



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, June 14, 2016**

Present: Councilors Laredo, Schwartz, Crossley, Cote, Auchincloss, Lipof, Harney

Absent: Councilor Lennon

Also Present: Councilors Sangiolo

City Staff Present: Chief Planner Alexandra Ananth, Planner Neil Cronin, Planner Michael Gleba, Associate City Solicitor Bob Waddick

**Request for a Consistency Ruling relative to 131-181 & 180 Needham Street** requesting a change of use from office to retail and change in façade relating to Special Permit 91-15 and 182-09

Alexandra Ananth presented the changes relating to the consistency ruling. The change first change will be made to a rear building on the property. Newton Ski & Tennis will be moving into this building and as such they wish to change the use from office to retail. This change will require no expansion and the Planning Department does not have any concerns. The property will remain taxed as commercial. Kerry McCormack, Director of Development for Crosspoint confirmed that they intend to start work this summer. At 180 Needham Street, Ms. Ananth reviewed the request to reorient the location of the front door. The front door will be closer to the parking lot and the patio will remain facing Needham Street. The developer confirmed that three trees will remain on the property. The Committee felt that the changes to the plans were consistent with the original design.

**#145-16**      **Special Permit Petition to increase the nonconforming use at 226-228 California St**  
KTM PROPERTIES petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON CONFORMING STRUCTURE to construct a 45 sq. ft. bathroom addition to the first floor, further increasing the nonconforming residential structure at 226-228 California Street, Ward 1, Newton, on land known as SBL 11010 0015, containing approximately 6,863 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.4, 6.2.2, 7.8.2.C.2.

**ACTION:**      **Public Hearing Closed; Land Use Committee Approved 6-0.**

**NOTE:**      Adam Ruszczuk presented the request to construct a bathroom addition on the first floor. The Public Hearing was opened. Seeing no public comment, Councilor Auchincloss motioned for approval which carried unanimously. Planner Neil Cronin reviewed the changes being made to the property. The Chair noted that the Special Permit request was required because the property is preexisting nonconforming. Councilor Auchincloss motioned for approval. After a review of the Council Order, the Committee voted 5-0 in favor.

**#126-16**      **Special Permit Petition for 17 Malvern Terrace**  
CHARLES B. COSSABOOM petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE to modify an existing nonconforming two-family use and amend Special Permit #88702 to raze the existing buildings and

rebuild the dwelling away from the floodplain and closer to the street at 17 Malvern Terrace, Ward 4, Auburndale, on land known as SBL 41 26 17, containing approximately 13,970 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 3.4.1, 7.8.2.C.2, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION:** Land Use Committee Held 6-0.

**NOTE:** Attorney Terry Morris representing Charles Cossaboom reviewed the petition to rebuild the dwelling at 17 Malvern Terrace. Due to the proximity to the river, the house is frequently subject to flooding. The petitioner hopes to rebuild and reorient the house away from the floodplain. The Conservation Commission has reviewed and approval the demolition and reconstruction of the dwelling. Atty. Morris noted that the setback has increased on the sides and with the addition the square footage remains within the allowable FAR. The petitioner plans to add a berm around the house in order to have the house lifted. It was noted that this home has been a legal nonconforming 2 family in a single family residence area since 1946.

Architect Jay Walter presented a PowerPoint (attached) including the plans for the project. The front façade will retain the same proportions and they intend to salvage the cupola. Because it is a two family house in a primarily single family area, the petitioner plans to put one door in front of the house and one on the side in order to mask that it is a two family. The presentation also included photos of the house during flooding. At times, the water floods through the front door. Mr. Walter showed pictures of neighborhood houses that have had to build to address flooding.

Planner Michael Gleba reviewed the requested relief for the project. The relief includes a modification to the Special Permit granted in 1946 in addition to the modification of the two family use. Mr. Gleba identified that there is a potential need for additional screening on the North side of the property where the petitioner proposes to put the driveway. Mr. Gleba also noted that the house will conform to dimensional regulations.

Committee members requested how the petitioner plans to address the concerns detailed in the Engineering memo relating to the driveway. Committee members indicated concern relating to the run off of chemicals from the driveway as a result of having a driveway with a non-impervious surface. Additionally, Committee members felt that having a vacuum to collect the runoff would be easily maintained. Atty. Morris confirmed that the petitioner would be willing to meet the conditions relating to the drainage as set by the Council and the Conservation Commission.

