



Land Use Committee Report

City of Newton In City Council

Tuesday, July 23, 2019

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

City Staff Present: Associate City Solicitor Jonah Temple, Senior Planner Neil Cronin, Planning Associate Katie Whewell, Senior Planner Michael Gleba, Chief Planner Jennifer Caira

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. Presentations for each project can be found at the end of this report.

#176-19 Special Permit Petition to allow parking within the setback at 1188 Chestnut Street
TARA POTTER AND DOUG ROONEY petition for **SPECIAL PERMIT/SITE PLAN APPROVAL** to construct an addition to the existing single-car garage, extending the non-conforming front setback, to allow parking within the setback and within five feet of the street at 1188 Chestnut Street, Ward 5, Newton Upper Falls, on land known as Section 51 Block 40 lot 22, containing approximately 5,807 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 7.8.2.C.2, 5.1.7.A, 5.1.13, 3.2.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 3-0-5 (Schwartz, Laredo, Markiewicz, Kelley, Greenberg)**

Note: Mr. David Geffen, 574 Chestnut Street presented updates to the Committee. Mr. Geffen noted that the petitioner has responded to concerns raised at the initial public hearing relative to the proximity of the proposed garage by moving the garage further into the site, within inches of the front yard setback (on Indiana Court). He noted that the proposed walls have been modified to increase the sight lines.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration and changes to the proposed plans as shown on the attached presentation. Mr. Cronin noted that the petitioner has increased the setback from Chestnut Street from a proposed 4.4' to a proposed 12.3'. No relief is required for parking within 5' of the street. The eastern retaining wall has been flared to improve sight lines and the western retaining wall was modified to a curved shape to allow an existing mature tree. The Planning Department believes the plan is improved but believe safety concerns remain. The Planning Department has asked that the petitioner continue to consider alternatives; including access from Indiana Court. Mr. Cronin stated that if the petitioner pursues the garage on Chestnut Street frontage, the petitioner should consider shifting the garage to the east to allow more visibility to the west. This will require relocation of an existing utility pole.

A Committee member noted that the Ward 5 Councilors are supportive of the proposed project and believe it is an improvement over the existing conditions. It was noted that the petitioner could use the existing garage and sub-basement space for additional parking as a matter of right. The petitioner will be landscaping the top of the sub-basement, creating additional open space. It was noted that the adjacent property has a similarly situated garage and the difficulty of constructing on the site was emphasized.

Mr. Cronin confirmed that it is anticipated that the cars entering the site will be backing out onto Chestnut Street. A Committee member questioned whether the petitioner considered installing a semi-circular driveway to eliminate the safety concern. Mr. Geffen stated that a car backing out has sufficient space to back up. A Committee member expressed concern relative to the safety of cars exiting the driveway. Mr. Geffen noted that the existing garage is 15' from the edge and the proposed is 23' from the edge, creating a safer condition. Committee members acknowledged the difficulty of the site but remained concerned relative to the safety of east bound traffic coming around the curve on Chestnut Street. Committee members questioned whether the petitioner considered all alternatives and Mr. Geffen confirmed that the petitioner considered alternatives; taking into account the guidance from the Planning Department and City agencies. He stated that the proposed plans take into account those considerations.

Seeing no other member of the public who 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 draft Council Order. A Committee member suggested that a condition be included requiring maintenance of low plantings to maintain sight visibility, maintenance of the mature tree for sidewalk clearance and a maximum height for the planted areas above the stone wall. With that, Committee members voted three in favor, none opposed and five abstentions (Councilors Laredo, Schwartz, Kelley, Markiewicz, Greenberg)

#338-18(2) Petition to amend Special Permit Council Order #338-18 at 22 Beecher Place
BEN BRESSEL/22 BEECHER PLACE REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #338-18 to allow modifications to the site plan for driveway and patio spaces not shown on the approved site plan at 22 Beecher Place, Ward 6, Newton Centre, on land known as Section 81 Block 01 Lot 03 containing approximately 10,146 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 8-0; Public Hearing Closed 07/23/2019

Note: Ms. Maryann Bressel presented the request to amend the Special Permit at 22 Beecher Place to allow modifications to the site plan as approved in Council Order #338-18. Ms. Bressel stated that the petitioner did not realize that the site landscaping was subject to the restrictions of the Special Permit/Site Plan approval. Ms. Bressel noted that the proposed plans substitute the approved plans and reflect the as-built conditions at the site. She explained that the Engineering Department reviewed the proposed plans prior to construction of the patio spaces.

Senior Planner Michael Gleba reviewed the request, criteria for consideration, land use, zoning, approved plans and photos of the as-built conditions as shown on the attached presentation. Mr. Gleba noted that the as-built conditions include a patio, a wall, benching and an outdoor fireplace. Ms. Bressel explained

that the petitioner modified the parking spaces to allow enough space for cars to turn around and exit forward onto the street. Committee members shared concerns relative to the modifications to the increase in paving, elimination of grass areas and possible drainage issues at the site. Ms. Bressel stated that a building permit was issued in April 2019 after a review by the Engineering Department. The contractor for the project, Mr. Gary Streck, emphasized that the changes made to the approved site plan were approved by the Engineering Department.

