

**CITY OF NEWTON**

**IN BOARD OF ALDERMEN**

**LAND USE COMMITTEE REPORT**

**TUESDAY, MARCH 20, 2001**

Members of Committee present: Ald. Basham, Chairman; Ald. Antonellis, Lipsitt, McGrath, O'Halloran, Salvucci, Samuelson, Tattenbaum.

Other Aldermen present: Ald. Baker, Gerst, Mansfield, Merrill.

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

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524-00      WINSTON FLOWERS, INC./SELTZER'S GARDEN CITY petition for SPECIAL PERMIT TO EXTEND NONCONFORMING USE AND STRUCTURE and SITE PLAN APPROVAL to continue operating a greenhouse, florist and nursery, including additional site reconfiguration and a waiver of parking requirements, at 11 FLORENCE STREET, Ward 8, on approximately 74,850 sf of land known as Section 82, Block 4, Lot 49, located in a district zoned MR1.

ACTION:      Approved 8-0.

NOTE:          Winston Flowers, Inc. wishes to continue a nursery, greenhouse and florist business at 11 Florence Street similar to the operation of Seltzer's Garden City. In taking over this location, Winston's proposes the installation of two new greenhouse structures for purposes of expanding the opportunity to sell growing stock. For this purposes, Winston's requires a special permit to extend a nonconforming use. In addition, Winston's proposes the replacement of existing awnings with porch structures. Because one porch encroaches on a side setback, the petitioners require a special permit to extend the nonconforming structure. Their plan includes a reconfiguration of the parking area, including one way in and out driveways.

At the public hearing on January 9, 2001, neighbors emphasized that the drainage plan should be reviewed in detail and that there should be no waiver on the number of parking spaces.

In the working session, the Committee reviewed the site plan and noted that the existing 25 parking spaces, which are unstriped, will be replace with 28 properly sized and striped stalls, along with a reserve area for six vehicles on a gravel surface. The parking on the east side and front require waivers from ordinance requirements because they encroach on the setbacks. Nancy Radzevich reported that after the public hearing, ISD had completed parking requirement calculations under the formula based on square feet and had concluded that the business requires only 11 spaces. Therefore no waiver is needed. The Committee also considered whether the 28 spaces are adequate as a practical matter, and concluded that the proposed changes in business activity are not likely to result in increased parking demand. The Fire Department has approved the fire alarm systems and access to the site. Tom Daley reported that the Engineering

Department has reviewed the drainage and site plans and recommends approval. He noted that there will be no change in the runoff from the site and no anticipated negative impact on the surrounding drainage system.

Ald. Tattenbaum moved approval, finding that the proposed nonconforming use will not be substantially more detrimental to the neighborhood than the existing nonconforming use because the anticipated business changes are minimal and the greenhouses are at the rear of the site; the proposed nonconforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure because the porches are an attractive replacement for the existing awnings; the parking waiver is justified because compliance with the ordinance is impracticable on this site and the parking plan, along with the reconfigured driveways, actually improves existing conditions. The Committee supported the motion unanimously.

16-01            JOSEPH A. AND MELISSA DeNUCCI petition for CHANGE OF ZONE from PUBLIC USE to SINGLE RESIDENCE 3 for land abutting 46 HARRIS ROAD, said land identified as Section 33, Block 32, abutting lots 17 and 18, measuring approximately 1,561 sf.

ACTION:        Approved 8-0.

NOTE:            The petitioners seek to rezone a small parcel that was originally the stub end of a paper street and is surrounded by property owned by the petitioners. When the Planning Board discontinued the street in October 1999, the parcel automatically became the DeNuccis' property. However, because it remains in a public use zone, the DeNuccis cannot build on it. There was no public testimony at the hearing on February 13, 2001. Following the public hearing, the Planning and Development Board voted 4-0 to recommend approval of the proposed rezoning.

The Committee reviewed the site plan and noted that the proposed SR 3 zoning is consistent with the entire neighborhood and the surrounding DeNucci property. Ald. Salvucci moved approval, and the Committee supported the motion unanimously.

520-00            ROMAN CATHOLIC ARCHBISHOP OF BOSTON, A CORPORATION SOLE and EMERALD DEVELOPMENT GROUP, INC. petition for SPECIAL PERMIT and SITE PLAN APPROVAL to construct 12 single family dwellings, with parking waivers, at 243 WATERTOWN STREET, Ward 1, on land known as Section 11, Block 12, Lots 20A and 21, measuring approximately 84,690 sf and located in a district zoned MR2.

ACTION:        Denied 7-0-1 (Ald. Basham abstaining).

NOTE:            The petitioners propose the development of 12 market rate condominium units on the front of a site at 243 Watertown Street (the former St. Jean's church). The

petitioners have represented that the rear portion of this site will be used for 35 affordable elderly units under a Chapter 40B (“comprehensive permit”) plan.

To construct the 12 units, the petitioners need a special permit for attached dwelling units, a number of waivers related to parking, and relief from both maximum lot coverage and setback requirements. The Law Department has advised that the Board may waive these requirements without the need for the petitioner to seek a variance to create new nonconformities on the site. The petitioners have prepared a subdivision plan for the entire site showing six two-family dwellings. They have taken the position that there is no density bonus in the 12 market rate units proposed, and therefore no need for that part of the project to contribute to low income housing under the 10% Ordinance.

At the public hearing and until the working session, the petitioners represented that the Archdiocese intended to divide its land into two separate parcels for the two projects and transfer interest in them separately. At the working session, however, the petitioners revised their concept and instead asked the Board to consider the 82,000 sf site as a whole, even though the Board has no jurisdiction over the comprehensive permit project. Ouida Young stated that the Law Department has concluded that if there is no division of the “fee interest” in the site and the rear is used for the Chapter 40B project (i.e., a project over which the Board has no jurisdiction), then it is as if the 12 units are located on the entire site where 12 units could be build as of right. The project therefore does not result in a density bonus.

At the public hearing on January 9, 2001, several nearby residents expressed concern that the area generally is overdeveloped and a project of this type will increase traffic and congestion. They also expressed the opinion that there is not enough parking on the site and the access driveways will not work correctly.

At the working session, the Committee began by reviewing the site plan, noting that the petitioners intend that one driveway will provide shared access to the 35 units in the rear and most of the market rate units in the front. Ald. McGrath observed that a parking area serving the Housing Authority’s property next door appears to be served by a current driveway in the same location and may encroach on the proposed driveway location. The Committee asked the Law Department to sort out whether there is a formal easement arrangement.

The plan shows a single family garage for each unit and tandem parking for a second vehicle. There is no guest parking provided. Several members of the Committee stated that they would not support a plan designed with such insufficient parking, particularly where the 35 affordable units have almost no parking at all. Ald. McGrath commented that if the petitioners were to revise the plans and take out two units in the center of the project, they could run a driveway up the middle and create more room for parking.

Tom Daley commented on the driveways and, in particular, the difficulty associated with turning around at the end of the second short driveway serving 5 units. He expressed numerous

other concerns about the sewage, water and drainage systems proposed for this project, noting that he had written a 13-page letter detailing the problems he has identified. To date, the petitioners have not corrected them. The Committee concluded that the petition could not be approved without further work.

Ald. Lipsitt asked for the sense of the Committee on whether members would support the petition if the petitioner were to overcome the engineering and legal issues raised in this discussion. Ald. McGrath said he would not support tandem parking and he did not see how that could be resolved in the present 12-unit plan. Ald. O'Halloran said the density compromises the driveway and makes the project unsupportable. Ald. Antonellis said the project lacks adequate parking and it too dense. Ald. Salvucci echoed concerns about tandem parking and density. Ald. Tattenbaum said the project is too dense and could have a serious impact on traffic. Ald. Samuelson said she would be very sad if the affordable housing project were to evaporate with the failure of the market rate petition, but she sees the present proposal as "unlivable." She thinks there is a better project yet to be designed. Ald. Merrill said he agrees that fewer units would be better. Ald. Lipsitt said she endorses Ald. Samuelson's remarks and said that she is troubled by the entire site concept. She believes it would be possible to design an integrated project for the site.

