

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, APRIL 8, 2014

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

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

Public Hearing opened on March 11, continued to this evening.

#44-14 CAFÉ SANTIAGO, LLC/DAVID T. ZUSSMAN, TRUSTEE petition for a SPECIAL PERMIT /SITE PLAN APPROVAL to locate a restaurant of more than 50 seats, to waive the 14 parking stalls associated with the proposed restaurant, and to allow cooking classes on-site at 105 UNION STREET, Ward 6, NEWTON CENTRE, on land known as SBL 61, 36, 9, containing approximately 31,455 sq. ft. of land in a district zoned BUSINESS 1. Ref: 30-24, 30-23, ~~30-11(d)(9)~~, (13), 30-19(c)(3) (d)(13), and (m), 30-5(b)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: Attorney Stephen Buchbinder and architect Donald Lang represented the petitioners Fernanda and Jacob White. The petitioners wish to open a 51-seat restaurant in a space formerly occupied by a retail clothing shop. They would also like to offer cooking classes on days when the restaurant is closed. The building has no on-site parking. They are seeking relief to allow a restaurant with greater than 50 seats, to allow a for-profit educational use, and to waive the 14 parking stalls required for the proposed uses. The proposed restaurant will employ approximately nine employees on the largest shift. There are six grandfathered parking stalls from the previous retail use. The proposed restaurant requires 20 parking stalls. A parking study by Howard/Stein-Hudson Associates commissioned by the city in 2013 summarizes that on-street parking stalls are “generally under capacity” except for Union and Beacon Streets during their respective peak hours, when the municipal lots are “well utilized.” The study noted that more long-term parking was needed. Based on that study the Planning Department, although expressing some concern that additional demand may contribute to parking on surrounding streets, believes that on average there is sufficient parking in the area to accommodate the additional parking demand since parking was generally found below capacity. The Planning Department suggests that given the site’s location across from the Newton Centre Green Line stop, the petitioner incentivize employees to use alternate forms of transportation. Also, the location is likely to attract patrons from the neighborhood who will walk. It also suggested, and the petitioners have agreed, that a voluntary contribution to the Newton Centre Parking and Pedestrian Improvement Fund is appropriate to help mitigate impacts on the neighborhood. To date, funds contributed from several other special permits have added pedestrian countdown signals and helped fund sidewalk bump outs at key intersections. Future planned improvements include repairing damaged sidewalks and upgrading streetlights.

Several committee members pointed out that there is not an unending well of parking in Newton Center and suggested employees be strongly encouraged through incentives to take the T or park at Riverside. Mr. Buchbinder said it is likely a number of employees will take the T. Originally the petitioners thought to have 45 seats, but decided to seek a special permit for 51 seats as a cushion. A tough business, fewer the seats make it tougher to succeed.

Public Comment:

Sharon Cawley, 19A Mountfort Road, worked with the petitioners at 51 Lincoln and said they were a pleasure to work with and are amazingly talented chefs.

A resident of Park Place patronized 51 Lincoln for the petitioners' cuisine and said the restaurant will be a great addition to Newton Centre. .

Kevin Bedell and Lauran Levine, 93 Bowdoin Street, also patronized 51 Lincoln because of the petitioners' food and agreed they were amazingly talented and a welcome addition to Newton Centre.

Eric Finnamore, 19 Webster Place, also a patron of 51 Lincoln, believes the petitioners will make a huge contribution to Newton Centre.

In working session, the committee discussed mitigation funds. There should be a rationale. Perhaps a plan or formula should be developed. On the other hand, is it really appropriate to have a clear plan for voluntary contributions or leave the amount to the discretion of the Planning Department? In this instance the petitioners have agreed to contribute \$2,500.

Section 30-11(d)(9) states that the Board of Aldermen may grant a special permit for restaurants having over 50 seats which are not open for business between the hours of 11:30 p.m. and 6:00 a.m., except that such restriction shall not apply to a hotel or motel restaurant. The petitioners had requested relief to stay open until midnight. A brief discussion ensued about whether it is the province of the Board of Aldermen or the Licensing Board to waive the hours. Mr. Buchbinder informed the committee that the petitioners no longer seek that relief.

The committee reviewed a draft special permit which contained a condition limiting the number of students per cooking class to ten. Several members suggested that no cap on the number of students be imposed, since the restaurant will be closed when classes are offered and the size of the cooking area limits the number of students that can be accommodated. However, Alderman Schwartz was opposed to removing a limit on the number of students because of the parking. A compromise was reached to limit the number of students to up to 15 per class.

Alderman Schwartz moved approval of the petition finding that a restaurant and cooking classes in this location is appropriate because it is consistent with the *2007 Comprehensive Plan*, which supports unique and viable businesses that contribute to the village centers and the *2008 Newton Centre Task Force Final Report* which encourage a diverse mix of retail and restaurant uses in Newton Centre; the proposed uses will not adversely affect the neighborhood; the waiver of 14 parking stalls is appropriate because literal compliance is impracticable as there is no on-site

parking; the site is convenient to public transportation and the use will not result in a nuisance or serious hazard to vehicles or pedestrians. The motion to approve carried 6-0 with the findings and conditions in draft special permit #44-14, dated April 22, 2014.

#56-14 BOSTON FOODMART, LLC d/b/a/BAZA/TOWER BUSINESS CENTER, LLC
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to erect a freestanding sign and to maintain an existing wall sign as a secondary sign in excess of 50 square feet at 30 TOWER ROAD, Ward 5, on land known as SBL 51, 28, 8A, containing approximately 37,838 sq. ft. of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-20(f)(2), 30-20(l) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The petitioner was represented by attorneys Stephen Buchbinder and Catherine Adams. Baza is a specialty Russian supermarket located on Tower Road, a dead end private way off of Needham Street. The site is abutted by other commercial uses including a television tower. The building is set back approximately 200 feet from Tower Road with a 42-space parking lot in the front. The building is not visible from Needham Street and is situated on a bend in Tower Road, which further limits its visibility. The petitioner is seeking to erect a freestanding sign at the entrance of the site and to retain the existing 77 square-foot wall-mounted sign as a secondary sign. The proposed freestanding sign would be the primary sign. It is 32 square feet, ten feet tall, double-sided, red pylon sign with a square steel post and is internally illuminated. The petitioner provided a plan showing plantings around the base of the proposed sign.

The proposed sign was reviewed by the Urban Design Commission (UDC) which, although it found it acceptable, suggested a monument sign instead; however, the petitioner prefers the pylon sign. The UDC also reviewed the existing wall-mounted sign and found that acceptable as well; however, it suggested that if the wall sign was ever removed or redesigned, that it be brought into compliance with the size requirement for secondary signs. The Planning Department noted that it generally prefers the use of directory signs for businesses located on streets and private ways off of Needham Street. An appropriately designed directory sign on Needham Street could provide better visibility, create consistency in signage, and reduce the number of signs; however, a directory sign would require cooperation from the abutting property owners as well as requiring them to seek a special permit. Mr. Buchbinder reported that they have had discussions with property management and PetCo about enlarging the existing monument sign at the corner of Tower Road and Needham Street.

There was no public comment.

In working session, Alderman Crossley moved approval of the petition finding that the site has low visibility from Needham Street, a major commercial corridor, and it is an appropriate location for a freestanding sign, which with the secondary wall sign is in the public interest in providing way finding; the signs will not adversely affect the neighborhood; the location of the freestanding sign will not create a nuisance or serious hazard to pedestrians or vehicles as the site is on a private way with minimal traffic. The motion to approve carried 6-0 with the findings and conditions in draft special permit #56-14, dated April 22, 2014.

#67-14 AUCTION DIRECT PREOWNED, INC. d/b/a OLD TIME GARAGE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION and CHANGE in a NONCONFORMING USE for an automobile service and ancillary automobile sales at 1545 WASHINGTON STREET, Ward 4, West Newton, on land known as SBL 33, 2, 7, containing approximately 10,000 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)b, 30-21(b) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The petitioner was represented by attorney Laurance Lee. The subject property is located at the intersection of Washington and Auburn Streets. A legal nonconforming use, a gas station and automotive service, has existed on this site since the 1920s or earlier. The legal nonconforming use was extended by a special permit and variance in 1960 and a special permit for signage in 1980. The petitioner has abandoned the gas station use by removing the fuel pumps and underground tanks and is now seeking a special permit to allow the extension and change of the legal nonconforming use to allow auto sales. The previous use has a grandfathered parking requirement of six parking stalls; the proposed use does not change the parking requirements. However, the Planning Department noted that the proposed uses will have adverse impacts on the intersection of Washington and Auburn Streets because of the four curb cuts on the site: two on Washington Street and two on Auburn Street. Subsequent to the Planning Department memorandum, the petitioner agreed to close the curb cuts closest to the intersection, which will leave one curb cut on each street. There are no other changes proposed to the site or buildings.

The petitioner has another automotive business at the end of Washington Street in Lower Falls, for which he has a Class 2 license to buy and sell automobiles. If this special permit is approved, he will have to obtain a license for this site. The petitioner has agreed to limit the number of cars stored on site to 14, which limit would be reflected in both the special permit and license.

The proposed hours of operation will be typical of a commercial business: Monday through Saturday, closing at 6:00 PM. The petitioner has modified the landscape areas shown on the site plan approved in special permit #431-80. The amount of open space has actually increased. The petitioner has installed a mixture of arborvitae, azaleas, and grass, as well as a wood stockade fence. The petitioner has offered to plant a street tree along Washington Street and replant a sidewalk planter on Auburn Street.

The petitioner had submitted a one-page petition with signatures, including that of the immediate abutter, in support of the petition.

In working session, the petitioner said snow will be stored on the southwestern vehicle storage areas adjacent to Washington Street. The petitioner agreed that each space in the vehicle storage area will include a wheel stop and vehicles in the storage areas will be limited to those being repaired or on display. All repair and service of vehicles will be conducted inside.

Alderman Schwartz moved approval of the petition finding that the extension and change of a legal nonconforming automotive repair and gasoline station use to an automotive repair and sales is not substantially more detrimental than the existing nonconforming use to the neighborhood as

the tanks and pumps for the storage and sale of gasoline have been removed and the use of the subject property as a gasoline station has terminated; the property is an appropriate location for the proposed nonconforming automotive repair and sales use; the extension and change of the legal nonconforming automotive repair/gasoline station use to a less intensive automotive repair and sales use will not adversely affect the neighborhood; there will be no nuisance or serious hazard to vehicles or pedestrians as the impact of the proposed uses on the nearby intersection and neighborhood will be mitigated by the closing of two curb cuts and the addition of wheel stops on the site. The motion to approve carried unanimously with the findings and conditions contained in draft special permit #67-14, dated April 22, 2014.

#68-14 CHRISTOPHER LOVETT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition to the basement, first and second floors and attic of an existing single-family dwelling, which will increase the Floor Area Ratio from .37 to .45, where .38 is allowed, at 63 KENWOOD AVENUE, Ward 6, Newton Centre, on land known as SBL 64, 20, 25, containing approximately 9,991 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: Architect Richard Levey and Mr. Lovett presented the petition. This proposal is part of a much larger renovation to the existing c. 1890 single-family dwelling. The petitioner wishes to construct a 2.5 story addition to the south side of the house, which will add approximately 743 square feet of total living space to the basement, first floor, second floor, and attic. The renovation also includes a by-right one-story screened porch to the rear of the house, which does not count towards the Floor Area Ratio (FAR), and re-roofing and cladding the existing concrete block detached garage to mimic the 1890s architecture of the house. The proposed addition will extend the house approximately 9 feet toward the side property and will increase the total footprint of the existing house by approximately 175 square feet. The proposed one-story screened porch will extend the house toward the rear property line to the west by approximately 13 feet. The Planning Department noted that the site will maintain very generous setbacks —38 feet and 20 feet to the side and rear property lines where the additions are proposed — and will be screened along the side and rear property lines by vegetation and fencing.

A resident of Hazelton Road spoke, albeit reluctantly, in opposition. He is tired of monster houses being built all around the city. There are too many. He is opposed to any change in the rules to allow building onto an already large house.

The Board received letters from residents at 219 Homer Street and 57 Kenwood Avenue supporting the petition.

In working session, the committee acknowledged the speaker's concerns. However, it noted that FAR is intended to eliminate the appearance of massing and bulk and in this instance the proposed increase in the footprint is actually quite modest. The renovation of an existing historic home is sensitively done. Even with the proposed additions, the house exceeds the dimensional requirements. In addition, meeting the Stretch Code requirements will result in a more energy efficient home. Alderman Schwartz moved approval of the petition finding that the proposed FAR of .45 where .38 is the maximum allowed by right and .37 is the existing FAR is consistent

with and not in derogation of the size, scale, and design of other structures in the neighborhood; the site is appropriate for the additions as the amount of open space will meet or exceed the minimum required, as will the dimensionals; the additions will not adversely affect the neighborhood; 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 #68-14, dated April 22, 2014.

The meeting was adjourned at approximately 10:00 PM.

Respectfully submitted,

Marc C. Laredo, Chairman