



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 13, 2024

TO: City Council

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

SUBJECT: **Petition #332-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing structures, combine the lots into one 10,578 square foot lot, and construct four residential dwelling units in one building consisting of three stories and greater than 24 feet in height at 340 River Street and 76 Lexington Street, Ward 4, West Newton and Auburndale, on land known as Section 44 Block 35 Lots 60 and 59, containing approximately 10,578 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 4.4.1, 4.1.2.B.3, 4.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.viewpointcloud.com/records/834332>

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.



340 River Street

Background

On September 10, 2024, the Land Use Committee opened the Public Hearing and voted to hold the petition. The Land Use Committee requested corrections to the Site Plan to show the closure of both curb cuts on Lexington Street, reduced height of the building to below 36', addition of permeable pavers, and improvements to the landscaping plan.

Project Updates

- Architectural Plans: the building elevations dated September 11, 2024 show a reduced height to 35.8' whereas the previous proposal measured 37.8' high. This two foot reduction was created by a reduction of 1.5 feet between the top of the ridge and third story floor and by a reduction of 0.5 feet in height between the second floor and the third story floor.
- Site Plans: the site plans show the closure of both existing curb cuts on Lexington Street. Additionally, permeable pavers were added to the entrance of the driveway. Lastly, the building profile confirms the height change shown on the building elevations with an overall decrease of two feet. The average grade plan remains unchanged as does the remainder of the grading changes to the site proposed in the initial Site Plans dated May 31, 2024.
- Landscaping Plans: the updated landscaping plans show the replacement of 14 American Arborvitaes with 12 Scots, or Scotch, Pines. The total of Angel Song Hydrangeas is reduced from 35 to 31. The proposed placement of the plants remains the same.

Analysis of Changes

The revised Architectural, Site, and Landscaping Plans address concerns presented in the Land Use Committee memorandum from Planning and during the discussion from Councilors during the September 10th meeting. The reduced height of the dwelling brings the overall height to under 36 feet. This change will result in a building that is comparable to dwellings in the vicinity and nearby residential districts. The changes to the Site Plan accurately depict the plan to close both curb cuts along Lexington Street, this demonstrates improvements to vehicular and pedestrian safety for the site. The petitioner also added permeable pavers to the driveway entrance in response to a request from a Councilor. The replacement of arborvitaes with scots pine on the landscaping plan is welcome as it not only meets requests to replace the previously planned arborvitaes but adds a much larger and taller tree that will assist in screening the building and provide additional vegetation and shade mass in an area where many lots are fully paved.

ATTACHMENTS:

ATTACHMENT A: Land Use Committee Memorandum for September 10, 2024 Public Hearing

on 340 River Street

- ATTACHMENT B:** Zoning Review Memorandum
- ATTACHMENT C:** Newton Historical Commission Decision- 76 Lexington Street
- ATTACHMENT D:** Newton Historical Commission Decision- 340 River Street
- ATTACHMENT E:** Updated DRAFT Council Order



City of Newton, Massachusetts

Department of Planning and Development

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Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 6, 2024

TO: City Council

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

SUBJECT: **Petition #332-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing structures, combine the lots into one 10,578 square foot lot, and construct four residential dwelling units in one building consisting of three stories and greater than 24 feet in height at 340 River Street and 76 Lexington Street, Ward 4, West Newton and Auburndale, on land known as Section 44 Block 35 Lots 60 and 59, containing approximately 10,578 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 4.4.1, 4.1.2.B.3, 4.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.viewpointcloud.com/records/834332>

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.



