

COMMITTEE ON SPECIAL PERMITS
MAY 21, 2018 at 7:45 p.m.
WOBURN CITY HALL
CITY COUNCIL CHAMBERS

Voting members present: Chairman Richard Gately, Alderman Edward Tedesco, Alderman Mark Gaffney, and Alderman Darlene Mercer-Bruen. Not present: Alderman Joanne Campbell

Non-voting members present: Alderman Michael Concannon and Alderman Lindsay Higgins
Not present: Alderman Michael Anderson and President Richard Haggerty

James Nadeau for a special permit to construct a detached garage with doors having a height of eight (8) feet six (6) inches at 78 School Street: Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to receive and make part of the permanent record a memorandum dated May 21, 2018, from Building Commissioner Thomas C. Quinn Jr., to Alderman Tedesco regarding 78 School Street; approved, 4-0. Alderman Tedesco said there is no opposition in the neighborhood to Mr. Nadeau's proposed garage, and that Mr. Nadeau has put in a lot of time and money into renovating his home. Alderman Tedesco said Mr. Nadeau has submitted a notarized affidavit indicating he will not rent the detached garage as living quarters. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to receive and make part of the permanent record an affidavit dated May 19, 2018, signed and submitted by Mr. Nadeau and notarized on May 19, 2018 by Jason R. Poland; approved, 4-0. Mr. Nadeau said he has been to the Building Dept. several times in his effort to obtain a special permit for a garage in excess of 900-square-feet with oversized doors so he can park his work truck inside. Alderman Tedesco referenced Commissioner Quinn's memo regarding the addition of Woburn Zoning Ordinance Section 5.1 Line 56, for the additional area on the second floor of the proposed garage. Alderman Higgins asked if the addition of the line to the zoning ordinance would require further notification of abutters. Alderman Tedesco replied the council has previously done the same thing in other instances and no further notification was required. Alderman Higgins said she just wants to make sure everything is being done right procedurally. Chairman Gately said the petitioner can offer all the letters and recommendations in the world but what he is doing is basically putting in an apartment. He said he has nothing against Mr. Nadeau. Alderman Gately said he is aware Mr. Nadeau has already torn down a smaller garage that measured 10.3 feet by 16.5 feet. Mr. Nadeau said the old garage had a tree growing through it. Chairman Gately said the foundation is 25 feet by 36 feet with office space and a full bathroom with a shower and kitchenette. Mr. Nadeau said he is willing to remove the kitchenette from the plan. Chairman Gately said he has a problem with water and sewer being installed, which the council has prohibited in the past. Alderman Tedesco said if the garage was less than 900-square-feet and the doors were eight feet high or less, he could have water and sewer service. Alderman Tedesco said he has no issues with Mr. Nadeau's proposal and the neighbors have no issues with it. Alderman Mercer-Bruen said she concurs with Alderman Gately. She said that while Mr. Nadeau is saying he will not rent the garage, the temptation is still there and he could sell his house at some point. Alderman Mercer-Bruen said she is OK with the size of the garage doors. Mr. Nadeau said he lives on a cut-through street where there is no hiding what's going on if he is renting the garage. He said no one will be living there. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to open the meeting to comments from the audience;

approved, 4-0. Chairman Gately asked if anyone in the audience wished to address the committee. David Sousa, 80 School Street, said he showed up to support Mr. Nadeau, who he said has done a lot of work to improve a residence that was in disrepair. John Berrigan, 77 School Street, said he has known Mr. Nadeau for a long time and he is a good neighbor. John Williams, 79 School Street, said it is very important to Mr. Nadeau that he have his own place to improve his way of life and that he is in favor of the project. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept the six conditions from the Planning Board with the following amendment: Condition #4 shall read “The garage is secondary to the principal use and is not to be used as a residential dwelling unit,” approved, 4-0. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to added the following condition #7: “There shall be no kitchenette within the structure.” Motion made by Alderman Tedesco and seconded by Alderman Gaffney that the petition be sent “back for action” with the understanding that Mr. Nadeau should submit a revised plan of record without the proposed kitchenette by the council’s meeting on June 19, 2018; approved, 4-0.

New Creek II LLC for special permit to modify special permit by approving snow storage plan at 425 Washington Street: Alderman Tedesco left City Council Chambers. Alderman Mercer-Bruen requested the matter be left in committee. She said Building Commissioner Thomas Quinn intends to walk the site with representatives from the petitioner and will report back to the Committee.

