

IN BOARD OF ALDERMEN

BOARD ACTIONS

Monday, October 21, 2013

Present: Ald. Albright, Baker, Blazar, Ciccone, Crossley, Danberg, Fischman, Fuller, Gentile, Harney, Hess-Mahan, Johnson, Kalis, Lappin, Laredo, Linsky, Rice, Sangiolo, Schwartz, Swiston, Yates and Lennon

Absent: Ald. Salvucci 1 Vacancy

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

#309-13(3) **DEPT. HEADS HAVENS AND ZALEZNIK** requesting amendments to the City of Newton Zoning Ordinance, Chapter 30, as needed to add a definition of “registered marijuana dispensary” and to create a temporary moratorium on the use of land, buildings and structures for registered marijuana dispensaries in the City of Newton in order to allow the City adequate time to complete a planning process to consider in what districts and under what conditions registered marijuana dispensaries will be allowed. [09/25/13 @ 9:21 AM]

PUBLIC HEARING CLOSED 8-0

ZONING & PLANNING APPROVED 5-3 (Swiston, Johnson and Sangiolo opposed)

MOTION TO AMEND THE ITEM TO SUBSTITUTE DECEMBER 31, 2013 AS THE MORATORIUM END DATE WAS APPROVED 19 YEAS, 3 NAYS (Ald. Baker, Danberg & Fischman), 1 ABSENT (Ald. Salvucci), 1 VACANCY

MOTION TO APPROVE AS AMENDED WAS APPROVED 22 YEAS, 1 ABSENT (Ald. Salvucci), 1 VACANCY

Clerk’s Note: A motion was made to change the date of the end of the moratorium from March 1, 2014 to December 31, 2013. The chair of Zoning & Planning stated that the Committee voted on the March date, but noted that the Planning and Development Board had suggested the date of December 31, 2013 as the Board thought that the state regulations seemed to be sufficient enough to protect the City.

It was noted that the March 1, 2014 date was the one put forward by the Health Department and the Law Department. The facility will end up being a regional one and concern was raised that the Board would need the time to figure this out. Originally the regulations appeared to require that an applicant have a secured site by January in order to put in a phase 2 application, however that seems to have been eased. It was stated that there are Town moratoriums that have been approved that have had a much longer time frames.

Newton would at most only get one dispensary. There will only be five in the county and Newton will be in competition with many other communities. It was felt by some that a longer moratorium would give the state an excuse not to put a dispensary here in Newton.

#305-13 JESSICA O'ROURKE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing detached garage and construct a new garage with an accessory apartment on the second floor at 305 ALBEMARLE ROAD, Ward 3, NEWTONVILLE, on land known as SBL 31, 28, 17, containing approximately 10,345 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-8(b)(7), (d)(2), (d)(2)(b), of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED; LAND USE APPROVED 5-0

ITEM CHARTERED BY ALD. BAKER

Clerk's Note: The Vice Chair of the Land Use Committee presented the item. Ald. Baker noted that this permit involved a policy question that has been rarely used and would like more time to look into the matter.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 2 ABSENT (Ald. Salvucci & Sangiolo), 1 VACANCY TO TAKE THE FOLLOWING ACTIONS:

REFERRED TO LAND USE COMMITTEE

Tuesday, October 8, 2013

#189-12(2) REQUEST FOR AN EXTENSION OF TIME in WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #189-12, granted to ROX DINER/NORMAN CUBELL, TRUSTEE on September 24, 2012 for a restaurant with greater than 50 seats (an increase from 38 seats to 61 seats) and for a waiver from the 8 parking stalls required for such expansion at 335 WALNUT STREET, Newtonville, Ward 2; the EXTENSION will run from September 24, 2013 to September 24, 2014.