340 River Street

I. Project Description

Use –residential (four dwelling units)

Zone – Business Use 2

Lot size – As proposed, 10,578 square feet following the merging of 340 River Street and 76 Lexington Street

Existing Nonconformities –lot area for 340 River Street and 76 Lexington Street, height in stories and ground floor residential for 76 Lexington Street

Proposal- The petitioner is seeking to demolish the existing structures at 340 River Street and 76 Lexington Street, combine the two lots, and construct four dwelling units across one lot

Analysis

The proposed project consists of the demolition of an existing commercial building at 340 River Street with three retail storefronts and an existing single-family home at 76 Lexington Street and the subsequent construction of four dwelling units, following a merger of the two lots. The proposed plans show an increase in housing units from one to four and the elimination of three small retail storefronts where two currently appear to be vacant. The proposed increase in housing units will be a minor contribution towards the City's goals in the Newton Comprehensive Plan and Housing Production Plan where two or three retail storefronts currently appear vacant.

Residential uses tend to have lower trip generation rates than commercial uses. The reduction in curb-cuts from two to one and limiting of the site to one entry/exit away from the intersection is an improvement over the existing conditions, which does not have parking spaces clearly marked on the site plan or on the ground but may be inadequate should all three storefronts to be occupied. Planning has reached out to the Transportation Division of Public Works to obtain additional comments on the site design and any anticipated traffic generation in response to a question from a Councilor.

Given the proposed residential use, Planning believes the requested relief to allow ground floor residential use, height above two stories and 24 feet within the Business zone is appropriate as 2.5 stories and 36 feet in height is allowed in residential zones for single-family attached dwellings, the most similar building type. Planning recommends the petitioner reconsider the proposed height of 37.8 feet to bring into alignment with prescribed standards for residential buildings due to the existing residential uses within the same block (the eastern side of Lexington Street and southern side of River Street). Planning notes this development would also be one of the only three story buildings in the neighborhood aside from a multi-unit apartment building at 89 Lexington Street. Planning has also included a draft council order for this project for when the time is appropriate for review.

Planning notes that the demolition delay for both properties has expired. While this does not necessarily preclude the special permit application from moving forward, resubmittal is required prior to a demolition permit or building permit for the proposed project. The petitioner should

provide an update on the status of this submission. The petitioner should also submit a landscape plan that includes a caliper inch analysis and that could potentially be referenced in a council order. The landscape plan, submitted on September 5, is untitled and does not indicate who prepared it which is important for the plan referencing condition of the special permit, should this application be approved. There is also open curb cut along Lexington Street shown on the proposed conditions plan that should be closed as they are proposing to eliminate vehicular access to the site from Lexington Street.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§4.4.1	To allow ground floor residential	S.P. per §7.3.3
§4.1.2.B.3	To allow three stories	S.P. per §7.3.3
§4.1.3	To allow buildings greater than 24 feet in height	S.P. per §7.3.3

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

III. Criteria for Consideration per §7.3.3:

- The specific site is an appropriate location for allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet. (§7.3.3.C.1)
- The location for allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet 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 created by allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved in allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet. (§7.3.3.C.4)

IV. Project Proposal and Site Characteristics

Project Proposal

The proposed project consists of four townhouse style dwelling units occupying a footprint of

4,010 square feet and is designed to consist of three stories, 37.8 feet in height and 1.18 in Floor Area Ratio. The building setbacks and Floor Area Ratio comply with Business Use 2 standards, which tend to be more generous than residential zoning districts. As proposed, the height requires zoning relief. The proposed design features four townhouse style units of similar design with a largely rectangular floorplate oriented. The proposed design allows for distinction between the four units and architectural features created using different siding materials and architectural features along the roofline. The design includes large gables from the second floor to the roofline spanning the width of Units two and four in the front and Units one and four in the rear with additional gables on the front facing River Street and on the side. Several dormers and a mansard roof will also create some articulation and visual interest within the roofline.

Parking and Circulation

The project proposes significant changes to the site design in terms of parking and circulation. It appears they are proposing to eliminate a curb cut along Lexington Street, and the civil plans should be updated to include the closing of that curb cut. Access is maintained from River Street with the curb cut is reduced to 18 feet. A driveway will span the majority of the lot line opposite River Street with each unit featuring two car garages to accommodate the required parking. As all proposed parking is internal, the site does not trigger requirements in Section 5.1.8 for parking facilities over five stalls and therefore the proposal meets all parking and circulation requirements.

