

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, OCTOBER 5, 2010

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

City staff: Eve Tapper and Derek Valentine (Planning), Ouida Young (Law), and Linda Finucane (Clerk's)

#234-10 WOODLAND GOLF CLUB of AUBURNDALE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of A NONCONFORMING USE and STRUCTURE to construct a new pool house building; new food service building; new patio deck and to expand an existing pool deck and replace an existing kiddie pool at 1897 WASHINGTON STREET, Ward 4, Auburndale, on land known as SBL 43, 46, 11 containing approx. 2,291,142 sf of land in a district zoned SINGLE RESIDENCE 1 and 2. Ref: 30-24, 30-23, 30-21(a)(2)a and b), 30-21(b)(2), 30-15(m) of the City of Newton Rev Zoning Ord, 2007 and special permit nos. 101-87 and 517-83.

ACTION: HEARING CLOSED; APPROVED 8-0

NOTE: The petitioner was represented by Attorney Stephen Buchbinder, with offices at 1200 Walnut Street, Newton. Woodland Golf Club was founded in 1896 and is the subject of several special permits. A special permit in 1987 allowed construction of the existing pool house/snack bar. The petitioner is seeking to replace that 1,606 square-foot pool house/snack bar building with a new 1,972 square-foot pool house and an adjacent 677 square-foot food service building. The two buildings will be separated by a small patio for seasonal outdoor dining space to accommodate approximately 50 members. The petitioner also is seeking to replace the existing kiddie pool, which is north of the main pool, with a new spray pool for children. The proposed improvements will be complemented by an expanded patio area and enhanced landscaping surrounding the pool area. These amenities are located in the center of the 128-acre site. In addition, the petitioner is seeking to amend a 1983 special permit, which allowed expansion of the main clubhouse, to create a terrace that will extend the main dining area on the west end of the clubhouse. The petitioner does not contemplate any increase in membership.

The proposed buildings will be Colonial Revival with asphalt-shingled hip roofs and clapboard exteriors. Both buildings will have a line of transom windows just below the eaves. The existing buildings and pool are not ADA compliant, the proposed buildings and new pool will be handicap accessible with handicap facilities.

Although the impervious surface will increase by approximately 4,700 square feet (1/10 of an acre), rooftop runoff will be conveyed to a subsurface system, which in turn will be used on the greens.

Site circulation and parking are not affected. A number of existing plantings will be transplanted and supplemental ornamental landscaping will be installed north of the pool. Various ornamental plantings are proposed between the pool house and food services building and the parking area east of these buildings. A line of existing conifers will remain. Screening is not an issue since the nearest residential neighbor is approximately 600 feet away.

There were no speakers in opposition to the petition. Speaking in favor of the petition were: *Nicholas Nicolazzo*, 50 Fairway Drive, West Newton, a former Club president, who recounted some of the charitable contributions the Club makes to the City, e.g., the Police Golf Tournament and John Barry Boys & Girls Club Golf Tournament.

Ken Brennan, 1855 Commonwealth Avenue, the current president of the Club and CEO of Village Bank, echoed Mr. Nicolazzo's comments.

Vincent Farina, 24 Manemet Road, a 32-year member and lifelong Newton resident, noted that the club also hosts the Cystic Fibrosis Tournament. The facilities are in need of upgrading since it has been decades since the last renovation.

In working session there was little discussion. The Committee agreed that the site is large and there is minimal impact on any residential abutters. The proposal allows the Club to upgrade the facilities to become ADA compliant. Alderman Merrill said that the Club is an asset to the community through its charity tournaments and its very existence as green open space. Alderman Harney moved approval finding that the construction of a new pool house and new food service building, expanded patio, and replacement of a kiddie pool are not substantially more detrimental to the neighborhood than the existing pool house/snack bar/kiddie pool, especially since there is almost 600 feet to the nearest abutter. The addition of a new terrace to expand the dining room creates a negligible increase in impervious surface and runoff will be contained and used on-site; and, the proposed amendments will not increase membership or on-site activity. The Committee voted 8-0 to approve the petition.

A public hearing, opened on September 21, was continued on the following item:

#105-09(2) YANPING SUN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an accessory apartment in an existing single-family dwelling, including the waiver of landscaping requirements for a parking facility, at 87 WOODWARD STREET, Ward 5, Newton Highlands, on land known as Sec 52, Blk 1, Lot 27, containing approx 12,786 sq ft of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2), 30-19(i)(1), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.\

ACTION: HEARING CLOSED; APPROVED 6-0-2 (Merrill, Schnipper abstaining)

NOTE: September 21, 2010

This petition was the subject of a public hearing opened September 21 and continued to October 5. The petitioner was represented by engineer Ben Abrams, 43 Bontempo Road. The petitioner is a doctor who wishes to create an accessory apartment for her parents who at the present live in

China. She hopes to bring them here to live with her, but they have special dietary requirements and need a separate kitchen.

