

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: June 23, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #225-23** for SPECIAL PERMIT/SITE PLAN APPROVAL seeking to allow parking in the front setback by constructing a second parking stall off of Parker Street and to allow a parking stall with reduced stall depth off Howley Avenue at **437 Parker Street**, Ward 8, Newton Centre, on land known as Section 81 Block 31 Lot 43, containing approximately 5,376 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 5.1.7.A, 5.1.13, 5.1.7.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



437 Parker Street

Project Description

Background

The subject property at 437 Parker Street consists of a 5,376 square foot lot located at the intersection of Parker Street and Howley Avenue in a Single Residence 3 (SR3) zoning district improved with a single-family dwelling constructed in 1931.

There is an existing driveway from Howley Avenue which previously accommodated two cars in tandem. It was recently reduced by the petitioner to accommodate a landscaping water feature. This action eliminated one of the two required parking stalls on the site and resulted in the issuance of a zoning violation.

The landscaping modification to the Howley Avenue driveway also reduced its dimensions to approximately 15 feet in width and 16 feet in depth, where 19 feet of depth is required per Section 5.1.7.B.2 of the Newton Zoning Ordinance (NZO).

The petitioner now seeks to legitimize the remaining and reduced parking stall on Howley Avenue and construct a new second substandard parking stall within the Parker Street front setback to provide the required two stalls per unit. Both stalls would be located within the front setbacks from Howley and Parker Street per section 5.1.7.A of the Zoning Ordinance.

The land uses in the surrounding neighborhood include single-family and multi-family dwellings. The zoning district in the surrounding neighborhood is Single Residence 3 (SR3) with a Single Residence 2 (SR2) district located to the south.

Need for Special Permit

As only one parking stall may be located in the front setback for use in conjunction with a single-family dwelling, a special permit per Sec. 5.1.13 of the Zoning Ordinance is required to allow an additional parking stall in the front setback.

Per Sec. 5.1.7.A, no parking stall may be within five feet of the front lot line. The reduction of the Howley Avenue driveway placed the remaining stall closer than five feet to that front property line, and the proposed parking stall off Parker Street would both be located within five feet of the street, requiring relief per Sec. 5.1.13.

Also, the parking stall on the Howley Street frontage has been reduced to 15 feet in width and approximately 16 feet in depth, where 19 feet of depth is required per Sec. 5.1.7.B.2. The petitioner requires a waiver to allow for the reduced stall depth per Sec. 5.1.13.

Analysis and Recommendations

The Planning Department recommends that the petitioner explore other options for providing the required parking without creating two stalls with significant dimensional nonconformities.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.7.A §5.1.13	Request to allow a second parking stall in the front setback and within five feet of the street	S.P. per §7.3.3
§5.1.7.B.2 §5.1.13	Request to allow a stall with reduced depth	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

- literal compliance with the requirements that a parking stall not be located in a front setback, that two parking stalls not be located in a front setback, and that parking stalls meet minimum dimensional requirements, is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features.

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property consists of a level 5,376 square foot lot located at the northwest corner of the intersection of Parker Street and Howley Avenue improved with a single- family dwelling.

The site is accessed by a curb cut and an approximately 16 foot long, 300 square foot driveway on the Howley Avenue frontage. Landscaping and a decorative pond are located between the end of the driveway and the dwelling. The remainder of the lot is occupied by lawn area, shrubs, and other vegetation.

IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

The principal use of the site would remain a single-family residence.

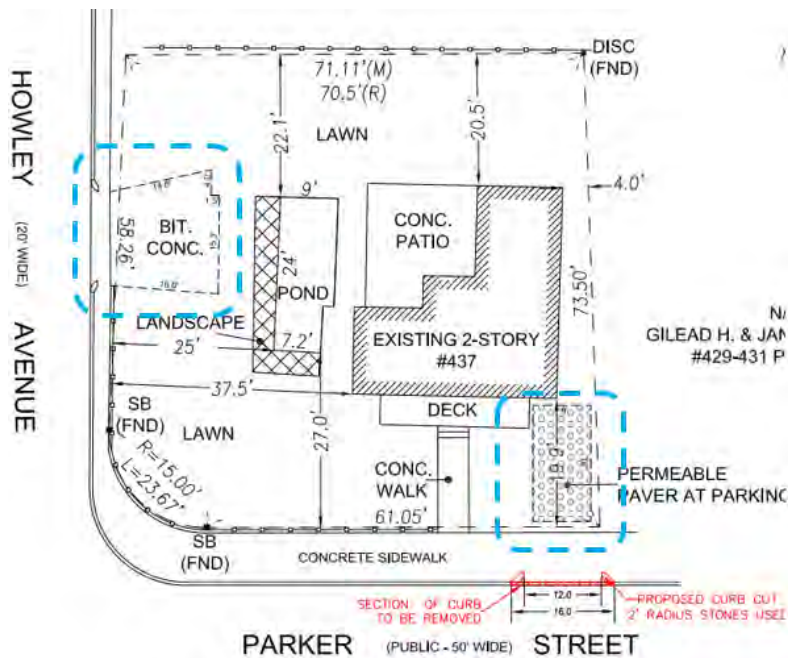
B. Site and Building Design

No changes to the existing residential structure are contemplated by the present

petition.

