

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 4, 2014

Present: Ald. Laredo (Chairman), Ald. Albright, Cote, Crossley, Harney, Lennon, and Lipof;
absent: Ald. Schwartz; also present: Ald. Lappin
Staff: Stephen Pantalone (Chief Planner), Alexandra Ananth (Chief Planner for Current Planning), William Forte (Zoning Enforcement Officer), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board of Aldermen)

Public Hearing was opened on February 11, 2014 and continued to March 4:

#23-14 ALBERT PINKHASOV petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for walls of more than 4 feet in the setback at 78 LOVETT ROAD, Ward 8, Newton Centre, on land known as SBL 82, 15, 97, containing approximately 16,004 square feet of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

ACTION: PUBLIC HEARING CONTINUED TO DATE TO ~~BE DETERMINED~~ MARCH 18

NOTE: The following individuals were present at the public hearing on February 11: Aldermen Laredo (Chairman), Albright, Cote, Crossley, Harney, Lennon, Lipof, and Schwartz; Aldermen Fuller and Norton were also present.

Staff: Alexandra Ananth (Chief Planner for Current Planning), Stephen Pantalone (Senior Planner), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board), Zoning Code Enforcement Officer William Forte.

In 2013, after demolishing a circa 1966 single-family dwelling, the petitioner constructed a new by right 2 1/2-story single-family dwelling with an attached two-car garage. The petitioner also constructed a retaining wall consisting of three tiers, which was not shown on the plans provided for the building permit. When the Inspectional Services Department (ISD) responded to a complaint from an abutter about light spillover from the petitioner's property, the inspector saw the retaining walls and notified the petitioner that he was in violation of the Zoning Ordinance because the walls, although built in three sections, each with a height of just under four feet with a total vertical height of 11 feet and 7 inches, were constructed within three feet of the side lot lines where 15 feet is the minimum setback in a Single Residence 2 zoning district. The walls are within 18 inches on the south side of the lot and within three feet on the north side of the lot. The walls are located 20 feet from the rear lot line, where 15 feet is required, so there is no violation of the rear setback requirement. As of this date, the Associate City Engineer is awaiting additional information to complete his review of the drainage and infiltration systems. The Planning Department has asked the petitioner to submit a professionally designed landscape plan to mitigate the visual impact on neighboring properties; it suggests a combination of fencing and plantings to screen those portions of the wall.

The Planning Department noted there is a substantial amount of paving on the site. The driveway is on the north side of the site and accesses the attached garage and the patio. Although the site plan shows a fence separating the driveway from the patio, currently there is no fence. To avoid violating the open space requirement, the petitioner must install a perpendicular fence between the driveway and the patio area shown on the site plan to prevent parking on the patio.

The petitioner said that although his surveyor told him the walls were outside the setback, he accepts full blame. It was a misunderstanding; it was never his intention to violate the ordinance. He is concerned about the cost of removing the walls if the special permit is not granted.

Chief Zoning Code Officer William Forte confirmed that a light ordinance complaint triggered the zoning violation. The original plan submitted to ISD showed one wall less than four feet starting at the man-made slope at the rear of the property. Mr. Forte said it did not appear to be a willful violation and the petitioner responded immediately when he learned of it. The walls appear to be intended as an ornamental landscape feature. Because of the walls in the setbacks and the amount of paved area ISD would not issue a Certificate of Occupancy, but subsequently issued a temporary Certificate of Occupancy and the petitioner is presently living in the home.

Public Comment:

Sandra Segal, 81 Lovett Road, which is across the street, is a 47-year resident. The materials of the walls, including a small wall at the front of the property, are orange-color and look commercial. The petitioner altered the grade at the rear to accommodate the new house, which unlike the previous house, is not centered on the lot. The walls are an eyesore, the rear ones look like a stadium. She is concerned about stabilization and drainage issues. She would like the rear and front walls removed or at least reconstructed with more aesthetically pleasing materials. She initiated the complaint for the light overspill from the eight outside lights and the interior garage lights. The lights illuminate her home and disturb her tranquility. Her daughter Donna Segal predicted the petitioner will live there two years and then sell the property.

Mildred Levitt, 75 Lovett Road, also across the street, submitted a letter in which she strongly urged that the rear and front walls be removed. They detract from the aesthetic of the street and could ultimately decrease the value of her home.

Issues raised in committee:

- Were the walls properly engineered? Do all walls over 10 feet require a structural engineer?
- Delineation of parking? Does the increase in paving affect open space or lot coverage?
- Is there an increase of more than 400 square feet of impervious area?
- Retention of water on the site/drainage?
- Were tiers below four feet an attempt to circumvent ordinance?
- How *do* builders know about the ordinance?

Subsequent to February 11, the petitioner provided a packet of information which contained letters from the construction supervision, the surveyor, and himself explaining the

string of events that led to the construction of the walls. The surveyor admitted there was miscommunication between the petitioner and himself. The retaining wall was meant primarily to enlarge the backyard. A letter from Albert Todesca of AJT Supplies, who installed the walls and provided the landscape plan, estimates the cost to restore the backyard and make the walls fit inside the setbacks would be approximately \$95,000 at least. Because the walls are an interlocking system a portion of the walls would have to be taken down and re-built. Additional information in the packet includes the original plan submitted to ISD, the original estimate and actual cost of the walls.

The petitioner's surveyor/engineer provided stormwater calculations to the Engineering Division. A memo from the Associate City Engineer was on the table this evening. The petitioner also provided an affidavit dated February 7, 2014 from the structural engineer attesting that the retaining walls were built to product specifications. The Associate City Engineer visited the site in February and observed that the walls appeared to be stable. The plan indicates that a dry well is proposed along with a trench drain at the junction of the driveway and the patio. Drainage calculations and collection of the increased runoff is properly designed for the city's 100-year storm event. The Associate City Engineer noted that additional soil testing will be required for verification of the design and the petitioner will need to submit an operations and maintenance plan for long term maintenance of the drainage improvements. He also noted that walls over three feet high need a safety fence. The Engineering Division and the Inspectional Services Department will continue to monitor the walls through the final certificate of occupancy process.

The petitioner submitted a rudimentary landscape plan, showing vegetation and arborvitaes on the retaining wall and one tree on the south side of the house. The plan shows fencing from the house to the site property line on the south side of the property and fencing across the paved area on the north side of the property to ensure that the open space requirement is met. The proposed fencing is of a decorative type of black metal, but provides limited screening. The Planning Department suggests that the petitioner plant an additional tree on the northeastern corner of the site. Several committee members remarked that the site was heavily treed prior to the new construction. The petitioner explained that quite a bit of vegetation was removed, but much of it was overgrown shrubs and weed trees.

The petitioner has removed the light above the garage (he provided a copy of the order for its removal). The petitioner likes to work in his garage at night and has ordered blinds for the garage windows. Mr. Forte informed the petitioner that a permit from ISD is necessary for any electrical work. The committee noted that the light violation is not really relevant to the special permit.

The committee struggled with the petition. Should the petition be considered as if it were not built instead of a fait accompli seeking forgiveness? Was it a communications issue more than anything? Are the walls the result of poor professional advice, not necessarily the petitioner's fault? Were the tiers to circumvent the ordinance? Can the setback violations be corrected by moving the walls in, but not necessarily removing all the walls? Will more damage occur if the walls are taken apart? It appears it was a series of errors. ISD, albeit by accident, did catch the discrepancy. Obviously, it is unrealistic to expect ISD to visit sites every day.

If the petitioner is granted a special permit, then he can be required to provide reasonable mitigation. Would removal of pieces of the walls destroy the integrity of the entire system? When asked if there is a mechanism for fines in this situation, Ms. Young explained there is no civil enforcement provision for this type of violation. There is however a provision for a \$300 per day fine, but that involves filing a complaint in criminal court, often a difficult and lengthy process, and all other avenues must be explored before doing so. However, in this case a criminal complaint is not an option because the petitioner is seeking a special permit to remedy the violation. Oftentimes, a special permit with conditions is a better alternative.

