



Land Use Committee Report

City of Newton In City Council

Tuesday, May 10, 2016

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

Also Present: Councilors Albright, Yates

City Staff Present: Senior Planner Alexandra Ananth, Planner Michael Gleba, Planner Neil Cronin

#126-16 Special Permit Petition for 17 Malvern Terrace

CHARLES B. COSSABOOM petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE to modify an existing nonconforming two-family use and amend Special Permit #88702 to raze the existing buildings and rebuild the dwelling away from the floodplain and closer to the street at 17 Malvern Terrace, Ward 4, Auburndale, on land known as SBL 41 26 17, containing approximately 13,970 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 3.4.1, 7.8.2.C.2, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

NOTE: Acting Chair Councilor Schwartz announced the postponement of #126-16 to a later date.

#146-16 WABAN NEIGHBORHOOD AREA COUNCIL/THERESA FITZPATRICK requesting a temporary one-day license pursuant to Sec. 30-2.3.3 of the City of Newton Ordinances to hold the 12TH ANNUAL WABAN VILLAGE DAY on Sunday, May 22, 2016.

ACTION: Land Use Committee Approved 6-0 (Lennon, Laredo Abstaining)

NOTE: The Committee reviewed the Waban Neighborhood Area Council request for a temporary one-day license to hold the Annual Waban Village Day. After a review of what the Waban Village Day entails, Councilor Crossley moved for approval which carried 6-0.

#128-16 Special Permit Petition to create an accessory apartment at 9-11 Bridge Street

IULIA PIRVU petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to create a 970 sq. ft. accessory apartment in the basement level of the unit at 11 Bridge Street, Ward 1, Newton, on land known as SBL 14 02 29, containing approximately 10,633 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 6.7.1.D of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

ACTION: Public Hearing Closed 6-0, Land Use Approved 6-0 (Lennon, Laredo not voting)

NOTE: The petitioner, Iulia Pirvu, reviewed the petition to create an accessory apartment at 9-11 Bridge Street. Ms. Pirvu purchased her residence last year and there is an existing apartment in the basement of Unit 11 that she hopes to legitimize.

Planner Michael Gleba reviewed the relief and potential issues with the property. The Planning Department confirmed that the petitioner will be paving the driveway as is and that number of parking stalls (5) is adequate. Mr. Gleba state that Planning has recommended additional screening and the petitioner will be supplying a landscape plan. Committee members noted that because the intersection is busy, the landscape plan should be considerate not to block drivers' vision.

The public hearing was opened with no comment. Councilor Auchincloss moved to close the public hearing which carried 6-0. Councilor Auchincloss moved for approval which carried 6-0.

#129-16 Special Permit Petition to exceed FAR at 23 Howe Road

RICHARD SEVERINI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the Floor Area Ratio to .64 at 23 Howe Road where .46 is the maximum allowable at 23 Howe Street, Ward 8, Newton Centre, on land known as SBL 81 11A 37, containing approximately 6, 591 sq. ft. of land in a district zoned SINGLE RESIDENCE 2 . Ref: 7.3., 7.4, 3.1.9.

ACTION: **Public Hearing Closed 7-0, Land Use Approved 4-0-3 (Laredo, Crossley, Auchincloss abstaining).**

NOTE: Attorney Morris presented the petition to exceed the FAR at 23 Howe Road. He explained that the request is the same petition that was presented and approved in 2009. Economic conditions prevented the petitioner from starting the project. Upon the attempt to pull the building permit, the petitioner learned that the calculation of FAR had changed the plans would require approval by the new standards. Attorney Morris confirmed that the plans have not changed since 2009.

Planner Neil Cronin reviewed the relief requested, confirming that the project and plans are the same as they were in 2009. The Planning Department noted that because of the floor area of the third floor is less than 2/3 floor below it, the dwelling is considered 2.5 stories and that there are houses in the neighborhood that are comparable in size.

Joe Canaben, 60 Howe Rd., is concerned about the size of the dwelling in relation to other homes in the neighborhood.

Naomi Dorfman, 19 Howe Rd., is concerned about drainage issues that could worsen with the structure and the mass of the building.

Julie Kattan, 532 Parker St., has concerns that the home, if built, could be left vacant and ill maintained.

Committee members questioned the disparity in FAR calculation in the plans from the 2009 petition to the current petition. Attorney Morris confirmed that the dormers on the structure were in the 2009 plans as was a specific condition in the Board Order that addressed the petitioner's ability to change the design without returning to the board. Ms. Ananth explained that significantly more of the third floor space is counted under the new FAR rules.

The Committee noted that there would be regulations put in place in order to ensure that the water is kept on site. Architect Joe Porter stated that there are no significant drainage issues as far as he is aware. The storage system is built to meet a one hundred year storm on site. The storage system will store the rainfall from all of the impervious surfaces.

There was support from the Committee members that development is happening where there was a previously deteriorating structure. There was concern from Committee members that the FAR is in excess and the proposal does not have adequate merit.

Councilor Lipof moved to close the public hearing which carried 7-0. After a review of the draft Council order, the Committee suggested that the findings reflect the sloping lot and amount of space that would be underground counted towards FAR. The Committee also requested that the Engineering Department confirm that the drainage system will meet a one hundred year storm prior to the issuance of a building permit.

Councilor Crossley abstained because she would like to visit the site prior to the full Council meeting. There was some debate about whether the house is in line with surrounding houses. The Committee voted 4-0-3 in favor.

#131-16 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: Public Hearing Closed 6-0, Land Use Approved 8-0.

NOTE: Attorney Laurance Lee presented the petition for an FAR waiver to allow the petitioner to build a larger garage and car port in order to make the home wheelchair accessible. Atty. Lee presented a slide show that demonstrated that there is currently a ramp leading into the

house. The ramp is uncovered and the addition of the carport will allow for protection from some elements.

After a review of the Planning memo by Planner Michael Gleba, the Public Hearing was opened. Shari Zakim the daughter of the petitioner currently uses the ramp. She stated that it can be difficult and at times dangerous to maneuver in and out of the house. The petitioner stated that in an effort to keep the design as simple as possible, they decided not to build a full garage.

Councilor Schwartz moved to close the public hearing. Committee members requested that the Council Order reflect that the carport is part of the FAR. Committee members were in support of the proposal and are pleased that it will make the house handicapped accessible going forward. Councilor Schwartz moved for approval and Committee voted 8-0.

#132-16 Special permit petition to increase the number of stories at 45 Perkins Street

RICH & JAN TORMEY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to construct an addition by adding a two-car garage on the first level, a kitchen above the garage and to expand the existing third floor to add a master suite which will increase the Floor Area Ratio from .33 to .48 where .40 is the maximum allowed by right at 45 Perkins Street, Ward 3, West Newton, on land known as SBL 32012 0035, containing approximately 9,988 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 1.5.4.D, 3.1.3, 7.8.2.C.2, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

ACTION: Public Hearing Closed 8-0, Land Use Approved 8-0

NOTE: Architect Peter Sachs presented the request to renovate and preserve the existing house. When the house was built, part of the basement was built above ground. This contributes to the increase in FAR. The petitioner hopes to build a garage, kitchen and extend the master bedroom.

The public hearing was opened. Rich Tormey, 45 Perkins Street, spoke to want to renovate in keeping with the style of the house.

Planner Neil Cronin reviewed the Planning memo. He noted that the setback of the addition to the street is 31 ft. Councilor Cote moved to close the public hearing and approve the item. After a review of the Council order, the Committee felt that it was important to note the topography of the lot and how that contributes to the FAR. The Committee voted to approve 8-0.

#127-16 Special Permit Petition to locate a daycare at 288 Walnut Street

THE BEANTOWN COMPANIES, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate a day care center at 288 Walnut Street, Ward 2, Newtonville, on land known as SBL 22 04 15, containing approximately 21,988 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.4.5, 7.3.3, 5.1.4, 5.1.3.D, 5.1.13, 6.3.4.B.3.a, 6.3.4.B.3.c.

ACTION: **Public Hearing Closed 7-0, Land Use Held 7-0 (Laredo not voting)**

NOTE: Attorney Terry Morris appeared on behalf of the petitioner. Representatives from Tiny Tots daycare, Architect Joe Porter and Planning Horizons owner Roy Mercuri were present to answer questions should the Committee have questions.

The proposal is to host up to 60 children at the daycare. In accordance with regulations, 4500 sq. ft. would be required for play space. There is 4700 sq. ft. of play space. There are areas that have been identified to have play structures. Based on the locations, there will be no issues concerning setback with respect to the play structures.

The petitioner is requesting a waiver of five spaces. There are 9 parking spaces on site on Bower Street. There is an additional 20 car parking lot on Newtonville Avenue that is proposed as use for the site. There will be 2 compact spaces in addition to 2 spaces in tandem all of which will be used for day care employees.

Planning Horizons, Lou Mercuri summarized the findings and plans for the property in relation to the transportation demand management plan. They wanted to address parking concerns, safe pickup and drop off for children and maximum security, and traffic concerns. After collecting data from another daycare, they found that even at peak hours there were available spaces. Mr. Mercuri stated that studies show 20 parental drop offs in a one hour period. When they samples ten minute intervals, there were between 0 and 5 drop offs lasting an average of 8 minutes. Mr. Mercuri confirmed that there will be staff to ensure that pick up and drop off of the children is organized. Staff will also be available in the morning and the afternoon to assist children. There were concerns about the ability to enforce pick up and drop off. The petitioner agreed to a six month lookback for the traffic.

The public hearing was opened and closed with no comment. Planner Neil Cronin reviewed the necessary relief. Committee members questioned whether there will be a fence around the property. Attorney Morris confirmed that there is a fence on the property around the play area.

There was no draft council order. Committee members request that the conditions of the Council order reflect the organization and required 2 staff for drop off and pick up, the parking plan and included MBTA subsidies, the 6 month lookback on traffic and fencing.

Councilor Auchincloss moved to close the public hearing which carried 7-0. Councilor Auchincloss moved to hold the item and the Committee voted to hold the item 7-0.

#130-16 Special Permit Petition for 260, 270 & 280 Elliot Street

THE ROMAN CATHOLIC ARCHBISHOP OF BOSTON petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 23 parking stalls by increasing the already nonconforming shortfall by 8 where there are currently 126 while 140 is required for combined uses at 260 Elliot Street, Ward 5, Newton Upper Falls, on land known as SBL 51 37 02, 51 37 01A, 51 37 01, containing approximately 106,657 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3, 7.4, 5.4.1, 5.1.13, 5.1.8.A.1, 5.1.8.A.2, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.9.A, 5.1.9.B, 5.1.10, 5.1.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

ACTION: Public Hearing Closed 7-0, Land Use Approved 8-0.

NOTE: Attorney Laurance Lee presented the petition to waive parking stalls. There will be no changes to the parking lots. They hope to maintain the nature of the parking lot. It was noted that the parking lot is never full. The Planning Department requested some peripheral landscaping and a bike rack. This is the first phase of a project where Karen and Chris Osborn hope to return to the Committee with additional plans for the St. Elizabeth Center.

Anil Adyanthaya spoke on behalf of the Newton Highlands Neighborhood Area Council who is in support of the petition. They are happy to see the revitalization in the community.

Michael Fleming, 953 Chestnut Street is excited to see the community gathering place at St. Elizabeth's center returning.

A show of hands demonstrated approximately 25 people in favor of the petition. There was support from the Committee to see the efforts being made to bring back to life a community engagement landmark.

Councilor Crossley moved to close the public hearing which carried 7-0. Councilor Crossley moved for approval which carried 8-0.

Respectfully submitted,

Marc C. Laredo, Chair