



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, February 14, 2023**

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

**Also Present:** Councilors Albright, Leary, Malakie, Oliver, and Wright

**City Staff Present:** Senior Planner Cat Kemmett, Senior Planner Michael Gleba, Chief Planner Katie Whewell, Director of Planning Barney Heath, 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 February 14, 2023 Land Use Meeting can be found at the following link: [02-14-2023 NewTV Land Use Committee Meeting](#)

**Time stamps for each petition in the above video link are next to their respective headings.**

**#43-23      Request for Extension of Time to Exercise Special Permit #320-20 at 1149-1151 Walnut Street**

NEWTON WALNUT LLC petition for EXTENSION OF TIME to July 27, 2025 to EXERCISE Special Permit Council Order #320-20, to raze the existing buildings and construct a four-story mixed-use building up to 48' in height, containing 25 units and 23 parking stalls, to waive the minimum lot area per unit, to reduce the side setback requirement, to waive the requirement to use A-B+C formula to determine the parking requirement, to waive 24 parking stalls, to allow 1.25 parking stalls per unit, to allow parking in the side setback, to waive dimensional requirements for parking stalls, to allow restricted end stalls, to allow reduced aisle width , to waive perimeter landscaping requirements, to waive interior landscaping requirements and to waive lighting requirements at 1149-1151 Walnut Street, Ward 6, Newton Highlands, on land known as Section 52 Block 08 Lots 13 and 14, containing 13,200 sq. ft. in a district to be zoned MIXED USE 4. Ref: Sec. 7.3.3, 7.4, 4.2.2.B.1, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.b, 4.2.5.A.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.4.A, 5.1.8.A.1, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.1, 5.1.9.A, 5.1.9.B, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 8-0**

**Note:** Attorney Alan Schlesinger, of Schlesinger & Buchbinder, LLP with offices at 1200 Walnut Street, was present to represent the petition. Atty. Schlesinger provided a brief oral overview of the petition and the extenuating circumstances for the request.

### Public Comment

No member of the public spoke on this petition.

### Committee Comments

Committee Members asked if there were any businesses, tenants, or occupants currently operating at the site.

Atty. Schlesinger was uncertain, but believed there may be one tenant currently operating on the property. He assured the Committee he would find out and provide an direct answer.

Members additionally asked Atty. Schlesinger when he believed his clients would begin construction on the project and if they currently had financing.

Atty. Schlesinger stated that contingent on financing, he believed construction would begin within the calendar year, but his clients had not obtained financing.

Councilors noted support for the extension of time, citing their support for the initial project.

Councilor Bowman motioned to approve the request for extension of time. The Committee voted in favor of approval by a voice vote of 8-0.

#### **#39-23 Request to Rezone 29 Hunter Street to MR3 (08:25)**

CHRISTOPHER NOBLE petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a change of zone to Multi Residence 3 for a parcel of land located at 29 Hunter Street (currently zoned Multi Residence 2), also identified as Section 32, Block 06, Lot 05.

**Action:** Land Use Denied 8-0; Public Hearing Closed; 02/14/2023

#### **#40-23 Request to allow a multi-family dwelling, extend nonconforming use, waive parking stalls and allow dimensional waivers to parking at 29 Hunter Street (08:25)**

CHRISTOPHER NOBLE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a multi-family dwelling, to extend a nonconforming side setback, to waive two parking stalls, to allow parking in the front and side setbacks, and to reduce stall width and depth at 29 Hunter Street, Ward 3, West Newton, on land known as Section 32, Block 06, Lot 05, containing approximately 5,185 sq. ft. of land in a district zoned MULTI RESIDENCE 2 (rezone to MULTI RESIDENCE 3 proposed). Ref: 7.3.3, 7.4, 3.4.1, 3.2.6, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.7.A, 5.1.7.B.1, 5.1.7.B.2 of the City of Newton Rev Zoning Ord, 2017.

**Action:** Land Use voted No Action Necessary 8-0; Public Hearing Closed 02/14/23

**Note:** Attorney Terry Morris, with offices at 57 Elm Road, was present to represent the petitioner. Atty. Morris did not present a multimedia presentation, but rather utilized petition documents

as a reference during his oral presentation on the petition. Documents pertaining to this petition can be found at the following link:

[29 Hunter St - Petition Documents](#)

The Planning Board was present to hear petition #39-23's request to rezone. Members present included the Chair, Kelley Brown, Peter Doeringer, Kevin McCormick, Lee Breckenridge and Director of Planning Barney Heath.

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

[Planning Presentation - 29 Hunter St](#)

The current zoning for the parcel is Multi Residence 2 (MR2). The petitioner proposes a rezoning of the parcel to Multi Residence 3 (MR3).

The petitioner proposes to convert the existing single-family dwelling into a three-unit multi-family dwelling. Per section 3.4.1 a special permit is required for a multi-family dwelling in the MR3 zoning district.

Per section 3.2.6, the required side setback in the MR3 district is one-third the building height, in this case 12.7 feet. The dwelling has a nonconforming side setback of 8.8 feet (once rezoned to MR3). The petitioner proposes to construct decks on the rear of the dwelling which further reduce the nonconforming side setback to 3.8 feet, requiring a special permit per section 7.8.2.C.2.

Per section 5.1.4, two parking stalls are required per dwelling unit. With three dwelling units proposed, a total of six parking stalls are required, where four are proposed. The petitioner seeks a special permit per section 5.1.13 to waive two required parking stalls.

Per section 5.1.7.A, no parking may be located in the front and side setbacks. The petitioner proposes one parking stall in the front and side setbacks and two stalls at the rear within the side setback, requiring a special permit per section 5.1.13.

Section 5.1.7.B.1 requires that parking stalls have a minimum width of 9 feet. The petitioner proposes an 8-foot width for all four stalls, requiring a special permit per section 5.1.13.

Section 5.1.7.B.2 requires that parking stalls have a minimum depth of 19 feet. The petitioner proposes 18-foot deep stalls, requiring a special permit per section 5.1.13.

The petitioner proposes retaining walls along the rear half of the side lot lines and along the rear lot line. The wall reaches a maximum height of 5 feet in the northern corner of the property. Per section 5.4.2.B, a special permit is required to allow a retaining wall of four feet or more in height within a setback.

### Public Comment

CATHERINE CLEMENT, of 25 Hunter Street, voiced her opposition to the project, specifically the rezoning aspect of the petition.

Ms. Clement referenced the 29 Hunter Street project as a spot-zoning project, which is the rezoning of a small section of land to be used in a different way than surrounding properties to the benefit of that owner and the detriment to the neighborhood.

Ms. Clement also raised concerns about parking in the neighborhood should this petition move forward towards approval.

NICK NESTA, of 51 Highland Street, stated that he nor his neighbors received no outreach from Atty. Morris or the developer. Mr. Nesta did state that he received a letter that was vague and confusing.

TREVOR STRICKER, of 28 Putnam Street, wanted to align his comments with those of Ms. Clement and Mr. Nesta.

Mr. Stricker noted safety concerns for his children on the street citing traffic and speeding.

Lastly, Mr. Stricker referred back to spot-zoning and stated there was no benefit to the neighborhood at large by rezoning the parcel of land designated 29 Hunter Street.

WAYNE GONNERMAN, of 25 Hunter Street, aligned his comments with those of previous speakers.

### Committee Comments

Committee Members discussed the impact of rezoning the parcel and could find limited improvements on the neighborhood and community, but noted there would be an economic benefit to the current homeowner.

Committee Members also noted that there was insufficient outreach to the abutting neighbors and that contributed to the mistrust amongst the neighbors as it pertained to the petition.

Additional Committee Members noted that this petition was incomplete and was not ready to be before the Committee as it did not have the support of the neighborhood.

Councilors not on the Committee also voiced their opposition to the project stating that they would vote against the petition if it cleared the Land Use Committee. The Councilor's opposition stemmed from the spot-zoning and Councilors stated if was allowed here, where would it end in the city?

Councilor Kelley motioned to close the Public Hearing, which passed unanimously by voice vote 8-0. Councilor Kelley motioned to deny Petition #39-23 which passed 8-0.

With the denial of Petition #39-23, the Committee voted No Action Necessary on Petition #40-23 by a unanimous vote of 8-0.

**#41-23 Request to allow a three-story single-family dwelling at 616 Boylston Street (1:15:00)**  
DAURO AQUINO, ACS GROUP INC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second story addition as well as an expansion of an existing garage at 616 Boylston Street, Ward 6, Newton Centre, on land known as Section 81 Block 37 Lot 10, containing approximately 8,674 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** Land Use Approved 8-0; Public Hearing Closed 02/14/23

**Note:** Project Manager Nathalia Quirino was present to represent the petition. Ms. Quirino presented a multimedia presentation, but at the time this report was published, the presentation had not been submitted to the Clerk's Office. The documents pertaining to this petition can be found at the following link:

[616 Boylston St - Petition Documents](#)

The existing ranch-style dwelling presents as a single-story from the street, however the grade slopes downwards at the rear, exposing the basement. Per the average grade calculation the basement is the first story, rendering the building two stories.

The petitioner proposes to construct a one-story addition above the existing dwelling, resulting in a three-story building. Per section 3.1.3 a special permit is required to allow a three-story single-family dwelling.

The petitioner proposes to construct an entry vestibule which results in a front setback of 22.7 feet where 25 feet is required. Per section 1.5.3.D.4 a doorway vestibule up to 4 feet in depth and 6feet wide is allowed within a setback. The proposed vestibule is 4 feet by 6 feet and is allowed by right.

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 - 616 Boylston St](#)

#### Public Comment

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

#### Committee Comments

Committee Members noted the creativity of the project and voiced their approval.

Noting the site was located near the offramp to Route-9, Committee Members asked Ms. Quirino what the plan was for vehicles during the construction process.

Ms. Quirino answered there was ample space in the front with the driveway and if it was necessary, there is additional space on site.

Committee Members also noted in the drawings that trees were removed along the conservation land. Members asked if it was the petitioner's intent to clear the lot or if it was an oversight.

Ms. Quirino noted that was an oversight on the part of the surveyor.

Councilor Bowman motioned to close the Public Hearing which carried 8-0. 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 8-0.

**#37-23**      **Request to amend Special Permit #360-22 to exceed FAR at 336 Cabot Street (1:28:20)**  
336 Cabot Street, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend the approved FAR granted under Special Permit #360-22 at 336 Cabot Street, Ward 2, Newtonville, 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: 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 8-0; Public Hearing Closed 02/14/23**

**Note:**      Senior Planner Michael Gleba noted that a Special Permit was granted in 2022 to alter and extend the nonconforming two-family use with additions within the footprint.

At the time, the information provided indicated the Floor Area Ratio (FAR) was under the maximum allowed as of right. It has been determined that the approved FAR was calculated incorrectly and that proposed FAR exceeds the maximum allowed, requiring an amended Special Permit.

The Documents pertaining to the overall petition can be found at the following link:

[336 Cabot St - Petition Documents](#)

The property is located in the Single Residence 2 zoning district and is improved with a legal nonconforming two-family dwelling.

The petitioner was granted a special permit in September 2022 to extend the nonconforming two-family dwelling use to construct a first story addition filling in a portion of the front porch and second story addition at the rear, both within the existing footprint.

Inspectional Services determined the FAR was not calculated correctly in the plans approved by the Special Permit. The additions approved by the special permit increases the FAR from .37 to .42 where .38 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring relief and amendment to Special Permit #360-22.

Mr. 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 Presentation - 336 Cabot 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 as this was merely an administrative issue.

Councilor Lucas motioned to close the Public Hearing which carried 8-0. Councilor Lucas 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 8-0.

### **#38-23 Request to construct a five-unit dwelling and parking waiver at 194 Adams Street (1:32:38)**

LAKE PRIDE HOMES petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing nonconforming three-unit multifamily dwelling and construct a five-unit residential dwelling with ground level garage parking and associated dimensional, parking, and use waivers at 194 Adams Street, Ward 1, Newton, on land known as Section 14 Block 14 Lot 18, containing approximately 6,000 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 7.8.2.C.3, 5.1.4, 5.1.13, 5.1.8.B.1, 5.1.8.C.1, 5.1.8.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Approved 5-0-3 (Councilors Laredo, Lucas, and Markiewicz Abstained); Public Hearing Closed 02/14/23**

**Note:** Attorney Laurance Lee, of Rosenberg, Freedman & Lee, LLP, with offices at 246 Walnut Street, was present to represent the petition. Atty. Lee presented a multimedia presentation, but at the time this report was published, the presentation had not been submitted. All documents associated with this petition can be found at the following link.

[194 Adams St - Petition Documents](#)

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 - 194 Adams St](#)

The petitioner intends to raze the existing nonconforming three-unit multi-family residential dwelling and construct a five-unit residential dwelling with ground level garage parking. Each unit will gain its access from ground level entry points accessible from the parking area.

A special permit is required to expand the ground floor residential uses in a Business 2 zoning district per sections 4.4.1 and 7.8.2C.2.

The existing structure has a nonconforming height of 36.1 feet, where 24 feet is the maximum allowed per section 4.1.3.

The petitioner intends to construct a three-story dwelling with 34.86 feet in height, requiring a special permit per sections 4.1.2.B.3 and 4.1.3. 3. Per section 4.1.3, the required side setback is equal to half the building height (where the adjacent parcel is undeveloped).

The existing structure has a nonconforming western side setback of 5.9 feet where 18.05 feet is required for the existing structure with 36.1 feet in height. The proposed structure measures 34.9 feet tall, requiring a side setback of 17.45 feet. The proposed western side setback is 10.1 feet, requiring a special permit per section 7.8.2.C.2 to extend the nonconforming side setback. Section 4.1.3 allows for a side setback equal to half the building height or equal to the abutting side yard setback.

The abutting structure at 196-200 Adams Street has a side setback of 0.4 feet. The proposed eastern side setback is 4.0 feet, requiring no relief. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed with a total of 8,436 square feet resulting in an FAR of 1.41, requiring a special permit.

The petitioner proposes five residential units. Per section 5.1.4 two parking stalls per unit are required in a residential dwelling, resulting in a requirement of 10 stalls. The petitioner proposes to construct seven parking stalls, requiring a waiver of three stalls per section 5.1.13.

Per section 5.1.8.B.1, the minimum required stall width is 9 feet. The petitioner proposes parking stalls with an 8.5-foot width, requiring a special permit per section 5.1.13.

The parking for the building is located in a ground level open garage. Per section 5.1.8.C.1 and 2, a 24-foot-wide maneuvering aisle is required. The petitioner proposes a 20-foot-wide maneuvering aisle for the two-way traffic, requiring a special permit.

### Public Comment

ARTHUR TRUDO, of 181 Adams Street, voiced his opposition to the project. Mr. Trudo noted that there are currently three units on the site and are now adding an additional two-units.

Mr. Trudo noted the parking issues already in the area and that the neighborhood was already too congested. Mr. Trudo stated that his opposition to the project was the size and scope of the project.

TERRY SAURO, of 44 Cook Street, aligned her comments with that of Mr. Trudo. Ms. Sauro asked the Committee to look closely at the size of the project.

JANINE STEWART, of 251 Adams Street, aligned her comments with Ms. Sauro. Ms. Stewart questioned the added congestion this project would bring to the neighborhood.

ANTHONY PELLEGRINI, of 56 Clinton Street, questioned snow removal procedures for the project.

Mr. Pellegrini also cited the congestion of the area as well as children safety as cars leave the drive.



## Committee Comments

Committee Members noted this is a good project for the city and for the village of Nonantum and urged colleagues to vote for the petition.

Members additionally questioned Atty. Lee on whether parking spaces would be purchased separately or if they would be included with the sale of particular units within the property.

Atty. Lee stated that he had not spoken to his client about that matter at the current time.

Councilors not on the Committee noted this was a great project citing more housing in village centers, the two small units, an elevator building, all-electric, homeownership and the unbundling of the parking spaces makes this an attractive project.

Committee Members applauded the level of accessibility with the project as it relates to those with physical disabilities being one of the most discriminated against populations in the housing market.

Councilor Greenberg motioned to close the Public Hearing which carried 8-0. 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 5-0-3 (Councilors Laredo, Lucas and Markiewicz abstained).

### **#42-23 Request to allow rear-lot subdivision at 176 River Street (3:05:58)**

176 RIVER STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to subdivide the current lot into two, with one single-family dwelling each at 176 River Street, Ward 3, West Newton, on land known as Section 44 Block 17 Lot 64, containing approximately 25,202 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.5, 3.1.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** Land Use Approved 7-0-1 (Councilor Downs not voting); Public Hearing Closed 02/14/23

**Note:** Attorney Terrence Morris, of the Law Office of Terrence Morris, LLC, with offices at 57 Elm Road, Newton, was present to represent the petitioner. Atty, Morris was joined by members of the project development team including Project Manager Verne Porter with offices at 354 Elliot Street.

Atty. Morris did not submit a multimedia presentation but utilized the petition's documents as a reference.

Documents pertaining to this petition can be found at the following link:

[176 River St - Petition Documents](#)

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

[Planning Presentation - 176 River St](#)

The petitioner proposes a rear lot subdivision per Sections 3.1.5 and 3.1.10, resulting in a front lot (Lot 1) with 10,152 square feet to be improved with a single-family dwelling and a 15,050 square foot rear lot (Lot 2) also to be improved with a single-family dwelling.

To subdivide the land as proposed, the applicant must obtain a Special Permit from the City Council per section 3.1.10.A.

#### Public Comment

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

#### Committee Comments

Committee Members noted that a rear-lot subdivision on this site actually fits into the current spirit of the neighborhood.

Committee Members also noted that the petition fits into the unofficial criteria of a rear-lot subdivision; have enough land, cannot affect multiple homes in the area, and not asking for additional relief from the Committee.

Councilor Kelley motioned to close the Public Hearing which carried 8-0. 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 7-0-1 with Councilor Downs not voting.

The Committee adjourned at 10:23 p.m.

**Respectfully Submitted,**

**Richard Lipof, Chair**