Public Comment

William Roesner, 72 Fuller Street, a member of the Historical Commission, said this was an amateur's attempt – the house, designed for a flat site, doesn't recognize the natural topography of the existing site. In his opinion, it is part of an investment venture that went wrong. The petitioner should be made to stand the expense for correcting his mistake.

A Winchester Street resident, an abutter to a by-right project on Upland Avenue that generated major drainage problems, said there had been assurances from the city that this type of project would not fall between the cracks. Why does the city not inspect projects early in the process?

Donna Segal, 81 Lovett Road, said the process began in November with a complaint from her mother about light trespass. The petitioner has been living there since September with no permanent Certificate of Occupancy.

Rena Getz, 192 Pine Ridge Road, reminded the committee of another by-right project on Turner Terrace, which also caused water issues on abutting properties. She pointed out that docket item #11-12 re implementation and enforcement of sec. 30-5(c)(1), leaving land in a usable condition to prevent runoff to or from abutting properties, was filed as result of that project and is pending in the Zoning & Planning Committee. Ms. Getz provided an excerpt from the Zoning & Planning Committee's report dated March 27, 2013.

David Gordon, 89 Lovett Road, said it doesn't appear this was intentional. We all have to depend on professionals. The price the petitioner quoted to remove the wall is not out of line with that type of work. The walls exist; safety is the most important factor. The lot was previously very overgrown and looks much better now.

The petitioner submitted letters in support of the project from Raviv & Gil Chalamish, 70 Lovett Road, who have no issue with the walls, which they find aesthetically pleasing, and from Hank Abbott, 108 Lovett Road, who said that the petitioner is hardworking and he and his family will be a wonderful addition to the neighborhood.

The committee discussed whether or not it wanted the petitioner's surveyor or landscape contractor to come to the next meeting. Can the walls be safely reduced to remove them from the setbacks? The committee agreed that it would like Albert Todesca, who provided the landscape plan and the estimate to remove a portion of the walls, to attend the next meeting. The

committee asked the petitioner to provide a landscape plan with additional landscaping and more variety than just arborvitaes. The committee also asked that additional information be provided relative to the amount of pavement on the site and the number of trees that were removed. The committee voted to continue the public hearing to a date to be determined.

N. B. The public hearing will be continued on March 18, 2014.

#20-14 ALD. ALBRIGHT, CROSSLEY, LARREDO, SCHWARTZ requesting a discussion between the LAND USE COMMITTEE and the ECONOMIC DEVELOPMENT COMMISSION regarding permitting processes and their impacts up small business attraction and creation in village centers.

ACTION: NO ACTION NECESSARY 7-0

NOTE: Economic Development Commission (EDC) members Stephen Feller and Chris Steele joined the committee. Mr. Feller owns Bread & Chocolate, which has locations in Newtonville and Newton Highlands, and Mr. Steele is Chairman of the EDC. Ms. Ananth provided the numbers of special permit applications and technical reviews for various projects as well as a timeline for special permit requests from 8/29/12 through 9/9/13 (both attached). Data indicate that businesses actually move more quickly through the process, although the summer 'black out period' generally affects businesses more because those petitions often involve parking waivers. However, generally, the Planning Department has received positive feedback for its Design Review Team (DRT) process.

Mr. Steele said that landlords when learning a parking waiver is necessary often shy away from prospective tenants because of the special permit process. The committee suggested the EDC undertake a formal survey of business owners for feedback. Perhaps, the EDC could include realtors and developers as well. Developers don't see the city as a welcoming place, there is an uncertainty about the time line in obtaining permits. The Mayor has held some round table discussions, but the focus is mostly on betterments to the villages, not on process.

Mr. Feller said when he started his first business 7 1/2 years ago in Newtonville it took seven weeks to get an inspection from the Fire Department before he could open. Although he did not have to obtain a special permit, he questioned the before and after times not taken into consideration in the special permit process. He believes the process has overall improved. The brochures (attached) created by the Planning Department are helpful and a start, but he believes they are not written for a lay person.

EDC will meet with the Planning Department and will gather feedback from businesses and developers and will assist in modifying the brochures from the perspective of an applicant, not the government.

The committee thanked Messrs. Feller and Steele and voted No Action Necessary, with the understanding that there is always an open door for communications between the EDC and the Board of Aldermen.

Class 2 Auto Dealer License for 2014

#367-13

CICCONE MOTORS

75 Adams Street

Newtonville 02458

ACTION: APPROVED 7-0

NOTE: The applicant provided all the necessary documentation to renew his 2014 license.

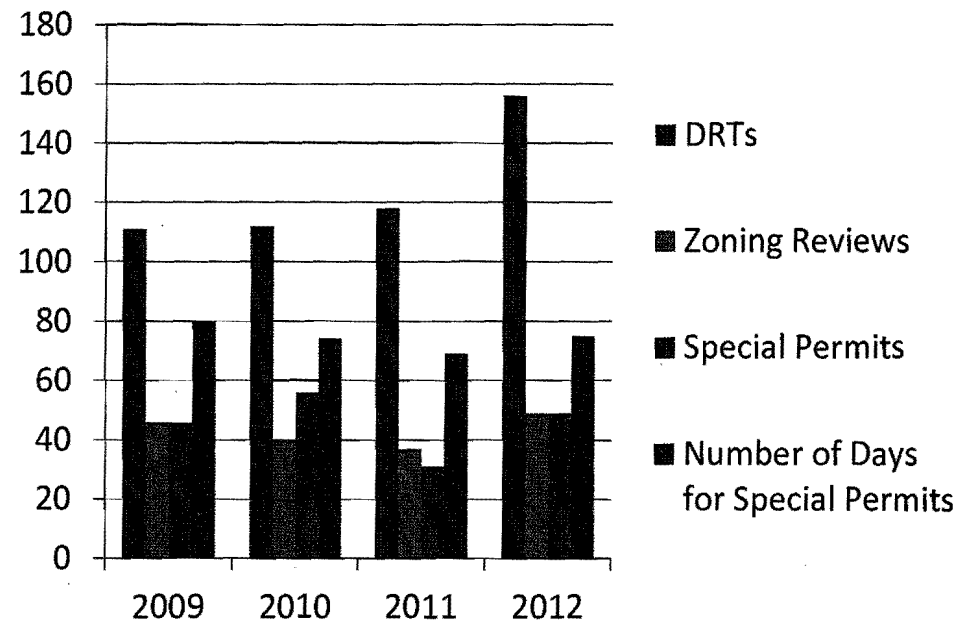
Respectfully submitted,

Marc C. Laredo, Chairman

Land Use

26

- 49 special permit applications
- Technical reviews for projects
 - DRT Reviews (156)
 - Zoning Reviews (49)
 - Other Reviews (83)
 - Wireless installations (9)
 - Accessory Apartments
 - Institutional reviews
 - Site Plans
 - Sign Permits (61)
 - Comprehensive Permit
 - 5-58 Reviews (6)
 - Carr School
 - Modulares at 4 schools
 - Angier
 - Fire Station #10



SPECIAL PERMIT REQUESTS

Address

PH Date

WS Date

BOA

PO

Planner

Filing to BOA

| Request ID | Description | Address | PH Date | WS Date | BOA | PO | Planner | Filing to BOA |
|------------|---|------------------------------|------------|------------|------------|----|---------|----------------------------------|
| 8/29/2012 | Riverside mixed use development | 327 Grove Street | 10/16/2012 | | 10/22/2013 | SB | ET | 398 letter of extension provided |
| 1/4/2012 | Multi-family dwelling | 152 Adams Street | 12/11/2012 | 2/12/2013 | | | AA | 98 letter of extension provided |
| 1/24/2012 | FAR | 37 Columbia Rd | 1/15/2013 | 1/15/2013 | | | KH | 77 |
| 1/20/2012 | Change of nc use | 242-244 Commonwealth Ave | 1/15/2013 | 2/5/2013 | | | PO | AS |
| 1/19/2013 | Sign package | 1455 Boylston St | 1/15/2013 | 2/5/2013 | | | HU/FS | AA |
| 1/19/2013 | FAR | 55 Alban Road | 2/12/2013 | 2/12/2013 | | | | KH |
| 1/5/2013 | Two Ovens outdoor seats | 300 Needham Street | 2/12/2013 | 2/5/2013 | | | | AA |
| 2/1/2013 | FAR for new dormers | 105 Nonantum St | 3/19/2013 | 3/19/2013 | | | | JS |
| 2/2/2013 | Attached dwellings | 281 Nevada Street | 3/19/2013 | 4/23/2013 | | | TM | AA |
| 2/12/2013 | Attached dwellings | 602 Washington St | 3/19/2013 | 3/19/2013 | | | | AA |
| 2/12/2013 | Attached dwellings | 288 Nevada Street | 3/19/2013 | 4/22/2013 | | | | AA |
| 3/1/2013 | FAR for mudroom and garage | 132 Hammond Street | 4/9/2013 | 4/9/2013 | | | | AA |
| 3/12/2013 | Expanded auto repair shop | 414 Waterdown Street | 4/9/2013 | 4/9/2013 | | | TM | AA |
| 3/12/2013 | Attached dwellings | 9 Ripley Street | 4/9/2013 | 5/7/2013 | | | | AA |
| 4/3/2013 | FAR | 12 Felsinger Rd | 5/14/2013 | 5/14/2013 | | | | AA |
| 4/4/2013 | Retaining walls in front setback | 24 Wilde Rd | 5/14/2013 | 6/4/2013 | | | | AA |
| 4/8/2013 | Milton's expansion | 176 Boylston Street | 5/14/2013 | 5/14/2013 | | | | AA |
| 4/9/2013 | FAR | 140 Church St | 5/14/2013 | 5/14/2013 | | | | AA |
| 4/30/2013 | Signage vestibule | 199 Boylston St (Cheesecake) | 6/11/2013 | 6/11/2013 | | | | AA |
| 5/1/2013 | Garage > 700 sq ft | 44 Sylvan Ave | 6/11/2013 | 6/11/2013 | | | | AA |
| 5/14/2013 | Rest > 50 seats, waive 8 parking stalls | 71 Union Street | 6/11/2013 | 6/11/2013 | | | NA | AA |
| 5/14/2013 | parking waivers including 8 stalls | 14 Collins Road | 6/11/2013 | 7/30/2013 | | | | AA |
| 5/14/2013 | attach dwellings | 22 & 24 Beecher Terrace | 6/11/2013 | 10/8/2013 | | | | AA |
| 5/14/2013 | FAR | 20 Burrage | 6/11/2013 | 7/30/2013 | | | | AA |
| 6/6/2013 | Amend Site Plan | 200 Wells Ave | 7/9/2013 | 8/6/2013 | | | | AA |
| 6/7/2013 | allow service use | 242 Commonwealth Ave | 7/9/2013 | 7/30/2013 | | | | AA |
| 6/10/2013 | Acc appl in acc structure | 15 Farlow Rd | 7/9/2013 | 7/9/2013 | | | | AA |
| 6/10/2013 | New House FAR | 80 Dartmouth St | 7/9/2013 | 7/23/2013 | | | | PS |
| 6/10/2013 | edu use in Manuf zone | 45 Brae Burn Rd | 7/9/2013 | 7/23/2013 | | | | PS |
| 6/10/2013 | freestanding sign | 1254 Chestnut St | 7/9/2013 | 7/30/2013 | | | | AA |
| 6/11/2013 | FAR | 1479 Washington St | 7/9/2013 | 7/9/2013 | | | | AA |
| 6/11/2013 | FAR | 15 Rice St | 7/9/2013 | 7/9/2013 | | | | AA |
| 6/11/2013 | FAR | 42 Braeard Ave | 7/9/2013 | 7/9/2013 | | | | AA |
| 6/27/2013 | New commercial building | 170 Needham St | 8/13/2013 | 10/8/2013 | | | | AS |
| 7/1/2013 | FAR | 31 Loring | 8/13/2013 | 8/13/2013 | | | | NA |
| 7/1/2013 | edu use in Manuf zone | 30 Ossipee | 8/13/2013 | 9/10/2013 | | | | GMP |
| 7/2/2013 | FAR | 38 Beechcroft Rd | 8/13/2013 | 8/13/2013 | | | | GMP |
| 7/2/2013 | FAR | 37 Baldpate Hill road | 8/13/2013 | 8/13/2013 | | | | JR |
| 7/2/2013 | FAR | 48 Summit St | 8/13/2013 | 8/13/2013 | | | | NA |
| 7/2/2013 | Retaining walls in setback | 1236 Washington St | 8/13/2013 | 8/13/2013 | | | | NA |
| 7/3/2013 | new canopy | 131 Otis St | 8/13/2013 | 9/4/2013 | | | | JR |
| 7/3/2013 | Rear lot subdivision | 483 Dedham Street | 8/13/2013 | 9/10/2013 | | | | JR |
| 7/3/2013 | Clubhouse additions amend SP | 43-45 High St | 8/13/2013 | 9/10/2013 | | | | JR |
| 8/2/2013 | Attached dwellings | 275 Washington St | 9/10/2013 | 10/8/2013 | | | | NA |
| 8/6/2013 | Parking waiver Yoga Studio | 75-77 Auburn St | 10/15/2013 | 12/2/2013 | | | | NA |
| 7/3/2013 | Attached dwellings | 1205 Chestnut St | 9/10/2013 | 11/9/2013 | | | | TM |
| 8/21/2013 | Increase # seats, parking waiver | 429 Cherry St | 10/15/2013 | 12/3/2013 | | | | SB |
| 8/23/2013 | MF structure | 324 Tremont St | 10/15/2013 | 11/9/2013 | | | | TM |
| 8/26/2013 | Dormer | 305 Alchemar Rd | 10/15/2013 | 10/15/2013 | | | | NA |
| 9/6/2013 | Acc Appl in acc structure | 93 Homer St | 10/15/2013 | 10/15/2013 | | | | NA |
| 9/6/2013 | ext roof acc structure | 71 Monthale Crescent | 10/15/2013 | 10/15/2013 | | | | NA |
| 9/9/2013 | FAR | | | | | | | SP |

9/9/2013 conversion to 3-fam
9/13/2013 parking in setback
10/10/2013 Ret wall in setback

432 Newtonville Ave
36-38 High St
287 Kennick St

10/15/2013 11/19/2013 12/2/2013 PH
11/1/2013 11/18/2013 NA
11/1/2013 11/18/2013 NA
No December Public Hearings - Election Year

DS DS
84
39

73 Average 2013
67 Average without Riverside/Indigo



Before you start your business, pay us a visit or give us a call.

- Have you always wanted to start a business in Newton, but don't know where to start?
- Do you have plans, but have questions about permits and licenses?
- Are you open for business, but want to expand or grow?

City staff can help you determine what steps to take next. Some businesses require no more than a simple license, while others may need approvals from several departments to assure that a proposed use is allowed and/or is safe for the general public. To avoid an unwelcome discovery that your business or operations do not conform to applicable standards and laws after investing your time and money, please stop by City Hall or give us a call so staff can advise you.

NEW!

**Small Business Center
Lower Level of City Hall**

Staff can advise you on available commercial space, loans, networking, partnering on projects in your village or commercial corridor, and programs and resources that support small businesses in Newton.

Call us, visit our website at
www.newtonma.gov/smallbusinesscenter
or just stop by!



CITY OF NEWTON

1000 Commonwealth Avenue
Newton, MA 02459

Phone: 617.796.1120
OR 617.796.1060
www.newtonma.gov

If you have questions, concerns, or suggestions please feel free to contact the Planning/ISD staff at 617.796.1060 or 617.796.1120. We're always interested in improving our services.

CITY OF NEWTON


**So you want to
start a business?**



We're here to help.

Talk to City staff about this checklist.

Planning and Inspectional Services staff will help you determine if your business is allowed in the location proposed and will tell you what you need to do next. If you prefer to stop by in person, please give us a call to set up an appointment so there's sure to be someone available to help you. Then you'll be on your way.

| Staff | <h3>1 Start here  City Hall, 2nd floor</h3> <p>Inspectional Services • 617.796.1060</p> <input type="checkbox"/> Building Permits ▪ Certificates of Inspection ▪ Certificates of Occupancy ▪ Permits for plumbing, gas, and electricity <p>Planning Department • 617.796.1120 OR</p> <input type="checkbox"/> Zoning reviews ▪ Economic Development ▪ Special Permit/Site Plan reviews for land use, transportation, conservation, historic preservation, housing, rehabilitation, community development and telecommunications ▪ Signs and banners ▪ Outdoor seating <hr/> <p>Licensing Board • 1294 Centre Street • 617.796.1420</p> <input type="checkbox"/> Common Victualler Licenses ▪ All Alcohol or Wine & Malt Beverage Licenses for Restaurants, Package Stores, Clubs, Innholders ▪ 2 Automatic Amusement Machine Licenses ▪ Carnival Permits ▪ One-Day Alcohol or Wine/Malt Licenses for Special Events ▪ Weekday, Sunday, and One-Day Entertainment Licenses <p>Health and Human Services • 1294 Centre Street • 617.796.1420</p> <input type="checkbox"/> Animal licenses (chickens, etc.) ▪ Asbestos abatement ▪ Body art (permanent make-up) establishments/practitioners ▪ Certificates of habitability ▪ Demolition and sandblasting permits ▪ Food service and retail establishments including catering, mobile vendors, frozen desserts, and permits for temporary food sales ▪ Retail tobacco sales ▪ Summer camps ▪ Tanning facilities ▪ Title 5 ▪ Transportation of waste (offals) ▪ Well-drilling permits <p>Fire Department • 1164 Centre Street • 617.796.2210</p> <input type="checkbox"/> Commercial/Business Locations <p>City Clerk • City Hall, 1st floor • 617.796.1210</p> <input type="checkbox"/> Business Certificate ▪ Doing Business As (DBA) ▪ Dog Licenses <p>Board of Aldermen • City Hall, 1st floor • 617.796.1210</p> <input type="checkbox"/> Auto Dealer Licenses ▪ Auction Licenses ▪ Bus Licenses ▪ Public Auto/Van Licenses ▪ Special Permit submittals ▪ Taxi/Taxi Stand Licenses <p>Assessors' Office • City Hall, 1st floor • 617.796.1169</p> <input type="checkbox"/> Form of List (for personal property tax purposes) <p>Public Works • City Hall, 1st floor • 617.796.1000</p> <input type="checkbox"/> Objects on public ways, including sidewalks for road races, dumpsters, new boxes, and banners <p>Weights and Measures • City Hall, 1st floor • 617.796.1099</p> <input type="checkbox"/> Apothecary scales ▪ Gas pumps ▪ Hawkers & peddlers ▪ Measures (laser scanning devices) ▪ Scaling devices ▪ Taxi meters |
|-------|--|
|-------|--|

WHAT IS A SPECIAL PERMIT?

A **Special Permit** isn't actually a permit in the familiar sense, but permission to construct a building or establish a use that is not allowed by right. It usually consists of a set of plans that are accompanied by a list of findings and conditions for their approval. Special permits are always required for multi-family housing and larger commercial projects. They often are required when special site characteristics or design features warrant a deviation from the zoning standards for a typical lot. Common requests for exceptions to these standards include variations in building height, setbacks, floor area ratios (FARs), and the number of parking spaces provided. Sometimes a proposed use has unique characteristics that warrant special review to make sure it will be compatible with other uses nearby.



NOTE: Approval of a Special Permit alone may not be the only approval needed. Please consult with a land use planner to determine whether you need additional reviews. To ensure your questions are answered promptly and to schedule necessary reviews, please call 617.796.1120 to talk with a planner. The Zoning Regulations (Chapter 30 of the Newton Code) can be viewed on the City website.



