

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JANUARY 10, 2012

Present: Ald. Hess-Mahan (Chairman), Ald. Merrill, Laredo, Schwartz, Albright, Crossley, Harney; also present: Ald. Lennon, Alderman-elect Fischman
City staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Robert Waddick (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board)

#388-11 KOUZINA, INC./DTS TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive the 9 parking stalls required to increase from 20 to 46 the number of seats in an existing restaurant at 1649 BEACON STREET, Ward 5, Waban, on land known as SBL 53, 29, 2A, containing approximately 54,198 square feet of land in a district zoned BUSINESS 1. Ref: Sec. 30-24, 30-23, 30-19(d)(13), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.
ACTION: HEARING CLOSED

#282-11(2) RICHARD D. SEWALL petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four attached dwellings in two buildings; to waive the side setback requirement; to allow a lot coverage of more than 25%; and to waive the dimensional requirements for parking stalls at 87-89 WABAN STREET, Ward 1, Newton Corner, on land known as SBL 12, 4, 27, containing approximately 20,082 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec 30-24, 30-23, 30-(9)(b)(5), 30-9(b)(5)b 30-19(g)(2) and (m) of the City of Newton Rev Zoning Ord, 2007.
ACTION: HEARING CLOSED

#416-11 K.J.R., INC/JOSEPH BONTEMPO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE to expand the seating capacity of an existing restaurant by 15 seats to allow for an outdoor roofed patio at 7 WEST STREET, Ward 1, Nonantum, on land known as SBL 14, 14, 41, containing approximately 2,850 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(d)(13) and (m) 30-15(m), 30-15 Table 1, 30-9 of the City of Newton Rev Zoning Ord, 2007.
ACTION: HEARING CLOSED

NOTE: These items will be reported when voted out of committee.

#414-11 DAVID & RENEE SOUTHIERE/JOHN F. NEVILLE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE to convert two existing rear porches into livable space, which will increase the Floor Area Ratio to .58 where .50 is allowed by-right, at 39 and 41 CLARENDON STREET, Ward 2, Newtonville, on land known as SBL 22, 11, 9, containing 11,130 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: Architect Stephen Reilly presented the petition. The property contains two attached condominiums, each of which has an existing rear covered porch. Both owners wish to enclose the porches to create more usable living space, which would increase the existing nonconforming Floor Area Ratio (FAR) for each unit from .55, where .50 is allowed by-right, to .58. The existing units are approximately 2400 sq. ft.; the proposed enclosures would add 185 sq. ft. to each unit without expanding the footprint of the building. The petitioner at number 39 plans to begin construction as soon as possible; the petitioner at number 41 is not yet sure when he will begin.

Alderman Albright, who visited the site, commented on the small size of the backyard. She believes enclosing the porches will create an appearance of additional mass to the abutters to the rear on Harvard Street. Would the petitioners consider adding larger windows? Mr. Reilly said the petitioners don't want larger windows because of privacy concerns. He pointed out that the neighborhood consists mostly of two-family homes on lots comparable to the size of the petitioners' lot. The windows proposed are actually smaller than the existing windows in the homes because the ceiling in the proposed enclosures is slightly lower. She asked about notification. The petitioners indicated they had spoken with the direct abutters. The Chairman explained that the city notices abutters to abutters within 300 feet of the subject site. The notices and lists of people to whom they were sent, as well as all other documents related to special permit petitions, are available on the aldermanic webpage under special permits and the street address.

The only speaker was Dave Kezer, 24 Clarendon Street, who said the proposed enclosures are in keeping with the neighborhood; most backyards are small and the enclosures won't impinge on the neighbors.

In working session, the committee discussed the construction schedule. Whereas the Southieres at number 39 plan to complete construction as soon as possible, Mr. Neville, at number 41, is not planning to begin construction immediately. Ms. Young explained that if the committee were to approve the special permit, a condition would have to be inserted to allow each owner to proceed at a different pace. She suggested breaking out the certificate of occupancy requirements for each unit and if the committee chose it could phase construction, giving number 41 additional time to complete the special permit. Although she still felt a bit uncomfortable about the lack of testimony from abutters, Alderman Albright moved approval of the petition finding that the proposed enclosure of two existing rear porches into livable space, which will increase the FAR to .58 where .50 is allowed by right, is not substantially more detrimental than the existing conditions because there will be no expansion of the footprint of the structure and it will not

affect the streetscape. The committee voted to include a condition to allow number 41 five years in which to complete the special permit.

Mr. Reilly asked if the petitioners would be able to revise the window treatment if privacy concerns arose relative to the siting of a proposed special permit development on the abutting lot south of the petitioners' property. The committee agreed this is a reasonable request and is including this note to memorialize its intention that should the petitioners wish to change the window configuration because of privacy concerns they will not have to amend the special permit but may seek instead a consistency ruling from the Commissioner of Inspectional Services.

The committee voted 7-0 to approve the petition.

#415-11 LORI A. MEADS-BELZ & EDWARD D. BELZ petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to convert an existing porch into a study/office space, which will increase the Floor Area Ratio to .54 where .40 is allowed by-right, at 14 LORING STREET, Ward 7, Newton Centre, on land known as SBL 73, 30, 10, containing approximately 8,500 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: Architect Richard Levy presented the petition. The petitioners wish to remove an existing screen porch on the south side of single-family house and build in its place a 14'x 23' study/office. The existing nonconforming Floor Area Ratio (FAR) is .48, where .40 is allowed by right, the proposed addition of 322 sq. ft. would increase the FAR to .54. Demolition of the porch was approved administratively by the Historical Commission. The addition has been designed with triple columns and lots of glass to emulate the screen porch. Currently, the porch is overshadowed by a very large rhododendron, which will need to be removed. The petitioners indicated the abutter to the south side, which is the one most affected, has no issues with the proposal. All dimensional requirements and setbacks will remain compliant. The neighborhood is comprised of an eclectic mix of house styles.

