

CITY OF NEWTON
IN BOARD OF ALDERMEN
BOARD ACTIONS

Monday, August 9, 2010

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

Absent: Ald. Baker

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

- #204-10 COMMISSIONER OF PUBLIC WORKS, ON BEHALF OF NSTAR, petitioning for a grant of location to relocate pole 128/6 to the opposite side of ELM ROAD, a distance of 50' +/- westerly from existing pole location. (Ward 2) [06/21/10 @ 5:13 PM]
PUBLIC FACILITIES APPROVED 6-0 WITH CONDITION on 7/12/10
FULL BOARD APPROVED ON JULY 13
MOTION TO RECONSIDER FILED BY ALD. SALVUCCI ON JULY 13
MOTION TO RECONSIDER APPROVED BY VOICE VOTE
MOTION TO POSTPONE TO SEPTEMBER 7, 2010 APPROVED BY VOICE VOTE

Clerk's Note: Ald. Salvucci stated that he is requesting reconsideration of this item because he found out after the Board voted that it was going to cost the City \$15,000 to relocate the pole. This is significantly more than amounts previously charged for pole relocations and the cost was never mentioned in committee. Past pole relocations cost \$3,000 to \$4,000 and he would like to find out why it will cost so much. The Board approved reconsideration of this item.

A motion was then made to postpone this item to a date certain of September 7, 2010 in order to get additional information on the costs from the Department of Public Works. The Chair of Public Facilities stated that if that information and a lower cost are not provided by the 7th, she would ask at the Board meeting on the 7th that the item be recommitted to Public Facilities. The Board approved the motion to postpone.

#242-03(6)(B) ALD. ALBRIGHT requesting to amend Section 3-30 (as established by Ordinance Z-11) to create an off-leash dog areas ordinance. [04/26/10 @ 8:47 AM]

B. PROGRAMS & SERVICES APPROVED 5-0-2 (Sangiolo and Merrill abstaining)

MOTION MADE TO AMEND ORDINANCE TEXT TO ADD SECTION 30(B)(5) APPROVED BY VOICE VOTE

MOTION TO APPROVE AS AMENDED APPROVED 17 YEARS, 6 NAYS (Ald. Ciccone, Gentile, Harney, Lappin, Salvucci, Sangiolo), 1 ABSENT (Ald. Baker)

Clerk's Note: Ald. Yates offered a motion to amend the text of the committee approved off-leash area ordinance to include a new section 30(b)(5) which would allow the Parks & Recreation Commission to seek approval for dog parks on State-owned land. The text of the new section is as follows:

(5) Other Public Land. On land in public use districts that is owned by the Commonwealth or other government entity, the commissioner and director may identify appropriate potential sites and seek the appropriate government entity's approval to designate such sites for off-leash areas, subject to such terms and conditions as the Commonwealth or other government entity may require.

The amendment was Approved by Voice Vote.

The Board then discussed the merits of the Ordinance. Some of the concerns that were expressed included the large number of sites (24 are currently identified), and that some of those identified sites are going to be controversial. There was concern about who would be enforcing this ordinance. Directed patrols at Cold Spring Park have taken an inordinate amount of time, time that police officers could be spending on more important issues.

Aldermen were asked to be aware of the impact on other park usages that dogs running off-leash will have. Dogs off leash will make the park less desirable for other types of park use. Problems with usage can be seen in the Norembega Park which is used for dogs off-leash. The dogs running off-leash have kept people from using this Conservation Land for anything other than dogs off-leash.

It was noted that Needham has recently banned dogs from specific sites in the Town. It was expressed that Newton should also identify sites where dogs should not be allowed either on- or off-leash.

Fencing was an issue for several Aldermen. They stated that they were not comfortable with off-leash areas if they were not fenced in. There was concern expressed that children might be hurt if dogs are not contained within fences. Topography is not a good enough barrier to keep dogs contained.

There was concern expressed that this controversial item was being voted on during the summer when residents were not around. It was noted that this item has been in discussion for several years.

