



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, November 27, 2018**

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

**City Staff Present:** Solicitor Ouida Young, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba, 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.

- #359-18**      **Appointment of Jay Flynn to the Newton Wellesley Neighborhood Council**  
PRESIDENT LAREDO appointing JAY FLYNN, 41 Longfellow Road, Newton Lower Falls, as a member of the NEWTON WELLESLEY NEIGHBORHOOD COUNCIL for a term to expire December 31, 2019.  
**Action:**      **Land Use Approved 3-0 (Auchincloss, Laredo, Markiewicz not Voting)**
- #411-18**      **Appointment of Bonnie Rosenberg to the Newton-Wellesley Neighborhood Council**  
PRESIDENT LAREDO appointing BONNIE ROSENBERG, 129 Dorset Road, Waban, as a member of the Newton Wellesley Hospital Neighborhood Council for a term to expire on December 31, 2019.  
**Action:**      **Land Use Approved 3-0 (Auchincloss, Laredo, Markiewicz not Voting)**
- #515-18**      **Appointment of Terry Sherman to the Newton Wellesley Neighborhood Council**  
PRESIDENT LAREDO appointing TERRY SHERMAN, 21 Belmore Park, Newton Lower Falls, as a member of the NEWTON-WELLESLEY HOSPITAL NEIGHBORHOOD COUNCIL for a term to expire on December 31, 2019.  
**Action:**      **Land Use Approved 3-0 (Auchincloss, Laredo, Markiewicz not Voting)**
- #547-18**      **Appointment of Theresa Fitzpatrick to the Newton Wellesley Neighborhood Council**  
PRESIDENT LAREDO appointing THERESA FITZPATRICK, 1935 Beacon Street, Waban, as a member of the NEWTON WELLESLEY NEIGHBORHOOD COUNCIL for a term to expire December 31, 2019.  
**Action:**      **Land Use Approved 3-0 (Auchincloss, Laredo, Markiewicz not Voting)**

**Note:**      Ms. Bonnie Rosenberg stated that she has been a long-term resident and patient at Newton Wellesley Hospital. She noted that she is appreciative of the hospital and is excited to have the opportunity to offer her assistance to the community. Ms. Theresa Fitzpatrick stated that she has lived in Newton for 18 years and she is interested in remaining involved in the community and hospital

affairs. Ms. Fitzpatrick is looking forward to being able to relay information from the hospital to the community and noted that she does not have any concerns at this point relative to hospital operations. Committee members expressed no concerns relative to the appointments and voted unanimously in favor of a motion to approve items #359-18, #411-18, #515-18 and #547-18.

**#483-18**      **Petition to allow 20-unit multi-family dwelling at 182-184 & 166 California Street**  
LA&CA, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow the expansion of a nonconforming multi-family dwelling use by constructing a three-story multi-family development 32.6' in height in a manufacturing district with greater than 20,000 sq. ft. new gross floor area, allowing a nonconforming front setback, to allow a reduction of the requirement for parking to 1.25 stalls per unit, to waive maneuvering space for restricted parking stalls, to allow tandem parking and to allow retaining walls greater than four feet in height in the setback in Ward 1, Newton, at 182-184 California Street (Section 11 Block 12 Lot 12) and 166 California Street (Section 11 Block 12 Lot 13), containing approximately 18,121 sq. ft. of land in a district zoned MANUFACTURING. Ref: 7.3, 7.4, 4.4.1, 7.8.2.2, 4.3.2.B.1, 4.3.3, 7.8.2.C.2, 4.3.2.B.3, 5.1.4, 5.1.8.B.6, 5.1.13, 5.1.8.E.1, 5.4.2 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Held 5-0 (Markiewicz not Voting)**

