

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JUNE 8, 2004

Present: Ald. Mansfield (Chairman), Ald. Salvucci, Albright, Merrill, Harney, and Vance; absent: Ald. Fischman and Samuelson; also present: Ald. Sangiolo  
City staff: Alexandra Ananth and Eric Jerman (Planning), Michael Baseman (Law), Linda Finucane (Clerk)

#212-04      GREGORY & MARGARET CROOK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING STRUCTURE by adding a dormer to the third-floor of an existing dwelling at 71 AUBURNDALE AVENUE, Ward 4, AUBURNDALE, on land known as Sec 44, Blk 17, Lot 99, containing approx 3,880 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2001.

ACTION:      APPROVED 6-0

NOTE: The Petitioners wish to enlarge an existing 2 1/2-story single-family house by adding a stair dormer to increase headroom lacking in the stairwell leading to the 3<sup>rd</sup>-floor attic and to extend the attic floor area by approximately 200 sf. on the non-conforming side of the house. The proposed dormer would be located in the existing non-conforming sideyard setback, which is 1.8 feet from the east-side lot line, thereby extending the non-conforming structure.

At the public hearing on May 11, 2004 there was no public comment; however, the Petitioners submitted letters from the abutters at 69 Auburndale Avenue, the property most affected, and from abutters to the north, south, and west, all stating they had no objections to the addition. After a very brief discussion, Ald. Harney moved approval finding that:

- The addition of a dormer into the existing non-conforming sideyard setback is not substantially more detrimental than the existing sideyard non-conformity;
- the window lines will not conflict with the abutting property at 69 Auburndale Avenue; and,
- as stated in the Planning Department memorandum, the addition of the proposed addition is so small, it will not impact the Maximum Building Lot Coverage ratio or FAR, and its impacts on the abutting property at 69 Auburndale Avenue appear to be minimal.

As is standard practice, prior to the issuance of a building permit the Planning Department will review the plans for consistency with the plans approved by the Committee. Ald. Harney's motion to approve carried 6-0.

#211-04      EMERALD DEVELOPMENT GROUP, INC./LORNA & ROGER KELLY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two new single-family attached dwellings connected to an existing single-family dwelling to create a new three-unit attached dwelling at 91 CENTRAL STREET, Ward 4, AUBURNDALE, on land known as Sec 43, Blk 14, Lot 6, containing approx 18,750 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-23, 30-24, 30-9(b)(5), (5)(b), and 30-19(m) of the City of Newton Rev Zoning Ord, 2001.

ACTION:      APPROVED 4-2 (Albright and Merrill opposed)

NOTE: The Petitioners are proposing to rehabilitate a 3-story Italianate-style house circa 1840 and construct two single-family attached dwelling units on the rear of the residence, for a total of three single-family attached units on an 18,750 square-foot lot located in a Multi Residence 1 district. A rear portion of the dwelling, a detached garage, and an existing shed will be demolished. (The one-year demolition delay expires this July; however, the Petitioners returned to the Historical Commission and it waived the delay for the garage, playhouse, and portion of the rear based on the plans submitted for the special permit.) The façade of the existing house is to be restored with cedar clapboard to match the two new attached units. Parking will be provided in three single-car garages with tandem spaces in front, three other visitor spaces will be located in the 20' setback on the west lot line, for a total of nine spaces. Some existing mature trees will be preserved. Replacement trees, stockade fencing at the rear of the property, and additional landscape screening are provided on the revised landscape plan.

The City Traffic Engineer reviewed the site plan and had no concerns. The Fire Department requested that the relocated driveway be increased from the existing 12 feet to 14 feet or the units be sprinklered. The Committee felt a 12-foot wide, 145-foot-long driveway was adequate and more in keeping with the neighborhood, since neither allows the Fire Department to turn around. The City Engineer's comments are reflected on the revised site plan: additional calculations are provided for the driveway apron; the sewer service currently shared by both properties will be capped on the abutting property; and the existing sidewalk in front of #85 Central St. next door (also owned by the petitioners) will be extended along the entire frontage with granite curbing.

Originally this lot contained approximately 29,862 sf of land, but in 1986 the owners were granted a frontage variance (from the required 80' to 60') to subdivide the lot and construct a new single-family house on the 11,211 square-foot portion that subsequently became 85 Central Street. While the specificity of variance #23-86 precludes the use of 85 Central Street for a multi-family dwelling, a by-right alternative would be to demolish both houses, combine the lots, and build two 2-family dwellings in this Multi-Residence 1 district. The Petitioners have offered a 99-year restrictive covenant (an increase of 49 years, at the request of Ald. Sangiolo) to restrict the use of 85

Central to the existing single-family dwelling and to exclude accessory apartments in both 85 and 91 Central Street, if the special permit is approved.

At the public hearing on May 11, 2004 three letters were submitted objecting to the proposal primarily because of traffic and density concerns. Two letters of support were submitted citing historic preservation benefits, the quality of projects by the petitioner, and landscaping. Jonathan Davis of 81 Central Street spoke in favor citing the control given by a special permit and the preservation of the streetscape.

Several members of the Committee had concerns about the density and the massing of the structure and its ability to fit in with the surrounding neighborhood, as noted in the Planning Department's memorandum. Ald. Harney thinks the possibility of the two lots being combined to develop two 2-family dwellings without the protection and benefits of a special permit poses a bigger concern. Ald. Sangiolo pointed out that this property was included in the Auburndale Historic District as originally proposed, but was among a number of properties excluded in a compromise prior to the proposal's subsequent failure to garner the necessary sixteen votes.

Ald. Harney moved approval, finding that the public welfare and convenience will be served because

- the design was reviewed and approved by the Historical Commission, and will preserve and restore an existing historic property included in the originally-proposed Auburndale Historic District;
- it preserves the existing streetscape, while providing additional housing;
- the 99-year restrictive covenant on 85 Central Street to limit its use to a single-family dwelling prohibiting accessory apartments on both properties is a benefit to the neighborhood;
- the landscaping and fence are improvements to the site for abutting properties;
- there will be no nuisance or serious hazard to vehicles or pedestrians as there is no increase in traffic over the by-right alternative and all parking is provided on site;
- the sidewalk and granite curbing will be extended along the entire frontage; and
- drainage is designed for a 100-year storm.

The motion to approve was approved 4-2, with both Ald. Albright and Ald. Merrill opposed because they found the massing and density incompatible with the surrounding neighborhood.

#210-04      OMNIPOINT HOLDINGS, INC. (WHOLLY-OWNED SUBSIDIARY OF T-MOBILE USA, INC.)/ANDOVER NEWTON THEOLOGICAL  
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to install façade-mounted wireless communication equipment consisting of four 72"x12"x4" panel antennae, one attached to each of the two existing chimneys on Worcester Hall and two attached to the eastern chimney at Fuller Hall; a GPS/E 911 antenna attached to a chimney on each of the two buildings; a connection from the antennae on Worcester Hall to three

base transceiver station (BTS) units to be located in a newly constructed 8'x10' masonry enclosure adjacent to the building's north side and from the antennae on Fuller Hall to BTS units located in the attic at 210 HERRICK ROAD, Ward 6, NEWTON CENTRE, on land known as Sec 65 Blk 19, Lot 45, land in a district zoned SINGLE-RESIDENCE 3. Ref: Sec. 30-18(A)(e)(3) and (f), of the City of Newton Rev Zoning Ord, 2001.

ACTION: HELD 6-0

NOTE: This petition was heard on May 11, 2004. There was no public comment. At the hearing the Petitioners agreed to reduce the height of the antennae by 6" so they would be lower than the chimney as recommended by the Historical Commission. The Historical Commission also recommended that the coaxial cables be run internally to protect the integrity of Worcester Hall, an historic brick building. The Petitioners have proposed painting the cable trays to match the existing brick. The Committee questioned the Historical Commission's role, whether it is one of actual approval or simply recommendation. Section 30-18 requires that wireless installations not disrupt historic resources. However, neither the Law Department nor Planning Department representatives could answer this question. The Committee also noted that the revised plans the petitioner had agreed to had not been submitted prior to the working session, and so the petition was not ready for the Committee's action. The representative of the petitioner present could not offer when revised plans would be submitted. Ald. Salvucci moved to hold the petition pending receipt of revised plans and clarification of the Historical Commission's role. The motion to hold passed 6-0.

#164-04 McDONALD'S CORPORATION (McCOY ASSOCIATES, INC. – FRANCHISEE) petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL #140-78) and for an EXTENSION of a NON-CONFORMING USE to demolish an existing 136-seat restaurant with the addition of drive-through and pick-up windows on the south side of the building; a menu display board, reconfiguration of the existing parking area, including lights, curb cut, signage and landscaping, and the addition of new exit driveway at 111 NEEDHAM STREET, Ward 5, on land known as Sec 51, Blk, 28, Lot 16, containing approx 40,335 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2), 30-21(b), 30-13(b)(1), (5), (16), 30-19(m), 30-20(l), of the City of Newton Rev Zoning Ord, 2001.

ACTION: HELD 5-0 (Merrill not voting)

NOTE: The Petitioners are seeking to demolish the existing McDonald's restaurant and reconstruct a slightly smaller restaurant with a drive-through. It will be sited on approximately the same location as the existing building which was constructed by special permit in 1978. The drive-through includes a menu board and ordering area with two separate windows for purchasing and picking up food. The number of seats will decrease from 136 to 105.

