CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JANUARY 15, 2013

Present: Ald. Hess-Mahan (Chairman), Ald. Laredo, Albright, Crossley, Schwartz, Harney,

Fischman; absent: Ald. Merrill; also present: Ald. Fuller

City staff: Alexandra Ananth, Katie Holmes, Amanda Stout, Eve Tapper (Planning Department), Robert Waddick (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board)

Public Hearings were held on the following items:

#415-12 <u>DAVID & CAROLINE ALTMAN</u> petition for a SPECIAL PERMIT/SITE PLAN

APPROVAL to construct a new kitchen and family room addition with a deck, increasing the Floor Area Ratio from .33, which is allowed, to .36 at 37 COLUMBINE ROAD, Ward 8, on land known as SBL 82, 19, 5, containing approximately 15,415 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(u)(1) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: Architect Will Saltonstall presented the petition. The existing single–family house and garage were constructed in 2002 after a c.1950 ranch-style house was demolished. The petitioners purchased their home shortly after its construction. They wish to remain there but need more room to accommodate their family. The 5,000 square-foot house appears as 2.5 stories from the street and 3 stories from the west side where the topography slopes downward before it levels off again. They are seeking a special permit to construct an approximately 440 square-foot, three-story addition on the west side of the house. The first floor contains approximately 29x14 feet and the second and third floors each contain approximately 16x9 feet. The maximum allowed FAR is .31 with an additional .02 bonus for construction on pre1953 lots that conform to the post-1953 setback requirements, for an allowed maximum FAR of .33; the petitioners are seeking to increase the FAR to .36. The house meets and will continue to meet all dimensional and open space requirements.

The proposed addition will allow for a guest bedroom in the basement, a larger dining room and outdoor patio on the first floor, and a dressing room off the second-floor master bedroom. The addition will not be visible from the street and although it will be visible on the west side, it will be located where there is an existing patio; on the south side it will overlook a large yard, deck, and pool on a lot that contains over 100,000 square feet. It is an eclectic neighborhood that consisted mostly of 1950's ranch homes, many of which over time have been demolished and replaced with larger homes. The proposed addition will have a hip roof and the same exterior material to blend with the existing house.

Saul Wisnia, 24 Hamlin Road, spoke in support of the petition. The petitioners submitted letters from neighbors at 21, 29 (the westerly abutter), 45 Columbine Road and 74 Oak Hill Street (the southerly abutter) in support of the petition.

In working session, Ms. Holmes reviewed the relief requested. She pointed out that several neighborhood properties including one currently under construction have the maximum allowed FAR of .31. The Planning Department noted that there is a shed located closer to the side and rear property lines than is permitted. The petitioners submitted a letter agreeing that the shed will be moved to comply that it be at least five feet from the property lines. Alderman Fischman moved approval of the petition finding that the proposed increase in FAR is consistent with and not in derogation of the size and scale of other structures in the neighborhood; that the proposed addition will not intrude into the rear yard; and that the proposed 440 square-foot addition to an existing 5,000 square foot house is modest in scale. The motion to approve carried unanimously, 7-0.

#416-12 MAIN GATE REALTY LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and CHANGE in a NONCONFORMING USE for a yoga and life coaching business and to locate 5 parking stalls in the front setback with a 3-foot drive width and to erect a freestanding sign at 242-244 COMMONWEALTH AVENUE, Ward 7, and *in addition* to allow office, service, retail, or medical office as a future use and to waive 2 required parking stalls for future conversion to medical office use at 242-244 COMMONWEALTH AVENUE, on land known as SBL 61, 13, 11, containing approximately 7,452 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(g)(1), (g)(3), 30-19(d)(12), and 30-19(m), 30-20(e)(4), 30-20(l), of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; HELD 7-0

NOTE: The petition was presented by property owner Wally Zainoun and petitioner Debra Bennett who operates Core Harmony, the yoga and life coaching business for which they are seeking to locate four parking stalls in the front setback and to erect a freestanding sign to replace the existing blade sign that extends out from the building. (The proposed sign has been reduced from 25 square feet to 15 square feet, the limit allowed by special permit.) See the attached PowerPoint.

In addition, Mr. Zainoun is requesting relief to allow office, service, and retail use and/or medical office in the event the second space, currently occupied by TNM Realty, in this legally nonconforming commercial building becomes vacant without the need to amend a special permit and to waive the two parking stalls that would be required for a future conversion to medical office use. Mr. Zainoun said this request was prompted by an inquiry from a husband and wife, both dentists, looking to open a small dental office.

Located in a Multi Residence 1 District, the building was constructed in 1922 prior to zoning. Historically, the building has housed two tenants, which over the years have included a grocer, drug store, gift shop (for which a special permit was granted in 1973), insurance office, and poster shop. TNM Realty is located in the east side of the building and Core Harmony in the west side.

Ms. Bennett has operated a "virtual" business out of her home for the past 14 years. She decided to open a studio to offer clients open classes at a lower cost. Classes include yoga, Pilates,

fitness, wellness, weight loss, and relationships, as well as small business services, coaching, consulting, and web design. She plans to continue providing in-home and virtual corporate services. Given the size of the space (approximately 300 square feet in the main room), she anticipates no more than eight clients in a class. Most clients are from Newton and she expects many, perhaps 60%, will walk or bike to class.

She explained that she signed a lease in August and prepared the interior for a September opening. She was informed by the Inspectional Services Department when she went to amend her business registration that she needed a special permit. When asked why there appeared to be a delay in seeking the special permit, it was pointed out that the application was filed in December for public hearing in January, the earliest it could be after completing the review process the city requires for all special permit applications. The business is operating because in most cases the Inspectional Services Department does not issue a cease and desist if a special permit application is pending. Alderman Laredo was troubled that the owner did not advise Ms. Bennett prior to leasing the space that she needed a special permit. Mr. Zainoun said he was unaware that a special permit was required.

When asked about the number of classes and times, Ms. Bennett said she plans to offer 10 to 12 classes a week. Day classes are generally for one hour; evening classes 1.5 hours. She expects that the front can provide parking for three to four cars. There are four spaces behind the building and there is one-hour parking available on the carriage lane. Currently, class times are

9:00 am to 10:00 am on Monday, Wednesday, Thursday and Friday 4:00 pm to 5:00 pm on Monday, Wednesday and Thursday 6:00 pm to 7:00 pm and 7:00 pm to 8:30 pm on Tuesday 10:00 am to 11:00 am on Tuesday and Saturday 1:00 pm to 2:00 pm on Saturday and possibly a 2:00 to 3:30 pm class

Aldermen Albright and Fuller suggested that a half hour gap between classes would ensure a smoother transition of the parking spaces. When asked about plans to use the side yard for outdoor classes, Ms. Bennett said initially she thought it would be pleasant space to utilize in nice weather, but the noise on Commonwealth Avenue makes is less than ideal for practicing yoga. Although, she would like to use it for small gatherings such as the Marathon much like anyone else uses their yard.

Alderman Schwarz said that he is not particularly concerned about the proposed used given the building's past. However he like Alderman Laredo is troubled because this is not the first petition coming in after the fact seeking forgiveness.

Alderman Fischman visited the site today and observed five cars, one parked tandem, occupying the entire rear lot. Mr. Zainoun said he allows two students to park in the lot overnight because they have no parking. Alderman Fischman is concerned about the intersection of Commonwealth Avenue and Manet Road and with pedestrians crossing there because of the curve and the potential obstruction of the site line by the proposed freestanding sign.

In Alderman Harney's opinion this evening was a bit harsh on Ms. Bennett, particularly given the site's history and her long term connection to the city. He believes she has good intentions and wishes to operate a successful business primarily serving residents of Newton. (He also shared that his mother's best friend had owned the gift/card shop at this site.) Alderman Laredo said he does not doubt the good intentions. He wants to encourage businesses and their success; however, the 1930's and 1940's were very different, there were fewer cars and most people walked. He believes an overlap in class times has the potential for significant traffic and parking issues.

Public Comment:

Susan Servais, 4 Garrison Street, a 33-year resident said that a grocery and drug store from another era cannot be compared to Commonwealth Avenue today. Traffic at certain times is bumper to bumper. It is unlikely with all of the large medical offices nearby that a doctor or dentist would locate here. The previous poster business was operated by a neighbor and most of its business was online. There is a longtime parking situation in the neighborhood and the residents would appreciate keeping outside parkers off the neighborhood streets. The neighborhood does not want a bigger commercial area.

Janet Razulis, 266 Commonwealth Avenue, a 22-year resident, has no major objection to Core Harmony but is concerned about the future of the space currently occupied by the real estate office and would prefer the owner be required to return to amend a special permit. However, she supports the limited scope of the fitness use and associated parking.

Saul Wisnia, 24 Hamlin Road, who spoke in favor of the prior petition, grew up and his mother lived for 50 years 300 yards from the subject site. He attended both high school and college with Ms. Bennett and said there was probably not a more appropriate tenant. He noted that the type of client this type of business attracts is likely to walk and bike when feasible.

Gloria Gavris, 21 Monadnock Road, who is president of the Chestnut Hill Association, echoed the concerns about parking and asked the committee to be mindful of the parking constraints. However, she is not concerned by the use of the space for a yoga studio, but agrees there should be a gap between classes.

Betty Cohen, 104 Manet Road, walks to her office at Boston College and agreed that the intersection of Commonwealth Avenue and Manet Road is dangerous and that a free standing sign could block the view further. Manet Road is parked up every day. (The east side of Manet Road is a resident restricted area and parking is prohibited all days on the west side.) She is concerned about pedestrians crossing Commonwealth Avenue from the carriage lane and with cars parking on Commonwealth.

Aphrodite Giannakopoulas, 214 Commonwealth Avenue, said that the city is becoming too commercial and that people in the neighborhood had paid a lot of money to live there and it should be kept as it is.

After the conclusion of the public hearing, the committee held a scoping session in which the Planning Department was asked to meet with the petitioners to address the following issues prior to working session:

- reasonable class hours from Ms. Bennett that she can live with including a gap between each class
- a parking plan for both spaces Core Harmony and TNM Realty
- renting spaces or allowing non-tenants to park on the property
- current available on-street parking
- size, location, lighting re the proposed sign and if it impacts the site line from Commonwealth Avenue
- pedestrian crossing/safety/crosswalk the committee was reminded that Commonwealth Avenue/Route 30 is a state road recently reconstructed by the state that project included pavement markings, crosswalks, and a number of new or amended parking restrictions which the state required the city to implement as part of the reconstruction.

Alderman Crossley suggested that the petitioners install a bike rack. The committee also asked for a copy of the 1973 special permit. Alderman Fischman moved to hold the petition, which motion carried 7-0.

#417-12 CHESTNUT HILL SHOPPING CENTER, LLC/C&R REALTY TRUST petition for a SPECIAL PERMIT /SITE PLAN APPROVAL for a comprehensive sign package at 1-55 BOYLSTON STREET, Ward 7, CHESTNUT HILL, on land known as Sec. 63, Blk. 37, Lots 18A, 22, 25, 26, 27 in a district zoned BUSINESS 4. Ref: 30-24, 30-23, 30-20(1) of the City of Newton Rev Zoning Ord, 2012. Ref: Sec 30-24, 3-23, 30-20(f)(1), (f)(2), (f)(3), and (f)(9) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; HELD 7-0

NOTE: This petition was presented by attorney Franklin Stearns of K&L Gates and director of design and planning Richard Askin of WS Development. There are a number of special permits on this 18-acre site, the most recent in 2011 rezoned the site to Business 4, allowed reconstruction for a portion of 33 Boylston Street, reduced the total number of required parking stalls, and included multiple site improvements such as reconfiguring parking stalls, changes to landscaping, sidewalks, and lighting. The former Bloomingdale's/Macy's building at 55 Boylston Street is also currently under reconstruction. When completed it will contain a Cinema de Lux, The Sports Club/LA, a restaurant(s), and retail uses. The petitioner is seeking approval of a comprehensive sign package for the new shopping center, which is being re-branded as "The Street Chestnut Hill." The Urban Design Commission spent three meetings reviewing the sign package and the petitioner made a number of changes in response to its comments and suggestions. Alderman Fuller asked whether the colors will be those shown in the submittal. There was no public comment.

The petitioner's presentation was very thorough and the submittal very detailed but because of the scope and several of the types of signs proposed the committee agreed it was not prepared to vote the petition this evening. For example, the wall panel signs proposed for the rear intended to break up the blank wall facing Hammond Pond may change at the discretion of the owner:

would they be rented? Could one be used for art or a photograph of the pond or even to reflect the pond? Several committee members thought less might be more. Alderman Crossley said it's a new world and the city's sign ordinance is extremely outdated, but is there too much visual noise? The committee asked the petitioner to break out the purposes of the different types of signs, i.e., identification, way finding, etc. and what each type of sign is meant to tell people. Individual maps might be helpful. Alderman Laredo moved to hold the petition, which motion carried 7-0.

The following are renewals received too late to have been voted with the rest of the 2013 licenses.

#363-12 AUBURNDALE SERVICE CENTER, LLC d/b/a AUBURNDALE MOBIL

2105 Commonwealth Avenue

Auburndale 02466

ACTION: APPROVED 7-0

#370-12 L. A. AUTO BODY, INC.

41 Los Angeles Street

Nonantum 02458

ACTION: APPROVED 7-0

#373-12 NEW ENGLAND MOTOR MART, INC.

1221-1229 Washington Street

West Newton 02465

ACTION: APPROVED 7-0

#375-12 NEWTON CENTRE SHELL, INC.

1365 Centre Street

Newton Centre 02459

ACTION: APPROVED 7-0

#365-12 NAJIM AZAD & YOUSUF AZADZOI d/b/a AZAD MOTORS GALLERIA

280 California Street

Newton 02458

ACTION: APPROVED 7-0

#372-12 MAP DEVELOPMENT & INVESTMENTS d/b/a CHRISTIAN TAPIA/MASTER

USED CARS OF WATERTOWN

175 North Street Newtonville 02460

ACTION: APPROVED 7-0

#379-12 PARAGON GLOBAL PARTNERS, INC.

259 Walnut Street Newtonville 02460

ACTION: APPROVED 7-0

The meeting was adjourned at approximately 11:15 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman



City of Newton, MA

Proposal to change from current non-conforming use zoning to include additional non-conforming service use zoning for
242/244 Commonwealth Ave., Chestnut Hill, MA 02467



Proposed Tenant:



Current Land Owner:

Main Gate Realty (Wally Zainoun) 242 Commonwealth Ave., East, Chestnut Hill, MA 02467





242 Commonwealth Ave. West, Chestnut Hill, MA Exterior



Side Yard West (fenced)





mind body personal training ~ life coaching ~ small business services

Proposed use of space:

- Office for 1 person to see Private Coaching & Small Business Clients
 Private & Semi-Private In-Person Fitness Training (yoga, pilates, personal training)
 Small Group Training Classes (8 persons maximum per class, approximately 12 hours per week)
- Occasional Workshops (8 participants maximum)
 Sales of water, soda water/seltzer & energy bars



Based in Newtonville, MA 14 years as an All Virtual Company

specializing in:

- Coaching (in-person, phone, email)
- Small Business Coaching & Consulting
- In-Home Private & Semi Private Training
- Corporate Wellness Programs
- **Integrative Programs**









clients & community

- Men, women & children of all ages
- Diverse ethnic, religious & spiritual community
- Balanced approach to health
- corporate clients:
 - **Cubist Pharmaceuticals**
 - Genzyme
 - Staples Corporate Offices



