



CITY OF NEWTON, MASSACHUSETTS

Urban Design Commission

MEETING MINUTES

A meeting of the City of Newton Urban Design Commission (UDC) was held virtually on Wednesday, **October 13th**, 2021 at 7:00 p.m. via Zoom

<https://us02web.zoom.us/j/88597866617>

Ruthanne Fuller,
Mayor

The Chair, Michael Kaufman, called the meeting to order at 7:03 P.M.

Barney Heath,
Director
Planning & Development

Shubee Sikka,
Urban Designer
Planning & Development

Members
Michael Kaufman, Chair
Jim Doolin, Vice Chair
John Downie
Robert Linsky
Carol Todreas
William Winkler
Visda Saeyan

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

www.newtonma.gov

I. Roll Call

Those present were Michael Kaufman (Chair), John Downie, Bill Winkler, Robert Linsky, Carol Todreas, and Visda Saeyan. Shubee Sikka, Urban Designer, was also present.

II. Regular Agenda

Sign Permits

Mr. Kaufman asked if the Commission felt there were any applications they could approve without discussion.

The Commission agreed to approve the following signs without discussion:

Sign Permits

1. 25 Boylston Street – Baystate Physical Therapy

Proposed Signs:

- One wall mounted principal sign, internally illuminated, with approximately 14 sq. ft. of sign area on the southern building façade facing Boylston Street.

3. 415 Lexington Street – Doll House

Proposed Signs:

- One wall mounted principal sign, non-illuminated, with approximately 28 sq. ft. of sign area on the eastern building facade facing Lexington Street.

4. 88 Needham Street – My Gym

Proposed Signs:

- One wall mounted principal sign, internally illuminated, with approximately 58 sq. ft. of sign area on the western building façade facing Needham Street.

- One wall mounted secondary sign, internally illuminated, with approximately 9 sq. ft. of sign area on the southern building façade facing Columbia Avenue.
- One wall mounted secondary sign, internally illuminated, with approximately 33 sq. ft. of sign area on the eastern building façade facing the rear parking lot.

8. 1-55 Boylston Street – The Vault

Proposed Signs:

- One principal perpendicular sign, non-illuminated, with approximately 3 sq. ft. of sign area on the eastern building façade facing the driveway/parking lot.

MOTION: Mr. Winkler made a motion to approve the signs at 25 Boylston Street – Baystate Physical Therapy, 415 Lexington Street – Doll House, 88 Needham Street – My Gym, and 1-55 Boylston Street – The Vault. Mr. Linsky seconded the motion, and none opposed. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Robert Linsky, Visda Saeyan, Carol Todreas, and William Winkler in favor and none opposed. The decision is hereby incorporated as part of these minutes. According to the Newton Zoning Ordinance, staff concurs with the recommendation to approve the signs as proposed.

2. 108 Madison Avenue – Phoenix Physical Therapy

- Owner: Susan
- Proposed Signs:
 - One wall mounted principal sign, non-illuminated, with approximately 18 sq. ft. of sign area on the northern façade facing Madison Avenue.
 - One awning sign, non-illuminated, with approximately 12 sq. ft. of sign area on the northern façade facing Madison Avenue.
- Presentation and Discussion:
 - Mr. Kaufman commented that this sign is part of a tricky building that has always had the sign on the corner because you can't see the business from Walnut Street.
 - Mr. Downie asked the staff if a sign has been in that location on the brick wall in the past and is the new proposed sign in the same location? Staff responded that the proposed sign is in the same location and noted that there is a determination from 2004 when a sign was first approved at this location (determination is included as an attachment with the staff memo). The proposed sign is not on the wall that the business occupies but it is on a wall that is occupied by Los Amigos currently.

MOTION: Mr. Downie made a motion to approve the signs as submitted at 108 Madison Avenue – Phoenix Physical Therapy. Ms. Saeyan seconded the motion, and none opposed. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Robert Linsky, Visda Saeyan, Carol Todreas, and William Winkler in favor and none opposed.

6. 60 Needham Street – Cha's Taekwon Do

Applicant/Representative: Ricky Zeng

Proposed Signs:

- One wall mounted secondary sign, internally illuminated, with approximately 26.25 sq. ft. of sign area on the western building façade facing Needham Street.

5. 60 Needham Street – Free-standing Sign

Proposed Signs:

- Reface of one free-standing principal sign, internally illuminated, with approximately 23 sq. ft. of sign area perpendicular to Needham Street.

Presentation and Discussion for both signs at 60 Needham Street (Items #5 and 6):

- Mr. Kaufman asked staff about both proposed signs at 60 Needham Street. Staff explained that the applicant is applying to reface an existing free-standing sign (currently it is a sign for Burn Boot Camp) and propose a new wall mounted sign for Cha's Taekwon Do. Proposed free-standing sign will have two business names on it: Burn Boot Camp and Cha's Taekwon Do. Wall mounted sign for Cha's will become the secondary since the free-standing sign will be the principal sign. Staff also mentioned that they checked with Commissioner of ISD if the applicant needs to apply for an amendment to the Special Permit (SP) and the Commissioner has said if it is just a reface of an existing sign then the applicant doesn't need to apply for an amendment to the SP.
- Mr. Downie asked if there is any more information from the applicant if the sign has decreased in size since it was too large. Staff informed the Commission that the applicant submitted a revised sign by email, new sign is 26.25 sq. ft. in area and is consistent with the dimensional controls specified in §5.2.8. Staff sent an email to the Commission a few hours before the meeting regarding the change.
- Staff looked at the recommendation letters from the past and informed the Commission that a free-standing sign was reviewed and recommended for approval with the condition that the white background is blacked out at the December 2017 UDC meeting.
- Mr. Kaufman commented that the free-standing sign is not attractive. Ms. Todreas commented that the sign looked temporary, and Mr. Kaufman agreed.
- Mr. Kaufman asked how the background can be blacked out with black letters. How will the black letters shine through at night? The applicant responded that the existing sign is white background with blue lettering. The applicant mentioned that they didn't know that the sign background had to be blacked out. Mr. Kaufman mentioned that the sign background is required to be blacked out. The applicant mentioned that the sign background is blacked out probably. The applicant mentioned that they haven't seen the sign at night, but it looks like the background is not blacked out.
- Mr. Kaufman commented the condition for the last sign and the condition of refacing of the sign is that the white background does not shine through at night. If that is the case, then the black letters will not be visible at night. Mr. Kaufman suggested to the applicant to think about maybe doing white letters with black outline. The applicant commented that they can do black letters with white outline so at night only white outline will light up.
- Mr. Winkler commented that night view of the wall mounted sign shows it be very white, it looks very bright. The applicant responded that in the drawing, it looks very bright, but it will be less bright than the other signs in this area, it's not as bright as shown in the picture.

MOTION: Mr. Kaufman made a motion to approve the smaller sign (26.25 sq. ft.) as resubmitted by email at 60 Needham Street – Cha’s Taekwon Do. Mr. Downie seconded the motion, and none opposed. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Robert Linsky, William Winkler, Carol Todreas, and Visda Saeyan in favor and none opposed. (Item #6)

MOTION: Mr. Kaufman made a motion to approve the signs at 60 Needham Street – Free-standing sign with a condition. Mr. Linsky seconded the motion, and none opposed. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Robert Linsky, Visda Saeyan, Carol Todreas, and William Winkler in favor and none opposed. The sign was approved on the **condition** that if the background is not already blacked out, background be blacked out now and the black letters for Taekwon Do have a white outline so the white outline will shine through at night. (Item #5)

7. 1505 Washington Street – Learning Prep School

Applicant/Representative: Sanford Leavenworth

Proposed Signs:

- One free-standing sign, non-illuminated, with approximately 6 sq. ft. of sign area on Prospect Street (sign A)
- Five directional signs, non-illuminated, with approximately 2 sq. ft. of sign area (signs B and C)
- One free-standing principal sign, non-illuminated, with approximately 7 sq. ft. of sign area on Prospect Street (sign D)
- One free-standing principal sign, non-illuminated, with approximately 6 sq. ft. of sign area in the parking lot (sign E)
- One free-standing principal sign, non-illuminated, with approximately 6 sq. ft. of sign area in the parking lot (sign F)

Presentation and Discussion:

- The applicant summarized the proposed signs.
- Mr. Winkler recommended that it would help to increase the font size for “Visitor Parking” for sign F. Ms. Todreas agreed.
- Ms. Todreas asked about the telephone pole behind the sign seen in some photos. The applicant responded that it appears that a pole used to exist at this site but has been moved.
- Mr. Linsky asked why the “Do Not Enter” signs are not red? The applicant responded that the school would like these signs to match the school colors. Mr. Linsky responded that this is just like a “Stop” sign which are universally red so the “Do Not Enter” sign should also be red.
- Mr. Winkler asked about the material of the posts. The applicant responded they will probably be aluminum or galvanized steel. Mr. Kaufman asked about the paint color? The applicant responded they will be painted dark grey color.
- Mr. Kaufman also commented that the proposed signs are very handsome. Ms. Saeyan agreed.

MOTION: Mr. Kaufman made a motion to approve the signs with two conditions as submitted at 1505 Washington Street – Learning Prep School. Mr. Winkler seconded the motion, and none opposed. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Robert Linsky, Carol Todreas, William Winkler and Visda Saeyan in favor and none opposed. The signs were recommended for approval on **two conditions**, condition #1 - increase the font size for “Visitor Parking” for sign F and condition #2 - change the color of “Do Not Enter” signs to red.

At 7:42 pm, Mr. Kaufman suspended the Urban Design Commission, and enter the Commission in its role as Fence Appeal Board.

Fence Appeal

1. 377 Walnut Street – Fence Appeal

- **Representative:**
Vivian Mak, part of HOA
- **Fence Appeal:**
The property located at 377 Walnut Street is within a Multi-Residence 1 district. The applicant has added the following fence:
 - a) **Front Lot Line** – The applicant has added a white vinyl fence, set at 21 to 24 inches from the front property line along Otis Street, 6 feet in height, 4 feet 3 inches solid and 21 inches lattice, 65 feet in length. 28 feet is set at 24 inches from the front property line and 37 feet is set at an average of 21 inches from the front property line along Otis Street.

The proposed fence set at 21 to 24 inches from 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.

- **Presentation and Discussion:**
 - At the meeting, the applicant explained the reason for the appeal.
 - Mr. Kaufman commented that this is an application that shows the reason why there are fence appeals, due to the conditions on the ground.
 - Mr. Winkler commented that he was disappointed to see that the application didn’t show what it looks like from the street side, everything in the application shows what it looks like from inside and not from the street. He also mentioned that the letter sent by the abutter (public comment that staff received by email) about pulling out of the driveway with the corner this high being potentially not good, that made a lot of sense.
 - Staff mentioned that Elizabeth, the applicant sent more photos by email to staff a couple of hours before the meeting. Staff shared their screen to show 2 more photos received.
 - Ms. Todreas asked if it makes a lot of difference if the fence didn’t follow the topography and the trees but was setback 24 inches from the front property line. Does it make a significant difference? She mentioned that she noticed that even where she lives it’s difficult to see children, scooters, pedestrians but the only way to alleviate that situation is to tear down all the fences so the visibility is great. Is the letter from the abutter a valid complaint? Mr. Kaufman commented that the ordinance would allow this fence, but it would be 3 inches further away from the street. He mentioned that the Commission can decide if it would have a big impact one way or another.

- Mr. Kaufman asked if the applicant is required to keep the corner open, is that an issue here? The staff responded an issue would arise at the corner if it was at a corner of two intersecting streets, it doesn't apply to a driveway. Staff commented that it is setback from Walnut Street.
- Mr. Kaufman commented that the fence will probably have a similar effect on the driveway if it was built as per the Ordinance. He also commented that the Commission could deny it if the members think that 3 inches is significant. He also commented that it is understandable why the applicant moved the fence, there are trees and measurements were off a little. This does not appear to be a major divergence from the ordinance. Mr. Linsky agreed. Mr. Winkler also agreed that the Commission should grant this appeal, it will also be nice if the owners could put some landscaping in the 21-24 inches space from the property line to the fence. The representative mentioned that she will need to discuss it with the neighbor, and they could do it together to match.
- Mr. Winkler pointed out that this is a good example of what could happen if everyone had a fence that was allowed by the Fence Ordinance, it won't be desirable. Mr. Kaufman agreed and mentioned that we probably need a bigger discussion of changes to the Fence Ordinance.
- Ms. Todreas mentioned that driving and pedestrian conditions have changed since COVID, a lot more people are walking, biking, are on scooters, there are different ways to get around other than driving.
- Mr. Kaufman recommended to the Commissioners to think about changes that can be made to improve the Fence Ordinance. The list could be assembled and sent to the Committee to review it.
- Mr. Downie asked who provided the measurements for the fence. Staff responded that the applicant provided all the measurements and how the violation was issued. Staff commented that ISD issued a fence permit, and the fence was built. Before ISD closed the fence permit, ISD received a complaint that the fence is not in compliance so ISD went to the property to inspect and found that the fence was not built as per the permit, hence a violation was issued.

