



**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

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**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 #** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition of third-story living space over the existing footprint at 255 Jackson St., Ward 6, Newton Centre, on land known as Section 62 Block 24 Lot 24, containing approximately 14,368 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. 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.

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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.



**255 Jackson St.**

## **Project Description**

### **Background**

The subject property at 255 Jackson St. is located on a 14,368 square foot lot. The single-family dwelling on the property is a 1,860 square foot three-story building constructed in 1937. The property is zoned Single Residence 3 (SR3) and abutted on all sides by properties zoned SR3 with single-family dwellings.

### **Special Permit**

The petitioner proposes to eliminate an existing deck and construct an attached garage addition with two floors of living space above to the rear of the building. Given the average grade, the basement of the dwelling is considered the first story, making this dwelling a nonconforming 3.5-story dwelling. The proposed addition would further extend that nonconformity, requiring a special permit. The extension to the rear would decrease the rear setback and open space while increasing the height in feet, floor area ratio (FAR), and lot coverage but these dimensions will remain within allowed standards for SR3 and will not require a special permit beyond the special permit required for extending the non-conforming 3.5-story height.

### **Analysis**

Planning is unconcerned with the proposed alteration and extension of the nonconforming 3.5-story residential use. This dwelling is considered a 3.5-story dwelling due to the grade of the site exposing the basement thus rendering the basement as the first story. As the proposal will extend the nonconforming 3.5 stories to the rear, this addition would extend the nonconformity. The addition would also increase the measured height of the dwelling (due to the average grade being lowered), the floor area ratio (FAR), and lot coverage while decreasing the rear setback and open space, but each of these dimensions will remain within the allowed standards for SR3. As the addition will be to the rear of the building it will not be visible from the street and is designed to be subordinate to the existing dwelling. The dwelling with the proposed addition is consistent with the character of the neighborhood and will not adversely impact the neighborhood.

#### **I. Zoning Relief Requested:**

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming 3.5-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-3 is an appropriate location for the addition that will extend the nonconforming 3.5-story dwelling (§7.3.3.C.1).
- The proposed addition that will extend the nonconforming 3.5-story dwelling will not adversely affect the neighborhood (§7.3.3.C.2).
- The proposed addition that will extend the nonconforming 3.5-story dwelling 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 3.5-story dwelling 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 255 Jackson St. is consists of a single-family dwelling constructed in 1937 on a 14,783 square foot long, narrow lot. Due to the average grade being lower than the midpoint of the basement, the basement is considered the first story, resulting in a nonconforming 3.5 story dwelling, where 2.5 stories is the maximum allowed as of right. The existing dwelling complies with all other standards of the SR3 zone, including floor area ratio, setbacks, open space, lot coverage and height.

PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

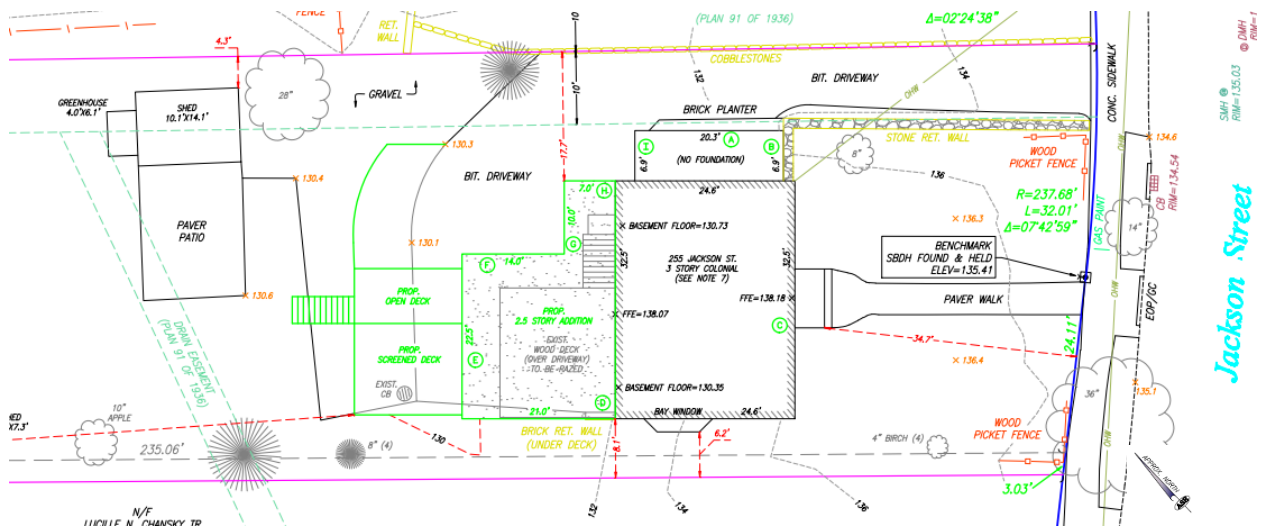
If approved, the use will remain a single-family dwelling.

B. Site and Building Design

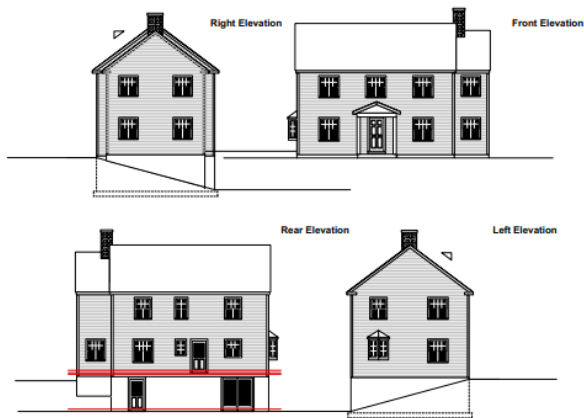
The petitioner is proposing to eliminate an existing deck at the rear of the dwelling and construct an attached garage addition in its place with living space above. The petitioner proposes to add 838 square feet of living space to the second and third stories above the attached garage. This would further extend the nonconforming 3.5-story dwelling, requiring a special permit. If approved, the floor area ratio (FAR) will increase from 0.20 to 0.30, remaining under the maximum allowable FAR for SR3 of 0.38. With the addition, the site's lot coverage will increase from 9% to 14%, well under

the 30% maximum allowed. The open space will decrease from 79% to 77%, under the 50% minimum allowed for SR3. The rear setback would decrease from 156.7 feet to 136.8 feet, well exceeding the minimum of 15 feet. While the measured height of the dwelling is increasing due to the average grade being lowered, the peak of the roof is not increasing in height and at 31.3 feet, is still below the 36-foot maximum height.

Proposed Site Plan



Existing Front, Rear, and Side Elevations



Proposed Front, Rear, and Side Elevations



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**  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: October 10, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Mary Beth Johnson, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to further extend a nonconforming 3.5 story single-family dwelling**

Applicant: Mary Beth Johnson	
Site: 255 Jackson Street	SBL: 62024 0024
Zoning: SR3	Lot Area: 14,368 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 255 Jackson Street consists of a 14,368 square foot lot improved with a single-family dwelling constructed in 1936 in the SR3 zoning district. The petitioners propose to construct a rear addition consisting of an attached garage with two stories of living space above. The proposed addition further extends the nonconforming 3.5-story structure, requiring a special permit.

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

- Zoning Review Application, prepared by Mary Beth Johnson, applicant, submitted 9/11/2023
- Existing Conditions Plan of Land, signed and stamped by Elliott J Paturzo, surveyor, dated 4/11/2023
- Floor Plans and Elevations, prepared by Michael Hally Design, Inc, architect, dated 8/17/2023
- FAR calculations, submitted 9/11/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. 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 3.5 stories, as the basement level is considered the first story due to the topography of the site and its average grade. The petitioner proposes to construct a rear garage addition with two stories of living space above, further extending the nonconforming number of stories, requiring a special permit per section 7.8.2.C.2.
2. The proposed rear addition does not extend to the roof peak, however the overall height of the structure increases as the proposed average grade is lower than the existing, therefore increasing the measured distance between the average grade and peak of the roof. Where the height of a structure is measured from the average grade, a reduction in the average grade results in increased height. The proposed height is still below the 36 feet allowed as of right.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	14,368 square feet	No change
Frontage	70 feet	<b>59 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	34.7 feet	No change
• Side	7.5 feet	8.1 feet	No change
• Side	7.5 feet	17.7 feet	No change
• Rear	15 feet	156.7 feet	136.8 feet
Height	36 feet	30.5 feet	31.3 feet
Stories	2.5	<b>3.5</b>	<b>No change*</b>
FAR	.38	.20	.30
Max Lot Coverage	30%	9%	14%
Min. Open Space	50%	79%	77%

**BOLD** indicates a nonconformity

\*Relief required

1. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming 3.5-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 3.5-story dwelling will not be substantially more detrimental than the existing nonconforming residential structure is to the neighborhood because the addition which extends the nonconformity is replacing an existing deck, is to the rear of the dwelling, and will be minimally visible from the street (§3.4.1, §7.8.2.C.2).



PETITION NUMBER: #366-23

PETITIONER: Mary Beth Johnson

LOCATION: 255 Jackson Street, Ward 6, Newton Centre, on land known as Section 62 Block 24 Lot 24, containing approximately 14,368 sq. ft. of land

OWNER: Andrew Netburn and Mary Beth Johnson

ADDRESS OF OWNER: 255 Jackson St.  
Newton, MA 02459

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 3.5-story single-family dwelling

ZONING: Single Residence 3

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 Elliot J. Paturzo on 9/11/23, professional land surveyor, plan dated April 11, 2023
  - b. A set of architectural drawings prepared by Michael Hally Design, Inc., unsigned and unstamped, dated August 17, 2023:
    - i. Exterior Elevations (Sheet A-2)
    - ii. Basement Plan & Sections (Sheet A-3)
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.