

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 17, 2015

Present: Ald. Laredo (Chairman), Ald. Albright, Cote, Crossley, Schwartz, Lennon, Lipof, and Harney; also present: Ald. Hess-Mahan

Staff: Alice Ingerson (Community Preservation Program Manager), Alexandra Ananth (Chief Planner for Current Planning), Stephen Pantalone (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

REFERRED TO LAND USE & FINANCE COMMITTEES

#55-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of five hundred eighty-four thousand twenty-nine dollars (\$584,029) from the Community Preservation Fund to the Planning & Development department for a grant to citizens for Affordable Housing Development in Newton (CAN-DO), to create two units of permanently affordable rental housing at 54 Taft Avenue, West Newton, as described in the proposal submitted in January 2015.

ACTION: APPROVED 6-0 (Lennon and Lipof not voting)

NOTE: Present for this item were Community Preservation Committee member Jim Robertson, Community Preservation Program Manager Alice Ingerson, and Josephine McNeil, Executive Director of CAN-DO. The existing 3-bedroom home will become permanently affordable to households at up to 80% of the median income and a new two-story, 2-bedroom addition at the rear will be permanently affordable to households at up to 50% of the area median income. Initially, tenants will be selected from formerly homeless families in transitional housing in Newton or housed temporarily in a hotel/motel. Mr. Robertson said there is not a lot of affordable housing in the pipeline because property is so expensive in Newton. The approval of \$360,000 of Community Development Block Grant funds for this project has leveraged additional funding: a request for \$125,000 in HOME funds and \$75,000 from private foundation grant(s) and community fundraising. Ms. McNeil emphasized it has taken two years to fund this proposal because the real estate market is so hot. The subject property is across the street from her home and the neighborhood has been very supportive and welcoming.

Alderman Crossley agreed that property acquisition is expensive and will only become more so. This project is a partnership with the Planning & Development Board and the Community Preservation Committee. The community is lucky to have CAN-DO looking for opportunities to develop affordable housing. These units will be deed restricted in perpetuity. She has no concerns relative to the particulars of the project and is ready to move forward to the next step.

Alderman Albright said there is no question that infill housing is more expensive and given the market costs will probably continue to rise; however, this type of infill housing does not change the neighborhood and it is the kind of housing supported by the community.

Alderman Hess-Mahan said that all three of the Ward 3 Aldermen support the project. He also noted that both units will be counted towards the state's Subsidized Housing Inventory.

The Chairman said it is a great project that fits in with the neighborhood and will serve a population in need of housing. The concern is the ongoing viability of doing these kinds of projects. Alderman Cote moved approval, which carried 6-0, with Aldermen Lennon and Lipof not voting.

#44-15 NONANTUM NEIGHBORHOOD ASSOCIATION requesting a temporary license pursuant to Sec 30-6(k) of the City of Newton Ordinances to hold NONANTUM VILLAGE DAY on Sunday, June 7, 2015.

ACTION: APPROVED 8-0

NOTE: Section 30-6(k) allows the Board of Aldermen to grant upon a request from citizens' groups or individuals a temporary license to use land/structures in a public use district without going through the site plan approval process in Section 30-23. This is the fourth Nonantum Village Day, which will include food vendors, music, and children's activities. Alderman Lennon moved approval, which carried unanimously.

#431-14 PARAGON GLOBAL PARTNERS, INC.
259 Walnut Street
Newtonville 02460

ACTION: APPROVED 8-0

NOTE: The renewal application was not returned until February. The applicant satisfies all the criteria for renewal. Alderman Albright moved approval, which carried unanimously.

A public hearing was held on the following item:

#38-15 PAUL LANGIONE, TRUSTEE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING USE for a for-profit educational purpose, including classrooms and offices, and waivers from parking facility design requirements for dance studios at 38 BORDER STREET, Ward 3, West Newton, on land known as SBL 33, 15, 23, containing approximately 27,874 sq. ft. of land in a district zoned MANUFACTURING. Ref: 30-24, 30-23, 30-21(b), 30-19(h)(1), (h)(5), 30-19(i)(1), (i)(2)a), (i)(2)b), (i)(2)c), (i)(2)d), 30-19(j)(1)a), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The petition was presented by attorney G. Michael Peirce. The petitioners have owned and operated the Joanne Langione Dance Center since 1976, first in Newton Corner and since the late 1980's at 35 Border Street, which was the subject of a special permit in 2002 to construct an addition and to waive five parking stalls. The petitioners recently purchased the former Barry Price Center property across the street where they plan to relocate the dance studio. The building was constructed in 1952 and is nonconforming as it is located in the front and side setbacks. The existing parking lot is also nonconforming because parking stalls are located in the front, side, and rear setbacks and there is no perimeter or interior landscaping. The petitioners are proposing to add a small vestibule at the ground floor entrance with a second floor addition above, which will improve the existing entrance and create administrative office space. The proposed addition

will increase the height to 27 feet. The addition will face the parking lot and not be visible to residential neighbors. The site is buffeted by the Mass Turnpike on two sides.

The petitioners are seeking a special permit to locate a for-profit educational use in a Manufacturing district, to extend a nonconforming structure, to allow a building height greater than 24 feet, to locate parking in the front, side, and rear setbacks, to allow a tandem parking configuration and to waive landscaping screening and interior landscaping requirements for the parking lot. The petitioners are proposing to re-stripe the existing parking lot to create tandem parking, add directional pavement markings, add drop-off parking stalls, create van-accessible HP stalls, and define the one-way circulation within the site. The proposed site plan shows 35 parking stalls, including ten tandem stalls, where 11 stalls are required for the proposed use.

The Planning Department believes the waivers for perimeter screening and interior landscaping are reasonable due to the size and location of the lot. However, it is concerned that the pedestrian walkway directly in front of the building is damaged and there is no curbing to separate the walkway from on-street parking. While there is curbing along the street frontage of the parking lot, it does not appear there is a pedestrian walkway as the proposed parking stalls extend very close to the curb. Although there is limited space to provide landscaping along the streetscape, the petitioners provided a rendering which shows shrubs and three trees.

Classes in the morning are comprised of young children whose parents stay. Later in the afternoon the older students are dropped off and picked up. At the end of classes, people in vehicles picking up students form a queue and the students await their rides. The three parking stalls closest to the building at the end of the drop off and another five stalls adjacent to the snow storage area at the rear will be dedicated staff parking. Cars will enter the west drive and exit the east drive. It will be the same users, so everyone will become familiar with the one-way pick up and drop off loop. A "Do Not Enter" sign will be installed at the east exit driveway.

The petitioners have agreed to install an asphalt sidewalk with granite curbing along the street frontage up to the eastern driveway to match the sidewalk at the adjacent Galaxy Auto Body. In order to increase the pedestrian walkway along the street frontage by approximately two feet, the petitioners will reduce the width of a 12 parking stalls as shown on the site plan. The dumpster will be relocated toward the rear of the site and wheeled out for pick up. All snow will be stored on site. A landscape plan will be submitted to the Planning Department.

The committee suggested that the petitioner might discuss with Paddy's, which has a pending special permit petition to waive 11 parking stalls, the possibility of a shared parking arrangement in the evenings when the studio is generally closed.

Members commented that the layout of the larger site and the proposed circulation will be much safer. Alderman Cote moved approval of the petition with the findings and conditions in draft special permit #38-15, dated April 6, 2015.