Mr. Kaufman moved the motion to grant the appeal for the fence setback 21 to 24 inches from the front property line along Otis Street because they moved it a few inches to accommodate the trees that they planted, the difference is essentially deminimis, in terms of the impact on the neighborhood and on the street. Ms. Saeyan seconded the motion. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Visda Saeyan, Carol Todreas, Robert Linsky, and William Winkler in favor and none opposed. The motion was granted.

The Commission suggestion that the owners put some landscaping in the 21-24 inches space from the property line (in front of the fence) to make it look better.

2. 564 Dedham Street – Fence Appeal

- Applicant/Representative:

Andrew Sipperley, Attorney

Sofia Abboud, homeowner

- Fence Appeal:

The property located at 564 Dedham Street is within a Single Residence 2 district. The applicant is proposing the following fence:

- a) Side Lot Lines – The applicant is proposing a fence set at both side property lines with a solid fence (masonry wall), height varies from 6.16 to 10.31 feet, approximately 149 feet in length on each side.

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. The proposed fence has been constructed.

- Presentation and Discussion:

Mr. Kaufman commented that this is a continuation from last month's meeting. UDC had asked for some additional information about spot grades and asked staff to provide an update. Staff responded that the applicant has provided a survey which shows height of the wall, top of the wall and bottom of the wall, from the applicant's side and the neighbor's side, they are different at a lot of the locations. Staff mentioned that they investigated and spoke to ISD and the Legal Department regarding the height of the wall and which side to measure it from. Both ISD and Legal department have determined that the fence is not on a retaining wall and the height of the fence must meet the requirements from the natural grade of the ground on both sides of the fence (neighbor and the applicant). Based on the survey provided and ISD's determination, the height of the fence varies from 6.16 feet to 10.31 feet.

Mr. Downie commented that it appears that there is a large difference in height between the applicant's side and neighbor's side at the same basic location. How is that not a retaining wall? Staff mentioned that when they spoke to ISD, it was explained that it appears that it has been filled overtime, not as a retaining wall. When the applicant applied for a permit for the fence permit at the rear property line, they needed to build a retaining wall because of the grade difference but the applicant didn't mention a retaining wall for the fence along the side property line.

The Attorney for the homeowners showed a picture of the property that shows the condition of the property before any construction, the picture showed a retaining wall before any construction was done. As Mr. Downie mentioned, how can it not be a retaining wall if the heights are so different, there's clearly a sharp difference in grades between neighbor's side and his client's side. The masonry wall was put on top of that grade because of some structural issues, it was repaired, and a foundation was dug, and it was pinned into that masonry wall. In essence, it was built on top of that retaining wall. Mr. Kaufman asked which side of the property are these pictures from? The applicant's attorney responded that the picture showing the wooden fence before the construction is on the left side.

Mr. Kaufman pointed out that on the right side, it looks to be more compliant than the left side, both sides still exceed 6 feet. Attorney responded that if you measure from the property owner's side, then it is less than 6 feet in height (especially on the right side). The Attorney also mentioned that when the wall was being built, the homeowners followed the directions of the building inspector and did cut down portions of the wall to make sure that it complied. It was only after all the veneers and stucco has been put on, the height became an issue.

The applicant commented that initially when they applied for a fence permit, they told the city that they were putting up 6-foot tall stone wall/fence over a foot thick. A fence permit should never have been given for this. This is not a thin, wooden fence but it is a 1-foot-thick wall. When you have something that thick, there will be a difference in grade naturally, especially in the current location with slope differences. The front of the house is high, sloping down when you go in the back. In addition, the applicant commented that the black wooden fence of the neighbor's, it is 6.93 feet in height. Also, the neighbor's existing wooden fence on the left, at the front of the wall is 6.56 feet, in the middle, it is 8.83 feet. Then 7.4 feet. The homeowner commented that they built a fence that is 6 feet from their property. The homeowner agreed that there is a height difference but if you look at the neighbor's fence, there is also a height difference. The applicant also mentioned that the inspector came out 3-4 times over the last 2 years to inspect and he said that everything looks good and fine. They also wrote in an email that the fence appears to be in compliance. It was only after one of the neighbors, being vindictive, called the city to complain so the city came out to look and unfortunately the inspector said that he only the wall from the applicant's side and not the neighbor's side. The applicant said that this is not fair, it's been an ongoing battle for 2 years and it was the inspector's job to measure it from both sides. The inspector gave the OK to proceed all along. The homeowner also said that they adjusted all along as required by the inspector. The homeowner mentioned that they made sure that the inspector said OK before proceeding with the stone caps because they are very expensive, if they need to be cut, then the stone caps will be destroyed and that will cost thousands and thousands of dollars. The homeowner commented that it is not fair to them when they did everything that the city asked them to do, the neighbors have taller fence. The fence from the homeowner's side is 6 feet or less.

