



Land Use Committee Report

City of Newton In City Council

Tuesday, April 12, 2016

Present: Councilors Laredo (Chair), Schwartz, Auchincloss, Harney, Cote, Crossley, Lipof, Lennon.
City Staff Present: Associate City Solicitor Ouida Young, Chief Planner Alexandra Ananth, Planner Michael Gleba.

#93-16 Special permit petition for 413 Hammond Street

DIANA M. BAILEY/ELISABETH M. BATTINELLI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to build additions to the rear and side of the existing structure on the basement and first floor levels, and enclose a porch to create living space, which will further increase the non-conforming floor area ratio from .47 to .50, where .31 is the maximum allowed by right, and to regrade the property, which will further increase the nonconforming height of the existing structure from 37.4' to 37.7', where 36' is the maximum allowed by right at 413 Hammond Street, Ward 7, Chestnut Hill, on land known as SBL 63, 26, 14 containing approximately 15,307 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 7.8.2.C.2, 3.1.9, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

ACTION: Land Use Approved 7-0 (Lennon not voting)

NOTE: Architect Diana Bailey reviewed the petition to restore a vacant, 1896 carriage house. All changes have been approved by the Chestnut Hill Historic District Commission. The plans include the addition of a kitchen and deck to the rear of the house and the modification of a porch into a library as well as a way to better access the basement. In order to make the changes, the lot will need to be regraded in the back and front of the house. Chief Planner Alexandra Ananth confirmed that the plans include potential changes in the height of the house. The public hearing was opened and closed with no comment. Councilor Crossley moved approval and the Committee voted 7-0 in favor.

#94-16 Special Permit Petition for 2171 Commonwealth Avenue

PHILIP HRESKO/THEODOROS VENTOURIS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to build a two story garage/barn style addition to the rear of an existing structure to allow a private garage with a footprint of 1,169 square feet with provisions for four cars where 700 sq. ft. and three cars is allowed by right at 2171 Commonwealth Avenue, Ward 4, Auburndale on land known as SBL 41, 18, 32A containing approximately 20,952 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 7.3.3, 7.4, 3.4.2.C.1 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: Public Hearing Continued to April 26, 2016; Land Use Held 8-0

NOTE: Architect Phillip Hresko appeared with petitioner Theodoros Ventouris to review the petition to add a four car garage to the rear of the house. The public hearing was opened and no one from the public spoke for or against the petition.

Construction has begun on changes to the house that do not include the garage. The petitioner confirmed that he does not own the construction equipment and does not run a landscaping business. The Law Department noted that garages with greater numbers of bays are not built due to concerns that they will be used for commercial purposes. The Committee requested a Council Order from a similar petition. Committee members had concerns about the mass of the garage and its proportion to the dwelling. There was also concern about the ridge line of the addition and visibility from Lyons Park. Mr. Hresko noted that the ridge line will not increase and there is a landscape plan to shield the garage from view. The architect stated that he would provide updated landscape plans for the April 26 meeting due to a request to add additional landscaping details. The addition of a four car garage would give the homeowner six bays, an unprecedented amount. The petitioner indicated that his existing two car garage is not tall enough to house trucks. He also noted the need to house his pick-up trucks while he is travelling. Mr. Ventouris did provide information to his abutters in regard to his plans.

One concern was that the circular driveway would be over the sewer easement and would be subject to vehicles driving over it. The architect stated that the circular driveway could be eliminated from the plans. It was requested that the petitioner provide updated plans.

A Committee member questioned if the garage could be converted into livable space after the homeowner was no longer there. Ms. Ananth stated that the new homeowners would probably not have to return for a special permit due to the fact that the structure does conform to all dimensional controls and they would be bringing the building more into conformance. The Public Hearing was continued to April 26, 2016. Councilor Harney moved to hold the item and the Committee voted 7-0 in favor of the motion.

Request for Withdrawal without Prejudice

#95-16 Special Permit Petition for 37 Westbourne Road

JOYCE ZAKIM & PETER GREENSPAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing detached garage and construct a new wider garage connected to the principle structure which exceeds nonconforming FAR, and variances from side and front setback and lot coverage requirements to make the home accessible for wheelchair use at 37 Westbourne Road, Ward 7, Chestnut Hill on land known as SBL 73 45 09 containing approximately 8,090 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 3.1.9, 7.8.2.C.2, 7.3.3, 7.4 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: Land Use Approved Withdrawal Without Prejudice 6-0 (Lipof, Lennon not voting)

NOTE: Attorney Laurance Lee presented on behalf of the petitioner. They are looking to withdraw the petition due to an oversight in the application. They intend to refile the special permit application for May. Councilor Crossley moved for approval and the Committee voted to approve 6-0.

#96-16 Special Permit Petition for 1573 Beacon Street
RICHARD LEVY/RBL ARCHITECTS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to further increase nonconforming FAR by expanding the front of a garage at 1573 Beacon Street, Ward 5, Waban on land known as SBL 53 32 04 containing approximately 13,555 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 3.1.9, 7.8.2.c.2, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: Land Use Approved 7-0 (Schwartz not voting)

NOTE: Architect Richard Levy presented the petition to put storage in the back of the garage which will result in bumping out the front. The changes will only affect the first story and the garage faces the rear of the property. Planning reviewed that the changes are comparable in terms of size with nearby residences. The public hearing was opened and closed with no comment. Councilor Crossley moved for approval which carried 7-0 (Schwartz not voting).

