



Land Use Committee Report

City of Newton In City Council

Tuesday, August 8, 2023

Present: Councilors Lipof (Chair), Kelley, Downs, Greenberg, and Laredo; absent: Councilors Bowman, Lucas, and Markiewicz

Also Present: Councilor Albright, Leary, Humphrey Malakie, and Wright

City Staff Present: Senior Planner Cat Kemmett, Senior Planner Michael Gleba, Chief Planner Katie Whewell, Deputy Chief Planner Alyssa Sandoval and Assistant City Solicitor Jonah Temple

All Special Permit Plans, Designs, Plan Memoranda and Application Materials, both past and present, can be found at the following link: [NewGov - City of Newton Land Use Committee Special Permit Search](#).

The full video of the August 8, 2023, Land Use Meeting can be found at the following link: <https://newtv.org/recent-video/107-committee-meetings-and-public-hearings/8200-land-use-committee-august-8-2023>

#242-23 Request to allow parking in the front setback and within five feet of the front lot line at 97 Waban Hill Road North

KEVIN BARRY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second driveway on the eastern lot line, resulting in two vehicles within the front setback at 97 Waban Hill Road North, Ward 7, Chestnut Hill, on land known as Section 63 Block 04 Lot 26, containing approximately 6,887 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 5.1.7.A, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 5-0; Public Hearing Opened**

Note: Senior Planner Michael Gleba presented the attached request for a special permit at 97 Waban Hill Road North. The request is to construct a second driveway on the eastern lot line, resulting in two vehicles within the front setback. The presentation is attached, and additional back-up can be found at the following link: [97 Waban Hill Road North- Petition Documents](#). The current driveway is conforming for one car but not two cars.

A councilor asked if there is room to park 2 cars in tandem, and what the length of the current driveway is. Noted the houses in this area are on small lots which makes this configuration difficult. Asked if there is a way to move the proposed driveway over so that it is further into the property.

Kevin Barry, petitioner, noted that he could not park two cars in the driveway without an overhang on the sidewalk. Stated that a lot of driveways in the neighborhood have 2 cars with 2 separate driveways to accommodate them.

Mr. Gleba noted that it looks approximately 28 feet long. For tandem parking it would need to be 43 feet long. Stated it was difficult to determine by looking at the plans right now if the driveway could be moved further to the right without measuring that out.

A councilor asked for clarification if it is common for houses in the neighborhood to have two curb cuts, and how many cars the household currently has, and where they are parked.

Mr. Barry stated that it is common for residents to have two curb cuts on their lots. Noted that they have 2 cars and are currently parked in tandem, but they overhang on the street. The idea is his daughter is 13 and when she gets a car, they would like a spot to park the third car.

Councilors noted a desire to hold this item and explore an alternative method of achieving this with the planning department. Stated a displeasure with the second curve cut and parking in front of a home and being close to the street.

Councilor Laredo made a motion to hold, which passed unanimously.

#261-23 Request to amend Special Permit #113-23 to allow expanded hours of operation for the patio at 344-346 Elliot Street

SEANA GAHERIN AND ROBERT DUNN, TRUSTEES OF D&G REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend condition 8 of Special Permit 113-23 to allow expanded hours of operation for the patio until 10 PM at 344-346 Elliot Street, Ward 5, Newton Upper Falls, on land known as Section 51 Block 41 Lot 10, containing approximately 9,676 sq. ft. of land in a district zoned BUSINESS 1. Ref: Sec. 7.3.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 5-0; Public Hearing Closed

Note Senior Planner Cat Kemmett presented the attached request for a special permit at 344-346 Elliot Street. The request is to amend Special Permit #113-23 to allow expanded hours of operation for the patio to 10PM. The presentation is attached, and additional back-up can be found at the following link: [344-346 Elliot Street- Petition Documents](#) . Ms. Kemmett shared that Director of Economic Development John Sisson, wanted to note that outdoor dining promotes an active streetscape and place to build community and socialize.

Seana Gaherin, petitioner, noted at the last hearing that she did not recognize the negative impact of stopping outdoor dining at 9PM would have on the restaurant and staff.

Despina Felis, 9-11 Hale Street, noted she owns the multi-family home directly abutting the restaurant, and they have invested time and money in upkeeping the home and property. Does not support extending the hours and wants the restaurant to follow the original guidelines.

Dmitri Felis, 9-11 Hale Street, believed the 9PM cutoff is appropriate for the resident neighborhood that this is in.

Robert Coppelman, 1076 Chestnut Street was appreciative that the outdoor dining was moved away from their residents. He noted the current 9pm cutoff seems fair and would like it to stay the same.

A Councilor asked what has changed since the original petition that necessitates this change, and if the restriction on live music was in the prior council order.

Ms. Gaherin noted there is no live music, and they play music out of the speaker and feels the 10PM cutoff is appropriate. She stated that at 9PM they must bring everybody outside inside. Typically, in the summer months, people come to the restaurant later. They would have to deny individuals coming in at 8PM from sitting outside, so they would go to restaurants down the road.

Ms. Kemmett stated that no live music was not a part of the previous council order.

A Councilor noted that a 9PM cutoff puts this restaurant at a disadvantage to other restaurants in the area who have a longer cutoff time. Feels it would not be a nuisance for the neighborhood.

A councilor noted that they have to balance the needs of the business with the impact of the neighborhood. Noted the restaurant has been here for 60 years, and this impacts the viability of the restaurant. Noted the noise ordinance cuts off at 11PM, and anybody that cuts off before then is going beyond the ordinance.

A councilor supported this, and believes it will help the business continue to be successful. Noted some businesses don't need the special permit, but this does due to parking ratios.

A councilor questioned if they could put the 9PM cutoff for music in the ordinance.

Ms Gaherin noted she wished not to be restricted in the use of music after 9PM and will use good judgement.

A councilor stated no concern with piped in music.

Despina Felis stated the noise ordinance is 9PM not 11PM.

Assistant City Solicitor Jonah Temple stated it is 11PM for electronic devices which would include music. The 9PM is for public address loudspeakers.

The public hearing is closed.

The Committee discussed the draft Council Order, and Councilor Downs motioned to approve which passed unanimously.

#241-23 Request to allow three single-family attached dwellings at 236 Chapel Street
OMAR YOUSSEF petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct three single-family attached dwellings with dimensional waivers and parking dimensional waivers at 236 Chapel Street, Ward 1, Newton, on land known as Section 12 Block 01 Lot 18, containing approximately 24,897 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 3.4.1, 3.2.4, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 5-0; Public Hearing Opened

Note: Senior Planner Cat Kemmett presented the attached request for a special permit at 236 Chapel Street. The request is to demolish the existing dwelling and construct three single-family attached dwellings with dimensional waivers and parking dimensional waivers. The presentation is attached, and additional back-up can be found at the following link: [236 Chapel Street- Petition Documents](#). Noted that the plans submitted for the special permit petition is not the same as sent to the Historical Commission that was previously approved. Noted the plans should be the same, and this will have to go in front of the Historical Commission again. Also noted the plans changed so that two units share the same entrance since it was submitted for the special permit, and the design will have to be reworked because single family dwellings need separate entrances. It is recommended that this item be held so the plans can be updated, and the Historical Commission has the same set of plans before the committee.

The public hearing was opened.

Terry Sauro, 44 Cook Street, Janine Stewart, 251 Adams Street, and Paula Barati 161 Chapel Street appreciated meeting with the petitioner and the changes that were considered. Remains concerned about parking on Chapel Street, and noted this will make it more difficult to find a spot.

Al Cecchinelli, 224 Chapel Street, supported this project and believes the petitioner worked well with the neighborhood.

Artur Indzhukullian, 228 Chapel Street, was looking to learn more from the developer and hopes to be involved in the future for this project.

Omar Youssef, the petitioner, noted the original plan had three curb cuts, with 2 units on one grade, and one unit on another grade. They then changed it to two curb cuts which meant all three units would be on the same grade. Noted two units could be done at the site by right, but doing three units triggered multi-family dwelling requirements for setbacks. Noted the public walkway is not on this property so he will not be touching it.

Sean Roche, 42 Daniels Street noted the need for more housing and wished this included more modestly sized and priced units.

Councilors noted appreciation the petitioner meeting with the neighborhood and favor more units with less parking. Wished there were more units but believes this was a fair compromise.

A councilor noted that by right this would have two very large units and feels this is a better project than what would have been.

A councilor asked for clarification if there are 1 or 2 driveways. Asked if this was in the proposed MRT zone.

Ms. Kemmett clarified that it was 2 driveways.

A councilor noted it was not in the proposed MRT zone.

A councilor inquired to as why the separate entrance is a requirement on the first floor, and asked if this could be waived. Appreciated there will only be two curb cuts and would like to see more of the landscaping plans.

Chief Planner Katie Whewell noted that because the building is a single family attached dwelling it requires separate entrances and primary and secondary for each unit. If it was a multifamily building they could have a single entrance. She does not believe it can be waived, but will follow up and look into this.

Mr. Temple stated that they would most likely need a variance, but they would look at this.

Mr. Youssef noted he proposed single family attached because he would need less relief than if he did a multi-family building. Stated he went with one entrance to make it look like a single residence than multi-residence.

A councilor inquired about the size of each unit.

Mr. Youssef noted that they were 2,700 square space of living space including the basement and garage. Without the garage and basement the living space is around 1,800 square feet.

Councilor Greenberg made a motion to hold, which passed unanimously.

240-23 Request to allow ground floor residential use, to exceed by right height and stories, and a parking waiver at 290 Watertown Street

290 WATERTOWN ST LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and detached garage and construct five residential dwelling units in three buildings with dimensional waivers and allow for a waiver from the required number of parking stalls at 290 Watertown Street, Ward 1, Newton, on land known as Section 11 Block 14 Lot 03, containing approximately 11,473 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 4.4.1, 4.1.2.B.3, 4.1.3, 5.1.4, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

[290 Watertown Street- Petition Documents](#)

Action: Land Use Held 5-0; Public Hearing Opened

Note: Laurance Lee, on behalf of the petitioner noted that he is requesting a hold on the item without making a presentation as they are in ongoing discussions with the neighbors.

A councilor noted it would be good to hold off discussion until the petition is updated.

The public hearing was opened.

Councilor Greenberg made a motion to hold, which passed unanimously.

The Committee adjourned at 8:30 pm.

Respectfully Submitted,

Richard Lipof, Chair

City of Newton Planning and Development

Petition #242-23

Special Permit/Site Plan Approval to construct a second driveway on the eastern lot line, resulting in two vehicles within the front setback

August 8, 2023



97 Waban Hill Road North

Zoning Relief

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

Criteria to Consider

When reviewing this request, the Council should consider:

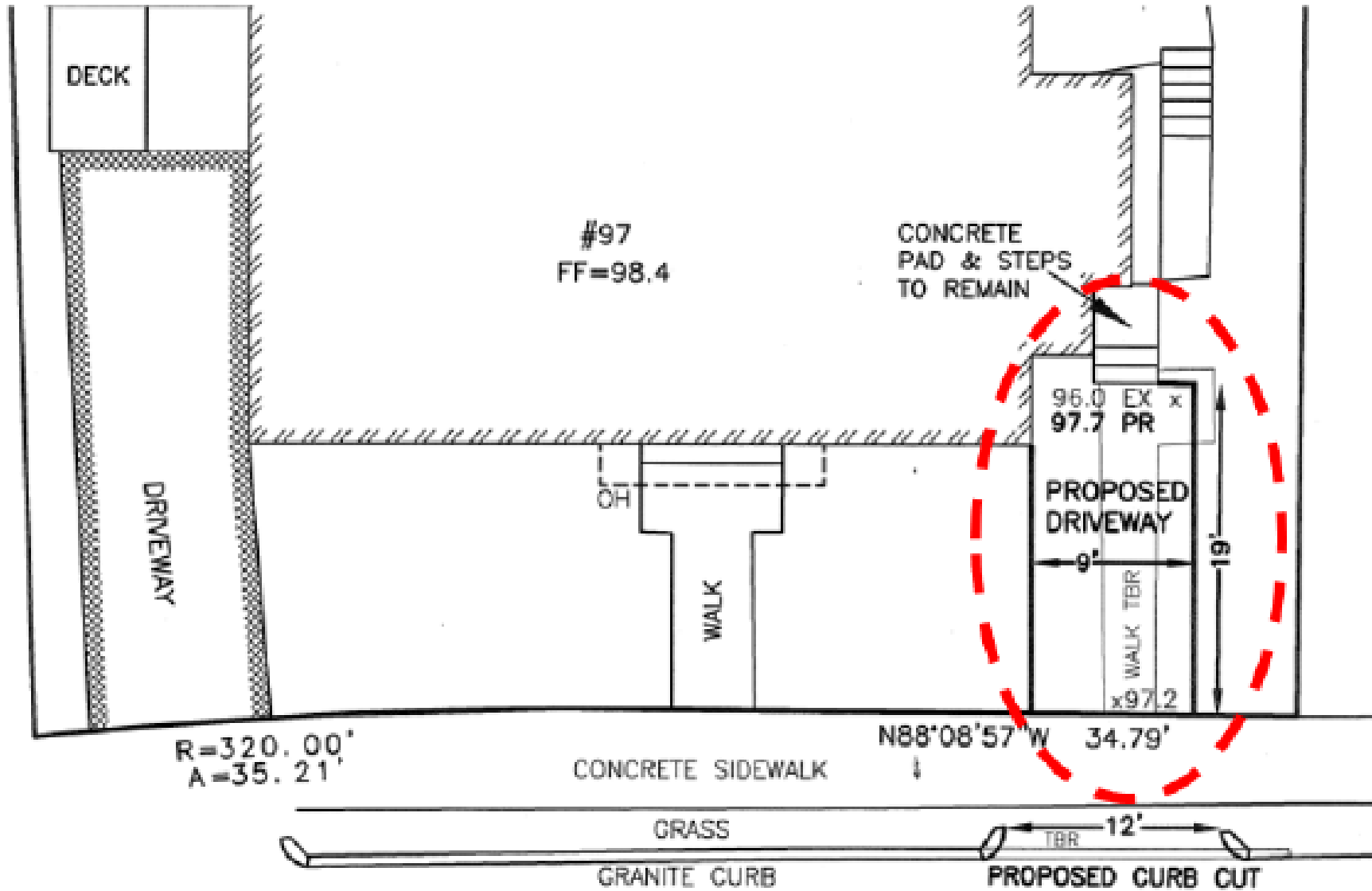
1. The specific site is an appropriate location for a second parking stall in the front setback and a parking stall within five feet of the front lot line. (§7.3.3.C.1)
2. The second parking stall in the front setback and a parking stall within five feet of the front lot line as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no 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. (§7.3.3.C.4)
5. Literal compliance with the requirements that only one parking stall may be located in a front setback and that a parking stall not be located within five feet of the front lot line 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)

Aerial Map

242-23



Site Plan- Existing/Proposed



Photos

242-23



Photos

242-23



Photos

242-23



City of Newton Planning and Development

Petition: #261-23

Special Permit/Site Plan Approval to amend condition 8 of Special Permit 113-23 to allow expanded hours of operation for the patio until 10 P.M.

August 8, 2023



344-346 Elliot St.

1

1

Site Details

Current use: Restaurant with 109 seats

Zoning: Business Use-1, with direct abutters in Multi-Residence 2, Multi-Residence 3, Manufacturing, and Public Use zones

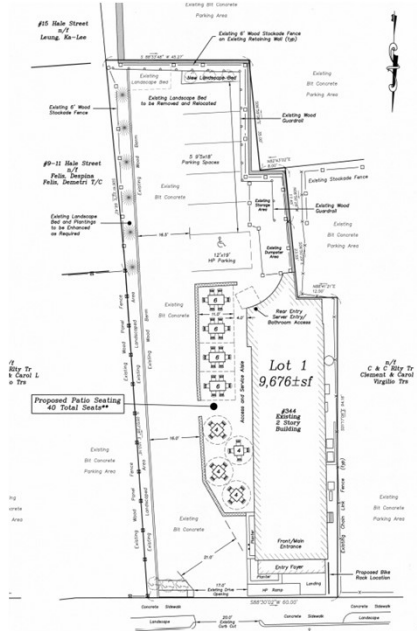
Structures on site: 2,023 square foot building and 10-stall surface parking facility

Lot size: 9,676 square feet

2

2

Site Plan



3

3

Existing special permit & relief requested

- Special Permit #113-23 granted:
 - site plan modifications to remove ten parking stalls to use that space for outdoor dining
 - waiver of 24 parking stalls
- Condition #8 limits operation of outdoor dining area to 9:00 P.M
- This petition requests to extend use of the outdoor area to 10:00 P.M

4

4

Criteria to Consider

When reviewing this request, the Council should consider:

- The site in BU-1 is an appropriate location for the requested amendment to special permit #113-23. (§7.3.3.C.1)
- The requested amendment to special permit #113-23 will not adversely affect the neighborhood (§7.3.3.C.2)
- The requested amendment to special permit #113-23 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)

5

5

Economic Development Support

- Outdoor seating promotes active streetscape
- Can serve as a place to build community & socialize
- Impact of the pandemic has been significant on restaurants
- Successful restaurants contribute positively to the economic health of the community

6

6

Proposed findings

1. The specific site is an appropriate location for the amendment to Council Order #113-23 that extends the hours of operation for the outdoor dining patio to 10:00 P.M. because it is located in the Business Use 1 district, which allows for restaurant operations. (§7.3.3.C.1)
2. The amendment to Council Order #113-23 will not adversely affect the neighborhood because the outdoor patio is already open during evening hours, and an additional hour of service per day is unlikely to have a significant negative impact. (§7.3.3.C.2)
3. The amendment to Council Order #113-23 will not create a nuisance or serious hazard to vehicles or pedestrians because no physical changes are proposed to the site. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because no changes are proposed to the site that would negatively impact access. (§7.3.3.C.4)

7

7

Proposed conditions

1. Condition #8 shall be deleted and replaced with the following, "The petitioner shall not operate the outdoor dining area past 10:00 PM on the days the outdoor dining is in use."

8

8

City of Newton Planning and Development

Petition: #241-23

Special Permit/Site Plan Approval to demolish the existing dwelling and construct three single-family attached dwellings with dimensional waivers and parking dimensional waivers

August 8, 2023



236 Chapel Street

Zoning Relief

Zoning Relief Required		
Ordinance	Requested Relief	Action Required
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To allow reduced lot area per unit	S.P. per §7.3.3
§3.2.4	To allow reduced side setback	S.P. per §7.3.3
§3.2.4	To allow reduced rear setback	S.P. per §7.3.3
§3.2.4	To exceed maximum lot coverage	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a side lot line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

- New design must be approved by Historical Commission
- Design change required to create separate entrances for all each unit

Criteria to Consider

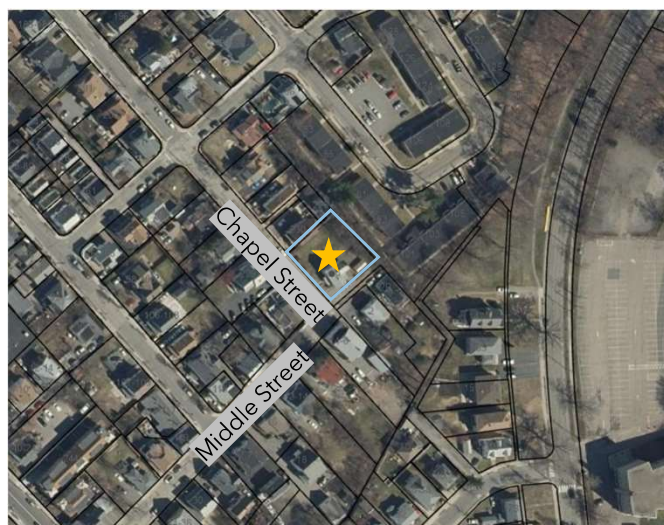
When reviewing this request, the Council should consider:

- The site in MR-2 is an appropriate location for the proposed residential development (§7.3.3.C.1)
- The proposed residential development will not adversely affect the neighborhood (7.3.3.C.2)
- The proposed residential development 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)

3

3

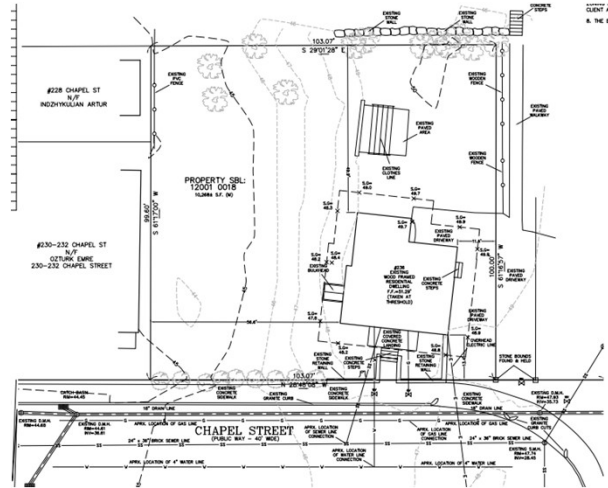
Aerial Map



4

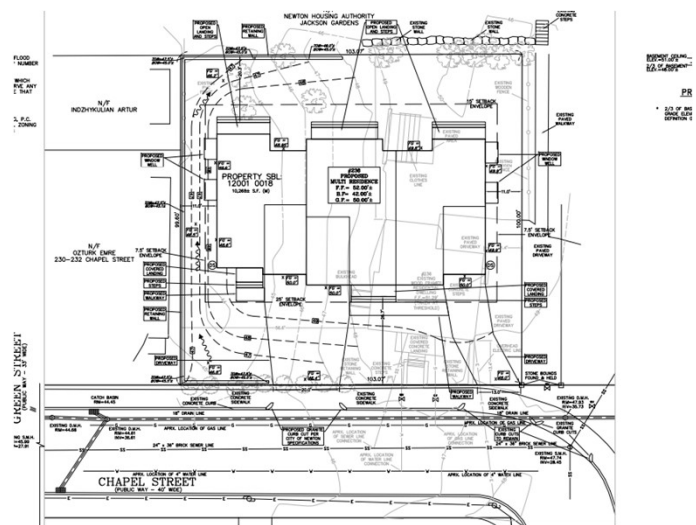
4

Existing Site Plan



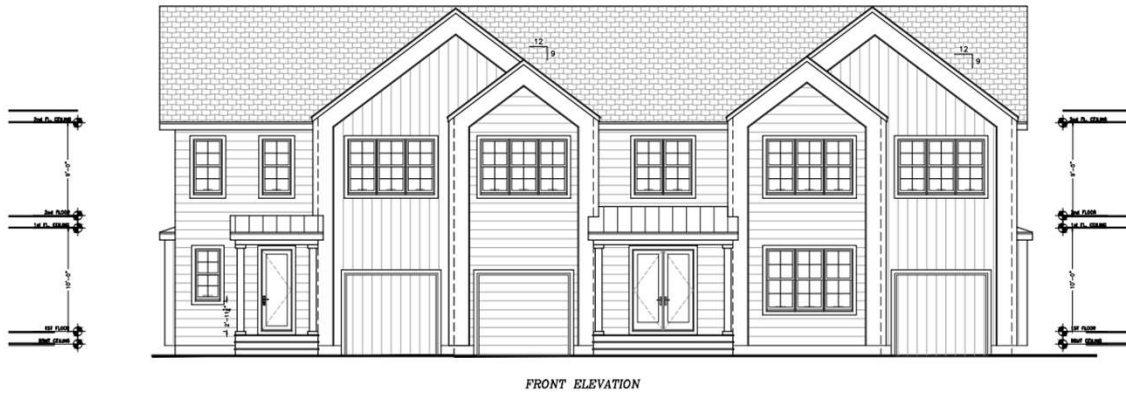
5

Proposed Site Plan



6

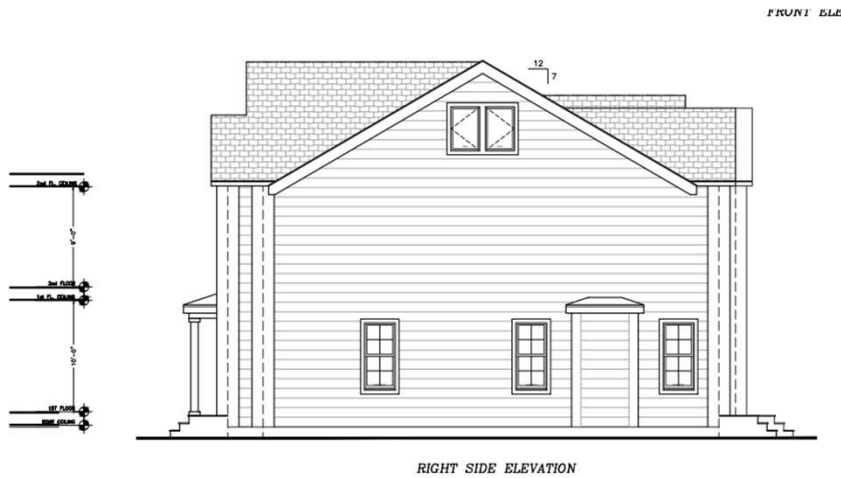
Front elevation



7

7

Right side elevation



8

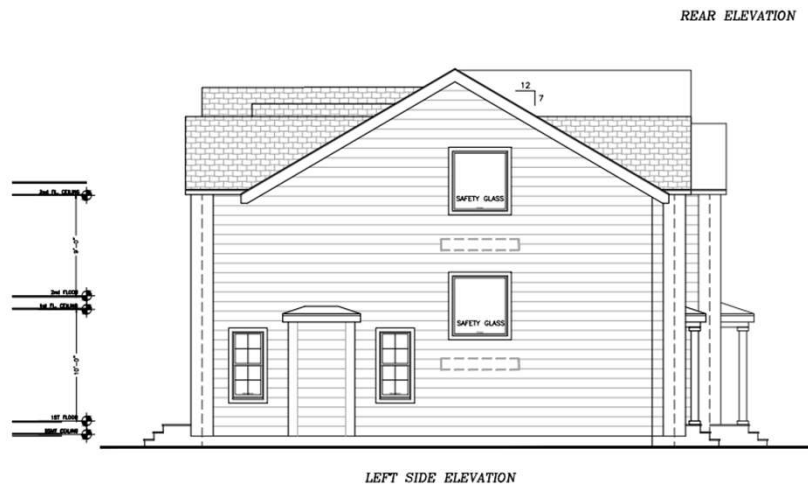
8

Rear elevation



9

Left side elevation



10

10

Findings

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)

11

Conditions

1. Plan referencing
2. Operations & Maintenance plan
3. Construction management plan
4. All electric
5. Standard building permit conditions
6. Standard occupancy conditions

12