



CITY OF NEWBURYPORT  
 CITY COUNCIL  
 60 PLEASANT STREET • P.O. BOX 550  
 NEWBURYPORT, MA 01950  
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 WWW.CITYOFNEWBURYPORT.COM

**RECORD OF PROCEEDINGS AND  
 SPECIAL PERMIT DECISION**

**APPLICANT:** Beth Israel Lahey Health, Anna Jaques Hospital  
 25 Highland Avenue  
 Newburyport, MA 01950

**PROPERTY OWNER:** Beth Israel Lahey Health, Anna Jaques Hospital

**FILE NO.:** 2020-SP-04

**PROPERTY ADDRESS:** **25 Highland Avenue**

**DECISION DATE:** 03/04/20

**MAP/PARCEL(S):** 39-44

**BOOK/PAGE:** 01649-0547

**ZONING DISTRICT:** GACM

**PROCEDURAL HISTORY:**

An application for a Special Permit pursuant to Section X-H (7) and Section V.D Table of Permitted Uses of the City of Newburyport’s Zoning Ordinance was made by the above-referenced owner and filed with the City Council on 01/22/20 for the following request: *Construction of addition on the rear of the structure to allow expansion of the operating rooms along with interior renovations to the structure. Shift in helipad location by 25' as well*

Notice of the public hearing was published on 02/18/20 and 02/25/20 in the Newburyport Daily News. A public hearing on the application was held at Newburyport City Hall on 03/04/20.

Upon a motion to approve, made by **MOTION 1** and seconded by **MOTION 2**, the City Council voted as follows:

Barry N. Connell	<b>TBD</b>	Joseph H. Devlin	<b>TBD</b>	Afroz Khan	<b>TBD</b>
Charles F. Tontar	<b>TBD</b>	Bruce L. Vogel	<b>TBD</b>	Sharif I. Zeid	<b>TBD</b>
Heather L. Shand	<b>TBD</b>	Christine E. Wallace	<b>TBD</b>	James J. McCauley	<b>TBD</b>
Byron J. Lane	<b>TBD</b>	Jared Eigerman	<b>Recused</b>		

Having received the necessary two-thirds super majority vote of the City Council, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore **APPROVED**.

## PLANS AND DOCUMENTS:

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This Special Permit application was accompanied and augmented by the following plans, drawings, documents, and submittals, which are hereby incorporated into this decision:

- “Site Development Plans for OR Building Expansion, Anna Jaques Hospital, 25 Highland Avenue, Newburyport, MA 01950. Sheets included in this plan set are according to the following list of sheet numbers, title, original date, and most recent revised date:

Sheet No.	Sheet Title	Original Date	Revised Date
V-101	Existing Conditions Plan	11/25/19	2/5/20
C-001	Abbreviations & Notes	11/25/19	1/8/20
C-002	Abbreviations & Notes	11/25/19	1/8/20
C-101	Site Preparation and Demolition Plan	11/25/19	2/5/20
C-102	Layout & Material Plan	11/25/19	1/8/20
C-103	Grading & Drainage Plan	11/25/19	1/8/20
C-501	Details	11/25/19	1/8/20
C-502	Details	11/25/19	1/8/20
C-503	Details	-	1/8/20
L-101	Landscape Plan	11/25/19	1/8/20
L-201	Landscape Details	11/25/19	1/8/20

- “Beth Israel Lahey Health, Anna Jaques Hospital, OR Building Expansion, 25 Highland Avenue, Newburyport, MA 01950” prepared by JACA Architects. Sheets included in this plan set are according to the following list of sheet numbers, title and date:

Sheet No.	Sheet Title	Original Date
A1	Ground Floor Plan	1/3/20
A2	First Floor Plan	1/3/20
A3	Second Floor Plan	1/3/20
A4	Building Elevations	1/3/20
A5	Signage Elevations	1/3/20
A6	Building Sections	1/3/20
A7	Exterior Views	1/3/20

- A “Drainage Report” for Anna Jaques Hospital prepared by Allen and Major Associates., dated January 8, 2020.
- The above plans and submission materials were reviewed by the Newburyport City Council, and a peer review of engineering and Stormwater design was conducted by Christiansen & Sergi, Inc. Additional comments were received from various City Departments on the draft plans which were subsequently revised to address outstanding issues satisfactorily. A full copy of this documentation is on file with the Newburyport Office of Planning & Development, 60 Pleasant Street, Newburyport, MA 01950.
- 3D Color Renderings of the proposed Project (building, site and landscaping) are on file with the Office of Planning & Development.
- Comments of approval provided by the following City officials, consultants or third party entities on review of the proposed plans:

- Steve Bradbury, Newburyport Fire Department comment dated 1/29/20
- Molly Ettenborough, Health Department – 1/9/20
- Jon-Eric White, Department of Public Services – 2/5/20
- Philip Christiansen (peer review engineer, Planning Board Site Plan Approval) – 1/20/20
- Planning Board – Site Plan Approval decision – Granted on 2/5/20
- Approval from the Newburyport Fire Department and Boston Medflight for the proposed temporary landing pad site to be used during construction (at the end of Perry Way) – emailed 3/6/20
- Throughout its deliberations, the Newburyport City Council has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

## **FINDINGS:**

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In order to grant this Special Permit the Newburyport City Council must first determine that the applicant's project meets certain specific criteria, as provided in Section X-H(7) of the NZO. These criteria and the Newburyport City Council's project specific findings for each are enumerated here:

- 1. The use requested is listed in the table of use regulations or elsewhere as in the ordinances requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.**

The Facility is located in the General Acute Care Medical District. Hospital use is allowed by special permit in accordance with the Ordinance's Table of Uses.