Public comment:

Darci and Jonathan Klein, 107 Woodward Street, object to any variances, etc. because in their 7 years of residency there has been ongoing construction on this site and nothing has come to pass relative to the petitioner's family moving in. The petitioner has not since purchasing the property 6 years ago ever lived at 87 Woodward. They feel this petition is another incremental step to create a two-family house.

Fidel Ramos, 110 Woodward Street, is a 25-year resident. Mr. Ramos said this neighborhood is comprised of single-family properties. This is a rental property. An apartment for her parents is wonderful, but every appearance is that the home is a duplex. The tenants who live there are fine, but he believes this is a ruse. It is an investment property.

Len Lyons, 94 Woodward Street, questioned whether any interior/exterior alterations made by the petitioner in the past 4 years [Section 30-8(1)(d)e)] would preclude her applying for an accessory apartment. He asked whether the current tenants would be defined as lodgers. Are two driveways leading to two separate front doors allowed? The rest of the neighborhood doesn't look like this property. There has been no communication with the petitioner and it is difficult to accept on faith.

Eddie Cogan, 95 Woodward Street, the westerly abutter, said the petitioner's house has evolved step-by-step. A car can barely get down the new driveway between his property and the new addition. The existing fence along the steep driveway is hit in bad weather and it is difficult to turn around at the end. Mariana Cogan submitted a petition from nos. 74, 94, 95, 107 and 100 Woodward Street opposed to a rental property.

Mr. Abrams noted that a legal accessory apartment must be owner-occupied. He alleged that Mr. Lyons has several lodgers in his home. The petitioner does not have two driveways, she has a circular drive in front of the house with two curb cuts. The garage is located on the property line. He said that some other people in the neighborhood park on their lawns. It is up to Inspectional Services to enforce the ordinances. The petitioner told the Committee she has no intention of turning the house into a two-family. The current tenant is a friend, a doctor with two daughters, who works in radiology at Children's Hospital. She is looking to buy a house in Newton and in the meantime is renting the petitioner's house so her children can attend school here. Mr. Abram submitted photographs showing a Toyota Camry turning around to the rear at the end of the driveway.

Mitch Albert, 45 Waverley Avenue, a friend and co-worker of the petitioner explained that the petitioner is renting the house for financial considerations. She has been trying for a long time to get her parents over here. The accessory apartment is not detrimental to the neighborhood and it will add diversity to neighborhood.

Alderman Albright asked the Planning Department to compile a list of renovations over the past 4 years and to see existing and proposed interior plans of the house.

Initially, Alderman Crossley moved that the hearing be closed: However, after further discussion, the Committee concluded that the hearing should be continued because there were too many unresolved questions. The Committee also suggested that it would give time for the petitioner to meet with the neighbors. Alderman Crossley withdrew her motion and Alderman Albright moved the hearing be continued to October 5, which motion carried unanimously.

October 5

The public hearing was continued this evening. Subsequent to September 21, the neighbors met with Alderman Rice and the petitioner. A letter from residents at nos. 71, 81, 94, 95, 107, and 100 Woodward Street in which they concur that the Planning Department's working session memorandum for October 5 addresses most of their concerns was submitted this evening. Consensus was that the meeting and dialogue was positive; however, there were some lingering concerns about the owner-occupancy requirement and the landscape screening for the parking. Several speakers still questioned the 4-year look back provision, but the Commissioner of Inspectional Services has determined that a building permit was obtained in 2005 and the work on the house was completed more than 4 years ago. Upon a motion by Alderman Albright the hearing was closed

Working Session: The Committee addressed the issue of site circulation. The Planning Department memorandum indicated that the third space is 7'8" wide at the narrowest point and is between the fence and the house. Planning believes removal of the fence would eliminate a potential hazard. Although the petitioner submitted photographs indicating a car turning, the Planning Department had asked the petitioner to provide a turning template. The petitioner had indicated to the Planning Department that her representative Mr. Abrams had a template, but he left after the hearing and was not present at the working session. The Planning Department is also concerned about snow storage.

