

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MAY 8, 2007

Present: Ald. Mansfield (Chairman), Ald. Merrill, Vance, Albright, Hess-Mahan, Harney, and Samuelson; absent: Ald. Fischman

City staff: John Daghlian (Associate City Engineer), Nancy Radzevich (Chief Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Chief Committee Clerk)

#161-07      NEWTON HIGHLANDS NEIGHBORHOOD AREA COUNCIL requesting a temporary license pursuant to Sec 30-6(k) of the City of Newton Ordinances to hold its 32<sup>nd</sup> annual VILLAGE DAY on Sunday, June 10, 2007.

ACTION:      APPROVED 4-0 (Hess-Mahan, Harney, and Samuelson not voting)

NOTE: It was noted that many members of the committee looked forward to attending this event once again this year. Members present at the beginning of the meeting voted to approve the license unanimously.

#79-07      DAVID KATZ, TRUSTEE DAVID KATZ REVOCABLE TRUST AGREEMENT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for changes in grade in excess of 3 feet in a 1,922 square-foot area where a rear patio and steps are to be located and for one undersized parking space in a 3-car garage for a single-family dwelling permitted by building permit 06090037 at 74 OAK HILL STREET, Ward 8, on land known as Sec 82, Blk, 19, Lot 16, containing approximately 106,006 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 30-24, 30-23, 30-5(b)(4), 30-19(g)(2) and 30-19(m) of the City of Newton Rev Zoning Ord, 2001.

ACTION:      APPROVED 7-0

NOTE: The petitioner is seeking a special permit for a grade change in excess of three feet for a portion (approximately 2%) of a 106,006 square-foot lot on which a new by-right single-family residence is under construction. The area of the proposed grade change would accommodate a patio and stairway down to the rear yard. Other relief sought is for a third undersized parking stall in a three-car garage. Although the petitioner is providing the two parking spaces required by ordinance and the Commissioner of Inspectional Services had determined that the two dimensionally compliant stalls comply with the requirements of the ordinance, the Chief Zoning Code Official thought it prudent for the petitioner to obtain a waiver for the third stall.

A public hearing on this item opened and closed on March 13. Attorney Jason Rosenberg represented the petitioner, who could build a deck by right, but wishes to install a terraced patio with stairs, which requires the change of grade.

**Public Comment:**

Kiran Kuchroo of 30 Fairhaven Road, whose property abuts the rear of the subject property, said that the petitioner had removed a number of mature trees from the rear of the property in the fall. She thought that fill had already been added to the rear of the yard. The fence installed by the petitioner is too close to her property.

That concluded the public testimony. For the working session, the committee asked for information relative to the removal of the trees, i.e., if removal occurred before or after the sale of the property and whether the site was subject to the Tree Ordinance as well as information concerning any additional fill at the rear of the property. The committee agreed to schedule a site visit. That concluded the public hearing.

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At this evening's working session, the committee reviewed with Ms. Radzevich responses to questions raised at the public hearing contained in the Planning Department working session memorandum. It was noted that several committee members visited the site on May 3.

The petitioner provided a time-line related to the removal of the trees in relation to the sale of the property. The previous owners of the property had filed a demolition review request during the summer of 2005 for the prior single-family structure on the property. The Historical Commission invoked the one-year delay. The petitioner signed a purchase and sales agreement in September 2005. Tree removal occurred from October to the end of 2005. The previous owner occupied the property from the date of the purchase and sales agreement until transfer of ownership to the petitioner on March 31, 2006. A building permit was issued in October 2006 for the new single-family residence currently being constructed. A tree exemption certificate was issued in January of 2007. Other than some minor tree removal, the major tree removal referred to in the public hearing had occurred in the fall of 2005 when the property was owner-occupied, not in 2006. In 2005, although the property line was staked out, in response to concerns voiced by the Kuchroos, the petitioner's engineer Verne Porter went to the site and verified that none of the trees removed were the Kuchroos. Subsequent to the public hearing, Mr. Porter inspected the area of rear yard and the retaining wall where fill was added. The retaining wall is about 3-feet high and the extent of the fill is less than 3 feet. Given the site topography, the filled area should not adversely impact drainage on the abutters' property.

