

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

THURSDAY, SEPTEMBER 10, 2015

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

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

Public Hearing opened and continued on August 11:

#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~~ 115 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 CLOSED; APPROVED AS AMENDED 6-0

NOTE: The public hearing was opened and continued on August 11, 2015. Please refer to the Land Use Committee report of that date. This evening, attorney Franklin Schwartz of Schlesinger Buchbinder represented the petitioner. Subsequent to the August 11 hearing the petitioner determined that he only needed 15 additional seats and submitted a revised floor plan and building code calculation reflecting 115 seats, not 120. He also clarified that the second floor, where the additional seats are already located, is used only a few times a year for special events. Once again, there was no public comment. In working session, the committee discussed the \$2,500 contribution the petitioner has offered towards parking improvements and/or pedestrian accessibility or circulation improvements in Newton Centre. Several members noted that the improvements included in special permit #1-15, granted for medical offices at 714-724 Beacon Street, have not yet been implemented. Mr. Sexton explained that the \$10,000 contribution from that petitioner does not cover the entire cost of the projected safety improvements proposed by the city, which consist of relocating the existing pedestrian crosswalk at the intersection of Beacon Street and Dalton Road, constructing a curb extension for the crosswalk on the southern side of Beacon Street, and installing curbing along the sidewalk on Beacon Street near the westerly end of 714 Beacon Street. There was a suggestion that this \$2,500 contribution be allocated towards those improvements. Several committee members agreed to docket an item seeking an update on the project.

Alderman Schwartz moved approval finding that the waiver of six parking stalls is appropriate as literal compliance with the parking requirement is impracticable due to the size of the parking lot; the expansion of the restaurant by 15 seats will not be substantially more detrimental than the existing nonconforming restaurant as it is located in a village center; the expansion will not

create a nuisance or serious hazard to vehicles or pedestrians; access to the site over streets is appropriate for the types and numbers of vehicles involved. The motion to approve carried 6-0 with the findings and conditions in draft special permit 163-15 dated September 21, 2015.

Public Hearings were opened on the following items:

#179-15 MYRTHA CHANG petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to install a new freestanding sign at 1349 CENTRE STREET, Ward 6, Newton Centre, on land known as SBL 62, 10, 1, containing approximately 10,579 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-20(f)(1), 30-20(l) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The petitioner is the proprietor of Mathnasium which shares this 2½-story commercial structure located just outside of Newton Centre with one other business. In 1993 a special permit was granted to erect a freestanding sign but the special permit was never recorded; however, a freestanding sign was erected at some point by a previous owner without a building permit. The petitioner wishes to remove the existing illegal freestanding sign and install a 22 square-foot, 6 ½-foot tall, double-sided freestanding sign adjacent to the driveway entrance. The Urban Design Commission reviewed and recommended approval of the sign with several changes which the petitioner has incorporated into the plans submitted with the petition. Initially the Planning Department had some concerns about the location of the sign close to the driveway entrance; however, the City's Transportation Division reviewed the proposal and determined that it should not adversely impact the sightlines from the driveway. There was no public comment. Alderman Schwartz moved approval of the petition finding that the freestanding sign is appropriate and in the public interest as it will provide way finding along Centre Street for customers of the property; the location of the freestanding sign adjacent to the driveway entrance off of Centre Street will not create a nuisance or serious hazard to pedestrians or vehicles since it will not significantly impede either. The motion to approve carried 6-0 with the findings and conditions in draft special permit 179-15 dated September 21, 2015.

#191-15 46 SUFFOLK ROAD, LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing accessory apartment located in a detached garage at 46 SUFFOLK ROAD, Ward 7, Chestnut Hill, on land known as SBL 63, 16, 5, containing approximately 110,719 sf of land in a district zoned SINGLE FAMILY 1/OVERLAY A DISTRICT. Ref: Sec 30-24, 30-23, 30-8(d)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: Jeff Birnbaum of Pioneer Construction presented the petition. The detached garage was originally built for three cars and space used as servants quarters, which living space was removed in 1959. A subsequent building permit to remodel the garage stipulated that there be no living quarters in the garage, but it appears a kitchen was added at some later date. It has been an apartment for many years and is currently occupied. Mr. Birnbaum explained that the new owners of the property, unfortunately, did not do their due diligence until after they purchased the property. They are seeking a special permit to legalize the accessory use. The property is located within the Accessory Apartment Overlay A District, which requires a minimum lot size of 15,000 square feet and the minimum building size of 3,200 square feet, which requirements it

meets. Alderman Fuller, although she was unable to attend the meeting, had asked Alderman Crossley about the vegetation and screening on the site. Mr. Birnbaum said the >2.5 acre site has extensive vegetation, so much in fact that the Conservation Commission and Historical Commission suggested that some be removed. A landscape plan submitted with the petition shows extensive plantings around the house and garage. The garage is well screened. There was no public comment. Alderman Lipof moved approval finding that the site is an appropriate location for a detached accessory apartment as it complies with the requirements for such; the use as developed and operated will not adversely affect the neighborhood as there are no changes to the detached structure and it is adequately screened; it has been used as an accessory apartment for a number years without any issues or complaints; and the use will not be a nuisance or create a serious hazard to vehicles or pedestrians. The motion to approve carried 6-0 with the findings and conditions in draft special permit 191-15 dated September 21, 2015.

#181-15 AYENG FONG & BINH NGUYEN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to add a third unit onto the rear of an existing two-family dwelling at 220-222 CALIFORNIA STREET, Ward 1, NONANTUM, on land known as SBL 11, 10, 16, containing approximately 9,510 sf of land in a district zoned BUSINESS 1. Rev: Sec 30-24, 30-23, 30-11(d)(8), 03-19(h)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CONTINUED TO OCTOBER 13, 2015

NOTE: The property contains a two-family dwelling constructed in 1890. The petitioners wish to construct a 2½-story addition to the rear of the dwelling to create a third unit. The site, located in a mixed-use neighborhood of Multi Residence 2, Manufacturing, and Business 1 zoning districts, is zoned Business 1 which requires a special permit in order to create a multi-family dwelling. The petitioners are also seeking relief to locate parking stalls within a setback and within five feet of a residential structure. The Historical Commission staff found the property preferably preserved and the demolition delay was waived based on the plans submitted with this application.

The proposed addition, which will be slightly offset from the existing structure to help break up the mass of the new structure from the side property line, will maintain the existing building height. Façade materials will be consistent with the existing dwelling. Most of the addition will be screened from California Street and a small backyard will be maintained at the rear of the site.

Currently, there are two driveways that accommodate four cars. The additional parking will be provided by extending the existing driveway on the eastern property line to create two additional parking stalls at the rear property line. The two tandem stalls next to the existing dwelling will allow creation of an approximately 11-foot driveway aisle to the two proposed stalls at the rear of the site. The petitioner needs to clarify the width of the tandem stalls as the architect's site plan indicates they are 8'x20' but the surveyed site plans shows the stalls are 9'x19'. The existing tandem parking on the western side of the property will remain the same.

There was no public comment. As several members of the committee expressed interest in visiting the site, the hearing was continued.

#180-15 EIGHTH RUN, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to add two dwelling units to an existing 1½-story single-family dwelling, which will involve removing historically insignificant additions and relocating the existing dwelling, and to exceed the maximum lot coverage, locate parking within 20 feet of a side lot line, and locate a driveway within 10 feet of a side lot line at 28 SUMNER STREET, Ward 7, Newton Centre, on land known as SBL 73, 48, 21, containing approximately 21,205 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5)a), and b), 30-15 Table 1, 30-19(m), of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CONTINUED TO DATE TO BE DETERMINED

NOTE: This item will be reported at a later date.

#148-15(2) INTRUM COPORATION petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second 60,565 square-foot building to be connected to an existing office building, as well as a one-story parking deck, and to redesign existing parking facilities increasing the number of parking stalls from 215 to 379 at 180 WELLS AVENUE, Ward 8, on land known as SBL 84, 34A, 3, containing approximately 220,097 square feet of land in a district zoned LIMITED MANUFACTURING. Ref: 30-12(g)(2), 30-19(m) of the City of Newton Rev Zoning Ord, 2012 and Board Order nos. 276-68(3), 761-69, 734-72 (884-71).

NOTE: Accompanying the petition is a request to amend the Deed Restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended or waived to increase the Floor Area Ratio from .25 to .53, which exceeds the maximum of .25, to waive the minimum 40% open space requirement, and to allow a greater percentage of square footage in the office park to be dedicated to office space.

ACTION: HEARING CONTINUED TO OCTOBER 13, 2015

NOTE: This item will be reported at a later date.

#147-15 BSL NEWTON DEVELOPMENT, LLC/ANDOVER NEWTON THEOLOGICAL SCHOOL petition for a SPECIAL PERMIT/ SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE to renovate the top two floors of an existing dormitory (Farwell Hall) to include 12 reconfigured dormitory rooms and to use the bottom three floors and a proposed new attached structure for a 51-unit assisted living facility and to waive 28 parking stalls and various dimensional requirements of Sec 30-19 at 157 HERRICK ROAD, Ward 6, Newton Centre, on land known as SBL 65, 19, 45, containing approximately 871,960 square feet of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(b), 30-9(b)(2), 30-5(b)(2), 30-19(d)(4), (d)(5), (h)(1), (2)a) and b), (h)(3), (h)(4), (i)(1), (j)(1), (k), and (m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CONTINUED TO DATE TO BE DETERMINED

NOTE: The petitioner through its attorney Alan Schlesinger requested that the hearing be continued.

#416-12(5) JULIA WILLIAMSON/WALLY ZAINOUN, MAIN GATE REALTY petition to AMEND Special Permit/Site Plan #416-12(3), granted on August 12, 2013, and to AMEND special permit application #416-12(4), for which a public hearing was opened on July 13, 2015, with respect to EXTENDING a NONCONFORMING USE, to permit more than 3 customers for the service use on site at any one time and change the hours of operation of MODERN BARRE at 242-244 COMMONWEALTH AVENUE, Ward 7, Chestnut Hill, on land known as SBL 61, 13, 11, containing approximately 7,452 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CONTINUED TO DATE TO BE DETERMINED

NOTE: The petitioner through attorney Terrence Morris requested a continuance of the public hearing.

The meeting was adjourned at approximately 10:30 PM.

Respectfully submitted,

Marc C. Laredo, Chairman