Praise was given to all of the Aldermen who have worked on this ordinance over the years and to the citizen advocates who have put a lot of time into this project. It was noted that the Animal Control Officers in the Police Department were in favor of the off-leash dog parks. By placing the onus on the park advocates to care for the parks, the parks will be cleaner because they realize that they have to make sure it works. This can be seen in the experiment at Cold Spring Park. The Park has never looked so clean, the off-leash advocates have made the park cleaner and it looks the nicest it has ever looked.

Dog parks have been implemented across the country and the world and Newton should implement this now.

Several aldermen noted that the Ordinance is comprehensive and includes the requirements that dog owners have to pick up after their dog. The ordinance also notes that some sites need some limits including fences, hours, etc. Several Aldermen would like to see a user fee for dog park owners to provide funds for fencing and maintenance of the parks. It was noted that fees for the off-leash parks are being discussed and there is a docket item in Programs and Services to address fees.

The Off-Leash Task Force has done a great deal of work and has already weeded the original list of 75 sites down to 24.

It was noted that the Board does not have the authority to make decisions on park locations. The ordinance puts the power to decide in the hands of those responsible for the park land.

The item, as amended at the beginning of the discussion, was approved.

#100-10 ALD. JOHNSON AND SANGIOLO requesting amendment of the Rules of the Board, **Section 6. Committee Reports, A.** to “It shall be the duty of any committee to whom a subject may be specifically referred to take this item up and report thereon within three weeks from the time said subject is referred to them, or at the next meeting thereafter, or to ask for further time. No committee and hence Board action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer, at a minimum, with the substantive committee.” [03/21/10 @ 9:12 PM]

PROGRAMS & SERVICES APPROVED AS AMENDED 7-0

APPROVED 23 YEAS, 0 NAYS, 1 ABSENT (Ald. Baker)

Clerk’s Note: Ald. Gentile placed this item on second call and noted that he is in favor of the amendment. He placed this item on second call in order to note that the Committee Report on this item had comments attributed to him that were not accurate and wanted

the Board to note that. The report states that the Finance Committee NAN'd items without discussion and he wanted the Board to note that this was not accurate - each and every item was discussed by the Committee before taking a vote. He also wanted the board to note that the description of his actions does not reflect the way he believes a committee meeting should be run.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 23 YEAS, 0 NAYS, 1 ABSENT (Ald. Baker) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEMS:

REFERRED TO LAND USE COMMITTEE

Tuesday, July 13, 2010

- #151-10 PIE PIE LLC d/b/a CONTINENTAL petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 9 parking spaces in order to expand an existing 24-seat café to a 48-seat restaurant at 796 BEACON STREET, Ward 6, Newton Centre, on land also known as Sec 61, Blk 36, Lot 2, containing approx 3,945 sq ft of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 39-19(d)(13), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.
HEARING CLOSED
- #176-10 ANN & JOHN J. CAUFIELD petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to add a shed dormer wider than 50% of the length of the exterior wall of the story next below on the rear of an existing single-family residence at 37 HAGEN ROAD, Ward 8, Newton Centre, on land known as Sec 81, Blk 42, Lot 3, containing approx 8,050 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(t)(1) and (3) of the City of Newton Rev Zoning Ord, 2007.
HEARING CLOSED; LAND USE APPROVED 7-0
- #177-10 SUSAN MIRON & BURTON D. FINE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION OF A NON-CONFORMING STRUCTURE to extend a rear sunroom, which will increase the legally non-conforming Floor Area Ratio from .40 to .41, onto an existing single-family residence at 18 COCHITUATE ROAD, Ward 6, Newton Highlands, on land known as Sec 54, Blk 31, Lot 3, containing approx 6,545 sf in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)(b) and 30-21(b), 30-15, Table 1 of the City of Newton Rev Zoning Ord, 2007.
HEARING CLOSED; LAND USE APPROVED 7-0
- #178-10 EDWARD TAPPER PLOTKIN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive the minimum dimension of a parking stall and to waive the minimum dimension of an entrance/exit drive in order to relocate one of two existing tandem parking spaces at 64 EDDY STREET, Ward 3, West Newton, on land known as Sec 21, Blk 37, Lot 14,

containing approximately 4,663 sf of land in a district zoned MULTI RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-19(g)(2), (3), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

