

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 27, 2010

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

#139-10(2) MAX & MAJORIE SCHECHNER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING STRUCTURE to add a dormer approximately 88% of the length of the rear of an existing two-family residence at 8-10 HATFIELD ROAD, Ward 3, on land known as Sec 34, Blk 18, Lot 1, containing approx 7,370 sq ft of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(t)(a), 30-19(g) and (m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: HEARING CLOSED; ITEM APPROVED 4-0-1 (Crossley abstaining)

NOTE: The petitioners are seeking a special permit to construct a 30-foot wide shed dormer onto the rear of an existing 2-family home in order to convert an existing attic into two bedrooms and a bathroom for their son and his family. The previous iteration of this petition was heard on June 15, but that petition in which the proposed 24-foot wide dormer (66%) was designed off-center was withdrawn as a result of comments relative to the aesthetic of an off-set dormer instead of a wider, centered dormer and concerns about the low pitch of the roof and whether there was sufficient headroom to meet building code requirements. Subsequent to the hearing the petitioner decided to widen and center the proposed dormer, which necessitated withdrawing the petition and re-filing a new petition. The original petition also included a request to waive the dimensions of four existing parking stalls, but it was determined that the stalls are grandfathered and a waiver is not necessary. A proposed two-story porch has been eliminated from the new petition.

The petitioners were represented this evening by Attorney Mark Salvati, 10 Cedar Street, Woburn. The proposed dormer is centered on the rear of the house. It is set back three feet on each side; and is set back one foot from the wall below. The proposed space is slightly less than 2/3rds than that of the floor below. The dormer setbacks are consistent with the intent of the ordinance to avoid the appearance of a full third story. Mr. Salvati pointed out that several other properties in the neighborhood have shed dormers. The Chairman noted that they were constructed prior to the enactment of ordinance Z-20 in April 2008 and that this petition was one of only a handful to come before the Board since it went into effect.

Alderman Crossley, who is an architect, expressed her appreciation for the additional plans submitted with the new petition and the widening of the dormer in response to comments at the hearing on the prior petition. However, she remains concerned about the

low pitch of the roof, lack of headroom, and other potential code issues. The Chairman suggested that if the dormer were set back more, creating more of a roof pitch, there would be a small loss of square footage but a gain in height. In response to a question about apparent discrepancies in plans, Mr. Schechner said the drawings are not construction drawings. There is considerable expense involved in multiple revisions and level of plan detail without knowing the outcome of the petition. Alderman Albright commented that it still looked like a three-story house.

There was no public comment and the hearing was closed. In order to give Mr. Salvati and the petitioners an opportunity to discuss how they wished to proceed, the Committee took up another item before going into working session on this item.

Working Session A lengthy discussion ensued about code requirements and the means the petitioners might employ to alleviate some of the concerns expressed by Alderman Crossley in particular. The Planning Department had recommended that the petitioners set back the dormer an additional foot, for a two-foot setback. Several Committee members felt they could support this, but others were concerned that it would not be enough to lessen the three-story appearance and remedy the pitch and potential headroom issues. The Committee acknowledged that code issues are outside its purview, but it does not want the petitioners to have to return for a consistency determination or to amend a special permit that cannot be constructed as approved.

Members expressed frustration with the ordinance itself. The Chairman emphasized that the ordinance was still relatively new and that before its enactment there was simply a policy that was interpreted differently by different Inspectional Services Commissioners. A proliferation of shed dormers drove the present Commissioner to ask the Task Force, formed in 2006 and chaired by Ald. Hess-Mahan, to create an ordinance that allowed the Board of Aldermen the discretion to grant a special permit for shed dormers to avoid the big box appearance. Ms. Ananth said that the Planning Department has concluded from reviewing the previous dormer petitions that 2 feet seems to work well in breaking up the big box look. The petitioners agreed to set back the dormer two feet from the floor below, which will create a 2.5-foot skirt.

Alderman Albright made a motion to approve the petition based on Ms. Ananth's comment that the Planning Department is comfortable with 2 feet. Alderman Crossley said she would abstain because taking a simple house and slicing a gash in the roof to carve out livable space that may or may not be really livable is, in her opinion, ruining not maintaining the housing stock. Alderman Albright's findings are contained in the draft board order and include finding that the addition of the proposed dormer is not substantially more detrimental than the existing structure and it will allow for a roofline overhang to avoid the appearance of an uninterrupted wall plane from the floor below; it will not change the footprint of the existing structure; the proposed area is not more than 2/3rds of the area of the story below; and it creates usable space to help meet the lifestyle needs of today's families.

Application for a Class 2 Auto Dealer License

#150-10 PARAGON GLOBAL PARTNERS, INC.
 259 Walnut Street
 Newtonville 02460

ACTION: APPROVED 5-0

NOTE: Applicant Roger Matthews III, will conduct his business from office space leased in Newtonville Square. Mr. Matthews works with a Non-governmental Organization and intends to purchase cars at the auto auctions and ship most of them overseas. No cars will be stored on-site; however, he has contracted to provide repairs as required by GL chapter 90 and will provide upon approval of the license the \$25,000 bond required by GL chapter 140. Alderman Crossley moved approval of the license, which will expire January 1, 2011, and which motion carried 5-0.

#136-10 CHARLES RIVER COUNTRY CLUB, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF A NONCONFORMING STRUCTURE to AMEND Special Permit #261-96 to replace an existing tent with an open-air pavilion of similar size with a permanent roof at 483 DEDHAM STREET, Ward 8, on land known as Sec 83, Blk 36, Lot 4, containing approx 6,446,022 sq ft of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007 and Special Permit #261-96. **(9/13)**

ACTION: APPROVED 5-0

NOTE: Public Hearing, June 15, 2010

The public hearing on this petition was opened and closed on June 15, with Attorney Stephen Buchbinder representing the petitioners. Present were Ald. Hess-Mahan (Chairman), Ald. Merrill, Crossley, Harney, Blazar, and Fischman; Ald. Albright and Schnipper were absent.

The Charles River Country Club (the Club), which sits on approximately 148 acres and contains an 18-hole golf course, six tennis courts, and a swimming pool with a snack bar area, has operated on this site for over 80 years. There are a number of special permits for this site, the most recent one, #308-05, for changes to the swimming pool and tennis courts and associated parking. This petition is a request to amend special permit #261-96, which authorized the snack bar and bathroom building adjacent to the seasonal tent the petitioners are seeking to replace. An accessory structure greater than 700 sq ft requires a special permit; the proposed pavilion contains approximately 3,263 sq ft; the Club is seeking a special permit to increase a nonconforming accessory structure.

The petitioners wish to replace an existing seasonal pavilion with a canvas roof with a permanent structure. The pavilion is used for various activities and is located well into the site, approximately 389' from Dedham Street. The foundation/floor has water damage and the canvas roof, which is removed each winter, needs to be replaced. The Club determined it is more cost effective to replace it. The proposed pavilion will be similar in style to the existing tent, approximately 15' high with a small cupola in the center (approximately 5 additional feet), with a fiberglass shingle roof, open on all sides,

and supported on metal trusses. The only lighting proposed is interior, the same as the existing lighting. There are no changes to the parking or circulation and no increases in impervious surface associated with this petition, nor are there increases proposed in activities or membership.

Mr. Buchbinder said that he and representatives from the Club had met with residents of The Gables, the abutting condominiums, who have no issues with this particular proposal.

Public comment

David Cherny, 15 Country Club Road, a 13-year resident, said the Club has always been a good neighbor, but he has concerns about drainage, as does his neighbor at 16 Country Club Road, who was unable to be present this evening. He felt that the drainage issues started with the new pool and parking area.

Helga Lustig, 304 Greenwood Street, was not opposed to this project, but would like the Club to remove some of the fencing that prevents a view of the greens from the street.

Mr. Buchbinder said that the petitioners' engineer Verne Porter will provide the Engineering Division a drainage report prior to the working session.

A letter dated May 24 from David Love of 580 Dedham Street stated that although there is noise, albeit infrequently, from the existing pavilion, he has no objection to the petition, but asked that it not involve any increase in membership or activities.

That concluded the public testimony and the hearing was closed.

