

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, APRIL 14, 2015

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

Staff: Stephen Pantalone (Senior Planner), Robert Waddick (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board)

A public hearing was opened on the following petition:

#45-15 SARAH IONTA & JOSEPH RIZZO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow two garages (maintain both an existing detached garage and an existing attached garage) at 31 FARLOW ROAD, Ward 7, on land known as SBL 72, 37, 3, containing approx. 17,416 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(m)(5)a, 30-8(b)(7) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0-1 (Lennon abstaining; Schwartz not voting)

NOTE: The petitioners have two garages: a detached garage on Kenrick Street built in 1920, which is considered a legally nonconforming garage because it has as setback of 2.1 feet, where 25 feet is required, and an attached two-car garage on Farlow Road, which was constructed with a building permit 2008 with the proviso that the garage use in the detached garage structure would be abandoned and the structure would be converted, as the petitioners planned to do at that time, to an accessory apartment via a special permit, prior to the Inspectional Services Department's final inspection of the attached garage. Subsequently, the petitioners decided because of cost factors not to convert the detached garage into an accessory apartment. Now, with adolescents approaching driving age, the petitioners would like to maintain the structure as a second garage but they need a special permit to allow two garages on a single property where a single dwelling unit exists. A special permit will also allow the Inspectional Services Department to finally close out the file from 2008. There was no public comment.

In working session, the committee confirmed with Mr. Pantalone that an affidavit from the petitioners to the Inspectional Services Department affirming that they will not convert the detached structure into an accessory apartment will suffice to close out the file. Alderman Crossley moved approval of the petition finding that the site is an appropriate location to allow two separate garages as the detached garage has existed since the 1920s and the attached garage has existing since 2009 with no impact on the neighborhood; the two garages as developed and operated will not adversely affect the neighborhood as the property with the exception of the nonconforming setback is compliant with all the other dimensional controls of the zoning ordinance including lot coverage and open space requirements. The motion to approve with the findings and condition in draft special permit #45-15, dated April 21, 2015, was approved 6-0-1, with Alderman Lennon abstaining because he missed the public hearing.

A public hearing was opened on the following petition:

#58-15 MICHAEL VAHEY & MOK JIANG PANG petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE by removing an existing single dormer on the front façade and adding a total of six dormers (two on the front and back and one on each side) which will allow an additional bedroom and bath for each unit in an existing side-by-side two-family dwelling, thereby increasing the Floor Area Ratio from .61 to .67, where .48 is allowed by right, at 13-15 ALDEN PLACE, Ward 3, West Newton, on land known as SBL 33, 34, 47, containing ±5,315 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 30-24, 30-23, 30-21(b), 30-15(u)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 7-0 (Schwartz not voting)

NOTE: The petitioners recently purchased this c. 1890, side-by-side duplex dwelling, which is in need of quite a bit of work. Currently each unit has two bedrooms and one full bathroom. They are seeking a special permit to add six dormers to the attic floor, which will add approximately 335 square feet of habitable space, in order to create an additional bedroom and bathroom for each unit. The relief requested is to extend a nonconforming use, a two family, in a single residence district, and to increase an already nonconforming Floor Area Ratio (FAR) from .61 to .67, where .48 is the maximum allowed by right.

There is no increase to the footprint of the structure. The proposed dormers meet all the requirements for dormers and do not project above the roof peak. The Planning Department believes that the proposed expansion will improve the utility of the two-family dwelling and improve two modest units, without expanding the footprint of the structure.

A letter from Kim Cox of 19 Alden Place indicated her support for the project. The petitioner has kept her informed. She is concerned about noise and dust from construction, but believes the petitioner will work with her if any issues arise.

Mark Dermarerosian of 6 Gannon Court, which is around the corner, four houses away, said he is not concerned with the petition. Any improvements to the property are welcome. He too is concerned about the construction phase, but expects the petitioner will be cooperative.

In working session, the committee reviewed a draft special permit and Alderman Cote moved approval finding that the proposed expansion of the nonconforming two-family use in a single residence district will not be substantially more detrimental than the existing nonconforming use is to the neighborhood; the increased FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood; the dormer additions will help preserve two modest sized units without significant change or loss of open space for the neighborhood as well as maintain the existing footprint of the structure. The motion to approve carried 7-0, Alderman Schwartz not voting, with the above findings and conditions in draft special permit #58-15, dated April 21, 2015.

A public hearing was opened on the following petition:

#60-15 MARJA J. SISK & DAVID GROSSMAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to create an accessory apartment in a detached structure at 86 WABAN HILL ROAD, Ward 7, Chestnut Hill, on land known as SBL 63, 8, 37, containing ±50,649 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The petitioners purchased this property in part because of the detached carriage house, which had been used for 27 years by the previous owner, a psychiatrist. The petitioners wish to convert the second floor into an accessory apartment for a family member. The only exterior modifications involve construction of a deck and staircase to provide a second egress. There was no public comment and the hearing was closed. Mr. Grossman thanked the Planning Department for its help in guiding them through the process. In working session, Alderman Lipof moved approval of the petition finding that the site is an appropriate location for an accessory apartment; the accessory apartment will not adversely affect the neighborhood as the structure already exists and an additional unit will have minimal impact on the neighborhood; there will be no nuisance or serious hazard to vehicles or pedestrians as there is adequate parking on the site. The motion to approve carried 8-0 with the above findings and conditions in draft special permit #60-15, dated April 21, 2015.

A public hearing was opened on the following petition:

#62-15 ANN LOUISE WOLF petition for an accessory apartment in a detached carriage house at 133 WABAN AVENUE, Ward 5, Waban, on land known as SBL 55, 14, 15, containing ±33,030 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The subject property contains a single-family dwelling constructed in 1893 and a detached carriage house. The petitioner is seeking a special permit to allow approximately 540 square feet of the second floor of the carriage house to be used as an accessory apartment. There was a unit in the carriage house prior to her acquisition of the property some years ago, and apparently it had been used at various times for an office or an apartment, but she was unaware until she applied for a home equity loan that it was not a legal unit. The petitioner, who is selling the property and wishes to have a clear title, is seeking a special permit to legalize the apartment. The Planning Department noted there is adequate parking on the site, which is heavily screened along the property lines.

An email from Fran Godine, an immediate abutter at 19 Crofton Road, stated that the property is beautifully kept and she has no objection to the accessory apartment. Legalization of the accessory apartment will contribute to the diverse housing opportunities so needed in the city.

In working session, Alderman Crossley moved approval of the petition finding that the site is an appropriate location for an accessory apartment; the accessory apartment will not adversely affect the neighborhood as the structure already exists and an additional unit will have minimal impact on the neighborhood; there will be no nuisance or serious hazard to vehicles or

pedestrians as there is adequate parking on the site. The motion to approve carried 8-0 with the above findings and conditions in draft special permit #62-15, dated April 21, 2015.

A public hearing was opened and continued on March 3, 2015 and closed on April 7:

#19-15 NEWTON TECHNOLOGY PARK, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to partially demolish two buildings and to construct additions to the front of each building, which will bring them closer to the street, to reconfigure the existing parking areas and reduce the parking requirement to 441 parking stalls in order to redevelop the site for a mix of restaurant, retail, and service uses at 131-181 NEEDHAM STREET, Ward 5, on land known as SBLs 51-28-15, 51-28-14, 51-28-13, 51-28-12, 51-28-11, 51-21-10, 51-28-9A, containing approximately 11.06 acres of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-20(l), 30-19(j)(1), 30-19(i)(l), 30-19(h)(4)b), 30-19(h)(3)a), 30-19(h)(1), 30-19(m), 30-19(d)(18), 30-13(b)(16), 30-13(b)(12), 30-13(b)(5), 30-13(b)(4), 30-13(b)(1) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 8-0

This evening, the committee reviewed a draft special permit board order. Most changes involved wordsmithing, with very few substantive changes.

- Comprehensive Sign Package: the committee agreed that all sign permits will be submitted to the Planning Department for determination of consistency with the Package.
- The committee was pleased that the level of cooperation between the petitioner, the city, and MassDOT has been very good. When new off-site sidewalks are constructed at the two crosswalks across Needham Street, the petitioner will pay for pedestrian push buttons, wheelchair accessible ramps, and associated sign and pavement markings.
- For flexibility, the petitioner may move parking stalls around the site without returning to amend the special permit. The petitioner will conduct a parking utilization “After Study” during the first fall/winter peak shopping season after the site has reached full occupancy; if the results of the study indicate that the peak parking occupancy is less than 75%, the petitioner will participate in discussions with the Planning Development to assess if the petitioner should modify the site relative to the number of parking stalls.
- Undergrounding utilities on the site: the petitioner agreed to underground utilities on the site and shall use good faith efforts to underground any remaining above-ground utilities on the site. Mr. Stearns pointed out that the two new poles shown on the plan at the front of the site are necessary to provide the site power from the poles on the opposite site of Needham Street; however, the petitioner is removing nine to ten poles from the site. The petitioner has discussed with Eversource moving an existing pole that is close to the Brook, but Eversource is not agreeable. However, the petitioner will continue to pursue this with Eversource.
- The petitioner will contribute \$10,000 to be used for the development of the Newton Upper Falls Greenway and has agreed to install in consultation with the city way finding signage at the beginning of the path as indicated on the ‘Layout & Zoning Plan.’”
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Alderman Crossley moved approval of the petition with the findings and conditions in the draft special permit board order dated, April 21, 2015. The motion carried 8-0.

Request for Withdrawal without Prejudice

#473-14 TIMOTHY BURKE for ROGER & AFARIN GREIGER petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the one-story portion consisting of a two-car garage and to construct a three-car garage and living space with an accessory apartment exceeding 1,000 sf above it on an existing single-family dwelling increasing the Floor Area Ratio from .28 to .39, where .33 is allowed by right, at 100 EVELYN ROAD, Ward 5, Waban, on land known as SBL 53, 3, 13, containing approximately 18,052 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15(u)(2), 30-15 Table 3, and 30-8(d)(c) of the City of Newton Rev Zoning Ord, 2012

ACTION: WITHDRAWAL WITHOUT PREJUDICE APPROVED 8-0

NOTE: The petitioners are exploring by-right options.

Request for Withdrawal without Prejudice

#61-15 DIOMID BASHKINOV petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 400 sq. ft. detached garage which when combined with the existing attached garage will exceed the 700 sq. ft. allowed by right and will increase the Floor Area Ratio from .47 to .41, where .35 is the maximum allowed by right at 228 WISWALL ROAD, Ward 8, on land known as SBL 84, 20, 12, containing ±12,556 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u)(2), 30-15(m)(5) and 5c), 30-8(b)(7) of the City of Newton Rev Zoning Ord, 2012.

ACTION: WITHDRAWAL WITHOUT PREJUDICE APPROVED 8-0

NOTE: The petitioner is deciding whether or not to pursue an alternative plan.

The meeting was adjourned at approximately 9:50 PM.

Respectfully submitted,

Marc C. Laredo, Chairman