

June 9, 2014

***By Electronic Transmission***

Ald. Marc Laredo, Chairman (mlaredo@newtonma.gov)  
Land Use Committee  
Newton Board of Aldermen  
1000 Commonwealth Avenue  
Newton, MA 02459

CC: Linda Finucane, Clerk (lfinucane@newtonma.gov)

RE: Public Hearing Petition #166-14 for June 10<sup>th</sup>, 2014

Dear Mr. Chairman:

We are writing to object to Petition #166-14 by CREDERE VENTURES LLC, petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE at 22 Lenox Street, West Newton (the "**Subject Property**").

We have lived at 274 Otis Street in West Newton, 02465 for almost 22 years, since July, 1992. Our property directly abuts 22 Lenox Street on the entirety of the north side of the **Subject Property**. Our home was built in 1860, and is regarded by Historic Newton/Jackson Homestead as one of the first homes built on West Newton Hill.

Due to business travel plans, we cannot attend the June 10<sup>th</sup> public hearing, and are being represented by Roger Lehrberg, our neighbor residing at 38 Balcarres Road, and a real estate attorney who has represented us in a previous transaction with the Petitioner, described further herein.

I. BACKGROUND

In May, 2013, we learned that the then owners of the **Subject Property**, John and Ellen Newell, intended to sell it after living there since , 1969. We approached our neighbors before they listed the property and agreed to buy it without any real estate agents. On May 21, 2013, we entered into a Purchase & Sale agreement with the Newells to purchase 22 Lenox Street through a nominee trust .

We agreed to purchase the **Subject Property** because, as longtime residents of West Newton Hill with a strong interest in historic preservation, and realizing that the **Subject Property** was in need of significant repair, we wanted to protect the historic integrity of the **Subject Property**. Given the significant real estate development going on in our neighborhood, we were concerned that the footprint of the existing structure might be significantly expanded, or that the **Subject Property** might be torn down by property speculators.

In September, 2013, we learned that Credere Ventures, LLC ("Credere"), local real estate developers whose principals are Viguen ("Remi") Aftandilian, Brian Diblasi, and Armen Aftandilian, (Remi's father), had renovated 28 Regent Street, West Newton, which is about than one block away from the **Subject Property**.

At the invitation of Remi Aftandilian and Brian DiBlasi, we visited 28 Regent Street on September 25<sup>th</sup>, 2013 to inspect the quality of the work they had performed. Remi Aftandilian and Brian Diblasi informed us that they had a binding offer to sell 28 Regent for \$1.5 million, after buying it 7 months earlier for \$855,000, and that they were actively seeking their next development project. We were impressed by the quality of their work, and the value which they had added to the property on a small 5,000 square foot lot, without changing the footprint of the building, or building a garage.

II. CREDERE'S ACKNOWLEDGEMENT OF SUBJECT PROPERTY LIMITATIONS AND REPRESENTATION NOT TO SEEK A SPECIAL PERMIT

On September 26<sup>th</sup>, 2013 Brian Diblasi informed us that Credere was quite interested in buying the **Subject Property** from us, and we arranged to meet again on September 28<sup>th</sup> at 9:30 am to inspect the **Subject Property**, and discuss next steps.

We met with Remi Aftandilian and Brian Diblasi on September 28<sup>th</sup> at the Subject Property for a 2 hour walk-through inspection so that we could ascertain whether Credere was interested in buying the property on terms which would be acceptable to us. During the meeting on September 28<sup>th</sup>:

- we discussed that the **Subject Property** was non-conforming and that we would not sell the **Subject Property** to Credere if it planned to tear down the property or encroach on the open space, filled only by substantial natural plantings, which we and our neighbors had enjoyed for many years;
- DiBlasi and Aftandilian assured us that Credere was aware that the Subject Property was over the allowed FAR, and that, if they chose to proceed with the transaction, they **would not seek** a special permit to increase the size of the structure, add a garage, or add any other structures that would diminish the open space on the small lot of the **Subject Property**;
- we recall discussing the issue of a garage, specifically, while standing on the roof of the **Subject Property**, and surveying the immediately abutting properties which would be most affected by the massing of a garage, specifically, our property at 274 Otis St., the Ratnofky-Obbagy's at 28 Lennox Street, and the Reggie's at 19 Balcarres Rd.

At the conclusion of the September 28<sup>th</sup>, 2013 meeting, Diblasi and Aftandilian said that they would base their decision about whether to purchase the **Subject Property** based on their analysis of how much they would be able to increase the usable space of the **Subject Property**

within the existing structure by making the basement and third floor attic space into useable square footage, just as they had at 28 Regent Street. And, once again, they reassured us that they had no intention of seeking a special permit, or any other zoning relief to expand the building in any manner that would diminish the open space of the extremely small lot, including by adding a garage.

On September 30th, Diblasi informed us that Credere would make an offer to purchase the **Subject Property**. On October 1, he sent us an email with the key terms of the proposed transaction. On October 7<sup>th</sup>, we signed a Purchase and Sale agreement to sell the property to Credere at the same price which we had agreed to purchase the **Subject Property** from the Newell's with Credere became our title nominee under our original May, 2013 Purchase and Sale agreement with the Newells,. On October 29, 2013 the transactions closed and Credere's limited liability company becoming the owner of the Subject Premises,

Although we had been assured by real estate agents that we could have sold the **Subject Property** for considerably more than our agreed price with the Newells, our goal was to make sure that the **Subject Property** was bought by owners who would renovate it professionally, without increasing the density of our neighborhood or diminishing the value of the surrounding neighbor's property. Based on Credere's experience at 28 Regent Street, we believed Diblasi's and Aftandilian's specific assurances that they would not seek a Special Permit to build an additional or an additional structure.

