

IN BOARD OF ALDERMEN

BOARD ACTIONS

Tuesday, February 18, 2014

Present: Ald. Albright, Baker, Blazar, Cote, Crossley, Danberg, Fuller, Gentile, Harney, Hess-Mahan, Johnson, Kalis, Lappin, Laredo, Leary, Lipof, Norton, Rice, Sangiolo, Schwartz, Yates and Lennon

Absent: Ald. Ciccone and Salvucci

THE BOARD OF ALDERMEN DISCUSSED AND VOTED THE FOLLOWING ITEMS ON SECOND CALL:

REFERRED TO PUBLIC SAFETY AND FINANCE COMMITTEES

- #422-13 ALD. JOHNSON AND DANBERG requesting an amendment to Section 19-9 of the City of Newton Ordinances to raise the overnight parking fine from \$5 to \$25 effective ~~February 1~~, November 1, 2014. [12/02/13 @ 11:06 AM]
FINANCE APPROVED 3-0-1 (Fuller abstaining) on 12/09/13
PUBLIC SAFETY & TRANSPORTATION APPROVED AS AMENDED 7-0 (Fuller not voting) on 1/22/14

A MOTION TO RECONSIDER THE FOLLOWING ITEM WAS FILED ON 2/4/14 BY ALD. NORTON

MOTION TO RECONSIDER FAILED 13 NAYS, 9 YEAS (Ald. Cote, Fuller, Harney, Kalis, Leary, Norton, Sangiolo, Schwartz and Yates), 2 ABSENT (Ald. Ciccone & Salvucci)

- #422-13(2) PUBLIC SAFETY & TRANSPORTATION COMMITTEE requesting an amendment to Section 19-9 of the City of Newton Ordinances to raise the overnight parking fine from \$5 to \$25 to include *trailers* effective *November 1, 2014*.

PUBLIC SAFETY & TRANSPORTATION APPROVED 7-0 (Fuller not voting) on 1/22/14

A MOTION TO RECONSIDER THE FOLLOWING ITEM WAS FILED ON 2/4/14 BY ALD. NORTON

MOTION TO RECONSIDER FAILED 13 NAYS, 9 YEAS (Ald. Cote, Fuller, Harney, Kalis, Leary, Norton, Sangiolo, Schwartz and Yates), 2 ABSENT (Ald. Ciccone & Salvucci)

Clerk's Note: Ald. Norton presented her case for reconsideration. She asked for support of reconsideration as the freshmen Aldermen have not had as much time to consider the items. She also felt that there should be a public hearing before the increase in fees, and the parking ban is burdensome for those lacking driveways.

Those against reconsideration noted that this issue has been around for a long time and it is time to address the increase in the fine to provide a deterrent for those that park overnight on the streets. It is a public safety issue that needs to be addressed.

REFERRED TO ZONING & PLANNING COMMITTEE

#404-13 NATASHA STALLER et al. requesting a revision to the zoning District boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:
Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A.
Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A. [11/01/13 @ 12:57 PM]

ZONING & PLANNING APPROVED 5-0-2 to exclude 50 and 74 Braeland Avenue (Hess-Mahan and Leary abstaining; Danberg recused)

MOTION TO POSTPONE TO A DATE CERTAIN OF MARCH 3, 2014 WAS APPROVED BY VOICE VOTE

Clerk's Note: The Chair of the Zoning & Planning Committee provided information that was included in the Committees Report. She then made a request to postpone the item until the next Board of Aldermen meeting as the Board Order had only been delivered just before the Board meeting.

REFERRED TO LAND USE COMMITTEE

#22-14 NEWTON VILLAGE CAFÉ/PETER & KATHY MIROGIANNIS, TRUSTEES of MIROGIANNIS FAMILY REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to expand an existing 21-seat restaurant to 53 seats and to formalize 6 outdoor seats for a total of 60 seats; to waive the 14 parking stalls required by the additional seating; and, to legalize the existing signage including a freestanding sign at 719 WASHINGTON STREET, Ward 2, Newtonville, on land known as SBL 23 19, 4A, containing approximately 4,189 sq. ft. in a district zoned BUSINESS 2. Ref: 30-24, 30-23, 30-11(d)(9), 30-19(d)(13) and (m) and 30-20(f)(2) and (l) of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED; LAND USE APPROVED 8-0

BOARD OF ALDERMEN APPROVED 20 YEAS, 1 NAY (Ald. Baker), 3 ABSENT (Ald. Ciccone, Johnson & Salvucci)

Clerk's Note: The Chair presented the findings of the Committee. The Special Permit request seeks to expand the restaurant from 21 seats to 53 seats and to formalize six outdoor seats. It also seeks a parking waiver and to legalize the existing signage.

The item was placed on second call as there was concern that the café had for many years been seating more than the approved 21. A recent count of the seats by several Aldermen came up with 40 seats. The Planning Department who made the recommendations for approval and the Inspectional Services Department had not counted the number of seats as they were reviewing

the special permit application. Questions were raised as to why neither of these departments had noticed that the business was using twice as many seats as they were approved for. A question was also raised about consistency across applicants and why the Board had been very strict on some applicants, requiring them to reduce the number of seats, while violations from other businesses were being ignored.

It was asked why the Board should reward the businesses' violation. The chair noted that the Committee felt that the requests were valid for the location. The business has been operating at nearly the 53 now being requested without any problem, so it was felt by the committee, on the merits of the case, it should be approved. A new item has been docketed to look at the work of the Inspectional Services as it relates to seating in restaurants.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 22 YEAS, 2 ABSENT (Ald. Ciccone and Salvucci) TO TAKE THE FOLLOWING ACTIONS:

REFERRED TO LAND USE COMMITTEE

Tuesday, February 4, 2014

The Public Hearing on the following item was opened on January 14, 2014 and continued to February 4:

#412-13 LOUIS FRANCHI, TRUSTEE petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE for waivers from the parking stall requirement for up to 15 parking stalls including stall dimensions, maneuvering aisle widths, end-stall maneuvering space, minimum entrance and exit driveway widths; tandem parking; perimeter and interior landscaping requirements; lighting, curbing, surfacing, and maintenance requirements; and, parking within the setbacks for an existing commercial/warehouse/storage building at 425-433 WATERTOWN STREET, Ward 1, on land known as SBL 14, 8, 6, containing approximately 18,470 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 39-19(c), (d), (h)(1),(2)a), (2)b), (2)e), (3)a), (3)b), (4)a), (5)a), (i)(1), (i)(2), (j), (m), 30-21(a)(2)a) of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED; LAND USE APPROVED 7-0

#188-12 ALD. HESS-MAHAN requesting a discussion regarding the types of information that should be required from petitioners applying for a special permit to exceed FAR under Sec. 30-15(u)(2) in order to meet their burden of proof to show that the "proposed structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood."

LAND USE NO ACTION NECESSARY 7-0

2014 Class 2 Automobile Dealer Licenses

#368-13 ENZO'S AUTO SALES

10 Hawthorn Street

Nonantum 02458

LAND USE APPROVED 7-0

#372-13 L. A. AUTO BODY, INC.
41 Los Angeles Street
Nonantum 02458
LAND USE APPROVED 7-0

#380-13 NTC-NEWTON TRADE CENTER
103 Adams Street
Nonantum 02458
LAND USE APPROVED 7-0

#389-13 CATALINA & JOHN BORTONE d/b/a VELOCITY MOTORS, INC.
14 Hawthorn Street
Nonantum 02458
LAND USE APPROVED 7-0

REFERRED TO LAND USE COMMITTEE

Tuesday, February 11, 2014

Public Hearings were held on the following petitions:

The public hearing on the following item was opened on January 14 and continued to February 11.

