

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 15, 2011

Present: Ald. Hess-Mahan (Chairman), Ald. Merrill, Albright, Fischman, Schnipper, Blazar, Crossley, and Harney; also present: Ald. Lappin, Ciccone, and Lennon  
City staff: Ouida Young (Associate City Solicitor), Eve Tapper (Chief Planning, Long Range Planning), Linda Finucane (Assistant Clerk of the Board)

#47-11      CHARLES L. WEST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to bump out the kitchen into the side yard and extend a porch from the rear entrance to improve access for persons with disabilities, which would increase the Floor Area Ratio from .27 to .28; decrease the rear yard setback from 15.4' to 12.5' and increase the maximum lot coverage from 20.3% to 20.8% at 95 FOUNTAIN STREET, Ward 3. West Newton, on land known as SBL 32, 44, 5, containing ≈11,355 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

**ACTION:**      HEARING CLOSED; APPROVED 8-0

**NOTE:**      The petitioner represented himself at the public hearing. The subject residence is a single-family Victorian constructed in the 1890's. The petitioner recently completed by-right interior renovations to add a handicapped-accessible bedroom and bathroom in the rear of the house, which resulted in a loss of kitchen and storage areas. He is seeking a special permit to add a 13x5-foot (71 sq. ft.) bump out to the kitchen for storage and a 5.6'x3.8' (21 sq.ft.) covered porch to provide protection from the elements. The existing residence is nonconforming with regard to lot coverage, floor area ratio (FAR), and rear setback. Approval of this petition would increase these nonconformities. Although the FAR is marginally above the neighborhood average, it would still be the lowest FAR on Fountain Street.

The petitioner said he spoke with all of his abutters. There was no public comment and the hearing was closed.

In working session, the committee noted that the closest abutter to the addition is 235 Highland Street but it should not impact that property because the addition is well-screened by existing large hemlocks. In response to a question to why the de minimis ordinance did not apply to this petition, Ms. Young explained that de minimis only applies to setbacks, not open space and lot coverage. And in this case, even if the de minimis ordinance were amended, the petitioner would still need relief for the FAR. Alderman Schnipper asked the petitioner if the special permit process was burdensome. The petitioner said no, not particularly, since he had to hire an architect for the by-right interior renovations anyway.

Alderman Schnipper moved approval of the petition finding that approval of waivers from the FAR; extension into the rear setback; and the increase in the lot coverage as cited in the petition would not result in a structure substantially more detrimental than the existing one. Alderman Schnipper's motion to approve the petition carried unanimously, 8-0.

#48-11        DOUGLAS GENTILE/TEEGEE LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing garage repair shop at 441 WATERTOWN STREET, Ward 1, Nonantum on land known as SBL 14, 8, 7, containing ≈10,543 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-11(g) of the City of Newton Rev Zoning Ord, 2007.

ACTION:     HEARING CLOSED; APPROVED 8-0

NOTE: Mr. Gentile, who operates the garage repair shop, represented himself at the public hearing. The subject site was in use as an automotive parts/repair facility continuously from 1929, when a by-right building permit was issued for its construction, to sometime in 2005. The automotive use was a legally nonconforming use. However, between 2005 and 2008 a retail store, a by-right use in a Business 2 district, occupied the site. Because it became a conforming use, the site lost its legally nonconforming status. When the petitioner leased the property in October of 2009, he filed a d/b/a (doing business as) certificate with the city, which was signed off in error. He is now seeking a special permit to operate a garage repair business in a Business 2 zone. The parking requirement remains the same and the existing parking area can be striped to accommodate 11 dimensionally compliant stalls. The site is surrounded by a number of non-residential uses. One letter in opposition, dated 3/7/11, was submitted by Juniper Russell and R. Brough Turner whose architectural practice is located 421 Watertown Street.

Speaking in favor of the petition was Mark Dooling of 253 Crafts Street, who supports the diverse used in the neighborhood, and Tony Pellegini, 56 Clinton Street, who agreed with Mr. Dooling. Both speakers praised the petitioner's business practices as well. That concluded the public hearing.

In working session, the committee asked about a 15' city drainage easement along the front of the property noted in the Planning Department's 3/15/11 memorandum. Ms. Tapper said that the city had an easement, but it was never recorded and had expired and the city has no use for it.

Several members noted that the building is set back from the street with most of the parking in the front. There are three street trees in front of the site, but the site lacks any space for landscaping. The petitioner is amenable to placing plantings in whiskey barrels on the front pedestal of the building.

Alderman Merrill moved approval of the petition finding that since 1929 site had been used continuously except for a few years as an automotive use and that a reversion to such use would not adversely impact the neighborhood; the 11 parking spaces will accommodate parking on-site; it is a viable business in a village center. The committee also noted that this was not a case of permission v. forgiveness, since the petitioner had filed for a special permit without an

enforcement action from the Inspectional Services Department. Alderman Merrill's motion carried unanimously, 8-0.

The meeting was adjourned at approximately 10:30 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman