



Land Use Committee Report

City of Newton In City Council

Tuesday, October 18, 2022

Present: Councilors Kelley (Acting Chair), Bowman, Downs, Laredo, Lucas, and Markiewicz

Also Present: Councilors Crossley, Gentile, Malakie, and Wright

Absent: Councilors Greenberg and Lipof

City Staff Present: Senior Planner Michael Gleba, Chief Planner Katie Whewell, Senior Planner Cat Kemmett, 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.

Referral: *The Committee will review a request for a consistency ruling for 67 Walnut Street. The petitioner is seeking a consistency ruling from the Commissioner of Inspectional Services for a retaining wall approximately three and a half feet in height that was constructed in the front setback. The Commissioner is seeking the opinion of the Land Use Committee on the matter.*

Action: **Land Use Referred Approval to Commissioner of Inspectional Services 6-0**

Note: Attorney Laurance Lee of Rosenberg, Freedman & Lee, LLP, with offices at 246 Walnut Street, Newton represented the petitioner and presented 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/92200/638018534485895178>

It was the consensus of the Committee that the retaining wall constructed would have in fact been able to be built by right as it met the by right requirement. However, as the property was subject to a Special Permit and the retaining wall was different than the approved Special Permit site plans, the petitioner had to seek a consistency ruling.

The Committee Members approved and affirmed by voice vote, sending their referral to the Commissioner of Inspectional Service for final approval.

#446-22 Request to allow rear-lot subdivision and variance from rear-lot definition at 113 Grove Street

113 GROVE STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to construct a single-family dwelling, relocate the existing dwelling forward and waive the definition of “rear-lot” at 113 Grove Street, Ward 4, Newton, on land known as Section 43 Block 31 Lot 15, containing approximately 23,063 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.5, 3.1.10, 1.5.2.G.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 6-0; Public Hearing Remains Open

Note: Attorney Terrance (Terry) Morris of the Law Offices of Terrence P. Morris, LLP, with offices at 57 Elm Road, Newton represented the petitioner and presented 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/92206/638018566086125327>

Atty. Morris was also joined by Civil Surveyor Verne Porter for the presentation.

The petitioner is proposing to allow for a rear lot subdivision on a parcel of land in an effort to move the existing home forward on the lot in an effort to create space for the construction of an additional single-family dwelling.

Senior Planner Michael Gleba 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/92208/638018566091750340>

Mr. Gleba noted that the petitioner plans to construct a one-foot-deep, 30-foot-wide strip of property that would block Lasell Street from the rear lot, therefore denying it any frontage on Lasell Street. The intent behind this would be to make Lot #2 a true rear lot

Public Comment

TOM GAGEN of 32 Fern Street, Newton, questioned the legal strategy being employed for the utilization of a rear subdivision in the neighborhood. Mr. Gagen also assured the Committee that the proposed second dwelling would front on Lasell Street.

Committee Comments

Committee Members referenced Atty. Morris’ presentation that Atty. Morris was requesting to change the definition of a “rear subdivision” and that this petition should not be before the Land Use Committee. Atty. Morris responded that the petitioner took an alternate route to get before the Committee and had revised their previous edition of the Planning Memo. This revised memo superseded the previous edition and stated that the petitioner no longer required a variance or to change the language in the ordinance.

Atty. Morris' assertions created confusion amongst some Committee Members as the revised memorandum was not disseminated to the Committee prior to the petition coming forward. Committee Members continued to state that they could only go off the materials that they had been given, which was the previous edition of the memorandum.

Committee Members noted that there is a fire hydrant located in the middle of the proposed 30-foot expanse. Committee Members also noted that a feasibility study would need to be conducted to determine if the fire hydrant could be relocated as it is across the street from an elementary school.

Mr. Porter, as the civil surveyor responded, that there is a fire hydrant on the proposed site and that the moving the further down the street and simultaneously closer to the school was indeed feasible. Mr. Porter also noted that he and/or his representatives would incur the cost.

Many Committee Members echoed the concerns initially raised by Mr. Gagen regarding the potential legal loopholes that were being utilized to allow the proposed rear lot subdivision.

Councilor Markiewicz motioned to hold the petition. The motion carried 6-0 and the Public Hearing remains open.

#449-22 Request to amend Special Permit #234-10 to construct sport courts, warming hut and parking at 1897 Washington Street

WOODLAND GOLF CLUB OF AUBURNDALE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #234-10 to extend a nonconforming use; to allow the construction of sport courts, a warming hut and associated parking; to determine appropriate dimensional requirements; to determine appropriate setbacks relative to parking; to waive perimeter screening; to waive interior landscaping; to waive lighting and to waive bike parking facilities at 1897 Washington Street, Ward 4, Newton, on land known as Section 43 Block 46 Lot 11, containing approximately 2,291,142 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.2.A.3, 5.1.8.B.2, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.10.A, 5.1.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 6-0; Public Hearing Remains Open

Note: Attorney Robert Buckley of Riemer & Braunstein, LLP, with offices at 100 Cambridge Street, Boston represented the petitioner and presented 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/92214>

Atty. Buckley was joined Attorney Kristine Hung, Vice-President of the Woodland Golf Club John Randall, General Manager of the Woodland Golf Club Chad Becker, Site Civil Engineer Tyler King of CHA Consulting and Architect Rob Bramhall of Bramhall Architects.

The petitioner is proposing to upgrade the existing tennis and racquet facilities with the addition of four paddle courts, a multi-use court, a warming hut as well as associated parking facilities.

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/92216>

Public Comment

MARYLEE BELLEVILLE, who did not provide an address, questioned whether trees would be removed to make room for the proposed facilities.

Mr. Becker responded that some trees would need to be removed, but not the ones on Washington Street or along the MBTA route. Mr. Becker added that the trees that would be removed in the proposed plan would make room for the parking lot and occur deeper into the property, not along Washington St.

ADAM PELLER of 28 Daniel Street, Newton, noted that there is a historic building, roughly 150 years old, designed by 19th century architect Henry Hobson (H.H.) Richardson on the site. Mr. Becker asked what condition the building was in and if the petitioners had any plans for the historic structure.

Mr. Becker responded that the H.H. Richardson building was not a part of the current project. Mr. Becker also noted that the Woodland Golf Club has an agreement with the MBTA to maintain the building and that the Club has no plans change, alter, or remove the building.

SEAN ROCHE of 42 Daniel Street, Newton, asked that the Committee to reject the Special Permit request by the Woodland Golf Club unless substantial edits were made to the fencing along Washington Street. Mr. Roache asserted that the fence violates the fence ordinance by being too close to the sidewalk and being over four feet tall, even as tall as ten feet in some sections.

Committee Comments

The Committee made favorable comments about the proposed project citing the size of the property, large amounts of greenspace and minimal impact to abutting properties.

Regarding Mr. Roache's comments about the nonconforming fence, Committee Members noted that the issue was within the purview of Inspectional Services (ISD) and that the issue should be taken up with that department.

City Councilors not on the Committee also spoke on this petition. The Councilors also questioned the friendliness of the Woodland Golf Club's fence and asked that the Land Use Committee scrutinize the fence more closely citing that the fence ordinance was passed at least 20 years ago. The Councilors also noted that if the property did not receive a permit at that time, Inspectional Services would not have had any oversight over the fence the Club would have erected in the past.

Assistant City Solicitor Jonah Temple cautioned the Committee to not put too much consideration into the fence ordinance issue. Atty. Temple stated that the issue is outside of zoning and as such irrelevant to the Committee's mandate. Atty. Temple noted the City has enforcement mechanisms in place to handle those issues and the issues should not be adjudicated in the Land Use forum.

Additional Councilors in attendance spoke on behalf of the petitioner as not only members of the club, but also as an abutting neighbor. Councilors noted that Mr. Roache's claims regarding the fence were fully vetted by ISD in the past and were found to be without merit.

Councilor Markiewicz motioned to hold the petition. The motion carried 6-0 and the Public Hearing remains open.

#448-22 Request to extend nonconforming parking structure to construct four dwelling units above at 1 Jackson Street

345 BOYLSTON, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-story structure with 36 feet in height; to allow an FAR of 1.48; to vertically extend a nonconforming front setback; to waive 4 parking stalls and to allow assigned parking at 1 Jackson Street, Ward 6, Newton, on land known as Section 65 Block 10 Lot 19, containing approximately 12,512 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.3.E of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 6-0; Public Hearing Remains Open

Note: Attorney Franklin Schwarzer of Schlesinger & Buchbinder, LLP, with offices at 1200 Walnut Street, Newton represented the petitioner and presented 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/92390/638022182193627463>

The petitioner is proposing to keep the existing parking structure on the site and build a four-unit multi-family dwelling above it.

The site today consists of 12,512 square feet and is improved with the two-level parking garage and has twenty-four parking stalls. The petitioner is proposing to build two additional floors above the garage, to make space for four units of multi-family housing. This proposed addition would be built within the existing building footprint.

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/92392/638022182198471721>

Public Comment

ADAM PELLER, of 28 Daniel Street, Newton, welcomed the opportunity to improve the site referencing its current state as, "an eye sore." Mr. Peller additionally asked if the site could be improved with some artwork, if the driveway that goes up the hill to the back could be kept open to improve visibility for cars coming down to the sidewalk and if the curb cut to the lower-level parking could be reduced as two car lengths is more than sufficient.

SEAN ROCHE of 42 Daniel Street, Newton, echoed the sentiments of Mr. Peller. He welcomed the project as a resident of the neighborhood and noted the need for more housing in Newton. Mr. Roache noted that he was a Housing Advocate and stated that if the units were slightly smaller, the footprint could accommodate more potential units. Mr. Roache also asked if the Planning Department could include a "Housing Analysis" section in the Planning Memos

Committee Comments

Committee Members echoed Mr. Roache's sentiments as it pertained to the potential sizes and number of units in the proposal with Committee Members favoring more units that are smaller in size and scale.

