



Land Use Committee Report

City of Newton In City Council

Tuesday, November 22, 2022

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

Also Present: Councilors Albright, Malakie, and Wright

Absent: Councilors Downs and Bowman

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

All Special Permit Plans, Designs, Plan Memoranda and Application Materials can be found at the following link [NewGov - City of Newton Land Use Committee Special Permit Search](#). Presentations for each project can be found within this report via hyperlink.

#497-22

Request to allow an oversized principal wall sign at 45 Crescent Street

ANDY LAYMAN, SIGN ART INC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to replace an existing sign facing the Massachusetts Turnpike with a larger sign at 45 Crescent St, Newton, Ward 4, on land known as Section 44 Block 23 Lot 16, containing approximately 43,850 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 5.2.8, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 6-0; Public Hearing Closed 11/22/22

Note: The petitioner, Mr. Andy Layman, was present. Mr. Layman provided a verbal background on the current petition including a brief history on the evolution of the sign at this location. A building permit was issued in 1979 for a 90 square foot sign on the rear of the building facing the Massachusetts Turnpike. The sign was replaced in 2014 as authorized by a new building permit.

The petitioner now seeks to replace the existing sign with a 187 square foot sign in the same location at the rear of the building. Per section 5.2.8, a business on a corner lot (or with two fronts in this case) is allowed two principal wall signs of 100 square feet each

Mr. Layman did not have a multimedia presentation and deferred to the Planning Department's presentation of the petition.

Chief Planner Katie Whewell presented an orientation of the property as well as the proposed plans, and general site information in addition to the requested relief, criteria for consideration, land use, and zoning which can be found at the following link:

[Planning Department Presentation - 45 Crescent St](#)

Public Comment

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

Committee Comments

No Committee Members made any comments of note pertaining to this petition

Councilor Markiewicz motioned to close the Public Hearing which carried 6-0. Councilor Markiewicz motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is shown in the attached presentation. The Committee voted in favor of approval 6-0.

#502-22 Request to exceed FAR and to allow oversized dormers at 270 Auburndale Avenue
JEFFREY AND STEPHANIE MCNEIL petition for SPECIAL PERMIT/SITE PLAN APPROVAL to make additions to the first and second stories at 270 Auburndale Avenue, Newton, Ward 4, on land known as Section 44 Block 29 Lot 13, containing approximately 5,722 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9, 1.5.4.G.2.b, 1.5.4.G.2.c of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 6-0; Public Hearing Closed 11/22/22**

Note: The petitioner, Mr. Jeffrey McNeil was present. Mr. McNeil provided a verbal background on the current petition including his family's personal need for more space. Mr. McNeil did not have a multimedia presentation and deferred to the Planning Department's presentation.

The petitioner is proposing to make additions to the first and second stories of the dwelling which exceed both the Floor Area Ratio (FAR) and dormer regulations, requiring a Special Permit.

Senior Planner Cat Kemmett presented an orientation of the property as well as the proposed plans, and general site information in addition to the requested relief, criteria for consideration, land use, and zoning which can be found at the following link:

[Planning Department Presentation - 270 Auburndale Ave](#)

Public Comment

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

Committee Comments

Committee Members expressed support for the petition citing a site visit and meeting with the petitioner that took place prior to the Committee Meeting.

Committee Members did not that the size of the lot is indeed small and understood the additions that the petitioner is proposing.

Councilors not on the Committee questioned the drawings and plans submitted by the petitioner. Councilors cited the Planning Department's memo that stated there would not be a height increase at the dwelling but appeared to do so in the drawings.

The petitioner and his architect responded that the home would be increasing in height by three-feet but would still be under the 36-foot maximum and would not require relief from the Committee.

Councilor Markiewicz motioned to close the Public Hearing which carried 6-0. Councilor Markiewicz motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is shown in the attached presentation. The Committee voted in favor of approval 6-0.

#503-22 Request to allow five single-family attached dwellings at 24 Wilson Circle
SCHIAVONE WILSON CIRCLE TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-family dwelling and construct five single-family attached dwellings at 24 Wilson Cir, Newton, Ward 6, on land known as Section 54 Block 22 Lot 19, containing approximately 28,513 sq. ft. of land in a district zoned MULTI RESIDENCE. Ref: 7.3.3, 7.4, 3.4.1, 6.2.3.B.2, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 6-0; Public Hearing Closed 11/22/22

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:

[Petitioner Presentation - 24 Wilson Cir](#)

The petitioner is proposing to demolish the existing single-family dwelling and construct five single-family attached dwellings and associated surface parking. The petitioner additionally proposes to construct patios with retaining walls behind each of the units. The retaining walls reach a maximum height of 10.34 feet behind Unit #5 with a setback of 14.3 feet, where 25 feet is the required setback per Section 3.2.4.

Per section 5.4.2.B a retaining wall exceeding four feet in height within the setback requires a special permit.

Senior Planner Michael Gleba presented an orientation of the property as well as the proposed plans, and general site information in addition to the requested relief, criteria for consideration, land use, and zoning which can be found at the following link:

[Planning Department Presentation - 24 Wilson Cir](#)

Public Comment

SIMON FRENCH, who did not provide his address, had a question regarding sustainability and the project. Mr. French asked the petitioner if they would be using solar panels on the roof of the project.

The petitioner's team responded that this is something that was considered, however, to preserve the mature trees in the immediate area, solar panels are not feasible. The proposed roofline would have between 50%-60% of sunlight due to the foliage.

Committee Comments

Committee Members noted the challenges that this site presents for development, citing the slope of the area as well as the cul-de-sac, but appreciated the petitioner's creativity in that regard.

