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STAFF MEMORANDUM

Meeting Date: **Wednesday, July 8, 2020**
DATE: July 2, 2020
TO: Urban Design Commission
FROM: Shubee Sikka, Urban Designer
SUBJECT: **Additional Review Information**

The purpose of this memorandum is to provide the members of the Urban Design Commission (UDC) and the public with technical information and planning analysis which may be useful in the review and decision-making process of the UDC. The Department of Planning and Development’s intention is to provide a balanced view of the issues with the information it has at the time of the application’s review. Additional information may be presented at the meeting that the UDC can take into consideration when discussing Sign Permit or Fence Appeal applications.

Dear UDC Members,

The following is a brief discussion of the sign permit applications that you should have received in your meeting packet and staff’s recommendations for these items.

I. Roll Call

II. Regular Agenda

Sign Permits

1. 191 Watertown Street – LT Nails & Spa

PROJECT DESCRIPTION: The property located at 191 Watertown Street is within Manufacturing zoning district. The applicant is proposing to replace and install the following sign:

1. One wall mounted principal sign, internally illuminated, with approximately 35 sq. ft. of sign area on the southern façade facing the rear parking lot.

TECHNICAL REVIEW:

- The proposed principal sign appears to be consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, one principal sign is allowed, which the applicant is not exceeding, and on this façade of 35 feet, the maximum size of the sign allowed is 100 sq. ft., which the applicant is also not exceeding.

STAFF RECOMMENDATION: Staff recommends approval of the principal sign as proposed.

2. 61 Washington Park – New Art Center

PROJECT DESCRIPTION: The property located at 61 Washington Park is within a Multi-Residence 1 district. The applicant is proposing to replace and install the following signs:

1. One free-standing sign, externally illuminated, with approximately 11 sq. ft. of sign area along Washington Park.
2. One perpendicular principal wall sign, non-illuminated, with approximately 4 sq. ft. of sign area on the western façade facing the driveway.

TECHNICAL REVIEW:

- The proposed free-standing sign appears to be consistent with the dimensional controls specified in §5.2.7. Per the Zoning Ordinance, one free-standing sign is allowed per frontage, which the applicant is not exceeding, and the maximum size of the sign allowed is 20 sq. ft., which the applicant is also not exceeding. The New Art Center is a non-profit organization under section 501(c)(3) of the Internal Revenue Code and hence does not require a special permit from the City Council for the free-standing sign.
- The proposed perpendicular principal wall sign appears to be consistent with the dimensional controls specified in §5.2.7. Per the Zoning Ordinance, one wall sign is allowed per frontage, which the applicant is not exceeding, and the maximum size of the sign allowed is 10 sq. ft., which the applicant is also not exceeding.

STAFF RECOMMENDATION: Staff recommends the approval of the proposed free-standing sign and the proposed perpendicular principal wall sign.

Fence Appeal

1. 138 Lake Avenue Fence Appeal

PROJECT DESCRIPTION: The property located at 138 Lake Avenue is within a Single Residence 2 district. The applicant is proposing to add the following fence:

- a) Front Lot Line along Lake Terrace – The applicant is proposing to add a fence along Lake Terrace, set at the front property line with a new solid fence, 6 feet in height, 66 feet in length.

TECHNICAL REVIEW:

The proposed fence along the front property line appears to be not consistent with the fence criteria outlined in §5-30(d)(1) of the Newton Code of Ordinances.

According to §5-30(d)(1), "Fences bordering a front lot line: No fence or portion of a fence bordering or parallel to a front lot line shall exceed four (4) feet in height unless such fence is set back from the front lot line one (1) foot for each foot or part thereof such fence exceeds four (4) feet in height, up to a maximum of six (6) feet in height, and further, that any section of a perimeter fences greater than four (4) ft. in height must be open if it is parallel to a front lot line."

As specified under §5-30(c) and (h), the UDC may grant an exception to the provisions of the City's Fence Ordinance. The proposed fence, however, must be found to comply with the *"requirements of this ordinance, or if owing to conditions especially affecting a particular lot, but not affecting the area generally, compliance with the provisions of this ordinance would involve substantial hardship, financial or otherwise."* The UDC must also determine whether the *"desired relief may be granted without substantially nullifying or substantially derogating from the intent and purposes of this ordinance or the public good."*

The applicant is seeking an exception to allow 6 feet tall solid fence at the front property line for a length of 66 feet, where the ordinance would permit such a fence to be 4 feet tall. The applicant's stated reasons for seeking this exception are that *"The particular condition that affects this lot is that the cul-de-sac, Lake Terrace, extends by the side of our house and into our backyard. The result of this condition is, that by the definition of the ordinance, a significant portion of the lot is considered a front lot. Of course, this makes sense for the portions of Lake Terrace that run along the house, but for the portion that intrudes into our backyard it creates a significant hardship."*

The significant hardship is the loss of a reasonable sense of privacy that a homeowner should expect in their backyard. This sense of privacy is quite different than the expectation of privacy and community presence that one should expect in a front or side yard. One thing we love about Newton is the community feeling that open views of the front of homes that the fence ordinance provides. However, it's clear from the fence ordinance rules on side and rear fences that there is a higher level of privacy expectation in backyards.

Lake Terrace has a significant amount of foot and vehicle traffic both day and night. It is very common to have groups of people, sometimes quite a significant number, congregating at the end of Lake Terrace. These groups will often stand and peer into our yard. We have children, and they like to play in the yard, and it can be quite disconcerting to have strangers staring at them. In addition, as adults we would like to use the rear yard to entertain privately without having to

engage passersby in conversation. Of course, in the front yard we love these impromptu conversations and engage in them frequently. Many of those who loiter at the end of Lake Terrace are looking for access to Crystal Lake. The city has provided significant public access to Crystal Lake at Livingston Cove, the Crystal Lake Bath House, and Crystal Lake Park. These public spaces provide the community with unrestricted access and views of the lake. There is no public lake access from Lake Terrace (a few do trespass).

While it may seem counterintuitive that there would be significant vehicular traffic on Lake Terrace since it is a cul-de-sac, there is traffic at all hours. Most cars which enter Lake Terrace appear to be looking for a way to access Crystal Lake and, discovering that it is a cul-de-sac, proceed to the end, turn around, and look elsewhere. In addition, it appears that Uber/Lyft use Lake Terrace as a place to sit and wait for rides. This creates noise and light pollution in our backyard. We have built a small stone patio "outlook" which is quite close to the turn around on Lake Terrace, and at night there are often bright headlights and cars that disturb our quiet enjoyment of the solitude of the lake at night. A 6' privacy fence would block the noise and block the headlights that create this hardship.

As long time Newton residents, we love the open community feeling that the fence ordinance provides. The particular condition of this property creates a loss of use of our backyard due to the lack of privacy, car and people noise, and light pollution that a 6' fence would alleviate."

STAFF RECOMMENDATION: Based on the information submitted in the fence appeal application and staff's technical review, staff seeks advise from Urban Design Commission.

2. 437 Parker Street Fence Appeal

PROJECT DESCRIPTION: The property located at 437 Parker Street is within a Single Residence 3 district. The applicant is proposing to replace and add the following fence:

- b) **Side Lot Line** – The applicant is proposing to replace and add a fence, set at the side property line with a new lattice fence, 8 feet in height, 20 feet in length.

TECHNICAL REVIEW:

The proposed fence along the side property line appears to be not consistent with the fence criteria outlined in §5-30(d)(1) of the Newton Code of Ordinances.

According to §5-30(d)(1), "*Fences bordering side lot lines: No fence or portion of a fence bordering or parallel to a side lot line shall exceed six (6) feet in height except as provided in subsection (6) below, and further, that any portion of a fence bordering a side lot line which is within two (2) feet of a front lot line shall be graded to match the height of any fence bordering the front lot line.*"

As specified under §5-30(c) and (h), the UDC may grant an exception to the provisions of the City's Fence Ordinance. The proposed fence, however, must be found to comply with the *"requirements of this ordinance, or if owing to conditions especially affecting a particular lot, but not affecting the area generally, compliance with the provisions of this ordinance would involve substantial hardship, financial or otherwise."* The UDC must also determine whether the *"desired relief may be granted without substantially nullifying or substantially derogating from the intent and purposes of this ordinance or the public good."*

The applicant is seeking an exception to allow 8 feet tall solid fence at the side property line for a length of 20 feet, where the ordinance would permit such a fence to be 6 feet tall. The applicant's stated reasons for seeking this exception are *"safety"*.

STAFF RECOMMENDATION: Based on the information submitted in the fence appeal application and staff's technical review, staff seeks advise from Urban Design Commission.