Chief Planner Jennifer Caira noted that what was reviewed by the Engineering Department does not match the as-built conditions. She confirmed that the as built conditions meet zoning requirements. Committee members asked for clarification from the Engineering Department relative to the sequence of events. Committee members asked that the petitioner submit communications relative to the changes from the Engineering Department prior to the next hearing. Committee members voted unanimously to close the public hearing. Committee members voted unanimously in favor of holding the item.

#147-15(4) Petition to amend Special Permit Board Order #147-15 at 157 Herrick Road

BSL NEWTON DEVELOPMENT, LLC/ANDOVER NEWTON THEOLOGICAL SCHOOL petition for a Special Permit to amend Special Permit Board Order #147-15 to allow a 35' free-standing sign at 157 Herrick Road, Ward 6, Newton Centre, on land known as Section 65 Block 19 Lot 45, containing approximately 871,960 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 7.3.3, 7.4, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed 07/23/2019

Note: Attorney Franklin Schwarzer, offices of Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, BSL Newton Development, LLC./Andover Newton Theological School. Atty. Schwarzer presented the request to amend Special Permit Board Order #147-15 to allow a free-standing sign at the entrance of the facility. Atty. Schwarzer explained that the location of the sign was identified on the plans approved during the special permit process in 2015, but the relief for a free-standing sign was not included. The proposed sign is 3' tall and 10' long totaling approximately 35 sq. ft., has raised white letters and is not internally illuminated. Atty. Schwarzer noted that the sign was approved by the Urban Design Commission with the condition that it is not illuminated. He explained that while the sign is not illuminated, the petitioner hopes to install two landscape spotlights at the base of the sign to illuminate the face of the sign.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, land use, zoning and photos of the proposed sign as shown on the attached presentation. Mr. Cronin noted that the sign's low height gives the impression that the sign is at ground level and serves as a landscaping feature rather than an advertisement. In response to the UDC recommendation to add an arrow to the sign, Atty. Schwarzer explained that the location of the sign really doesn't require an arrow and they do not feel that it is necessary. Committee members expressed no concerns relative to no arrow on the sign.

The Public Hearing was Opened. No member of the public wished to speak. Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation.

Committee members agreed that the condition relative to lighting should say “sign shall not be internally illuminated” to permit landscaping lights at the bottom of the sign. With that Committee members voted unanimously in favor of approval.

#237-19 Petition to exceed FAR and extend non-conforming use at 138 Lincoln Street

DOUGLAS AND HANA GRAGG petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear sunroom in the footprint of an existing deck, extending the non-conforming two family use and creating an FAR of .37 where .36 exists and .34 is allowed at 138 Lincoln Street, Ward 6, Newton Highlands, on land known as Section 64 Block 26 Lot 09, containing approximately 13,800 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 3.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed 07/23/2019

Note: Architect Donald Gross represented the petitioners Doug and Hana Gragg and presented the request for a special permit to exceed the allowable FAR and extend the non-conforming use at 138 Lincoln Street. Mr. Gross explained that the two-family house has been legally non-conforming since 1912. The petitioners are seeking to construct a space to go over the existing deck and expand the ground floor footprint. The petitioners intend to expand the ground floor to accommodate an aging family member. The proposed addition adds approximately 102 sq. ft. The existing FAR is .36 where the allowable FAR is .34. The resulting FAR at the site is .37. Mr. Gross explained that the southwest facing glass enclosure will be adjacent to the kitchen.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed elevations as shown on the attached presentation. Ms. Whewell noted that the site has mature landscaping at the front and sides as well as stockade fence around the perimeter of the yard.

The Public Hearing was Opened. No member of the public wished to speak. Mr. Gross submitted three letters of support for the petition. Committee members expressed no concerns relative to the petition. Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Markiewicz motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. The Committee voted unanimously in favor of approval.

The Committee adjourned at 9:30 pm.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



**PETITION #176-19
1188 CHESTNUT STREET**

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



JULY 23, 2019

Requested Relief



Special Permits per §7.8.2.C.2 and §5.1.13 of the NZO to:

- Extend a nonconforming front setback from 4.4 feet to 4.1 feet (§3.2.3).
- Allow parking within the front setback and within five feet of a street (§5.1.7.A).

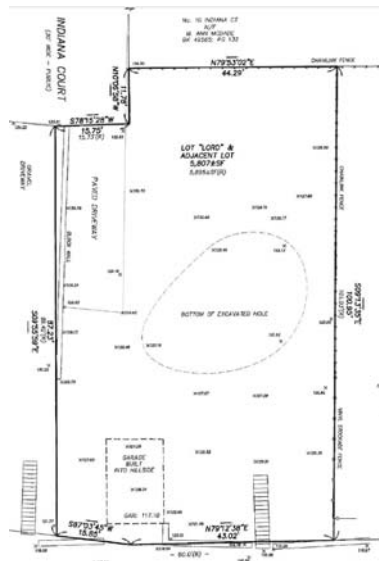
Criteria to Consider



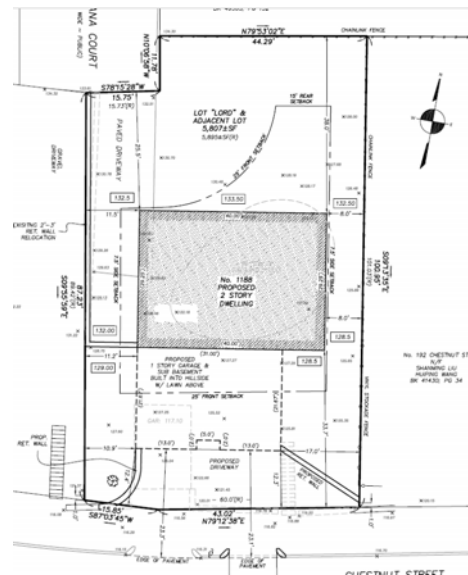
When reviewing this request, the Council should consider whether:

