

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 14, 2009

Present: Ald. Mansfield (Chairman), Ald. Albright, Fischman, Hess-Mahan, Merrill, Sangiolo, Vance, and Brandel. Also present, Ald. Baker

City staff: Candace Havens, Chief Planner, Linda Finucane, Chief Committee Clerk

Public Hearings were held on the following items, after which the Committee held a working session:

#232-07(4) AMERADA HESS CORPORATION petition to AMEND special permit #232-07 by deleting in condition 9.d. the reference to the "...bermed area at the edge of the curb extension planted with grass and pear trees..." which is not shown on the plan and not built as part of the already constructed curb extension approved in SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING USE, granted on 12/17/07, for the conversion of a full-service gasoline selling station to a self-service gasoline selling station and retail convenience store at 2370 COMMONWEALTH AVENUE, Ward 4, AUBURNDALE, Ref: Sec 30-23 and 30-24 of the City of Newton Rev Zoning Ord, 2007.

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

NOTE: In 2007 the Board granted a special permit and site plan approval to convert an auto repair business to a convenience store at this gas station site, and it has been in operation for some time under a temporary occupancy permit pending completion of landscaping improvements. The petitioner agreed to numerous street improvements, which have all been installed in cooperation with the DPW. One of these improvements was the realignment of the curb at the southwest intersection of Auburn St. and Commonwealth Ave., and the installation of a sidewalk on Commonwealth Ave. from Oakland St. to Auburn St. The Board Order also specifies that pear trees and grass be planted in the berm between the sidewalk and the street. However, the sidewalk as installed includes no berm or planting strip, as neither it nor the trees were not shown on the approved plans. The petitioner is therefore asking for an amendment to the condition that would require this specific landscaping.

At the public hearing, the petitioner's attorney, Steven Buchbinder, explained that he had met at the site with Ms. Havens and Marc Welch, the City's Urban Forester. They had agreed that the grass and trees in this location would be difficult to maintain (a City responsibility, not that of the petitioner), and that the trees could also impede sight line visibility of the traffic signal. Mr. Buchbinder also spoke with Kevin Newman, a neighbor who had taken an interest in the petition when it was previously before the

Board and a professional landscaper. He said Mr. Newman was not opposed to eliminating the pear trees, and thought that ground cover and low shrubs inside the sidewalk and around the new "Welcome to Auburndale" sign would be more appropriate. The petitioner submitted a plan that showed this ground cover, with azaleas in front of and rhododendrons behind the sign, all of which is already in place.

Ald. Fischman asked why pear trees had been specified if this is a better alternative. Mr. Buchbinder noted that the working session had run very late that evening, and that amendments had also been made on the floor of the Board, so this decision might not have been well thought out. Ald. Sangiolo said she would have preferred to have something in writing from Mr. Newman. Ald. Mansfield noted that sight lines easterly on Auburn St. are obstructed by plantings at the curb cut to the gas station. Mr. Buchbinder noted that this is not a part of this petition, but he thought this landscaping was not yet final.

The hearing was closed and the Committee went into working session. Ms. Havens said that a landscape plan for this area, required by the Board order, was never submitted, and the McMahan traffic improvements plan didn't specify it either. Ald. Sangiolo reported that she had spoken with Mr. Newman, who told her that the neighbors have no issue with eliminating the requirement for a planted berm. He also suggested removing the grass currently growing inside the sidewalk because it will impede the ground cover, which should be planted more densely, along with a few more shrubs. She then moved approval of the amendment, finding that the trees would obstruct sight lines and were inappropriate in a berm in this area, with standard conditions and the final review and approval of planting left to the discretion of the Planning Department.

The motion was approved 7-0, Ald. Brandel not voting.

#163-09 NICHOLAS POLYHRONOPOULOS & VASILKI
POLYHRONOPOULOS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE to install a semi-circular driveway within the front setback with parking; replace an existing nonconforming front stairway in the front setback; and to install /construct retaining walls and stairways as retaining walls at an existing single-family dwelling at 103 COMMONWEALTH AVENUE, Ward 7, CHESTNUT HILL, on land known as Sec 63, Blk 8, Lot 46, containing approx 13,693 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21((b), 30-19(g)(1) and (3), 30-19(m), 30-5(b)(4) as most recently amended by Ordinance Z-45.

ACTION: HEARING CLOSED; ITEM APPROVED 7-0 (Brandel not voting)
NOTE: This is a petition on a residential site to allow parking within the front setback, retaining walls in excess of 4 feet in height and stairs within that setback, and curb cuts totaling 43.5 feet where 20 feet is the allowed maximum. The existing single

family property is on a 12,693 s.f. lot that slopes steeply up from the street frontage, which is on the carriage lane of Commonwealth Ave. across from Boston College's main campus. The site also includes a detached 2-car garage that is at the sidewalk and built into the slope. The petitioner is proposing a semi-circular driveway in front of the house for additional parking and more convenient access. In its analysis prior to the public hearing, the Planning Department has suggested that the number (3) and width of curb cuts proposed was inconsistent with the traditional character of the historic carriage lane, and a possible impediment to pedestrians in a neighborhood that hosts a substantial number of walkers and runners. They also noted that the curb cuts would reduce the number of on-street parking spaces. They suggested that if the petition were to be approved, that it be on the condition that the garage (and its curb cut) be removed.

At the public hearing, the petitioners' attorney, Laurance Lee, explained that his clients had purchased the house in 1996, and that previously it had served as a college fraternity house. They have restored the interior and in 2007 began work on the exterior and the site. After beginning excavation for the driveway, they were issued a cease and desist order by ISD because the work would have changed the grade in excess of three feet. They postponed completion of the work while drainage issues were resolved and pending the Board's amendment to the grade change ordinance. That occurred this year, so relief for such a change is no longer required, but all the relief requested and described above is still necessary for the project to proceed. Mr. Lee reported that they did develop an alternative driveway plan that would not be in the setback nor require the extent of curb cuts, but that it would require 10-foot high retaining walls and would impinge upon an easement that serves as access to the property to the west.

