



Land Use Committee Report

City of Newton In City Council

Tuesday, August 9, 2016

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

Also Present: Councilor Fuller Absent: Councilors Harney, Lipof

City Staff Present: Deputy City Solicitor Ouida Young, Senior Planner Michael Gleba, Chief Planner Alexandra Ananth, Associate City Solicitor Robert Waddick, Commissioner of Inspectional Services John Lojek, Director of Planning Barney Heath, Chief Administrative Officer Dori Zaleznik

#260-16 Special Permit Petition to exceed FAR at 11 Scarsdale Road

PHOEBE AND ED OLHAVA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXCEED FAR by building a two story rear addition, single story rear addition and deck, creating an FAR of .43 where .40 is allowed at 11 Scarsdale Road, Ward 2, Newtonville, on land known as SBL 24029 0015, containing approximately 8,480 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 6-0.**

NOTE: Petitioners Ed and Phoebe Olhava presented the petition to increase the FAR at 11 Scarsdale Road by extending their home to include a rear family room. Architect Alan Maier noted that the impact of the neighbors will be minimal as the addition will not be visible from the street. In addition, the petitioner has sought and received feedback and support from abutters and neighbors. Chief Planner Alexandra Ananth reviewed the request relief for the project. The Public Hearing was opened with no comment from the public. Councilor Auchincloss motioned to close the Public Hearing and approve the Special Permit. The Public Hearing was closed 6-0. After a review of the findings and draft Council Order, Councilor Auchincloss' motion to approve carried 6-0.

#259-16 Special Permit Petition to increase nonconforming rear setback at 6 Glastonbury Oval

LISA AND ANDREW SILVERMAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER EXTEND NONCONFORMING USE by adding a second story to a rear addition and constructing a two story rear addition increasing the already nonconforming rear setback at 6 Glastonbury Oval, Ward 5, Waban, on land known as SBL 44023 0006, containing approximately 7,017 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.4, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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

NOTE: Petitioners Lisa and Andrew Silverman presented the petition to make improvements to their home, increasing the rear nonconforming setback at 6 Glastonbury Oval. They home to accommodate their growing family by adding extended living space including; a playroom, bedroom and mudroom. Architect Alan Maier noted that the FAR is in conformance with the City's standards. He added that the orientation of the house between Beacon Street and Glastonbury Oval contributes to the site's nonconforming lot as it has two rear lots. Senior Planner Michael Gleba reviewed the requested relief for the project The Public Hearing was Opened.

Gisella Garan, 1402 Beacon Street, has concerns that the extension of the home will be too close to the neighbor at 1392 Beacon Street. She noted that she will not be directly affected.

Jane Frantz, 12 Glastonbury Oval, offered her full support for the project. She will be most affected and she is really pleased with the petitioners' efforts to keep the improvements consistent with the neighborhood design.

It was confirmed that a number of emails have been sent in support of the project. Councilor Crossley motioned to close the Public Hearing which carried 6-0.

Mr. Gleba stated that the height of the building does not exceed any standards and should not be impactful to the neighbors. Committee members noted that the area is heavily vegetated, and the addition is modest. Committee members complimented the creation and presentation of clear plans by the architect.

After of review of the findings and draft Council Order and minor revisions by Committee members, Councilor Crossley's motion to approve carried 6-0.

Request for a Consistency Ruling Relative to #416-12(3) 244 Commonwealth Avenue (Modern Barre). Requesting a change in the ratio of staff to customers.

Chief Planner Alexandra Ananth presented the request for a Consistency Ruling at 244 Commonwealth Avenue for Modern Barre. The petitioner seeks to allow complementary personal services and change the ratio of staff to customers from 3:3 to 1:5. There are 3 existing special permits on the property. The most recent special permit, passed in 2016, was crafted to include improvements and limitations on the property. This special permit has not been exercised by the property owner and the current request is from the petitioner who is a tenant at the site.

Attorney Terry Morris, representing the petitioner noted that the change in the ratio of staff to customers should not be very impactful because the staff does not work standard 8 hour shifts. He suggested that because the current staff shifts more frequently; the parking and traffic would not change substantially. Atty. Morris also stated that the complementary personal services would include personal training.

Commissioner of Inspectional Services John Lojek stated that the area is densely residential and as such he was not sure that the parking impacts would be minimally changed. Commissioner

Lojek also added that the improvements asked for could still be included, but as part of an amended special permit.

The petitioner confirmed that they have ceased early morning classes and there are no longer classes that exceed 5 customers. Committee members had concerns about the traffic and parking impacts as a result of the changing staff/customer ratio. Additionally, Committee members felt that it was not appropriate to consider a consistency ruling where the stipulations of the existing Council Order are not being followed. The Chair noted that the Commissioner of Inspectional Services would use his discretion in following up. Councilors determined that the requests necessitated an amendment to the Council Order as opposed to a consistency ruling, but informed the petitioner's attorney that they could seek an amendment to the special permit.

#215-16(2) Special Permit Petition to construct parking stalls and retaining wall at Dunn Gaherin's

SEANA GAHERIN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct six parking stalls in a side setback, waive aisle width requirements, waive screening requirements, waive security lighting requirements and allow a retaining wall greater than 4', modifying special permit #501-94(2) at 342, 342A, 344-346 Elliot Street, Ward 5, Newton Upper Falls, on land known as SBL 51041 0010, 51041 0011, 51041 0012, containing approximately 9,676 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 5.1.8.A.1, 5.1.13, 5.1.8.C.1, 5.1.9.A.1, 5.1.10.A, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

ACTION: Public Hearing Closed; Land Use Approved 6-0.

