

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, AUGUST 10, 2010

Present: Ald. Hess-Mahan (Chairman), Ald. Merrill, Albright, Crossley, Fischman, and Harney;
absent: Ald. Blazar and Schnipper; also present: Ald. Danberg

City staff: Alexandra Ananth (Senior Planner), Linda Finucane (Assistant Clerk of the Board),
Candace Havens (Interim Director of Planning & Development), and Ouida Young (Associate
City Solicitor)

#178-10 EDWARD TAPPER PLOTKIN petition for a SPECIAL PERMIT/SITE PLAN
APPROVAL to waive the minimum dimension of a parking stall and to waive the
minimum dimension of an entrance/exit drive in order to relocate one of two
existing tandem parking spaces at 64 EDDY STREET, Ward 3, West Newton, on
land known as Sec 21, Blk 37, Lot 14, containing approximately 4,663 sf of land
in a district zoned MULTI RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-19(g)(2),
(3), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 6-0

NOTE: Public Hearing The public hearing on this item was opened and closed on July 13,
2010. Present at the hearing were Aldermen Hess-Mahan (Chairman), Fischman, Schnipper,
Merrill, Albright, Crossley, and Blazar. Alderman Fuller was also present and Alderman Harney
was absent.

The petitioner is seeking a special permit to add an additional curb cut and to relocate from the
southeast side of the property to the northwest side one parking stall in the front setback of an
existing two-family dwelling. The proposed parking stall at 7'x9' and proposed curb cut at 12'
do not meet the respective 9'x19' and 12-foot minimum dimensions required in §30-19. (One
parking stall per dwelling is allowed in the setback by right in conjunction with a one- or two-
family dwelling.)

The lot is deep and narrow. The existing driveway on the southeast side where two cars
currently park in tandem is narrow and is made even more so by a bay window that protrudes on
that side of the house, making it difficult to open a car door. On one occasion falling snow and
ice from the roof smashed a windshield. When the petitioner was a tenant prior to purchasing the
property the southeasterly property at 68 Eddy Street was purchased by a developer who
installed a fence in the middle of the driveway that the subject property shared with that
property. The then owner of 64 Eddy Street did not contest the fence because apparently she had
had an agreement, but no easement, with the former owners of 68 Eddy. The petitioner

submitted various photographs of the property including several photos of the backyard, which is covered in disintegrating pavement. The proposed parking stall and curb cut would require removing a large rhododendron. To compensate for additional paving and decrease in the already nonconforming open space the petitioner is proposing to remove the rear paving to create a yard. Removing the paving would eliminate nonconformity, increasing the open space from approximately 22.3% to over the 50% that is required.

The Planning Department is concerned that although a number of other houses in the neighborhood have parking in the setbacks an additional curb cut with parking in the front setback could have a potential adverse effect on the neighborhood. Moreover, if the northwesterly abutters at 60 Eddy Street install a fence or park their cars along the property line, it would recreate a situation similar to the one that currently exists. The Planning Department suggested that removing the bay window along the existing driveway would widen it enough to park two cars in tandem without parking in the front/side setbacks and would not result in a much narrower space than the proposed parking stall should the abutter at 60 Eddy Street install a fence on that property line. The petitioner was not enthusiastic about this suggestion. A letter in opposition was received from Lynn and Alexander Flint, who own unit 2 at 60 Eddy Street. The Flints rent out their condominium and are concerned about the proximity of the proposed space to their driveway; the safety of children; loss of landscaping; and, fear that it will impact their ability to install a fence along the property line. The Planning Department and committee suggested the petitioner consider whether there were other options prior to a working session. There was no public comment.

Working Session This evening, Ms. Ananth reviewed a revised site plan proposing a parking stall adjacent to the existing driveway *on the southeast side* of the property abutting 68 Eddy Street. Although the additional parking stall would still be in the setback, this proposal would eliminate the second curb cut on the northwest side and retain existing landscaping (including the rhododendron) along both sides of the walkway to the front porch. Both stalls are approximately 8'x17' and will abut the sidewalk. Several Committee members asked whether this would be considered a new petition. Ms. Young said no, it is petition modified in response to concerns raised at the public hearing. Referenced §30-19(m) allows the Board to grant relief to locate a parking stall less than 5' from the street. The petitioner is proposing to use brick or grey stone to delineate the parking area. The Committee suggested using the generic "block" instead of specifying grey stone. The petitioner agreed to remove the rear paving and replace it with green space; however, he would like to retain the option of adding a deck or patio. The Planning Department and Committee agreed this proposal is a better solution to the petitioner's parking problem.

Alderman Fischman moved approval of the petition finding that compliance with the requirements of Section 30-19 is impracticable because of the lot size and siting of the house. Most of the homes in the neighborhood are on small lots and have parking in the setback. The area will be defined with brick or block. Landscaping in the front will be retained and removal of the paving in the rear will create additional green space and bring the lot's open space into compliance even if it contains a patio or deck. Alderman Fischman's motion carried unanimously, 6-0.

#140-10 ANOTHER CAFÉ FIORELLA, INC./MICHAEL J. PENTA, SUSAN SGARZI PENTA & ANGELO D. PAOLINI, TRUSTEES OF THE SMC TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING USE to expand an existing restaurant from 64 to 114 seats and to waive the side setback requirement for a parking facility of greater than five stalls at 187 NORTH STREET, Ward 3, on land known as Sec 21, Blk 12, Lot 10, containing approx 24,108 sq ft of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(h)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 5-0-1 (ALBRIGHT ABSTAINING)

NOTE: Public Hearing The public hearing on this petition was opened and closed on June 22. Present at the public hearing were Aldermen Hess-Mahan (Chairman), Merrill, Schnipper, Fischman, Blazar, Harney, and Crossley. Alderman Albright was absent.

Attorney Stephen Buchbinder represented the petitioners. The site is a legal nonconforming use located in a manufacturing district and had a restaurant located on it for many years before the petitioners purchased this Italian restaurant approximately ten years ago. The petitioners are seeking a special permit to construct a one-story addition to the rear of the building in order to increase the seating from 64 to 114 seats, 20 of which they plan to place outdoors during the warmer months.

Although the petitioners do not need a waiver for the number of parking spaces, the existing parking lot is legally nonconforming because all the spaces are dimensionally undersized as is the maneuvering aisle and it lacks the required landscaping, lighting, and bicycle elements. The petitioners are proposing to reduce the number of spaces from 53 to 43, which is the number required, so that all the spaces meet dimensional requirements. Three handicapped spaces will be provided, one in the rear and two in front, and a bicycle rack will be installed. Space in the south setback currently rented to abutter combined with an additional sliver of land on the east side of the property will increase the size of the parking lot and allow creation of a 24' maneuvering aisle and dimensionally compliant parking stalls. The parking lot will remain legally nonconforming because the petitioners are unable to meet all the requirements of §30-19 relative to landscaping and lighting, which nonconformities are grandfathered.

Mr. Buchbinder noted that the adjacent property at 199-203 North Street is owned by the Belli family, who are concerned that restaurant patrons park and will continue to park on their property. Mr. Buchbinder noted that there are already “no parking” signs with tow provisions on the Belli property and on the petitioners’ property. Perhaps the signs should be reworded and a sign posted at the entrance of the restaurant. Alderman Fischman felt a parking management plan could be helpful, noting that when he visited the site, the parking lot was blocked by a tractor trailer truck. Where do employees park?

The restaurant’s snowplow contractor pushes snow up against their fence. Mr. Buchbinder said that Fiorella’s has installed a new higher wood fence on their side of the property.

Chimney/wood oven smoke blows on the Belli property. The petitioners will have the Fire Department and a chimney specialist see if it can be resolved through a ventilation system.

The Associate City Engineer noted that the parking lot should be graded to redirect the flow of stormwater, which currently flows in a southerly direction away from two new catchbasins shown on the proposed site plan.

Alderman Crossley said the floor plan looks really congested. The tables appear very tight; the bathrooms, interior- and egress-wise, look too small for accessibility compliance. She suggested accessibility in the whole restaurant needs to be looked at. Can as many seats as shown actually be fit in the space? The bathroom door opens to the bar, which is a quality of life issue. She noted that the combination of an exterior concrete block wall and insulation requirements of the stretch code will contribute to additional loss of space. What about the handicapped accessibility of the rear door egress?

Architect George Elanjian said two toilets will be demolished for one toilet and that there is actually a 6.5’ clearance in the bathroom. He acknowledged that the exterior bathroom door swing may be a problem and agreed about the reduction in inches of space due to the exterior wall thickness, but pointed out that these are schematic not construction drawings. He said the existing rear door is not handicapped accessible, but the new one will be.