The most significant changes involve the reconfiguration of the site relative to circulation and parking. The number of parking spaces will be reduced from 74 to 39 (the number required by ordinance). The petitioners propose to construct a driveway between their property and the Avalon at Newton Highlands property for a cross-connection to serve one-way traffic from the McDonald's site for vehicles exiting northbound onto Needham Street. Currently the Mass Highway Department is reviewing plans for a traffic light at this location (to be installed by Avalon Bay). A new 30' curb cut will be installed south of the existing curb cut that will be closed. The new curb cut will service all traffic entering McDonalds from either direction as well as all southbound traffic onto Needham Street, i.e., a right-turn only. The Committee found, however, that there are some exceptions to this circulation pattern. McDonald's is proposing that large trailer trucks servicing the site be allowed to turn left (northbound) out of the site, and has designed the entrance/exit drive with a raised cobble stone island that trucks can drive over. Moreover, the petitioner has agreed with the Avalon owners that, until the traffic signal is installed and operational, the cross connection would not be used. This would require all northbound traffic to exit via the main entrance by taking a left turn. At the working session, the petitioner offered a further condition that the occupancy of the approved project would be delayed until the signal was in operation, provided, however, that if the signal was not in operation within one year of approval of this petition, the petitioner shall be eligible for a "good cause" extension of the special permit for an additional year.

The Committee found that neither the petitioner nor the City has any control over the timing of the installation of the traffic signal, and the City Traffic Engineer has expressed some concern over that situation. The petitioner would also agree to restrict left turns from the site during peak hours in the absence of a signal, but this would force traffic bound for Newton Highlands or Newton Center to either circle through Upper Falls or find a means to execute a U-turn further south on Needham St. The projected change in the volume and the nature of customer traffic, as stated by the petitioner, is the reason the Committee focussed its concerns on circulation questions. Currently, 70% of the business at the restaurant is eat-in, 30% take out. With no drive through, all customer vehicles are parked for some period. With the drive-through, the petitioner expects that 52-69% of customers will use this method of access, and so some percentage of business greater than this will be take-out overall, with eat-in business greatly reduced. This new mix is expected to generate an overall increase in traffic to and from the site, with 115 new trips during the peak hour, a 49% increase.

In addition to the increased traffic entering and leaving the site (and on Needham St.), the Committee also considered the new internal circulation patterns within the site. The drive-through lane is designed to accommodate 13-14 mid-sized cars (including vehicles that have placed orders and/or paid for food as well as those in the queue for ordering) without conflicting with other traffic on the site. The petitioner's traffic engineer has determined that the maximum number of vehicles in the drive-through could be 18, but this would hamper other circulation on the site (accessing parking, etc.) and extend out to the entrance. He said that the industry queue standard was 10 vehicles, and observations of the McDonald's drive-throughs on California St. and Western Avenue in Brighton have found no more than 4 cars in a queue. Since the queue is adjacent to the

building, all parking, including handicapped parking, is designed to be separated from the entrances to the restaurant by the queue and the travel lanes. Some members questioned the safety of this design for pedestrians, especially the handicapped and children. The Committee also found that many parking spaces, especially those on the south side of the building, were a considerable distance from an entrance. The petitioner pointed out that crosswalks were to be designated with stamped asphalt.

Finally, Committee members observed that there was a point of potential conflict near the front of the building, especially when and if the cross-connection with Avalon becomes operational, between entering and exiting traffic, vehicles backing out of parking spaces, and pedestrians entering or leaving the restaurant. Ald. Salvucci, in particular, observed that at busy hours some customers seeking parking might have to circle the building two or more times seeking a space, since spaces were so drastically reduced, adding to the conflict potential. He suggested the cross-connection be eliminated, and speculated that there was not enough proposed parking (4 spaces) for employees expected on the largest shift (12). Ald. Albright, Ald. Harney and Ald. Mansfield also expressed concerns about on-site congestion.

Other issues discussed included a concern about insufficient space for snow storage, with a suggestion that there be a requirement that snow be removed from the site so that it would not block parking spaces; the increased pollution and resource consumption from vehicles idling in a drive-through queue instead of being parked while customers were in the restaurant (the petitioner cited a study showing that there was less pollution generated from an idling vehicle than from one that is parked and subsequently restarted with a cold engine); light trespass on adjacent property; and the noise—especially at night—from the menu board adjacent to one of the Avalon buildings (the petitioner stated that at 90-120 ft. from the speaker, the noise level was in the moderate range, 51-54 decibels).

The Committee reviewed the portion of the request for free-standing signs. The “monument sign” at the street has been redesigned to provide better sight lines for traffic, and is internally lit. The current sign it would replace is wooden and externally lit. The Committee asked for a better comparison of the two signs. The proposed lighted directional signs have been reduced in size, but the menu board, which at 43.3 s.f. exceeds the 35 s.f. limit in the ordinance, has not been reduced because it is a “McDonald’s standard” not offered in custom sizes. Proposed roof signs have been eliminated.

The petitioner stated that the restaurant would operate from 6 AM to 1 AM daily. The Committee asked whether this proposal would require any approval from the Board of License Commissioners. Neither the petitioner nor the City staff present could answer that question.

Referring primarily to the traffic generation and circulation questions, Ald. Salvucci suggested that the City Traffic Engineer be invited to a subsequent working session and moved that the item be held. The motion was approved 5-0, Merrill not voting.

Respectfully submitted,

George E. Mansfield, Chairman