Petition: #62-23
Public Hearing:
03/21/23

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: March 17, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planer

SUBJECT: **Petition #62-23**, 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

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.

44-46 Farwell Street

Current Planning is examining ways to better present materials to the Land Use Committee. To start, we've identified the Planning Memorandum and intend to use varying templates depending on the type of project. This memo is intended to be shorter, easier to read and focus on the key points of the petition before the Committee. The planners will continue to make improvements as we work with a more efficient, concise format and are open to feedback. If you have any feedback on this new format, please reach out to the Katie Whewell at kwhewell@newtonma.gov.

Project Description

Background

The subject property consists of an 8,529 square foot lot in the Multi-Residence 2 (MR-2) district improved with two buildings containing an office and one residential unit.

The property abuts land owned by the Massachusetts Department of Conservation and Recreation along the Charles River to the north and multi-family residential structures to the east and west. The neighborhood has a mix of single and multifamily residences. The area to the west on the north and south sides of Farwell Street has a mix of commercial and industrial uses. Further to the west of North Street is Calvary Cemetery and a mix of single- and multi- family dwellings. The site and all but one abutting properties are zoned except for a Limited Manufacturing (LM) parcel across Farwell Street to the southwest.

Special Permit

In 2017 the petitioner received a special permit (#101-17) to convert the detached rear structure into a dwelling unit while continuing the office use in the front structure. The petitioner seeks to convert the nonconforming office building into two new residential units. As proposed, this project requires an amendment to the existing special permit to alter the nonconforming use of the property to allow for two principal structures with three residential units. The petitioner also requests to allow for the conversion of the property to condominiums for sale, which #101-17 currently does not allow.

Analysis

The Planning Department is unconcerned with the proposed change from a nonconforming commercial use to residential use in two principal structures, and is also not concerned with the request to convert the units into condominiums. The closest neighboring residential structures are also multifamily, and there are sufficient parking stalls on site to serve the new units. Considering the proximity of the project to the river, Planning suggests the petitioner consider reducing impervious area where possible and incorporating more landscaping and open space on the site if possible.

I. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		*Action Required*
§3.4.1 §7.8.2.C.2	Request to amend Special Permit #101-17 to allow for three residential units	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A.**

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

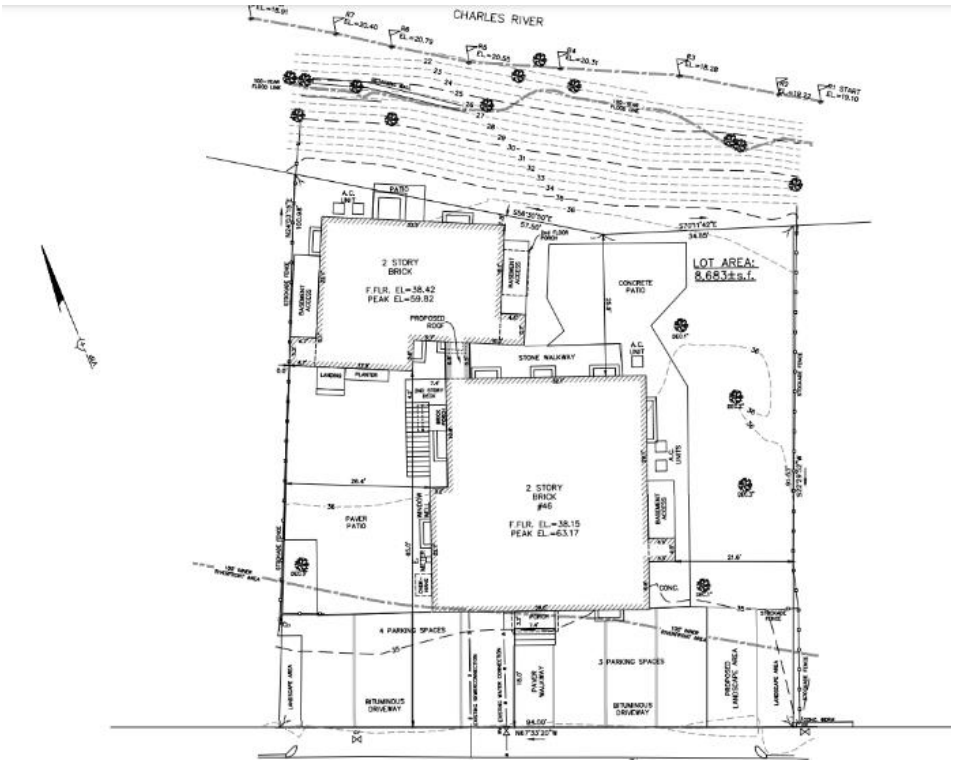
- The site in MR-2 is an appropriate location for the proposed amendment to the special permit which would alter the nonconforming use to allow for two principal structures with three residential units(§7.3.3.C.1)
- The proposed amendment to the special permit which would alter the nonconforming use to allow for two principal structures with three residential units will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed amendment to the special permit which would alter the nonconforming use to allow for two principal structures with three residential units will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed amendment to the special permit which would allow the conversion of the existing nonconforming commercial and retail use to three residential units in two principal buildings will not be substantially more detrimental than the existing nonconforming use is to the neighborhood (§7.8.2.C.2)

III. Project Proposal and Site Characteristics

A. Site

The site consists of an 8,529 square foot lot improved with two structures. Towards the front of the lot is a two-story 2,290 square foot building constructed circa 1910, which is currently utilized as office space. The second structure is a two-story 1,688 square foot detached building in the rear at the north corner of the property containing one residential unit.

Proposed Conditions



The property has eight parking spaces on the site, accessed via one wide curb cut spanning the entire length of the front (south) property line. The majority of the property lies within the wetland/river protection area buffer of the Charles River. The front of the property is relatively flat but has a steep downwards slope towards the river at the back of the property with a grade change of approximately 14 feet.

IV. Project Description and Analysis

A. Land Use

If approved the principal use of the site will change from office and residential use to exclusively residential use with three dwelling units.

B. Site and Building Design

The office use in the front structure on the lot is a legal nonconforming commercial use in the MR-2 district. The petitioner was granted permission in Special Permit #101-17 to allow the conversion of the rear building into a dwelling unit. Residential uses are allowed by right in MR-2, but the project required relief to extend the nonconforming

commercial use and to allow two principal structures on the property. To create two residential units in place of the commercial use in the front building, this project requires an amendment to the existing special permit to alter the nonconforming use of the property to allow for two principal structures with three residential units.

As proposed, the site work for the project would entail an interior reconfiguration of the front building to convert the space from the commercial use to residential space. The petitioner is not proposing to expand the footprint nor increase the floor area of either structure. The petitioner submitted floor plans which indicate that Unit 1 will be approximately 2,814 square feet and Unit 2 will be about 1,212 square feet. Unit 1 will occupy the basement and first floor of the front building on the lot, and Unit 2 will occupy the second floor. Unit 3, the dwelling already on the property in the rear building, will remain unchanged. The petitioner is proposing a roof connection between the two buildings which slightly increases the lot coverage.

C. Parking and Circulation

The petitioner proposes removing one of the existing eight parking stalls on the site, which would leave seven remaining stalls. This satisfies the requirement for two parking stalls per dwelling unit. That parking stall (the furthest to the east) would be replaced with a small, landscaped area. With the removal of the parking stall, the open space will increase from 48.8% to 50.7% where 50% is required.

Because the project is in close proximity to the Charles River with most of the front yard is paved, the Planning Department suggests the petitioner consider reducing impervious areas where possible to incorporate more landscaping.

D. Landscaping

A landscape plan is not required with this petition.

V. Interdepartmental Review:

No interdepartmental review is required at this time.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum
Attachment B: DRAFT Council Order

Attachment A

Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: December 21, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Laurence Lee, attorney
Brian McDonald, Trustee, Continuous Improvement Realty Trust
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to amend Special Permit #101-17 to convert an existing office space into two residential units

Applicant: Continuous Improvement Realty Trust	
Site: 46 Farwell Street	**SBL:** 21001 0014
Zoning: MR2	**Lot Area:** 8,529 square feet
Current use: Office and residential	**Proposed use:** 3 Residential units

BACKGROUND:

The property at 46 Farwell Street consists of an 8,529 square foot lot in the 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 following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Laurence Lee, attorney, dated 10/11/2022
- Special Permit #101-17
- Topographic Site Plan, signed and stamped by Joseph R. Porter, dated 11/22/2021, revised 9/19/2022
- Floor Plans, signed and stamped by James F. Rissling, architect, dated 9/22/2022

ADMINISTRATIVE DETERMINATIONS:

1. The office use in the front structure is a legal nonconforming commercial use in the Multi Residence 2 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 required 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).

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		*Action Required*
§3.4.1 §7.8.2.C.2	Request to amend Special Permit #101-17 to allow for three residential units	S.P. per §7.3.3

Attachment B
#62-23
44-46 Farwell Street

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #101-17, which allowed an extension of the existing nonconforming commercial business use , and exceptions to certain dimensional requirements for parking facilities of more than five stalls; to allow a conversion to three residential units and remove the restriction on condominiums in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Richard Lipof.

1. The specific site in MR-2 is an appropriate location for the amendment to Council Order #101-17 which would alter the nonconforming use to allow for two principal structures with three residential units because there are other multi-family structures of similar size and scale in close proximity. (§7.3.3.C.1)
2. The amendment to Council Order #101-17 will not adversely affect the surrounding neighborhood because the changes to the site are primarily interior renovations within the existing envelope of the structure, and the amount of open space and landscaping will increase. (§7.3.3.C.2)
3. The amendment to Council Order #289-18 will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because all parking will be contained on the site. (§7.3.3.C.4)

PETITION NUMBER:	#62-23
PETITIONER:	Continuous Improvement Realty Trust Brian McDonald, Trustee

LOCATION:	697 Washington Street, on land known as SBL 23, 19, 1b, containing approximately 16,669 square feet of land
OWNER:	Continuous Improvement Realty Trust
ADDRESS OF OWNER:	462 Main St Watertown, MA 02472
TO BE USED FOR:	Three residential units
CONSTRUCTION:	Brick
EXPLANATORY NOTES:	Amendments to Council Order #101-17 to allow a change of use and to allow units to be sold as condominiums.
ZONING:	Multi-Residence 2 District

Approved subject to the following Conditions:

The prior Special Permit for this site, Council Order #101-17, allowed an extension of the existing nonconforming use to allow a single dwelling unit on the property and waived certain requirements for parking facilities with more than five stalls. This special permit amends Special Permit #101-17 by allowing the conversion of the office space to two residential units and removing the condition restricting structures on the property from being submitted to the Condominium Act, G.L. c. 183 All other conditions of Council Order #101-17 remain in full force and effect.

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
   a. Topographic site plan signed and stamped by Joseph R. Porter, Land Surveyor, dated September 19, 2022, consisting of one (1) sheet
   b. Floor plans, undated and unstamped, prepared by LR Designs, consisting of six (6) sheets:
      i) Existing floor plan back building, A1.1
      ii) Existing floor plan back building, A1.2
      iii) Existing floor plan back building, A1.3
      iv) Existing floor plan front building, A1.1
      v) Existing floor plan front building, A1.2
      vi) Existing floor plan front building, A1.3

2. Condition #6 shall be deleted in its entirety.