LAND USE APPROVED 5-0 (Schwartz not voting)

#179-13 BEECHER TERRACE HOMES, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct single-family attached dwelling(s) containing 5 4 units and to waive the 10-foot driveway setback requirements and for a retaining wall greater than 4 feet located within a setback at 22 and 26 BEECHER TERRACE, Ward 6, on land known as SBL 65, 8, 46 and 47, containing a total of 32,826 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5), (a), (b), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

(10-31)

LAND USE APPROVED AS AMENDED 6-0

- #229-13 NEEDHAM CHESTNUT REALTY, LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and for a NONCONFORMING STRUCTURE to demolish an existing single-story building of approximately 14,084 sf and construct a new single-story building containing approximately 7,140 sf to be used for retail and restaurant purposes and to waive certain dimensional requirements such as minimum aisle width, lighting, loading dock, interior landscaping, etc. at 170 NEEDHAM STREET, Ward 8, on land known as SBL 83, 28, 2 containing approx. 24,422 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-13(b), (b)(1) and (5), 30-19(m), 30-19(h)(3), (j)(1), (l) of the City of Newton Rev Zoning Ord, 2012.
LAND USE APPROVED 5-0-1
- #259-13 CYPRESS DEVELOPMENT, LLC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING USE/STRUCTURE to allow the expansion of a legal nonconforming three-family dwelling and to locate 1 parking stall 6 feet from the side lot line at 43-45 HIGH STREET, Newton Upper Falls, Ward 5, on land known as SBL 51, 8, 5, containing approximately 25,618 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a), 30-21(b), 30-9(b)(5)a) and b), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.
LAND USE APPROVED 6-0

REFERRED TO LAND USE COMMITTEE

Tuesday, October 15, 2013

Public hearing opened on September 10 and continued to October 15:

- #260-13 COREPOWER YOGA/TAURUS ONE NEWTON PLACE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a parking waiver for 17 parking stalls for a yoga studio with locker room facilities at 275 WASHINGTON/284-291 CENTRE STREET, Ward 1, NEWTON CORNER on land known as SBL 71, 5, 1, containing approximately 78,813 square feet of land in a district zone BUSINESS 1. Ref: 30-24, 30-23, 30-19(d)(21), 30-19(m) of the City of Newton Rev Zoning Ord, 2012.
HEARING CLOSED

The following item, approved by the Board of Aldermen on December 3, 2012, was the subject of an appeal by the Greater Boston Chinese Cultural Association to Massachusetts Land Court on December 20, 2012; on January 30, 2013 the Land Court remanded the item for a new public hearing.

- #190-12 YOUNG INVESTMENTS, LLC/NEWTON COMMUNITY SERVICE CENTER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing 2-story building and construct a 3-story (36.5') multi-family structure with 13 units (with a 1.47 FAR), 996 sq. ft. of office space on the first floor, an 18-stall below grade parking garage, a retaining wall greater than 4 feet in height in the setback, and to waive 11 parking stalls and certain parking dimensionals at 429 CHERRY STREET, Ward 3, WEST NEWTON, on land known as SBL 33, 12, 12, containing approximately 13,398 sq. ft. of land in district zoned Business

1. Ref: Sec 30-24, 30-23, 30-15 Table 3, 30-11(d)(8), 30-5(b) and (b)(4), 30-19(d)(1), (d)(11), 30-19(h)(3), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

HEARING CONTINUED TO NOVEMBER 12, 2013

#291-13 NEWTON RESTAURANT, LLC./PINKY'S PLACE, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING USE to increase an existing nonconforming restaurant containing 74 seats to 116 seats; to waive the requirement for an additional 16 parking stalls; and to utilize an adjacent parcel to meet a portion of the required parking at 1205 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as SBA 51, 45, 11, containing approximately 12,012 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a, 30-19(f)(2), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED

#292-13 STEVEN PETITPAS/RAN HOITASH petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a dormer wider than 50% of the exterior wall of the floor below at the rear of an existing single-family dwelling at 324 TREMONT STREET, Ward 1, Newton Corner, on land known as SBL 72, 11, 3, containing approximately 5,505 sf of land in a district zoned MULTI RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15(t)(1), (2), (3) of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED; LAND USE APPROVED 5-0

#306-13 THOMAS ROHRER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to demolish an existing detached two-car garage containing a playroom and tool room and to construct a new detached two-car garage and recreation room exceeding 700 square feet at 93 HOMER STREET, Ward 6, NEWTON CENTRE, on land known as SBL 64, 38, 12, containing approximately 33,097 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b and 30-15(m)(4) of the City of Newton Rev Zoning Ord, 2012.

