

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 19, 2012

Present: Ald. Hess-Mahan (Chairman), Ald. Albright, Merrill, Harney, Laredo, Schwartz, and Crossley; absent: Ald. Fischman

Staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board of Aldermen)

Public Hearings were held on the following items:

#349-06(3) CHANDRAJIT P. RAUT & SHILPA GROVER petition to AMEND THE s SITE PLAN APPROVED in special permit #349-06 for a rear lot subdivision at 11 Gray Birch Terrace, granted on March 5, 2007, in order to construct two retaining walls at 19 GRAY BIRCH TERRACE, Ward 2, on land known as SBL 24, 7, 9A, containing approximately 20,446 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 7-0 – *Site Plan Approval requires only a majority vote of those present and voting, not a two-thirds vote.*

NOTE: The petitioners are seeking to amend the site plan approved in special permit #349-06 which created a rear lot subdivision to allow construction of a single-family dwelling. The new home, built in accordance with the approved site plan, was purchased by the petitioners who unaware of the special permit constructed two retaining walls: one wall on the westerly side, cut into the slope to hold back the earth to create useable yard space, the other wall on the east side, constructed and filled to reduce the slope to correct drainage issues. The Associate City Engineer visited the site and observed the site is stable, landscaped, and should not adversely impact any abutters. There was no public testimony.

In working session, Alderman Albright moved approval of the petition, finding that the additional retaining walls have no negative impact on abutters; drainage is contained; and the amount of usable yard space is expanded. The motion to approve carried 7-0.

#137-12 NSTAR ELECTRIC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a retaining wall of four feet or more in height in the setback in order to replace existing transformers and add additional accessory equipment at 48 ELLIOT STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 29, 38, containing approximately 158,000 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; HELD 7-0

The public hearing was opened and closed on June 19, 2012. Present at the public hearing were Aldermen Hess-Mahan (Chairman), Albright, Merrill, Harney, Laredo, Schwartz, and Crossley.

NSTAR was represented by Associate Project Manager Duane Boyce, James Curtis and Matthew Lenzi. The 158,000 square-foot site contains an NSTAR substation, transformers, and related equipment. NSTAR is expanding its facilities to enhance capacity of power to consumers. Four existing transformers will be retired and replaced in phases to avoid disruption to service. Most of the site is level, but it drops off steeply behind the location of one of the transformers at the northeast portion of the site that abuts abandoned railroad tracks owned by the MBTA. NSTAR is seeking a special permit to expand an existing retaining wall on that portion of the site to create a level area for the new equipment. The proposed wall is approximately 11 to 13 feet in height (it varies with the topography) and approximately 370 feet in length. It will have a fence on top.

There was no public comment.

Alderman Schwartz noted the proximity and the possible visual impact of the proposed wall on the abandoned railroad tracks for which the city is currently negotiating a potential long-term lease with the MBTA for a bicycle/pedestrian path. Alderman Crossley asked why the equipment could not be located on the flat portion of the property. How big is the equipment? Can the retaining wall be moved back? It was noted that if the retaining wall were pulled back 3.5 to 4 feet, it would not require a special permit. Mr. Boyce explained that transformers need enough room around them to allow equipment to access – and in the future to move and replace –them. However, he is not a substation designer and was uncomfortable addressing questions relative to the design and placement of the equipment. Alderman Crossley would like to know how equipment is accessed on smaller sites. Several Committee members suggested that NSTAR might provide some mitigation, such as cleaning up the weedy overgrowth along the spur and installing new plantings. Although it was pointed out that planting trees is probably impracticable because of the steep slope. Still, Aldermen Schwartz and Crossley encouraged NSTAR to work with the City to enhance the future bicycle/pedestrian path.

The Committee agreed it was not prepared to vote the petition. It suggested the Planning Department meet with NSTAR representatives to address questions raised this evening prior to the next working session. Alderman Laredo moved to hold the petition, which motion was approved 7-0.

#138-12 BARBARA A. BYRNE & JOSEPH E. FLAHERTY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct three dormers to expand the third-floor living space of an existing single-family dwelling at 85 CUMMINGS ROAD, Ward 2, Newton Centre, on land known as SBL 64, 3, 39, containing approximately 9,890 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15(t), (t)(1) and (t)(3) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: The petitioners were represented by architect William Turville. The petitioners wish to expand the living space on the third floor of their 1870's single-family Victorian home. They are seeking a special permit for two gable-end dormers on the rear elevation and for a gable-end dormer with an attached shed dormer on the front elevation. A special permit is necessary to locate a dormer within three feet of the building end wall and wider than 50% of the length of the exterior wall of the floor below. The proposed dormers are located 2'1" and 2'4" from each end wall. Although the house is legally nonconforming with respect to lot area, front setback, and side setback, the proposed dormers will not result in any changes to the existing nonconformities.

The neighborhood is essentially surrounded by Newton Cemetery. The site is bordered by the cemetery on one side and there is no house directly across the street.

Mark Bernstein, 85 North Street, lives around the corner and believes it is laudable of the petitioners to add up instead of out. He believes it is terrific design and supports the petition.

Wendy Lewis, 41 Cummings Road, who has lived there for 30 years also spoke in support of the petition. The subject property is at the end of the street next to the cemetery and is masked with mature trees and vegetation. Nobody can see or notice the proposed dormers. She is pleased the house is being preserved as a number of others have been torn down and replaced with gigantic houses that are out of place in the neighborhood of smaller 1800's homes.

Alderman Albright moved approval of the petition finding that the site is appropriate because it borders open space, i.e. Newton Cemetery; is well screened by mature trees and will not adversely affect the neighborhood; it enhances existing housing stock, while modifying an historic building. The motion to approve carried, 7-0.

#139-12 NED CHESTNUT HILL LLC/DANA J. KATZ, TRUSTEE for DK REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a freestanding sign and for a secondary principal sign for which the dimensional limits would be waived at 176 BOYLSTON STREET, Ward 7, Chestnut Hill, on land known as SBL 82, 2, 18, containing approximately 45,240 sq. ft. of land in a district zoned BUSINESS 1 and 4. Ref: Special Permit #505-98 and Sec 30-24, 30-23, 30-20(f)(1), (2), (9) and 30-20(l) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CONTINUED TO JULY 10, 2012

NOTE: The Committee received a letter from Barnes & Noble asking for a continuation of the hearing. The petitioners agreed and the Committee continued the hearing to July 10.

#83-12(2) BARBARA MASON petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a deck/landing/staircase of greater than 50 sq. ft. to provide a second means of egress for an existing legal accessory apartment and to waive associated landscape screening at 47 HANCOCK AVENUE, Ward 6, Newton Centre, on land known as SBL 64, 16, 19, containing approximately

33,299 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2) and (2)(b) and 30-8(d)(1)(h)

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: The petitioner was represented by attorney G. Michael Peirce. The petitioner recently went through the administrative Review of Accessory Apartment Petitions (RAAP) to legalize an existing accessory apartment that has been on the second floor of a large detached carriage house since the early 1900s. Although the apartment is approximately 550 square feet, roof angles, while making it interesting, make it smaller. The petitioner wishes to add a 115 square-foot deck to the rear to provide an additional amenity. Although the deck and stairway for a second means of egress meet building code, the deck is larger than what is allowed by-right. Since a special permit is being sought for the deck, the petitioner has decided to legalize by special permit the accessory apartment as well.

In response to a question about window treatment, Mr. Peirce said the rear of the apartment is glass, flush with the existing wall, to allow more light inside. The property abuts the aqueduct and city-owned conservation land and the proposed deck is not visible from the street. The carriage house is 150 feet from the closest home.

The petitioner is seeking a waiver from the landscaping requirements relative to parking, which waiver seems appropriate given the existing on-site screening and the length of the driveway. The garage accommodates at least two cars and one exterior stall is proposed in front of the garage on existing pavement.

There was no public comment. In working session Alderman Schwartz moved approval of the petition finding that the renovation of the longtime accessory apartment preserves an historic carriage house; the proposed deck is an amenity and not visible from the street; the accessory apartment adds to the diversity of the city's housing stock; a waiver from landscaping screening is appropriate since the site is very large and has existing mature screening. The motion to approve carried 7-0.

The meeting was adjourned at approximately 9:20 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman