

CITY OF NEWTON

IN BOARD OF ALDERMEN

BOARD ACTIONS

Monday, October 18, 2010

Present: Ald. Albright, Baker, Blazar, Ciccone, Crossley, Fischman, Freedman, Fuller, Harney, Hess-Mahan, Johnson, Lappin, Linsky, Merrill, Rice, Salvucci, Sangiolo, Schnipper, Shapiro, Swiston, Yates and Lennon

Absent: Ald. Danberg and Gentile

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

#234-10 WOODLAND GOLF CLUB of AUBURNDALE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of A NONCONFORMING USE and STRUCTURE to construct a new pool house building; new food service building; new patio deck and to expand an existing pool deck and replace an existing kiddie pool at 1897 WASHINGTON STREET, Ward 4, Auburndale, on land known as SBL 43, 46, 11 containing approx. 2,291,142 sf of land in a district zoned SINGLE RESIDENCE 1 and 2. Ref: 30-24, 30-23, 30-21(a)(2)a and b), 30-21(b)(2), 30-15(m) of the City of Newton Rev Zoning Ord, 2007 and special permit nos. 101-87 and 517-83.

HEARING CLOSED; LAND USE APPROVED 8-0

A MOTION TO AMEND THE SPECIAL PERMIT BOARD ORDER BY ADDING FINDING #5, AS NOTED BELOW, WAS APPROVED BY VOICE VOTE.

5. *The petitioner has acknowledged its continuing obligation to abide by, and intends to comply with, the provisions of the city's Noise Control Ordinance (Section 20-13 of the Revised Ordinances) not only with respect to the proposed improvements which are governed by this Board Order but also with respect to its daily ground maintenance operations, including without limitation lawn cutting and leaf blowing.*

APPROVED AS AMENDED 22 YEAS, 2 ABSENT (Ald. Danberg & Gentile)

Notes: The Chair of the Land Use Committee reported that after the Land Use Committee meeting concern was raised, and signatures on a petition were gathered, by the abutters of the property indicating their support for the project, but asking that the City compel Woodland to comply with the City's Noise Ordinance. It was stated in the petition that the club begins maintenance, including the use of leaf blowers as early as 6:00 am. They asked that language be added to the Permit to compel the Club to acknowledge that it will comply with Noise Ordinance

restrictions. The Chair of the Land Use Committee consulted with the petitioner's attorney and a letter was received from them indicating that they acknowledge that they are bound by the Noise Ordinance. To address this, the Chair of the Land Use Committee offered language to add an additional finding to the Draft Board Order. A motion was made and seconded to add the following finding text to the Board Order.

5. *The petitioner has acknowledged its continuing obligation to abide by, and intends to comply with, the provisions of the city's Noise Control Ordinance (Section 20-13 of the Revised Ordinances) not only with respect to the proposed improvements which are governed by this Board Order but also with respect to its daily ground maintenance operations, including without limitation lawn cutting and leaf blowing.*

#105-09(2) YANPING SUN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an accessory apartment in an existing single-family dwelling, including the waiver of landscaping requirements for a parking facility, at 87 WOODWARD STREET, Ward 5, Newton Highlands, on land known as Sec 52, Blk 1, Lot 27, containing approx 12,786 sq ft of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2), 30-19(i)(1), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

HEARING CLOSED; LAND USE APPROVED 6-0-2 (Merrill and Schnipper abstaining)

A MOTION TO AMEND THE TEXT OF THE SPECIAL PERMIT BOARD ORDER CONDITION 4(B) AND 4(C), AS NOTED BELOW, WAS MADE AND SECONDED.

b. Submitted a final landscape plan that has been approved by the Director of Planning and Development and the Director of Urban Forestry, which includes snow storage area(s), including maintenance of a boundary fence, and a commitment to provide on behalf of the petitioner or successor in interest, off-site landscaping in accordance with condition 2.

c. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format, including a certification to the Commissioner of Inspectional Services at the time of issuance of certificate of occupancy attesting to the "continued residence of the owner on the subject property" as also annually, or otherwise required, by Section 30-8(d).

A MOTION TO POSTPONE THE ITEM TO A DATE CERTAIN OF NOVEMBER 1, 2010 WAS APPROVED BY VOICE VOTE.

Notes: After the close of the Land Use Committee meeting some additional information was provided by the Law and Inspectional Services Departments. There was concern by some members of the Land Use Committee that the owner was not currently occupying the home and

that City Ordinance required the owner to occupy the building. The Law Department provided information that at the time the certificate of occupancy is given the owner must occupy the property. The Land Use Committee included a condition in the Special Permit that required that the owner had to be occupying the home at the time the building permit was issued to insure that the owner was going to occupy the residence. The Inspectional Services Department has stated that they will provide a vigilant effort to make sure that the owner is occupying the residence at the time the Building permit is issued.

