

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, MAY 22, 2001

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

Members of Committee absent: Ald. O'Halloran.

Other Aldermen present: Ald. Baker, Mansfield, Merrill, Parker, Sangiolo.

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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116-01 RAM COHEN & DEBRA DEBOTTON petition for SPECIAL PERMIT TO EXTEND NONCONFORMING USE and SITE PLAN APPROVAL to construct an addition to an existing 2-family house at 585 GROVE STREET, Ward 4, on approximately 26,728 sf of land known as Section 42, Block 29, Lot 34, in a district zoned SR3.

ACTION: Withdrawal without prejudice approved 5-0 (Ald. Tattenbaum not voting).

89-01 STEPHEN & BARRIE SILK, petition for SPECIAL PERMIT and SITE PLAN APPROVAL to construct a 3-car garage greater than 700 sf at 175 COUNTRYSIDE ROAD, Ward 8, on approximately 24,236 sf of land known as Section 83, Block 36, Lot 25, in a district zoned SR1.

ACTION: Approved 4-0-1 (Ald. Tattenbaum not voting; Ald. Lipsitt abstaining).

NOTE: The petitioners are in the process of constructing a new residence as of right. They wish to construct a garage of 912 sf, necessitating a special permit. The garage is situated at an angle to the frontage, and the additional bay would not be directly visible from the street. If the petition is not approved, the petitioners will use the additional square footage for storage. At the public hearing on April 10, 2001, the petitioners, through counsel, represented that they needed the additional "bay" for a second van associated with the petitioners' business, but later communications with counsel revealed that the petitioners instead wish to garage an antique vehicle. At the public hearing, the neighbor at 185 Countryside spoke in favor of the project, and the neighbor at 170 Countryside submitted a letter in support.

At the working session, the Committee reviewed the site plan and resolved certain questions that had been raised at the public hearing concerning easements on the property. One of these easements is for landscaping purposes and runs to the near abutter. Mr. Daley reported that the Engineering Department has reviewed the plans and has no objections. However, the Committee discovered a discrepancy between the landscape plan, the plan reviewed by Engineering, and the plans reviewed by Planning, in that two of the plans show a paved pull out "parking" area that

may infringe on the easement, or at the very least, would permit the illegal parking of more than one car in the setback. The additional paved area would alter some of the Planning Department's calculations.

After the petitioners agreed to revise their plans to meet the requirements of the Ordinance in advance of the next Board meeting, Ald. Samuelson moved approval, finding that the public convenience and welfare will be served by the enclosure of vehicles. The lot is large enough to accommodate the additional bay and it is situated so as to not be intrusive to the neighborhood. The Committee referenced the landscape plan, anticipating revisions, and added a condition that no more than one vehicle and one parking space be located in the paved area.

60-01 THE NEWTON TERRACES, LLC/NEWTON THEOLOGICAL SCHOOL
petition for SPECIAL PERMIT and SITE PLAN APPROVAL for 42 single family attached dwellings, with 6 single family detached dwellings, requiring various forms of zoning relief, at 101 HERRICK ROAD, Ward 6, on land known as Section 65, Block 19, Lot 45, measuring 552,226 sf, in a district zoned SR3.

ACTION: Held 5-0 (Ald. Tattenbaum not voting).

NOTE: The Committee continued an extensive review of this petition after holding it following a discussion on April 24. The highlights of its discussion were the following:

The proposed access road from Langley to Hebrew College is related to anticipated future development of Hebrew College. There is an easement granting the college this access. The Committee referred the easement to the Law Department for further review, but concluded, with the petitioner's agreement, that if this project does not require a developed roadway for its own purposes, there is no reason for such a roadway to be in the plans.

The proposed club house requires 30 parking spaces and the petitioner proposes 19. The Committee discussed at length the probability that the clubhouse would generate additional parking that would spill onto Langley Road. Some thought that was fine; others thought it might present a safety issue or a detriment to the neighbors. The Committee was divided on whether it would support the parking waiver or not, recognizing that the denial of a parking waiver would force the petitioner to build a smaller clubhouse or provide more parking, using up more green space. There was also a difference of opinion in the Committee as to whether the clubhouse should be made available to "the community," and to what end. The petitioner volunteered that there would be no outright prohibition on community use, and the condo association surely would consider any request for use by a community organization. Some Aldermen wanted to see such an "offer" translated into a condition of approval, while others questioned whether it could be imposed or enforced.

Tom Daley reported that the Engineering Department had reviewed the plans in detail and had no further concerns. He stated that the drainage plan "option 2" would resolve the flooding

problem in the school fields. There was some discussion of the relationship between Martha Horn's environmental concerns and the required NPDES permit. The Committee asked Mr. Daley and the Planning Department to determine how the proposed Construction Pollution Prevention Plan is enforced or administered and to try to address Ms. Horn's concerns.

Ald. Parker raised again the question of a public footpath, challenging the petitioner's contention that any path would require ADA compliance. Ald. Baker asked whether there is some kind of prescriptive easement running to the public, and the Committee asked the Law Department to investigate.

The Committee reviewed the landscape plan. Ald. Sangiolo asked that the petitioner clarify its tree removal plan. The Committee asked the Planning Department to coordinate with the Tree Warden. Ms. Radzevich reported the Planning Department does not have adequate resources at present, or adequate expertise, to deal with the tree preservation and environmental issues on this site. The Committee added wildlife habitat evaluation to the list of environmental concerns. Jim Sullivan stated that the Bowen Thompsonville Neighborhood Association had undertaken a wildlife habitat evaluation and had submitted its report to the Planning Department.

Ald. Lipsitt moved that the Committee authorize the Planning Department, at the petitioner's expense, to hire consultants with the expertise it needs. The motion prevailed 3-1-2 (Ald. Salvucci opposed; Ald. Samuelson and Antonellis abstaining).

The Committee also considered certain height and perspective questions raised at the public hearing. The Committee reviewed a report from the Newton Conservators and offered the petitioner an opportunity to respond with its own analysis. Ald. Baker renewed his request for perspective drawings.

At the end of the meeting, after identifying various issues that require further investigation or resolution, the members of the Committee offered their sense of the petition for the petitioner's consideration. Ald. Samuelson stated that she is opposed to the petition and none of the changes the petitioner might make in response to the Committee's concerns would alter her position. Her opposition is based on her perception that the project is far too dense and its impact would be devastating to the site. In her view, Andover Newton is making a fortune at the community's expense. Ald. Salvucci said he remains open to supporting the petition as long as the petitioner satisfies his concerns about engineering issues. Ald. Antonellis agreed. Ald. Tattenbaum said she has an open mind toward the petition, particularly where the choice is not between an undisturbed site and this project but between certain as of right uses and this project. Ald Lipsitt said she has an open mind, as well, but she dislikes the fact that the project is effectively a "gated" community turned inward, and she believes this is a poor use of the cluster zoning provisions of the Ordinance. Ald. Basham said she is open to supporting the petition, depending on the answers to some of the outstanding questions.

Other Aldermen who were present also offered their views. Ald. Baker questioned whether the public convenience and welfare will be met in accordance with the four standards set out in the Ordinance. He posed the question: is the whole greater than the sum of its parts? He also pointed out that we need to be careful to adjust our perceptions of the project in light of the hilly nature of this site. Ald. Mansfield reminded the Committee that the key reservation of community people at the public hearing was with the plan itself -- its massiveness rather than its density. In his view, there is no sense of clustering or preservation of open space. He would not support a parking waiver for the clubhouse. Ald. Parker said he thinks Andover Newton should be at the table -- it is not like an owner who will disappear once the property is conveyed to a new owner. He believes the project is fatally flawed by the physical size and placement of its monstrous houses.

Bob Engler, representing the petitioner, asked to address the Committee. He pointed out that the petitioner had reduced its project from a 60-unit development to this cluster development. The units are under 3,000 sf and are not mega-housing. He suggested that the petitioner would not be inclined to build the by-right subdivision but would instead look at a comprehensive permit for many more units.

The Committee held the item 5-0.

The meeting was adjourned at 11:28 pm.

Respectfully submitted,

Ald. Susan M. Basham
Chairman