

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MAY 10, 2011

Present: Ald. Hess-Mahan (Chairman), Ald. Schnipper, Blazar, Crossley, Merrill, and Harney;  
absent: Ald. Albright and Fischman; also present: Ald. Baker and Lennon  
City staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Linda  
Finucane (Assistant Clerk of the Board)

*A Public Hearing was held on the following item:*

#279-98(2) SVETLANA OSTROVSKAYA petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION of a NONCONFORMING STRUCTURE #279-98, granted on 10/19/98, to construct an attached garage in the front setback onto an existing nonconforming single-family dwelling at 14 ROLAND STREET, Ward 8, on land known as SBL 83, 33, 6, containing ≈14,819 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 3-24, 30-23, 30-21(a)(2)b), 30-21(b), of the City of Newton Rev Zoning Ord, 2007.

**ACTION:** HEARING CLOSED; ITEM APPROVED 5-0 (Schnipper not voting)

**NOTE:** In 1998, the petitioner was granted a special permit for a second-story addition, a portion of which is in the front setback. (The required setback is 25 feet; the prior special permit extended the structure 17.6 feet from the front property line.) The house is sited close to the Roland Street frontage because the property slopes steeply towards the rear property line. Locating the garage to the rear of the house would involve a substantial change in grade. The petitioner now wishes to construct a garage east of the house, connected to the house by a 12'x 12' covered breezeway. The proposed addition will align with the existing 17.6-foot setback. When asked if the proposed garage could be moved even slightly towards the rear, the petitioner said it would block windows, making the living room dark. The proposed breezeway will not provide any access to the house. The petitioner explained she would like to install a doorway eventually, but does not want to lose a coat closet that is needed for storage. Financial considerations are a factor as well because a fireplace and chimney are located on the same wall.

Currently, the property has two curb cuts and two driveways. The proposed garage would create a third driveway. The Planning Department recommended in its memorandum dated May 6, 2011 that the two existing curb cuts be closed. The petitioner is willing to close one of the curb cuts, but would like to keep the curb cut on the west side of the house, which abuts a vacant parcel of land, to provide off-street parking for guests. That driveway also provides access to the petitioner's back door. The City's Engineering Division in its memorandum dated May 2, 2011 noted that the sidewalk along the frontage is in poor condition and recommended that the petitioner replace the sidewalk along the entire frontage of the property.

The petitioner said she spoke with her neighbor at 8 Roland Street, which abuts the east side of the petitioner's property, who has no objections to the proposed addition. The east side of the

petitioner's property is well screened by an area of mature woods. The Planning Department memorandum noted the existing landscaping on the rest of the site is sufficient and consistent with the requirements in special permit #279-98

There was one speaker at the public hearing: Stephen Praught of 100 Charlemont Street. Although Mr. Praught's house fronts on Charlemont Street, rear access via a driveway is across the street from the petitioner's property on Roland Street. Mr. Praught said the petitioner never informed him of her plans. The first time he heard about it was when he received the public hearing notice from the city. He is opposed to the petition because he fears the driveway will create a hazardous condition with cars backing out from the petitioner's driveway too close to the street.

The petitioner said she had spoken several weeks ago with Mr. Praught's wife, who said she had no problem with the proposal. Mr. Praught disputed this. The petitioner intimated there is a history between her and Mr. Praught.

In working session, the Committee noted that the driveway at 100 Charlemont Street is not directly across from the petitioner's existing curb cuts or the proposed curb cut. The Committee agreed that the petitioner should close the existing curb cut on the east side of the house, but be allowed to retain the curb cut on the west side to provide off-street parking. In response to a question posed by Alderman Fischman, who was unable to be present this evening, through the Chairman, Mr. Valentine said that the average setback in the neighborhood is 22-24 feet and the distance to the lot line of 8 Roland Street from the proposed addition is 29.8 feet. The Committee agreed that the sidewalk along the entire frontage should be replaced.

Alderman Crossley moved approval of the petition finding that providing vehicular access to the rear of the house would involve a substantial change in grade; replacing the deteriorating sidewalk and closing one curb cut will improve pedestrian and vehicular safety; a number of other lots in the area have nonconforming front setbacks; the proposed addition is well designed and consistent with the neighborhood.

Alderman Crossley's motion carried 5-0, with Alderman Schnipper not voting.

*A Public Hearing was held on the following item:*

#104-11      HEIDI K. GARDNER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE into the rear setback by expanding and enclosing an existing breezeway to create a mudroom, increasing the Floor Area Ratio from .369 to .389 at 61 PARK AVENUE, Ward 7, on land known as SBL 73, 7, 15, containing ≈9,665 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; ITEM APPROVED 6-0

NOTE: The petitioner was represented by Kristen Krauman of Meyer and Meyer Architects. The petitioner is seeking a special permit to enclose an existing partially covered breezeway in

order to provide a weatherproof connection from the garage to the 1930's Tudor-style house. The proposed "addition" will increase the Floor Area Ratio (FAR) from a legally nonconforming .369 to .389 and will expand a nonconforming structure into the legally nonconforming rear setback; however, the enclosed breezeway will not change the footprint of the existing house. (A FAR of .35 is allowed by right (.30 plus a .05 bonus for a pre-1953 lot). There are no changes proposed to the site and there is ample landscaping.

