

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

SPECIAL MEETING

THURSDAY, NOVEMBER 8, 2012

Present: Ald. Hess-Mahan (Chairman), Ald. Fischman, Albright, Laredo, Crossley, Harney, and Schwartz; absent: Ald. Merrill; also present; Ald. Sangiolo

City Staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board of Aldermen)

#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), 996 904 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.

ACTION: APPROVED 7-0 (Please note the application stated 996 sq. ft. of office space, but the plans indicate 904 sq. ft., which the petitioner confirmed is the actual square footage for the proposed office space.

NOTE: The public hearing was opened and closed on September 11, 2012. Present at the public hearing were Aldermen Hess-Mahan (Chairman), Crossley, Albright, Schwartz, Harney, and Laredo; absent: Aldermen Fischman and Merrill; also present: Aldermen Swiston and Sangiolo.

Attorney Terrence Morris represented the petitioner. The site contains the former Newton Community Service Center building, a nondescript building constructed in the 1950s. A similar petition with fewer units was filed early in 2012 but was subsequently withdrawn. The petitioner wishes to demolish the building and construct in its place a three-story multi-family structure with 13 residential units with office space on the street level and 18 parking stalls underground. The petitioner is seeking a special permit to allow a three-story multi-family dwelling in a Business 1 zone, a Floor Area Ratio (FAR) of 1.47 where 1.0 is allowed by right, a building height of greater than 24 feet (35.61 feet), a retaining wall greater than four feet within the side setback, waivers for 11 required parking stalls, and reduced aisle length and driveway width for the parking facility. The petitioner is using an affordable housing density bonus allowing for up to a 25% reduction in the lot area required per unit and a bonus market rate dwelling unit for each affordable unit provided in excess of what is required under the inclusionary zoning ordinance, which will provide three affordable units instead of two. Situated slightly north of West Newton Square, the site is in a Business 1 zone that transitions into a residential zone. It is

abutted to the south by the Greater Boston Chinese Cultural Association (GBCCA) and to the north by the “Townhouses at West Newton Square” – attached dwellings built circa 1860 – and is close to public transportation.

The first floor will have four residential units and 904 square feet of office space, the second floor will have five residential units and the third floor will have 4 residential units. The units range in size from 920 square feet to 1,634 square feet with an average of approximately 1,000 square feet. The first floor units will have terraces and the second floor units will have balconies. The building will have a green roof which among other benefits will absorb rainwater, mitigate heat/lower air temperature, and help insulate sound. The roof is not for recreational use; although there are stairs, they are for maintenance access. Plant species will be low maintenance and drought resistant.

The parking requirement is 30 stalls. The proposed below-grade parking garage contains 18 parking stalls and one handicapped van stall at grade. The proposed configuration addresses most of the concerns expressed by the Planning Department relative to the prior filing. The Planning Department would like to see the HP space moved below grade and covered; the Inspectional Services Department believes it needs to be redesigned to be compliant with Architectural Access Board requirements. The Planning Department believes the relief for a 22-foot maneuvering aisle, where 24 feet is required, is appropriate because the parking will only serve tenants of the building. The units will be rentals and because of proximity to public transit will self-regulate, likely attracting tenants with either one or no cars. The petitioner will provide indoor bicycle parking. The petitioner is requesting waivers for the width of the entrance driveway and the length of two parking stalls. The driveway, a single lane that will accommodate two-way traffic, has a steep grade and a sharp curve when entering the garage. Subsequent to the hearing the petitioner provided a template indicating the 12 feet is sufficient. The petitioner proposes to install a signalized garage exit/entry light, visual, not audible, to alert persons entering and exiting that the driveway accommodates two-way traffic. The light is approximately the size of a brick and will be embedded in the retaining wall (like one approved in the special permit for 244 Adams Street). The wall is located within the side setback and requires relief. The petitioner proposes a fence and landscaping on top of the wall.

The petitioner was asked to provide a landscape plan prior to working session. A chain link fence is shown around the property; the Planning Department has recommended a more aesthetically-appropriate treatment.

The existing impervious area, which covers approximately 95% of the site, will be reduced by approximately 21.6%. Condensers are part of the ventilation system located on the roof where it will be screened. The trash/recycling is located in a room in the garage; it will be either wheeled in bins to the street or picked up by truck. Soils test indicate that there will be no need for blasting.

Architect John Pears explained that the size and shape of the proposed building complement the GBCCA building, which is a late nineteenth-century brick structure. Essentially it is a 1.5 story

building between two 3-story buildings. Any massing effect is broken up by the use of different color, texture, and scale of materials. The Committee complimented Mr. Pears on the design.

Currently, the site has two drywalls that handle the surface water; the wells are 40-50 years old and have no gas/oil separator. In testing, it was discovered that the catch basin on the abutting GBCCC property appears not to have been maintained for some years.

Public comment: Attorney Jack McElhinney of 63 Shore Road, Winchester, represented the GBCCA. Mr. McElhinney reported that the GBCCA has met with the petitioner and its consultants several times to discuss the GBCCA's numerous concerns. He summarized GBCCA's concerns which include the physical impacts of the construction project on its building. The GBCCA experiences periodic flooding and water problems because of a high groundwater table in the vicinity. The foundation is in poor shape; these problems may be exacerbated by the construction. A preliminary agreement was reached with the petitioner to install two groundwater monitoring wells on the GBCCA property to document existing conditions and for the GBCCA to conduct a video camera evaluation of the existing drainage infrastructure on its site. As of this date, the studies had not yet been completed. The GBCCA believes the project is too dense for the site in terms of both the mass and the request for waivers relative to parking. Existing parking capacity in the neighborhood is already an issue. Although the GBCCA has no on-site parking, it believes that any new development should provide sufficient on-site parking. Speakers also pointed out that the GBCCA runs a program in conjunction with the Newton Public Schools and there is concern about pedestrian safety.

Approximately 9 members of the GBCCA spoke in opposition to the project and a petition signed by approximately 32 members who are opposed was submitted. *This testimony was submitted in writing by Mr. McElhinney and is available along with emails and letters received subsequent to the public hearing online at www.ci.newton.ma under Current Special Permits/429 Cherry Street/#190-12 and in the Clerk of the Board of Aldermen's office, first floor, Newton City Hall.*

Attorney Elizabeth Nolan of Nolan & Nolan Attorneys, 510 Boston Post Road, Weston, represented the "Townhouses at West Newton Square" at 56-66 Webster Street. Ms. Nolan said the condominium association is not opposed to a development on the site, but this proposal does not address the concerns raised about the prior petition that was withdrawn. The proposed height of the building and the waiver of 11 parking spaces are troubling, but the major concern is water runoff. The association would like the petitioner to flip the driveway to the GBCCA side of the property. Reversing the driveway would locate entering and exiting vehicles and trash away from the residences. Although there is no blasting proposed, the association is concerned about damage to its stone foundation and would like the petitioner put some safeguards in place. In addition, should the special permit be approved, the association would like a reasonable construction schedule and detailed staging plan.

Paul Hummel, 100 Lake Avenue, is a Board member of the Newton Community Service Center (NCSC). The 100-year old nonprofit began in 1907 as a day nursery for laborers and has evolved into a social services agency that serves youths to seniors; the sale and development of

this property will allow NCSC to continue its programs. The site is close to West Newton Square where dense residential development is appropriate and efficient; it fills an unmet demand for small units; it will encourage less car use; the city will receive a bonus affordable housing unit; and, the change in status from a non-profit to taxable property is a benefit to the city.

William Jarry, 391 Cherry Street, supports the petition. The existing building has been for sale since 2010 and is an eyesore.

Howard Haywood, 69 Walker Street, supports the petition. It is “smart” development, with smaller units and will create three affordable units for the city. Mr. Haywood said he began going to NCSC in 1944 when his mother had to go to work and it provided a supportive environment throughout his teen years. It and the GBCCA combined provide immeasurable services to the city and both agencies should work together.

Marcel Lachenmann, 60 Stony Brae Road, is the parent of a child who attends the GBCCA program. He fears for the safety of pedestrians. Is one additional affordable unit of housing worth an increase in density, height, and waiving 11 parking spaces?

Josephine McNeil, Executive Director of CAN-DO, explained that every day she receives calls from people desperate for housing. One unit at a time does make a difference.

Ken Krems, 55 St. Marys Street, a board member of NCSC urged approval. The proposal is in a T-oriented location and the sale will allow NCSC, a 100-year resource, to carry out future work.

Shawn Fitzgibbons, 300 Homer Street, supports the petition. It provides housing and is near public transportation and will bring more life to West Newton Square.

Susie Heymann, 70 Varick Road, also a NCSC board member said it is a win-win for the city.

Pablo Quintero, 56 Webster Street, is concerned about lead dust and asbestos during demolition.

Stephanie Gladstone, 62 Webster Street, is concerned about the water table and potential damage to the foundation of the Townhouses. Also, she noted the city appears inconsistent about enforcing existing parking restrictions in the area.

Several other condo owners echoed the concern about the water level, dust, and construction noise.

One member of the GBCCA noted that the “happy elderly program” might disturb the residents of the proposed building because of the high noise level from the singing and dancing.

The Committee discussed this petition in a working session on October 23, 2012. Present were Aldermen Hess-Mahan (Chairman), Albright, Crossley, Laredo, Schwartz, Harney, and Fischman; absent: Alderman Merrill; also present: Aldermen Sangiolo and Swiston.

The petitioner submitted a detailed Construction Management Plan. The petitioner will perform pre- and post- surveys of the GBCCA building and the Townhouses to document baseline conditions for structural integrity of the buildings and file a copy of that inspection report with the Director of Planning and Development and the City Engineer. Testimony and one test boring on the site appear to indicate a high water table. The petitioner has asked the GBCCA for permission to do two borings on the GBCCA site. The petitioner reiterated there is no blasting or drilling. Soldier piles will shore up the earth on each side of the site to protect the GBCCA building and the Townhouses during construction. The petitioner's engineer VTP Associates has indicated that water can be retained on-site. VTP has submitted to the city's Engineer Division an Operations & Maintenance Plan and a Dewatering Plan. The Engineering Division is responsible for reviewing signed and stamped plans by a registered engineer prior to the issuance of a building permit. There is a question of whether the petitioner will tie into the city's drainage system. The Fire Department has approved the plans, but is requiring that sprinklers be installed in the trash area. In response to a question about whether the petitioner still had to report the monitoring wells to the Engineering Division, it was pointed out that it is called out in the Construction Management Plan.

The discussion turned to the parking. The site is close to both the T express bus and commuter rail. The city's zoning requires two parking stalls per dwelling unit regardless of the size of the unit. A unit containing 3,500 square feet requires the same number of stalls as one containing a 1,000 square feet. There was concern whether there was enough room to drive out of space #9; it was suggested that the mechanical equipment on the wall opposite the space be moved to allow better maneuverability. The Committee asked for a turning template. The petitioner noted that the design itself strikes a balance between dimensions and numbers. The spaces for the 904 square feet of office space will be free after early evening. A majority of the Committee felt comfortable with the general design, agreeing that it is the landlord's responsibility to make the parking work for its tenants. However, the petitioner was asked to provide a reconfigured parking layout that might accommodate additional stalls. The Committee also asked about parking restrictions on surrounding streets. Flipping the driveway is impracticable because the current iteration abuts a parking lot which locates it approximately 50 feet from the abutters; reversing it would move it right next to the GBCCA.

Several Committee members wished to see a reworked design providing more spaces, while others were not concerned about the number of spaces but the single lane. Mr. Valentine was asked to prepare a map showing existing parking restrictions on the neighboring streets. Alderman Crossley said this is more of an urban environment and that in her opinion it is an appropriate development for this site. She is not troubled by the "inconvenience" others perceive. This type of parking situation is typical in such a development. Alderman Laredo was not troubled by the number of spaces but by the safety issue related to the single lane and if it would potentially backup on the street.

Alderman Crossley moved to hold the petition, which motion carried 7-0

This evening, Mr. Valentine reported that the petitioner has reconfigured the HVAC equipment opposite parking stall #9. The reduction in the size of the ductwork creates more maneuvering space for this stall. A turning template indicates this space is now adequate.

The petitioner provided an alternative plan that shows that 4 parking stalls would have to be eliminated to create a two-way drive. The petitioner believes this would have a more significant impact on the neighborhood and reiterated that the single-lane driveway will be signalized to permit safe two-way traffic. This is a private garage, not a public garage, primarily for residential units. The Committee concurred that the single lane makes more sense. The petitioner has agreed to restrict exiting cars to a right turn only.

Mr. Valentine had prepared a map of parking restrictions on surrounding streets. The Planning Department believes that parking will be self-limiting to guests of the residents simply because on-street overnight parking is not allowed in the city for half the year. The petitioner has offered a contribution of \$3,500 towards the installation of a pedestrian-activated signal at the intersection of Cherry and Washington Streets. This intersection provides access to the commuter rail and bus stop on the south side of Washington Street.

The petitioner has submitted a Street Drainage and Operations & Maintenance Plan to the Engineering Division. The O&M Plan addresses most of the Division's concerns. The Division has confirmed that any outstanding issues can be resolved prior to the issuance of a building permit. Steve Poole of VTP Associates explained that although the original test boring showed a high water table, tests now indicate the water table is only 3" to 4" higher than ground water level. To address this, the building will be "picked up" approximately 30 inches so the bottom of its footing will be above ground water level. It is likely the entrance stairs may need to be modified, but the Committee agreed that any modification would be a modest change to the elevation. The side grade will remain the same. There are two fences on common property line of the Townhouses. One is chain link owned by the NSCS and the other a wood fence owned by the Townhouses. The petitioner is willing to install an 8-foot fence that will step down to 4 feet at the street perhaps with some type of landscaping; however, talks are ongoing and the final fence not yet determined. The petitioner will submit revised architectural plans prior to the full Board.

Alderman Crossley moved approval of the petition with the findings and conditions enumerated in the draft special permit dated November 19, 2012.

The meeting was adjourned at approximately 9:45 PM.

Again, please note that all documents referenced in this report and the many communications received after the close of the public hearing are available online at www.ci.newton.ma under Current Special Permits/429 Cherry Street/#190-12 and in the Clerk of the Board of Aldermen's office, first floor, Newton City Hall.

Respectfully submitted,

Ted Hess-Mahan, Chairman