A public hearing was held on the following item:

#39-15 SCOTT CUSICK/PITSICK llc/JOSHUA SHRIBER & PATIENCE ORBELLO
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for 18, 22, and 26
GODDARD STREET, Ward 8, Newton Highlands, to allow a build factor of
28.08, where 20 is the maximum allowed in a district zoned SINGLE
RESIDENCE 3, in order to create two conforming lots from three lots and to
legitimize two existing structures at (1) 22 Goddard Street, which will have 8,000
sq. ft. and (2) 26 Goddard (a partially completed new dwelling), which will have
7,000 sq. ft. Ref: Sec. 30-24, 30-23, 30-15(p) of the City of Newton Rev Zoning
Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: Attorney Jason Rosenberg presented the petition. The three lots at 18, 22, and 26
Goddard Street, containing a total of 15,000 square feet of land, predate October 11, 1940 when
minimum lot areas and frontages were first adopted. The petitioner purchased the lots in 2011,
obtained valid building permits, and began construction before the issuance of the permits was
challenged. The *Mauri* case proceeded through the Zoning Board of Appeals, which overturned
the issuance of the building permits, Land Court, Massachusetts Appeals Court, and finally the
Supreme Judicial Court, which declared that the city's long-standing interpretation of Sec. 30-
15(c), that the exemption offered under 30-15(c) applied to a dimensionally substandard vacant
lot held in common ownership with a contiguous lot on which a single- or two-family house
existed, was invalid. Currently, 26 Goddard Street (lot 109) has an almost fully built single-
family house and 18 Goddard Street (lot 111) has a foundation. 22 Goddard Street (lot 110)
contains an existing single single-family house that was rehabbed and is now occupied.

The petitioner is seeking a special permit to legitimize the two existing structures at 22 and 26
Goddard by creating two lots from three lots which conform to the old lot dimensional controls.
The relief under Sec. 30-15(p) is referred to as the "Build Factor" formula which restricts the
creation of irregular shaped lots. Of the two lots proposed, 26 Goddard Street (lot 109) has a
build factor of 28.8, where 20 is the maximum allowed in a Single Residence 3 District. 22
Goddard Street has a build factor of 18.13, which is less than the 20 maximum allowed. The
petitioner proposes to remove the foundation at 18 Goddard Street (Lot 111) and landscape the
lot.

The proposed subdivision will create two irregular shaped parcels: 22 Goddard Street (lot 110)
will have 8,000 square feet and 26 Goddard Street (lot 109) will contain 7,000 square feet of
land. The new lots will comply with all the controls for old lots in a Single Residence 3 District,
except for the front setback of the lot at 22 Goddard Street which will remain nonconforming at
18 feet, where 25 feet is required.

The Planning Department has no particular concerns with the proposed irregular shaped lots;
however, it expressed some apprehension about the proposed "Easement Area" shown on the
subdivision plan. The proposed "Easement Area" essentially reduces the usable lot area of 26
Goddard Street (lot 109) from 7,000 square feet to 5,000 square feet. Mr. Rosenberg explained
that the easement is necessary to comply with a settlement agreement between the petitioner and

abutting property owners. The easement allows the development pattern of the parcels to remain in their current conditions.

Public comment:

Hugh Starkey, an attorney with offices at 50 Congress Street, Boston, introduced Roberta and Gerald Burg (429 Winchester Street), Alan Filzer (27 Goddard Street), Diane Dion (409 Winchester Street), Monica and Paul Crowley (423 Winchester Street), and John Koot (430 Winchester Street), the abutters he has represented in this ongoing litigation for more than three years and who have reached the settlement agreement referenced above with the petitioner. His clients are willing to live with one new house to restore a sense of normalcy to the neighborhood, and they support granting the special permit with conditions consistent with terms of the settlement.

Alderman Schwartz said he understands the settlement issue, but it seems rather inelegant that the easement is on the backyard portion of 26 Goddard Street but used by 22 Goddard Street. As part of the settlement agreement, the driveway on the west side of #22 will be removed and relocated to the east side of the existing house next to the vacant lot. Alderman Schwartz was concerned about what will happen when the easement term of 30 years, subject to an extension term of 20 years, expires. Mr. Rosenberg said the easement relates to trees, landscaping, etc.; the driveway easement continues for the life of the properties. The easement will give #22 the same yard area in front and back as when the owners bought the property. Mr. Rosenberg noted that this type of easement is common in many communities, very often with condominiums.

