



City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
Telephone: 617-796-1120

Petition: **#317-23**
Public Hearing: ----
10/17/23

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: October 13, 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 #317-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct six single-family attached dwellings in three separate structures at **280 Nevada Street**, Ward 1, Newtonville, on land known as Section 14 Block 08 Lot 12, containing approximately 29,550 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 3.4.1, 3.2.4, 5.1.8.A.1, 5.1.13, 5.1.8.C, 5.1.9, 5.1.10.A, 5.4.2.B, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017

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.



280 Nevada Street

Project Description

Background

The subject property at 280 Nevada Street consists of a 29,550 square foot lot in a Multi Residence 1 (MR1) zoning district. It is improved with a two-story, single-family dwelling built in 1979 with an attached first floor-level, front-facing garage.

The petitioner proposes to replace the dwelling with six single-family attached dwellings in three separate structures. Twelve parking stalls (two per unit) would be provided- six stalls within one-car garages within each unit and six surface stalls, each located adjacent to the corresponding unit's garage.

The neighborhood features a mix of single-, two-, and multi- family dwellings as well as manufacturing (to the east and south) and educational properties. The neighborhood uses largely match the zoning which is predominantly residential, with the subject property and those to its north and south within a MR1 district and others further to the west zoned Single Residence 3 (SR3). Exceptions include a Manufacturing (MAN) parcel that abuts the subject parcel to the rear (which is one of several adjacent parcels so zoned) and several Public Use (PU) parcels to the west, including the Carr School property.

Need for Special Permit

As designed, the proposed work requires a special permit to allow attached single-family dwellings as well as certain additional dimensional setback and parking facility relief. As detailed in the attached zoning review memorandum, per the Newton Zoning Ordinance (NZO), a special permit is required to construct attached single-family dwellings in a MR1 district. The proposed structure also requires relief to allow 23.4 foot and 16.2 foot left and right side setbacks, respectively, where 25 feet are required.

The proposed parking facility requires relief to allow a parking stall within the front and left side setbacks; an 18 foot wide two-way maneuvering aisle (less than the required 24 feet); and a parking stall within 20 feet of the front and left boundary lines and a driveway within ten feet of the left property line. The petitioner also seeks the waiver of certain parking facility screening and lighting requirements.

Lastly, the petitioner is also seeking to construct retaining walls that reach a height of four feet within the left side setback.

Analysis and Recommendations

The Planning Department is generally supportive of the proposal given its location and the mix of uses in the surrounding neighborhood.

That said, given the size of the lot the Planning Department suggests the petitioner revisit the

structure’s proposed parking and driveway design to increase the buffer distance from the various affected lot lines and decrease the amount of paving required, and possibly the overall size of the structure, which could eliminate the relief needed to reduce the required side setbacks. The Planning Department would also be supportive of less parking on site, which would further decrease the amount of paving, but would require a parking waiver not currently sought.

In the event the petition is approved, Planning has included a draft Council Order for review when the time is appropriate.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To allow reduced side setbacks	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking in the front and side setbacks	S.P. per §7.3.3
§5.1.8.C §5.1.13	To allow a reduced maneuvering aisle width	S.P. per §7.3.3
§5.1.9 §5.1.13	To waive the perimeter screening requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	To waive the lighting requirements	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall of four feet in height within a setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within twenty feet of the front and side lot line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

1. The specific site with a lot area of 29,550 square feet is an appropriate location for the proposed six attached single-family dwellings in three structures, as designed with a reduced side setback; a parking facility with a parking stall in the front and side setbacks, reduced maneuvering aisle width, waived perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line; and a retaining wall with a height of four feet or more in a setback (§7.3.3.C.1)

2. The proposed six attached single-family dwellings in three structures, as designed with a reduced side setback; a parking facility with a parking stall in the front and side setbacks, reduced maneuvering aisle width, waived perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line; and a retaining wall with a height of four feet or more in a setback, 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. Granting exceptions to certain requirements provided by §3.2.4 requiring a minimum side setback of 25 feet is appropriate as literal compliance is impractical due to the nature of the use, or the location, size, frontage, 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. (§3.2.4)
6. Granting exceptions to certain requirements provided by §5.1 pertaining to the location of parking stalls in the front and side setbacks, minimum maneuvering aisle widths, perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line, would be appropriate as literal compliance 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)
7. Granting exceptions to certain requirements provided by Sec. 6.2.3.B.2 not allowing the location of parking within 20 feet of a lot line and/or a driveway within 10 feet of the side lot line would be appropriate as literal compliance 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. (§6.2.3.B.2)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

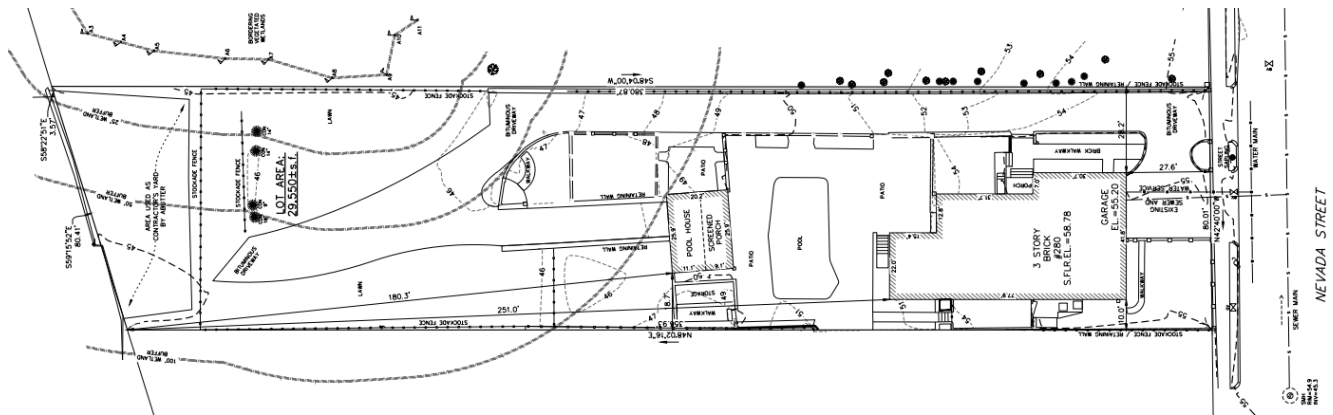
A. Site - Existing Conditions

The subject property consists of a 29,550 square foot lot improved with a two-story, single-family dwelling built with an attached first floor-level, front-facing garage. It also has a pool and pool house to the rear of the dwelling.

The lot has an approximately ten foot downward grade change from the front right of the lot to its rear. The site is accessed by a paved driveway along its right (east)

boundary line that terminates near the rear of the property. The Planning Department notes that although the submitted existing site plan indicates that an area at the rear of the lot is “used as contractor’s yard by abutter,” the petitioner has indicated that that use is no longer in place.

In addition to the pool and pool house, the lot also features mature lawn area, trees, fencing, walkways and patio space.



Existing Site Plan

IV. PROJECT DESCRIPTION AND ANALYSIS:

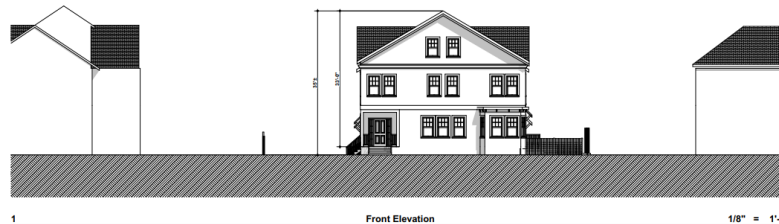
A. Land Use

The use of the site would be changed from a single family home to six attached single family dwellings in three structures.

B. Site and Building Design

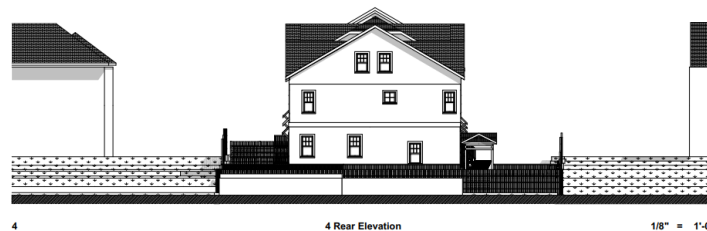
The petitioner proposes to demolish the existing single family dwelling (and pool/pool house) to construct six single-family attached dwellings in three separate structures. The dwellings would have two stories and a maximum height of 35.6 feet, just below the maximum 36 feet allowed.

Each unit would be accessed from its first floor-level with entrances on both the left and right sides of the buildings, with the former facing the driveway and the latter leading to patios between the structure and that side’s property’s line. An entrance to the front unit in “Building 1” would present as a residential front door facing Nevada Street. As proposed, the six units’ sizes (again including the attic and garage space) range from 2,978 (Unit 3 and 4) to 3,035 square feet (Unit 1).



Project:	280 NEVADA ST, NEWTON MA
Client:	EDGE BUILDERS
Architect:	SANGIULO ASSOCIATES, ARCHITECTS 8 Blackstone Rd W. Haverhill, MA 01772 9402
Structural Engineer:	

Proposed Left and Front Elevations



Project:	280 NEVADA ST, NEWTON MA
Client:	EDGE BUILDERS
Architect:	SANGIULO ASSOCIATES, ARCHITECTS 8 Blackstone Rd W. Haverhill, MA 01772 9402
Structural Engineer:	

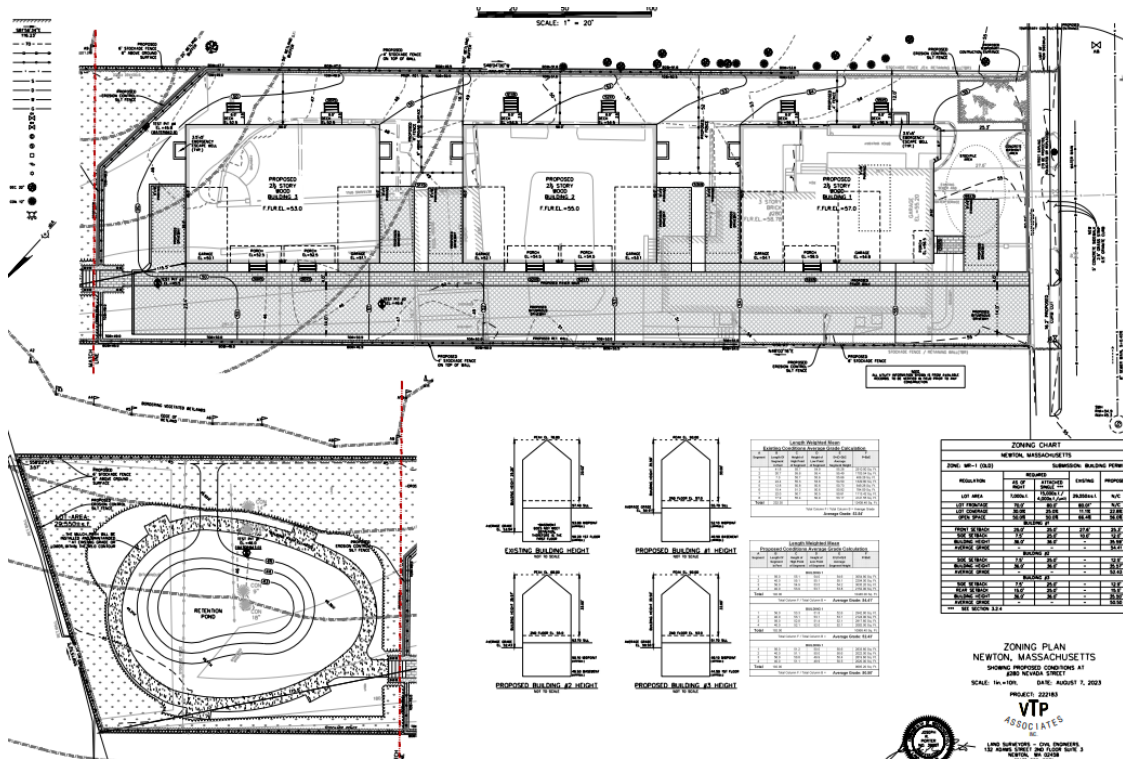
Proposed Right and Front Elevations

Attached single family dwellings are required to have all side, front and rear setbacks measure at least 25 feet. At 25.3 and 115.5 feet, respectively, the proposed front and rear setbacks comply. At 23.4 feet the left side is slightly noncompliant while at 16.2 feet the right side setback is almost nine feet less than the requirement.

As designed, the parcel's lot coverage would increase from 11.1% to 22.8%, remaining just below the maximum 25% required for single family attached dwellings . Under the proposed configuration, its open space would decrease from 66.4% to 56%, remaining above the minimum 50% required.

There are retaining walls proposed for about two-thirds of the two side lot lines' distance from the front to the back of the lot (the left one would be topped by a four foot fence, the right side's a six foot one). They are connected by a wall (also with a six foot fence on top) that indirectly crosses the width of the lot, demarcating the area in the rear third of the lot that will be the location of the proposed retention pond. These walls reach a height of four feet where the left side wall intersects the cross-lot wall.

The Planning Department notes that attached single family dwellings are not subject to floor area ratio (FAR) regulations. That said, the petitioner has indicated that the proposed development's FAR, including attic and garage space, would be 0.61, more than the 0.38 (without bonus) allowed by right for single- and two- family homes. The latter FAR would allow for an approx. 11,229 square foot structure, or an 11,820 square foot structure with the .02 bonus in FAR if a project met "new lot" setbacks.



Proposed Site Plan (match line indicated in red)

Also, as discussed below, the rear third of the parcel is proposed as the location of a comprehensively landscaped retention pond area.

C. Parking and Circulation

Twelve parking stalls (two per unit) are proposed- six would be located in the one-car garages within each unit and six surface stalls, each located adjacent to the corresponding unit's garage.

All the stalls would be accessed via the proposed two-way driveway along the left side of the parcel. That driveway is separated from that side's property line by about four feet, closer than the required minimum ten feet. The driveway itself is 18 feet wide, less than the minimum 24 feet required. The Planning Department notes that that measurement includes a four-foot wide "paver walk," further reducing its perceived and/or functional width to about 14 feet.

A surface parking stall associated with a unit within Building 1 is located about nine feet from the back of the sidewalk, thus within the front setback, as well as about 22 feet from left side property line, placing it slightly in that side's setback.

Perimeter landscaping and screening is required for surface parking facilities with more than five stalls. A six-foot stockade fence is proposed along the access driveway. While the petitioner has requested relief from the requirement, the Planning Department notes that the submitted landscaping plan indicates the installation of some plantings along the left side of the driveway. The petitioner should confirm that the requested relief is needed and/or increase the amount of screening to obviate the need for that relief. Also, the petitioner has does not intend to provide lighting with a minimum intensity of one-foot candle which would avoid the installation of possibly excessive lighting on this residential property.

D. Landscaping

An extensive landscaping plan was provided with this petition. It indicates the proposed locations of trees, shrubs and fencing to be installed around the proposed structures in the front two-thirds of the lot and the extensive planting and landscape improvement for the proposed retention pond area in the rear third of the lot. The rear portion, subject to an Order of Conditions and Certificate of Understanding dated June 6, 2024, will feature trees, shrubs, lawn area as well as a circular walking path and benches to be available to residents and their guests.

V. INTERDEPARTMENTAL REVIEW:

- **Conservation Commission:** The property is the subject of an Order of Conditions and

Certificate of Understanding dated June 6, 2024.

- **Engineering Review:** The Associate City Engineer has submitted a memorandum dated September 19, 2023, regarding the proposed improvements. Among other comments, it indicates that a Construction Management Plan (CMP) and an Operations & Maintenance (O&M) Plan will be required to be reviewed and approved by the Engineering Division before any building permit can be issued. It also discusses how the proposed series of catch basins and infiltration units will improve stormwater quality and reduce stormwater runoff, and that the system will have an overflow connection to the retention pond in the rear (described as a remnant of Silver Lake).

Also, the City Engineer has submitted a memorandum dated October 3, 2023, regarding the Sewer Inflow and Infiltration(I&I) fee for this project. As detailed in the memo, the total calculated I&I fee is \$114,428. As also discussed in the memo, at the request of the Planning Department, the City Engineer recommends that 25% of the fee (\$28,607) be used for the design and construction of upcoming sewer improvements and that the petitioner consider dedicating the abated 75% of the fee (\$85,821) to other mitigation purposes as recommended by the Planning Department.

- **Newton Historical Commission:** Review of this petition by the Newton Historical Commission is not required at this time.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Engineering Division Memorandum
Attachment C: DRAFT Council Order



Ruthanne Fuller
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 1, 2023

To: Anthony Ciccarriello, Commissioner of Inspectional Services

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

Cc: Laurance Lee, Attorney
280 Nevada LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow six single-family attached dwellings in three buildings

Applicant: 280 Nevada LLC	
Site: 280 Nevada Street	SBL: 14008 0012
Zoning: MR1	Lot Area: 29,550 square feet
Current use: Single-family dwelling	Proposed use: Six single-family attached dwellings

BACKGROUND:

The property at 280 Nevada Street consists of 29,550 square feet and is improved with a single-family dwelling built in 1979 in the MR1 zoning district. The petitioner proposes to demolish the existing dwelling and construct six single-family attached dwellings in three separate structures.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, submitted 7/24/2023
- Floor plans and elevations, prepared by Sangiolo Associates, architect, dated 6/6/2023
- Existing Conditions Site Plan, signed and stamped by Joseph R. Porter, dated 4/25/2023
- Zoning Plan, signed and stamped by Joseph R. Porter, dated 4/25/2023
- Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor and Marc Besio, engineer, dated 4/25/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to raze the existing single-family dwelling and construct six single-family attached dwellings in three separate structures. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Section 3.2.4 requires a 25-foot side setback but allows for exceptions by special permit if the Council determines that literal compliance is impractical, and an exception would be in the public interest. The petitioner proposes a setback of 23.4 feet from the northern side setback and 16.2 feet from the southern side setback, requiring a special permit.
3. The petitioner proposes to accommodate twelve parking stalls for twelve vehicles on the property; six stalls within one-car garages within each unit and six surface stalls serviced by a single driveway. Per section 5.1.8.A.1 no parking may be located within any required setback distances from a street or side lot lines. One of the surface parking stalls associated with a unit within Building 1 is located within the front setback as well as the northern side setback, requiring a special permit per section 5.1.13.
4. Per section 5.1.8.C the minimum width for a maneuvering aisle for two-way traffic is 24 feet. The petitioner proposes an aisle width of 18 feet, requiring a special permit per section 5.1.13 to waive the minimum width requirement.
5. Section 5.1.9 requires perimeter landscaping and screening for surface parking facilities with more than five stalls. A six-foot stockade fence is proposed along the access driveway but no landscaping, requiring a special permit per section 5.1.13 to waive the requirement.
6. Section 5.1.10.A requires lighting for outdoor parking used at night which maintains a minimum intensity of one-foot candle. The petitioner requires a special permit per section 5.1.13 to waive this requirement.
7. Retaining walls are proposed along the side lot lines, connected by a wall bisecting the lot. The walls along the side lot lines reach a maximum height of four feet along the northern boundary at the intersection of the walls. Per section 5.4.2.B, a special permit is required for a retaining wall of four feet or more within a setback.
8. Per section 6.2.3.B.2, no parking space may be within 20 feet of a boundary line and no driveway may be located within 10 feet of a side or rear lot line, unless by special permit. The surface stall to the west of Building 1 is located within 20 feet of Nevada Street and the northern side lot line, and the driveway runs along the northern side lot line, requiring a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	29,550 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks			
• Front	25 feet	27.6 feet	25.3 feet
• Side	25 feet	10 feet	16.2 feet
• Side	25 feet	28.2 feet	23.4 feet
• Rear	25 feet	180 feet	115.5 feet
Building Height	36 feet	Not provided	35.6 feet
Max Number of Stories	2.5 (3 by SP)	2	2.5
Lot Coverage Max	25%	11.1%	22.8%
Open Space Min	50%	66.4%	56%
Lot Area Per Unit	4,000 square feet	29,550 square feet	4,925 square feet

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To allow reduced side setbacks	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking in the front and side setbacks	S.P. per §7.3.3
§5.1.8.C §5.1.13	To allow a reduced maneuvering aisle width	S.P. per §7.3.3
§5.1.9 §5.1.13	To waive the perimeter screening requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	To waive the lighting requirements	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall of four feet in height within a setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within twenty feet of the front and side lot line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

ATTACHMENT B

CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 280 Nevada Street

Date: September 19, 2023

CC: Lou Taverna, PE City Engineer
Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Alyssa Sandoval Deputy Chief Planner
Michael Gleba, Sr. Planner
Scott Matthews, Committee Clerk

In reference to the above site, I have the following comments for a plan entitled:

TOPOGRAPHIC SITE PLAN NEWTON, MASSACHUSETTS

SHOWING PROPOSED CONDITIONS AT
#280 NEVADA STREET

SCALE: 1in.=10ft. DATE: DATE: APRIL 25, 2023

Prepared by: VTP Associates Inc.

Executive Summary:

The proposed permit entails the demolition of an existing single-family dwelling, a built in pool and ancillary building on a 29,550 square foot [0.67 acre] lot, and the construction of three separate building each with two units. The site has a high point elevation of 55 feet near Nevada Street at the front of the lot and slopes to a low point at elevation 45-feet, towards the rear of the lot. The property has just over 80-feet of frontage on Nevada Street to the southwest, and residential homes along the east & west and commercial property to the

northeast, and a City Drain easement. The existing conditions plan indicates that the abutting contractor has encroached upon this property and stores materials.



Currently access to the site is from two driveway aprons providing a “horseshoe” driveway in the front of the house and a long driveway along the southeast property line.

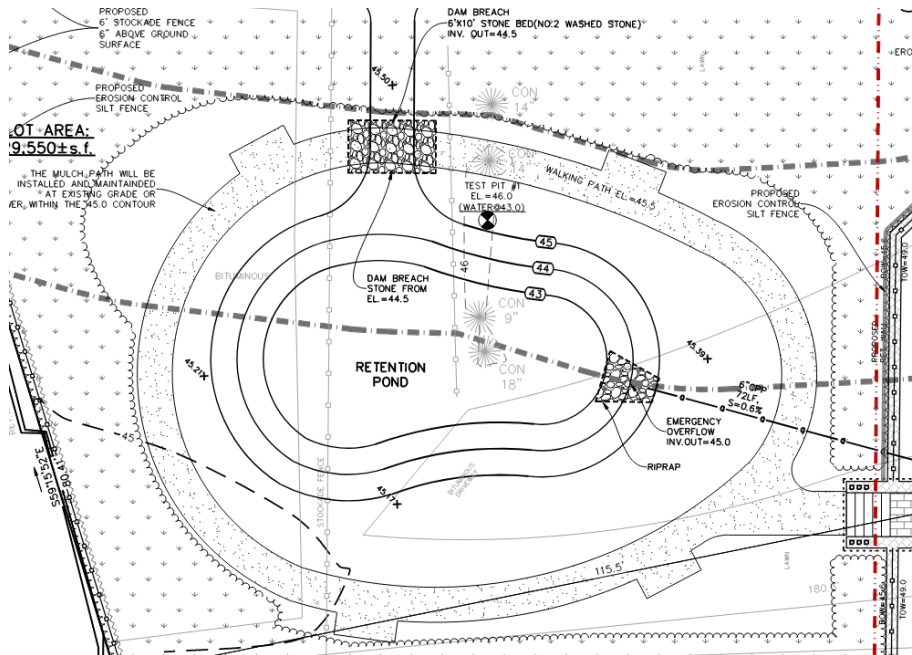




Sep 14, 2023 at 9:52:06 AM
 280 Nevada St
 Newton MA 02460
 United States

Looking towards Nevada St. this driveway will be eliminated.

Currently the site has no stormwater collection system, runoff from the roof and paved surfaces sheet flows towards the rear of the lot to the wooded & grassy area near the low point. The engineer of record has designed a stormwater collection and three infiltration system for the development. A series of catch basins and infiltration units will capture runoff and improve stormwater quality and reduce stormwater runoff. Infiltration system #3 will have an overflow connection to a retention pond. This retention pond is the remnants of *Silver Lake* with an emergency overflow to the wooded area.



The proposed Operations and Maintenance plan is acceptable for the design intent; however, it should be updated to include long-term maintenance of the retention pond. Based on the proposed elevations the maximum depth of water retained in the pond is approximately 1.5-feet.

Access for the six units will be from a new driveway along the northern property line. The driveway will be 18-feet wide total that will include a 4-foot-wide paver walkway. To facilitate the construction of the driveway a retaining wall of varying height is to be built beginning opposite the rear corner of unit one and extending approximately 185 -feet towards the backyard then turns 90-degrees and is 52 feet long, then extend on an angle for approximately 43 -feet, then turns parallel to the property line with (#288 Nevada Street) for length of 171 feet.

New municipal sewer & water services will be extended for the six units, for fire protection a fire hydrant is proposed.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. The Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be updated as recommended and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.

4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website “Standard Construction Details”.
5. For water quality issues a fire hydrant will be required at the end of the proposed water main/service. This hydrant will be utilized for flushing out the main as required.
6. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
7. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

Infiltration & Inflow:

- Will be addressed via a separate memo for the six-units.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City’s Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer’s Inspector has given their approval. *This note shall be incorporated onto the final plans.*

5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023

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 six attached single-family dwellings in three structures, reduced the side setback requirement, grant certain parking facility dimensional, screening and lighting waivers, and allow a retaining wall with a height of four feet and/or more, 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 six attached single-family dwellings in three structures, as designed with a reduced side setback; a parking facility with a parking stall in the front and side setbacks, reduced maneuvering aisle width, waived perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line; and a retaining wall with a height of four feet or more in a setback, given its location in a neighborhood with a mix of residential uses including single- two- and multi- family dwellings, commercial, and public uses. (§7.3.3.C.1)
2. The proposed six attached single-family dwellings in three structures, as designed with a reduced side setback; a parking facility with a parking stall in the front and side setbacks, reduced maneuvering aisle width, waived perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line; and a retaining wall with a height of four feet or more in a setback, will not adversely affect the neighborhood given the mixed use nature of the neighborhood which features several residence types, commercial uses and public facilities. (§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. Granting exceptions to certain requirements provided by §3.2.4 requiring a minimum side setback of 25 feet is appropriate as literal compliance is impractical given the long, narrow shape of the lot. (§3.2.4)
6. Granting exceptions to certain requirements provided by §5.1 pertaining to the location of parking stalls in the front and side setbacks, minimum maneuvering aisle widths,

perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line, is appropriate as literal compliance is impracticable due to the long, narrow shape of the lot and will be in the public interest as it will facilitate the protection of environmental features as the rear of the lot will be improved per requirements of the Conservation Commission, and, as it pertains to the lighting requirements, limit excessive lighting. (§5.1.13)

7. Granting exceptions to certain requirements provided by Sec. 6.2.3.B.2 that do not allow the location of parking within 20 feet of a lot line and/or a driveway within 10 feet of the side lot line, is appropriate as literal compliance is impracticable due to the long narrow shape of the lot and will be in the public interest as it will facilitate the protection of environmental features as the rear of the lot will be improved per requirements of the Conservation Commission. (§6.2.3.B.2)

PETITION NUMBER: #317-23

PETITIONER: 280 Nevada LLC

LOCATION: 280 Nevada Street, Ward 1, Newtonville, on land known as Section 14 Block 08 Lot 12, containing approximately 29,550 sq. ft. of land

OWNER: 280 Nevada LLC

ADDRESS OF OWNER: 238 Hartman Road
Newton, MA 02459

TO BE USED FOR: Six attached single-family dwellings in three structure

RELIEF GRANTED: Special Permit per §7.3.3 to allow attached single-family dwellings (§3.4.1); allow reduced side setbacks (§3.2.4); allow parking in the front and side setbacks (§5.1.8.A.1, §5.1.13); allow a reduced maneuvering aisle width (§5.1.8.C, §5.1.13); waive the perimeter screening requirements (§5.1.9, §5.1.13); waive the lighting requirements (§5.1.10.A, §5.1.13); allow a retaining wall of four feet in height within a setback (§5.4.2.B); allow parking within twenty feet of the front and side lot line and a driveway within 10 feet of the side lot line (§6.2.3.B.2)

ZONING: Multi Residence 1 (MR1) 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. an engineering plan entitled “Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #280 Nevada Street (Sheet 1 of 1),” prepared by VTP Associates, Inc., dated August 7, 2023, signed and stamped by Joseph R. Porter, Registered Professional Land Surveyor
 - b. a set of engineering plans entitled “Newton, Massachusetts, Showing Proposed Conditions at #280 Nevada Street,” prepared by VTP Associates, Inc., dated April 25, 2023, signed and stamped by Joseph R. Porter, Registered Professional Land Surveyor, comprised of the following sheets:
 - i. Topographic Site Plan (Sheet 1 of 3)
 - ii. Details (Sheet 2 of 3)
 - iii. Details (Sheet 3 of 3)
 - c. a set of architectural plans entitled “280 Nevada St, Newton MA,” prepared by Sangiolo Associates, Architects, dated June 66, 2023, revised through June 28, 2023, 2023, comprised of the following sheets:
 - i. Floor Plans (A2)
 - ii. Floor Plans (A3)
 - iii. Elevations (A4)
 - iv. Elevations (A5)
 - v. Landscape Plan (L2)
 - vi. Landscape Plan & Plant List (L3)
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. The Petitioner shall implement the following measures to mitigate and reduce significant **vibration** impacts caused by construction equipment:
 - a. Prior to the issuance of a demolition or building permit for any demolition, site work, or construction activities that require (i) the driving of piles or piers, (ii) the removal or alteration of ledge, or (iii) soil reinforcement or compaction by vibratory roller, other than compaction of soil for decks, patios, landscaping work, sidewalks, driveways, retaining walls or accessory buildings under 700 square feet,

the Petitioner shall submit the following to the Commissioner of Inspectional Services:

- b. A vibration control plan signed and stamped by a licensed and insured geotechnical consultant that determines the scope of preconstruction surveys needed; the basis for that determination; and the recommended vibration level limits and monitoring services to be provided for the duration of the construction activity.
- c. Proof of notice to all properties within such scope that a preconstruction survey was offered at no cost to the property owner.
- d. A list of all properties that were surveyed.
- e. Any other plans or specifications as the Commissioner of Inspectional Services may require, including but not limited to revisions to the submitted vibration control plan.
- f. As an alternative to the required vibration control plan and other required submissions set forth in Sec. 5-23(a) above, the Petitioner may submit a signed and stamped letter from a licensed and insured geotechnical consultant stating that a vibration control plan and monitoring are not necessary based on the scope of the work, site conditions or construction methods. Such letter must detail the basis of the opinion that no vibration control plan, monitoring or controls are necessary. No additional submissions will be required unless the Commissioner of Inspectional Services or their designee determines that compliance with Sec. 5-23(a) is necessary due to the nature of site or the proposed work.
- g. The submitted vibration control plan shall be implemented and adhered to during all relevant construction activity. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
- h. Following construction and prior to the issuance of a certificate of occupancy, all properties subject to a preconstruction survey shall, subject to owner approval, be reinspected to determine any damages caused by vibration.

In the event the City subsequently adopts an Ordinance that governs the vibration impacts of construction and such ordinance is applicable to this Project and in effect prior to the issuance of a building permit, that Ordinance in its entirety shall apply to this special permit in place of this condition.

6. The petitioner shall make payments in the aggregate amount of \$28,607 (representing 25% of the calculated \$114,428 Inflow & Infiltration fee) to the City for infrastructure improvements for inflow and infiltration (I&I). Payments shall be made as follows:
 - a. \$57,214.00 at the first building permit for the vertical construction of the Project; and,

- b. \$57,214.00 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.
7. The petitioner shall pay to the City of Newton the sum of \$85,821 (representing 75% of the calculated \$114,428 Inflow & Infiltration fee) for various mitigation purposes:
- a. \$42,910.50 at the first building permit for the vertical construction of the Project and,
 - b. \$42,910.50 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.

Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.

8. 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. 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.
9. 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.
 - c. 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.
 - d. 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.

10. Provided that all other requirements in Condition #9 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may in their discretion, issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).