Committee Members additionally questioned the petitioner's ninth slide, "Rear Bird's Eye Rendering." There are five units but appear to be six patios.

The petitioner's architect responded that to conform the height of the retaining wall, he had to divide the patio and raise a section to meet height requirements. Both sides remain with the fifth unit.

Questions were raised about the energy utilized in the project with the petitioner affirming the whole project would be electric. No gas.

Committee Members continually cited the steep slope at the rear of the proposed site and questioned the petitioner about whether blasting techniques would be employed at the site. The petitioner responded that there would be zero blasting utilized on site.

Councilors not on the Committee followed-up with asking about the employment of rock-drilling techniques.

The petitioner's team noted that they did soil testing at the site and primarily encountered sand and gravel and wouldn't expect to do any rock drilling, blasting, hammering etc.

Councilors representing the ward the site is in expressed overwhelming support for the petition.

Councilor Kelley motioned to close the Public Hearing which carried 6-0. Councilor Kelley motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is 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 6-0; Public Hearing Remains Open**

Note: Attorney Stephen Buchbinder of Schlesinger & Buchbinder, LLP, with offices at 1200 Walnut Street, Newton represented the petitioner and presented an update to the proposed plans, which can be found in their presentation. At the time this report was published, the petitioner's presentation had yet to be submitted.

Atty. Buchbinder was accompanied by other members of the petition team including, officers of Mark Development; Principal Damien Chaviano, Senior Vice-President of Development, Project Manager Stephanie Moresco, David Roache and VHB Traffic Engineer Randy Hart.

The petitioner was last before the Land Use Committee on 10/6/22 and provided an update to the project as well as answers to Committee Members' questions from the previous meeting.

Randy Hart presented an update to the On-Street Parking Occupancy Study. Mr. Hart detailed how many parking spots were available on a Wednesday, Friday, and Saturday between the hours of 11:00 a.m. and 8:00 p.m.

This study was done for parking locations within a five-minute walkshed and a three-minute walkshed from the proposed site.

Mr. Hart additionally responded to questions from Committee Members from the last meeting regarding parking spaces that were metered vs non-metered. Within the three-minute walkshed, out of 183 total spaces, 140 of them were metered. Within the five-minute walkshed, of 308 total spaces, 170 of them were metered.

Ms. Moresco briefed two options for the Highland Street configuration. Option #1 is the current proposal and keeps the existing lane widths as well as weekend and holiday parking. Option #2 allows for five additional parking spaces that would act as a pedestrian safety buffer, however there are concerns about safety regarding bicyclists. This issue will be taken into consideration by Traffic Council.

Mr. Chaviano presented slides pertaining to affordable housing units. The petitioner has revised the housing plan, removing a 3-bedroom unit at 110% of the Area Median Income (AMI) and making it more affordable to the community at 80% AMI. The remaining eight units will be in accordance with the ordinance.

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

[Planning Department Presentation - 1314 Washington St](#)

Public Comment

SACHIKO ISIHARA, of 15 Davis Street, Newton, raised concerns pertaining to the parking situation. Ms. Isihara referenced a Traffic Council memorandum citing certain parking spaces that were included in the parking study will be ceded to the Police Annex.

DORIS ANN SWEET, of 281 Lexington Street, Newton, additionally spoke on the parking situation in West Newton. Ms. Sweet noted that she lives in Auburndale, but travels to West Newton often and has “never not found parking.”

BETSY HARPER of 19 Fairmont Avenue, Newton, noted that she was a member of Green Newton Building Standards Committee and spoke to the petitioner’s sustainability efforts. She voiced strong support for the project. She thanked the petitioner for maintaining the historical character of the village with their façade of the building.

TAMARA BLISS, of 9 Lewis Street, Newton, voiced strong support for the project as an advocate of seniors in Newton. Ms. Bliss cited statistics outlining that by 2030, 1/3 of Newton residents will be seniors and many of them expect to leave their homes and live in an accessible building in the Center.

Ms. Bliss also noted that these seniors would not be bringing vehicles with them to the building and supported the 1-to-1 parking ration presented by the petitioner.

DAN RUBEN, of 175 Auburn Street, Newton, noted he was the chair of the Green Newton Building Standards Committee and noted many of the reasons his committee approved the project including location, size and scope and amenities to the community.

SHARI GOLDIN, of 472 Waltham Street, Newton, raised concerns about the presented walk-time briefed earlier by the petitioner’s team. Ms. Goldin noted she walked the area and timed herself, disputing the petitioner’s walk-time claim.

It was noted in the walking analysis that time spent waiting at intersections is excluded in the analysis.

In total, ten members of the public spoke on this petition. Many were in support of the petition and those that did raise concerns, primarily spoke on traffic mitigation and parking.

Committee Comments

Committee Members questioned the actual definition of “Passive House” and “Passive House Light” used by the developer. Committee Members discussed a potential certification process where the City Planning Department can ensure these environmental standards have been met through a third-party certifier.

Committee Members additionally questioned the petitioner's presentation team on how the walking study was conducted, whether it was air miles or someone physically walking.

Mr. Hart responded that the study was first done on paper but was verified in the field by physically walking.

Committee Members noted that they had heard from additional constituents voicing support for the proposal as well.

Committee Members outlined many different facets of the petition that they did like pertaining to the petition. Committee Members continued to echo concerns regarding the parking situation in the area.

Councilors not on the Committee made suggestions to the Planning Department regarding parking. Councilors referenced the city of Salem, MA that operates an interactive parking map that may be feasible for Newton.

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

The Committee adjourned at 10:00 p.m.

Respectfully Submitted,

Richard Lipof, Chair