



City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
Telephone: 617-796-1120

Petition: **#313-23**
Public Hearing: ----
10/3/23

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 29, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #312-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a storage warehouse for their tree removal business on the undersized lot which extends the nonconforming use and requires dimensional waivers at **0 Rumford**, Ward 4, Auburndale, on land known as Section 41 Block 35 Lot 12, containing approximately 8,302 sq. ft. of land in a district zoned MANUFACTURING. Ref: 7.3.3, 4.4.1, 7.8.2.C.2, 7.8.3.F.6, 7.8.3.B, 7.8.3.C, 5.1.8.D.1, 5.1.13, 5.1.8.D.2, 5.1.8.E.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



0 Rumford Avenue

Project Description

Background

The subject property at 0 Rumford Avenue consists of a generally level undersized 8,302 square foot triangular-shaped vacant parcel located in a Manufacturing (MAN) zoning district in Auburndale at the Newton/Waltham boundary. The lot was created prior to the introduction of zoning in 1922 and was previously used as a disposal contractor's truck and equipment storage yard as defined in Section 6.5.6 of the Newton Zoning Ordinance (NZO).

As discussed in the attached zoning review memorandum, in a December 21, 2022, memorandum, the then-Commissioner of Inspectional Services determined that Sec. 6.5.6's definition of "Office and storage of vehicles and materials for a contractor or builder" "was sufficiently vague so that it could apply to any number of business types that are referred to as contractors and that the proposed use, a tree service contractor, would fit the definition." Thus, the use is pre-existing, legally nonconforming.

The petitioner proposes to construct a two-story, 23.1 foot high, 3,047 square foot warehouse building to be used for a tree service contractor's office and storage facility. The building would include two garage areas, one on each of the building's right and left sides. The former would have two stalls, the latter four, with two of those on so-called lift racks. One parking stall would be provided in front of the building.

The neighborhood to the south and west are also zoned MAN. The property abutting to the east is zoned Business 2 (BU2), as are others to the east/southeast. There is a Public Use (PU)-zoned City-owned landfill site to the south across Rumford Avenue. The area has a mix of uses, including an office building abutting to the east, industrial uses and a self-storage facility.

Need for Special Permit

Regarding the lot and proposed structure, as the parcel was previously used as a different type of contractor's yard, the use is considered a pre-existing, legally nonconforming use. As such, the proposed use by a tree service contractor requires a special permit per Sec. 7.8.2.C.2. to alter the pre-existing nonconforming use.

The remainder of the relief sought is relief around dimensions of the proposed building as well as the parking area. At 23.1 feet in height, a special permit is required to construct a two-story building with up to 24 feet in height. The undersized commercial lot at 8,302 square feet where 10,000 square feet is required places the proposed FAR at 0.73, which is above the 0.50 allowed by-right and just below the maximum of 0.75 allowed by special permit by Sec. 7.8.3.C.

The petitioner is seeking relief to allow a one-way driveway routed around the back of the proposed structure with a width of 10 feet where a minimum width of 12 feet is required per Sec. 5.1.8.D.1. To allow the proposed one-way vehicular movement on the site, the parcel would be served by two curb cuts. Where 25 feet is the maximum width allowed for driveway entrances

and exits per Sec. 5.1.8.D.2, the petitioner proposes 37 and 39 foot wide curb cuts off Rumford Avenue. Each of these curb cuts would serve the driveway and one of the two garages.

Also, the petitioner proposes to construct seven parking stalls on the site, one in front of the building and six stalls in the two garage areas, one on each of the building's right and left sides. The former would have two stalls, the latter four, with two of those on so-called lift racks. Per Sec. 5.1.8.E.2, parking facilities must be designed so that all vehicles can proceed to and from a parking space without requiring the moving of another vehicle. As use of the proposed lift racks would necessitate the moving of at least one other vehicle, an exception to that requirement is needed.

Analysis and Recommendations

Planning is generally not concerned with the proposed development given its location in a mixed commercial and industrial area. The structure would allow for the indoor storage of waste materials for transport and the garaged parking of several vehicles. The triangular shape of the lot is also unusual and may pose obstacles to construct a building that fits the needs of the use, necessitating the dimensional zoning relief of the building and relief from the parking and driveway provisions of the NZO. . While the width of the two proposed curb cuts exceeds the maximum allowed by zoning, they may be necessary for the use and vehicles associated with the use, however the petitioner should clarify. The site's location in a manufacturing district with similar uses and pattern of larger, one-story warehouse style buildings lends itself to the proposed building and extension of a nonconforming contractor's yard. Potential negative externalities should be mitigated by the operational requirements provided by the specific language of Sec. 7.8.3.F.6, indicated by the Inspectional Services Department in the attached Zoning Review Memorandum.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§4.4.1 §7.8.2.C.2 §7.8.3.F.6	Request to extend a nonconforming contractor’s yard	S.P. per §7.3.3
§7.8.3.B	Request to allow a two-story building with 23.1 feet in height on an undersized commercial lot	S.P. per §7.3.3
§7.8.3.C	Request to allow FAR of .73 on an undersized commercial lot	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	Request to reduce the required width for a driveway for one-way traffic	S. P. per §7.3.3
§5.1.8.D.2 §5.1.13	Request to allow driveway entrance and exit widths exceeding 25 feet	S. P. per §7.3.3
§5.1.8.E.2 §5.1.13	Request to allow parking requiring moving of one vehicle to accommodate the another	S. P. per §7.3.3

For more details regarding the zoning analysis please refer to **Attachment A**.

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

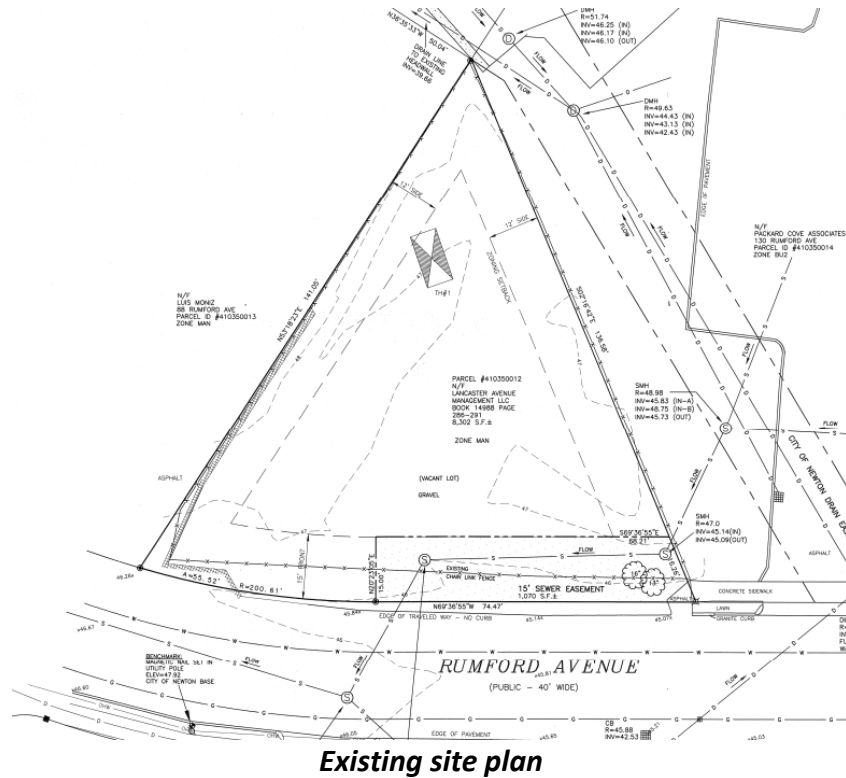
- The proposed nonconforming contractor’s yard would not be substantially more detrimental than the existing nonconforming use is to the neighborhood (§7.8.2.C.2, §7.8.3.F.6)
- The specific site is an appropriate location for a two-story building as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73 (§7.3.3.C.1)
- The use as developed and operated with a two-story building as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73 will not adversely affect the neighborhood (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
- Granting exceptions to certain requirement provided by Sec. 5.1 to allow a reduced width for a one-way driveway, driveway entrance and exit widths exceeding 25 feet, and parking stalls that require the moving of other vehicles to access, would be

appropriate as literal compliance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property consists of a generally level undersized 8,302 square foot triangular-shaped vacant parcel located on the north side of Rumford Avenue west of Lexington Street and just east of the City line.



IV. PROJECT DESCRIPTION AND ANALYSIS:

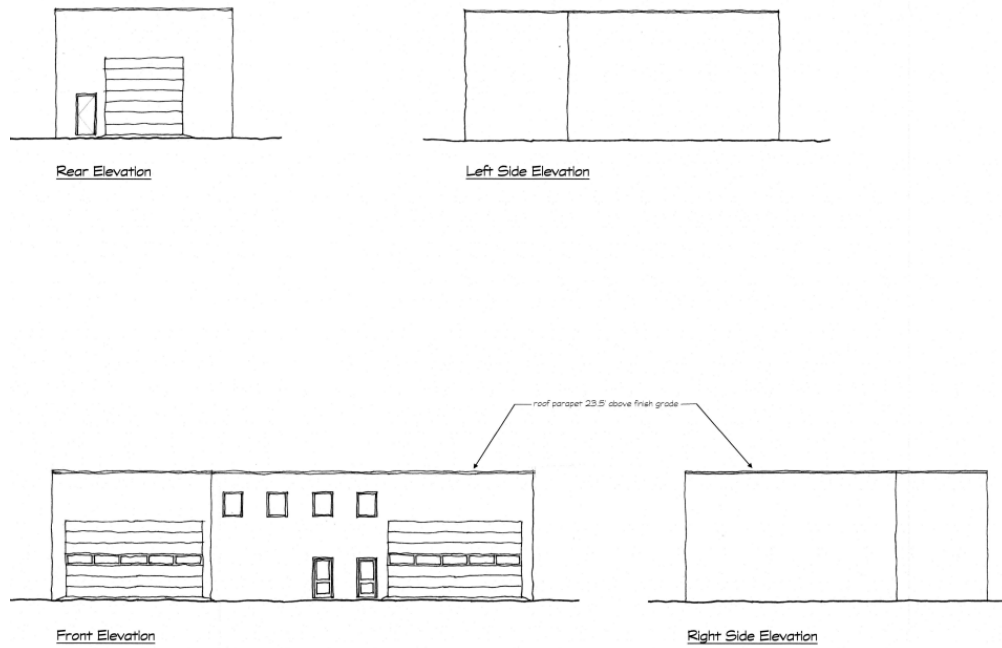
A. Land Use

The property would be used as a tree service contractor's office and storage facility.

B. Site and Building Design

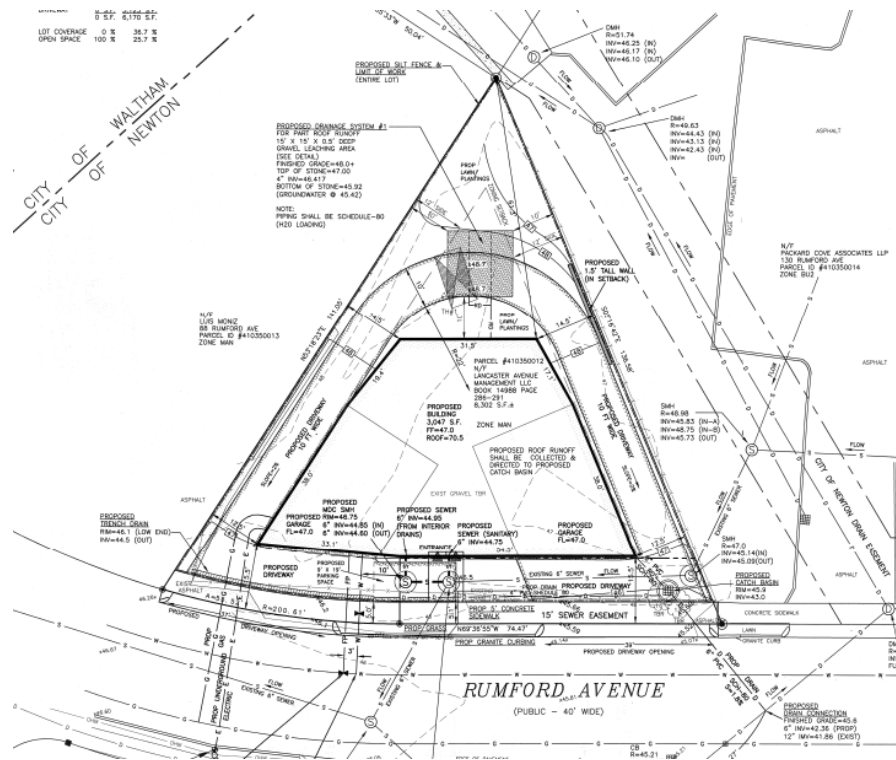
The petitioner proposes to construct a flat roofed two-story, 23.1 foot high, 3,047 square foot warehouse building to be used for a tree service contractor's office and storage facility.

The Planning Department notes that the submitted architectural drawings do not include certain dimensions. Planning recommends that such information, consistent with that indicated on the proposed site plan, be submitted in advance of the issuance of any building permit issued pursuant to this petition.



Proposed elevations

Planning also notes that in the event the present petition is granted, operations on the site would be subject to the provisions of Sec. 7.8.3.F.6 and the Commissioner of Inspectional Services conditions that the petitioner "may not store, process or compost any materials on site. It would be allowable to bring back wood chips to the site, however, they must be removed on at least a weekly basis and any containment or storage area must be reviewed by ISD before installation. The use of any processing equipment, i.e., chippers, sawmills, etc. may not be used on site."



Proposed site plan

C. Parking and Circulation

Vehicular access to the site would be provided by two curb cuts, one each on the left and right sides of the parcel. They would serve the driveway that would encircle the structure, allowing for one-way vehicular circulation on site. The driveway would measure 10-feet in width, less than the required 12 feet.

The curb cuts would also provide access to the on-site parking stalls. One parking stall would be located in front of the building (accessed by the left curb cut and set back 5.1 feet from the rear of the sidewalk) and two garage areas, one each on the left and right sides of the structure. The garages would together house six vehicles, two in the right garage area and four in the left, with the latter utilizing lift racks to place two vehicles above those parking at ground level. Use of the lift racks would necessitate the moving of vehicles parked below the lift racks to allow the those on the lift racks to enter and exit their “stalls.”

Also, as the curb cuts would allow direct access to the garages as well as the driveway, they would have widths measuring 37 and 39 feet, exceeding the maximum 25 foot width allowed by right for entrance and exit driveway.

D. Landscaping

A landscape plan was not provided with this petition. The submitted site plan indicates that some lawn area and plantings would be installed at the rear of the structure.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** The Associate City Engineer has submitted a memorandum on the proposed improvements dated September 21, 2023. Among other comments, it indicates that a Construction Management Plan (CMP) and an Operations & Maintenance (O&M) Plan will be required to be reviewed and approved by the Engineering Division before any building permit could be issued. It also requires certain actions to protect a City sewer easement that traverses the property's frontage.
- **Newton Historical Commission:** Review of this petition by the Newton Historic Commission is not required.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Engineering Division Memorandum
Attachment C: DRAFT Council Order



Ruthanne Fuller
Mayor

ATTACHMENT A

City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 1, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: G. Michael Peirce, Attorney
Trumbull Barrett, Barrett Tree Service
Lancaster Management LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah temple, Deputy City Solicitor

RE: **Request to allow a two-story building on an undersized MAN lot**

Applicant: Lancaster Management LLC	
Site: 0 Rumford Avenue	SBL: 41035 0012
Zoning: MAN	Lot Area: 8,302 square feet
Current use: Vacant	Proposed use: Storage warehouse

BACKGROUND:

The property at 0 Rumford Avenue consists of an 8,302 square foot triangular-shaped vacant parcel. The petitioner proposes to construct a storage warehouse for their tree removal business on the undersized lot, requiring a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by G. Michael Peirce, attorney, submitted 6/8/2023
- Proposed Conditions Site Survey, prepared by Everett M. Brooks, dated 5/30/2023, revised 6/21/2023
- Memorandum, prepared by G. Michael Peirce, attorney, dated 6/8/2023
- FAR, prepared by David P. Morton, submitted 6/8/2023
- Floor plans and elevations, prepared by David P. Morton, dated 5/14/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to use the property for a tree service contractor's office and storage. The lot was created prior to the introduction of zoning in 1922 and was previously used as a yard for the storage of disposal contractors' trucks and equipment as defined in section 6.5.6. In a memo dated December 21, 2022, the then Commissioner of Inspectional Services determined that the definition found in section 6.5.6 for "Office and storage of vehicles and materials for a contractor or builder" was sufficiently vague so that it could apply to any number of business types that are referred to as contractors and that the proposed use, a tree service contractor, would fit the definition." The lot was previously used as a contractor's yard, though a different type of contractor, and despite the changes to the ordinance in 1990 that added the category of Substandard Commercial Lots found in section 7.8.3, the use existed and therefore is a pre-existing, legally nonconforming use. The proposed use of the site for a tree service contractor's office requires a special permit to alter the pre-existing nonconforming use per section 7.8.2.C.2.

Because of the very specific language of Sec.7.8.3.F.6, the then Commissioner of Inspectional Services further conditioned that "the new user may not store, process or compost any materials on site. It would be allowable to bring back wood chips to the site, however, they must be removed on at least a weekly basis and any containment or storage area must be reviewed by ISD before installation. The use of any processing equipment, i.e., chippers, sawmills, etc. may not be used on site."

2. The subject property is a vacant 8,302 square foot lot in a Manufacturing District where 10,000 square feet is required per section 4.3.3. Section 7.8.3 further limits the buildings and uses on lots which were undeveloped on August 3, 1987 and were in separate ownership, as is the case here. The petitioner proposes to construct a two-story warehouse building with 23.1 feet in height on the vacant parcel. Per section 7.8.3.B, a special permit is required to construct a two-story building with up to 24 feet in height.
3. The petitioner proposes an FAR of 0.73. Per section 7.8.3.C, a special permit is required to allow an FAR greater than 0.50 up to a maximum of 0.75.
4. Per section 5.1.8.D.1 a driveway for one-way traffic must be a minimum of 12 feet wide. The petitioner proposes a 10-foot wide driveway, requiring a special permit per section 5.1.13.
5. The petitioner proposes two curb cuts to accommodate the 10-foot-wide driveway circling the property and access to the two garage bays, resulting in two curb cuts measuring 37 and 39 feet wide. Per section 5.1.8.D.2 the maximum allowed width of an entrance and exit driveway is 25 feet. The proposed widths of 37 and 39 feet require a special permit per section 5.1.13.
6. The petitioner proposes to construct one parking stall in front of the building and six stalls within it (two on the right garage area and four on the left utilizing lift racks). Per section 5.1.8.E.2, parking facilities must be designed so that a vehicle can proceed to and from a parking space without requiring the moving of another vehicle. The proposed lift racks require a special permit per section 5.1.13.

MAN Zone	Required	Proposed
Lot Size	10,000 square feet	8,302 square feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	15 feet 11.6 feet 11.6 feet 11.6 feet	15 feet 12.5 feet 12.5 feet 61.3 feet
Building Height	12 feet (24 feet by SP)	23.1 feet*
Max Number of Stories	1 (2 by SP)	2*
FAR	.50 (.75 by SP)	.73*

Bold indicates nonconformity

*Requires relief

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
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§5.1.8.E.2 §5.1.13	Request to allow parking requiring moving of one vehicle to accommodate the another	S. P. per §7.3.3

ATTACHMENT B

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 0 Rumford Avenue

Date: September 21, 2023

CC: Lou Taverna, PE City Engineer
Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Alyssa Sandoval Deputy Chief Planner
Michael Gleba, Sr. Planner
Scott Matthews, Committee Clerk

In reference to the above site, I have the following comments for a plan entitled:

SITE
PLAN OF LAND IN
NEWTON, MA
RUMFORD AVENUE

SCALE: 1 IN. = 10 FT.
DATE: 5/30/23

Prepared by: Everett M. Brooks Company

Executive Summary:

The proposed permit entails the construction of a one-story industrial garage & office building on a triangular shaped 8,302 square foot lot having 130-feet of frontage on Rumford Avenue towards the south and commercial properties to the north, east and western property line. The

site is essentially flat having a high point at elevation 48-feet at the northern most point of the property and a low elevation at 47 near Rumford Avenue.



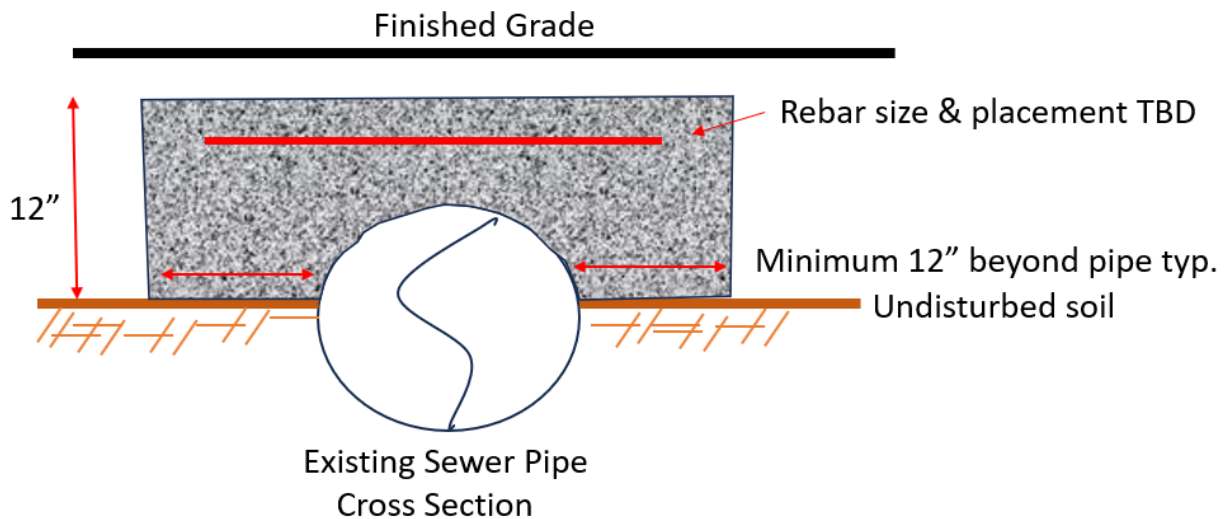
Looking northly towards the rear of the lot.

The frontage currently has no sidewalks nor curbing, the applicant is requesting two driveway curb cuts one is 37 feet wide towards the western side of the frontage and one at 39-feet on the east side of the frontage. The maximum driveway opening is 22 -feet per the City Construction Standards, however given the awkward shape of the lot the large construction trucks that will be garaged and accessing the lot, the two oversized aprons are reasonable; however, the DPW will insist that the concrete driveway aprons be 8-inches thick with rebar reinforcement due to the heavy loads imposed.

Additionally, the 15-foot-wide sanitary sewer easement and service pipe that transverses the frontage and proposed placement of the easterly driveway is cause for concern. The existing sewer pipe has just over 2 feet of over its length.

Prior to any construction the sewer service from the existing manhole at the south-east corner of the lot to the manhole in Rumford Avenue shall be inspected via a Closed Circuit Television (CCTV) Inspection to ensure that there is no damage to the pipe, the pipe then shall be fully exposed to the spring line and reinforced cement concrete shall be placed over the pipe for its entire length to ensure no future damage will occur to the pipe. (See sketch below). If the pipe is found to be damaged as determined by the City Inspector, the pipe shall be replaced with ductile iron pipe.

After construction of the site is completed this sewer pipe shall be re-inspected via CCTV to ensure no damage has occurred, if the pipe has been damaged then the applicant shall replace the pipe with ductile iron pipe.



During construction the applicant's contractor shall ensure pedestrian access around the construction site is in concert with the DPW requirements and check list available online.

The site has a shallow water table, and the stormwater system is designed only to handle a portion of the roof runoff, DPW recommends that the space designated as proposed lawn planting also be incorporated to expand the on-site drainage system possibly as a rain garden or utilize the space beneath horseshoe shaped driveway for additional infiltration or storage. An Operation and Maintenance plan is needed for the proposed systems. Total Suspended Solids (TSS) reduction was not provided in the drainage report as required by the City Stormwater Ordinances and Regulations. If the Special permit is approved DPW will require updated drainage report & O&M plan for review.

