

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, MAY 7, 2002

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

Other Aldermen present: Ald. Baker.

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

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REQUEST FOR EXTENSION OF TIME

61-02(2) NORTH SHORE CONSTRUCTION AND DEVELOPMENT, INC./ROBERT C. MAC DONALD/GLORIA SIMONS ET AL. requesting EXTENSION OF TIME within which the Board of Aldermen may take action on petition #61-02 for SPECIAL PERMIT/SITE PLAN APPROVAL at 31, 33-33A and 49 Court Street, Ward 2, said extension to run through June 28, 2002.

ACTION: Approved 6-0 (Ald. Samuelson and Fischman not voting).

APPLICATION FOR LICENSE

142-02 NEWTON HIGHLANDS NEIGHBORHOOD AREA COUNCIL requesting a temporary license pursuant to Section 30-6(k) of the Newton Revised Ordinances to hold its 27th annual Village Day on Sunday, June 9, 2002.

ACTION: Approved 6-0 (Ald. Samuelson and Fischman not voting).

SPECIAL PERMIT and SITE PLAN APPROVAL PETITIONS

96-02 CHESTNUT HILL SCHOOL, INC. petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL for a new west wing addition of approximately 2,300 sf; a new all-weather surfaced play area between the new wing and existing library; a new east addition of approximately 800 sf (replacing a flat roofed entry); a third floor gable roof addition at the connection the gym; and placement of temporary classrooms on site at 428 HAMMOND STREET, Ward 7, on land known as Section 63, Block 31, Lot 10, measuring approximately 208,087 sf., in a district zoned SR1.

ACTION: Approved 7-0 (Ald. Fischman not voting).

NOTE: The petitioner wishes to expand the principal building of the Chestnut Hill School to accommodate its new educational model and an increase in enrollment following the expiration of a current cap on enrollment. The primary change will be an addition of 2,300 sf, which will allow for additional classrooms. The petitioner also proposes a change in the entry, which will involve the construction of a deck area, a roof modification to improve architecturally the connection between the gym and the new addition, and the construction of a new play area. The school requires special permits because the addition will trigger more stringent setback requirements, making the currently conforming setbacks nonconforming. Even assuming the increased enrollment that will be accommodated in the new addition, all required parking can be accommodated on site, and there are no changes to the parking area proposed. The Chestnut Hill Historic District Commission has issued a certificate of appropriateness for the project. There was no public testimony at the hearing on April 9, 2002.

At the working session, the Committee reviewed the site plan and the elevations of the proposed new construction, noting the architectural elements designed to match the existing structure. Although this project technically concerns only the expansion of a structure, the petitioners have offered certain conditions related to the anticipated use of the proposed addition in order to alleviate certain concerns of the Chestnut Hill neighborhood. At its working session, the Committee reviewed a proposed Traffic Management Plan that will address potential impacts over a twelve year period and will establish a mechanism for a continuing dialogue with the Traffic Management Committee of the Chestnut Hill Association. Roy LaMotte has reviewed and approved the plan. The Committee agreed to incorporate the Traffic Management Plan by reference in the Board Order.

Ald. Baker asked the Committee to review photographs of the area proposed for construction parking. He explained that he had worked with the school to develop certain procedures that will be put in place to minimize the impact of construction on the site, including but not limited to separating the construction parking from the overflow event parking and staging the construction closer to the building. As a condition of approval, the petitioner has agreed to protect existing trees, shrubs and stone walls and to restore the landscape damaged by construction, as well as to restore a particular worn area not related to the construction.

The Committee also reviewed a draft Construction Management Plan submitted by the petitioner and agreed to incorporate it by reference in the Board Order. There was some discussion about modifications to the Saturday work schedule, resulting in a decision to leave it as drafted, permitting Saturday construction after 8 a.m. if necessary to meet the construction schedule. The Committee also accepted the petitioner's offer to set up a construction liaison committee, adding a provision that the petitioner will be the convener.

The Committee asked the Law Department to ensure that all prior conditions affecting this site, unless overridden by the current Board Order, will remain in effect. The new Board Order will include a condition requiring maintenance of landscaping. Ald. Baker noted that the

petitioner will have to return to the Historic District Commission if construction materials for permission to leave construction materials visible for more than ninety days.

Ald. Lipsitt moved approval, finding that the proposed nonconforming structure will not be substantially more detrimental to the neighborhood than the existing building because the increase in nonconformity results from a technical calculation. The actual construction has its greatest impact in the rear and on Essex Road. The new construction is architecturally compatible with the existing and is historically appropriate; it has been reviewed and approved by the Historic District Commission. The additions will permit the school to accommodate a new educational model without increasing its parking or traffic impact. The Committee supported the motion 7-0.

