



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

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JAMES KIRYLO  
DANA LEWINTER, ALT.

**Case #:** ZBA 2009-15

**Date:** July 15, 2009

**Recommendation:** Conditional Approval

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**PLANNING BOARD REPORT**

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**Site:** 28-30 Newberne Street

**Applicant Name:** 128 Willow Street, LLC

**Applicant Address:** 30 Everett Avenue, Somerville, MA

**Property Owner Name:** Same

**Alderman:** Gewirtz

Legal Notice: The Applicant seeks approval to expand and alter an existing building and establish new uses therein: special permit with site plan review (§7.11.1.c) to establish seven residential units; special permit (§4.4.1) to expand a non-conforming structure by constructing a two-story addition above an existing one-story structure; and special permit (§4.5.1) to change from one non-conforming use (workshop) to another (office) within an existing structure.

Zoning District/Ward: RC and OS / 6

Zoning Approval Sought: Special Permit under SZO§7.11.1.c, §4.4.1& §4.5.1

Date of Application: April 14, 2009

Date(s) of Meetings/Public Hearing: PB: May 7, 2009 / ZBA: May 20, 2009

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Dear ZBA members:

At its regular meeting on June 25, 2009 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0, with Kevin Prior and Michael Capuano absent), to recommend **conditional approval** of the requested **Special Permit and Special Permit with Site Plan Review**.

In conducting its analysis, the Planning Board found:



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## I. PROJECT DESCRIPTION



1. Subject Property: The property is a 15,737sf lot, which is a conglomeration of five parcels (MBL: 24-C-9, 10, 11, 12 and 24-M-4).

There are two structures on the property; on the C block there is a 3,675sf building and on the M block there is a 1,170sf structure, both of which formerly housed the operations of the Carli Fence Co, Inc. The larger building on the C block is a flat roofed single-story building of cement block construction and is approximately 20' in height. This building and associated parcels are zoned Residence C (RC). The smaller building on the M block was used as a

workshop and is located directly adjacent to the community path and is within the Open Space (OS) zone. This parcel extends from Newberne Street to Willow Avenue approximately 250'.

2. Proposal: The Applicant is proposing to partially demolish the existing building on the C block and incorporate the remaining foundation into a three-story, 40' high, seven unit residence. The residential structure will have a total of 15,790 nsf and features several gable roof lines, decks for each unit and individual garden areas for the residents. The entire structure is located within the RC zoning district.

The existing one story structure on the M block will be converted into two non-residential studio office spaces of approximately 500sf each. The façade would be altered with new windows and siding materials. This entire structure is located within the OS zoning district. There are two parking areas proposed for the building - one underneath the residential structure with 17 spaces and a smaller 2 space lot off of Willow Avenue. The area between this smaller lot and the residential structure will be landscaped and feature a pathway as well as individual garden plots for the residents.

There is no new construction proposed for the property in the OS district.

### 3. Nature of Application:

The Applicant seeks approval to expand and alter an existing building and construct a seven unit residential building, which would require a special permit with site plan review under SZO§7.11.1.c to establish the use.

The existing structure on the C Block is nonconforming with regards to setbacks and would require a special permit under SZO§4.4.1 to expand the non-conforming structure by constructing a two-story addition above the existing one-story structure. The existing non-conforming structure on the M Block would be altered with new window openings, which would also require a special permit under SZO§4.4.1. All new construction in both structures will conform with SZO dimensional requirements.

A special permit will also be required under SZO§4.5.1 to change from one non-conforming use (workshop) to another (office) within an existing structure. Though this structure is located in an OS district, which is generally mapped for parks and recreation use, SZO§4.5.1 would still apply and allow the change in use by Special Permit.

4. Surrounding Neighborhood: The surrounding neighborhood is generally composed of single, two and three family dwellings. An industrial/commercial building used for J.P. Moriarty's Millwork operations is directly across Newberne Street. The community path abuts the property from the south.

6. Traffic and Parking: The residential portion of the buildings would include four two-bedroom units and three three-bedroom units. Under the SZO§9.5.1 this would require twelve (12) parking spaces. The ordinance also requires one (1) visitor space per six units. Under the SZO§9.5.7.a, studio/office space requires one parking space per 500sf. The two studio/office spaces being proposed are 1000sf combined requiring two (2) spaces. The total required for this proposal is 15 spaces and the applicant is proposing 18 spaces (including one handicapped space), which meets the requirements of the SZO.

7. Landscaping/Screening: The site plan shows the general location of plantings. There is currently minimal landscaping on site. The proposal would increase the landscaping area to 39%, which would exceed the 25% landscaping requirement under the RC district and the 5% landscaping requirement under the OS district. The landscaping will be predominantly located in the OS district area abutting the community path and will include trees, shrubs, paths and individual gardening plots for the residents. There would be a wrought iron fence with brick piers around the landscaped area and a gate to provide access to the community path. The landscaping in the RC district would be comprised of grass, shrub and tree areas in the front and side yards.

8. Green Building Practices: The proposed building will exceed the MABC 7th edition energy audit requirements. The owner intends to generally follow USGBC guidelines for a LEED certified building. Certification is not being sought.

9. Comments:

Engineering: Charlie O'Brien reviewed the proposal and had the following comments:

Drainage Report was reviewed and drainage is acceptable

Site utilities are generally acceptable. However, they are proposing a 7 unit condo bldg. The water main there is a 6" cast iron main laid in 1906 and is "dead-ended". I do not feel that they should tie their 2" domestic and 6" sprinkler line into this line. They may have to go to Morrison Ave.

Fire Prevention Bureau: Steven Keenan has reviewed the proposal and stated that a code compliant fire alarm system and fire suppression system will be required.

Aldermen: Alderman Gewirtz has reviewed the proposal and stated:

"The community meeting went very well and people liked the project and viewed it as a major improvement to what's there now. It is also miles ahead of the other proposals I saw earlier on for that site."

The Alderman also expressed a desire to include an affordable housing component to this proposal by adding an additional unit, and that it is important that lower income people can afford to live in Ward 6. The Alderman would like to see this done without altering the exterior massing/structure or adding additional square feet to the proposal.

Otherwise, the Alderman is supportive of the project.

Traffic and Parking: The Traffic Engineer reviewed the proposal and does not have any concerns with the proposal as it meets the requirements for parking spaces under the SZO.

DRC: The building works well – it has an appropriate scale, reasonable materials, a sense of frontality along the bike path, and an entrance to the parking at the street. The massing diminishes the height of the building.

The transparency in the fence improves the view from the community path

The design of the studio space is incongruous but it fits in with the first floor base of the building. Merge the materials of the studio and the base of the building so it does not look detached.

The stairs on the southern side of the building are out of scale, appear ornamental, and the curve is awkward. It is a sculptural element but it should be more substantial like the staircase from Newberne Street façade.

On the west elevation, the two faces of the one-story portions of the building, shown in green, should be recessed from the main façade.

They discussed the curved form of the gardens as opposed to a rectilinear form, which may look better. Although, the curved form is easier to grade and it works experientially. The landscaping is attractive.

The gardens for the residents are a great amenity and should be kept in the plans.

Ensure that there is a bike rack onsite.

## **II. FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §7.11.15.C):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. Compliance with Standards: The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review.” As conditioned, the proposal would comply with these standards.

3. Purpose of the District: The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.

The project site is located in both an RC district and an OS district. Under the SZO§8.3, "Land in a more restrictive zoning district may supply space for a use permitted in a less restricted zoning district if the use of the land in the more restrictive district satisfies space and passive use requirements that are not prohibited in the more restrictive district." The land in the OS district will only supply the passive use requirements of landscaping to the dimensional calculations of the proposal.

Under the SZO the OS district is intended "to encourage the preservation of open space for parkland, recreation, reservations, community gardens...and similar uses by permanently protecting these open space resources, which enhance the quality of life for the City's residents." There is an existing structure on the site proposed for a change in use from a workshop to an office use which would be allowed under the SZO by Special Permit. Under the SZO an office is defined as, "a place for the regular performance of business transactions and services, generally intended for administrative, professional, and clerical activities". Although this is not a use typically found in an OS district, the Board finds this an appropriate change in use for the existing structure. The landscaping proposed for the remaining property in the OS district would be a substantial improvement for the property and to sight lines from the community path. The landscaped area, though not public, would be visually appealing and would expand the square footage of natural surface along the community path.

The purpose of the RC district is "to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The Board finds this proposal, as a multi-family residential use with two 500sf non-residential studio spaces is consistent with the intent of the districts.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area".

