

**CITY OF NEWTON**

**IN BOARD OF ALDERMEN**

**LAND USE COMMITTEE REPORT**

**TUESDAY, NOVEMBER 13, 2001**

Members of Committee present: Ald. Basham, Chairman; Ald. Lipsitt, Salvucci, Samuelson.  
Members of Committee absent: Ald. Antonellis, O'Halloran, Tattenbaum.  
Other Aldermen present: Ald. Bryson, Mansfield, Merrill, Parker, Sangiolo, Yates.  
Also present: Alderman-elect Stewart.  
City officials present: Ouida Young, Associate City Solicitor; Nancy Radzevich, Chief Planner/Land Use Coordinator; Linda Finucane, Chief Committee Clerk.

\* \* \* \* \*

301-01 JOANNA GIAMIOTIS-COGNAC, PRESIDENT, KOUZINA, INC./PREFERRED REALTY CORPORATION petition for SPECIAL PERMIT and SITE PLAN APPROVAL to apply for a Common Victualler - Wine/Malt Beverages license for an existing restaurant at 1649 BEACON STREET, Ward 5, pursuant to Sec. 30-11(d)(9) of the City of Newton Revised Ordinances.

ACTION: Approved 4-0.

NOTE: The petitioner has recently obtained a common victualler-wine/malt beverage license from the Board of License Commissioners. She requires a special permit from the Board of Aldermen to exercise that license. Public testimony at the hearing on October 9, 2001 raised a question as to whether the service of alcoholic beverages should be restricted to hours when the Angier School is not in session. One resident expressed concern about potentially impaired drivers, while another commented that the SUV gridlock when the school is letting out would prevent anyone from driving erratically under any circumstances.

At the working session, the Committee took note of the issues raised at the public hearing and determined that the service of alcoholic beverages before dinner time will not create a hazard to the community. The Committee also agreed the special permit should not be construed as restricting interior changes in the facility that otherwise might be accomplished as of right.

Ald. Samuelson moved approval, finding that the public convenience and welfare will be served by supporting the economic viability of a community business and enhancing the dining experience of patrons in a business that is appropriate for the neighborhood. The Committee supported the motion 4-0.

280-01 WILLIAM HILLIKER AND LINDA HELFET petition for SPECIAL PERMIT and SITE PLAN APPROVAL to convert an existing garage into an accessory apartment and to extend an existing second floor deck at 53 MAPLE STREET, Ward 4, on land known as Section 43, Block 15, Lot 8, measuring approximately 10,512 sf, in a district zoned SR2.

ACTION: Approved 4-0.

NOTE: The petitioners wish to convert their garage to an accessory apartment. At present, the second floor of the garage is attached to the primary residence by a "bridge" and is used residentially. As part of their proposal, the petitioners will extend the bridge into a deck that will form the roof of a carport for the car associated with the accessory apartment. The first floor of the garage will be converted to residential use, as well, for a total of 785 sf in the unit. At the same time, parking for the main residence will be demarcated on the site alongside the driveway, and a new gravel surface will be installed. The proposal meets all dimensional requirements of the zoning ordinances. The petitioners seek a waiver from the specific requirement of the accessory apartment ordinance requiring additional screening because the site already has extensive mature plantings.

At the public hearing on October 9, 2001, a dozen residents of the immediate area testified. Those in opposition expressed opposition to the concept of accessory apartments generally and concern that the apartment will increase density in the neighborhood, particularly if it is occupied by large numbers of people. They argued that there might be a domino effect, tending to expand two family conversions where the other residences on the block are now single family. Those in support pointed to the petitioners' careful maintenance of their historic structure, the adequacy of parking on the site, and the compatibility of the proposed accessory apartment with the use of the site. They observed that recent controversies surrounding expansion of Lasell College have fueled tensions in the neighborhood that may have heightened the reaction to this petition.

The Committee began its working session by reviewing the requirements and the limitations imposed by the accessory apartment ordinance. In particular, Ms. Young reminded the Committee that upon transfer of ownership, the new owner has an affirmative obligation to re-register the accessory apartment with the City and attest to owner occupancy.

In reviewing the site plan, the Committee noted that there are currently two means of egress from the proposed apartment and the only exterior change will be conversion of the garage door to windows. The Historical Commission has declined review because so few changes are contemplated and the design of the structures will be consistent with plans originally approved by the Society for the Preservation of New England Antiquities.

Ms. Radzevich reported that both Kenn Eisenbraun and Lou Mercuri had reviewed the proposed parking arrangements and existing landscaping, finding that the existing landscaping provides adequate screening. In addition, the Committee acknowledged the petitioners' private agreement with the neighbors at 59 Maple Street to add certain plantings. The petitioners are providing the three required parking spaces and, in addition, the site will accommodate a number of additional cars stacked in the driveway if the need arises.

At Ald. Sangiolo's request, the Committee reviewed the conditions of approval attached to the accessory apartment at 333 Otis Street and advised the petitions of certain restrictions in the zoning ordinances specific to accessory apartments, including a prohibition of lodgers in either the original dwelling or the accessory apartment. Ald. Bryson said that she had had difficulty supporting the accessory apartment ordinance when it was first enacted, but she has come to see that it provides a real benefit to the community in some circumstances, and this is one of them.

