

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, DECEMBER 2, 2014

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

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

Request for a Consistency Determination Special Permit #227-14: The petitioner, Gail Sillman, was granted a special permit on September 2, 2014 to construct an addition containing approximately 400 square feet onto the third floor of a single-family dwelling located on a corner lot at 64 Perkins Street in West Newton. Ms. Sillman is seeking a consistency ruling to re-orient several windows and to add a small balcony onto the new master bedroom. Ms. Sillman provided plans showing the proposed changes to the front elevation window/roof, the addition of the balcony on the side elevation, and two windows on the rear. Ms. Sillman reviewed the proposed changes with neighbors Laurel Farnsworth, 63 and 73 Perkins Street, and Mark Quigley, 22 and 23 Perkins Street, who had no objections. On October 28, the Historical Commission reviewed and approved the revisions. The commission stated in its minutes that it “liked the new design because it had more personality than the previous design and that the balcony animated the façade on a street that was architecturally already a mixed bag.” The committee agreed and asked Mr. Pantalone to convey its consensus to the Commissioner of Inspectional Services.

Hearings opened September 23; continued on November 6:

#273-14 NICORE CONSTRUCTION, CORP. petition to change the zone of 114 RIVER STREET, known also as Section 33, Block 23, Lot 15, containing approximately 6,837 square feet of land, from BUSINESS 1 to MULTI RESIDENCE 2.

ACTION: APPROVED 5-0-3 (Albright, Laredo, Schwartz abstaining)

NOTE: The petitioner is seeking to rezone this substandard lot from Business 1 to Multi Residence 2 and merge it with the abutting MR2 lot at 5-7 Elm Street in order to construct four attached single-family dwellings. The committee discussed whether or not the undersized lot, which has been vacant for 15 years and whose size limits what commercial use it could support, should remain zoned Business. The committee agreed the vacant lot is an eyesore. Should the change of zone depend on the exercise of the special permit as is the case with most changes of zone that are sought in conjunction with special permits? Several members questioned whether the rezoning might make it subject to a 40B project if it were merged with the abutting lot. In a separate hearing on October 21, the Planning and Development Board voted unanimously to approve the change of zone. Alderman Cote moved approval of changing the zone from Business 1 to Multi Residence 2 with the provision that it be contingent on exercise of the special permit, which motion carried 5-0-3, with Aldermen Albright, Laredo, and Schwartz abstaining.

#273-14(2) NICORE CONSTRUCTION CORP. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct four attached single-family dwellings in two buildings and to locate a driveway within 10 feet of a side lot line at 5-7 ELM STREET and 114 RIVER STREET, Ward 3, West Newton, on land known as SBL 33,23, 9, containing approximately 19,483 sf of land in a district zoned MULTI RESIDENCE 2 and SBL 33, 23, 15, containing approximately 6,837 sf of land in a *proposed* MULTI RESIDENCE 2 district, for a *proposed* total of 26,290 sf of land. Ref: Sec 30-24, 30-23, 30-15(b)(5)a) and b), 30-9(b)(5)a) of the City of Newton Rev Zoning Ord, 2012 and Amend Special Permit #40-07, dated May 21, 2007.

ACTION: APPROVED 6-0-2 (Harney, Laredo abstaining)
AMENDMENT TO SITE PLAN APPROVAL #40-07 APPROVED 6-0-2
(Harney, Laredo abstaining)

NOTE: Please refer also to the Land Use Committee report dated November 6, 2014. The petitioner had submitted a revised site plan, landscape plan, and architectural drawings with floor plans and elevations. Both the width and length of the proposed buildings have been shrunk by approximately two feet, resulting in the north side setback being increased by approximately two feet and the separation between the two buildings increased by approximately two feet. The front and rear setbacks remain the same; however, the petitioner is not seeking relief from setback requirements for attached dwellings as the proposed buildings meet the 25-foot setbacks required. In total, the changes result in a reduction of approximately 800 square feet, from 12,679 to 11,875 and, although FAR is not applicable to attached dwellings, reduce the FAR which includes the garages from .48 to .45.

Modifications to the grading plan decreased the grade around the perimeter of unit #4 from 57 feet to 56 feet and the grade in the lawn area was reduced to 55 feet. These revisions create a steeper slope around the building and reduce the grade change closer to the abutting properties at the rear and to the north. The Planning Department recommends that the petitioner replace the portions of the sidewalk where the curb cuts are being removed and that should the special permit be approved a final lighting plan be submitted for review prior to issuance of a building permit. Drainage would be reviewed at the time of the issuance of a building permit.

There is a considerable amount of existing vegetation on the Elm Street site and the Planning Department believes the revised landscape plan provides an acceptable mix of plant species and provides adequate screening from abutting properties. In response to Alderman Cote's concern about an approximate six inch gap between the proposed retaining wall and the abutter's wall, the petitioner said he will talk with the abutter and offer to close the gap.

