

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 16, 2009

Present: Ald. Mansfield (Chairman), Ald. Hess-Mahan, Albright, Fischman, Vance, Sangiolo, Merrill, and Brandel; also present: Ald. Linsky  
City staff: Candace Havens (Chief Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Chief Committee Clerk), Benjamin Solomon-Schwartz (Senior Planner)

***The public hearing on the following item was opened on May 19 and continued to June 16:***

#102-09      VIDEOLINK/DIV WASHINGTON STREET, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to install two satellite antennae on an existing parking garage at 1210-1230 WASHINGTON STREET, WEST NEWTON, on land known as Sec 31, Blk 4, Lots 13 and 15, containing approx 79,093 and 14,089 sf, respectively, in a district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-18(a)(e)(5) and (f) of the City of Newton Rev Zoning Ord, 2007.

ACTION:      HEARING CLOSED; APPROVED 7-0 (Brandel not voting)

NOTE: The public hearing was opened on May 19. Architect Luis Cetrangolo of Dooling Woodbrier Architects represented the petitioners. Owner Douglas Wiseman and President Howard Miller joined him. The petitioner, Videolink, is a provider of broadcast video production and transmission services to major television networks, worldwide. It is located in a 3-story property with an attached parking garage at the corner of Washington and Chestnut Streets in West Newton square, that backs up to the Mass Turnpike. In business for 18 years, the company relocated two years ago from Watertown and has 52 employees. Currently there are two by-right satellite earth station antennae on the roof of the parking garage. The proposal would remove one of the existing antennae and add two satellite earth station antennae each exceeding two meters in diameter to be located within a railed area approximately 100 feet back from the Washington Street parapet above the center garage stairwell. The proposed installation will not affect the number of parking spaces.

The Committee was concerned about the perspective from residences on Austin Street, from the Police Annex on Chestnut Street or from across Washington Street. Depicted on the plans as bright white, Mr. Cetrangolo said the antennae are white on the plans so they can be seen but they will be painted to blend in with the sky, probably grey. The petitioner agreed to provide a simulation of the perspectives and color for the working session. Alderman Fischman asked that the petitioner be prepared at the working session to elaborate about any spill over of radiation.

When asked why two additional antennae, not one. The petitioner explained that client usage requires two for different uses. The antennae are not radiating constantly, but only when there is an event, then the system shuts down. To work properly, the antennae need to be open on the south view, i.e., the Turnpike. The Chairman noted that there appeared to be a discrepancy relative to where the acoustic measurements were taken from, was it the roof or the parking deck? The petitioner was asked to submit revised plans showing the one existing dish to remain and the two new satellite dishes.

Alderman Sangiolo asked if there was any potential use by the City for emergency services, particularly given the police proximity.

There was no public comment; however, Alderman Hess-Mahan moved to continue the public hearing because he wanted to ensure that several residential abutters, although not legal parties in interest, were aware of the petition. The Committee voted to continue the public hearing until June 16.

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This evening, the public hearing was continued. There was no public comment. The Committee reviewed:

- revised plans showing three antennae;
- materials depicting the views from nearby sites, showing in detail 14 vantage points from which photographs were taken, indicating that the two dishes should not be visually obtrusive;
- a color copy of the Haes report, demonstrating the relative areas of radio frequency exposure. *None of the parking spaces will be within the affected area.*
- a sample of the medium grey paint that will be used to paint the antennae;
- a supplemental acoustical report from L. G. Copley Associates clarifying the location of the proposed antennae and verifying they will comply with the City's noise ordinance (the only source of exterior noise will be two fans, approximately 5 inches each for cooling). All adjustments will be manual.

The petitioners noted that this is not the type of a system like a cell tower. These satellite antennae transmit signals long distance to space; they are not for local transmissions and would be of no use to the police or fire departments.

Alderman Hess-Mahan moved approval of the petition finding that it allows an existing business to remain and grow in the City without adversely affecting traffic or the quality of life of nearby residents, consistent with the 2007 Comprehensive Plan. Alderman Hess-Mahan's motion was approved 7-0, with Alderman Brandel not voting.

#139-09      FRANCESCO GIGLIOTTI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE to construct a second-story addition onto the front of an existing single-family dwelling, increasing the legally nonconforming floor area ratio from .43 to .48, at 204 RIVER STREET, WEST NEWTON, on land

known as Sec 44, Blk 17, Lot 55, containing approx 3,064 sf feet of land in a district zoned SINGLE RESIDENCE 3. Ref: 30-24, 30-23, 30-21(a)(2)(b), 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 7-0-1 (Fischman abstaining)

NOTE: This was one of the public hearings followed immediately by a working session on June 2, all requesting similar relief for relatively small increases in Floor Area Ratios (FAR's) for single-family residential properties on small lots most of which were already legally non-conforming.

