

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JANUARY 14, 2014

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

Staff: Alexandra Ananth (Chief Planner for Current Planning), Stephen Pantalone (Senior Planner, Robert Waddick (Assistant City Solicitor), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

*Public Hearings were held on the following items:*

#330-13(2) DONNY & RAQUEL SANTANGELO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to connect an existing two-family dwelling to an existing detached garage with living space above, which will increase the Floor Area Ratio from .47 to .62 where .48 is the maximum allowed by right, at 3-5 MILTON AVENUE, Ward 4, West Newton, on land known as SBL 44, 14, 70, 71, containing approximately 6,962 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15 Table A and 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

ACTION: WITHDRAWAL WITHOUT PREJUDICE APPROVED 7-0 (Harney not voting)

NOTE: The petitioner needs relief to extend a nonconforming structure, which was not included in the application and notice. A revised petition will be heard in February.

#424-13 UBC EQUITY PARTNERS, LLC/KS RETAIL MANAGE, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a future potential mixture of office, retail, services, restaurant, and storage uses, which will involve no proposed physical changes, in an existing building and to waive 37 parking stalls or to allow, if necessary, 40 off-site parking stalls in addition to the existing 185 parking stalls at 19-33 NEEDHAM STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 28, 25B, 25C, 25D, containing approximately 109,396 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-13(b)(1), (3), (4), (5), 30-19(f)(1), (2) *or* 30-19(c)(3), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CONTINUED TO FEBRUARY 11, 2014

NOTE: The Planning Department has asked for additional information which the petitioner will provide in time for the February hearing.

#412-13 LOUIS FRANCHI, TRUSTEE petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE for waivers from the parking stall requirement for up to 15 parking stalls including stall dimensions, maneuvering aisle widths, end-stall maneuvering space, minimum entrance and exit driveway widths; tandem parking; perimeter and interior

landscaping requirements; lighting, curbing, surfacing, and maintenance requirements; and, parking within the setbacks for an existing commercial/warehouse/storage building at 425-433 WATERTOWN STREET, Ward 1, on land known as SBL 14, 8, 6, containing approximately 18,470 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 39-19(c), (d), (h)(1),(2)a), (2)b), (2)e), (3)a), (3)b), (4)a), (5)a), (i)(1), (i)(2), (j), (m), 30-21(a)(2)a) of the City of Newton Rev Zoning Ord, 2012.

**ACTION:** HEARING CONTINUED TO FEBRUARY 4, 2014

**NOTE:** The petitioner explained that when a long-term tenant recently vacated the building it left three suites of 2,500, 2,200, and 1,300 square feet available. In late 2013 a building permit was issued for 2,500 square feet of medical office space, a use that requires more parking than the previous use. This resulted in an increased parking requirement for the whole building. Now the petitioner cannot rent the remaining space for any use without obtaining a special permit. The mixed-use building constructed in the 1970s has 58 parking spaces, some of the spaces are dimensionally conforming and some are not. Tenants are assigned spaces in their leases and issued placards. There are 10 spaces available for short-term parking and one HP space. The Planning Department recommended that the 11 back out spaces located at the front of the building be eliminated as there is no real delineation between the parking area and the sidewalk. However, if the petitioner were to eliminate the spaces he would need to withdraw and refile the petition to seek a waiver for additional spaces. Contrary to what one might expect, the 11 spaces are not the short-term spaces but are spaces assigned to tenants and the petitioner doesn't wish to eliminate them. Also, several tenants are assigned tandem spaces on the site, an arrangement that works for employees who don't move their cars during the day. A Parking Utilization Study was submitted with the application and a list of tenants was included in the Project Narrative, also submitted with the application.

Issues raised in committee:

- Is the change in use driving the need for more parking spaces;
- Can all 58 spaces be counted as parking spaces; elaboration of "technical deficiencies;"
- Are all 58 spaces used during the day.

Initially, the Committee felt it should continue the public hearing to a date to be determined, but subsequently agreed that a continuance to February 4 would allow time for the petitioner and relevant City personnel to meet to address the issues raised this evening.

#405-13      SAMUEL J. & TAMI M. WALD petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to enclose space below a first floor deck in order to expand a basement play room, which will include re-building the deck, thereby increasing the Floor Area Ratio from .60 to .63, where .39 is the maximum allowed by right, at 176 HOMER STREET, Ward 6, Newton Centre, on land known as SBL 64, 32, 30, containing approximately 9,270 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15(u) and Table A of the City of Newton Rev Zoning Ord, 2012.

