



## Land Use Committee Report

### City of Newton In City Council

**Tuesday, March 15, 2016**

Present: Councilors Schwartz (Acting Chair), Cote, Harney, Crossley, Lipof & Lennon  
Absent: Councilors Laredo & Auchincloss. Also present: Councilor Albright  
Staff: City Clerk David Olson, Associate City Solicitor Ouida Young, Chief Planner Alexandra Ananth, Planner Michael Gleba

**#360-14(2) Request for an Extension of Time for Special Permit at 112 Needham Street**  
112 NEEDHAM STREET, LLC request for an EXTENSION of TIME in which to EXERCISE special permit #360-14, granted on March 16, 2015, to demolish an existing single-story commercial building and construct a new two-story commercial building with a parking facility with 11 stalls, a with approximately 1,400 sf of storage on the first floor, and 5,810 sf of office space on the second floor at 112 NEEDHAM STREET, Ward 8, NEWTON UPPER FALLS, said EXTENSION will run from March 16, 2016 to March 16, 2017. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 3, 30-19(d)(11), (15), and (m), and 30-19 Table of off-street loading requirements of the City of Newton Rev Zoning Ord, 2012.

**ACTION: APPROVED 5-0**

**NOTE:** Attorney Franklin Schwartzer represented the petitioner, 112 Needham Street, LLC. The special permit is for the demolition of an existing building at 112 Needham Street. The petitioners have been working to get a building permit over the course of this past year, but there are some minor issues that are being worked out with the Fire Department. The request is for a one-year extension of time.

The extension of time was approved 5-0.

**#31-16 Special permit petition for 147 Newtonville Avenue**  
BECKY SEARLES & SEAN McNALLY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NON-CONFORMING STRUCTURE to remove an existing sunroom and replace it with a larger room with finished space above and additional basement space in an existing 3½-story nonconforming single-family dwelling with a nonconforming front setback at 147 NEWTONVILLE AVENUE, Ward 2, NEWTONVILLE, on land known as SBL 12-17-19, containing approx. 16,748 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. 7.3, 7.4, 7.8.2.C.2, 3.2.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION: Public Hearing Opened & Closed 6-0; APPROVED 6-0**

**NOTE:** The Architect, David Whitney, was present representing Becky Searles and Sean McNally. The project is to remove a sunroom and replace it with a larger sunroom with a finished basement below, and add a second floor space above. The sunroom is extending five feet to the side and the petitioner is seeking relief to extend a non-conforming three and half story structure. The existing structure is considered non-conforming due to the grade of the lot. They also seek to extend the non-conforming front setback of the existing house. The proposed setback of the mud room will be a few feet from the front. It is less non-conforming than the front setback. The criteria to consider for this special permit includes that the extension of the non-conforming structure will not be substantially more detrimental than the existing non-conforming structure; the extension of the front setback will also not be more detrimental. The site is an appropriate location for the expanded structure and it will not adversely affect the neighborhood.

There was a question about the height of the addition. David Whitney responded that it will be four to five feet lower than the peak of the existing house. It was noted that the new FAR is conforming. Drainage was questioned and it was noted that the petitioner will need to submit drainage plans that will have to meet the city's engineering standards.

The Public Hearing was opened. There was no one from the public who wanted to speak and a motion to close the hearing was approved 6-0.

Ms. Ananth explained that all standard conditions have been included in the draft special permit council order.

The petition was approved 6-0.

**#32-16(2) Special permit petition for 150 Newtonville Avenue**  
MARIANNE GERARD & CHRISTINE L. KANE ROBERTSON petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate parking within 5' of the street as the petitioners are constructing a detached garage located .25' from the street for which they have received a variance at 150 NEWTONVILLE AVENUE, Ward 1, Newton, on land known as SBL 12, 22, 20, containing approximately 10,404 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 5.1.7, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION:** Public Hearing opened & closed 6-0; APPROVED 6-0

**NOTE:** Marianne Gerard was present and explained her request was to build a garage that will share a wall with her neighbor's garage. She further explained that they do not have any legal off street parking at their home and felt this would be the most efficient use of the land with only the removal of one tree. A variance hearing was held and approved and the petitioner has received the variance.

Ms. Ananth noted that this was a petition to locate the parking stall within five feet of the street. She stated that the site is the appropriate location for the proposed garage and that it would not cause nuisance to pedestrians or vehicles.

It was questioned why the petitioner has to come to the Board as well as the Zoning Board of Appeals for essentially the same issue. It was explained that there was no waiver provision in the Zoning Ordinance that would allow the petitioners to come to this body in order to get the structure right on the property line and that is why the variance is needed.

Parking along Newtonville Avenue is a problem and this proposed garage solves the problem.

The Public Hearing was opened.

Jeffrey Kane of 157 Newtonville Avenue said the structure is about 45 feet long and abutting within three inches of the street. He has concerns regarding safety coming out of the garages. He was also concerned about the change in the aesthetics of the neighborhood as well as fire safety issues of connected garages.

Ms. Ananth explained the planned structure is lower than the adjacent structure. It is a two-bay garage. The project must be designed to meet fire code and it will be looked at as part of the process.

It was asked if the terrain conditions would allow the structure to be pushed back into the hillside. Abutter James Robertson, who owns the current garage to which this garage will be attached, noted that soil conditions behind the garage were clay and sand with a few boulders. When his garage was built it was redesigned to push it back from the road and is now two feet back from the street. The new garage will also be in line with the current garage. The placement of the garage is in the optimal location. If it was moved it would take out mature older trees.

