

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, APRIL 13, 2010

Present: Ald. Hess-Mahan (Chairman), Ald. Crossley, Albright, Harney, Merrill, Schnipper, and Blazar; absent: Ald. Fischman
City staff: Alexandra Ananth (Chief Planner), Linda Finucane (Chief Committee Clerk), Ouida Young (Associate City Solicitor)

Public Hearings were opened and closed on the following items, which were taken up in a working session:

#74-10 JOHN A. VITTI/MARION T. VITTI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing third unit in a two-family dwelling at 826 WATERTOWN STREET, Ward 3, WEST NEWTON, on land known as Sec 31, Blk 10, Lot 1, containing approx 15,474 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(c)(1), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; ITEM APPROVED 7-0

NOTE: Public Hearing

In the process of investigating a zoning complaint received by the City in 2008 re this property, the Building Inspector noticed a number of building code violations and that it was being used as a 4-family residence where only a 2-family residence is allowed by right. Since 2008, the property owner has worked with the Inspectional Services Department and successfully remedied the building code violations. Although able to prove that the 4-family use has continued on the site for almost 50 years, there is nothing to show the use was established legally. The lot size is not large enough for four units.

John Vitti, of 84 Rutland Street, Watertown, presented the petition this evening for the petitioner who is his mother. Mr. Vitti said the dwelling, a large Italianate residence, circa 1890, has been used and taxed as a 4-family dwelling since his parents purchased the property in 1955. The petitioner currently rents two units and lives in the third unit. She is seeking a special permit to legalize the third unit. There are no exterior changes proposed to the dwelling or the site.

There was no public comment and the hearing was closed.

Working Session

The Planning Department raised the issue of whether the petitioner must provide six off-street parking spaces. Although the petitioner located dimensioned parking stalls on the submitted site plan, the Planning Department noted that stall #2 is located within 5 feet of the dwelling and that stall #6 is located in the side setback. The parking areas do not

meet the required landscaping and lighting requirements. If the current parking configuration existed prior to 1977, it would be legally nonconforming. The Planning Department noted that there is a large Italianate barn on the site. The barn is deteriorating but could be restored and house at least two cars. The petitioner this evening submitted an affidavit from herself stating that the parking facilities at 826 Watertown Street have not been altered or added to in any way, since ...1957, nor has the barn been used as a garage (only and solely for storage). Ms. Young said that ideally an affidavit should be from a disinterested party. Ms. Ananth and preservation planner Brian Lever strongly recommend preservation of the barn, but the petitioner said she does not have the financial resources to undertake such work. The Chairman said he had visited the site. He noted the barn has a wood floor, which in order to accommodate cars would have to be removed and a poured concrete floor installed. Committee members were sympathetic to preservation, but felt there may be structural issues as well that would increase further the cost of preservation.

Although for purposes of the special permit, the interior is informational only, the Committee asked about the fourth kitchen. Ms. Young said the kitchen would have to be removed. She suggested that if the special permit were approved its removal be tied to the occupancy permit for the third unit.

The petitioner and Committee agreed with a suggestion from Alderman Albright that some low evergreens be planted to screen parking stall nos. 1 and 2 in the front of the house.

Alderman Albright moved approval of the petition to legalize the existing third unit and to waive the parking requirements to allow a parking stall in the side setback, and within 5 feet of a dwelling, and lighting/landscaping requirements, finding that a third unit and the current parking have existed for over 50 years without detriment to the neighborhood. The motion to approve carried unanimously, 7-0.

#75-10 CALEB P. NELSON & SANDRA J BLISS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING STRUCTURE to demolish an existing deck and screened porch and add a 3-story addition onto the back of an existing 3-story single-family dwelling at 39 DEVONSHIRE ROAD, Ward 5, Waban, on land known as Sec 55, Blk 40, Lot 3 containing approx 10,400 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 3021(a)(2)b), (b), 30-15 Table 1 of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; ITEM APPROVED 7-0

NOTE: Public Hearing

Architect Carise Pingnot of Catalano Architects, 115 Broad Street, Boston, represented the petition at this evening's public hearing. The petitioners are seeking a special permit to add a three-story addition to the rear of the existing single-family Tudor Revival dwelling. The proposed addition involves removing 1970 decks and a screen porch. The

proposed 3-story addition will extend up in the same footprint. There are no changes to the streetscape. The proposed style and materials complement the existing house.

- The house is technically three stories because the lower level does not meet the City's definition of basement and instead is counted as a story. The basement is more than ½ above grade. The proposed addition will not add a story; only expand the existing third floor.
- The house is nonconforming relative to Floor Area Ratio because the lower level is considered a full story and included in the FAR calculation. The existing FAR is .38, the proposed FAR is .48.
- The house is on a pre-1953 lot and is nonconforming with respect to side setback. The proposed addition will increase this nonconformity by approximately 3 square feet on each floor, for a total of 9 square feet.
- The existing shed dormer is wider than 50% of the exterior wall of the story below, which is legally nonconforming. The petitioner proposes to increase the dormer.

Ms. Pingnot pointed out that if the basement were excluded from the FAR, the addition would increase the FAR from .25 to .297, well within the by-right limit. Currently, the basement contains a laundry room, a playroom, a 2-car garage, and storage. The first floor contains a family room, small kitchen, guest bedroom. The proposed addition will include an expanded garage, new laundry/mudroom, enlarged guest bedroom, enlarged kitchen, enlarged family room, and a master bedroom on the third floor.

A portion of the proposed addition would be on top of an existing asphalt driveway. The Associate City Engineer reviewed the plans and determined that drain improvements are not required because the project will result in a decrease of impervious surface area. However, he suggested the use of rain barrels to capture and reuse rainwater on the site. Alderman Crossley asked about the use of rain barrels. Ms. Pingnot said the backyard is deep and sometimes wet because the site slopes steeply to the rear. The petitioners wish to use the backyard and do not want to increase runoff. Although the addition is modest, the petitioners have been pricing drywells for underneath the driveway.

Alderman Crossley asked about building to the stretch code. Although it is optional until July 1, it is advantageous in a project of this size because it will reduce costs ultimately. Ms. Pingnot said she was not yet familiar with the new code.

Public Comment

John Reis of 11 Edgefield Road said he had extreme water runoff from the subject property. The Chairman pointed out that no project is allowed to increase runoff; however, since the petitioners are not proposing to increase the impervious surface they are not required to provide drainage improvements.

In response to the Committee, Mr. Nelson said he had walked around to various neighbors and spoke with them about this proposal. Water is a problem for everybody in the neighborhood. The whole section is at the bottom of very large hill. A lot of water runs across his property and continues downhill. Some existing pavement will be

removed although some is underneath the deck stairs; it is probably a net loss of impervious surface, but close to even. Ms. Pingnot said it is nowhere near the 3% trigger that requires mitigation. The petitioners will commit to three downspouts, three 50-gallon rain barrels, or equivalent drywell.

That concluded the public hearing.

Working Session

The Committee focused its discussion on water. Alderman Crossley said this whole area was very hard hit during the recent storms. It is not a conservation resource area. The topography of the area shows the path of water runoff from properties located above this area, not from the petitioners' property. In fact, the petitioners' property suffers from runoff as well. The petitioners have spoken with several engineers, each of whom suggested a different solution. The Committee suggested that the petitioners pursue at least a partial solution to the runoff on their own site - 150 gallons of rainwater in rain barrels is drop in the bucket as it were. Alderman Crossley said that construction presents the perfect opportunity to install some type of on-site detention since the site will be dug up for construction. She also suggested they plant some thirsty trees such as willows in the backyard.

Alderman Crossley said that the proposed addition was reasonable and cleanly designed. She move approval with the findings and conditions included in the draft board order dated April 20, 2010. The motion to approve carried unanimously, 7-0.

Respectfully submitted,

Ald. Ted Hess-Mahan, Chairman