

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, AUGUST 14, 2007

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

Also present: Ald. Baker

Staff: Michael Kruse (Director of Planning & Development), Ouida Young (Associate City Solicitor), Linda Finucane (Chief Committee Clerk)

Request for Consistency Ruling to allow a 75 seat Qdoba Mexican Grill at 300 Needham Street, which was the subject of special permit #149-03, granted on June 2, 2003 to 300 Needham Street LLC/Regalite Plastics Corp. for retail and storage at that address.

NOTE: The exercise of this special permit was delayed by an appeal that was subsequently denied. The owners are now seeking tenants and Qdoba Mexican Grill has expressed interest in occupying 2500 square feet of retail space on the first floor. Mr. Kruse said that a restaurant was mentioned prior the filing of this special permit in 2003. Alderman Samuelson recalled the then Land Use Committee's discussion about efforts to get "active uses" such as a restaurant in the building. The proposed restaurant requires more parking than a comparable retail store: a 2500 sf retail store with 3 employees requires 10 spaces and a 75-seat restaurant with 9 employees requires 28 spaces. The special permit required 121 spaces; the approved site plan shows 152 spaces, an excess of 31 spaces, which, even though the restaurant requires an additional 18 spaces, leaves a surplus of 13 spaces. The Chairman expressed concern that the special permit does not reference Section 30-13(b), a restaurant. Will this set a precedent if another restaurant wishes to locate in the building? Ms Young said that there is no precedent in land use, each case is on a property-by-property basis. Alderman Merrill also recollected the prior Land Use Committee's discussions relative to ground level activities and its wish for a lively atmosphere other than retail to wrap the streetscape. The Committee agreed that a restaurant could be consistent with the intended use of the building without fear of the potential use of neighboring properties. It is an ideal location for foot traffic. To make the petitioners amend the special permit would be a waste of time and money. There is no change to the footprint or architecture and the restaurant is consistent with the active uses discussed by the prior Land Use Committee, with which the current Land Use Committee agrees. The Committee asked Mr. Kruse to convey these sentiments to Commissioner Lojek.

#106-07 **BETH MENACHEM CHABAD** petition for a **SPECIAL PERMIT/SITE PLAN APPROVAL** to waive parking requirements associated with the demolition and construction of a new Synagogue facility at 349 DEDHAM STREET, Ward 8, on land known as Sec 83, Blk 36A, Lot 1, containing approximately 33,697 sf of land in a district zoned **SINGLE RESIDENCE 1**. Ref: Sec 30-24, 30-23, 30-19(d)(10) & (13) 30-19(j)(1), 30-19(m) of the City of Newton Rev Zoning.

ACTION: HELD 8-0

NOTE: There was a lengthy discussion, much of which focused on the decision of the ISD Commissioner to grant waivers to the FAR and side setback requirements for this site, of which the Committee was first made aware at this working session. Consequently, there was not sufficient time to address some of the remaining traffic and parking issues related to this petition, and it was held for a special working session scheduled for Thursday, September 6. A full report will be provided when the Committee makes its recommendation on this petition.

#202-07 EDEN SIFF & LAUREN ZUKER SIFF petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a change of grade in excess of 3 feet to construct a single-family house at Lot #4, KESSELER WAY, Ward 8, on land known as Sec 82, Blk 37, Lot 82, containing approximately 21,038 sf 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, 2001.

ACTION: APPROVED 8-0

NOTE: The public hearing for this petition opened and closed on July 10, 2007. Attorney G. Michael Peirce represented the petitioners. Lots 4, 5, 8, and 9 underwent the most review and analysis by the Conservation Commission because they border vegetated wetland. There is a 100' buffer to the river and bordering vegetated wetland is to be separated by a protective wall. No disruptive activity may take place within the wetland. The area of the proposed grade change is located behind the proposed house, where the original approved Board of Survey/Conservation Subdivision plan showed one large, long wall. The petitioner is proposing another wall with terracing, with the wall closest to the wetland the lowest. Because this area drops off sharply it must be filled to put in the walls. The Conservation Commission reviewed the proposed changes and approved an amended Order of Conditions.

In response to the suggestion in the Planning Department memorandum that the house is too large and not well sited, Mr. Peirce pointed out that this design involves 35% less re-grading of the site than what would have occurred with the original approved subdivision. The petitioners' architect said the siting and design of the proposed home are sensitive to the lot and afford privacy to the future adjacent houses and Lot 3 across the way. Based on a deep-hole test, there is no need for blasting. Erosion and siltation controls will be located on the site for the duration of construction. A question arose about whether a proposed tree in the middle of an island in the cul-de-sac counted as a replacement tree under the City's Tree Ordinance. Mr. Peirce said that the City's Tree Warden had reviewed the landscape plan. As to whether the proposed home could be seen from abutting conservation trails, Mr. Peirce said no, the house is designed to protect natural vistas.

A letter supporting the petition was submitted from the owner of abutting Lot 3. There was no public comment and the hearing was closed.

This evening the Chairman noted that he, Alderman Baker and Alderman Fischman attended an arranged site visit on July 25. Alderman Albright said she visited the site today. The Chairman and Alderman Fischman agreed that the site visit was very helpful to understand the configuration of the site and siting of the proposed home. The Planning Department working

session memorandum confirmed that the Tree Warden had approved the tree replacement and preservation program, including the tree in the island. After a brief discussion, Alderman Fischman moved approval of the petition finding that altering the grade by more than 3 feet will have no adverse impact on abutters or the neighborhood; drainage as designed is consistent with that approved for the original subdivision; the site of the proposed home will be compatible with the location of other houses in the subdivision; and the retaining walls will prevent activity on the site from intruding into the bordering wetlands. Alderman Fischman's motion carried 8-0

#201-07 JONATHAN F. KANTAR for MICHAEL F. STRIAR petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to convert an existing detached garage to an accessory apartment for use as a guest house at 41 MONTVALE ROAD, Ward 7, NEWTON CENTRE, on land known as Sec 61, Blk 5, Lot 19, containing approx 38,148 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: 30-24, 30-23, 30-8(d) and 30-19(g)(1) , 30-19(i)(1) and 30-19(m) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 8-0

NOTE: The public hearing for this petition was opened and closed on July 10, 2007. Jonathan Kantar represented the petitioner. The petitioner is seeking relief to locate an accessory apartment in a detached carriage house and a waiver to reduce the side yard setback to provide the one parking space required for the accessory apartment. Mr. Kantar explained that the main house and carriage house, built in 1910, is on property originally part of a subdivided estate. It is on the National Register. Currently, the carriage house is in an advanced state of deterioration. The proposed accessory apartment will be primarily for the owner's mother to use when visiting. Architect Michael Kim showed the small additions/changes, primarily for code compliance, e.g. an addition to rear of the carriage house provides access/egress, replacing a narrow winding spiral staircase. The rear of the carriage house is heavily landscaped. A shed dormer that duplicates one in the front of the carriage house is proposed for the rear. There is a patio for the apartment. The Historical Commission reviewed the plans. The petitioner has submitted an affidavit certifying that there will be no lodgers in either the original dwelling or accessory apartment.

There are two changes proposed to the driveway: to park a car in the setback to allow emergency vehicles to pass and a turnaround and staging area toward the top of the side for emergency vehicles. Although the Fire Department prefers a width of at least 12 feet, the width of the driveway is constrained by existing ledge. The Fire Department is satisfied with the turnaround and that the carriage house will be sprinklered.

Mr. Kantar submitted photographs of the property. Alderman Baker was concerned about the impact on abutting properties downhill at the rear of the property when the trees are bare. He also was concerned that a parking space in the setback could impact the abutter. Mr. Kantar said that it is 30 feet from the parking space to the porch of the neighbor's house and all actual uses are easily 100 feet away from the neighbors. Everyone agreed that it was better to seek a parking waiver to locate a space in the setback than to take green space from the yard. Tandem parking for the petitioner's cars will be under the existing carport. Mr. Kantar said that the existing fence on the property line is falling down. The fence will be removed and additional arborvitaes will

be planted to tighten up the screening. The Committee asked for a plan differentiating surfaces/areas for the driveway, parking, turn-around and fire truck staging.

Alderman Hess-Mahan was impressed with the design, particularly the rear stairway, staying true to the design of the original carriage house. Mr. Kantar said that the overwhelming public benefit is preservation of the carriage house.

The Committee asked for a landscaping plan differentiating the different surfaces and areas for the working session as well as photographs from the rear of the carriage house. Alderman Fischman suggested arranging a site visit.

There was no public comment, and the hearing was closed.

Several Committee members and Alderman Baker visited the site on July 23. This evening the Committee reviewed with Mr. Kruse the Planning Department working session memorandum. Attached was a perspective from the rear northeast corner of the lot, showing the rear of the carriage house from the bottom of the slope as seen by the abutters downhill. The petitioner submitted a plan identifying with cross-hatching the areas and surfaces with standard asphalt, grass-crete, and gravel-rolled asphalt. The Committee asked that the marked up plan be incorporated into a revised landscape plan to identify the areas to be kept clear of vehicles at all times. Alderman Vance moved approval of the petition finding that the conversion of the carriage house will restore and preserve an historic carriage house that is badly deteriorated and create an additional unit of housing; it is an appropriate location for an accessory apartment because it is isolated from abutters, with no negative impact on the neighborhood; the additional parking space for the accessory apartment will have no negative impact on immediate abutters because of landscape screening; emergency fire access to the accessory apartment will be provided and the carriage house will have sprinklers to ensure the safety of future residents of the accessory apartment. The Committee voted 8-0 to approve the petition.

#200-07 SEAN LEARY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to add two units of housing with garages to an existing single-family house at 94 CRESCENT STREET, Ward 3, AUBURNDALE, on land known as Sec 33, Blk 6, Lot 35, containing approx 20,440 sf of land, in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 3

ACTION: APPROVED 8-0

NOTE: The public hearing for this petition was opened and closed on July 10, 2007. Attorney G. Michael Peirce represented the petitioner. The petitioner is seeking relief to add two attached dwelling units to an existing single-family dwelling for three units. Each proposed unit has a garage containing two spaces, for the required six spaces. Proposed unit 2 has two one-car garages on each side. The Planning Department recommended detached garages, but the attached garages create more open space. The proposed driveway is 16 feet wide and narrows to 12 ft. wide in front of units 2 and 3; with 4-ft. wide flush grass pavers effectively widening it to 16 ft. to accommodate emergency vehicles.

The proposed units vary in size and height, responding to the context of the neighborhood and market. Responding to questions about the massing and height, Mr. Peirce said that interpretation of attached dwellings has changed with different commissioners of inspectional services and an amendment to the zoning ordinance prohibits using something like a trellis to 'attach' the dwellings. The length of the proposed new structure is 186 ft. The Planning Department asked the petitioner to lower the height of the proposed new attached dwellings that would be significantly higher than the existing house to which they are to be attached. Mr. Peirce was asked to clarify his statement that the market demanded four bedroom units, since the Planning Department had suggested a mix of 3 and 4-bedroom units to provide more diverse housing choices. He said that any room other than a living room, dining room and kitchen is classified as a bedroom. Several Aldermen asked about whether the attic space could be converted to living space. Alderman Samuelson said that all developers should think of the future; 2400-2600 sf. units are very modest. This proposal is better than a by-right two-family home, she said. Alderman Fischman wondered if there is enough open space. (Open space = 55.6%.) Trees surround the perimeter of lot. Two mature trees would be removed and additional plantings, including pear and cherry trees and blue spruces, are shown in the front yard.

A letter from Luigi Sepe of 100 Crescent Street was submitted in support of the petition.

Robert Totaro of 88 Crescent Street said that initially he had mixed feelings about the proposal, particularly the mass and height; however, he talked with the petitioner and found him open to his concerns. At neighborhood meetings, the petition asked neighbors for concerns and suggestions. Unit 2 towers over his garage, but he knows other projects developed by the petitioner and is pleased with the quality of the work. He is satisfied with the proposed landscaping along and on his property and noted the importance of maintaining the landscaping and fence. The neighborhood has changed, he said, and some properties are not taken care of as well, so this project could be a serious shot in arm for the street.

That concluded the testimony and the hearing was closed.

This evening the Committee reviewed with Mr. Kruse the Planning Department working session memorandum. The petitioner submitted a revised plan responding to many of the issues raised previously by the Planning Department. The height of the existing structure is 25.7 ft. and the petitioner has reduced the height of the two proposed units by 1 ft. 4.5 inches, from 29.96 ft., to an average height of 28.6 feet. The two proposed new units are set back 36 ft. from the existing unit and approximately 75 ft from the street. The length remains the same, 186 ft, and the size of the units remain the same, an average of 2400 sf. Plans show grass pavers on the turn around/guest parking area at the front of the site. The proposed new porch and building materials (wood clapboard) are shown as well. The Fire Department has asked that all three units be sprinklered. A new concrete sidewalk with granite curbing will be constructed in front of the site.

The Committee was still concerned about the mass and height, particularly the 186-ft. length. Members asked if the petitioner could break up the mass with architectural elements, or perhaps by adding porches. Since a multi-family dwelling is not allowed in this zoning district by right or by special permit, the only option is attached dwellings, but committee members questioned the prohibition on certain types of roof and wall connectors that could lessen the mass and length of the attached dwellings. The committee agreed to allow the Planning Director discretion to work with the petitioner to revise the facades with the addition of architectural elements and/or porches that would reduce the visual impact of the massing. Alderman Harney moved approval, finding that the residential neighborhood abutting the site is a mix of single and two-family structures and is an appropriate location for a residential development consisting of 3 attached dwellings units; the original house will be improved with a new porch, keeping with the original design, and the two new units will be in character with the original house; the sidewalk and granite curbing will be upgraded to city standards; drainage will be improved, designed to the 100-year storm standard; there will be a cash contribution for affordable housing. The Committee approved the petition 8-0.

The Committee adjourned at approximately 11:30 PM.

Respectfully submitted,

George E. Mansfield, Chairman