



Land Use Committee Report

City of Newton In City Council

Tuesday, August 9, 2022

Present: Councilors Lipof (Chair), Kelley, Downs, Greenberg, Markiewicz, Laredo and Lucas

Also Present: Councilors Albright, Malakie, Wright, Norton, and Crossley

Absent: Councilor Bowman

City Staff Present: Senior Planner Michael Gleba, Chief Planner Katie Whewell, Assistant City Solicitor Jonah Temple, Director of Housing and Community Development Amanda Berman

All Special Permit Plans, Plan Memoranda and Application Materials can be found at the following link <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1058>.

Presentations for each project can be found at the end of this report.

#387-22 **Request for Extension of Time to Exercise Special Permit #284-20 at 1084 Chestnut Street**
ARIANA AND ALFRED URUCI petition for an EXTENSION OF TIME to August 10, 2023 to EXERCISE Special Permit Council Order #284-20 to enclose first- and second- floor decks to create additional living space, creating an FAR of .53 where .51 exists and .49 is required at 1084 Chestnut Street, Ward 5, Newton Upper Falls, on land known as Section 51 Block 41 Lot 06, containing approximately 9,086 sq. ft. of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0**

Note: Councilor Downs motioned to accept to approve the extension of time. The motion carried 7-0.

#259-22 **Request to Rezone 7 parcels to BU4**
CRAFTS DEVELOPMENT, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone 7 parcels as follows: 34 Crafts Street (Section 23 Block 16 Lot 11), 36 Crafts Street (Section 23 Block 16 Lot 10), 38 Crafts Street Section 23 Block 16 Lot 09), 48 Crafts Street (Section 23 Block 16 Lot 08), and 50 Crafts Street (Section 23 Block 16 Lot 07) from MANUFACTURING TO BUSINESS 4; and 19 Court Street (Section 23 Block 16 Lot 12) and 21 Court Street (Section 23 Block 16 Lot 13) from MULTIRESIDENCE 1 TO BUSINESS 4.

Action: **Land Use Held 7-0; Public Hearing Continued**

#260-22 Petition to construct elderly housing with services at 34, 36, 38, 48, 50 Crafts Street, 19-21 Court Street

CRAFTS DEVELOPMENT, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow an Elder Housing with Services facility, to allow a development in excess of 20,000 sq. ft., to allow a seven-story building, to allow a building 84 feet in height, to allow parking within the side setback, to reduce the required parking stall width, to reduce the required parking stall depth, to reduce the required parking stall depth for accessible stalls, to allow a reduced drive aisle width for two-way traffic and to waive the lighting requirements at 34, 36, 38, 48, 50 Crafts Street, 19-21 Court Street, Ward 2, Newton, on land known as Section 23 Block 16 Lots 7, 8, 9, 10, 11, 12 and 13, containing approximately 115,818 sq. ft. of land in districts zoned MAN and MR1 (to be rezoned to BU4). Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.2.10, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 5.1.8.A.1, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.C, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 7-0; Public Hearing Continued**

Note: Attorney Stephen Buchbinder of Schlesinger and Buchbinder, LLP with offices at 1200 Walnut Street, Newton, represented the petitioners. Atty. Buchbinder was joined by members of the development team virtually including Mark Development Principal Damian Chaviano and Senior Vice-President of Development David Roache as well as VHB Director of Transportation Planning Randy Hart.

Atty. Buchbinder presented an orientation of the property as well proposed plans, general site information and landscape plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89747/637964164008295886>

Atty. Buchbinder provided updates since Petition 260-22 was last before the Committee on June 28, 2022. He addressed the Committees members' as well as the Planning Department's questions and concerns from that previous Committee Meeting.

Atty. Buchbinder's updates included: a bicycle parking layout, a revised parking layout to reflect all parking stalls are now to be nine feet wide, a revision to where the property will be six-stories instead of the initially proposed seven-stories and that three parking stalls on Crafts Street are to be removed and replaced with a pick-up / drop-off area for ride-sharing. Atty. Buchbinder was followed in presentation by Mr. Roache.

