

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 29, 2003

Members of Committee present: Ald. Basham, Chairman; Ald. Fischman, Linsky, Merrill, Salvucci, and Samuelson.

Members of Committee absent: Ald. Bryson, Lipsitt.

Other Aldermen present: Ald. Mansfield.

City officials present: Nancy Radzevich, Chief Planner; Alexandra Ananth, Planner; Linda Finucane, Chief Committee Clerk; Ouida Young, Associate City Solicitor.

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REQUEST FOR EXTENSION OF TIME

227-02(2) REQUEST FOR EXTENSION OF TIME IN WHICH TO EXERCISE SPECIAL PERMIT #227-02, granted on August 16, 2002, to MAYYIM HAYYIM LIVING WATERS COMMUNITY MIKVEH and TEMPLE REYIM for a Special Permit to Extend a Nonconforming Use and Site Plan Approval to use a portion of Temple Reyim's parking lot for the Mayyim Hayyim Community Mikveh at 1838 Washington Street, Ward 4.

ACTION: Extension of Time to August 16, 2004 approved 6-0.

NOTE: By letter dated July 8, 2003, Attorney Alan Schlesinger notified the Committee that the project has been redesigned in accordance with the consistency ruling of ISD in April 2003, and the redesign process has created some delay. The petitioners want to break ground before early fall 2003, but are concerned that they may not have undertaken substantial construction by August 16, when the Special Permit would otherwise expire. Thus the petitioners seek a one year extension as is permitted by statute and ordinance.

SPECIAL PERMIT/SITE PLAN APPROVAL PETITIONS

205-03 LAWRENCE T. PERERA, TRUSTEE OF THE JOHN CAPOBIANCO TRUST, petition for SPECIAL PERMIT and SITE PLAN APPROVAL for waiver of the number of parking spaces required in conversion of a building formerly used for warehouse/office space to office use at 25-27 CHRISTINA STREET, Ward 8, on land known as Section 83, Block 31, Lot 25, measuring approximately 11,700 sf, in a district zoned Mixed Use 1.

ACTION: Approved 6-0.

NOTE: The Land Use Committee previously recommended approval of this petition by a vote of 3-2-2. The Board, after debate, recommitted the item on 7/14/03. In this working session, the Committee addressed the several issues that remained points of controversy when

the item was voted out of Committee the first time as well as others that had been raised by members of the Board.

The Planning Department reported that the final revised site plan shows granite curbing the entire length of the Christina Street frontage, as well as a landscaped berm between the sidewalk and parking area. The petitioners will also paint a "fog line" along Christina 12" out from the curb. The final number of spaces to be waived is 23.

The Committee reviewed a July 22 letter from attorney Diane Tillotson in which she provided responses to several questions raised by Ald. Coletti. Ms. Tillotson, who was present, explained that when the Bullfinch building next door was renovated, Bullfinch repaved the entire parking lot. Bullfinch had received an Order of Conditions from the Conservation Commission, and that Order required the installation of appropriate runoff and drainage control measures as well as the installation of water and oil separators. This petition will be subject to the same order. A certificate of compliance and as-built measured drawings are on file. Ms. Tillotson also stated that the petitioners are required not to plow snow into the Charles River. Ald. Coletti had asked for a condition that prohibits the future use of the building for truck storage. While some members of the Committee thought that such a condition would be superfluous where the building is being converted entirely to office use, the petitioner agreed to it.

Finally, Ald. Fischman reported that he had had further discussions with the Associate City Engineer about the possible relocation of one or more utility poles, and Mr. Daghlian had written a memo dated July 29 indicating that he sees no conflict between motorists and pedestrians at this location. Ald. Fischman asked the Planning Department to follow up with the Police Department to obtain an accident report for the pole at the curve of Christina.

Ald. Fischman moved approval, adopting the previously-drafted Board Order with the additional finding that the petitioner has added mitigations to protect pedestrian movement, increased the landscaping and appearances of the site, and decreased the impervious surface. The Committee supported the motion 6-0.

261-03 TEMPLE REYIM petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL for an addition of approximately 1900 sf at 1850 WASHINGTON STREET, Ward 4, on land known as Section 43, Block 44, Lot 7, measuring approximately 170,155 sf, in a district zoned SR 1.