In working session, after a brief discussion, Alderman Laredo moved approval finding that the proposed addition and increase in FAR from .48 to .50 where .40 is allowed by right will not result in a major increase in the mass of the building and that the expansion is in keeping with the character of the neighborhood.

NOTE: The following auto dealer licenses for 2012 were approved 7-0 because they meet the licensing criteria, have no outstanding zoning complaints, owe no money to the city, and have posted surety bonds with the city. Massachusetts classifies auto dealer licenses into three categories: A Class 1 license holder must be a recognized agent of a motor vehicle manufacturer and have a signed contract with same; Class 2 is for used vehicles; and Class 3 for junk vehicles. The criteria for issuing a license are whether it is the applicant's principal business, she/he is a "proper person," and has available a "suitable place of business." Ordinance section 17-14 allows the city to deny, revoke, or suspend certain licenses for failure to pay municipal taxes or charges. Class 2 auto dealers are required to post with the city or town in which they are

licensed a \$25,000 bond or equivalent proof of financial responsibility for the benefit of a person who purchases a second-hand vehicle and suffers subsequent losses because of the dealer.

Class 1

- #298-11 BAYSTATE CHRYSLER JEEP DODGE RAM
777 Washington Street
Newtonville 02460
- #299-11 CLAY NISSAN OF NEWTON, INC.
431 Washington Street
Newton Corner 02458
- #300-11 VILLAGE MOTORS GROUP, INC.
d/b/a HONDA VILLAGE
371 Washington Street
Newton Corner 02458

Class 2

- #307-11 JACOB & ASSOCIATES
1232 Washington Street
West Newton 02465
 - #308-11 L. A. AUTO BODY, INC.
41 Los Angeles Street
Nonantum 02458
 - #312-11 NEWTON AUTO GROUP, INC.
1235 Washington Street
West Newton 02465
 - #317-11 R.S. SERVICE, INC.
361 Washington Street
Newton Corner 02458
 - #318-11 REGAN'S INC.
2066 Commonwealth Avenue
Auburndale 02466
 - #320-11 THE TRAVIS CORPORATION
d/b/a THE CAR STORE
19 Rolling lane
Chestnut Hill 02467
 - #322-11 WASHINGTON STREET SUNOCO
875 Washington Street
Newtonville 02460
 - #323-11 CITY OF NEWTON
1000 Commonwealth Avenue 02459
- Class 2 & 3
- #324-11 ECHO BRIDGE SALVAGE, INC.
16-24 Maguire Court
Newtonville 02460
 - #325-11 SCHIAVONE BROTHERS, INC.
16-24 Maguire Court
Newtonville 02460

#326-11 TODAY'S SERVICES, INC.
1362 Washington Street
West Newton 02465

New Class 2

#327-11 NEWTON COLLISION, INC. d/b/a GM AUTO BODY
64 Crafts Street
Newtonville 02460

ACTION: HELD

NOTE: Since this is a new license and the applicant was unable to attend this evening, it was held for the January 24 meeting.

#105-09(4) YANPING SUN request for an EXTENSION OF TIME IN WHICH TO EXERCISE special permit petition #105-09(3), granted on December 6, 2010 for an accessory apartment in an existing single-family dwelling at 87 WOODWARD STREET, Ward 5, Newton Highlands. Sec 30-24(c)(4) City of Newton Rev Zoning Ord, 2007.

ACTION: HELD 7-0

NOTE: The petitioner has not yet exercised this special permit. G.L. chapter 40A allows two years in which to exercise a special permit; however, the city grants one year after which a person may apply for an additional year in which to exercise it. The petitioner was not invited this evening because of uncertainty as to when the public hearings would end and the Chairman's wish to get from the committee a sense of how it would like to proceed, since the special permit was quite controversial and only garnered the sixteen votes required. Alderman-elect Fischman suggested a public hearing be held on the request. Alderman Crossley offered to speak with Alderman Rice, who was very involved with the petitioner and neighbors during the original process. The committee felt this would be helpful and held the item.

N.B. Subsequent to the public hearing, Alderman Crossley indicated that she had spoken with Alderman Rice. Since a number of questions arose in their conversation as to why the special permit has not yet been exercised, they feel a public hearing on the request for an extension of time would be appropriate. The Chairman intends to poll the committee on Tuesday, January 17, on whether to hold a public hearing and should the committee agree will assign it for a hearing on February 14.

#106-07(5) PRESIDENT LENNON appointing the following individuals as Board of Aldermen appointees to the six-person Neighborhood Council established in Condition 20 of special permit #106-07, granted to Beth Menachem Chabad on October 1, 2007, for waivers of parking requirements associated with a religious institution at 349 Dedham Street, Ward 8:

(A) Elyse Friedman, 370 Dedham Street

(B) David Yu, 22 Rachel Road

(C) Alderman Mitchell Fischman, Alderman-at-large, Ward 8

ACTION: APPROVED 7-0

NOTE: These appointees are the three Board appointees to the Chabad Neighborhood Council. The other members are two representatives from Chabad and the Principal of Countryside

School or her designee. The Committee asked Alderman-elect Fischman to convey its appreciation to the members for serving and approved the appointments unanimously.

The meeting was adjourned at approximately 10:05 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman