



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, December 13, 2022**

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

**Also Present:** Councilors Albright, Gentile, Humphrey, Leary, Malakie, and Wright

**Absent:** Councilor Markiewicz

**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](#).

The full video of the December 13, 2022 Land Use Meeting can be found at [NewTv Land Use Committee Meeting 12-13-2022](#)

- 531-22**      **Class 2 Auto Dealers License**  
ROBERT'S TOWING, INC.  
926r Boylston Street  
Newton Highlands, MA 02461
- #532-22**      **Class 2 Auto Dealer License**  
NEWTON TRADE CENTER ASSOCIATES INC  
103 Adams Street  
Newton, MA. 02458
- #533-22**      **Class 2 Auto Dealers License**  
REGANS INC.  
2066 Commonwealth Avenue  
Newton, MA 02466
- #534-22**      **Class 2 Auto Dealers License**  
NEWTON AUTO GROUP, INC.  
182 Brookline Street  
Newton, MA 02459

- #535-22**      **Class 2 Auto Dealer License**  
NEW ENGLAND MOTOR MART, INC  
1211 Washington Street  
West Newton, MA. 02465
- #536-22**      **Class 2 Auto Dealers License**  
JACOB & ASSOCIATES  
1232 Washington Street  
Newton, MA 02465
- #537-22**      **Class 2 Auto Dealers License**  
VELOCITY MOTORS  
14 Hawthorn Street  
Newton, MA 02458
- #538-22**      **Class 2 Auto Dealers License**  
ENZO'S AUTO SALES  
10 Hawthorn Street  
Newton, MA 02458
- #539-22**      **Class 2 Auto Dealers License**  
MAP DEVELOPMENT & INVESTMENTS  
d/b/a CHRISTIAN TAPIA/MASTER USED  
CARS of WATERTOWN  
175 North Street  
Newton, MA 02460
- #552-22**      **Class 1 Auto Dealer License**  
MAG RETAIL HOLDINGS – CJ LLC. D/B/A MCGOVERN CHRYSLER JEEP DODGE RAM  
777 Washington Street  
Newton, MA 02460
- #553-22**      **Class 2 Auto Dealer License**  
KG Motors  
1235 Washington Street  
Newton, MA 02465

**Action:**      **Land Use Approved 6-0 (Councilor Lucas not voting)**

**Note:**      Prompted from the Chair, the Clerk noted that #536-22 has an outstanding property tax bill in the amount of \$75.80. The Clerk will make efforts to contact the petitioner to correct the small tax bill. All other petitions are in good standing

**Public Comment**

Approval of auto dealer licenses does not require a Public Hearing.

### Committee Comments

No Committee Members made any comments of note pertaining to these petitions.

Councilor Downs motioned to approve the above petitions. The Committee voted in favor of approval 6-0.

#### **#540-22 Request to amend the deed restriction to allow solar canopies at 57, 85, and 111 Wells Avenue**

MARIANNE DIFFIN, DIPRETE ENGINEERING requesting an amendment to the restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended to reflect a waiver of use restriction to permit solar canopies over the parking lot areas at 57, 85, and 111 Wells Avenue, Ward 8, Newton, on land known as Section 84 Block 34 Lot 02B, containing approximately 339,770 sq. ft. of land in a district zoned LIMITED MANUFACTURING.

**Action:** Land Use Approved 6-0 (Councilor Lucas not voting)

Note: Marianne Diffen of Diprete Engineering was present to represent the petition. Ms. Diffen did not submit a presentation, but provided an oral overview of the petition utilizing petition documents found at the following link:

[7-57 Wells Ave - Petition Materials](#)

Senior Planner Cat Kemmet orally presented the City's Planning Department report citing no real concerns with the petition that has been well vetted.

The petitioner is seeking relief from the Deed Restriction imposed on Wells Avenue to allow for the construction and use of solar canopies at 57, 85, and 111 Wells Avenue.

The requested relief from the deed restriction imposed on Wells Avenue must be reviewed by the Land Use Committee.

### Public Comment

This petition as a deed restriction is not subject to a Public Hearing and no Public Comment was heard regarding this petition.

### Committee Comments

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

Councilor Downs motioned to approve the petition. The Committee voted in favor of approval 6-0.

**#543-22 Request to allow a veterinary hospital use at 714-724 Beacon Street**  
CANTON CIRCLE LLC, SMALL DOOR VETERINARY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to divide the current bank space in half allowing for 3,007 sq. ft of space for veterinary hospital use at 714-724 Beacon Street, Ward 6, Newton, on land known as Section 61 Block 38 Lot 08 containing approximately 37,932 sq. ft. of land in a district zoned BUSINESS 2. Ref: Sec. 7.3.3, 7.4, 4.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** Land Use Approved 7-0; Public Hearing Closed 12/13/22

**Note:** Attorney Katherine Adams 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. At the time this report was published the petitioner's presentation had not been submitted.

The site is tenanted by a post office, bank, and medical office. The petitioner is proposing a veterinary hospital within a subdivided portion of the bank's tenant space. The Veterinary Hospital will occupy 3,007 square feet. The veterinary hospital was issued a building permit in error for a tenant fit out and now seeks a special permit per section 4.4.1 for the proposed use.

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 under FILES:

[Planning Presentation - 714-724 Beacon St](#)

#### Public Comment

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

#### Committee Comments

Committee Members questioned how the Building Permit for the site was issued in August 2022 without obtaining a Special Permit prior to.

Atty. Adams noted that the need for a Special Permit was brought to the attention of the city's Inspectional Services Division (ISD) in November of 2022 but could not speak to how the Building Permit was issued.

Committee Members will be looking for answers from ISD Commissioner Lojek for how the breach of process occurred.

Councilor Bowman motioned to close the Public Hearing which carried 7-0. Councilor Bowman 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 7-0.

**#541-22 Request to exceed FAR and to further extend a nonconforming front setback at 96 Waban Park**

MICHAEL AND INNA ZARETSKY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to the rear and the side of the dwelling and to construct dormers at 96 Waban Park, Ward 1, Newton, on land known as Section 12 Block 05 Lot 02 containing approximately 5,445 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 3.2.3, 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 12/13/22

**Note:** Attorney Laurance Lee of Rosenberg, Freedman & Lee, LLP, with offices at 246 Walnut Street, Newton represented the petitioner and presented an update including an orientation of the property as well as the proposed plans, general site information and landscape plans.

At the time this report was published, Atty. Lee's presentation was unavailable. Materials and plans associated with this petition can be found at the following link under FILES:

[96 Waban St - Petition Materials](#)

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

[Planning Presentation - 96 Waban Pk](#)

The petitioner proposes to raise the roof and add dormers to the half story of the dwelling. Additionally, the petitioner seeks to construct 2.5-story additions to the rear and side of the dwelling and add an enclosed front entry vestibule.

The proposed construction increases the FAR from .33 to .67, where .57 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit.

Public Comment

LISA MONAHAN, of 1105 Walnut Street, Newton, voiced her support for the project, citing the modesty of the scope and design of the petition.

MELISSA MARREAN, who did not provide an address, stated she was a direct neighbor to the property and appreciated the petitioner's desire to renovate the home to bring it more in line with the character of the neighborhood.

Committee Comments

Committee Members also noted the modesty of the proposed project and voiced support.

Members did question if the two mature pine trees on the property would be protected during the construction and renovation.

Atty. Lee noted that the trees have not been evaluated at this time, but that the property owners have insisted on preserving all trees that are currently on the property and will do whatever they can to ensure that.

Conversations centered on if it was appropriate to continue to subsidize NewMo and the amount going to NewMo. Through discussion and debate, the recommended funds for NewMo would now be allocated for public safety.

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 is shown in the attached presentation. The Committee voted in favor of approval 7-0.

**#542-22 Request to allow more than 700 square feet of total garage area within two separate attached garages accommodating six vehicles at 157 Dudley Road**

ADAM VALKIN AND TALIA ALEXANDER VALKIN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second three-car attached garage exceeding 700 sq. ft. at 157 Dudley Road, Ward 8, Newton, on land known as Section 81 Block 51 Lot 06B containing approximately 120,105 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.4.E.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** Land Use Approved 7-0; Public Hearing Closed 12/13/22

**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 - 157 Dudley Rd](#)

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

[Planning Presentation - 157 Dudley Rd](#)

The petitioners propose to construct a second 757 square foot attached three-car garage connected to the pool house wing of the dwelling facing the existing 697 square foot attached garage.

Per section 3.4.4.E.1, there may be no more than 700 square feet in total garage area on a lot for a residential building with one dwelling unit and no more than one attached garage unless a special permit is granted.

Per section 3.4.4.H.1, a special permit is required to allow for 1,454 square feet of total garage area in two attached garages accommodating six vehicles.

## 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 Laredo motioned to close the Public Hearing which carried 7-0. Councilor Laredo 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 7-0.

### **#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 waive two parking stalls; to allow outdoor parking within five feet of a residential building; 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, 5.1.4, 5.1.8.A.2, 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 5-1-1 (Councilor Laredo Opposed) (Councilor Lucas Abstained); Public Hearing Closed 12/13/22

**Note:** David Olivieri of Civico Development was present with his attorney, Attorney Terrence Morris of the Law Office of Terrence Morris, LLC, with offices at 57 Elm Road, Newton.

Atty. Morris did not utilize multimedia slides to provide his updates, but rather used petition materials throughout his presentation which can be found at the following link under FILES:

[106 River St - Petition Materials](#)

Updates included, removing two parking stalls, a revised landscape plan, added bike parking, additional landscape, and a possible reorientation of the driveway.

The petitioner intends to raze the single-story office building currently on the site and construct a three-story, nine-unit residential dwelling with covered parking. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor with residential uses above in a Business 1 zoning district

Per section 5.1.4, two parking stalls are required per unit, resulting in a requirement of 18 stalls. The petitioner has proposed to construct 17 parking stalls to serve the nine residential units, with one visitor stall designated for use as seasonal snow storage.

The petitioner requires a waiver of two stalls per section 5.1.13 for those periods when the stall is unavailable.

Four of the stalls are reserved for visitor use. Per section 5.1.3.E, required parking stalls shall not be assigned to specific persons or tenants to render them unavailable to the persons they are intended to serve. To the extent that “visitor” stalls are assigned, a special permit is required per section 5.1.13

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 Presentation - 106 River St](#)

A breach of process occurred with the petitioner uploading documents just hours before the start of the Land Use Meeting and asked that they be considered.

The Planning Department noted that they had not had sufficient time to review and scrutinize the new documents. The Committee discussed holding the petition until a future date to give the Planning Department time to review the documents.

After a short debate, the Chair, in consultation with the Planning Department and Committee, noted the changes were minimal and decided to proceed with the petition.

#### Public Comment

FELIX TORONTO, of 46 Elm Street, Newton, took issue with the area being zoned as a Business Zone as it should be a residential zone with residences currently placed.

Mr. Toronto additionally noted the amount of requested relief for the petition noting that if a project needs that much relief from current ordinances it should not move forward.

Lastly, Mr. Toronto stated he was not against development or development of this property, just the size and scope of this project that does not fit the character of the neighborhood.

LYNN TORONTO, of 46 Elm Street, Newton, echoed similar sentiments stating she preferred a two-story structure, noting three is too large for the neighborhood.

SCOTT ORAN, of 147 Prince Street, Newton, said he very much approved of the project, citing the development team’s creativity and responsiveness to the city’s housing needs.

SEAN ROCHE, of 42 Daniels Street, Newton, voiced his support for the project. Mr. Roche noted this project assists the city’s housing stock and provides for ownership opportunities for the city’s residents.

MARYLEE BELLEVILLE, of 136 Warren Street, Newton, voiced opposition to the project noting concerns regarding parking. “Nine units, should be nine parking spots.”



JANE GALLI, of 101 River Street, Newton, noted that she was an architect and that the people who were supporting this project did not live in immediate proximity to the site. She opposed the height and number of units in the proposal.

In total, ten citizens spoke regarding this petition with the majority voicing opposition to the project.

### Committee Comments

Councilors not on the Committee echoed similar sentiments to members of the public regarding the size and the scope of the proposed project.

Members of the Committee shared these concerns. Members discussed trying to find a balance between parking and open space noting that this was evidence of too much going into the site.

Additionally, Members stated that while the petitioner was seeking a waiver for parking stalls now, between 5-10 years from now they would be back before the Committee asking for more parking.

Committee Members did reiterate that this project presented ownership opportunities, which has been a topic of discussion amongst constituents. Additionally, the originally proposed six-unit plan would not have resulted in an affordable unit, like the current nine-unit plan.

Councilors asked whether there would be any excavation at this site with Mr. Olivieri replying that the basements that are currently on site would remain and there would be very little excavation at the site.

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 is shown in the attached presentation. The Committee voted in favor of approval 7-0.

#### **#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.

**Action:** Land Use Held 7-0; Public Hearing Closed 12/13/22

#### **#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 Approved 6-1 (Councilor Lucas Opposed); Public Hearing Closed 12/13/22**

**Note:** Attorney Stephen Buchbinder of Schlesinger & Buchbinder, LLP, with offices at 1200 Walnut Street, Newton, represented the petitioner and verbally outlined how the petition has progressed over time.

No multimedia presentation was utilized by Atty. Buchbinder and the petition materials for the petition can be found at the following link under FILES:

[1314 Washington St - Petition Materials](#)

Damien Chaviano, Principal of Mark Development noted that many would like to see a restaurant instead of retail space on the ground floor of the site but noted the difficulty in obtaining a restaurant tenant in the current economic climate.

The existing project site is comprised of three parcels containing 30,031 square feet in the BU1 zoning district. The petitioner proposes to combine the three parcels into one and requests to rezone to MU4.

The petitioner proposes to construct a five-story addition to the rear of the existing building, resulting in a total of 73,333 square feet of gross floor area.

Per section 4.2.2.B.1, a Special Permit is required for any development in the MU4 district of 20,000 square feet or more gross floor area.

The property has frontage on three streets: Washington, Highland and Davis streets. The existing structure has a 10.9-foot front setback from Washington Street.

The proposed addition is set back between 6.6 and 25.6 feet from Highland Street and between 6.1 and 19.2 feet from Davis Street.

Per section 4.2.3, the maximum by-right front setback allowed in the MU4 district is ten feet. Section 4.2.5.A.4 allows the Council to waive the front setback requirement if found to be beneficial for pedestrian vitality, protection from shadows and encouraging the goals of the district.

### Public Comment

PHILIP PLOTTEL noted that he was the Chair of the Economic Development Commission (EDC) in the City of Newton and that the EDC had received two presentations on this project and have voted to support the commercial aspects of the project.

SUE PARSONS, of 172 Washington Street, Newton, spoke in strong support of the project noting the need for housing right in the middle of West Newton Square where public transit is available.

SACHIKO ISIHARA, of 15 Davis Street, Newton, noted that she had not seen anything regarding the construction management plan to protect the right of the abutters. She asked for the Committee Members to take special note of vibration language in the Council Order as there would be digging at the site.

### Committee Comments

Committee Members debated the merits of a restaurant on the ground floor in contrast to that of retail space. Ultimately, Committee Members decided on a restaurant would better serve the neighborhood than retail space citing vibrancy and vitality at different times of the day that a restaurant would bring.

Councilors raised concerns about the size of the project (five-stories) and noted that it was not in the standards of the Washington Street Vision Plan published in 2019.

Committee Members did raise concerns about parking related to this project. Committee Members noted Mark Development's inability to secure off-site parking as very serious concern especially if a restaurant is to be located at the site.

Many Committee Members ultimately voiced support for the petition.

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 is shown in the attached presentation. The Committee voted in favor of approval 6-1.

The Committee adjourned at 10:47 p.m.

**Respectfully Submitted,**

**Richard Lipof, Chair**