Mr. Roache presented the sustainability efforts by the petitioners, the construction management plan, and the proposed drop-off / pick-up area. Mr. Roache additionally briefed how the site will be accessed. Additional information can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89747/637964164008295886>

The proposal includes two primary access gates off Crafts Street and access via Court Street will be prohibited. Additionally, the petitioners have expanded the furnishing zone, creating additional green spaces that will be maintained by the development.

Mr. Roache additionally detailed the petitioner's efforts working with Green Newton on sustainable environment issues in the community. Mr. Roache was followed by Mr. Hart who presented an overview of the transportation and traffic study, which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89747/637964164008295886>

Chief Planner Katie Whewell presented updates to the proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89882/637968418046108262>

Ms. Whewell noted that City Staff, Planning and Transportation all continue to recommend that pick-up / drop-off as well as all loading and delivery needs be accommodated on site.

Public Comment

Noting this was a working session for Staff, the Chair stated no public comment would be heard this evening regarding this petition.

Councilor Comments

While Councilors applauded the petitioner's outreach with Green Newton on sustainability initiatives, they questioned if the petitioners had conversations with City Staff, particularly the City of Newton Sustainability Co-Directors as Green Newton is a private organization.

Mr. Roache answered that they had not had any conversations with City Staff and have been exclusively working with Green Newton but noted conversations will be held with City Staff prior to the next meeting.

Councilors voiced concerns about vehicle parking as well as bike parking at the site. Councilors also voiced concerns about the availability of electronic vehicle (EV) parking / charging stalls at the site, noting that they would like to see that number increased to around 50% of the total stalls. This is in keeping with the growing trend of EV vehicles.

Councilors recalled support from a previous hearing for a pathway between the site and the abutting property (Whole Foods). Mr. Chaviano stated that the petitioners have reached out to Whole Foods and the owners of the property and are still awaiting a response.

Councilors noted the design of the site and questioned whether it would be accessible for first responders arriving at the site.

Mr. Roache responded that they had been in contact with Newton Fire throughout the process of developing plans and Newton Fire has no concerns regarding the accessibility of their vehicles.

Councilor Laredo motioned to hold the petition. The motion carried 7-0 and the Public Hearing remains open.

#360-22 Request to extend nonconforming two-family use at 336 Cabot Street

336 CABOT STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct first and second story additions at the front and rear of the dwelling, further extending the nonconforming two-family residential dwelling use at 336 Cabot Street, Ward 2, Newton, on land known as Section 22 Block 19 Lot 09, containing approximately 9817 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 8/9/22

Note: The owner and principal builder, Fernando Dalfior was present along with the Project Manager Maria Correa and Architect Eric Zachrison. Mr. Zachrison presented an orientation of the property as well proposed plans, general site information and landscape plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89751/637964168950899940>

The petitioner is proposing to make additions to an existing multi-residence home to further increase the living space within the two units. The detailed plans include additions to the first story filling in a portion of the front porch as well as a second story addition at the rear of the dwelling, two tandem parking spaces for each unit and green spaces in the front and rear of the property.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89886/637968419652029143>

Public Comment

POLINA ZATSMAN of 328 Cabot Street, Newton, raised concerns of the proximity of 336 Cabot Street to her property prior to the additions being made. Her concerns were primarily regarding the first-floor addition in the front of the dwelling.

ALEX ZATSMAN of 328 Cabot Street, Newton, raised concerns regarding the impact on traffic if the number of occupants increased at 336 Cabot Street and it was converted into a two-family dwelling. The Committee noted that 336 Cabot Street is already a two-family dwelling and that additional units were not being proposed.

Councilor Comments

Councilors expressed support for the project with some conducting previous site visits of the property. Councilors welcomed these improvements to this section of Cabot Street and noted that this project will be noninvasive to the neighborhood.

Councilor Lucas motioned to close the Public Hearing which carried 7-0. Councilor Lucas motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0.

