



Land Use Committee Report

City of Newton

In City Council

Thursday, January 26, 2017

Present: Councilors Laredo (Chair), Schwartz, Crossley, Lipof, Harney, Cote, Auchincloss, Lennon

City Staff Present: Associate City Solicitor Robert Waddick, Senior Planner Michael Gleba

#308-16 Special Permit Petition to further increase nonconforming setback at 79 Kenwood Ave

SURRENDRA DUDANI AND SHALINI SEN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER INCREASE THE NONCONFORMING SETBACK by razing the existing 12'x22' detached garage and construct a 22'x22' detached garage, reducing the setback from 16.2' to 6.2' where 25' is required at Kenwood Avenue, Ward 6, Newton Centre, on land known as SBL 64 20 01, containing approximately 7,964 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.4, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved Withdrawal Without Prejudice 4-0 (Auchincloss, Harney, Schwartz, Lennon not voting)

Notes: The Committee reviewed the petitioner's request to withdraw the petition without prejudice. Councilor Schwartz motioned to approve the withdrawal which carried 5-0.

#428-16 Special Permit to allow parking within 5' of street and stall depth at 113 Edinboro St.

NATALIA TEREKHOVA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow two parking stalls within five feet of the street and waive minimum stall depth at 113 Edinboro Street, Ward 2, Newtonville, on land known as SBL 21023 0004, containing approximately 3,250 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 5.1.7.A, 5.1.8.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Closed; Land Use Denied 0-5-2 (Harney, Auchincloss abstaining, Lennon not voting)

Notes: Petitioners Alexander and Natalia Terekhova presented the petition to locate parking in the front lot at 113 Edinboro. Mr. Terekhova stated that as the residence was built in 1870, no space was allocated on either side of the house to locate a driveway. The petitioners currently drive over the curb to park in the front lot and the yard is damaged each year. They hope to use pavers and create a curb cut and driveway to allow space to park two cars in the front setback. Mr. Terekhova noted that in response to the Planning Department's concern about lack of greenery; they will incorporate plants and window boxes as landscaping. The petitioners have spoken to the neighbors who are in support of the proposed plans. The petitioners purchased their home in 2013 and arranged to park in one abutter's driveway to this point. A new owner at the property is not willing to accommodate the prior arrangement. The petitioners noted that they have not been able to arrange parking in other neighbors' driveways or local garages.

Senior Planner Michael Gleba presented an overview of the petition noting that the stall depth would be reduced from the 9x19 standard stall depth to 9x15 in the setback. He added that the curb cut would be 18' and there will be no buffer from the front of the cars to the sidewalk.

The Public Hearing was Opened.

Robert Kraus, 166 Edinboro Street, noted that he spoke on behalf of a few neighbors. They are opposed to the granting of the special permit as they believe it will be visually unappealing and would set a bad precedent. He added that the cars parked there currently hang over the sidewalk. He also stated that the petitioners were aware of the parking limitations when they purchased their home.

Seeing no one else wishing to speak, Councilor Crossley motioned to close the public hearing which carried unanimously.

Committee members voiced their understanding of the petitioner's frustration but had concerns about the relief being requested and the corresponding safety hazards. Committee members felt strongly that it was not appropriate to locate two parking spaces at the property line and noted that the petitioner should not be driving over the curb to park currently.

While the Planning Department has tried to work with the petitioner, and suggested reducing the number to one stall; there are constraints at the site. Committee members worked to consider alternative configurations to accommodate the petitioner's needs, noting that there is inadequate space anywhere else on the lot to locate parking. Committee members were sympathetic, but unsupportive of the petition and informed the petitioner that they could work with the Planning Department to revise the petition further or withdraw the petition without prejudice. With a motion to deny from Councilor Lipof, the Committee reviewed the Council Order draft to make findings in the negative and the Committee voted 0-5-2 against the petition.

#429-16 Special Permit to amend Special Permit #284-16 at 7-9 Arundel Terrace

CARMEN FUGAZZOTTO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend special permit #284-16 to change the language of the Council Order to allow continued nonconformity without obtaining variances for rear and side setbacks., open space and lot coverage at 7-9 Arundel Terrace, Ward 1, Newton, on land known as SBL 71001 0025, containing approximately 5,100 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Closed; Land Use Approved Call 7-0 Subject to Second Call (Lennon not voting)

Notes: Attorney Terry Morris presented the petition to amend special permit #284-16. Because of a change in MGL 40A Sec 7, a condition to go to the Zoning Board for a variance no longer is necessary. The conditions previously noncompliant become nonconformities due to the change.

The Public Hearing was opened and closed with no comment with a motion from Councilor Crossley that carried unanimously.

Councilor Crossley motioned to approve the amendment to the Special Permit. Committee members discussed whether the Committee needs to make a finding for the allowance of the nonconformity as the changes to 40A allow the rectifying of the nonconformity through the special permit process. The Committee requested that the Law Department review, modify and circulate the Council Order and voted to approve the item 7-0 Subject to Second Call.

#430-16 Special Permit to change nonconforming use at 15 South Gate Park

ANTHONY DEPASQUALE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to change NONCONFORMING clubhouse use to a 3-unit multi-family dwelling, locate parking within a front setback and allow a two way entrance/exit drive less than 20' at 15 South Gate Park, Ward 3, West Newton, on land known as SBL 33031 0009, containing approximately 14, 120 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 5.1.8.A.1, 5.1.13, 5.1.8.D.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Closed; Land Use Approved 7-0-1 (Lennon abstaining)

Notes: The Chair read the item into the record and reminded the Committee that the petition was before the Committee in 2016 and withdrawn. Attorney Terry Morris presented the petition to take down the front structure at 15 South Gate Park and restore the structure to

the historic 1920 structure. He noted that the Historic Commission has approved the petition. The petitioner hopes to improve the site by locating parking underground while maintaining two above ground spaces on either side of the lot for visitor and short term use. The petitioner is not inclined to consolidate these spots as proposed by the Planning Department. Mr. Gleba noted that while the consolidation of these spots would result in one less curb cut, it would be a larger one. He indicated that the Planning Department does not feel strongly about the consolidation of the parking spots.

Mr. Gleba reviewed requested relief and presented the plans for the petition. The Public Hearing was opened.

George Jaffe, 45 Southgate Park, noted that Northgate and Southgate Park are very narrow and there are safety concerns associated with underground parking. Some abutters believe there are safety hazards for pedestrians.

Tim Durkin, 15 Northgate Park, believes this plan is a compromise and will vastly improve the site. Three units compared to the original five proposed is an improvement. His biggest concern remains about safety relating to the underground garage.

Councilor Cote motioned to close the public hearing which carried 7-0.

Committee members noted that the open space will be improved on the lot. Attorney Morris confirmed that when exiting the garage; cars will be level prior to reaching the sidewalk. He also confirmed that the trees adjacent to the driveway are tall enough to avoid interference with the sight lines. Some Committee members believe that the sight lines in the underground garage may be better than driveways that only allow for drivers to back out, as the garage contains space for turning around.

After a motion from Councilor Cote to approve the item, Committee members reviewed the draft Council Order and emphasized to the petitioner the importance of ensuring that the property is kept clean during construction. When reviewing the condition related to preservation, Attorney Morris noted that the petitioner has no intention to raze the structure and has done studies to confirm that it can be preserved. It was requested that the Law Department include language in the Council Order that specify that if the plans change relative to the preservation of the structure, the petitioner will need to return to the Council for review. Councilor Cote's motion to approve carried 7-0-1 with an abstention from Councilor Lennon because he was not present for the presentation.

#431-16 Special Permit to allow three attached dwellings at 377 Langley Road

367-377 LANGLEY ROAD LLC., petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow three attached single-family dwellings, reduce frontage requirements for attached single family dwellings, reduce side setback requirements, allow parking within 20' of a side lot line and a driveway within 10' of a side lot line and to allow placement of a retaining wall of 4 feet or more within a setback at 377 Langley Road, Ward 6, Newton Centre, on land known as SBL 65019 0058, containing approximately 23,545 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Land Use Held 8-0

Notes: Attorney Terry Morris presented the petition to build a three attached single family units on a lot adjacent to two lots, each with a two family structure. The petitioner proposes to create single access to the site through a shared driveway. The grading of the lot decreases as you near the rear of the property. The petitioner hopes to regrade approximately 4' of the rear yard to make 10'-12' of usable leisure space and locate several retaining walls. Due to the grading at the site, the rear of the structure (average of 35.5') is exposed to Bowen playground, from the front the structure will only be 31'. Attorney Morris noted that the petitioner has not had any communication with an abutting condo association.

Mr. Gleba reviewed the requested relief and overview of the project. He noted that the size of the structure informs the need for the retaining walls, one of which will be 11' at the corner. This retaining wall will be behind the parking lot.

The Public Hearing was Opened.

Mario Signore, 351 Langley Road, noted that he had no information about the project prior to the public hearing. The petitioner did not contact him previously and he has concerns that the developer will be developing directly on the property line of his house. He believes that the development be detrimental to the value of his property. It was noted that Mr. Signore also owns #361 Langley Road.

Chris Masterman, 383 Langley Road, is on the Board of Trustees for the abutting property. He stated that the owners of the condos in 383 Langley Road received no information about the plans for the development. He has concerns about the construction methods and impacts on the abutting properties and the mass of the proposed structure.

Boris Milman, 383 Langley Road, had concerns that the homeowners in the condo building were not notified. He stated that he was told by a representative of the developer's that the footprint of the proposed structure would be the same. He has concerns about the proximity of the structure to the condo building.

Robin Stratton, 383 Langley Road, has concerns about the size of the retaining walls. He also has concerns about the traffic impacts due to one shared driveway and the number of cars possible at the site.

Tatyana Zeliger, 383 Langley Road, has concerns about safety and the height of the retaining walls. She also wants to make sure that the construction does not compromise the condo building.

Committee members noted that while there has been thoughtful approach to designing the massing and varied roofline design, the proposed structure is large and will be viewed from the playground. Councilors requested details of the retaining walls for clarification of their location and height. Committee members were cognizant of the proximity of the proposed development to adjacent properties in addition to possible construction impacts. Councilors agreed that a site visit would be necessary at the appropriate time.

The Chair emphasized that the petitioner's attorney is aware of the preferred protocol for communicating with abutters prior to public hearings. He urged the petitioner to contact the abutters to evaluate and incorporate feedback prior to returning to the Land Use Committee. The Committee voted to hold the item 8-0.

The Committee adjourned at 9:30 pm

Respectfully submitted,

Marc C. Laredo, Chair