The Board finds that the proposed development is in character with the surrounding area. To the south and west of this site are commercial and residential structures that are larger in size and scale than that of the proposed structure. Other residential structures in the area are 2.5 and 3 story structures, which are of similar height to this structure. The use of several gable and dormer rooflines in the design of this structure breaks up the massing and height of the building to make it appear as three 2.5 story structures, similar to those smaller residential structures in the area. While many structures along the community path face the streets they are located on and away from the path, this building appears to front on the path, which serves to improve the pedestrian experience. Since the east and west facades of the building will also be visible from the public way, the features and details of these facades have been well designed and are visually appealing.

The structure would be replacing a 20' cement block garage and removing the chain link and corrugated steel fencing that has been erected in that area. Landscaping will be added to the area along the path zoned OS that is currently paved. The Board finds this to be an improvement over the current conditions and is more compatible with the existing natural features of the community path.

The studio space being proposed will be made to look as if it is part of the first floor of the larger structure and create the appearance of a single congruous site.

5. Functional Design: The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."

The project would meet accepted standards and criteria for the functional design of facilities, structures, and site construction. While not seeking certification the applicant intends to generally follow guidelines for LEED certified buildings. It is also anticipated that the building will exceed the energy audit

requirements of the new building code. Each unit provides private outdoor space as well as individual spaces for gardening, access to the community path and underground parking.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The City Engineer has reviewed the plans and found the drainage plan to be acceptable. The Board finds the increase in landscaped area should produce an overall reduction in the storm water runoff on the site. The City Engineer is concerned with the older water main that is located on Newberne Street and feels this would not provide the necessary volume of water for the 7 unit use. The Board will condition that the building will connect to the water main on Willow Avenue.

It is anticipated that traffic increases would be negligible and that the reduction in truck traffic would be an improvement for the residential area. The applicant has worked with the City's Traffic and Parking Department to reduce the number of parking spaces located on Willow Avenue and has received approval on the circulation pattern in that area.

7. Environmental Impacts: “The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

The Board finds that the proposed residential use would not have an adverse impact on the surrounding area due to the nature of residential construction. The office space would be for non-medical use and by definition is “generally intended for administrative, professional and clerical activities”. It is not anticipated that any office use would have a negative environmental impact.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including “to provide for and maintain the uniquely integrated structure of uses in the City” and “to conserve the value of land and buildings” and of Article 6, as already described, the proposal is consistent with the purposes of the SZO.

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The proposal would increase the amount of landscaping on the site and be visible to pedestrians on the community path. The increased landscaping on the site would increase the attractiveness of the neighborhood. No increases to the building footprints or groundcover are proposed.

10. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

The proposal meets all requirements of the zoning regarding parking and driveway dimensions. Traffic will predominantly enter and exit from a single curb cut and garage access off of Newberne Street. Parking for the studios would be located in the garage and off of Willow Avenue (two spaces). No new curb cuts are proposed.

13. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

All service facilities will be subject to screening requirements as conditioned in this permit.

### **III. RECOMMENDATION**

#### **Special Permit with Site Plan Review (SPSR) under §7.11.1.c**

#### **Special Permit under §4.4.1 & §4.5.1**

Based on the above findings, the Planning Board recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMITS and SPECIAL PERMIT WITH SITE PLAN REVIEW**.

Although the Planning Board is recommending approval of the requested permits, the following conditions should be added to the permit approval:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a seven unit residential development and two approximately 500 nsf studio office spaces. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its agent:		Plng.							
	<table><tr><th>Date (Stamp date)</th><th>Submission</th></tr><tr><td>(4/14/09)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>6/16/09 (6/23/09)</td><td>Plans submitted to OSPCD (renderings and A0, A1, A2, A3, A4, A5, A6)</td></tr></table>				Date (Stamp date)	Submission	(4/14/09)	Initial application submitted to the City Clerk's Office	6/16/09 (6/23/09)	Plans submitted to OSPCD (renderings and A0, A1, A2, A3, A4, A5, A6)
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Any changes to the approved plans or elevations that are not de minimis, or any changes to the use, must receive ZBA approval.										
2	Any transformers should be located as not to impact the landscaped area and shall be fully screened.	Electrical permits & CO	Plng.							
3	Any fencing installed shall not be chain link and along the community path shall be constructed as depicted in the plans and renderings.	CO	Plng.							
4	A code compliant fire alarm system and fire suppression system shall be installed.	CO	FP							
5	Applicant shall supply two bicycle parking spaces, which can be satisfied with one u-type bicycle rack. This rack should be located within the structure.	CO	Plng.							
6	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD							
7	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to meet DPW standards.	CO	DPW							