Alderman Crossley appreciates the reduction of what in her opinion was wasted space. She finds the project attractive, but still feels a lot of the remaining space is unnecessary. These are very large luxury units. She and the Chairman agree the number of units and the size are relevant to comments made in the public hearing. Why four units? Why not a by-right two family?

However, the FAR comparison to surrounding sites shows this proposal is not out of context with the neighborhood. Alderman Cote is not too concerned with the FAR. Looking at the houses and lots on Elm and River Streets, the proposal is less dense than other portions of the neighborhood.

Alderman Lennon, using the lot area per unit as a guide, pointed out that the lot area per unit requirement in a Multi Residence 2 district is 5,000 square feet, with a minimum lot area of 10,000 square feet required, for single- and two-family dwellings (4,000 square feet with a minimum lot area of 15,000 square feet for attached dwellings). The merged lots will contain slightly over 26,000 square feet. There is enough square footage. The landscaping and the improved streetscape are benefits.

Alderman Hess-Mahan noted that a number of rear lot developments start at Washington Street. It is an eclectic neighborhood undergoing change. The street has a mix of houses, including large Queen Anne-style, capes, and two families, many on large lots, in a transition neighborhood. He is pleased with the development next door at 11-19 Elm Street. The city is not getting “naturally affordable” units anyway. He believes this proposal is well designed and fits in with the neighborhood.

Alderman Harney agreed with Alderman Crossley and Laredo, the size and density, with the five units next door for a total of nine units, doesn't feel right.

Public Comment:

Former Alderman George Mansfield, 320 Lake Avenue, Newton Centre, told the committee that he and his wife had rented an apartment in this house at 5-7 Elm when they first moved to Newton. This neighborhood is convenient to West Newton Square and it is a shame the city is losing this type of startup rental housing. Size and price of the units as well as the loss of open space are concerns.

Lorentz Glaser, 20 Auburndale Avenue, said it is a quality of life issue. Everyone wants the best for their neighborhood and city. He believes this proposal does not meet the criteria for granting a special permit. The River Street lot could support a family-run business. Let a two-family be built on Elm Street and see what happens.

Michelle Lundberg, 19 Elm Street, is the petitioner's daughter and grew up on Elm Street. The River Street lot has been empty since a fire 15 years ago. They are trying to build two additional units, each approximately 2,500 square feet, which is standard sized housing today.

The petitioner, Mr. Bonadio, has lived here since 1958. The River Street lot is a disgusting eyesore filled with a dumpster and junk. He wishes to upgrade the properties.

Mr. Morris confirmed that the minimum lot area requirement in an MR2 district is 10,000 square-feet, 5,000 square-feet of lot area per unit. The lots have 185' of frontage. He reiterated that this petition meets setback, lot coverage, and open space requirements. Given the square

footage, it is possible that two duplexes could be built by right. The spatial relationship of the proposed dwellings is consistent with the rest of the neighborhood. He also reiterated that each unit without the garage is slightly less than 2,500 square feet. Some years ago, the ordinance was amended to eliminate the requirement that attached dwellings be built in a row. Older attached dwelling developments have parking lots. Attached garages are not only an amenity, but contribute to the residential character of the neighborhood. This is not a nine-unit development. The elimination of two curb cuts to access both this site and 11-19 Elm Street is good planning. The petitioner has made a good faith effort by reducing the units 6-8%. The petitioner is a local family, not an outside investor. It is not fair to burden this type of petitioner with the responsibility to create affordable housing. The petitioner will provide a cash payment to the affordable housing fund per the ordinance.

Ms. Young, in response to questions relative to standards for granting a special permit for attached dwellings, explained that there are no specific standards for attached dwellings. The committee must look to the general standards: (1) The specific site is an appropriate location for such use, structure (2) The use as developed and operated will not adversely affect the neighborhood (3) There will be no nuisance or serious hazard to vehicles or pedestrians (4) Access to the site over streets is appropriate for the type(s) and number(s) of vehicles involved. How does policy bear on criteria? Balance the ordinance and the Comprehensive Plan goals and objectives? For instance, there has been no discussion about traffic and pedestrians as the River Street site was a commercial site. If there are city-wide concerns, those are better addressed in the Zoning and Planning Committee. Although there are concerns about size and affordability, one or two by-right units might be larger and more expensive, with no gain towards affordability.

Alderman Albright said that although four units are probably appropriate on this site, would it be possible to reduce the size of one unit to gain some diversity in unit sizes. Mr. Morris said the petitioner had reduced the sizes in response to concerns raised earlier, but could not reduce them further.

Alderman Crossley believes finding that the petition would have an adverse effect on the neighborhood is a thin criterion to base a decision on. It is a very large site that can handle four units. Benefits include the reduction in the number of curb cuts, on-site circulation, and landscaping. It could be an easy target site for a 40B with many more units. She is not comfortable there is standing to deny.

The Chairman said it makes perfect sense to rezone the River Street Property since after 15 years it is not likely to be used for a commercial purpose. He is not concerned about traffic or the size of the units, or the redevelopment of this property, but with the density of four attached units, which he believes is not the type of density the city wants or needs. It is not consistent with the neighborhood.

Alderman Hess-Mahan believes this project would be an improvement to the neighborhood. He noted that Alderman Cote had two monster by-right condos built next to his house. This will be a 26,000 square-foot site; it is better to control the site. As to affordability: affordable to whom?

The reality is that developers need luxury units to subsidize affordable units. This project is similar to the project next door at 11-19 Elm Street. Eliminating two curb cuts is a benefit, as is cleaning up a site that has been abandoned for 15 years. Alderman Lennon agreed with Alderman Hess-Mahan

Alderman Schwartz said the market pressure is pressing for development. Although the city may prefer more diverse housing sizes, we do not always get what we want.

Alderman Cote moved approval of the petition and the amendment to the site plan approved in special permit #40-07 finding that the corner site is appropriate for a four-unit attached dwelling in a dense neighborhood with other attached dwellings; the project will be accessed from the driveway at 11-19 Elm Street, minimizing the amount of impervious surface; as developed and operated the use will not adversely affect the neighborhood as the project meets all required setbacks, open space, and lot coverage, with landscaping; the project will improve an empty commercial lot; there will be no nuisance or serious hazard to vehicles or pedestrians as two curb cuts will be closed and the sidewalk at the corner of River and Elm Streets will be improved; access to the site over streets and the driveway is appropriate for the types and number of vehicles involved; the waiver of the setback from the side property line for the proposed driveway is in the interest of the public as it will allow for greater open space on the site.

The motion to approve #273-14 carried 6-0-2, with Aldermen Harney and Laredo abstaining. The motion to approve the amendment to Site Plan Approval #40-07 carried 6-0-2, with Aldermen Harney and Laredo abstaining.

The Following Auto Dealer Renewal Licenses for 2015 were approved 7-0, with Alderman Schwartz not voting:

Class 1

#410-14 CLAY NISSAN OF NEWTON INC.
431 Washington Street
Newton Corner 02458

Class 2

#413-14 AUCTION DIRECT PREOWNED
1545 Washington Street
West Newton 02465

#417-14 JOHN BORTONE d/b/a ENZO'S AUTO SALES
10 Hawthorn Street
Nonantum 02458
APPROVED 7-0 (Schwartz not voting)

- #418-14 GLOBAL VENTURES GROUP INC.
d/b/a LUX AUTO PLUS
1197-1201 Washington Street
West Newton 02465
- #419-14 MAVERICK MOTORS, INC.
1209 Washington Street,
West Newton 02465
- #422-14 LIFT THROTTLE AUTOMOTIVE, LLC
64 Hillside Avenue
West Newton 02465
- #423-14 MAP DEVELOPMENT & INVESTMENTS
d/b/a CHRISTIAN TAPIA/MASTER USED
CARS of WATERTOWN
175 North Street
Newtonville 02460
- #425-14 NEW ENGLAND MOTOR MART, INC.
1221-1229 Washington Street
West Newton 02465
- #426-14 NEWTON AUTO GROUP, INC.
1235 Washington Street
West Newton 02465
- #427-14 NEWTON CENTRE SHELL, INC.
1365 Centre Street
Newton Centre 02459
- #429-14 NTC-NEWTON TRADE CENTER
103 Adams Street
Nonantum 02458
- #430-14 OLD TIME GARAGE LTD.
1960 Washington Street
Newton Lower Falls 02462
- #432-14 R.J.S. SERVICE, INC.
361 Washington Street
Newton Corner 02458

- #433-14 REGANS INC.
2066 Commonwealth Avenue
Auburndale 02466
- #434-14 ROBERT'S TOWING, INC.
926r Boylston Street
Newton Highlands 02461
- #438-14 JOHN & CATALINA BORTONE
d/b/a VELOCITY MOTORS
14 Hawthorn Street
Nonantum 02458
- #439-14 CITY OF NEWTON
1000 Commonwealth Avenue 02459

Class 3

- #440-14 ECHO BRIDGE SALVAGE CO.
16-24 Maguire Court
Newtonville 02460
- #441-14 SCHIAVONE BROTHERS, INC.
16-24 Maguire Court
Newtonville 02460

Public Hearing opened and continued on October 14, 2014:

- #319-14 LEOPOLDO BUTERA petition for a SPECIAL PERMIT/SITE PLAN
APPROVAL for an existing garage exceeding 700 square feet of ground floor
area at 26 ELM STREET, Ward 3, West Newton, on land known as SBL 33, 24,
10, containing approximately 8,250 sf of land in a district zoned MULTI
RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(m)(c)5) of the City of Newton Rev
Zoning Ord, 2012.
- ACTION: HEARING CONTINUED TO DATE TO BE DETERMINED IN JANUARY
2015

The meeting was adjourned at approximately 9:30 PM.

Respectfully submitted,

Marc C. Laredo, Chairman