



Petition: #392-23

Public Hearing:

12/12/23

## City of Newton, Massachusetts

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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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### PUBLIC HEARING MEMORANDUM

DATE: December 8, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Alyssa Sandoval, Deputy Chief Planner for Current Planning

SUBJECT: **Petition #392-23** for SPECIAL PERMIT/SITE PLAN APPROVAL further extend a nonconforming side setback, and to allow a dormer greater than 50% of the wall next below, within three feet of the end wall and with an uninterrupted wall plane at **66 Allison Street**, Ward 7, Newton Centre, on land known as Section 73 Block 50 Lot 05, containing approximately 5,408 sq. ft. of land in a district zoned Multi Residence 2. Ref: Sec. 7.3.3, 6.7.1.E.5 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.



**66 Allison Street**

**Project Description**

**Background**

The subject property at 66 Allison Street consists of a 5,408 square foot lot in a Multi Residence 2 (MR2) zoning district between California Street to the north and Los Angeles Street to south in Newton Centre. The parcel is improved with a two and a half story, two-family dwelling constructed circa 1905. The site and much of the area to the south is zoned MR2, while California Street one block to the north is zoned Business Use 1 (BU1).

**Special Permit**

The petitioner is seeking relief to allow for two dormer additions to the attic level of the two-family residence that require several dimensional waivers. One dormer addition on the northeast side of the home (front of the house) requires relief to be closer than three feet of the intersection of the roof and main building end wall. The proposed southwest dormer (rear of the house) requires relief to for its size and placement and to vertically extend a nonconforming side setback of 5.6 feet where 7.5 feet are required. A special permit per section 7.8.2.C.2 is required to vertically extend the nonconforming side setback with the proposed dormer.

**Analysis**

Planning is not concerned with the special permit relief to allow the proposed dormers as they will not extend the building footprint and are still within the allowable floor area ratio (FAR) for the MR2 zoning district. The FAR would increase from .53 to .57 but is still below the maximum FAR of .58 for the MR2 district. Likewise, the lot meets minimum open space and maximum lot coverage requirements. The vertical extension of the non-conforming side setback is to the rear of the house and should not impact views from the street.

I. ZONING RELIEF REQUESTED:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §7.8.2.C.2	To further extend (vertically) a nonconforming side setback	S.P. per §7.3.3
§1.5.4.G.2.a §1.5.4.G.2	To allow a dormer with an uninterrupted wall plane extending beyond two stories	S.P. per §7.3.3
§1.5.4.G.2.b §1.5.4.G.2	To allow a dormer greater than 50% of the length of the exterior wall of the story next below	S.P. per §7.3.3
§1.5.4.G.2.c §1.5.4.G.2	To allow a dormer within three feet of the intersection of the roof and main building end wall	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:

- The specific site is an appropriate location for two dormers as designed. (§7.3.3.1)
- The proposed dormers as designed will not adversely affect the neighborhood. (§7.3.3.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)
- The vertical extension of the nonconforming side setback is not substantially more detrimental than the existing nonconforming side setback is to the neighborhood. (§7.8.2.C.2)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property at 66 Allison Street consists of a 5,408 square foot lot in a Multi Residence 2 (MR2) zoning district between California Street to the north and Los Angeles Street to south in Newton Centre. The parcel is relatively flat and improved with a two and a half story, two-family dwelling constructed circa 1905. The site and much of the area to the south is zoned MR2, while California Street one block to the north is zoned Business Use 1 (BU1).

The principal building (two-family dwelling) has several nonconformities including a nonconforming front setback of 6.1 feet where 25 feet are required, and a nonconforming side setback of 1.6 feet where 7.5 feet are required. The lot is also slightly undersized at 4,713 square feet where 7,000 are required. The lot meets all other FAR, lot coverage, and the rear and side setback requirements. The property features a larger than average backyard with a setback of 40.8 feet where 15 feet are required.

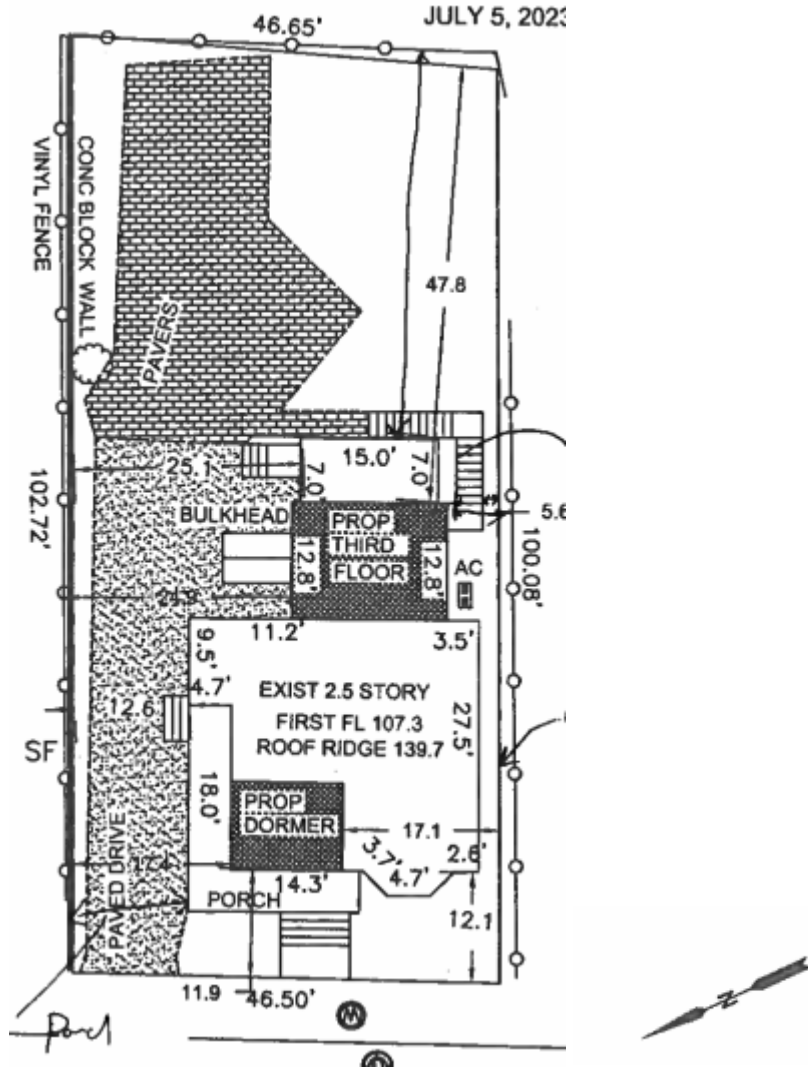
IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

If approved, the use of the site would remain as a two-family dwelling.

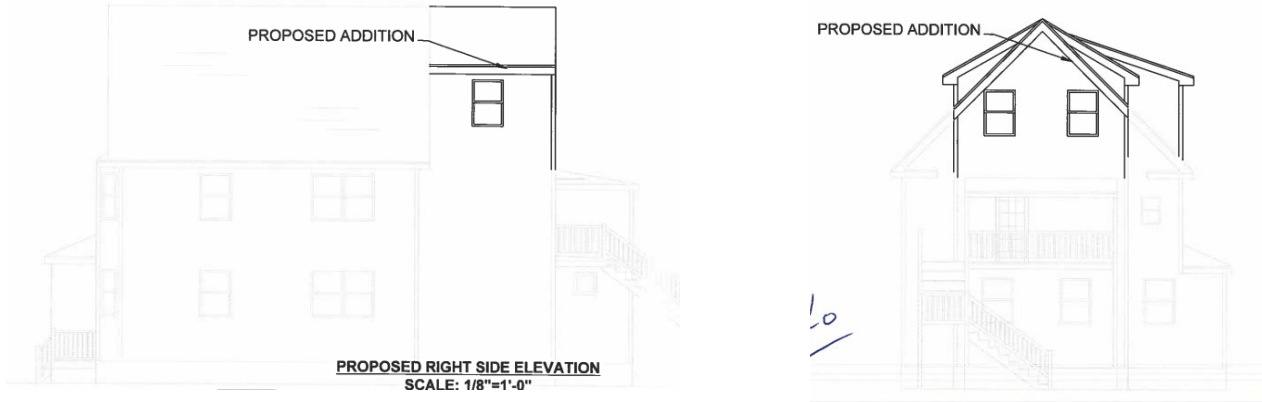
B. Site and Building Design

**Proposed Site Plan**

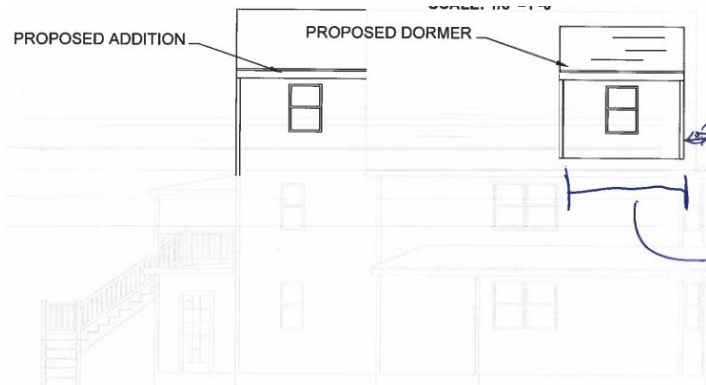


The petitioners are not proposing any changes to the site layout and the proposed dormer and third story additions to the front and rear of the property are within the existing building footprint.

### Proposed Third Story Right Side and Rear Elevations



### Proposed Dormer and Third Story Addition Left Side Elevation



One dormer addition on the northeast side of the home (front of the house) requires relief to be closer than three feet of the intersection of the roof and main building end wall. The proposed southwest dormer (rear of the house) requires relief to be oversized, and to vertically extend a nonconforming side setback of 5.6 feet where 7.5 feet are required.

Planning is not concerned with the special permit relief to allow the proposed oversized dormers as they will not extend the building footprint and are still within the allowable FAR for the MR2 zoning district. The dormer additions would only add a minimal amount of floor area (approximately 200 square feet) to the attic level. The FAR would increase from .53 to .57 but is still within the maximum FAR of .58 for the MR2 district. Likewise, the lot meets minimum open space and maximum lot coverage requirements. Planning notes the lot has a larger than average backyard area which helps to reduce visual obstructions for neighbors. The existing rear yard setback is 40.8 feet, where 15 feet is required.

C. Parking and Circulation

No changes are proposed to the parking or circulation.

D. Landscaping

A landscape plan was not provided with this petition.

V. INTERDEPARTMENTAL REVIEW:

No interdepartmental review is required at this time.

VI. 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

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Barney S. Heath  
Director

ZONING REVIEW MEMORANDUM

Date: December 7, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Carl Dumas, Contractor  
Robert Davis, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to further extend a nonconforming side setback, and to allow a dormer greater than 50% of the wall next below, within three feet of the end wall and with an uninterrupted wall plane

Applicant: Robert Davis	
Site: 66 Allison Street	SBL: 11011 0004
Zoning: MR2	Lot Area: 4,713 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 66 Allison Street consists of a 4,713 square foot lot improved with a two-family dwelling constructed circa 1905. The petitioners propose to construct dormer additions to the attic level of the dwelling. The proposed additions will vertically extend a nonconforming side setback and exceed by-right dormer dimensions, requiring a special permit.

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

- Zoning Review Application, prepared by Carl Dumas, Contractor, submitted 10/24/2023
- Proposed Site Plan, signed and stamped by Robert Alan Masys, engineer, dated 9/29/2023
- Plans and elevations, prepared by Kneeland Construction Corporation, dated 4/7/2023
- FAR calculation, signed and stamped by Robert Alan Masys, engineer, dated 10/19/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to enlarge an existing dormer on the northeast side of the dwelling and construct a new dormer on the southwest side. The proposed southwest dormer vertically extends the existing nonconforming side setback of 5.6 feet, where 7.5 feet is required per section 3.2.3. A special permit per section 7.8.2.C.2 is required to vertically extend the nonconforming side setback with the proposed dormer.