He reported that the Fire Department had approved the plans, and the City Engineer had approved the drainage design. The petitioners are proposing to upgrade the sidewalk and curbs as necessary. He said his clients did not want to give up their garage, as they use it for covered parking, and that they do not plan long term parking for the occupants in the new driveway. Rather, he said, it is to be used for access and visitor parking. Ald. Baker added that there are resident permit parking restrictions on this and surrounding streets, and that the driveway space should not be rented out to non-occupants of the house. He said that he and Ald. Vance had visited the site and that they had suggested that the petitioner reduce the width of the proposed driveway and plant street trees to soften the appearance of the increased pavement.

Mr. Lee noted that the Committee had received a letter from the DPW Commissioner in which he said that he had no objections to the additional curb cuts, which would facilitate parking of vehicles off the carriage way. He requested, however, that the Board's consideration and approval of this petition be expedited because the site is within the Commonwealth Ave. reconstruction project which is already underway, and utility work should be coordinated. Mr. Lee said that he had a subsequent discussion with the Engineer and agreed to plant street trees if they are not included in the Comm. Ave. project, but their location may be changed depending upon final utility locations.

Shawn Papich, the petitioners' landscape architect described his plans. He said there would be a series of 3.5-4 foot high natural stone retaining walls, with plantings of evergreen and deciduous shrubs and low level landscape lighting with wall lights on the stairways. In response to the Chair's question, he said that the largest trees would be 8-10 ft. hollies. He also said the petitioners have agreed to reduce the width of the driveway, but are keeping a snow storage area.

Ald. Hess-Mahan asked if the Fire Department required access to the driveway, and Mr. Lee replied that it would only be necessary for smaller EMT vehicles. Ald. Vance pointed out that several houses in the area have two curb cuts, but there are none with three. He said that if the garage is not eliminated, then fewer than the proposed 3 spaces should be allowed in the driveway. Mr. Lee clarified that his clients were only proposing up to 2 spaces. Ald. Fischman suggested using pavers rather than asphalt for the driveway to give it a more residential character, and to widen the proposed planting strip between the driveway and the garage. Ald. Sangiolo asked if any consideration had been given to combining the curb cuts that access the garage and the driveway entrance.

Jean Kelly, 115 Commonwealth Ave., spoke in favor of the petition, noting the high quality of the masonry work the petitioner has already completed. Shawn McGrath of 95 Commonwealth Ave., a direct abutter, also spoke in support, and described the improvement of the site from its previous use. Ald. Hess-Mahan asked about the property immediately to the west of the site, noting that it appeared to be uncared for. Ms. Kelly explained that the house was in foreclosure and had been vacant for several years.

The hearing was closed and the Committee went into working session. Ms. Havens explained that the street is in a National Register District, but not the houses, and the Chestnut Hill Historic District Comm. has no authority here. There was discussion of removing the separation between the two easterly curb cuts, as Ald. Sangiolo had proposed, but Ald. Vance said Ald. Baker (who was no longer present) would not favor that. Ald. Hess-Mahan suggested using grass pavers in the snow storage area, and the Committee and the petitioner agreed on this as well as reducing the driveway to a uniform 12-ft. width, with 14-ft. wide entrances, landscaping the area beside the garage, and using pavers as the driveway surface.

Ms. Havens referred to an e-mail from the Associate City Engineer that reported that the Comm. Ave. project would include 4-in. caliper hop horn bean street trees in the loam border. But Mr. Papich said these were not appropriate as shade trees. Ald. Albright suggested that neither street trees nor paving stones were necessary since the front of this site cannot be seen by anyone except the occasional cars passing on the carriage lane, since it is screened from the main road and the BC campus by dense vegetation and a steep grade change in the median. Ald. Fischman suggested that, as an alternative, the pavers be used instead of concrete in the driveway aprons to soften the appearance of the wide curb cuts, which would be seen by passersby. Mr. Lee, however, said this may not be acceptable to MassHighway, who control the improvements in the right of way. Ald. Mansfield suggested that the front walls of the garage be stone faced to match the

retaining walls, as an alternative way to introduce more natural material, and Ald. Albright suggested instead that the bare concrete walls be masked by lattice and/or vines.

The Chair then asked the Committee to try to come to a bottom line recommendation. Ald. Hess-Mahan suggested that the Committee propose nothing more than the driveway width reduction. But Ald. Fischman suggested that the petitioner, through the City Engineer, should try to negotiate with MassHighway and coordinate conditions with the Planning Dept. before the petition comes before the Board in August.

Thereupon, Ald. Vance moved approval of the petition, finding that there is no residential land from which the proposed site improvements can be seen, that the carriage lane is a narrow one-way street with little pedestrian or vehicular traffic, and so that the curb cuts nor the parking in the setback will have detrimental effects upon the neighborhood. He added a condition that the petitioners resolve the proposed planting of street tree(s) with MassHighway and the Planning Dept., so that the outcome includes at least one tree of no less than 4-in. caliper. He also included conditions that parking spaces in the driveway not be rented to anyone not a resident of the site, that grass pavers be used on the area designated for snow storage, and the design of the driveway aprons will be subject to the approval of the DPW and MassHighway.

The motion was approved 7-0, Ald. Brandel not voting.

The meeting was adjourned at 10:45 PM.

Respectfully submitted,

George E. Mansfield, Chairman