Working Session This evening, the committee reviewed an e-mail dated today from Associate City Engineer John Daghlian. Mr. Daghlian reviewed Mr. Porter's drainage calculations and has determined that the projected 3.7 cubic feet of increased runoff is not significant and since it will be directed to a grassy swale onto the golf course, there will be no impact on city streets or any abutter. Although the proposed pavilion is far into the site, the petitioners submitted a landscaping plan, which the Planning Department reviewed and found more than sufficient. Alderman Albright moved approval of the petition finding that replacing a seasonal tent with a more permanent open-air pavilion will not be substantially more detrimental than the existing structure since it is approximately the same size and is located almost 400 feet into the site from Dedham Street; and that the new structure will not increase membership or on-site activity. The Committee concurred with the motion, 5-0.

#138-10 MARTY SIEGAL/661-669 WASHINGTON STREET REALTY TRUST
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and
EXTENSION OF A NONCONFORMING STRUCTURE to add two
additions (containing approx 1,205 sq ft) to the side and front of a
commercial building and to waive one parking space at 675
WASHINGTON STREET, Ward 2, on land known as Sec 23, Blk 17, Lot
3, containing approx 33,176 sq ft of land in a district zoned BUSINESS 2.

Ref: Sec 30-24, 30-23, 30-21(b), 30-19(c)(2), (d), and (m), and 30-15
Table 3 of the City of Newton Rev Zoning Ord, 2007 and Special Permit
#714-85. (9/13)

ACTION: APPROVED 5-0

NOTE: Public Hearing, June 15, 2010

A public hearing was opened and closed on June 15. Present were Ald. Hess-Mahan (Chairman), Ald. Merrill, Crossley, Harney, Blazar, and Fischman; Ald. Albright and Schnipper were absent.

Architect Mark Armstrong, 61 Vaughn Avenue, Newton, and Marty Siegal, owner of Marty's Fine Wines and Gourmet Foods, presented the petition. Mr. Siegal is seeking a special permit to extend a legally nonconforming commercial structure. The existing building, constructed by-right, is nonconforming as to height and setbacks. The parking lot is legally nonconforming re landscaping, lighting, and bicycle parking requirements. There are 49 parking spaces, one of which is substandard as to dimensions. There are no proposed changes to the use. Hours of operation will remain the same.

The proposed addition would enclose an area that is currently covered by a canopy in front of the store and would enclose the recycling area on the side of the store that abuts Court Street. The existing store is 12,090 sq ft; the proposed addition contains 1,205 sq ft. The proposed front addition will project eight more feet.

The proposal includes replacing a deteriorating fence on top of an existing retaining wall along the Court Street lot line. The fence will be extended to enclose the trash area. A transformer facing two residences on Court Street at the rear of the building is currently enclosed by chain link fence. Alderman Fischman suggested that the petitioner enclose it with an opaque material to mitigate any noise. There is a jumble of weeds in a small triangular area at Court Street and the rear of the subject property, which the petitioner proposes to clean up to create either a planting bed and/or plant a tree. The on-site landscaping will be cleaned up as well. Exterior building materials include red stucco, composite wood panels, and metal and glass storefront finishes. There will be no imitation clapboard. Alderman Fischman asked that they use coloration sympathetic to the neighborhood.

There was no public comment and the hearing was closed.

Working session

Landscaping. The petitioner has stated that the site itself has little room for landscaping. The petitioner has offered to plant four new deciduous trees along the perimeter of the site. Alderman Albright had several concerns, including the two empty tree wells on Washington Street in front of the building and the lack of landscaping within the site. She also noted that the rear of the building facing the residences on Court Street presents a big blank wall. Mr. Armstrong said that it is his understanding that Mr. Siegal had made an agreement with the two neighbors to the rear that all deliveries, etc. would take place on Washington Street, not Court Street. Alderman Albright suggested planting ivy to create a green wall. Mr. Armstrong said that was a possibility since the wall is concrete block and probably would not be harmed by a vine. Mr. Armstrong said the

petitioner would replace the two street trees in addition to planting the tree to the rear on Court Street and the two or three other trees at the perimeter of the site. The Committee agreed that the petitioner should consult with city's tree warden relative to the types and placement of all the trees. The Committee felt that some interior plantings particularly on the lot line between Whole Foods' and Marty's parking lots would enhance the site. Mr. Armstrong was concerned that plantings in that area would be susceptible to the salt used for snow/ice removal. However, existing planters will be upgraded and plantings consisting of a mix of shrubs and flowering plants will be located around the perimeter of the site. The petitioner will submit a landscaping plan to the Planning Department and Tree Warden for review and approval.

Fence The proposed new fence on the retaining wall along Court Street shows bands of aluminum flashing with windows to integrate it into the whole composition.

Bicycle Racks The petitioner has agreed to install a bicycle rack(s), which should be shown on the landscaping plan.

Parking If the one undersized parking space at the front of the site were to be made dimensionally conforming, all the remaining spaces would become nonconforming; therefore, the petitioner is seeking dimensional waivers for that one space.

Engineering Associate City Engineer John Daghlian's memorandum dated 6/8/10 stated that the proposed petition did not warrant any improvement for drainage since it wasn't creating any additional impervious surface, but suggested a number of off-site improvements.

- The two driveway aprons on the Washington Street frontage should be reconstructed.
- The asphalt sidewalk on Court Street along the retaining wall should be replaced with cement concrete and 40' of granite curbing. In addition existing granite curb along the upper portion of the sidewalk towards Washington Street needs to be reset.
- A new pedestrian HP curb cut is needed at the intersection of Court Street at the 90° bend (another on the opposite corner of Court Street would also be required for ADA compliance)
- A Construction Management Plan.

There was considerable discussion about the suggested improvements. The Committee and Mr. Armstrong agreed that the Washington Street aprons would be reconstructed. The petitioner will submit a Construction Management Plan. However, the majority of the Committee felt there was no nexus between the relief sought and the other off-site improvements suggested by Mr. Daghlian.

Fire Department The Fire Department has reviewed and approved the plans for the addition and as part of that approval the petitioner will upgrade the existing sprinkler system to current code with direct notification to the Fire Department.

Lighting There is no lighting proposed for the rear of the site along Court Street because any spill over onto the residential properties would violate the light trespass ordinance.

Existing signs Several Committee members asked about the signs covering the windows. Ms. Young said that technically they violate the zoning ordinance for exceeding in the aggregate 25% of the window area.

Alderman Albright moved approval of the petition with the findings and conditions contained in the draft board order as well as conditions relative to submitting a landscape plan that includes the bike racks to the Planning Department for review and approval; reconstructing the driveway aprons on Washington Street; consulting with the Tree Warden about replacing the street trees and placement of other trees on the site; and, submitting a Construction Management Plan. Alderman Albright's motion carried 5-0.

#173-10 PRESIDENT LENNON recommending the appointment of R. LISLE BAKER as the aldermanic representative to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11. [6/11/10 @2:31PM]

ACTION: APPROVED 5-0

#174-10 PRESIDENT LENNON recommending the re-appointment of STEPHEN BART, 26 Rochester Road, as the Boston College Law School Campus neighborhood appointee to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11. [6/11/10 @2:31PM]

ACTION: APPROVED 5-0

#175-10 PRESIDENT LENNON recommending the appointment of VERNE W. VANCE, 101 Old Orchard Road, as the Boston College Chestnut Hill Campus Neighborhood appointee to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11. [6/11/10 @2:31PM]

ACTION: APPROVED 5-0

NOTE: Aldermen Baker and Peter Bart have served on the Boston College Neighborhood Council since its inception in 1993. Mr. Bart has been resident of Rochester Road since 1991 and has worked with the Newton Conservators on issues relating to Edmunds Park (Cabot Woods). Former Alderman Vance is filling a seat long held by former Chestnut Hill resident Patricia Otis. The purpose of the council established in special permit #101-93, granted on June 1, 1993 for a 44,000 sq ft classroom/office addition to Fulton Hall is to discuss issues and provide input to Boston College concerning ongoing campus construction and renovation, plans for new construction and renovation, policies and changes in policies that affect the aforementioned activities, as well as traffic, parking, etc. Alderman Crossley moved approval of the two re-appointments and one appointment, which motion carried 5-0.

The meeting was adjourned at approximately 10:30 PM.

Respectfully submitted,
Ald. Ted Hess-Mahan, Chairman