Ald. Basham cautioned the public that even though they may not like this project, the Board' rejection of the project will not necessarily result in something they like better. She noted that if the entire site were devoted to affordable housing, it would be very densely developed. She said she would be willing to continue to work with the petitioners to see if they can overcome some objections to this plan, but she recognized that for some members of the Committee, the plan is fundamentally unworkable.

Ald. McGrath added that housing must create a quality of life, and that means a place to park, open space, and a feeling of not being crowded. The Archdiocese should not neglect the details and the necessary amenities.

Ald. O'Halloran moved denial, based on the findings stated by the Committee and, in particular, the problematic driveway design, inadequate and substandard parking, and lack of benefit to the public generally. The Committee supported the motion 7-0-1.

521-00        EMERALD DEVELOPMENT GROUP, INC. and PETER VACHON petition for SPECIAL PERMIT and SITE PLAN APPROVAL to create a new lot 14A by measuring its frontage along the rear of lot 14, exceed the build factor, and waive technical requirements for parking on an adjacent lot at 55-61 PRESCOTT STREET, Ward 2, on land known as Section 23, Block 15, Lots 13 and 14, in a district zoned MR 1.

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

NOTE: The petitioners wish to create a new lot at the rear of 61 Prescott Street on which they will construct a new two-family residence. In effect, they will create three new lots from the two existing lots at 55 and 61 Prescott and will install a new driveway serving both 61 Prescott (Lot 14) and the new Lot 14A and providing the required 20' of street frontage for the rear lot. They require several special permits as noted above. As part of this project, the petitioners intend to restore the two existing residences and are committed to working with the Historical Commission in completing their plans. In addition, they intend to return the two residences to single family use and have offered a condition that they will impose deed restrictions on these lots to keep them in single family use. The petitioners have submitted plans for a handsome neo-Victorian residence on the rear lot and are committed to developing this plan.

At the public hearing on January 9, 2001, several neighbors on Prescott Street and Turner Terrace spoke in favor of the petition and expressed particular approval of the petitioners' commitment to restoring the two existing residences to single family use. Ald. Lipsitt asked whether the petitioner might consider realigning the driveway to preserve more mature trees.

At the working session, the Committee reviewed the site plan and the proposed reconfiguration of the lots. Nancy Radzevich reported that the revised site plan shows a modified driveway path that permits the preservation of more trees. Tom Daley reported that the petitioner's engineer has addressed various concerns his department raised initially. He suggested that the Board Order incorporate his memorandum by reference so that there will be no confusion as to what details remain to be worked out. The Fire Department has approved access to the site but wants stabilized turf in the area where fire engines would have to make a turn. The petitioners will need cross-easements for the driveway, which will be reviewed by the Law Department. Kenn Eisenbraun has reviewed the landscape plan and finds it generally acceptable.

Ald. Antonellis reported that Steve Nevaroli, who lives at 61 Prescott Street, is delighted with the plan, and the Turner Terrace neighbors are pleased they will have a fence along the property line. He moved approval, finding that the public convenience and welfare will be served by the creation of additional housing; relief from the build factor is warranted because the deficiency does not arise from the irregularity of the lots; and the parking arrangement is reasonable on this site. The Committee supported the motion unanimously.

### **Automobile License Applications**

478-00      FERRARI AUTOMOBILES OF NEWTON d/b/a FERRARI OF NEWTON  
1197, 1203, 1213-1215 WASHINGTON STREET  
Class 1

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

485-00      AUTO KLASICS INC.  
25 BORDER STREET  
Class 2

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

501-00      TODY'S SERVICES INC.  
1362 WASHINGTON STREET  
Class 2 and Class 3

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

The meeting was adjourned at 11:10 pm.

Respectfully submitted,

Ald. Susan M. Basham  
Chairman