### III. CREDERE'S LACK OF TRANSPARANCY SINCE BUYING 22 LENOX

Since the October 29, 2013 closing of the sale of 22 Lenox Street to Credere, we have not heard from Credere. Diblasi and Aftandilian did not inform us of their change of plans to build a car port, nor their more aggressive approach of seeking a Special Permit to build a garage. Before receiving notice by mail from the City of Newton of the Special Hearing, the last time we heard anything about the **Subject Property** was Brian Diblasi's email, sent October 29, 2013, thanking us for the opportunity to buy it without going through real estate agents.

We believe that Credere is playing "fast and loose" with the neighbors and with the City of Newton. We called Diblasi when we received notice of the special permit hearing. When confronted about his original promise not to develop the property beyond renovating the house, he acknowledged the conversation and his original pledge, but claimed hardship. He complained that he and his partners were afraid of losing money on the project, and that their realtor had told them the property would be unmarketable without a garage. This is incredible, particularly given the fact that Credere had just been involved in the successful development of the Regent Street property which they sold at a profit without a garage.

### IV. THE CITY SHOULD CHECK CREDERE'S CALCULATIONS

Based on our analysis of the FAR when we originally contracted to buy the **Subject Property**, we believe that Credere has misstated its post-construction size measurements, as filed with the city, and urge the Planning Department to double-check all floor area calculations.

Here are the facts as originally described in the assessor's database last May, and amended on May 5, 2014 after Credere's renovation of the **Subject Property**:

	<u>May 2013</u>	<u>May 2014</u>
House size	2,845	3,558
Attic unfinished	225	0
Attic finished	NA	0
Basement area	1,489	1,489
Finished Basement area	0	1,069

The above figures imply that the net increase in the usable space of the **Subject Property** for FAR purposes, after deducting the renovated basement, was **only 179 square feet** (3,558 sq. ft. - 535 sq. ft. for new finished basement - 2,845 sq. ft. of pre-renovation house).

However, we have it on information and belief that the entire third story of the house was also renovated, most of which should be counted in the FAR due to the extremely high head height and dormers. Given that previously no space on the third floor was counted in the FAR, it is extremely unlikely that that the net addition of the 3<sup>rd</sup> floor renovation was only 179 square feet and that when Credere goes to market the property, they will surely show the 3<sup>rd</sup> floor contains a larger area.

Again, we urge the City Planning Department to check the measurements carefully as we believe the figures submitted by Credere must be incorrect. While it is not the first time that a property developer has broken a promise to unsuspecting neighbors, or conveniently miscalculated critical calculations in arriving at its measurements to meet the city's zoning requirements, all in pursuit of a profit, the Board of Alderman should not reward such behavior by granting a Special Permit.

V. IF GRANTED, THE SPECIAL PERMIT MAKES **SUBJECT PROPERTY** INCONSISTENT WITH NEIGHBORS

The Board of Alderman should reject the Petition for Special Permit because the proposed structure is not consistent with the size, scale, and design of other structures in the neighborhood and the proposed structure derogates them, as follows:

<u>Property</u>	Lot Size	House size	Garage (y/n)	Driveway

<b>Subject Property 22 Lenox St 1889-2013</b>	9,353	3,558	N	20 x 15
12 Balcarres Rd	6,500	2,981	N	18 x 14
16 Balcarres Rd	10,140	3,472	N	30x14

The **Subject Property** has a 9,353 square foot lot, and a large scale Victorian house, built in 1889. As illustrated above, other similar properties with large homes on small lots do not have garages, nor do any have long driveways of the type proposed by Credere. The **Subject Property**, 12 Balcarres Rd. and 16 Balcarres Rd. are all directly abutting properties to ours at 274 Otis Street.

West Newton Hill is a historic neighborhood with exclusively single family homes, which should be protected from over-development. Small lots such as the **Subject Property** have existed since before modern zoning laws were enacted. The size of the large historic homes on small lots, such as the **Subject Property**, creates a premium on open space.

The new FAR rules enacted in 2011 were intended to allow houses with smaller lots more leeway without overburdening neighbors. Prior to being purchased by Credere, 22 Lenox Street had a minimal driveway of about 20 feet in length, not even reaching the front of the house, and using the exiting curb cut. (We know because we paid for the new granite curbs which were installed in front of 22 Lenox Street on behalf of its previous owners, John and Ellen Newell during the summer of 2013. And, there has never been a parking structure at the house.)

The City of Newton and its citizens invested an enormous amount of time and resources in amending its FAR rules in 2011. If a Special Permit is granted to the petitioner in this case, how will the Board of Alderman decline any other application to build a garage on a non-conforming lots And, how will the city meet its goal of enacting zoning reform to balance and protect the interests of all property owners, not just those who are highly motivated to make a buck whenever it seems easy enough?

For these, and the reasons provided by our fellow neighbors who object to this Petition, we hope that you will not grant this Special Permit.

Respectfully,

Mary Beth and Adam Kirsch  
274 Otis Street, West Newton, MA 02465