



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, March 21, 2023**

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

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

**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 21, 2023, Land Use Meeting can be found at the following link:  
[03-21-2023 NewTV Land Use Committee Meeting](#)

**#88-23**      **Request for an extension of time for Special Permit #55-21 at 12 Cochituate Road**  
ALAN TAYLOR petition for an EXTENSION OF TIME to March 15, 2024, to EXERCISE Special Permit #55-21 to further extend the nonconforming FAR by constructing a second story addition within the existing footprint at 12 Cochituate Road, Ward 6, Newton Highlands, on land known as Section 54 Block 31 Lot 02, containing approximately 7,650 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 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, #55-21, can be found at the following link:

[12 Cochituate - 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.

**#61-23 Request for a nonconforming front setback at 80 Highland Avenue**

JAMES GROSS AND KIKI BOGORAD-GROSS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to reconstruct a previously damaged one-car garage in a different configuration altering the nonconforming front setback at 80 Highland Avenue, Ward 2, Newtonville, on land known as Section 24 Block 11 Lot 30, containing approximately 7,386 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, 3.4.3.A.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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

**Note:** Mr. James Gross, the petitioner was present and provided an oral update to the petition including an orientation of the property as well as the proposed plans, general site information, as well as an overview of the crash that damaged the garage on the property.

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

[80 Highland 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 - 80 Highland Ave \(3-21-23\)](#)

The property at 80 Highland Avenue consists of a 7,386 square foot corner lot improved with a single-family dwelling constructed in 1890. A detached one-car garage was constructed in 1929 with a nonconforming front setback from Lowell Avenue and was destroyed in 2021 after being hit by a car.

The petitioners seek to reconstruct the garage in a slightly different configuration, altering the nonconforming front setback, requiring a special permit.

The petitioners seek to raze and reconstruct the detached garage in a slightly different configuration, increasing the width of the structure within the nonconforming front setback, but increasing the front setback of the accessory structure from 13.7 feet to 16.9 feet.

The accessory structure has a required front setback of 25 feet per sections 3.2.3 and 3.4.3.A.1. To reconstruct the garage and alter the existing nonconforming front setback a Special Permit is required per section 7.8.2.C.2.

Public Comment

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

### Committee Comments

Some Committee Members noted that due to the simplicity of the project, the petition should not be before the Land Use Committee, but rather something that could be handled administratively through a separate process.

The Chair noted that he has previously docketed a discussion item for the Committee to review such administrative actions in the future and that the docketed item will be before the Committee shortly.

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.

**#71-23**      **Request to extend a nonconforming two-family dwelling at 152-154 Lexington Street**  
TURNKEY REALTY GROUP, LLC, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing one-story dwelling and construct a new two-family dwelling, altering and further extending the nonconforming use at 152-154 Lexington Street, Ward 4, Auburndale, on land known as Section 44 Block 35 Lot 24, containing approximately 8,899 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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

**Note:**      Attorney Terrance Morris of the Law Offices of Terrence P. Morris, LLP, with offices at 57 Elm Road, Newton represented the petitioner. Atty. Morris did not have a multimedia presentation for this petition and deferred to the Planning Department.

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

[152-154 Lexington St - Petition Documents](#)

Deputy Chief Planner Alyssa Sandoval 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 - \(152-154\) Lexington St \(3-21-23\)](#)

### Public Comment

ELLEN LADERMAN, of 85 Albert Road, noted that she was in favor of proposed aesthetics as the current dwelling is an eyesore, but did raise concerns regarding the height of the proposed building and privacy.

Atty. Morris noted that the maximum height allowed is 36 feet and the height of the proposed petition is just over 31 feet, well within what is allowed by right.

Atty. Morris also noted that the height of the proposed petition is shorter than the direct abutter to the north of the property on Lexington Street.

Regarding privacy, Atty. Morris also noted that the petitioners would also be erecting a six-foot privacy fence along the property line with Ms. Laderman's property.

CHRISTOPHER PANDA, of 148 Lexington Street, just wanted it noted for the record that he was very much in support of the petition.

### Committee Comments

Regarding the simplicity of Ms. Laderman's questions, Committee Members questioned whether Atty. Morris or the petitioners themselves reached out to the neighborhood to explain the petition prior to the Land Use meeting.

Atty. Morris noted that he counsels his clients to do that rather than himself as personal contact between actual neighbors is best achieved directly, without intermediaries, such as lawyers being involved.

Committee Members overall voiced their support for the project highlighting how it is an improvement over the current property and that the requested relief for the project is minimal.

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

### **#62-23 Request to amend Special Permit #101-17 to convert an existing office space into two residential units at 46 Farwell Street**

BRIAN MCDONALD, TRUSTEE, CONTINUOUS IMPROVEMENT REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #101-17 to convert the nonconforming office building into two residential units at 46 Farwell Street, Newtonville, Ward 3, on land known as Section 21 Block 01 Lot 14, containing approximately 8,529 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 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 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 - \(44-46\) Farwell St \(3-21-23\)](#)

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

[44-46 Farwell St - Petition Documents](#)

Senior Planner Cat Kemmet 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 - \(44-46\) Farwell St \(3-21-23\)](#)

The property at 46 Farwell Street consists of an 8,529 square foot lot in the Multi Residence 2 (MR2) zoning district improved with two separate buildings containing an office and a residential unit.

The petitioner received a Special Permit in 2017 to allow for the continued use of the front building for a nonconforming office space and the conversion of the rear building into a residential unit.

The petitioner now seeks to convert the nonconforming office building into two residential units, requiring an amendment to the Special Permit to convert from one nonconforming use to another to allow for two principal buildings on the lot.

The office use in the front structure is a legal nonconforming commercial use in the MR2 zoning district per Section 3.4.1 and a 1960 determination which formalized it.

The petitioners were granted Special Permit #101-17 in 2017 to allow for the conversion of the existing rear building into a residential unit. While residential uses are allowed in the district, the two principal structures and uses (residential and office) were an extension of the nonconforming commercial use and requires a Special Permit.

The petitioners now seek to amend the Special Permit to alter the nonconforming use of the property to allow for two principal structures with three residential units (two in the front building and one in the rear building).

Public Comment

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

Committee Comments

The Chair noted that he recently discovered there was a condition in the original Special Permit that after consultation with the Planning and Legal Departments he deemed inappropriate.

The condition referenced the residential units and stipulated that they had to be rentals and not condominiums occupied by owners.

The Chair again noted that the ownership of units is beyond the purview of this Committee and the Committee could not govern the form of ownership of properties. The Chair stated that the Committee would be addressing and removing that 2017 condition in the 2023 Special Permit.

Other Committee Members agreed regarding the removal of the ownership condition.

Committee Members additionally noted that removing some of the parking could create more open space as well as green space.

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 8-0.

The Committee adjourned at 7:58 p.m.

**Respectfully Submitted,**  
**Richard Lipof, Chair**