

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 3, 2014

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

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

*Public hearing opened on April 8, continued to May 6, and continued to June 3:*

#69-14      JOSHUA GANN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a retaining wall of more than 4' in the rear setback, and if necessary the side setback(s) to create a usable backyard at 79 SHORNECLIFFE ROAD, Ward 7, Newton, on land known as SBL 72, 31, 24, containing approximately 20,600 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 3-0-2 (Crossley, Harney abstaining)

NOTE: Present at the public hearing on April 8 were Aldermen Laredo (Chairman), Cote, Albright, Crossley, Schwartz, and Lipof.

The petitioner is in the process of extensive by-right renovations, including additions, to an existing 2½ story, c. 1915 single-family home. The petitioner has three young children and wishes to create a back yard in which they may play safely. Prior to beginning construction there was a steep downhill vegetated slope from the rear of the existing house through the abutting properties, with a grade change of more than 15 feet from the rear of the house to the rear property line. The petitioner removed most of the slope, including a crumbling set of stairs and, although not planned, a number of trees whose root systems were compromised. There is now a significant drop in the grade between the rear of the house and the newly-created back yard area. The petitioner is proposing to construct at its highest point a 6-foot tall retaining wall, approximately 5 feet from the rear lot line, for which relief is needed to construct a retaining wall greater than 4 feet in the rear setback. The petitioner has submitted a proposed planting plan and list for along the edge of the rear yard near the top of the retaining wall to screen the house and yard and portions of the retaining wall along the rear property line. There is existing fencing on the two abutting properties to the rear. The Planning Department believes the proposed retaining wall will be an aesthetically pleasing buffer to the rear yard and replace the vegetation that was removed in the re-grading of the site. In addition to the proposed landscaping, the Planning Department suggests that low maintenance plantings/groundcover between the retaining wall and abutters' existing fencing would improve soil stability and mitigate runoff.

As of April 8, the petitioner had not provided a drainage plan to the Associate City Engineer.

*Public Comment:*

Robert Hudson has lived at 96 Nonantum Street for 37 years. The petitioner removed approximately two dozen trees to level the site. A great deal of fill was trucked onto the site. He is asking that the wall, if approved, be no more than 5 feet in height. He is concerned that the proposed plantings will not have enough light and space to grow. He would like the wall pushed back an additional 5 feet, for a total of 10 feet, from his property line, 12 feet from his fence. He submitted photographs of the site. He questioned whether the wall should have a safety railing.

Given a recent experience, the committee asked if construction of the wall had begun. The petitioner said no, it had not.

The committee agreed the public hearing should be continued pending receipt and review of a drainage plan by the Associate City Engineer. The committee also asked for a cross-section of the site to provide a better sense of scale; a mockup of the view from 96 and 100 Nonantum Street, and, additional landscaping.

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The petitioner submitted a drainage plan and calculations on May 15. This evening, Mr. Sexton reported the Associate City Engineer's comments. The plan shows three infiltration systems at different locations throughout the site, but not in the rear yard. The roof drain on the addition to the rear of the house will release to the lawn. All other roof drains, which will serve the house, will discharge to areas with infiltration systems. The terrain at the rear of the house will help to slow down the water and the perforated pipe and crushed stone along the proposed wall as shown on the drainage plan will prevent discharge on the neighboring properties. Previously, there was no accommodation for on-site drainage. The Associate City Engineer indicated to Mr. Sexton that he has enough information and can work with the petitioner's engineer prior to the issuance of a building permit. Also, on an unrelated note but in response to an inquiry, Mr. Sexton said that there is no code requirement that a railing or fence be installed on the top of the retaining wall.

The petitioner's landscape designer submitted a revised landscape plan in response to concerns of the abutter at 100 Nonantum Street as well as the committee. The revised plan shows a number of the proposed evergreen trees on the western side of the rear yard replaced by three London Plan trees, which are deciduous and have a broad canopy. The Planning Department is concerned that the larger deciduous trees, although providing the type of canopy requested by the abutter, may negatively impact the geogrid of the proposed retaining wall.