#97-16 Special Permit Petition for 27 Waverley Avenue
ALICE SCHAEFER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an association of persons in a common dwelling where inhabitants will share common living spaces at 27 Waverley Avenue, Ward 1, Newton Corner on land known as SBL 71 36 09 containing approximately 10,480 sq. ft. of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. 3.4.1, 5.1.4, 5.1.13, 5.1.7.A, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: Public Hearing Continued to April 26, 2016; Land Use Held 8-0

NOTE: Alice Schaefer and Mary Elise Connolly presented the petition to create a cooperative living environment in a two-family unit at 27 Waverley Avenue with an emphasis on creating an affordable, sustainable, family-style living environment that allows aging in place. The residents currently living there share utilities, food, internet, transportation, fellowship and work towards reducing their carbon footprint. They have been working with the Cooperative Development Institute of New England to help with the creation of the co-op.

The group is looking to become a co-op in order to create a non-profit entity to obtain a mortgage in order to purchase the home from the petitioner, Alice Schaefer. They have created an operating budget including what they will need to operate, maintain and improve for the next ten years. They have determined that they need the ability to have up to 16 people in the home in order to make the co-op feasible. Currently, one unit houses one family of two. The second, larger unit, houses a family of four in addition to four unassociated people.

The Public Hearing was opened
Martha Hathaway, 31 Waverly Ave., is a direct abutter and fully supports the plan for the property.
Max Goldsmith, 3 Waverley Ave., fully supports the program.
Carol Connolly, 34 Waverly Ave., fully supports the program.
Joan Belle Isle, 295 Tremont St., fully supports the proposal.

Committee members noted the creativity and unique nature of the proposal.

The Committee had questions about how the co-op is going to function short and long term and what controls are being put in place. The Committee requested to see documentation that the group has created to organize themselves including their bylaws and criteria for new lodgers. Ms. Connolly indicated that the group has a board and have weekly meeting to address house concerns. The Committee requested information in regard to how nearby communities address similar requests. A Committee member noted that Brookline requires annual inspections in any group home.

There was concern about the change in membership in the house from the current resident to primarily attracting students. Ms. Connolly stated that the price point, inclusive of a buy in, will detract students because it is above their price point. It was requested that the Law Department provide information on how the membership in the co-op could be controlled. A consideration also noted was how the Committee will address future petitions.

Ms. Connolly stated that while the mission is not primarily to assist all people in the house, there may be people who need assistance in the house. The petitioner was unsure at this point if a certain number of places in the home would be designated to an elderly population to reflect the aging in place component of their mission. Clarification was requested in regard to the difference between an association of persons and a congregate living arrangement.

Committee members had concerns about compliance in regard to the number of lodgers currently in the house. The Committee requested that the Planning Department and Law Department review the zoning ordinances in relation to lodgers and compare and contrast what would be required for an SRO. Some Committee members felt that annual reviews by Inspectional Services Department should be a condition of approval. The Fire Department has visited the site and does not require sprinklers provided the rooms are not locked.

The Committee had concerns about the request for parking waivers. A Committee member noted that the site cannot accommodate additional parking. Ms. Connolly indicated that while the group tries to use public transportation, they would not be able to accommodate an additional car without the waiver for parking.

Councilor Auchincloss moved to hold and the Committee voted to hold 7-0.

#98-16 **Special Permit Petition for 99 Oxford Road**
CHRISTINE CORONA AND JOSEPH MALARNEY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to further increase the nonconforming FAR by adding a second story rear addition over an existing room at 99 Oxford Road, Ward 6, Newton Centre on land known as 62 13 30 containing approximately 5,930 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 3.1.9, 7.8.2.C.2, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: **Land Use Approved 7-0 (Schwartz not voting)**

NOTE: Attorney Terry Morris reviewed the petition to further extend the nonconforming FAR by adding a second story addition over an existing room. Atty. Morris noted that there would be no increase to the footprint of the home and that the addition would be minimally visible from the rear of the house. The public hearing was opened and closed with no comment. Councilor Lipof moved for approval which the committee voted 7-0 in favor of the motion.

#99-16 Special Permit Petition for 360 Ward Street

BENYAMIN BER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a non-conforming structure with respect to the front setback, FAR, lot coverage and open space at 360 Ward Street, Ward 7, Chestnut Hill on land known as SBL 73 45 01A containing approximately 3,220 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec. 3.1.3, 7.8.C.2, 3.1.9.A.2, 5.4.2.B, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

ACTION: Land Use Approved 7-0 (Lennon not voting)

NOTE: Mr. Benyamin Ber, Architect, presented the plans to construct and change the orientation of a two-car garage on a nonconforming residence in order to make entry/exit, parking and snow removal easier. The petitioner also has plans to build a retaining wall. The Planning Department stated that reorientation of the garage will make it easier for the homeowners to enter/exit.

The Public Hearing was opened and Eric Bidner, 362 Ward Street is in support of the garage, but has concerns in relation to the drainage at the site. Mr. Bidner requested that the Engineering Department review the plans. Seeing no further comment, the public hearing was closed.

The petitioner stated the plan is to build a dry well and trench drain in order to avoid drainage issues. Committee members had concerns about how the retaining wall would impact a driver's ability to see pedestrians. Mr. Gleba confirmed that as the retaining wall reaches the street, it is low enough to have no impact on the ability of the driver to see pedestrians.

There was some concern about the FAR in comparison to the small lot size. It was noted that the house is nonconforming because it predates zoning regulations. It was requested that the Council Order reflect that the change in FAR is de minimis.

Respectfully submitted,

Marc C. Laredo, Chair