

## 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

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### PUBLIC HEARING MEMORANDUM

DATE: July 7, 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 #239-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to convert the existing attached garage into living space and construct two parking stalls within the front setback

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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.



**213 Jackson Street**

## **Project Description**

### **Background**

The subject property at 213 Jackson Street consists of a 5,135 square foot lot improved with a single-family dwelling constructed circa 1927 in the Single-Residence 3 (SR-3) district.

The property abuts single family residences to all sides, and the land use of the neighborhood is residential with predominately single-family residences. The zoning of the site and surrounding area is SR-3. This area has many small and medium sized lots with nonconforming front setbacks.

### **Special Permit**

The petitioner proposes to convert the existing attached garage into living space and convert the existing driveway into the two required parking stalls for the residential use. This results in two parking stalls within the front setback. Because only one parking stall may be located in the front setback for single-family dwellings, a special permit is required to allow an additional parking stall in the front setback.

### **Analysis**

The Planning Department is not concerned with the proposed second parking stall in the front setback. The proposed parking configuration utilizes the existing driveway which provided access to the attached garage, now proposed as living space. Because the site is located on a corner lot and subject to two front setbacks, the site is constrained, and constructing a second compliant parking stall in a different location would require an increase in paving. As proposed both stalls will be dimensionally compliant, and the minor changes proposed to the driveway are not likely to have a significant negative impact on the surrounding area.

#### I. Zoning Relief Requested:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.7.A §5.1.13	Request to allow two parking stalls in the front 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 is an appropriate location for the proposed additional parking stall within the

front setback. (§7.3.3.C.1.)

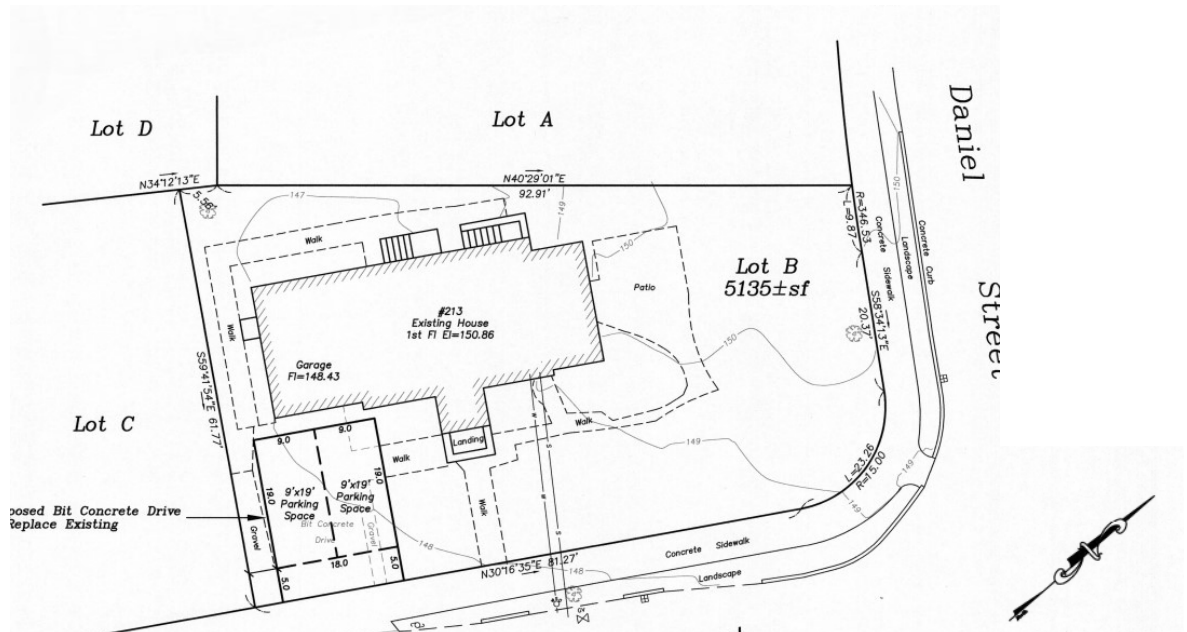
- The additional parking stall within the front setback will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the allowed number of parking stalls within the front setback 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. (§5.1.7.CA, §5.1.7.C, §5.1.13)

