

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 3, 2008

Present: Ald. Mansfield (Chairman), Ald. Albright, Merrill, Hess-Mahan, Vance, Brandel, and Sangiolo; absent: Ald. Fischman; also present: Ald. Salvucci
Staff: Candace Havens (Chief Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Chief Committee Clerk), John Daghlian (Associate City Engineer)

Request for a Consistency Determination relative to signage at Charles River County Club as approved in special permit #435-82. The Charles River Country Club wishes to install two 23" x 23" engraved granite signs with up lighting, mounted on two stonewalls at the Dedham Street entrance to the Club. These proposed signs would replace a freestanding sign previously approved in special permit #435-82. While the Committee found the replacement signs to be attractive and appropriate, it found them to be inconsistent with the previous approval and not in conformance with the Light Ordinance. The Committee asked Ms. Havens to convey its discussion to Inspectional Services Commissioner Lojek.

Request for a Consistency Determination re the design/architectural details for the new single-family dwelling approved in special permit #349-06, granted on March 5, 2007. for a rear lot subdivision with a 3-foot grade change to create a new buildable lot at 11 Gray Birch Terrace, Ward 2, Newtonville. The Committee reviewed the proposed façade changes and had a number of concerns with this request. Members felt elimination of the chimney and the addition of vertical elements around the front-facing windows creates a more contemporary appearance on this building, negating the great pains taken to create an historic look that would complement the adjacent Colonial structure and other historic homes in the vicinity. It recommended the Historical Commission be consulted about the proposed changes before Commissioner Lojek takes action on this proposal. Members were concerned that the reorientation of the garage elements would alter the driveway configuration, which also was a topic of previous discussion and concern of neighbors. Another issue is whether the proposed features conform to the new dormer ordinance. Finally, the Committee felt that the conditions of the special permit should be reviewed to see if it includes specific language that references particular designs or architectural features for the building on the subject property as well as on the front lot. Ms. Havens agreed to convey to Commissioner Lojek the Committee's concerns and suggestions.

#149-08 JAMES A. HEYWOOD petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and ALTERATION OF A NON-CONFORMING STRUCTURE to locate an accessory apartment in an existing 866-square foot carriage house; to allow living space above 18 feet; and to waive parking stall dimensions at 51 HYDE STREET, Ward 6, NEWTON

HIGHLANDS, on land known as Sec 52, Blk 20, Lot 18, containing approx 22,048 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 30-24, 30-23, 30-8(d)(2), 30-15(m)(2), 30-21(a)(2)b), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 7-0

NOTE: The petitioner is seeking a special permit for an accessory apartment in an existing detached carriage house on a 22,048 square-foot lot containing an owner-occupied single-family home. Building permits obtained in 2003 and 2005 to repair and renovate the carriage house indicate “bar sink” only and “no cooking facilities.” The petitioner wished to install a stove. No exterior changes are proposed. Additional relief is sought to allow living space above 18 feet (the legal nonconforming carriage house is 20.74 feet in height) and to waive the required dimensions for two parking stalls. Two proposed parking spaces, each 8.5 ft x 18 ft, one for the accessory apartment and one for the existing main house, will be provided by expanding the existing 14-foot gravel driveway east of the main house. Another existing conforming parking space is located in front of the main house.

At the public hearing on May 13, Attorney G. Michael Peirce represented the petitioner. The petitioner explained that he originally intended to use the carriage house for his brother with whom he bought the property nine years ago; however, his brother died and restoration of the carriage house became a therapeutic project. Ongoing construction is related to the main house kitchen and bathroom, not the carriage house.

Public comment included Ernest Lowenstein of 57 Hyde Street, the immediate south abutter, who testified that the property, particularly the carriage house, was in horrid condition when the family moved in and they have done a fabulous job of rehabbing the carriage house. The owner of 1080 Walnut Street, who shares a rear lot line for 100 feet and can see the carriage house, said he supports petition. (The petitioner in 2005 sold a strip of land along the rear lot line to this abutter. This made the subject property a “new” lot. Since both lots were previously considered “old” lots, no additional lots were created and there was no increase in nonconformities so that both lots are considered “new” lots with old setback requirements. This results in a front setback requirement of 25 feet. One parking space is allowed in a front setback for single- and two-family residences.) That concluded the public hearing.