Order to review special permit granted to NASDI, LLC at 39 Olympia Avenue: Alderman Tedesco returned to City Council Chambers. Alderman Concannon left City Council Chambers, saying he may have a potential conflict. Appearing on behalf of the special permit holder were Attorney Joseph R. Tarby III, Murtha Cullina, Sarah Marcone, Business Development Director of Nasdi LLC, and Jeffrey Teagarden, Executive Vice President of Nasdi LLC. Chairman Gately said the meeting was prompted by a newspaper article that indicated Nasdi has been fined by MassDEP for storing, removing and improperly disposing asbestos at the Olympia Avenue facility. Chairman Gately said storage of asbestos is in violation of condition #7 of Nasdi’s special permit. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept and make part of the permanent record a memorandum dated April 25, 2018, from Building Commissioner Thomas C. Quinn Jr., regarding Nasdi; approved, 4-0. Commissioner Quinn’s memo acknowledges condition #7 of the special permit prohibits storage, acceptance or delivery of asbestos at the Woburn facility. Motion made by Alderman Tedesco and seconded by Alderman Gaffney to accept and make part of the permanent record a handout from Attorney Tarby entitled “Nasdi LLC Demotion – Abatement – Remediation;” approved, 4-0. Attorney Tarby acknowledged condition #7 of the special permit prevents the acceptance, storage or delivery of asbestos to the Woburn site. Attorney Tarby said Nasdi does \$50 million a year in demolition and remediation and they have policies and procedures for handling asbestos. He said the violation cited in the newspaper article happened two years ago and primarily involved waste oil. He said the asbestos was found in trace amounts in air filtration systems that were accidentally brought from a job site. He said Nasdi is in good standing with MassDEP. Attorney Tarby said Nasdi originally asked to store asbestos in sealed bags at the Woburn facility and was told loud and clear that would not be allowed. He assured the council if Nasdi was storing large quantities of asbestos on-site he would not be representing them. He said the asbestos violation from 2016 was an honest mistake. Alderman Mercer-Bruen thanked Attorney Tarby for the

explanation and said even trace amounts of asbestos are still concerning to her. She said even before she read the newspaper article she was concerned about the condition of the site and the way things look there. She said she contacted Commissioner Quinn because she is concerned there appears to be equipment everywhere. Attorney Tarby acknowledged receipt of a phone call from Commissioner Quinn and said arrangements will be made for a site inspection in the first week of June. Attorney Tarby said MassDEP has the right to show up at any time and conduct a site inspection. Alderman Mercer-Bruen asked if Nasdi has any correspondence from DEP that there are no on-going issues. Ms. Marcone said a letter from DEP is something she can get. Alderman Mercer-Bruen said she would like to see a letter from DEP indicating there are no issues with the Woburn facility. Ms. Marcone said she could get a letter. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to send a communication to Commissioner Quinn asking him to follow up with the City Council after he conducts an inspection of Nasdi's premises during the first week of June. President Haggerty said he understands things happen but he also strongly supports the Building Commissioner and the City Council has a responsibility to protect the community. Chairman Gately said the City Council let Nasdi into the city with the understanding that no asbestos would be brought to the site. He said bringing a carcinogen into a city with Woburn's history of cancer incidents is probably the worst thing Nasdi could have done. He said he knows things happen, and he knows DEP keeps a close eye on Nasdi, but the company has to do better. He suggested having Nasdi back before the committee in six months and if there are any future violations the special permit may be in jeopardy. Alderman Mercer-Bruen said she would prefer to have Nasdi back in after three months. She said she would also like to explore the possibility of fines, but that would be up to the Building Commissioner. She said the city needs to send a message to Nasdi that bringing asbestos to the site is unacceptable. Chairman Gately said he also wants the site cleaned up. Alderman Mercer-Bruen said she does not want to wait six months to confer again with Nasdi and that three months is more than enough time. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco that the communication to Commissioner Quinn also include a provision for fines, if he determines there are any violations of the special permit. Chairman Gately said he still thinks the committee should wait six months until it asks Nasdi to return. Alderman Mercer-Bruen suggested a compromise of four months. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to review Nasdi's special permit in four months; approved, 4-0.

Order to review special permit granted to George McDonald and Jane McDonald at 17A

Maywood Terrace: Alderman Concannon returned to City Council Chambers. Alderman Mercer-Bruen said the issue has been before the City Council many times before. She said the special permit allows for only two units, but she has been getting complaints there are more than two units. She thanked Chairman Gately for putting the item on the agenda and trying to get this right. Representing George and Jane McDonald was Attorney Michael Reilly, 623 Main Street, Woburn, MA. Attorney Reilly said he was just retained this afternoon by George McDonald and he is just getting familiar with the situation. He said his client is a 75-year-old man who has health issues. Attorney Reilly said he was told there are only two tenants and the issue is part of an on-going family dispute. Alderman Mercer-Bruen said there is no family dispute involved and the neighbors know what's going on. Attorney Reilly said he went to the Building Dept. and learned Building Commissioner Quinn has recused himself. He said Commissioner Quinn introduced him to Building Inspector Brian Gingras, who is handling the matter in Commissioner

Quinn's stead. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to accept and make part of the permanent record a memorandum dated October 17, 2017, from Inspector Gingras indicating that on October 5, 2017, he and Building Inspector Paul D'Amore met with the property owner of 17 Maywood Terrace, and found two occupied dwelling units in the home and an unoccupied second floor garage. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to invite Inspector Gingras to the next meeting of the Special Permits Committee to discuss his findings at 17A Maywood Terrace; approved, 4-0. Attorney Reilly said Inspector Gingras' memo indicates two inspectors examined the property and found it is in compliance with the special permit issued in 1981. Alderman Mercer-Bruen said she thinks Attorney Reilly is the fourth lawyer George McDonald has hired and that she is very frustrated by this situation because the participants can't seem to get it right. Attorney Reilly said Inspector Gingras went by the property last week. He said he is still in a discovery phase and is trying to determine facts. Alderman Mercer-Bruen apologized for getting excited. Chairman Gately said he spoke to Commissioner Quinn today and he reported that Inspector Gingras drove by the property and everything looked fine. Alderman Mercer-Bruen said Inspector Gingras drove by but did not inspect the premises. Chairman Gately said that as of October, George McDonald was in compliance with the special permit, according to Inspector Gingras' memo. Chairman Gately asked if anyone in the audience wished to address the committee about the matter. Brian McDonald, 19 Maywood Terrace, said this is the fifth time he has been before the committee and George McDonald still maintains four apartments at 17A Maywood Terrace. He said everything was fine when the Building Inspector visited the property but a month later the property was in violation again. He said a new tenant moved in within the past two weeks. Brian McDonald said George McDonald is an absentee landlord and the property is a detriment to the neighborhood. He requested the Special Permits Committee issue a cease-and-desist order. He said right now there are three apartments being rented out. Chairman Gately said that is something the Building Dept. will have to confirm, and if he is in violation of the special permit, he will be fined. Brian McDonald said there are also delivery trucks going to the site and the property is a nuisance. Daniel Rae, 14 Maywood Terrace, said there are cars going up and down the street. Mr. Rae said there are four mailboxes attached to the home and a mailbox on the garage. He asked why there are so many mailboxes if there are no illegal apartments. Chairman Gately said all the committee can do is send the Building Commissioner to the property if there is a complaint, and the only documentation the council has to this point is the October 5, 2017 memo from Inspector Gingras reporting the property is in compliance with special permit. Mr. Rae asked again why the property would have so many mailboxes. Chairman Gately said a property owner is entitled to have more than one mailbox on a house. Alderman Mercer-Bruen said she would like Mr. Gingras to come to a future committee meeting. He said he would like to get an affidavit from George McDonald's attorney indicating how many apartments are on the premises. Alderman Mercer-Bruen said the comments from Mr. Rae and Brian McDonald are a small representation of the complaints she has gotten and that the council needs to fix this. Attorney Reilly said his client is limited as to what he can provide given his health issues. Alderman Mercer-Bruen noted George McDonald's health issues do not prevent him from traveling to Aruba, where he reportedly spent last winter. Attorney Reilly said his client has advised him the home is a 2-family with two people living on each side and he can only go by what his client tells him. Alderman Mercer-Bruen said George McDonald's neighbors are telling him a different story. Chairman Gately said the issues are not going to be resolved tonight. Alderman Concannon said the committee needs to undertake a thorough review of the property to determine if the owner is

complying with the terms of the special permit. He said the council can give the Building Dept. specific directions and ask for a thorough review including pictures. He said he does not know if George McDonald would be agreeable to that. Alderman Concannon said he would like to hear from Inspector Gingras. He said he has heard specific evidence of there being more than two units on the premises. Alderman Mercer-Bruen said if only one person was complaining, that would give her pause, but the complaints have been going on for a long time. She said if the issues did in fact stem from a family dispute, she might be more apt to set it aside, but it goes beyond that. She said the city would not put up with this in any other neighborhood. Mr. Rae noted he is not a family member. Alderman Mercer-Bruen said the problem needs to be fixed. Chairman Gately asked Attorney Reilly if his client will allow Inspector Gingras to inspect the premises, and if not, the council could seek a court order. Alderman Mercer-Bruen said she does not think the council needs to get a court order. Attorney Reilly said he can set something up as soon as possible. Alderman Mercer-Bruen said she would like to see an inspection within a week. Chairman Gately said this ought to be a high priority and he would like Inspector Gingras to come back to the committee within a week. Alderman Mercer-Bruen said she would like Inspector Gingras to take pictures of each unit and provide evidence of how many people are living there. Alderman Tedesco suggested Inspector Gingras also inspect an unfinished house on the property. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to request an inspection of the premises of 17A Maywood Terrace by Building Inspector Brian Gingras, with Inspector Gingras then reporting his findings to the committee; approved, 4-0. Chairman Gately said that is the best the committee can do for now.

Order to review special permit granted to Town Fair Tire Centers of Massachusetts LLC at 420 Washington Street: Representing Town Fair Tire were Michael Cangiano, Director of Transportation & Safety, 406 Coe Avenue, East Haven, Conn., and Mark Anderson, store manager, Town Fair Tire, 420 Washington Street. Alderman Mercer-Bruen said there is a level of arrogance with Town Fair Tire that has made her upset. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to receive and make part of the permanent record a letter from Ralph J. Callahan, 12 Garden Terrace, regarding left turns out of the Town Fair Tire property at 420 Washington Street; approved, 4-0. Alderman Mercer-Bruen said she was driving on Washington Street when she saw an 18-wheel Town Fair Tire truck turning left out of the site. When the driver saw Alderman Mercer-Bruen was taking pictures, he beeped and waved at her, she said. She said that was outrageous. She said she is a customer of Town Fair Tire but the committee needs to figure out to get drivers to stop making left hand turns out of the site. She said one option is to hire a police detail to direct traffic like there was when the store opened. Mr. Cangiano said he thinks the problem can be rectified. He said when he was made aware of the problem, he was bothered, not just because there were left turns being made but because the drivers were breaking the law. He said he only heard about the situation two days ago and the very first thing he did was meet with the company's drivers and tell them it is illegal to make that left turn. He said he is committed to making this right and asked the committee not to recommend fines because he knows the problem can be fixed. Alderman Mercer-Bruen suggested distributing fliers to customers advising them of the left turn prohibition. Mr. Anderson said there are 15 signs advising drivers to not turn left out of the site and in spite of that it is difficult to control customers turning left but he can certainly advise employees of the left turn restriction. Alderman Mercer-Bruen said she thought the islands built on the property were done to discourage left turns, but if people are still taking left turns, Town Fair Tire needs

to step it up and prevent that. Alderman Mercer-Bruen said the level of arrogance displayed by the driver she photographed was alarming. Mr. Cangiano said abiding by local regulations is important and the company is committed to doing the right thing. He said Town Fair Tire has been around for a long time and the problem will be fixed. Mr. Anderson acknowledged the situation is serious and said that vehicles coming out of the self-storage facility next door are also making left turns. Alderman Mercer-Bruen said she has received no complaints about the self-storage facility. Alderman Mercer-Bruen said she would like to revisit the situation in 8-12 weeks. Mr. Anderson said the police detail was hired during the opening period of the store and suggested the installation of a median to prevent left turns because there are things he can't control. Chairman Gately said if Town Fair Tire can't control what's going on in the street, a police officer will. Alderman Mercer-Bruen said she thinks fines ought to be levied and said Building Commissioner Quinn should send notice of a fine to Town Fair Tire. Motion made by Alderman Mercer-Bruen to send a communication to Building Inspector Quinn asking him to issue fines to Town Fair Tire as he sees fit. Alderman Mercer-Bruen said she wants to withdraw her motion because a fine is unfair for a first violation. Alderman Mercer-Bruen said if the committee is back here again discussing illegal left turns at Town Fair Tire, there will be fines and possibly a revocation of the special permit.

Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to adjourn, all in favor, 4-0. Chairman Gately adjourned the meeting at 8:50 p.m.

Attest: _____
Gordon Vincent
Clerk of Committees