

**CITY OF NEWTON**

**IN BOARD OF ALDERMEN**

**LAND USE COMMITTEE REPORT**

**TUESDAY, MARCH 19, 2002**

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

Member of Committee absent: Ald. Fischman.

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

\* \* \* \* \*

**SPECIAL PERMIT and SITE PLAN APPROVAL PETITIONS**

85-02        PRESIDENT LIPSITT recommending that MARIA TERMINI of 306 Langley Road and LEE BRECKENRIDGE of 40 Oakmont Road be appointed to the Liaison Committee established by Board Order 250-01 (The Terraces) as representatives from their respective neighborhood streets.

ACTION:     Both appointments approved 7-0.

NOTE:        The Terraces Board Order requires that the Board appoint three representatives to the neighborhood liaison committee from Cypress Street, Langley Road and Oakmont Road. President Lipsitt noted that the first meeting of the liaison committee has actually taken place, and she said that she was still working on finding a representative from Cypress Street.

The two candidates were present and made brief statements to the Committee. Ms. Breckenridge said, among other things, that she has a "bird's eye view" of the site from her house and is very interested in how it will be managed. Ms. Termini stated that she was opposed to the project, but now that it has been approved, she wants it to happen in the best way possible. She is a student at Andover Newton as well as a nearby resident.

Ald. Mansfield expressed concern that the developers may be ready to break ground in April, but Ouida Young said that they cannot start work until they satisfy the Tree Preservation Ordinance, and so far their proposals have been rejected by Parks and Recreation.

The Committee thanked the candidates for their willingness to serve and approved their appointments 7-0.

62-02            NINA E. MAYER petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL to add approximately 50 sf to the kitchen at 163 WAVERLEY AVENUE, Ward 7, on approximately 7,383 sf of land known as Section 72, Block 22, Lot 7, in a district zoned SR1.

ACTION:        Approved 7-0.

NOTE:            The petitioner wishes to expand the kitchen of her 2,382 sf residence by adding approximately 52.26 sf at the south rear corner of the structure. She requires a special permit because the structure is nonconforming as to side yard setbacks and lot size, even though the proposed addition will not increase any of the nonconformities. The addition, while small, does not fall within the de minimis provisions of the Ordinance because of its proximity to the structure on the abutting lot. The de minimis setback requirement is 25 feet between the two structures, when the actual distance is approximately 17.5 feet.

There was no public testimony at the hearing held on March 12, 2002. The Committee later received a letter from the nearest abutter indicating that the abutter did not intend to object to the petition.

At the working session, the Committee reviewed the site plan and elevations for the new addition, noting the relationship between the subject structure and the next house. Ald. Lipsitt said the language of the abutter's letter suggested something less than support for the project, and she observed that there is not much landscaping between the two buildings. Nevertheless, the scale of the addition does not rise to a level of significance where she would oppose it. Mr. Daley reported that there are no engineering issues associated with this project.

Ald. Lipsitt moved approval, finding that the proposed expanded structure is not substantially more detrimental to the neighborhood than the existing nonconforming structure because the addition effectively squares off an existing footprint and is, by square footage, de minimis. The Committee supported the motion by a vote of 7-0.

64-02            MICHAEL AND KATHRYN LIU petition for SPECIAL PERMIT and SITE PLAN APPROVAL for an accessory apartment to be located in an existing one-story carriage house on the same lot as an existing single-family house at 1080 WALNUT STREET, Ward 6, in on approximately 18,314 sf of land known as Section 52, Block 20, Lot 8, in a district zoned SR2.

ACTION:        Approved 7-0.

NOTE:            The petitioners would like to convert an existing carriage house to an accessory apartment of approximately 868 sf. They require a special permit to create an accessory apartment in a detached structure in a single family zoning district. The subject lot is very large

at over 18,000 sf and is accessed by a private way, Allen Terrace, from Walnut Street. The conversion of the carriage house to an accessory will involve the addition of several decorative features and the creation of a second means of egress. None of these alterations are visible from the street.

There was no public testimony at the hearing held on March 12, 2002. The petitioners' attorney, Michael Peirce, asked the Committee to consider alternative parking plans, and he challenged the Fire Department's recommendation that the existing 12' entrance to the site, framed by old stone walls and mature landscaping, should be widened to 18'.