HEARING CLOSED; LAND USE APPROVED 5-0

#307-13 CHARLES WEITZ & ISABAL CHIU petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to demolish an existing detached garage and replace it with a new garage, which will increase the Floor Area Ratio from .37 to .38, where .34 is the maximum allowed, at 71 MONTVALE ROAD, Ward 7, NEWTON CENTRE, on land known as SBL 61, 5, 22, containing approximately 12,000 sf 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 C LOSED; LAND USE APPROVED 5-0

- #308-13 CHAUNCY S. PERRY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing three-family residence at 432 NEWTONVILLE AVENUE, Ward 2, NEWTONVILLE, on land known as SBL 22, 5, 24, containing approximately 16,632 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(c)(1), 30-19(h)(4)a), (i), (j), and (m) of the City of Newton Rev Zoning Ord, 2012 and special permit #609-89.
HEARING CLOSED

REFERRED TO ZONING & PLANNING COMMITTEE

Wednesday, October 16, 2013

Appointment by His Honor the Mayor

- #320-13 STEPHEN FELLER, 64 Harvard Street, Newtonville, appointed as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire September 10, 2016 (60 days 12/20/13) [09/16/13 @ 10:46 AM]
ZONING & PLANNING APPROVED 6-0 (Lennon and Baker not voting)

Re-appointment by His Honor the Mayor

- #321-13 CHARLES EISENBERG, 4 Ashford Road, Newton Centre, re-appointed as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire September 10, 2016. (60 days 12/20/13) [09/16/13 @ 10:46 AM]
ZONING & PLANNING APPROVED 8-0

Re-appointment by His Honor the Mayor

- #322-13 BARBARA LISCHINKSY, 1942 Washington Street, Auburndale, re-appointed as a member of the NEWTON COMMISSION ON DISABILITY for a term to expire June 30, 2105. (60 days 12/20/13) [09/19/13 @ 2:00 PM]
ZONING & PLANNING APPROVED 8-0

Re-appointment by His Honor the Mayor

- #323-13 JINI FAIRLEY, 80 Rowena Road, Newton Centre, re-appointed as a member of the NEWTON COMMISSION ON DISABILITY for a term to expire June 30, 2015. (60 days 12/20/13) [09/16/13 @ 10:46 AM]
ZONING & PLANNING APPROVED 8-0

REFERRED TO PROGRAMS & SERVICES COMMITTEE

Wednesday, October 9, 2013

REFERRED TO PUBLIC FACILITIES & PROGRAMS & SERVICES COMMITTEES

- #325-13 HIS HONOR THE MAYOR requesting that the Board of Aldermen seek Article 97 approval from the General Court of Massachusetts permitting the temporary use of the entrance of Nahanton Park on Winchester Street for Fire Station #10, and further requests that the Board of Aldermen enter into a Memorandum of Understanding with the Parks & Recreation Commission consistent with the

motion approved by the Commission permitting temporary relocation of Fire Station #10 to the entrance of Nahanton Park. [09/30/13 4:51 PM]

PUBLIC FACILITIES APPROVED 5-0 on 10/09/13
PROGRAMS & SERVICES APPROVED 6-0

Re-appointment by His Honor the Mayor

#324-13 CAROL ANN SHEA, 24 Milo Street, West Newton, re-appointed as a member of THE BOARD OF TRUSTEES OF THE JACKSON HOMESTEAD for a term to expire February 1, 2015. (60 days 12/20/13) [09/16/13 @ 10:46 AM]