Committee members discussed how the regrading of the property impacts the mass of the building. The attic is not counted towards FAR because it is less than 7 ft. and only 50% of the basement will be counted. The dwelling was confirmed to be approximately the same size but the house will be higher because of the change in grade. The new house would conform because the plans use the revised grade as the baseline. Committee members shared support in the necessity of moving the house away from the river however remained concerned about the height of the

house.

The petitioner was asked whether he gave consideration to keep one of the trees on the property. Mr. Cossaboom stated that the tree has already received approval to be taken down and he was not considering keeping the tree. He noted that the tree is where the driveway would go. Mr. Gleba noted that the plants on the side of the property were not initially indicated on the plans, prompting him to recommend additional shielding. He did note that the current plants are not in bloom in the winter.

Mr. Cossaboom gave the Committee background on the two-family. Mr. Cossaboom stated that after the house was purchased in 1948 as a two family, the family rented the second apartment. In the 1960s, his aunt and grandmother moved in to the second family. He stated that although extended family lived in the house, it has always been maintained as a two family house.

The Public Hearing was opened.

Neil Cheney, 22 Malvern Terrace, is opposed to the proposal at 17 Malvern Terrace. He feels that a two family in the neighborhood is inconsistent with the character of the neighborhood. Additionally, he feels that the mass of the building is disproportionate to the other homes.

David Ingham, 14 Malvern Terrace, is not opposed to modifications being made at 17 Malvern Terrace however he does have concerns about the impact of the two-family on traffic in the neighborhood. Mr. Ingham also has concerns about how a two family could affect the property values.

Diane Cossaboom, 17 Malvern Terrace, reiterated that the house has always been a two family. The new structure will be an improvement to the neighborhood as the current structure is not in good condition.

Some Councilors felt that a site visit could be beneficial to see if the size of the property would be consistent with other homes in the neighborhood. Attorney Waddick informed the Committee that the two-family can retain the two family status while on the existing footprint. By moving the footprint, they could forfeit that status.

Architect Jay Walter noted that the grading was not solely for aesthetic purposes. He noted that it was raised to provide adequate site drainage. The Conservation Commission requested the raised grade as well.

Committee members deliberated the need for a site visit. There were concerns about the elevations of the property. Councilor Harney motioned to hold the item which carried unanimously.

**#176-16      Special Permit to extend a nonconforming three story structure at 47 Lewis St.**

KATHERINE GRENZEBACK AND RONAN WOLFSDORF petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE by adding dormers to the attic at 47 Lewis Street, Ward 1, Newton, on land known as SBL 13002 0020, containing approximately 10, 315 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 1.5.4.D-F, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION:** Public Hearing Closed; Land Use Committee Approved 6-0 (Harney not voting)

**NOTE:** Ronan Wolfsdorf and Katherine Grenzeback presented the petition for 47 Lewis Street. They have an attic with a high center ridge. Makes it natural for development for a master suite and the family is expanding. They would like to add dormers and a valance. They want to keep the additional dormers 10\*10 consistent with the dormers that already exists. The Public Hearing was opened. Councilor Auchincloss motioned to close the Public Hearing and the Committee voted 5-0 in favor.

Planner Neil Cronin reviewed that the request is to further increase the nonconformance. The house is already nonconforming so the addition of dormers is the only change. The height is not changing and they have to come before the committee because the house is preexisting nonconforming. Increasing the nonconformity of the structure not the number of stories. 3.5 exists, 3.5 will stay. Spell FAR out. After minor amendments, with a motion to approve from Councilor Auchincloss; the Committee voted 6-0 in favor.

**#177-16** Special Permit Petition to waive 13 parking stalls at 1375-1379 Washington Street  
RON STOLOFF/KENMORE REALTY CORPORATION petition for SPECIAL PERMIT/SITE PLAN APPROVAL to take over the adjacent 996 sq. ft. space at 1379 Washington Street to add 37 seats at Blue Ribbon BBQ 1375-1379 Washington Street, Ward 3, West Newton, on land known as SBL 33015 0032, containing approximately 1,957 sq. ft. of land in a district zoned BUSINESS 1. Ref: 5.4.1, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION:** Land Use Committee Held 7-0.

**NOTE:** Scott Gubitose, General Manager of Blue Ribbon Barbeque presented the petition to expand to 1379 Washington Street and increase the size of the restaurant. The Public Hearing was opened.

The business owners at 1383-1387 Washington Street own a parking lot where Blue Ribbon Barbeque and other business' patrons frequently park unauthorized. They are looking to ensure that there is a parking management plan for the additional patrons of Blue Ribbon Barbeque. One suggestion that could be mutually beneficial was for the business owners to lease the spots after hours.

Mr. Cronin reviewed the requested parking waiver for the restaurant. Committee members requested that the petitioner address their plans to provide parking management to patrons. Mr. Gubitose, General Manager stated that the parking study accounted for 277 spots available within a 5 minute walking area. The Committee determined that there is a minimal amount of parking

available of Friday and Saturday night. The petitioner insisted that while there are a minimal number of spots above the requirement Friday and Saturday, it is above the requirement. Committee members supported the request for an enhanced parking management plan from the petitioner. It was explained that business aspects could improve with a collaboration including neighboring businesses. The Planning Department presented a brief overview of a Citywide Transportation Strategy that will be released in fall. Parking management and parking plans will be a part of that strategy. Additionally, Councilors suggested that parking management could include signs on the door, parking lot, website and ridesharing incentives. The Committee held the public hearing open to allow time for the petitioner to collaborate with Committee members and businesses in their neighborhood to compose a solution. Councilor Cote motioned to hold the item which carried 7-0.

**#178-16**      **Special Permit Petition further increase nonconforming FAR at 39 Hawthorne Ave**  
JOHN B ARONE AND DANIEL A ARONE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND THE NONCONFORMING FAR to add a 227 sq. ft. addition over existing living space and construct a 672 sq. ft. detached garage at 39 Hawthorne Avenue, Ward 4, Auburndale, on land known as SBL 43034 0012, containing approximately 9,602 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref 3.1.9, 7.8.2.C.2, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**ACTION:**      **Land Use Committee Approved 7-0.**

**NOTE:**      Petitioner John Arone presented the proposed changes to the property including the construction of a 672 sq. ft. garage in addition to a 227 sq. ft. extension over existing living space. These changes will increase the preexisting nonconforming FAR. Mr. Arone identified points to address that the Committee would find issues with.

There are two trees on the property. One large tree, will remain and a second tree, has been deemed unsafe by Mark Welch, Tree Warden and as such has been approved to be taken down. The petitioner has paid for sidewalk improvements to be made around the property. A draining plan has been constructed and pending approval of two car garage, he would implement the plan. It was recommended that Mr. Arone provide a landscape barrier and he stated that he will plant the length of the property between 29 and 39 Hawthorne Avenue.

Mr. Gleba from the Planning Department presented the proposed changes and photos of the property.

The Public Hearing was opened.

Timothy Moore, 55 Aspen Street, has concerns that the size of the garage is too dense for the property.

John Faubert, 30 Lake Avenue, is concerned about the loss of the tree and would like the petitioner to consider additional screening. Additionally he has concerns about the size of the garage.

Mr. Gleba confirmed that the proposed garage is large for a two car garage. Committee members wondered whether the mass was too substantial and whether screening would make a major difference. Gleba confirmed that the garage could be made smaller.

The petitioner stated he planned for the ability from the homeowner to store recreational equipment. He had a contingency plan for Committee members thinking that the garage was going to be too large. Mr. Arone agreed to build the garage with smaller dimensions of 24x26, 20' (previously 26x28, 21')

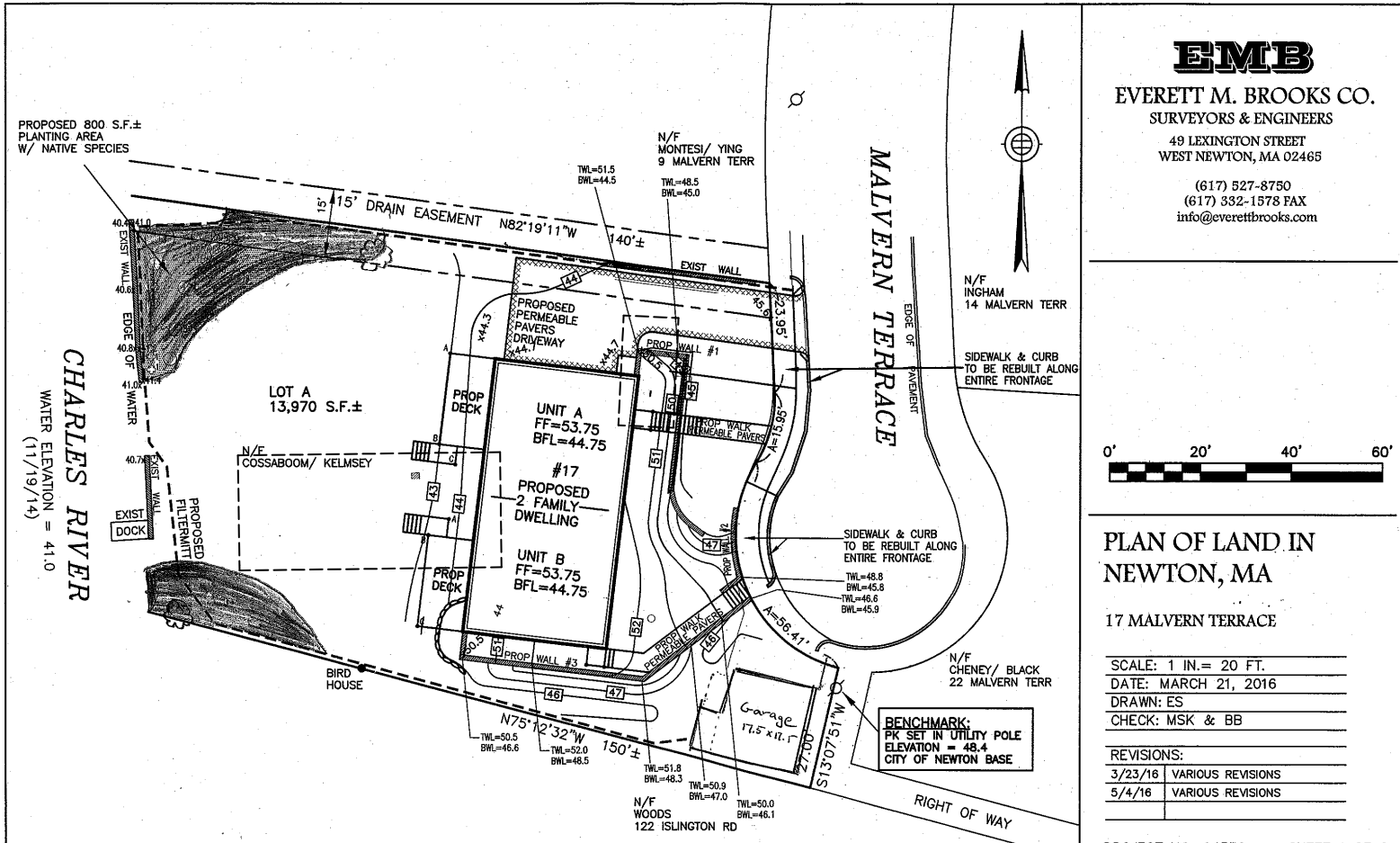
The Planning Department confirmed that they would run the changes in the plans by the Historic Commission administrative staff and confirm that the changes are acceptable. Councilor Cote motioned to close the Public Hearing which carried 7-0. Councilor Harney motioned for approval. It was noted that the petitioner is not the homeowner and does not live in the house. The Committee reviewed the findings and conditions for the Council Order and after making changes to the square footage, the Committee approved 7-0.