#424-13 UBC EQUITY PARTNERS, LLC/KS RETAIL MANAGE, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a future potential mixture of office, retail, services, restaurant, and storage uses, which will involve no proposed physical changes, in an existing building and to waive 37 parking stalls or to allow, if necessary, 40 off-site parking stalls in addition to the existing 185 parking stalls at 19-33 NEEDHAM STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 28, 25B, 25C, 25D, containing approximately 109,396 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-13(b)(1), (3), (4), (5), 30-19(f)(1), (2) *or* 30-19(c)(3), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.
HEARING CONTINUED TO MARCH 11, 2014

#330-13(3) DONNY & RAQUEL SANTANGELO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE in order to connect an existing two-family dwelling to an existing detached garage with living space above, which will increase the Floor Area Ratio from .47 to .62 where .48 is the maximum allowed by right, at 3-5 MILTON AVENUE, Ward 4, West Newton, on land known as SBL 44, 14, 70, 71, containing approximately 6,962 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(a)(2)a) and (b), 30-15 Table A and 30-15(u) of the City of Newton Rev Zoning Ord, 2012.
HEARING CLOSED; LAND USE APPROVED 8-0

- #23-14 ALBERT PINKHASOV petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for walls of more than 4 feet in the setback at 78 LOVETT ROAD, Ward 8, Newton Centre, on land known as SBL 82, 15, 97, containing approximately 16,004 square feet of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

HEARING CONTINUED TO MARCH 4, 2014

REFERRED TO ZONING & PLANNING COMMITTEE

Monday, February 10, 2014

Appointment by His Honor the Mayor

- #27-14 LAURIE MALCOM, 95 Algonquin Road, Chestnut Hill, appointed as a member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire December 24, 2016. (60 days 03/22/14) [01/08/14 @ 12:46 PM]
ZONING & PLANNING APPROVED 7-0 (Sangiolo not voting)

- #408-13 ALD. BAKER requesting discussion of potential impacts resulting from recent changes in the National Flood Insurance Program as it may relate to Newton properties. [10/19/13 @ 4:25 PM]
ZONING & PLANNING NO ACTION NECESSARY 8-0

- #214-12 ALD. DANBERG, BLAZAR, & SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment. [07/10/12]
ZONING & PLANNING APPROVED 5-1-2 (Sangiolo opposed; Johnson and Hess-Mahan abstaining)

REFERRED TO PUBLIC FACILITIES COMMITTEE

Monday, February 10, 2014

Present: Ald. Crossley (Chairman), Lennon, Albright, Salvucci, Danberg, and Lappin; absent: Ald. Gentile and Laredo; also present: Ald. Ciccone, Norton, Rice, Blazar, Fuller, and Baker

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #38-14 HIS HONOR THE MAYOR requesting authorization to transfer the sum of two hundred seventy-five thousand dollars (\$275,000) from Budget Reserve for Snow and Ice Removal to the Public Works Department. [01/27/14 @ 12:53 PM]
FINANCE APPROVED AS AMENDED 7-0 @ \$1.275 Million on 02/10/14
PUBLIC FACILITIES APPROVED AS AMENDED @\$1.275 Million 6-0

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#39-14 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one hundred thousand dollars (\$100,000) from the Stormwater Surplus Fund to conduct an assessment of the City's stormwater system and to develop a stormwater Infrastructure Improvement Plan. [01/27/14 @ 12:53 PM]

FINANCE APPROVED 7-0 on 02/10/14

PUBLIC FACILITIES APPROVED 5-0 (Albright not voting)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#40-14 HIS HONOR THE MAYOR requesting authorization to transfer the sum of one million three hundred eight thousand four hundred ninety-three dollars from the Operating Sewer Reserve Fund to the following projects:

Project Area 2 Design for the Auburndale, Lower Falls, and West Newton areas, and \$181,500

Project Areas 3 & 4 inspection and assessment for the Lower Falls, Newton Centre, Newtonville, and Chestnut Hill areas. [01/27/14 @ 12:53 PM] \$1,126,993

FINANCE APPROVED 7-0 on 02/10/14

PUBLIC FACILITIES APPROVED 6-0

REFERRED TO FINANCE COMMITTEE

Monday, February 10, 2014

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

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PUBLIC FACILITIES APPROVED 6-0 on 02/10/14

FINANCE APPROVED 7-0

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

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PUBLIC FACILITIES APPROVED AS AMENDED 6-0 @ \$1.275 million on 02/10/14

FINANCE APPROVED 7-0 AS AMENDED @ \$1.275 Million

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #39-14 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one hundred thousand dollars (\$100,000) from the Stormwater Surplus Fund to conduct an assessment of the City's stormwater system and to develop a stormwater Infrastructure Improvement Plan. [01/27/14 @ 12:53 PM]
PUBLIC FACILITIES APPROVED 5-0 (Albright not voting) on 02/10/14
FINANCE APPROVED 7-0
- #35-14 HIS HONOR THE MAYOR requesting authorization to transfer the sum of forty thousand dollars (\$40,000) from accrued saving in the Executive Department's Salary Accounts to fund the remainder of the design of the Manet Road Emergency Communications Facility including site modifications and tower optimization. 01/27/14 @ 12:53 PM]
FINANCE APPROVED 7-0
- #36-14 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of sixteen thousand nine hundred eighteen dollars and seventy-eight cents (\$16,918.78) from Fiscal Year 2014 Budget Reserve for the settlement of a loss of function and disfigurement claim. [01/29/14 @ 11:42 AM]
FINANCE APPROVED 7-0
- #432-13 COMPTROLLER requesting that the Board of Aldermen select a qualified public accounting firm to complete the City's annual financial audit for Fiscal years 2014 to 2018. [12-04-13 @ 10:42 AM]
FINANCE APPROVED 6-0-1 (Ciccione abstaining)
- Re-appointment by His Honor the Mayor
- #32-14 JAMES E. SHAUGHNESSY, 12 Northgate Road, Chelmsford, re-appointed to the City of Newton Board of Assessors for a term to expire February 1, 2017. (60 days - 04/14/14) [01/22/14 @ 12:45 PM]
FINANCE APPROVED 7-0
- Re-appointment by His Honor the Mayor
- #33-14 ELIZABETH DROMEY, 15 Horace Road, Belmont, re-appointed to the BOARD OF ASSESSORS for a term expiring on February 1, 2016. (60 days - 04/14/14) [01/22/14 @ 12:45 PM]
FINANCE APPROVED 7-0

A MOTION TO ACCEPT AND REFER THE FOLLOWING LATE FILED ITEM WAS APPROVED BY VOICE VOTE

- REFERRED TO ZONING & PLANNING COMMITTEE**
- #54-14 ALD. ALBRIGHT AND JOHNSON requesting discussion with the Commissioner of Inspectional Services to discuss monitoring compliance with the legally designated seat capacity in Newton's restaurants. [02/14/14 @ 3:06 PM]

THE FOLLOWING PUBLIC HEARINGS WERE ASSIGNED:*Public Hearing assigned for March 11, 2014:*

#41-14 LINDA WILLIAMS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing detached garage and construct an attached garage with a bedroom above on the northern corner of an existing single-family dwelling, which will increase the Floor Area Ratio from the .36 allowed to .43, at 54 BONAD ROAD, Ward 3, West Newton, on land known as SBL 32, 55, 11, containing approximately 12,000 sq. ft. in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

Public Hearing assigned for March 11, 2014:

#42-14 HEATHER & ALLEN SUSSMAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to add a bay in front of the existing single-car garage to create a two-car garage and to construct additions to the first and second floors totaling approximately 800 sq. ft., which will increase the Floor Area Ratio from .28 to .43, where .39 is allowed at 58 FERNCROFT ROAD, Ward 5, Waban, on land known as SBL 53, 8, 3, containing approximately 9,483 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u), and 30-21(b) of the City of Newton Rev Zoning Ord, 2012/

Public Hearing assigned for March 11, 2014:

#139-12(2) BANK OF AMERICA, N.A./DANA J. KATZ, TRUSTEE, DK REALTY TRUST petition to AMEND special permit #139-12 (granted on 8/13/12 for a freestanding sign and to permit a second principal sign and to waive dimensional limits) to add an additional tenant and if necessary relief for a second principal sign if the existing wall sign is deemed to be a principal sign at 176 BOYLSTON STREET, Ward 7, CHESTNUT HILL, on land known as SBL 82, 2, 18, containing approximately 64,007 sq. ft. in a district zoned BUSINESS 1 and 4. Ref: Sec 30-24, 30-23, 30-20(f)(1), (2), and (9), 30-20(l) of the City of Newton Rev Zoning Ord, 2012 and Special Permit #139-12.

Public Hearing assigned for March 11, 2014:

#43-14 SALOMEH SADRI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an accessory apartment in a single-family dwelling at 21 COURT STREET, Ward 2, NEWTONVILLE, on land known as SBL 23, 16, 13, containing approximately 5,498 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(h), 30-19(d)(19), 30-19(g) and (1) and (2) of the City of Newton Rev Zoning Ord, 2012.

Public Hearing assigned for March 11, 2014:

#44-14 CAFÉ SANTIAGO, LLC/DAVID T. ZUSSMAN, TRUSTEE petition for a SPECIAL PERMIT /SITE PLAN APPROVAL to locate a restaurant of more than 50 seats, to waive the 14 parking stalls associated with the proposed restaurant;

and to allow cooking classes on-site at 105 UNION STREET, Ward 6, NEWTON CENTRE, on land known as SBL 61, 36, 9, containing approximately 31,455 sq. ft. of land in a district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-11(d)(9), (13), 30-19(c)(3) (d)(13), and (m), 30-5(b)(2) of the City of Newton Rev Zoning Ord, 2012.

Public Hearing assigned for March 25, 2014:

REFERRED TO ZONING & PLANNING & REAL PROPERTY REUSE COMMITTEES

- #47-14 SARAH QUIGLEY et al. filing on February 3, 2014 a Group Petition pursuant to Sec. 10-2 of the Newton Charter which seeks the following:
1. Review and rescind the declaration and classification of the Austin Street public parking lot as surplus municipal land.
 2. Recommend that the mayor or other municipal authority withdraw the offer to sell the land, exercising an option listed in the Request for Proposal dated February 13, 2013.
 3. Rezone the Austin Street parking lot from the recently created Mixed Use 4 (MU4) zone to a zone that is more appropriate to the scale of Newtonville village: Public Use, BU1 or BU2.

N.B: Board action shall be taken not later than three months from the date the petition was filed with the City Clerk.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 19 YEAS, 2 ABSENT (Ald. Ciccone and Salvucci) 3 RECUSED (Ald. Baker, Fuller & Laredo) TO TAKE THE FOLLOWING ACTIONS:

- #21-14 CHRISTOPHER HILL & SUSAN FLICOP petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF A NONCONFORMING STRUCTURE to construct a one-story attached two-car garage with a back foyer entry, increasing the square footage by 655 square feet, which will increase the Floor Area Ratio from .34 to .41 where .29 is allowed by right at 163 SUFFOLK ROAD, Ward 7, Chestnut Hill, on land known as SBL 63, 19, 3 and 4, containing an approximate total of 17,976 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table A, 30-15(u) of the City of Newton Rev Zoning Ord, 2012.
HEARING CLOSED; LAND USE APPROVED 7-0 (Laredo recused)

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 2 ABSENT (Ald. Ciccone and Salvucci) 1 RECUSED (Ald. Laredo) TO TAKE THE FOLLOWING ACTIONS:

- #37-14 HIS HONOR THE MAYOR requesting authorization to settle a legal claim and transfer the sum of seventy-five thousand dollars (\$75,000) from the Liability Self Insurance Fund to the Law Department Judgment and Settlements Account for the purpose of repairing the basement of property on Union Street damaged by the City. [01/27/14 @ 12:54 PM]
FINANCE APPROVED 7-0