

IT OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, SEPTEMBER 23, 2008

Present: Alderman Fischman (Vice Chairman), Ald. Vance, Merrill, and Hess-Mahan;
absent: Ald. Albright, Brandel, Mansfield, and Sangiolo

City staff: Ouida Young (Associate City Solicitor), Candace Havens (Chief Planner),
Linda Finucane (Chief Committee Clerk)

#301-08 CHARLES RIVER COUNTRY CLUB petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to place two carved granite signs within an existing stone wall in place of the existing freestanding sign approved in special permit #435-82 at the entrance of 483 DEDHAM STREET, Ward 8, on land known as Sec 83, Blk 36, Lot 4, containing approx 6,446,022 sf of land in a district zoned Single Residence 1. Ref: Sec 30-24, 30-23, 30-20(1) of the City of Newton Rev Zoning Ord, 2007 and special permit #435-82.

ACTION: PUBLIC HEARING OPENED AND CLOSED; ITEM APPROVED 4-0
NOTE: On June 3, the Committee reviewed from Charles River Country Club a request for a consistency determination to install two 23”x 23” engraved granite signs with up lighting on new stonewalls at the Dedham Street entrance to the Club to replace the double-faced, non-illuminated freestanding sign approved in special permit #435-82. The Urban Design and Beautification Commission reviewed and approved the proposed signs in August. While the Committee found the replacement signs to be attractive and appropriate, it agreed they were inconsistent with special permit #435-82, as well as non-compliant with the “light trespass ordinance.” Subsequent to the June 3 meeting, the Commissioner of Inspectional Services determined that the Club needed to seek an amendment to the 1982 special permit.

This evening, Lou Franchi of 16 Pilgrim Road represented the Club at the public hearing. There was no public comment and the hearing was closed. In a brief working session, Committee members reviewed the proposed signs and Ms. Havens confirmed that although the Club initially proposed up lighting the signs, the lighting has been removed and no new lighting is proposed. Alderman Hess-Mahan moved approval, finding that the signs are in keeping with the character of the Club and neighborhood, and provide an attractive identification of the entrance and contribute a sense of place, consistent with the goals of the *Comprehensive Plan*. All other conditions of special permit #435-82 will remain in effect and if the Club wishes in the future to light the

signs, it will have to seek an amendment to this special permit. The Committee vote 4-0 to approve the petition.

#277-08 DANIEL & WENDY KRAFT petition for a Special Permit/Site Plan Approval and to Extend a Non-conforming structure to allow Floor Area Ratio (FAR) in excess of .30 for an existing single-family dwelling at 66 MONTROSE STREET, Ward 7, Newton, on land known as Sec 73, Blk 19, Lot 10, containing approx 10,190 sf of land in a district zoned Single Residence 2. Ref Sec 30-24, 30-23, 30-15 Table 1, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

ACTION: PUBLIC HEARING WAS OPENED AND CLOSED

NOTE: A complete report on this item will be provided when the Committee reports its action on the petition to the Board.

#106-07(4) BETH MENACHEM CHABAD requesting a ONE-YEAR EXTENSION OF TIME in which to EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #106-07, granted on October 1, 2007, for a waiver of parking requirements associated with a new Synagogue facility at 349 DEDHAM STREET, Ward 8. Ref: Sec. 30-23(c)(4) and 30-24(c)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0

NOTE: David Myers from ZVI Construction, the Construction Manager for the project, was present. Mr. Myers confirmed that Chabad had needed considerable time to locate a suitable and affordable construction team. Financing is secure and Mr. Myers anticipates beginning demolition and construction in December. Alderman Merrill moved approval of a one-year extension to October 1, 2009, which was approved 4-0.

N.B. Prior to discussing the following two petitions, Ms. Havens gave the Committee a brief overview of the Kessler Woods subdivision (nine lots) approved in 2004 by the Planning & Development Board acting as a Board of Survey. Located in Oak Hill, the land was formerly owned by Boston Edison and for many years included for acquisition by the City in the CIP. The City acquired through a public/private partnership and Community Preservation funds wetlands/conservation land and the developer acquired two parcels of land. Most of the developer's land is subject to Conservation Commission requirements set out in an Order of Conditions, which include a schematic landscaping plan that encourages plant types ("Plants To Be Chosen List: Outside River Resource Area.") The subdivision is also subject to development controls set out in the Kessler Woods Protective Covenants. Nine "generic" homes were used to calculate the drainage and grading. Because of topographical conditions, five of the six lots developed to date have required grade changes. Drainage requirements and design vary lot to lot. A backup retention basin on the site collects and returns runoff water to the ground. Ms. Havens noted that each lot undergoes two engineering reviews: one to amend the Order of Conditions and another during the special permit process. A 20-foot wide vegetated buffer zone was included in the approved subdivision plan.

#216-08 GEORGE KOURIS, NORANDA CONSTRUCTION MANAGEMENT & DEVELOPMENT LLC/KEN JACKSON, JACKSON REAL ESTATE PARTNERS LLC petition to alter the existing contours of land by more than three feet in order to construct a single-family dwelling on Lot #2 KESSELER WAY, on land known as Sec 82, Blk 37, Lot 84, containing approx 15,074 square feet of land in a district zoned Single Residence 3. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0

NOTE: A public hearing on this petition was opened and closed on July 15.

Attorney G. Michael Peirce represented the petitioners who are seeking a special permit to allow for a greater than three-foot grade change at various locations in order to construct a 2.5-story, 4,700 sf, single-family dwelling with a three-car garage. The lot is the smallest on Kessler Way. The wooded site slopes toward the residences on Harwich Road and the 20-foot vegetated buffer zone at the rear. The Conservation Commission has reviewed and approved the request to amend the Order of Conditions as it applies to this lot. Mr. Peirce said that cutting a 695 sf area at the front southerly side of the house and filling a 3,681 sf area along the northerly front, side and rear of the proposed house require 1/3 less cut/fill than the “generic” house. The rear yard will be supported with a three-to four-foot high retaining wall. Proposed grades at the sides of the lot are designed to match those of the adjoining lots at 12 and 28 Kessler Way in accordance with a reciprocal covenant. The proposed plans include a 58 sf increase in the amount of impervious surface over that which was approved in the subdivision plan. The proposed dwelling conforms to dimensional requirements. A 16-foot wide driveway opening leads to a 32-foot wide driveway, 35 feet long with a hammerhead turnaround. A discrepancy in the number of trees to be removed will be clarified on a revised plan. Planting for this lot recommended in the schematic plan in the Order of Conditions includes 2 shade trees, 1 flowering tree, 3 evergreens, 2 evergreen shrubs, 8 deciduous trees and 316 perennials and groundcovers. The Planning Department suggested the petitioners add more perennials. Although the buffer zone must be left in a natural state and must be protected from disturbance during construction, the petitioners propose to plant 15 white pines in it. The City’s Tree Warden must approve the type and placement of any plantings. Drainage for the front half of the site and front half of the house drain into the overall Kessler Way drainage system and drainage at the rear is directed into leaching galleys for ground water recharge.

Speakers at the public hearing included Mr. Matskevich from 132 Harwich Road, which is behind Lot 2. He was concerned about water coming down to Harwich Road from the rear of the proposed house. His understanding was that all water was to be collected in a “pool,” but has seen no evidence such “pool” exists.

At this evening’s working session, the Committee reviewed the Planning Department working session report with Ms. Havens. The Tree Warden has reviewed and approved a tree removal/planting plan that removes 19 trees (287 caliper inches) and installs 57 trees (287 caliper inches). The petitioners submitted a revised landscaping

plan. The Associate City Engineer has confirmed that the drainage analysis is correct for the City's 100-year storm event and that runoff will be contained on-site. There is a detention basin on Lot 6 to collect backup runoff from the subdivision. The petitioners have submitted and the Associate City Engineer has reviewed and approved an Operations and Maintenance Plan for Stormwater Management. The additional plantings at the rear of the site will help absorb water and reduce demand on the system. The Associate City Engineer agrees that post-construction runoff should not increase. There will be no impact on Harwich Road. The petitioners have submitted a construction management plan. The Committee noted that the correct driveway material is impervious, not pervious, and should be noted as such.

Alderman Hess-Mahan moved approval, finding that alteration of the grade by more than three feet will not have adverse impacts on abutters because the drainage system has been properly designed to the City's 100-year storm event; the grade change in the front of the new house will direct storm runoff away from the rear of the site and into the subdivision's drainage system; the petitioners have provided an Operations and Maintenance Plan for Stormwater Management to ensure continued operation of the leaching galleys; the landscape plan is consistent with the schematic plan recommended by the Conservation Commission as part of its original Order of Conditions; the petitioners have provided a Construction Management Plan that will ensure the site will be properly stabilized during construction; the petitioners have submitted a recorded Reciprocal Covenant and Agreement between themselves and the owners of the adjacent lot at 28 Kessler Way (*Lot 3*) related to a "Grade Restriction Plan" which establishes an understanding regarding the transition of grades between certain portions of the two lots; and, the proposed grade change is consistent with the goals of the *Comprehensive Plan* by respecting the neighborhood context, avoiding disruptive impacts, and preserving wetlands and open space.

The Committee voted 4-0 to approve the petition with Alderman Hess-Mahan's findings and the conditions proposed by the Planning Department. The Committee also approved 4-0 the following extension of time:

216-08(2) AN AGREEMENT to an EXTENSION of TIME in WHICH TO ACT on GEORGE KOURIS, NORANDA CONSTRUCTION MANAGEMENT & DEVELOPMENT LLC/KEN JACKSON, JACKSON REAL ESTATE PARTNERS LLC petition to alter the existing contours of land by more than three feet in order to construct a single-family dwelling on Lot #2 KESSELER WAY; said Extension will run from OCTOBER 13 to OCTOBER 22, 2008.

ACTION: APPROVED 4-0

#218-08 SHAHROKH & DIANNA REZA petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to alter the existing contours of land by more than three feet in order to construct a single-family dwelling on Lot #6 KESSELER WAY, on land known as Sec 82, Blk 37, Lot 91, containing approx 24,750 square feet of land in a district zoned Single Residence 3.

Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0

NOTE: A public hearing on this petition was opened and closed on July 15.

Attorney G. Michael Peirce represented the petitioners who are seeking a special permit to allow for a greater than three-foot grade change. This site, located at the end of a cul-de-sac, is partially wooded and steeply sloped at the rear. This lot has no buffer zone. Physically, the site is triangular and constrained because the subdivision's retention basin is located on it. The petitioners wish to construct a 2.5-story single-family dwelling with a two-car garage toward the front of the site and an in-ground pool and 162 sf pool house to the rear of the site. The petitioners propose installing a large underground storm water retention chamber at the rear of the dwelling to capture water running downhill on the site before it can enter the pool. The area of the proposed grade change is approximately 4,347 sf, 20% of the lot. The maximum cut will be six feet and the maximum fill will be eight feet. The "generic" plan involved 7,000 sf of the lot. The Conservation Commission has reviewed and approved the request to amend the Order of Conditions as it applies to this lot.

Nine existing protected trees (133 caliper inches) will be removed and 27 trees (133 caliper inches) will be planted. Only a portion of the large knoll at the front of the site will be removed to accommodate a pervious driveway, with the rest of the knoll left to screen the driveway. The proposed plan increases the amount of impervious surface 880 sf over what was approved in the subdivision plan. The schematic landscape plan recommends 3 shade trees, 2 flowering trees, 23 evergreen trees, 10 deciduous shrubs, 560 perennials and groundcovers. It appears that two trees are located within the maintenance easement for the detention basin; these will need to be relocated to allow unhindered access by machinery and vehicles to the basin.

Public testimony at the public hearing included Lydia Chesnick of 854 Newton Street who had concerns about flooding. Andrew & Lydia Chesnick have submitted several documents, including a copy of their appeal to the Department of Environmental Protection (DEP), which seeks to supersede the Conservation Commission's Order of Conditions, in particular re Lot 6 and the proposed swimming pool. The Cheswick's appeal includes allegations that the developer has failed to mow the grass and clean the drains. A letter from the owners of adjacent Lot 3 in favor of the petition was distributed.

At this evening's working session, Ms. Havens confirmed that the Associate City Engineer had met with the petitioners and their engineer to discuss drainage issues raised by the abutter. The Associate City Engineer has confirmed that the drainage is designed for the 100-year storm event. To avoid potential failure of the system, the petitioners have filed an Operations and Maintenance Plan for Stormwater Management, reviewed and approved by the Associate City Engineer. Additional trees planted at the rear of the site will absorb water as well. The City's Engineering Division believes there will no increase in post-construction runoff. To winterize the pool, approximately 6 inches of

water will be drained into a leaching galley and the pool covered and frozen for the winter. The petitioners' Attorney G. Michael Peirce told the Committee that he and Ms. Chesnick attended a site view with a representative from DEP on September 3 and await a decision.

Alderman Vance moved approval of the petition, finding that the alteration of the grade by more than three feet will not have adverse affects on abutters and the character of this site in the context of the surrounding neighborhood because the drainage system has been properly designed to the City of Newton's 100-year storm event; the site will be properly stabilized during construction and properly landscaped and maintained after construction so grading changes should not negatively impact abutters; the landscape plan is consistent with the schematic plan recommended by the Conservation Commission as part of its original Order of Conditions; the owners of Lot 6 have provided a Construction Management Plan, dated September 23, 2008, on file with the City Clerk, which describes measures that will be taken to help protect abutting properties during construction; the grade change is consistent with the goals of the *Comprehensive Plan* by respecting the neighborhood context, avoiding disruptive impacts, and preserving wetlands and open space.

The Committee voted 4-0 to approve the petition with Alderman Vance's findings and proposed conditions and voted 4-0 to accept the following extension of time:

#218-08(2) AN AGREEMENT to an EXTENSION of TIME in WHICH to ACT on SHAHROKH & DIANNA REZA petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to alter the existing contours of land by more than three feet in order to construct a single-family dwelling on Lot #6 KESSELER WAY;. Said Extension will run from OCTOBER 13 to OCTOBER 22, 2008.

ACTION: APPROVED 4-0

#275-08 HISHAM N. ASHBOURI, COLD SPRING GREEN, LLC petition for a Special Permit/Site Plan Approval for garages each in excess of 700 square feet at 1188 and 1192 BEACON STREET, Ward 6, Newton Centre, on land known as Sec 54, Blk 22, Lots 55 and 56, containing approx 7,000 and 8,000 sf, respectively, in a district zoned Multi Residence 1. Ref: Sec. 30-24, 30-23, 30-8(b)(7) of the City of Newton Rev Zoning Ord, 2007.

ACTION: APPROVED 4-0

NOTE: A public hearing on this petition was opened and closed on September 9. There was no public comment. The petitioner was represented by Attorney G. Michael Peirce, who explained that the two building permits were issued in April of this year to construct two new two-family dwellings (four units) to be known as "Cold Spring Green." Building permit plans show two separate basement-level garages, accommodating eight cars. The Petitioner is seeking a special permit to eliminate the party wall between the garages, which will cause each garage to exceed the 700 sf limit, 3-car capacity. The garages are accessed by a shared driveway between the two

dwellings. The parking layout will be reconfigured with 12 stalls, one of which will be a handicap stall (1188 Beacon Street would be 1,771 sf, with 5 parking stalls and 1192 Beacon Street would be 2,213 sf, with 6 parking stalls, including the handicap stall). The Committee asked whether the Fire Department had reviewed the proposed plan. The Committee asked the petitioner to provide a circulation plan indicating sufficient turning radius in the garage. The Planning Department had noted that the site was exempt from the City's Tree Preservation Ordinance, but Alderman Mansfield questioned the exemption.

At this evening's working session, Ms. Havens reported that the petitioner had submitted a circulation plan showing sufficient turning radius for the parking. The Fire Department had reviewed this project prior to the issuance of the building permits and no further review is necessary. The basement and dwellings will be sprinklered. Ms. Havens noted that both dwellings have geothermal heating and are LEED certified. Although the petitioner filed for an exemption from the Tree Preservation Ordinance, he will re-file because the lots should not have been exempt. The petitioner indicated that 43 caliper inches would be planted to replace the one tree equaling 16 caliper inches that had been removed. At the suggestion of the Planning Department, the petitioner agreed to plant some evergreens among the many deciduous ornamentals to provide year-round color in the front of the dwellings.

Alderman Merrill moved approval of the petition, finding that the removal of the partition wall to allow for proposed basement garages in excess of 700 square feet, each with capacity for more than three vehicles, will not create any hazards to vehicles or pedestrians and will have no visual impact from the street; the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets will not be adversely impacted by the removal of the partition wall; removal of the partition wall will allow for improved circulation within the garages and for the addition of a handicap accessible stall; removal of the partition wall may allow for visitor parking on-site in a neighborhood without altering the amount of impervious surface and where on-street parking could be a hazard.

The Committee voted 4-0 to approve the petition with Alderman Merrill's findings and conditions suggested by the Planning Department.

The meeting was adjourned at approximately 10:15.

Respectfully submitted,

Mitchell Fischman, Vice Chairman