

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, FEBRUARY 11, 2014

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

Staff: Stephen Pantalone (Senior Planner), Alexandra Ananth (Chief Planner for Current Planning), Ouida Young (Associate City Solicitor), William Forte (Zoning Enforcement Agent), Linda Finucane (Assistant Clerk of the Board)

Public Hearings were held on the following petitions:

#330-13(3) DONNY & RAQUEL SANTANGELO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE in order 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, 30-21(a)(2)a and (b), 30-15 Table A and 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The first public hearing on this petition was opened on November 12, 2013 and continued to November 19 because of a discrepancy in the plans. Subsequently, it was discovered that there was an error in calculating the Floor Area Ratio (FAR) and the petitioner needed additional FAR relief. The second public hearing with the correct FAR was opened on January 14, 2013; however, it was then noted that the petitioners needed relief to extend a nonconforming structure, which relief was not included in the application and notice. This evening, the committee said it was unfortunate the petition had been delayed; but the delay resulted in much better plans.

The petition was presented by Attorney Walter Devine. The petitioners wish to construct a one-story addition to connect their unit to an existing detached garage and to add a second story above the garage to be used for two bedrooms and two bathrooms for their children. The one-story addition connecting the dwelling to the garage will expand the existing kitchen and living room area. The proposed addition will increase the total square footage of their unit by approximately 976 square feet and increase the height of the garage to approximately 30 feet. The petitioner is seeking a special permit to increase the Floor Area Ratio (FAR) from .47, where .48 is the maximum allowed, to .62.

The Planning Department notes that the proposed FAR is consistent with most of the other properties on the street. The house is situated on a corner lot of a cul-de-sac with a mix of

single-and two-family houses. The additional mass will be partially screened by a large evergreen tree on the Lexington Street side of the proposed addition; deciduous trees on the adjacent property will provide additional seasonal screening. The proposed addition will be constructed over existing impervious surface and will not affect open space or lot coverage. The Planning Department believes that the proposed addition is not in derogation of the size, scale, and design of other structures in the neighborhood. Alderman Harney said he knows this neighborhood and the proposed addition fits in well.

The petitioners submitted a petition (attached) signed by ten abutters in support of the proposal. There was no other public comment.

In working session, Alderman Harney reiterated his comments at the hearing and moved approval of the petition finding that the proposed increase in FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood; the addition which increases one of the dwellings by 976 square feet is not substantially more detrimental to the neighborhood than the existing nonconforming structure; and, the existing amount of impervious surface on the site will not be increased. The motion to approve carried unanimously, 8-0.

#21-14 CHRISTOPHER HILL& SUSAN FLICOP petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF A NONCONFORMING STRUCTURE to construct a one-story attached two-car garage with a back foyer entry, increasing the square footage by 655 square feet, which will increase the Floor Area Ratio from .34 to .41 where .29 is allowed by right at 163 SUFFOLK ROAD, Ward 7, Chestnut Hill, on land known as SBL 63, 19, 3 and 4, containing an approximate total of 17,976 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. 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 7-0 (Laredo recused)

NOTE: Chairman Laredo recused himself and left the chamber. Vice-chairman Schwartz chaired the public hearing and working session.

The petition was presented by architect Peter Sachs. The petitioners wish to construct a one-story, two-car garage with a foyer entry totaling approximately 655 square feet on the rear of the existing dwelling, a legally nonconforming structure built in 1886. The proposed addition will be built over existing impervious surface. The dwelling is nonconforming because it has a rear setback of 23 feet, where 25 feet is required, and the Floor Area Ratio (FAR) is .34, where .29 is the maximum allowed. The petitioners are seeking relief to increase the FAR from .34 to .41 and reduce the rear setback from 23 feet to 10 feet.

The Chestnut Hill Historic District Commission has reviewed the proposal and approved with conditions a Certificate of Appropriateness. Although the proposed garage will barely be seen from the street, the architecture is in keeping with the surrounding neighborhood.

Emails in support of the petition were submitted by Jeff Hawkins, 47 Lawrence Road, the abutter to the rear of the site, and from Brian Lash, 46 Woodman Road, the other immediate abutter, both are attached.

In working session, Alderman Crossley moved approval finding that the proposed 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 which will decrease the rear setback from 23 feet to 10 feet, where 25 feet is the minimum allowed, is not substantially more detrimental to the neighborhood than the existing nonconforming structure; the addition will be constructed over existing impervious surface and will be partially screened by existing fencing and vegetation; the site is an appropriate location and the current amount of open space will be maintained. The motion to approve carried 7-0, with Alderman Laredo recused.

#22-14 NEWTON VILLAGE CAFÉ/PETER & KATHY MIROGIANNIS, TRUSTEES of MIROGIANNIS FAMILY REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to expand an existing 21-seat restaurant to 53 seats and to formalize 6 outdoor seats for a total of 60 seats; to waive the 14 parking stalls required by the additional seating; and, to legalize the existing signage including a freestanding sign at 719 WASHINGTON STREET, Ward 2, Newtonville, on land known as SBL 23 19, 4A, containing approximately 4,189 sq. ft. in a district zoned BUSINESS 2. Ref: 30-24, 30-23, 30-11(d)(9), 30-19(d)(13) and (m) and 30-20(f)(2) and (l) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The petition was presented by attorney Stephen Buchbinder. A small, family-run business, the petition seeks a special permit to increase the number of seats in an existing restaurant from 21 to 54 and formalized six seasonal outdoor seats; the additional seating requires a parking waiver of 14 spaces. The building has no parking on the site. In addition, the petitioner is seeking to make changes to the existing signage, changes which have been reviewed and approved by the Urban Design Commission (UDC). The property was originally a two-family dwelling, but has been used commercially since at least 1940 and as a restaurant and a laundromat since the 1970s. The restaurant and laundromat is a two-unit commercial condominium, each in separate ownership, and it appears there is some conflict between the two owners. (Please see the attached letter from Mr. Buchbinder, dated February 11, 2014.)

The petitioner submitted a parking study undertaken on weekdays and weekends by *Planning Horizons*. Based on the parking study and its observations, the Planning Department believes there are sufficient parking spaces in the area to meet the potential increase in demand. Currently, the restaurant is open for breakfast and lunch, the peak hours are 7:00-8:00 AM and Noon-1:00 PM. The petitioner plans to add a dinner menu from 6:30-8:00 PM (and should the special permit be granted add “dinner” to both the freestanding and the front wall-mounted sign). Washington Street has 61 parking meters: 11 one-hour meters, 16 2-hour meters, and 34 12-hour meters. The site is located near a pedestrian crosswalk at the intersection of Harvard and Washington Streets. One planned improvement for the area is a curb extension to provide better pedestrian visibility and access. The Planning Department suggested that should the special permit be granted, the petitioner make a contribution for the curb extension.

Currently, the petitioner has three signs: a legally nonconforming freestanding sign in front of the building, which is considered the primary sign, a wall-mounted sign on the front of the building, which is considered a secondary sign, and another wall sign mounted on the east side of the building. The laundromat also has a wall-mounted sign on the front of the building. The Planning Department believes the signage is excessive in numbers and size, and recommends that the petitioner remove either the freestanding sign and/or the sign on the side of the building and/or reduce the size of the existing signs. Mr. Buchbinder said the petitioner is willing to withdraw the request for the wall-mounted sign on the east side of the building, but would like to retain the front wall-mounted sign; the façade underneath it may be in poor shape and costly to redo.

Public Comment:

Attorney Stephen Woods, 14 Hidden Acres Drive, Duxbury, representing the owner of Midnite Laundromat, said his client is concerned with the freestanding sign. Originally, the sign contained Midnite Laundromat, but after an unfruitful meeting with his client, the petitioner had the sign redesigned and it now contains only *Village Café*. However, as to whether the petitioner has a majority interest, Mr. Woods said he has not yet had a chance to review the condominium documents.

Robert Kavanagh, 69 Court Street, a 30-odd year resident, said that the previous restaurant, Midnite Foods, was the first restaurant he allowed his children to walk to; however, he is concerned about expansion in the neighborhood as a whole: The Paint Bar, Cook, the proposed 36-unit condominium project, the loss of Clark & White's storage lot, and the proposed medical marijuana dispensary. He disputed the Planning Department's assumption that there is sufficient parking. It appears every petition is treated as if in a vacuum. The city needs to look at the whole picture.

Jim Flynn, who lives in Newtonville, supports the expansion. It's a great family restaurant and the expansion should have no serious impact on parking.

Janet Sterman, 120 Church Street, Newton Corner, said it is a great family restaurant and as a frequent customer she never has a problem parking.

A resident of 1129 Walnut Street frequents the restaurant for brunch on weekends and never has a problem with finding parking.

Michael Goodwin, 21 Adams Street, eats there a number of times a week and parking is never an issue.

Alderman Albright noted that she visited the restaurant and it appears there are 30 to 40 seats, not 21, although the interior is spacious and can easily accommodate more seats. Essentially, the petitioner is seeking approximately 14 more seats.

In working session, the committee expressed concern about the current number of seats which must exceed the number in the petitioner's Common Victualler License. Given an earlier

petition this evening that sought a special permit after the fact, the committee was not pleased that additional seats had been added without permission. It felt strongly that should this special permit be granted there be no future violations.

The committee asked for additional information about the signs. Mr. Pantalone explained that each business may have one principal wall sign not exceeding three (3) square feet for each foot of sign frontage of the wall to which it is affixed or one hundred (100) square feet, whichever is less. The existing front wall-mounted sign that was permitted in 1949 is 96-square feet; however, the freestanding sign, which dates to the 1960s, is 15 square feet and as a freestanding sign is considered the primary sign and the wall-mounted sign, which is 96 square feet, is considered a secondary sign. As to the dispute over the contents of the freestanding sign, the committee concluded this is a matter between the two owners, not the city.

The committee acknowledged that it might appear the city is operating in a vacuum, but each special permit is considered unique. It is not clear how the Austin Street development, The Paint Bar or the restaurant Cook will or do affect this area. The proposed medical marijuana use at 697 Washington Street will require a special permit as well. Alderman Lennon, who said he patronizes the restaurant and has no problem finding a parking space, pointed out that everybody wants the village centers to be vibrant and successful and that parking waivers provide an opportunity for businesses to flourish. One solution for this area may be to change the mix of parking meters. Alderman Norton noted that she too patronizes the café and has never had a problem finding a parking space.

The committee wished to clarify that the six outdoor seats are seasonal, which they are. The proposed planters will remain outdoors year round. The petitioner has agreed to contribute \$2,500 towards the curb extension at Harvard and Washington Streets, although at a cost of approximately \$15,000 it may be a while before it is installed.

Alderman Albright moved approval with the findings and conditions enumerated in draft special permit #22-14, dated February 18, 2014. The motion to approve carried unanimously, 8-0.

Note: Planning Director Candace Havens gave a brief presentation of a draft Parking Management Plan, dated February 2014, prepared by the Planning Department in conjunction the Transportation Advisory Committee and Transportation Advisory Group. Ms. Havens touched upon changing the parking requirements, which in many cases are unrealistic, instituting a Payment in Lieu of Parking ordinance, and expanding neighborhood permit parking areas. The committee thanked Ms. Havens. The meeting was adjourned at approximately 10:00 PM.

Respectfully submitted,

Marc C. Laredo, Chairman

Gregory R. Schwartz, Vice-chairman

WE THE UNDERSIGNED NEIGHBORS OF DONNY AND RACQUEL SANTANGELO HAVE REVIEWED THE 2 ATTACHED PAGES SHOWING THE SANTANGELO'S PROPOSED ADDITION TO THEIR HOUSE AND BY SIGNING BELOW WE ARE INDICATING OUR SUPPORT OF THEIR PROJECT:

NAME/SIGNATURE

ADDRESS

NAME/SIGNATURE	ADDRESS
<i>[Faint signature]</i>	<i>[Faint address]</i>
Leea Kristal ? <i>[initials]</i>	20 Milton Ave, W. Newton
Julie Leaky	25 Milton Ave, Newton
Harmond Lejessc SAM	10 Whitlow RD, Newton
<i>[Faint signature]</i>	21 LEXINGTON ST.
Terrence White	12/14 Percinington St.
Jana Halpern	5 MILTON AVE
<i>[Faint signature]</i>	<i>[Faint address]</i>
<i>[Faint signature]</i>	24 LEXINGTON AVE, NEWTON, MA
<i>[Faint signature]</i>	11 Milton Ave West Newton, MA