There was some discussion about whether the foundation on lot 111 (18 Goddard Street) will be covered or removed. Several committee members pointed out that removing a foundation is very costly. An alternative is to partially demolish the foundation, fill it in, and cap it.

Alderman Albright said this is a clever solution to the problem and it is great that the project can finally move forward. Alderman Lipof and Crossley agreed. It was unfair that the petitioner purchased what he thought were three legal lots and then got caught in the litigation.

Alderman Lipof moved approval of the petition with the findings and conditions in draft special permit board order #39-15. The motion carried unanimously.

A public hearing was opened and continued on February 3, 2015

#1-15 CANTON CIRCLE LLC, petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for medical office use in 4,433 square feet of space located in a one-story building in conjunction with an existing bank and post office; waive 6 parking stalls; to waive dimensional requirements, aisle width, landscape screening, interior landscaping, lighting, and bicycle parking, and to allow parking in the side setback at 714 BEACON STREET, Ward 6, Newton Centre, on land known as SBL 61, 38, 8, containing approximately 37,941 sq. ft. of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-19(c)(2)a), 30-19(d)(10), (12), 30-19(h)(1), (h)(2)a), (h)(2)b), (h)(2)c), (h)(2)e), (h)(3)b), 30-19(i)(1), (i)(2)a), (i)(2)b), (i)(2)c), (i)(2)d), 30-19(j)(1)a), (1)b), 30-19(j)(2)e),

(2)f), 30-19(k)(1), (2), (3), 30-19(m) of the City of Newton Rev Zoning Ord, 2012 and special permit nos. 131-96, 503-96, and 520-74.

Table 3, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 7-0 (Lipof recused)

NOTE: The petition was presented by attorney Stephen Buchbinder on February 3, 2015: Present were Aldermen Laredo (Chairman), Albright, Crossley, Schwartz, Lipof, Cote, and Harney

The subject property contains a one-story commercial building constructed in 1920. The site was the subject of a number of prior special permits. Past uses include a long-time auto dealership and more recently a video store. Currently, a bank and a United States Post Office occupy two of the three tenant spaces. The petitioner wishes to lease the 4,433 square foot vacant space previously occupied by a retail use to a medical office. The proposed change of use increases the parking requirement from 17 parking stalls to 23 parking stalls. The petitioner is seeking a special permit to waive six parking stalls as well as to legalize existing noncompliant parking conditions, which include parking in the setback, dimensional requirements for parking stalls, end stall maneuvering requirements, aisle width, interior landscaping and landscape screening, lighting, and bicycle parking facilities.

Mr. Buchbinder said the parking requirement for medical office use tends to be among the highest requirements in the zoning ordinance. The petitioner has a specific tenant contingent on approval of the special permit. It is anticipated that the practice will have three to four doctors and eight to ten support staff.

The petitioner provided a parking inventory and utilization report done by Planning Horizons which indicates that the existing parking configuration and the 45 parking stalls have been adequate for the uses on the site. The site has sufficient parking spaces available during peak hours for the existing and proposed uses. Although off-site spaces cannot be used to meet the parking requirement, the report notes that there are two municipals parking lots in proximity as well as on-street metered parking. The Planning Department is concerned that the existing and proposed uses combined may lead at certain times to increased congestion on the site.

The petitioner has indicated and the Planning Department agrees that the current parking configuration, topography of portions of the site, and the location of the building make development of additional parking stalls and a dimensionally compliant parking lot impractical. The petitioner will repair the retaining wall on the western property line, as noted in the Associate City Engineer's memo dated January 30, 2015.

Public comment

Christopher & Denise Dandrea, 700 Beacon Street, said the traffic and congestion have worsened since they moved there in 2001. The installation of bike lanes removed parking spaces, which has contributed to the congestion. The parking lot of the site is full almost every day.