63-02(2) PAUL AND JOANNE LANGIONE petition for SPECIAL PERMIT TO EXTEND NONCONFORMING USE AND STRUCTURE and SITE PLAN APPROVAL to construct a second-floor addition within the front yard setback to be used as offices and storage and to waive parking requirements, including a reduction in the number of required spaces (5) and to the extent necessary waive parking facility design requirements to allow the existing parking layout to remain as is and to waive certain parking stall size requirements, maneuvering aisle, light and landscaping requirements at 35 BORDER STREET, Ward 3, on land known as Section 33, Block 13, Lot 14, measuring approximately 10,420 sf, in a district zoned Manufacturing.

ACTION: Approved 7-0-1 (Ald. Lipsitt not voting).

NOTE: The petitioners operate a dance studio in their building at 35 Border Street, which is a nonconforming use in a manufacturing district. Persistent flooding in the basement of their structure resulting from the City's inadequate management of two brooks running under the street has made that basement space unusable except for shelved storage. They wish to construct approximately 1209 square feet as a second story addition over the front part of their building facing Border Street, which they will use for storage and offices. They require a special permit to extend their nonconforming use into this larger building.

Because the building is nonconforming as to its setbacks, and the new addition will encroach on the front setback to the same extent as the existing structure, the petitioners require a special permit to extend the nonconforming structure. The expanded space increases the parking requirement on the site by five stalls. The petitioners seek a special permit to waive the requirement of five additional stalls and other parking facility requirements because they do not intend to expand the activity at the site and the existing parking lot is otherwise not being affected by the construction.

At the public hearing on April 9, 2002, members of the Committee asked the petitioner to consider whether there might be a location for the addition that would not encroach on the front

setback. Members of the Committee also asked the petitioners to provide information on their efforts to address the drainage problems. There was no public testimony.

At the working session, the Committee reviewed a letter from G. Michael Peirce, attorney for the petitioners, and another from Vivian Low, the petitioners' architect. Ms. Low explained that the front of the structure is the only feasible place for the new construction because the back part of the building was constructed earlier and is not structurally able to support the additional weight. In addition, the petitioners wish to "stack" the new construction so as to take advantage of an existing stairway. Mr. Peirce provided a table showing that nearly all of the properties on Border Street are on, over or within five feet of the street line. As to the drainage situation, Mr. Peirce reported that the petitioners have upgraded the drainage system on their property and have put in a separate dry well and installed sump pumps in the basement. There is nothing more they can do to address the problem created by the City's inadequate drainage capacity.

While the petitioners have stated that their residential neighbor to the rear is not interested in additional landscaping, Ald. Lipsitt questioned whether the petitioners might improve the existing wall and fence arrangement with greenery. Mr. Peirce responded that there is no opportunity for landscaping in the existing parking lot configuration, but the petitioners agreed to improve plantings in the front of the building as a condition of approval. Ald. Lipsitt also questioned why the petitioners were not building an elevator for handicapped accessibility. Mr. Peirce explained that the Mayor's Committee on Disabilities had reviewed the proposal and does not believe the current proposal requires additional accommodations. Ald. Lipsitt suggested that the petitioners should make additional accommodations anyway because not having the accessibility might preclude the hiring of a disabled person. She said she was having difficulty finding the public benefit in this project.

Ald. Samuelson said she sees the use as positive for the community and she is not concerned about the impact of the second story. From her viewpoint, this use is a "rose among the thorns" of Border Street. Ald. Merrill agreed that the use is good for the area. He is satisfied that the front of the building is a reasonable place for the construction. Ald. Fischman said he agreed with Ald. Samuelson, noting that this is a twist on the concept of public convenience and welfare where the city has chosen not to benefit the area by managing the flooding. Forcing the business to a harsher solution would make no sense. In his view, this is a de minimis impact. Ald. Linsky observed that nothing is going to improve this site in any significant way, and he sees the expanded use as a good idea. Ald. Basham said the site is far from ideal, but our approval will support a use that is beneficial to the community.

To allow for the possibility that another use on the site could be more intensive, the Committee decided to make the parking waivers expiring with any change in use on the site. The Committee accepted the petitioners' offer to restrict parking on the right side of the

driveway, install appropriate directional signage, and limit the number of people on the site at any one time.

Ald. Salvucci moved approval, finding that the extended nonconforming structure and use will not be substantially more detrimental to the neighborhood than the existing because the dance studio use is benign and the building is surrounded by manufacturing uses and structures. He found that the new office and storage are needed because of the City's neglect of the flooding condition, and the parking waivers are necessary because literal compliance with the requirements of the Ordinances is not feasible within existing site conditions.

Ald. Lipsitt said she intended to abstain because she sees no public benefit to the second story and has difficulty extending the use without any mitigation of the unattractive addition. The Committee supported the motion 7-0-1.

The meeting was adjourned at 10:06 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman