



Land Use Committee Report

City of Newton **In City Council**

Tuesday, June 6, 2017

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

Also Present: Councilors

City Staff: Senior Planner Neil Cronin

#43-17 Special Permit to extend non-conforming two-family use at 893 Watertown Street

JAMES AND CAROL HOOPES petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single-story rear addition extending the existing non-conforming two-family use at 893 Watertown Street, Ward 3, West Newton, on land known as SBL 31014 0005, containing approximately 19,560 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 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Postponed to July 11, 2017**

#101-17 Special Permit to extend nonconforming use at 46 Farwell Street

BRIAN MCDONALD/CONTINUOUS IMPROVEMENT REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert the existing detached truck storage structure into a residential unit and continue the office use in the front structure, constituting two uses on site at 46 FARWELL STREET, Ward 3, Newtonville, on land known as SBL 21001 0014, containing approximately 8,529 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 5.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Postponed to June 22, 2017**

#127-17 Special Permit to amend Special Permit for 170 Needham Street

ROCKLAND TRUST COMPANY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #229-13 to allow bank use at 170 Needham Street, Ward 8, on land known as Section 83, Block 028, Lot 002, containing approximately 27,178 sq. ft. of land in a district zoned MU1. Ref: 7.3.3, 7.4, 4.4.1 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 5-0 (Lipof not Voting)**

Note: Attorney Franklin Schwarzer with Schlesinger and Buchbinder, offices at 1200 Walnut Street represented the petitioner Rockland Trust. Attorney Schwarzer noted that the 27,178 sq. ft. MU zoned lot is a one story commercial building with space for three tenants. Currently there are two tenants; Jimmy John's and the Vitamin Shoppe. It is the petitioner's intent to occupy the third space. Because bank use is not permitted as part of Board Order

#229-13, they require a special permit. Attorney Schwarzer noted that the bank will not be a drive-thru but has ATM access in a rear vestibule at the site. Attorney Schwarzer required that no additional relief is required for hours of operation for the ATM. Committee members questioned why bank use is not permitted in an MU1 district. Senior Planner Neil Cronin noted that banks are typically not permitted in MU zones because they do not necessarily contribute to a lively pedestrian experience. It was noted that Board Order #229-13 did not prohibit bank use and Councilors were in agreement that there has been no pushback from the community for a moratorium on banks on Needham Street.

Mr. Cronin confirmed that if the proposed use is less than the existing use, the ordinance applies a credit for parking so there are no additional requirements to increase parking with new tenants. If the tenants choose to relocate, the site loses the parking credit and a future tenant would have to return for parking waivers.

The Public Hearing was opened and closed 5-0 with a motion from Councilor Crossley. Committee members reviewed the draft findings and conditions. A Committee member requested that a condition be included to require final review and approval by the Planning Department of the lighting plan for the rear vestibule ATM. With a motion to approve from Councilor Crossley, Committee members voted unanimously in favor.

#129-17 Special Permit to reduce lot area by 4% at 19-21 Beaconwood Road
LENTO DEVELOPMENT, LLC/KENNETH LENTO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze and replace a two-family structure and allow a 4% reduction to the required lot area after combining lots at 19-21 Beaconwood Road, Ward 8, on land known as Section 54, Block 22, Lot 0044 and Section 54, Block 022, Lot 0047, containing approximately 9,602 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3, 7.4, 7.8.4.D.4, 7.8.4.D.5, 7.8.4.A of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Held 5-0 (Lipof not Voting)

Note: Attorney Michael Pearce representing Lento Development, LLC. presented the request to allow for a waiver of lot area requirement. Due to a lot line change the petitioner must meet new lot requirements. The existing two-family house at 19-21 Beaconwood Road was built in the early 1950's on a 7,100 sq. ft. lot. The property acquired additional adjacent land resulting in a lot 9,602 sq. ft. The petitioner, Lento Development purchased the property after one common owner from the 1960s to 2016. Although the property has been used as one lot, the merged lot lines have not been reflected as such on any plot plan. It was determined that 5% or less of the lot area could be waived. Attorney Pearce noted that the proposed new dwelling meets all new lot dimensional, drainage and landscaping requirement. Attorney Pearce noted that with a waiver to reduce the lot area, the lot area per dwelling unit requirement could never be met. An alternative plan at the site would require FAR relief.

As there is additional work that needs to be completed prior to Council deliberation, Committee members agreed that the petition should be held. It was noted that the design of the garage is accentuated by the roof choice. Committee members asked the petitioner review whether the design of the garage can be changed to mitigate the impact of massing and if a landscape plan can be provided.

Councilor Schwartz motioned to hold the item to June 22, 2017 which carried unanimously.

#126-17 Special Permit to extend nonconforming FAR and front setback at 208 Homer Street

ADIL AND ALEXANDRA DIOURI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a new attached garage at basement level, family room on first floor and bathroom and closet space on the second floor, extending the nonconforming front setback increasing the nonconforming FAR from .52 to .61 where .41 is allowed at 208 Homer Street, Ward 6, on land known as Section 64 Block 019 Lot 0001, containing approximately 8,321 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.1.9, 7.8.2.C.2, 3.1.3 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved Subject to Second Call 5-0 (Lipof not Voting)

Note: Architect Peter Sachs presented the request for renovations at 208 Homer Street. Mr. Sachs noted that the detached garage would be demolished and consolidated into the main structure in addition to first floor renovations to the kitchen and bedroom space. The proposed renovations require FAR relief and relief to continue the nonconforming front setback with an extension of 3". Mr. Sachs noted that while the lot is small, effort has been made to preserve the architectural integrity of the house.

Committee members were supportive that relocating the garage away from the supportive abutters would be beneficial. It was noted that the proposed deck reduces the setback from 17' to 9' and Committee members asked if additional landscaping is proposed. Mr. Sachs noted that the petitioner spoke to abutters and has agreed to maintain an existing tree that provides screening to the abutting property. He confirmed that no additional landscaping is currently proposed.

Committee members were appreciative of the design of the project and how it minimizes massing even though it is a request for FAR. It was noted that the proposed structure will be more compact and will result in more open space than the existing structure. A Committee member noted that on the Everett Brook survey, the FAR calculations reflect exclusion for the garage. Mr. Sachs noted that the FAR calculations are included in the FAR worksheet. Committee members requested that Mr. Sachs submit a revised survey that removes the footnote with the language referencing the FAR exclusion. The public hearing was opened and closed with no member of the public wishing to speak with a motion from Councilor Schwartz. Councilor Schwartz moved approval of the item, subject to second call,

pending a revised survey from Mr. Sachs. Committee members voted unanimously in favor of the project.

#130-17 Special Permit to exceed FAR at 164 Highland Avenue

ROBERT AND CINDY LAUGHREA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish a portion of the rear dwelling, front porch and detached garage and construct a two-story rear addition and attached garage for more than three vehicles and in excess of 700 sq. ft. increasing the FAR to .28 where .27 is allowed and .19 exists at 164 Highland Avenue, Ward 2, on land known as Section 24, Block 12, Lot 20, containing approximately 22,230 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3, 7.4, 3.1.9, 3.4.2.C.1 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Held 6-0**

Note: Architect Alan Maier presented the request for a two story rear addition and attached garage at 164 Highland Avenue. The petitioner hopes to add a family room and mudroom. Additionally, the petitioner hopes to take down a detached garage and replace it with an attached six car garage. Although the garage will appear as a two-car garage from the street, there will be four, below grade spots accessible by a lift within the garage. Because the petitioner is trying to maintain the Mansard style architecture, the square footage at grade level exceeds the allowable FAR.

The Public Hearing was opened.

Kenneth Mack, 171 Highland Avenue, lives across the street. He has concerns about the number of the cars that will be stored on site and questioned if there is precedence for such a large garage in a single family dwelling. He questioned if there were alternatives looked at. He has concerns about increased traffic/safety impacts on the neighborhood.

Cindy Laughrea, 164 Highland Avenue, noted that her husband has become a car collector. They hope to store cars on the property, but stated that the cars will not be used on a regular basis.

Lisa Gomes, 171 Highland Avenue, questioned the appropriateness of a six car garage in the neighborhood and the frequency of entry and egress of the vehicles.

Mr. Maier reiterated that the garage appears to be a two car garage. In order to remove a below grade car, one of the cars in the at-grade bays must be removed. Councilors noted that the garage spaces can only be accessed from the front of the garage or inside the house. As the relief required is for 222 additional square feet, Committee members questioned whether the project could be designed in a way where the FAR is not in excess of what is allowed. Committee members shared concerns that future owners of the home might use the garage for commercial purposes. Councilors asked if the Law Department could craft a condition where the special permit would expire upon sale of the property. Committee members were in agreement that the petitioner, abutting homeowners, Law and Planning Department should

work to craft conditions that address the concerns of the neighborhood and Councilors. Committee members were in agreement that commercial use should be prohibited at the site. A Committee member requested that literature regarding the noise level of the lift be circulated prior to the next public hearing. With a motion to hold the item from Councilor Auchincloss, the Committee voted unanimously in favor.

#131-17 Special Permit to allow parking stall in front setback at 54 Lakewood Road

CAROLINE GENCO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking within 5' of the street, in the front setback at 54 Lakewood Road, Ward 6, on land known as Section 52 Block 018 Lot 0002, containing approximately 4,145 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 5.1.7.A of the City of Newton Rev Zoning Ord, 2015

Action: **Land Use Held 6-0**

Note: Architect Susan Sangiolo presented the request to locate a parking space within 5' of the street. When the petitioner, Ms. Genco purchased the property, the front was pavement. Because she had children and limited yard space, she turned the front space into a yard. The petitioner has been using a legal right of way in the abutting driveway to access a rear yard spot. A by right parking spot would be slanted across the front yard, requiring an 18' wide curb cut and 200 additional square feet of paving. They were advised to pursue the special permit because it is a better design. It was noted that a retaining wall is necessary at the site regardless of the parking stall.

Caroline Genco, 54 Lakewood Road, noted that she does not have a garage or driveway. During snow storms, she must wait for the neighbors to plow before she is able to leave the house.