- 2. The requested use is essential and/or desirable to the public convenience or welfare.**

The requested use is essential and/or desirable to the public convenience or welfare as it is the same use that currently exists on site and is consistent with the Newburyport Zoning Ordinance. Further, the project will improve the hospital's operational facilities which will help to strengthen and maintain the City's position as a regional center for health and wellness services by allowing the Hospital to continue to improve and stay competitive, all of which is consistent with the City's Master Plan. At the same time, the project does not negatively impact the surrounding neighborhood with increased traffic as the addition will not increase the number of patients or staff, increased light infiltration as the addition is towards the interior of the property, increased noise interference as the addition is minor and will provide adequate sound insulation where needed, and provide more convenient and effective services to the public.

- 3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.**

The requested use will not create undue traffic congestion, or unduly impair pedestrian safety. The addition is not intended to increase the number of patients in the hospital. While it will improve the operational facilities, the patient flow and protocol will remain the same. As a result, the proposed project will likely not cause a traffic increase to the neighborhood.

- 4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare.**

The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare. Through its consultants, the Applicant presented information which concluded that the new project does not create additional demand on the City's infrastructure system. The proposed addition is a very small percentage of the overall developed footprint of the Hospital and Medical Office Building. Finally, the project is not of sufficient size to require a review under the stormwater regulations. Planning Board peer reviewer Phil Christiansen reviewed and approved a drainage report dated January 8, 2020 prepared by Allen and Major Associates Inc. for Anna Jaques Hospital.

**5. Any special regulations for the use, set forth in the special permit table are fulfilled.**

There are no special regulations for hospital use set forth in the special permit table, only the requirement that the "general conditions" provided in Section X-H(7) of the Ordinance be satisfied.

**6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.**

The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. The requested use of the proposed project for hospital services is the same as the present use of the hospital facility and is the use contemplated in the General Acute Care/Medical District. Additionally, facts presented showed the proposed project is anticipated to improve upon the services provided on and use of the site.

The proposed addition will not obstruct scenic views from publicly accessible locations. The project will have no impact on natural features in the City. Appropriate landscaping will complement the addition and improve the current area outside the main entrance to the hospital. The architectural detailing, proportions of wall openings and materials used in the construction of the addition are a natural continuation of the existing building.

This project does not create hazardous materials and transmissions, as the patient volume is not expected to increase. No additional noise beyond what is allowed by the Newburyport Noise Bylaw will be emitted into the surrounding neighborhood as a result of this addition.

**7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.**

The proposed additions are uses which are consistent with the zoning district in which the hospital lies and which are already underway at the hospital and the proposed change in footprint is very small change in the footprint of the existing building. As a result the requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. As noted above, the proposed project is located in the General Acute Care/Medical District

**8. The proposed use is in harmony with the purpose and intent of this ordinance.**

The proposed use is in harmony with the purpose and intent of this ordinance as it is allowed by special permit in the General Acute Care/Medical District, which is the only medical care district in the City. The proposed addition will not have a negative impact on health, safety, convenience or the general welfare of the inhabitants of the City, as the request for their construction is being made with due consideration of the character of the zoning district within which Anna Jaques Hospital lies.

**9. The proposed use shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard, noise, vibration, smoke, dust, odor, or other form of environmental pollution.**

The proposed use will not be conducted in a manner so as to increase the emission of any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution. An adequate amount of sound insulation will be provided to ensure that the amount of noise transmitted into the neighborhood will not exceed what is allowed. Because the addition is to the interior of the property, no new lights will be cast towards the surrounding neighborhood. Additionally, the project will not change the existing impact other normal hospital functions have on the surrounding neighborhood including but not limited to the way in which ambulances enter and exit the hospital, the amount of traffic, or the frequency of use of the Heli-pad.

The proposed project will not be conducted in a manner which is dangerous, noxious, injurious and it will not emit, noise, vibration, smoke, dust or odor or other form of environmental pollution.

**PERMIT CONDITIONS:**

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In view of the foregoing findings, the City Council hereby grants a Special Permit approval pursuant to Section V.D Table of Permitted Uses subject to the terms and conditions stated below:

**Standard Conditions:**

1. Recording of Decision and Approved Plans: The applicant shall file this decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for any related Building Permits. To ensure compliance with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.
2. Permit Lapse: This permit is valid for three years from the date of approval. The approval shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.