**Note:**      Attorney Laurance Lee, Rosenberg, Freedman and Lee, 246 Walnut Street, represented the petitioner LA & CA, LLC to present an update to the Committee on changes to the Special Permit petition for a 20-unit multi-family dwelling at 182-184 & 166 California Street. Atty. Lee noted that at the public hearing on October 13, concerns were raised relative to access off of Los Angeles Street, the tandem parking configuration in the garage and the parking ratio at the site. Atty. Lee noted that the petitioner proposes to relocate the proposed access from Los Angeles Street to California Street, allowing an increase in the number of parking spaces in the below grade garage from 25 to 28 parking stalls. The increase in proposed parking stalls results in a parking ratio of 1.4 stalls per unit and the proposed tandem configuration has been limited to 16 spaces (8 tandem stalls) to be located on one side of the garage. Atty. Lee confirmed that the tandem spaces will remain decoupled from the sale of the units. A revised garage plan is shown attached. Atty. Lee noted that the updated plan includes additional space in the maneuvering aisle in the garage, two areas for "live parking" for additional maneuverability, bike storage, elevator access and two garage parking stalls. He stated that the Fire Department has reviewed the plans and has expressed no concerns relative to access. Atty. Lee noted that petitioner responded to the Committee at the initial public hearing by adding a third affordable unit as well as one 1-bedroom unit. The amended plan includes outdoor patio space and additional landscaping. Atty. Lee confirmed that there will be a location for dumpsters, snow will be stored on site or removed, and the petitioner has committed to joining the Watertown Transportation Management Association. Based on the reconfiguration of the access from Los Angeles Street to California Street, the Planning Department must conduct a peer review of traffic and parking.

Committee members expressed support for the relocation of the proposed driveway from Los Angeles Street to California Street, the added patio space, the reduction in total number of bedrooms and the increase in number of affordable units. Some Committee members felt that the increase in available parking stalls at the site was an improvement to the proposal while others expressed concerns

that the increased number of stalls would encourage vehicle owners and additional traffic at the site. Additionally, Committee members acknowledged that overflow parking on side streets could become an issue if the winter parking ban is modified. Committee members requested that the petitioner provide a more robust Transportation Management Plan. A Committee member noted that the number of units is significantly more than the 189-193 Adams Street development, on a comparable lot and emphasized the importance of the transportation plan. Atty. Lee noted that the petitioner is still working with the Planning Department on details of the parking and traffic which will be subject to a peer review. Atty. Lee emphasized that the size of the development would be well served by the proximity to local amenities as well as public transportation.

A Committee member suggested that the petitioner switch the location of the live parking (adjacent to the elevator) with the handicapped parking and the removal of some parking stalls to locate underground storage. Committee members were in agreement that the proposed number of units at the site is high and urged the petitioner to consider a smaller number. Committee members unanimously supported the authorization of a peer reviewer to analyze the project. Committee members voted unanimously in favor of a motion to hold the item until January 8, 2019.

**#545-18      Special Permit Petition to increase non-conforming FAR at 132 Pleasant Street**  
DAVID JELLINEK and SARAH SPITZ petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition to the first floor and basement levels, exceeding the maximum allowable FAR of .42 where .50 exists and .54 is proposed at 132 Pleasant Street, Ward 6, Newton Centre, on land known as Section 64 Block 26 Lot 9, containing approximately 7,560 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Approved 5-0 (Markiewicz not Voting)**

**Note:**      Petitioners David Jellinek and Sarah Spitz presented the petition to exceed the FAR at 132 by extending the rear of the house within the existing footprint to create desk space and added mudroom space. It was noted that the proposed addition is 186 sq. ft. and would increase the FAR at the site from .502 to .542. The proposed addition will comply with setback requirements at the site and will be consistent with the existing house.

Planning Associate Katie Whewell noted that the proposed addition is well screened, not higher than the existing structure and consistent with the neighborhood character.

The Public Hearing was Opened.

Juliette Godson, 140 Pleasant Street, is supportive of the proposed addition and requested that she has access to the shared driveway at all times during construction.

Neil Miller, 126 Pleasant Street, noted that he is a rear abutter. Mr. Miller stated that he is supportive of the project as the petitioner has agreed to maintain the existing landscaping as well as add some additional landscaping.

Seeing no other member of the public who 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. Committee members expressed no concerns relative to the petition and voted unanimously in favor of approval.

**#544-18**      **Petition to allow parking in the setback and within 5' of the street at 79 Crescent Street**  
JI SHI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four parking stalls in the front setbacks of the existing two-family dwelling at 79 Crescent Street/Robinhood Street, in Ward 4, Auburndale, on land known as Section 43 Block 02 Lot 08, containing approximately 7,837 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 5.1.13, 5.1.7.A of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 6-0**

**Note:**      Petitioner Ji Shi, 355 Walnut Street, presented the request to allow parking in the setback and within 5' of the Street at 79 Crescent Street. Mr. Shi noted that he received approval to construct a by right second unit to the existing dwelling at 79 Crescent Street. Approval of the second unit required construction of an additional driveway which was approved when the site plan was submitted. Mr. Shi noted that Inspectional Services did not identify any issues relative to the site plan until he submitted as-built plans for the Certificate of Occupancy. To rectify the violation, Mr. Shi was told that he could demolish a portion of the newly constructed driveway and construct another driveway further into the site. Mr. Shi noted that at this stage, demolishing and reconstructing the driveway would be at a significant expense. Additionally, he noted that the property is at the corner of Crescent and Robinhood Streets, abutting the Mass Pike, where there is no sidewalk and limited pedestrian activity.

Senior Planner Neil Cronin reviewed the requested relief and criteria for consideration as shown on the attached presentation. Mr. Cronin demonstrated the proposed site plan and location of the property and noted that relief is required for two parking stalls in the setback. Mr. Cronin confirmed that the Planning Department has no concerns relative to the petition. It was noted that although the parking stalls are within 5' of the street, there is space beyond a 9x19 stall that will act as a buffer if a sidewalk was ever installed. Committee members also acknowledged that the site is on a corner lot, adjacent to the Mass Pike.

The Public Hearing was Opened. Seeing no member of the public who wished to speak, Councilor Markiewicz motioned to close the public hearing which carried unanimously. Councilor Markiewicz motioned to approve the petition. Committee members were supportive of the petition, noting the unique circumstances. Mr. Cronin confirmed that Inspectional Services committed an error when issuing the building permit, not recognizing the uncommon rule. The Committee requested that the Planning Department encourage the Inspectional Services Department to consider changing the review process for permit applications. Committee members voted unanimously in favor of approval.

**#482-18**      **Special Permit to waive 17 parking stalls at 2330 Washington Street**  
ARTISAN CHILD CARE/CURTIS HOUSE, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow an increase in the number of teachers and children in the program by

waiving 17 parking stalls at 2330 Washington Street, Ward 4, Newton Lower Falls, on land known as Section 42 Block 31 Lot 18, containing approximately 27,277 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3, 7.4, 5.1.4, 6.3.4.B.3.c of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Held 6-0**

**Note:** Attorney Frank Stearns, Holland and Knight, Boston, represented the petitioner; Artisan Child Care and provided updates to the petition. Atty. Stearns noted that in response to concerns from the Planning Department, members of the public and Committee members, the petitioner has updated the parking management plan. MDM Management Transportation Consultant Bob Michaud stated that the enhanced parking management plan is based on supplemental data collected over a week, based on concerns that only one day of data was taken. Mr. Michaud noted that currently the facility operates with one building entrance. The petitioner proposes to locate a second building entrance at the rear of the building to more efficiently facilitate pickup and drop-off. The petitioner also proposes to implement an owner operated 15 passenger shuttle service from the Woodland MBTA station. Use of the shuttle service will be a condition of employment for an increasing number of staff members as the facility grows. Atty. Stearns noted that the petitioner will also subsidize the cost of parking passes at the Woodland station and/or MBTA passes for employees who use public transportation.

Mr. Michaud provided an analysis of parking at the site (shown attached). He emphasized the availability of parking during the various phases and confirmed that the petitioner is confident that the petitioner can operate successfully while maintaining vacant parking spaces and avoiding the use of on street parking facilities. Mr. Michaud noted that the peak hours at the facility are in the morning (from 10:00 am – 12:00 noon) where there is some overlap of staff. Mr. Michaud noted that the petitioner is committed to working with the City to create suitable lookback provisions at each new phase of facility growth. Committee members agreed that the Law Department should review the draft conditions prior to the Committee vote. Chief Planner Jennifer Caira stated that concerns remain relative to enforcement of the conditions. Committee members asked that the Planning Department work with Inspectional Services on drafting conditions that are enforceable. It was noted that the Historic Commission must review proposed structural changes at the site relative to new egress. Atty. Ouida Young confirmed that if the Council approves the Special Permit, a change to the site plan to allow a new egress could be reviewed as a consistency ruling.

Len Freedberg, 91 Mandalay Road, noted that he has concerns about the impact on traffic.

Seeing no other member of the public who wished to speak, Councilor Lipof motioned to hold the item which carried unanimously.

**Respectfully Submitted,**

**Greg Schwartz, Chair**