Committee Members asked if there would be an elevator installed. Atty. Schwarzer replied that an elevator would be installed. The original plans proposed a chairlift that only went to the second floor. Atty. Schwarzer admitted that was bad design and that an elevator would be installed so that the third floor and all four units are accessible.

Councilor Bowman motioned to hold the petition. The motion carried 6-0 and the Public Hearing remains open.

#447-22 Request to allow 9-unit residential dwelling at 106 River Street

NORTON POINT STREET, LLC and 106 RIVER STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze existing building and construct a 9-unit residential dwelling; to allow ground floor residential use with residential above; to allow a three-story structure with 36 feet in height; to allow an FAR of 1.20; to allow assigned parking stalls; to allow outdoor parking within five feet of a residential building; to allow restricted end stalls; to allow a reduced maneuvering aisle width; to reduce the driveway width for two-way traffic; to waive perimeter screening and to waive lighting at 106 River Street, Ward 3, Newton, on land known as Section 33 Block 24 Lot 11A, containing approximately 15,802 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 4.1.3, 5.1.3.E, 5.1.13, 5.1.8.A.2, 5.1.8.B.6, 5.1.8.C, 5.1.8.D.1, 5.1.9, 5.1.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 6-0; Public Hearing Remains Open

Note: Attorney Terrance (Terry) Morris of the Law Offices of Terrence P. Morris, LLP, with offices at 57 Elm Road, Newton represented the petition. The petitioner, Mr. David Oliveri, was also in attendance and presented 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/92488/638024609183803147>

The petitioner is proposing to raze the single-story office building and construct a three-story, nine-unit residential dwelling with covered parking.

Per section 5.1.4, two parking stalls are required per unit, resulting in a requirement of 18 stalls. The petitioner is proposing to construct 19 parking stalls to serve the nine residential units. Six of these stalls will be designated for visitor use.

Mr. Oliveri noted that the petitioner held three neighborhood meetings that were attended by Ward 3 Councilors as well as members of the neighborhood.

Mr. Oliveri additionally noted that some of the benefits of the proposed project included, electronic vehicle (EV) ready parking spaces, creating housing near transit and Village Centers, reduction of asphalt on site, removal of the curb cut on River Street and creating a safer intersection at the corner of River Street and Elm Street.

Mr. Oliveri also presented a Shadow Study, which is included in the above linked presentation, to illustrate the possible effects the proposed three-story structured would have on the surrounding area.

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/92490/638024609188647378>

Public Comment

JOHN BONADELLE, of 76 Elm Street, Newton, questioned the design and size of the project noting that it does not fit practically or aesthetically into the neighborhood on River Street or Elm Street.

FELIX TORONTO, of 46 Elm Street, Newton, noted that he was a lifelong resident of Elm Street and echoed the comments and sentiments of Mr. Bonadelle. Mr. Toronto cited that the proposed project is three-stories and rhetorically questioned for someone to tell him what else in the area is three-stories or relates in scale to the proposed project.

RICHARD GRINLEY, of 109 River Street, Newton, also echoed similar sentiments regarding the current aesthetics of the current neighborhood. Mr. Grinley also cited safety concerns with the current congestion of the area.

SEAN ROCHE, of 42 Daniels Street, Newton, voiced his support for the proposed project. Mr. Roche noted that the units were not too large and appreciated that one of the 2-bedroom units would be an affordable unit. Mr. Roche also noted the proximity of the proposed project to West Newton, the Commuter Rail, and the Commercial District. Mr. Roche did cite that there was too much parking on the property.

BARBARA BROUSAL-GLASER, of 20 Auburndale Avenue, Newton, centered her comments on the large amount of parking stalls the petitioner is proposing to construct for the site in such a small area. Ms. Brousal-Glaser also referenced the Shadow Study presented by Mr. Oliveri.

Ms. Brousal-Glaser noted that the neighbors across the street have a garden in front of their home and believed that the shadow cast by the proposed building would potentially have adverse effects on the neighbor's garden.

DARCY DORWART, of 94 River Street, Newton, stated she was very optimistic and very much in support of the proposed project. She expressed support for the setback, landscape options and solar possibilities presented.

Ms. Dorwart, in contrast to previous speakers, insisted that the proposed project did indeed fit in with the current aesthetics of the neighborhood citing the townhouses across Elm Street.

Committee Comments

Committee Members questioned the parking plan related to this project as it called for the removal of a mature trees in between 106 River Street and 94 River Street. Members asked the petitioner if they would consider removing a parking space to save the mature tree.

Committee Members also commented on the configuration of the underground parking. Members asked if a “walking lane” was feasible so residents, specifically ones with wheelchairs or double-wide strollers could maneuver between the vehicles.

Members appreciated the landscaping proposed for the front of the property but were also disappointed with the lack of landscaping in the rear of the property.

Councilor Markiewicz motioned to hold the petition. The motion carried 6-0 and the Public Hearing

The Committee adjourned at 10:39 p.m.

Respectfully Submitted,

Andrea Kelley, Acting Chair