

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, DECEMBER 3, 2002

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

City officials present: Ouida Young, Associate City Solicitor; Nancy Radzevich, Chief Planner; Alexandra Ananth, Planner; Linda Finucane, Chief Committee Clerk; David Willett, City Engineer.

* * * * *

NOTE: The Committee was joined by City Engineer David Willett for a general discussion of engineering issues that come up in Special Permit petitions and the various standards that the department uses in evaluating those petitions. Mr. Willett expressed his willingness to work with the Committee on engineering issues generally and, in particular, in developing standards by which certain types of petitions may be required to meet the 100-year storm standard for the entire site rather than merely as to the incremental impact of the proposal on impervious surfaces. At the Chairman's request, Ald. Fischman and Linsky offered to form a subcommittee to work with Mr. Willett on this matter.

SPECIAL PERMIT and SITE PLAN APPROVAL PETITIONS

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

ACTION: Approved 7-0-1 (Ald. Samuelson abstaining).

NOTE: The petitioners wish to add onto their existing residence by approximately 2,060 sf with a 3.5 story addition (including basement) on the rear, a third story over a flat-roofed section on the east side, and a 300 sf deck at the rear. They require a special permit because the property is nonconforming as to number of stories and setback on the wet side of the lot. The residence is located on 21,051 sf of land. The deck, by itself, would not require a special permit. There was no public testimony at the hearing on November 12, 2002.

The Committee held this item at its previous working session on November 19, pending receipt of additional engineering information. In addition, at the previous working session, the Committee acknowledged that the petitioners may be required to seek a variance because of the Zoning Administrator's determination that the existing attached garage was constructed as noncompliant with zoning at the time of its construction and therefore is an unauthorized

nonconformity. To the rear of the property is the Woodland golf course, and the petitioners have designed their addition not only to match the style of their residence but also to take advantage of the views of the course. The Planning Department reported that the design is well-integrated with no impact on abutters, and that the neighbors have reviewed the elevations. In response to suggestions of the Planning Department, the petitioners offered to install screening along the side façade where the third story will be added. The Engineering Department reported that the 100 year storm standard will be met as to any impacts on impervious surfaces, and the Committee noted that this is not a site where existing runoff poses a problem for neighbors.

Ald. Bryson moved approval, finding that the extension of the nonconforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The site is large, the new addition will not be taller than the rest of the house, the abutters will not be impacted, and the design is consistent with the existing. The petitioners asked that the Board include a condition that they may begin construction before obtaining a variance, but the Committee declined to alter its customary approach, which is to note the obtaining of a variance as a condition of approval. The Committee supported the motion 5-2-1.

310-02 YELENA IVNITSKAYA petition for SPECIAL PERMIT TO EXTEND 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: Approved 5-1-2 (Ald. Lipsitt voting in the negative; Ald. Basham and Merrill abstaining).

NOTE: The petitioners propose modifications to the front and rear of this two-family dwelling. At the front, they wish to replace an existing porch with one designed more in keeping with the style of the dwelling (note that the original plans calling for enclosure of the porch were modified after the public hearing). At the rear, they propose a 2.5 story addition to add a master bedroom and bath to each unit with a full basement and an additional bathroom in the attic. The dimensions of this addition were reduced by 37% after the public hearing by pulling it away from the abutting residence. In this petition, the primary nonconformity is the use itself -- a multi-family use in a single family zoning district. There was no public testimony at the hearing on October 15, 2002. The petition originally included a berm around the residence, which was intended to change the "first floor" to basement and remove an existing nonconformity as to number of stories. In its initial discussion of this item on November 19, the Committee advised the petitioner that it saw the berm as unattractive and would prefer to consider the nonconformity as it exists. The Law Department advised that the removal of the berm would not require a new public hearing, and the Committee determined that where there was no public testimony at the initial hearing, there would be no benefit to the public in requiring a new public hearing for the changes in design and dimensions.

At its November 19 working session, the Committee held the item pending receipt of additional engineering information. The Committee reviewed the elevations and interior plans, noting that the design of the wooden porch is far more attractive and appropriate to the streetscape than the existing. The Committee found the proposed landscaping sufficient for purposes of screening abutters. The Committee also considered data provided by the Planning Department, comparing the size and dimensions of this dwelling and lot with the surrounding area. In the immediate area, this is the largest structure. Looking at all of Taft Street, there is one other multi-family dwelling (76 Taft), and it is currently larger than the subject dwelling. With the proposed addition, this dwelling will be the largest. At this working session, the Committee accepted the report of the Engineering Department that the 100 year storm standard will be met as to any impacts of the proposed project, noting that this is not a site where existing runoff poses a problem for neighboring properties.

Ald. Salvucci moved approval, finding that the extension of the nonconforming use and structure will not be substantially more detrimental to the neighborhood than the existing because the addition is in the rear and is designed in keeping with the existing dwelling, the porch addition at the front will make the residence more attractive, and the additional landscaping will beautify the area and mitigate any impacts. The Committee noted that the merger of two lots should be a condition of approval.

Ald. Lipsitt said she would not support the petition for two reasons in combination. The fact that it is a nonconforming two family in a single family zone, by itself, might not cause her to vote in the negative, but does so in combination with the fact that the addition will turn it into the largest structure in the neighborhood, with no way to store vehicles in the structure, and with no possible way to screen surface parking adequately. Ald. Samuelson said the property should not be penalized because it is the only multi-family in the neighborhood, particularly where the units are modest in size. Ald. Basham said she would abstain pending another view of the site. The Committee supported the motion 5-1-2.

326-02 JODI DAYNARD & PETER HOGAN petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE/USE and SITE PLAN APPROVAL to construct an addition, including a sunroom and two bedrooms and baths, at 38-40 SUMNER STREET, Ward 7, on approximately 8,700 sf of land known as Section 73, Block 48, Lot 18, in a district zoned MR1.

ACTION: Held 7-0 (Ald. Samuelson not voting).

NOTE: The Planning Department reported that the Engineering Department has not yet had an opportunity to review plans for this petition.

20-02(2) OMNIPOINT HOLDINGS, INC. A DIVISION OF VOICESTREAM WIRELES/I. ZUSSMAN 219 RELATY TRUST petition for SPECIAL PERMIT and SITE PLAN APPROVAL to install wireless communications equipment (3 antennas enclosed within a canister designed to resemble a stovepipe chimney) on the penthouse, with radio control cabinets in the basement, of an existing building at 219 COMMONWEALTH AVENUE, Ward 7, on land known as Section 63, Block 8, Lot 19, in a district zoned MR1.

ACTION: Held 7-0 (Ald. Samuelson not voting).

NOTE: The Planning Department reported that the petitioner was not expecting the item to be taken up before the working session on December 17 and asked that we put the item on the agenda for that evening.

The meeting was adjourned at 9:12 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman