

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 24, 2008

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

#178-08 THOMAS J. MOREAU & NICOLA POSER petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING STRUCTURE to construct a 1-story addition in the front setback of an existing single-family dwelling; to locate a parking stall less than 5 feet from the street; and to waive parking stall dimensions at 9 PARKVIEW AVENUE, Ward 2, NEWTONVILLE, on land known as Sec 22, Blk 8, Lot 4, containing approx 3,548 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 1, 30-19(g)(1) and (2) and (m) of the City of Newton Rev Zoning Ord, 2007)

ACTION: APPROVED 7-0

NOTE: This is a request for a special permit and site plan approval to extend a non-conforming structure to construct a one-story 10' x 23' addition at the rear of the house and a 3' x 17' addition within the front setback, including a new front entry. Relief is also required for lot coverage in excess of zoning limits. The request for parking waivers has been withdrawn and is not part of this petition. While the front setback waiver can be granted by the Board of Aldermen since it is already non-conforming, the reduced rear setback and excess lot coverage can only be granted by variances from the Zoning Board of Appeals. The petitioner has requested these variances, but the ZBA will not hear them until after the Board has taken final action.

The public hearing on this petition was held on June 10, 2008. The petitioner explained that this lot, where he and his family currently reside is one of the smallest in a neighborhood of small lots and relatively small homes, but that his site and Parkview Avenue in particular is dominated by three features, Cabot Park directly across the street, the Cabot School, and the large multifamily independent living facility abutting the park. He described the challenges in updating and modernizing this home, which he said was nearly impossible because his lot is so small and because the front setback requirements are determined by averaging that of the only 3 homes on the street, one of which is quite large because of a drainage easement. The two additions are part of an overall renovation that the owner expects will improve the livability, energy efficiency, and usefulness of the house

to his family. He also proposes to demolish a portion of the existing detached cinder block garage, thus not reducing open space below the required minimum, but keep the remainder as a utility shed, also retaining the rear wall of the garage which abuts a neighbor's property line and provides privacy and defined outdoor space for her back yard, which the neighbor supports.

Ald. Hess-Mahan asked the petitioner why he didn't choose to build up rather than out, which could be done by right. The petitioner replied that they are not seeking additional bedrooms, but rather living space on the first floor, including a half bath and a stairway to the basement. They also felt that their plan retained the basic appearance and massing of the house consistent with the neighborhood. At the working session, the Planning Department also explained that expanding upwards would require demolition of more than 50% of the structure, requiring conformity to FAR limits which could not be met. They also agreed that increasing building height would limit neighbor's views of the park and detract from the architectural style of the existing home.

The Committee also determined that the Fire Department was not concerned with the proposed minimal separation between the rear addition and the shed (4 feet), as long as proper fire-rated materials are used in the new construction. They also determined that the Historical Commission had found the garage not to be historic. Ald. Albright moved approval of the petition, finding that the proposed additions are not substantially more detrimental to the neighborhood than the existing structure, that the addition and new entry in the front setback will not adversely impact abutters, the streetscape, neighborhood safety or character, and that the proposed waivers of dimensional controls will not set a precedent in this neighborhood as the site as proposed will be consistent in size, scale, with other structures in the neighborhood. Ald Vance questioned whether such departures from dimensional requirements make such requirements in the Zoning Ordinance meaningless. Ald. Albright replied that lots in this neighborhood generally range from 3,000-7,000 s.f., with FAR's in excess of 0.5, all below the requirements of an MR-1 District. Ald. Mansfield added that there isn't another zoning district in the Ordinance that would better fit this neighborhood. Ald. Hess-Mahan observed that this is an "elegant" solution to the challenge of adapting this property to modern needs while preserving the character of the neighborhood.

The motion was approved by a vote of 7-0.

#470-04(4) NEWTON WELLESLEY HOSPITAL petition to occupy the third-floor "shell space" (24 inpatient beds) located above the new Emergency Department at 2014 WASHINGTON STREET, Ward 5, NEWTON LOWER FALLS, on land known as Sec 55, Blk 1, Lots 15, 15A, B, B1, 28, 31, 33, and 34, containing approx 1,127,289 sf of land in a district zoned SINGLE RESIDENCE 2. (Ref: 30-24, 30-21(b) of the City of Newton Rev Zoning Ord, 2007; Special Permit #470-04, Condition No. 7,

and Special Permit nos. 128-87, 455-89, 302-90, 302-90(2), 151-95, 140-00)

ACTION: APPROVED 7-0

NOTE: This request is for a special permit for change of use only to amend Board Order #470-04, approved in 2005, which allowed the construction of a new emergency department at the hospital as well as additional garage parking, which has been completed and is in use. As a part of that permit, the hospital was allowed to build out a 3-story structure, the first floor of which contained the emergency department, the second ambulatory services and the third remained as shell space to be built out later with the use specified as an amendment to that permit. This request specifies that use as 24 inpatient beds in private (single) rooms. Since there is no new construction involved, there is no need for design review or engineering analysis. The parking provided in the previous special permit far exceeded the demand that would be generated by this new use.

At the public hearing on June 10, 2008, NWH President Dr. Michael Jellinek reported that with the establishment of the new emergency room patient satisfaction has risen from the 10th percentile to the 90th percentile and total wait time and diversion incidents have decreased substantially. However, he added, because more patients are now using NWH, the hospital is nearing its bed capacity. In fact, some ER patients have to be transferred to other hospitals. There are currently approximately 240 beds, so the request is for a 10% increase. They are planned to be single rooms, as required by the State. Attorney Frank Stearns reported that all the conditions of the 2005 permit have been complied with, and as a part of this petition the hospital has submitted an updated Travel Demand Management Plan and traffic analysis. The TDMP show that employee MBTA pass usage has increased by 21%. The City Traffic Engineer reviewed and commented upon both the TDMP and the traffic-related conditions of the original permit. Mr. Stearns said that the key findings are that traffic generation is below the 2005 forecasts, and that the proposed build-out of the shell space will achieve the target parking utilization of 92.5%. He also noted that 55 staff members have been relocated off-site, reducing parking demand, that the hospital has been meeting regularly with the neighborhood advisory council, and that the \$25,000 mitigation fund is being used for design and consulting services for improvements to the Washington St./Commonwealth Ave. intersection.

A number of committee members raised other questions about the experience of the expansion allowed by the previous permit, and satisfactory answers were given. Ald. Sangiolo raised a question about the use of funds promised by the hospital to support the Nexus transportation service, now that such a service is no longer existent. She suggested that this support be transferred to senior transportation services that are expected to be cut in the FY09 budget.

Debbie Salloway of Bonaire Circle addressed the condition of the previous Board Order that stipulates that the hospital has 5 years from the issuance of an occupancy permit for the emergency department (until December 2011) to sell the residential properties it owns on Bonaire Circle, unless it cannot obtain fair market value for them. She asked for a written copy of the “Charities Law” that might affect this condition, and also asked that they sell the houses sooner. Finally, she asked that the hospital water the trees they planted as a buffer, as she feared they might die.

Sean Roche of Daniel St. encouraged the committee to take a hard look at the parking provided, and suggested that it might be too much, and thus a generator of auto traffic at a site that is served by public transportation.

At the working session, Ms. Havens reported that although there is more parking on site that zoning requires, it is necessary to provide for shift changes of the medical staff, when employees from both shifts need overlapping parking capacity. She reported that both she and the City Traffic Engineer believe that parking and circulation on the site are well-managed. However, the Traffic Engineer noted that the traffic study model showed an ‘F’ level of service at the unsignalized “main” entrance to the site and asked for a follow-up study of turning movements there. The Nexus contribution was also discussed and Ms. Young noted that there is a requirement for NWH to put up \$10,000 annually. Mr. Stearns said that the hospital would do so if an alternate transportation system were established by the City. Ms. Young suggested that this be stated as a finding, allowing an as-yet undefined transportation system serving seniors and perhaps others to be developed and supported by this contribution.

