

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, NOVEMBER 23, 2010

Present: Present: Ald. Hess-Mahan (Chairman), Ald. Crossley, Schnipper, Albright, Merrill, Harney Blazar, and Fischman; also present: Ald. Fuller and Yates
Staff: Alexandra Ananth, Candace Havens, Eve Tapper (Planning), Ouida Young (Law), Linda Finucane (Clerk's)

#278-10 MARK & JANE CONROY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to alter a NONCONFORMING USE/STRUCTURE from a mixed-use funeral home with 2 residential units to a 3-family residential use at 439 WASHINGTON STREET, Ward 1, Newton Corner, on land known as SBL 12, 6, 7, containing ≈4,516 sq. ft. of land in a district zoned BUSINESS 2. Ref 30-24, 30-23, 30-21(a)(2)b), 30-21(b), 30-11(d), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 8-0

NOTE: Public Hearing The public hearing was opened and closed on November 9, 2010. Present were Aldermen Hess-Mahan (Chairman), Blazar, Merrill, Fischman, Crossley, Harney, and Schnipper; Alderman Albright was absent.

The petitioners were represented by Attorney Laurance Lee. This property contains a legally nonconforming structure built in 1902 as a two-family home prior to the establishment of zoning controls. Since 1948, it has had a funeral home on the first floor and a single-family residence on the second and third floors. The petitioners are seeking a special permit to convert it into a three-family dwelling. Although the proposed renovations will not increase the nonconformities, a special permit is required to alter the use and structure and to locate a multi-family dwelling in a Business 2 zone. The petitioners propose to demolish a rear addition, which will make it less nonconforming as to the rear setback. The petitioners plan to remove an existing garage as well. The property is located close to Newton Corner, a major public transportation node.

Because the previous funeral home use has a number of parking credits a parking waiver is not required. The site can accommodate two tandem parking spaces and possibly a third, which would provide one parking space for each unit. Since the petitioners own the abutting property at 445 Washington Street, tandem parking could be located to the west and north of the dwelling if an easement is provided. Although one cannot legally grant an easement to oneself, the petitioners have agreed to a "springing easement" that would become effective in the event that 445 Washington Street is sold to another party, allowing continued access over the shared driveway.

Public Comment:

The Cedrone family, who live at 146 Jewett Street and 437 Washington Street to the rear of the subject property, said the petitioners are great neighbors. The proposed removal of the rear addition is to their benefit because it will give them more light. Also, they look forward to having live neighbors.

A letter dated November 5, 2010 in support of the project was received from Jacqueline Petrillo, 449 Washington Street.

Working Session This evening, the Committee reviewed a letter dated November 19, 2010 from realtor Janet Edsall to Mr. Conroy in which she opines that the property would be well suited for a family with children, noting the size of the proposed units and the proximity to public transportation and both public and private schools. The petitioners have agreed to a condition similar to the condition contained in special permit #211-10 for 244 Adams Street that the property would be marketed to tenants having no more than one car.

Alderman Merrill moved approval of the petition finding that the proposed alterations are not substantially more detrimental than the existing structure; the multi-family residence is appropriate because it is consistent with the other multi-family residences in the neighborhood; elimination of traffic to the site during the days is reduced and up to three parking spaces are being provided; and, it is consistent with the Comprehensive Plan by providing rental units in close proximity to public transportation. Alderman Merrill's motion carried unanimously, 8-0.

#266-10 BILL'S HOUSE OF PIZZA/B&E BEACON REALTY, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a restaurant in excess of 50 seats (from 33 to 57 seats) and to waive 9 parking stalls at 751-753 BEACON STREET, Ward 6, Newton Centre, on land known as SBL 61, 27, 20, located in district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-19(c)(3), (d)(9) and (13), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 8-0

NOTE: Public Hearing The public hearing on this petition was opened and closed on November 9, 2010. The petitioner was represented by Attorney Stephen Buchbinder. Mr. Buchbinder presented a PowerPoint. The petitioner, who in 1993 took over the business from his father, is seeking to increase the number of seats from 33 to 57 (a special permit is required for a restaurant having over 50 seats) and to waive the additional 9 parking stalls required by the proposed increase in seating. The restaurant was expanded by-right in 2007 by incorporating 1,184 sq. ft. of adjacent space. This petition proposes no physical expansion of the existing space. Hours of operation will remain the same, 10:00 AM to 10:00 PM, seven days a week.

The petitioner anticipates increasing the number of employees to 15, with up to 9 working the largest shift. The existing restaurant has a parking credit of 13 parking spaces; the proposed expansion requires 22 parking spaces. There is no on-site parking. The petitioner rents 3 parking spaces from the owner of 208 Sumner Street. Mr. Buchbinder said that 11 of the 15 employees either walk, bike, or take public transportation to work. A parking study conducted by Planning Horizons with counts taken at both lunch and dinner times on different days of the

week found that out of the total 81 spaces in the study area an average of 22 parking spaces are available at lunch and 24 parking spaces are available at dinner.

The petitioner has agreed to contribute \$5,000 for the purchase and installation of pedestrian countdown signal heads on the existing traffic signals at the Beacon Street, Langley Road, and Sumner Street intersection. These signals have been shown to reduce pedestrian injuries by providing pedestrians the time left to safely cross a street.

Mr. Buchbinder submitted over 800 signatures in favor of the petition.

Public Comment:

The following people spoke in support of the petition, citing the petitioner's involvement in the community by hosting many non-profit events and youth soccer; providing a great family restaurant that generations of families have been walking to; providing a venue for the "teachers' band; this is the type of business the city should encourage. All speakers noted there is enough parking.

Alexander Mathews, 42 Chesley Road.
Ann Hochberg and Howard Weinstein, 83 Sumner Street
Matt Johnson, 65 Gray Cliff Road
Carol Johnson, 65 Greycliff Road
Neil Miller, 126 Pleasant Street
Kelly Fattman, 11 Central Terrace Auburndale 1
Jeff Davidson, owner of Holly Cleaners
Cary Dutton, 137 Langley Road
Debbie and Arthur Cohen, 79 Warren Street
Adam Johnson, owner of a business at 11 John Street

Daphne Collins, Chair of the Economic Development Commission, read a letter (on file with the Clerk of the Board) from the EDC in support of the petition.

Working Session This evening the Committee reviewed a draft board order prepared by the Planning Department. Alderman Blazar moved approval of the petition finding that literal compliance with the parking requirement is impracticable because there is no on-site parking and that the business is near enough parking lots to justify the 9-space waiver; and that most of the employees use alternative modes of transportation; the \$5,000 contribution to the countdown signal heads will increase pedestrian safety in Newton Centre. Alderman Balzar's motion carried unanimously, 8-0.

Respectfully submitted,

Ted Hess-Mahan, Chairman