

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
LAND USE COMMITTEE REPORT  
TUESDAY, AUGUST 11, 2015

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

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

#161-15      WILLIAM WINKLER & KATHRYN KUBIE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to expand an existing driveway located in the front setback to allow parking for two vehicles in the setback at 48 HOLMAN ROAD, Ward 4, Auburndale, on land known as SBL 43, 42, .8, containing approximately 7,620 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-19(g)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 6-0

NOTE: This single-family dwelling with a one-car attached garage was constructed in 1928. The garage was converted to living space a number of years ago, with parking for one car provided in the front setback. The petitioner is seeking a special permit to create a second parking stall in the front setback adjacent to the existing parking stall. A portion of an existing stone wall will be removed to widen the driveway by approximately eight feet to accommodate the proposed parking stall and the wall will be reconstructed and the stones repurposed on the site. A cobblestone strip will delineate the driveway from the sidewalk. The petitioner reported that the neighbors across the street are pleased that there will be one less car parking on the street. The Planning Department has no concerns with the petition. There was no public comment. In working session, Alderman Albright moved approval finding that literal compliance with the parking requirements is impracticable because of the size and shape of the lot; the site is an appropriate location for a second parking stall in the front setback adjacent to the existing stall and will minimize the visual impact along the streetscape and will not disturb the existing landscaping; there will be no nuisance or serious hazard to vehicles or pedestrians. The motion to approve carried 6-0 with the findings and conditions in draft special permit #161-15, dated September 8, 2015.

#162-15      DAVID BELCOURT & NAHMA NADICH petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING STRUCTURE by removing an existing one-story rear addition and constructing a new two-story addition four feet wider and removing an existing front landing and constructing in its place a covered porch and stairs, which will increase the existing Floor Area Ratio from .47 to .59, where .46 is the maximum allowed by right, and to reduce the existing nonconforming open space, lot coverage, and side setback at 6 DENNS PLACE, Ward 2, Newton Centre, on land known as SBL 64,

3, 52, containing approximately 3,084 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 1, 30-15(u)(2) of the City of Newton Rev Zoning Ord, 2012.

**ACTION:** HEARING CLOSED; APPROVED 6-0

**NOTE:** The subject 2½-story single-family dwelling was built in 1890. Located on a small, narrow lot, it is nonconforming because it encroaches 4.9 feet into the side setback on the east side and exceeds the maximum allowable Floor Area Ratio (FAR) of .01. In addition, the open space is nonconforming as it is 24.3% below the minimum 50% required. The property is partially encumbered by Denms Place, a shared private driveway created by easement, and a utility easement which run through the front of the property. The petitioners, who have resided there for 30 years, wish to create more living space. To do so, they are proposing to demolish a one-story addition at the rear of the house and construct a slightly larger two-story addition and demolish the front landing and construct a covered porch and small bathroom addition. The petitioners are seeking a special permit to increase the nonconforming FAR from .47 to .59, to decrease the nonconforming open space from 25.7% to 24.5%, and to reduce the nonconforming side setback from 2.6 feet to 2.5 feet. The petitioners must also seek variances from the Zoning Board of Appeals to reduce the rear setback from 15 feet to 11.3 feet, where 15 feet is the minimum required, and to increase the existing lot coverage from 28.3% to 33.3%, where 30% is the maximum allowed. The proposed additions will exceed the maximum allowable FAR of .46 by 391 square feet. The total size of the house with the proposed additions will be 1,840 square feet. The Planning Department has no concerns with the proposal.

A variance was granted for a similar project in 1995, but, unfortunately, it was not feasible for the petitioners to undertake the project at that time so the variance lapsed. The petitioners believe that given the limited options, the plan as proposed is the least intrusive. There was no public comment; however, eight abutters signed a petition in support of the project.

Alderman Crossley likes the compactness of the design which is essentially the same as the one approved in 1995. Alderman Albright visited the site and noted that it is a sweet neighborhood of similar homes, all on similar postage-stamp size lots. Alderman Schwartz agreed that the lot is small and extremely narrow.

Alderman Albright moved approval finding that the increase in FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood; the reduction of already nonconforming open space will not be substantially more detrimental than the existing is to the surrounding neighborhood; the rear addition will decrease the nonconforming side setback by approximately two inches, which is not substantially more detrimental than the existing setback; the site is an appropriate location for the additions as the property is partially encumbered by Denms Place, a private shared driveway, and a utility easement; the additions will not adversely affect the neighborhood. The committee noted that the FAR appears high because of the extenuating circumstances of the lot, i.e., its size, and the encumbrance of Denms Place and the utility easement which preclude any significant expansion at the front of the house. The motion to approve carried 6-0 with the findings and conditions in draft special permit #162-15, dated September 8, 2015.

#164-15      LEABMAN REAL ESTATE SERVICES LLC/DUNCAN & ELIZABETH RICHARDSON petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to remove an existing deck/hot tub and construct in its place a four-season porch with a roof deck at the rear of an existing single-family dwelling, which will increase the Floor Area Ratio from .38 to .40, where .36 is the maximum allowed by right, at 55 MOSSFIELD ROAD, Ward 5 Waban, on land known as SBL 55, 21, 5, containing approximately 13,723 sf of land in a district zoned SINGLE RESIDENCE 2. 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 6-0

NOTE: The petitioner is proposing to raze an existing deck and hot tub at the rear of a single-family c. 1921 dwelling and construct a one-story four season porch with a roof top deck. The house is considered nonconforming because the existing Floor Area Ratio (FAR) of .38 exceeds the by-right maximum FAR of .36. The Planning Department has no concerns with this modest addition which will increase the dwelling by approximately 230 square feet. The proposed addition is similar to many others in the neighborhood. There was no public comment. In working session, Alderman Crossley moved approval finding that the increase in FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood; the proposed addition will increase the gross floor area by approximately 230 square feet; the site is an appropriate location for the proposed one-story four season porch, which will replace a deck and hot tub; the addition to the single-family dwelling, which is similar to others in the neighborhood, will not adversely affect the neighborhood as the site is adequately screened with a fence and vegetation. The motion to approve carried with the findings and conditions in draft special permit #164-15, dated September 8, 2015.

#178-15      FALLON CUSTOM HOMES for AMANDA MAHONEY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a one-car attached garage over an existing driveway onto the side of an existing single-family dwelling, which will result in an increase in the Floor Area Ratio from .44 to .46, where .33 is the maximum allowed by right, at 12 LAKE TERRACE, Ward 6, Newton Centre, on land known as SBL 62, 1, 8, containing approximately 14,628 sf of land in a district zoned SINGLE RESIDENCE 2. 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 6-0

NOTE: Peter Fallon presented the petition. The property is located on a cul-de-sac off of Lake Avenue and consists of a c.1893 dwelling with an attached garage. The topography of the site slopes towards Crystal Lake with an elevation change of approximately 14 feet, which renders the dwelling a nonconforming 3½-story structure. It is also nonconforming as to the Floor Area Ratio (FAR), which exceeds the .33 maximum allowed by right. The petitioner wishes to raze a small one-story entry on the west side of the house and construct a second one-story one-car garage, which will increase the FAR from .44 to .46, or approximately 300 square feet. The proposed garage meets the setback requirements and is located adjacent to the garage on the property next door. The proposed garage is just outside the buffer zone away from the lake so Conservation Commission review was not required. The additional impervious surface is less than 400 square feet, which is below the amount that triggers engineering review. There was no

public comment; however, letters in the support of the petition were received from 11 Lake Terrace and 152 and 160 Lake Avenue. In working session, Alderman Schwartz moved approval finding that the increase in FAR, which will increase the gross floor area by approximately 300 square feet, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood; the site is an appropriate location for the attached garage and is similar to surrounding dwellings; the addition will not adversely affect the neighborhood as the visual impact will be minimal. The motion to approve carried 6-0 with the findings and conditions in draft special permit #178-15, dated September 8, 2015.

*Public Hearings were held on the following items:*

#160-15      TIMOTHY BURKE ARCHITECTURE for ICHIRO ISHIGURO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to add a second-story addition on an existing 1½-story single-family dwelling, which will increase the Floor Area Ratio from .31 to .44, where .37 is the maximum allowed by right, at 80 DEBORAH ROAD, Ward 8, Newton Centre, on land known as SBL 82, 8, 8, containing approximately 10,990 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15(u)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CONTINUED TO DATE TO BE DETERMINED

NOTE: The petitioner is seeking a special permit to construct a second-story addition of approximately 1,400 square feet onto an existing 1½-story dwelling, which will increase the existing Floor Area Ratio (FAR) from .31 to .44, where .37 is the maximum allowed by right. The proposed plans include re-cladding the brick exterior with siding, altering the hip-style roof over the garage to a gable roof, changing the windows, extending the chimney, widening the driveway from 20 feet to 30 feet, and constructing stairs that connect to the backyard. The proposed second-story is set back from the front of the first story but will not extend over the existing garage.

Although originally a neighborhood primarily of split-level ranch style dwellings, some houses have been demolished and replaced with structures that are not consistent with the original context of the neighborhood. The Historical Commission found the structure not historic. Although it alters the ranch-style architecture, the Planning Department believes the proposed addition is well designed. The Planning Department is concerned that the proposed second-story addition is not consistent with the majority of the structures in the immediate neighborhood and the resulting floor area is greater than most of the other structures in the neighborhood on similar sized lots with similar sized structures. The petitioner could construct a second story addition of approximately 700 square feet by right, which would still alter the split-level architecture and could result in a less appealing design than what is proposed.

The petitioner gave a lengthy explanation of how he wishes to divide the house into zones to be used for different activities to improve the quality of his family's living situation. His architect, Mr. Burke, noted that there is no change to the footprint of the house; the addition is only increasing the height for which the petitioner does not have to seek relief. Also, the garage and the basement drive up the FAR, which is driven by the site's topography. The setback of the

second floor helps mitigate the mass and bulk. The changes to the windows are driven by interior changes, but result in improvements to the façade.

Alderman Albright said this appears to be a neighborhood in transition. Although she has no issue with the size of the proposed house, she asked why the driveway had to be so wide as she believes it detracts from the appearance of the house. Mr. Burke explained that the increased width provides parking for another car and an area for snow storage. The Planning Department recommends maintaining the existing curb cut width of 20 feet.

Aldermen Schwartz agreed that the basement accounts for quite a bit of the FAR; however, for him the garage roof sticks out. The Chairman explained to the petitioner that the committee respects the family's needs, but the design of the house and how it fits in the neighborhood are what it must look at. Mr. Burke said he and the petitioner would take another look at the garage roof.

There was no public comment, but letters in support of the petition were received from 63 Cynthia Road, 70, 81, and 84 Deborah Road. Alderman Lennon said that he would like the opportunity to visit the neighborhood. The public hearing was continued to a date to be determined in October.

#163-15      DANTE BELLUCI/JOSEPH LIN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE to increase the number of seats from 100 to 120 and to waive up to eight parking stalls for an existing restaurant at 22 UNION STREET, Ward 6, Newton Centre, on land known as SBL 61, 38, 4, containing approximately 3,617 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-23, 30-23, 30-21(b), 30-11(d)(9), 30-19(d)(13), 30-19(m) of the City of Newton Rev Zoning Ord, 2012, and Special Permit #492-82.

ACTION:      HEARING CONTINUED TO SEPTEMBER 10, 2015

NOTE: Attorney Stephen Buchbinder, who explained that he had been engaged late in the process and did not expect this item to be voted this evening, presented the petition. The petitioner is the proprietor of Tartufu restaurant, which is located in a two-story commercial building with a small 4-stall parking area in Newton Centre. The space has been occupied by a restaurant since the 1950's. The petitioner had added 20 seats to the second floor of the restaurant without realizing that a 1982 special permit limited the number of seats to 100. The additional seats were discovered when the Inspectional Services Department conducted an inspection of the premises. The petitioner is seeking an amendment to the special permit to allow 20 additional seats and a waiver of up to eight parking stalls. (If the special permit is granted, the petitioner will be required to provide one HP stall, which will result in the loss of one of the four existing parking stalls on the site.) Currently, the restaurant has approximately 70-odd seats downstairs. The rest of the seats are upstairs which is not used often and then usually only for private parties and special events. The kitchen could not handle 120 seats at the same time on a regular basis. On a normal evening there may be that number of patrons, but they come and go. The petitioner has offered to contribute \$2,500 to the Newton Centre Pedestrian Safety Fund, which was established to help mitigate any impacts from parking waivers granted to businesses in Newton Centre.

Although several committee members commented that the 20 seats were already there, the committee continued the public hearing so the petitioner could provide information about how often the restaurant was occupied to full capacity and when the upstairs was used.

The meeting was adjourned at approximately 8:30 PM.

Respectfully submitted,

Marc C. Laredo, Chairman