The Planning Department was less than enamored about the petitioner's offer to install slats in the existing chainlink fence to provide screening of the parking. The fence is in poor condition. The Planning Department would prefer plantings, although any plantings would have to be installed on the abutting property (95 Woodward), owned by the Cogans. Mariana Cogan told the Committee that she is not averse to plantings and would maintain them, but she and her husband prefer the fence remain. The petitioner has indicated that she is willing to install landscaping on the abutting property. Normally, agreements and improvements off the site subject to the special permit are not enforceable through the special permit. Ms. Young pointed out that if a condition relative to landscaping on 95 Woodward were included, it would have to specify a time-frame in which it would be installed. A subsequent owner could not be held responsible for installing landscaping on an abutting property. The petitioner said snow will be plowed or shoveled to the rear of the house. Snow storage would be shown on a final landscaping plan. In response to Alderman Albright, Ms. Tapper said the driveway is not part of the 4-year lookback. The side driveway was permitted when the circular driveway in the front was built.

The petitioner has agreed to a condition tying the building permit to her residency. The current tenant has a lease through June 2011. Section 30-8(d) requires the home (either the main portion of the house or accessory apartment) to be owner-occupied. It also requires that the owner file an annual affidavit with the Commissioner of Inspection Services attesting to the “continued residence of the owner on the subject property.” Ms. Young noted that the Commissioner is assigning responsibility for obtaining these annual affidavits to one person in his office.

Alderman Albright moved approval of the petition finding the addition of an accessory apartment will not require any exterior changes to the house; there is no negative impact from vehicular /pedestrian movement within or on adjacent streets; the creation of an accessory apartment will increase the diversity of housing options in the city. Conditions included are that the petitioner will retain the fence along the property line of 95 Woodward Street. However, if the owners of 95 Woodward Street wish landscaping instead, the petitioner will pay for such landscaping within one year of obtaining a certificate of occupancy. The owners of 95 Woodward will be responsible for maintaining and/or replacing such landscaping. The petitioner will submit a final landscape plan that indicates the area where snow will be stored. The petitioner must comply with the owner-occupancy requirement of Section 30-8(d)(1)a) prior to obtaining a *building permit*.

Alderman Albright’s motion to approved, carried 6-0-2, with Aldermen Merrill and Schnipper abstaining.

#211-10 BRUNO PALUMBO TRUSTEE, PALUMBO FAMILY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND a NONCON-FORMING USE to demolish an existing two-family dwelling and replace it with six 2.5-story attached dwelling units, with associated waivers from the 24-foot height requirement and from parking requirements for maneuvering space/aisles/driveway width/handicapped parking, and to construct a greater than four-foot retaining wall within the side setback at 244 ADAMS STREET, Ward 1, Nonantum, on land known as Sec 14, Blk 14, Lots 3 and 4, containing approx 13,966 sq ft of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-21(b), 340-19(h)(2)(c) and (e); 30-19(h)(3) and (4)(a), 30-15, 30-19(m), and 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 8-0

NOTE: Public Hearing

The public hearing on this item was opened and closed on September 21, 2010. The petitioners were represented by attorney Terrence Morris. The petitioners wish to demolish an existing legally nonconforming dwelling and replace it with six 2½ -story dwellings with underground parking for 12 cars. The units will be rentals.

The L-shaped site was two lots which have merged because they are in common ownership. The combined lot, located in a Business 2 district, is conforming. Lot 2 is almost covered entirely in asphalt and contains a contractor’s yard; lot 1 contains the existing house and a metal outbuilding. Mature trees line the perimeter. Abutting properties to the rear are in in a Multi-

Residence 2 district. Relief is sought for a building of 32.46 feet in height (30 allowed by right); for a building of more than 2 stories; to waive the handicapped parking stall requirement of one space; to waive the 20-foot two-way driveway requirement (the petitioners are proposing 12 feet); various dimensional waivers for maneuvering aisles; and, for a retaining wall greater than 4 feet in the setback. Proposed open space will be 58.3%, an increase over the existing 41.8%.

Mr. Morris said that abutter Dennis Maguire had raised concerns about the potential loss of parking on Adams Street in front of his property. In response, the petitioners had moved the entrance to the garage parking from the north to the south side of the site. Turning templates for access/egress have been provided to the Planning Department. Handicapped parking spaces are not required by the Massachusetts Architectural Access Board for townhouses. Mr. Morris noted that these waivers are similar to ones granted for 244 California Street (special permit #273-09). Under the affordable housing ordinance, the petitioner will make a cash contribution of approximately \$200,000.