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mind body personal training

- Yoga
- Pilates
- Traditional Personal Training
- Integrative Fitness Sessions
- Individual, Semi-Private, Small Group Classes

coaching

- Life Coaching
- Wellness Coaching
- Weight Loss Coaching
- **Emotional Eating Coaching**
- Relationship Coaching

small business services

- **Small Business Coaching**
- Consulting
- Web Design
- Logo Design
- Operations & Systems











Our 2010 'HERO'

Boston Marathon® Jimmy Fund Walk: Team core harmony™

- Benefits Dana-Farber Cancer Institute in Boston 2013 will be our 5^{th} Year with Team 2 Free Weekly Training Classes for our Walkers & Virtual Walkers from June September each year.. A gift Debra Bennett offers to our team & the Newton Community in memory of a loved one and in honor of those in the core harmony community who have been touched by cancer.















- Main Space: Office Use, Private Training, Small Group Classes (318 sq. ft)
- Back Room: Storage for Small Equipment, Water/Soda & Candy/Energy Bar Sales
- One Co-Ed Bathroom



three generations of wellness in Newton

- Debra Bennett is a graduate of Mason-Rice Elementary School & Newton North High School. Currently a Newton resident.
- Mom a graduate of Boston College Nursing School. Worked her entire career at Boston Lying In/ Brigham & Women's Hospital as a maternity nurse. Homeowner at 101 Grant Ave. Newton Centre, MA until 2009.
- Grandfather was a cardio thoracic surgeon on the team for the first open heart surgery in Boston. Homeowner at 363 Waverly Ave., Newton, MA.
- This location was chosen to contribute to the health, wellness & small businesses in the Newton Community.
- As a resident who grew up and visited family in this neighborhood for 45 years, I have great respect for honoring the needs of local residents & neighbors.
- Photography ©2008 Moira S. Pierce





History

prior tenants (east):

Easterly side of building has always been used for real estate and insurance sales/rental offices. Current tenant is 'TNM Realty' (www.tnmrealty.com).

prior tenants (west):

- 1925 Ginter Company, Grocers
- 1927 First National Stores, Grocers
- 1929 Ferguson's Market
- 1931 Ell and Ell Drug Store
- 1936 1945 Manet Pharmacy
- 1948 1949 Sutherland Pharmacy
- 1951 1972 University Pharmacy
- 1973 1998 Delmonte Stationary and Gift Shop* (Brook Hill Publishing)
- 1999 2004 ERA Real Estate Sales and Great Places Realty Apartment Rentals
- 2005 Nancy Steinbock Posters
- 2006 2010 Quadrant Real Estate, Newport Construction
- 2011 Access Equity Management
- * A special permit was issued to owner John T. Burns to allow the westerly section of the property to allow a card & gift shop, which was an extension of the non-conforming use.
 * In 2004, Mr. Marvin Smith proposed to lease the space to a high end antique poster shop. Then Commissioner, Mark Gilroy determined the poster shop could not be leased in the easterly portion of the building which had uniformly been used as a real estate office, but that the westerly portion could be used without seeking a special permit as it was closer to the historical retail sales uses and had less impact on the neighborhood.



prior use of space (west) 1922 - present:

- Grocery, Pharmacy, Retail Sales, Soda Fountain, Office. This tenant mix includes both retail use as well as office use. At no time in the history of the building and Newton's Zoning has there been a need to change from one type of nonconforming use to another type of nonconforming use in this location.
- University Pharmacy:
 - Retail sales of pharmaceutical prescriptions and non prescription products
 - Retail sales of greeting cards, stationary, and small gift items
 - Retail sales of newspapers and magazines
 - Retail sales of tobacco products
 - Retail soda fountain sales
 - Retail sales of photographic equipment and supplies
 - In 1972, University Pharmacy vacated the premises. James T. Burns, then owner of John T. Burns & Sons and the building owner, tried to find a tenant who would operate an identical business so that the nonconforming use could be extended without changes. Because no similar tenant could be found at the time, the space began to include additional types of tenants.
 - Subsequent tenants have included:
 - Delmonte Stationary & Gift Shop (Brook Hill Publishing) a retail business that sold high end invitations, announcements & stationary as well as small gifts such as guest books, matches, napkins, stemware, greeting cards and gift wrap.
 - Nancy Steinbock Posters High End Vintage Posters.
 - Quadrant Real Estate, Newport Construction, Access Equity Management (office).



core harmony™ requests the expansion of the non-conforming use to include a service component to use of space for private & small group fitness sessions

Benefits to the Community & Neighborhood:

fitness

- While many people look to medications and supplements to reduce physical health risks, as a pain reliever and to manage psychological issues, many doctors and patients are looking to exercise, nutrition and mind/body practices to manage. This can include:
 - Yoga and Weight Loss to Reduce Blood Pressure.
 - Cardiovascular Exercise to increase HDL cholesterol (Good Cholesterol).

 - Yoga and Strength Training to Promote Longer & Higher Quality Sleep*.

 * Poor or compromised sleep can contribute to weight gain, high blood pressure and decreased beta cells in the gut which can lead to diabetes.
 - Cardiovascular Exercise to reduce the risks of obesity, cardiovascular disease, metabolic syndrome, stroke and heart attack.
 - Pilates, Yoga and Weight Loss to decrease Low Back Pain,
 - Yoga, breathing, meditation to reduce anxiety, depression and PTSD.
 - Choosing fitness vs. pills reduces side effects from many medications and decreases healthcare costs.

coaching

- The coaching industry is still in it's infancy. Life, Wellness, Relationship & Small Business Coaching are growth industries that help support people in achieving success and fulfillment of their personal & professional goals.
- Building awareness of the benefits of this profession by a certified professional practicing in a prime location will contribute to building trust of the industry while personally benefitting the residents and businesses of Newton.

office & small business services

- Business & Coaching Session meetings
- Interns & Mentoring of Students (Bentley U., MIT, Babson, etc..).
- Small Business Coaching, Consulting, Web Design, Logo Design, Operations & Systems.

water, selzter & energy bar sales

These products vs. soda or candy will improve on prior use of the space by providing healthier options to earlier product sales when the space was a soda fountain and retail store.



signage



Request approval for vinyl lettering on west window for core harmony.



signage

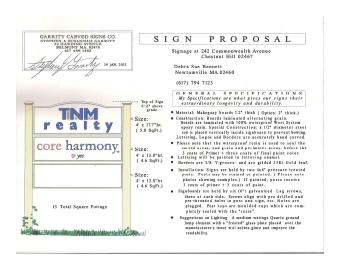




Request approval to erect a freestanding wooden sign on the front east lawn.

Sign will be wooden (white posts) and lit. It will include all tenants in the building. If approved, the current
"TNM Realty' sign will be removed from the building when this is installed.

proposed new freestanding sign



request that current nonconforming use permit be expanded

- Proposed use (west) is of similar or less impact to the residential community than prior tenants and similar to neighboring types of businesses close by on Commonwealth Ave.
- core harmony will be a similar or lower impact business to prior tenants. Core harmony continues
 to provide in-home & corporate services so space will not be used full time. 50% of new clients in
 the first months are able to walk or bike to the location which decreases traffic as well as
 increasing the health profile of current neighbors.
- Proposed use (west) is an improvement from the prior use: 1. By offering services that promote
 wellness without side effects will contribute universally to decreasing healthcare costs and will
 build self efficacy & self esteem of clients. Both of these contribute to the greater good. 2. Office
 will not only provide office space to core harmony, it also is a space where business students will
 be mentored which positively contributes to the business community. 3. Proposed new signs will
 be subtle (vinyl) and freestanding sign will be an improvement to the current sign on the building.