3. Provision of Construction Documents: The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Water, Sewer, and Engineering Divisions of the City's Department of Public Services (DPS).
4. Curb Cuts: Any new driveway curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: The applicant, owner, successors, or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval. The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Newburyport Fire Department (NFD).
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading.
7. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the City Council and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the City Council (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The City Council shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the City Council. Minor changes may be approved in writing by the OPD without further review by the City Council. The determination as to whether an alteration or change in plans is material and therefore subject to City Council review shall be made at the discretion of the OPD. At the time of any such request for modification, even if the proposed modification is deemed minor, the Office of Planning & Development shall notify the City Council President and City Clerk of such request.
8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.
10. Permit Compliance Contact Form: No site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning and Development.
11. Trees and Sidewalks: The applicant shall be responsible for compliance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance. If the cost of the project exceeds more than 50% of the physical value of the entire property, the

applicant shall obtain the written approval from the Newburyport Tree Warden and Department of Public Services with respect to plans and specifications for (1) the reconstruction, repair, and/or replacement, where appropriate, of all city-owned sidewalks actually adjoining the project Property, in accordance with Sections 12-54 and 12-55 of the Newburyport Code of Ordinances; and (2) the planting, preservation, and/or replacement, where appropriate, of street trees along all public rights-of-ways actually adjoining the project Property, in accordance with article VI of chapter 12 of the Newburyport Code of Ordinances. Said improvements shall be completed prior to project closeout and final signoff from the Zoning Administrator for related building permits.

12. Submission of As-Built Plans: One hard copy and one .pdf copy of foundation as-built plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion. One hard copy and one .pdf copy of as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction. Certification shall be provided to the Office of Planning and Development that the as-built plans match approved plans.

**Special Conditions:**

1. In order to prevent unwarranted impact to residential abutters of this institutional use:
  - a. The applicant, and its contractors, shall at all times use Exit 56 from I-95 (Scotland Road), Low Street and Wallace Bashaw Jr. Way for deliveries of construction materials and equipment to the site in lieu of Storey Ave, High Street and the Highland Ave residential neighborhood.
  - b. The applicant shall be responsible for ensuring that no contractor vehicles or equipment are parked in abutting residential neighborhoods. All contractor vehicles and equipment shall be kept on-site or, as represented by the applicant, at contractor yards elsewhere.
2. The applicant shall provide adequate temporary signage, relocated striping and other means to ensure that the general public, and visitors to the hospital and medical facilities, have clear and safe access to, within and around the site distinct from areas being used by contractors or storage and laydown of materials.
3. Any temporary lighting used during construction shall be fitted with shoebox-style light-cutoff fixtures and directed away from residential neighborhoods.
4. The applicant has proposed to use, during the period of construction, a temporary off-site location as an alternative to the existing landing pad which must be relocated. While it appears that City departments have granted initial approval for use of the Perry Way cul-de-sac for this purpose, the applicant shall be responsible for proper notice to all abutters having frontage or other access off Perry Way of the proposed temporary use of this public way (or a portion thereof) and shall address any and all concerns or complaints raised by such parties with respect to such use. Additionally, the applicant shall be responsible for restoration of this area to the satisfaction of the Newburyport Department of Public Services (DPS) upon completion of the project.
5. In order to ensure that construction management concerns of the City Council and its constituent abutters are addressed by the applicant during construction, the applicant shall

provide brief biweekly updates (*every two weeks*) via email to the City Clerk (for further distribution), with a copy to the Director of Planning & Development, which shall include, at a minimum, the following information:

- a. Proposed or anticipated construction work during the current week (days 1-7)
- b. Proposed or anticipated construction work during the following week (days 8-14)
- c. Direct contact information (name, title, phone, email and address) for the facilities manager or other representative from the hospital, or its designated contractor, that can be reached during construction for the purposes of addressing any concerns regarding the work and its potential impact on residential abutters.

**CONCLUSION AND DECISION:**

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For all of the reasons stated herein, the petition for a Special Permit is therefore **APPROVED** subject to the foregoing Conditions.

**APPEALS:**

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Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

**SIGNATURE OF THE COUNCIL:**

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\_\_\_\_\_  
BARRY N. CONNELL, ACTING PRESIDENT

\_\_\_\_\_  
Date

**CITY CLERK CERTIFICATION:**

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I, \_\_\_\_\_, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit decision for the property known as 25 Highland Avenue was filed in the Office of the City Clerk on \_\_\_\_\_.  
Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date





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## NOTICE OF DECISION

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You are hereby notified of the decision of the City Council on the application filed by Beth Israel Lahey Health, Anna Jaques Hospital for property located at **25 Highland Avenue**. The Board held a public hearing on the above referenced application on 03/04/20 and voted to APPROVE the Special Permit for the following request: *Construction of addition on the rear of the structure to allow expansion of the operating rooms along with interior renovations to the structure. Shift in helipad location by 25' as well*

## APPEALS

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Appeals of this decision shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed with the Superior or District Court and the Office of the City Clerk within twenty (20) days after the filing of the above with the Office of the City Clerk. Copies of this decision and detailed records of proceedings of the City Council presented at the public hearing, which is being incorporated herein by reference and considered a part hereof, are on file with the Office of the City Clerk and the Office of Planning and Development.