The only public comment was from Beatrice Shapiro of 53 Park Avenue, who said she absolutely has no objection to this proposal.

In working session Alderman Crossley asked if the new FAR requirements that will go into effect October 15, 2011 would eliminate the need for a special permit. Mr. Valentine said the FAR allowed by right as of that date will be .38, so the petitioners would still need a special permit to extend a nonconforming structure. The Committee agreed with Aldermen Crossley and Schnipper that the *de minimis* ordinance should be amended to allow this kind of project by right.

Alderman Baker reported that he had not received any communication relative to this petition.

Alderman Schnipper moved approval of the petition finding that the enclosure of the breezeway will not expand the footprint of the house and that the property will remain conforming in other aspects; there is no visual impact from the street or abutting properties; the enclosure is well done and respectful of the style and vintage of the house.

Alderman Schnipper's motion carried 6-0.

#105-11      SARAH F. BROWN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE to construct an addition containing approximately 17 sq. ft. into the side and rear setbacks ~~and to add dormer(s) wider than 50% of the walls below and closer than 3 ft. from the end walls,~~ which will increase the Floor Area Ratio from .55. to .61, and to increase the nonconforming maximum lot coverage from 40.1% to 42.1% at 30 SCHOOL STREET, Ward 1, Newton Corner, on land known as SBL 11, 25, 32, containing ≈1,671 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), ~~30-15(t)(1) and (3)~~ of the City of Newton Rev Zoning Ord, 2007.

ACTION:      HEARING CLOSED; ITEM APPROVED 6-0  
REQUEST TO WITHDRAW WITHOUT PREJUDICE REQUEST FOR RELIEF TO ADD DORMERS APPROVED 6-0

NOTE: The subject single-family dwelling built in the 1800's is located on the second smallest lot in the city. The house has a footprint of approximately 525 square feet with an additional 400 square feet on the second floor. The sloped ceilings of the second floor severely limit the usable space and headroom. The petitioner said her son cannot stand up in areas of the second-floor bedrooms. The petitioner is seeking a special permit for a 17 square-foot addition to square off the first floor in the rear. The proposed addition will increase the Floor Area Ratio (FAR) from

.51 to .61, where .4 is allowed. The Planning Department in its memorandum dated May 6, 2011 notes that the new FAR that will go into effect October 15, 2011 allows for a maximum FAR of .58 for Multi Residence 2 lots of less than or equal to 4,999 square feet; although this is a significant increase of the current FAR of .4, the petitioner would still need a special permit.

The petitioner is also seeking relief to extend the legally nonconforming lot coverage by increasing it from 40.1% to 41.1%, where 30% is allowed.

Finally, the petitioner does not need relief for the dormers because Sec. 30-15(t) only applies to dormers *above* the second story and the dormers will be located *on* the second story.

There was no public comment. Alderman Lennon said he had met with the petitioner prior to her filing the application and that he had not heard from anybody with concerns about this petition.

Alderman Merrill moved approval of the petition finding that the modest addition of 17 square feet increasing the nonconforming FAR from .55 to .61 is appropriate in the neighborhood context; and will preserve a small workers cottage by making it more livable for today's families.

Alderman Merrill's motion to approve the petition for relief from the FAR and open space requirement carried 5-0, with Alderman Schnipper not voting. A motion to withdraw without prejudice the relief requested for the dormers because it is not necessary carried 5-0.

Once again, the Committee agreed that having to go through the special permit process for a 17 square-foot addition was somewhat onerous and is yet another instance that could probably be rectified by amending the *de minimis* ordinance.

#91-11            WABAN IMPROVEMENT SOCIETY requesting a temporary license pursuant to Sec 30-6(k) of the City of Newton Ordinances to hold its Seventh Annual WABAN VILLAGE DAY on Sunday, May 22, 2011.

ACTION:        APPROVED 5-0 (Schnipper not voting)

NOTE: Ordinance section 30-6(k) allows the Board of Aldermen to grant a temporary license for the use of certain city land without complying with the provisions of site plan approval set out in Sec. 30-23. The Waban Improvement Society has obtained all necessary permits required from other city departments. Festivities include rides, craft tables, free T-shirts, etc. The temporary license was approved 5-0.

The meeting was adjourned at approximately 8:50 PM.

Respectively submitted,

Ald. Ted Hess-Mahan, Chairman

The documents referenced in this report:

May 6, 2011 Planning & Development Department memoranda for petitions 279-98(2), 104-11 and 105-11 May 2, 2011 Engineering Division memorandum re 279-98(2) are available on the City of Newton website [www.ci.newton.ma.us](http://www.ci.newton.ma.us) under Board of Aldermen Special Permits