Contractor Dmitri Olenik represented the petitioner at the public hearing. The petitioner is seeking to construct a second-floor bedroom above an existing first-floor 4-season porch on an existing single-family dwelling. The proposed addition of approximately 145 sf would increase the FAR from 0.43 to 0.48. The by-right FAR is 0.35. Located in a mixed neighborhood of single- and two-family homes, the majority of the lots in the vicinity have FAR's between 0.20 and 0.37. No changes to the use of the home are proposed. The proposed addition would overhang the first floor by two feet, with the existing roofline extended over the new addition. Roofing and siding materials would match the existing siding and roof. Although the proposed overhang encroaches further into the setback, the house is set further back and is much smaller than its neighbors. Preservation planner Brian Lever found the house not historic.

The public hearing was closed on June 2, but the working session was continued since there was additional information needed regarding discrepancies on the plan elevations and the project architect was not available to explain them.

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Members of the Committee thought the overhang of the second-story over the first-story gave the impression of a heavy mass on top of the building. The petitioner agreed to eliminate the overhang, which would reduce the proposed FAR from .048 to .047. The Committee asked about the two different materials proposed for the small façade, i.e., imitation stone siding on the first-story and imitation clapboard on the second-story. The petitioner agreed to remove the imitation stone and clad the entire facade in siding that resembles clapboard. The Committee also suggested increasing the width of the addition and first-story below it to match the existing house behind it to give the structure a simplified form; however, the petitioner did not agree to do so because of the additional cost involved in laying a larger foundation to support the larger first- and second-stories. There was a question of whether the front setback is more than the average of the setbacks of the buildings on the lots on either side (section 30-15(d)), which Ms. Havens thought was applicable.

Alderman Sangiolo moved approval, with the standard findings of the six other so-called FAR petitions heard on June 2: that the structure as expanded will not adversely affect the neighborhood; major topographical changes, tree and soil removal have been avoided, and existing vegetation is sufficient for screening approval of an increase in FAR is appropriate in the context of the neighborhood, as the house as expanded is in scale with others in the immediate vicinity; and that the proposed addition is consistent with the

Comprehensive plan because it helps to preserve the character of the existing neighborhood while allowing the occupants to meet the housing needs of today's families. Alderman Sangiolo's motion was approved 6-0-1, with Alderman Fischman abstaining and Alderman Brandel not voting.

*The Committee explained to the petitioner that this item would be reported out to the full Board of Aldermen on July 13 and that it was essential that revised plans be submitted by Friday, June 10, at the latest. As of Monday, July 13, the petitioner has not submitted the plans and has been unable to be contacted.*

#65-08(3)      REQUEST FOR A ONE-YEAR EXTENSION OF TIME to EXERCISE SPECIAL PERMIT #65-08 granted on June 16, 2008 to Giovanna Forte to construct a new single-family dwelling, including conversion of an existing 2-family dwelling to a 1-family and demolition of an existing detached 2-car garage and shed at 48 Cherry Place, Ward 3, West Newton. Said extension will run from June 16, 2009 to June 16, 2010.

ACTION:      APPROVED 7-0 (Brandel not voting)

NOTE: As explained in the letter from Attorney Jason Rosenberg attached to this evening's agenda, the petitioner has been unable to commence construction of the project because of the economy. Mrs. Forte hopes that an extension from June 16 2009 to June 16, 2010, will enable her family to exercise the special permit.

#121-09      CONGREGATION SHAAREI TEFILLAH, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXPAND A NONCONFORMING USE to add approximately 8,000 square feet to an existing Orthodox Synagogue to increase the number to a total of 405 seats and to waive the required number of parking stalls; locate a parking stall in the front setback; and to waive landscaping and lighting requirements for parking facilities for five or more stalls at 29-31 and 35 MORSELAND AVENUE, Ward 2, NEWTON CENTRE on land known as Sec 13, Blk 30, Lots 11A and 11b, containing a combined total of 31,300 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-21(b), 30-19(h)(1), 30-19(i), (j), and (m) of the City of Newton Rev Zoning Ord, 2007, and special permit #47-87, condition nos. 3 and 5.

ACTION:      HELD 8-0

NOTE: This discussion was incorporated into the report of June 30, when the petition was approved.

Request for Consistency Determination re special permit #278-08, granted on October 20, 2008, for the expansion of a nonconforming 4-family residential structure at 187-189 Cypress Street.

NOTE: It was after 11:00 PM when the Committee began to discuss this request. There appeared to be a number of changes between the plans approved in the special permit and the actual construction to date. Owner Rhianna Kidwell and architect Claude Sangiolo agreed to return at the Committee's next meeting on June 30.

The meeting was adjourned at approximately 11:45 PM.

Respectfully submitted,

Alderman George E. Mansfield, Chairman