



Land Use Committee Report

City of Newton In City Council

Thursday, October 6, 2022

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

Also Present: Councilors Albright, Humphrey, Leary, Malakie, Norton, Oliver, and Wright

Absent: Councilor Laredo

City Staff Present: Senior Planner Michael Gleba, Chief Planner Katie Whewell, Senior Planner Cat Kemmett, Planning Director Barney Heath, and Assistant City Solicitor Jonah Temple

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.

#419-22 **Request to extend nonconforming front setbacks at 148 Auburndale Avenue**
CHRISTOPHER and GRETCHEN RUTAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two-story additions to the front and rear of the dwelling further reducing and vertically extending the nonconforming front setbacks at 148 Auburndale Avenue, Ward 3, Newton, on land known as Section 33 Block 18 lot 03, containing approximately 6,616 sq. ft. in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 6-0 (Councilor Lucas not voting); Public Hearing Closed 10/6/22**

Note: The owners of the property, Christopher and Gretchen Rutan were present with the Proposed Plan's Architect and deferred to the City's Planning Department presentation for an orientation of the property as well as proposed plans and general site information. This information was provided by Senior Planner Cat Kemmett and can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/91958/638013385958650305>

The petitioner is proposing to construct two-story additions to the front and rear of the dwelling. The plans include enlarging the existing garage and constructing a second-story addition over the garage with space for a bedroom, laundry, and a bathroom.

Ms. Kemmett presented the requested relief, criteria for consideration, land use, zoning and proposed plans which can also be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/91958/638013385958650305>

Public Comment

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

Committee Comments

Committee Members referenced an email submitted by an abutter that alluded to sight lines potentially being obstructed as you drive north on Fernwood Road and make a left (west) or right (east) onto Auburndale Ave.

Chief Planner Katie Whewell responded that the Planning Department did not analyze the sight lines, but that the planned additions would have minimal impact as there is current large-scale landscaping at the intersection of Fernwood Road and Auburndale Ave that does not impede drivers' line of sight.

Committee Members additionally questioned the petitioner's architect as to why he would knowingly push the already nonconforming setback further into nonconformity. The architect responded that his plans were driven by the size and location of the garage.

Councilor Bowman motioned to close the Public Hearing which carried 6-0. Councilor Bowman 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 6-0.

#418-22 Request to exceed FAR and to allow three stories at 53 Neshobe Road

RONALD and CARYN HARDING petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached two-car garage resulting in three stories, exceeding allowable FAR at 53 Neshobe Road, Ward 5, Newton, on land known as Section 42 Block 07 Lot 06, containing approximately 17,173 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 6-0 (Councilor Lucas not voting); Public Hearing Closed 10/6/22

Note: The owners of the property, Ronald and Caryn Harding were present and orally briefed their petition including proposed plans and general site information.

The petitioner is proposing to rebuild a previously razed two-car detached garage and construct an attached two-car garage with habitable space above. The petitioners are also seeking approval to allow three-stories at the dwelling. Due to the average grade of the site, the basement is considered the first story of the dwelling. The overall height of the home, including the proposed additions, will remain unchanged.

Senior Planner Cat Kemmett 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/91960>

Ms. Kemmett noted that while the petitioners were seeking relief for a three-story dwelling, that was only due to the average grade and that the overall height of the home, including proposed additions would remain unchanged.

Public Comment

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

Committee Comments

The Committee expressed support for the petition citing the simplicity as well as the size and scope of the proposed plan.

Councilor Downs motioned to close the Public Hearing which carried 6-0. 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 6-0.

#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 Approved 7-0; Public Hearing Closed 10/6/22**

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

<https://www.newtonma.gov/home/showpublisheddocument/91950>

Atty. Schwarzer provided updates since the petition was last before the Committee on August 9, 2022. The updates included addressing Committee Members' concerns regarding two separate curb cuts on Woodward Street.

Committee Members back in August questioned whether it was feasible to return to the previous circular driveway at the dwelling that would connect the two curb cuts. Committee Members cited safety concerns with backing out of the driveway as opposed to pulling through and exiting face forward.

Atty. Schwarzer presented revised plans that returned to a modified circular driveway as well as a modified landscape plan.

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/91952>

Public Comment

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

Committee Comments

Committee Members asked Atty. Schwarzer what the difference in impervious surface was between the original plan and the revision. Atty. Schwarzer replied that the original plan from August would have been 1,066 sq. ft. of asphalt; 530 sq. ft. on one of the curb cuts and 536 sq. ft. on the other. The revised plan is 852 sq. ft. of impervious surface for a reduction of 214 sq. ft.

Committee Members were appreciative of the petitioner taking the Committee's comments to heart and incorporating new ideas into the revised plans. Some Committee Members did however voice support for the prior plan.

The Chair conducted a straw poll within the Committee to gauge interest in the prior plan or the revised circular driveway plan. Five of the seven Members present supported the revised circular driveway plan.

Councilor Downs motioned to close the Public Hearing which carried 6-0. 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 6-0.

#357-22 Request to Rezone 3 parcels to MU4

HQ, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone 3 parcels as follows: 1314 Washington Street (Section 33 Block 10 Lot 01), 31 Davis Street (Section 33 Block 10 Lot 11) and 33 Davis Street (Section 33 Block 10 Lot 12) from BUSINESS 1 TO MULTI USE 4.

#358-22 Special Permit Petition to allow development at 1314 Washington Street and 31, 33 Davis Street

HQ, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a building in excess of 20,000 sq. ft., to allow a mixed-use residential building with five stories and 60 feet in height, to allow reduced lot area per unit, to exceed the maximum front setback, to allow a FAR of 2.44 in a five-story building, to waive the setback requirement for the portions of the building exceeding 40 ft. in height, to waive entrance and façade transparency requirements, to allow a restaurant with more than 50 seats with extended hours of operation, to allow ground floor residential use, to waive the requirement of using the A+B+C parking formula, to waive 115 parking stalls, to allow assigned parking, to allow reduced parking stall width and depth, to allow reduced accessible stall depth, to waive end stall maneuvering space requirements, to allow reduced aisle width at 1314 Washington Street and 31, 33 Davis Street, Ward 3, Newton, on land known as Section 33 Block 10 Lots 01, 11, 12 containing approximately 30,031 sq. ft. of land in a district zoned BUSINESS USE 1 (rezone to MULTI USE 4 proposed). Ref: Sec. 7.3.3, 7.4, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.1, 4.2.3, 4.2.5.A.4, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.c, 4.2.5.A.6.a, 4.2.5.A.6.b, 4.4.1, 6.4.29.B.1, 6.4.29.C.6, 4.4.1, 6.2.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.3.E, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.B.6, 5.1.8.C.1, 5.1.8.C.2 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 petitioner. Also, in attendance in support of the petitioner were officers of Mark Development; Principal Damien Chaviano, Senior Vice-President of Development David Roache and Development Manager Stephanie Moresco. Randy Hart, Transportation Engineer from VHB as well as Robert Adams of Halvorson were also present as members of the presentation team.

Atty. Buchbinder provided updates since Petition #358-22 was last before the Committee on July 19, 2022. His updates addressed the concerns of all stakeholders including the Committee Members, the Public and the Planning Department. These updates included site circulation, landscaping, parking, deliveries, drop off/pick-up and loading protocols.

Atty. Buchbinder also noted that a second Community Meeting was held on September 8, 2022, and that it was well attended by members of the public.

Atty. Buchbinder outlined the focus of the petitioner's presentation which was to focus on three main themes: Sustainability, Construction Management and Transportation. The presentation in its entirety can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/91954>

Ms. Moresco presented a revised site plan juxtaposed with the original. The revisions briefed included moving the lobby from the corner of Davis Street and Highland Street to the Washington Street corner, the shape and configuration of the retail space was also reduced from 4,119 sq. ft to 3,873 sq. ft. and parking was reduced from 19 spaces to 13 spaces to provide for easier ingress and egress routes.

Mr. Adams presented a landscape plan that centered on creating more "soft-scape" and public realm space that is open and accessible to the community. On the Highland Street side of the property, the original plan showcased a private terrace for residents. In the revised plan, the terrace was replaced with public outdoor space with benches.

Mr. Roache presented sustainability where he outlined the petitioner's commitment to conduct a passive house feasibility study and energy modeling to inform the design and construction approaches to be utilized, an electrification of the residential portions of the project to reduce fossil fuel dependence, embodied carbon preservation by revitalizing a portion of the existing bank building, sustainable site design and ecosystem improvements and twelve (12) electric vehicle (EV) charging stations.

Mr. Hart presented the transportation study pertaining to traffic and parking with the project. Mr. Hart and his team settled on ten (10) intersections for the study. Five along Washington Street, three on Highland Street, one on Davis Street and one on Chestnut Street. The five study areas along Washington were all signalized locations, where the other five were not. Mr. Hart also noted that the study took place within two critical time windows: 7am-9am and 4pm-6pm.

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/91956>

Public Comment

FRANCES GODINE of 19 Crofton Road, Newton, noted her pleasure and support for the petition, specifically with the design. She was pleased with the petitioner's proposed sustainability efforts and hopes they will be brought to fruition. Ms. Godine also reiterated Newton's need for affordable housing moving forward.

JONATHAN KLAUVENS of 287 Waltham Street, Newton, appreciated the environmental features built into the design and complimented the attractive design of the project. He also appreciated that the former bank was being converted into retail space/restaurant; something that would add activity to the West Newton neighborhood.

TOM GAGEN of 32 Fern Street, Newton, spoke in support of the project. Mr. Gagen appreciated the sustainability efforts by the petitioner. Mr. Gagen also supported the emplacement of restaurants and retail space in the village center, which Mr. Gagen will hope revitalizes the area more than the previous bank did.

PETER DIMOND, of 18 Sterling Street, Newton, raised concerns as it pertained to the availability of parking. Mr. Dimond appreciated the design of the development but questioned the lack of parking that exists now coupled with the increased vehicle traffic when the project is complete. Mr. Dimond respectfully asked the developer to revisit their traffic/parking plan.

Over twenty (20) members of the public spoke on this petition. Many in support of the petition, but the public did raise many concerns about parking and traffic in the area. Those representing the project took notes and would revisit these concerns.

Committee Comments

Committee Members praised the sustainability efforts of the project and commented on the petitioner's commitment to electrify the building.

Committee Members noted that at the last meeting regarding this petition (7/19/22), there were direct abutters who were not satisfied with the plan. Members asked the petitioner if any follow-on conversations were had with those abutters.

Mr. Robert Korff answered that he had reached out to a Mr. Thorn over a dozen times with no success. Mr. Korff also noted that introductions were conversations were had with Mr. Thorn's neighbors and were productive.

Mr. Korff noted that many of the revisions made to the original plan came from conversations with the abutting neighbors.

Committee Members questioned if the building would be solar-ready. Mr. Roache responded that the building would be solar-ready but cautioned how much solar the building would be able to get.

Members suggested to the petitioner that they make a couple of the units highly affordable.

Collectively, council members voiced support for the aesthetic and functional changes from the original plan to the revised plan. The Committee asked that the petitioner revisit the concerns that were broached by the public.

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

The Committee adjourned at 9:53 p.m.

Respectfully Submitted,

Richard Lipof, Chair