Landscaping

There will be seven to fifteen feet of landscaped area in between the driveway and lot line and a turnaround area just past the last unit. Each unit will also have a walkway from the front entrance to the sidewalk on Lexington Street. The front/north façade facing River Street will be set back approximately 10.5, with the side/south setback set back 19.7 feet, the front/west façade facing Lexington Street will be set back 13.5 feet, and the rear set back 25.1 feet. This will create additional area for landscaping, with a total of 3,775 square feet in landscaped area proposed, an increase of 3,215.36 square feet from the previous site plan.

Site Considerations

The site consists of a commercial building at 340 River Street that features three retail storefronts and a single-family dwelling and detached two-car garage at 76 Lexington Street. The commercial building was constructed in 1910 as a single-story building with small storefronts that have historically included a produce market, small restaurant, nail and hair salons, and currently, a jeweler with two vacant storefronts. The single-family dwelling was also constructed in 1910 and presents as a 2.5 story dwelling with a detached two-car garage that has a floor of living space above and is accessible only by the parking lot that is on the east side of the 340 River Street lot.

The two lots will total 10,578 square feet when merged. In total, the merged lot currently features 9,848.74 of impervious area with only 560.36 square feet of landscaped area. The lot is generally level with a slight increase in grade from River Street to opposite lot line. There is minor

leveling of the lot where the building is proposed. This will not add significant fill to the lot and will not change the existing grade by more than a foot per the submitted site plans. The regrading will change the existing slope, which slopes downward about two feet from the south to north to create a more level grade plane around the proposed dwellings, while keeping the general downward slope of the lot. These changes do not include any retaining walls and will not add any more than a foot of fill.





Rear Elevation



Right/Southwest Elevation



I. Interdepartmental Review

- A. Historic: 76 Lexington Street applied for Demolition Review on September 10, 2014 and was found to be Preferably Preserved with a Demolition Delay imposed until October 14, 2015. That delay expired on October 14, 2017 and resubmittal is required prior to obtaining a demolition permit or a building permit for the proposed project. Similarly, 340 River Street applied for Demolition Review on September 10, 2014. No Demolition Delay or status of Preferably Preserved was imposed, however the decision expired on October 14, 2014. Resubmittal is required prior to a demolition permit or building permit for the proposed project.
- B. DPW Engineering: the petitioners calculated a proposed decrease of 3,168.51 square feet in impervious area. Engineering review is not required at this time and a minor stormwater management review is required prior to the issuance of a building permit,

- should this project be approved.
- C. City Forester: prior to the issuance of a building permit, the petitioners must submit a more detailed landscaping plan for review with the City Forester that demonstrates compliance with the Tree Ordinance.
 - D. DPW Traffic: Planning has requested DPW's input on the potential traffic implications of the proposed project.

II. Petitioner's Responsibilities

The petitioner should address any concerns outlined in the memorandum and provide an update as to the status of a resubmission to the Newton Historical Commission.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum
- ATTACHMENT B:** Newton Historical Commission Decision- 76 Lexington Street
- ATTACHMENT C:** Newton Historical Commission Decision- 340 River Street
- ATTACHMENT D:** DRAFT Council Order



Setti D. Warren
Mayor

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Telefax
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www.newtonma.gov

Candace Havens
Director

REQUEST FOR DEMOLITION REVIEW

DATE RECEIVED: 9-10-14 PROJECT #: 14090040
PROJECT ADDRESS: 76 Lexington Street

PROJECT INFORMATION

TYPE OF DEMOLITION: PARTIAL ** TOTAL

(** "Partial" demolition of a structure is the alteration or removal of over 50% of any single exterior wall surface or roof structure. Each is calculated by square footage.)

STRUCTURE TO BE DEMOLISHED (Check all that apply):

HOUSE GARAGE SHED NON-RESIDENTIAL BUILDING OTHER

IF OTHER, PLEASE DESCRIBE: _____

WHAT YEAR WAS THE STRUCTURE BUILT: 1910

IS THE STRUCTURE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES? YES NO

DESCRIPTION OF THE DEMOLITION REQUEST BELOW (Briefly describe the project):

*total Demo
to Reconstruct*

IF KNOWN, BRIEFLY DESCRIBE THE KNOWN HISTORY OF THE PROPERTY:

THE REVIEW APPLICATION SHOULD INCLUDE THE FOLLOWING INFORMATION

REQUIRED DOCUMENTATION:

- ____ PHOTOGRAPHS OF THE AFFECTED STRUCTURE FROM THE FRONT, REAR, AND SIDES AND STREET.
- ____ ASSESSOR'S MAP SHOWING PROPERTY LOCATION
- ____ BUILDING ELEVATION PLANS 11" X 17" OR SMALLER (FOR PARTIAL DEMOLITIONS ONLY).

SUGGESTED DOCUMENTS:

- ____ BUILDING ELEVATION PLANS OR SKETCHES 11" X 17" OR SMALLER
- ____ BUILDING PRODUCT/MATERIAL INFORMATION
- ____ SITE PLAN
- ____ PHOTOS OF NEIGHBORHOOD

APPLICATION AUTHORIZATION

PROPERTY OWNER: James B. & Charlotte Trustee 9/10/14
(Print name) (Signature name) (Date)

(All plans **MUST** be dated, drawn to scale, and clearly labeled. An inaccurate or incomplete application will **NOT** be accepted. Please review the reverse of this form for additional information.)

NOTE: This Application **MUST** be accompanied by a General Permit Application.



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GENERAL PERMIT APPLICATION

PROJECT #: 14090040 ZONING DISTRICT: _____ DATE RECEIVED: 9-10-14

PROJECT DESCRIPTION: _____

PROPERTY LOCATION INFORMATION

STREET ADDRESS: 76 Lexington Street CITY/ZIP: 02465

LEGAL DESCRIPTION (SECTION, BLOCK, LOT): _____

PROPERTY OWNER INFORMATION

NAME: Frederick S. Camerato PHONE: 6172445588 ALT. PHONE: _____

MAILING ADDRESS: 342 rear River St Newton MA 02465 E-MAIL ADDRESS: camcorpoffice@gmail.com

PROPERTY OWNER CONSENT

I am (we are) the owner(s) of the property subject to this application and I (we) consent as follows:

- This application for a land use permit or administrative approval for development on my (our) property is made with my permission.
- I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this application.

X Frederick S. Camerato _____ 9/10/14
 (Property Owner Signature) (Date)

X FREDERICK S. Camerato trustee _____ 9/10/14
 (Property Owner Signature) (Date)

NOTICE: The City of Newton staff may need access to the subject property during regular business hours and will attempt to contact the applicant/agent prior to any visit. Further, members of a regulatory authority of the city may visit the property as well.

APPLICANT / AGENT INFORMATION

NAME: Frederick S. Camerato PHONE: 6172445588 ALT. PHONE: _____

MAILING ADDRESS: 342 rear River St Newton, MA E-MAIL ADDRESS: camcorpoffice@gmail.com

X Frederick S. Camerato _____ 9/10/14
 (Applicant/Agent Signature) (Date)

NOTICE: The applicant/agent is the primary contact and may be any individual representing the establishment or property owner. The applicant/agent must also be legally authorized to make decisions on behalf of the Property Owner(s) in regards to the application.

OFFICE USE ONLY BELOW THIS LINE

CHECK APPROPRIATE PERMIT OR REVIEW PROCESS (CHECK ALL BEING SUBMITTED)

<input type="checkbox"/>	Zoning Review Application	<input type="checkbox"/>	Comprehensive Permit
<input type="checkbox"/>	Administrative Site Plan Review	<input type="checkbox"/>	Variance Application
<input type="checkbox"/>	Sign Permit	<input type="checkbox"/>	Historic Preservation Review
<input type="checkbox"/>	Special Permit/Site Plan Approval	<input type="checkbox"/>	Conservation Commission Review
<input type="checkbox"/>	Fence Appeal	<input type="checkbox"/>	Other, describe _____

Comments: _____

PERMIT INTAKE INITIALS
 AND DATE STAMP

NOTE: This form MUST accompany all other Department of Planning and Development applications.

To Be Completed By Applicant



Setti D. Warren
Mayor

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TDD/TTY
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Candace Havens
Director

Newton Historical Commission Demolition Review Decision

Date: 10/20/14 Zoning & Dev. Review Project# 14090040

Address of structure: 76 Lexington Street

Type of building : House

If partial demolition, feature to be demolished is _____

The building or structure:

is _____ is not in a National Register or local historic district not visible from a public way.

is _____ is not on the National Register or eligible for listing.

is _____ is not importantly associated with historic person(s), events, or architectural or social history

is is not _____ historically or architecturally important for period, style, architect, builder, or context.

is _____ is not located within 150 feet of a historic district and contextually similar.

is _____ **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

_____ **APPROVES** the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

DOES NOT APPROVE and the project requires
Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is _____ **NOT PREFERABLY PRESERVED**

Demolition is not delayed and no further review is required.

is **PREFERABLY PRESERVED - (SEE BELOW).**

Delay of Demolition:

is in effect until 10/14/15

_____ has been waived - see attached for conditions

Determination made by:

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.



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Candace Havens
Director

RECORD OF ACTION:

DATE: October 20, 2014

SUBJECT: 76 Lexington Street

At a scheduled meeting and public hearing on October 14, 2014 the Newton Historical Commission, by vote of 3-4:

RESOLVED to find the house at 76 Lexington Street **not preferably preserved**.

Voting in the Affirmative: _____ Voting in the Negative _____ Abstained

Dave Morton, Chairman
Laura Fitzmaurice, Member
Jean Fulkerson, Member

Peter Dimond, Member

Mark Armstrong, Member

Jeff Templer, Member
Len Sherman, Alternate

The motion did not pass, so the house at 76 Lexington is preferably preserved.



Katy Hax Holmes, Commission Staff



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Setti D. Warren
 Mayor

Candace Havens
 Director

REQUEST FOR DEMOLITION REVIEW

DATE RECEIVED: 9-10-14 PROJECT #: 14090039
 PROJECT ADDRESS: 340, 342, 344 RIVER ST

PROJECT INFORMATION

TYPE OF DEMOLITION: PARTIAL ** TOTAL

(** "Partial" demolition of a structure is the alteration or removal of over 50% of any single exterior wall surface or roof structure. Each is calculated by square footage.)

STRUCTURE TO BE DEMOLISHED (Check all that apply):

HOUSE GARAGE SHED NON-RESIDENTIAL BUILDING OTHER

IF OTHER, PLEASE DESCRIBE: _____

WHAT YEAR WAS THE STRUCTURE BUILT: 1910

IS THE STRUCTURE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES? YES NO

DESCRIPTION OF THE DEMOLITION REQUEST BELOW (Briefly describe the project):

*total demo
to reconstruct New Building*

IF KNOWN, BRIEFLY DESCRIBE THE KNOWN HISTORY OF THE PROPERTY:

*1920's & 1930's Produce Company
 40's & 50's small restaurant
 1950's 2000's Commercial*

THE REVIEW APPLICATION SHOULD INCLUDE THE FOLLOWING INFORMATION

REQUIRED DOCUMENTATION:

- PHOTOGRAPHS OF THE AFFECTED STRUCTURE FROM THE FRONT, REAR, AND SIDES AND STREET.
- ASSESSOR'S MAP SHOWING PROPERTY LOCATION
- BUILDING ELEVATION PLANS 11" X 17" OR SMALLER (FOR PARTIAL DEMOLITIONS ONLY).

SUGGESTED DOCUMENTS:

- BUILDING ELEVATION PLANS OR SKETCHES 11" X 17" OR SMALLER
- BUILDING PRODUCT/MATERIAL INFORMATION
- SITE PLAN
- PHOTOS OF NEIGHBORHOOD

APPLICATION AUTHORIZATION

PROPERTY OWNER: Fredrick CAMERANO [Signature] 9/10/14
 (Print name) (Signature name) (Date)

(All plans **MUST** be dated, drawn to scale, and clearly labeled. An inaccurate or incomplete application will **NOT** be accepted. Please review the reverse of this form for additional information.)

NOTE: This Application **MUST** be accompanied by a General Permit Application.



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Candace Havens
Director

Newton Historical Commission Demolition Review Decision

Date: 10/20/14 Zoning & Dev. Review Project# 14090039

Address of structure: 340-344 River Street

Type of building: Commercial buildings

If partial demolition, feature to be demolished is _____

The building or structure:

is _____ is not in a National Register or local historic district not visible from a public way.

is _____ is not on the National Register or eligible for listing.

is _____ is not importantly associated with historic person(s), events, or architectural or social history

is is not _____ historically or architecturally important for period, style, architect, builder, or context.

is _____ is not located within 150 feet of a historic district and contextually similar.

is _____ **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

_____ **APPROVES** the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

DOES NOT APPROVE and the project requires
Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is **NOT PREFERABLY PRESERVED**

Demolition is not delayed and no further review is required. 10/14/14

is _____ **PREFERABLY PRESERVED - (SEE BELOW).**

Delay of Demolition:

_____ is in effect until _____

_____ has been waived - see attached for conditions

Determination made by:

 NHC

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.



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Setti D. Warren
 Mayor

RECORD OF ACTION:

DATE: October 20, 2014

SUBJECT: 340-342 River Street

At a scheduled meeting and public hearing on October 14, 2014 the Newton Historical Commission, by vote of 5-2:

RESOLVED to find the commercial structures at 340-342 River Street **not preferably preserved**.

<u>Voting in the Affirmative:</u>	<u>Voting in the Negative</u>	<u>Abstained</u>
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Dave Morton, Chairman

Laura Fitzmaurice, Member

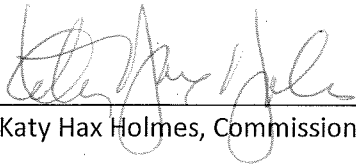
Jean Fulkerson, Member

Peter Dimond, Member

Mark Armstrong, Member

Jeff Templer, Member

Len Sherman, Alternate



Katy Hax Holmes, Commission Staff



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 19, 2024

To: Anthony CiccarIELlo, Commissioner of Inspectional Services

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

Cc: Terrence Morris, Attorney
340 River Street Realty Trust, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow ground floor residential use, and to exceed by right height and stories

Applicant: 340 River Street Realty Trust	
Site: 340 River Street and 76 Lexington Street	SBL: 44035 0060 and 44035 0059
Zoning: BU2	Lot Area: 10,578 square feet (combined)
Current use: Retail and two-family dwelling	Proposed use: Four residential dwelling units

BACKGROUND:

The property at 340 River Street consists of 5,151 square feet and is improved with a one-story retail building. The property at 76 Lexington Street consists of 5,427 square feet and is improved with a nonconforming two-family dwelling constructed circa 1880 and a detached two-story garage. Both properties are located in the BU2 district. The petitioner proposes to demolish the structures, combine the lots into one 10,578 square foot lot, and construct four residential dwelling units in one building.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 6/5/2024
- Zoning Plan, signed and stamped by Edmond T. Spruhan, engineer and Christopher C. Charlton, surveyor, dated 5/31/2024
- FAR calculations, signed and stamped by Michael L. McKay, architect, dated 5/28/2024
- Floor plans and elevations, signed and stamped by Michael L. McKay, architect, dated 3/11/2024, revised 3/22/2024, 5/30/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze the existing buildings, combine the two lots and construct four residential townhouse dwelling units in one building. Per section 4.4.1, a special permit is required to allow ground floor residential use with residential use above.
2. Per section 4.1.2.B.3 a building in the BU2 district is allowed two stories by right and up to four by special permit. The petitioner proposes three-story structures, requiring a special permit.

Per section 4.1.3 the maximum FAR for a three-story structure is 1.50. The petitioners propose an FAR of 1.18.

3. Per section 4.1.3 a building in the BU2 district may be up to 24 feet in height by right and up to 48 feet by special permit. The building is proposed with a height of 37.8 feet, requiring a special permit.
4. Per section 5.1.4, two parking stalls are required per each dwelling unit. With four units, eight stalls are required. Each unit will have a two-car garage at the ground level for a total of eight parking stalls, meeting the requirement of 5.1.4.

BU2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,578 square feet	No change
Setbacks			
• Front (River St)	10 feet	Not available	10.5 feet
• Front (Lexington St)	10 feet		13.5 feet
• Side	18.9 feet (1/2 Bldg Height)		19.7 feet
• Rear	18.9 feet (1/2 Bldg Height)		25.1 feet
Building Height	24 feet (36 feet by SP)	Not available	37.8 feet*
Max Number of Stories	2.5 (3 by SP)	1/2.5	3*
Lot Area Per Unit	1,200 square feet	10,578 square feet	2,645 square feet
FAR	1.5 (3 stories)	Not available	1.18

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§4.4.1	To allow ground floor residential	S.P. per §7.3.3
§4.1.2.B.3	To allow three stories	S.P. per §7.3.3
§4.1.3	To allow buildings greater than 24 feet in height	S.P. per §7.3.3

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 allow construction of four residential dwelling units with ground floor residential uses and a height of three stories and greater than 24 feet with in the Business 2 zoning district for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet as the site is abutted by residential zones and uses and the proposed height will be similar to the by-right height of those dwellings. (§7.3.3.C.1)
2. The waiver for ground floor retail requirement for the business use zone and allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet as developed and operated will not adversely affect the neighborhood as the resulting height will be comparable to other dwellings in the area and the site will not result in a significant reduction of available retail spaces as the site is in an area where retail is not common. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by a allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet as the overall number of curb cuts will be reduced and further removed from the intersection of Lexington and River Streets. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in allowing ground floor residential use within the business use zone and allowing three stories and height greater than 24 feet as less vehicular access will be required for the residential use compared to by-right commercial uses. (§7.3.3.C.4)

PETITION NUMBER: #332-24

PETITIONER: 340 River Street Realty Trust

LOCATION: 340 River Street

OWNER: 340 River Street Realty Trust

ADDRESS OF OWNER: 505 Waltham Street
Newton, MA 02465

TO BE USED FOR: Four residential dwelling units with associated relief

RELIEF GRANTED: Special Permit per §4.1.2.B.3, §4.1.3, §4.4.1, and §7.3.3 to allow ground floor residential in a business zone, height greater than 24 feet, and a height of three stories

ZONING: Business Use 2

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 signed and stamped by Bruce Bradford, Registered Land Surveyor, as revised June 18, 2024.
 - b. Architectural plans prepared by Ronald Jarek dated May 8, 2024 consisting of the following sheets:
 - i. Proposed elevations (showing front/northwest), A-2.1
 - ii. Proposed elevations (showing front/northeast), A-2.2
 - iii. Proposed elevations (showing left/east), A-2.3
 - iv. Proposed elevations (showing rear/south), A-2.4
 - c. Landscaping plans submitted September 5, 2024.
2. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.

- b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
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.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.

4. All appliances and utilities for the building shall be all-electric, including heating and cooling.
5. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
6. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested and the Petitioner has:
 - a. Filed with the building permit record statements by a professional land surveyor (or professional engineer), architect and landscape architect certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format, stamped, and signed by a professional land surveyor or professional engineer, as applicable.
 - c. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
7. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
8. Provided that all other requirements in Condition #6 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).