



## Land Use Committee Report

### City of Newton

### In City Council

**Tuesday, October 3, 2017**

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

**Also Present:** Councilor Sangiolo

**City Staff:** Director of Planning & Development Barney Heath, Associate City Solicitor Bob Waddick, Senior Planner Michael Gleba, Senior Planner Neil Cronin, Chief Planner Jennifer Caira

**#227-17**      **Special Permit to amend Order #94-16 to allow changes to the site plan**  
THEODORE VENTOURIS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #94-16 to allow a retaining wall, pillars and grading changes not consistent with the previously approved site plan at 2171 COMMONWEALTH AVENUE, Ward 4, Auburndale, on land known as Section 41, Block 18, Lot 0032A, containing approximately 19,682 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Held 6-0 (Crossley not Voting)**

**Note:**      The public hearing was opened. No member of the public wished to speak. Councilor Schwartz motioned to hold the item until October 10, 2017 which carried unanimously.

**#229-17**      **Special Permit to allow vehicle sales at 454-458 Watertown Street**  
TEE GEE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to expand the existing auto service business to allow the sale and service of up to ten used cars and waivers to requirements for parking facilities at 454-458 WATERTOWN STREET, Ward 1, Newtonville, on land known as Section 14, Block 16, Lot 35, containing approximately 14,277 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3, 7.4, 4.4.1, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Held 6-0 (Crossley not Voting)**

**Note:**      After the initial public hearing on September 26, 2017, the petitioner noted he would work with the Planning Department to make modifications to the site plan. The petitioner requested that the hearing be continued to October 24, 2017. With a motion from Councilor Cote to hold the item, Committee members voted unanimously in favor.

**#261-17**      **Special Permit to exceed FAR at 14 Pond Avenue**  
KEVIN FAHEY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 1,026 sq. ft. rear addition to the basement, first and second stories, creating an

FAR of .67 where .58 is allowed and .44 exists at 14 POND AVENUE, Ward 1, on land known as Section 11, Block 20, Lot 14, containing approximately 4,530 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3, 7.4, 3.2.11 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Held 6-0 (Crossley not Voting)

**Note:** The petitioner requested a postponement of this item until October 24, 2017. Councilor Cote motioned to hold the item which carried unanimously.

**#228-17** **Special Permit to extend non-conforming use at 69-71 Cherry Street**  
CAPPADONA CHERRY GROUP, LLC/ROSSANA CAMPOS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to legalize third unit and non-compliant lot area per unit in the existing non-conforming two-family at 69-71 CHERRY STREET, Ward 3, West Newton, on land known as Section 34, Block 42, Lot 15, containing approximately 23,511 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.3 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Held 7-0

**Note:** Attorney Michael Peirce, 60 Walnut Street, Wellesley, represented the petitioner Rossana Campos. Atty. Peirce stated that the petitioner is seeking a Special Permit to convert the legally non-conforming two-family house into a three-family house at 69-71 Cherry Street. The 23,500 sq. ft. house was converted in 1959 to a two-family. When the area was rezoned to SR3 in 1963, the structure became legally non-conforming. The third floor unit was installed at some point before the petitioner purchased the property in 1960. The petitioner has proposed no exterior changes to the site, but will make interior changes to address code issues, if necessary.

Atty. Peirce noted that there is a question of whether Section 7 of Chapter 40A relative to lot area per unit applies to Special Permits. While he has asked the Commissioner of Inspectional Services for a determination, one has not yet been made. If the Commissioner determines that state law is applicable, the property will require a variance to reduce the lot area per unit. It was noted that this structure cannot be legalized as an accessory unit because it is not owner occupied.

Senior Planner Neil Cronin reviewed the reviewed the relief requested and criteria for consideration. He presented an aerial photo of the property and confirmed that there will be no exterior changes to the dwelling as part of the proposal. Atty. Peirce confirmed that neighborhood outreach has occurred. Councilor Cote noted that the Councilors in Ward 3 have not heard concerns from members of the community and he has no concerns relative to the project.

Atty. Peirce confirmed that the Fire Department has confirmed the structural integrity of the outside staircase. He noted that Inspectional Services does inspections to ensure code

compliance routinely during modifications of this nature. He stated that there have always been two means of egress. Atty Peirce noted that there are four garage spaces and more spaces to the rear of the site which is well screened. The Planning had no concerns regarding the number of parking stalls at the site.

A Committee member asked if the approval of the Special permit would create a condition that would allow a subsequent owner to use the non-conforming three family use and create an extended three-family dwelling. It was confirmed that because the special permit is accompanied by site plan approval, any changes to the site plan would require an amendment to the special permit. Committee members requested that the Council Order specify that the three-family use cannot be further extended.

As one of the findings that must be made to approve the special permit is that the proposed use is not substantially more detrimental than the existing use, Committee members questioned if the proposed use should be compared to the existing use as a three-unit or the existing legally non-conforming two-family use. The Chair asked that Atty. Waddick provide guidance relative to the finding at the next meeting.

The Public Hearing was opened.

Xueru Ding, 117 Russell Road, lives behind the property on Russell Road. She noted that that she had a concern related to debris from the site going onto her property which has been resolved. Ms. Ding noted that she has concerns about future modifications to the structure.

Ann Donovan, 18 Sylvester Road, noted that the tenants at the property have not been respectful and there are late night parties with noise. She has concerns that legitimizing the third unit will exacerbate the issues.

The Chair asked that Attorney Peirce discuss neighborhood concerns with the petitioner. The public hearing remained open. With a motion from Councilor Cote to continue the item to October 24, 2017, Committee members voted unanimously in favor.

**#283-17      Special Permit Petition to increase nonconforming FAR at 715 Commonwealth Ave**

DAVID BORUCHOFF petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct three additions including a mudroom, a second floor addition over an existing porch and extension of a kitchen, further extending the nonconforming FAR from .40 to .44 where .39 is allowed at 715 Commonwealth Avenue, Ward 2, on land known as Section 13, Block 33, Lot 08, containing approximately 9,105 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9, 3.1.3, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Approved 7-0; Public Hearing Closed 10/03/2017**

**Note:** Attorney Michael Peirce presented the petition to increase the Floor Area Ratio at 715 Commonwealth Avenue. The site currently has an FAR of .40 where .39 is allowed. The dwelling became legally non-conforming after the City's adoption of FAR. Atty. Peirce noted that the proposed additions include a second floor over an existing porch and a bump-out to increase the kitchen space. The added space would total 320 sq. ft. Atty. Peirce noted that the historically significant house has been reviewed by Planning who has determined that the modifications are consistent with the neighborhood.

Senior Planner Michael Gleba reviewed the requested relief and criteria for consideration. Mr. Gleba showed an aerial photo, existing site plan and proposed plans. Mr. Gleba noted that the second floor addition will be visible from Commonwealth Avenue. Mr. Gleba showed photos of the site and relationship to abutting properties.

The public hearing was opened. No member of the public wished to speak. Councilor Auchincloss motioned to close the public hearing which carried unanimously. Councilor Auchincloss motioned to approve the petition. Committee members reviewed the draft findings and standard conditions and the Committee voted unanimously in favor.

**#262-17 Special Permit to exceed FAR at 115 Nonantum Street**

SHAWN AND NANCY BELLMORE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 764 sq. ft. rear addition to allow for new living space and creating an FAR of .60 where .44 exists and .46 is allowed at 115 Nonantum Street, Ward 1, on land known as Section 72, Block 21, Lot 15, containing approximately 4,790 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.9.A.2 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 7-0; Public Hearing Closed 10/03/2017

**Note:** Architect Marc Hershman, MSH Architecture Associates represented petitioners Shawn and Nancy Bellmore. Mr. Hershman noted that the petitioners are seeking FAR relief and noted that the proposed plans will meet set back, height and open space calculations. Mr. Hershman stated that the existing structure is small and cannot accommodate a second bathroom. The proposed addition will include a second bathroom, improved bedrooms, kitchen space and family space. The Bellmores hope to remain in their neighborhood. Mr. Hershman submitted the attached petition from members of the neighborhood in support of the petition.

Senior Planner Michael Gleba reviewed the requested relief and criteria for Council consideration. Mr. Gleba noted that the site is in a neighborhood with other single family residences and stated that the proposed rear addition will not be visible from the street.

The public hearing was opened. No member of the public wished to speak. Councilor Cote motioned to close the public hearing which carried unanimously.

Committee members noted that the petitioners have not submitted a landscaping plan for screening. Mr. Hershman noted that the petitioners are friendly with the neighbors who have not raised concerns. Mr. Hershman confirmed that the petitioners are committed to addressing screening concerns from the neighbors. Committee members were in agreement that a condition for a landscaping plan would not be necessary. Councilor Crossley motioned to approve the item which carried unanimously.

**#133-17 Request to Rezone five parcels at Northland Site**

NORTHLAND OAK STREET, LLC/NORTHLAND TOWER ROAD INVESTORS, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone five parcels at: 156 Oak Street (Parcel 1), 55 Tower Road (Parcel 2), 275-281 Needham Street (Parcel 3), 260 Needham Street (Parcel 4), 160 Charlemont Street (Parcel 5) to BU4 from MU1.

**Action:** Land Use Held 7-0

**#134-17 Special Permit to allow non-accessory parking at Northland Site**

NORTHLAND OAK STREET, LLC/NORTHLAND TOWER ROAD INVESTORS, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to develop off-site, non-accessory, single-level parking on the parcel at 55 Tower Road (Parcel 2) to serve the existing office building at 156 Oak Street (Parcel 1), requiring a waiver of 84 parking stalls, a waiver to allow non-accessory parking on a lot separate from the principal use, waivers to allow parking within setbacks, waivers to dimensional requirements for parking stalls, waivers to the maximum width for entrance and exit drives, waivers for perimeter screening requirements for parking facilities, a waiver to interior landscaping requirements for parking facilities, waivers to lighting requirements for parking facilities, and waivers to the requirement for curbing, wheel stops, guard rails, and bollards at 156 Oak Street and 55 Tower Road, Ward 5, on land known as Section 5 Block 51 Lot 0005 containing approximately 237,832 sq. ft. and Section 5 Block 28 and Lot 0005A containing approximately 483,583 sq. ft. of land in a district zoned MU1. Ref: 7.3.3, 7.4, 5.1.4, 5.1.13, 5.1.6.A, 5.1.6.B, 4.4.1, 5.1.8.A.1, 5.1.8.B, 5.1.8.D.2, 5.1.9.A, 5.1.9.B, 5.1.10.A.1, 5.1.10.B.5 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Held 7-0

**Note:** The Chair noted that after a conversation with the administration, it was clear that redesigns on Needham Street should come as part of a Vision Plan from the Planning Department. Director of Planning and Development Barney Heath noted that the City intends to undertake the analysis of Needham Street over the next 6 months, inclusive of a robust engagement process with the community. Mr. Heath noted that the Planning Department intends to analyze Needham Street and create guiding principles that will be informative for the Northland Project. It is his intent to have a concept plan ready for adoption by the City in Spring. He confirmed that a timeline will be established and distributed to Councilors. Committee members asked that the Planning Department include the following as part of their discussions:

1. Evaluate the environmental impact of all components of design (ie. Transportation, open space, design)
2. Include analysis about the appropriate intensity of use and capacity for Needham Street
3. Analyze the impacts of proposals/projects on the tax base
4. Transportation design

With a motion from Councilor Lipof to hold both items, Committee members voted unanimously in favor.

The Committee adjourned at 8:15 pm.

**Respectfully submitted,**

**Marc C. Laredo, Chair**

I have no objection to the proposed addition for Shawn and Nancy Bellmore at 115 Nonantum Street, Newton, Massachusetts. I have had the opportunity to review the drawings for the proposed addition as shown on the Plot Plan by Everett Brooks dated 6/19/17 and the drawings Sk-0De through Sk-7De dated 6/16/17 by MSH Architecture Associates.

NAME (Signature)

ADDRESS

Garland Waller

Waller  
112 Nonantum St

Mary Ellen Welch

welch  
106 Nonantum St.

Blumberg

Blumberg  
117 Nonantum

Sherman, Joan

Sherman, Joan  
162 Waverly Ave

TSANG, You-Kong + Lilla

TSANG, You-Kong + Lilla  
166 Waverly Ave

ORLIN, KECH

ORLIN, Kech  
105 Nonantum St.

BLANCO, CARLOS + Sonia

BLANCO, CARLOS + Sonia  
185 Franklin St

Garland Waller

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