



# **Land Use Committee Report**

## **City of Newton** **In City Council**

**Tuesday, July 9, 2019**

**Present:** Councilors Schwartz (Chair), Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo, Cote

**Absent:** Councilor Lipof

**City Staff Present:** Associate City Solicitor Jonah Temple, Senior Planner Neil Cronin, Planning Associate Katie Whewell

All Special Permit Plans, Plan Memoranda and Application Materials can be found at [http://www.newtonma.gov/gov/aldermen/special\\_permits/current\\_special\\_permits.asp](http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp). Presentations for each project can be found at the end of this report.

**#104-19      Special Permit to allow attached dwelling units at 499 Winchester Street**  
ARTHUR ARBETTER AND GERRY WELCH/MARY AND DUANE HILLIS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four single-family attached dwellings in two buildings, allowing single-family attached dwellings with three stories and to allow retaining walls greater than 4' within a setback at 499 Winchester Street, Ward 8, Newton Highlands, on land known as Section 83 Block 35 Lot 08, containing approximately 43,567 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.1.4, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 7-0**

**Note:**      Committee members reviewed the request to withdraw without prejudice the Special Permit Petition for 499 Winchester Street. Committee members expressed no concerns relative to the request and voted unanimously in favor of a motion to approve from Councilor Kelley.

**#211-19      Request to amend the deed restriction to allow a solar carport at 181 Wells Ave**  
ATLANTIC DESIGN ENGINEERS requesting an amendment to the restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended to reflect a waiver of use restriction to permit a solar carport over the parking lot area at 181 Wells Avenue, Ward 8. *NOTE: Public Hearing not required.*

**Action:**      **Land Use Approved 7-0**

**Note:**      The Committee discussed a consistency ruling relative to Special Permit Board Orders 364-75, 89-74 and 89-74(2) as well as the request to amend the deed restriction to allow a solar carport at 181 Wells Avenue. The deed restriction does not require an amendment or waiver; the deed prohibits construction of any structure without Council approval. Mr. Zach Thomas, Atlantic Design Engineers presented the request to locate a carport at 181 Wells Avenue. Senior Planner Neil Cronin presented an

overview of the proposed carport as shown on the attached presentation. Mr. Cronin noted that the proposed car ports are approximately 160' in length, 45' wide and range from 16'-21' tall. The carports will be constructed over existing asphalt and will increase the lot coverage to 19.2%. Mr. Cronin confirmed that the carports do not impact any other dimensional standards.

Committee members were supportive of the request to install a solar carport by a commercial entity. A Committee member questioned whether amending the deed to allow solar carports over asphalt has been considered. Ms. Caira confirmed that a deed amendment has not yet been discussed. Committee members expressed no concerns relative to the request to locate the carports. Councilor Markiewicz motioned to approve the item and Committee members voted 7-0 in favor of approval.

**#200-19      Petition to allow a parking space in the front setback at 30 Jacobs Terrace**

RICHARD LEVEY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a parking stall within the front setback and five feet of the street at 30 JACOBS TERRACE, Newton Centre, Ward 8, on land known as SBL 82, 25, 23 containing approx. 18,110 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 5.1.7.A, 5.1.13, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Ord, 2017.

**Action:**      **Land Use Approved 7-0; Public Hearing Closed 07/09/2019**

**Note:**      Mr. Richard Levey presented the request to allow a parking space in the front setback and within 5' of the street at 30 Jacobs Terrace. Mr. Levey explained that the lot is very steep and there are few flat spaces that parking could be located. He noted that there is an existing garage, adjacent to the street that was permitted by granting of a variance. The proposed parking space would be located adjacent to the street on an existing gravel pad. Mr. Levey explained that there is currently no curb cut to access the gravel pad and confirmed that the space will remain gravel.

Planning Associate Katie Whewell reviewed the requested relief, criteria for consideration, zoning, land use and proposed plans as shown on the attached presentation. Ms. Whewell explained that the proposed parking space will be screened when travelling down Jacobs Terrace which is a cul-de-sac. Ms. Whewell noted that the proposed parking stall is dimensionally compliant (9'x19').

The Public Hearing was Opened.

Alan Godlstein, 43 Jacobs Terrace, stated that he has no concerns relative to the request.

Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the petition. Mr. Levey stated that there is one 20' curb cut that provides access to the existing garage. The proposed parking stall would be accessed by a second, 12' curb cut approximately 20' away. and noted. There is a second, 12' curb cut approximately 20' away. Committee members noted that because the proposed parking stall is located on a cul-de-sac road, parking within 5' of the street is not a safety concern. Committee members asked that the draft findings reference that the property is located on a cul-de-sac. Committee members expressed no concerns relative to the request and voted unanimously in favor of approval.

**#360-14(3) Amend Permit #360-14 to allow a free-standing sign at 112 Needham Street**  
112 NEEDHAM STREET, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #360-14 to allow for an 8.14 square foot freestanding sign at the front of the property in a planting bed at 112 NEEDHAM STREET, Ward 8, NEWTON UPPER FALLS, on land known as SBL 83, 12, 7, containing approximately 7,500 sf of land in a district zoned MULTI USE 2. Ref: Sec. 5.2.13, 7.3, 7.4 of Chapter 30 of the City of Newton Rev Ord, 2017.

**Action:** Land Use Approved 7-0; Public Hearing Closed 07/09/2019

**Note:** Mr. Jonathan Bakis presented the request for a free-standing sign at 112 Needham Street, LLC. The petitioner is seeking to legitimize an existing 8.14 sq. ft. free standing sign, requiring an amendment to the Special Permit at 112 Needham Street. Committee members noted that Special Permit Board Order #360-14 allowed the petitioner to submit signage for approval by the Planning Department. Ms. Caira explained that relief for a free-standing sign was not specifically granted in the 2014 Special Permit. Ms. Caira noted that the request to amend the Special Permit was initiated by a request for code enforcement. Mr. Bakis explained that it was the property owner's understanding that the sign was approved as part of the approved special permit plans.

Planning Associate Katie Whewell provided an overview of the requested relief, criteria for consideration, land use, zoning and an image of the sign as shown on the attached presentation. Ms. Whewell noted that the Urban Design Commission has approved the sign with the condition that it is not illuminated. Ms. Whewell stated that the draft Council Order includes a condition prohibiting illumination of the sign.

The public hearing was opened. No member of the public wished to speak. Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. The Chair explained that the petitioner should seek an amendment to the Special Permit if future site changes are considered. Committee members expressed no concerns relative to the request and voted unanimously in favor of approval.

The Committee adjourned at 8:45 pm.

**Respectfully Submitted,**

**Greg Schwartz, Chair**

## Department of Planning and Development



### **181 WELLS AVENUE**

#### **DEED RESTRICTION FINDING AND REQUEST FOR CONSISTENCY**

**JULY 9, 2019**

## Requests



### **Wells Avenue Deed Restriction**

- The Deed Restriction prohibits any building or structure from being erected without the approval of the City Council regarding finished grading and topography, drainage, parking, or landscaping

### **Site/Plan Review**

- The modification to the site plan requires an amendment to the site plan or a "Consistency Ruling" from the Commissioner of Inspectional Services.

## AERIAL/GIS



## Existing Special Permits

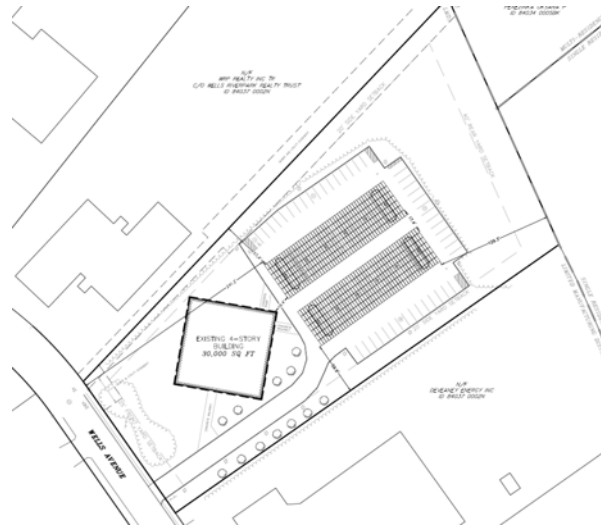
### Petition #89-74

- Approved a four-story commercial building with an accessory surface parking facility

### Petitions #89-74(2) and #364-75

- Amended the previously approved site plans

## Proposed Site Plan



## Planning Department Analysis

- The carports will increase the lot coverage dimensional standard to 19.2 percent. Otherwise, the carports do not affect any other dimensional standard.
- As a result, the Planning Department believes the solar carports are a minor site change and believes that the solar carports are consistent with the special permits governing the property as well as the deed restriction while also contributing to City goals such as encouraging solar installations.

