

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, DECEMBER 17, 2002

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

Other Aldermen present: Ald. Lappin, Mansfield.

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

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272-02(2) CLEAR CHANNEL RADIO, BEASLEY BROADCASTING GROUP & CHAMPION BROADCASTING SYSTEM offering to hire an outside consultant to study the additional radio frequency broadcasting and attendant health issues related to pending Special Permit petition 272-02 at 750 Saw Mill Brook Parkway.

ACTION: Motion for no action necessary approved 7-0 (Ald. Fischman excused).

NOTE: The petitioners currently have filed for public hearing a petition to install certain telecommunications equipment at 750 Saw Mill Brook Parkway. In anticipation of the issues likely to arise in the Board's consideration of their petition, they have offered to pay for an outside consultant. The Board's Rules, as well as our city Ordinances at Section 22-4, permit the Board, through its Land Use Committee, to collect monies from petitioners to pay for the cost of consulting services when the Committee determines, after consultation with the Director of Planning and Development and other city officials, that review of the petition will require expertise or a level of staffing not currently available within the City's staff. The Rules do not require a separate filing by the petitioner or a vote by the full Board.

The present "offer" is unusual in that it was generated by the petitioner directly, and in advance of a public hearing. In the usual course of events, the public hearing is held and any issues requiring consultant-based study are identified at that time through the testimony of the petitioner and the concerned public. Planning then has the opportunity to advise the Committee on how it intends to investigate those concerns and whether it has the in-house capabilities of doing so. Several members of the Committee expressed concern that the petitioner here is simply trying to "jump the gun" to get the study done as early in the process as possible. Ms. Radzevich said that having the additional study information before the public hearing would assist Planning in preparing a more complete report, but she agreed with the Committee that the petitioners' conception of the issues – "additional radio frequency broadcasting and attendant

health issues” – may be either incomplete or a mis-characterization of the concerns that ultimately will require investigation. The Committee did not wish to see monies expended on study before the public has an opportunity to comment and the Committee and Planning have an opportunity to consider the full range of issues. In addition, the petition is still in front of the Conservation Commission, and it is entirely possible that an onerous Order of Conditions could force the petitioners to withdraw and never come before the Board at all, in which case the money would be wasted.

Finding that the request is premature, Ald. Lipsitt moved no action necessary, and the Committee supported the motion 7-0-1, with Ald. Fischman excused.

REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE

184-01(2) MICHAEL BOGART requesting an AMENDMENT TO SITE PLAN associated with SPECIAL PERMIT/SITE PLAN APPROVAL 184-01, granted on 8/13/01, for a change of grade of more than three feet and a waiver of FAR in order to construct a new single family residence on land located on DRUMLIN ROAD, also known as Section 82, Block 25, Lot 34, in a district zoned SR1.

ACTION: Withdrawal without prejudice approved 8-0.

SPECIAL PERMIT AND SITE PLAN APPROVAL PETITIONS

270-02(2) OMNIPOINT HOLDINGS, INC. A DIVISION OF VOICESTREAM WIRELESS and I. ZUSSMAN 219 REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to install wireless communication equipment, including three antennas enclosed within a canister designed to resemble a stovepipe chimney on the penthouse and 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 7-1.

NOTE: The Committee discussed this item extensively, but held it at Ald. Lipsitt's request so that she could discuss with the Mayor the possibility of issuing an RFP for the replacement of the communications tower at Waban Hill Reservoir. Omnipoint's counsel stated that his client had proposed replacing the tower and then leasing space on it back to the city some years ago, but the city was not interested. Ald. Lipsitt noted that the city's position may have changed, particularly because of the requirements of the federal Telecommunications Act, and she asked for time to explore this option. The Committee acknowledged that there are numerous ways in which the tower concept might not be a suitable solution for this petitioner, particularly because of timing and because of the open bidding process. Ald. Lipsitt stated that she would not be opposed to the petitioner's locating at 219 Commonwealth on a short-term basis if the tower arrangement were in the works. Other members of the Committee were more favorably

inclined toward the petition as presented and stated that they would support it when given the opportunity to vote on it at the next working session.

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

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

NOTE: The petitioners wish to expand their two-family residence by modifying and adding onto the existing later additions to the original Greek Revival structure. The house was expanded previously with two one-story brick additions, and the petitioners now propose changing the exterior finishes to match the existing house, adding a second story, and adding another section to “square off” the rear corner. The dwelling is currently nonconforming as to front and rear setback, lot area, lot coverage, and side setback. The petitioners require a special permit because the proposed addition will encroach on the already nonconforming sideyard setback, reducing it from 3.36’ to 3.06’. There was no public testimony at the hearing on October 15, 2002.

