



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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: December 1, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Joseph Iadonisi, Planning Associate

SUBJECT: **Petition #367-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition of third-story living space over the existing footprint at **146 Oliver Rd.**, Ward 5, Waban, on land known as Section 54 Block 01 Lot 16, containing approximately 8,878 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec. 3.1.3, 7.3.3, 7.8.2.C.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.



146 Oliver Road

Project Description

Background

The subject property at 146 Oliver Road consists of an 8,878 square foot lot improved with a nonconforming three-story single-family dwelling constructed in 1927. The property is zoned Single Residence 2 (SR2) and abutted on all sides by properties zoned SR2 with single-family dwellings.

Special Permit

Given the average grade, the basement of the dwelling is considered the first story, making this dwelling as currently constructed a nonconforming three-story dwelling. The petitioner proposes an addition above the second story that would extend the third story by adding 209 square feet of additional floor area. The proposed addition would further extend the nonconforming third story, requiring a special permit. There are no proposed changes to the footprint of the building, meaning no changes to setbacks, lot coverage, or open space will occur.

Analysis

Planning is unconcerned with the proposed alteration and extension of the nonconforming three-story residential use. Due to the grade of the site, the basement counts as the first story. As the proposal adds living area to the third-story, this addition extends the nonconformity. Planning believes the addition that extends the nonconformity is modest as it is within the footprint of the structure and does not increase the overall height or footprint of the building. Given the existing setbacks, orientation of the building with regards to the street and abutting properties, open space, and lot coverage will not change, the addition of some living space to the third-story will not cause any adverse effects on abutting parcels.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming 3-story single-family dwelling	S.P. per §7.3.3

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

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site in SR-2 is an appropriate location for the addition that will extend the nonconforming third-story (§7.3.3.C.1).
- The proposed addition that will extend the nonconforming third-story use will not adversely affect the neighborhood (§7.3.3.C.2).

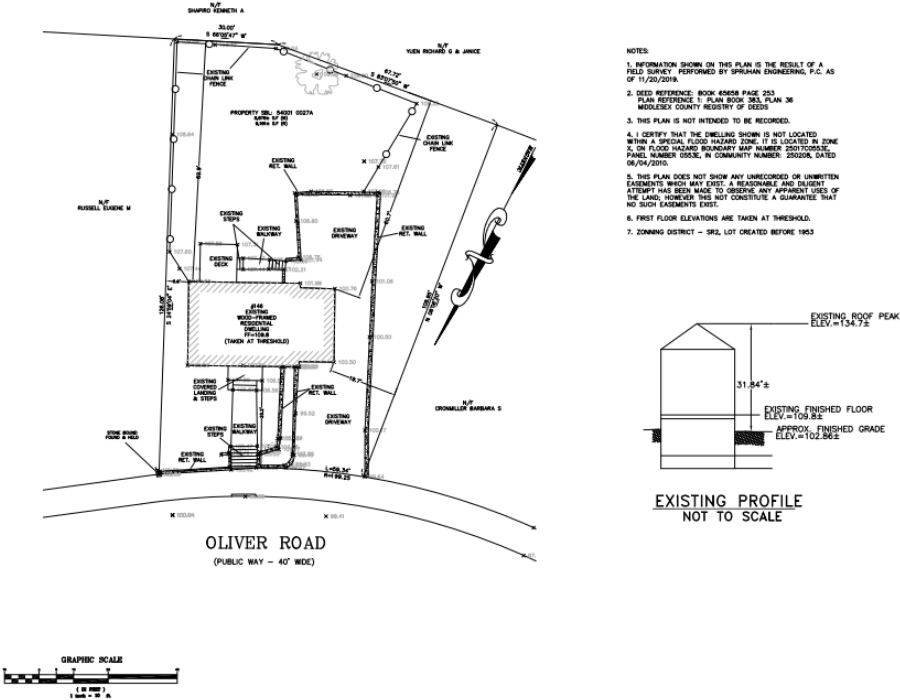
- The proposed addition that will extend the nonconforming third-story will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).
- The proposed extension of the nonconforming third-story will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood (§3.4.1, §7.8.2.C.2).

III. Project Proposal and Site Characteristics

A. Site - Existing Conditions

The property at 146 Oliver Rd. consists of a single-family dwelling constructed in 1927 on a 8,878 square foot lot. The dwelling has a basement that is considered the first story given the average grade is lower than the midpoint of the basement. With two stories above the basement, this dwelling is a nonconforming three-story dwelling. The existing dwelling is compliant with all other dimensional standards of the SR2 zone.