HEARING CLOSED

REFERRED TO LAND USE COMMITTEE

Tuesday, July 27, 2010

#139-10(2) MAX & MAJORIE SCHECHNER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING STRUCTURE to add a dormer approximately 88% of the length of the rear of an existing two-family residence at 8-10 HATFIELD ROAD, Ward 3, on land known as Sec 34, Blk 18, Lot 1, containing approx 7,370 sq ft of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(t)(a) of the City of Newton Rev Zoning Ord, 2007.

HEARING CLOSED; LAND USE APPROVED 4-0-1 (Crossley abstaining)

Application for a Class 2 Auto Dealer License

#150-10 PARAGON GLOBAL PARTNERS, INC.
259 Walnut Street
Newtonville 02460

LAND USE APPROVED 5-0

#136-10 CHARLES RIVER COUNTRY CLUB, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF A NONCONFORMING STRUCTURE to AMEND Special Permit #261-96 to replace an existing tent with an open-air pavilion of similar size with a permanent roof at 483 DEDHAM STREET, Ward 8, on land known as Sec 83, Blk 36, Lot 4, containing approx 6,446,022 sq ft of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007 and Special Permit #261-96. (9/13)

LAND USE APPROVED 5-0

#138-10 MARTY SIEGAL/661-669 WASHINGTON STREET REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to add two additions (containing approx 1,205 sq ft) to the side and front of a commercial building and to waive one parking space at 675 WASHINGTON STREET, Ward 2, on land known as Sec 23, Blk 17, Lot 3, containing approx 33,176 sq ft of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(c)(2), (d), and (m), and 30-15 Table 3 of the City of Newton Rev Zoning Ord, 2007 and Special Permit #714-85. (9/13)

LAND USE APPROVED 5-0

- #173-10 PRESIDENT LENNON recommending the appointment of R. LISLE BAKER as the aldermanic representative to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11.
LAND USE APPROVED 5-0
- #174-10 PRESIDENT LENNON recommending the re-appointment of STEPHEN BART, 26 Rochester Road, as the Boston College Law School Campus neighborhood appointee to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11.
LAND USE APPROVED 5-0
- #175-10 PRESIDENT LENNON recommending the appointment of VERNE W. VANCE, 101 Old Orchard Road, as the Boston College Chestnut Hill Campus Neighborhood appointee to the BOSTON COLLEGE NEIGHBORHOOD COUNCIL for a term to expire 12/31/11.
LAND USE APPROVED 5-0

REFERRED TO PROGRAMS AND SERVICES COMMITTEE

Wednesday, July 14, 2010

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

- #185-10 PRESIDENT LENNON recommending the appointment of LLOYD DAVID, 107 Hobart Road, Newton Centre, as an Aldermanic appointee to the COMMUNITY EDUCATION COMMITTEE for a term to expire 12/31/11. [6/11/10 @2:31 PM]
PROGRAMS & SERVICES APPROVED 7-0

REFERRED TO PUBLIC FACILITIES COMMITTEE

Wednesday, July 14, 2010

- #194-10 PRESIDENT LENNON recommending the appointment of ROBERT A. FRANCHI, 290 Adams Street, Newton, as an aldermanic appointee to the DESIGN REVIEW COMMITTEE for a term to expire 12/31/11. [6/11/10 @2:31PM]
PUBLIC FACILITIES APPROVED 6-0 (Danberg not voting)
- #193-10 PRESIDENT LENNON recommending the re-appointment of JOHN BLISS, 9 Lewis Street, Newtonville, as an aldermanic appointee to the CITIZENS COMMISSION ON ENERGY for a term to expire 12/31/11. [6/11/10 @2:31PM]
PUBLIC FACILITIES APPROVED 4-0 (Albright, Danberg and Gentile not voting)

- #208-10 PRESIDENT LENNON recommending the re-appointment of ARVIN GRABEL, 259 Otis Street, West Newton, as an aldermanic appointee to the CITIZENS COMMISSION ON ENERGY for a term to expire 12/31/12. [07/06/10 @ 3:27 PM]
PUBLIC FACILITIES APPROVED 4-0 (Albright, Danberg and Gentile not voting)
- #195-10 PRESIDENT LENNON recommending the re-appointment of MARK CHUDY, 34 Prescott Street, Newtonville, as an aldermanic appointee to the DESIGN REVIEW COMMITTEE for a term to expire 12/31/11. [6/11/10 @2:31PM]
PUBLIC FACILITIES APPROVED 4-0 (Albright, Danberg and Gentile not voting)
- #196-10 PRESIDENT LENNON recommending the re-appointment of PETER BARRER, 24 Hazelton Road, Newton Centre, as an aldermanic appointee to the DESIGN REVIEW COMMITTEE for a term to expire 12/31/11. [6/11/10 @2:31PM]
PUBLIC FACILITIES APPROVED 4-0 (Albright, Danberg and Gentile not voting)

NOTE: The Committee recommended an emergency preamble with the following item, which will require a separate two-thirds vote by the Board.

- #191-10 NATIONAL GRID requesting a grant of location to install and maintain 40' ± of 4" gas main in VILLAGE CIRCLE from the existing 4" gas main in Village Circle at 41 Village Circle northeasterly to 45 Village Circle.
PUBLIC FACILITIES APPROVED 4-0 (Albright, Danberg and Gentile not voting)
APPROVED WITH EMERGENCY PREAMBLE
- #23-10 ALD. YATES & DANBERG proposing a Resolution urging His Honor the Mayor to re-present the city's request for State bond money to be appropriated to implement the Needham Street reconstruction plan developed in partnership with the Needham Street property owners over the past decade. [01/04/10 @8:16 PM]
PUBLIC FACILITIES NO ACTION NECESSARY 6-0 (Gentile not voting)

A MOTION TO SUSPEND THE RULES TO ALLOW THE FOLLOWING LATE FILED ITEMS TO BE ACCEPTED ON THE DOCKET AND REFERRED TO THE PUBLIC FACILITIES COMMITTEE WAS APPROVED BY VOICE VOTE

REFERRED TO PUBLIC FACILITIES COMMITTEE

The following item was filed after the close of the docket and requires a suspension of the Rules to be referred to Committee:

#232-10 COMMISSIONER OF PUBLIC WORKS requesting in accordance with Massachusetts General Law Ch. 40, Sec. 15., abandonment of a portion of a 20' wide City drain and sewer easement in the center of Section 63, Block 9, Lot 2 (Boston College Middle Campus) located at the corner of College Road and Beacon Street and acceptance of a 20' wide sewer and drain easement located parallel to College Road. [08-05-10 @ 3:35 PM]

The following item was filed after the close of the docket and requires a suspension of the Rules to be referred to Committee:

#233-10 COMMISSIONER OF PUBLIC WORKS requesting acceptance of a sidewalk easement granted by Boston College with a length of 450' and area of 2,053 sq. ft. to be laid out, graded and accepted as a part of the public way known as College Road. [08-05-10 @ 3:35 PM]

PUBLIC HEARINGS WERE ASSIGNED FOR THE FOLLOWING ITEMS:

A Public Hearing was assigned for September 21, 2010

#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.

A Public Hearing was assigned for September 21, 2010

#211-10 BRUNO PALUMBO TRUSTEE, PALUMBO FAMILY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND a NONCON- FORMING 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), 30-19(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.

A Public Hearing was assigned for September 21, 2010

#212-10 KUROSH MIZRAHI petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate an accessory apartment within an existing detached carriage house at 1099 WALNUT STREET, Ward 6, Newton Highlands, on land known as Sec 52, Blk 9, Log 11, containing approx 13,617 sq ft of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-8(d)(2), 30-19(m) of the City of Newton Rev Zoning Ord, 20007.

A Public Hearing was assigned for September 21, 2010

#213-10 NEWTON HISTORICAL SOCIETY/DURANT HOMESTEAD FOUNDATION, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXPAND A NONCONFORMING STRUCTURE to demolish and rebuild a portion of the Durant-Kenrick Homestead to accommodate a new, larger, visitor entry area and meeting space to allow a museum, which includes a waiver from the required number of parking spaces and their dimensions, at 286 WAVERLEY AVENUE, Ward 7, Newton, containing approx 24,638 sq ft of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)b, 30-21(b), 30-19(d)(13), 30-19(g)(1 and (2), 30-19(m), 30-8(b)(4)

A Public Hearing was assigned for September 28, 2010

#214-10 NEW ENGLAND DEVELOPMENT LLC/NED CHESTNUT HILL SQUARE LLC/G&K LLC/KEY CHESTNUT LLC petition for a change of zone to *Business 4* for parcels located at 200-230 Boylston Street also identified as Section 82, Block 2, Lots 10, 14, 15, 15A, 15B, 15C, 29, 30, 8, 9, 18, currently zoned Business 1, Lot 11, currently zoned Limited Manufacturing, and 13 and 32, currently zoned Multi Residence 2.

A Public Hearing was assigned for September 28, 2010

#215-10 NEW ENGLAND DEVELOPMENT LLC/NED CHESTNUT HILL SQUARE LLC/G&K LLC/KEY CHESTNUT LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed-use retail and residential development, including an 8-story building containing 91 residential units, approximately 102,000 sq ft of retail (with open air businesses) and restaurant space (over 50 seats), a 60,000 sq ft medical office building, 30,000 sq-ft health club and waivers from associated parking requirements, including but not limited to a multi level parking facility, driveway width in excess of 25', valet parking, dimensions for handicapped parking stalls, retaining walls of greater than 4' in setbacks, and additional freestanding signs; number of signs; and signs exceeding the allowed square footage at 200-230 BOYLSTON STREET, Ward 7, Chestnut Hill, on land known as Sec 82, Blk 2, Lots 10, 11, 13, 14, 15, 15A, 15B, 15C, 29, 30, and 32 containing approx 11.32

acres of land in a *proposed* BUSINESS 4 zoned district. Ref: Sec 30-24, 30-23, 30-15 Table 3, 30-11(7), (8), (9), and (10), 30-19(d)(18), 30-19(h)(2)c), (4),(5)b), 30-19(m), 30-20(c), 30-20(d)(2), 30-20(i)(4), 30-20(f), 30-20(1) of the City of Newton Rev Zoning Ord, 2007.

A Public Hearing was assigned for September 27, 2010

#216-10 KSKIM UBS EQUITY PARTNERS LLC, owners of property at 19-31 Needham Street, proposing that chapter 30 section §30-13(a) *Allowed Uses in Mixed Use 1 Districts*, be amended by adding a new subsection (5) as follows: “(5) Service establishment;” and that existing subsection (5) be re-numbered subsection (6). [7/26-10 @2:26 PM]

A Public Hearing was assigned for September 7, 2010

#220-10 COMCAST & MIRRA COMPANY requesting a grant of location to install 3” conduit from a proposed 18” x 30” vault in the southerly side of Wells Avenue 100’± to the entrance of the parking lot at One Wells Avenue. [07/14/10 @ 2:16 PM]

A Public Hearing was assigned for September 7, 2010

#221-10 NATIONAL GRID requesting a grant of location to install and maintain 70’± of 4” gas main in GREAT MEADOW ROAD from the existing 4” gas main at House #29 southeasterly to House #41. [07/21/10 @ 11:46 AM]

A Public Hearing was assigned for September 7, 2010

#222-10 VERIZON requesting a grant of location to relocate Pole #170/19 in BEETHOVEN ROAD approximately 15” ± to the north of existing pole #170/19. [07/22/10 @ 2:30 PM]