

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 3, 2015

Present: Ald. Laredo (Chairman), Ald. Cote, Crossley, Albright, Lipof, Schwartz, Lennon, and Harney

Staff: Stephen Pantalone (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

*Hearing opened and continued on February 10, 2015:*

#18-15      LAURA KAY HUGHES petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE to construct a two-story addition to the rear of an existing 2½-story single-family dwelling, to demolish an existing detached garage and build a new two-stall detached garage with storage above, which will increase the Floor Area Ratio from .31 to .57, where .40 is the maximum allowed by right, and for a front porch addition, which will encroach into the existing nonconforming setback, at 17 CUSHING STREET, Ward 6, Newton Highlands, on land known as SBL 52, 27, 10, containing approximately 8,640 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table A, 30-15(u)(2), 30-15 Table 1 of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 6-1 (Lipof opposed)

NOTE: The petition was presented by the petitioners' architect Chris Chu. The existing single-family home was constructed in 1893 and the detached garage was constructed in 1917. The petitioners have six children between the ages of 2 and 9 and wish to remain in their house and neighborhood; however, they need more living space and would like to create a safe play area for their children. The petitioners are proposing to construct a two-story addition to the rear of the house, where there is an existing screen porch built in the 1970's, and to demolish and rebuild the detached garage. They are seeking relief for a special permit to increase the Floor Area Ratio from .31 to .57, where .40 is the maximum allowed by right and to extend the existing front porch by approximately 2.8 feet, which will increase the nonconforming front setback of 16.2 feet, where 25 feet is required. The Historical Commission found the house preferably preserved, but waived the demolition delay based on the petitioner's proposed plans for the addition and restoration of the house.

The proposed addition will extend 14 feet towards the rear of the site and extend approximately eight feet to the northwest side property line and approximately ten feet towards the southeast side property line, expanding the footprint of the existing house by approximately 600 square feet. The proposed garage will add an additional 400 square feet and include space for a practice area for Ms. Hughes who is a pianist. The addition appears to extend above the existing peak by approximately one foot, and new railings on top of the existing house will extend approximately 3½ feet. The addition will consist of an additional dining room, a new mud room, a full and half

bathroom and stairs on the first floor, a new master bedroom and bath, play space/office space, a second bathroom, and new stairs on the second floor. The proposed addition will increase the gross floor area of the house by 2,260 square feet, or from 2,742 square feet to 5,002 square feet, where 3,456 is allowed by right.

The Planning Department in its memo dated February 6, 2015 expressed concern about the impact of the bulk and mass of the proposed addition and in particular the expansion of the width, which protrudes on both sides of the existing house. The Planning Department was also concerned about the size of the proposed garage and the overall lot coverage percentage of the structures on the site. If the detached garage were counted towards lot coverage, the percentage would be 32%, where 30% is maximum allowed. The Planning Department recommends eliminating the portion of the addition that extends out from the northwest side of the house, narrowing the addition in the rear, reducing the ridge line of the addition so it does not extend above the existing structure, and reducing the size and height of the proposed garage. It believes these reductions will allow the proposed addition to complement the existing house without overwhelming it, while still providing the space the petitioners are seeking. The Planning Department did note that there are number of large houses in the neighborhood, but the subject site is one of the smaller lots. There are existing trees and fencing along portions of the property line. The petitioners submitted a landscaping plan showing additional plantings.

Ms. Chu said that the roof of the proposed addition had been lowered by two feet to align with the lower ridge line of the house. The 3½ -foot railings are on a proposed widow's walk. Currently, there is no real backyard for the children to play and the existing driveway cuts through the side yard which makes it unsafe for the children to play there and the configuration does not provide easy access from the driveway and garage into the house. The current dining room serves as a family room; the front foyer is large, but not useful for living space, children are currently doubled and tripled up in bedrooms, there is only one full bath on the second floor for four bedrooms. This proposal is the result of two years' work.

Committee members are sympathetic to personal needs, but it needs to weigh the balance for posterity. Members agreed with Alderman Crossley that the proposal is a sensitive addition to the existing house, which has great bones, and it is a good design, with the addition mostly to rear abutting a garage on the adjacent property at the rear. But, is there a more efficient way of balancing the space? Is there any way to move a portion of the 'T' extending from the sides? Mitigate the mass?

*Public Comment:*

Lester Gore, the abutter directly across the street, has no objection to the scale, mass, or design of the proposed addition or garage. He said he probably speaks for the neighborhood, all of whom were all informed from the beginning of the process. He also wrote a letter in support, noting that the proposed adjustment to the petitioners' driveway would be greatly beneficial to his driveway and street access.