There was also discussion of condition #30 of the 2005 permit regarding the Bonaire Circle houses. Ms. Young cautioned that there is no connection between the relief sought in this petition and that condition, so the Board would be unwise to include additional provisions here. She pointed out that the Attorney General defines “fair market value.” There was discussion that this condition (as well as others pertaining to the hospital’s relief) might be dependent on ISD enforcement. Ald Sangiolo and Ald Brandel agreed to docket an item regarding such enforcement to come up regularly at the end of each year. Ald. Brandel also agreed to respond to Ms. Salloway. Thereupon, he move approval of the petition, finding that the addition of 24 beds will increase efficiencies in the hospital and enable improved patient services, that no external changes will be made, that on-site circulation and parking will be safe and adequate, and that the proposal is consistent with the Comprehensive Plan. The committee cited conditions that included the requirement that the liaison committee and neighborhood council meet as needed during the proposed construction, that standard conditions of the Construction Management Plan, Travel Demand Management Plan, and Parking Management Plan be complied with. They also asked that there be a follow-up

study of the unsignalized entrance and a delay study of outgoing left turns. The petition was approved by a vote of 7-0.

#63-08

2101 WASHINGTON STREET LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING STRUCTURE to redesign exterior parking and maneuvering areas, including a new perimeter driveway; increase to 105 the number of on-site parking spaces; waive various dimensional requirements relative to parking stalls; increase the number of identification signs; modify on-site lighting and landscaping; install an acoustical fence along the westerly boundary; reduce the maximum number of beds from 190 to 180; and, add a porte-cochere to the front of an existing nursing home facility at 2101 WASHINGTON STREET, Ward 4, NEWTON LOWER FALLS, on land known as Sec 42, Blk 9, Lot 17 containing approx 126,432 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-24, 30-23, 30-21(b), 30-20(e), and (l), 30-19(h)(l), (2)a, b), 30-19(i), (j), (l), and 30-19(m), 30-15 Table 1, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007, and special permit nos. 185-69, 53-76, 53-76(2), and 378-80.

ACTION:

APPROVED 7-0

NOTE:

This is a request to make numerous site plan changes to an existing nursing care and rehabilitation facility, now known as the Newton Health Care Center, located at the intersection of Washington and Beacon Streets in Newton Lower Falls, including increasing parking from 66 to 103 spaces, reconfiguring the current entrance on Washington Street and adding a new entrance on Beacon Street Extension, improving circulation for emergency access and traffic safety, and adding landscaping and signage. Grade changes in excess of 3 feet are also proposed. Simultaneously, the present owner is renovating the interior of the building to meet current industry needs and codes, and reducing the bed capacity from 202 to 180. The site is under a series of special permits granted in 1969, 1976, and 1980, and a parking variance granted by the ZBA in 1976. The site is abutted by single-family residences on both the east and west sides, and by Woodland Golf Club to the rear.

A public hearing was held on March 11, 2008. Several residents of Belmore Park (to the west) expressed concerns both with the current operation of the facility and with the proposed plans, particularly the new circulation driveway proposed behind their homes and the additional parking at the rear of the building. Prior to the working session, the petitioner provided three alternative layouts for the Committee's consideration, while maintaining the increased parking. Two of these alternatives (Plans A & B) included no parking to the rear and B also eliminated the proposed access road to the west of the building. The Fire Department rejected Plan B, and the petitioner subsequently stated that he would not build either of these plans. The third plan, Plan C, restored the proposed parking for 38 vehicles at the rear of the site, but eliminated the access road. The Fire Department accepted this plan, and this was the only plan considered by the Committee at the working session.

Much of the committee's discussion was focused on the rear lot. Ald. Gentile and the Chair each asked whether the layout of this lot could be modified to preserve the existing vegetation that helps screen the area from the Belmore Park residents. They suggested that the small parking area (8 stalls) proposed for the east side of the building might be increased to balance the reduction of spaces in the rear. The residents of Beacon St. Extension, in general, had supported the plans, but some feared they would not support any increase in the parking in that area. The Planning Department recommended controlling the access to the rear lot after 8:00 PM with a gate and pass card, since residents had complained about nighttime usage of this area. While the petitioner agreed that parking in this area would not be needed at night, he would not agree to a gate. Committee members suggested reconfiguring the proposed parking of Beacon St. Extension as perpendicular head-in stalls, thus increasing capacity while reducing the area of the grade change in excess of 3 feet. The petitioner said this was part of his original proposal, but neither the Planning nor Fire Departments liked this plan.