- The proposed extension of the nonconforming front setback will be substantially more detrimental than the existing nonconforming front setback is to the neighborhood (§3.2.3 and §7.8.2.C.2).
- Literal compliance with the parking requirements 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 (§5.1.7.A and §5.1.13).

Existing Site Plan



Proposed Site Plan



Analysis

- The Planning Department believes that the increased setback from Chestnut Street is an improvement from the previous plan, but still believes the safety concern exists.
- Staff suggests that the petitioners consider alternatives for creating parking on site, including providing access from Indiana Court.
- Should the petitioners continue to pursue the garage at the Chestnut Street frontage, staff suggests that they consider investigating moving the utility pole and shifting the garage to the east to create more visibility to the west.

Department of Planning and Development



PETITION #338-18(2)
22 BEECHER PLACE
SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND SPECIAL
PERMIT COUNCIL ORDER
#338-18 TO ALLOW
MODIFICATIONS TO THE SITE
PLAN FOR DRIVEWAY AND PATIO
SPACES NOT SHOWN ON THE
APPROVED SITE PLAN



JULY 23, 2018

Requested Relief



Special Permit per §7.3.3 to:

- to amend SP #338-18 by substituting the previously approved site plan with an As-Built plan showing additional landscape and site features, including relocated and expanded parking areas, paved patio areas, and stonework including walls, benches and an outdoor fireplace

Criteria to Consider



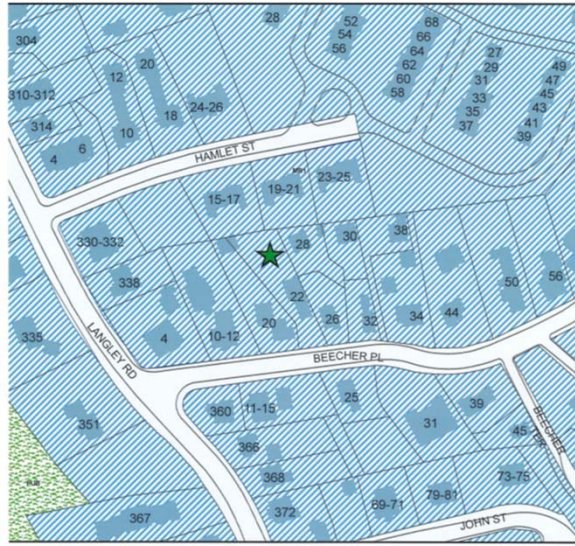
When reviewing the requested special permits the Council should consider whether:

- The specific site is an appropriate location for the additional landscape and site features, including relocated and expanded parking areas, paved patio areas, and stonework including walls, benches and fireplace (§7.3.3.C.1);
- The use as developed and operated 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).

AERIAL/GIS MAP



Zoning



ATTACHMENT B

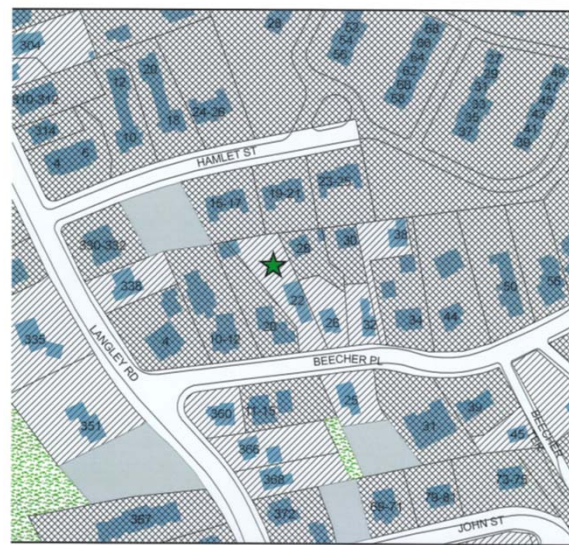
Zoning
22 Beecher Pl.
*City of Newton,
Massachusetts*

- Legend**
- Multi-Residence 1
 - Public Use

The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Map: 2018 03
GIS Administrator: Douglas Greenfield
Map Date: June 22, 2018

Land Use



ATTACHMENT A

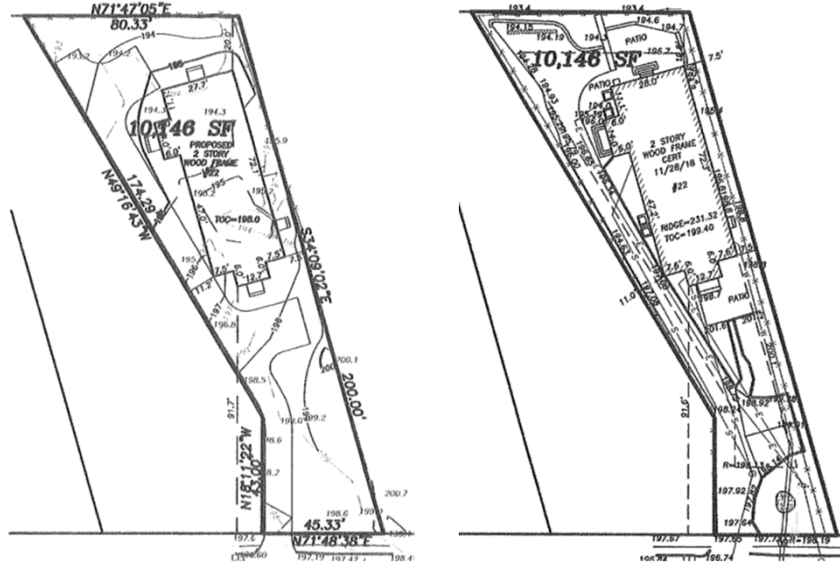
Land Use
145 Wells Ave.
*City of Newton,
Massachusetts*

- Land Use**
- Single Family Resident
 - Multi-Family Resident
 - Open Space
 - Vacant Land

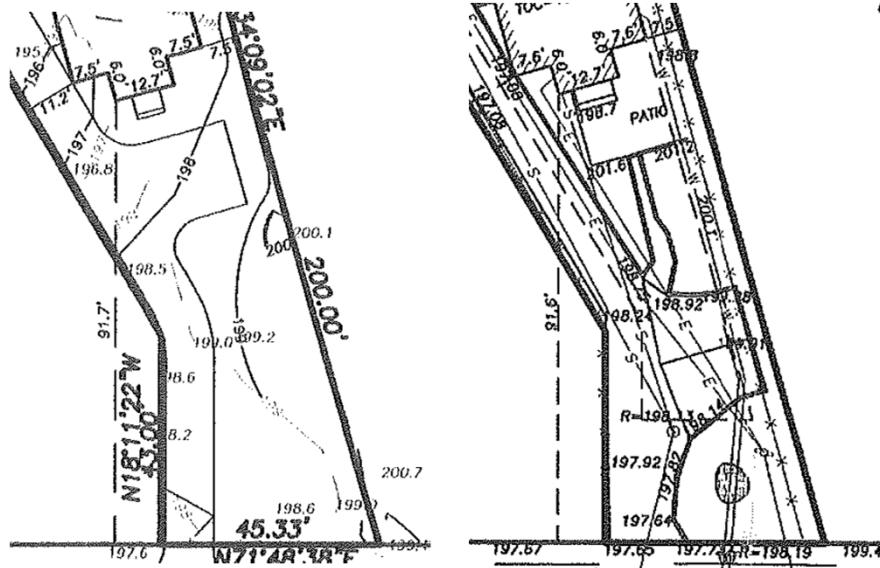
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CITY OF NEWTON, MASSACHUSETTS
Map: 2018 03
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Map Date: June 22, 2018

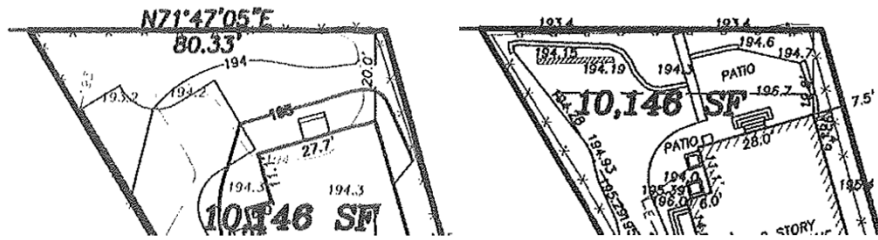
Site Plan- SP Approved and "Proposed"/As-Built



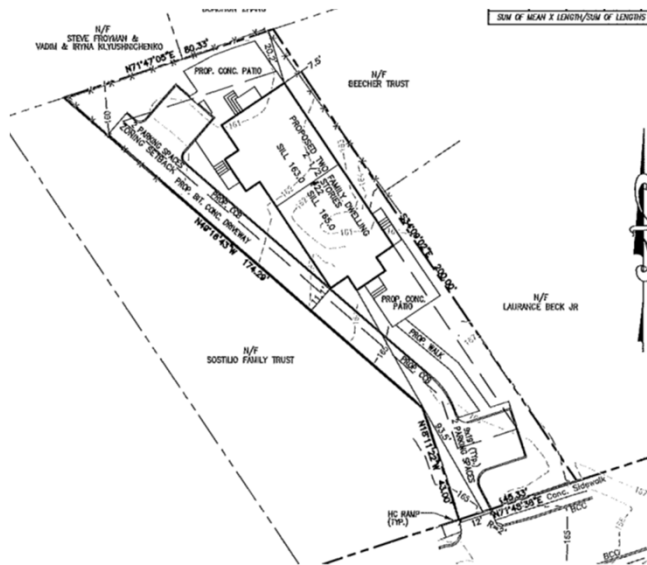
Site Plan- Front detail SP Approved and "Proposed"/As-Built



Site Plan- Rear detail
SP Approved and "Proposed"/As-Built



Site Plan dated 8/17/18 (earlier drainage review)



Photos



Photos



Photos



Photos



Photos



Photos





Photos



Photos



Photos



Proposed Findings- *Approval*

1. The specific site is an appropriate location for the additional landscape and site features, including relocated and expanded parking areas, paved patio areas, and stonework including walls, benches and an outdoor fireplace (§7.3.3.C.1);
2. The use as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2);
3. There will be no 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).

