



City Council Actions

In City Council

Monday, May 7, 2018

Present: Councilors Albright, Auchincloss, Brousal-Glaser, Cote, Crossley, Downs, Gentile Greenberg, Grossman, Kalis, Kelley, Krintzman, Lappin, Leary, Lipof, Markiewicz, Noel, Norton, Rice, Schwartz and Laredo.

Absent: Councilors Baker, Ciccone and Danberg

The City Council discussed the following item on second call:

Referred to Land Use Committee

#136-18

Petition to exceed FAR at 2 Terrace Avenue

BHARAT BHUSHAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additional space over a two-car garage, exceeding the maximum allowable FAR of .41 where .43 is proposed and .41 exists at 2 Terrace Avenue, Ward 6, Newton Highlands, on land known as Section 54 Block 29 Lot 03, containing approximately 8,216 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9 of the City of Newton Rev Zoning Ord, 2015.

Land Use Approved 5-1-2 (Auchincloss opposed, Laredo, Schwartz abstaining); Public Hearing Closed 04/03/2018

Land Use Voted 5-0 to Postponed Reporting Out this Item until May 7, 2018

Approved 20 Yeas, 1 Nay (Councilor Auchincloss), 3 Absent (Councilors Baker, Ciccone & Danberg)

Clerk's Note: The Chair of the Land Use Committee presented the Committee's review of this special permit. He noted that the petitioner had originally come in with a project that would have required a special permit as the plan exceeded the allowable FAR. The petitioner changed the plans to lower the pitch of the garage roof, thus removing potentially habitable space and reducing the FAR. As a result of these changes the project became a by-right project and did not need a Special Permit. Building then commenced and the original plans with the higher pitched roof were used in error. As a result the project exceeded the FAR. The increase in the roof pitch triggered additional floor space, about 120 sq. ft. and pushed the FAR higher. The Committee heard testimony regarding this from both the petitioner as well as neighbors. It was understood that this was one of those cases where the petitioner was asking for forgiveness rather than permission. The standard that needs to be used is whether or not it is consistent and not in derogation of the size, scale, and design of other structures in the neighborhood. It was determined by the Committee that the project met the standard.

Councilor Auchincloss placed this item on second call and noted that the comments from neighbors on this project bothered him. He felt it was detrimental to the public good when rules were not enforced.

In his opinion, the rules should be enforced and petitioners should not be asking for forgiveness instead of permission. He felt that the public's convenience and welfare would not be substantially served by granting this special permit.

It was asked what Inspectional Services had done when they discovered the problem. It was reported that a stop work order was issued on March 7th when it was found to be out of compliance with the approved building plans. At that time they were far enough along that the pitch of the roof over the garage was visible and did not match the plan.

It was noted that this is a very small project with only 120 sq. feet over what they could have done by-right. A councilor visited the site and spoke with the neighbors. It was stated that the issues that the neighborhood objected to really had nothing to do with the pitch of the garage roof. It had more to do with the design, or lack thereof, and whether or not this project fit in with this old, charming neighborhood. It seemed like such a small issue and it did not seem appropriate to pull the roof down and reframe it at a lower pitch.

It was asked if the Council did not approve this special permit, would the petitioner have to take down the roof? The Chair of the Land Use Committee responded that he believed that would be the potential outcome, although there might be additional procedural appeals that could occur. He understood in the past the Council has been sued for improperly holding Special Permit approval for not following the standards. He did not know if this would, or would not, occur in this particular case, but it might engage the City in some additional legal type of defense.

The Chair of the Land Use Committee noted that he checked with the City Solicitor and confirmed that while there is some discretion under the special permitting authority, it would be an inappropriate use of the Council's discretion to deny the permit on the basis of it coming in after the fact. He shared the frustration of neighbors that the process should work, and encouraged people to get permission before building. If petitioners can't get permission, they should find a way to adjust the project to be in accordance with the Zoning Ordinance. At the same time, if this project had come in for a special permit before it was built, he would concur with the comments of others that it very likely would be approved because it is not substantially in derogation of the size and nature of the character of the neighborhood.

It was noted that the issue of forgiveness instead of permission has actually happened more than once or twice in the last year and wondered why the line was being drawn on this particular project. Because of the small square footage involved in this particular case, it was felt to be unfair.

The City Council voted without discussion 21 Yeas, 3 Absent (Councilors Baker, Ciccone & Danberg) to Approve the following items:

Referred to Land Use Committee

Tuesday, April 10, 2018

- #71-18** **Petition to amend Special Permit #515-61 at JFK Circle**
NEWTON HOUSING AUTHORITY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #515-61 to remove 26,366 sq. ft. of land from the existing lots at 83-127 and 106-128 JFK Circle to develop 55 affordable elderly housing units, requiring a Comprehensive Permit, to extend non-conforming front setbacks and for waivers relative to parking at 83-127 John F Kennedy Circle and 106-128 John F Kennedy Circle, Ward 1, Newton, on land known as Section 12, Block 01, Lot 29 and Section 12, Block 01, Lot 32, containing approximately 124,061 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 7.8.2.C.2, 5.1 of the City of Newton Rev Zoning Ord, 2015.
Land Use Approved 7-0-1 (Laredo abstaining); Public Hearing Closed 04/10/2018
Land Use Voted 5-0 to Postponed Reporting Out this Item until May 7, 2018

Referred to Land Use Committee

Tuesday, May 1, 2018

- #210-18** **Special Permit Petition to amend Special Permit Board Order #129-16 at 23 Howe Rd**
MARIA SANTOS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #129-16 to amend the site plan approved in 2016 to allow for the removal of dormers, redistribution of living space and enclosing a portion of a patio, resulting in a reduced FAR of .59 where .62 was approved and .44 is allowed at 23 Howe Road, Ward 8, Newton Centre, on land known as Section 81, Block 11A, Lot 37, containing approximately 6,591 sq. ft. of land in a district zoned SINGLE RESIDENCE 2 . Ref: 7.3, 7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.
Land Use Approved 7-0 (Auchincloss not voting) Public Hearing Closed 05/01/2018
- #209-18** **Special Permit Petition to exceed FAR at 138 Arnold Road**
LOUS FRANCHI/JAMS REALTY LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXCEED FAR by allowing additional attic space above an attached garage, creating an FAR of .35 where .33 is allowed at 138 Arnold Road, Ward 8, Newton Centre, on land known as Section 81, Block 01, Lot 03, containing approximately 15,250 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.
Land Use Approved 6-0 (Auchincloss, Laredo not voting) Public Hearing Closed 05/01/2018

#211-18 **Special Permit Petition to further increase nonconforming FAR at 48 Cotton Street**
ROBERTA AND PHILIP LEVY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mudroom and half bath, connecting an attached garage ,as well as a basement addition for improved exterior access, extending the existing nonconforming FAR to .48 where .39 is allowed and .45 exists 48 Cotton Street, Ward 7, Newton, on land known as Section 73, block 22, Lot 02, containing approximately 9,153 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

Land Use Approved 7-0 (Auchincloss not voting) Public Hearing Closed 05/01/2018

#212-18 **Petition to amend Board Orders #91-15 and #182-09(2) at 180 Needham Street**
C P NEEDHAM STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #91-15 and #182-09(2) to allow a for-profit learning center in the second-floor office space at 180 Needham Street, Ward 8, Newton Upper Falls, on land known as Section 83, Block 28, Lot 01, containing approximately 8,960 sq. ft. of land in a district zoned MULTI USE 1. Ref: 7.3, 7.4, 4.4.1, 6.3.14 of the City of Newton Rev Zoning Ord, 2015.

Land Use Approved 7-0 (Auchincloss not voting) Public Hearing Closed 05/01/2018

Referred to Programs & Services Committee

Wednesday, April 18, 2018

#222-18 **Re-Appointment of Aric Parnes to the Biosafety Committee**
PRESIDENT LAREDO re-appointing ARIC PARNES, 43 Beverly Road, Newton Highlands, as a member of the BIOSAFETY COMMITTEE for a term to expire April 1, 2021. (60 days: 6/16/18)

Programs & Services Approved 5-0 (Albright not voting)

Referred to Programs & Services Committee

Wednesday, April 25, 2018

#221-18 **Appointment of Leland Fisher to Jackson Homestead**
HER HONOR THE MAYOR appointing LELAND P. FISHER, 954 Chestnut Street, Newton Upper Falls, as a Trustee of the JACKSON HOMESTEAD for a term to expire April 30, 2021. (60 days: 6/16/18)

Programs & Services Approved 4-0 (Kalis, Schwartz not voting)

Referred to Public Safety & Transportation Committee

Wednesday, April 18, 2018

- #224-18** **128 Business Council Bus License Amendment**
128 BUSINESS COUNCIL, requesting an amendment to Council Order #185-16 of the Needham Shuttle Bus License.
Public Safety & Transportation Approved 4-0, Downs not voting
- #225-18** **Discussion on crash trends in the city**
COUNCILORS DOWNS, CICCONE, COTE, DANBERG AND NOEL, requesting updates from the Chief of Police or his designee on crash trends in the city.
Public Safety & Transportation No Action Necessary 5-0
- #37-18** **Discussion on how community policing works**
COUNCILOR ALBRIGHT requesting a discussion with the Chief of Police and/or members of his department to explain to the City Council how “community policing” works in Newton, how it differs from traditional policing, how staffing differs from traditional departments, and how it benefits Newton.
Public Safety & Transportation No Action Necessary 4-0, Downs not voting
- #164-18** **Discussion on Tactical Readiness**
COUNCILORS DANBERG, CICCONE, LIPOF, NORTON, NOEL, COTE, GROSSMAN AND GREENBERG, requesting a discussion by Police of Tactical Readiness in today’s world including communications protocol to/for the public during such times.
Public Safety & Transportation No Action Necessary 5-0

Referred to Public Facilities Committee

Wednesday, April 18, 2018

- #204-18** **Verizon petition for grant of location on Walnut Street**
VERIZON petition for a grant of location to install 215’± of conduit from existing Manhole #16/182 in a southeasterly direction to ~~227~~ 241 Walnut Street to provide new service. (Ward 2)
Public Facilities Approved as Amended 5-0 (Danberg not Voting)
- #226-18** **National Grid petition for grant of location in Karen Road**
NATIONAL GRID petition for a grant of location to install 220’+/- of 4” main in Karen Road from existing gas main at #40 Karen Road trenching in a southerly direction to houses #50 and #60 for new gas service. (Ward 5)
Public Facilities Approved 5-0 (Danberg not Voting)

- #227-18 National Grid Petition for a Grant of Location in Brookside Avenue**
NATIONAL GRID petition for a grant of location to install and maintain approximately 40'± of 8" gas main in Brookside Avenue from the existing 12" gas main at #85 Brookside Avenue in a southwesterly direction to a proposed regulator station thence turning in a southeasterly direction to the existing 12" gas main approximately 300'± at the intersection of Brookside Avenue/Washington Street. (Ward 3)
Public Facilities Approved 6-0
- #228-18 Mayor's appointment of Robin Maltz to the Solid Waste Commission**
ROBIN MALTZ, 20 Chatham Road, Newton Highlands, appointed as a member of the SOLID WASTE COMMISSION for a term to expire May 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 6-0
- #229-18 Mayor's appointment of Claudine Ellyin to the Solid Waste Commission**
CLAUDINE ELLYIN, 35 Cloverdale Road, Newton Highlands, appointed as a member of the SOLID WASTE COMMISSION for a term to expire May 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)
- #235-18 Mayor's appointment of Amy MacKrell to the Design Review Committee**
AMY MACKRELL, 12 Dexter Road, Newtonville, appointed as a member of the DESIGN REVIEW COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 6-0
- #236-18 Mayor's appointment of Stephanie K. Gilman to the Design Review Committee**
STEPHANIE K. GILMAN, 16 Lewis Street, Newton, appointed as a member of the DESIGN REVIEW COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 6-0
- #230-18 Mayor's reappointment of Kenneth White to the Designer Selection Committee**
KENNETH WHITE, 30 Murray Road, West Newton, reappointed as a member of the DESIGNER SELECTION COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)
- #231-18 Mayor's reappointment of James Powers to the Designer Selection Committee**
JAMES POWERS, 11 Star Road, West Newton, reappointed as a member of the DESIGNER SELECTION COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)

- #232-18** **Mayor's reappointment of Benjamin Tucker to the Designer Selection Committee**
BENJAMIN TUCKER, 12 Nathan Road, Newton Centre, reappointed as a member of the DESIGNER SELECTION COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)
- #233-18** **Mayor's reappointment of Marc Resnick to the Design Review Committee**
MARC RESNICK, 1925 Commonwealth Avenue, Auburndale, reappointed as a member of the DESIGN REVIEW COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)
- #234-18** **Mayor's reappointment of Jonathan Kantar to the Design Review Committee**
JONATHAN KANTAR, 672 Chestnut Street, Waban, reappointed as a member of the DESIGN REVIEW COMMITTEE for a term to expire December 31, 2021. (60 days: 6/16/18)
Public Facilities Approved 5-0 (Danberg not Voting)

Referred to Finance Committee

Monday, April 23, 2018

- #241-18** **Appropriate \$350,000 from Free Cash to the Rainy Day Stabilization Fund**
HER HONOR THE MAYOR requesting authorization to appropriate and expend three hundred fifty thousand dollars (\$350,000) from Free Cash to the Rainy Day Stabilization Fund. This appropriation when combined with interest earned throughout FY 2018 and \$150,000 appropriated in the FY 2019 Mayor's proposed budget will allow the City to begin FY 2019 with a full 5% of the operating budget set aside in reserve.
Finance Approved 5-0 (Cote not voting)
- #242-18** **Rescind Order #178-17A and transfer \$75,000 to the Library Consultants Account**
HER HONOR THE MAYOR requesting rescission of Council Order #178-17A authorizing a bond issuance in the amount of seventy-five thousand dollars (\$75,000) for the purpose of funding library renovations and authorization of the transfer of the sum of seventy five thousand dollars (\$75,000) from the Main Library Full-time Salaries Account to the Library Consultants Account as the new funding source for this initiative.
Finance Approved 6-0
- #237-18** **Reappointment of James Mnookin to the Investment Advisory Committee**
PRESIDENT LAREDO re-appointing JAMES P. MNOOKIN, 40 Woodchester Drive, Chestnut Hill as a member of the INVESTMENT ADVISORY COMMITTEE for a term of office to expire April 1, 2020.
Finance Approved 6-0

Public Hearings were assigned for the following items:

Public Hearing Assigned for May 9, 2018

#277-18 Eversource petition for grant of location in Cabot Street

EVERSOURCE ENERGY AND VERIZON NEW ENGLAND petitioning for a grant of location to relocate one pole (P60/26) and remove one pole (P60/27) to accommodate the bus turnaround at Cabot School. (Ward 2)

Public Hearing Assigned for May 9, 2018

#278-18 National Grid Petition for a Grant of Location in Dedham Street

NATIONAL GRID petition for a grant of location to install and maintain approximately 1550'± of 12" gas main in Dedham Street from the existing gas main in the intersection of Dedham/Carlson in a southeasterly direction to house #912 in order to abandon the existing gas main.

Public Hearing Assigned for June 6, 2018

#279-18 Petition for Drain Extension in Staniford Street

JAMES BARBERIO, 49 STANIFORD STREET, ET AL petition for main drain extensions in STANIFORD STREET from the property at 65 Staniford Street 450'± easterly to the existing sewer manhole at the intersection of Staniford Street and Freeman Street and from the property at 68 Staniford Street 700'± to the existing sewer manhole at the intersection of Staniford Street and West Pine Street.

The City Council voted without discussion 18 Yeas, 2 Nays (Councilors Brousal-Glaser & Cote), 1 Recused (Councilor Downs), 3 Absent (Councilors Baker, Ciccone & Danberg) to Approve the following item:

A Motion to Suspend the Rules to allow the Chair of the Finance Committee to report out the following item which was taken up earlier in the evening without a written report was Approved by Voice Vote.

Referred to Public Facilities and Finance Committees

#249-18 Proposed Water, Sewer and Stormwater Rates

HER HONOR THE MAYOR submitting recommended FY2019 Water/Sewer/Storm Water Rates for implementation on July 1, 2018, as follows:

FY 2019 Tiers & Rates for Water and Sewer

<u>HCF Per Quarter</u>	<u>Water Rate Per HCF</u>	<u>Sewer Rate Per HCF</u>
0-10	\$6.60	\$10.55

11-25	\$7.60	\$12.30
26-60	\$8.74	\$13.20
>60	\$10.90	\$15.20
Irrigation	\$12.00	

FY 2019 Storm Water Fees

1-4 family dwellings		\$75.00
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All other properties:

<u>Square feet of impervious surface area</u>	<u>Annual rate</u>
0 – 4,999	\$250.00
5,000 – 7,499	\$500.00
7,500 – 9,999	\$750.00
10,000 – 14,999	\$1,000.00
15,000 – 24,999	\$1,250.00
25,000 – 49,999	\$1,500.00
50,000 – 74,999	\$1,750.00
75,000 – 99,999	\$2,000.00
100,000 – 199,999	\$2,500.00
200,000 – 299,999	\$3,000.00
300,000 – 399,999	\$3,500.00
400,000 – 499,999	\$4,000.00
500,000 and greater	\$5,000.00

Committee of the Whole Approved 19 Yeas, 1 Abstention, 1 Recused (Councilor Downs), 3 Absent (Councilors Baker, Ciccone, and Danberg)

Clerk’s Note: The City Council met in a Committee of the Whole before the Council meeting to hear a presentation on the FY19 Water, Sewer & Storm Water Rates, opened and closed a Public Hearing, and Approved the rates.

The City Council voted without discussion 20 Yeas, 1 Recused (Councilor Markiewicz), 3 Absent (Councilors Baker, Ciccone & Danberg) to Approve the following item:

#238-18 Appointment of Councilor Markiewicz to the Twombly House Fund
PRESIDENT LAREDO appointing Councilor Christopher Markiewicz, 382 Wolcott Street, Auburndale as a Trustee of the TWOMBLY HOUSE TRUST FUND for a term of office to expire December 31, 2019.
Finance Approved 6-0