



## Land Use Committee Agenda

### City of Newton In City Council

Tuesday, June 7, 2022

7:00 PM

Council Chambers, Room 207

The Land Use Committee will hold this meeting as a hybrid meeting on Tuesday, June 7, 2022 at 7:00 pm that the public may access in-person or virtually via Zoom. To attend this meeting via Zoom use this link: <https://us02web.zoom.us/j/85798433625> or call 1-646-558-8656 and use the following Meeting ID: **857 9843 3625**

- #278-22**      **Request to amend Special Permit #372-94 and extend nonconforming height at 33 Industrial Place**  
MATERION NEWTON, INC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #372-94 to raise a portion of the roof and allow construction of a furnace, further extending the nonconforming height at 33 Industrial Place, Ward 8, on land known as Section 83 Block 28 Lot 79, containing approximately 43,740 sq. ft. of land in a district zoned MIXED USE 1. Ref: Sec. 7.3.3, 7.4, 4.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.
- #295-22**      **Request to allow parking within a front setback at 326 Lake Avenue**  
KAREL MATYSKA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a new parking area allowing for parking stalls within the front setback at 326 Lake Avenue, Ward 6, Newton, on land known as Section 52 Block 22 Lot 02, containing approximately 9425 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 5.1.7.A, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.
- #296-22**      **Petition to increase and extend nonconformities and amend variances at 128 Gibbs Street**  
ED ZIELINSKI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story side addition further exceeding: nonconforming FAR, nonconforming lot coverage and nonconforming open space at 128 Gibbs Street, Ward 6, Newton, on land known as Section 61, Block 28, Lot 05A, containing approximately 9555 sq. ft. of land in a district zoned

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, of the City of Newton Rev Zoning Ord, 2017.

- #297-22**      **Petition to increase nonconforming FAR at 58 Greenlawn Avenue**  
JOHN SCHERRY and HYUNSUN LEE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second-story sunroom within the existing footprint, further increasing the nonconforming FAR at 58 Greenlawn Avenue, Ward 6, on land known as Section 64, Block 13, Lot 14, containing approximately 8130 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9, 3.1.3, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.
- #317-22**      **Request for Extension of Time for Special Permit #257-20 at 449 Commonwealth Avenue**  
RAQUEL OLIVA ALENCAR petition for a TWO-YEAR EXTENSION OF TIME to EXERCISE SPECIAL PERMIT #257-20 to allow expansion of a garage to create a two-car a detached garage, in excess of 700 sq. ft. and to allow dormers with widths exceeding 50% of the length of the wall plane below at 449 Commonwealth Avenue, Ward 7, Chestnut Hill, on land known as Section 73 Block 41 Lot 01. Said Extension of Time to run from June 22, 2021 to June 22, 2023. Ref: 7.3.3, 7.4, 3.4.2.B.1, 1.5.4.G.2.b of the City of Newton Rev Zoning Ord, 2017.
- #318-22**      **Request for Extension of Time for Special Permit #257-19 at 956 Walnut Street**  
956 WALNUT STREET, LLC. petition for an EXTENSION OF TIME to July, 23, 2023 to EXERCISE SPECIAL PERMIT #257-19 to raze the existing single-family dwelling and construct seven single-family attached dwellings in three buildings, to reduce the frontage requirement, to reduce the side setback requirement, to allow three-stories, to exceed maximum lot coverage, to allow a retaining wall greater than 4' in the setback and to allow a driveway in the side setback at 956 Walnut Street, Ward 6, Newton Highlands, on land known as Section 62 Block 04 Lot 05, containing approximately 32,274 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.4.2.B, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.
- #319-22**      **Request for Extension of Time to Exercise Special Permit #623-18 at 20-22 Circuit Ave**  
ARTHUR KALOTKIN petition for an EXTENSION OF TIME to May 27, 2023 to EXERCISE Special Permit Council Order #623-18 to convert a two-family dwelling into a three-unit multi-family dwelling by converting the existing attic space, allow parking within 5' of residential dwelling units, to waive the minimum aisle width requirements, to waive driveway width, and to waive lighting requirements at 20-22 Circuit Avenue, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot 39, containing approximately 12,353 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Respectfully Submitted,

Richard A. Lipof, Chair

PERMIT EXTENSION REQUEST

September 10, 2021

City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Dear Sir/Madam,

This letter is to **request an extension of time to exercise special permit #257-20**, approved on ~~May 18~~, 2020.

*June 22,*

This permit is for work at 449 Commonwealth Avenue, Newton Center, MA, which could not be started due to the current COVID-19 pandemic, with the additional risk of having a high-risk individual living in the house.

Sincerely yours,



Raquel Oliva Alencar, M.D., Ph.D.  
449 Commonwealth Ave.  
Newton, MA, 02459  
617-304-9434

#257-20  
449 Commonwealth Avenue

CITY OF NEWTON

IN CITY COUNCIL

June 22, 2020

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 a detached garage with a footprint of over 700 square feet, and to allow dormers with widths exceeding 50% of the length of the wall plane below as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed garage with a footprint of more than 700 square feet and oversized dormers because the structure is to be used for an accessory apartment and maintains a historically significant structure. (§3.4.2.B.1; §1.5.4.G.2.b; §7.3.3.C.1)
2. The proposed garage with a footprint in excess of 700 square feet and oversized dormers will not adversely affect the neighborhood because the bulk of the additions are to the rear of the structure and the project is meeting all other dimensional standards. (§3.4.2.B.1; §1.5.4.G.2.b; §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§3.4.2.B.1; §1.5.4.G.2.b; §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§3.4.2.B.1; §1.5.4.G.2.b; §7.3.3.C.4)

PETITION NUMBER: #257-20

PETITIONER: Raquel Oliva Alencar

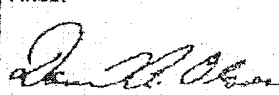
LOCATION: 449 Commonwealth Avenue, on land, on land known as Section 73, Block 41, Lot 1, containing approximately 22,637 square feet of land

Property Address: 449 Commonwealth Avenue, Newton

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CITY OF NEWTON  
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TITLE REF. DEED: BOOK 57011 PAGE 346

A True Copy  
Attest



City Clerk of Newton, Mass.

OWNER: Raquel Oliva Alencar

ADDRESS OF OWNER: 449 Commonwealth Avenue  
Newton, MA 02459

TO BE USED FOR: Detached garage with accessory apartment

CONSTRUCTION: Wood frame

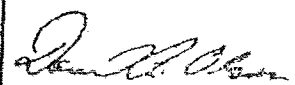
EXPLANATORY NOTES: §3.4.2.B.1, 1.5.4.G.2.b, and §7.3.3. to allow a garage with a footprint of more than 700 square feet and to allow dormers with a width of more than 50% of the wall plane below

ZONING: Single Residence 2 district

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. Certified plot plan showing proposed garage addition, signed and stamped by Bradley Simonelli, Professional Land Surveyor, Field Resources Inc., dated April 8, 2020
  - b. Architectural Plans, prepared by MGC + LLC, signed and stamped by Derek A. Rubinoff, dated March 31, 2020, consisting of nine (9) sheets:
    - i. Zoning Summary and FAR calculation, SD.00-2, revised April 27, 2020
    - ii. Proposed First Floor Plan, SD.02, revised April 27, 2020
    - iii. Proposed Second Floor Plan, SD.03, revised April 27, 2020
    - iv. Elevations, left and front, SD.06, revised April 27, 2020
    - v. 3D View, SD.07, revised April 27, 2020
    - vi. Elevations, rear and right, SD.08, revised June 2, 2020
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

A True Copy  
Attest



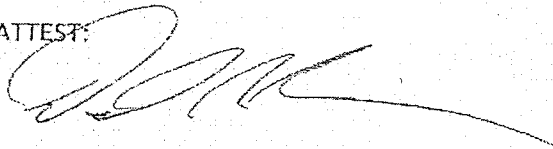
City Clerk of Newton, Mass.

- c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
- 4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1.
  - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.

Under Suspension of Rules  
 Readings Waived and Approved  
 24 Yes 0 Nays

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on June 24, 2020. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

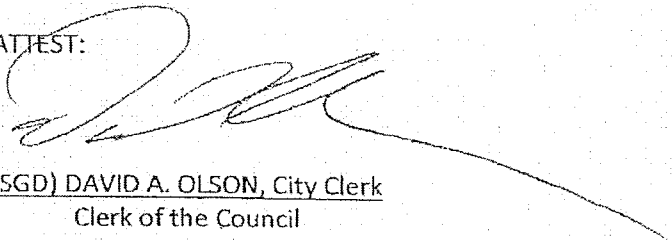
ATTEST:



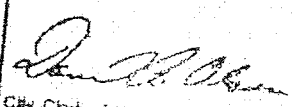
(SGD) DAVID A. OLSON, City Clerk  
 Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on June 24, 2020 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
 Clerk of the Council

A True Copy  
 Attest  
  
 City Clerk of Newton, Mass.

Middlesex South Registry of Deeds  
Electronically Recorded Document

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Recording Information

Document Number	: 121109
Document Type	: DECIS
Recorded Date	: July 24, 2020
Recorded Time	: 09:54:08 AM
Recorded Book and Page	: 75196 / 327
Number of Pages(including cover sheet)	: 4
Receipt Number	: 2493725
Recording Fee	: \$105.00

Middlesex South Registry of Deeds  
Maria C. Curtatone, Register  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

**ROSENBERG, FREEDMAN & LEE LLP**  
ATTORNEYS AT LAW

246 Walnut Street, Suite 201  
Newton, Massachusetts 02460-1639

617-964-7000  
Fax: 617-964-4025  
Sender's e-mail: llee@rfl-law.com

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CITY CLERK  
NEWTON, MA. 02459

Jason Allen Rosenberg, Senior Counsel  
Donald N. Freedman  
Laurance S.L. Lee  
Paula J. Morgan  
Susan H. Levin  
Ellen M. McVay  
Hope C. Vassos  
Andrea Hickey\*  
Peter C. Beebe  
Ashley Y. Aubuchon  
Audrey O'Shaughnessy\*\*

Of Counsel:  
Karen M. Buckley\*  
Elizabeth Baum, P.C.  
\*admitted in MA and NY  
\*\*admitted in MA and NH

May 12, 2022

City Council  
City of Newton  
1000 Commonwealth Avenue  
Newton, Massachusetts 02459  
c/o Jennifer Breslough, Clerk

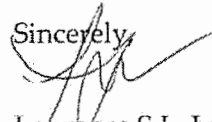
Re: Extension of Special Permit No. 257-19 – 956 Walnut Street

Dear Members of the City Council:

On behalf of 956 Walnut Street LLC, as owner of 956 Walnut Street, Newton, Massachusetts, and as the Petitioner for Special Permit No. 257-19, please accept this letter as a formal request for a two-year extension to exercise said Special Permit under Section 7.3.2 of the Newton Zoning Ordinances. The Special Permit was granted on December 16, 2019 but was appealed by an abutter pursuant to M.G.L. Ch. 40A, Sec. 17, which appeal was dismissed with prejudice on July 23, 2021. Pursuant to M.G.L. ch. 40A, Sec. 9, the time for the substantial use of the Special Permit tolled during the pendency of the said appeal. Since the dismissal of the appeal, the Petitioner has worked continuously with the preparation of required construction plans and documents to apply for the building permits necessary to start the project. The Petitioner, therefore, respectfully requests said extension to allow time for the issuance of such building permits.

We respectfully request the extension be granted without requiring a public hearing pursuant to Section 7.3.2.E. of the Newton Zoning Ordinances. However, if the City Council or the Land Use Committee vote to require a public hearing, then please place this matter on the docket of the City Council and the first available Land Use Committee public hearing. For your convenience, I have enclosed a copy of the Special Permit as recorded with the Middlesex South Registry of Deeds.

Please call should you have any questions. As always, thank you, for your help in this matter.

Sincerely,  
  
Laurance S.L. Lee

Enclosure  
cc: 956 Walnut Street LLC



#257-19  
956 Walnut Street

CITY OF NEWTON

IN CITY COUNCIL

December 16, 2019

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CITY OF NEWTON

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 Newton 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 Newton Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow seven attached single-family dwellings in three buildings in an MR1 zoning district (§3.4.1), reduce the side setback requirement (§3.2.4), reduce the frontage requirement (§3.2.4), exceed maximum lot coverage (§3.2.4), allow a driveway in the side setback (§3.2.4, §6.2.3.B.2), and allow a retaining wall higher than four feet within a setback (§5.4.2.B), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

956 Walnut Street, Newton, MA  
Deed Reference: Book 64330, Page 6

- The site in a Multi-Residence 1 (MR1) district with 35.5 of frontage is an appropriate location for the proposed seven attached single-family dwellings as designed in three, two and one-half-story structures with a retaining wall higher than four feet in a setback as it is located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses and the petitioner has agreed to subject an adjoining property known as 1058 Beacon Street to a restrictive covenant that shall preserve healthy mature trees on a portion of that property. (§7.3.3.C.1)
- The proposed seven attached single-family dwellings as designed in three-structures with a retaining wall higher than four feet in a setback will not adversely affect the neighborhood as the development would be located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses and the attached dwellings are well screened from abutting residences. (§7.3.3.C.2)
- The proposed seven attached single-family dwellings as designed in three structures with a retaining wall higher than four feet in a setback will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved as indicated by a traffic study submitted by the petitioner. (§7.3.3.C.4)
- Literal compliance with the provisions of §6.2.3.B.2 of the Newton Zoning Ordinance that do not allow the location of a driveway within 10 feet of a side lot line setback is

A True Copy  
*Whaley*  
City Clerk of Newton, Mass

impractical due to the frontage and shape of the lot or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.

- Literal compliance with the provisions of §3.2.4 of the Newton Zoning Ordinance that require a minimum of 80 feet of frontage and 25 feet of side setbacks is impractical due to the unique location, frontage, and shape of the lot as affected by the direct abutting Sudbury Aqueduct.

PETITION NUMBER: #257-19 and 257-19(2)

PETITIONER: 956 Walnut Street LLC

LOCATION: 956 Walnut Street, Newton, Massachusetts, Ward 6, on land known as Section 62, Block 4, Lot 5, containing approximately 32,274 sq. ft. of land

OWNER: 956 Walnut Street LLC

ADDRESS OF OWNER: c/o Laurance Lee, Esq.  
Rosenberg, Freedman & Lee LLP  
246 Walnut Street  
Newton, MA 02460

TO BE USED FOR: Seven single-family attached dwellings in three structures

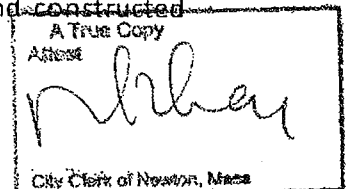
EXPLANATORY NOTES: Special permit as per Newton Zoning Ordinances Chapter 30, §7.3.3 to :

- allow attached single-family dwellings in an MR1 zoning district (§3.4.1)
- reduce the side setbacks requirement (§3.2.4)
- reduce the frontage requirement (§3.2.4)
- exceed maximum lot coverage (§3.2.4)
- allow a driveway in the side setback (§3.2.4, §6.2.3.B.2)
- allow a retaining wall higher than four feet within a setback (§5.4.2.B)

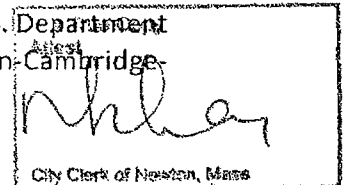
ZONING: Multi-Residence 1 district

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. Site plans, prepared by Everett M. Brooks Co., signed and stamped by Michael S. Kosmo, Registered Professional Engineer and Bruce Bradford, Professional Land Surveyor, consisting of the following sheets:
- i. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Existing Conditions (Sheet 1 of 5), dated June 27, 2019 revised through November 19, 2019;
  - ii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Layout (Sheet 2 of 5), dated June 27, 2019, revised through November 19, 2019;
  - iii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Utilities and Grading (Sheet 3 of 5), dated June 27, 2019 revised through November 19, 2019;
  - iv. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Construction Plan (Sheet 4 of 5), dated June 27, 2019, revised through November 19, 2019;
  - v. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners" (details) (Sheet 5 of 5), dated June 27, 2019, revised through November 19, 2019.
- b. Architectural plans entitled "Residences at Four Corners, 956 Walnut St, Newton- MA 02459," prepared MGD+LLC Design and Consultants, signed and stamped by Derek E. Rubinoff, Registered Architect, consisting of the following sheets:
- i. Cover Page (SP-A0.0), dated June 18, 2019, revised through November 18, 2019;
  - ii. Zoning Analysis & Unit Types (SP-A0.2), dated June 18, 2019, revised through November 18, 2019;
  - iii. Site Plan (SP-A1.01), dated June 18, 2019, revised through November 18, 2019;
  - iv. Basement Fl Plan and Section (SP-A1.2), dated June 18, 2019, revised through November 18, 2019;
  - v. Elevations Plan (SP-A1.3), dated June 18, 2019, revised through November 18, 2019;
  - vi. Landscape Plan (SP-A1.4), dated June 18, 2019, revised through November 18, 2019;
  - vii. Interior Habitable Area Comparison (SP-A3.0) dated October 22, 2019.
2. The petitioner shall comply with the Tree Preservation Ordinance.
  3. All exterior lighting fixtures shall be residential in scale and not cause light pollution, and shall be subject to review and approval by the Director of Planning and Development before any Building Permit may be issued pursuant to this Special Permit/Site Plan Approval.
  4. One (1) of the residential units shall be an ownership unit made available to households earning at or below 70% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge



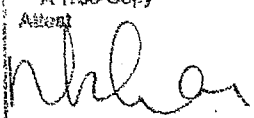
Quincy, MA-NH HMFA ("Inclusionary Unit"). As proposed in the preliminary Inclusionary Housing Plan, last revised 3/12/19, the unit shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery the Inclusionary Units shall be designated as a Local Preference Units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).

The Inclusionary Unit shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11).

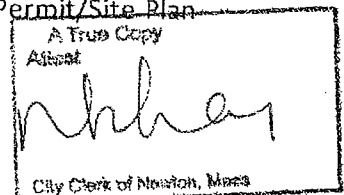
5. The type of Inclusionary Unit shall be a four bedroom, three-and-a-half-bathroom unit.
6. To the extent permitted by applicable regulations of DHCD, the Inclusionary Unit shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
7. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the unit will be affirmatively marketed and sold through a lottery.

No dwelling unit shall be constructed to contain, and/or marketed and/or sold as containing, more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).


8. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Middlesex South Registry of Deeds.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development. Drought tolerant and indigenous plants shall be the predominant species installed in the landscape.

Attorney  
  
 City Clerk of Newton, Mass

- f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex South Registry of Deeds . A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
  - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
  - h. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11 of the Zoning Ordinance.
  - i. Submitted for review and approval as to form to the City's Law Department, the Restrictive Covenant, as agreed to between petitioner and direct abutters, which provides for and requires the protection and preservation of the healthy mature trees located within a portion of the adjacent property at 1058 Beacon Street, Newton, Massachusetts.
9. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. staging site for construction equipment,
  - b. construction materials,
  - c. parking of construction workers' vehicles,
  - d. phasing of the project with anticipated completion dates and milestones,
  - e. safety precautions,
  - f. emergency contact personnel of contractor
  - g. anticipated dewatering during construction,
  - h. site safety & stability,
  - i. impacts to abutting properties, and
  - j. a construction noise plan.
  - k. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
10. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:



- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
  - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
  - e. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Unit has been completed to the Director of Planning and Development for review and approval.
  - f. Entered into, and recorded at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants for the Inclusionary Unit with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Unit in perpetuity.
  - g. The Inclusionary Unit shall be constructed and available for occupancy coincident with market rate units such that no more than three (3) market rate units may receive occupancy permits until the Inclusionary Unit has received its occupancy permit.
  - h. Submitted to the Department of Inspectional Services and the Department of Planning and Development a copy of the Restrictive Covenant described in Condition 8(i) above, as recorded with the Middlesex South Registry of Deeds, protecting healthy mature trees located within a portion of the adjacent property located at 1058 Beacon Street, Newton, Massachusetts.
11. Notwithstanding the provisions of Condition #10 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
  12. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.
  13. To the greatest extent possible, Petitioner shall install pervious pavers in the portion of the proposed surface driveway intended for Fire Truck temporary parking provided that such pavers are reviewed and approved by the Planning and Development Department and the Fire Department. If, however, the Fire Department does not approve of the use of pervious

  
 City Clerk of Newton, Mass

pavers then Petitioner may use asphalt or such other material(s) acceptable to the Fire Department.

Under Suspension of Rules  
Readings Waived and Approved  
23 yeas 0 nays 1 absent (Councilor Ciccone)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on December 18, 2019. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



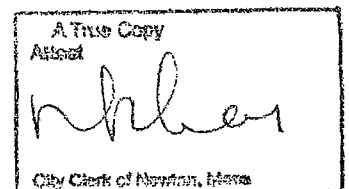
(SGD) NADIA H KHAN, Acting City Clerk  
Acting Clerk of the City Council

I, Nadia H Khan, as the Acting Clerk of the City Council and keeper of its records and as the Acting City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that within twenty days since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on December 18, 2019 in the Office of the City Clerk, an APPEAL to said decision pursuant to M.G.L. Chapter 40, Section 17 was filed in the Superior Court as Civil Action No. 2081CV00060. No other appeals were filed. Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), the above-referenced APPEAL of the plaintiffs was dismissed with prejudice on July 23, 2021.

ATTEST:



(SGD) NADIA H KHAN, Acting City Clerk  
Acting Clerk of the Council



*Terrence P. Morris, Esq.*  
*Law Offices of Terrence P. Morris LLC* RECEIVED  
57 Elm Road  
Newton, MA 02460  
617 202-9132

2022 MAY 18 PM 12:49

CITY CLERK  
NEWTON, MA. 02450

May 18, 2022

Councilor Richard A. Lipof, Chair, *By electronic transmission*  
City Council Land Use Committee  
City of Newton  
1000 Commonwealth, Avenue  
Newton, MA 02459

Re: 20-22 Circuit Avenue: Council Order # 623-18  
Extension of Special Permit

Dear Ms. Breslouf:

On February 19, 2019, the City Council granted a special permit (Council Order #623-18) for the above-referenced property. On February 17, 2020, upon petitioner's request and for good cause, the City Council voted to extend the time in which to exercise the special permit until February 19, 2021. Shortly thereafter, due to the onset of the Covid-19 pandemic, Governor Charles Baker issued an emergency order providing that any permit in effect as of March 10, 2020, including any related deadlines or conditions involved, shall not lapse, or expire during the State of Emergency, and any expiration date or internal deadline shall be tolled during the State of Emergency. Said state of emergency continued until June 15, 2021. The State of Emergency in effect due to Covid-19 resulted in the tolling of the time for the exercise of the subject permit until May 27, 2022.

This request is being made pursuant to Section 7.3.2.E of the zoning ordinance, which provides that "[t]he City Council may extend the period of time granted under this subsection for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon". The reason for this request and basis for the good "cause" is that the petitioner, who is a senior citizen in his 70's, has never fully recovered from the debilitating effects of the pandemic, which continues to wreak havoc in the general population.

Thank you for your attention to this matter.

Sincerely,

*Terrence P. Morris*

Terrence P. Morris, Esq.

Cc: Arthur Kalotkin, [artkalotkin@verizon.net](mailto:artkalotkin@verizon.net)  
Deb Crossley, [djcrossley26@verizon.net](mailto:djcrossley26@verizon.net)  
Jennifer Breslouf, Clerk of Committee, [jbreslouf@newtonma.gov](mailto:jbreslouf@newtonma.gov)  
Jonah A. Temple, Assistant City Solicitor, [jtemple@newtonma.gov](mailto:jtemple@newtonma.gov)



#623-18(2)

CITY OF NEWTON

CITY COUNCIL

March 2, 2020

RECEIVED  
2020 MAR -4 PM 4:18  
CITY CLERK  
NEWTON, MA 02459

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants a ONE (1) YEAR EXTENSION OF TIME IN WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #623-18 granted on February 19, 2019 to February 19, 2021.

PETITION NUMBER: #623-18

PETITIONER: Arthur Kalotkin

LOCATION: 20-22 Circuit Avenue, Ward 5, on land known as Section 51, Block 20, Lot 39, containing approx. 12,353 sq. ft. of land

OWNER: Arthur Kalotkin

ADDRESS OF OWNER: 32 Claflin Rd.  
Brookline, MA 02445

TO BE USED FOR: Three- unit, multi-family dwelling

EXPLANATORY NOTES: Special Permit per §7.3 to allow a multi-family residential use in an Multi-Residence 2 (MR2) zoning district (§3.4.1); allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13); waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13), and waive lighting requirements (§5.1.10.A, §5.1.13).

ZONING: Multi-Residence 2 (MR-2) district

1. No building permit shall be issued in pursuance of Special Permit/Site Plan Approval #623-18 until:

- a. The Petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Council Order granting this one-

year extension of time to February 19, 2021 with the appropriate reference to the book and page of the Petitioner's title deed or notice of lease endorsed thereon.

- b. A certified copy of such recorded notice shall have been filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

Under Suspension of Rules  
Readings Waived and One-year Extension of Time Approved  
21 yeas 0 nays 3 absent (Councilors Ciccone, Gentile and Markiewicz)

The undersigned hereby certifies that the foregoing copy of the decision of the City Council granting a ONE-YEAR EXTENSION OF TIME to February 19, 2021 IN WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #623-18 is a true accurate copy of said decision.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on March 4, 2020 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
Clerk of the Council

our copy

# Middlesex South Registry of Deeds Electronically Recorded Document

This is the first page of the document - Do not remove

### Recording Information

Document Number	: 32916
Document Type	: DECIS
Recorded Date	: March 18, 2019
Recorded Time	: 02:01:37 PM
Recorded Book and Page	: 72344 / 535
Number of Pages(including cover sheet)	: 5
Receipt Number	: 2304162
Recording Fee	: \$75.00

RECEIVED  
 NEWTON CITY CLERK  
 2019 MAR 25 PM 4: 26  
 David A. Chason, Clerk  
 Newton, MA 02459

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
 208 Cambridge Street  
 Cambridge, MA 02141  
 617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

#623-18  
20-22 Circuit Avenue

2019 FEB 21 PM 1:04

CITY OF NEWTON

IN CITY COUNCIL

February 19, 2019

ORDERED:

That the 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 a three-unit multifamily dwelling, and to allow exceptions to certain parking requirements related to the location of parking stalls within five feet of a dwelling, minimum aisle width and minimum lighting, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

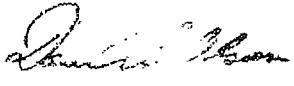
1. The specific site is an appropriate location for the proposed three-unit, multi-family dwelling given the presence of other multi-family structures in the neighborhood (§7.3.3.C.1);
2. The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood given the presence of other multi-family structures in the neighborhood and because all required parking is accommodated on site (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
5. The requested exceptions to literal compliance with the parking standards, including allowing parking within five feet of a structure with residential dwelling units and waiving the minimum aisle width and lighting requirements, are in the public interest because they will allow the preservation of landscaped open space on the lot and be consistent with the residential nature of the neighborhood (§5.1.13).

PETITION NUMBER: #623-18

PETITIONER: Arthur Kalotkin

TITLE REF. DEED: BOOK 49115 PAGE 571

A True Copy  
Attest



Clerk of Newton, Mass.

Property Address: 20-22 Circuit Avenue, Newton

LOCATION: 20-22 Circuit Avenue, Ward 5, on land known as Section 51, Block 20, Lot 39, containing approx. 12,353 sq. ft. of land

OWNER: Arthur Kalotkin

ADDRESS OF OWNER: 32 Claflin Rd.  
Brookline, MA 02445

TO BE USED FOR: Three unit, multi-family dwelling

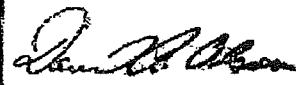
EXPLANATORY NOTES: Special Permit per §7.3 to allow a multi-family residential use in an Multi-Residence 2 (MR2) zoning district (§3.4.1); allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13); waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13), and waive lighting requirements (§5.1.10.A, §5.1.13).

ZONING: Multi-Residence 2 (MR-2) district

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. A plan entitled "Site Plan for 20-22 Circuit Avenue in Newton, Mass.," prepared by Neponset Valley Survey Assoc., Inc., signed and stamped on December 10, 2018 by Stephen P. Desroche, Professional Land Surveyor.
  - b. Architectural drawings entitled "Exterior Stair Addition to 20 & 22 Circuit Ave, Newton, MA," prepared by Sangiolo Associates, signed and stamped by Mark Sangiolo, Registered Architect, dated October 30, 2016, consisting of the following:
    - i. EX1 (showing existing floor plans of the third floor, second floor, first floor and basement and rear elevation;
    - ii. A4 (showing proposed rear elevation and side elevation of stair).
2. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
3. The property shall not be used for auto storage or parking by non-residents.
4. Prior to the issuance of any Building Permit, the petitioner shall submit a Final Landscape Plan which shall include existing and/or proposed vegetation along the back of the Circuit Avenue sidewalk and all other property boundaries, as well as additional detail about the vegetation within the "8' Wide Landscaping Area" shown in the plan cited in Condition 1(a), for review and approval by the Director of Planning and Development. Said Final Landscaping Plan shall

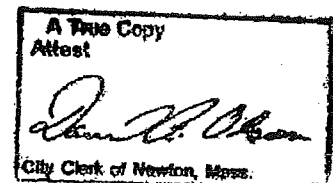
A True Copy  
Attest



City Clerk of Newton, Mass.

- also include the location(s) and specifications for one or more motion-detector controlled lighting fixtures for the appropriate site-specific illumination of the parking area.
5. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
    - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
    - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
    - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
    - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
    - e. Submitted a Final Landscape Plan per Condition #4 to the Director of Planning and Development for review and approval.
  
  9. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
    - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
    - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
    - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
    - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
  
  10. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.
  
  11. Notwithstanding the provisions of Condition #9(d) above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules



Readings Waived and Approved

18 yeas 0 nays 1 recused (Councilor Crossley) 5 absent (Councilors Baker, Ciccone, Grossman, Kalis, and Schwartz)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on February 21, 2019. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

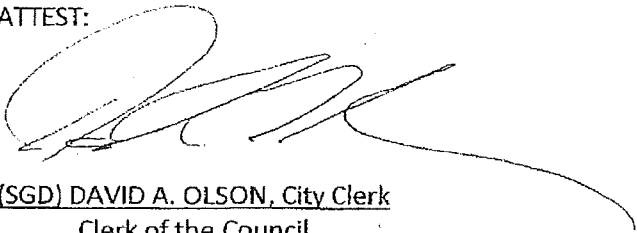
ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 2/21 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
Clerk of the Council