The proposed landscape plan does not provide landscaping between the retaining wall and the abutters' fences. The landscape designer indicated that the shading from the proposed wall and the existing fences is not conducive for plantings; the existing fences will screen portions of the wall. The Planning Department did not disagree that the eastern side of the proposed retaining wall will be mostly screened at the ground level from the rear of the property at 96 Nonantum Street by the existing wood fence; however, in terms of the western side of the rear property line, the abutter's fence is shorter and most of the proposed retaining wall will be visible from the rear yard of 100 Nonantum Street. The Planning Department suggests that the petitioner plant small shrubs that can grow in the shade at the base of the wall.

The petitioner's architect provided a cross-section, which assumed no vegetation on the subject site, showing the view of the proposed retaining wall from the rear yards of 96 and 100 Nonantum Street. The petitioner constructed an approximately 10-foot wide mockup of the proposed retaining wall to physically illustrate its approximate height. It appears that approximately two feet of the retaining wall will be visible from the rear yard of 96 Nonantum Street and that approximately five feet will be visible from the rear yard of 100 Nonantum Street. The retaining wall will be mostly visible from the second stories of 96 and 100 Nonantum Street.

*Public Comment:*

Robert Hudson, 96 Nonantum Street and Patricia Rowe of 100 Nonantum Street were present this evening. Mr. Hudson reiterated his concern that he would like the wall to be no more than five feet in height and pushed back for a total of ten feet from the property line, which is twelve feet from his fence. This would lessen the invasive element of the entire project and provide enough room and light for plantings to grow. He suggested that the plantings along the edge of the proposed retaining wall extend above the height of the fence/railing the petitioner will have to place on top of the wall. He doesn't want to wait three years for the plantings to grow and fill in. He was also concerned about the finish of the proposed wall. Will it be a "raw" surface? He also asked that there be no exterior lighting that spills over onto his property.

Ms. Rowe showed before and after photographs taken from her yard. She is very concerned with the screening. The prior screening was "marvelous." She has discussed with the petitioner and the city specific plantings to help mitigate the removal of the mature vegetation that screened both her and the petitioner's properties. She would like a deciduous canopy to replicate at least some of the previous screening.

The committee expressed concern that the proposed landscaping was more about screening the house than the proposed retaining wall. There were suggestions that the petitioner consider a gentle step down, perhaps 18 inches to 2 feet, still sloped, but more gracious, or consider curving the wall out, away from the property line: other alternatives that could still get the petitioner a usable back yard. The Chairman reminded the committee that it was reviewing the plan before it, the one chosen by the petitioner. The petitioner told the committee that a number of options were considered before deciding this was the one he and his family felt would give them the result they were seeking. The Chairman pointed out that the only relief required is for a retaining wall greater than four feet in the setback. A wall of four feet could be built by-right.

Landscape Designer Faith Michaels said that relatively large caliper trees, including London Plane trees, and a grove of birches, as well as evergreens, are proposed, so that screening and the tree canopy should be not inconsiderable within three years. Vines can also be planted to screen the wall. The trees that were removed were in very bad shape and probably would have fallen onto the abutting properties.

The proposed wall is interlocking concrete blocks. The petitioner plans to finish the wall, but has not yet determined exactly what the facing/color will be; however, the petitioner agreed that

the finish will have the appearance of stone. The petitioner also agreed to submit a final landscape plan to the Planning Department for its review and approval.

Alderman Cote moved approval of the petition with the conditions contained in the draft special permit dated June 16 and the following findings: the site is an appropriate location for a retaining wall greater than four feet within the rear setback, as there is a considerable slope in the rear of the site, and the construction of the retaining wall will create useable open space; the retaining wall will not adversely affect the neighborhood, as it will be partially screened by proposed landscaping and existing fencing; the retaining wall will leave the land in a usable condition, graded in a manner to prevent the runoff of surface water to or from abutting properties, improving drainage, and will be substantially landscaped. The motion to approve carried 3-0-2, with Aldermen Crossley and Harney abstaining.

*Public hearing opened on January 14, continued to February 11, continued to March 11, 201; continued to April 8; continued to May 1; continued to June 10:*

#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 JUNE 10, 2014

NOTE: This item will be reported when it is voted out of committee.

The meeting was adjourned at approximately 9:00 PM.

Respectfully submitted,

Marc C. Laredo, Chairman