J.F. Hennessy Co., engineers hired by abutters at 178 Old Farm Road, reviewed the revised drainage plans, which added a drainage swale and another catch basin. They suggested that the catch basin shown in a grassed area have tiles or coble stones installed around the frame and cover to prevent mowed grass from getting into the basin and that the drainage system be cleaned

bi-annually. The petitioner's engineer agreed. Associate City Engineer John Daghlian said he has not yet had the opportunity to review the revised drainage plans and calculations, but indicated his preliminary agreement with Mr. Porter. He noted that most issues are housekeeping ones to be addressed at the building permit stage.

A revised landscaping plan was submitted with additional landscape screening highlighted. The plan includes additional native species trees. The petitioner installed a chain link/black vinyl fence on his property for the safety of his young children. Additional plantings will screen the fence. As to whether upkeep of the plantings would encroach on the abutting property, Ms. Radzevich pointed out that the fence is not in the area of the grade change under consideration for the special permit. Alderman Vance pointed out that a by-right alternative would be to build the less attractive deck that would require no screening.

A brief discussion ensued about granting relief for an undersized third parking stall that is not required.

Alderman Fischman, who was unable to be present this evening, sent a memorandum (attached) explaining his site visit and intention ultimately to support the petition.

Alderman Albright moved approval of the petition, finding that the drainage is designed to contain water on the site, the landscaping provides screening for abutters, the patio is preferable to the by-right alternative; the location of the grade change is set back from any abutter and is on only 2% of the site; and the third undersized parking stall provides off-street parking. The Committee, adopting the conditions suggested by the Planning Department, voted 7-0 to approve the petition.

#40-07            ANTHONY BONADIO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct five (5) dwelling units in two attached buildings at 13 ELM STREET, WEST NEWTON, Ward 3, on land known as Sec 33, Blk 23, Lot 16, containing approximately 30,948 sf of land in district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5), 30-19(d)(1), (h)(5), and (m) of the City of Newton Rev Zoning Ord, 2001.

ACTION:        APPROVED 7-0

NOTE:        The petitioner is seeking to demolish an existing two-family dwelling and construct five dwelling units, 2 attached dwellings and 3 attached dwelling, in two buildings. The proposed plan accommodates 14 cars, 9 surface and 5 single-car garages. Similar to the previous petition, the petitioner is requesting further relief to provide a third stall for units #1 and #3, tandem, in front of the garages.

The public hearing opened and closed on March 13, 2007. Attorney Jason Rosenberg represented the petitioner. The proposal would place three attached dwelling units in the front of the site, which is a long, narrow lot, and two attached dwellings to the rear, separate from the front units. The front building is designed to look like "mansion" and the rear building to look

like a carriage house. The Historical Commission reviewed the architectural plans and waived the one-year demolition delay period for the existing house. Mr. Rosenberg said this is a transitional use area: across the street is a 15,000 square-foot lot with businesses and a parking lot. The site is close to a traffic intersection and surrounded by a dense neighborhood containing single- and two-family homes. It is near public transportation and within walking distance of West Newton Square. An existing contractor/landscaping business will be gone from the site.

The proposal meets or exceeds all setbacks for attached dwellings, including parking dimensions. There is enough land for 6 by-right units, but not enough frontage. Addressing the question of FAR mentioned in the Planning Department memorandum, Mr. Rosenberg pointed out that 5 of the proposed units have inside garages (most homes in the neighborhood have detached garages or none at all) whose 225 square feet counts for FAR, increasing the total FAR. The petitioner's engineer said that in response to the Associate City Engineer's memorandum, the rear units would have sprinklers installed. The petitioner's engineer prefers to install separate water meters in each unit, not a meter pit. He will meet with the City Engineer to resolve this issue. The petitioner will develop a construction management plan. The Fire Department asked that "no parking" signs be installed on portions of the grass-paved turn around area between the buildings.