## Department of Planning and Development



**PETITION #200-19  
30 JACOBS TERRACE**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO ALLOW A  
PARKING STALL WITHIN THE  
FRONT SETBACK AND FIVE FEET  
OF THE STREET



JULY 9, 2019

### Requested Relief



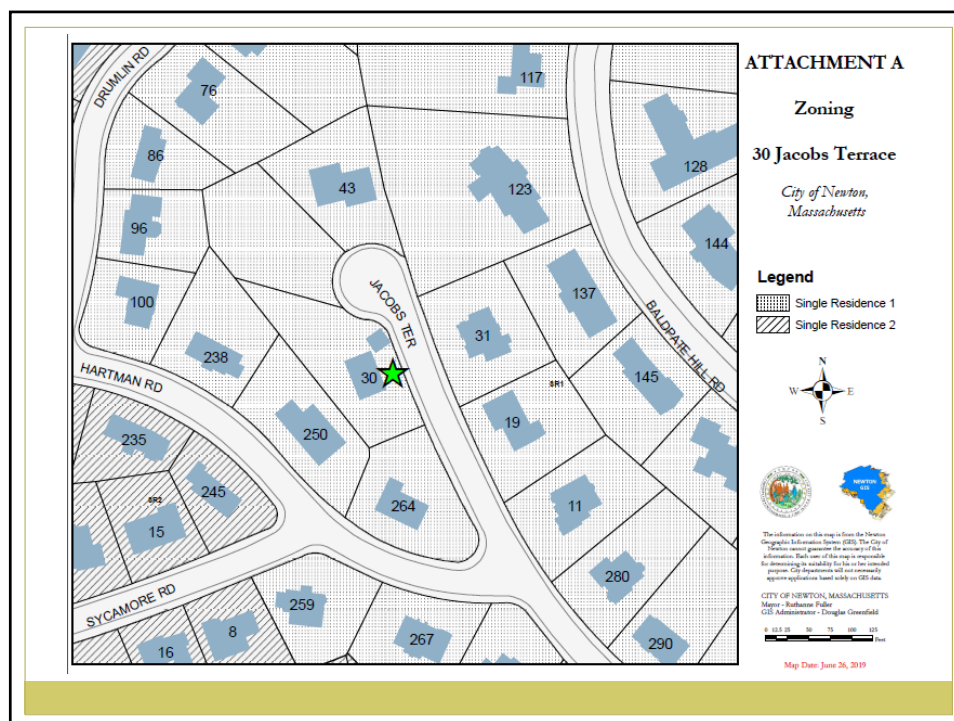
Special Permit per §7.8.2.C.2 of the NZO to:

- Allow parking within the front setback and five feet of the street (§5.1.7.A, §5.1.13).

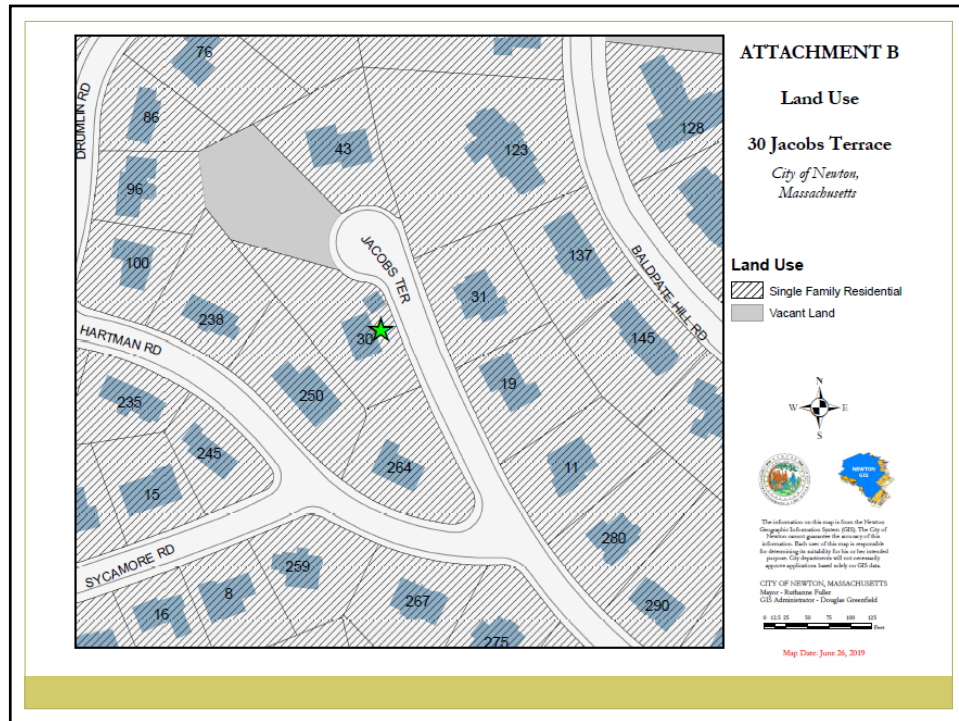
## Criteria to Consider

When reviewing this request, the Council should consider whether:

- Whether literal compliance with the requirement that no parking stalls be located within five feet of a street (§5.1.7.A) 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)
- Whether literal compliance with the requirement that no parking stalls be located within a front setback (§5.1.7.A) 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)



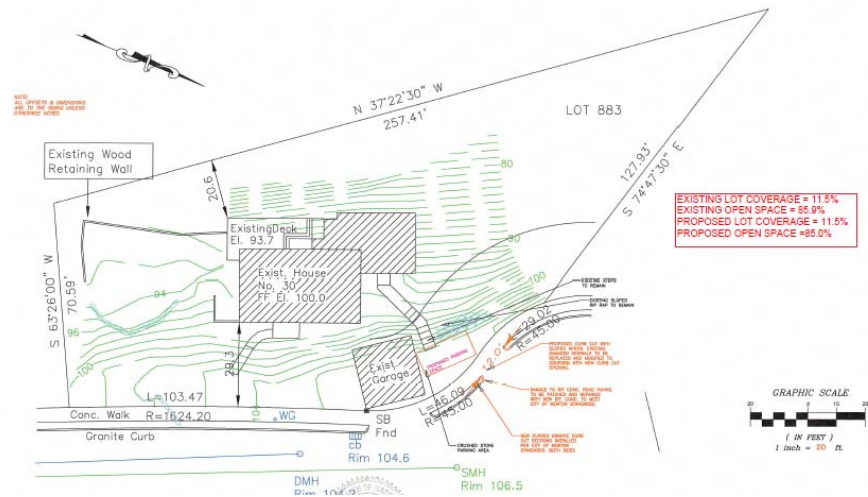




## Aerial/GIS Map



## Site Plan



## Proposed Findings

- Literal compliance with the requirement that no parking stalls be located within five feet of a street (§5.1.7.A) is impracticable due to the grade of the lot. (§5.1.13)
- Literal compliance with the requirement that no parking stalls be located within a front setback (§5.1.7.A) is impracticable due to the grade of the lot. (§5.1.13)

## Proposed Conditions

1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard CO Condition

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking within the front setback and to allow parking within five feet of a street, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- Literal compliance with the requirement that no parking stalls be located within five feet of a street (§5.1.7.A) is impracticable due to the grade of the lot and impact will be minimal due to the street being a dead-end street/cul de sac. (§5.1.13)
- Literal compliance with the requirement that no parking stalls be located within a front setback (§5.1.7.A) is impracticable due to the grade of the lot. (§5.1.13)

PETITION NUMBER:	#200-19
PETITIONER:	Richard Levey
LOCATION:	30 Jacobs Terrace, on land known as Section 82, Block 25, Lot 23, containing approximately 18,110 square feet of land
OWNER:	Richard Levey
ADDRESS OF OWNER:	30 Jacobs Terrace Newton, MA 02459
TO BE USED FOR:	One parking stall within the front setback and within five feet of a street
CONSTRUCTION:	Crushed stone
EXPLANATORY NOTES:	§5.1.7.A, §5.1.13 for a parking stall to be located within the front setback and within five feet of a street.

ZONING: Single Residence 1

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:
  - a. Site plan entitled "Proposed Curb Cut 30 Jacobs Terrace" signed and stamped by Daniel O'Brien, Professional Land Surveyor, Dated June 19, 2018; Revised February 27, 2019
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the improvements covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor or engineer certifying compliance with Condition #1.
  - d. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - e. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.

## Department of Planning and Development



**PETITION #360-14 (3)  
112 NEEDHAM STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO AMEND SPECIAL  
PERMIT #360-14 TO ALLOW A  
FREE STANDING SIGN

JULY 9, 2019



## Requested Relief



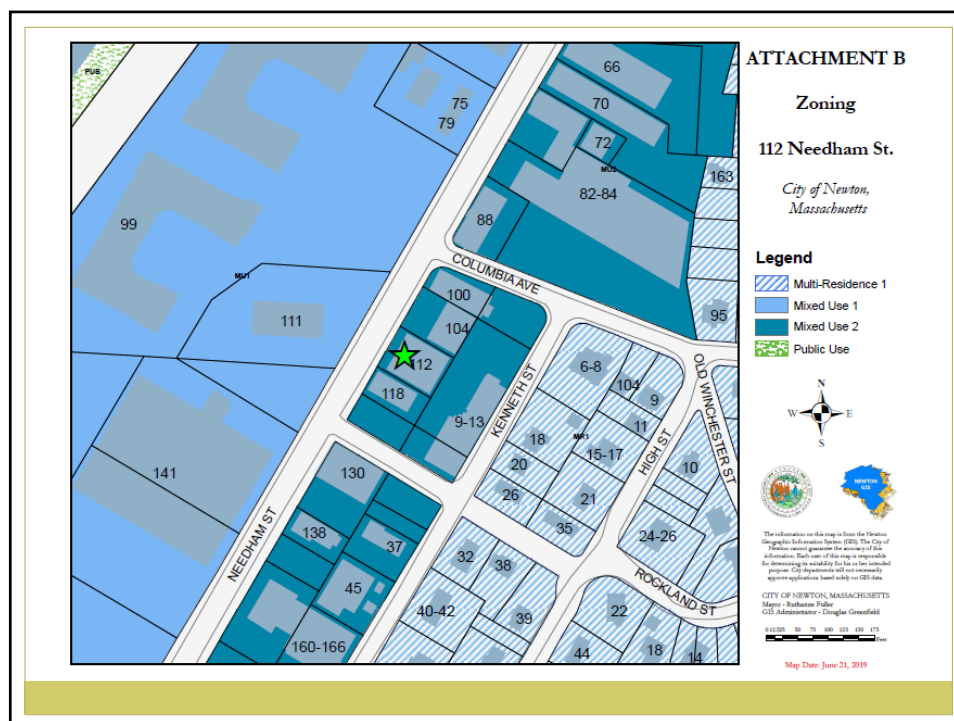
Special Permit per §7.8.2.C.2 of the NZO to:

- Amend Special Permit 360-14 (3)
- Allow a free standing sign (§5.2.13)

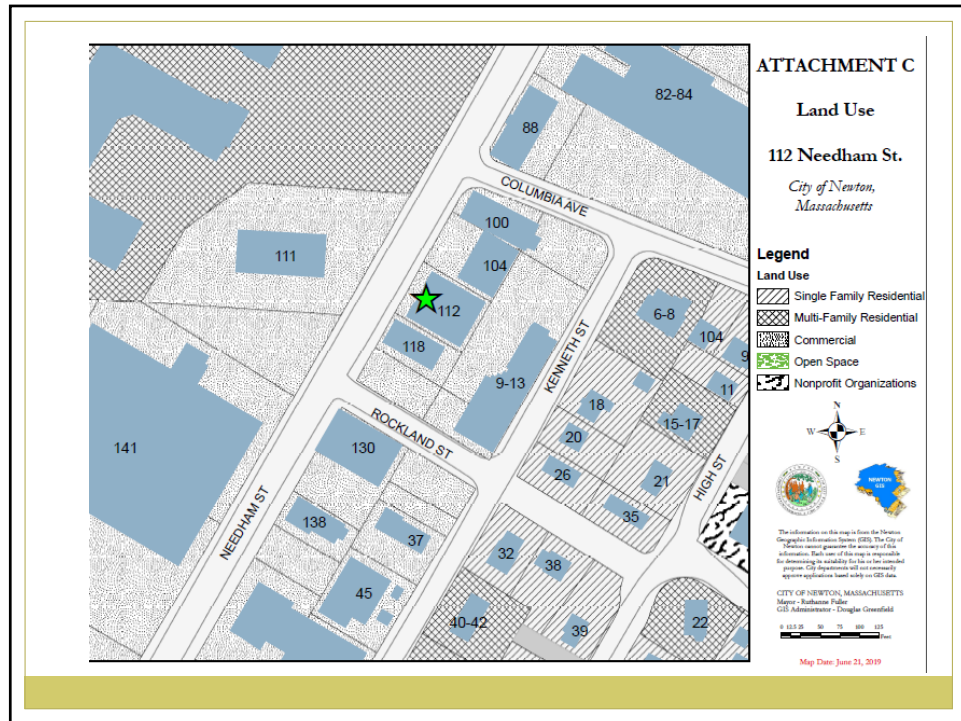
## Criteria to Consider

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the free standing sign (§7.3.3.C.1);
- The free standing sign will adversely affect the neighborhood (§7.3.3.C.2);
- The free standing sign will create a 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); and
- The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standing signs or exceptions should be permitted in the public interest (§5.2.13).





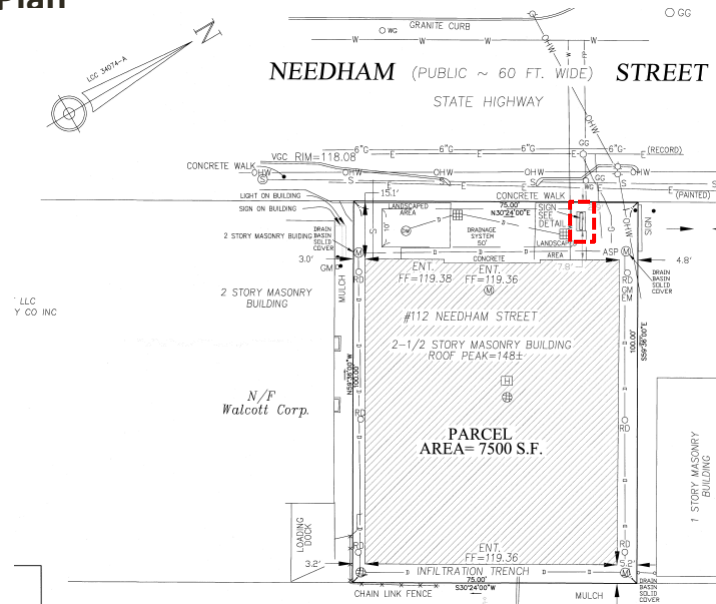


## Aerial/GIS Map





## Site Plan



## Sign



## Proposed Findings

- The specific site is an appropriate location for the free standing sign because there are other free standing signs along the Needham Street Corridor (§7.3.3.C.1);
- The free standing sign will not adversely affect the neighborhood due to the presence of signs on Needham Street and the sign provides wayfinding for travelers on Needham Street (§7.3.3.C.2);
- The free standing sign will not create a 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); and
- The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standing or exceptions should be permitted in the public interest (§5.2.13).

## Proposed Conditions

1. Plan Referencing Condition.
2. The sign shall not be illuminated at any time.
3. Standard Building Permit Condition.
4. Standard CO Condition.

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 amend Council Order #360-14 to allow a free standing sign, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the free standing sign because there are other free standing signs along the Needham Street Corridor (§7.3.3.C.1);
2. The free standing sign will not adversely affect the neighborhood due to the presence of signs on Needham Street and the sign provides wayfinding for travelers on Needham Street (§7.3.3.C.2);
3. The free standing sign will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
5. The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standing signs or exceptions should be permitted in the public interest (§5.2.13).

PETITION NUMBER: #360-14 (3)

PETITIONER: Ronald Cahaly

LOCATION: 112 Needham Street, Section 83, Block 12, Lot 7, containing approximately 7,500 square feet

OWNERS: 112 Needham Street LLC

ADDRESS OF OWNERS: 112 Needham Street  
Newton, MA 02464

TO BE USED FOR:	Commercial
CONSTRUCTION:	No site work
EXPLANATORY NOTES:	To amend Council Order #360-14 to allow for a free-standing sign
ZONING:	Mixed Use 2 District

The prior special permit for this property is as follows: Council Order #360-14, which authorized a two and a half story building with an FAR of no more than 1.5, a building height of up to 36 feet, and extension of reconstruction of a nonconforming structure, waiver of one parking stall, waiver of end stall maneuvering space requirement, and a waiver of off-loading requirements. The conditions set forth in Council Order #360-14 remain in full force and effect.

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:
  - a. Plot Plan "As Built Sign 112 Needham Street" dated November 1, 2017; revised November 27, 2018 signed and stamped by Scott D. Cameron, Professional Land Surveyor
2. The sign shall not be illuminated at any time.
3. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
4. No Certificate of Occupancy/Final Inspection for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.