

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, OCTOBER 8, 2013

Present: Present: Ald. Fischman (Acting Chairman), Ald. Albright, Hess-Mahan, Laredo, Crossley, and Schwartz; absent: Ald. Harney; 1 vacancy; also present: Ald. Ciccone and Lennon
City staff: Stephen Pantalone (Chief Planner), Alexandra Ananth (Chief Planner for Current Planning), Robert Waddick (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board)

Consistency Determination: Special Permit #376-08, granted on February 17, 2009, to Jan Spiro for a rear lot subdivision and construction of a single-family home at 296 Ward Street.

NOTE: Since the special permit was originally approved energy efficient technology has evolved significantly. Ms. Spiro wishes to re-orient the house for greater passive solar exposure and use a panelized construction system. The style, aggregate square footage and concept remain the same but there are minor variations in the footprint for the orientation and visual changes from the panelized construction. There are fewer windows on the north side, with slightly more roof but less wall on the west side. The height of the house remains the same. The garage is slightly closer to the easterly abutter at 37 Grant Avenue, but he is fine with the proposed re-orientation. It's likely the house will meet LEED standards, but unlikely to be certified as that process is quite costly. A petition in support of the modifications was signed by neighbors at 25 and 31 Grant Avenue, 4 and 15 Avondale Road, 286 and 300 Ward Street.

#189-12(2) REQUEST FOR AN EXTENSION OF TIME in WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #189-12, granted to ROX DINER/NORMAN CUBELL, TRUSTEE on September 24, 2012 for a restaurant with greater than 50 seats (an increase from 38 seats to 61 seats) and for a waiver from the 8 parking stalls required for such expansion at 335 WALNUT STREET, Newtonville, Ward 2; the EXTENSION will run from September 24, 2013 to September 24, 2014.

ACTION: APPROVED 5-0 (Schwartz not voting)

NOTE: The increase in the number of seats and employees triggered the requirement for a second bathroom. The owners, who recently opened another restaurant in Newton Highlands, have been working with an architect and are now ready to move forward with the alterations at this location. Alderman Albright moved approval of the one-year extension, which motion carried 5-0.

#179-13 BEECHER TERRACE HOMES, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct single-family attached dwelling(s) containing 5-4 units and to waive the 10-foot driveway setback requirements and for a retaining wall greater than 4 feet located within a setback at 22 and 26 BEECHER TERRACE, Ward 6, on land known as SBL 65, 8, 46 and 47, containing a total of 32,826 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5), (a), (b), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.
(90 days: 10-31)

ACTION: APPROVED AS AMENDED 6-0

NOTE: Present at the public hearing, which was opened and closed on June 11, 2013, were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Schwartz, Fischman, and Harney. The petition was presented by attorney Stephen Buchbinder. The property originally consisted of two adjacent lots each of which contained two single-family homes built in the late 1800's. Both dwellings, neither of which was deemed historically significant by the Historical Commission, were razed and the lots merged. The petitioner is seeking to build five attached single-family dwellings in two separate buildings. The proposed dwellings meet the required 25-foot setback requirements for attached dwellings; however, relief is sought to construct a retaining wall in the south side setback and to locate a driveway less than the required ten feet from the side lot line. Proposed unit 1 will have its own driveway with two parking stalls located in the basement. The other units will be accessed from a central driveway and each unit will have an attached two-car garage at grade. Each unit has a patio or deck, some of which are located in the setback, which is allowed. The design of the structures is wood frame New England vernacular, with wraparound porches.

There are two existing curb cuts into the site, and petitioner is proposing two curb cuts as well. The curb cut for Unit 1 is located within 10 feet from the side lot line. All other cars will enter the site through a central driveway. Each unit will have two garaged parking stalls; two guest parking stalls are provided between the two buildings.

The Planning Department is concerned that Beecher Terrace, a private way off of Beecher Place, is very narrow and additional development will significantly disrupt the neighborhood. There is exposed ledge in the neighborhood and there is a steep downward slope at the rear of the site. In addition, it is concerned about the size of the proposed units, maneuverability on the site, and the site's lack of proximity to transportation and services. Mr. Buchbinder explained that the proposed asphalt driveway is 20 feet wide and the interior courtyard, which will be paved, contains ±6,000 square feet and provides room for cars to maneuver. All the units will be sprinklered. The petitioner is proposing to separate the rear yards with green fences.

Issues raised in Committee included the lack of open space and the concept of living units clustered around a paved area, building mass, the departure of the proposal from the existing neighborhood, no option for on-street parking, and concerns expressed in the Engineering Division's memorandum dated June 5, 2013.

Public Comment Marcia Pactovis, 75 Beecher Place, who abuts proposed unit four, said that Beecher Terrace is more like a country road. It is poorly paved and will not accommodate the increased traffic. Given the slope of the site, she is concerned about runoff.

This evening, the petitioner acknowledged that the initial petition was not favorably received at the public hearing. In response, the petitioner has reduced the number of proposed units from five to four. The proposed four units are no different from the two-family dwellings that would be a by-right possibility. A comparison of the original and revised submissions, including a breakdown of the number of rooms, is attached. The Planning Department believes the elimination of the fifth unit works much better for the site. The Fire Department is comfortable with the 20-foot entry, where the petitioner will install grass pavers, and has stamped the plan. Although the elimination of the fifth unit reduces potential conflicts between cars and allows cars to back out of their garages, the Committee observed that there appears to be a pinch point across from the Unit 1 garage. It suggested and the petitioner agreed that shaving off a portion of the grassed area would create a better access/egress. The petitioner will work with the Planning Department to finalize the design to widen the entrance at that juncture. The petitioner will also submit a lighting plan for review by the Planning Department. It appears most engineering issues have been resolved. The petitioner must satisfy any outstanding issues before obtaining a building permit.

Alderman Schwartz moved approval finding that the site is an appropriate location for the four-unit attached dwelling use and that it will not adversely affect the neighborhood, there will be no nuisance or serious hazard to vehicles or pedestrians; the proposed retaining walls will not adversely affect the neighborhood; the location of a driveway less than ten feet from the side lot line is appropriate because literal compliance is impractical due to the grade of the lot.

#229-13 NEEDHAM CHESTNUT REALTY, LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and for a NONCONFORMING STRUCTURE to demolish an existing single-story building of approximately 14,084 sf and construct a new single-story building containing approximately 7,140 sf to be used for retail and restaurant purposes and to waive certain dimensional requirements such as minimum aisle width, lighting, loading dock, interior landscaping, etc. at 170 NEEDHAM STREET, Ward 8, on land known as SBL 83, 28, 2 containing approx. 24,422 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-13(b), (b)(1) and (5), 30-19(m), 30-19(h)(3), (j)(1), (l) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0-1 (Fischman abstaining)

NOTE: The public hearing was opened and closed on August 13, 2013. Present were Aldermen Hess-Mahan (Chairman), Albright, Crossley, Schwartz, Laredo, Harney, and Fischman; Alderman Yates was also present.

The petitioner proposes to demolish an existing 14,084 square-foot building constructed in 1952 and construct a new 7,140 square-foot one-story commercial building towards the front of the site with 33 parking stalls in the rear. The number of parking stalls meets the requirements for the proposed mixed uses. The site abuts the south Meadow Brook, which requires the

petitioner to file a notice of intent with the Conservation Commission and receive its approval before pulling any permits. The parking is pulled back farther from the Brook and will be accessed from Jaconnet Street. It is unlikely the Conservation Commission will require mitigation on the site given that the petitioner is not adding additional impervious surface and is decreasing the footprint of the building. (The petitioner presented the project at the September 26th Conservation Commission meeting.)

The proposed building will include a restaurant and three retail spaces, which are nonconforming uses in Mixed Use 1 districts. Other relief includes waiving the minimum aisle width, lighting, and loading dock requirements and certain interior landscaping, fencing, or other dimensional requirements. Similar to the Needham Street Village Shops approved for 49, 55, 71 Needham Street, the tenant spaces will have front, back, and corner entrances. The proposed building is approximately 17 feet in height. Materials consist of brick, stone, tile, glass, and stucco. The Planning Department noted that the proposed project advances the City's vision for the Needham Street Corridor

The Engineering Division raised concerns about the city's access to the trash gate for the South Meadow Brook at the Needham Street culvert and relocation of the existing 15" storm drainage pipe that runs through the site under the building from Jaconnet Street to the Brook. The petitioner will relocate the dumpster, which will be enclosed, and provide the city an easement to access the trash gate. The petitioner will reroute the 15" storm drainage pipe and provide the city an easement to it as well. The petitioner is also proposing to remove the existing catch basin in the middle of the lot. Drainage is designed to contain runoff on-site. In response to Fire Department concerns, the petitioner will put a hydrant on-site.

A new sidewalk on Jaconnet Street will connect the front to the rear of the site. Landscaping will be installed to the front, side and rear of the site. Subject to any approvals needed from the state, the petitioner proposes adding sidewalk planters and benches along the Needham Street frontage. The Committee asked if all utilities could be undergrounded in context with the long-term plan for Needham Street. The Planning Department suggested the petitioner revise the lighting plan to reduce the amount of excess lighting beyond the property line.

There was no public comment.

This evening, the Planning Department confirmed that the petitioner had submitted a revised site plan. Revisions include relocation of the dumpster and transformer to the southeast corner of the parking lot, with an "employee only" parking space in their place. The petitioner will plant three street trees along the Needham Street frontage and in accordance with the Conservation Commission's Order of Conditions plant additional vegetation along the Brook buffer area. The petitioner has reduced the height of the light poles in the rear parking lot from 15 feet to 12 feet, which will eliminate spillover, and changed the wall-mounted flood lights to down lights on the wall and under the canopy. Two bike racks will be provided on-site.

