



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 8, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney
HQ, LLC, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: **Request to allow a building with more than 20,000 square feet, a restaurant with more than 50 seats, to extend a nonconforming structure, to allow three stories and various waivers for parking**

Applicant: HQ, LLC	
Site: 1314 Washington St, 31 Davis St & 33 Davis St	SBL: 33 10 01, 33 10 11 & 33 10 12
Zoning: BU1	Lot Area: 30,031 square feet
Current use: Bank	Proposed use: Mixed use

BACKGROUND:

The property 1314 Washington Street is comprised of three lots totaling 30,031 square feet in the Business 1 zoning district currently improved with a bank constructed in 1915 and a surface parking lot with 60 stalls and many nonconformities. The property is bordered by Washington Street to the north, Highland Street to the west and Davis Street to the south. There has been a bank in the existing building since original construction in 1920. The petitioner proposes to construct a three story addition to the rear of the existing building to allow for multiple uses, and to reconfigure the existing surface parking lot to create 49 conforming parking stalls.

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

- Zoning Review Application, prepared by Stephen J Buchbinder, attorney, dated 3/16/2018
- List of Parking Waivers, submitted 3/16/2018
- Parking Calculation, submitted 3/16/2018
- Parking Comparison, submitted 3/16/2018
- Existing Conditions Plan, prepared by Gerry L. Holdright, surveyor, dated 8/1/2017
- Average Grade Plane, prepared by Bohler Engineering, dated 3/5/2018

- Proposed Site Plan, prepared by Bohler Engineering, dated 3/5/2018
- Architectural Plans and Elevations, prepared by Elkus Manfredi, architects, dated 3/19/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a three-story addition to the rear of the existing bank building, resulting in a total of 29,952 square feet of gross floor area. Per section 4.1.2.B.1, a special permit is required for any development in a Business district of 20,000 square feet or more of new gross floor area.
2. The existing building is two stories. The petitioner proposes to construct a three-story rear addition. Per sections 4.1.2.B.3 and 4.1.3, a special permit is required to allow a three-story building in a Business 1 zoning district.
3. The existing building was built in 1915 with a nonconforming height of 29.5 feet, which exceeds the maximum height allowed by right of 24 feet per section 4.1.3. The addition is proposed at 40 feet in height, which exceeds the maximum allowed by right and by special permit. The petitioner requires a special permit to further extend the existing nonconforming height per section 7.8.2.C.2.
4. The existing building is located directly on the side lot line to the east. City records indicate that the directly abutting property to the east is an alleyway and stairs serving the uses at 1286-1308 Washington Street, with the physical building located on the adjacent parcel to the east 9.5 feet from the petitioner's property line. There is no ownership information, lot area, or address available for this small parcel. Section 4.1.3 requires a side setback of half the building height or equal to the abutting side yard setback. As there is no building on the directly abutting property (the alleyway), the required side setback is half the building height of 29.5 feet, or 14.75 feet. The existing building is nonconforming with a setback of 0 feet.

The petitioner proposes to construct a rear addition utilizing the existing nonconforming side setback of 0 feet. The side setback requirement for the addition increases, as the proposed height is 40 feet, increasing the side setback requirement to 20 feet. The petitioner requires a special permit to further extend the existing nonconforming side setback per section 7.8.2.C.2. Regardless of whether the small alleyway lot is a separate lot, or improperly designated in the City records, the petitioner's property has a legally nonconforming side setback, and the requested relief would remain the same should the alleyway be part of the larger parcel at 1286-1308 Washington Street.

5. The petitioner is proposing a mix of uses for the building, including maintaining the bank use, a proposed office use and either retail or restaurant with more than 50 seats. All of these uses are allowed by right in the Business 1 zoning district. However, a restaurant with more than 50 seats requires a special permit, per sections 4.4.1 and 6.4.29.C.1. The petitioner proposes a first floor restaurant with up to 150 seats, requiring a special permit.
6. The petitioner is proposing a mix of uses within the expanded building, anticipating bank, retail and/or restaurant and office uses. After construction, the existing one-story bank space will be reconfigured into two spaces. It is anticipated that the bank use will be maintained in a 2,456 square foot space on the first floor and the remaining 5,270 square feet will be occupied by a 150-seat restaurant. The second and third

floors will comprise 11,949 square feet intended to be occupied by an office use. Per section 5.1.4, the proposed uses require the following parking:

Proposed Use	Zoning Ordinance §5.1.4	Parking Requirement
Bank Use (personal service or retail)	2,456 SF @1 stall/300 SF = 9 stalls 9 Employees @1 stall/3 employees = 3 stalls	12 stalls
Restaurant Use (5,270 SF)	150 seats @ 1 stall /3 seats = 50 stalls 15 Employees @ 1 stall/3 employees = 5 stalls	55 stalls
Office Use (11,949 SF)	11,949 SF @ 1 stall/250 SF = 48 stalls	48 stalls
TOTAL		115 STALLS

The petitioner requires a total of 115 parking stalls, per the requirements of section 5.1.4.

7. Per section 5.1.4.C, a single integrated development with three or more uses may request a reduction of the required parking of up to one-third. Per this section, the petitioner requests to reduce the proposed parking requirement of 126 stalls by one-third, resulting in a new requirement of 76 stalls.
8. There are currently 60 surface parking stalls on the site, which are largely nonconforming with regard to dimensions, setbacks and landscaping. The petitioner intends to reconfigure the existing surface parking, resulting in 49 stalls which are more conforming. If the requested reduction in parking per section 5.1.4.C is granted to allow for a requirement of 76 stalls, the petitioner will require a waiver of 27 stalls per section 5.1.13.
9. Section 5.1.3.B states that when an enlargement or extension of the gross floor area of a building, or a change in use increases the parking requirements, the petitioner shall use the A-B+C formula to determine the number of parking stalls required after the change. In this formula, "C" represents the number of off-street parking stalls that exist prior to the enlargement, extension or change. As the number of existing parking stalls is decreasing from 60 to 49, the figure represented by "C" in the formula is not an accurate representation of the final number of parking stalls. As such, the petitioner requests a waiver from the requirements of section 5.1.3.B and requests to determine the parking based on the current uses' requirements and the proposed number of parking stalls.
10. Section 5.1.8.A.1 requires that no parking locate within any required front or side setbacks. The parking is located at the rear of the property fronted by both Highland and Davis Streets. The petitioner is proposing parking within the required 10 foot front setback, and directly on the abutting side lot line with 23 Davis Street. A waiver from this provision is required to allow parking within the required front and side setbacks.
11. The existing parking is largely nonconforming with regard to stall dimensions per section 5.1.8.B.1 and 2, which require a stall width of nine feet, and a depth of 19 feet. The petitioner proposes to reconfigure the

parking and create stalls which all measure nine feet wide, but vary in depth from 16 to 18 feet. A waiver from the provisions of section 5.1.8.B.2 is required to allow for a reduced parking stall depth.

12. Section 5.1.8.B.6 requires that end stalls restricted on one or both sides have maneuvering space at the end of the aisle of at least five feet in depth and nine feet in width. The petitioner is proposing parking with limited maneuvering space at the end of the aisle, requiring a waiver from this provision.
13. Per section 5.1.8.C.1 and 2, parking facilities with 90 degree parking require a minimum aisle width of 24 feet for two-way traffic. The proposed parking aisle is 22 feet wide. A special permit is required for a reduced aisle width.
14. Section 5.1.9.A.1 requires outdoor parking facilities with more than five stalls to be screened from abutting streets and properties with a strip at least five feet in width and 3.5 feet in height of densely planted shrubs or trees and fencing. The plans do not indicate any landscaping or fencing along the perimeter of the parking facility. To the extent that the proposed parking does not meet the perimeter screening requirements of section 5.1.9.A.1, a special permit is required.
15. Section 5.1.9.B requires interior landscaping for outdoor parking facilities with more than 20 stalls. This section requires an area equivalent to at least five percent of the area of the parking facility be landscaped. An interior planting area must consist of at least 25 square feet with no dimension less than five feet. One three-inch caliper tree is required for every ten parking stalls. The proposed plans do not indicate any interior landscaping. To the extent that the proposed parking does not meet the interior landscaping requirements of section 5.1.9.B, a special permit is required.
16. Section 5.1.10.A requires that parking facilities which are used at night have security lighting with a minimum intensity of one foot candle on the entire surface of the parking facility. To the extent that any proposed lighting in the parking facility does not meet the requirements of section 5.1.10.A, a special permit is required.
17. Section 5.1.12 requires one off-street loading bay for buildings from 5,000 to 50,999 square feet. The proposed expansion will result in a building with a total of 29,952 square feet of gross floor area, requiring one off-street loading bay. The petitioner requests a waiver from this provision.

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§4.1.2.B.1	Request to allow a building in excess of 20,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story building in the BU1 district	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to extend a nonconforming structure with regard to height	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to extend a nonconforming structure with regard to side setback	S.P. per §7.3.3
§4.4.1 §6.4.29.C.1	Request to allow a restaurant with more than 50 seats	S.P. per §7.3.3
§5.1.3.B §5.1.13	Request to waive the requirement of using the A-B+C parking formula	S.P. per §7.3.3
§5.1.4.C	Request to allow a 1/3 reduction in overall parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 27 required parking stalls	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	Request to allow parking in the front and side setbacks	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	Request to allow reduced parking stall dimensions	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	Request to waive end stall maneuvering space requirements	S.P. per §7.3.3
§5.1.8.C.1 §5.1.8.C.2 §5.1.13	Request to allow reduced aisle width	S.P. per §7.3.3
§5.1.9.A §5.1.13	Request to waive perimeter screening requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	Request to waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	Request to waive lighting requirements	S.P. per §7.3.3
§5.1.12 §5.1.13	Waiver of the off-street loading facility requirements	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

18. Two (2) copies of the completed Special Permit Application (signed by property owner)
19. Filing Fee (see Special Permit Application)
20. Two (2) copies of the Zoning Review Memorandum
21. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
22. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
23. One (1) copy of any previous special permits or variances on the property (as applicable)
24. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
25. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N