

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 14, 2011

Present: Ald. Hess-Mahan (Chairman), Ald. Schnipper, Fischman, Crossley, Blazar, and Harney; absent: Ald. Albright and Merrill; also present: Ald. Lennon
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 they were taken up in working session:

#215-08(2) MAX MAZAEV/VICTOR J. & CATHERINE J. NICOLAZZO petition to amend special permit #215-08, granted on 9/2/08, to waive 16 on-site parking spaces for an non-profit adult daycare at 149A CALIFORNIA STREET, Ward 1, Nonantum, which now seeks to increase the number of clients and staff requiring a waiver of 6 additional required parking spaces on land known as Sec 11, Blk 1, Lot 1A, containing $\approx 71,755$ square feet of land in a district zoned Manufacturing. Ref: Sec 30-24, 30-23, 30-19(d), 30-19(m) of the City of Newton Rev Zoning Ord, 2007 and special permit 215-08.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The petitioner was represented by Attorney Michael Peirce. The public hearing was opened and closed and there was no public comment.

This non-profit adult daycare was approved in 2005 through the Administrative Site Plan Review process as a protected use under the Dover Amendment. Although it is a protected use, the City may impose reasonable regulations, particularly relating to parking requirements. The initial approval was for 42 clients and 8 staff members, for which the Commissioner of Inspectional Services waived 12 on-site parking spaces. In 2008, the petitioner sought and was granted a special permit to accommodate 72 clients and 12 employees with a waiver of 6 additional spaces. The petitioner is seeking an amendment to expand the adult daycare by 15 additional clients, to accommodate a total of 87 clients, and to increase the number of staff by 3, for a total of 15, which would bring the total number of parking spaces waived by special permit to 22 spaces. This type of facility is licensed by the state and if and when the special permit is recorded the petitioner will apply to the appropriate state agency for a license to increase the number of clients the facility can serve.

Clients are picked up and dropped off at the site and visit local stores or the YMCA by van or minibus. Out of twelve employees, five drive the minibus/vans from their homes; four are dropped off; and one person walks, leaving two or three staff driving to the site. The parking

requirements of the zoning ordinance, which are predicated on client/staff ratio, are somewhat excessive for this type of low-impact use.

The building is located in a Manufacturing zone and is surrounded by a parking lot. However, there is access to the river walk along the Charles River, where the Department of Conservation and Recreation has placed benches that the petitioner's clients take advantage of. One of the findings included in special permit #215-08 is that "the petitioner will maintain access to the nearby riverwalk alongside the Charles so clients ...can enjoy this attractive outdoor amenity." Conditions in special permit #215-08 require the petitioner to install signage and markings to facilitate smooth traffic flow on-site and to install and maintain window boxes with seasonal plantings. The Planning Department noted in its memorandum dated June 10, 2011 that the petitioner has maintained access to the pathway and has installed the window boxes. The Planning Department suggested that if this special permit is approved it include a condition requiring maintenance of the circulation signage and markings.

In working session, the Committee noted there was a picnic table and chairs outside and asked if a portion of the parking lot could be delineated with planters to create a more pleasing seating area. Mr. Peirce pointed out that an in-ground planter as called for in the prior special permit is impracticable because space has to be kept clear for handicapped pickup and drop off, but the petitioner is willing to work with the Planning Department to install above-ground planters to soften the area and create a more attractive outdoor seating area for clients.

Alderman Crossley moved approval of the petition finding that the waiver of 6 parking spaces is appropriate because virtually none of the clients drive and most of the staff do not drive; the site is located on a bus line and the petitioner is willing to provide incentives for employees to take public transportation; the non-profit adult daycare provides a service with no negative impact on the neighborhood.

Alderman Crossley's motion carried unanimously, 6-0. Ms. Young noted that the still-relevant conditions in special permit #215-08 will be incorporated into this special permit.

#149-11 SOVEREIGN BANK/THOMAS R. KEERY, II TRUSTEE of WASHINGTON STREET TRUST, petition for a Special Permit/Site Plan Approval for a drive-thru ATM and waivers from lighting requirements and secondary wall signs at 624 WASHINGTON STREET, Ward 2, Newtonville, on land known as SBL 23, 18, 2, containing ≈20,400 sq. ft. of land in a district zoned Business 2. Ref: Sec 30-24, 30-23, 30-11(d)(10), 30-19(j)(1)a) and (m), 30-20(f)(2) and (l) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The public hearing was opened and closed. The petitioner was represented by Attorney Stephen Buchbinder. There was one speaker, Alicia Matos, 619 Washington Street.

The subject site has been an auto dealership since 1946 when it was authorized by a special permit. The petitioner wishes to demolish the existing buildings and construct a 3,022 square-foot building. (Sovereign Bank plans to close and relocate its current branch on Austin Street to

this site.) Although banks are allowed by-right in a Business 2 district, a drive-through ATM facility requires a special permit. The petitioner is also seeking relief for more than two secondary signs on the rear of the proposed building, facing the Mass Turnpike. (Although the petitioner requested relief from the lighting requirements, the Commissioner of Inspectional Services has determined that the parking facility is a pre-existing condition which does not need to meet the current requirements of Section 30-19(j)(1)a) requiring security lighting of one foot candle.) A drive-through ATM provides a service and convenience to the community, most particularly the disabled, elderly, and people with young children. The Planning Department memorandum dated June 10, 2011 noted that Urban Design Commission in its review and support of both the building and signage praised the design of the building.

The site currently has four curb cuts; the petitioner proposes to close two curb cuts and install a signalized entrance/exit. The petitioner submitted with its application a traffic impact analysis study prepared by Ron Muller & Associates. The proposed use is expected to generate 69-75 more peak hour trips than the previous auto sales use. The ATM is served by a driveway designed to accommodate a queue of five cars, with the consultant expecting a peak queue of four cars. The Planning Department in its June 10 memorandum recommends that the proposed driveway near the western property line (next to the Gulf Station) be labeled "Entrance only" and that a "No Turn on Red" sign be placed at the exit of the eastern property line (next to Tedeschi's).

The petitioner is proposing numerous traffic improvements to the intersection of Crafts and Washington Streets. The improvements to the intersection, which were driven by early-on discussions with the City's Traffic Engineers, include signalization of the bank curb cut, relocating the curb cut to improve the alignment with Crafts Street, eliminating the median island on Crafts Street, extending the curb line at the northeast corner of Washington and Crafts Street, installing handicapped ramps, relocating the Crafts Street crosswalks and stop line, (to facilitate turning and to reduce the distance for pedestrians crossing), installing new signal equipment including mast arm, video detection, signal heads and count-down pedestrian signal heads. The removal of the median and bump out will need to go the Board through the Public Facilities Committee. The cost of the proposed improvements is approximately \$250,000, which will be funded by the petitioner. The Committee asked that City Traffic Engineer Jim Danila provide a written response to Muller & Associates June 10 responses to Mr. Danila's comments dated June 1.

The petitioner proposes to replace the sidewalk along the Washington Street frontage. The existing sidewalk is ten feet wide; the new sidewalk will be ten feet wide with decorative scoring. The light poles, which are shown on the planting plan, are 15' high with fixtures that will direct the light downward. The petitioner offered to provide a cut showing the fixtures.

Presently, the site is covered with impervious surface with uncontrolled storm water runoff onto Washington Street. The proposal will reduce the impervious surface, runoff will be collected on-site. A preliminary 21E study indicates that the site is clean.

The petitioner today provided a revised landscaping plan. The existing street trees, which are in poor condition, will be removed and replacement trees will be planted farther back from the right-of-way. The revised plan shows a number of indigenous species on the site including flowering crabapples along the Turnpike. As to providing shade in the parking lot, the petitioner considered a raised planting island in the center of the lot, but concluded that it was not practical. Additional landscaping around the perimeter of the site is provided instead. Several committee members asked if the sight line at the eastern property line (Tedeschi's) could be improved. Also, the chain link fence on that property line is in poor condition. The petitioner is willing to replace the chain link with the ornamental iron fence proposed for the rest of the site; however ownership of the fence needs to be determined. In the event it belongs to Tedeschi's, the petitioner will offer to replace it no expense to the owner. In response to a question about fencing on the rear of the property, the petitioner said that there is a fence and guardrail. The petitioner has offered to locate a bus shelter on its property, approximately 150-170' from the entrance.

Alicia Matos, 619 Washington Street, which is located at the northeast corner of Washington and Crafts Streets, said the bank would be an improvement on the site. She is pleased about the proposed traffic improvements, but has reservations about the drive-through. According to numbers she obtained from the Police Department there have been 37 traffic accidents between Trinity High School and Marty's Liquors from 2008 to the present. She fears that the drive-through will add complexity to an already complex traffic situation. The intersection at Crafts and Washington Streets is dangerous. That concluded the public hearing.

In working session, the Committee suggested and the petitioner agreed to post a "Drive-through ATM Entrance Only" sign near the ATM drive-through entrance and a "No Turn on Red" sign located near the egress lane of the main southeast driveway. There was a question of whether the Traffic Council would have to approve a "No Turn on Red" sign if it were located on private property and if approval is not required, then how could the restriction be enforced? In addition, in response to concerns about the sight line at the corner of Tedeschi's, the petitioner agreed to push back the portion of the ornamental fence eight feet from Washington Street to improve the sight line at the exit; this would allow increasing the landscape buffer in that area as well. The petitioner's traffic engineer indicated a lower than average number of traffic accidents at the intersection of Crafts and Washington Streets, but those figures did not include the stretch of Washington Street referred to by Ms. Matos, but only that intersection.

Alderman Schnipper moved approval of the petition finding that the site, unlike a village center, is an appropriate location for a drive-through facility and will not adversely impact the neighborhood; the drive-through will provide a service and convenience to residents, particularly the disabled and elderly; there is adequate room for queuing at the drive-through; the numerous traffic improvements to the intersection of Crafts and Washington Streets are a benefit to the public; the signalized entrance/exit and closing of two curb cuts will improve safety; storm water will be contained on-site; the site will be landscaped; the design of the building will be an aesthetic improvement to Washington Street.

Alderman Schnipper's motion carried unanimously, 6-0.

#150-11 GUHAN SUBRANANIAN petition for a Special Permit/Site Plan Approval to alter a nonconforming structure by locating a home business use in an existing detached carriage house and to waive 4 required parking stalls at 43 FAIRMONT AVENUE, Ward 1, Newton, on land known as SBL 13, 11, 5, containing ≈33,159 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-8(c)(11)d) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; APPROVED 6-0

NOTE: The public hearing was opened and closed. There was no public comment.

The subject site contains a Queen Anne-style single-family home and carriage house listed on the National Register of Historic Places. The petitioner is a professor who has a negotiations consulting business. He wishes to restore the carriage house for use as a home business and garage. Located in the northwest corner of the lot close to the rear lot line, the historic character of the carriage house is largely unspoiled except for the doors, which the petitioner plans to replace with doors more historically appropriate. Currently, there are two parking spaces on the first floor of the carriage house and two surface parking spaces. The two interior parking spaces will remain (the existing wood floor replaced with a new poured concrete floor) and the proposed home business will be on the second floor. Mechanical equipment will be situated within the 7.5-foot setback.

Relief is necessary to locate a home business in a detached structure and, although there are no exterior changes proposed, relief is necessary to alter an existing nonconforming structure, which the carriage house is with regard to the rear setback, building height, and maximum ground floor area. In addition, a home business must provide one parking stall per 200 square feet of floor area used by the business, plus two stalls for the single-family house, for a total of eight required parking spaces. The petitioner is seeking a waiver of four parking spaces. The petitioner said he had met with his neighbors, shown them the proposed plans, and nobody voiced any objections.

The petitioner has applied for rehabilitation tax credits from the Massachusetts Historical Commission (MHC) to offset the cost of restoring the carriage house. The Newton Historical Commission wrote two letters of support to MHC highlighting how vulnerable historic outbuildings are especially when they are unused and deteriorate. The Newton Historical Commission strongly supports the re-use of these at-risk carriage houses as office, studios, and accessory apartments.

The petitioner stated that rarely will clients be on the premises and he does not anticipate having any employees at this time. Ms. Young noted that a home business, other than medical, is limited to one employee and no more than three clients present on-site at any given time. There was a brief discussion about whether the special permit should be limited to a “negotiations” consulting business and whether the use of the office should be limited to “part time,” but ultimately the committee decided that “negotiations” could in the future be interpreted as either too specific or too ambiguous and that one person’s part time hours could be another’s full time hours.

Alderman Schnipper moved approval of the petition finding that the alteration of a nonconforming use is not substantially more detrimental than the existing use because the home office will be primarily used by the homeowner for a consulting business or similar use by a future owner with few visits by clients and there will be no significant traffic impact as a result of the business; the use as such will not demand the 4 additional required parking spaces; the restoration and adaptive use will preserve an historical carriage house.

Alderman Schnipper's motion carried, unanimously, 6-0.

The meeting was adjourned at approximately 11:00 PM.

Respectively submitted,

Ald. Ted Hess-Mahan, Chairman