At the working session, the Committee reviewed the site plan, the elevations and the proposed floor plan for the accessory apartment. Mr. Daley reported that there are no engineering issues related to this project, but he provided a drawing of the entrance to the site showing that the turning radius for a fire truck would require a much wider driveway entrance that presently exists. The Committee noted that the nearest hydrant is at Walnut Street and that Allen Terrace is only 12 to 13' in width. Ald. Salvucci said he sees no need to destroy the stone wall when fire equipment undoubtedly would be positioned at Walnut Street. Ald. Merrill agreed. Ald. Mansfield pointed out that one of the criteria of the accessory apartment ordinance is to make as few changes to the property as possible, and accommodating an 18' entrance would be contrary to that goal.

In response to the Committee's concerns, Ouida Young stated that the Fire Department is making a recommendation but has no authority to insist on a wider entrance, nor does a building permit application routinely go to the Fire Department for approval. The consensus of the Committee was to leave the entrance alone, and the Committee made specific findings accepting the existing entrance and acknowledging the preservation of the existing stone wall and plantings.

The Committee also reviewed two possible parking arrangements on the site. These were prepared because Peter Bronson had advised the petitioners that Section 30-19(i)(1)(a), which pertains to outdoor parking facilities, requires certain screening of the parking area. Ouida Young stated that, in her opinion, this section of the Ordinance does not apply here because the parking area does not abut a street or property other than its use. The Committee agreed, and accepted the petitioner's preferred parking arrangement, making a specific finding that the parking facility screening requirement does not apply.

Ald. Samuelson moved approval, finding that the public convenience and welfare will be served by creating a new unit of housing in this location, particularly where the occupants will have easy access to public transportation. She incorporated the findings noted above and added that there will be no impact on the neighboring properties. The Committee supported the motion by a vote of 7-0.

65-02            LAND USE COMMITTEE proposing RESOLUTION to Mayor Cohen requesting funding of zoning enforcement function in Inspectional Services Department.

ACTION:        Held 7-0.

NOTE:            At the Committee's request, Ouida Young presented several concepts for funding the zoning enforcement function. She began by saying that it is difficult to find a new funding source. The City's building permit fees are already the highest in the area. She does not think it is realistic to try to fund enforcement through the process of investigating potential violations. While the ticketing system produces fines, tickets are not always issued and are not a large source of money in any case. (However, she noted that at least fines for tickets flow to the city, while fines imposed through complaints to the court do not).

She suggested that the best way to add to the revenue of ISD is to create fees for tasks related to the issuance of special permits, zoning variances, and comprehensive permits. Logically the projects that require these forms of relief also then require additional reviews that as of right construction does not. She suggested that there could be a revolving account that would fund specifically the enforcement function. Ald. Mansfield said it sounded like the arrangement used in Carlisle, which occurs under "section 53(g)."

Ald. Salvucci suggested that issuance and renewal of temporary occupancy permits is another opportunity for additional fee collection. He pointed out that there is inadequate follow up on temporary permits right now.

The Committee asked Ms. Young to work with Mr. Gilroy to try to assemble some retrospective data on the number of events that would have generated revenue in the past year or two under this plan. Ald. Mansfield added that he would like to find a way to impose fees related to enforcement on non-special permit projects.

Ald. Lipsitt moved to hold the item pending receipt of additional data. The Committee supported the motion by a vote of 7-0.

### **REQUESTS FOR WITHDRAWAL WITHOUT PREJUDICE**

63-02            PAUL AND JOANNE LANGIONE petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL to construct a second floor addition within the front yard setback and to waive certain parking requirements at 35 BORDER STREET, Ward 3, on approximately 10,420 sf of land known as Section 33, Block 13, Lot 14, in a district zoned Manufacturing.

ACTION:        Withdrawal without prejudice approved 7-0.

NOTE: The petitioners neglected to seek a special permit for extension of a nonconforming use as well as a nonconforming structure. They have refiled this petition.

The meeting was adjourned at 9:16 p.m.

Respectfully submitted,

Ald. Susan M. Basham  
Chairman