

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 10, 2014

Present: Ald. Laredo (Chairman), Ald. Lipof, Cote, Harney, Crossley, and Schwartz; absent: Ald. Albright and Lennon; also present: Ald. Yates  
Staff: Daniel Sexton (Chief Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

*Public Hearings were held on the following petitions:*

#152-14      SEYED A. ZEKAVAT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to enclose an existing parking area and walkway with a roof and erect an interior staircase at 1186 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 40, 23, containing approximately 5,412 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2012.

**ACTION:**      HEARING CLOSED; APPROVED 5-0 (Schwartz not voting)

**NOTE:** The existing single-family house was constructed in 1910. Many years ago, a prior owner received a building permit to excavate the slope along Chestnut Street and construct a system of stepped retaining walls greater than four feet in height in the setbacks in order to create two off-street parking spaces. Subsequently, a building permit was issued for construction of a deck which extends out from the house above the rear portion of parking area. The retaining walls as constructed are located 6.1 feet from the side property line, where a 10-foot setback is required, and are approximately 16 feet in height at the highest point. A deteriorated outdoor staircase on the east side of the property provides the only access from the street and parking area to the house.

For safety, particularly in winter months, the petitioner wishes to construct a sloped roof over the parking area that will extend out from the existing deck and enclose the front of the parking area with a garage door. A new interior staircase from the proposed enclosed garage will lead up to the deck and walkway to the house. The petitioner needs a special permit to extend the existing nonconforming structure by increasing the horizontal and vertical mass of the structure in the front setback and the vertical mass of the structure in the side setback. Although the proposed enclosure of the parking area will increase the lot coverage from 19.5% to 32.9%, where the maximum of 30% is allowed, the lot coverage requirement does not apply to private garages accessory to a single-family residence in existence on December 27, 1922. The Planning Department has no particular concerns with the petition.

There was no public comment, and the hearing was closed.

The Associate City Engineer noted that the existing retaining wall system encroaches within the Chestnut Street right-of-way. The petitioner needs to resolve the encroachment issue either by removing part of the wall or obtaining a license from the city to formalize the existing condition. The Associate City Engineer also suggested the petitioner install a mirror on a utility pole across the street to further ensure safe egress from the garage/driveway. The committee noted that there is significant vegetation, including large arborvitae, on both sides of the driveway. It suggested that the petitioner either selectively trim the vegetation or remove the larger shrubs and replace them with low-profile plantings to improve the sight line. The petitioner does not want to remove part of the wall. The petitioner agreed that conditions relative to the vegetation, obtaining a license, and installing a mirror (with approval of the proper entity) would be acceptable. The petitioner does not want to remove part of the wall.

Alderman Crossley moved approval with the conditions contained in draft special permit #152-14, dated June 16 and the following findings: enclosure of the existing nonconforming structure to create a garage, which will increase the horizontal and vertical mass of the structure in the front setback and the vertical mass of the structure in the side setback, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood; the significant grade of the lot and its unique shape make the site an appropriate location for the extension of the existing nonconforming structure; the structure will not be a nuisance or serious hazard to vehicles or pedestrians as the removal of the sight obscuring vegetation will improve the line of sight from the garage. The motion to approve carried 5-0, with Alderman Schwartz not voting.

#164-14      PETER SACHS for LORI BERKOWITZ & SCOTT R. PERMAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mudroom addition containing approximately 170 square feet to the rear of an existing attached garage, which will increase the existing nonconforming Floor Area Ratio from .45 to .46, exceeding the .35 maximum allowed by right, at 37 FERNCROFT ROAD, Ward 5, Waban, on land known as SBL 53, 7, 15, containing approximately 12,659 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15(u)(2), 30-15 Table A, and 30-21(b) of the City of Newton Rev Zoning Ord, 2012.

ACTION:      HEARING CLOSED; APPROVED 5-0 (Schwartz not voting)

NOTE: Architect Peter Sachs presented the petition. The petitioners wish to construct an approximately 170 square-foot addition to the rear of their c.1937 home. Because the walkout basement is four feet above grade it is considered the first floor and is included in the Floor Area Ratio (FAR) calculation. Technically, the house is three stories. The addition consists of approximately a 96 square-foot mudroom and a 74 square-foot entry hall. Access to the mudroom is from the interior of the existing attached garage and access to the entry hall is from the mudroom and the existing rear deck. The Planning Department has no concerns with the proposed modest addition, which will be screened by existing fencing and vegetation.

The Board received 12 letters from neighbors supporting the petition. The hearing was closed and in working session Alderman Crossley moved approval of the petition finding that the increase in FAR from .45 to .46, where .35 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood;

extension of the structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood; the site is an appropriate location for the addition, as the percentage of open space with the proposed addition will still exceed the minimum required. The motion to approve carried 5-0, with Alderman Schwartz not voting.

The meeting was adjourned at approximately 9:35 PM.

Respectfully submitted,

Marc C. Laredo, Chairman