Landscape Designer Andrea Kelly presented the landscaping plan, which calls out arborvitae and various plantings in an approximately 5-7-foot area around most of the parking lot. Most of the plantings are evergreens. The Planning Department suggested the petitioners consider installing at least one street tree and some larger specimens such as yews along the abutting properties to screen the large equipment stored on them. When asked about screening the dumpster, Ms. Kelly said it is currently screened with fencing, but the petitioners could use plantings instead. Alderman Fischman suggested that the front of building, which is asphalt, could be softened with plantings and shrubs. The second curb cut on North Street, north of the restaurant will be

eliminated. The existing pots with plantings will remain as will the grass berm. The petitioners propose to install new bench(s) and additional pots with plantings.

Although the petitioners do not need a parking waiver for the number of spaces, Mr. Buchbinder acknowledged that parking is a major issue. It is mostly a matter of what customers perceive as a matter of convenience, particularly in the evening. Also, if unfamiliar with the site, people might not realize there is ample parking in the rear. A possible remedy is to post signs indicating additional parking in the rear.

It appeared a number of people were present to testify on this petition. In response to the Chairman, approximately 10 persons held up their hands to show they were present to support the petition.

Public comment

Daniel Kunitz, 51 Pratt Drive, lives within walking distance, drives sometimes and never has a problem with parking, loves the restaurant and supports expansion because, selfishly, he would like to be seated without waiting.

Mark Schwartz, 600 California Street, supports the petition and feels the proposal shows numerous improvements.

James Rosenberg, 81 Nardell Road, is a patron who said the restaurant is well run with excellent staff and owner and there is never a problem with lunch parking, occasionally he parks on the street. This will bring more patrons. The restaurant has been very generous to the Franklin PTO, and to different athletic teams and youth groups in the city.

Henry Dowd, 21 Avon Place, said it is a great restaurant. The city should encourage successful businesses in city.

Cathy Belli, one of the owners of adjacent property at 191-203 North Street wants Fiorella's to do well, but parking is a major problem. The Belli's have a new business coming into their property and want to make sure parking is available. The chimney has tripped off fire alarms; it's not the smell that is the problem. If the number of spaces is reduced, then it will become more of a problem. There have been issues with patrons parking and refusing to move their cars even when they call the restaurant owner.

Michael Parker and Eleanor Belli, also owners of the adjacent property, feel the 20 outdoor seats will remove parking. The smoke from the chimney does bother them. Does it meet code requirement? Does the height of the chimney meet building code? What about employee parking?

Mr. Buchbinder said the petitioners would engage a chimney professional and investigate with Inspectional Services and the Fire Department whether or not the chimney meets code.

Alderman Schnipper commented that she was befuddled as to how a 64-seat restaurant with 53 parking spaces could have such a parking problem.

Working Session

Parking Ms. Ananth reported that the petitioners have made arrangements with Queen Screw and Manufacturing Inc. (letter dated 7/29/10), the owner of 60 Farwell Street, for 10 spaces for employees starting at 4:00 PM, seven days a week to ensure that the 43 spaces on-site remain available for patrons. The petitioners anticipate having up to 15 employees on the largest shift, with about 10 driving vehicles. The petitioners agreed that if this arrangement ceases, they will secure another location. The petitioners have agreed to place a small sign at the front entrance advising that parking is available to the rear and side of the building. The existing sandwich board at the front of the property asking patrons not to park on the adjacent Belli property will remain. The petitioners have offered to provide valet parking from 5:30- 9:30 PM, Thursday through Saturday.

Site Plan/Landscaping The petitioners submitted a revised site plan showing the “additional parking in rear” sign; handicapped access ramp at the rear entrance; and, two bollards near the front courtyard to prevent vehicles from driving up to the front door. The second curb cut is eliminated and a bike rack is in its place.

A revised landscape plan shows the proposed outdoor seating area and the landscaping at the front of the restaurant. There are minor revisions to plantings around the perimeter of the site. A grouping of small shrubs has been added near the entrance of the parking lot. The 20 outdoor seats are not additional seats, but 20 of the 114 seats the petitioners are seeking.

The Committee had a lengthy discussion concerning the landscaping, particularly in front of the building. Currently the front of the restaurant is asphalt abutting a concrete sidewalk. Several Committee members suggested that the petitioners considered either removing the asphalt or installing more landscaping. Attorney Buchbinder said removing the asphalt and replacing it with grass would be a financial and maintenance burden. The parking lot as proposed will cost \$26,000-\$30,000, a significant investment. The existing berm along the street/sidewalk will be extended where the second curb cut will be eliminated. Landscape designer Andrea Kelly said that the existing front space is suggestive of an urban Italian courtyard. The petitioners have agreed to add a 4' x 10' planting bed on the northwesterly front of the building as well as more potted plants. Depending on the cost, the petitioners would consider some type of pavers in the front.

The petitioners had the chimney inspected by American Chimney Pros (report on file) who installed an exhaust fan and confirmed the chimney is functioning properly and meets existing Building Code requirements. In an attempt to alleviate the problem of the smoke drifting over the Belli property, the petitioners have received one written and two verbal quotes from contractors to increase the chimney 2' in height; although there is no guarantee that this will work the petitioners have agreed to raise the chimney 2'.

In response to a letter from Robert Belli dated 8/5/10, the petitioners will remove an old manhole partially on the Belli property and keep the restaurant dumpster closed. Removal of the manhole will allow the petitioners to complete installation of the new fence.

Alderman Merrill said this viable business is an asset to the community and moved approval of the petition finding that expanding the nonconforming restaurant use at the rear will not be substantially more detrimental than the existing restaurant and that the site has sufficient parking to accommodate the additional seating; allowing parking in the side setback is appropriate because the site is constrained by abutting uses and it will create conforming parking spaces and maneuvering aisle width; parking will be screened by landscaping along the perimeter of the site; the site will become more handicapped accessible to the community with rear access and a ramp along the south side to the front entrance; the petitioners will provide off-site parking for 10 employees and have offered valet parking for patrons at peak times, and will post signage reminding patrons not to park on abutting lots.

Alderman Albright said she would abstain because she was not at the public hearing and still had concerns about the landscaping at the front of the building. Alderman Fischman agreed about the landscaping, but said he would support the petition. Alderman Merrill's motion to approve the petition carried 5-0-1, with Alderman Albright abstaining.

#151-10 PIE PIE LLC d/b/a CONTINENTAL petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 9 parking spaces in order to expand an existing 24-seat café to a 48-seat restaurant at 796 BEACON STREET, Ward 6, Newton Centre, on land also known as Sec 61, Blk 36, Lot 2, containing approx 3,945 sq ft of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 39-19(d)(13), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 6-0

NOTE: Public Hearing The public hearing was opened and closed on July 13, 2010. Present at the hearings were Aldermen Hess-Mahan (Chairman), Merrill, Schnipper, Fischman, Blazar, Harney, and Crossley. Alderman Albright was absent.

The petitioners, Ely and Ellen Kaplansky, were represented by Attorney Stephen Buchbinder and Architect Donald Lang. The current operation of what is primarily a breakfast/lunch café is not

as successful as hoped. It has been operating at a deficit since 2007. Currently, the restaurant operates with counter service and customers can bring their food to their tables or staff will bring it from the kitchen. The petitioners want to change the concept and focus more on dinner, have a small bar, and offer weekend brunch, to appeal to a broader group of consumers. The proposed increase in seats would involve reconfiguring the interior space, but would not expand the footprint. The interior plan shows ten seats at the bar, with the remaining seats at a banquet and tables, as well as a new handicapped accessible bathroom. Proposed hours of operation are 11:00 AM to midnight, Monday through Friday and 9:00 AM to midnight, Saturday and Sunday. The petitioners have 7.5 years left on their lease.

There is no on-site parking. The site has a 10-space parking credit and the petitioners are seeking relief from the 9 additional parking spaces required for the proposed increase in seats. The petitioners currently rent 2 municipal parking spaces, 1 in the Pelham Street lot and 1 in the Cypress Street lot, each at \$1250 per year. They have three spaces available at their home on Bishopsgate Road, which is no further from the café than the Pelham Street lot. The café is not a destination for lunch, most lunch patrons are and would continue to be people who work in Newton Centre. Presently, approximately 50% of the business is lunch takeout. The petitioners have 16 employees; the proposed maximum staff on the largest shift would increase from 6 to 9 employees.

The Planning Department suggested that the petitioners make a one-time contribution of \$5,000 and \$1,000 annually as a compensatory contribution and mitigation to be used perhaps to fund permanent seasonal seating in the "Triangle Lot." Its memorandum stated that although this was very popular last year, it had not been funded this year. Mr. Buchbinder said that the petitioners are okay with the \$1,000 annual contribution, but that \$5,000 is a bit steep for people who are trying to turn around a business running a deficit. And, although Panera Bread contributed \$25,000 toward the installation of a pedestrian-activated signal and has agreed to make improvements in the Pelham Street municipal lot, a business like Panera Bread is very different from the petitioners'. Partially philosophical and partially the amount, but the petitioners are trying to provide a place in Newton Centre to eat something other than pizza later in the evening.

No additional signage is proposed, although the petitioners intend to change the name from *Pie*, should the petition be approved. Any changes to the signage would have to be reviewed and approved by the Urban Design Commission.

Alderman Fischman asked if an analysis had been done comparing a 48-seat restaurant with others in Newton. The space feels cramped now, how will the space work with an additional 24 seats. The plan shows bathrooms located downstairs on the basement level, is there a handicapped bathroom upstairs?

Alderman Albright asked for the number of parking waivers that have been granted in Newton Centre and when will the number of waivers reach a cap.

Public comment:

Charles Eisenberg of the Economic Development Commission (EDC) testified that the EDC voted unanimously to support the petition. The EDC does not feel this project should have applied to it exactions. State legislation is pending regarding exactions, but currently there are no standards or policy in the city. It is not a good idea to burden anyone in this financial climate. Mr. Eisenberg suggested that the city should be able to issue a temporary parking waiver. Newton Centre parking doesn't get above approximately 75%. There are serious ongoing discussions about building two parking structures in Newton Centre; meanwhile, there is sufficient parking available. If a temporary waiver were granted, the petitioners could rent 9 spaces in a parking structure.

Alderman Fischman disagreed that the Planning Department suggestion was an exaction. Panera contributed to the pedestrian light in the interest of public safety, which is a public benefit. Standard criteria in the ordinance allow the Board of Aldermen to impose conditions that will mitigate any negative impacts.

Alderman Albright asked Mr. Eisenberg why the EDC approved this petition. Mr. Eisenberg responded that the EDC has a long history of supporting development and smart growth and was responsible for the Newton Centre Task Force. It encourages active uses that can be used by citizens and will contribute to the vitality of the Centre, other than another bank, nail salon, or hair dresser. The EDC doesn't only review restaurant uses, but it is a proven that there is a market that has not met its saturation point yet and restaurants are well regulated by the market place, with little margin for error.

Susan Helstrom, 160 Boylston Street, has lived in Newton Centre for 30 years and never had dinner in Newton Centre after 8:00 PM. She thinks it's a great idea.

Roger Lehrberg, 38 Balcarres Road agreed, there is nothing at night in Newton Centre, it is a ghost town. This would be a boon and parking is not a problem at night.

Nancy Freeman, 17 Philmore Road, is a small business owner and confirmed there is ample parking in Newton Centre at night.

Barbara Galvin, 91 Jewett Street, great idea, there is no place in Newton Corner open late in the evening or for brunch.

Philippe Wells, 65 Dalby Street, owner of a yoga studio and vegan café in Newton Corner has empathy for what petitioners are trying to do. It is difficult to run a successful, locally-owned restaurant. Zoning is not friendly. The parking formula appears geared more to retail not

restaurants. One either has to take over an existing restaurant or go through the special permit process. A 24-seat restaurant cannot survive with the rent and other expenses.

John Sisson, 45 Greenlawn Avenue, founder of Newton Villages, but speaking as a Newton Centre resident, agreed Newton Centre is dead at night. Newton's zoning is antiquated.

Ely Kaplansy, 100 Bishopsgate Road, co-owner with his wife of *Pie* said that if they could break even, they would not need a special permit. At this point they could close the doors and pay rent for the remainder of lease (7.5 years) and it would cost less than staying open. His wife has always loved to cook and this is important to both of them, so they are hoping that expanding and changing the concept will allow them to stay and do what they love.

Working Session The Committee reviewed the Planning Department working session memorandum dated 8/6/10.

Parking Of the 16 employees, the petitioners expect that 12 will take public transportation and four will drive. As presented at the public hearing, the petitioners rent from the City two municipal spaces and have up to three parking spaces available for employees at their home on Bishopsgate Road. The petitioners have submitted a Travel Demand Management Plan which states that *Pie* will periodically distribute local bus schedules and create incentives for employees who regularly utilize public transportation.

Acting Director of Planning & Development Candace Havens, a member of the Newton Centre Task Force, said that a baseline study of parking in Newton Centre done in 2005 included license plate studies, *Journey to Work Census*, modal split, etc., which concluded that parking in Newton Centre is at approximately 75%, well below the use of available parking.

The Planning Department provided a chart attached to its memorandum that indicates that from 1982 to 2010, a total of 89 parking stalls have been waived in Newton Centre.

Seating and Handicap access Architect Donald Lang's memorandum dated 7/23/10 states that the proposed seating density meets all Building Code and Architectural Access Board regulations. Density of seating is related to the style of service, the menu and price points. *Pie* has a proposed seating density of 12.75 sq. ft. in comparison with Dunn Gaherin's 13.34 and Paddy's 15.02. A fine dining restaurant such as Blue Ginger in Wellesley would be in the range of 18-20-sq.ft. The bathroom facilities also meet Building Code and Access Board requirements. There are two bathrooms on the lower level, one woman's and one man's each containing two toilets. These are shared with the small fitness center located on the lower level. The proposed floor plan provides one fully compliant accessible bathroom on the main level.

Public Benefits The Planning Department suggestion that the petitioners make to the City a one-time payment of \$5,000 with an annual contribution of \$1,000 for improvements in Newton Centre generated a protracted discussion. At the public hearing, Mr. Buchbinder said that the petitioners were reluctant to agree to this condition given their financial situation. This evening, Mr. Buchbinder told the Committee that the petitioners would agree to pay. Initially, Mr. Buchbinder was troubled about the lack of a nexus between a 9-stall parking waiver and paying for benches that would benefit J.P. Licks, but he feels it is not unreasonable to ask everybody who seeks a special permit to contribute to something that will benefit the community as a whole. The Planning Department identified a need for outdoor dining options in Newton Centre and suggested the money could be used to purchase dining furniture for the Newton Centre Green. The Planning Department has not yet consulted with Parks & Recreation about installation of the furniture, its maintenance, and mowing around it.

Aldermen Albright and Crossley asked about creating a fund for general improvements in Newton Centre, such as a bus shelter, or on an as-needed basis. Ms. Young that would be too broad, the contribution needs to be identified for a purpose relating to the relief sought. Alderman Danberg said she was disinclined to look at the financial circumstances of each petitioner, but that a contribution relative to the parking spaces being waived would make more sense. The Chairman noted that Panera Bread is different; there is a link between its contributing funding for a pedestrian-activated light at an intersection where there has been a longstanding safety concern and the handicapped ramp/parking space improvements they committed to make in the municipal parking lot. His concern is finding a principled way to exact a contribution relating to the special permit benefits being sought. Ms. Young cautioned the Committee that a policy relative to exactions – which the City does not have – differs from an ordinance. She reminded the Committee that prior to enacting the inclusionary zoning ordinance, the City had a policy requiring affordable units/payment-in-lieu-of and when that policy was challenged in court the City lost. Aldermen Fischman and Harney were troubled with the amount sought and the vague nexus with the parking waiver. Alderman Merrill opposed requiring any monetary contribution.

Alderman Harney suggested the petitioners could contribute to a bike rack. Although space precludes its installation in front of *Pie*, it could be installed elsewhere in Newton Centre and is connected to the parking relief sought because it would provide secure parking for bikes, encouraging more people to bike, not drive. Ms. Havens noted that the MAPC is providing free bike racks to the City, but the shipping costs will be borne by the City; perhaps the money could be used for pay for shipping. She pointed out there are novelty bike racks in different shapes, such as animals, cutlery, etc. The Committee liked the idea of a fork, knife, and spoon rack. The petitioners agreed to contribute up to \$2,000 for bike racks. The Commercial Permit Parking program has been very successful in Newton Centre and currently there are no spaces available,

the petitioners agreed to try to purchase an additional parking space in one of the Newton Centre municipal lots when one does becomes available.

Alderman Fischman moved approval, finding that literal compliance with parking is impracticable because the site does not have space to provide any parking; the site is located near four municipal parking lots and parking and traffic studies indicate that there is sufficient parking particularly in the evening to accommodate a waiver of 9 parking stalls; the petitioners will contribute up to \$2,000 to purchase bicycle racks; the petitioners will continue to rent 2 municipal parking spaces and try to purchase a 3rd space if one becomes available; the petitioners have submitted a Travel Demand Management Plan. The motion to approve the petition carried unanimously, 6-0.

The meeting was adjourned at approximately 11:15 PM

Respectfully submitted,

Ald. Ted Hess-Mahan, Chairman