

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, FEBRUARY 5, 2002

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

Member of Committee absent: Ald. Merrill.

Other Aldermen present: Ald. Mansfield, Yates.

City officials present: Ouida Young, Associate City Solicitor; Nancy Radzevich, Chief Planner/Land Use Coordinator; Tom Daley, City Engineer.

* * * * *

REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE

354-01 NORTH SHORE CONSTRUCTION & DEVELOPMENT INC./ROBERT C. MAC DONALD/GLORIA SIMMONS ET AL., petition for SPECIAL PERMIT and SITE PLAN APPROVAL to construct one three-unit attached dwelling building and one five-unit attached dwelling building, with garage parking, for a total of eight units, including waivers of requirements for frontage, location of driveways within 10' of side or rear lot line, location of driveways partially off premises to be served, dimensional requirements for two parking stalls, and landscape buffers and lighting for a parking facility, all at 31, 33-33A COURT STREET, Ward 2, on approximately 63,823 sf of land in a district zoned MR2.

ACTION: Withdrawal without prejudice approved 7-0.

NOTE: The Committee received a letter from counsel for the petitioners, Jason Rosenberg, indicating the petitioners' intention to revise their plans and refile.

SPECIAL PERMIT and SITE PLAN APPROVAL PETITIONS

429-01 ANASTASIA LESHINSKY and VLADIMI TRAININ petition for SPECIAL PERMIT and SITE PLAN APPROVAL to divide an existing 23,580 sf lot into two lots by measuring the frontage of the rear lot along the lot line of the front lot, for purposes of constructing a new two-family dwelling on the new lot, with waivers of the requirements for the build factor, two-way driveway width, and parking within 5' of a street line for one space on Lot 1, all at 15 THURSTON ROAD, Ward 5, on approximately 23,580 sf of land known as Section 51, Block 15, Lot 27, in a district zoned MR1.

ACTION: Held 6-1 (Ald. Salvucci voting in the negative).

NOTE: Because this item was held, a complete report on the petition and the Committee's deliberations will be reserved until the Committee takes final action. Two aspects of the

Committee's work to date bear noting. After reviewing the site plan, the Committee voted to deny the special permit for a parking space within five feet of a street line. Counsel for the petitioner stated at the public hearing that this component was intended to be a convenience for the occupants of the front house, but could be separated from the other special permit requests associated with the rear lot subdivision. Ald. Lipsitt moved denial, finding that the proposed benefit of this use is not balanced by the negative aspects of a second curb cut and additional paving on the site, even though it might reduce some parking on the street. The Committee supported denial 6-1, with Ald. Salvucci voting in the negative.

The Committee held the other special permit requests after its further review of the site plan revealed a number of areas for potential improvement. The petitioner asked for the opportunity to address the Committee's concerns in a revised site plan. The Committee supported Ald. Samuelson's motion to hold 6-1.

428-01(2) 100 WELLS AVENUE, INC., AS TRUSTEE OF 100 WELLS REALTY TRUST requesting amendment to the title restriction affecting land and structures at 100 WELLS AVENUE, Ward 8, in conjunction with a special permit application for an additional 506 sf of building space.

ACTION: Approved 6-0-1 (Ald. Linsky abstaining).

428-01 100 WELLS AVENUE, INC., AS TRUSTEE OF 100 WELLS REALTY TRUST petition for SITE PLAN APPROVAL pursuant to Section 30-12(g) to add 506 sf to an existing building by means of enclosing a loading area, which area will be used for office space and utilities, at 100 WELLS AVENUE, Ward 8, on approximately 84,942 sf of land known as Section 84, Block 34A, Lot 7, in a district zoned Limited Manufacturing.

ACTION: Approved 6-0-1 (Ald. Linsky abstaining).

NOTE: The Committee discussed items 428-01 and 428-01(2) together. Petition 428-01 was the subject of a public hearing on January 15, 2002. The petitioner proposes "filling in" a small area of an existing building that has been used for a loading dock. The petitioner requires a site plan approval (not a special permit) because this is the first addition under 2,000 sf to an existing building with 20,000 sf or more in gross floor area. In converting this 506 sf area to office use, the petitioner will create a new outdoor loading dock in an adjacent area not used for circulation in the parking lot, which ISD has determined does not require a special permit for off-street loading. The addition of office space creates an additional parking requirement of four spaces, which will be installed at the ends of existing parking aisles. The petitioners will restrict movement at the ends of these aisles by installing new planters. There was no public testimony at the public hearing.

