



## City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

617-796-1120

Ruthanne Fuller  
Mayor

Barney Heath  
Director

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### PUBLIC HEARING MEMORANDUM

**DATE:** September 15, 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 #284-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a deck connecting porches on each street front, further extending the nonconforming front setbacks at **147 Cherry Street**, Ward 3, West Newton, on land known as Section 34 Block 37 Lot 12, containing approximately 7,706 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 3.1.3, 7.8.2.C.2 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 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.



**147 Cherry Street**

## **Project Description**

### **Background**

The subject property at 147 Cherry Street consists of a 7,706 square foot lot at the southwestern corner of Cherry Street and Jerome Avenue. Located in a Single Residence 3 (SR3) zoning district, the parcel is improved with a single-family dwelling constructed circa 1904 and a detached garage.

The residence has covered porches on each of its two frontages, resulting in nonconforming front setbacks of 12.5 feet from Jerome Avenue and 22.9 feet from Cherry Street where 25 feet is required per Section 3.1.3 of the Newton Zoning Ordinance (NZO).

The petitioner proposes to construct an uncovered deck that would connect the two existing covered porches along the Jerome Avenue side of the property, further reducing the property's nonconforming front setback on Jerome Avenue by 1.4 feet to 11.1 feet and by 0.01 feet to 22.8 feet along Cherry Street.

There is a low retaining wall along most of the length of the two frontages. The lot, which has a gradual, approx. five foot upward grade from Cherry Street westward, also features fencing, and mature lawn area, trees and shrubs.

The surrounding residential neighborhood is almost uniformly occupied by single-family homes and, like the subject property, is within a Single Residence 3 (SR3) zoning district. An exception is the Public Use (PU)-zoned Franklin School located approx. 300 feet to the southwest.

### **Need for Special Permit**

As the proposed connecting deck would further reduce the property's nonconforming front setbacks from 22.9 feet to 22.8 feet along Cherry Street and from 12.5 feet to 11.1 feet on Jerome Avenue, a special permit per Sections 3.1.3 and 7.8.2.C.2 of the Newton Zoning Ordinance (NZO) is required.

### **Analysis and Recommendations**

Planning is generally not concerned with the proposed deck given that it would not be enclosed or roofed and proposed construction of a connecting deck renders the extension of the two nonconforming front setbacks relatively minor in nature and would further activate both fronts of the single-family dwelling.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §7.8.2.C.2	To alter and extend two nonconforming front setbacks	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

- the proposed further reduction of the property’s nonconforming front setbacks from 22.9 feet to 22.8 feet along Cherry Street and from 12.5 feet to 11.1 feet on Jerome Avenue is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.3, §7.8.2.C.2).

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Land Use

Use of the site would remain as a single-family dwelling.

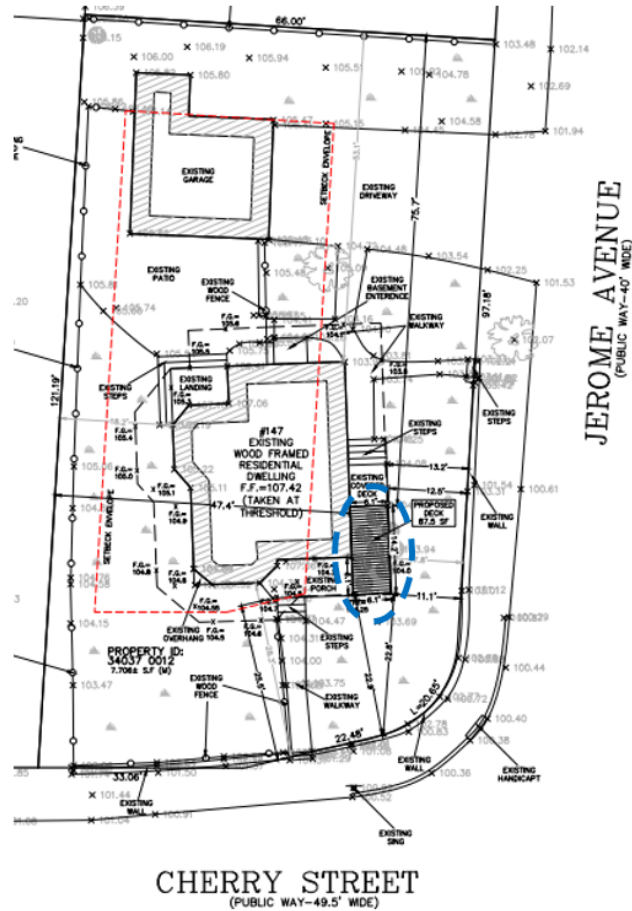
B. Site and Building Design

The subject property at 147 Cherry Street consists of a 7,706 square foot lot at the southwestern corner of Cherry Street and Jerome Avenue. Located in a Single Residence 3 (SR3) zoning district, the parcel is improved with a single-family dwelling constructed circa 1904 and a detached garage.

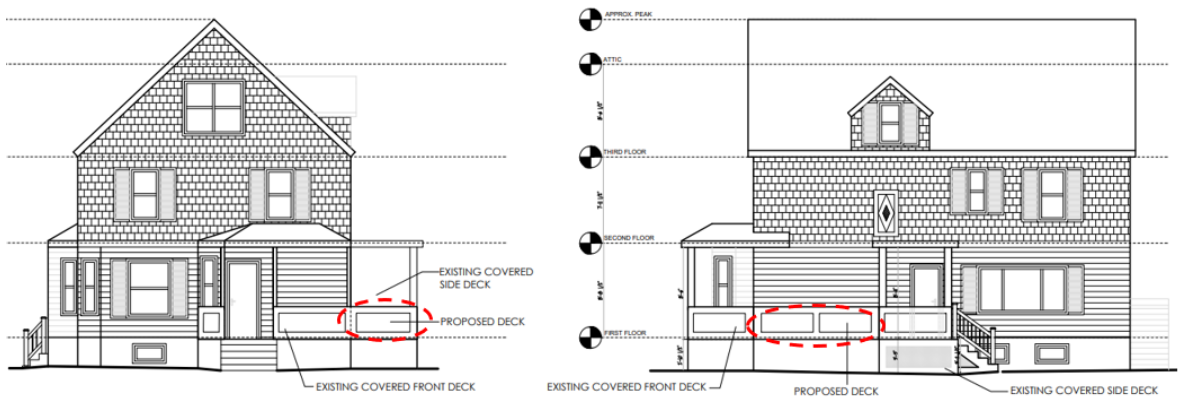
The residence has covered porches on each of frontage, resulting in nonconforming front setbacks of 12.5 feet from Jerome Avenue and 22.9 feet from Cherry Street where 25 feet is required per Section 3.1.3 of the Newton Zoning Ordinance (NZO).

The petitioner’s proposed uncovered deck would be located along the Jerome Avenue side of the property and connect the two existing covered porches, further reducing the property’s nonconforming front setback on Jerome Avenue by 1.4 feet to 11.1 feet and by 0.01 feet to 22.8 feet along Cherry Street. There would be no other changes to the dwelling.

As the proposed connecting deck is not enclosed it would not increase the property’s floor area ratio (FAR). As it does not have a roof it would not increase the parcel’s lot coverage calculation.



**Proposed Site Plan- location of proposed deck indicated**



C. Parking and Circulation

No changes to the property's parking or circulation are contemplated by this petition.

D. Landscaping

A landscape plan was not provided with this petition.

IV. INTERDEPARTMENTAL REVIEW

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** The petitioner should ensure compliance with the Newton Historic Commission's review requirements.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

**ATTACHMENT A:** Zoning Review Memorandum

**ATTACHMENT B:** DRAFT Council Order

# ATTACHMENT A



Ruthanne Fuller  
Mayor

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Department of Planning and Development  
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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: August 1, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

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

RE: Request to further extend two nonconforming front setbacks

Applicant: Kate Shaughnessy	
Site: 147 Cherry Street	SBL: 34037 0012
Zoning: SR3	Lot Area: 7,706 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 147 Cherry Street consists of a 7,706 square foot lot improved with a single-family dwelling constructed circa 1904 at the corner of Cherry Street and Jerome Avenue. The petitioner proposes to construct a deck connecting porches on each street front, further extending the nonconforming front setbacks, requiring a special permit.

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

- Zoning Review Application, prepared by Kate Shaughnessy, applicant, dated 6/25/2023
- Proposed Plot Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 6/27/2023
- Floor plan and elevations, signed and stamped by Edmond Spruhan, engineer, dated 6/23/2023

**ADMINISTRATIVE DETERMINATIONS:**

- The existing single family dwelling has a nonconforming front setback of 12.5 feet from Jerome Avenue and 22.9 feet from Cherry Street where 25 feet is required per section 3.1.3 in both cases. There are covered porches on each frontage and the petitioner seeks to construct a deck connection between the two porches, resulting in one deck wrapping around the corner of the dwelling. The proposed construction further reduces the nonconforming front setbacks to 11.1 feet from Jerome Avenue and 22.8 feet from Cherry Street, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>7,706 square feet</b>	No change
Frontage	70 feet	173 feet	No change
Setbacks			
• Front (Cherry Street)	25 feet	<b>22.9 feet</b>	<b>22.8 feet*</b>
• Front (Jerome Avenue)	25 feet	<b>12.5 feet</b>	<b>11.1 feet*</b>
• Side	7.5 feet	Not provided	No change
• Rear	15 feet	Not provided	No change
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	32.9 feet	No change
Max Lot Coverage	30%	17.3%**	No change
Min. Open Space	50%	70.1%	69%

Nonconformity indicated in **BOLD**

\*Requires relief

\*\*The proposed connection has no roof and does not increase the lot coverage

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	To alter and extend two nonconforming front setbacks	S.P. per §7.3.3

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 further extend existing nonconforming front setbacks, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed further reduction of the property’s nonconforming front setbacks along Cherry Street and Jerome Avenue is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood, given that the proposed deck will not be enclosed or roofed, and the extensions are relatively minor in nature at a one to two foot reduction (§3.1.3, §7.8.2.C.2).

PETITION NUMBER: #284-23

PETITIONER: Kate Shaughnessy

LOCATION: 147 Cherry Street, Ward 3, West Newton, on land known as Section 34 Block 37 Lot 12, containing approximately 7,706 sq. ft. of land

OWNER: Kate Shaughnessy

ADDRESS OF OWNER: 147 Cherry Street  
Newton, MA 02459

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special permit to further extend two nonconforming front setbacks (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) 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 "147 Cherry Street, Newton, Massachusetts- Proposed Plot Plan, Sheet 2," prepared by Spruhan Engineering, P.C., dated June 27, 2023, as revised through June 27, 2023, signed and stamped by Christopher C. Charlton, Professional Land Surveyor.
  - b. A plan entitled "Project Name: 147 Cherry Street, Newton, MA (A-002)," (showing the Proposed First Floor Plan, Proposed Front Elevation, and Proposed Right Side Elevation), prepared by Spruhan Engineering, P.C, dated June 23, 2023, signed and stamped by Edmond T. Spruhan, Registered Professional Engineer.
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.
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.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.