

**CITY OF NEWTON**  
**IN BOARD OF ALDERMEN**  
**LAND USE COMMITTEE REPORT**  
**TUESDAY, MAY 8, 2001**

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

Members of Committee absent: Ald. Antonellis, Lipsitt, McGrath.

Other Aldermen present: Ald. Mansfield, Merrill.

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

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148-01        NEWTON HIGHLANDS NEIGHBORHOOD AREA COUNCIL requesting a temporary license pursuant to Newton Rev. Ords. Sec. 30-6(k) to hold its 26<sup>th</sup> annual Village Day on Sunday, June 10, 2001.

ACTION:        Approved 5-0.

90-00(3)       TRUSTEES OF BOSTON COLLEGE petition to AMEND CONDITIONS 2, 3, AND 9(e) of Special Permit 90-00, granted 6/5/2000, which allowed expansion of Williams, Welch, Roncalli, Fitzpatrick and Gonzaga Halls at BOSTON COLLEGE, Beacon and Hammond Streets, Ward 7.

ACTION:        Approved 5-0.

NOTE:        The petitioner seeks an amendment to a previously-granted Special Permit that will have the effect of postponing the reconstruction of the Beacon and Hammond intersection until 8/31/02 but allow occupancy of the renovated dormitories under a sequence of temporary certificates of occupancy. The petitioner wants to postpone this construction because it believes a different design might be preferable, depending upon the outcome of litigation concerning the student center and the potential development of another project. The petitioner will either reconstruct the intersection in accordance with the plans submitted with petition 90-00 or will seek approval of a redesigned intersection before 8/31/02. At the public hearing on April 10, one person questioned the wisdom of a "no right on red" at the intersection.

At the working session, the Committee confirmed the petitioner's understanding that it will need to apply for a different plan, if it intends to do so, to allow enough time to proceed with construction of the approved plan if the substitute plan is not approved. Ald. Samuelson moved approval of the amendment, which was supported unanimously.

523-00      JOSE PACHECO, PRESIDENT, NEWTON DONUTS, INC. and MILDRED MC MULLIN c/o DUNKIN' DONUTS petition for SPECIAL PERMIT and SITE PLAN APPROVAL to allow drive-in business and appurtenant buildings and structures, various parking and landscape waivers, 2 secondary signs above roof line, and relocation of existing free-standing sign, at 940 BOYLSTON STREET, Ward 5, on approximately 12,532 sf of land known as Section 51, Block 26, Lot 3, in a district zoned Business 2.

ACTION:      Held 4-1; extension of time for action through July 11, 2001 approved 4-1 (Ald. Samuelson voting in the negative).

NOTE:          The Committee discussed this item at length. Prior to voting to hold it for further discussion, a motion to deny failed to carry 1-1-3. The petitioner asked for an extension of time to try to resolve some of the issues raised by the Committee, recognizing that some Committee members have concerns about the drive-in nature of the business that may not be resolvable.

17-01      WILLIAM and MERLE ROSE petition for SPECIAL PERMIT and SITE PLAN APPROVAL to measure the required street frontage on the rear lot line of the lot directly in front of a proposed new lot; to waive the required 2-way driveway width; to waive the requirement that the entire parking facility be located on the lot to be served; and to change the grade more than three feet, all for purposes of constructing a new single family dwelling at 91 WINSTON ROAD (Burdean Road), Ward 8, on approximately 61,275 sf of land known as Section 81, Block 51, Lot 22, in a district zoned SR2.

ACTION:      Approved 5-0.

NOTE:          The petitioners wish to create a new lot on the rear portion of 91 Winston Road. The new lot will have 60.99 feet of frontage on Burdean Road and will meet the build factor. The petitioner requires several forms of relief as noted above. At the public hearing on February 13, 2001, the petitioners' attorney, G. Michael Peirce, stated that the petitioners will commit to the location, footprint, and other details of the proposed residence in plans submitted with the petition. Two neighbors expressed concern about the aesthetics of the proposed dwelling, the loss of mature landscaping, and the diminution of their privacy. Subsequent to the public hearing, the Committee received a letter from David Bikofsky who had testified at the hearing, stating that he is now satisfied with the landscape plan. The Committee also received a letter from Alan Schlesinger on behalf of Harriet Freedman of 21 Burdean Road, an abutter and the owner of the parcel on which the proposed driveway will be located. Ms. Freedman's concerns are potential blasting damage and the removal of existing vegetation to widen the driveway. The time for action on this petition has been extended through June 6, 2001.

At the working session, the Committee reviewed the proposed site plan and noted that although the proposed house is large for the neighborhood, but its footprint is comparable to the

house constructed in 1994 at 91 Winston. The Committee confirmed that the only other option for access to this site, over Brandeis Road, is not possible because of the complexities associated with city ownership of the relevant strip of land. The proposed grade change will be in the center of the site and is related to the plan to build the house into the hillside to keep the house at the lowest level. Although the petitioners cannot rule out blasting, recent tests revealed no ledge down to 13' in the area requiring the most excavation. Mr. Daghlian reported that the Engineering Department has reviewed the utilities and plans for poured concrete retaining walls and recommends approval. The drainage system will contain the 100 year storm onsite, with plenty of onsite retention area. The petitioners have agreed to modify plans in accordance with Mr. Daghlian's 5/7/01 memo.

The Committee also confirmed that the driveway is on a right of way that may be used for all purposes of public ways. To address Ms. Freeman's concerns, the petitioners have added screening on the east side of the driveway and will continue paving farther up the driveway. The petitioners and Ms. Freeman are working on private arrangements concerning potential blasting damage. The Committee also took note of a landscape plan illustrating preserved vegetation.

Ald. Tattenbaum moved approval, finding that the public convenience and welfare will be served by creating a new residence where the lot is large enough to accommodate it and where the lot cannot be accessed from the normal frontage on Brandeis Road. The grade change will improve the usability of the lot, and the drainage system will improve conditions in the area generally. The shared driveway and parking waivers are justified where there is no other way to access the property across public land. The Committee supported the motion unanimously.

62-01        URSULA and SCOTT STEELE petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL for an addition to an existing dwelling at 105 TEMPLE STREET, Ward 3, on approximately 4,861 sf of land known as Section 32, Block 12, Lot 8, in a district zoned SR 2.

ACTION:     Approved 5-0.

NOTE:        The petitioners are in the process of completing a number of alterations to the existing residence. As part of those alterations, they would like to add approximately 134 sf to a third floor bedroom over an existing screened porch. They require a special permit because the structure is nonconforming as to height and number of stories, and the third floor addition will increase the nonconformity. There was no public testimony at the hearing on March 13, 2001.

At the working session, the Committee reviewed the site plan and the elevations of the proposed addition, noting that it is at the rear of the property and is entirely in keeping with the Victorian style of the house. Ald. Salvucci moved approval, finding that the nonconforming structure as altered will not be substantially more detrimental to the neighborhood than the existing because it is in the rear of the house and not visible from the street, there will be no

change in the footprint, and the design is in keeping with the historical character of the residence. The Committee supported the motion unanimously.

87-01 CAROL ANN PAUL and JOSEPH RIZZA, JR. petition for SPECIAL PERMIT TO EXTEND NONCONFORMING USE and SITE PLAN APPROVAL to convert a portion of a detached accessory structure to a home office use, including a parking waiver of one space, at 285 PARKER STREET, Ward 8, on approximately 14,582 sf of land known as Section 81, Block 36, Lot 3, in a district zoned SR3.

ACTION: Approved 4-0-1 (Ald. O'Halloran abstaining).

NOTE: The residence at 285 Parker Street is actually divided into two condominiums, with the petitioners owning the first floor and all of the accessory "carriage house" that is the subject of this petition. (The owners of the second condominium have added their names to a revised application). They wish to develop an area of approximately 375 sf on the east side of the first floor for an office for the petitioners' architectural business. They require a special permit to create a home business use in a detached structure and, according to ISD, also require a special permit to extend a nonconforming use (the nonconforming two family use). At the public hearing on April 10, 2001, Mr. Rizza explained that nearly all of his client meetings are conducted offsite, at least one of the onsite parking spaces is always vacant during the day, and there is unrestricted parking on Parker Avenue. Therefore, in order to avoid the necessity of paving more green space, the petitioners are seeking a waiver of one required parking space for an employee. Several neighbors expressed concern that the introduction of a home business could make the area more commercial and there could be public safety issues with increased traffic and parking.

At the working session, the Committee began its review by noting that the home business could be conducted at this location as of right, but for the petitioners' desire to house the business in a detached structure. The Committee reviewed the site plan and noted that the access to the carriage house is from Parker Avenue. The Committee confirmed that there are no parking restrictions on Parker Avenue. Ms. Radzevich reported that after the public hearing, the Planning Department had concluded that there really is not room for another space on the site and that the Department recommends the waiver. The Committee reviewed the Planning Department's memo of May 3, summarizing issues that have been addressed since the public hearing. Ms. Young explained that while the Ordinance requires that only one employee who performs "clerical" duties is allowed, she believes a common sense interpretation of the Ordinance will allow for an employee who provides certain occupation-specific services, such as assistance in drafting or copying plans. The petitioners have also agreed to improve the existing landscaping along the parking area.

Ald. Tattenbaum moved approval, finding that the proposed extension of a nonconforming use will not be substantially more detrimental to the neighborhood than the

existing nonconforming use because the property is sufficiently large to support the home business without disruption to the neighborhood. The parking space waiver is justified where it will permit preservation of green space and where there is plenty of parking on the street. The special permit for housing the business in a detached structure will serve the public convenience and welfare because there will be no change in the intensity of use in this already-occupied structure. The Committee supported the motion 4-0-1.

# 63-01      RONALD A. LOPEZ/ANTHONY BONADIO & MS. ANNA BONADIO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct 10 attached dwellings, each with a 2-car garage, at 13-21 ELM STREET, Ward 3, WEST NEWTON, on land known as Sec 33, Blk 23, Lots 16 and 17, containing approximately 50,176 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-19(h), (j), (m), 30-9(b)(5)b) of the City of Newton Rev Zoning Ords 1995.

ACTION:      WITHDRAWAL WITHOUT PREJUDICE APPROVED 5-0

NOTE:        A letter was received requesting withdrawal without prejudice, which was approved 5-0.

The meeting was adjourned at 10:18 p.m.

Respectfully submitted,

Ald. Susan M. Basham  
Chairman