Because the subject site is located in Wells Avenue office park, the petitioner also seeks relief from certain deed restrictions imposed when the park was created in 1969. Specifically, the petitioner seeks to: (1) amend limitations on square footage of office space above 600,000 sf to allow the 506 sf of office space to be created; (2) increase the FAR for both the whole park and the site, which will increase from .246 to .253; and (3) increase the minimum open space limitation applicable to the entire park to allow four new parking spaces (even though no new impervious surface will be created). This request did not require a public hearing.

In the working session, Ouida Young reviewed the history of Wells Avenue and a memorandum dated February 1, 2002 to the Committee in which she explained the deed restrictions. She said that since the deed restrictions were imposed in 1969, the Board has modified those restrictions on approximately eight occasions. In addition, it is likely that some owners have undertaken changes not otherwise requiring a special permit without seeking changes in the deed restrictions, so there is no accurate record at present of, for example, the actual square footage of office space in use. Because it is almost impossible to determine the current "baseline," the Law Department advised the petitioner in this instance to apply for changes in the deed restrictions as to both the site and the park overall.

The Committee reviewed the site plan and each of the specific requests for changes in the deed restrictions. The Committee confirmed that the petitioner plans to construct the new walls of brick rather than concrete block, the planters will be subject to the approval of the Planning Department, the plantings will be of sufficient height to make them visible from cars, and both the planters and the planting material will be maintained.

Ald. Fischman moved approval of both the site plan approval and the changes in the deed restrictions, finding that the offstreet loading is incidental to servicing the building, screening is well accommodated, drainage will be improved with additional measures to deter runoff and capture pollutants in the parking area, and there is sufficient parking to meet identified needs on the site. Ald. Linsky said he would abstain because he thinks it is the petitioner's responsibility to establish the new baseline for the entire park before we consider altering the restrictions.

252-01(3) PATRICK and AUDREY L. NICOLAS & EMERALD DEVELOPMENT petition for SPECIAL PERMIT and SITE PLAN APPROVAL to subdivide Lot 2 and create a new Lot 2A by measuring the frontage along the rear line of Lot 2, with waiver of the build factor and driveway location requirements, at 153 WEBSTER STREET, Ward 3, on approximately 30,424 sf of land known as Section 33, Block 2, Lot 2 in a district zoned MR 1.

ACTION: Approved 4-1-2 (Ald. Basham, Bryson, Fischman and Salvucci voting in the affirmative; Ald. Linsky voting in the negative; Ald. Lipsitt and Samuelson abstaining.)

NOTE: The petitioners propose the subdivision of a lot measuring more than 30,000 sf for purposes of constructing a new two-family dwelling on the new rear lot. The new rear lot will

measure approximately 17,105 sf and the front lot will have 13,319 sf. The minimum lot requirement in the MR1 district is 10,000 sf. The rear lot is designed with 20' of frontage on Webster Street.

In addition to needing a special permit for the rear lot subdivision, the petitioners seek waivers of the build factor requirement and of the requirement that each lot be served by its own driveway. The Planning Department has speculated that the proposed rear lot exceeds the build factor because even though the usable lot is both large and quite regular in shape, it has "tails" off of both the rear and the front. If approved, a common driveway over the rear lot's front "tail" will be used to access both lots. The existing historic house on the front lot, currently a legal two-family, will be restored as a single family with a second unit added onto the rear of it. The Historical Commission has approved the addition and the plans for the new rear structure.

The Committee held a public hearing on this petition on January 15, 2002. At that hearing, Terry Morris, representing the petitioners, explained that this petition is almost identical to a petition considered by the 2000-2001 Board, which was withdrawn without prejudice before final action by the Board. The sewer line in the driveway has been moved farther away from the neighboring property, and a fence that was offered to the left-side abutters is now shown in the plans. Mr. Morris stated that, in the alternative, the petitioners had considered but rejected an attached dwelling project with three units attached to the original house. Ald. Lipsitt asked the petitioners for a schematic of a by-right two family dwelling on the site, which was later provided.

