

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, FEBRUARY 8, 2005

Committee members present: Ald. Mansfield (Chairman), Albright, Salvucci, Harney, Samuelson, Vance and Fischman

Other Aldermen present: Ald. Sangiolo

City Staff present: Nancy Radzevich, Planning, Ouida Young, Law, Lou Taverna, Engineering, Linda Finucane, Chief Committee Clerk

#469-04 JAMES & CYNTHIA DUFFY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single-family home with an attached 972 square-foot garage at 15 WILLISTON ROAD, Ward 4, AUBURNDALE, on land known as Sec 43, Blk 24, Lot 12, containing approximately 32,850 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, and 30-8(b)(7) of the City of Newton Rev Zoning Ord, 2001.

ACTION: Approved 7-0

NOTE: This petition is to allow an amendment to the plans of a by-right single family house presently under construction to eliminate a partition that would close off one bay of a 3-bay garage and limit the use of that bay to storage, thus creating a 972 s.f. garage. The current construction is proceeding under a building permit approved in October 2004, however, a garage of over 700 s.f. will require a special permit. At the public hearing, the committee had asked for the typical reviews of the Engineering Department and the Fire Department, in that it had not been clear then that both the structure and the site would be exactly the same whether built by right or under the requested special permit. The Engineering report had been prepared in October as would be normal for the issuance of the building permit. A copy was provided at this working session and contained no observations relevant to the special permit. The Fire Department had not prepared a previous memo, but did review and approve the building permit plans in their usual course of business and so reported in a letter dated 1/21/05. Ald. Salvucci suggested that in a case such as this, these memos should be sought by the Planning Department and submitted for the public hearing, even if they make no substantive recommendations for the Board to consider. Without them, he said, questions are bound to be raised. Ms. Radzevich agreed to do so.

The committee had also asked why a landscape plan was not submitted. Ms. Radzevich replied that the Department had not required such a plan because there were no changes to the site plan related to the special permit request. Ms. Finucane added that the direct abutters on both sides of this site had submitted letters in support of this petition. Ald. Harney reiterated what the petitioner had

stated at the public hearing, that this is a large family that needs the extra garage space for both vehicles and storage of toys and equipment. He also said that although this is a large house in relation to the neighborhood, it is preferable to the rear-lot subdivision previously proposed for this site (by another owner) that would have yielded two large houses. Ald. Samuelson disagreed, stating that the rear lot subdivision would have provided more housing and fit into the neighborhood better, but said she would support this petition. Ald. Harney then moved approval of the petition, finding that the site is an appropriate location for a larger 3-car garage because of the size of the lot, that it does not adversely affect the neighborhood, and that the additional usable space meets the need of a large family. He had also suggested that it is preferable to have a larger garage so vehicles can be stored inside rather than outside on the site, but Ald. Samuelson disagreed with this finding, not wanting to promote 3-car or more garages in general. Ald. Fischman agreed with Ald. Samuelson's points, but also said he would support the motion. Ald. Salvucci speculated that it might be difficult to deny any future garage greater than 700 s.f. upon approving this petition, but both the Chair and Ms. Young reminded him that special permit votes do not set precedent. Ald. Sangiolo added that this approval is not detrimental to the neighborhood and reminded the committee that they were not approving an oversized house; the structure itself is permitted by right. The committee approved the motion 7-0.

#466-00(3) NEIL DRUKER & JOANNE MACKINNON petition to AMEND the site/landscaping plan approved in SPECIAL PERMIT/SITE PLAN APPROVAL #466- 00(2), granted on May 7, 200, for an accessory apartment in a detached structure at 145 HIGHLAND STREET, Ward 3, WEST NEWTON, on land known as Sec 32, Blk 9, Lot 13, containing approx 40,615 sf of land in a district zoned SINGLE RESIDENCE 1. REF: Sec. 30-24 and 30-23 of the City of Newton Rev Zoning Ords., 1995.

