

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: June 23, 2023

TO: City Council

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

SUBJECT: **Petition #227-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the dwelling and construct a four-unit three-story multi-family dwelling with garage parking for seven vehicles at 107-109 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot 21, containing approximately 12,189 sq. ft. of land in a district zoned

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.



107-109 Elliot Street

Project Description

Background

The subject property at 107-109 Elliot Street consists of a 12,189 square foot lot improved with a two-family dwelling constructed circa 1900 with surface parking in the Multi-Residence 2 (MR-2) district.

Immediate abutters include a two family and single-family residence to either side, two-family dwellings at the rear, and a City-owned utilities facility across Elliot Street. The zoning is MR-2 on the residential side of Elliott and Public Use across the street, with MR-1 and SR-3 zones located closer to Boylston Street. The site is roughly 0.5 miles from the Eliot MBTA stop on the Green line and is close to the MBTA 59 bus route, which connects to Boston.

Special Permit

The petitioner proposes to raze the existing dwelling on the lot and construct a four-unit three-story multi-family dwelling with underground garage parking for seven vehicles.

As proposed, the project needs relief to allow a multi-family dwelling, to alter and extend a nonconforming front setback, to reduce the width of parking stalls, to allow a restricted end stall, and to allow a retaining wall greater than four feet in height within the setback.

Analysis

The Planning Department is not concerned with the proposed four residential dwelling units. Though the front setback still be nonconforming, the proposed setback does improve on what exists today. Though most of the multifamily dwellings in this neighborhood are only two to three units, the lot is large enough to accommodate the required lot area per unit. Although one surface parking stall is proposed, the majority of parking provided will be underground out of view of the neighborhood, which will help mitigate the visual impact of the parking on the site.

I. Zoning Relief Requested:

| Zoning Relief Required | | |
|-------------------------------|---|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.4.1 | Request to allow a multi-family dwelling | S.P. per §7.3.3 |
| §3.2.6 §7.8.2.C.2 | Request to alter a nonconforming front setback | S.P. per §7.3.3 |
| §5.1.8.B.1 §5.1.13 | Request to reduce the width of parking stalls | S.P. per §7.3.3 |
| §5.1.8.B.6 §5.1.13 | Request to allow a restricted end stall | S.P. per §7.3.3 |
| §5.4.2 | Request to allow a retaining wall greater than four feet in height within the setback | 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 four residential units. (§7.3.3.C.1)
- The proposed four residential units will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed four residential units will not 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)

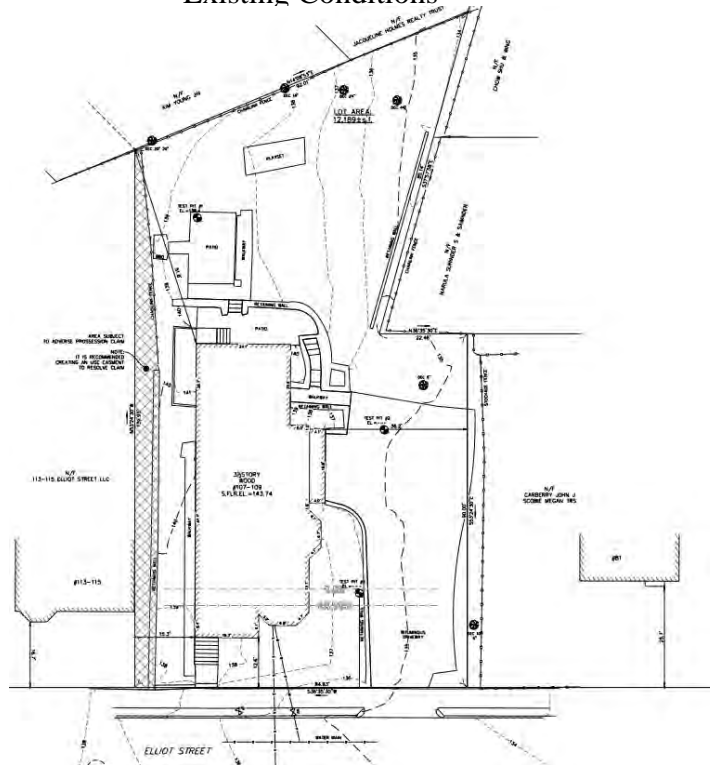
III. Project Proposal and Site Characteristics

A. Site

The subject property is 12,189 square feet and is improved with a two-family dwelling constructed circa 1900. The existing structure has a nonconforming height of 36.1 feet where up to 36 feet is allowed by right, and a nonconforming front setback of 12.6 feet where 20.9 feet is required by right. The dimensions of the dwelling are otherwise conforming. The Chief Preservation Planner reviewed this site in 2022 and determined that it is not historically significant, and demolition is not delayed.

There is an existing stockade fence that runs along part of the property line close to the street and a chain link fence further towards the back, continuing along the rear property line and part of the northern property line. There are retaining walls located at the rear, along the left side of the property, and along the perimeter of the patio behind the existing dwelling. The property has one curb cut on Elliot Street leading to a paved driveway along the right side of the house leading to a side-facing attached garage with two parking stalls.

Existing Conditions



IV. Project Description and Analysis

A. Land Use

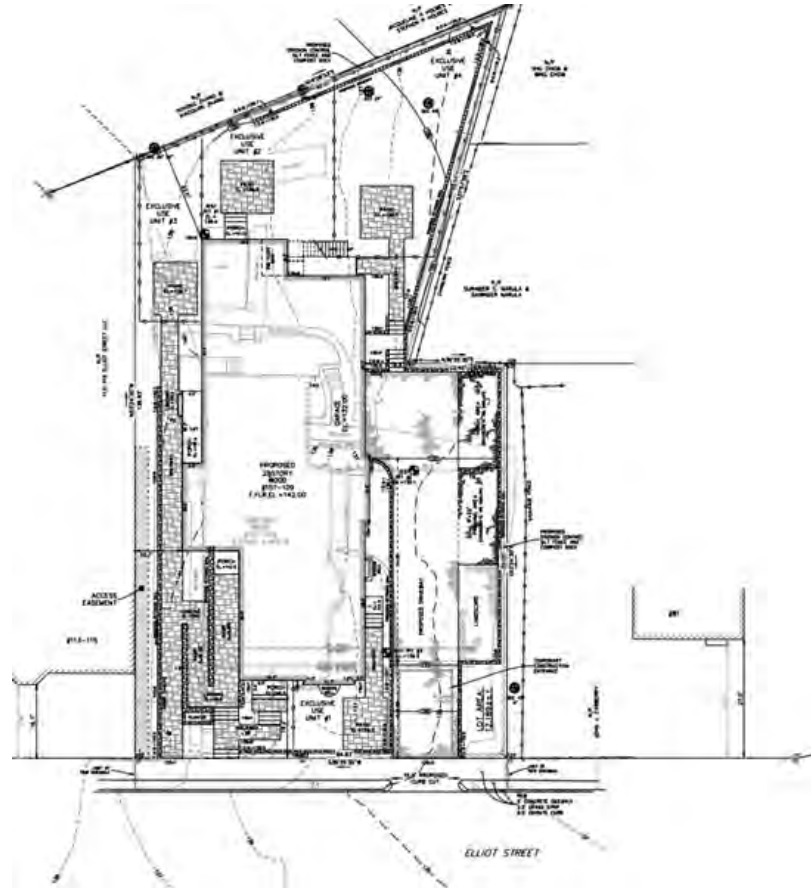
If approved the principal use of the site will change from a two-family dwelling to a multifamily building with four residential units.

B. Site Design

The petitioner proposes to demolish the existing dwelling and construct a new building with four dwelling units. Relief is required for a multifamily dwelling in MR-2 and for the proposed front setback of 14.4 feet, where the current setback is 12.6 feet, and a minimum of 20.9 feet is required except by special permit. The project also requires relief for a restricted end stall, and to allow a retaining wall greater than four feet in height within a setback.