Mr. Kaufman asked the staff if UDC must act as Arbitrators to determine if the building inspector did the right thing? Maybe the inspector needs to come to UDC to talk about, what the homeowner said makes sense, but we are only hearing from one side. The Commission doesn't know how to deal with this situation as described by the homeowner. If the inspector gave the green light all along during construction and in the end say that they made a mistake, how should the Commission deal with this situation? Maybe ISD should say that they made a mistake and allow the fence. Maybe the Law department needs to look at what the inspector approved and what should have or not approved. The Attorney commented that they did speak to Jonah Temple from the Law Department before submitting the application to UDC about appealing through their process. He said that in going through that process, the Law Department relies on what the inspector determines and there would be no relief through that venue. The Attorney also mentioned that the hardship as mentioned by the homeowner, it will cost roughly \$15,000 in materials plus the cost of labor to fix the wall. Mr. Kaufman responded that we understand the hardship, but the question is why did the applicant find themselves in this position? Staff responded that they have spoken to the Zoning Enforcement Officer and the Law Department, they have made the determination that the fence needs to be 6 feet tall, and no part of this fence is a retaining wall. The staff mentioned that they don't know what has happened in the last 2-3 years and it will be difficult to get that history but the final determination by ISD and Law Department is that it is not on a retaining wall and the height requirements must be met from both the neighbor's and applicant's side. Staff responded to the applicant that they were not able to apply to ZBA because the Fence Ordinance is not part of the Zoning Ordinance so any appeal for the Fence

Ordinance must come to UDC. Mr. Kaufman said that maybe this appeal should not be in front of UDC and ISD and Law Department should deal with this.

The Attorney mentioned that in May 2021, a letter was sent to the applicant that said - met with the homeowners about the fence and it appears to comply.

Mr. Winkler asked that it was quoted that the height of wall at one location was 10 feet, what was the height of the wall at that spot from the homeowner's side? The applicant responded that it is 5.07 feet. Mr. Downie said that it is approximately 10 feet and on the other side 5.07 feet. If ISD is now saying that the fence must be no more than 6 feet from either side of the fence, then if you took 4.25 feet off the top of the fence at that location, then the fence is going to be only a foot tall on the homeowner's side and ISD has also said that there is not a retaining wall, clearly there is something. What ISD is saying, doesn't make any sense. Mr. Downie commented that he agrees with Mr. Kaufman that UDC shouldn't review this appeal. Staff responded that they understand what UDC is saying but ISD and Law Dept. have made their determination and it is the final determination and according to that, the wall is in violation.

Mr. Kaufman asked staff if the applicant just built a retaining wall to keep the grades separate (which is shown to be 5 feet difference), will they need a special permit. Staff responded that they believe that the applicant can build a 4-foot tall retaining wall, but the staff needs to check that. Attorney mentioned that if the wall was cut down, then it will be a cliff and would be a safety hazard, that's another hardship for consideration regarding this property. Mr. Downie commented that there is clearly a 5-foot difference so why isn't ISD not considering that the fence is built on top of a retaining wall. Mr. Kaufman commented that it is probably because the retaining wall was part of this construction. Mr. Downie agreed. The applicant said that there was a retaining wall before the construction. Mr. Kaufman asked the applicant if they had any pictures of the retaining wall? The Attorney mentioned that they don't have a picture of the old retaining wall but have included a picture of the neighbor's fence (that was falling over in the photo) in the application that shows a retaining wall. Mr. Downie asked if that retaining wall removed? The applicant responded that to build the new wall, that area was excavated and reinforced. Mr. Downie commented that the retaining wall existed, and it got buried during the construction of the wall/fence. Mr. Kaufman asked if the applicant know how long did the retaining wall extend? Is there any historical record of what the length of the original retaining wall was? Is there any earlier survey? The applicant responded that they don't have any more information as part of the application.

Staff shared the Google Street showing the front street view of the property all the way back to 2009. It showed the retaining wall on both sides in the front area of the property.

Staff asked the applicant if they had any pictures of both the sides before the wall/fence construction started? The applicant responded that they don't have any photos of the property before construction of the wall/fence at the spots where there is a steep drop-off. Mr. Downie asked about the neighbor's wooden fence (right side), it looks like a violation. Staff informed the Commission that they have sent an email to the Zoning Enforcement

Officer and is waiting to hear back. Mr. Kaufman asked about the height of the fence on the left side too, is probably in violation too.