Proposed Conditions- *Approval*

1. Plan Referencing Condition
 - *Modified to reference submitted "as-built" plan*
1. Standard Building Permit Condition
 - *Provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval*
1. Standard Final Inspection/Certificate of Occupancy Condition.

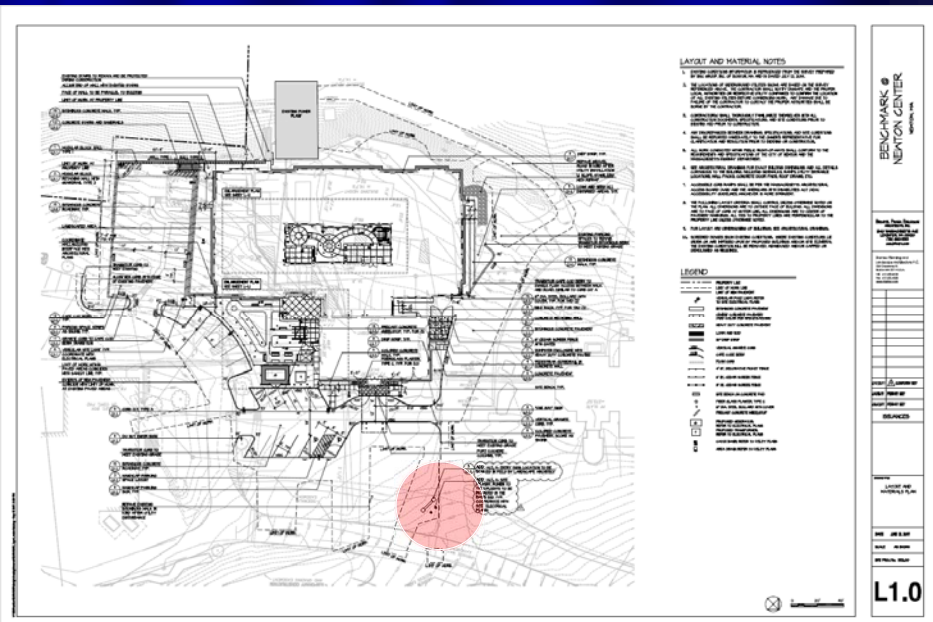


157 Herrick Road

Land Use Committee, July 23, 2019



Previously Approved Plan



Proposed Sign



1/2" deep acrylic letters
painted white.
Letters to be drilled and tap, stud mounted to Nichiha
panel supplied by owner

NICHIHA PANELS, COORDINATE FINISH
WITH ARCHITECTURAL SPECIFICATIONS
PRECASTING CAST-IN-PLACE
CONCRETE WALL

OPTION # 1
10' Long Panel
34.63 SF

The Rangeley Co.
therangeleyco.com

ENTRY SIGN HALL FRONT ELEVATION
SCALE=1/2"=1'-0"

Nincha Vintage Wood Cedar
File 6
April 9, 2019

Department of Planning and Development



PETITION #147-15(4)
157 HERRICK ROAD

SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND COUNCIL
ORDER #147-15 TO ALLOW A
FREE-STANDING SIGN

JULY 23, 2019

Requested Relief



Special Permits per §7.3.3 of the Newton Zoning Ordinance to:

- amend Council Order #147-15
- allow a free-standing sign (§5.2.13)

Criteria to Consider

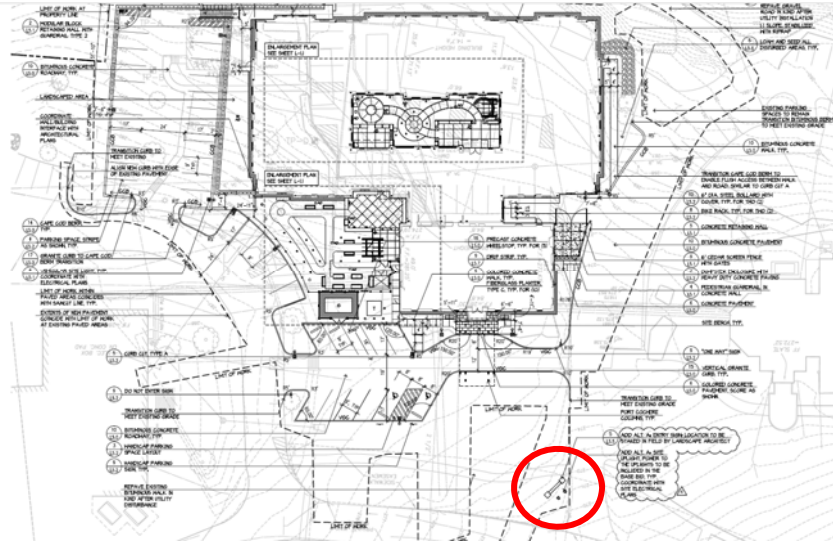
When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the amendment to Council Order #147-15. (§7.3.3.C.1.)
- The site, due to the amendment to Council Order #147-15, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians because of the amendment to Council Order #147-15. (§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)
- The free-standing sign should be permitted due to the nature of the use of the premises, the architecture of the building, or its location with reference to the street or that such exception would be in the public interest. (§5.2.13)

Aerial/GIS Map



Site Plan



Proposed Sign



Proposed Findings

1. The specific site is an appropriate location for the amendment to Council Order #147-15 because the site is being redeveloped via a special permit and a free-standing sign is appropriate to guide vehicles and pedestrians. (§7.3.3.C.1)
2. The amendment to Council Order #147-15 as developed and operated will not adversely affect the surrounding neighborhood because the sign is designed as a landscape feature. (§7.3.3.C.2)
3. The amendment to Council Order #147-15 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)

Proposed Findings Continued

5. The free-standing sign should be permitted due to its location with reference to the street as the sign is located at the corner of the site along the Herrick Road and Herrick Circle frontages and the sign will serve as a directory sign that will blend in with the site's landscaping. (§5.2.13)

Proposed Conditions



This Order is not consolidated with the previous Council Order.

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 Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, 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 #147-15, to allow a free-standing sign, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz.

1. The specific site is an appropriate location for the amendment to Council Order #147-15 because the site is being redeveloped via a special permit and a free-standing sign is appropriate to guide vehicles and pedestrians. (§7.3.3.C.1)
2. The amendment to Council Order #147-15 as developed and operated will not adversely affect the surrounding neighborhood because the sign is designed as a landscape feature. (§7.3.3.C.2)
3. The amendment to Council Order #147-15 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)
5. The free-standing sign should be permitted due to its location with reference to the street as the sign is located in the corner of the site along the Herrick Road and Herrick Circle frontages and the sign will serve as a directory sign that will blend in with the site's landscaping. (§5.2.13)

PETITION NUMBER: #147-15(4)

PETITIONER: BSL Newton Development, LLC

LOCATION: 157 Herrick Road, known as Section 65, Block 19, Lot 06
containing approximately 871,960 square feet of land

OWNER: BSL Newton Development, LLC

ADDRESS OF OWNER: 201 Jones Road, Suite 330 West
Waltham, MA 02451

TO BE USED FOR: Free-standing sign

CONSTRUCTION: Wood panel over concrete wall

EXPLANATORY NOTES: Amendment to Council Order #147-15 to allow a free-standing sign

ZONING: Single Residence 3

Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #147-15 by allowing a free-standing sign. All other conditions of Council Order #147-15 remain in full force and effect.

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:
 - I) Sheet L1.0 "Layout and Materials Plan" Prepared by Stantec Planning and Landscape Architecture P.C., unsigned and unstamped, dated June 12, 2017
 - II) "Entry Sign Wall Front Elevation", Prepared by The Rangeley CO., dated April 9, 2019.
2. The free-standing sign shall not be internally illuminated.
3. Prior to issuance of any Building Permits for the sign, the Petitioner shall record a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County and file a copy of such recorded Council Orders with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

Department of Planning and Development



**PETITION #237-19
138 LINCOLN STREET**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO FURTHER INCREASE
NONCONFORMING FLOOR AREA
RATIO FROM .36 TO .37 WHERE .34
IS ALLOWED AND TO EXTEND THE
NONCONFORMING TWO-FAMILY
USE



JULY 23, 2019

Requested Relief



Special Permit per §7.8.2.C.2 and §7.3.3 of the NZO to:

- Further increase nonconforming floor area ratio (§3.1.9).
- Extend the non-conforming two-family use (§3.4.1).

Criteria to Consider

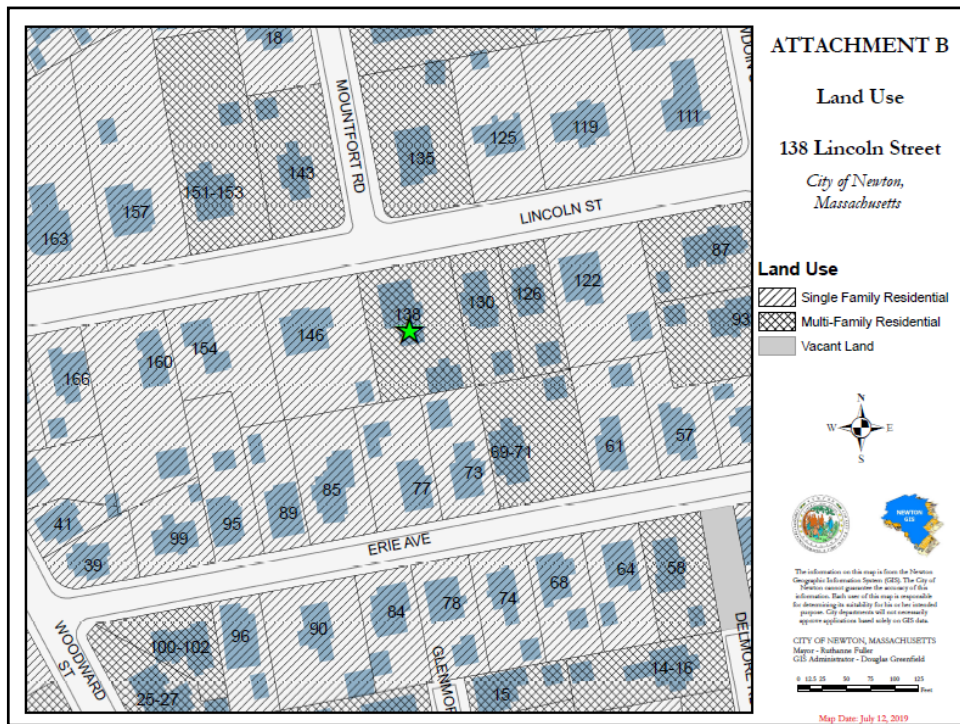
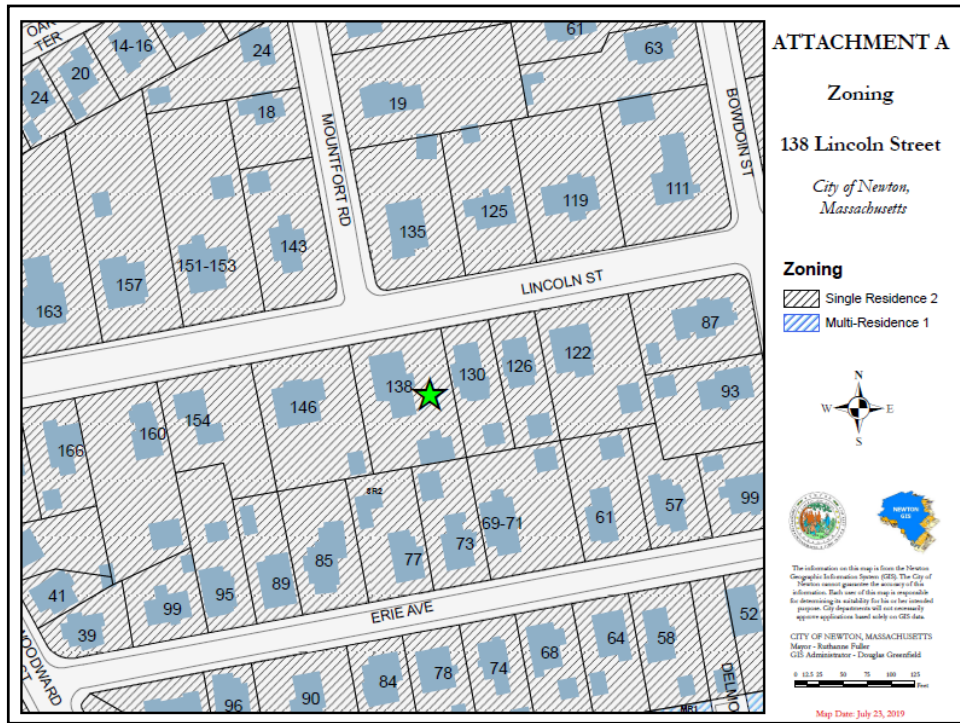


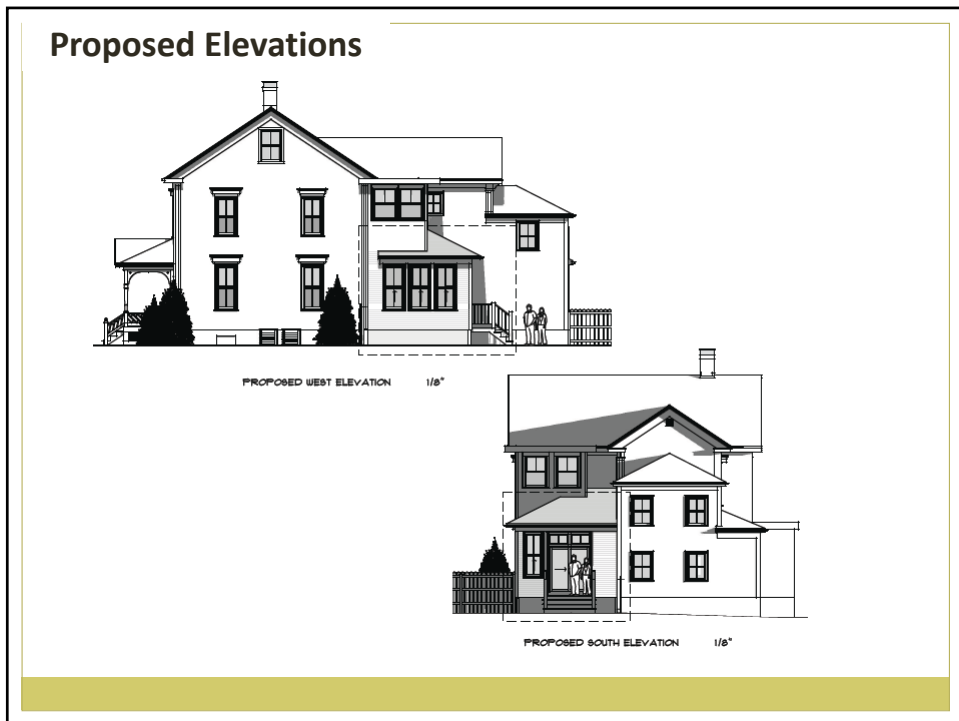
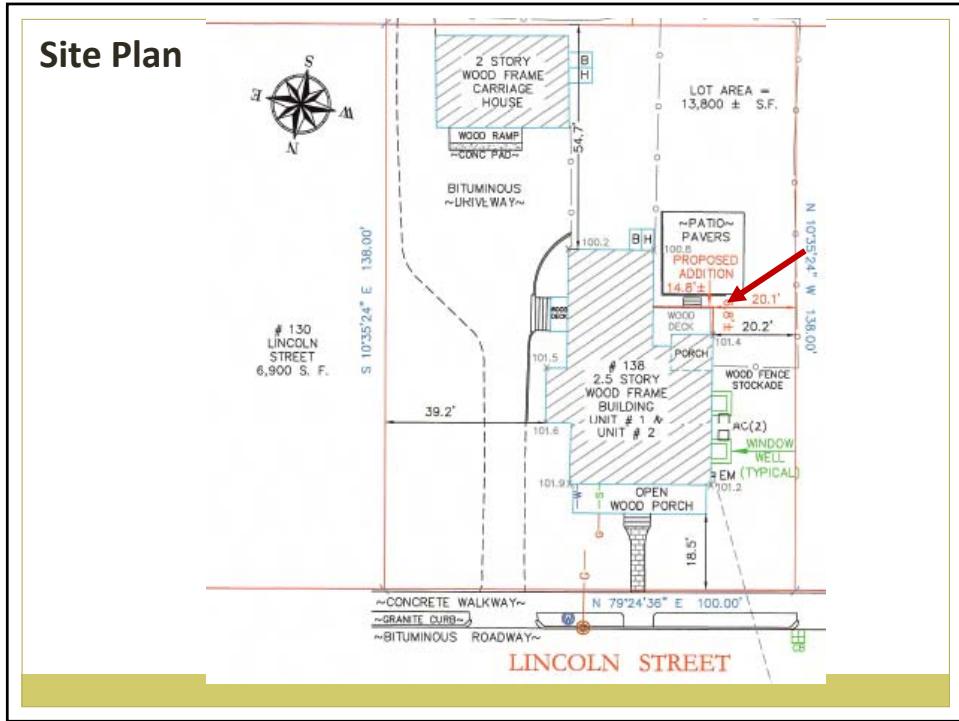
When reviewing this request, the Council should consider whether:

- The proposed increase in the nonconforming FAR from .36 to .37, where .34 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.1.9, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9 and §7.8.2.C.2)
- The proposed extension of the nonconforming two-family use is substantially more detrimental than the existing two-family use is to the neighborhood. (§3.4.1 and §7.8.2.C.2)

Aerial/GIS Map







Proposed Findings

- The proposed increase in the nonconforming FAR from .36 to .37, where .34 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the extension is limited to a one-story addition totaling 194 square feet. (§3.1.9 and §7.8.2.C.2)
- The proposed addition that increases the nonconforming FAR from .36 to .37, where .34 is the maximum allowed by-right is not substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the proposed structure is consistent with other structures in the neighborhood. (§3.1.9 and §7.8.2.C.2)
- The proposed extension of the nonconforming two-family use is not substantially more detrimental than the existing nonconforming two-family use because there are several nonconforming uses in the neighborhood. (§3.4.1 and §7.8.2.C.2)

Proposed Conditions

1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy 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 further increase the nonconforming Floor Area Ratio (FAR) from .36 to .37, where .34 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming FAR from .36 to .37, where .34 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the extension is limited to a one story addition totaling 106 square feet. (§3.1.9 and §7.8.2.C.2)
2. The proposed addition that increases the nonconforming FAR from .36 to .37, where .34 is the maximum allowed by-right is not substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the proposed structure is consistent with other structures in the neighborhood. (§3.1.9 and §7.8.2.C.2)
3. The proposed extension of the nonconforming two-family use is not substantially more detrimental than the existing nonconforming two-family use is to the neighborhood because there are several other nonconforming two-family uses in the neighborhood. (§3.4.1 and §7.8.2.C.2)

PETITION NUMBER: #237-19

PETITIONER: Douglas and Hana Gragg

LOCATION: 138 Lincoln Street Unit 1, on land known as Section 62, Block 26, Lot 09, containing approximately 13,800 square feet of land

OWNER: Douglas and Hana Gragg

ADDRESS OF OWNER: 138 Lincoln Street Unit # 1
Newton, MA 02461

TO BE USED FOR:	Single-Family Dwelling
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.1.9 and §7.8.2.C.2 to further increase the nonconforming FAR, §3.4.1 and §7.8.2.C.2 to extend the nonconforming two family dwelling use
ZONING:	Single Residence 2 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:
 - a. "Plan of Land Showing Proposed Addition, 138 Lincoln Street", signed and stamped by Dennis O'Brien, Professional Land Surveyor, dated May 19, 2019.
 - b. Architectural Plans and Elevations, "Gragg Residence", prepared by D.L. Grose + Associates, dated May 30, 2019, consisting of eight (8) sheets.
2. Prior to the issuance of any Building Permit, the petitioners shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site plan 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.

- d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.