

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, FEBRUARY 15, 2011

Present: Ald. Hess-Mahan (Chairman), Ald. Merrill, Albright, Schnipper, Blazar, Crossley, Harney, and Fischman

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

Public hearings were held on the following items, after which the Committee held a working session:

#137-10(2) SHARAD S. GANDBHIR petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an accessory apartment in an existing detached structure; to locate three parking spaces closer than five feet from the street, one of which would be located within the front setback, and to locate a 6.5-foot retaining wall in the side setback at 298-300 ADAMS STREET, Ward 1, on land known as Sec 12, Blk 2, Lot 9C, containing ≈11,529 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-5(b)(4), 30-9(h)((1), 30-19(g)(1) and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; HELD 8-0

NOTE: The petitioner is seeking a special permit for a 1,120 square-foot accessory apartment in an existing detached structure (which has been vacant since at least 1987) located to the rear of a 2-family residence he owns. The same petition was submitted last year, but withdrawn because of Fire Department concerns about access to the proposed accessory apartment.

Although the petitioner and his wife do not live at the Adams Street property, he explained that their children are grown and they no longer need their large home on Oxford Road and wish to relocate to one of the smaller units on Adams Street.

Mr. Flavio Leo of 294 Adams Street, the abutting residence to the north, said he would love to have the petitioner live next door, but he has a number of concerns, including the long-term use of the property and adequate Fire Department access to the rear of the site. Mr. Leo re-submitted a letter, previously submitted in 2010, which is attached. There was no other testimony and the public hearing was closed.

In working session the Committee reviewed the proposed plan, approved by the Fire Department, which essentially levels the topography on the north side of the property to allow emergency responder access. Grass pavers would be installed to provide access. The Commissioner of Inspectional Services has determined that the grass pavers would also count as open space on the site, provided there is no parking allowed. The cut into the slope is quite drastic and involves construction of a 6.5-foot retaining wall within the side setback. The Committee was troubled by

the height of the proposed wall and the amount of cutting to level the area. It was also concerned about a retaining wall proposed along the existing stone wall of the property at 294 Adams. Building code requires that any wall over four feet have a fence on top. What type of fencing is proposed? Has the petitioner spoken with the abutter? Alderman Crossley pointed out that the proposed leveling of the grade to the frost line could potentially damage the existing buildings. Alderman Fischman asked how contractors would access the rear of the site. Is there a Construction Management Plan?

Since there were a number of unresolved issues, the Committee voted 8-0 to hold the petition. Prior to another working session, it would like:

- profile and cross section for the retaining walls;
- either confirmation of the existing proposal or an alternative plan acceptable to the Fire Department re the amount of cutting into the slope that is really necessary for access; concern was expressed about whether the proposed width is really adequate;
- a draft Construction Management Plan
- a site visit with access to the interior of the rear structure.

#23-11 NEW CINGULAR WIRELESS by AT&T MOBILITY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE for the addition of three (3) wireless communication antennas to an existing monopole at 30-36 BORDER STREET, Ward 3, West Newton on land known as SBL 33, 15, 24, containing ≈14,458 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-18(c), 30-18(e)(8) of the City of Newton Rev Zoning Ord, 2007, special permits #209-67 and #337-05.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: Joan Costello, Site Acquisition Manager for AT&T, presented the petition. A radio transmission tower for private use was erected on this site in 1967. In 1994, prior to the city's adoption of Section 30-18A, the so-called wireless ordinance, the radio tower was reconstructed as a monopole with a nine-antenna array. In 2005, the array was reduced administratively to six antennas. The petitioner is seeking to add three antennas bringing the total number back to nine antennas. The site is in a Manufacturing zone and contains an auto body shop in which the additional ancillary cooling equipment required for the antennas is located. While the six antennas worked well for cell phone use, the additional antennas will allow the petitioner to provide 4G LTE (4th Generation, Long Term Evolution) network to allow better data on subscribers' cell phones. The existing three arms from the previous antennas will be used to mount the three proposed panel antennas.

There was no public comment and the public hearing was closed.

In working session the Committee reviewed a draft board order attached to the Planning Department memorandum of February 11. Alderman Fischman wanted to know if the three new

antennas would require additional cooling equipment and if so would there be any increase in exterior noise. Ms. Costello noted that a letter dated 12/06/10 from acoustical consultant Reuter Associates (which the Committee did not have this evening) indicated that the proposed upgrade will not require changes to the cooling equipment located within the auto body shop. Ms. Young said she would review the acoustical engineer's letter, but pointed out that the Committee could if it chose include both a finding and condition relative to noise, since the noise ordinance prohibits "noise pollution" above the ambient background noise over a certain dB(A). In response to what color the pole is, Mr. Valentine said that although it looks white in the photographs, it is actually pale grey and will remain so with the new antennas painted to match.

Alderman Albright made a motion to approve the petition finding that the addition of three panel antennas will not be substantially more detrimental to the neighborhood than the existing six antennas because they will be installed on an existing monopole; the antennas will provide improved services; avoid installation of a monopole on another site; the antennas will not generate any additional noise; there is no adverse impact from ancillary equipment because it is located within an existing building away from residential abutters; and, it is consistent with the 2007 Newton Comprehensive Plan because it enables a low-impact business that benefits the city without any adverse impact. Alderman Albright's motion carried 8-0.

The meeting was adjourned at approximately 9:30 PM.

Respectfully submitted,

Ald. Ted Hess-Mahan, Chairman