At the beginning of its deliberations, the Committee reviewed the site plan and noted that the property contains an internal lot line, and so the nonconformity as to rear setback is internal only. The two lots will be merged as a condition of approval. The site has a very small existing sideyard setback, and the next dwelling is approximately 10.5 feet away. That residence is not directly adjacent to the area where the new addition would encroach on the setback. The Committee reviewed photographs of the location and learned from the petitioners that the abutter is supportive of the plans. The area between the two residences is subject to an easement which originally may have provided a right of way to the old rear lot. In any event, these neighbors have worked out a comfortable accommodation wherein the abutter has actually attached his 6’ fence to the subject residence. In addition, the petitioners have proposed certain new evergreen plantings along the side lot line, but there is no room to put more plantings immediately adjacent to the addition.

The Committee also reviewed the elevations, observing that the area of new construction (second story and addition) measures approximately 1600 sf. Ald. Salvucci was particularly concerned about the rooflines and support structures, and said he wished to review these matters in greater detail before voting on the petition. Other members of the Committee saw the proposed changes as bringing the entire structure into a more uniform appearance, consistent with the historical character of the structure. Ms. Radzevich reported that the Engineering Department will require an engineering review as a condition of the issuance of a building permit, and the Committee was satisfied that the 100 year storm standard would be met as to the impact of any new impervious surfaces.

Ald. Lipsitt moved approval, finding that the proposed nonconforming structure will not be substantially more detrimental to the neighborhood than the existing because the impact on the nonconforming setback is de minimis, the new construction permits the addition of exterior style and materials more in keeping with the historical character of the structure, the landscaping has been designed to do as much as possible to mitigate impacts, and the extension of the structure has no negative impact on the abutting structure. The Committee supported the motion 7-0-1.

APPLICATIONS FOR 2003 AUTOMOBILE DEALER LICENSES

#396-02 FROST MOTORS INC. d/b/a FROST KIA
945 MOODY STREET
WALTHAM Class 1

ACTION: No Action Necessary 8-0

NOTE: Frost Motors no longer has the Kia dealership, hence the item was NAN'd.

#405-02 THE TRAVIS CORPORATION d/b/a THE CAR STORE
19 ROLLING LANE
CHESTNUT HILL Class 2

ACTION: Held 8-0

NOTE: This license was held for further information concerning the applicant's off-site storage arrangements.

The following licenses were approved 8-0:

#391-02 CLARK & WHITE INC.
777 WASHINGTON STREET
NEWTONVILLE Class 1

#392-02 CLAY CHEVROLET d/b/a CLAY HYUNDAI
431 WASHINGTON STREET
CLAY AUTO RENTAL Class 1 & 2

#393-02 FERRARI AUTOMOBILES
OF NEWTON d/b/a FERRARI OF NEWTON
1197, 1203, 1213-1215 Washington
1203 WASHINGTON STREET
WEST NEWTON Class 1

#394-02 FROST MOTORS INC.
399 WASHINGTON ST.
NEWTON CORNER Class 1

- #395-02 FROST MOTORS INC. d/b/a FROST NISSAN
624 and 1180 WASHINGTON ST.
WEST NEWTON Class 1
- #397-02 VILLAGE MOTORS GROUP INC. d/b/a HONDA VILLAGE
371 WASHINGTON STREET
NEWTON CORNER Class 1
- #398-02 ALBEMARLE MOTORS INC.
175 NORTH STREET
NEWTONVILLE Class 2
- #399-02 AUTO EUROPA
38 RAMSDELL STREET
NEWTON HIGHLANDS Class 2
- #404-02 LOS ANGELES AUTOBODY, INC.
41 LOS ANGELES STREET
NONANTUM Class 2
- #406-02 NEW ENGLAND MOTOR MART
1221-1229 WASHINGTON STREET
WEST NEWTON Class 2
- #407-02 NEWTON TRADE CENTER
103 ADAMS STREET
NONANTUM Class 2
- #408-02 OLD TIME GARAGE LTD.
1960 WASHINGTON STREET
NEWTON LOWER FALLS Class 2
- #410-02 R.S. SERVICE INC.
361 WASHINGTON STREET
NEWTON CORNER Class 2
- #411-02 ROBERT'S TOWING INC.
926R BOYLSTON STREET
NEWTON HIGHLANDS Class 2
- #412-02 VAN AUTO SALES INC.
50 TOWER ROAD
NEWTON UPPER FALLS Class 2

#414-02 ECHO BRIDGE SALVAGE INC.
16-24 MAGUIRE COURT
NEWTONVILLE Class 3

#415-02 SCHIAVONE BROTHERS INC.
16-24 MAGUIRE COURT
NEWTONVILLE Class 3

#351-01(3) TODY'S SERVICES INC.
1362 WASHINGTON STREET
WEST NEWTON Class 2 & 3

#353-01 CITY OF NEWTON
1000 COMMONWEALTH AVENUE Class 2

The meeting was adjourned at 10:32 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman