



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#375-22**

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date:	August 9, 2022
Land Use Action Date:	October 25, 2022
City Council Action Date:	November 7, 2022
90-Day Expiration Date:	November 7, 2022

DATE: August 5, 2022

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 #375-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct shed dormers on two sides of the dwelling closer than 3 ft. to the end walls and exceeding 50% of the wall planes, and to exceed allowable FAR at **1198 Chestnut Street**, Ward 5, Newton, on land known as Section 51 Block 40 Lot 20, containing approximately 11,146 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 1.5.4.G.2.b, 1.5.4.G.2.c, 3.2.3, 3.2.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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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.



**1198 Chestnut Street**

## EXECUTIVE SUMMARY

The subject property at 1198 Chestnut Street consists of an 11,146 square foot lot in a Multi Residence 1 (MR1) zoning district improved with a two story, 5,214 square foot, two-family dwelling constructed circa 1900, and a detached garage.

The petitioner proposes to raise the roof of the rear half of the structure to match the existing ridgeline height. The proposed modifications are considered to be full shed dormers on both the dwelling's left (west) and right (east) elevations.

The construction would increase the property's square footage by 221 square feet, increasing its floor area ratio (FAR) from 0.46 to 0.49 where 0.48 is the maximum allowed per Sections 3.2.3 and 3.2.11 of the Newton Zoning Ordinance (NZO), requiring a special permit.

As designed, the proposed dormers measure 31.16 feet in length, 80% of the length of walls next below, more than the 50% allowed, requiring a special permit per Sec. 1.5.4.G.2.b of the NZO.

Further, also per Sec. 1.5.4.G.2.c, the vertical plane of the side wall of a dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer, unless otherwise allowed by special permit. The proposed shed dormers extend the entire length of the wall with no separation from the intersection of the roof and end wall, requiring a special permit.

The Planning Department notes that the impact of the dormers would be mitigated by their modest profile, consistency with the dwelling's existing height, and their location at its rear and within its existing footprint.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the proposed expanded structure with an increased FAR of 0.49 where 0.46 exists and 0.48 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood . (§3.2.11.A.2)
- the site in a MR1 zoning district is an appropriate location for the two proposed dormers as designed with lengths of 80% of the walls below them and no separation from the intersection of the roof and end wall (§7.3.3.C.1)
- the two proposed dormers, as designed with lengths of 80% of the wall below them and no separation from the intersection of the roof and end wall, will adversely affect the neighborhood (§7.3.3.C.2)
- the two proposed dormers, as designed with lengths of 80% of the wall below them and no separation from the intersection of the roof and end wall, will 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)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on the north side of Chestnut Street west of Oak Street. The site is developed with a mix of uses, with several, like the subject lot, being single-family dwellings; other uses in the area include two- and multi- family dwellings as well as commercial and industrial uses (**Attachment A**). The site and surrounding areas to the north and west, while several properties to the south and east along Chestnut and Oak streets are zoned Business 1 (BU1) or Business 2 (BU2) (**Attachment B**).

### B. Site

The subject property consists of an 11,146 square foot lot improved with a two story, 5,214 square foot, two-family dwelling, and a detached garage. The lot slopes considerably (approximately 12 feet upward from front (south) to back (north)). Vehicular access is provided via an approximately nine-foot-wide driveway along the right (east) side of the property that serves the detached garage in the rear left of the parcel. The remaining portions of the site include lawn area and trees, including a line of evergreens along most of the front property line.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site will remain a two-family residence.

### B. Building and Site Design

The petitioner proposes to raise the roof of the rear half of the structure to match the existing ridgeline with what are considered to be full shed dormers on both the dwelling's left (west) and right (east)west elevations. As the proposed work would be above and within the dwelling's existing footprint there would be no changes to the dwelling's setbacks, nor to the property's lot coverage or open space calculations.

The construction would increase the property's square footage by 221 square feet, increasing its floor area ratio (FAR) from 0.46 to 0.49, slightly above the 0.48 maximum allowed by right.

Regarding the design and dimensions of the proposed work, the proposed dormers would measure 31.16 feet in length, 80% of the length of walls next below, more than the 50% allowed. Also, the vertical plane of the side wall of a dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer, unless otherwise allowed by special permit. The proposed shed dormers extend the entire length of the wall with no separation from the intersection of the roof and end wall, requiring a special permit.



**Side and rear elevations- existing (left) and proposed (right) (modifications indicated)**

The Planning Department notes that the impact of these aspects of the dormers are mitigated by their modest profile, consistency with the dwelling's existing height, and their location at its rear and within its existing footprint.

C. Parking and Circulation

No changes to the parcel's parking or circulation are proposed with this petition.

