

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, SEPTEMBER 21, 2004

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

Also present: Ald. Danberg, Linsky, Baker, and Johnson

City staff: Ouida Young (Associate City Solicitor), Nancy Radzevich (Chief Planner), Alexandra Ananth (Senior Planner), Linda Finucane (Chief Committee Clerk), Lou Taverna (Utilities Director)

THE PUBLIC HEARING OPENED 7/13 AND CONTINUED ON 8/10, WAS HELD ON THE FOLLOWING ITEM:

#286-04 NEWTON HOUSING AUTHORITY/HABITAT FOR HUMANITY GREATER BOSTON, INC./NEWTON CONSERVATORS INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a rear lot subdivision in order to construct a two-family dwelling at 76 WEBSTER PARK, Ward 3, WEST NEWTON, on land known as Sec 33, Blk, 22, Lot 36 (a portion of), containing approx 10,053 sf of land in a district zoned MULTI RESIDENCE 1. Ref: 30-24- 30-23, 30-15(b)(1) & (4), 30-19(m) of the City of Newton Rev Zoning Ord, 2001. **(12/20/04)**

ACTION: HEARING CLOSED

THE FOLLOWING ITEMS WERE TAKEN UP IN A WORKING SESSION:

#371-04 PRESIDENT BAKER recommending the appointment of Ruthanne Fuller, 32 Suffolk Road, Chestnut Hill, to the Boston College Neighborhood Council, established by Condition #13 of Special Permit #101-03, to fill the Chestnut Hill Resident seat being vacated by Pat Otis, whose term expires December 31, 2005.

ACTION: APPROVED 8-0

NOTE: Ms. Fuller was present. She lived for eight years in the Brookline portion of Chestnut Hill, where she served on a town advisory finance committee, before moving eight years ago to the Newton side. Ms. Fuller holds an MBA from Harvard Business School and has a background in non-profit strategic planning. She will replace Pat Otis, who is stepping down after many years of community involvement, as the resident member from Chestnut Hill on the Boston College Neighborhood Council; she is also running for president of the Chestnut Hill Neighborhood Association, another seat being vacated by Ms. Otis. She feels she is filling rather big shoes and hopes Ms. Otis will remain active in an advisory capacity. Ald. Vance suggested that her neutrality is likely to affect a positive relationship with Boston College and moved approval, which carried unanimously.

Application for 2004 Auto License
#470-03 THE TRAVIS CORPORATION
 d/b/a THE CAR STORE
 19 Rolling Lane
 Chestnut Hill 02467 Class 2

ACTION: APPROVED 6-0-2 (Harney and Salvucci abstaining)

NOTE: The committee discussed this application on March 16th and July 20th. In March Licensee Marc Epstein was granted a temporary license through June 30th with the understanding that he work with the City Treasurer to resolve the over \$50,000 in past due excise taxes the Treasurer's records indicate he owes the city. Mr. Epstein contended that taxes are still being assessed for vehicles he no longer owns and plates he no longer possesses but cannot demonstrate that fact since records were destroyed in the fire at 200 Boylston Street, where his business was previously located. He currently runs his business out of his home. At that meeting there was a question of whether the city could hold his current corporation responsible for debts accrued under corporations now dissolved. Ultimately, Associate City Solicitor agreed it probably could not.

On July 20th Ms. Young went over the standards and requirements of MGL chapter 140 relative to what the licensing authority may consider in granting or revoking a license, e.g., whether an applicant is a proper person to engage in the business, and noted that a licensee must be given a due process hearing prior to revocation of a license. At that time, Ms. Young informed Mr. Epstein that that Registry of Motor Vehicles had an abatement form and the committee suggested Mr. Epstein file a form for each vehicle in contention and submit the paperwork to the Registry and the city. Mr. Epstein was asked to verify that he has a contract for warranty repairs as required by MGL chapter 90 7N1/4. He has done so.

Mr. Epstein and his attorney Mr. Dropkin were present this evening. Following the July meeting, Mr. Epstein filed forms as well as an affidavit with both the Registry and city to provide evidence that he no longer possesses the plates and vehicles in question. Previously unacceptable, the Registry now allows copies of bills of sale from auctions to be submitted as proof. Mr. Epstein has provided documentation for approximately 90% of the vehicles in question, some 200-210. The information is being reviewed by the Excise division in the Assessors' office. An application to reduce debt has been submitted to the Treasurer. There is a question of whether time has elapsed for collection of some of the taxes. In the end, the Registry will determine what if anything should be abated.