Architect David Barsky of 71 Faxon Street, Newton, reviewed the architectural plans. The project consists of two narrow buildings, with a center courtyard. Exterior materials will consist of brick veneer and stucco finish, with asphalt and sheet metal roofing. Building 1 contains 4 units, with 24½ feet of street façade; building 2 contains 2 units, with 28 feet of street façade. Gable ends create a visual height element and reflect the many gable ends in neighborhood. Each unit, except unit 5, will have a patio. A knee wall topped with a metal railing is proposed along the Adams Street frontage.

Alderman Crossley asked about trash management? Where will barrels be stored? What about site lighting? Mr. Barsky said that in addition to lighting over the front entries, free-standing colonial-style lights will light the pathways..

There were questions about the parking waivers. Reducing a two-way driveway from 20 feet to 12 feet creates a narrow access/egress. Mr. Morris said that motion activated lighted warning signals (like the ones in the special permit approved for Herrick Road) will be installed on the pinch point of the driveway inside the garage.

Public comment

The Chairman noted receipt of a letter dated September 20 from Patricia Coates, one of the owners of 111-117 West Street, which abuts the petitioners' property at the rear. Ms. Coates expressed concerns about pedestrian safety and the density of the proposal.

Andrew Madden, a nineteen-year resident of 109-107 West Street, said this will be approximately 16 feet from the fence overlooking his backyard. He doesn't want a commercial property. Privacy/open space is obviously an issue, but this seems like a reasonable option.

Don Defillipis, of 33 Middle Street, a resident since 1947, is not opposed to the project, but noted that Middle Street is already congested with parking.

Dennis Maguire of 742 Commonwealth Avenue owns a plumbing business at 254 Adams Street. In 1960, his father purchased 240-242 Adams Street to provide parking for the business. The subject site is located between his plumbing business and the 240-242 rental property. He said his company's policy does not allow staff to park on Middle Street. The scale and mass of this proposal appear overpowering. Residential use is not his preference.

Working Session: The Chairman noted receipt of a petition signed by 13 abutters in support of the project. Reasons for support included the preference for residential over commercial use; stabilization of the residential character of the neighborhood; benefits of additional open space; and, the underground parking. He acknowledged receipt of another letter from Ms. Coates, who while not opposed to a residential use, asked the Committee to be mindful of the potential number of cars this could bring to an already burdened neighborhood.

Several members of the Committee visited the site on September 30. The petition has undergone several changes since the public hearing. The most significant change is the driveway to the underground parking has been shifted to north side of the property. The existing curb cut will be closed and the concrete sidewalks will be replaced. A change to the layout of a utility closet allows turnaround space for parking space #1 and allows circulation from two parking stalls (nos. 9 and 10). All units now have access to patios and open space.

At the request of the Planning Department, a metal safety fence will be added on top of the retaining wall entering the driveway. The petitioner has submitted specifications for a 6-foot vinyl perimeter fence. The petitioner will reevaluate the need for additional landscaping on the north boundary of the site because of the relocation of the driveway. Four enclosed areas for trash have been designated throughout the site.

The proposed width of the driveway is nonconforming, but installing signalization both inside and outside will alert drivers going in or out to the presence of another car without being intrusive on the neighborhood. Mr. Morris said he would submit a cut sheet and specifications for the proposed lights. The driveway grade is 5% for the first 10 feet, 15% for approximately 50 feet, then drops to 5%.

Alderman Crossley is concerned that some of the mature trees on site are very close to the proposed structure and either will have to be removed or will be damaged during construction. Alderman Lennon said that the abutter at 109 West Street wishes the trees to the rear of the petitioners' site to remain. The petitioner must comply with the tree preservation ordinance and will work with Director of Urban Forestry March Welch to see which trees can be saved.

The petitioners submitted a Construction Management Plan. Also, to satisfy concerns about increased parking in the neighborhood, the petitioners have agreed to a condition that they will limit tenants to two cars per unit.

Alderman Merrill moved approval of the petition finding that the proposed use is not substantially more detrimental to the neighborhood than the existing use; the additional 4 units of housing close to public transportation will increase the housing diversity of the city; the 2½ stories and 32.46-foot structure fits in the context of the neighborhood; the retaining wall in excess of four feet within the side setback will not cause erosion or water runoff to abutting properties; and, the dimensional parking requirements of Section 30-19 are impractical given the shape of the lot. Alderman Merrill's motion carried, unanimously, 8-0.

The meeting was adjourned at approximately 11:30 PM.

Respectfully submitted,
Ted Hess-Mahan, Chairman