D. Landscaping

A landscaping plan was not submitted with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

➤ Special Permit per §7.3.3 to:

- allow a dormer exceeding 50% of the wall plane next below (§1.5.4.G.2.b)
- allow a dormer closer than 3 feet to the end wall (§1.5.4.G.2.c)

- exceed maximum FAR (§3.2.3, §3.2.11)

B. Engineering Review

Review of the petition by the Engineering Division is not required at this time.

C. Historic Review

On November 23, 2021, the Newton Historic Commission found the house historically significant but waived the demolition delay based on approved plans for the dwelling, requiring final review of construction plans prior to the issuance of a building permit.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Land Use Map  
**Attachment B:** Zoning Map  
**Attachment C:** Zoning Review Memorandum  
**Attachment D:** DRAFT Order

# ATTACHMENT A








## Land Use

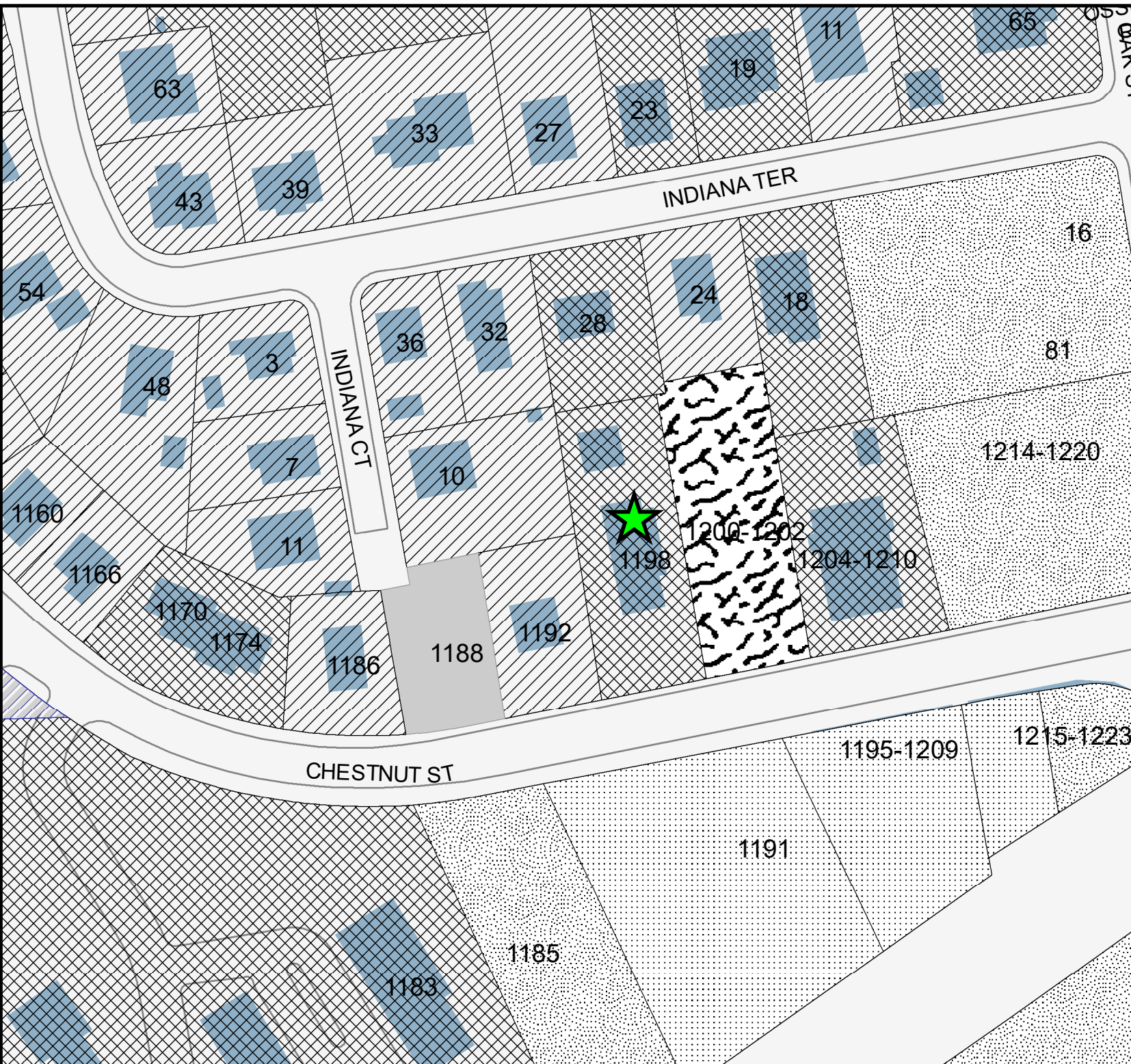
### 1198 Chestnut St.

*City of Newton,  
Massachusetts*

## Land Use

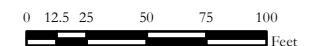
### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Nonprofit Organizations
-  Vacant Land



The information on this map is derived from the City of Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



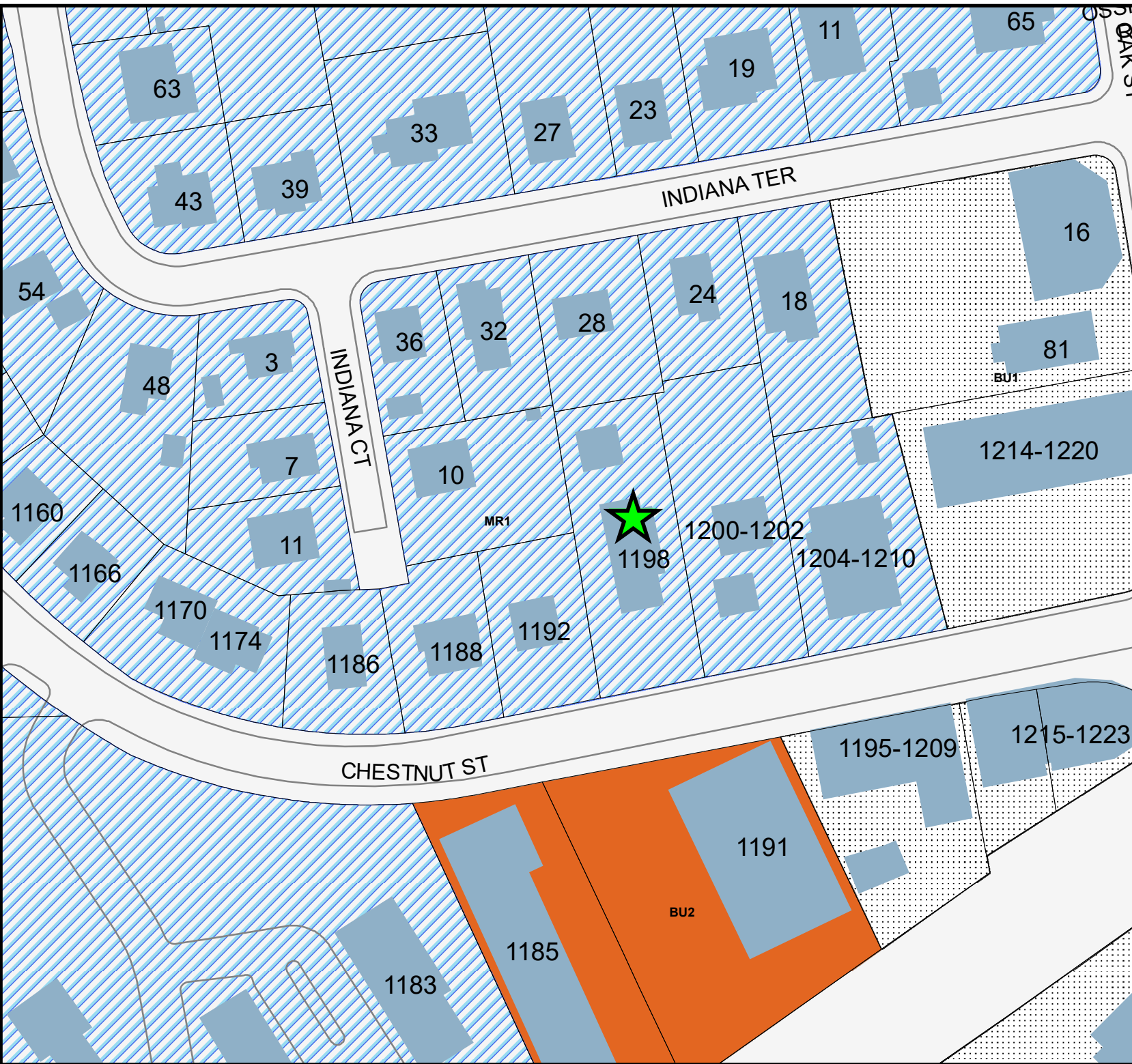
Map Date: August 03, 2022




# ATTACHMENT B

## Zoning

**1198 Chestnut St.**

*City of Newton,  
Massachusetts*

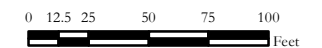


-  Multi-Residence 1
-  Business 1
-  Business 2



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: July 25, 2022



Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: June 14, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Marco Breda, agent  
Salwa Elarabi, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to allow oversized dormers and to exceed FAR**

Applicant: Salwa Elarabi	
Site: 1198 Chestnut Street	SBL: 51040 0020
Zoning: MR1	Lot Area: 11,146 square feet
Current use: Two-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 1198 Chestnut Street consists of an 11,146 square foot lot in the MR1 zoning district improved with a two-family dwelling constructed circa 1900 and a detached garage. The petitioner proposes to raise the roof of the rear half of the dwelling with full shed dormers on the east and west elevations. The proposed construction requires a special permit for the dormer design and to exceed FAR.

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

- Zoning Review Application, prepared by Marco Breda, agent, dated 5/2/2022
- Existing Plot Plan, signed and stamped by Scott M Cerrato, surveyor, dated 2/4/2022
- Floor plans and elevations, signed and stamped by Stanislav Berdichevsky, Engineer, dated 2/4/2022
- FAR worksheet, signed and stamped by Stanislav Berdichevsky, Engineer, dated 2/12/2022



**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner proposes to raise the roof of the rear half of the dwelling to match the existing height. The proposed design creates full shed dormers on the east and west elevations of the dwelling. The 31.16 foot-long dormers are 80% of the walls next below. Per section 1.5.4.G.2.b a special permit is required for a dormer wider than 50% of the length of the exterior wall of the story next below.
2. Per section 1.5.4.G.2.c the vertical plane of the side wall of a dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer, unless otherwise allowed by special permit. The proposed shed dormers extend the entire length of the wall with no separation from the intersection of the roof and end wall, requiring a special permit.
3. The proposed construction increases the square footage by 221 square feet. The existing FAR is .46, where .48 is the maximum allowed per sections 3.2.3 and 3.2.11. The proposed addition increases the FAR to .49, requiring a special permit.

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§1.5.4.G.2.b	To allow a dormer exceeding 50% of the wall plane next below	S.P. per §7.3.3
§1.5.4.G.2.c	To allow a dormer closer than 3 feet to the end wall	S.P. per §7.3.3
§3.2.3 §3.2.11	To exceed maximum FAR	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the maximum allowed floor area ratio (FAR)(§3.2.3, §3.2.11), allow a dormer exceeding 50% of the wall plane next below (§1.5.4.G.2.b), and allow a dormer closer than 3 feet to the end wall (§1.5.4.G.2.c), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. *the proposed expanded structure with an increased FAR of 0.49 where 0.46 exists and 0.48 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.2.11.A.2)*
2. *the site in a MR1 zoning district is an appropriate location for the two proposed dormers as designed with lengths of 80% of the walls below them and no separation from the intersection of the roof and end wall (§7.3.3.C.1)*
3. *the two proposed dormers, as designed with lengths of 80% of the wall below them and no separation from the intersection of the roof and end wall, will not adversely affect the neighborhood (§7.3.3.C.2)*
4. *the two proposed dormers, as designed with lengths of 80% of the wall below them and no separation from the intersection of the roof and end wall, will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)*
5. *access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)*

PETITION NUMBER: #375-22

PETITIONER: Salwa Elarabi

LOCATION: 1198 A Chestnut Street, Section 51, Block 40 Lot 20, containing approximately 11,146 square feet of land

OWNER: Salwa Elarabi

ADDRESS OF OWNER: 1198 A Chestnut Street  
Newton, MA 02464

TO BE USED FOR: Two-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- allow a dormer exceeding 50% of the wall plane next below (§1.5.4.G.2.b)
- allow a dormer closer than 3 feet to the end wall (§1.5.4.G.2.c)
- exceed maximum FAR (§3.2.3, §3.2.11)

ZONING: Multi Residence 1 (MR1)

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 “Land of 1198 Chestnut St Condominium, 1198 Chestnut Street, Newton, MA 02464- Existing Plot Plan,” dated February 4, 2022, prepared by Nativtec, stamped and signed by Scott M. Cerrato, Professional Land Surveyor
  - b. a set of drawings entitled “Elarabi Residence, 1198 Chestnut Street, Newton, MA 02464,” prepared Process: Design, dated February 2, 2022, signed and stamped by Stanislav Berdichevsky, Registered Professional Engineer, consisting of the following sheets:
    - i. Roof Framing Plan- Details (S-1.20)
    - ii. Roof Plan, Cross Sections (A-1.25)
    - iii. Elevation- Proposed (A-1.30)
  - c. A document entitled “Floor Area Worksheet- 1198 A Chestnut Street,” indicating a proposed total gross floor area of 5,435 square feet and a proposed FAR (floor area ratio) of 0.48
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

- c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
  - c. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.