

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, NOVEMBER 9, 2010

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

City staff: Eve Tapper (Chief Planner for Current Planning), Derek Valentine (Principal Planner), Ouida Young (Associate City Solicitor) and Linda Finucane (Assistant Clerk of the Board)

#250-10      HISTORIC CHESTNUT STREET, LLC. petition for a special permit/site plan approval and to extend a nonconforming structure to renovate an existing building and construct an addition to create three residential units and to waive one parking space at 1012-1022 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as Sec 51, Blk 6, Lots 15 &16, containing ≈11,530 sq. ft. of land in a district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-15 Table 3, 30-21(a)(2)b), 30-21(b), 30-11(d)(8), 30-19(d) and (m) of the City of Newton Rev Zoning Ord, 2007.

ACTION:      APPROVED 6-0 (Harney not voting)

NOTE: Public Hearing, October 12, 2010

Present at the public hearing: Ald. Hess-Mahan (Chairman), Ald. Merrill, Fischman, Schnipper, Harney, Albright, Crossley, and Blazar; also present: Ald. Rice, Yates, and Baker

The public hearing on this item was opened and closed on October 12. The petitioners, Elaine Lindy and Jack Foster, were represented by Attorney G. Michael Peirce. The subject of this proposal 1012-1022 Chestnut Street, located at the corner of Chestnut and Winter Streets, is a lot with three separate structures and uses under common ownership. The petitioners are seeking a special permit to convert the building numbered 1012-1018 Chestnut Street, an 1850's era noncompliant building that contains 5 residential units, into 3 residential units. Historically, for the past 150 years the building contained commercial uses on the ground floor with housing above. Although the petitioners appreciate the long historic use of the building, there is almost no market for this type of commercial space in the current economic climate; they feel that converting the building to residential use is the only economically viable way to preserve the historic character of the site. The proposal includes two small additions containing 245 square feet. The proposed additions consist of a small fill-in to the front façade, a second story to a small abutment, and a minor extension to the rear. Although the existing structure is nonconforming as to the front setback; the proposed additions will not increase this nonconformity, but a special permit is required to expand the nonconforming structure itself and to allow residential use in a business district. The other two structures on-site are undergoing by-right renovation. One of these buildings, the red barn, which currently contains 2 residential units, will be converted to commercial space on the ground floor and remain residential use above. If this petition is approved, the site will contain 7 residential units and one commercial unit. The Newton Upper Falls Historic District Commission has reviewed and approved the proposed plans.

A waiver of one parking space is being sought because the parking requirement is calculated on all uses on the site as a whole. The total number of required parking spaces is 16; the petitioners are proposing to provide 15 spaces and are seeking a waiver of one space and waivers from maneuvering aisle width requirements.

The petitioners also are seeking approval for a block masonry wall that replaced a prior masonry wall in the side setback; a set of newly-built wood stairs leading to the ground floor unit, and a subterranean air compressor at *1020 Chestnut Street*. A letter dated 10/1/10 from Colonial HVAC, 654 Main Street, Melrose confirming the baffling of this below-ground unit by an 8-foot wall is on file with the Clerk of the Board.

Several issues raised by committee members were:

- The existing curb cut on Chestnut Street is wider than the access to the rear.
- Will the petitioners consider delineating the pedestrian/car access by a change in pavement?
- How will a car maneuver in and out of parking space #14, with the planting space directly to the rear of it?
- How will trash be managed? Snow storage?
- Although space is very limited, landscaping seems sparse. What about grass or ground cover?
- What about the encroachment into the city's drainage easement during by-right construction referenced in the Associate City Engineer's memo dated 9/27/10.
- The roof plan needs to be revised; minor inaccuracies in the rear elevation need to be corrected.

Public Comment:

*Jack Neville*, 68 High Street, is very supportive. His only concern is about trash lined up on Winter Street, where the sidewalk is quite narrow.

The Committee received letters in support from  
*Donald Lang*, 999 Chestnut Street  
*Gary Ajamian*, Trustee of Chestnut Street Realty Trust, 1024-1028 Chestnut Street  
*Frederick Young*, owner of 16-20 Winter Street  
*Bruce Abele*, owner of 23-25 Winter Street  
*Mike Larossi*, owner of Echo Bridge Service, Inc., 1010 Chestnut Street.

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#### Working Session

Ms. Tapper reviewed information provided by the petitioners subsequent to the public hearing. Materials include a revised set of plans which correct the roof plan and which also show where trash barrels will be stored and put out. The petitioners are now proposing three enclosed trash areas, one for each unit, located near the door of each unit. This revision allows the enclosed

trash area proposed at the southeast corner of the parking area to be reduced from approximately 25' x 20' to 15' x 8' to accommodate only 6 barrels for the three units at 1020 Chestnut Street. The red barn at 22 Winter Street will store its trash barrels in an existing free-standing shed to the rear. The additional 250 square feet made available by the reduction of the trash enclosure will be used for snow storage. The Planning Department remains concerned that 14 barrels put out on a narrow sidewalk will hamper pedestrian passage on trash pickup days.

The petitioners will narrow the existing curb cut on Chestnut Street. The petitioners agreed to submit to the Planning Department a final landscape plan, which also will delineate the pedestrian/car access. The petitioners will submit a detail for a fence proposed along the front of the property. The fence will serve as a transitional element from the end of the curb to where the driveway begins and will be installed after completion of the utility work. It will have be reviewed and approved by the Upper Falls Historic District Commission. Concerning parking space #14, the petitioners' believe that because parking spaces will be assigned, the person assigned that space will become familiar with maneuvering in and out of it.

The petitioners are in the process of working with the Commissioner of Public Works and the Law Department on a license agreement relative to the one-foot encroachment in the City's drainage easement that occurred during construction. The petitioners are willing to agree to a condition that this agreement must be finalized prior to the issuance of any building permits.

Alderman Crossley moved approval of the petition with the findings and conditions contained the draft board order dated November 15, 2010. The motion to approve carried unanimously, 6-0.

#249-10      CHESTNUT HILL FOUNDATION, INC. petition for a special permit/extension of a nonconforming use and to amend the site plan(s) approved in special permit nos . 253-73, 359-74, 4 71-76, 624-78, and 17-82 for an association of persons living together and religious/educational center operated by *Opus Dei*, a prelature of the catholic Church, at 481 HAMMOND STREET, Ward 7, Chestnut Hill, on land known as SBL 63, 16, 1, containing ≈145,538 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-8(b)(1), 30-15 Table 2, 30-21(a)(2)b), 30-21(b), 30-19(h)(1), 30-19(m), 30-19(h)(4)a) and b), 30-19(k) of the City of Newton Rev Zoning Ord, 2007.

ACTION:      APPROVED 4-0-2 (Blazar and Fischman abstaining)

NOTE: Public Hearing, October 12, 2010

Present at the public hearing: Ald. Hess-Mahan (Chairman), Ald. Merrill, Fischman, Schnipper, Harney, Albright, Crossley, and Blazar; also present: Ald. Rice, Yates, and Baker

The public hearing was opened and closed on October 12. Attorney Alan Schlesinger represented the petitioner. He stated that although the petitioner is willing to seek a special permit, his client is reserving its right as a Dover protected use. He explained that the petitioner received a special permit in 1973 for an association of persons living together. The special permit limited the number of persons to 12 and contained a renewal condition. The special permit was renewed four times, with the last renewal granted in 1982 with five-year expiration. Although the five years expired, the petitioner has maintained the use continuously and is

seeking to legalize the association of persons and the educational and religious classes on-site, which use has evolved over the past 38 years. There are no plans to increase programs.

The parking requirement is 26 spaces; the petitioner is providing 25 spaces on the driveways and is seeking a waiver for 1 space. The Planning Department questioned whether all the proposed spaces meet dimensional requirements.

The site contains 3.5 acres with an 11,034 sq. ft. house. The petitioner is proposing to construct an 8,350 sq. ft. addition. The existing house is legally nonconforming with regard to side (detached garage) and rear setbacks and building height. The proposed addition will increase the nonconformity of the rear setbacks. The petitioner is not seeking to increase the number of residents. Currently, there are four Catholic priests and eight laymen in residence. The addition will improve the living quarters and provide separate space for programs. It will bring the house into ADA compliance and include an elevator as well.

Proposed site improvements include enhanced landscaping, walkways, a new storage shed, stone wall, and landscaped courtyard. The existing hodgepodge of fences will be removed, replaced with landscaping. Several trees will have to be removed for construction, but will be replaced in caliper inches as required. Construction of the addition will also remove an existing connection drive within the site. The Hammond Street driveway will be realigned away from the house for improved Fire Department access. A portion of the driveway is one-way. The driveway is different widths at different points. The only signage proposed other than the street address is interior directional signage. Parking will be relocated away from the front entrance to create a more residential feel. The existing service drive from Suffolk Road will remain for service vehicles only. Paving will consist of cobblestone and asphalt w/chip and seal on top to look like gravel.

The petitioner prefers to not as the Associate Engineer suggested install a sidewalk on Hammond Street. The proposal has been reviewed and approved by the Chestnut Hill Historic District Commission. The Commission feels the sidewalk will detract from the rural character of the road. Hammond Street is a designated scenic road. With less impervious surface, there will be no increase in runoff.

Alderman Baker recalled the original special permit and expressed some concerns that this proposal would move everything closer to Suffolk Road as well as create the potential for more activity on the site. He asked if the petitioner would be willing to a condition to limit the expansion of programs. Mr. Schlesinger responded that the petitioner could not make a commitment to a particular program forever. This proposal with the number of parking spaces matches the current program and any subsequent increase in intensity would require the petitioner to return for an amendment to the special permit. The petitioner cannot agree to a condition that would limit meetings to a certain number a month. In response to a question related to property taxes, Mr. Schlesinger said the petitioner agreed in 1973 that the property would remain on the tax roll and currently pays \$32,000 a year.

Alderman Baker was concerned that the parking would be visible from the street. Alderman Fischman was concerned about the site line at Hammond Street.

There were no speakers; however, the Committee received a letter on file with the Clerk of the Board from an immediate abutter in favor of the project. Mr. Schlesinger also indicated that the First Church is very supportive of the proposal.

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Working Session

This evening, Mr. Valentine reviewed a revised site/landscaping plan. Narrowing the main driveway to 18-feet will not impede Fire Department access. Removal of the 6-foot stockade perimeter fence will actually improve the site line on Hammond Street. Alderman Baker expressed some reservations about removing the fence, but the petitioner does not want the fence. It is deteriorated and obscures the view of the property. The Chestnut Hill Historic District Commission also prefers that it be removed. However, the petitioner would like to retain the option to replace the fence without amending the special permit should people start cutting through the property to the T Station. The petitioner understands that it would need to obtain the necessary review and approval of the Chestnut Hill Historic District Commission if another fence were to be installed. On-site parking will be set back from Suffolk Road. Alderman Baker said the revised landscaping plan is a significant improvement, preserving the residential feel of the site.

The Committee reviewed a draft board order with relevant conditions from the prior board orders incorporated. Ms. Young noted that she eliminated a condition limiting to five the number of cars on-site. Also eliminated was a condition that the house be maintained in its existing condition, since the expense incurred and the improvements that will result from the exercising this proposal are substantial.

Alderman Fischman said he would abstain because of concerns about the access and the narrow driveway width. Alderman Fischman and Baker expressed some trepidation about creating a “conference center.” Ms. Young noted that although the petitioner has been willing to seek a special permit although reserving its right as a Dover protected use, there is virtually no case that a Court has considered it reasonable to restrict a religious/educational use if the use outstrips the parking. Alderman Blazar said he would abstain because he wished to consider the actual relief being sought.

Alderman Schnipper moved approval of the petition with the finding and conditions contained in the draft board order dated November 15, 2010, which motion carried 4-0-2, with Aldermen Hess-Mahan, Crossley, Merrill, Schnipper voting in the affirmative; Aldermen Blazar and Fischman abstaining; and, Alderman Harney not voting.

The meeting was adjourned at approximate 11:30 PM.

Respectfully submitted,  
Ted Hess-Mahan, Chairman