A letter in support from the Cohen's, 1547 Centre Street, noted that the addition to the front porch and adjustment to the driveway would not impose on their current street perspective and would help prevent cars from blocking their driveway access.

The Wang's at 20 Cushing Street also support the petition. The proposed rear addition will offer additional privacy to both their home and the petitioners' and elimination of the existing dilapidated garage and new garage will be a great improvement.

The committee continued the hearing to allow the petitioners to respond to the concerns of the Planning Department and the committee.

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Subsequent to the February 10<sup>th</sup> meeting, the petitioners submitted revised plans which reduce the proposed addition by a total of 103 square feet and the proposed FAR from .57 to .56. The addition has been pulled back on the northwest side of the property by approximately two feet and the height has been reduced so that it is lower than the peak height of the existing house. The petitioners are also proposing additional landscaping along the northwest property line. Although the Planning Department believes there is still a significant increase in the floor area, the reductions sufficiently mitigate its mass and bulk. The proposed addition is now subordinate to the existing house.

Alderman Lipof was troubled. This is the biggest house in the neighborhood on the smallest lot. It is a big ask he cannot support.

Alderman Schwartz moved approval of the petition with the findings and conditions contained in draft special permit board order #18-15, dated March 16, 2015. The motion to approve carried 6-1, with Alderman Lipof voting in opposition.

*Hearing opened on December 9, 2014, continued on February 3, 2015:*

#360-14      112 NEEDHAM STREET, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCOMFORMING STRUCTURE to demolish an existing single-story commercial building and construct a new two and one-half story commercial building approximately 29' in height with a parking facility including waivers from front and side setbacks and lot area requirements; the number of parking stalls; end stall maneuvering space; width requirement of exit and entrance driveways; and off-street loading requirement and Floor Area Ratio up to 1.5 at 112 NEEDHAM STREET, Ward 8, NEWTON UPPER FALLS, on land known as SBL 83, 12, 7, containing approximately 7,500 sf of land in a district zoned MIXED USE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 3, 30-19(d)(11), (15), and (m), 30-19(h)(2)e), 30-19(l), and Table of off-street loading requirements of the City of Newton Rev Zoning Ord, 2012. *Hearing opened and continued on December 9; additional relief requested.*

**ACTION:**      HEARING CLOSED; APPROVED 8-0

**NOTE:** Although the public hearing was opened on December 9, the petitioner asked that it be postponed. The hearing was continued on February 3, when the petition was presented by attorney Stephen Buchbinder. The property contains a two-story commercial building which is

nonconforming as to setbacks and the number of parking stalls, of which there are six located perpendicular to the building. The petitioner is proposing to demolish the existing building and construct a new 2½-story commercial building with parking for 10 vehicles, including one HP stall, and storage on the ground floor, office space on the second floor and storage/mechanical space in the ½ story. The petitioner is seeking relief to extend the nonconforming structure, to exceed the Floor Area Ratio (FAR), building height, and number of stories allowed by right, to waive one parking stall, to waive the end stall maneuvering space requirement, and to waive off-street loading requirements. The petitioner is proposing to expand the footprint of the existing building by approximately 613 square feet and the height by approximately ten feet. Currently, parking stalls comprise the entire frontage space. The petitioner is proposing to close a portion of the existing curb cut. The middle portion of the front of the building will be open with parking stalls visible on the ground floor. The petitioner proposes to install a sidewalk and landscaping in front of the property.

Mr. Buchbinder explained that the petitioner, who runs a family real estate management company with a total of five employees, will occupy the second floor. The storage space will be used for ladders and other equipment and implements used in connection with the real estate management business.

On the whole, the Planning Department believes the proposed project represents an improvement, particularly in terms of safety for exiting vehicles and in terms of improvements to the façade, which will consist of a brick material with architectural details. However, the Planning Department would like to see the brick material extended to the sides of the building and a larger portion of the ground floor enclosed, which would reduce the curb cut/garage entrance to 20 feet. Mr. Buchbinder noted that narrowing the single curb cut is subject to Massachusetts Department of Transportation design standards/approval.