Fire flow testing & hydraulic calculations shall be submitted to the Utilities Division for verification.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. A Pre & Post Construction drainage analysis is required. All stormwater runoff from the site shall be captured on-site and infiltrated in accordance with the Massachusetts Department of Environmental Protection standards and the City of Newton Department of Public Works policy. This policy states that stormwater runoff shall be retained from the 100-year storm event of 8.78-iches over a 24-hour period and shall be infiltrated to the maximum practicable extent. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins. On-site soil evaluation is required to determine the seasonal high groundwater elevation, soil types and to identify any and all unsuitable soils (such as ledge, clay, peat, fill and others). On site soil testing that will include test pit(s) within 25 -feet of each proposed system and percolation test(s) must be schedule and witnessed by a representative of the Engineering Division. Soil logs shall be submitted on the site plan or drainage report and shall be certified by a Massachusetts Licensed Soil Evaluator and/or Professional Civil Engineer.

2. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance with the City's Construction Standards & Specifications, the sewer service and manhole will NOT be

accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.

4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
5. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.
6. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
7. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City's Tree Ordinance.

4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming contractor's yard use, allow a 23.1 foot high two-story building and a floor are ratio (FAR) of 0.73 on an undersized commercial lot, and waive certain parking facility requirements related to driveway width for one-way traffic, driveway entrance and exit width, and requiring moving of one vehicle to accommodate another vehicle, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed tree service contractor's office and storage facility would not be substantially more detrimental than the existing nonconforming use is to the neighborhood given its location in a mixed commercial and industrial area and because operational requirements provided by the Newton Zoning Ordinance as further identified by the Inspectional Services Department requires the use to mitigate potential negative impacts. (§7.8.2.C.2, §7.8.3.F.6)
2. The specific site is an appropriate location for a two-story building, as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73, given its location in a mixed commercial and industrial area and due to the unusual triangular shape of the lot. (§7.3.3.C.1)
3. The use as developed and operated with a two-story building as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73 will not adversely affect the neighborhood given its location in a mixed commercial and industrial area and because operational requirements provided by the Newton Zoning Ordinance as further identified by the Inspectional Services Department should mitigate potential negative impacts. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. Granting exceptions to certain requirements provided by Sec. 5.1 to allow a reduced width for a one-way driveway, driveway entrance and exit widths exceeding 25 feet, and parking stalls that require the moving of other vehicles to access, would be appropriate

as literal compliance is impracticable due to the nature of the use and the operations associated with that use such as larger vehicles and sites triangular shape. (§5.1.13)

PETITION NUMBER: #313-23

PETITIONER: Lancaster Management LLC

LOCATION: 0 Rumford Avenue, Ward 4, Auburndale, on land known as Section 41 Block 35 Lot 12, containing approximately 8,302 sq. ft. of land

OWNER: Lancaster Management LLC

ADDRESS OF OWNER: 11 King Street
Cambridge, MA 02140

TO BE USED FOR: Storage warehouse and office

RELIEF GRANTED: Special Permit to:

- extend a nonconforming contractor’s yard (§4.4.1, §7.8.2.C.2, §7.8.3.F.6),
- allow a two-story building with 23.1 feet in height on an undersized commercial lot (§7.8.3.B),
- allow FAR of 0.73 on an undersized commercial lot (§7.8.3.C),
- reduce the required width for a driveway for one-way traffic (§5.1.8.D.1, §5.1.13),
- allow driveway entrance and exit widths exceeding 25 feet (§5.1.8.D.2, §5.1.13),
- allow parking requiring moving of one vehicle to accommodate another (§5.1.8.E.2, §5.1.13)

ZONING: Manufacturing (MAN) District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the following plans:
 - a. A site plan entitled “Site Plan of Land in Newton, MA, Rumford Avenue,” prepared by Everett M. Brooks Co., dated September 14, 2023, signed and stamped by Michael S. Kosmo, Registered Professional Land Surveyor.

- b. A plan entitled "Project Name: 147 Cherry Street, Newton, MA (A-002)," (showing the Proposed First Floor Plan, Proposed Front Elevation, and Proposed Right Side Elevation), prepared by Spruhan Engineering, P.C, dated June 23, 2023, signed and stamped by Edmond T. Spruhan, Registered Professional Engineer.
2. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval, should a system be required. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
3. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.