The architect has designed the two buildings in front to look like a single family, with a porch, a front entrance and walkway. Unit sizes vary, the largest is approximately 2,400 square feet, with unfinished attic space, the rear building looks like a carriage house. The proposed exteriors are grey asphalt shingles and clapboard, with Pella windows, and individual patios. In response to a question from the Chairman, Mr. Rosenberg reaffirmed that the plans submitted were the same plans shown to the Historical Commission when it waived the demolition delay. The landscape architect presented photographs and plans. Landscaping will entail removing some trees, but they will be replaced with sugar maples, flowering trees, shrubs, and flowers. The petitioner proposes residential sconce lighting on the buildings and is willing to eliminate the post lighting referred to in the Planning Department memorandum.

Alderman Hess-Mahan referred to the statement in the Planning Department memorandum that this is a "hybrid" combinations project. Mr. Rosenberg said that the design utilizes the site with parking off the street better than a project that would cover more lot area. The committee applauded the petitioner for working with the Historical Commission as well as working with the neighborhood. A full landscape plan was sent to all abutters. One was concerned about the upkeep of the proposed solid fence along the rear edge of the property. The petitioner is amenable to a chain link fence, if the abutter communicates that wish to the Board.

The Chairman asked about the inclusionary zoning requirements, whether the Board could require a unit in lieu of a cash payment. Mr. Rosenberg said that in this case there is no discretion by the Board. For six units or less discretion is on the part of the petitioner. The petitioner proposes a cash payment.

In response to the recommendation of the Planning Department to reduce the size of one unit for greater diversity of units, Mr. Rosenberg s noted that the proposed units range from 2,146 to 2,363 square feet. Alderman Samuelson said the proposal is a beautiful, creative design.

The Chairman noted that the existing non-compliant contractor/landscaping business would have to be discontinued whether or not this special permit is granted.

**Public Comment:**

Leo Buttera, brother-in-law of the petitioner lives next door. He wants to make sure that all water is contained on the petitioner's site. He does not want trees overhanging his property. He does not want a solid fence.

Tom Doherty, 16 Oak Avenue, said it looks like a nice development. He too wants water retained on the site because all the land pitches toward Oak Avenue. He stressed the importance of providing all parking on-site.

The committee asked the petition to work out the engineering issues, including drainage and the water meters, for the working session. Upon a motion by Alderman Hess Mahan, the hearing was closed.

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At tonight's working session, Ms Radzevich reviewed with the committee the Planning Department working session memorandum. The petitioner met with the Engineering Department and Association City Engineer John Daghlian was present to review his memorandum of May 4. Drainage is designed for the 100-year storm event. The petitioner and the city resolved the water pit v. individual meters. This project is too small a development for a master meter; a looped system with individual water meters is proposed. Associate City Solicitor Ouida Young recommended that a condition in the special permit include a provision to allow the city on-site to identify a water leak should the need arise.

A tree removal permit was signed off by the city. The petitioner has submitted a plan to protect existing trees during construction and a preliminary construction management plan.

The committee removed in the draft board order prepared by the Planning Department the "no parking" signs shown in the grass paved are between the two buildings. This is a small residential development; the condominium documents can prohibit parking in that area.

The committee noted that the only relief required in this petition is for single-family attached dwellings. Although the petition meets the parking requirements of two stalls for each unit, the petitioner has asked for a waiver to allow tandem parking in front of unit #1 and #3, for extra parking spaces.

Alderman Hess-Mahan moved approval, finding that the site is appropriate for the proposed use in a district comprised of single- and two-family dwellings; the architectural design was reviewed and approved by the Historical Commission; the use will not adversely affect the neighborhood and is less dense; it provides ample parking on-site; it is an appropriate transitional development from business to residential; there will be a cash contribution through the inclusionary zoning ordinance; there is an appropriate amount of landscaping.

The committee, adopting the conditions suggested by the Planning Department, except for #7, voted 7-0 to approve the petition.

The meeting was adjourned at approximately 9:15 PM.

Respectfully submitted,

George E. Mansfield, Chairman