C. Parking and Circulation

As discussed above, the existing driveway from Howley Avenue which previously accommodated two cars in tandem was reduced by the petitioner to accommodate a landscaping water feature, eliminating one of the two required onsite parking stalls. It also reduced the depth of that remaining driveway to approximately 16 feet where 19 feet required.



Proposed site plan- locations of proposed parking stalls indicated

The petitioner now seeks to legitimize the remaining and reduced parking stall on Howley Avenue and construct a new second parking stall within the Parker Street front setback to provide the required two stalls per unit. While the proposed new stall (which the petitioner has indicated would be constructed of permeable pavers) would measure approximately 9 feet by 20 feet, it would be within five feet of the back of the sidewalk. (The new curb cut that would be constructed for the proposed Parker Street driveway would measure 12 feet wide at the outer edge of the sidewalk.)

The Planning Department recommends that the petitioner explore other options for providing the required spaces without creating two stalls with significant

dimensional nonconformities.

D. Landscaping

A landscape plan was not provided with this petition.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** Review of this petition by the Newton Historical Commission is not required.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: DRAFT Council Order



Ruthanne Fuller
Mayor

ATTACHMENT A

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 12, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Edison Almeida, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow parking in the front setback

Applicant: Edison Almeida	
Site: 437 Parker Street	SBL: 81031 0043
Zoning: SR3	Lot Area: 5,376 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 437 Parker Street consists of a 5,376 square foot corner lot improved with a single-family dwelling constructed in 1931. There is an existing driveway from Howley Avenue which previously accommodated two cars in tandem but was recently reduced by the applicant to accommodate a landscape water feature. The applicant seeks to legitimize the reduced driveway as well as construct a second parking stall off of Parker Street within the front setback, requiring a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared Edison Almeida, applicant, dated 4/18/2023
- Curb Cut Permit Application Plan, signed and stamped by Scott M. Cerrato, surveyor, dated 4/18/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner reduced the length of the existing driveway off of Howley Avenue to allow for the construction of a landscape feature, which resulted in a zoning violation by eliminating one required parking stall from the site. The petitioner intends to seek an additional curb cut off of Parker Street for the construction of a second parking stall. Both stalls will be located within each of the front setbacks from Howley and Parker Street. Per section 5.1.7.A only one parking stall may be located in the front setback for use in conjunction with a single-family dwelling. A special permit per section 5.1.13 is required to allow an additional parking stall in the front setback.

Per this same section 5.1.7.A, no parking stall may be within five feet of the front lot line. After reducing the Howley Avenue driveway and construction of the Parker Street driveway, both parking stalls will be located within five feet of the street, requiring relief per section 5.1.13.

2. The parking stall on the Howley Street frontage has been reduced to 15 feet in width and approximately 16 feet in depth, where 19 feet of depth is required per section 5.1.7.B.2. The petitioner requires a waiver to allow for the reduced stall depth per section 5.1.13.

3. The petitioner removed existing parking to accommodate the landscape feature, resulting in a single remaining parking stall, where two are required per section 5.1.4. Should the two substandard parking stalls be approved, the petitioner would meet the required two stalls per unit.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.7.A §5.1.13	Request to allow a second parking stall in the front setback and within five feet of the street	S.P. per §7.3.3
§5.1.7.B.2 §5.1.13	Request to allow a stall with reduced depth	S.P. per §7.3.3

CITY OF NEWTONIN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site 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 allow parking in the front setback and to allow a parking stall with reduced staff depth, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. Literal compliance with the requirements that a parking stall not be located in a front setback, that two parking stalls not be located in a front setback, and that parking stalls meet minimum dimensional requirements, is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

PETITION NUMBER: #225-23

PETITIONER: Edison Almeida

LOCATION: 437 Parker Street, Ward 8, Newton Centre, on land known as Section 81 Block 31 Lot 43, containing approximately 5,376 sq. ft. of land

OWNER: Edison Almeida

ADDRESS OF OWNER: 437 Parker Street
Newton, MA 02459

TO BE USED FOR: Single-family dwelling

EXPLANATORY NOTES: Special permit as per §7.3.3 to allow a second parking stall in the front setback and within five feet of the street (§5.1.7.A, §5.1.13) and to allow a stall with reduced depth (§5.1.7.B.2, §5.1.13)

ZONING: Single Residence 3 (SR3) district

Approved subject to the following conditions:

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 the following plans:
 - a. A site plan entitled "Curb Cut Permit Application," prepared by Nativetec, dated April 8, 2023, signed and stamped by Scott M. Cerrato, Professional Land Surveyor
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the petitioner has:

- a. Filed with the building permit record statements by a registered architect, professional land surveyor, or professional engineer, certifying compliance with Condition #1, including the as built FAR.
- b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.