

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, SEPTEMBER 23, 2003

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

Other Aldermen present: Ald. Mansfield, Sangiolo.

City officials present: Nancy Radzevich, Chief Planner; Eric Jerman, Planner; Linda Finucane, Chief Committee Clerk; Ouida Young, Associate City Solicitor; Mark Gilroy, Commissioner of Inspectional Services; and John Daghlian, Acting City Engineer.

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SPECIAL PERMIT/SITE PLAN APPROVAL PETITIONS

130-03 INGA ORATOVSKY petition for SPECIAL PERMIT and SITE PLAN APPROVAL to subdivide approximately 32,850 sf of land by measuring the frontage of the rear lot along the rear lot line of the front lot for purposes of constructing two single-family dwellings with a shared driveway at 15 WILLISTON ROAD, Ward 4, on land known as Section 43, Block 24, Lot 12, in a district zoned SR 3.

ACTION: Denied 4-2-2 (Ald. Linsky, Lipsitt, Merrill and Bryson voting in favor of denial; Ald. Samuelson and Salvucci voting against denial; Ald. Basham and Fischman abstaining).

NOTE: The Committee voted 8-0 to go into executive session to discuss a matter of pending litigation concerning the subject site before beginning its deliberations.

The petitioner proposes the division of an existing lot measuring 32,850 sf into two new lots. The lot fronting on Williston Road would measure 11, 593 sf, while the lot behind it would measure 21,257 sf. The new rear lot would have approximately 64' of actual street frontage. The petitioners require a special permit to create a rear lot and for the shared driveway arrangement. At the public hearing on April 14, 2003, the Committee heard from numerous neighbors and abutters who expressed opposition to this petition and asked the Committee to consider, in particular, the appropriateness of the site for two dwellings, loss of mature vegetation impacting abutting properties, negative impacts on the drainage, and the fate of a certain triangle of land that is technically part of the street right of way. This triangle has been landscaped and maintained for years by an abutter. Under the petitioner's proposal, the shared driveway would bisect the triangle. The neighbors also submitted a petition in opposition to the proposal.

The Committee first discussed this petition on June 24, 2003. The Committee reviewed the site plan and noted that the existing lot is oddly configured, with multiple abutters. It is also generally at a lower elevation than its surrounding neighbors. The average lot size in the area is 13,000 sf including the present lot at 15 Williston and 11,900 sf without it. The surrounding lots include 16 single family dwellings and one multi family dwelling. The proposed new dwellings at 3200 and 3800 sf would be larger than all existing nearby residences, which range from 1400 sf to 3168 sf. The Historical Commission has found the existing dwelling not preferably preserved. Ald. Merrill, in particular, expressed concern about the size and architectural style of the proposed dwellings in relation to the surrounding houses.

The Committee asked the petitioner to consider alternative driveway locations that would preserve the so-called triangle. It held the item pending receipt of additional information from the petitioner concerning the existing vegetation to remain or be removed, modifications to the site plan showing reductions in proposed impervious surfaces, possible modifications to the location of the driveway, and receipt of perspectives on the proposed new dwellings from surrounding properties. There was also a question as to whether the proposed drainage plan would result in each of the new lots containing its own runoff. Ald. Samuelson asked the petitioner to consider how it might assist the City in adding sidewalks in the area.

At this working session, the Committee reviewed the petitioner's responses to its several remaining concerns. The Committee reviewed a revised site plan showing relocation of the driveway 15' easterly. This relocation minimizes, but does not remove entirely, the impact on the triangle. Mr. Daghlian told the Committee that he would not want to see the driveway moved any farther because it would compromise the 90 degree access to the street and conflict with the location of an existing fire hydrant. He noted that the petitioner has agreed to install Cape Cod berms on the westerly driveway side, which will direct the storm drainage into the catch basins, and he confirmed that each lot will contain its own runoff to the 100 year storm standard. The Committee noted that revised site plan shows a reduction in impervious surfaces and a re-configuration of the garage associated with the front house. This adjustment results in the front house being moved 11.5' closer to the easterly side lot line at the closest point.

The Committee also reviewed the vegetation plan provided by the petitioner. Several members expressed concern that the proposed new vegetation appears inadequate, and the petitioner agreed to a condition requiring that it will improve the vegetation, with involvement of the abutters, to the Planning Department's satisfaction. In response to Ald. Samuelson's concern, the petitioner agreed to install a sidewalk, at its own expense, along its own frontage and the full frontage of the triangle to the property line according to city standards. Finally, the Committee reviewed the perspective drawings showing that the average distance between the existing houses is 47.2 feet and that the new rear dwelling will sit 17.44' lower than 324 Central and 11.42' lower than 7 Williston, so that the view from the first floor of each of those locations will be at the room level of the new dwelling. The petitioner agreed to a condition requiring earth-toned roofing materials to minimize impacts. There were differing opinions as to whether the

lower siting of the rear structure created greater or lesser impact on its neighbors than a level site would produce.

At the conclusion of this discussion, Ald. Bryson moved denial of the petition. She read into the record the statement of opposition adopted by signers of a petition including all of the abutters and many surrounding neighbors. The essence of their opposition is the construction of a second dwelling, even though they recognize that a new, much larger dwelling can be constructed as of right. She pointed to the unusual configuration of the lot, creating direct impacts on many other property owners. She added that she was not comfortable with the drainage and its potential impact on vegetation, and she cited the inadequacy of the landscaping. Ald. Merrill reiterated his opposition based on the size and location of the proposed new dwellings and their incompatibility with the surrounding structures. Ald. Lipsitt described the recent hearing on a pending docket item that would remove the rear lot subdivision provisions from our ordinances in the single family zoning district. She observed that while there may be a few situations where rear lot subdivisions remain desirable, she sees them as past the point of acceptability in the community as a whole and on this site in particular. She pointed to the inadequate frontage on the way and the fact that accessing the site means going through the extended part of the public way used as communal space. In her view, the only public benefit is the sidewalk. She also said this proposal compares unfavorably to one where there is a regular-shaped lot. This is more like a development of the interior of a full block. Ald. Basham said she intended to abstain, but added that the configuration of the lot was of particular concern to her, as well.

Ald. Samuelson said she would not support denial, noting that every neighborhood feels impacted by development but the project itself will create far less impact on the neighborhood than a 6,000 sf as of right house would. Ald. Salvucci agreed that avoidance of the construction of a monster house is desirable. Ald. Fischman said he is leaning toward support, but remains concerned about the landscaping plan and the lack of frontage. Ald. Linsky said the access is his chief concern, and he does not see sufficient public benefit to support the petition. The vote of the Committee was 4-2-2.

207-03 OTIS DEVELOPMENT LLC/FIRST CHURCH OF CHRIST SCIENTIST,
petition to change from SR2 to MR2 zoning on land known as Section 24, Block 17, Lot 3 at 391
Walnut Street, Ward 2.

ACTION: Held without discussion 8-0.

207-03(2) OTIS DEVELOPMENT LLC/FIRST CHURCH OF CHRIST SCIENTIST,
petition for SPECIAL PERMIT TO EXTEND NONCOMFORMING USE AND STRUCTURE
and SITE PLAN APPROVAL to convert an existing 3-story church to a multi-family dwelling
with 12 units at 391 WALNUT STREET, Ward 2, on approximately 40,509 sf of land known as
Section 24, Block 17, Lot 3, in a district zoned SR2 and proposed to be zoned MR 2.

ACTION: Held without discussion; extension of time for Board action through December 31, 2003 approved 8-0.

259-03 GEORGE BROWN petition for SPECIAL PERMIT and SITE PLAN APPROVAL to alter the grade by more than three feet and add fill for purposes of constructing stone walls and terraced flat areas at 104 ATWOOD AVENUE, Ward 2, on land known as Section 22, Block 21, Lot 64, measuring approximately 16,166 sf, in a district zoned MR1.

ACTION: Approved 8-0.

NOTE: The petitioner seeks approval of as-built plans showing the addition of terraced flat areas and stone walls. He requires a Special Permit and Site Plan Approval because his plans involve altering the grade by more than three feet. At the public hearing on July 15, 2003, the Committee learned that the alterations were constructed nearly two years ago by a landscape company without knowledge of the special permit requirement. The Committee asked for additional review by the Engineering Department to ensure that the drainage system will contain all runoff onsite associated with the new impervious surfaces to the 100 year storm standard and to ensure that the wall construction meets acceptable standards.

At the working session, the Committee reviewed the site plan and assessed the areas impacted by the grade alteration. The Committee noted a letter from G. Michael Peirce, counsel to the petitioner, stating that in the opinion of the petitioner's consulting engineer, the addition of 800 sf of impervious surface at the tops of the retaining walls and a stairway is negligible. John Daghlian reported orally that he had visited the site several times, including during the most recent downpour, and he observed no runoff onto the neighboring properties on either side. The site is stabilized with no siltation or rivulets. He has assessed the drainage system and calculations and concluded that runoff is contained to the 100 year storm standard. The walls, which range in height from 5' to 16", are unmortared and functioning properly. Mr. Jerman reported that the petitioner has provided a landscape plan, acceptable to the Planning Department, which shows plantings already in place.

Ald. Linsky moved approval, finding that the public convenience and welfare will be served by improving the control of runoff from the site and that the increased impervious surfaces serve to maintain runoff on the property. The Committee also found that the terraced areas will increase usable space and make the property more usable on a property with topographical features similar to others in the neighborhood. The Committee supported the motion 8-0.

The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman