

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, AUGUST 17, 2004

Present: Ald. Mansfield (Chair), Merrill, Albright, Salvucci and Fischman

Absent: Ald. Harney, Samuelson and Vance

City staff: Ouida Young (Associate City Solicitor), Nancy Radzevich (Chief Planner), Alexandra Anath (Planner), and Shawna Sullivan (Committee Clerk)

#213-04 BROOKLINE STREET, LLC, c/o MARK KAPLAN, 99 BALDPATE HILL ROAD petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL nos. 504-80 & 504-80(2) by subdividing an existing 61,498 square-foot lot at 333 BROOKLINE STREET, Ward 8, into two lots in order to construct two single-family dwellings. Front Lot B, containing 26,226 sf., will be accessed through a permanent easement on the adjoining lot and rear Lot A, containing 32,224 sf., will be accessed from Brookline Street, with the remaining 3,049 sf. conveyed to the abutter at 363 Brookline Street. The land, also known as Sec 82, Blk 20, Lot 15, is located in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(b)(4), 30-15 Floor-area-ratio, 30-19(f)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2001. **(9/23/04)**

ACTION: **APPROVED 5-0**

NOTE: The petitioner is requesting amendments to #504-80 and 504-80(2) in order to subdivide the existing large lot into two lots to construct two single-family homes. The front lot will be accessed by a permanent easement on the adjoining lot and the rear lot will be accessed directly from Brookline Street. The petitioner will need to submit language to the Law Department for the easement and record the easement with the Middlesex Registry of deeds before receiving an occupancy permit.

This petition was heard on June 15, 2004 and previously discussed in working session on July 20, 2004. At that working session, the Land Use Committee requested the petitioner submit a landscape plan that was consistent with the revised site plan. On August 9, 2004, the petitioner submitted a consistent landscape plan. The landscape plan now includes additional planting to screen the new buildings. The petitioner is proposing 8' to 10' white pines for screening and the Director of Forestry has reviewed the plan and is generally pleased with the landscaping proposal. The Land Use Committee also requested that the petitioner reduce the amount of paving on the rear lot. The petitioner has complied with the request and increased the open space from 79.8% to 82.8%.

The Land Use Committee then reviewed the proposed conditions of the special permit. Ouida Young asked whether the Committee had considered allowing the petitioner an occupancy permit for one house when it was completed or if both houses must be completed before any occupancy permit may be granted. The petitioner's attorney stated that it would be desirable to have the flexibility if one house were completed before the other. The Committee agreed to a Board Order to allow occupancy permits separately.

Ald. Salvucci moved approval of the petition with the following findings: The proposed subdivision will not generate substantial traffic or otherwise have a negative impact on the neighborhood, the petition is in keeping with sections 23 and 24 of the City of Newton Zoning Ordinances, the site is appropriately landscaped, the lot is large enough to support two houses and provides another unit of housing. The motion was approved unanimously.

#235-04

JOHN D. FREEDMAN & LISA M. COHEN petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a detached garage in excess of 700 square feet and for a change of grade in excess of 3 feet at 144 BALDPATE HILL ROAD, Ward 8, NEWTON CENTRE, on land known as Sec 82, Blk 26, Lot 8, containing approx 25,910 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-5(b)(7), 30-5(b)(4), 30-15(m)(2) & (5) of the City of Newton Rev Zoning Ord, 2001. (9/13/04)

ACTION: **APPROVED 5-0**

NOTE:

The petitioners are requesting a special permit to construct a detached garage in excess of 700 square feet. The original request included a grade change in excess of 3' but the petitioners no longer require this relief as reported by the Chief Zoning Code Official. Ald. Fischman reported that Ald. Lipof spoke in favor of this petition and no one spoke against it at the public hearing on June 15, 2004.

The petitioner is proposing a 996 square foot, 3-car detached stone garage with a storage area. The proposed garage will also include a patio roof, with a partial earth covering at the rear of the patio and a below-grade hallway connecting the garage to the house. There is an existing attached two-car garage, which will be converted into a gym/mud room. There were a few issues raised at the working session following the public hearing on June 15, 2004. The site has two existing access points onto the lot from Baldpate Hill Road and the driveway opening is 16' wide at the curb cuts. The Committee requested that the petitioners widen the circular driveway in front of the house from 10' to 12' at the Planning Department's recommendation. The petitioners have submitted a revised site plan displaying a 12' wide driveway.

The Land Use Committee reviewed the elevations. The project is designed to be built into the contours of the land. The patio will have blue stone flooring and a 3½ ft. wall railing. The rear-covered portion will be built to match the existing

garrison colonial house. There will be a new brick walk from the patio to the back door. A new 5 ½ ft. stone veneer retaining wall will be located at the right side of the driveway. The drainage system has been designed to handle the increase in impervious surface on the site. The Engineering Department has reviewed the drainage calculations and the project has been properly designed for the 100-year storm event. In addition, the petitioners have submitted a proposed lighting plan, which shows no light trespass from the patio lights at the property lines.

The Committee had a lengthy discussion on the proposed landscaping for the site. The nearest house is about 200' from the garage. The petitioners have assured the abutters that the garage will be screened. Attorney Buchbinder stated that the petitioners have spoken with the immediate abutters and have agreed to work closely with them. The garage is 11 ½ ft. high and will be screened with trees. Ald. Fischman asked if there would be sufficient screening of the front of the stairway. The stairway is setback about 40' from the curb. There will be azaleas and rhododendrons along the front of the property line that will provide some screening.

Ald. Fischman moved approval of the petition with the following findings: the lot size is sufficient to support the proposed garage, landscaping will be improved, the lighting has no impact on abutters, provides additional space for storage instead of another automobile, the garage is in keeping with the character of the surrounding neighborhood and all storm run-off will be contained on site. The motion was approved unanimously.

#287-04

ADRIENNE BAKER & CHRISTOPHER P. BAKER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION OF A NON-CONFORMING STRUCTURE to extend the height on the portion of an existing single-family house from 33.1 feet to 40.7 feet, from 3.5 stories to 4 stories, at 340 CHESTNUT STREET, Ward 3, WEST NEWTON, on land known as Sec 32, Blk 36, Lot 3, containing approx 39,882 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a) and (b) of the City of Newton Rev Zoning Ord, 2001. **(10/11/04)**

ACTION: **APPROVED 4-0-1 (Mansfield abstaining)**

NOTE:

The petition is for an extension of height on part of an existing single-family home and to increase the number of stories from 3.5 to four stories. The proposal is to remove the interior stairs, tower, chimney and deck and replace with a larger structure. The Newton Historical Commission has waived the demo delay and approved the proposed project. Ald. Salvucci reported that no one spoke for or against the petition at the public hearing on July 13, 2004.

The petitioner has submitted a revised site plan, which includes improved landscape screening in response to the Planning Department's request for a better

mix of plantings along the north property line. There are also some additional site improvements including a new entrance, electronic security gates, and the replacement and addition of some pavement. Ald. Mansfield asked why the electric gates were necessary, as he feels that such gates create a sense of separation from the neighborhood and the exclusiveness of a private, gated community. He noted that when a previous Land Use Committee had objected to such an installation at a site on Beacon St., the petitioner had deleted the gate from the plans. Attorney Rosenberg explained that the petitioners are replacing an existing mechanical gate and the gate and perimeter fence meet the state's requirement for the fencing of residential pools. The site has an existing pool. The driveway, which runs from Chestnut St. to Bristol Rd., will be slightly widened throughout its length. The Acting City Engineer has reviewed the drainage calculations and the project has been properly designed for the 100-year storm event.

Ald. Salvucci moved approval of the project with the following findings: it will provide more space, it will not be substantially more detrimental to the neighborhood than the existing structure, the Newton Historical Commission has approved the façade, the project increases landscaping on the site, the drainage is improved, run-off is contained on site and the basement is considered a story due to the slope of the land. The Committee approved the project by a vote of four in favor and one abstention. Ald. Mansfield abstained due to his concern about the inclusion of electric gates.

#288-04

TRB & ASSOCIATES INC. c/o THOMAS BLAKELY/ERMINIO & CAROLINE DiDUCA petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two new buildings, each containing two attached dwelling units on land currently vacant located on the northwest side of WATERTOWN STREET, between Faxon Street and Pearl Street, Ward 1, NONANTUM, identified as Section 11, Block 10, Lot 2, containing approx 20,104 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15 Table 1, 30-9-(b)(5)a) &b), 30-19(m) of the City of Newton Rev Zoning Ord, 2001.(10/11/04)

ACTION: **APPROVED 5-0**

NOTE: The petitioners are requesting a special permit to build two new buildings each containing two attached dwelling units on a vacant lot adjacent to Stearns Park. Building A will be located in front of Building B. Ald. Merrill reported that no one spoke for or against the petition at the public hearing on July 13, 2004. Ald. Merrill also stated that two neighborhood meetings were held by the petitioners. The neighbors seem to be pleased with the project and are happy that there will no longer be an empty lot at this site that is not maintained.

The petitioners have moved the proposed front building 6.3' towards Watertown Street, requiring a setback waiver, and moved a parking stall to the western site of

he lot, as recommended by the Planning Department. This will place this building at a setback similar to other structures on Watertown St., and provide better screening for the parking. The petitioners have agreed to a condition to maintain the area below the retaining wall at the north end of the site adjacent to the park. The petitioners will also be making a cash contribution as required under the inclusionary zoning ordinance. The Acting City Engineer has reviewed the drainage calculations and the project has been designed for the 100-year storm event but would like the petitioners to perform additional soil testing within 20 feet of the catch basins. The petitioner's engineer assured the Committee that the results of such testing would not change the site plan in any significant way.

The Committee asked why the petitioners were not using Stearns Place, the existing private way entrance to the park to provide access for the driveway instead of creating a new curb cut on Watertown St. Several members felt that such a plan would provide a safer traffic flow. Attorney Rosenberg explained that a title search was done and he has shared the information with the Law Department. He found that Stearns Place is essentially a way open to the public, and so provides access not only to the park, but also to the townhouses on its eastern side. However, the City took the subject land when Stearns Park was created on the site of the former Stearns School, and a pedestrian access path was created on the western side of Stearns Place. The City then sold the subject land except for a 20-ft. wide strip including the access path. Since this strip provides access to public parkland, it is protected by Article 97 of the state constitution, and legislative approval is required to sell it or convert it to a different use. When the petitioners approached the Commissioner of Parks and Recreation regarding creating an easement over the 20-ft. strip to allow the new driveway to have access to Stearns Place, the Commissioner was not in favor, as it is parkland and the main pedestrian and handicap access to the park. A letter from Commissioner Towle was distributed to the Committee, and is attached to this report.

The Fire Department requested that the petitioners widen the proposed driveway to 16' and the petitioners have complied. The Committee asked why the Fire Department was requiring such a large driveway. Attorney Rosenberg responded that it is to allow for safe exiting and entering from the site. He suggested that the driveway opening remain 16' from the opening for one car length and then narrow to a 12' width. Ald. Salvucci made a motion to condition the special permit with this suggestion, which carried unanimously. The petitioner will also have to file for removal of one city tree in order to construct the driveway, which will be replaced with a red spire pear tree 20' to the West of the city tree, as recommended by the Planning Department.

The proposed buildings will be 2 ½ stories with wood clapboard siding and asphalt shingled roofs. The garages will face each other and additional parking will be located between the two buildings. Building A will face Watertown Street and Building B will have a park view. The petitioners have agreed to maintain

the strip owned by Parks and Recreation. The petitioners will be adding four heritage birch trees. Ald. Merrill and Salvucci disagreed with asking the petitioner to maintain city property. Attorney Rosenberg explained that the petitioners have agreed to the condition as the area is indistinguishable from the site and if not maintained may have a detrimental affect on the site's landscaping. It will also make a much nicer landscaped area for the entrance to the park. However, Attorney Rosenberg would like the condition to specify seeding, sowing, watering and mowing and not pest management, as the City uses an integrated pest management program, which would exclude pesticides and herbicides from the strip.

The petitioners have agreed to all of the conditions recommended by the Planning Department. Ald. Merrill moved approval of the petition with the following findings: it increases housing in the area, there will be a contribution to affordable housing, it will improve a site that has been under utilized and an eyesore, the project enhances the entrance to park, it provides a nicer view from the park, the facades are consistent with the neighborhood, the site will be landscaped and the city-owned land will be privately maintained. The motion was approved unanimously.

The meeting was adjourned at 10:45 PM.

Respectfully submitted

George E. Mansfield, Chairman