

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, OCTOBER 22, 2013

Present: Ald. Fischman (Acting Chairman), Ald. Albright, Laredo, Crossley, and Harney;
absent: Ald. Hess-Mahan and Schwartz; 1 vacancy; also present: Ald. Fuller and Lappin
Staff: Alexandra Ananth (Chief Planner for Current Planning), Stephen Pantalone (Chief
Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board)

Consistency Determination: Re the “after” study of parking utilization requirements contained in special permit #161-11(2), granted on August 8, 2011, to W/S Development Associates LLC, for mixed uses at the Chestnut Hill Shopping Center a/k/a The Street, 1-55 Boylston Street.

Note: WS Weiner changed the sequence of the construction on the site, constructing 55 Boylston Street, the by-right building, before numbers 33 and 27. The petitioner is now planning the reconstruction of 27 Boylston Street, the former movie theater. In addition, since the granting of the special permit, WS Weiner has acquired the Frontage Road rights which when combined with the sequence of construction will affect traffic/parking mitigation. Since the by-right portion of the project does not require an “after” parking utilization study, the petitioner is seeking to postpone the “after” study of parking utilization required in the special permit. The Commissioner of Inspectional Services in his memo dated October 4, 2013 recommends the following:

- The required “after” study following the completion of 33 Boylston Street be postponed until the fall/winter shopping season of 2014.
- If construction of 27 Boylston Street has commenced prior to or during the fall/winter shopping season of 2014, then the “after” study can be delayed until the fall/winter shopping season of 2015.
- “Construction” means that not only has a building permit been acquired but that construction has actually commenced on site.
- The “after study” will include a comprehensive study of both the parking lot and Frontage Road utilization of parking.

The Planning Department recommends that the time frame be no later than December 2014, unless construction is put off until next year. A number of parking spaces are currently being used by contractors and additional spaces will be used for staging during construction. Alderman Fuller observed that the lot appears parked up during peak hours and weekends, with theater patrons parking at the Star Market end of the site. Is the valet parking sufficient? Both she and Alderman Laredo suggested that preliminary counts at peak times might be helpful.

Consistency Determination: NED Chestnut Hill Square LLC seeking a modification to the existing parking garage approved as part of Special permit #214-10, granted on December 6, 2010, for a mixed-use development of approximately 245,000 square feet of commercial space

and up to 100 residential units, and accessory parking at 200 Boylston Street, Chestnut Hill Square, to provide additional parking spaces to serve the retail and future residential uses.

Note: Senior Vice President of New England Development William Cronin withdrew the request and said the petitioner will seek an amendment to the special permit.

Application for a Class 2 Automobile Dealer License

#360-13 MAVERICK MOTORS, INC. (Gregory G. Keshishyan)
1209 Washington Street, West Newton 02465

ACTION: APPROVED 5-0

NOTE: Mr. Keshishyan is the owner of Global Ventures Group d/b/a Lux Auto Plus, a retail auto dealership that has been licensed at 1201 Washington Street since 2009. He wishes to lease additional space for a separate wholesale business at 1209 Washington Street, which is a building to the rear of 1201 Washington Street. There will not be any outside storage or display of vehicles. Alderman Crossley moved approval, which carried 5-0.

#291-13 NEWTON RESTAURANT, LLC./PINKY'S PLACE, LLC. petition for
SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a
NONCONFORMING USE to increase an existing nonconforming restaurant
containing 74 seats to 116 seats; to waive the requirement for an additional 16
parking stalls; and to utilize an adjacent parcel to meet a portion of the required
parking at 1205 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land
known as SBA 51, 45, 11, containing approximately 12,012 sf of land in a district
zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a, 30-19(f)(2), and 30-
19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0

NOTE: The public hearing was opened and closed on October 15, 2013. Present at the hearing were Aldermen Fischman, Harney, Albright, Laredo, and Schwartz. Attorney Stephen Buchbinder presented the petition. The petitioner is seeking to increase the number of seats at the Biltmore Bar and Grille from 74 to 116. The increased number of seats requires 16 additional parking spaces. Relief is sought to increase the nonconforming use on the site and to waive the required number of parking stalls required by the additional seats. In addition to the Biltmore, which has operated on the site since 1921, other uses in the block include a variety store, barber shop, and drycleaners. Two small commercial buildings to the east are owned by related entities. The petitioner purchased the properties approximately seven years ago and has completed a number of renovations; eventually all the facades will match. The petitioner has upgraded the streetscape and plans to replace two existing benches and re-plant the tree wells. Currently, the petitioner has an outdoor café permit for 22 outdoor seats, which were moved from inside onto a patio which is located between the buildings at 1209-1213 and 1203-1207 Chestnut Street.

There is a legally nonconforming shared parking lot at the rear of the site. The lot has 37 parking spaces, which include 11 spaces designated for tenants of 1215 Chestnut Street during normal business hours. Two of the 11 spaces are HP spaces. The parking lot has access from both Chestnut and Oak Streets. It is not clearly striped and does not meet the dimensional and other requirements of Sec. 30-19. A rear portion of the parking lot is owned by and leased by the petitioner on an annual basis from the MBTA. The petitioner has arranged with the

business for the use of its 11 spaces in the evenings; however since the spaces are only available when the business is closed, they can't be used as mitigation to satisfy the parking requirement. The petitioner submitted a parking study by Planning Horizons that indicates there are approximately 78 parking spaces available within a two minute walk of the site. The Planning Department expressed concern about the impact of the additional seating on vehicle circulation in the parking lot, given the aisle width and parking lot entrances are only wide enough for one-way traffic. Planning is concerned about cars entering the parking lot from opposite entrances during peak times blocking each other from exiting. Although it acknowledged that the parking lot has been functioning over the years without major conflict, the Planning Department recommends that the petitioner consider ways to improve the parking to avoid conflicts, including striping the spaces, adding directional markings, and using landscaping to direct circulation and possibly employing a parking attendant during peak times. It also recommends designating two parking spaces for the physically handicapped and adding bicycle racks, which would be a benefit to the soon to be opened pedestrian greenway on the former MBTA rail bed.

Mr. Buchbinder reported that neighbors were supportive of the concept at a neighborhood meeting held on September 30. There was no public comment.

This evening there was some concern about the proximity of parking spaces to the pedestrian greenway. Mr. Buchbinder explained that the restaurant, which has operated on the site since 1921, has utilized the abutting MBTA land for a very long time via an annual lease. (The dumpster for the restaurant is also located along the property line.) The rail bed/greenway has approximately ten feet on each side. The petitioner is willing to install appropriate native plantings. The dumpster will be enclosed. The leased portion provides ten parking spaces, if the petitioner loses the lease with the MBTA an amendment to the special permit will need to be sought for additional parking relief.

Although the Planning Department has suggested that the Chestnut Street ingress/egress be made one-way, the petitioner prefers that it remain a two-way. It works fine. The two-way drive slows cars. There have not been any accidents. Exiting the Oak Street drive to take a left turn is very difficult because of poor sight lines. The Chestnut Street drive does have a pinch point at the corner of the building, but most patrons who park in the rear are regulars. The petitioner acknowledged and Alderman Crossley attested to the creative parking that currently exists in the lot, but with striping, signage, and directional pavement markings, the parking will work.

The petitioner provided an updated parking plan and has agreed to minor adjustments relative to HP spaces, cautionary signage, lighting, landscaping, etc. At the suggestion of the Committee, two of the parking spaces will be reoriented. The petitioner will install a bicycle rack, which will complement the new pedestrian greenway. The petitioner will post parking locations on its website and explore whether to petition the Traffic council to extend the time limit on some of the one-hour parking meters in the area.

Alderman Crossley moved approval finding that the proposed increase of 42 seats will not be substantially more detrimental to the neighborhood than the existing use; literal compliance with the parking requirements is impracticable because the site predates adoption of the parking ordinance and cannot provide additional compliant parking; the parking study submitted by the petitioner shows sufficient parking within a reasonable distance of the site to meet the parking demand for the waiver of 16 parking stalls. Conditions include seeking an

amendment to the special permit within 60 days if the lease with the MBTA is terminated; posting directions re parking on its website; installing in coordination with the city appropriate plantings along the greenway. The motion to approve carried 5-0.

#237-13 SEVENTY FIVE to SEVENTY SEVEN AUBURN ST. TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to reconfigure an existing two-family dwelling into three units with a 2-car garage and to construct two additional attached dwelling units with 2-car garages at the rear for a total of five units at 75-77 AUBURN STREET, Ward 3, Auburndale, on land known as SBL 33, 6, 42, containing approximately 31,437 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15 Table 1, 30-9(b)(5), (b)(5)(a) and (b)(5)(b), of the City of Newton Rev Zoning Ord, 2012.

ACTION: HELD 5-0 **(90 days: December 9, 2013)**

NOTE: The public hearing was opened on August 13 and continued to September 10, 2013, when it was closed. Present at the public hearing were Aldermen Fischman (Acting Chairman), Albright, Laredo, Schwartz, Crossley, and Harney. The petition was presented by attorney Terrence Morris. The petitioner is proposing to demolish a portion of an existing circa 1853 Greek revival two-family dwelling and construct four additional single-family attached dwellings on the site. The petitioner is seeking relief to construct attached dwellings, to locate a structure 15 feet, where 25 feet is required, from the side lot line, to exceed maximum lot coverage of 25%, (to 28%), and to locate a driveway five feet, where 10 feet is required, from the side lot line. The Historical Commission voted on July 30, 2013 to approve the submitted plans and to waive the demolition delay.

Two of the proposed new 2½ -story attached dwellings with two-car garages will be constructed directly behind the existing house, with the other two 2½ story attached dwellings with two-car garages proposed for the east side of the property. There are two curbs cuts on the property. The existing driveway on the east side of the property will be extended towards the rear and the existing driveway on the west side of the property will be expanded and will provide access for the existing house. The Planning Department suggests eliminating the driveway and curb cut on the west side of the property and creating access to all the garages via the east driveway.

Currently, there is a stockade fence on the western property line, a wire fence on a portion of the eastern property line, and large trees along most of the property lines. The proposed landscaping plan maintains most of the existing screening on the site and adds additional screening towards the front of the property on the east and west sides.

The Planning Department notes that the increase in density would not be out of character with the neighborhood in terms of lot area per unit; recesses in the rear structure will mitigate the additional mass. However, while acknowledging that each of the reliefs sought is relatively minor, the Planning Department believes that are no significant aspects of the site that make it impractical to adhere to the dimensional requirements, other than the desire for five units, and suggests the petitioner reduce the number of proposed units to four or reduce the size of the proposed units to meet the dimensional requirements of the site. Reducing the size of the proposed units could provide greater diversity in housing type.

The petitioner pointed out that this is one of the largest lots in the neighborhood and believes that five-unit density is appropriate for the neighborhood. The driving force is to preserve the existing house. There is an economic factor involved in its preservation and five units make it possible. If the petitioner removes 315 square feet from the building(s), no relief is necessary for lot coverage; likewise if the 25-foot setback requirements are met, no relief is necessary for the setbacks. Although Floor Area Ratio (FAR) is not applicable to attached dwellings, the committee asked for FAR and lot coverage calculations.

Public Comment:

Judith Evergreen, 70 Auburn Street, has lived across the street for four decades and hopes to see this magnificent house restored; heaven forbid it be torn down. She prefers five quality units to four mediocre units. Once the project is built and landscaped it will settle in and will be part of the neighborhood. She hopes there is more tree canopy to enhance the neighborhood.

Rick Jacobson, 117A Crescent Street, urged the Committee to not grant a special permit. The existing house is one of the most beautiful in the neighborhood. The plan degrades its historic quality. There is a hard edge to the neighborhood with Pike close by, and Auburn Street is used as a cut-through and not safe at peak hours. The proposal will not enhance the neighborhood. It will add to the noise level.

Patricia McCleave, 116 Crescent Street, said the project feels like a village; it's overpowering and five units is way too many.

Janis Edinburgh, 45 Auburn Street, is not necessarily opposed to the project, but is concerned about additional traffic. It is already bumper-to-bumper at peak hours.

Maria Rametta, 4 Sharon Avenue, is opposed; it is too big. There should be no change to the site.

Christina MacMahon, 120 Crescent Street, recently purchased her property. The project is massive and she fears for the safety of her child.

Suzanne Knipe, 58 Auburn Street, supports the project. The petitioner's architect did her house and has a great eye for the total picture, is fastidious and wouldn't put more into the space that it could accommodate. When the house at 45 Auburn Street was demolished, front to back units with adjoining garages replaced it as well as the prior trees and greenery. There is traffic, the Learning Prep School pedestrian light backs up Washington Street and Auburn Street, which has nothing to do with this proposed project. Several properties in the neighborhood are eyesores as is the NSTAR property, which abuts a rear portion of the site.

David Edinburgh, 45 Auburn Street, is in favor of the project, three extra units will not affect traffic.

Robert Cerra, the owner of 75-77 Auburn Street, explained that he is a life-long resident. 45 Auburn Street was his mother's house. When he bought 75-77 Auburn Street it was in disrepair and over the years he has tried to restore it with limited resources. He vetted several potential purchasers before entering into an agreement with the petitioner. After looking at other projects the petitioner had developed, he came to the conclusion that the petitioner not only has the financial resources, but also has the right vision for the property. He has tried to show respect for his neighbors, encouraging conversation between them and the petitioner. He will remain in the neighborhood, moving across the street.

The Committee held working sessions on October 8 and October 22. The petitioner maintains that five units are necessary for economic viability. Five units will generate approximately \$100,000 from the developer to the city's Affordable Housing Trust under the inclusionary housing requirements.

The petitioner has reduced the sizes of the units by a total of 722 square feet. The largest reduction was to unit 2 which was reduced from 3,500 square feet to 3,197 square feet. If the garages were excluded, the total area of the units ranges from 2,131 to 2,545 square feet. The petitioner no longer needs relief from the maximum lot coverage. The proposed rear garage is 40 feet from the nearest lot line. The petitioner said the sizes of the units are relatively modest compared to other new units in the city; the proposed project is less dense than surrounding lots on a lot-area-per unit ratio. The additional mass is broken up by recessing and reducing the roofline towards the rear.

Although the proposed buildings will be different in character and mass, back-to-back approximate 138 feet in length on the west side, the Planning Department believes that the proposed project will not adversely affect the neighborhood and that the preservation of the front façade of the existing structure is beneficial to the streetscape.

On October 8, the committee asked for additional information relative to the context of the neighborhood and voted to hold the petition

On October 22, the Planning Department provided information on 75 properties in the neighborhood that had been part of the Crescent Street Reuse project analysis. Data indicate that the number of units per lot is typically one or two per lot, which reflects the mostly single- and two-family residences in the neighborhood. The Planning Department memo dated October 22 includes a summary of the data in regard to lot size, lot area per unit, FAR, and unit size, the analysis indicates that the proposed project has a similar density to other properties in the neighborhood in terms of lot area per unit, a relatively similar density in terms of FAR and a significantly larger average unit size. The Planning FAR data includes, to the best of its ability, attics and garages.

The petitioner provided a revised site plan that still shows five units but now conforms to the required 25-foot setback requirement. The driveway has been altered so that it retains the existing setback. The revised plan does not require any zoning relief other than for single-family attached dwellings. The petitioner also provided the attached comparison charts. In addition, the petitioner is proposing two additional trees at the front of the site in response to a request by the neighbors. The petitioner reiterated that more development is often necessary to support keeping an historic building.

The committee was not persuaded at this time that it could support five units. Upon a motion by Alderman Harney, the committee voted to hold the petition for additional reflection and to give the petitioner the opportunity to decide what avenue he wished to pursue.

The meeting was adjourned at approximately 9:00 PM.

Respectfully submitted,

Mitchell L. Fischman, Chairman

AUBURN ST ANALYSIS

LOT SIZE COMPARISON

No.	STREET	LOT SIZE (sq.ft.)	EXISTING FAR	No UNITS	LOT AREA PER UNIT	FAR BUILD-OUT
75-77	Auburn	31437	0.46	5	6287	0.46
78-80	Auburn	20480	0.11	2	10240	0.45**
70-72	Auburn	20025	0.13	2	10013	0.45**
97	Auburn	15818	0.47***	2	7909	0.49
45-47	Auburn	12465	0.69*	2	6233	0.69*
58	Auburn	12092	0.36	2	6046	0.50
62-64	Auburn	10025	0.17	2	5013	0.50
63-65	Auburn	9200	0.26	2	4600	0.49
55	Auburn	9078	0.18	1	9078	0.49
105	Auburn	8985	0.27	1	8985	0.50
106	Auburn	7900	0.28	1	7900	0.51
39-41	Auburn	7596	0.34	2	3798	0.52
85	Auburn	7163	0.49	1	7163	0.53
42	Auburn	6460	0.43	2	3230	0.58
81-83	Auburn	6396	0.55	2	3198	0.55
84-86	Auburn	5268	0.62	2	2634	0.57
109	Auburn	5050	0.26	2	2525	0.58
46	Auburn	4840	0.54	2	2420	0.58
88-90	Auburn	4470	0.66	2	2235	0.58
94	Auburn	4442	0.59	2	2221	0.58
50	Auburn	4405	0.51	1	4405	0.58

* Actual build-out

** includes likely bonus build-out for large lot

*** Vacant (tear-down); minimum FAR

**** Proposed



PROPOSED SITE

PLOT SIZE OVER 10000 sq.ft.

PLOT SIZE UNDER 10000 sq.ft.

FAR BUILD-OUT COMPARISON						
No.	STREET	LOT SIZE (sq.ft.)	EXISTING FAR	No UNITS	LOT AREA PER UNIT	FAR BUILD-OUT
45-47	Auburn	12465	0.69*	2	6233	0.69*
88-90	Auburn	4470	0.66	2	2235	0.58
94	Auburn	4442	0.59	2	2221	0.58
46	Auburn	4840	0.54	2	2420	0.58
50	Auburn	4405	0.51	1	4405	0.58
42	Auburn	6460	0.43	2	3230	0.58
109	Auburn	5050	0.26	2	2525	0.58
84-86	Auburn	5268	0.62	2	2634	0.57
81-83	Auburn	6396	0.55	2	3198	0.55
85	Auburn	7163	0.49	1	7163	0.53
39-41	Auburn	7596	0.34	2	3798	0.52
106	Auburn	7900	0.28	1	7900	0.51
58	Auburn	12092	0.36	2	6046	0.50
105	Auburn	8985	0.27	1	8985	0.50
62-64	Auburn	10025	0.17	2	5013	0.50
97	Auburn	15818	0.47***	2	7909	0.49
63-65	Auburn	9200	0.26	2	4600	0.49
55	Auburn	9078	0.18	1	9078	0.49
75-77	Auburn	31437	0.46	5	6287	0.46
70-72	Auburn	20025	0.13	2	10013	0.45**
78-80	Auburn	20480	0.11	2	10240	0.45**

* Actual build-out

** includes likely bonus build-out for large lot

*** Vacant (tear-down); minimum FAR

**** Proposed



PROPOSED SITE

PLOT SIZE OVER 10000 sq.ft.

PLOT SIZE UNDER 10000 sq.ft.

LOT AREA/UNIT COMPARISON						
No.	STREET	LOT SIZE (sq.ft.)	EXISTING FAR	No UNITS	LOT AREA PER UNIT	FAR BUILD-OUT
78-80	Auburn	20480	0.11	2	10240	0.45**
70-72	Auburn	20025	0.13	2	10013	0.45**
55	Auburn	9078	0.18	1	9078	0.49
105	Auburn	8985	0.27	1	8985	0.50
97	Auburn	15818	0.47***	2	7909	0.49
106	Auburn	7900	0.28	1	7900	0.51
85	Auburn	7163	0.49	1	7163	0.53
75-77	Auburn	31437	0.46	5	6287	0.46
45-47	Auburn	12465	0.69*	2	6233	0.69*
58	Auburn	12092	0.36	2	6046	0.50
62-64	Auburn	10025	0.17	2	5013	0.50
63-65	Auburn	9200	0.26	2	4600	0.49
50	Auburn	4405	0.51	1	4405	0.58
39-41	Auburn	7596	0.34	2	3798	0.52
42	Auburn	6460	0.43	2	3230	0.58
81-83	Auburn	6396	0.55	2	3198	0.55
84-86	Auburn	5268	0.62	2	2634	0.57
109	Auburn	5050	0.26	2	2525	0.58
46	Auburn	4840	0.54	2	2420	0.58
88-90	Auburn	4470	0.66	2	2235	0.58
94	Auburn	4442	0.59	2	2221	0.58

AUBURN ST MEDIAN

* Actual build-out

** includes likely bonus build-out for large lot

*** Vacant (tear-down); minimum FAR

**** Proposed



PROPOSED SITE

PLOT SIZE OVER 10000 sq.ft.

PLOT SIZE UNDER 10000 sq.ft.

UNIT SIZE COMPARISON								
No.	STREET	LOT SIZE (sq.ft.)	EXISTING FAR	No UNITS	LOT AREA PER UNIT	FAR BUILD-OUT	BUILDING SIZE	UNIT SIZE
78-80	Auburn	20480	0.11	2	10240	0.45**	9216	4608
70-72	Auburn	20025	0.13	2	10013	0.45**	9011	4506
45-47	Auburn	12465	0.69*	2	6233	0.69*	8552	4276
97	Auburn	15818	0.47***	2	7909	0.49	7751	3875
58	Auburn	12092	0.36	2	6046	0.50	6046	3023
75-77	Auburn	31437	0.46	5	6287	0.46	14641	2928
62-64	Auburn	10025	0.17	2	5013	0.50	5012	2506
55	Auburn	9078	0.18	1	9078	0.49		
105	Auburn	8985	0.27	1	8985	0.50		
106	Auburn	7900	0.28	1	7900	0.51		
85	Auburn	7163	0.49	1	7163	0.53		
63-65	Auburn	9200	0.26	2	4600	0.49		
50	Auburn	4405	0.51	1	4405	0.58		
39-41	Auburn	7596	0.34	2	3798	0.52		
42	Auburn	6460	0.43	2	3230	0.58		
81-83	Auburn	6396	0.55	2	3198	0.55		
84-86	Auburn	5268	0.62	2	2634	0.57		
109	Auburn	5050	0.26	2	2525	0.58		
46	Auburn	4840	0.54	2	2420	0.58		
88-90	Auburn	4470	0.66	2	2235	0.58		
94	Auburn	4442	0.59	2	2221	0.58		

* Actual build-out

** includes likely bonus build-out for large lot

*** Vacant (tear-down); minimum FAR

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PROPOSED SITE

PLOT SIZE OVER 10000 sq.ft.

PLOT SIZE UNDER 10000 sq.ft.