Mr. Kaufman commented that there is clearly evidence that there was a retaining wall before and ISD and the Law department are not helping in any way with more information. The inspector hasn't said that I messed up and changed my mind but UDC is only hearing from one side, but staff has talked to Zoning Enforcement Officer and to Law department. Staff also mentioned that ISD and Law dept. had a meeting (probably sometime in May or June) and determined that there is a violation, fence is not built on a retaining wall and height must be measured from both sides. Mr. Kaufman commented that ISD's determination is clearly incorrect because the old photos show that there was a retaining wall, but we don't know the extent of it. ISD was clearly wrong at some locations where the photos show the retaining wall. We could extrapolate that the entire length of the property had a retaining wall. It would be unreasonable to say there was no retaining wall.

Mr. Downie commented that the UDC doesn't have all the information. ISD should provide the reasoning for their determination which they haven't provided. Why is ISD saying that there is no retaining wall if there is 5 feet grade difference from one side to the other side of the fence. There are two ways to look at this application, first, we don't have all the information from ISD and therefore we shouldn't do anything with this and the other is we have enough information that there clearly was a retaining wall there that is inside the new wall now. The second reason was enough information to grant the appeal for this property. Staff commented that according to ISD the wall was built as part of this construction, so the grading changed as part of construction of this fence/wall.

Ms. Todreas asked if there is a history of this property somewhere identifying the grades? It will help to clarify the situation. Staff mentioned that a survey was probably done before any construction started 2-3 years ago and asked the applicant if they can provide a copy of that. Staff investigated the permits for this property if there is any survey, but staff couldn't find a survey. The Commission commented that a survey must have been done when the house was built in 2007. It will help to provide some additional proof that the retaining wall existed and show the extent of the retaining wall. Staff shared their screen showing the architectural plans. It had some topographical information but not spot grades. There was no survey found.

Mr. Kaufman asked the Commission if the Commissioners thought there was enough information to make a decision or UDC would like to ask for more information? Ms. Todreas commented that maybe more information should be provided, it's not fair to UDC and the applicant. Ms. Saeyan commented that there are clearly site constraints, not just for this site but neighbor's site as well, it is clear from the way neighbor's fence is built. The applicant can't cut the wall/fence because that will create a safety hazard with a 5-ft. drop. Mr. Kaufman commented that there was certainly an existing retaining wall, it was probably not 5-feet high but there was an existing retaining wall.

Mr. Downie asked when this wall was built, was there work done in the yard, around levelling patios or something like that? The applicant responded that when the wall was first built by the first contractor, they did not build sufficient foundation and footings, then that contractor

was fired, and a new contractor was hired. The new contractor had to do extensive digging, there was a lot of excavation but there were no massive amounts of dirt brought in, it was just part of construction. There were no new patios or anything else that happened, it was just construction of the wall.

Mr. Kaufman read the inspector notes from 05-17-2021, *“Met with homeowner and zoning enforcement agent about the stone fence height. It appears to be in compliance, but we requested a structural affidavit from the engineer about the wall construction.”* The applicant also said that they also have an affidavit from Spruhan Engineering that is part of the application. Mr. Kaufman commented that it sounds like they first thought it was ok and it hasn't gotten any higher so it's not clear. Mr. Kaufman commented that the applicant relied on the city who said it was fine and then they came back later and said maybe it's not fine but at this point, it presents a hardship to the applicant to make the changes because the wall is already built. If the applicant was informed before the wall was built, then it wasn't a hardship.

Given the information that UDC has, ISD said to the applicant that the heights were OK, given the fact that we know that for at least a portion of this property line, there was an existing retaining wall which had to be removed to build this wall but there was a fence sitting on an existing retaining wall so the wall heights are not necessarily accurate, you would have measured from the grade to the retaining wall and then you would have measured from the retaining wall to the top of this wall. Those measurement couldn't be done because all that stuff were removed to do this construction. There was some evidence of a retaining wall which would have made the height of this wall shorter. Given those two pieces of information and the fact at this point of time, it will create a major financial hardship to the applicant to correct something that they didn't know originally that they needed to correct. Mr. Kaufman moved the motion to grant the appeal for the fence denial as submitted. Mr. Linsky seconded the motion. All the members present voted, with a 6-0 vote, Michael Kaufman, John Downie, Visda Saeyan, Carol Todreas, Robert Linsky, and William Winkler in favor and none opposed. The motion was granted.

At 8:54 the Commission adjourned the Fence Appeal Board portion of the meeting and reconvened as the Urban Design Commission.

Design Review

1. 50 Jackson Street Design Review

- Applicant/Representative:
 - Laurance Lee, Attorney
 - Mark Dooling, Architect
 - Federico Arellano, Architect
- Documents Presented: Context view, renderings, site plan, landscape plan, sections, floor plans, and elevations.
- Project Summary:

The applicant presented to the UDC in February of this year (attachment E) and has made the following changes since then:

- The number of units has decreased to nine to establish a better relationship with the number of parking spaces while adding more storage space within the units

- The driveway has been pulled away from the abutter's property to the West and modestly shortened
- The overall building length has been shortened by six feet
- The Jackson St. elevation has been further articulated towards adding interest to the building and reducing the apparent mass of the building
- The third-floor setback from the plane of the first and second floor facades to help minimize the apparent mass of the building
- Presentation & Discussion: The applicant's representative provided a summary of the project (see above). The Urban Design Commission had the following comments and recommendations:
 - Mr. Kaufman commented that this is a better project as compared to last time.
 - Mr. Downie asked about how the units were distributed when there were 12 units. The applicant showed the previous plan and responded that there were 5 on first floor, two of those 5 were two-story units, 3 new units on the second floor and then 4 units on top floor. The volume and look of the building will remain the same. Mr. Downie confirmed that there are still 2 units that will be 2-stories. The applicant confirmed that and said the new plan will have 2 units with 2 stories and 7 units with 1 story.
 - Ms. Todreas asked how big the units are? The applicant responded that the units will be between 1,400 to 2,400 square feet and they will all be 3-bedroom units.
 - Mr. Downie commented that the project looks it has developed and looks better, the Jackson Street elevation looks better now. Its natural evolution, project is making progress. The applicant mentioned that they are still working on the new elevations, they haven't been updated but they won't be very different than the previous ones. Jackson Street elevation will be a little different, it will be a few feet shorter. On Boylston side, they will be mostly be the same. There will be some space to accommodate entries into the units.
 - Ms. Todreas asked if there are any balconies? From marketing point of view, changes will be great, and it will be a very successful project.
 - Mr. Lee asked about one of the elements. In the previous UDC meeting (when this project was reviewed), UDC felt the massing of the building is appropriate in this neighborhood. Mr. Lee asked the Commission about their thoughts/opinion on the massing of the building. Mr. Kaufman commented considering the location of the project, close to the commercial area and not further into the neighborhood, the massing is appropriate for this location. Clearly, this corner is greater density than further into the neighborhood. Looking at other buildings across the street and some other buildings on Langley Road, this is certainly not out of place.
 - Mr. Lee commented that they will make more modifications and make more progress to 9 units. Depending on the process, the applicant will update the staff as the project progresses.
 - Mr. Downie commented to make sure that there is enough head room for the accessible space.
 - Mr. Kaufman commented that the project has improved in a good way.

2. 416-418 Langley Road Design Review

- Applicant/Representative:
Laurance Lee, Attorney

Eric Zachrison, Architect
Ilya

- Documents Presented: Context aerial photo, context photos, contextual plan, proposed site plan, perspectives, floor plans, elevations, street sections, and proposed rendering.
- Project Summary: The applicant is proposing to remove two existing buildings and carport and replace with 3 story structure with 6 residential units and parking below grade. Units would be approximately 2,000 sf units with 3 bedrooms each.
- Presentation & Discussion: The applicant's representative provided a summary of the project (see above). The Urban Design Commission had the following comments and recommendations:
 - Mr. Winkler asked if it's possible to get to the stairs when you enter from the street without going through the elevator. The applicant responded that you can not get to the stairs with the current configuration, you will need to go to the elevator to go up or you will need to enter on the first floor which would require going up the driveway next door or to the green area. Mr. Kaufman asked what prevents the applicant from providing a corridor next to the elevator to get to the back? The applicant responded that they could probably work it out in the basement. There's a small triangular easement that the applicant is trying not to use or violate but other than that, the applicant mentioned that they could go under it to create a path around the elevator. Mr. Kaufman commented that it will be helpful to have that access so people could use the stairs if they wanted to. The applicant mentioned that most of the residents would drive here and then just use the elevator/stairs from the basement to their units and the guests will probably use the elevator. Mr. Winkler and Mr. Downie commented that it's not clear how the egress would work on that. The applicant responded that the Building Code would consider this to be a 3-story building and there's a single exit and you would exit out of the building to the 15-foot buffer on the level above. Mr. Downie commented and then you would need a walkway to the street. The applicant said they have been talking internally if they will need to remove the remaining wedge wall. The applicant said that they will have to do some gymnastics to make a small peninsula to make it all work that may not serve them very well. An alternative is to create an easement to go down the driveway.
 - Ms. Saeyan asked if the units will be for sale or rent. The applicant responded that as of right now, they are looking at them as For Sale units. Ms. Saeyan commented that it is wonderful that the applicant is thinking for sale units because a lot of people are looking to buy in Newton.
 - Ms. Saeyan commented that the entrance and the lobby look like a vestibule and not a real lobby. Its understandable because the space is tight. When you arrive at the building, she recommended to work a little on the entrance, the sense of arrival. Make it a little more pronounced, right it is just a door next to the garage, especially if you are thinking about attracting people to buy. The building is grand, its just that the scale of the building compared to the entrance, it's not there.
 - Mr. Kaufman asked the applicant if there's a way to bring the entrance doors closer to the street, in other words, extend the lobby closer to the street? The applicant responded that they are setback away from the street, more than required by zoning. The reason for that is as we get closer to the street, the site gets smaller but will investigate it and try to bring the entrance closer to the street. Mr. Kaufman also commented that double doors are also not needed. The applicant commented that the