#374-22 Request to further extend a nonconforming detached accessory building, to allow reduced separation distance from an abutting dwelling, and to further increase FAR at 199 Church Street

199 CHURCH STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to: construct a two-story rear addition to the principal dwelling, further increasing nonconforming FAR; to convert an existing detached structure into an accessory apartment and allow a reduced separation distance between the detached accessory structure and abutting dwelling; and to further extend a nonconforming two-story detached accessory building at 199 Church Street, Ward 1, Newton, on land known as Section 12 Block 13 Lot 16, containing approximately 10,688 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.7.b, 3.4.3.A.3, 7.8.2.2, 3.2.3, 3.2.11 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 8/9/22

Note: Attorney Terrence Morris, with offices at 57 Elm Road, Newton, represented the petitioner and was joined by Project Architect Mark Sangiolo. Atty. Morris presented an orientation of the property as well as proposed plans, general site information and landscape plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89755/637964170433981091>

The petitioner is proposing to construct a two-story addition to the rear of the principal dwelling as well as convert a detached structure into an accessory apartment. Additional details include removing an illegal pre-existing third-floor unit so that it becomes part of the second-floor apartment.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89884/637968418791424656>

Public Comment

The Chair opened for Public Comment. No member of the public wished to speak regarding this proposal.

Councilor Comments

Councilors expressed concerns regarding the proposed accessory apartment's size and proximity to abutting dwellings. Referencing the City's Assessor's findings, Councilors noted that a portion of the proposed apartment was over the abutting property line.

Atty. Morris presented two recent surveys regarding the property line, and it was discussed amongst the Committee that recent certified plot plans, which Atty. Morris presented, supersedes the City Assessor's database.

Councilors additionally questioned the project's parking proposal, specifically the two tandem parking spaces and how the four vehicles would maneuver out of the parking space onto Church Street, which can be narrow.

Councilors found no fault with the plan and supported the proposal.

Councilor Greenberg motioned to close the Public Hearing which carried 7-0. Councilor Greenberg motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0.

#375-22 Request to allow oversized dormers and exceed FAR at 1198 Chestnut Street

SALWA ELARABI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct shed dormers on two sides of the dwelling closer than 3 ft. to the end walls and exceeding 50% of the wall planes, and to exceed allowable FAR at 1198 Chestnut Street, Ward 5, Newton, on land known as Section 51 Block 40 Lot 20, containing approximately 11,146 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 1.5.4.G.2.b, 1.5.4.G.2.c, 3.2.3, 3.2.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 8/9/22

Note: Dominic Pedulla, Project Designer for the proposed project represented the petitioner. Mr. Pedulla presented an orientation of the property as well proposed plans, general site information and landscape plans.

The petitioner is proposing to construct dormers along the third floor east and west sides of the dwelling. The expanded space, as presented, will be utilized as home office space.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89890/637968421329728817>

Public Comment

The Chair opened for Public Comment. No member of the public wished to speak regarding this proposal.

Councilor Comments

Councilor Downs motioned to close the Public Hearing which carried 7-0. Councilor Downs motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0.

#376-22 Petition to extend non-conforming two-family use and to exceed FAR at 1766-1768 Commonwealth Avenue

JOE DESOUZA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to combine two parcels and eliminate the interior lot line, and to construct additions to the existing dwelling, exceeding allowable FAR and further extending the nonconforming use at 1766-1768 Commonwealth Avenue, Ward 4, Newton, on land known as Section 43 Block 08 Lot 04, containing approximately 12,880 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved Subject to Second Call 7-0; Public Hearing Closed 8/9/22

Note: Agui Desouza, General Contractor, represented the petitioner. Mr. Desouza presented an orientation of the property as well proposed plans, general site information and landscape plans.

The petitioner is proposing to combine two lots and construct, in addition to the two-family dwelling, a four-stall surface parking area to the south of the dwelling.

Chief Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89888/637968420511239223>

Ms. Whewell questioned the necessity of a curb-cut along Washington Street granting access to the property when the existing ingress route via Commonwealth Avenue is sufficient. She cited the decreased area in which vehicles can drive upon would increase the overall open space of the site. Ms. Whewell additionally questioned whether there were any other features or elements that could be incorporated into the front of the dwelling to better contextualize it with other homes in the neighborhood. The current proposal leaves much of the front facade vacant.

Public Comment

PATRICIA SHAW of 1774 Commonwealth Avenue, Newton, questioned whether the petitioners were increasing the number of livable units at the property. The response was that the dwelling would not be adding additional units and remain a two-family dwelling.