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**Respectfully submitted,**

**Marc C. Laredo, Chair**

# 17 Malvern Terrace



**EMB**

**EVERETT M. BROOKS CO.**  
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## PLAN OF LAND IN NEWTON, MA

17 MALVERN TERRACE

SCALE: 1 IN. = 20 FT.  
 DATE: MARCH 21, 2016  
 DRAWN: ES  
 CHECK: MSK & BB

REVISIONS:	
3/23/16	VARIOUS REVISIONS
5/4/16	VARIOUS REVISIONS

Proposed Site plan

# 17 Malvern Terrace



Existing house- street facade



# 17 Malvern Terrace



Existing house & shed

# 17 Malvern Terrace



View of the River from the yard

# 17 Malvern Terrace



River View from South side yard

# 17 Malvern Terrace



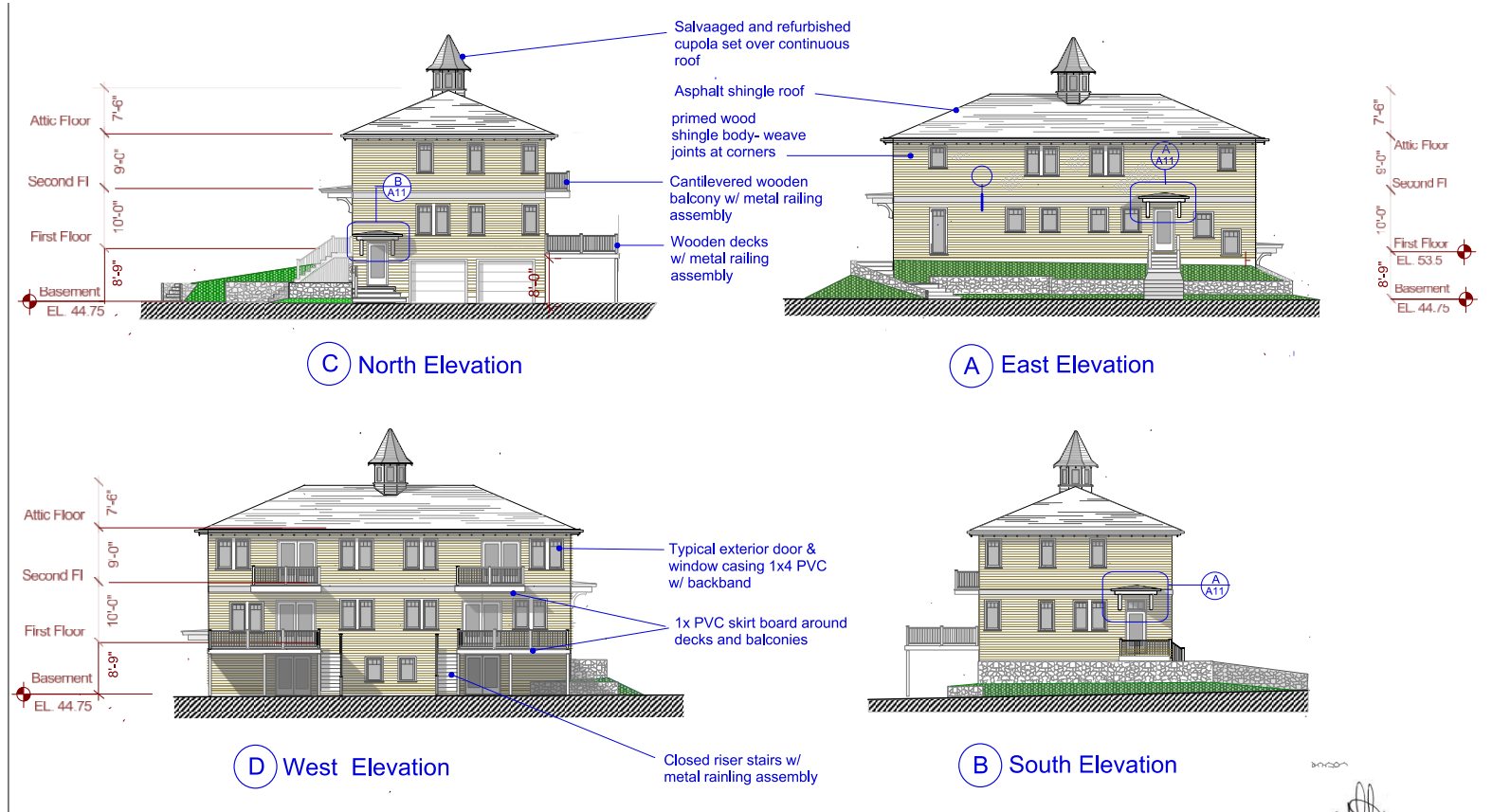
Existing house- North side elevation

# 17 Malvern Terrace



Existing Cupola to be salvaged

# 17 Malvern Terrace



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Cossaboom Residence Newton, Ma.

Exterior Elevations

DATE:  
4/22/16

SCALE:  
1/16" = 1'-0"



SKETCH NO.

**A-14**

Cossaboom Res.

Proposed Elevations

# 17 Malvern Terrace



Flooding in 2010

# 17 Malvern Terrace



Flooding in 2010



# 17 Malvern Terrace



14 Malvern Terrace-across the street

# 17 Malvern Terrace



11 Malvern Terrace- next door

# 17 Malvern Terrace



22 Malvern Terrace-opposite the site

# 17 Malvern Terrace



View of the site from across the street in summer