



City Council Actions

In City Council Monday, February 21, 2023

Present: Councilors Baker, Bowman, Crossley, Danberg, Downs, Greenberg, Humphrey, Kalis, Kelley, Laredo, Lipof, Lucas, Malakie, Markiewicz, Norton, Oliver, Ryan, Wright & Albright.

Absent: Gentile, Grossman, Krintzman, Leary, Noel

Clerk's Note: The full Council meeting can be viewed on the following link:

[Newton City Council February 21, 2023 \(newtv.org\)](http://newtv.org)

The City Council discussed the following items on Second Call:

#36-23 Request to amend Special Permit #48-16 to construct four rooftop solar arrays at 255-257 Newtonville Avenue

CS SDP NEWTONVILLE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #48-16 to construct a rooftop solar facility with four arrays at 255-257 Newtonville Avenue, Newtonville, Ward 2, on land known as Section 12 Block 16 Lot 08, containing approximately 76,000 sq. ft. of land in a district zoned MANUFACTURING.

**Land Use Approved 6-0-1 (Councilor Lucas Abstained); Public Hearing Closed 02/07/23
City Council Approved 16 Yeas, 3 Nays (Councilors Lucas, Malakie, Oliver) 5 Absent**

Clerk's Note: Councilor Lucas put this on Second Call. He explained that he had abstained because he had filed a zoning enforcement request regarding Condition #14, and he did not feel it would be appropriate for him to cast a vote while his enforcement request was pending. Condition #14 is that utilities must be 100% underground, and this business has a communications cable that is not underground. Several other councilors also noted that this business is in violation of their original special permit regarding landscaping. They cleared too many trees, and have not taken care of landscaping properly. Some Councilors felt that, given this business has not lived up to its bargain, the solar permit can wait, and should not be permitted until they are brought into compliance re landscaping. Other Councilors felt that the solar panel issue is important, and should be treated as an entirely separate issue. Councilors Laredo and Ryan both noted that the City of Newton needs to do a much better job of oversight regarding developers who keep violating city ordinances.

#39-23**Request to Rezone 29 Hunter Street to MR3**

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.

Land Use Denied 8-0; Public Hearing Closed 02/14/23

City Council to Vote on Supporting the Denial by Land Use

A Suspension of Rules was moved by Councilor Crossley and unanimously seconded, in order to permit Attorney Temple to join the meeting and the discussion of #39-23 and #40-23 on February 21, 2023.

City Council Approved postponing to March 20, 2023

Approved 19 Yeas, 0 Nays, 5 Absent

#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**

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.

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

A Suspension of Rules was moved by Councilor Crossley and unanimously seconded, in order to permit Attorney Temple to join the meeting and the discussion of #39-23 and #40-23 on February 21, 2023.

City Council Approved 16 Yeas 0 Nays 5 Absent

City Council Approved postponing March 20, 2023

Approved 19 Yeas, 0 Nays, 5 Absent

Clerk's Note: The petitioner of these two items requested a Withdraw without Prejudice for both. Councilor Baker looked up the Council rules, and petitioners must wait two years before requesting zone change again, unless it is recommended by the final report of the planning board. However, if they want to request a special permit--without a zone change--they would be able to come back with another proposal in less than two years. Councilors ruled out a Withdraw without Prejudice for #39-23, but did not rule it out for #40-23. Attorney Temple joined the meeting, and confirmed that City Council must wait for a planning board report, which is required before a vote can be held.

- #38-23** **Request to construct a five-unit dwelling and parking waiver at 194 Adams Street**
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.
Land Use Approved 5-0-3 (Councilors Laredo, Lucas and Markiewicz Abstained); Public Hearing Closed 02/14/23
City Council Approved postponing to March 6, 2023
Approved 19 Yeas, 0 Nays, 5 Absent

Clerk's Note: Councilor Greenberg put this on Second Call. Many colleagues will be away this week. For that reason, Councilor Greenberg would like to postpone the vote until March 6, 2023.

- #477-22** **Request for discussion regarding new MA Building Energy Code amendments and adoption of the Specialized Energy Code**
COUNCILORS CROSSLEY, LEARY, ALBRIGHT, DANBERG, LIPOF, KELLEY, NORTON, LAREDO, BOWMAN, HUMPHREY, DOWNS, GREENBERG, WRIGHT, MALAKIE, MARKIEWICZ, AND GROSSMAN requesting discussion with the Sustainability Team and Planning Department about the new Massachusetts Building Energy Code amendments (Base code and Stretch code), and to consider adopting the Specialized Energy Code pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and CC.
Zoning & Planning Held 7-0 (Councilor Baker not voting)
Zoning & Planning Approved 6-0-2 abstaining (Councilor Baker and Wright)
City Council Approved postponing to March 6, 2023
Approved 18 Yeas, 0 Nays, 6 Absent

Clerk's Note: Councilor Crossley reported that this discussion was brought to a Public Hearing by the Committee of the Whole meeting on February 15, 2021. A decision needs to be made whether to adopt a Specialized Energy Code or not, and if adopted, the date when it should take effect. Councilor Greenberg made a Motion to postpone the vote until March 6, 2023, given that there are five members absent this evening.

The City Council voted without discussion 19 Yeas, 5 Absent to Accept the Committee Recommendations on the following:

- #559-22** **Class 2 Auto Dealers License**
KC AUTO
55 Farwell Street
Newton, MA 02460
Land Use Denied 7-0
- #35-23** **Request to amend Special Permit #263-20 to further exceed FAR and to amend the approved site plan at 43 Prince Street**
JOHN AND MARGARET REICHBACH petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #263-20 to enclose an existing porch and to alter the size and location of a proposed shed at 43 Prince Street, West Newton, Ward 3, on land known as Section 32 Block 10 Lot 06, containing approximately 27,800 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.
Land Use Approved 7-0; Public Hearing Closed 02/07/23
- #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.
Land Use Approved 8-0

- #41-23** **Request to allow a three-story single-family dwelling at 616 Boylston Street**
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.
Land Use Approved 8-0; Public Hearing Closed 02/14/23
- #37-23** **Request to amend Special Permit #360-22 to exceed FAR at 336 Cabot Street**
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.
Land Use Approved 8-0; Public Hearing Closed 02/14/23
- #42-23** **Request to allow rear-lot subdivision at 176 River Street**
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.
Land Use Approved 7-0-1 (Councilor Downs not voting); Public Hearing Closed 02/14/23
- #32-23** **Request for amendment to Sections 5.1.4, 6.4.29, and 7.8.2**
HER HONOR THE MAYOR requesting amendments to Sections 5.1.4, 6.4.29, and 7.8.2 to make on-street dining permanent.
Zoning & Planning Approved 8-0
- #44-23** **Reappointment of Peter Doeringer to the Planning and Development Board**
HER HONOR THE MAYOR reappointing Peter Doeringer, 35 Pulsifer Street, Newtonville as a member of the Planning & Development Board for a term of office to expire on February 1, 2028. (60 Days: 04/07/2023)
Zoning & Planning Approved 8-0