PROGRAMS & SERVICES APPROVED 6-0

#165-12 HIS HONOR THE MAYOR submitting (1) the report prepared by Kopelman & Paige PC, the consultant engaged to review the city's election procedures, and (2) proposing that Charter Sections 2-1(b) and 4-1(b) be amended to establish a particular date by which nomination papers are made available. [05/25/2012 @ 1:35PM]

PROGRAMS & SERVICES APPROVED 5-0 AS AMENDED (Fischman not voting) TO RECOMMEND MAY 1 TO CITY CLERK WITH NO CHARTER AMENDMENT

#336-12 HIS HONOR THE MAYOR, ALD. BAKER, FULLER AND LAREDO, requesting a discussion to include possible uses, process, timeline, opportunity for community input and funding sources, with the affected neighborhood community and with members of the Board of Aldermen, on the potential acquisition for passive or active recreational uses of the five acre parcel in Ward 7 on Manet Road currently held by the MWRA as an obsolete open water reservoir.

PROGRAMS & SERVICES NO ACTION NECESSARY 6-0

#230-12 ALD. SANGIOLO requesting the establishment of guidelines and policies regarding the creation of Neighborhood Area Councils particularly with respect to (1) boundary delineations and (2) description of area council authority. [08/06/12 @ 4:39PM]

PROGRAMS & SERVICES NO ACTION NECESSARY 6-0

#95-13 HIS HONOR THE MAYOR, SETTI WARREN AND BOARD PRESIDENT, SCOTT LENNON seeking an amendment to Chapter 12, Section 68 of the Newton City Ordinances to increase the number of members of the Health Care Advisory Committee if there are any concerns relative to the composition of the committee. [02/25/13 @ 2:24 PM]

PROGRAMS & SERVICES NO ACTION NECESSARY 4-0 (Fischman and Baker not voting)

REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE

Wednesday, October 9, 2013

#311-13 ALD. LENNON, requesting a discussion of proposed changes to Chapter 17, Article IV –Second Hand Junk Dealers, of the Revised Newton Ordinances in an effort to tighten up language to address concerns of the Police Department. [09/09/13 @ 1:19 PM]
PUBLIC SAFETY NO ACTION NECESSARY 7-0

#310-13 ALD. LENNON, on behalf of Dominic Proia, 17 Peabody Street, to discuss an amendment to the resident permit parking program. [09/09/13 @ 1:19 PM]
PUBLIC SAFETY NO ACTION NECESSARY 6-0 (Fuller not voting)

REFERRED TO PUBLIC FACILITIES COMMITTEE

Wednesday, October 9, 2013

#326-13 NSTAR ELECTRIC petitioning for a grant of location to install 295' ± of conduit in HYDE STREET in a southeasterly direction from 51 Hyde Street to proposed Manhole #MH29704 in Hyde Street and continuing 30' ± into the intersection of LAKE AVENUE to an existing manhole. [09/04/13 @ 11:13 AM]
PUBLIC FACILITIES APPROVED 6-0 (Laredo not voting)

REFERRED TO PUBLIC FACILITIES & PROGRAMS & SERVICES COMMITTEES

#325-13 HIS HONOR THE MAYOR requesting that the Board of Aldermen seek Article 97 approval from the General Court of Massachusetts permitting the temporary use of the entrance of Nahanton Park on Winchester Street for Fire Station #10, and further requests that the Board of Aldermen enter into a Memorandum of Understanding with the Parks & Recreation Commission consistent with the motion approved by the Commission permitting temporary relocation of Fire Station #10 to the entrance of Nahanton Park. [09/30/13 4:51 PM]
PROG & SERV APPROVED 6-0 on 10/09/13
PUBLIC FACILITIES APPROVED 5-0 (Danberg and Lennon not voting)

#112-13 VERIZON NEW ENGLAND, INC. petitioning for a grant of location to relocate Pole # 78/4 on WILLIAMS STREET northerly 65' ± from its current location in order to relocate service to a customer. (Ward 3) [02/27/13 @ 9:35 PM]
PUBLIC FACILITIES NO ACTION NECESSARY 5-0 (Danberg and Lennon not voting)

REFERRED TO FINANCE COMMITTEE

Wednesday, October 16, 2013

#327-13 HIS HONOR THE MAYOR requesting acceptance and expenditure of a ten thousand dollar (\$10,000) grant from the Community Health Network Area

(CHNA) 18 for the purpose of creating a program to address youth stress. The grant is to be administered through the Health and Human Services Department. [09/30/13 @ 4:10 PM]

FINANCE APPROVED 7-0

#328-13 **HIS HONOR THE MAYOR** requesting acceptance and expenditure of a two thousand five hundred dollar (\$2,500) grant from the Massachusetts Clean Energy Center for Solarize Newton Marketing Outreach Services for the purpose of paying a consultant of the Public Buildings Department. [09/30/13 @ 4:10 PM]
FINANCE APPROVED 7-0

#329-13 **HIS HONOR THE MAYOR** requesting authorization to transfer the sum of seven thousand four hundred forty-four dollars and ninety-nine cents (\$7,444.99) from Budget Reserve to the Law Department's Judgments and Settlements Account to be used as full and final settlement of a claim for damages filed against the City as a result of property damaged caused by a City of Newton work crew. [09/30/13 @ 4:10 PM]
FINANCE APPROVED 7-0

MOTIONS TO ACCEPT THE FOLLOWING THREE LATE FILED ITEMS TO THE DOCKET AND REFER THEM TO COMMITTEE WERE APPROVED BY VOICE VOTE.

REFERRED TO PUBLIC FACILITIES COMMITTEE

#351-13 **HIS HONOR THE MAYOR** requesting the confirmation of Joshua Morse as the Commissioner of Public Buildings, effective October 15, 2013 pursuant to Section 3-3 of the City Charter (30 days: 11/20/13). [10/16/13 @ 11:56]

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#359-13 **HIS HONOR THE MAYOR** requesting authorization to appropriate and expend the sum of one million one hundred thirty-eight thousand one hundred sixty dollars (\$1,138,160) from the Sewer Fund – Current Year Reserve in order to conduct accelerated sewer capital work in the Capital Improvement Plan Project I Sewer Rehabilitation Project. [10/16/13 @ 11:56 AM]

REFERRED TO FINANCE COMMITTEE

#322-12(7) **DIRECTOR OF ASSESSMENT ADMINISTRATION** submitting for Board of Aldermen review and approval the FY14 Municipal Property Tax Levy Distribution Percentages among residential, open space, commercial and industrial classes of Real Property.

THE FOLLOWING PUBLIC HEARINGS WERE ASSIGNED.

Public hearing to be assigned for October 23, 2013:

#350-13 **NATIONAL GRID** petitioning for a grant of location to install and maintain 180' ± of 2" gas main in HAGEN ROAD from the existing 4" gas main in Olde Field Road easterly to 99 Hagen Road. [10/08/13 @ 2:17 PM]

Public Hearing assigned for November 12, 2013:

#330-13 DONNY & RAQUEL SANTANGELO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL 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 .56, where .48 is the maximum allowed by right, at 3-5 MILTON AVENUE, Ward 4, West Newton, on land known as SBL 44, 14, 7, containing approximately 6,962 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15 Table A and 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

Public Hearing assigned for November 12, 2013:

#331-13 MANOJ & VAISHALI SHINDE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a ±17-foot retaining wall greater than four feet in height within the front setback at 287 KENRICK STREET, Ward 7, NEWTON, on land known as SBL 72, 27, 18, containing approximately 11,141 sq. ft. 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.

Public Hearing assigned for November 18, 2013:

#322-12(7) DIRECTOR OF ASSESSMENT ADMINISTRATION submitting for Board of Aldermen review and approval the FY14 Municipal Property Tax Levy Distribution Percentages among residential, open space, commercial and industrial classes of Real Property.