Ruth Neiberg, 72 Dalton Road, a 49-year resident, said the crosswalk located near the site is very dangerous. There have been a number of accidents. She avoids going to the post office until

after rush hour. Can the city not install some type of pedestrian light or relocate the crosswalk? When will the long-promised signal at Beacon Street and Grant Avenue be installed?

Alan Joseph, 704 Beacon Street, said that Beacon Street is like a semi-highway. However, he is relieved that this proposal does not include the addition of a second floor to the building and that, if approved, it will not be a medical marijuana facility.

Nancy Honig, 62 Dalton Road, also recommended that the existing crosswalk be relocated. She is concerned about the lack of parking overall and a too intense use of the site. She pointed out that prior special permit(s) included requirements for landscaping, but the landscaping was never maintained. She suggested augmenting the existing landscaping.

Mark Greenberg, the proprietor of Murray's Liquors at 747 Beacon Street, said there are parking problems in Newton Centre. In the past ten years the city has granted all kinds of waivers and although the new businesses have added vitality to the center, parking is more difficult and other employers lose business.

Marjorie Maws, 704 Beacon Street, complained that trash from the dumpster at 714 Beacon blows into their yard.

The committee asked the petitioner to meet with the neighbors to discuss the pedestrian and parking issues raised by the speakers. The committee also asked the petitioner to clarify the parking demand/trip generation and the number of staff and patients anticipated on the site.

Subsequent to February 3, a community meeting facilitated by the petitioner was held on February 18. The city's Director of Transportation Bill Paille attended the meeting. Mr. Paille also had concerns about the location of the crosswalk. Consequently, the crosswalk on Beacon Street will be relocated from just west of the site's driveway entrance to the corner of Dalton Road. This will result in the loss of one metered parking space; however, the petitioner is proposing to create a new metered space with granite curbing adjacent to the northwest corner of the site on the south side of Beacon Street. Relocation of the crosswalk will also require the removal of an existing street tree. The petitioner will contribute to the city's Tree Fund for the installation of one new tree. The petitioner has agreed to contribute up to \$10,000 to carry out these improvements. Mr. Paille also reported that the new traffic signal at the intersection of Beacon Street and Grant Avenue will be installed later this spring.

The petitioner has agreed to increase the landscaping at the northeast corner of the site with decorative grasses, flowering plants, ground cover, and shrubs. The existing curb cut on Beacon Street will be shifted to the east to minimize conflicts between vehicles and the HP accessible ramp on the eastern side of the building.

The proposed medical use is a new practice, which expects to have four physicians initially; however, a fifth physician may be added in the future. Each physician would see on average 2.5 patients an hour. The potential number of patients per day could reach 80 and up to 100 if and when a fifth physician is added. The number of support staff would increase as well. Mr.

Buchbinder pointed out that the petitioner's parking projection is based on these higher numbers. However according to the Institute of Traffic Engineers and Planning Horizons the projected trips per day a medical office use of this size will generate less vehicle traffic than many potential by-right retail uses. The petitioner expects at least several staff will use public transportation and a T pass program will be offered to employees. The petitioner, who has had discussions with Hebrew College, will continue to pursue an arrangement for satellite parking. The Planning Department agrees with the petitioner's conclusions and believes the proposed medical office use will generate less traffic than many potential by-right retail uses.

Public comment

Ruth Neiberg noted that no retail business has thrived at this location. However, relocation of the crosswalk and the traffic signal at Beacon Street and Grant Avenue are improvements for the neighborhood.

Nancy Honig said the proposal is in many ways better, although she fears there is not enough on-site parking. Relocation of the crosswalk is very helpful. If there are changes, will off-site arrangements be specified?

Alderman Schwartz moved approval of the petition with the findings and conditions in draft special permit #1-15, dated April 6, 2015. The motion to approve carried 7-0, with Alderman Lipof recused.

The meeting was adjourned at approximately 10:30 PM.

Respectively submitted,

Marc C. Laredo, Chairman