- #45-23** **Reappointment of Robert Imperato to the Chestnut Hill Historic District Commission**
HER HONOR THE MAYOR reappointing Robert Imperato, 145 Washington Street, Newton as a member of the Chestnut Hill Historic District Commission for a term of office to expire on November 15, 2025. (60 Days: 04/07/2023)
Zoning & Planning Approved 8-0
- #51-23** **Resolution for a Future without Gas and for Clean Heat**
COUNCILORS LEARY, HUMPHREY, BOWMAN, DOWNS, CROSSLEY, KALIS, GREENBERG, LIPOF, RYAN, LUCAS, KELLEY, WRIGHT, NORTON, ALBRIGHT, AND DANBERG presenting a Resolution supporting the creation of a city-wide plan to equitably achieve efficiencies, reduce emissions and risks of gas infrastructure and expediting electrification.
Public Facilities Approved 7-1 (Councilor Gentile Opposed)
- #58-23** **Appropriate \$280,000 to Complete Phase 1 of the City's Phosphorus Control Plan**
HER HONOR THE MAYOR requesting authorization to appropriate and expend one hundred sixty thousand dollars (\$160,000) from Stormwater- Full-time Wages Acct # 62A40101-511002 and one hundred twenty thousand dollars (\$120,000) from Stormwater – Drainage System Acct # 62A40101 -586004 for a total of two hundred eighty thousand dollars (\$280,000) to cover the completion of Phase 1 of the City's Phosphorus Control Plan.
Finance Approved 6-0 on 2/13/23
Public Facilities Approved 8-0
- #54-23** **Acceptance of \$2,677 from the Executive Office of Public Safety and Security Senior SAFE Grant.**
HER HONOR THE MAYOR requesting authorization to accept and expend the sum of two thousand six hundred and seventy seven dollars (\$2,677) in grant funding from the Executive Office of Public Safety for a Senior SAFE Grant that has been awarded to the Fire Department to purchase smoke and carbon monoxide detectors for Newton's seniors.
Finance Approved 6-0
- #53-23** **Acceptance of \$25,600 from a Massachusetts Emergency Management Association Emergency Preparedness Grant**
HER HONOR THE MAYOR requesting authorization to accept and expend the sum of twenty-five thousand six hundred dollars (\$25,600) in grant funding from a Massachusetts Emergency Management Association (MEMA) Emergency Management Preparedness Grant (EMPG) that has been awarded to the Fire Department for technology and protective gear.
Finance Approved 6-0

- #569-22 Acceptance of \$10,610.01 from Audrey M. Cooper Estate**
HER HONOR THE MAYOR requesting authorization to accept and expend the sum of ten thousand six hundred ten dollars and one cent (\$10,601.01) bequest from the estate of Audrey M. Cooper for the purpose of supporting the programs and services of the Newton Senior Center.
Finance Approved 6-0
- #58-23 Appropriate \$280,000 to Complete Phase 1 of the City's Phosphorus Control Plan**
HER HONOR THE MAYOR requesting authorization to appropriate and expend one hundred sixty thousand dollars (\$160,000) from Stormwater- Full-time Wages Acct # 62A40101-511002 and one hundred twenty thousand dollars (\$120,000) from Stormwater – Drainage System Acct # 62A40101 -586004 for a total of two hundred eighty thousand dollars (\$280,000) to cover the completion of Phase 1 of the City's Phosphorus Control Plan.
Public Facilities Approved 8-0 on 2-8-23
Finance Approved 6-0
- #52-23 Reappointment of James Shaughnessy to the Board of Assessors**
HER HONOR THE MAYOR reappointing James Shaughnessy, 1000 Commonwealth Avenue, Newton 02459 as a member of the Board of Assessors for a term of office to expire February 1, 2026. (60 days: 3/31/23)
Finance Approved 6-0
- #55-23 Appropriate \$1,500 from Handicapped Parking Fines for Me2/ Orchestra Concert**
HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one thousand five hundred dollars (\$1,500) from Handicapped Parking Fines to Law Department Grants to engage the Me2/ Orchestra to give a concert to the Newton community.
Finance Approved as amended to Account # 0110320571600 6-0

The City Council voted without discussion 16 Yeas, 3 Nays (Councilors Malakie, Norton, Wright) 5 Absent to Accept the Committee Recommendations on the following:

- #47-23** **Citizens Group Petition for moratorium on new or replacement artificial turf in Newton**
MELISSA BROWN ET AL., petitioning pursuant to Article 10, Sec. 10-2 of the City of Newton Charter, for the City Council to pass a measure postponing any immediate action for new or replacement artificial turf anywhere in Newton pending the completion, public presentation, and public hearing for the following: comprehensive study of demand for playing fields and adequacy of field scheduling system; incorporating health and medical guidelines for physical activity on artificial turf into definition of playability; development of sustainable and organic management plan for existing and future natural grass playing fields' and a comparative analysis by independent researchers of total cost of natural grass fields versus artificial turf.
Programs and Services voted No Action Necessary 6-1 (Councilor Wright Opposed)

The City Council voted without discussion 17 Yeas, 2 Nays (Humphrey, Ryan) 5 Absent to Accept the Committee Recommendations on the following:

- #50-23** **Request for a grant of location in Pleasant St and Tyler Tr**
NATIONAL GRID petition for a grant of location to install and maintain gas main in Pleasant St and Tyler Tr as follows:
- 75' ± of 6" plastic main extending from the existing 6" cast iron (1916) main in Tyler Tr for new service at #75 Pleasant St.
 - 60' ± of 2" plastic service line at #75 Pleasant St extending from the new 6" plastic main extension. (Ward 3)
- Public Facilities Approved 6-0 (Councilors Danberg and Norton Not Voting)**

Land Use Committee voted to send back to committee

- #23-23** **Request to amend Special Permit #289-18 at 697 Washington Street**
697 WASHINGTON STREET REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #289-18 to update signage and on-site parking at 697 Washington Street, Newton, Ward 2, on land known as Section 23 Block 19 Lot 1B, containing approximately 16,678 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 5.2.13.A, 5.2.13.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.
Land Use Approved #23-23(1) 7-0
Land Use Approved #23-23(2) 7-0

Land Use Denied #23-23(3) 0-4-3 (Councilors Greenberg, Laredo, Lucas and Markiewicz opposed) (Councilors Bowman, Kelley, and Lipof abstained); Public Hearing Closed 02/07/23

Councilor Lipof made a Motion to send this item back to committee; asked for suspension of rules so that he can poll the committee on this. Approved with one Nay vote.

Land Use Committee Approved 7-1 to send this back to committee

Public Facilities Committee voted to send back to committee

#49-23 Eversource petition for Grant of Location in Centre St

EVERSOURCE ENERGY petitioning for a grant of location to install one (1) hip guy and anchor and remove one (1) tree guy from pole 73/78 on the westerly side, at #912 Centre St. (Ward 7)

Public Facilities Approved 6-0 (Councilors Danberg and Norton Not Voting)

Councilor Kalis made a Motion to send this item back to committee; asked for suspension of rules so that he can poll his committee on this.

Suspensions of Rules Approved with 0 Nays.

Public Facilities Committee Approved 5-0 to send this back to committee

Motion to suspend the Rules to accept late filed items to be referred to Committee:

#68-23 Request to authorize partial release of the Declaration of Affordable Housing Covenants HER HONOR THE MAYOR requesting to authorize the partial release of the Declaration of Affordable Housing Covenants encumbering the property located at 677 Winchester Street, Newton, MA, commonly referred to as Coleman House operated by 2Life Communities.

#63-23 Request for a discussion with City Staff regarding a cost-benefit analysis on grass fields COUNCILORS ALBRIGHT, BAKER, WRIGHT, HUMPHREY AND KELLEY requesting a discussion with the Parks, Recreation, and Culture Department regarding a cost-benefit analysis of grass fields in sufficient quantity to meet Newton's demand for playing time (by user group; Newton school athletic programs, Newton Youth groups, others) vs additional artificial turf fields. This analysis should include the following; quantification of the current demand for playing fields (hours used by field), description of the scheduling system referencing the availability and cost of alternative systems if needed, quantification of field usage as a percentage of field availability, current land acreage and fields now unusable for play as a result of lack of maintenance funds and the additional annual funds needed to use these fields, the resultant playing time available if all grass fields in Newton are usable vs playing time with the addition of artificial turf at specific

planned locations, the location of additional potential grass fields, whether existing or new and the impact of these locations on high school sports including added acquisition and/or transportation costs to access fields not located on high school grounds. In addition, such information should take into account the environmental impact of either artificial turf or grass field choices taking into account such things as disposal of turf, chemical contaminants within turf, and pesticides used on grass. This discussion should provide information to guide the Council in its decision for future requests for artificial turf fields.

Public Hearings were assigned for the following Items:

Public Hearing to be Assigned for March 7, 2023

#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.