Ms. Young clarified the Registry's position with regard to 2nd class auto dealers operating as home businesses. The Registry will not issue dealer plates to a home business. Mr. Epstein has not and agreed he will not apply for dealer plates since he has no vehicles on site as most of his sales are done through the internet. The committee was inclined to extend this 2004 license to January 1, 2005, as renewal applications will be sent out in the next month and presumably Mr. Epstein will want a license for 2005. Ald. Fischman asked whether a payment on account might be made. Ms. Young said the last corporation had been dissolved in 2003 and there were legal

issues presented by this dissolution. Ald. Harney felt it was a serious issue for an officer of a corporation to dissolve it knowingly owing taxes. Ald. Vance, noting that if the city were to ever receive any payment Mr. Epstein needs to stay in business and the committee would be given an opportunity to revisit this license in a few months, moved approval. This motion carried 6-0-2, with Ald. Harney and Salvucci abstaining.

Application for 2004 Auto License
#472-03 VELOCITY MOTORS INC.
 14 Hawthorn Street
 Nonantum, 02458 Class 2

ACTION: APPROVED 5-0-3 (Harney, Mansfield, Salvucci) SUBJECT TO 2ND
 CALL

NOTE: This application and surety bond were received very late in the year. As of January 2004 there were no overdue taxes or zoning complaints on file. Located in a building with several other types of businesses, the license stipulates no outside storage or display. However, Ald. Salvucci said he's noticed several unregistered vehicles parked outside. His observation prompted the committee to ask that the Inspectional Services Department visit the site to determine if the vehicles are associated with this business. Ald. Merrill initially moved hold, but changed his motion to approval subject to second call, pending a report from the Inspectional Services Department.

#238-04 MARK WASHBURN & ROSARIA FERRANTE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two dwelling units, to be attached to an existing 2-family dwelling which will be converted to a single-family dwelling, for a total of three units, at 63-65 BROADWAY, Ward 2, NEWTONVILLE, on land known as Sec 23, Blk 6, Lot 19, containing approx 18,000 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5), 30-15, 30-19(m) of the City of Newton Rev Zoning Ord, 2001. **(10/11/04)**

ACTION: HELD 8-0

NOTE: The petitioners wish to convert an existing two-family dwelling into a single-family dwelling, demolishing the existing garage, breezeway, and rear porch, and attach two new units to the rear, for a total of three units. A special permit is sought to construct attached dwellings with 3 single-car attached garages, to waive side yard setback and lot coverage requirements, to locate parking within 20' of a boundary line, and to locate a driveway within 10' of a side or rear lot line. The public hearing was opened June 15 and continued to July 13, when it was closed. The committee was awaiting the Historical Commission's review of the existing house, an over-50-year-old faux brick structure built in 1953. On July 13 the petitioners' attorney G. Michael Peirce reported that the Commission had determined it was not historically significant.

At the hearings comments from people at 81 Prescott Street, 251 Linwood Avenue, 25 Churchill Street, and 17 Churchill Terrace included concerns about an additional unit exacerbating an existing sewer situation, the number of waivers required, the mass of the proposed structure, and the loss of existing open space on the subject lot.

Mr. Peirce pointed out that the 3000sf (attic space excluded) for each proposed unit included 300' of attached garage space. If the garages were detached the units would contain 2700sf, albeit making them larger than some, but smaller than others in the neighborhood. The long, thin lot dictates the dimensional waivers and site modifications. The proposed new construction is to the rear. There will be no change to the streetscape. The existing house has a west side setback of approximately 10' which will not change; the east side setback will be reduced from 44' to approximately 22'. Lot coverage will be approximately 5% more than 25% maximum. Ald. Johnson asked the petitioners to consider reducing the size of the units. The Planning Department was asked to provide information how many other houses in the immediate neighborhood could be converted to 3-families.

Mr. Peirce, addressing the sewer problem, said his engineer has spoken with the city. There is an 8" sewer line in Broadway with a capacity of 700,000 gallons per day. The city has no record of a problem in the area. The drainage for the project is designed for the 100-year storm event.

Ald. Johnson and Albright felt the hearing should be continued to afford other people the opportunity to speak. However, members of the committee said the process remained open to the public and the Utilities Department could respond to the sewer issue at the working session. Upon a motion by Ald. Salvucci, which motion carried 7-1, with Ald. Albright opposed, the hearing was closed on July 13th.

This evening Ms. Ananth reviewed the proposal and the Planning Department's working session memo with the committee. There was talk of the character of the neighborhood, which contains a mix of styles ranging from bungalows to Victorians, both single- and two-families, some of which provide moderately priced (for Newton) housing. The plans show a clapboard exterior with cedar shingles on the second story and a cross-gable roof. The Planning Department had suggested that dormers be added to break up the mass of the roof and that doors and porches might be alternately offset to break up the visual impact of the façade and garage doors.

Although the lot area per unit is not significantly larger than the neighborhood average, the proposed structure is two to three times larger than any other in the immediate area. The units will be double the average size of those in the neighborhood. There are three other lots in the immediate area that meet the minimum thresholds for lot area and frontage for attached dwellings by special permit. The size of the proposed 3-unit proposal versus the by-right two-family option was discussed. By-right a 7200sf two-family house, excluding attic space, and additional 700sf detached garage could be built, with an FAR of .45. The proposed three units contain 9,000sf, with an FAR of .51.

The existing driveway is 2' from the lot line and the proposed driveway maintains that setback; however, the petitioners propose to reduce the existing 35' curb cut to 14', which the Fire Department has approved. (The proposed driveway, 14' for approximately 27', has a bulge containing three surface parking spaces not visible from the street.) The Planning Department, and historically the Land Use Committee, prefers a 12' driveway for smaller projects. However, this philosophical impasse has not yet been resolved with the Fire Department. There was some

discussion about the proximity of the driveway to the abutting property, but it abuts the portion of that property on which there is a garage, and is located there now.

The landscaping plan includes six new trees in the front of the property. Per agreement with the abutters, a 6' solid wood fence is shown on three sides of the property. A row of arborvitae will be planted along the driveway. No existing trees will be removed from the site. The petitioners have agreed to install a sidewalk with curbing along the entire frontage.

Utilities Director Lou Taverna was present to respond to the claims about existing sewer problems on Broadway. Mr. Taverna said the pipes are adequate and affirmed there are no city records of any major sewer problems in the area, other than occasional root balls.

The committee discussed the mass of the proposed attached dwellings, whether an additional unit was appropriate to the site and, if so, what difference would reducing the units to 2400 or 2600sf have on the impact of the project, and would it address the concerns of the Planning Department, several Aldermen, and some neighbors (who submitted the attached petition). Several committee members noted that other petitions with similar setback waivers had been approved and had turned out well. Ald. Johnson disagreed, citing a project on Nevada Street. Others noted the advantage of the controls inherent in a special permit versus a by-right development.

Lawrence Hildebrand, one of the principals, addressed the committee. Initially, in spring of 2003, they had proposed four units. After meeting with the Planning Department they reduced the project to three units with integrated garages at the suggestion of the Planning Department. Messrs. Hildebrand and Peirce asked the committee for a sense of how it was leaning. The committee agreed that a minor change such as the addition of dormers v. the cross-gable roof would not require withdrawing the petition and resubmitting a new petition; however, several members including Merrill and Vance acknowledged fundamental concerns about the mass and the size of the units. Ald. Salvucci also noted his concern about the lack of setbacks on the driveway side.

To give the petitioners the opportunity to decide how they wish to proceed, Ald. Salvucci moved hold, which carried 8-0.

#238-04(2) AGREEMENT TO AN EXTENSION OF TIME in which to ACT on ROSARIA FERRANTE petition #238-04 for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two dwelling units, to be attached to an existing 2-family dwelling which will be converted to a single-family dwelling, for a total of three units, at 63-65 BROADWAY, Ward 2, NEWTONVILLE; said of EXTENSION OF TIME will run from 10/11/04 to 10/21/04.

ACTION: APPROVED AS AMENDED 8-0 (TO 11/4/04)

#236-04(2) AGREEMENT TO AN EXTENSION OF TIME in which to ACT on DRUKER MANAGEMENT CORPORATION/SCHRODER NEWTON LIMITED PARTNERSHIP petition #236-04 for a SPECIAL PERMIT/SITE PLAN APPROVAL to partially reconfigure the roof deck portion of a parking facility lot

by waiving certain dimensional requirements in order to add fifty additional parking spaces and provide valet parking at 283-291 CENTRE STREET, Ward 1, NEWTON CORNER; said of EXTENSION OF TIME will run from 10/11/04 to 10/21/04.

ACTION: APPROVED AS AMENDED 8-0 (TO 11/4/04)

#466-00(4) AGREEMENT TO AN EXTENSION OF TIME in which to ACT on NEIL DRUKER & JOANNE MACKINNON petition #266-00(3) to AMEND the site/landscaping plan approved in SPECIAL PERMIT/SITE PLAN APPROVAL #466-00(2), granted on May 7, 2000, for an accessory apartment in a detached structure at 145 HIGHLAND STREET, Ward 3, WEST NEWTON; said of EXTENSION OF TIME will run from 10/11/04 to 10/21/04.

ACTION: APPROVED AS AMENDED 8-0 (TO 11/4/04)

Respectfully submitted,

George E. Mansfield, Chairman