



Land Use Committee Report

City of Newton In City Council

Tuesday, March 7, 2023

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

Also Present: Councilors Humphrey, Leary, and Oliver

City Staff Present: Senior Planner Cat Kemmett, Senior Planner Michael Gleba, Chief Planner Katie Whewell, Deputy Chief Planner Alyssa Sandoval, 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 March 7, 2023 Land Use Meeting can be found at the following link:
[03-07-2023 NewTV Land Use Committee Meeting](#)

#61-23 **Request for Extension of Time to Exercise Special Permit #157-22 at 4 Clarendon Street**
VENKATESA RAVI petition for EXTENSION OF TIME to March 7, 2025 to EXERCISE Special Permit Council Order #157-22 to construct a second-story addition, vertically extending the nonconforming front setbacks on a corner lot at 4 Clarendon Street, Ward 2, Newton, on land known as Section 22 Block 09 Lot 01, containing approximately 5823 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

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

Note: With limited discussion, the Committee unanimously voted to approve the petitioner's extension of time request. For reference, documents associated with the original petition, #157-22, can be found at the following link:

[4 Clarendon St - Petition Documents](#)

Public Comment

No public comment was taken regarding this petition.

Committee Comments

No Committee Members made comments of note regarding this petition.

Councilor Lucas motioned to approve the petition. The Committee voted in favor of approval by a voice vote of 8-0.

#65-23 Request for Extension of Time to Exercise Special Permit #406-21 at 229 Bellevue Street
DAVID AND SUSAN WAKEFIELD petition for EXTENSION OF TIME to December 17, 2024 to EXERCISE Special Permit Council Order #406-21 to allow a garage accommodating more than three vehicles with ground floor area exceeding 700 sq. ft., to vertically extend a nonconforming side setback, to allow a system of retaining walls exceeding four feet within the setback at 229 Bellevue, Ward 1, Newton, on land known as Section 12 Block 17 Lot 29, containing approximately 9,700 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.3.A.1, 7.8.2.C.2, 3.4.3.A.4, 3.4.4.E, 3.4.4.H, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0

Note: With limited discussion, the Committee unanimously voted to approve the petitioner's extension of time request. For reference, documents associated with the original petition, #406-21, can be found at the following link:

[229 Bellevue St - Petition Documents](#)

Public Comment

No public comment was taken regarding this petition.

Committee Comments

No Committee Members made comments of note regarding this petition.

Councilor Lucas motioned to approve the petition. The Committee voted in favor of approval by a voice vote of 8-0.

#64-23 Request for Extension of Time to Exercise Special Permit #28-22 at 383-387 Boylston Street
50 JACKSON STREET, LLC, petition for EXTENSION OF TIME to March 7, 2025 to EXERCISE Special Permit Council Order #28-22, to allow a three story, 12-unit multi-family dwelling with an FAR of 1.5 and 36' in height, ground floor residential use, a building with more than 20,000 sq. ft., to alter and extend a nonconforming side setback, to waive six parking stalls, to reduce the width of parking stalls, to reduce the driveway width for two-way traffic, to allow a loading facility which may impede traffic, and to allow a retaining wall greater than four feet in height within the setback at 50 Jackson Street/383-387 Boylston, Ward 6, Newton, on land known as Section 65 Block 11 Lot 04, containing approximately 14,866 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.8.B.1, 5.1.8.D.1, 5.1.12.D.5, 5.1.13, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0

Note: With limited discussion, the Committee unanimously voted to approve the petitioner's extension of time request.

Public Comment

No public comment was taken regarding this petition.

Committee Comments

No Committee Members made comments of note regarding this petition.

Councilor Lucas motioned to approve the petition. The Committee voted in favor of approval by a voice vote of 8-0.

#60-23 Request to further extend nonconforming front and rear setbacks and parking waivers at 43 River Avenue

DINA ONUR petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing dwelling and construct a two-family dwelling that will alter and extend a nonconforming front setback, further reduce and extend a nonconforming rear setback, allow reduced parking stall depth and allow parking within five feet of a street at 43 River Avenue, Ward 5, Newton Upper Falls, on land known as Section 51 Block 43 Lot 03, containing approximately 12,050 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.2.3, 7.8.2.C.2, 5.1.7.B.2, 5.1.13, 5.1.7.A of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0

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, which can be found at the following link:

[Petitioner Presentation - 43 River Ave \(3-7-23\)](#)

Additional documents associated with this petition can be found at the following link:

[43 River Ave - Petition Documents](#)

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 Presentation - 43 River Ave \(3-7-23\)](#)

The existing single-family dwelling has a nonconforming front setback of 16.5 feet where 25 feet is required per section 3.2.3.

The petitioner proposes to raze the dwelling and construct a new two-family dwelling with a proposed front setback of 16.8 feet. The proposed construction alters and extends the nonconforming front setback requiring a Special Permit per sections 3.2.3 and 7.8.2.C.2.

Per section 5.1.4, each unit must provide two parking stalls. Each unit is proposed with a single-car garage and driveway. The driveways are 16.9 feet in length and approximately 18.5 feet in depth. Per section 5.1.7.B.2 a parking stall must be 19 feet in depth. The surface parking stalls in the driveways both require a special permit to waive the required parking stall depth per section 5.1.13.

Section 5.1.7.A requires that no parking stall be set back less than five feet from street. The proposed surface parking stalls are both within five feet of the street, requiring a special permit per section 5.1.13.

Public Comment

BARBARA SALTZSTEIN, of 48 River Avenue, cited safety concerns and the narrow street in her opposition to the project.

Ms. Saltzstein also noted that an increased density in Upper Falls was already having negative impacts on the standard of living in the village.

Lastly Ms. Saltzstein raised the following questions:

- Is new housing of this density in a flood zone a good idea?
- Is it a good idea given climate change?

SEAN ROCHE, of 42 Daniels Street, noted that he was disappointed that in Newton's current housing situation, the petitioner is seeking to build two large units. One at 2,505 sq. ft. and the other at 3,228 sq. ft.

Mr. Roche additionally stated that the size of the units were shameful and the site would have better been serviced with four units to ameliorate the City's housing shortage.

Committee Comments

Committee Members asked the petitioner if they would be willing to consolidate the driveways to eliminate two curbcuts onto River Avenue as well as reducing the amount of impervious pavement.

Atty. Lee responded that there were pros and cons of each proposition, but due to the way the property is laid out as well as how the property is squeezed on the eastern half, challenges exist in how the site is developed.

Chief of Planning Katie Whewell additionally noted that the reason the garages are separated in this proposal is that it needs to meet the definition of a "two-family" dwelling with Inspectional Services long maintaining that the garages cannot be contiguous for a two-family dwelling.

Committee Members also stated after thoroughly reviewing the petition documents and packet that they would like to see the proposed two curbcuts narrower if they were indeed to stay a part of the petition as well as the paving area reconsidered.

Councilors not on the Committee asked if the petitioner could elaborate more on the conditions the petitioner received from the Conservation Committee as it related to the Charles River or any other environmental concerns.

Atty. Lee stated that the order of conditions received from the Conservation Commission was rather lengthy and he was brought on to the petition after that process concluded. Atty. Lee did state that a copy of the Conservation Committee's findings was submitted as part as the documents submitted for Committee review. Atty. Lee lastly noted that of the lengthy order from the Conservation Commission the petitioner must follow every single one of the conditions to build the project.

In response to Atty. Lee Councilors stated that they were concerned about flood-control and runoff-control and asked Atty. Lee to keep those two factors in mind through the duration of this project.

Councilors questioned what, if any, steps would be taken during the construction phase to address quality of life concerns from abutters on River Avenue, Keefe Avenue and Elliot Street.

Atty. Lee responded that there is a standard condition in the draft Special Permit called the Construction Management Plan and that will be submitted as part of the building permit application should the petition be approved.

Committee Members asked Atty. Lee that if the petitioner did not get a Special Permit and decided to build by right, would the size of the proposed project be the same.

Atty. Lee noted that the general size of the petition would be the same, just slightly narrower.

Councilors asked if the petitioner would commit to making this an all-electric building.

The petitioner, Ms. Onur who was present, affirmed that the building would be all electric complete with solar panels on the roof as well.

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

#504-22 Request to allow six single-family attached dwellings at 71 Commonwealth Avenue and 15 Algonquin Road

71 COMMONWEALTH, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-story dwelling at 15 Algonquin Rd and construct five single-family attached dwellings with reduced setbacks, which exceeds the maximum lot coverage, a retaining wall greater than 4 feet in height within a setback and to allow parking dimensional relief at 71 Commonwealth Ave, Newton, Ward 7, on land known as Section 63 Block 01 Lots 13 and 13A, containing approximately 32,980 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.1, 5.1.8.B.6, 5.1.13, 5.1.8.D.1, 6.2.3.B.2, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-1 (Councilor Greenberg)

Note: Attorney Terry Morris, with offices at 57 Elm Road was present to represent the petition. Atty. Morris was joined by developer David Oliveri and lead project architect Christina Carlson. The documents pertaining to this petition can be found at the following link:

[71 Commonwealth Ave - Petition Documents](#)

Additionally, Ms. Carlson's project presentation can be found at the following link:

[Petitioner Presentation - 71 Commonwealth Ave \(3-7-23\)](#)

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 - 71 Commonwealth Ave \(3-7-23\)](#)

The petitioners propose to raze the dwelling at 15 Algonquin Road, combine the lots and construct five single-family attached dwellings in addition to preserving the dwelling at 71 Commonwealth Avenue with a 15-car underground garage in the Multi Residence 1 zoning district. Per section 3.4.1, a Special Permit is required to allow six single-family attached dwellings in the MR1 district.

Per sections 3.2.4 and 6.2.3.B.1, single-family attached dwellings require a 25-foot setback from each lot line. Section 3.2.4 allows the City Council to grant a Special Permit to waive the dimensional requirements. The petitioner proposes to maintain an existing pergola at 71 Commonwealth Avenue on the Algonquin Road frontage, resulting in a 24.4-foot front setback, requiring a Special Permit. Unit 3 is proposed with a rear setback of 21.2 feet. Unit 4 is proposed with a rear setback of 22.5 feet, and Unit 5 is proposed with a rear setback of 21.4 feet, all requiring a Special Permit. Special Permits per sections 3.2.4 and 6.2.3.B.1 are required to reduce the required setbacks for single family attached dwellings.

Section 5.1.8.B.6 requires that end stalls restricted on one or both sides must have maneuvering space at the aisle end of at least five feet in depth and nine feet in width. A Special Permit per section 5.1.13 is required to waive the maneuvering space for the two stalls at the end of the underground parking.

Per section 6.2.3.B.2 no driveway may be located within 10 feet of a side or rear lot line, unless by Special Permit. The driveway is within 10 feet of the eastern lot line, requiring a Special Permit.

Per that same section 6.2.3.B.2 no parking may be located within 20 feet of a lot line. Two surface parking stalls are proposed at the end of the driveway along the eastern lot line, requiring a Special Permit.

Retaining walls are proposed throughout the site. While most are less than four feet in height, the retaining walls within the front setback from Commonwealth Avenue reach a maximum height of 5.3 feet. Per section 5.4.2, a special permit is required for a retaining wall with four feet or more in height located within a setback.

Public Comment

KATHY PILLSBURY, of 34 Carver Road, cited environmental concerns in her opposition to the proposed project. Ms. Pillsbury noted that the increased number of buildings would increase the amount of embodied carbon and an increase in energy usage.

Ms. Pillsbury also noted that the project included 19 parking spaces, which is more than 3 spaces per unit and contrary to Newton's Climate Plan.

Mr. Oliveri responded that to ease parking congestion in the area due to the proximity to Boston College, the parking plan is two parking spaces per unit plus one guest space to keep parking off the street.

KENNETH LUKE, of 23 Algonquin Road, voiced his opposition to the project and stated that neighbors have not been a part of the process as it pertained to the petitioner and the development team. Mr. Luke admitted there had been community meetings, but that none of the neighbors' questions had been answered.

Mr. Oliveri noted that community involvement in the project had happened, and comments had been taken into consideration, even noting that some City Councilors had attended these community meetings.

CHERYL HERMAN, of 78 Waban Hill North, cited safety concerns associated with the project. Ms. Herman particularly noted that garage that will be attached to the existing dwelling. Ms. Herman noted near collisions in the area at the intersection of Algonquin and Waban Hill Roads and that this garage will be very close to that turn.

Ms. Herman lastly noted that her opposition only applied to the location of the proposed garage citing it as too tight and problematic.

SEAN ROCHE, of 42 Daniels Street, associated his comments with a previous speaker, Ms. Kathy Pillsbury.

Mr. Roche noted that this was a development opportunity 800 feet from a MBTA "T" station. Mr. Roche continued that in the current housing and climate crises for a lot this large to produce so few units that will be exorbitantly expensive was disappointing.

Mr. Roche noted this is not a project that is kind to the neighborhood and that a development opportunity had been squandered.

MARYLEE BELLEVILLE, who did not provide an address, associated her comments with Mr. Roche and Ms. Pillsbury.

Ms. Belleville also noted this project is not consistent with what the City has stated they would like to see.

Committee Comments

Committee Members heard and understood the community's concerns as it pertained to more housing/units but noted that in the case the Committee does deny a petition moving forward, what is the by right alternative that the petition can take.

For this project should a Special Permit not be granted, it was noted that the petitioner could have three lots, subdivided for a total of six units. The Committee noted this was not a healthy alternative because it lacked creativity and that all the parking, two spaces each, would all be above ground.

Councilors not on the Committee stated that they had some misgivings regarding this project from the beginning, but that the revised plans were a remarkable improvement from the original. Councilors cited the underground parking, the historical preservation of the main building as well as the central courtyard as creative solutions.

Committee Members stated that while there was a lot to love about this project, there was also element for concern surrounding the amount of parking, the size of the units as well as covered secured bike parking. Members noted that that they supported the project but would like the noted areas of concern taken into consideration.

Members questioned if there would be electronic vehicle (EV) charging stations associated with the underground parking.

Mr. Oliveri responded that all the underground parking associated with the project will be EV ready.

Councilor Laredo motioned to close the Public Hearing which carried 8-0. 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 7-1 with Councilor Greenberg opposed.

#33-23 Request to allow a three-story structure with 32 feet in height, an FAR of 1.25 and to waive seven parking stalls at 296 Watertown Street

YOUNGSUN PARK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-story structure with 32 feet in height; to allow an FAR of 1.25 and to reduce the number of required parking stalls at 296 Watertown Street, Ward 1, Newton, on land known as Section 11 Block 14 Lot 02, containing approximately 5,388 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.1.2.B.3, 4.1.3, 5.1.4, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0 (Councilor Markiewicz not voting)**

Note: Senior Planner Cat Kemmett presented an update to the petition since it was last before the Committee on February 7, 2023. Ms. Kemmet's presentation can be found at the following link:

[Planning Presentation - 296 Watertown St \(3-7-23\)](#)

All other documents associated with this petition can be found at the following link:

[296 Watertown St - Petition Documents](#)

The petitioner intends to raze the existing single-family dwelling and construct a three-story mixed-use structure with ground level commercial and covered parking and two residential units above. Per section 4.1.2.B.3 and 4.1.3, a Special Permit is required to allow for a three-story structure with 32 feet in height.

Per section 4.1.3, the maximum by-right FAR is 1.00, up to 1.50 by Special Permit. The building is proposed with a total of 6,667 square feet, resulting in an FAR of 1.25, requiring a Special Permit.

The petitioner proposes to construct 1,472 square feet of ground-floor retail and two residential units above at the site. Per section 5.1.4, a retail use requires one parking stall per every 300 square feet plus one stall per every three employees at the busiest shift; and a residential use requires two parking stalls per each dwelling unit. The proposed uses require a total of ten parking stalls, six for the retail space and four for the two residential dwelling units. The petitioner intends to construct three parking stalls in a ground level facility enclosed on three sides. A waiver of seven parking stalls is required per sections 5.1.4 and 5.1.13.

Public Comment

EVANGELOS BALAFAS, of 277 Craft Street, owns the business next door to the proposed project and stated how there is already an issue with parking in the area, especially for his employees. Mr. Balafas noted that the waiving of seven parking stalls will create a further burden.

VINCENTE NETO, of 286 Watertown Street, aligned his comments closely with those of the previous speakers as it relates to parking.

Mr. Neto noted that it was not just this petition that was burdening the neighborhood's parking situation, but other projects as well.

TERRY SAURO, of 44 Cook Street, noted that her concerns circled around the current parking shortage in the neighborhood as well as a future boom in parking requests.

Committee Comments

With its current use, the business that will be occupying the ground floor of the property will have very little use for vehicle traffic or parking at its premises and that is the reason for the seven-parking stall waiver.

Committee Members questioned what would happen if the property was sold and the new occupants requested more parking. Members debated adding a condition to the Special Permit stipulating that a change in ownership or use may have to reapply for an amended Special Permit.

Councilors not on the Committee were vocally supportive of the project stating this project is the type of project the City would like to see in the Village Centers; modest sized units, mixed-use building and a small amount of parking requested.

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 with Councilor Markiewicz not voting.

The Committee adjourned at 10:28 p.m.

Respectfully Submitted,

Richard Lipof, Chair