Councilor Comments

Committee members voiced concerns about the second proposed curb cut on Washington Street citing safety concerns with traffic volume and speed.

The petitioner agreed and verbally committed to eliminate the Washington Street curb cut from the proposal as well as new designs for the front facade.

Councilor Markiewicz motioned to close the Public Hearing which carried 7-0. Councilor Markiewicz motioned to approve the petition subject to Second Call pending review of a revised plan showing removal of the Washington Steet curb cut. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0.

#377-22 Petition to allow parking in the front setback at 344 Woodward Street

RAJEEV PATTNI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking in the front setback at 344 Woodward Street, Ward 5, Newton, on land known as Section 54 Block 08 Lot 24, containing approximately 8000 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 5.1.7.A, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 7-0; Public Hearing Continued

Note: Attorney Franklin Schwarzer, of Schlesinger and Buchbinder, LLP, with offices at 1200 Walnut Street, Newton, represented the petitioner. Atty. Schwarzer presented an orientation of the property as well proposed plans, general site information and landscape plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89757/637964171325634922>

The petitioner is requesting to allow parking in the front setback of the dwelling where two separate curb cuts exist. The property previously had a circular driveway in the front that additionally wrapped around the left side of the dwelling to a rear garage accounting for roughly 1,857sq. ft of impervious surface.

Atty. Schwarzer presented that the petitioners removed much of the surface to make additions to the rear and front of the dwelling, leaving only the two curb cuts from the original circular driveway.

Atty. Schwarzer also noted that the petitioners have reached out to the abutting neighbors and tenants and have received favorable feedback from abutters with 6 neighbors signing a petition of support.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89892/637968422098974926>

Mr. Gleba noted that the originals plans submitted by the petitioner and approved by ISD showed the continued existence of the circular driveway and the elimination of the driveway the rear and right side of the dwelling.

Public Comment

The Chair opened for Public Comment. No member of the public wished to speak regarding this proposal.

Councilor Comments

Councilors questioned why the petitioner deviated from the original proposed plan that retained the circular driveway.

If the petitioner had adhered to the ISD approved plan with the retained circular driveway, the dwelling would still have the two current curb cuts and they would be able to stack their four vehicles in front of the dwelling, which would not require Committee approval and relief.

Councilors also noted a potential safety issue with the two tandem parking areas, citing the original circular driveway as much safer.

The occupants would be able to easily pull in and out of the circular driveway face-forward as opposed to having four vehicles back out onto Woodward Street.

Councilors asked if it was feasible to return to the circular driveway. Atty. Schwarzer replied that it would be extremely difficult now due to new sewer line and waterline considerations in the proposed area.

Councilors requested the petitioner get creative with future plans as the current proposal is not feasible.

Councilor Laredo motioned to hold the petition. The motion carried 7-0 and the Public Hearing remains open.

#378-22 Request to further extend nonconforming FAR at 17 Jerome Avenue

DAN AND JULES MYUNG petition for SPECIAL PERMIT/SITE PLAN APPROVAL to partially enclose a porch and construct a two-story addition within the existing footprint, further increasing nonconforming FAR at 17 Jerome Avenue, Ward 3, Newton, on land known as Section 34 Block 39 Lot 13, containing approximately 2640 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 8/9/22

Note: Karina Grisbach, Design Director of Rebel Builders, with offices at 997 Chestnut Street #5, Newton, represented the petitioner. Ms. Grisbach presented an orientation of the property as well proposed plans, general site information and landscape plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89759/637964171816734987>

The petitioner is proposing to make additions within the current footprint of the dwelling. These additions include expanding the existing kitchen, create an ensuite bedroom with an office and bathroom attached in the attic.

Chief Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/89880/637968416723125060>

Public Comment

The Chair opened for Public Comment. No member of the public wished to speak regarding this proposal.

Councilor Comments

The Committee expressed favorable comments for this petition noting how for a small dwelling and a small lot, the proposed plan maximizes all available space of the property and increases living space while maintaining the current footprint.

Councilor Kelley motioned to close the Public Hearing which carried 7-0. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0.

The Committee adjourned at 10:08 p.m.

Respectfully Submitted,

Richard Lipof, Chair