- double doors just help to enhance the entrance. Mr. Kaufman commented that if you look at the street elevation, it (entrance) is not welcoming. There's very little distinction between that and top of the garage, it almost looks like its just another way to get into the garage, it could use some help.
- Ms. Saeyan commented that looking at the façade, it may help to use some banding or short wood canopy to separate the entrance from upper units. Mr. Kaufman commented that maybe the whole entry piece could be glass, around the doors.
 - Mr. Winkler commented a canopy over the doors will also help. Ms. Saeyan commented that there are a lot of good examples of canopies or pull the entrance in front of the garage, so garage is setback, and the entrance is brought forward. It will also help to have some space for people to wait for a ride, some landscaping in front will also help. The applicant responded that they would investigate but it will depend if they are able to remove some of the retaining wall because most of the site is raised up. Ms. Saeyan asked if there is a way to step the retaining wall? The applicant responded yes. Ms. Saeyan also commented to make sure that it doesn't create a canyon. Mr. Winkler commented that terracing that wall with some planting at 1-2 levels intermediately, some landscape will be nice.
 - Mr. Kaufman asked if both the stairwells are coming up to the roof? Is that necessary? The applicant responded that the two stairwells/headhouse coming up to the roof are just from within the unit to access the roof deck for the units.
 - Mr. Linsky asked since there is no service elevator, is the one elevator big enough for moving furniture into a unit? The applicant responded that the elevator is currently the smallest allowed by Massachusetts Code and there could be a capacity to have a larger elevator later.
 - Mr. Downie asked if there are any accommodations for bicycles? The applicant responded there are a couple of areas in the garage, next to parking space #1, that area will either be trash bins or bicycle parking and then there is also another area. The applicant also commented that there are investigating other options for bikes also.
 - Ms. Todreas asked if there will be any landscaping around the building? The applicant responded that on the sides, the building is setback about 12 feet from the property line and on the back, its setback about 15 feet from the property line, and on the front, the proposed building is setback about 20 feet from the property line but that will probably be reduced based on the comments that have been received. There will be landscaping on three sides of the building, its just not on the sidewalk level, it will be about 6 feet higher than the sidewalk. There's a green buffer on the perimeter.
 - Mr. Kaufman commented that the entrance needs to be emphasized and may need a visual separation between the garage and the pedestrian entrance, rather than a low rail, a taller separation will help.
 - Mr. Kaufman also commented that the picket fence shown in the rendering is not in line with rest of the architecture, you may want something that is more in line with rest of the proposed architecture. Mr. Downie agreed.
 - Ms. Saeyan commented that this location is close to a T station so a lot of people may be walking so are there any provisions for pedestrians? The applicant commented that we have talked about the need for a stair from the first-floor entrance to the sidewalk.
 - Mr. Kaufman commented that this is a nice start. UDC would love for the applicant to come back with some more refinements and thoughts and hopefully the comments

tonight were helpful. It's a handsome building. The applicant responded that they would come back for review.

III. Old/New Business

1. Meeting minutes

Staff informed the Commission that the meeting minutes are still in progress and not ready for review.

IV. ADJOURNMENT

Mr. Kaufman made a motion to adjourn the meeting and there was general agreement among the members.

The meeting was adjourned at 9:55 p.m.

Respectfully submitted by Shubee Sikka.

Approved on November 10, 2021.