It was noted that the architect for Mr. Robertson's project is the same architect for this current garage.

Becky Searles, 147 Newtonville Avenue, is strongly in favor and feels aesthetically the project is positive and a huge improvement to the neighborhood.

The hearing was closed 6-0.

Ms. Ananth noted that if this project is approved, there will be a Consistency Ruling on the adjacent property that received the special permit to allow for the land swap.

No concerns were stated regarding the site plan for the adjacent property and it will be adjusted to reflect what is in reality there.

The petition was approved 6-0.

**#49-16 Special permit petition for 103 Court Street**

ALAN W AND BARBARA J QUEBEC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a rear lot subdivision to construct a two-family dwelling on a 12,084 sf lot, while maintaining the existing two-family dwelling on a 10,699 sf lot at 103 COURT STREET, Ward 2, Newtonville, on land known as SBL 23, 16, 36 containing approximately 22,738 sf of land in a district zoned MULTI RESIDENCE 1. Ref: 3.2.12, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION: Public hearing opened & closed 6-0; APPROVED 4-0-2 (Schwartz, Lennon)**

**NOTE:** Attorney Terry Morris representing the petitioners was present. He explained the most restrictive element of what exists now is that there is a different floor/area ratio that is imposed upon the houses that are built in the rear as opposed to the houses that exist on the front portion of the lot. In this case the difference is more than 1.0 on the FAR scale. He said this project was designed to meet both the standards and objectives of the ordinance despite the fact the petition itself presents a unique type of rear lot subdivision. There is frontage on Wilton Road, but not sufficient frontage to create a by-right second lot. The relief being sought is simply to measure the frontage along the rear of the lot in front. He noted all of the dimensional controls are complied with. The size of the units is smaller than what is usually seen in permit applications and this development provides a more diversified housing stock.

Ms. Anath noted that the only special permit that is need is to allow the sub-division of the rear lot and to measure the frontage of the rear on the front lot. The lot is basically twice the size of the abutting lot, so the rear lot will be in scale with the surrounding lots. The rear unit will be access from Wilton Road and the front unit will be accessed from Court Street.

Some questions were raised about the landscaping and screening. It was noted the Planning Department would have final approval.

The rear lot is set a little bit lower than the surrounding properties and the plan is to fill this to bring it up to the surrounding properties. In several locations, the petitioner cannot fill into easements so retaining walls will be placed on the north and east side of the property, and along the west side of the property line. None of the walls will exceed four feet.

Questions about the area in the unfinished spaces were raised and it was asked if the windows provide code egress. The Architect was not available to provide a specific answer to the questions.

There was a question regarding handling of snow storage. It was noted that there was a good deal of snow storage on site to the east of the lot.

The public hearing was opened.

Jackie O'Toole of 17 Turner Terrace explained her property backs up to Wilton Road. She wanted assurance that the engineers, and the city, would take on the responsibility of what needs to be done regarding any possible drainage patterns. Ms. Young explained it is the responsibility of the petitioner's engineer to design a system that is not going to create problems. It was noted that the city's engineering requirements would allow less run off to 17 Turner Terrace than is probably happening now.

The petitioner, Al Quebec, 103 Court Street, informed the Committee that he has talked to all of the abutting neighbors and they are in favor of the project. Katherine Howell, Seth Anapol, Nick DiDuca, were also in favor. There have been no objections at all.

The public hearing was closed 6-0.

Councilor Lennon noted that he has not been able to go out to see the property and so would be abstaining from the vote tonight. The petition was approved 4-0-2 abstentions (Schwartz, Lennon)

**#92-15(2) Petition to amend special permit #92-15 for 131 Charlesbank Road**

ANDREW CONSIGLI, 131 CHARLESBANK ROAD LLC petition to amend Special Permit #92-15, which allowed the construction of a four-unit multi-family townhouse style dwelling, in order to construct a retaining wall of more than four feet and to reflect the dwelling as built, which is one square foot larger than what was approved as part of the site plan at 131 CHARLESBANK ROAD, Ward 1, Newton, on land known as SBL 71, 7, 25 containing 14,080 sf of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord. 2015.

**ACTION: Public Hearing opened and closed 6-0; APPROVED 6-0.**

**NOTE:** Michael Peirce, attorney for the petitioner, explained that the amendment was to adjust a retaining wall to make it more desirable for the neighbors. The project already contains a retaining wall along that general area and the original proposal was to put in a wall and plant between the wall and the property line as a way of screening to the condominiums located next door. The neighbors have requested

moving the wall against the property line and allow planting on top of the wall so that it would provide more privacy and screening between the properties. The petitioners have worked with the neighbors and have filed with the Planning Department a petition signed by the neighbors indicating that they have seen the plans and have approved. He pointed out one correction. In the planning memo it states the height of the retaining wall to be between 4 to 6 feet. It is actually 4 to 5 feet. A landscape plan has been developed and reviewed with the neighbors. It was noted that no trees will be removed and trees will be planted.

Ms. Ananth explained this was a simple construction of a retaining wall. The criterion is that the wall will not adversely affect the neighborhood. The project was approved by the Land Use Committee last year.

There was no public comment and President Lennon made the motion to close the public hearing. Vote was 6-0 in favor.

Respectfully submitted,

Greg Schwartz, Acting Chair