There was no public comment; however, a letter from Joshua Solar of the Walcott Corporation expressed several concerns including the suggestion that additional parking could be provided by eliminating the storage space, further concerns included the dumpster location, the roof pitch and its impact on drainage, relocation of the proposed rear door so people are not traversing its property, and additional traffic from the office use, and the impact on its property during the construction management phase. Mr. Buchbinder noted that most of these concerns have been addressed. A drainage system will contain runoff on the site. The rear door is for egress only, with no handle on the outside. The dumpster will be located inside the building. The petitioner has agreed to work with Mr. Solar through the construction phase. Mr. Buchbinder pointed out that the traffic assessment performed by MDM Transportation Consultants concluded that the proposed office space generally results in reduced traffic relative to the historical retail use at the site. However, the committee did ask the petitioner to provide a comparison of parking calculations for the proposed office use and for a retail use.

The committee also asked the petitioner to meet with the Planning Department to discuss possible alternative materials for the rear and sides of the building. The hearing was continued.

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For this evening, the committee reviewed the petitioner's proposed cementitious stucco with v-grooved joints material for the side and rear facades of the building. The petitioner also provided a comparison of the parking calculations for office v. retail, which indicates a retail use requires nine stalls, while the parking requirement for the office use is 11 stalls. The petitioner is willing to underground the utilities, and agreed to a condition similar to the one in other special permits granted for properties on Needham Street.

Alderman Lipof moved approval of the petition with the findings and conditions in draft special permit board order #360-14, dated March 16, 2015, which motion carried unanimously.

*Hearing opened and continued on November 18, 2014; continued on February 10, 2015:*

#362-14      SEPHARDIC CONGREGATION OF NEWTON, INC./EDMUND I. SHAMSI  
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 26 parking stalls and associated dimensional requirements for an orthodox synagogue at 556 WARD STREET, Ward 2, NEWTON CENTRE, on land known as SBL 13, 32, 2, containing approximately 12,142 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-24, 30-23, 30-19(d)(13) and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 8-0

NOTE: The public hearing was opened on November 18, 2014. Present at the hearing were Alderman Laredo (Chairman) and Aldermen Albright, Crossley, Schwartz, Lipof, Harney, and Cote.

The petition was presented by attorney Jason Rosenberg. The petitioner is seeking a special permit to waive 26 parking stalls and to legalize the existing noncompliant layout of its parking facility relative to design and dimensional requirements. Since 1987 the congregation had been renting space in the basement from Congregation Beth El-Atereth Israel, which is across the street. In 2005, the subject property, a single-family dwelling, was purchased by a congregant who rents it to the congregation. The congregation of Beit Sasson which maintains traditions of Spanish, North African, and Middle Eastern Jewry is small, with approximately 52 families. The congregation is a religious organization protected under the "Dover Amendment," which exempts religious uses, as well as other specified uses, from certain zoning restrictions, i.e., reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The previous use of the property as a single-family residence required two parking stalls. Two stalls were likely located in the detached garage and paved area at the rear of the site. However, a place of assembly requires one parking stall for every seat within the sanctuary and an additional parking stall for every three employees. With 94 seats in the sanctuary and one Rabbi, the petitioner needs 32 parking stalls. The site can only accommodate five parking stalls, one of which is handicapped accessible. With the two-stall credit from the previous single-family use and the provision of five parking stalls on the site, the petitioner is seeking to waive 26 parking

stalls. The petitioner is proposing to install a solid fence around the parking and to screen it with conifers.

In 2012, the petitioner obtained a building permit for a 30'x 30' family room addition. When asked why it was not disclosed at that time that it was for a synagogue, which is defined in chapter 30 as a place of public assembly, Mr. Rosenberg explained that the petitioner was unaware of the zoning requirements. He noted that the petitioner pays residential taxes and that the structure conforms to zoning provisions as if it were a single-family home.

Rabbi Avenoam Durani explained that the Sephardic community is small in this area and it is important for the community to have its own place of worship. They have reached out to the other two synagogues in the neighborhood, Beth El and Shaarei Tefillah, and a neighborhood meeting was held this past July.

Alderman Albright said the neighborhood is concerned about the existing traffic, parking, and public safety issues from the two existing temples. Since July she has met with both other temples. The petitioner is willing to form a liaison committee to meet with the community; Alderman Albright is hopeful that the other two temples will join as well.

Although Beit Sasson currently has a relatively limited membership, several committee members asked if the congregation could see considerable growth. Mr. Rosenberg said this is unlikely as the Sephardic community is very small in the United States, particularly in this area, so it is self-limiting. The issue appears to be how to accommodate the current parking as well as the projected parking. The committee also asked how a building permit could be issued for a 30'x 30' addition with two bathrooms.

*Public comment:*

- Simon Levey and Michah Abramovitz, both congregants and members of the board also spoke in support.
- George Flesh, 245 Highland Avenue, said he and his wife strongly support the petition and will work to solve the parking problems with the city's cooperation.
- Simon Levey and Michah Abramovitz, both congregants and members of the board also spoke in support.
- Farzar Yashar, 509 Ward Street, recently purchased his home and supports the petition.
- Ben Shamash, a member of the congregation, said that there were 34 families in 1978 and now there are approximately 50 families; growth is not astronomical. The congregation has planted fruit trees in the rear for which he cares and is amenable to planting additional landscaping.
- Alan Heff, 4 Applegarth Street, pointed out that there are three synagogues close together on small residential streets. The two larger synagogues have not been helpful in the past to the neighborhood.
- Rod McCoy, 170 Lincoln Street, said this congregation does not impose as much on the neighborhood as the other two synagogues. This is much smaller compared to 250 families. And, there is still the same number of on-street parking spots.

- Mr. Robinson, a 29-year resident, is not a member of Beit Sasson, but prays there occasionally, and said it is very small compared to Beth El and Shaarei Tefillah. Most Sephardic Jews in this area prefer to worship in Brighton or Brookline.
- Jim Aronson, 739 Commonwealth Avenue, is the closest abutter. He said he could not have better neighbors. The congregation is small and the synagogue is not heavily used. Most members walk to services. During the fall festival of Sukkot, the temporary structure goes up then comes down. He has not noticed an issue with parking. The existing landscaping is fine and from the front the building presents a residential view.
- Elias Cohen came here in 1972 and was so pleased after worshipping at Ashkenazic temples to finally find a Sephardic congregation where he could worship in his tradition.
- Cathy Fyfe, 529 Ward Street, wants to know how a building permit was issued in the first place. It has nothing to do about people and beliefs, but three temples in such a small area is a stress on the neighborhood. There are pedestrians and traffic seven days a week, sometimes late into the evening. There are more social uses in the evening. At times catering and delivery trucks create a logjam. When all three temples are having functions at the same time, the noise and traffic are taxing.
- George Kirby, 19 Cummings Road, a 22-year resident, said the Sephardic synagogue has been there since 1987 and has the same number of people and the same amount of traffic. As a traditional community, it advocates getting out of cars and actively encourages people to walk. At a recent event of 30-40 people, only two drove. The current five spaces were present on the site prior to its occupancy.
- Leslie Saltzberg, 23 Channing Road, is concerned about public safety. There are so many cars on high holidays, parking is a problem. She is also concerned about security with three temples in close proximity.
- Sarah Less, 274 Linwood Avenue, walks two miles approximately every eight weeks to attend services. She never drives on Shabbat. As to security, Beth El has security personnel. This petition is not for a new congregation, just a new use for an existing building. Five new parking spaces result in less on-street parking.
- Lisa Stone, 541 Ward Street, wishes all three temples could arrange parking. She is concerned about emergency vehicles. Many people drive before sundown and park.
- Ken Gould, 12 Applegarth Street, is a member of Beth El and supports growth of a new institution. There have been a dozen meetings at Shaarei Tefillah. There is a seat at the table for neighbors. There are many functions which include study groups and community centers as well as traditional synagogue seven days a week, with members walking only one day. If the hall is rented for functions, then a dumpster will likely be needed. Lighting overspill is already an issue with the other temples.
- Alan Vogel, 81 Clinton Place, attends Beth El every morning. He has not observed any parking associated with Beit Sasson.
- Yael Robinson, 70 Garland Road, said many services are at the same time, the net effect of the parking is the same.
- Barbara Shatkin, 15 Channing Road, agreed with Ms. Fyfe and Mr. Heff. There can be no plan in isolation, the whole picture must be considered. The neighbors fear the straw that will break the camel's back. Channing Road is narrow and she has concerns about emergency vehicles.

- Jane Hanser, 40 Cedar Street, is an abutter to Shaarei Tefillah and her husband attends Beit Sasson. Many issues with the Shaarei Tefillah special permit have been resolved. The Rabbi came up with alternate parking. It is not fair to put all the issues and problems on this small congregation.
- Nathaniel Hedvat, 138 Garland Road, a member and board member of Beit Sasson wants to make this work and will work with the city and neighborhood to do so.
- Jesse Sage, 680 Beacon Street, is a member and always walks with his children.
- John Yellen, 535 Ward Street, said sometimes it take 5-10 minutes for him to back out of his driveway. Trash is not always picked up and the street is not always cleaned because of the parking situation. It is unfortunate that this small synagogue is on top of the tower.

The Planning Department suggested that the petitioner provide a more thorough parking study including information about the anticipated parking demands for regular weekly services, religious holidays, and special events, as well as rental of the function hall and the number of expected rentals per year. The petitioner should provide a parking management plan to accommodate anticipated parking based on the parking study. The petitioner should address the Engineering Division's memo dated November 17, 2014 and consider with Beth El the installation of the sidewalk segment and driveway apron. The petitioner should review and consider applicable conditions contained in the special permits for Shaarei Tefillah and Temple Emanuel. The committee asked the petitioner to provide clearly articulated parking and landscaping plans.

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February 10 Present were Aldermen Laredo (Chairman), Albright, Cote, Crossley, Harney, Lennon, Lipof and Schwartz. Aldermen Norton and Danberg were also present:

The petitioner had provided a draft parking management plan, a community outreach plan, and a revised landscape plan. The Planning Department questioned the proposed use of tents in lieu of function space, and whether a particular number of people on the site should trigger a police detail or require satellite parking, which are conditions in other special permits. Lunch is often served at a bar or bat mitzvah. A tent would be used in the day, not at night, and there would be no music. Although Orthodox Jews do not drive to services, some guests do.

*Public comment*

- Cathy Fyfe, 529 Ward Street, said that none of the neighborhood's safety issues have been addressed. This is not just about spaces for 26 cars, a tent or the number of people that will trigger a police detail. The activities of three temples impact the quality of life. It is public safety issue.
- Lisa Stone, 541 Ward Street, said parking is often all the way to Centre Street. She suggested limiting the use to religious, and to not allow other functions.

The committee asked the Planning Department to look at conditions in similar special permits relating to attendance and the number, if any, that triggers a police detail and/or a requirement for satellite parking. The petitioner agreed to hold another community meeting and share with the community the outreach and parking management plans as well as draft conditions for a special permit board order.



March 3

Present: Ald. Laredo (Chairman), Ald. Cote, Crossley, Albright, Lipof, Schwartz, Lennon, Harney

A community meeting facilitated by Aldermen Albright, Johnson, and Norton was held on Wednesday, February 25. Issues were parking and traffic conditions requiring a police detail and/or satellite parking facilities; rental/usage of the kitchen facilities, trash and recycling. The Planning Department reviewed four other religious institutions of which only one, Shaarei Tefillah, has a restriction requirement for both a police detail and satellite parking for 75 or more people and for 100 or more people, respectively. Temple Emanuel is required to provide a police detail for 250 or more people. The petitioner agreed to an attendance threshold for a police detail of 75 or more people and an attendance threshold of 100 or more people for satellite parking facilities. The petitioner has agreed to coordinate with the other synagogues when police details and satellite parking facilities are necessary for events on the same days.

The petitioner has proposed an end time for 11:00 PM for all social events or group activities on the site. However, this does not prohibit the petitioner from holding religious services that may extend beyond that time. The petitioner has agreed to limit rental of the social hall to its members, not to uses associated with commercial activities.

The tents proposed to be used on the site measure approximately 20' x 30'. The petitioner has proposed a number of conditions to govern their use, including limiting the use of tents to three days in any one calendar year, obtaining a building permit, prohibiting music, preclude the use of the social hall (except for food preparation) when the tent is in use, and giving written notice to immediate abutters, the Ward Alderman, and neighborhood liaison committee. However, the Planning Department is concerned that erecting tents at the rear of the site would further reduce the parking and recommends that tents not be allowed. Mr. Rosenberg noted that since 2006 tents have only been used eight times for bat or bar mitzvah receptions. The committee did not share the Planning Department's concern.

Alderman Schwartz asked about constitutional issues, can all religious uses which are Dover protected be subject to conditions. Ms. Young said that Dover is specific to an institution and, yes, a negotiated arrangement agreed to by all parties is permissible.

*Public comment*

Cathy Fyfe, 529 Ward Street, said she had reviewed a draft special permit board order on Friday and a number of things appear to have changed since then. For example, if a dumpster is required, would it have to be approved by the Planning Department and the liaison committee? Beth El has an unscreened dumpster. The Chairman explained that the document was an evolving draft, as is the document being reviewed this evening.

Alderman Albright moved approval of the petition with the findings and conditions in draft special permit board order #362-14, dated March 16, 2015.

The committee noted that this petition served as a catalyst to commence dialogue between all the temples and the neighborhood and it hopes the discourse will continue. It expressed its

appreciation to Aldermen Albright, Johnson, and Norton for facilitating discussions to address some longstanding issues.

The meeting was adjourned at approximately 10:30 PM.

Respectfully submitted,

Marc C. Laredo, Chairman