No relief is required for lot size, building height, or the side and rear setbacks. The nonconforming front setback will increase from 12.6 feet to 14.4 feet, which requires relief because 20.9 feet is required by right. The rear setback will decrease from 51.8 feet to 23 feet. The left side setback will decrease from 15.3 feet to 10.7 feet, and the right side setback will decrease from 36.2 feet to 9.9 feet where 7.5 feet is required.

Proposed Conditions



The lot area per unit proposed is 3,047 square feet, where 3,000 square feet is required by the ordinance. The lot coverage is proposed at 29.5% where a maximum of 30% is allowed, and open space is proposed at 57% where a minimum of 50% is required.

There will be a paved pedestrian entrance shared by all four units located on the left side of the dwelling and individual entrances accessed through individual yards and/ or decks allocated to each unit. Each unit also has an individual patio. The units range in size from 1,808 square feet to 2,583 square feet. Three solar ready areas are proposed on the roof, totaling 1,250 square feet and the units will be all-electric.

C. Parking and Circulation

Vehicular access for all four units will be provided via a paved driveway on the right side of the dwelling in roughly the same location as the existing driveway. The driveway will ramp down to the entrance of the below-grade garage. In total eight parking stalls are proposed for the project, with seven located in an underground parking facility one surface stall located along the right side of the property. The plans submitted by the petitioner indicate that Units 1 and 2 will each have stalls for their

exclusive use in the garage, and the other three stalls are not designated to a particular unit. Four of the garage stalls will be electric vehicle charging ready. The Zoning ordinance requires that end stalls restricted on one or both sides have maneuvering space at the aisle end of at least five feet in depth and nine feet in width. Unit #2 has a restricted end stall, requiring special permit relief. The minimum stall width required by the ordinance is nine feet, and the petitioner proposes four parking stalls with widths narrower than nine feet, requiring a special permit.

Front elevation



Rear elevation



Right elevation



Left elevation



D. Landscaping

The landscape plan indicates that the existing trees at the rear of the property will be retained. An arborvitae hedge will be installed along the left property line as screening,

and a variety of plants, shrubs are also proposed along the right side of the property and near the two front entrances. The petitioner proposes to construct various retaining walls along all sides of the lot, and along the driveway and garage entrance. The retaining walls along the driveway reach a maximum height of 6.1 feet and 4 feet at the front southern corner of the lot, requiring special permit relief. A privacy fence is also shown along the left side of the property.

The Associate City Engineer has reviewed this project in a memo dated June 5, 2023 and identified only minor housekeeping issues. **(Attachment B)** These remaining items can be addressed at the building permit stage, should this petition be approved.

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: Engineering memo
Attachment C: DRAFT Council Order



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 25, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: 107-109 Elliot Street LLC, Applicant
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow a 4-unit multi-family dwelling, to extend a nonconforming front setback, dimensional waivers for parking and a retaining wall exceeding four feet in height

Applicant: 107-109 Elliot Street LLC

| | |
|---|---|
| Site: 107-109 Elliot Street | SBL: 51020 0021 |
| Zoning: MR2 | Lot Area: 12,189 square feet |
| Current use: Two-family dwelling | Proposed use: 4-unit multi-family dwelling |

BACKGROUND:

The subject site consists of a 12,189 square foot lot improved with two-family dwelling constructed circa 1900 with surface parking. The petitioner proposes to raze the dwelling and construct a four-unit three-story multi-family dwelling with garage parking for seven vehicles.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 3/3/2023
- Proposed Plot Plan, prepared by VTP Associates, dated 2/10/2023
- Zoning Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/17/2023
- Schematic Design, signed and stamped by Derek A. Rubinoff, architect, dated 3/3/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to raze the two-family dwelling and construct a three-story four-unit multi-family dwelling with underground parking. Per section 3.4.1, a special permit is required to allow a multi-family dwelling in the MR2 zoning district.
2. The petitioner proposes to alter the nonconforming front setback resulting in a proposed front setback of 14.4 feet, where 12.6 feet exists, requiring a special permit per section 7.8.2.C.2. Sections 1.5.3.B and 3.2.6 allow the average of the two buildings on either side to serve as the required front setback, resulting in a requirement of 20.9 feet.
3. Per section 5.1.8.B.1, the minimum required stall width is 9 feet. The petitioner proposes parking stalls with both 8.5-foot and 8.7-foot widths, requiring a special permit per section 5.1.13.
4. Section 5.1.8.B.6 requires that end stalls restricted on one or both sides have maneuvering space at the aisle end of at least five feet in depth and nine feet in width. Unit #2 has a restricted end stall, requiring a special permit per section 5.1.13.
5. Section 5.4.2 requires a special permit to allow retaining walls within the setback of four feet in height or greater. The petitioner proposes to construct various retaining walls along all sides of the lot. The retaining walls along the driveway reach a maximum height of 6.1 feet and 4 feet at the front southern corner of the lot. A special permit per section 5.4.2 is required to construct the retaining wall as proposed.

| MR2 Zone | Required | Existing | Proposed |
|-----------------------|--------------------|--------------------|-------------------|
| Lot Size | 10,000 square feet | 12,189 square feet | No change |
| Frontage | 80 feet | 84.8 feet | 84.8 feet |
| Setbacks | | | |
| • Front | 20.9 feet | 12.6 feet | 14.4 feet* |
| • Side | 7.5 feet | 15.3 feet | 10.7 feet |
| • Side | 7.5 feet | 36.2 feet | 9.9 feet |
| • Rear | 15 feet | 51.8 feet | 23 feet |
| Building Height | 36 feet | 36.1 feet | 34.95 feet |
| Max Number of Stories | 3 | NA | 3 |
| Lot Area Per Unit | 3,000 square feet | 6,095 square feet | 3,047 square feet |
| Max Lot Coverage | 30% | 17.4% | 29.5% |
| Min Open Space | 50% | 66.3% | 57% |

*Requires relief

See “Zoning Relief Summary” below:

| Zoning Relief Required | | |
|-------------------------------|---|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.4.1 | Request to allow a multi-family dwelling | S.P. per §7.3.3 |
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CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 107-109 Elliot Street

Date: June 5, 2023

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Lou Taverna, PE City Engineer
Scott Matthews, Committee Clerk
Michael Gleba, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

ZONING PLAN
NEWTON, MASSACHUSETTS

SHOWING PROPOSED CONDITIONS AT
#107-109 ELLIOT STREET

SCALE: 1in.=10ft. DATE: FEBRUARY 17, 2023

Prepared by VTP Associates, Inc

Executive Summary:

The proposed permit entails the demolition of an existing two-family unit home and the construction of a four-unit residential dwelling. The site has 12,189 square feet [0.27 acres] with 84 feet of frontage along Elliot Street to the east, and residential homes to the north, west and southern property lines. The compass arrow direction on sheet 1 of 1 is incorrectly rotated 180°. The property has a high point elevation of 140-feet along the northern property line and slopes to the south to a low point of 134-feet. Access is provided via a driveway curb cut that leads to a garage under the dwelling, the new structure will also have a garage under with six parking stalls. A turning template plan is requested to demonstrate proper maneuvering of vehicles entering and exiting each parking stall. Retaining walls of various heights are proposed

to provide level areas for parking and level back yards. The wall begins near the proposed driveway entrance at approximately 1.1 feet high and runs parallel to the abutting property at #81 Elliot Street, constructed within the setback to provide two-parallel parking stalls and a landscaped area. The wall at this point is 3.3 feet high, then bends into a four-foot-high retaining wall within the setback along the northern property line approximately 72-feet long then turns and runs parallel to the western property line for approximately 59-feet and terminates at a height 0.6-feet. This proposed wall is to facilitate a level back yard with outdoor patios.

New municipal utilities will be provided for the six-unit dwelling to include a fire suppression system & domestic use, the engineer of record has designed a stormwater collection system in accordance with the DEP Stormwater management Regulations and the DPW requirements. The system is designed to collect and infiltrate roof & driveway runoff into two separate infiltration systems. However, there is a mathematical error as shown below:

DRAWDOWN TIME CALCULATIONS

$$\text{Time} = Rv / (k * Ab)$$

Infiltration System #1

| | | |
|--------|----------------------|---|
| Rv = | F x Ai | .A=impervious areas contributing to this infiltration system |
| F = | 0.050 ft | HSG A soil |
| Rv = | 177.00 cu-ft | System #1 has a bottom area = 364 sq.ft. |
| K = | 8.27 in/hr | |
| = | 0.69 ft/hr | |
| Ab = | 104.0 sq. ft. | Ab=bottom area of this infiltration system. See HydroCad report |
| Time = | 2.47 Hr | < 72 Hr |

Infiltration System #1

| | | |
|----------------|----------------------|---|
| Rv = | F x Ai | .A=impervious areas contributing to this infiltration system |
| F = | 0.050 ft | HSG A soil |
| Rv = | 89.73 cu-ft | System #2 has a bottom area = 204 sq. ft. |
| K = | 8.27 in/hr | |
| = | 0.69 ft/hr | |
| Ab = | 104.0 sq. ft. | Ab=bottom area of this infiltration system. See HydroCad report |
| #VALUE! | 1.25 Hr | < 72 Hr |

Should be system #2

The proposed Operations & Maintenance (O&M) plan is acceptable for the design intent, if this permit is approved the O&M plan must be recorded at the registry of deeds before a building Permit is approved by the Engineering Division.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general

contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.

2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.

2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
4. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.
5. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
6. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from

unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*

3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.

CITY OF NEWTON

IN 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 four residential units with a nonconforming front setback, reduced width of parking stalls, a restricted end stall, and a retaining wall over four feet within a setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed residential project in the Multi-Residence 2 (MR-2) zone because it is a residential use. (§7.3.3.C.1)
2. The proposed residential project as designed will not adversely affect the neighborhood because the lot area per unit and lot size exceeds what is required for the district. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because parking will be provided on site and the shared driveway has adequate sightlines. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #227-23

PETITIONER: 107-109 Elliot Street LLC

LOCATION: 107-109 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot 21, containing approximately 12,189 sq. ft. of land

OWNER: 107-109 Elliot Street LLC

ADDRESS OF OWNER: 39 Orchard Ave
Waban, MA 02468

TO BE USED FOR: Construction of four residential units with a nonconforming front setback, reduced width of parking stalls, a restricted end stall, and a retaining wall over four feet within a setback

RELIEF GRANTED: Special Permit per §7.3. to allow to allow a multifamily dwelling (§3.4.1), alter a nonconforming front setback (§3.2.6 and §7.8.2.C.2), reduced parking stall widths §5.1.8.B.1 and §5.1.13), a restricted end stall (§5.1.8.B.1 and §5.1.13), and a retaining wall greater than four feet in height within a setback (§5.4.2)

ZONING: Multi Residence 2 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:
 - a. Site plan prepared by VTP Associates Inc signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated February 17, 2023.
 - b. A set of architectural drawings prepared by MGD+ LLC, signed and stamped by Derek A. Rubinoff, dated April 10, 2023:
 - i. SP.04 Site Plan
 - ii. SP.05 Basement floor plan
 - iii. SP.06 First Floor plan
 - iv. SP.07 Second floor plan
 - v. SP.08 Attic plan
 - vi. SP.09 Roof plan
 - vii. SP.09a Solar ready roof
 - viii. SP.10 Front elevation
 - ix. SP.11 Left elevation
 - x. SP.12 Rear elevation
 - xi. SP.13 Right elevation
 - c. A landscape plan entitled "Landscape Plan," prepared by MGD+ LLC, signed and stamped by Derek A. Rubinoff, dated April 10, 2023.
2. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval, should a system be required. Once approved, the O&M Plan

must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.

3. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.

4. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to

clean muddy wheels on all truck and construction vehicles before exiting the site.

- f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
5. All appliances and utilities for the building shall be all-electric, including heating and cooling.
6. 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. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - c. Submitted a Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with this Order.
 - d. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
 - e. 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.
7. 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 for the portion of the project for which occupancy is requested and the Petitioner has:

- a. Filed with the building permit record statements by a registered architect (or professional engineer) and a 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.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
8. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
 9. Provided that all other requirements in Condition #7 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).