Mr. Cronin noted that the stall will be 9'x19'. It was confirmed that the end of the stall is at the edge of the sidewalk.

The Public hearing was opened.

Judy Tischler is the homeowner that abuts the property. She hopes this can be accommodated and does not have any concerns about the aesthetic impact on the neighborhood.

John, 51 Lakewood Road, lives across the street. He has concerns about safety at the site. He noted that the 5' setback will be eliminated. He stated that the area is heavily travelled by pedestrians and has concerns about pathway obstruction. He added that the plot plan does not represent existing conditions, but it represents conditions from April.

Committee members asked clarification from the Law Department on the sidewalk. It was noted that the street is defined as the entire public way, which includes the sidewalk. Committee members noted that 5' is required from the edge of the car to the sidewalk. The front setback of the wall is 23' so even without the retaining wall, relief would be required. A Committee member noted that the petitioner is trying to create a garden like space and make

parking more deminimus. Committee members requested that the Planning Department consult with the Engineering Department on possible alternatives to the retaining wall. Committee members also asked that the Planning Department work with the homeowner and the architect. Committee members shared concerns about safety related to the car encroaching on the sidewalk, particularly in winter and inclement weather. It was noted that the only way they can come in by right, is to come in sideways and take up additional space with a larger curb cut. Councilor Schwartz motioned to hold the item which carried unanimously.

#128-17 Special Permit to increase nonconforming FAR at 15 Ricker Road

EMJ PRIME BUILD, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to expand units at the two family dwelling, claiming basement space for the first floor and attic space for the second floor by adding dormers, increasing the FAR from .90 to .93 where .58 is allowed and relocating a noncompliant deck, further decreasing the existing nonconforming open space at 15 Ricker Road, Ward 1, on land known as Section 71 Block 021 Lot 009, containing approximately 4,776 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3, 7.4, 3.2.11, 7.8.2.C.2, 3.2.3 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 5-0-1 (Schwartz abstaining)**

Note: EMJ Prime Build presented the request for FAR relief to add dormers to the attic and two deck additions. The petitioner requires relief to the open space requirement to locate first and second floor decks on the side of the structure. The open space will be reduced from 46.5% to 44%. The Planning Department requested that the petitioner submit a landscaping plan.

Mr. Cronin reviewed the requested relief. The Public Hearing was opened. With no member of the public wishing to speak, Councilor Auchincloss motioned to close the public hearing which carried 5-0.

A Committee member noted that the intensity of use would be increased at the site which should be considered in the context of reducing the open space. Councilors noted that two-family dwellings with decks are common in the neighborhood and noted that the outdoor decks function as the outdoor space. It was noted that the petitioner could reduce the proposed deck space to create additional open space, but it would still not meet the open space requirement.

Committee members asked if the petitioner would change the paving surface to impervious surface. The petitioner confirmed that he repaved last year and it would be a significant expense to repave. Committee members did not feel that it should be a condition of approval. Committee members deliberated whether screening on the second floor deck is necessary. Committee members were in agreement that the landscaping plan should be reviewed by the Planning Department. Councilor Auchincloss moved approval of the item. After a review of the draft findings and conditions, Committee members voted 5-0-1 with an

abstention from Councilor Schwartz who had concerns about whether additional screening from abutter should be required.

#38-17 Special Permit to exceed FAR at 1016 Centre Street

CLAUDINE GROSSMAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing garage, structure and deck and to construct an attached two-car garage and indoor sport court, exceeding the maximum allowable FAR to .38 where .33 is allowed and .31 exists at 1016 Centre Street, Ward 7, Newton Centre, on land known as SBL 73049 0010, containing approximately 19,878 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9.A.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 4-1-0 (Crossley Opposed, Schwartz recused)**

Note: In response to concerns from Councilors at the first public hearing related to the massing of the proposed sport court, Architect Miriam Spear noted that the length of the indoor sport court was reduced by 3' and the height by 14". Ms. Spear noted that the reduction in the length of the sport court helped with concerns from abutters and provided an updated shadow study. With no member of the public wishing to speak, Councilor Auchincloss moved to close the public hearing which carried unanimously.

Committee members asked that the Planning Department review the dimensions for accuracy in the Council Order. Councilor Auchincloss motioned to approve the special permit. A Committee member noted that while the project design is high quality, when reviewing a request for FAR relief, Councilors should be cognizant of reducing the massing. It was noted that lowering the court below grade would have helped reduce the massing to abutters, who expressed concern at the first public hearing.

#125-17 Appointment to the BC Neighborhood Council

LYNN YETRA, 15 Rochester Road, Newton, appointed by the President of the City Council as the Boston College Law School Campus neighborhood representative to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/17.

Action: **Public Hearing Closed; Land Use Approved 6-0**

Note: After a review of Ms. Yetra's credentials and a motion from Councilor Lipof, Committee members voted unanimously in favor of Ms. Yetra's appointment to the BC Neighborhood Council.

The Committee adjourned at 9:47 pm.

Respectfully submitted,

Marc C. Laredo, Chair