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

NOTE: Architect Sarah Jacobsen, 223 Grant Avenue, Newton presented the petition. The petitioners wish to enclose a space below an existing deck at the rear of their home in order to expand the basement playroom. A new deck will be reconstructed above the finished space. The existing dwelling was built in 1925 and substantially renovated in 2001. The proposed addition will increase the gross floor area of the 2.5-story single-family dwelling by approximately 276 square feet and increase the Floor Area Ratio (FAR) from .60, where .39 is allowed, to .63. There is a basketball court to the rear of the house and not a lot of green space; however, the proposed addition will not increase the footprint of the existing house. The Planning Department noted that there is partial vegetative screening at the rear and the proposed addition is not visible from the street.

Claudia Morris of 227 Pleasant Street, located at the corner of Pleasant Street and Stafford Road, is concerned about the proliferation of big houses on small lots and the encroachment upon green space, neither of which help property values. Newton is starting to resemble a more urban area. She said the basketball court at the rear of the subject property is visible.

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In working session, Alderman Albright expressed concern as to whether there is adequate landscape screening. A landscape plan was not required. It appears there are several deciduous trees and scattered plantings to the rear. However, the Planning Department believes the proposed addition is partially screened from abutters and is mostly screened from the public way. Currently, the space beneath the deck is open with exposed pressure-treated supports and is used for storage.

Alderman Schwartz moved approval of the petition with the findings that the increase in FAR from .60 to .63 is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood and that the modest addition to a nonconforming structure is not substantially more detrimental than the existing nonconforming structure. The motion to approve carried unanimously, 8-0.

#422-13      ARTHUR ULLIAN, BENJAMIN ULLIAN TRUST, ARTHUR, DORA & BENJAMIN ULLIAN TRUSTEES petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert an existing detached structure at 76 HYDE AVENUE into a ± 600-square-foot accessory apartment connected to the main swelling by a pergola structure, Ward 7, Newton, on land known as SBL 72, 23, 57, containing approximately 37,405 sf 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 petitioner wishes to convert a detached former garage into an accessory apartment. A special permit is required for an accessory apartment in a detached structure. The structure, constructed in 1913, was accessory to a 1912 single-family dwelling that was demolished and replaced in 2001, which date meets the requirement that a single-family dwelling be constructed at least ten years prior to the date of application for a permit for an accessory apartment. There are no exterior alterations proposed to the structure and at approximately 600 square feet it is greater than the minimum of 400 square feet and less than the maximum of 1,200 square feet required/allowed for an accessory apartment. The one dimensionally compliant parking space that is required will be provided in the existing parking area.

Located to the rear of the property, the proposed apartment will be used by a home health aide to assist the current owner; however, if approved, the accessory apartment will be a legal unit for any future owner to either rent or occupy. The petitioner plans to construct a patio off the rear of the detached structure and construct a pergola between the detached structure and the main residence. Currently, there is generator housed inside the detached structure. Should the special permit be approved, a new generator for the accessory apartment will be located on a concrete pad behind the rear of the structure. There have been no problems with noise from the existing generator and the new one should be even quieter.

There was no public comment.

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In working session, the Committee confirmed that the special permit sought was only for the accessory apartment. The pergola is not located in the setback or enclosed but simply provides a covered walkway between the house and detached structure. However, the proposed patio and pergola are within a wetland /buffer zone. The petitioner sought and was granted administrative approval from the Conservation Commission agent in November of 2013 for the proposed changes. Alderman Crossley said this is a lovely, straightforward petition that should be by right; other members of the Committee concurred. Alderman Crossley then moved approval of the petition finding the site is an appropriate location for the accessory apartment and it will not adversely affect the neighborhood since the structure already exists; there are no significant exterior alterations proposed; reusing the existing structure ensures it will be maintained; there will be no nuisance or hazard to vehicles or pedestrians; the apartment is consistent with the *2007 Newton Comprehensive Plan* because it adds to the number of units and diversity of the City's housing stock. The motion to approve carried unanimously, 8-0.

#423-13      KEY POINT PARTNERS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate a full-service veterinary hospital in an existing retail building at 215 NEEDHAM STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 28, 8G, containing approximately 70,847 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 03-23, 30-13-(b)(14) of the City of Newton Rev Zoning Ord, 2012, and Special Permit #610-89.