Although the existing 15” pipe that the petitioner has agreed to remove and relocate on the site is the city’s the petitioner at the request of the Engineer Division has agreed to install a new “water treatment structure.” While the on-site utilities will be undergrounded, the site receives its power from Jaconnet Street, not Needham Street; however, although there is currently no connection to Needham Street, the petitioner is willing to contribute funds to the city for the future undergrounding of power lines along Needham Street, similar to the condition contained in the special permit for the Needham Street Village Shops.

Alderman Crossley moved approval finding that the proposed uses will not be substantially more detrimental to the neighborhood than the existing use given the other types of commercial uses that surround it; the proposed structure/uses are consistent with the 2007 *Comprehensive Plan* and the site is appropriate for such uses and structure; access to parking is appropriate; waiving certain lighting and dimensional requirements will not adversely affect adjacent property owners and will not adversely affect the safety of vehicles or pedestrians on the site. The motion to approve carried 5-0-1, with Alderman Fischman abstaining.

#259-13 CYPRESS DEVELOPMENT, LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING USE/STRUCTURE to allow the expansion of a legal nonconforming thee-family dwelling and to locate 1 parking stall 6 feet from the side lot line at 43-45 HIGH STREET, Newton Upper Falls, Ward 5, on land known as SBL 51, 8, 5, containing approximately 25,618 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a), 30-21(b), 30-9(b)(5)a) and b), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 6-0

NOTE: Present at the public hearing, which was opened and closed on September 10, 2013, were Aldermen Fischman (Acting Chairman), Albright, Laredo, Schwartz, Crossley, and Harney. Alderman Hess-Mahan was absent.

The petitioner is seeking to renovate the existing three-family dwelling built circa 1880, which it purchased last year. Located in the Newton Upper Falls Historic District, it is in considerable disrepair. There is as later ell addition to the building extending towards the rear of the site. The petitioner wishes to replace that portion of the building and extend it approximately 30 additional feet. The proposed addition will increase the gross floor area by approximately 8,274 square feet. The proposed structure includes three attached garages. The rear of the proposed addition will be 2.5 stories. The petitioner also proposes to alter the driveway and parking on the site and to add new patio areas. Improvements also include a drainage system.

The relief requested is to extend a nonconforming structure and to locate a parking stall six feet from the side lot line, where the ordinance requires 10 feet. Although the petitioner is proposing to expand the dwelling and the impervious area, it is not increasing the number of units, building orientation, or vehicle circulation. The proposed addition will be set back from the north, south, and east property lines by approximately 30, 70, and 21 feet, respectively. Parking is located at the rear of the lot on the east side. There is ample vegetation/screening along most of the property lines as well as throughout the site. The site plan shows replacement

plantings on portions of the site and generally maintains the existing vegetation. Several trees and shrubs will be removed, but the proposed site plan shows new trees and shrubs planted throughout the site and along the property lines. The petitioner with input from neighbors and abutters met four times with the Newton Upper Falls Historic District Commission. The District Commission approved the proposed design on June 16.

Public Comment

Jeff Riklin, 37 High Street, an immediate abutter and 10-year member of the Upper Falls Historic District Commission, as well as a member of the Upper Falls Neighborhood Area Council, supports the project. A previous developer proposed four units. The petitioner listened to the neighborhood and respects the integrity of the community.

Aleksandra Quereux, 51 High Street, the other direct abutter, said it is a beautiful property, but it is in disrepair and not maintained. She is concerned about construction and the height of the addition creating more shade.

Ms. Hoffman, a resident of 36 High Street, agreed, she's a tenant and takes care of her yard; there has been no effort to clean up this property. She is also concerned about traffic on High Street.

The Committee was doubtful that the proposed addition would cast more shade, but asked the petitioner to provide a cross section of the addition for the working session. It also asked to see a landscaping plan.

This evening, the committee viewed a cross section of the proposed addition. The proposed ridge is 20 inches higher than the existing ridge and 12 inches farther from 51 High Street. In response to the Engineering Division, the petitioner has in addition to the site drainage collection system added a trench drain to collect runoff from spilling onto High Street, infiltrating it on-site instead. The petitioner submitted an Operations & Maintenance Plan for stormwater management and will submit a Construction Management Plan as well. There was a question of whether there would be any blasting. Alderman Crossley pointed out that there is a lot of ledge in the area. The petitioner said that test borings at the rear of the site have not encountered ledge, but there is no guarantee. The Committee agreed that should the special permit be approved, the city's standard blasting condition would be included. The petitioner provided a landscape plan that shows one large tree will have to be removed; however, the committee was satisfied that there is and will be abundant landscaping on the site. There is some fencing proposed as well, but it must be appropriate for the District, which does not allow stockade fencing.

Alderman Crossley moved approval finding that the proposed addition is not substantially more detrimental to the neighborhood than the existing nonconforming structure; the design of the proposed structure has been reviewed and approved by the Upper Falls Historic District Commission; the petitioner is preserving the main portion of the historic structure; and locating one parking stall six feet from the lot line is appropriate because literal compliance with ten feet is impractical. The motion to approve carried 6-0.

The meeting was adjourned at approximately 10:30 PM.

Respectfully submitted,

Mitchell L. Fischman, Acting Chairman