially to the development proposal approved by the Town Meeting (collectively the "Proposed Conversion"), the Proposed Conversion will constitute a suitable development and will not result in substantial detriment to the neighborhood.

2. The Proposed Conversion will be a practical residential development, compatible with the neighborhood and will create in the neighborhood economically priced and a variety of housing.

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3. The public welfare, and convenience will be substantially served by the granting of the special permit.

4. The requested permit is for a use in harmony with the general purpose and intent of the Zoning By-Law.

5. Pursuant to G.L. c. 40A, § 6, the Proposed Conversion of the Muzzey Junior High School building will not be substantially more detrimental than the existing nonconforming use to the neighborhood.

GRANTED, unanimously, a special permit pursuant to said sections, subject to the following conditions:

1. All work required hereunder shall be promptly begun and diligently prosecuted to completion and shall be undertaken in accordance with this permit.

2. All drainage from proposed parking areas shall be intercepted on site and disposed of in existing drainage systems.

3. All rubbish, trash and debris created by construction work shall be stored, handled and/or disposed of in a sanitary manner. Rubbish, trash and debris shall not be disposed of by burning or burying on site.

4. After completion of the Proposed Conversion to condominium units, the owner of the building shall provide, in accordance with Board of Health regulations, as many receptacles as are necessary for the storage of garbage and rubbish to contain the accumulations of garbage and rubbish before final collection or ultimate disposal. These containers shall be located so that they are convenient to the occupants and so that no objectionable odors or conditions are created by the means of storage. A wooden fence six feet high shall be erected around the containers and access to the containers shall be by means of a gate in said fence.

5. The developer shall spend at least \$25,000 on plants, trees, shrubs and general landscaping of the site in accordance with the Site Plan. The developer shall post a bond in the sum of \$25,000 to secure the due performance by

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it of its obligations hereunder, and such bond shall be released only with the written approval of the Board of Selectmen.

6. The developer shall obtain a firm written commitment from a lender to provide 30-year direct reduction mortgage loans at prevailing rates to qualified purchasers of dwelling units in the Condominium to be established upon the Proposed Conversion, and make arrangements for pre-qualification of prospective purchasers by such lender on or before the commencement of construction of the Proposed Conversion. Accordingly, the developer in marketing condominium units shall offer each Buyer an option to include in their purchase and sale agreement a financing contingency substantially in the following form:

If the Buyer is unable, after exercising reasonable efforts, to obtain a commitment from a lender for a direct reduction mortgage loan to be secured by the Unit to be purchased hereunder of not less than eighty percent (80%) of the purchase price provided herein payable in not less than 25 years at prevailing residential mortgage interest rates, on or before the date thirty (30) days after the date this Agreement has been executed and delivered by the Seller, then the Buyer may cancel this Agreement and all obligations of the parties hereunder by so notifying the Seller prior to the expiration of such period, whereupon all payments made hereunder by Buyer (together with interest thereon) shall be refunded to Buyer forthwith.

7. The developer shall use its best efforts to obtain approval from the lender issuing a commitment to give mortgage loans to purchasers of units in the Condominium, and from secondary mortgage market participants, of a right of first refusal in favor of the Town of Lexington or its designee applicable to all Restricted Units (as defined in the Land Disposition Agreement) in the Condominium. If such approval is obtained, and if all purchasers who have executed reserve deposit agreements or purchase and sale agreements consent, the developer shall provide for such right of first refusal in the master deed of the Condominium, and shall refer thereto in all unit deeds. Failure of the developer to obtain such approval shall not constitute a breach of condition of the special permit granted hereby.

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8. In connection with the marketing and offering for sale of each unit in the Condominium, the developer shall deliver to each prospective purchaser a written statement that the Town of Lexington has not, in the disposition of the Muzzey Junior High School property or the issuance of the special permit granted hereby, undertaken to represent the interests of individual unit purchasers, and that such unit purchasers are encouraged to seek legal counsel in connection with the purchase of units.

9. Neither the special permit hereby granted nor any rights thereunder shall be assignable (except to purchasers of units in the Condominium and lenders to the developer or to such purchasers for the purpose of such purchase and except in accordance with the Land Disposition Agreement) prior to the completion of all work.

10. The Town and the developer shall execute, acknowledge and record an amendment to the Land Disposition Agreement in the form attached hereto.

This permit will lapse on July 1, 1985, if action is not taken under it and if all work is not completed in accordance with the Land Disposition Agreement. Copies of this decision have been filed with the Planning Board and the Town Clerk of the Town of Lexington.

Before acting on this permit, it will be necessary to secure permits from the Building and Inspection Department and any necessary zoning variances from the Board of Appeals.

In accordance with law, before this permit becomes effective, a copy hereof must be recorded at the Registry of Deeds by the petitioners.

The Board hereby makes a detailed record of all its proceedings relative to such petition and hereby sets forth that the reasons for its decision are its findings hereinbefore set forth and the testimony presented at the said hearing, including that herein summarized, and directs that this record shall be filed in the office of the Town Clerk of

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Lexington and shall be a public record and that notice of this decision shall be mailed forthwith to each party in interest.

BOARD OF SELECTMEN
(Acting as Special Permit Granting
Authority under the Lexington
Zoning By-Law and General Laws)

Stephen D. Felte

Mary M. Butler

Robert J. Lacey

John F. [unclear]

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