

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, OCTOBER 19, 2004

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

Absent: Ald. Samuelson

Also present: Ald. Linsky

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

REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE

#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: WITHDRAWAL WITHOUT PREJUDICE APPROVED 5-0 (Harney and Vance not voting)

NOTE: The petitioners wish to reconsider the proposed petition and submitted a letter requesting to withdraw it.

#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: APPROVED 7-0

HEARING SUMMARY:

The public hearing was opened on July 13th and continued to August 10th and September 21st pending Board of Aldermen action on docket item #286-03(2), a request to amend the original Community Preservation board order that authorized the expenditure of CPA funds to acquire this property and included also a condition specifying that two attached dwellings would be

added to the existing house. On September 7th the Board amended board order #286-03 to allow a two-unit detached dwelling instead. The special permit will create a rear lot on which to construct the detached dwelling(s). The Newton Housing Authority (NHA) will rehabilitate and own the existing house, which will remain in perpetuity a rental to those eligible in the 80% or less median income bracket. The proposed rear units will be built by Habitat for Humanity (Habitat) and sold to owner-occupants eligible in the 80% or less median income bracket, and subject to permanent deed restriction restricting ownership to the same.

Attorney Jeff Capp, representing Habitat, said there had been no significant changes to the plans since July 13th. Ald. Mansfield noted that at the committee's site visit on August 24th Planner Eric Jerman had pointed out 3 existing trees to be removed that had not been in the plan. Harvey Epstein, Special Projects Coordinator for the NHA, said that the petitioners had met twice with City Arborist Marc Welch since August 24th and had submitted to Mr. Welch and the Planning Department a revised a landscaping/tree plan that meets the requirements of the tree ordinance (including 6 new trees of a larger caliper than required).

Ald. Gentile had a number of questions concerning current and future ownership and control of the site. Attorney Alan Schlesinger, representing the NHA, explained that the site is currently owned by the Newton Conservators. When the terms of Community Preservation board order #286-03 are fulfilled (i.e., creation of three units of community housing on one-third of the parcel and the remaining two-thirds permanently restricted as open space), title will be conveyed to the city. Contingent on the granting of this special permit, the city will sell one lot to the NHA and the other to Habitat, with the balance incorporated into Dolan Pond Conservation Area. At the request of Aldermen Gentile and Mansfield, the Law Department agreed to provide to the Board copies of the Purchase & Sales agreement.

Attorney Schlesinger said that both projects on one lot became problematic in the course of trying to structure the financing and that was the reason for seeking the amendment to the original Community Preservation board order to allow detached units on a separate lot, with separate ownership. Ald. Vance asked why Habitat was involved, why not just the NHA? Mr. Schlesinger explained that the NHA can't convey units because it is subject to bidding laws. Habitat, which has been looking for some time to do a project in Newton, has the resources to construct at a very low cost, much less than the city, with donated materials and labor. In turn Habitat sells to low-income buyers, acting as financier, with 0% interest. Future owners can sell to whomever they want as long as the requirements of the deed restriction are met. Habitat retains right of first refusal. Usually, Habitat takes a silent second mortgage to prevent speculation because typically there is no deed restriction. However, in this case the deed restriction in perpetuity will supersede Habitat's second mortgage and is part of the Purchase & Sales Agreement. Habitat expects to sell the units for \$150,000 each, the build cost.

Alderman Linsky asked about the visual difference from the original plan. The architect went over the site plan, noting the massing is similar to the surrounding neighborhood. In response to questions about the reconfigured driveway, he explained it is now outside the wetland buffer zone. Future owners are prohibited from using the conservation area as their yard, no sheds, play structures, etc., can be sited on it. Ald. Mansfield asked why the parking wasn't behind the house.

Ted Kuklinsky from the Newton Conservators spoke. Mr. Kuklinsky said he was involved in this project from the beginning. The Conservators' goal was to preserve as much open space as possible. The two-thirds open space to one-third housing ratio was decided by the Community Preservation Committee, and the Conservators felt this was fair. Preserving a corridor adjacent to Dolan Pond was important and this new plan moves parking further from wetlands and hides the additional housing and parking from Webster Park. There was no other public comment.

The final issue was the City Engineer's memo, which the petitioners' engineer indicated he has responded to with a revised plan submitted to the Engineering Department.

Upon a motion by Ald. Salvucci, the Public Hearing was closed on September 21st at 9:55 PM.

WORKING SESSION:

This evening the Committee reviewed with Ms. Ananth the Planning Department's working session memo dated October 15 and the site plan and elevations. The existing parcel is a 49,605 sf lot. The petitioners propose to subdivide off 29,000 sf, which will be deeded to the Conservation Commission and incorporated into the existing Dolan Pond Conservation Area, and subdivide the remaining 20,000 sf into two residential lots. 3600 sf of conservation easements adjacent to the driveway over both lots will be demarcated by a fence. The petitioners require a special permit to use the rear lot line from the proposed front lot (Lot 1) to measure frontage for the proposed rear residential lot (Lot 2). The three dwellings will share a driveway. Ms. Ananth explained the only relief sought is for the rear lot. As proposed the project meets all dimensional requirements. The Chairman asked about the role of the Board of Survey. Ms. Young explained that the petitioners must submit an Approval Not Required (ANR) plan to divide the parcel, but because a portion of the parcel is registered land it is a longer process and the petitioners wanted to begin by obtaining the special permit. Lot 3 will be designated "no build." Lot 2, which has no frontage, will share by easement the driveway owned by Lot 1. Ms. Young said this is consistent with the Section 30-15(b)(4) that allows the Board of Aldermen to grant a special permit for a rear lot not having the required street frontage to be measured along the rear line of the lot in front of it. The proposed driveway is 12' wide. All parking spaces are exterior: two spaces for Lot 1 and four for Lot 2. The existing garage and storage shed on Lot 2 will be demolished. The Fire Department has reviewed and accepted the plans. The parking was not located behind the building on Lot 2 to reduce impervious surface on the site. At the suggestion of the Planning Department two parking spaces have been lengthened by 2' to allow for better turning.

The proposed detached structure is 2.5 stories on slab, with Hardi Plank siding. A sample of Hardi Plank was passed around at the July public hearing and the Committee asked for addresses where it had been used in Newton. (It was used on the Hamlet and at 85-87 Tolman Street.) Discussion ensued about the quality and aesthetics of the proposed siding. Historically, the Land Use Committee has preferred wood. Some members had reservations about setting a precedent by approving a synthetic material. However, Harvey Epstein, Special Projects Coordinator for the e Newton Housing Authority told the Committee that Hardi Plank has been on the market for over a decade; has been approved by the Historical Commission; has a 30-year guarantee; has

a 15-year guarantee for the color if pre-painted; and, is comparable to clapboard in terms of installation cost, but maintenance is more affordable. Ultimately, after acknowledging that they look at petitions on a case-by-case basis, the Committee decided in this instance it was an appropriate material, particularly given the site and the cost of maintenance to both the NHA and future homeowners.

City Engineer Lou Taverna said the revised plans submitted by the petitioners addressed any previous issues and noted the drainage was designed for the 100-year storm event.

Ald. Fischman on a recent site visit noticed a number of trees marked with ribbons and wanted to know what they meant. The petitioners have worked with City Arborist Marc Welch, who has reviewed and approved the tree removal plan, to minimize the number of trees removed. The plan calls for removing three trees, totaling 43 tree caliper inches, and replacing them with a total of 46 caliper inches. Additional landscaping is proposed to screen the new structure from the one visible abutting property. The proposed fence to demarcate the conservation easements, originally shown as a picket fence, has been changed to a 3' high wooden split rail fence.

Ms. Young addressed the request for a copy of the Purchase & Sales agreement. She apologized and said the Law Department did not have a complete copy, but explained the portion relevant to the permanent deed restriction was drafted by the Law Department and confirms the status of the three units; in perpetuity one will remain an affordable rental and two will remain affordable ownership units.

Ald. Salvucci moved approval, finding that the granting of the special permit will create three affordable units, one rental and two for home ownership; that it will maintain and replace trees; that the new rear lot will create no additional density or impact on surrounding properties; that it has no significant traffic impact on the neighborhood streets; that it will preserve the existing house; that it will secure a conservation easement on land abutting Dolan Pond; that the Conservation Commission has issued a negative determination of applicability for the project, with conditions for the construction phase; and, that the frontage requirement is impractical, yet the lot has sufficient depth to subdivide, and meets the dimensional requirements. The conditions include among the standard ones, the deed restriction, submittal of language for the driveway easement, and submittal of an ANR plan.

Ald. Salvucci's motion carried 7-0. The meeting was adjourned at approximately 8:55 PM.

Respectfully submitted,

George E. Mansfield, Chairman