The proposed addition is not subject to the de minimis provisions of section 7.8.2.B, as the resulting distance between the proposed construction and the residence at that side is 10.6 feet, where a minimum of 15 feet (the sum of the required setbacks) is required.

2. Per section 1.5.4.G.2.a, the roof line overhang between a dormer and the story next below must be continued to avoid the appearance of an uninterrupted wall plane extending beyond two stories. The proposed southwest dormer has a continuous uninterrupted wall plane from the second story, requiring a special permit per section 1.5.4.G.2.

3. Per section 1.5.4.G.2.b, a dormer may be no wider than 50% of the length of the exterior wall of the story next below. The southwest dormer is 100% of the wall of the story next below, as there is a jog in the plane. A special permit per section 1.5.4.G.2 is required.

4. Per section 1.5.4.G.2.c, the vertical plane of the side wall of any dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. The northeast dormer is one foot from the end wall and the southwest dormer is 0 feet. A special permit per section 1.5.4.G.2 is required to allow dormers within three feet of the intersection of the roof and main building end wall.

MR2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>4,713 square feet</b>	<b>No change</b>
Frontage	70 feet	<b>46.5 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	<b>6.1 feet</b>	No change
• Side	7.5 feet	12.6 feet	No change
• Side	7.5 feet	<b>5.6 feet</b>	<b>No change*</b>
• Rear	15 feet	40.8 feet	No change
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	35 feet	No change
FAR	.58	.53	.57
Max Lot Coverage	30%	23.9%	No change
Min. Open Space	50%	59.8%	No change

\*Requires relief



1. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
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§1.5.4.G.2.c §1.5.4.G.2	To allow a dormer within three feet of the intersection of the roof and main building end wall	S.P. per §7.3.3

CITY OF NEWTONIN 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 further extend a nonconforming side setback, and to allow a dormer greater than 50% of the wall next below, within three feet of the end wall and with an uninterrupted wall plane, 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 two dormers as designed as the dormer additions are small in scale, will not increase FAR, or visually impact the neighborhood. (§7.3.3.1)
2. The proposed dormers as designed will not adversely affect the neighborhood as the lot still has adequate open space and is similar in size to other multi-family homes in the neighborhood. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)
5. The vertical extension of the nonconforming side setback is not substantially more detrimental than the existing nonconforming side setback is to the neighborhood because the vertical extension by adding dormers maintains the footprint of the structure and does not exacerbate the nonconformity. (§7.8.2.C.2)

PETITION NUMBER: #392-23

PETITIONER: Robert and Emily Davis

LOCATION: 66 Allison Street, on land known as Section 73 Block 50 Lot 05, containing approximately 5,408 sq. ft. of land

OWNER: Robert and Emily Davis

ADDRESS OF OWNER: 66 Allison Street  
Newton, MA 02458

TO BE USED FOR: Two-family dwelling

RELIEF GRANTED: Special permit per §7.3.3 to:

- further extend (vertically) a nonconforming side (§3.2.3, §7.8.2.C.2)
- allow a dormer with an uninterrupted wall plane extending beyond two stories (§1.5.4.G.2.a; §1.5.4.G.2)
- allow a dormer greater than 50% of the length of the exterior wall of the story next below (§1.5.4.G.2.b, §1.5.4.G.2)
- allow a dormer within three feet of the intersection of the roof and main building end wall (§1.5.4.G.2.c, §1.5.4.G.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 the following plans:
  - a. A site plan entitled “Proposed Additions 66 Allison Street Newton MA,” prepared by signed and stamped by Frank Iebba, Land Surveyor, last updated July 5, 2023.
  - b. Architectural plan entitled “Davis Residence” Right Side, Left Side and Rear Elevations, prepared by Kneeland Construction, dated April 7, 2023, Sheet A-02.
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 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.