NOTE: Attorney Franklin Schwarzer presented the petition to locate 6 parking stalls at 342A Elliot Street after subdividing the land co-owned by the petitioner. Attorney Schwarzer confirmed that the petitioner is aware that prior to any issuance of the building permit, the subdivision of land would need to be completed and recorded. They hope to locate the parking stalls adjacent to the existing parking lot in order to help address a need for parking at Dunn Gaherins.

Because of the proximity to a number of residences, the petitioner seeks a waiver of security lighting and waiver to allow a retaining wall greater than 4' in the setback. The petitioner proposes to put a fence around the parking area. In response to neighborhood feedback, the petitioner has also proposed to include year round plantings on the site.

Planner Michael Gleba presented the requested relief and reviewed the proposed site plan. He confirmed that the existing retaining wall would be tested for its structural integrity.

The Public Hearing was opened.

Bonnie Frazier 331 Elliot Street noted that parking is problematic in the area and noted that the petitioner has been a good neighbor and this change will help mitigate parking issues.

Greg Rabin, 21 Hale Street, is in support of the petition after a conversation with the petitioner about the location of the dumpster, additional plantings and the cleaning up of the property.

Brian Yates, 1094 Chestnut Street, Recalled the property in more deteriorated states. Mr. Yates noted that he is happy to see Dunn Gaherin's as such an asset to the community. He noted that the petitioner has been a generous philanthropist and engaged in community events.

Christina Phyllis, 9-11 Hale Street, owns the property behind the proposed parking lot. She has concerns about the dumpster location and the shielding from the parking lot.

Verne Porter, 324 Elliot Street, noted that the petitioner has been a good neighbor and has made an impact on improving the community.

Christopher Osborn, 984 Chestnut Street, noted the generosity and community improvements made on behalf of the petitioner.

Brian Garvey, 19 Hale Street, is in support of the petition. He has collaborated with the petitioner to help plan how to mitigate potential noise issues.

Councilor Crossley noted the care, time, and expenditure on behalf of the petitioner in an effort to alleviate the parking stresses in the neighborhood. Councilor Crossley motioned to close the Public Hearing which carried 6-0.

The Chair commended the petitioner's community outreach efforts and noted that while there was initially some opposition to the project; the feedback received helped create a better final project.

Councilor Crossley motioned for approval. Mr. Gleba noted that the two previous Council Orders would be consolidated into one; and it was encouraged that Planning collaborate with Inspectional Services during this process.

The Committee reviewed the Council Order and suggested that the Council Order minimizes ambiguity where appropriate. It was confirmed that subject to inspection of the retaining wall, the petitioner would repair or replace accordingly. Councilor Crossley's motion to approve carried 6-0 in favor.

NOTE: The Committee met with the Planning Department and Inspectional Services to discuss how to improve the Special Permit process and enforcement by Inspectional Services. The Chair introduced the discussion as the beginning of an interdepartmental collaboration to enhance the Special Permit process for petitioners.

Chief Planner Alexandra Ananth explained the Special Permit process and received feedback from Committee members. Commissioner Lojek added that a scanning project with the Clerk's office to digitize records is in progress and they are approximately 15% completed. Once complete, this will be helpful in consolidating information, accessing and enforcing Council Order conditions.

With more information requested, the Committee agreed to meet on September 20, 2016 to continue the conversation. The Chair of the Committee provided an overview of the discussion and additional information requested (shown below).

The items that we discussed and agreed upon are as follow:

1. There should only be one special permit for any particular property. Going forward, if an applicant is seeking to amend a special permit, the old permit will be replaced in its entirety with a new permit.
2. Staff will continue to encourage applicants to talk with their neighbors before filing for a special permit. I would ask that we consider how to continue to convey this message to the professionals (lawyers, architects, and contractors) who are involved in projects on a regular basis.
3. Staff will continue to advise applicants that they do not need to engage attorneys for relatively routine projects.
4. Continue our pattern of meetings on the first, third, and fourth Tuesday of each month, with the second meeting devoted to relatively routine projects.
5. Continue to provide times for hearings on our agendas so applicants do not have to wait an entire evening to be heard.
6. Applicants should be required to identify any special permits associated with the property or certify that there are not any. We will need to change the application process in this regard.

The following are items that I would like to have further information on by September 20:

1. The feasibility of getting additional resources to do zoning reviews, including cross-training existing staff to do these reviews in the event of backlog or absences (Barney and Alexandra).
2. The feasibility of getting additional resources to work on the ongoing scanning project for property information (Dori).

3. The status of engineering reviews and engineering involvement in DRTs (Dori). A further discussion of whether Engineering reports should be required as part of the special permit process and, if so, what should be in those reports (Alexandra, Barney, and Dori)
4. A report on changes to the City website regarding special permits (Jake and Nadia).
5. Information regarding the availability of tracking software to monitor permits after they are issued (John).
6. Whether special permit applications need to go to the Fire Department as part of the special permit process (I would like John, Barney and Alexandra to be prepared to discuss this further).

Respectfully submitted,

Marc C. Laredo, Chair