ACTION: Approved 7-0

NOTE: This is a request for an amendment to an approved site plan granted on May 7, 2000, which allowed an accessory apartment in an existing detached carriage house. The permit has been exercised and the site laid out and landscaped, however, the driveway access to the structure that previously existed and was retained in the approved plans was eliminated in the site construction. Consequently, a stop-work order was issued in May 2004, and a public hearing on this amendment was held on July 13, 2004. Subsequently, the committee met in working session with representatives of the Fire Department, whose concern for access to the detached structure led to the stop-work order. The committee directed the petitioner to work out a reasonable agreement with the Fire Department before returning to a working session, and several extensions of time have been required to do so. The petitioner's attorney submitted what he believed to be the final revised plan to the Planning Department in early February, employing a material known as "Grass Pave2" instead of standard paving to achieve the Fire Department's needs for access while maintaining the basic landscape concept the petitioner preferred. However, at the working session, the committee learned that the Department was still concerned

with the width of the access way and with a gate and tree shown in the plan that might impede emergency access. That driveway was not dimensioned in the plan, but the committee found that there was 14.5 ft. of clearance, and that the petitioners agreed to surface at least 12 ft. in width with the grass pavers. They also agreed to eliminate the gate, and measurement of the plan found that the specimen tree—already in place—did not obstruct the 12-ft. width. The Fire Department also asked that the grass paver surface be kept clear of snow at all times. Ald, Fischman noted that if regular paving were used, there would be no requirement for snow removal.

Ald. Salvucci moved approval of the petition, finding that the site as redesigned provides adequate circulation for fire access, with the conditions that the gate shown on the current plan be eliminated, and that snow removal be required only when and if the accessory apartment is occupied. The motion was approved 7-0.

2005 Auto License Renewals

- #460-03 DELIO CORPORATION d/b/a RVD AUTO SALES
 227 California Street
 Nonantum, 02458 Class 2

- #461-03 ENZO's AUTO SALES
 10 Hawthorn Street
 Nonantum, 02458 Class 2

- #465-03 OLD TIME GARAGE LTD.
 1960 Washington Street
 Newton Lower Falls, 02462 Class 2

- #468-03 R.S. SERVICE INC.
 361 Washington Street
 Newton Corner 02458 Class 2

- #472-03 VELOCITY MOTORS INC.
 14 Hawthorn Street
 Nonantum, 02458 Class 2

- #473-03 ECHO BRIDGE SALVAGE INC.
 16-24 Maguire Court
 Newtonville, 02460 Class 3

- #474-03 SCHIAVONE BROTHERS INC.
 16-24 Maguire Court
 Newtonville, 02460 Class 3

- #475-03 TODAY'S SERVICES INC.
 1362 Washington Street
 West Newton, 02465 Class 2 & 3

ACTION: All above license renewals approved 7-0.

NOTE: The above applications were either filed too late to be included in earlier approvals, or bonds were filed late. However, all have met the Clerk's, Police and ISD requirements. Ald Samuelson asked, in general, whether these permits indicated the number of vehicles expected to be on site and/or where they are stored. Ms. Young replied that they would not, unless the site was also subject to special permit conditions.

#470-03 THE TRAVIS CORPORATION
d/b/a THE CAR STORE
19 Rolling Lane
Chestnut Hill 02467 Class 2

ACTION: Approved 7-0

NOTE: As was the case in 2004, this license renewal had been held in committee because of outstanding back excise taxes that remain unpaid. When the 2004 renewal was finally approved, as a condition of that approval the dealer, Mark Epstein, had agreed to file abatement requests with the Registry of Motor Vehicles and the City Assessors to determine the legitimacy of the charges, which Mr. Epstein had disputed. He had complied with that condition, and paid a small amount of the charges that were reduced by the Assessors, but the majority of his abatement requests were denied, and the City alleges that his previous corporation, Minicost Auto Rental, still owes the City \$55,000 in taxes, interest and fees. The committee asked if he could determine how much of this balance was the taxes themselves, and how much was interest and fees. Epstein estimated that about 10%, or \$5,500, were attributable to the taxes, although he still disputed that he legitimately owed these, since the vehicles were sold and the corporation dissolved. However, after discussing several possible motions, Ald. Samuelson moved approval of the license with the understanding that the committee, through the City Solicitor's office, would receive a determination of the amount attributable to the excise taxes and Mr. Epstein's plan to pay that amount off within the calendar year. She reasoned that if he did not abide by that plan that would be a fact to consider at the time he might apply for a 2006 renewal. The committee also understood that review of this information might require a brief meeting before the full Board meeting on February 22. The motion was approved 7-0.

Respectfully submitted,

George E. Mansfield, Chairman