Dear Land Use Committee Members:

My name is Brian Lash, of 46 Woodman Road, and I am writing to you in support of the application by Chris Hill and Sue Flicop to construct an attached garage for their home at 163 Suffolk Road. I am an immediate abutter, and have seen and reviewed the plans for this garage. I urge you to grant the Special Permit. I am unable to attend but want to support their efforts in any way I can.

Thank you for your attention to this matter.

Sincerely,

Brian Lash
46 Woodman Road

Brian Lash, CEO
Target Logistics
500 Lincoln Street, Boston, MA 02134
Office: 617.206.2929 Fax: 617.254.7277
TargetLogistics.net
<<http://www.targetlogistics.net/>>
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Please note: new address and phone number

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Dear Land Use Committee Members:

I am writing to urge you to support granting a Special Permit for the construction of an attached garage by Chris Hill and Sue Flicop at their home at 163 Suffolk Road. My home, at 47 Lawrence Road, immediately abuts the property line at the rear of the house at 163 Suffolk. I have seen and reviewed the plans for this garage, and I urge you to approve this project and grant the Special Permit. Thank you very much.

Sincerely,

Jeff Hawkins
47 Lawrence Road

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February 11, 2014

BY EMAIL

Alderman Marc C. Laredo, Chairman
Land Use Committee
Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, Massachusetts 02459-1449

Re: Petition #22-14/Newton Village Café, Inc./719 Washington Street

Dear Chairman Laredo,

I am writing to share some new information related to the above petition. There are two commercial condominium units at the site, one owned by the Kathy and Peter Mirogiannis Trust, which is occupied by the petitioner, and the other which is owned by Anna Organesov and occupied by the Midnite Laundromat. This past Friday I received a telephone call from Attorney Stephen E. Woods, who represents Ms. Organesov, advising that his client is considering opposing the petition as it relates to the freestanding sign at the front of the building.

Over two years ago, when Anthony Mirogiannis took over the operation of The Village Cafe, he approached Ms. Organesov about replacing the insert on the freestanding sign and placing both "Midnite Laundromat" and "Village Café" on the sign, which previously had advertised only the laundromat. He had such an insert designed and offered to pay the entire cost of the same. Ms. Organesov declined this offer. This past April, when the condominium association had its annual meeting, Mr. Mirogiannis again suggested replacing the insert, this time proposing that the two businesses share the cost. Ms. Organesov agreed to do so at that point. Mr. Mirogiannis waited several months, but Ms. Organesov failed to pay her one-half of the cost for the same.

Over the summer of 2013, Mr. Mirogiannis replaced the insert with signage for the restaurant only. My client advises me that Ms. Organesov has not spoken to him about the matter, and in fact the first such communication was the telephone call which I received from Attorney Woods last Friday. Mr. Mirogiannis' parents, Kathy and Peter, hold the majority interest in the condominium (72%), and as such exercise control over the freestanding sign as the condominium documents provide for action by a majority of 51%.

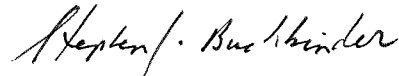
SCHLESINGER AND BUCHBINDER, LLP

Alderman Marc C. Laredo
February 11, 2014

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I wanted to advise you and the members of the Land Use Committee of this development and I will be prepared to address the same at the public hearing this evening if necessary.

Sincerely,



Stephen J. Buchbinder

SJB/mer

cc: Alderman Gregory R. Schwartz
Alderman Scott F. Lennon
Alderman Susan S. Albright
Alderman James R. Cote
Alderman John W. Harney
Alderman Deborah Crossley
Alderman Richard A. Lipof
Ms. Linda Finucane, Chief Committee Clerk
Ouida C. M. Young, Esquire, Associate City Solicitor
Mr. Stephen Pantalone, Senior Planner
Stephen E. Woods, Esquire
Mr. Anthony Mirogiannis