CITY OF NEWTON

Department of Planning and Development
1000 Commonwealth Avenue
Newton, MA 02459

For more information:

Phone: 617.796.1120

Fax: 617.796.1086

City website: www.ci.newton.ma.us

SPECIAL PERMITS



CITY OF NEWTON

Department of Planning and Development

Special Permits

HOW DO I KNOW IF I NEED A SPECIAL PERMIT?

Check with a land use planner or building inspector. He or she can provide information about City zoning standards and other regulations that may apply to your situation as well as the options available to you to most easily achieve your goal.



WHAT IS THE PROCESS?

Step 1 – Development Review. The Development Review Team (DRT) consists of City staff from several departments. It meets weekly with prospective applicants to evaluate new proposals. Most people find this an efficient way to learn about issues they may want to address early on to ensure a successful project. After the DRT meeting, you'll be given a checklist for the next step if you need a special permit.

Step 2 – Zoning Review. The Chief Zoning Code Official (CZCO) will review the proposal for compliance with the City's zoning regulations and will prepare a written report. Provided that all necessary information is provided by the applicant to describe the project, the CZCO will complete this review within 45 days. When the review is done, you'll be given a special permit application.

Step 3 – Special Permit Application. This application includes a checklist outlining the information needed, which is similar to that for a zoning review. You will need to submit 15 copies, since

plans will be reviewed by several members of City staff and the eight members of the Land Use Committee of the Board of Aldermen. You can obtain this checklist and application from any land use planner. A planner must review the submittal for completeness before it's turned in to the City Clerk.

Step 4 – Public Hearing. The Land Use Committee will hold a public hearing to learn about your proposal. You'll have a chance to present the project, answer their questions, and hear what other interested parties have to say. Neighbors will be notified of the hearing and your personal contact with them in advance is strongly advised; their feedback can inform design decisions and foster support for the proposal. Aldermen from the ward should also be contacted prior to the public hearing. By law, a hearing must be held within 65 days of filing, but it's usually much sooner.

Step 5 – Working Session. Soon after the public hearing, the Land Use Committee will hold a working session to discuss the merits of the proposal and make recommendations to the full Board. The public is *not* invited to speak at this meeting and applicants may participate only if invited by the Committee Chair.

Step 6 – Board of Aldermen. The Land Use Committee Chair will report the Committee's recommendations to the Board at its next meeting (usually within 2 weeks) and the Board will vote on the proposal; 16 (out of 24) affirmative votes are needed. The Board can approve, deny, or send a proposal back to Committee for further consideration. Building permits can be issued if the decision is not appealed by a party of interest (as defined in MGL Chapter 40A)

within 20 days of filing of the Board's decision.

WHO IS ON THE LAND USE COMMITTEE?

The Land Use Committee consists of eight members of the Board of Aldermen, one from each ward.

HOW WILL THEY DECIDE WHAT TO DO?

First, they'll look at the specific criteria that are prescribed in the Zoning Ordinances. They also assess consistency with the goals and objectives of the City's *Comprehensive Plan*. They'll consider by-right alternatives and whether unusual site features limit the ability to build a by-right project on the site; these could include environmental constraints (such as wetlands), significant vegetation, unusual topography or lot shape, historic context, accessibility by various modes of transportation, archaeology, drainage, emergency access, or related public safety issues. In general, they'll want to know the proposed project will be a good neighbor, fits in its setting, and enhances the quality of life. Approvals must be exercised within a year, but may be extended for a second year with Board approval.

WILL I NEED AN ATTORNEY?

You might, depending on the complexity of the project. An attorney will make sure to ask for all the appropriate "reliefs" and look out for your interests. However, legal counsel is not required and may not be necessary for simple requests.

HOW LONG WILL IT TAKE?

It varies, depending on the scope of the project and available meeting dates, but review of an average petition takes about 2-4 months. More complex projects may require 6 months or more to review.

ARE THERE FEES? Fees are \$350 for residential and \$750 for commercial projects.