### III. Project Proposal and Site Characteristics

#### A. Site

The subject property is 5,135 square feet and is improved with a single-family dwelling constructed circa 1927. The building is located on a corner lot and has frontage on both Jackson Street and Daniel Street, with the main entrance on Jackson Street. The dwelling has an attached garage with one parking stall. The property has one 19.5-foot-wide curb cut on Jackson Street leading to a paved driveway with one surface parking stall located within the front setback. There is a sidewalk on either side of this driveway. The site is relatively flat with some vegetation and trees and shrubs along the frontage on Daniel Street.

#### Proposed Conditions



IV. Project Description and Analysis

A. Land Use

If approved the principal use of the site will not change, it will remain a single-family dwelling.

B. Site Design

The petitioners propose to convert the attached garage into living space. The existing driveway will be repaved and shifted over slightly away from the side lot line. This modified driveway will have two dimensionally compliant parking stalls located five feet from the street, but within the required 25-foot front setback from Jackson Street. Relief is required to construct a second parking stall in the front setback.

With the alterations proposed to the driveway, the lot coverage will remain the same at 20.19% where up to 30% is allowed. Open space will decrease slightly from 69.23% to 68.58% where a minimum of 50% is required. The curb cut on Jackson Street will remain as-is and provide access to both parking stalls.

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



Ruthanne Fuller  
Mayor

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

Attachment A

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: April 26, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Theodore and Stephanie Silverstein, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to allow parking in the front setback

**Applicant: Theodore & Stephanie Silverstein**

<b>Site:</b> 213 Jackson Street	<b>SBL:</b> 62025 0015
<b>Zoning:</b> SR3	<b>Lot Area:</b> 5,135 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 213 Jackson Street consists of a 5,135 square foot lot improved with a single-family dwelling constructed in 1927. The petitioner seeks to convert the existing attached garage into living space and construct two parking stalls 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 Theodore Silverstein, applicant, dated 3/31/2023
- Proposed Parking and Driveway Plan, signed and stamped by Verne Porter, surveyor, dated 2/27/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to convert the existing attached garage into living space and to shift the existing driveway away from the side lot line to accommodate two dimensionally-compliant parking stalls. 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.

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.7.A §5.1.13	Request to allow two parking stalls in the front setback	S.P. per §7.3.3

**Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

**The following must be included when filing a Special Permit Application:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

**Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N

#239-23  
213 Jackson Street

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 a second parking stall within the front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed second parking stall within the front setback because the parking will be in the same location as an existing driveway. (§7.3.3.C.1)
2. The additional parking stall within the front setback will not adversely affect the neighborhood because the second stall will be located in an area that is already paved. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the curb cut and configuration of the driveway will be similar to the existing conditions. (§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)
5. Literal compliance with the dimensional parking requirements is impracticable because the site is on a corner lot and an alternate location is likely to result in an increase in paved area. (§5.1.13)

PETITION NUMBER: #239-23

PETITIONER: Theodore Silverstein and Stephanie Silverstein

LOCATION: 213 Jackson Street, Ward 6, Newton Centre, on land known as Section 62 Block 25 Lot 15, containing approximately 5,135 sq. ft. of land

OWNER: Theodore Silverstein and Stephanie Silverstein



ADDRESS OF OWNER: 213 Jackson Street  
Newton, MA 02459

TO BE USED FOR: Driveway

RELIEF GRANTED: Special Permit per §5.1.7.A, §5.1.13, and §7.3.3 to allow parking within the front setback

ZONING: Single Residence 3 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 Verne T. Porter Jr., Professional Land Surveyor, dated February 27, 2023.
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 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.