Ald Sangiolo moved to hold the item while these further alternatives were designed and evaluated. Ald Gentile asked to have the proposed parking areas in the rear and to the east, and the alternatives suggested, staked out so one could see the impact on the existing site. It was noted that Board action on this petition would be required by 5/19/08, since the 90-day expiration date is 6/9/08, and the Chair asked for an extension. However, the petitioner was initially not willing to grant this extension, citing many meetings with the City on this application over 2 ½ years and his expenses in excess of \$400,000 to date. The Chair reminded him that this was the first opportunity of the Committee to review the plan, and that the requests were reasonable. There was some discussion of recommending a conceptual change in the layout, with specific plans developed in advance of the full Board meeting, but the Committee did not favor this option.

The petitioner's attorney eventually agreed to offer an extension to July 18, which was accepted.

The parking area behind the building was staked out and individual members of the committee and ward aldermen visited the site and met with the petitioner's attorney. Subsequent to these visits, the petitioner agreed to reduce the proposed parking in this area by removing 10 spaces from the easterly side of the site, avoiding removal of a large Ailanthus tree and other lower vegetation, and moving parking further away from Belmore Park homes. To compensate for this loss of spaces, 3 spaces were added to the a reconfigured parking lot on Beacon St. extension, not opposite any homes, and the extent of the 3-foot grade change in this area was reduced by designing head in parking for long-term employee use only. Some proposed interior landscaping was added to the front parking lot and two more spaces were added there, for a total of 99 spaces.

The Ward 4 aldermen asked that the rear parking lot be further controlled by gated access after 11:00 PM, but the petitioner would not agree to this condition. At the 6/24 working session, which was the earliest revised plans showing these changes could be available, a preliminary parking management plan was presented which set out the policy for limiting the use of the rear lot for the overnight hours, provided periodic monitoring of this lot for compliance with this policy, including TV monitoring for unauthorized use, and daily record keeping. Ald. Sangiolo asked that the rear lot be closed entirely on weekends, but the petitioner's attorney responded that this was undesirable since total parking demand is the same or greater then. She asked that the parking in the rear lot not be allowed until 6:30 AM (rather than 6:00), which was accepted. She also asked that smoking outside on the site be prohibited except in the front lot, which was also accepted as a condition. She further asked that the construction management plan limit hours of construction and deliveries to 7AM – 6PM weekdays, which was also agreed to, and limited to the loading dock and the port cochere. Ald. Gentile asked that the final parking management plan be submitted to the Board before the final vote of the full Board. He noted that the only remaining area of disagreement is the limitation of weekend use.

Ald. Sangiolo then moved approval of the petition. [See the draft Board Order for findings and conditions.] It was approved by a 7-0 vote. Ald Sangiolo also requested a further extension of time to act to allow for a procedural charter objection. This has not been forthcoming, so this petition must be acted upon by the Board on 7/14, or be faced with the prospect of a special meeting before 7/18 or a constructive approval. Since a constructive approval would put the original plan in place, and there have been significant revisions and improvements for the site and for the abutters due to committee action, this would be very undesirable.

NOTE: In compliance with Article X, Section 6 of the Rules and orders of the Board and Sec. 22-4 of the City Ordinances, the Committee voted 4-0 (Ald. Merrill, Vance and Hess-Mahan not voting) for the Planning Director to employ an outside consultant as a peer reviewer for the traffic study presented as support of the petition of Filene's Basement, Needham St. and Tower Rd., (Docket #179-08) with consideration for the Needham St. improvement plan and other planned development in the corridor.

The meeting was adjourned at 11:00 PM

Respectfully submitted,

George E. Mansfield, Chair