ACTION: Approved 6-0.

NOTE: The petitioner wishes to undertake two small additions to the existing building. The addition at the front will measure 1900 sf and will be used for a rabbi's office and general purpose meeting room. The Temple intends to create a new main entrance off the parking lot on the east side of the building. The structure is nonconforming in several of its setbacks, and

although these additions will not encroach farther into the setbacks than the existing structure, they nevertheless constitute extensions of the nonconforming structure. At the public hearing on July 15, based in part on testimony of the abutter at 151 Stanton Avenue, the Committee asked the petitioner to prepare a simple form of construction management plan.

At the working session, the Committee reviewed the site plan and noted that the parking requirement for the building is actually being reduced by six spaces because the current renovations include a reduction in the number of seats in the sanctuary. Therefore no parking waivers are required. The Planning Department reported that it had asked for additional plantings at the front of the building and is satisfied with the plan submitted.

The Committee reviewed the proposed construction management plan and discussed in detail the relationship between the construction hours proposed and what is permitted by ordinance. The plan will be modified to permit outdoor construction activity outside the 7 AM to 4 PM hours in the plan, with the permission of ISD, consistent with the noise restrictions and other applicable requirements of the ordinance.

Ald. Samuelson moved approval, finding that the proposed nonconforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure because the additions will not encroach farther into the setbacks and generally are part of renovations that will lessen parking demand. The existing parking is not impaired by the additions and there will be additional landscaping. The construction management plan attempts to address concerns of the nearest neighbors. The Committee supported the motion 6-0.

260-03 YURI ISMAYLOV/ROBERTO GALLENELLI REALTY/G&C REALTY ASSOCIATES petition to REPLACE ONE NONCONFORMING USE WITH ANOTHER NONCONFORMING USE to allow a hair salon in space previously occupied by a florist at 285 ELLIOT STREET, Ward 5, on land known as Section 51, Block 16, Lot 11, measuring approximately 8,562 sf, in a district zoned MR 2.

ACTION: Approved 6-0.

NOTE: The petitioner wishes to locate a new hair salon in space previously occupied by a florist in a 1903 business block in Upper Falls. He requires a Special Permit because the commercial uses in the storefronts on the first floor of this building are legally nonconforming, so that his petition technically is a request to replace one nonconforming use with another nonconforming use. The space measures 517 square feet and will have three hairdresser work stations. The petitioner does not require a parking waiver because the number of required spaces for this business (3) is the same as the prior use. However, because several businesses and the residents of the building share use of 18 parking spaces at the rear, the Committee asked, at the public hearing on July 15, for additional information on how the parking is distributed among the businesses and on whether there is other parking in the area. There was no public testimony, but

the Committee later received a letter from Paul O'Shaughnessy of 51 Pettee Street in support of the petition.

At the working session, the Land Use Committee reviewed the petitioner's survey of parking activity at various times during the period 7/1/03 through 7/23/03. In addition to the 18 spaces at the rear, there are five on-street parking spaces in the front of the building. Mr. Ismaylov showed that, in general, there are open spaces at any hour of the days when the salon would be open. The Planning Department agreed with these results, saying that the rear is 50% empty most of the time. In addition, Mr. Ismaylov has discussed the possibility of renting space at the church across the street for his employees, and that option appears viable. Ald. Merrill said that he has visited this site many times, and he sees the parking analysis as credible. In his view, this is an ideal location for the hair salon use.

Based on the petitioner's proposed arrangement of the interior space, he anticipates no more than 6 people on the premises. He agreed to a condition to limit the number of employees to three at any time. The Committee reviewed the proposed hours of operation and decided not to restrict them, based on the availability of parking and the unobtrusive nature of the use.

Ald. Samuelson moved approval, finding that the proposed nonconforming use will not be substantially more detrimental to the neighborhood than the existing (previous) nonconforming use because it will not be more intensive. The hairdresser use is generally a small retail business that will serve a regular or walk-in clientele. It will provide a service to the neighborhood and keep the commercial block viable. The Committee supported the motion 6-0.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman