



Ruthanne Fuller
Mayor

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

Petition: #241-23
Public Hearing:
09/19/23

Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: September 15, 2023
MEETING DATE: September 19, 2023
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #241-23

236 Chapel Street

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

Background

The subject property consists of a 10,268 square foot lot improved with a single-family dwelling in the Multi-Residence 2 (MR-2) district constructed circa 1880. The petitioner proposes to demolish the existing dwelling on the lot and construct three single-family attached dwellings. The proposed use requires relief to allow attached dwellings in the MR-2 district. The lot area per unit is proposed at 3,423 square feet where 4,000 square feet is required, and thus needs relief. Relief is required for both side setbacks, proposed at 11 feet on each side where 25 feet is required. The rear setback also needs relief, as it is proposed at 20.3 feet where a minimum of 25 feet is required.

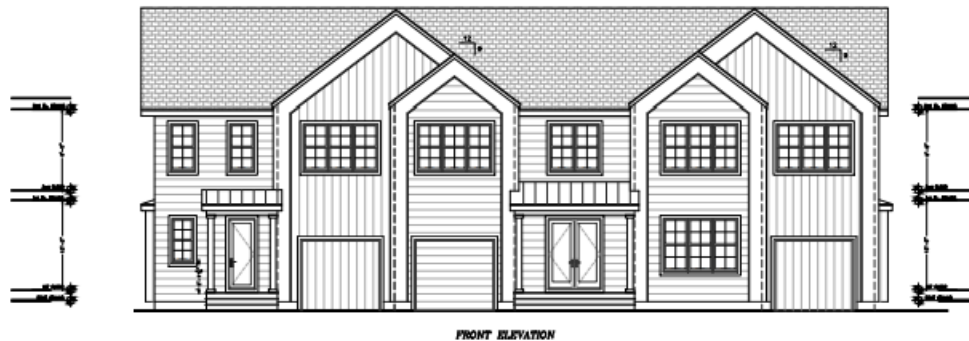
The Land Use Committee (the "Committee") last held a public hearing on this petition on August 8, 2023. At that time the Planning Department noted two issues with the design as proposed. First, the petitioner got one set of plans approved by the Newton Historical Committee (NHC) and subsequently submitted plans that differed from those approved plans to the Land Use Committee. Second, the design proposed featured a shared entrance between two of the dwelling units. Shared entryways for the primary means of access are not allowed for single-family attached dwellings, and there is no zoning

relief by special permit to allow for that design feature. The Committee voted to hold the item based on the discussion to allow the petitioner time to revise the plan and return to the NHC.

Revised Architectural Plans

The petitioner submitted revised architectural plans on August 15, 2023, showing a reconfigured layout of the main entrances and several minor aesthetic changes. This revised design features distinct entrances for each unit, which makes it compliant with what the zoning ordinance requires. There are no other changes proposed in the revised plan set. The petitioner returned to the NHC at a public hearing on August 24, 2023, where they presented the revised design. The NHC unanimously approved the updated design. **(Attachment A)**

Original front elevation



Revised front elevation



Pedestrian Pathway

At the previous public hearing for this petition, several members of the public and City Council asked if the petitioner had plans to maintain or improve the existing pedestrian pathway that connects Chapel Street to Jackson Gardens, which abuts the rear of the site. The pathway directly abuts the subject parcel, but the path lies on land owned by the Newton Housing Authority. Though the petitioner is not

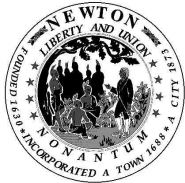
responsible for the maintenance and upkeep of the pathway, it is an important resource for the neighborhood that could be vulnerable to negative impacts associated with construction while the units are being built. The Planning Department recommends that, should this petition be approved, a condition be included that requires a construction management plan that details measures that will ensure that the pathway will still be fully accessible during construction.

Analysis

The Planning Department is not concerned with the proposed dwellings. There are several two- and multi-family dwellings in the neighborhood so three units is contextually appropriate. Nonconformities such as reduced lot area per unit and small setbacks which existed prior to the current zoning are common features in the neighborhood. The proposed dwelling is contextual with that pattern of development and for these reasons the Planning Department is supportive of the three-unit project proposed. The petitioner also worked with the Historic Commission to ensure an appropriate design, which requires the requested relief from the Zoning Ordinance.

ATTACHMENTS:

Attachment A: NHC record of action
Attachment B: DRAFT Council Order



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Barney S. Heath
Director

RECORD OF ACTION

DATE: September 14, 2023

SUBJECT: 236 CHAPEL ST

At a scheduled meeting and public hearing on August 24, 2023, the Newton Historical Commission, by vote of 7 to 0 RESOLVED to:

Approve the updated design presented at the August 24th meeting, which includes separate entries.

Conditions:

<u>Voting in the Affirmative:</u>	<u>Voting in the Negative:</u>	<u>Abstained:</u>	<u>Recused:</u>
Mark Armstrong John Rice Anne Marie Stein Scott Friedman, Alternate Doug Cornelius, Chair Nancy Grissom Harvey Schorr			

<u>Title Reference:</u>	<u>Owner of Property:</u> Omar Youssef
	<u>Deed recorded at:</u> Middlesex County Registry of Deeds
	Book/Page
	Date

Mollie Hutchings, Chief Preservation Planner

Newton Historical Commission
1000 Commonwealth Avenue, Newton, Massachusetts 02459
Email: mhutchings@newtonma.gov
www.newtonma.gov

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 three single-family attached dwellings with relief for reduced lot area per unit, reduced side setbacks, a reduced rear setback, to exceed the maximum lot coverage, to allow parking within 20 feet of a side lot line, and a driveway within 10 feet of the side lot line 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 project as designed in the Multi Residence 2 district (MR-2) because it is a residential use in a residential district, and the neighborhood has existing structures with two family and multifamily uses. (§7.3.3.C.1)
2. The proposed residential project that requires relief for reduced lot area per unit, reduced side setbacks, a reduced rear setback, to exceed maximum lot coverage, and to allow parking within 20 feet of a side lot line and a driveway within 10 feet of the side lot line as designed will not adversely affect the neighborhood because the design has been carefully considered with input from the Newton Historical Commission and new plantings will be provided along the street frontage, enhancing the streetscape. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because the two driveways will provide adequate sightlines and access to the residences. (§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 required location of the parking and driveway on the site is impracticable due to the existing location of the driveway. (§5.1.13)

PETITION NUMBER: #241-23

PETITIONER: Omar Youssef

LOCATION: 236 Chapel Street, Ward 1, Newton, on land known as Section 12 Block 01 Lot 18, containing approximately 24,897 sq. ft. of land

OWNER: Omar Youssef

ADDRESS OF OWNER: 57 Cherry Place
Newton, MA 02465

TO BE USED FOR: Construction of three single-family attached residential units with a reduced lot area per unit, nonconforming side setbacks, nonconforming rear setback, that exceeds maximum lot coverage, that has parking within 20 feet of a side lot line, and a driveway within 10 feet of the side lot line

RELIEF GRANTED: Special Permit per §7.3:

- To allow attached single-family dwellings (§3.4.1)
- To allow reduced lot area per unit (§3.2.4)
- To allow reduced side setback (§3.2.4)
- To allow reduced rear setback (§3.2.4)
- To exceed maximum lot coverage (§3.2.4)
- To allow parking within 20 feet of a side lot line and a driveway within 10 feet of the side lot line (§6.2.3.B.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 Spruhan Engineering signed and stamped by Edmond T. Spruhan, Professional Engineer, and Christopher C. Charlton, Land Surveyor, dated June 6, 2023:
 - i. "Materials and Layout Plan" (Sheet 1)
 - ii. "Proposed Grading, Drainage, and Utilities" (Sheet 2)

- b. A set of architectural drawings prepared by Rav & Assoc., Inc, unsigned and unstamped, dated April 20, 2023 and revised August 14, 2023:
 - i. “Front elevation and right side elevations” (Sheet A-5)
 - ii. “Rear elevation and left side elevations” (Sheet A-6)
 - c. A landscape plan prepared by Sirius Landscapes, inc., unsigned and unstamped and undated
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. During construction, the petitioner shall ensure that the pedestrian pathway running along the right side of the property will not be blocked or impeded by construction vehicles or equipment associated with the construction on site.
6. All appliances and utilities for the building shall be all-electric, including heating and cooling.
7. 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.
8. 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.
9. 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.
10. 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).