Ald. Lipsitt moved approval, finding that the public convenience and welfare will be served by adding a small unit of housing, for which there is considerable demand, and by permitting long term residents to remain in the community. The layout of the site makes overflow parking on the street highly unlikely. Because the petitioners have reached a private agreement with their neighbors for additional screening, a waiver of the screening requirement is appropriate. The Committee approved the motion 4-0.

222-01        JANE ARANSKY petition for SPECIAL PERMIT TO EXTEND NONCONFORMING STRUCTURE and SITE PLAN APPROVAL to convert an existing two-family dwelling to a combined single-family dwelling and business use at 336 ELLIOT STREET/7 HALE STREET, Ward 5, on approximately 7,113 of land known as Section 51, Block 41, Lot 13, in a district zoned Business 1.

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

NOTE:         The petitioner wishes to convert part of her two-family dwelling to business use, specifically to house her skin care salon now located on Walnut Street in Newton. The dwelling is located at the corner of Elliot and Hale Streets in Newton Upper Falls and is within the Upper Falls Historic District. She requires a special permit to enlarge the structure, which is nonconforming as to lot area and a number of other features not directly impacted. She also seeks waivers of parking requirements for the number of stalls and various dimensional requirements. At its working session of October 2, the Committee held the item after it was unable to resolve its concerns about the location of the handicapped access on Hale Street, the design and facade treatment of the proposed 175 sf addition to the structure, and the dimensional deficiencies of the parking lot. In addition, the petitioner was awaiting the review of the proposed handicapped access by the Architectural Access Board.

At this working session, the Committee reviewed the Architectural Access Board's approval of the handicapped access with several waivers from its requirements, noting that the existing mature hedge along Hale Street will remain but will be trimmed back. The petitioner has asked the Board of Aldermen to waive the requirement that she maintain an exclusive handicapped parking space, instead creating a space that will be reserved for parking her own vehicle unless a handicapped customer needs it. The Committee also reviewed a November 13 memorandum from Roy Lamotte emphasizing the dimensional deficiencies in the parking lot and a memorandum from the Engineering Department indicating that the petitioner has agreed to renew the very old sewer system on the site. The petitioner provided a memorandum from her

architect explaining the rationale behind the proposed addition and the continuation of artificial siding. Ald. Lipsitt said that on a second inspection, she had concluded that the existing additions to the original structure are not as inconsistent as she first thought, but she still regards the proposed addition as inconsistent, even though the UFHDC thinks it is suitable.

Ald. Yates asked whether the petitioner has proposed a “sign package,” and Ouida Young responded that the petitioner is not asking for any signage that requires Board approval, but as of right signage will require review by the Urban Design and Beautification Commission and the UFHDC. As a condition of approval, the petitioner has agreed to include information on the history of the structure on the sign.

The Committee spent considerable time “brainstorming” potential conditions of approval that will limit the use of the compromised parking lot to this business use alone. The petitioner has agreed to restrict operations to no more than three employees at any time, one of whom is the owner/occupant, and no more than three customers on the site at any time. The petitioner normally schedules appointments with a ½ hour gap between them, but was not willing to commit to that arrangement as a condition of approval. Ultimately the Committee and the petitioner agreed upon two levels of restriction: the parking waivers in the special permit will expire upon transfer of ownership of the property (although the change of use will continue), and any change in the nature of the narrowly-defined business, i.e., a skin care salon by appointment, will be a violation of the special permit subject to enforcement. The Committee asked the Law Department to draft an appropriate definition of the limitations on the category of businesses that are comparable to a skin care salon.

Ald. Samuelson moved approval, finding that the proposed expanded structure will not be substantially more detrimental to the neighborhood than the existing because it will replace an existing garage; it is only 175 sf and is part of a substantial upgrade to the site. The public convenience and welfare will be served by installing a mixed residential/commercial use because the commercial use is one of low intensity and provides a good transition between commercial and residential uses in the neighborhood. The petitioner will upgrade utilities on the site and add handicapped access. The parking waivers are justified because literal compliance is impossible on this site. The number of spaces are adequate for the low intensity business, and any change in the intensity of the business is prohibited. The Committee supported the motion 2-0-2.

Following the conclusion of its work on the items scheduled for discussion, the Committee briefly reviewed several non-special permit items on its docket, with the following results:

#105-95(2) ALD. O'HALLORAN, GERST, MERRILL, CICCONE, MAGUIRE & ANTONELLIS requesting discussion with the Commissioner of Inspectional Services of list of conditions and subsequent enforcement of certain provisions of Special Permit Board Order #105-95, dated 5/15/95 re: Cabot Park Village assisted living complex Newtonville.

ACTION: NAN 4-0.

NOTE: Ald. Merrill reported to the Committee that the problem identified in the docket item has been resolved.

**REFERRED TO LAND USE AND ZONING & PLANNING COMMITTEES**

#139-99 ALD. TATTENBAUM requesting discussion with Commissioner of Inspectional Services re enforcement of zoning ordinances and of special permit conditions.

ACTION: NAN 4-0.

NOTE: The Committee agreed to docket another item that will call for regular communications with ISD concerning significant complaints of breaches of special permit board orders and will include a quarterly meeting with ISD on enforcement issues.

The meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Ald. Susan M. Basham  
Chairman