ACTION:      HEARING CLOSED; APPROVED 8-0

NOTE: The petition was presented by Project Manager Eric Bratzler representing Key Point Partners and PetSmart. The subject property, constructed in 1940, was granted a special permit in 1990 (#610-89) for a mix of uses that include accessory office, manufacturing, retail, and storage. In addition, the joint use of parking spaces between the subject property and the adjacent lot to the south was authorized by special permit #37-81. The petitioner is seeking a special permit for a service use, a veterinary hospital operated by Banfield Pet Hospital, within an allowed use, i.e., PetSmart retail store. The proposed veterinary hospital will occupy approximately 1,575 square feet of the PetSmart store, which occupies approximately 168,198 square feet of retail space previously occupied by Filene's Basement in the mixed use building. The proposed service use has the same parking requirement as the previous retail use and the combined uses do not require more parking spaces than the 138 spaces available on the site. Mr. Bratzler said that PetSmart, in operation since 1987, has 1300 stores nationwide and 40,000 employees. The veterinary hospital will probably have six employees. Alderman Albright

wanted to know if there was any outdoor green space for dogs. Mr. Bratzler said there is very little, but PetSmart provides waste stations for people to clean up after their dogs. The Committee was pleased that this long-vacant building was finally being put to use. Alderman Lipof moved approval finding the location is appropriate for a service use; the *2007 Newton Comprehensive Plan* supports mixed uses along the Needham Street Corridor; the use is in harmony with the general purposes and intent of the Zoning Ordinance and will not adversely affect the neighborhood nor will it create any nuisance or hazard to vehicles or pedestrians in the surrounding neighborhood; and the site has adequate access for vehicles for existing and proposed uses. The motion to approve carried 8-0.

#425-13      LISA B. & JEFFREY B. MILLER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to construct a one-story addition to the kitchen at the rear of an existing single-family dwelling, which will increase the Floor Area Ratio from .43 to .47, where .46 is the maximum allowed by-right and increase the maximum lot coverage from 32% to 35%, where 30% is the maximum, at 183 ADAMS AVENUE, Ward 3, West Newton, on land known as SBL 34, 32, 10, containing approximately 4,414 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) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 8-0

NOTE: The petitioners, who have resided here for 25 years, wish to add approximately 200 square feet to the rear of their two-story single-family home. The proposed addition will contain a small porch and new access stairs to the basement, increasing the floor area from approximately 1600 square feet to approximately 1800 square feet allowing the petitioners to rearrange the first floor. There is an in-ground pool, cabana, and patio at the rear, which have been there since they purchased the house. The cabana will be removed to accommodate the proposed addition. An existing 7-foot high fence at the rear will provide adequate screening. Because the location of the proposed addition is over an area that is already impervious, the slight increase in lot coverage will have no significant impact on drainage or green space. The house is located on a corner lot abutting Dearborn Street, a paper street that since a 1955 agreement with the City has been, with the exception of a four-foot wide public footpath in the middle of it connecting Adams Avenue and Cleveland Street, used by abutters for passive recreation.

The Committee agreed this is yet another modest addition, and Alderman Cote moved approval with the findings that the proposed Floor Area Ratio of .47 is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood; the increase in the lot coverage from 32% to 35%, where 30% is the maximum allowed, is not substantially more detrimental than the existing nonconforming structure to the neighborhood, as the addition is over existing impervious surfaces and will be partially screened by existing fencing

The following licensees returned their applications too late to be approved by January 1, but they have provided all the necessary paperwork and were all approved 8-0.

*2014 Auto Dealer Licenses*

- #371-13      JACOB & ASSOCIATES  
1232 Washington Street  
West Newton 02465 (Class 2)
- #377-13      KARIM MANSOUR NEWTON CENTRE SHELL, INC.  
1365 Centre Street  
Newton Centre 02459 (Class 2)
- #380-13      NTC-NEWTON TRADE CENTER  
103 Adams Street  
Nonantum 02458
- #382-13      PARAGON GLOBAL PARTNERS, INC.  
259 Walnut Street  
Newtonville 02460 (Class 2)
- #386-13      SAM'S AUTO CENTER  
875 Washington Street  
Newtonville 02460 (Class 2)

The meeting was adjourned at approximate 8:45 PM.

Respectfully submitted,  
Marc C. Laredo, Chairman