The Planning Department concerns related to landscape screening of parking stalls. The Planning Department also suggested that perhaps the petitioner would consider moving the parking stall from the front setback to the other side of the driveway, farther out of the setback and where less screening would be needed and more front lawn provided.

At this evening’s working session, the Chairman disclosed that although he is an abutter to abutter within 150 feet of this property because the house across the street from his house backs up to the subject property, he can and will be objective in discussing and voting on this petition. Associate City Solicitor Ouida Young agreed that objectivity was the key.

In response to Planning Department concerns about screening the parking spaces, the petitioner submitted a revised landscape plan showing five additional rhododendrons along the front property line. The petitioner does not want to relocate the parking space from the front setback to the driveway aligned with the two proposed spaces. He fears that locating a parking space there could damage an existing mature tree that abuts the driveway. The petitioner agreed to a condition that he work with the Planning Department to plant flowers or low bushes in the front corner nearest the parking space in the front setback to provide some screening.

Alderman Albright moved approval of the special permit/site plan approval and extension of a nonconforming structure, finding that an accessory apartment is appropriate for this location because the carriage house and site are large and can accommodate the required parking; the accessory apartment creates an additional housing unit and preserves an historic carriage house; existing habitable space above 18 feet is appropriate and is not substantially more detrimental because it is within an existing building; there is adequate landscaping; and waivers from the parking stall dimensional requirements will have no impact on the site circulation. The Committee approved the petition 7-0, adopting Alderman Albright's findings, with a condition relative to the additional landscaping in the front setback.

#65-08 GIOVANNA FORTE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a rear lot subdivision with reduced frontage in order to construct a new single-family dwelling, including the conversion of an existing two-family dwelling to one-family and demolition of an existing detached two-car garage and shed at 48 CHERRY PLACE, Ward 3, WEST NEWTON, on land known as Sec 33, Blk 36 Lot 4, containing approx 22,387 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(r)(2), Table A footnote 3 of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 6-0-1 (Mansfield abstaining)

NOTE: Attorney Jason Rosenberg presented the petition at the public hearing that was opened and closed on March 11. The petitioner is seeking to subdivide 22,387 feet of land to create a rear lot for a new 2.5-story single-family house behind an existing nonconforming two-family house, which would be converted to a single-family residence with a new two-car garage. The proposed new house is sited on the rear lot behind the existing house to maintain the existing streetscape. Other than reduced setbacks in the front, both lots meet all other applicable requirements. (The front setback of the proposed new lot is reduced from 30 feet to 25.27 feet to keep the proposed house towards the existing house instead of the abutters.) Approval of the new lot will eliminate a nonconforming use and preserve the existing 1870's vernacular house on the front lot. Grass pavers on the two proposed driveways will ensure adequate turning radius. There are significant deciduous trees at the rear of the site; additional pines are proposed well away from the lot line (in response to an abutter who is concerned about acidity). The petitioner was asked to provide a tree removal plan. The proposed lot sizes are consistent with other lots in the neighborhood. However, the Planning Department expressed some concern with the scale of the proposed new house. It recommended that the petitioner

reduce the height of the proposed house on the rear lot to minimize its impact on the smaller houses located on Westland Terrace to the rear. One of the criteria for consideration in granting a special permit for a rear lot subdivision is “whether the proposed structure exceeds the respective average height of abutting residential buildings.” The Committee asked for a comparison of the relative height of surrounding buildings in surrounding areas.

Testifying were Nora & Robert Daniels, 45 Cherry Place, Joanne Capello, 16 Westland Terrace, Jane Quinn, 61 Cherry Place, John Bartinelli, 12 Marion Street, and Doris Lacy, 15 Manhattan Terrace. Concerns related to height, parking and traffic, additional people in the neighborhood; and water and drainage issues. Everyone has some type of water problem on their property. The owner of 20 Manhattan Terrace asked that the petitioner remove two pine trees allegedly planted on his property by the petitioner’s family 50 years ago.

Martin Lucente, 11 Cherry Place, a 40-year resident, spoke in favor of the petition and said that there was a sump pump in the cellar of his house when he bought it. The area was built “before environmental laws.” Mr. Rosenberg submitted several letters favorable to the petition.

At this evening’s working session, Ms. Havens reviewed revised elevations to the proposed new house. The petitioner has reduced the height by 6 feet. The pitched roof has been reduced from 30 feet to 27 feet and the size of the dormers has been reduced. Modifications to the deck railing over the garage diminish the appearance of bulk. The new peak of the proposed house will be at 96.89 feet, close to the peak of the existing front house, but still 8.9 feet higher than the peak of the immediate rear abutter. The Planning Department provided a Neighborhood Comparison Chart, dated 5/28/08.

Associate City Engineer John Daghlian was present to review the drainage. Mr. Daghlian explained that the camera indicates that the drains and culverts are clear of blockages. Drainage is not only designed for a 100-year storm event, it is oversized and will provide relief for abutters, with on-site detention and infiltration and interceptors to divert overflow into the City drain culvert and a type of permanent plastic sheeting to prevent horizontal water flow above and to the side of the interceptors. In addition, the petitioner proposes removing a substantial amount of impervious surfaces (roof and asphalt), which will alleviate additional impact on abutters. Mr. Daghlian recommended that the facilities be cleaned bi-annually, with certification of such cleaning provided to the Engineering Department.

The Committee discussed the driveway. The street is very narrow and one of the proposed driveways is directly across from another driveway; however, two curb cuts will reduce on-street parking on a narrow street. The Chairman prefers a single shared drive to the two driveways proposed. Both Aldermen Hess-Mahan and Salvucci prefer the two driveways to a large shared driveway that looks more like a little street. The Chairman is concerned that the dual driveways necessitate the removal of a large canopy tree. The petitioner indicated that a 20-foot drainage easement prevents moving the

driveway 14 feet to the other side of the tree and a shared driveway would locate parking closer to the abutter and create an odd turning movement, perhaps hindering the Fire Department. City Arborist Marc Welch reviewed a tree plan.

The Committee discussed briefly the abutter's request that the petitioner remove two pine trees on the abutter's lot. Ms. Young suggested this could be a finding perhaps linked to obtaining the certificate of occupancy, although the trees are not on the property subject to the special permit. Currently, the front and proposed rear lots are owned by the same family, who plan to live on both properties. The Planning Department had asked that in the event of the sale of either property a row of arborvitae be planted between the two properties. Alderman Brandel pointed out that this would be a very difficult if not impossible condition to enforce however many years from now this might occur.

Alderman Hess-Mahan moved approval of the petition, finding that the new rear lot will eliminate a nonconforming two-family use and preserve the existing 1870's house on the front lot; the proposed lot sizes are in keeping with other lots in the neighborhood; the height and scale of the proposed single-family house is in keeping with the neighborhood; the proposed landscaping offers appropriate and sufficient screening; the addition of a second house will not be detrimental to vehicular or pedestrian traffic and vehicular access is adequate for public safety; there will be minimal impact on the streetscape; no exterior mechanical equipment or accessory structures are proposed to negatively impact abutters; and the reduced front setback of the proposed house on the rear lot is appropriate as the house is well set back from both the existing house on the front lot and Cherry Place.

Conditions include filing the subdivision plan at the Registry of Deeds, eliminating the arborvitae between lots, maintaining in good condition landscaping and replacing with similar material any plant material that becomes diseased or dies; the existing nonconforming two-family house on the front lot (Lot 1A) will be converted to a single-family residence; no trees shall be added that would hinder Fire Department accessibility to the north side of the structure on the rear lot; accessory apartments shall not be allowed on either lot; the petitioner will submit to the City Engineer for review and approval an Operations and Maintenance (O&M) plan for the site(s) Stormwater Management Facilities which includes bi-annual inspections and cleaning of the facilities.

The petition was approved 7-0-1, with Alderman Mansfield abstaining.

The meeting was adjourned at approximately 11:30 PM.

Respectfully submitted,

George E. Mansfield, Chairman