Existing Conditions



PROJECT DESCRIPTION AND ANALYSIS

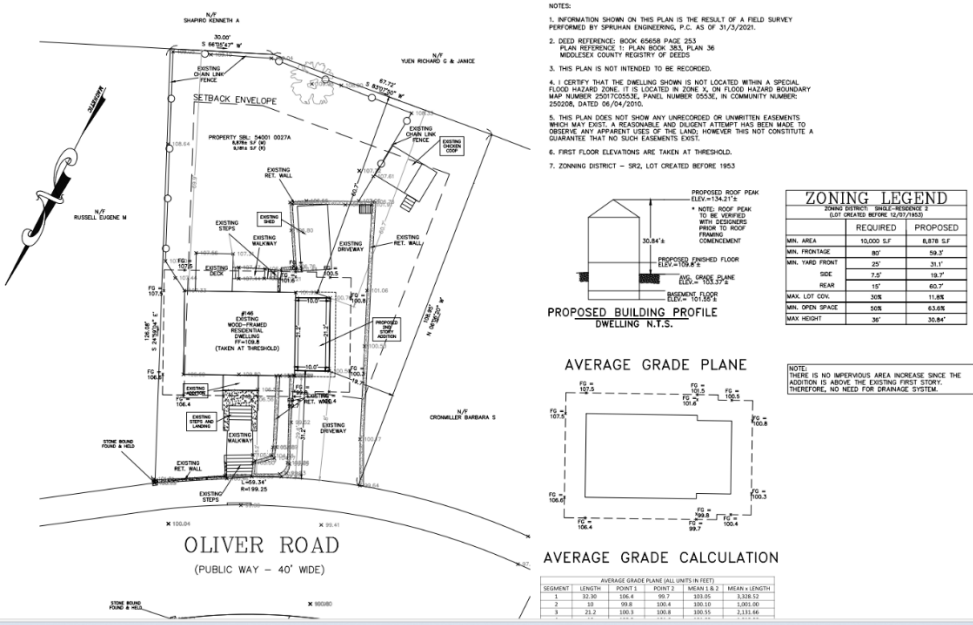
A. Land Use

If approved, the use will remain a single-family dwelling.

B. Site and Building Design

The petitioner proposes to add 209 square feet of living space to the third story on the western side of the building. This would further the nonconforming third-story, requiring a special permit. As proposed, this work would be limited to the existing footprint of the dwelling with no extension of the footprint. The current setbacks, building height, lot coverage, open space, and number of stories will remain the same as they are under existing conditions. The floor area ratio (FAR) would increase from 0.31 to 0.33, remaining under the maximum allowable FAR of .40.

Proposed Site Plan



Existing Front Elevation



Existing Front Elevation



C. Parking and Circulation

No changes are proposed in this petition that will impact parking and circulation on the site.

IV. Interdepartmental Review:

No additional reviews are required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** 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: November 6, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Susan Harvey, Applicant
Jason Kurtz, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to further extend a nonconforming 3-story single-family dwelling

Applicant: Susan Harvey	
Site: 146 Oliver Road	SBL: 54001 0016
Zoning: SR2	Lot Area: 8,878 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 146 Oliver Road consists of an 8,878 square foot lot improved with a single-family dwelling constructed circa 1927 in the SR2 zoning district. The petitioners propose to construct an addition over existing second-story living space within the footprint, extending the nonconforming third story, requiring a special permit.

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

- Zoning Review Application, prepared by Jason Kurtz, architect, submitted 10/19/2023
- Proposed Plot Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 9/20/2023
- Floor Plans and Elevations, signed and stamped by Jason Kurtz, architect, dated 8/1/2022
- FAR calculations, submitted 10/19/2023

ADMINISTRATIVE DETERMINATIONS:

- Per section 3.1.3, a single-family dwelling may have up to 2.5 stories by right and up to three by special permit. The single-family dwelling is nonconforming with three stories, as the basement level is considered the first story due to the average grade. The petitioner proposes to construct a one-story addition over existing second story living space, further extending the nonconforming third story, requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	8,878 square feet	No change
Frontage	100 feet	59 feet	No change
Setbacks			
• Front	25 feet	25 feet	No change
• Side	7.5 feet	±7.5 feet	No change
• Side	7.5 feet	19.7 feet	No change
• Rear	15 feet	60.7 feet	No change
Height	36 feet	30.8 feet	No change
Stories	2.5/ 3 by SP	3	No change*
FAR	.40	.31	.33
Max Lot Coverage	30%	11.8%	No change
Min. Open Space	50%	63.6%	No change

BOLD indicates a nonconformity

*Relief required

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming 3-story single-family dwelling	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 allow the alteration and extension of the nonconforming two-family residential use as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed extension of the nonconforming 3-story dwelling will not be substantially more detrimental than the existing nonconforming residential structure is to the neighborhood. The addition is located at the rear of the building, does not add to the existing footprint, does not change the use, and proposes only 209 square feet (§3.4.1, §7.8.2.C.2).

PETITION NUMBER: #367-23

PETITIONER: Susan Harvey

LOCATION: 146 Oliver Rd., on land known as Section 54 Block 01 Lot 16, containing approximately 8,878 sq. ft. of land

OWNER: Susan Harvey and Levy Rowell

ADDRESS OF OWNER: 146 Oliver Rd.
Newton, MA 02468

TO BE USED FOR: Single family dwelling

RELIEF GRANTED: Special Permit per §3.1.3, §7.8.2.C.2 and §7.3.3 to extend a nonconforming 3-story single-family dwelling

ZONING: Single Residence 2

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, signed and stamped by Christopher Charlton, professional land surveyor, dated September 20, 2023
 - b. A set of architectural drawings prepared by Kurtz Design Studio LLC, signed and stamped by Jason Kurtz, registered architect, dated July 12, 2023:
 - i. Front Façade Proposed
 - ii. Side Façade Proposed
 - iii. Rear Facade
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 including all dimensional requirements.
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 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.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.