

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, OCTOBER 2, 2007

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

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

#233-07 THOMAS MURPHY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND A NON-CONFORMING STRUCTURE to replace two existing rear decks with two slightly larger rear decks at a two-family dwelling at 15-17 WELDON ROAD, Ward 1, NEWTON on land known as Sec 12, Blk 22, Lot 4, containing approximately 11, 113 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 3-23, 30-21(b), 30-21(a)(2)(b) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 7-0

NOTE: The petitioner wishes to replace two existing non-conforming rear decks with two slightly larger decks on an existing two-family dwelling converted from a garage in 1927. The relief sought is to decrease the substandard open space from 41.1 percent to 38.9 percent, increasing the existing legal non-conformity. Attorney G. Michael Peirce represented the petitioner at the public hearing on September 11. The Planning Department in its memorandum asked whether a small portion of the external stairway from the two proposed decks would jut into the already limited driveway area, requiring a parking waiver. Mr. Peirce said that the driveway, originally part of Weldon Road, was created in 1927 when the conversion to a two-family dwelling occurred. If the stairs encroach into the driveway, Mr. Peirce said the plan would be re-designed. Mr. Peirce indicated he would address this issue further in working session. There was no public comment and the hearing was closed.

This evening, the Committee reviewed with Ms. Havens the Planning Department's working session memorandum. The petitioner submitted an affidavit from Mary Daly, who grew up at 6 Weldon Road, affirming there was always a driveway at 15-17 Weldon Road. The petitioner also submitted a site plan that shows that the proposed stairway does not encroach in the driveway. Ms. Havens pointed out that the site already is well landscaped, screening the driveway from abutters; there is no increase in impervious surface and the proposed decrease in open space is 247 square feet.

Alderman Merrill moved approval of the petition, finding that the increase in the size of the two new decks will not be substantially more detrimental than the existing decks and that the small decrease in open space at the rear of the property is not visible from the street, and does not affect the streetscape. The petition was approved 7-0.

#231-07 BOSTON SPORTS CLUBS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for one freestanding sign and two secondary wall signs at 135 WELLS AVENUE, Ward 8, NEWTON CENTRE, on land known as Sec 84 Blk 34, Lot 2E in a district zoned LIMITED MANUFACTURING. Ref: Sec 30-24, 30-23, 30-20(f)(2), and 30-20(1) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 7-0

#231-07(2) BOSTON SPORTS CLUBS requesting that the restriction(s) adopted by Board Order #276-68(3) and subsequent amendments be further amended to provide for the installation of a freestanding sign and two secondary wall signs at 135 WELLS AVENUE.

ACTION: APPROVED 7-0

NOTE: The public hearing on this item was opened on September 11. Jeffry Serra of Batten Bros. Signs, who represented the petitioner, explained that this petition for a new freestanding identification sign exceeding the 12 square feet per the Wells Avenue Deed Restriction and reclassification of two existing wall signs is to reflect the new club's name. The proposed 12.67 square-foot freestanding sign is important for identification, since the entrance is set back about 200 feet from the street. If the freestanding sign is approved, the two previously approved wall signs need to be re-classified and permitted as secondary wall signs. Relief is sought to waive the limit of one secondary wall sign on the same frontage as well. One secondary sign is located under the entrance door and the other secondary sign in on the porte-cochere. Both are illuminated. The Urban Design and Beautification Commission reviewed and approved the design of the signs, although it noted to the petitioner that only the Board of Aldermen has the authority to approve a freestanding sign. The proposed freestanding sign will be internally illuminated. Alderman Fischman asked if the light intensity is equal to the existing Wellbridge sign. Compliance with the Light Ordinance will be addressed at the working session.

(The request to amend the deed restriction does not require a public hearing. Since the creation in 1968 of the contract zoning that governs the Wells Avenue parcel, there have been a number of amendments to the deed restriction, mostly, for uses other than manufacturing and for identification signs. Unlike a special permit, the Board of Aldermen and Mayor authorize such amendments.)

There was no public comment. The public hearing was closed.

This evening the Committee reviewed with Ms. Havens the lighting specifications for the proposed freestanding sign. It has a red background with light coming through white

lettering. Four 60-watt fluorescent, not incandescent, bulbs will illuminate it. Mr. Serra said the lighting conformed to industry standards and Ms. Havens confirmed it conforms to the city's light ordinance. After a brief discussion concerning the deed restriction and whether it might be time for the Board to look at either amending it or removing it entirely, Alderman Samuelson moved approval of the freestanding sign and reclassification of the wall signs and the waiver to locate two secondary wall signs on the same frontage, finding that the three signs will improve the ability of the public to find this particular site, and the location and design are appropriate given the scale and architecture of the building. The Committee agreed, and voted 7-0 to approve the petition.

#232-07 AMERADA HESS CORPORATION/DONALD F. LUNNY, JR., TRUSTEE OF LUNNY REAL ESTATE TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING USE to convert an existing full service gasoline selling station to a self-service gasoline selling station and retail convenience store, including waivers from setback and dimensional requirements for 4 parking stalls; side yard landscape strip; lighting; and for a free-standing, directional, and wall signs at 2370 COMMONWEALTH AVENUE, Ward 4, AUBURNDALE on land known as Sec 41, Blk 9, Lot 1A, containing approx 15,904 sf feet of land in a district zoned MULTI-RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-20(e)(4) and (5), 30-20(l), 30-19(h)(1), 30-19(h)(2)b), and (2)c), 30-19(5)a), 30-19(i)(1), 30-19(j)(1)b), and 30-19(m) of the City of Newton Rev Zoning Ord, 2001 and Special Permit nos. #609-59, 699-65, 590-76, 157-92, 1-01, and 226-02.

ACTION: HELD 7-0

NOTE: There was extensive public testimony at the public hearing on September 11, raising a number of concerns. At this working session the Committee members identified several issues with the layout of the site and its circulation. They asked the petitioner to consider some modifications to the site plan, and held the item pending the petitioner's response. A detail report will be provided once the Committee has reached its recommendation.

#211-07 109 OAK STREET CONDOMINIUM TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for various parking waivers including the required number of stalls for a service establishment and number for office use; setback of dumpster; setback for parking from sideline; minimum stall width and length; maneuvering space for end stalls; minimum aisle width, one-way and two-way; perimeter screening; interior screening; lighting; and loading bay and for permission to use the entire basement for purposes other than storage, amending Board Orders #504-84 and #7-89, in connection with renovations to an existing parking facility in an existing building at 109 OAK STREET, Ward 5, NEWTON UPPER FALLS, Ward 5, on land known as Sec 51, Blk 46, Lot 1, containing approx 63,770 sf of land in a district zoned BUSINESS 1.

Ref: Sec. 30-24, 30-23, 30-19, 30-15 Table 3, 30-19(d)(10) & (11), 30-19(h)(1) & (2)a), b), e), 30-19(h)(3)b), 30-19(i)(2)a), 30-19(j)(1), 30-19(l), and 30-20(m) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 7-0

NOTE: The public hearing on this item was opened on July 10 and continued to September 11, 2007.

On July 10, Chairman Mansfield noted that the Planning Department had recommended in its May 11 memorandum not to close the hearing tonight but to continue it to September 11 because "...the petitioners should provide more information on the anticipated parking demand in the parking lot and on Sweet Street for all existing and proposed uses...." (This petition was the subject of a suspension of the rules on June 18 to allow it assigned to Committee and for a public hearing after it was filed with the Planning Department and the Clerk's office.)

Attorney Steve Buchbinder, representing the petitioners, pointed out that the traffic consultant's report was submitted to the Planning Department last May but he had no idea until last Friday that the department wished for more information. The Chairman said that unfortunately different staff were on vacation, including transportation planner David Koses, and did not have the opportunity to review the information submitted. Therefore, it makes sense to continue the hearing.

Alderman Samuelson was concerned that a report submitted at the end of May had not yet been reviewed. She asked if there was staffing problem. The land use process is not streamlined, she said, this is a small business. She referred to a letter from the petitioners asking the Board to allow the petition to be referred to Committee, read by Alderman Yates at the Board meeting of June 18. The petitioners are asking to make an existing parking situation legal, she said, everyone in city should be trying to assist small business people. When previous businesses in the existing building moved, the neighborhood suffered. There are plenty of parking meters never used on Chestnut Street. The petitioners have improved the parking lot; this petition will improve pedestrian access from Sweet Street and access from the village. The hearing was continued to September 11. After its presentation by Attorney Buchbinder, there was no public testimony.

At the working session the Committee considered updated traffic and parking analyses presented by the petitioner. They also reviewed the Planning Department's draft conditions, and accepted them, with some modifications to condition #2. Alderman Samuelson moved approval, finding that the parking demand can be satisfied within the waiver requested. The petition was approved 7-0.

Respectfully submitted,

George E. Mansfield
Chair