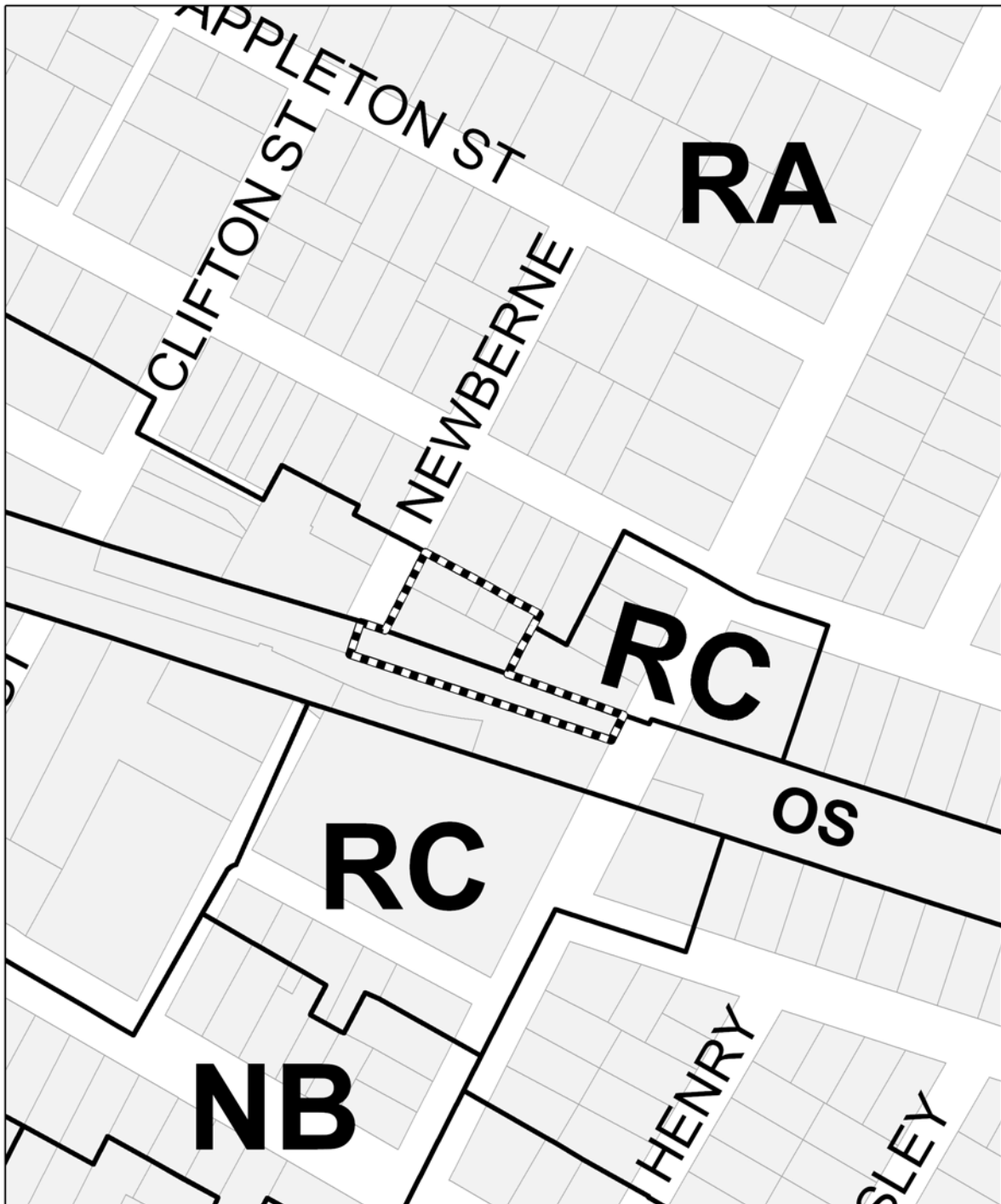
8	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
9	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
10	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Department. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites;	Demolition Permitting	ISD	
11	Because of the history of the site and the intended residential use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Department: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Building Permits	ISD/Plng.	

12	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any discovery of hazardous materials, or regulated hazardous substances at the site. The City's OSE office and the Board of Health shall also be notified.	CO	Housing	
13	To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/ISD	
14	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	CO	Plng.	

Sincerely,



Elizabeth Moroney  
Acting Chair



## 28-30 NEWBERNE ST