The second point of concern was the inclusion of the condition that the owner provide landscaping on an abutters property. A time limit of one year for the abutter to make the decision was included in the draft Board Order, and this was voluntarily agreed to by the petitioner.

Concern was expressed by Ald. Baker that the language of the Board Order needed strengthening in two places and offered the following amendments as underlined below:

b. Submitted a final landscape plan that has been approved by the Director of Planning and Development and the Director of Urban Forestry, which includes snow storage area(s), including maintenance of a boundary fence, and a commitment to provide on behalf of the petitioner or successor in interest, off-site landscaping in accordance with condition 2.

c. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format, including a certification to the Commissioner of Inspectional Services at the time of issuance of certificate of occupancy attesting to the "continued residence of the owner on the subject property" as also annually, or otherwise required, by Section 30-8(d).

The amendment to b. is to include the maintenance of the boundary fence as was discussed in Committee and to make sure that the landscaping for the abutter extends to a time period beyond the issuance of the occupancy permit. The amendment to c. is to clarify and insure owner occupancy at the time of building permit, but also at the time of the issuance of an occupancy permit in compliance with city ordinance. A motion was made and seconded to offer the two amendments in order to clarify the committee's intent.

It was asked if the petitioner was fine with the language that was being proposed in the amendment. The Chair of Land Use stated that he did not know, but that he felt that this language was nothing that had not been discussed with the petitioner in committee and that it was already included in the draft board order.

It was noted that the Board had time to answer any questions and to notify the petitioner of the text changes and a motion was made to postpone the item to a date certain of November 1, 2010.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 22 YEAS, 0 NAYS, 2 ABSENT (Ald. Danberg & Gentile) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEMS:

REFERRED TO LAND USE COMMITTEE

Tuesday, October 5, 2010

- #211-10 BRUNO PALUMBO TRUSTEE, PALUMBO FAMILY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND a NONCONFORMING USE to demolish an existing two-family dwelling and replace it with six 2.5-story attached dwelling units, with associated waivers from the 24-foot height requirement and from parking requirements for maneuvering space/aisles/driveway width/handicapped parking, and to construct a greater than four-foot retaining wall within the side setback at 244 ADAMS STREET, Ward 1, Nonantum, on land known as Sec 14, Blk 14, Lots 3 and 4, containing approx 13,966 sq ft of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-21(b), 340-19(h)(2)(c) and (e); 30-19(h)(3) and (4)(a), 30-15, 30-19(m), and 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.
LAND USE APPROVED 8-0

REFERRED TO PROGRAMS AND SERVICES COMMITTEE

Wednesday October 6, 2010

Present: Ald. Sangiolo(Chairman), Merrill, Linsky, Hess-Mahan, Rice, Blazar, Baker, Fischman

Appointment by His Honor the Mayor

- #240-10 KAREN LISCHINSKY, 230 Walnut Street, Newtonville, appointed as a member of the YOUTH COMMISSION for a term of office to expire September 7, 2013 (60 days 10/6/10). [8/30/10 @5:14 PM]
PROGRAMS & SERVICES NO ACTION NECESSARY 5-0 (Linsky, Baker, Hess-Mahan not voting)

- #254-10 ALD. FREEDMAN, SANGIOLO, JOHNSON SWISTON, & RICE requesting a discussion with the Child Care Commission regarding changes which have been made, or are planned to be made, in light of a decreasing budget. [9/13/2010 @ 4:06pm]
PROG & SERV NO ACTION NECESSARY 7-0 (Merrill not voting)

- #125-09 THE POST AUDIT & OVERSIGHT COMMITTEE requesting creation of a public tree protection ordinance and amendment of the current tree ordinance as recommended in the Tree Preservation Ordinance Report. [04/17/09 @ 9:14 PM]
PROG & SERV APPROVED AS AMENDED 7-0 (Merrill not voting)
PROG & SERV REFERRED TO FINANCE COMMITTEE 7-0 (Merrill not voting)

- #207-10 ALD. SANGIOLO, YATES, FISCHMAN, JOHNSON requesting a discussion with the Newton Housing Authority regarding the various housing programs offered and the process and procedures in (1) selection of appropriate housing for tenants with special needs (2) any special services offered to tenants with disabilities (3) resolution of tenant disputes and possible eviction procedures and (4) tenant resources and recourse in the event of tenant complaints. [7/7/10 @8:53 AM]
PROGRAMS & SERVICES NO ACTION NECESSARY 8-0

REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE

Wednesday, October 6, 2010

- #219-10 DAVID NEWCOMB, 275 Grove Street, Suite 2-400, Auburndale, MA 02466, requesting **one (1) new public auto license** for NEWTON COACH, INC. [07/30/10 @ 12:48 PM]
PUBLIC SAFETY APPROVED 7-0 (Shapiro not voting)
- #267-10 ALD. DANBERG, FULLER, CROSSLEY and HESS-MAHAN requesting a discussion on traffic signal cameras in Newton and their current and potential uses. [09/24/10 @ 12:13 PM]
PUBLIC SAFETY NO ACTION NECESSARY 7-0 (Shapiro not voting)
- #101-10 PLANNING DEPARTMENT requesting presentation and discussion of the Pedestrian Mobility Project to be completed by the Worcester Polytechnic Institute Pedestrian Mobility Project Team. [03/29/10 @ 10:45 AM]
PUBLIC SAFETY NO ACTION NECESSARY 4-0 (Johnson, Freedman, Swiston and Shapiro not voting)

REFERRED TO PUBLIC FACILITIES COMMITTEE

Wednesday, October 6, 2010

- #268-10 24 PINE LLC, GARY & LINDA SCHMITT, requesting Construction of Main Drain, Common Sewer and Water Main in Evergreen Circle, a proposed subdivision road and a portion of Subdivision Lots 1 and 2 from the existing utility services on Pine Street 400' ± southerly to the proposed private way. Ward 4 [09-24-10 @ 2:18 PM]
PETITIONER TO PAY ENTIRE COST
PUBLIC FACILITIES APPROVED 5-0 (Danberg not voting)

THE FOLLOWING ITEM WAS APPROVED WITH A VOTE OF 21 YEAS, 0 NAYS, 2 ABSENT (Ald. Danberg & Gentile), 1 RECUSED (Ald. Fischman)

REFERRED TO LAND USE COMMITTEE

#8-10(4) AGREEMENT TO AN EXTENSION OF TIME IN WHICH TO ACT on petition # 8-10: Clear Wireless, LLC/American Tower request to add a wireless antenna installation to an existing tower consisting of 3 panel antennas at the height of 115 feet and 9 wireless backhaul dishes at 250 feet in height, plus an ancillary ground-level equipment cabinet at 1165 CHESTNUT STREET, Ward 5; said extension will run from OCTOBER 29, 2010 through NOVEMBER 30, 2010.

MOTIONS TO SUSPEND THE RULES TO ALLOW THE FOLLOWING TWO LATE FILED ITEMS TO BE ACCEPTED ON THE DOCKET AND REFERRED TO THE APPROPRIATE COMMITTEES WERE APPROVED BY VOICE VOTE

REFERRED TO ZONING & PLANNING COMMITTEE

#142-09(5) ZONING & PLANNING COMMITTEE proposing that **subsection 30-15(u) of Chapter 30** relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. December 31, 2010 to February 28, 2011.

REFERRED TO CMTE. ON COMM. PRESERV. AND FINANCE COMMITTEE

#299-10 COMMUNITY PRESERVATION COMMITTEE requesting that budgeted FY11 revenue from state matching funds to the Community Preservation Fund be revised from \$681,605 to \$618,181, to reflect the final amount confirmed by the Massachusetts Dept. of Revenue to the Newton Comptroller on October 8, 2010. [10/12/2010 @ 1:42pm]

PUBLIC HEARINGS WERE ASSIGNED FOR THE FOLLOWING ITEMS:

A Public Hearing was assigned for November 9, 2010:

#277-10 JENNIE MARIE ONE LLC/JENNIE MARIE TWO LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing single-family dwelling and construct a mixed-use development containing 5 two-bedroom dwelling units over 2, 997 sq. ft. of retail space with a 21-space rear-yard parking lot (accessed by Cottage Court) at 152 ADAMS STREET, Ward 1, Nonantum on land known as SBL 14, 14, 33, containing ≈14,532 sq. ft. of land in districts zoned BUSINESS 2 and BUSINESS 1. Ref: Sec 30-24, 30-23, 30-19((d)(2), (i)(2), (j)(1), and (m), 30-15 Table 3, of the City of Newton Rev Zoning Ord, 2007/

A Public Hearing was assigned for November 9, 2010:

#278-10 MARK & JANE CONROY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to alter a NONCONFORMING USE/STRUCTURE from a mixed-use funeral home with 2 residential units to a 3-family residential use at 439 WASHINGTON STREET, Ward 1, Newton Corner, on land known as SBL 12, 6, 7, containing ≈4,516 sq. ft. of land in a district zoned BUSINESS 2. Ref 30-24, 30-23, 30-21(a)(1)a and 30-21(b), 30-11(d) of the City of Newton Rev Zoning Ord, 2007.

A Public Hearing was assigned for November 8, 2010:

#142-09(5) ZONING & PLANNING COMMITTEE proposing that **subsection 30-15(u) of Chapter 30** relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. December 31, 2010 to February 28, 2011.