In response to anticipated concerns about future development in the area, Mr. Morris stated that there are only two other lots that are deep enough for a rear lot subdivision, and none of the lots have the minimum 120' of frontage. He noted that each of the new lots will have 60% open space and the site will have spaces for twelve cars, including one garage space for each unit. The density of these units compares favorably with the area. The Iodice project has 3800 sf/unit, and the twelve lots along Webster Street have an average of 6800sf/unit. This project will have 7,000 sf/unit.

At the public hearing, seven residents of the area testified against the petition. They raised concerns about recent development in the area and the impacts of increased density. In their view, the character of the neighborhood will be compromised if the petition is approved.

At its working session, the Committee reviewed the public hearing proceedings, the site and landscaping plans, and the elevations. Mr. Daley reported that all engineering issues on the site have been addressed to his satisfaction. During the Committee's review of the landscape plan, Mr. Morris stated that the petitioner is willing to extend the proposed fence or add landscaping along the left side of the site to meet Mr. Bressler's screening concerns. In response to a question from Ald. Samuelson, Mr. Morris stated that the proposed new two-family in the rear will be 4800 sf including the garage, and the structure on the front lot, including the existing

house, will be 5,175 sf. The Committee reviewed the parking arrangements on the site and discussed whether it would be preferable to have only the required number of spaces (8 instead of 12) and avoid some of the pavement. Ultimately there was no consensus on this question.

Finally, the Committee considered a letter from Mr. Morris dated February 5, 2002, in which Mr. Morris reported to the Committee that although the petitioners much prefer their special permit plans, they have also developed a preliminary design for an eight-unit “comprehensive permit” project that would produce more affordable housing. Mr. Morris stated that Emerald Development has made a firm commitment to purchase the Nicolas property even if the special permit does not pass, and the petitioners are trying to be responsive to concerns raised during discussions of the earlier petition while protecting their financial interests. In response to a question from Ald. Mansfield, Mr. Morris stated that although Emerald does not have financing commitment for the eight-unit project, he has discussed such a project preliminarily with the banks and is confident that financing would be available. The Chairman explained to the Committee that once she learned of the petitioners’ alternative plans, she had encouraged Mr. Morris to provide this information in a letter so that the record will include all of the information that Board members may wish to take into consideration.

Ald. Salvucci moved approval of all of the special permit requests and the site plan approval, adopting in substance the findings stated in the previous draft Board Order. The Committee agreed to adopt the previously-stated conditions of approval with modifications to reflect new plans.

Ald. Lipsitt said she intended to abstain. Although she supported the earlier petition, she has become increasingly alarmed about the waiver of the build factor on rear lots and wants some time to work through her concerns. Ald. Linsky said he intended to vote in the negative. He acknowledged that the citizens who oppose petitions like this do not see how much care goes into the Committee’s decision[-making process. Nevertheless, because the citizenry doesn’t want it, he will not support it. Ald. Samuelson said she would abstain, but stated that she prefers the special permit project. Although affordable housing is a good goal, the impact on the neighborhood would be much greater and not preferable. She remains concerned about structures built to the maximum size.

Ald. Fischman said he supports the project, in part because he is impressed by the size of the site. The petitioner has made significant efforts to satisfy the concerns of the immediate abutters with extensive landscaping and screening. Considering these factors, he is not bothered by the size of the buildings. Ald. Basham agreed, saying that she intended to support the petition for the same reasons she had supported the earlier petition. As long as our ordinances give us the discretion to consider applications for rear lot subdivisions and waivers of the build factor, we owe it to petitioners to consider such requests fairly. In her view, the requests in this case are extremely modest in light of the large size of the site. She urged those who are categorically

opposed to rear lot subdivisions or build factor waivers to propose ordinance amendments that would remove those options. The Committee supported the motion 4-1-2.

APPLICATIONS FOR AUTOMOBILE DEALER LICENSES

NOTE: The Committee received reports on each of the following applications from Chief Committee Clerk Linda Finucane. Except where noted, the Committee found that the applicant has no outstanding complaints with ISD or the Police Department and is not delinquent in its tax obligations to the City. Accordingly, the Committee found that in each case the applicant and the site are suitable.

353-01 CITY OF NEWTON
1000 Commonwealth Avenue
Class 2

ACTION: Approved 7-0.

352-01 WEST STREET USED AUTO PARTS CO., INC.
77 West Street
Class 3

ACTION: No action necessary 7-0.

NOTE: No license application was filed for this location. The Committee noted that Ald. Lennon has been working on resolving reports of purported illegal activity on the site.

351-01 TODAY'S SERVICES, INC.
1362 Washington Street
Classes 2 and 3

ACTION: Held 5-2 (Ald. Salvucci and Bryson voting in the negative).

NOTE: The item was held pending review of conditions in the special permit governing this site.

350-01 SCHIAVONE BROTHERS, INC.
16-24 Maguire Court
Class 3

ACTION: Approved 7-0.

349-01 ECHO BRIDGE SALVAGE, INC.

16-24 MAGUIRE COURT
Class 3

ACTION: Approved 7-0.

348-01 CYPRESS AUTOMART, INC.
1235 Washington Street
Class 2

ACTION: Held 7-0.

NOTE: This site is subject to a special permit. Ald. Salvucci said he thinks that some of the conditions of the special permit have not been met. The petitioner's counsel, Roger Lipson, stated that he had reviewed the special permit decision and believes his client is in compliance. The site plan was not available. The Committee agreed to hold the item to allow Ald. Salvucci to investigate his concerns.

347-01 VAN AUTO SALES, INC.
50 Tower Road
Class 2

ACTION: Approved 7-0.

346-01 ROBERT'S TOWING
926R Boylston Street
Class 2

ACTION: Approved 7-0.

345-01 R.S. SERVICE, INC.
361 Washington Street
Class 2

ACTION: Approved 7-0.

344-01 PRESTIGE AUTO BUYERS, INC.
50 Tower Road
Class 2

ACTION: Approved 7-0.

343-01 OLD TIME GARAGE LTD.

1960 Washington Street
Class 2

ACTION: Approved 7-0.

342-01 NEWTON TRADE CENTER
103 Adams Street
Class 2

ACTION: Approved 7-0.

341-01 NEW ENGLAND MOTOR MART
1221-1229 Washington Street
Class 2

ACTION: Approved 7-0.

340-01 MINI-COST AUTO RENTAL d/b/a THE CAR STORE
210 Boylston Street
Class 2

ACTION: Held 7-0.

NOTE: Ald. Mansfield said he believes this applicant is not operating at the address given. The Committee held the item pending further investigation.

339-01 LOS ANGELES AUTO BODY
41 Los Angeles Street
Class 2

ACTION: Approved 7-0.

338-01 ENZO'S AUTO SALES
10 Hawthorn Street
Class 2

ACTION: Approved 7-0.

337-01 DELIO CORPORATION d/b/a RVD AUTO SALES
227 California Street
Class 2

ACTION: Approved 7-0.

336-01 AUTO SOLUTIONS
14 Hawthorn Street
Class 2

ACTION: Approved 7-0.

335-01 AUTO KLASICS, INC.
24 Border Street
Class 2

ACTION: Approved 7-0.

334-01 AUTO EUROPA
38 Ramsdell Street
Class 2

ACTION: Approved 7-0.

333-01 ALBEMARLE MOTORS, INC.
50 Farwell Street
Class 2

ACTION: Approved 7-0.

332-01 VILLAGE MOTORS GROUP, INC. d/b/a HONDA VILLAGE
371 Washington Street
Class 1

ACTION: Approved 7-0.

331-01 FROST MOTORS, INC. d/b/a FROST KIA
945 Moody Street, Waltham
Class 1

ACTION: Approved 7-0.

330-01 FROST MOTORS, INC. d/b/a FRIST NISSAN
624 and 1180 Washington Street
Class 1

ACTION: Held 7-0.

329-01 FROST MOTORS, INC.
399 Washington Street
Class 1

ACTION: Held 7-0.

NOTE: Ms. Finucane reported a large water lien on these properties. The Committee held the items pending further investigation.

328-01 FERRARI AUTOMOBILES OF NEWTON d/b/a FERRARI OF NEWTON
1197, 1203, 1213-1215 Washington Street
Class 1

ACTION: Approved 7-0.

327-01 CLAY CHEVROLET d/b/a CLAY HYUNDAI
431 Washington Street
Classes 1 and 2

ACTION: Approved 7-0.

326-01 CLARK & WHITE, INC.
777 Washington Street
Class 1

ACTION: Approved 7-0.

The meeting was adjourned at 11:35 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman