

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 23, 2013

Present: Ald. Hess-Mahan (Chairman), Ald. Laredo, Crossley, Harney, and Schwartz; absent: Ald. Albright and Fischman; 1 vacancy; also present: Ald. Gentile, Yates, and Sangiolo
City Staff: Candace Havens (Director of Planning & Development), Alexander Ananth (Chief Planner for Current Planning), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board of Aldermen)

#216-13 PATRICIA FLATLEY petition for Special Permit/Site Plan Approval to exceed the by-right Floor Area Ratio of .30 to .32 in order to construct a new single-family dwelling at 80 DARTMOUTH STREET, Ward 3, West Newton, on land known as SBL 32, 34, 11, containing approximately 19,371 sq. ft. of land, in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(u), (u)(2), 30-15 Table A of the City of Newton Rev Zoning Ord, 2012.

ACTION; APPROVED 5-0

NOTE: The public hearing on this petition was opened and closed on July 9, 2013. In attendance were Aldermen Ted Hess-Mahan (Chairman), Laredo, Albright, Crossley, Harney, Schwartz, and Fischman. The petitioner was represented by architect Peter Sachs. The petitioner wishes to construct a larger house than the previous single-family home that was on the site. The proposed house has a floor area ratio (FAR) of .32 where .30 is the maximum by right. The proposed house of 6,279 square feet is approximately 468 square feet larger than what is allowed by right. The proposed house meets all other dimensional requirements for pre-1953 lots.

Several members complimented the design and its context in the neighborhood. The front presents as 2.5 stories. The largest presentation is to the rear, which has a walk-out basement with 40 feet of exposed wall built into a slope. There has been a successful attempt to mitigate the appearance of bulk with architectural elements including an articulated front façade with a large front gambrel dormer and a porch with columns that break up the massing and reflect older homes in the neighborhood.

Several other members said they understood that existing homes can have constraints, but questioned why new construction cannot stay within the by-right FAR. Is there is a compelling reason to go above the maximum FAR? Mr. Sachs said sometimes it depends on the client and what she wants. Often a larger FAR is a better plan that begets a better building. It can create better interior flow and design. In this case the proposed house actually looks smaller than it is. More importantly, the ordinance does not distinguish between additions and new homes.

Information submitted by the petitioner indicates that the average FAR in the immediate neighborhood is approximately .30 with five houses in the immediate vicinity having FARs of .33. Average house size is approximately 5,614 square feet though the ten houses for which FAR calculations were provided range in size from 5,000 square feet to 7,600 square feet, with lots varying in size from slightly over 14,000 square feet to 31,964 square feet, the average lot

size being slightly over 21,000 square feet. It was noted that there are at least three other new houses under construction on Dartmouth Street.

Runoff will be addressed with a subsurface storage area that has a 100-year storm capacity. Water retained on the site will infiltrate into the soil. There is existing mature screening on the site. Two trees will need to be removed. The petitioner has met with the Tree Warden.

Public Comment:

Mark Williams, 157 Fuller Street, is concerned about lot coverage and runoff. He has water in his basement now because the site slopes towards his property, which is located kitty corner at the southeast portion of the subject property. Also, the existing hemlock hedge is scraggly and thinning in places.

Six letters in support were received from owners of 69, 85, and 93 Dartmouth Street and from 144, 145 and 197 Fuller Street.

Subsequent to the public hearing, the petitioner submitted a landscape plan and is in the process of finalizing a tree removal plan. The row of hemlocks will be supplemented with underplantings. The Engineering Division has no concerns with the proposed drainage or its capacity. When asked why the Planning Department is in favor of this petition, Ms. Ananth said it is in keeping with the neighborhood and meets the criteria for granting a special permit for FAR relief. The house meets all new lot setbacks and lot coverage; it presents as smaller at the front, and has a good amount of space around it. The landscape plan has been reviewed by the neighbor at 157 Fuller Street. Alderman Hess-Mahan, who did not support the two previous petitions for FAR relief granted for new homes, believes this house fits in much better with the neighborhood than either of those houses. Alderman Crossley moved approval finding that the proposed FAR of .32 where .30 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. The addition of approximately 468 square feet will increase the gross floor area by 2.4% of what is allowed by right; the proposed house meets all other dimensional requirements including lot coverage, open space, and new lot setback requirements; landscaping will help screen the structure from abutters; and, the mass is mitigated with architectural elements. The motion to approve carried 5-0.

#215-13 CHRISTINA & JOHN HENNESSEY petition for Special Permit/Site Plan Approval to use 594 sq. ft. of the existing basement as an accessory apartment at 45 BRAE BURN ROAD, Ward 4, Auburndale, on land known as SBL 43, 4, 1, containing approximately 14,739 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-22, 30-8(d)(1), and 30-8 Table of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0

NOTE: The public hearing on this petition was opened and closed on July 9, 2013. In attendance were Aldermen Ted Hess-Mahan (Chairman), Laredo, Albright, Crossley, Harney, Schwartz, and Fischman. The petitioner was represented by architect Peter Sachs. The petitioners are in the process of adding a by-right 1,100 square-foot two-story addition to the rear of their single-family home. They wish to use 594 square feet of the basement addition for an accessory

apartment. If the 14,739 square-foot lot contained 15,000 square feet — an additional 261 square feet — the petitioners could create an accessory apartment through the administrative *Review of Accessory Apartment Petitions* (RAAP) provisions of Section 30-22. The proposed accessory apartment does not add to the mass of the house. It contains a kitchen, living room, bedroom, and bathroom. There are two means of access and egress; an existing staircase leads to the entrance. There are no changes proposed to the parking or circulation on the site. There is existing landscape screening. A question arose as to whether the site was in one of the Overlay Districts in Table 30-8.

Public Comment

Steven Katz, 32 Brae Burn Road, a 20-year resident is concerned that this rental property could turn a single-family neighborhood into a neighborhood of two-family houses.

Martin Charns, 29 Brae Burn Road, signed a letter in support of the project but has since reconsidered. He has no objection to the physical creation of the accessory unit, but is concerned it will become a rental property instead of the in-law apartment which he said was how it was represented.

In addition to the letter signed by Mr. Charns, the petitioners provided four letters from neighbors at 1817 and 1841 Commonwealth Avenue and 16 and 19 Brae Burn in support of the project.

The committee explained that accessory apartments are allowed in Single Residence Districts. The ordinance specifies that the property must be owner occupied, but she/he may reside in either the main house or the accessory unit. There is no provision in the zoning for so-called in-law apartments.

This evening, the Planning Department confirmed that this property is not in an Overlay District. Ms. Ananth also clarified that whether or not the special permit for the accessory apartment is granted the petitioners may except for installing a kitchen use the 594 square feet of space for anything they want.

Alderman Harney moved approval finding that the site is an appropriate location for an accessory apartment and the lot is only 261 feet shy of the square footage necessary to be eligible for the administrative RAAP; the apartment, located in the basement, requires only minor exterior modifications for code; the use will not adversely affect the neighborhood; existing landscaping sufficiently screens the parking for the unit. The motion to approve carried 5-0.

After reviewing the draft special permit board order for Riverside Station, which was held, the meeting was adjourned at approximately 10:45 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman