

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 17, 2001

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

Members of Committee absent: Ald. Lipsitt.

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, Construction Engineer; Linda Finucane, Chief Committee Clerk.

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REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE

60-01 THE NEWTON TERRACES, LLC/ANDOVER NEWTON THEOLOGICAL SCHOOL petition for SPECIAL PERMIT/SITE PLAN APPROVAL for 42 single-family attached dwellings, 6 single-family detached dwellings, a community center, and 13 parking spaces at 101 HERRICK ROAD, Ward 6, on approximately 552,226 sf of land known as Section 65, Block 19, Lot 45, in the SR3 zoning district.

ACTION: Withdrawal without prejudice approved 6-0.

NOTE: The petitioner has expressed its intention to file another petition for this site. Because many of the features of the new plan reportedly will be similar to the present petition, the Planning Department, at the petitioner's request, has authorized the completion of the report of the consulting landscape architect. Any substantive changes in the new plan may require additional review.

SPECIAL PERMIT/SITE PLAN APPROVAL PETITIONS

118-01 XM SATELLITE RADIO, INC./ANDOVER NEWTON THEOLOGICAL SCHOOL petition for SPECIAL PERMIT/SITE PLAN APPROVAL to install two antennae for XM Satellite Radio (a newly-licensed third band on the radio dial) on an existing building at 101-239 HERRICK ROAD, Ward 6, on land known as Section 65, Block 19, Lot 45, in a district zoned SR3.

ACTION: Approved 4-0-2 (Ald. Basham and Salvucci abstaining).

NOTE: This item was previously voted out of Committee but recommitted by the Board on July 9, 2001 when it became clear that (a) information requested by the Committee concerning the existing antennas on the building had not been provided, and (2) the Board Order referenced two whip antennas, which was inconsistent with the Committee report and vote.

In this working session, the Committee initially verified that the petitioner's request includes one whip antenna and one dish antenna, as previously reported. The Committee then attempted once again to discover whether any of the Cellular One antennas was installed illegally. Information concerning the prior Board Orders remained inconclusive.

Ald. Mansfield asked whether Andover Newton should be represented in the process as a matter of policy. Ms. Young stated that it is not necessary for a co-petitioner to be present where the request is being advanced by another petitioner. Andover Newton apparently has tried to respond to the Board's questions through written communications.

Ald. Antonellis said that the petitioner has gone through proper channels and it is not XM Radio's responsibility to determine the legality of other antennas on the building. He moved approval, adopting findings and conditions stated in the previous Board Order. After additional discussion, the Committee added a condition of approval requiring that Andover Newton will take responsibility for removal of any antennas requiring a special permit that have not been legally installed. Ald. Basham stated that she would again abstain since the missing information concerning the Cellular One installation could affect her vote. Ald. Salvucci reiterated his concern that a "statute of limitations" may protect an illegal installation if it has been in place long enough. The Committee supported the motion 4-0-2.

Because the time for action will expire on August 13, the Committee asked the petitioner for an extension of time, and the petitioner's representative stated that she did not have authority to offer the extension. She was advised that in the absence of any extension, the Board might have no choice but to deny the petition to avoid a constructive grant of approval.

177-01 GILAH F. COHEN and DANIEL DANINO petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL to waive floor area ratio requirement (from .43 to .58) for an addition to an existing two-family dwelling at 64-66 LOUISE ROAD, Ward 8, on approximately 7015 sf of land known as Section 82, Block 4, Lot 92, in a district zoned MR1.

ACTION: Approved 6-0.

NOTE: This petition was heard on June 12, 2001. The petitioners received a building permit from ISD to construct an as of right addition. During related renovations, the petitioners discovered more structural deterioration than they had anticipated and proceeded to correct it. ISD determined that the petitioners had demolished more than 50% of the structure, which triggered the FAR requirements of the Ordinance. The residence had a nonconforming FAR of .43 (compared to the required .40) and with the new addition will have a more nonconforming FAR of .58. The far rear of the property is actually in Brookline.

At the public hearing on June 12, an abutter, Adam Kahn, whose property is in Brookline asked that the Board require the removal of fill on the property and on adjacent public land and review the exterior renovations of the property. Several abutters signed a petition in support of the proposal.

At the working session, Ms. Radzevich reported that the petitioners have agreed to remove the fill on their property and on the MDC property. They also have agreed to provide protection for mature trees during the construction process. The Committee adopted these as conditions of approval. The petitioners have also entered into various other private agreements with Mr. Kahn which the Committee declined to include as conditions. Mr. Daley reported that the Engineering Department had completed its review and is satisfied with the plans.

Ald. Tattenbaum observed that the FAR on the block ranges from .32 to .58 and this property is well within the range. She moved approval, finding that the increased nonconformity of the structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure as to the FAR because the new FAR is consistent with, and not in derogation of, the size and scale of other buildings in the area and because the new construction is in the rear. The Committee supported the motion 6-0.

184-01 CINDY STUMPO and ELAINE B. KAPLAN, TRUSTEES OF DRUMLIN ROAD REALTY TRUST, petition for change of grade of more than three feet and waiver of floor area ratio requirement in order to construct a new single-family house on a lot measuring approximately 16,310 sf on DRUMLIN ROAD, adjacent to and north of 54 Drumlin Road, also known as Section 82, Block 25, Lot 34, in a district zoned SR1.

ACTION: Approved 5-0-1 (Ald. Tattenbaum abstaining).

NOTE: The petitioners plan to construct a new single family residence on a vacant lot measuring 16,310 sf. They are requesting two forms of relief: permission to exceed the FAR requirement (.25 required and 2697 proposed), and permission to alter the existing grade more than three feet. At the public hearing on July 10, 2001, Jason Rosenberg, counsel for the petitioners, and the petitioners' architect, David O'Sullivan, explained that the increased FAR is needed so that the house can be designed creatively in relation to the topography, not to increase its scale. The petitioners prefer to construct several separate stairs between the levels rather than a single stairwell extending through all levels, resulting in 364 square feet (compared with 144 square feet needed for a traditional stair well). An additional 110 square feet are related to the two-story "cathedral ceiling" design of the family room. The petitioners also argue that a standard design would require far more disruption to the topography and a greater area affected by grade change. One abutter raised questions concerning drainage and tree removal, and another neighbor stated that the house appeared to large for the lot.

At the working session, the Committee considered the FAR in relation to the proposed design and the alternative design as represented by the petitioners. The Committee noted that the

lot is very large and easily would accommodate the proposed residence of approximately 4250 sf., leaving approximately 75% open space. Ald. Tattenbaum expressed concern that the house is large in relation to the other houses in the area and in proportion to the lot.

Reviewing the site plan and the proposed grade change, the Committee noted the winding driveway and the proposed regrading in the rear of the site to gain some level yard area. The Engineering Department reported a favorable review of the drainage system and calculations. The petitioners will provide a landscape and screening plan and intend to preserve two significant trees in front. The Fire Department has also provided a letter indicating approval of the site plan.

Ald. Salvucci moved approval, finding that the FAR increase is consistent with, and not in derogation of, the size and scale of surrounding buildings and will preserve more than 70% open space on the site. The grade change is justified by the topography and the public convenience and welfare will be served by improving drainage on the site, which includes a difficult slope. The petitioners have agreed to construct the residence as shown in plans submitted with their petition. The Committee approved the motion 5-0-1.

179-01 ROMAN CATHOLIC ARCHBISHOP OF BOSTON a Corporation Sole and EMERALD DEVELOPMENT GROUP, INC. petition for SPECIAL PERMIT and SITE PLAN APPROVAL to construct 9 single-family attached dwellings, including an addition to an existing dwelling, and to locate parking spaces and driveway within the 20' rear setback, and for exceptions from design standards for parking facilities at 243 WATERTOWN STREET, Ward 1, on approximately 84,690 sf of land known as Section 11, Block 12, Lots 20A and 21, in a district zoned MR2.

ACTION: Approved 6-0.

NOTE: Because this petition was filed within two years of the denial of another proposal for development of the same site, the petitioners first needed a finding by the Board and the Planning Board that the new proposal reflects substantial and material changes from the denied proposal. The Board made that determination by its affirmative vote on petition 179-01(1). At the start of this working session, Ms. Radzevich reported that the Planning Board also voted affirmatively on that petition. Accordingly, the Board may proceed to consider the merits of this petition 179-01.

The petitioners propose the redevelopment of the former St. Jean's property. They wish to construct 9 single-family attached dwellings with a single driveway accessing all of the units. The required 18 parking spaces will include 9 garages and 9 surface spaces, 6 located along the common driveway and three in the rear of the site. The design includes sufficient area in front of each garage for tandem parking, as well, although the petitioners are not relying upon tandem parking to meet the minimum parking requirement. One of the units will be located in the existing rectory and 4 of the proposed new units will be attached to it.

The petitioners require several approvals from the Board: approval for attached dwellings in a MR2 zoning district; waiver of the 25' sideyard setback requirement associated with the existing rectory building and the proposed building extending from it; relief from the Ordinance's requirement that no parking be located within 20 feet of a boundary line to permit the installation of three parking spaces less than 20' feet from the rear lot line; relief from the Ordinance's requirement that no driveway be located within 10 feet of a boundary line to permit the driveway to run across the future rear lot line that will connect with proposed housing for that site; and waivers of various "parking facility" requirements.

The petitioners have worked with the Newton Housing Authority to redefine access to the adjacent Nonantum Village senior housing, which will result in removal of an existing driveway and four parking spaces along the east/right side of this site and adjustments in existing easements. As a condition of approval, the petitioners have offered their assistance to the Housing Authority in completing these changes. The petitioners have indicated that the separate lot at the rear of this site will be developed by CASCAP, Inc. under a Comprehensive Permit. That project is not subject to Board review (although access to the CASCAP site and utilities for the CASCAP site have been anticipated in this project).

At the public hearing on June 12, 2001, five residents of the area testified. One neighbor expressed concern about the potential traffic and impact on utilities associated with the development of the St. Jean's property overall, but particularly focused on the CASCAP housing not presently before the Board. Neighbors expressed differing views concerning proposed parking along the new driveway. One resident said that keeping all of the parking on the site is important, while another expressed concern about emergency access and snow removal. Several neighbors observed that this project is an improvement over the previous proposal. Subsequent to the public hearing, the Committee received several written communications from nearby residents of Watertown expressing concerns about potential traffic impacts.

At the working session, the Committee first acknowledged that the Historical Commission has endorsed the plan for the preservation of the 1890s rectory building and prefers this plan over the petitioners' previous proposal. The Committee considered traffic and access concerns. Ms. Radzevich reported that Roy LaMotte reviewed traffic counts for Watertown Street and Capitol Street and concluded that the 9 units will generate 12 vehicle trips per hour at peak hours and will have negligible impact on existing conditions. He noted that the Capitol Street signal is traffic-activated. Ald. Merrill added that although some of the neighbors expect the CASCAP project to generate traffic, CASCAP expects very few of its residents to have cars.

Mr. Daley reported that the Engineering Department has reviewed plans for utilities for both this site and the CASCAP site. He noted that there is a discrepancy between the size of the City's water lines in Watertown Street and the proposed onsite system. The Engineering Department had asked the petitioner to upgrade the City's system for 100'. After some

discussion, the Committee agreed to require the petitioner to size the onsite system to meet fire flow tests but not to do more. The units will be separately metered.

The Committee also reviewed the evolution of the Board's policies concerning private trash removal. As for the present project, the Committee agreed to leave it to the condominium association to decide whether the residents wish to engage a private contractor but otherwise the residents may use public curb services.

The Planning Department indicated that the proposed landscaping is satisfactory with a few modifications, and will work with the petitioner and the Parks and Recreation Department to see whether the plan might include access to Stearns Park.

The petitioners will contribute to affordable housing according to the Ordinance formula.

Ald. O'Halloran moved approval, finding that attached dwellings are appropriate on this site and the public convenience and welfare will be served by adding to the housing stock. The restoration of the historic rectory will be a public benefit, as well, and the setback waiver is justified as part of this restoration. The parking and driveway-related waivers are appropriate to allow for access to this site and the anticipated rear project. Ald. Merrill thanked the residents of the area for their dedicated participation in the process. The Committee supported the motion 6-0.

The meeting was adjourned at 11:32 p.m.

Respectfully submitted,

Ald. Susan M. Basham
Chairman