

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, NOVEMBER 19, 2002

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

Members of Committee absent: Ald. Fischman.

Other Aldermen present: Ald. Lennon.

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

* * * * *

REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE

365-2 ALBERT J. BARTOLOMUCCI petition for SPECIAL PERMIT TO EXTEND NONCONFORMING USE AND STRUCTURE and SITE PLAN APPROVAL to demolish one of three existing two-family dwellings and to replace it with a new two-family dwelling placed entirely within the required setbacks at 86 DALBY STREET, Ward 2, on approximately 12,372 sf of land known as Section 11, Block 7, Lot 32, in a district zoned MR2.

ACTION: Withdrawal without prejudice approved 7-0.

REQUESTS FOR APPOINTMENTS

96-02 PRESIDENT LIPSITT requesting the appointment of the following resident neighborhood members to the Construction Liaison Committee for Chestnut Hill School, pursuant to Board Order 96-02, Condition 11:

Nancy Younger, 17 Suffolk Road, Chestnut Hill
Michael Horwitz, 135 Essex Road, Chestnut Hill

ACTION: Approved as to both appointees 7-0.

NOTE: Both Ms. Younger and Mr. Horwitz were in attendance. Mr. Horwitz stated that he and his family are relatively new to the area, but he is eager to serve because their home is immediately abutting the school. Ms. Younger has lived in Newton since 1973 and now lives across Hammond Street from the school. She is particularly concerned about safety issues associated with the school. Ald. Lipsitt reported that construction is slated to begin in one week and the Construction Liaison Committee has already had its first meeting. She welcomed the two appointees and thanked them for their willingness to serve. On Ald. Lipsitt's motion, the Committee approved the appointments 7-0.

REQUESTS FOR EXTENSIONS OF TIME

96-02(2) REQUEST FOR EXTENSION OF TIME IN WHICH TO EXERCISE SPECIAL PERMIT 96-02, granted to WILLIAM HILLIKER AND LINDA HELFET on November 19, 2001, to convert an existing garage into an accessory apartment and to extend an existing second-floor deck at 53 MAPLE STREET, Ward 4, Auburndale.

ACTION: One year extension of time approved 7-0.

NOTE: By letter dated October 30, 2002, the petitioners have requested an additional year in which to exercise special permit no. 96-02, voted by the Board on November 19, 2001. They state that they have been unable to take on the cost and financial risk of this project because of the drop in the rental market. The Committee debated briefly whether an unwillingness to invest is the sort of financial difficulty constituting good cause for not proceeding with construction and found that, where the essence of a small project is its ability to pay for itself, the delay related to market conditions is justified. On Ald. Bryson's motion, the Committee approved the extension 7-0.

SPECIAL PERMIT and SITE PLAN APPROVAL PETITIONS

367-02 CHRISTOPHER AND ANNETTE BAKER petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APROVAL to add to the rear of an existing dwelling a 3-story addition with an attached 200 sf deck at the side at 75 ASPEN AVENUE, Ward 4, on approximately 21,051 sf of land known as Section 43, Block 46, Lot 24, in a district zoned SR1.

ACTION: HELD 4-3 (Ald. Basham, Samuelson and Bryson voting in the negative).

NOTE: The Committee had a thorough discussion of this petition, but found itself in a quandary concerning certain engineering issues. The report of the Engineering Department states that the project complies with the 100-year storm standard, but the Committee wanted additional information concerning how that compliance is calculated, i.e., whether the compliance includes runoff calculations for the entire site or whether it relates only to the difference between current conditions and the proposed conditions with the additional impervious surface. Ald. Salvucci, in particular, was concerned about this issue, and the Committee asked the Law Department to provide an opinion on when requiring entire site compliance is justified. The Committee also asked the Planning Department to convey to Engineering that their reports need to be more specific as to issues that the Committee customarily considers.

327-02 JACQUELINE BERNAT petition for SPECIAL PERMIT and SITE PLAN APPROVAL to remove an interior partition in an existing garage to crate a garage of more than

700 sf at 235 HIGHLAND STREET, Ward 3, on approximately 44,420 sf of land known as Section 32, Block 44, Lot 2, in a district zoned SR1.

ACTION: Approved 5-0-2 (Ald. Lipsitt and Linsky voting in the negative).

NOTE: Ms. Bernat is in the process of constructing, as of right, a new 8,863 square foot dwelling at 235 Highland Street. The dwelling has an attached three-car garage accessed from Highland Street and facing the side yard. In the original permitted plans, the garage was shown with an interior partition along its rear wall, making the interior square footage 695 sf. The petitioner seeks the Board's approval to delete this partition from her plans and instead construct a workbench along the rear wall, thereby expanding the space available for parking several vehicles, for a total garage area of 836 sf. This change will result in no exterior modifications. The petitioner requires a special permit under Section 30-8(b)(7), for a private garage of more than 700 sf.

At the public hearing on October 15, 2002, the Committee heard testimony from the immediate abutters, who expressed consternation at the design of the Bernat residence, the destruction of vegetation on the site, and the impact on the neighborhood generally. Although the change in the interior partition will not have any exterior impact, several members of the Committee asked the petitioner to consider providing a landscape plan that will show, at a minimum, screening of the garage from the neighbors.

At the working session, the Committee reviewed the proposed interior changes and the screening plan provided by the petitioner, showing a privet or similar hedge plant to be planted along the property related to the garage. The Committee was satisfied that the screening will screen the view of the abutter sufficiently, although Ald. Salvucci said he was still opposed to requiring any landscape plan at all. The Committee discussed briefly the history of this special permit requirement and generally observed that it makes very little sense when the garage is within the structure and the square footage will not alter the exterior in any way.

Ald. Salvucci moved approval, finding that the public convenience and welfare will be served by the additional landscaping, the absence of exterior changes to the structure, and the increased flexibility for use by the owners. Ald. Lipsitt said she would not support the motion because, even though it is a land use criterion, she is offended at so many cars and does not want to promote the construction of three-car garages generally. The Committee supported the motion 5-0-2.

310-02 YELENA IVNITSKAYA petition for SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE and SITE PLAN APPROVAL for an addition to 53 TAFT AVENUE, Ward 3, on approximately 9,433 sf of land known as Section 34, Block 11A, Lot 21, in a district zoned SR3.

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

NOTE: The Committee discussed this petition in detail, but ultimately decided to hold it for the same reasons it held 367-02: inadequate engineering information. Before the vote was taken, Ald. Lipsitt stated that although she was prepared to hold the item, she would not ultimately be prepared to support it. In her view, the logic of zoning is to bring properties into conformance with the requirements of their zoning districts, and the expansion of a nonconforming multi-family in a single family zoning district is counter-intuitive. Ald. Samuelson spoke to the opposite view, saying that an existing two family should be able to upgrade and have the same kinds of amenities that a single family residence has. She did not support the motion to hold, which was approved 6-1.

The meeting was adjourned at 10:07 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman