



Ruthanne Fuller  
Mayor

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

Petition: #69-24  
Public Hearing:  
01/23/24

Barney Heath  
Director

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## PUBLIC HEARING MEMORANDUM

DATE: January 19, 2024

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Cat Kemmett, Senior Planner

SUBJECT: **Petition #69-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL Request to allow a parking stall within five feet of the street and to waive parking stall depth at 113 Edinboro Street

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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.



**113 Edinboro Street**

I. Project Description

**Use:** Single family dwelling

**Zoning:** Multi-Residence 1 (MR-1)

**Lot size:** 3,250 square feet

**Existing Nonconformities:**

- Lot size of 3,250 square feet where 8,000 square feet is required
- Frontage of 25 feet where 70 feet is required
- Front setback of 16 feet where 25 feet is required
- Side setback of 3.7 feet where 7.5 feet is required

**Proposal:** The petitioner proposes to construct a parking stall in front of the dwelling, within five feet of the street and with a length of 15 feet where 19 feet is required. Relief is required to allow an undersized parking stall and to locate parking within five feet of the street.

**Analysis:** While recognizing that there appears to be limited options to provide off-street parking on this property, the Planning Department has concerns with proposed parking stall. The shallow length of the stall combined with the close proximity to the street pose a potential hazard to pedestrians.

II. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§5.1.7.A	To allow parking within five feet of a street	S.P. per §7.3.3
§5.1.8.B.2	To waive minimum stall depth	S.P. per §7.3.3

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

III. Criteria for Consideration per §7.8.2.C.2:

- The site is an appropriate location for the proposed parking stall (7.3.3.C.1)
- The proposed parking stall will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed parking stall 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)
- Literal compliance with the city’s parking regulations which require a stall depth of 19 feet and that no parking stalls be located within five feet of a street 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)

#### IV. Project Proposal and Site Characteristics

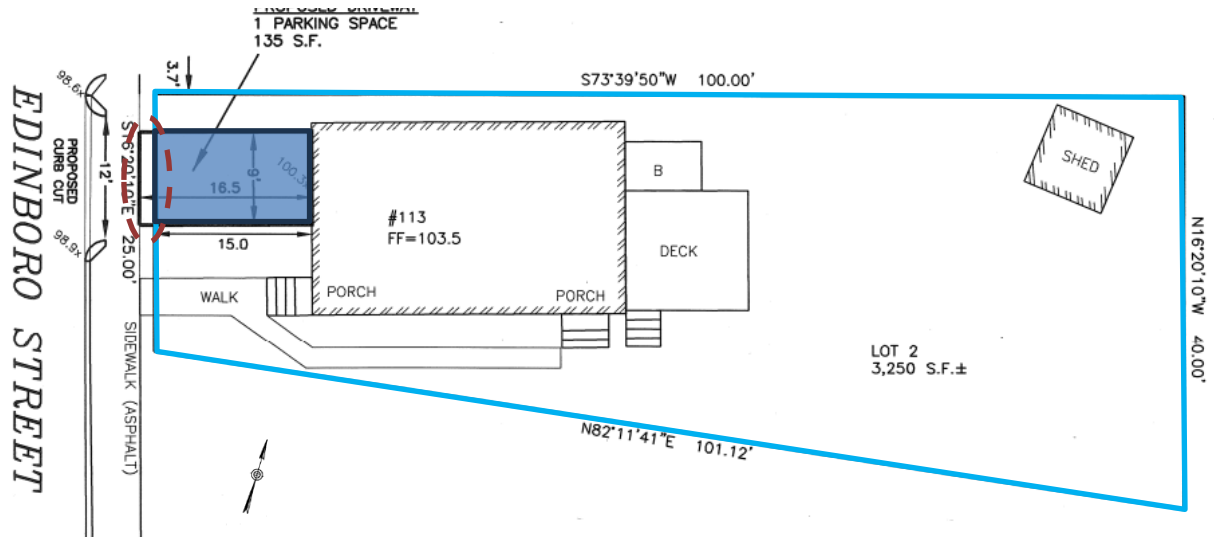
##### A. Site

The 3,250 square foot lot is generally flat and is improved with a single-family dwelling constructed circa 1870 with a nonconforming front setback of 16 feet. There is currently no parking or driveway on the site. The lot has 25 feet of frontage and the width of the lot widens toward the back to 40 feet. Due to the tight configuration of the dwelling on the lot, neither side setback is wide enough for a driveway that would allow for rear access for a parking area in the wider rear of the lot.

##### B. Proposed design

The petitioner proposes to create an undersized parking stall in front of the dwelling within five feet of the street. This parking stall would have access from a new 12-foot-wide curb cut on Edinboro Street. As proposed, the stall will measure nine feet wide by 15 feet long, four feet shorter than the 19-foot length required, and will add 135 square feet of paving. The Planning Department notes that the latest site plan submitted by the petitioner appears to be inaccurate, as it shows a stall with 16.5 feet in length when the front setback of the dwelling is only 16 feet. This results in the additional 1.5 feet of length of the stall located off the petitioner's property and onto city property, which creates a violation at the very least, but Planning will consult with the Law Department about this aspect of the proposal. Due to this, for the purposes of this memo, staff will be using the initially submitted plan showing a 15-foot-long parking stall entirely on the petitioner's property.

Most Recent Site Plan



C. Analysis

The Planning Department acknowledges the challenge the petitioner has with locating parking on this site, as there appear to be few viable options on the property for providing off-street parking. Nevertheless, the Department is unable to recommend approval for the project as proposed. A parking stall that is 15 feet long may provide sufficient space for a range of small to mid-size vehicles. But with a substandard stall size and no buffer room between the parking stall and the sidewalk, staff are concerned about the potential for vehicles parked in this stall to impede into the sidewalk and the public way, creating a safety hazard for pedestrians and other vehicles. The curb cut will also remove the availability of on street parking by removing curb space for vehicles. Other properties in the neighborhood have driveways that extend further into the site, as such, this would be the only property on the street with this parking configuration in front of the dwelling. Planning has included a draft order that is ambiguous as to approval or denial for when the time is appropriate and depending on the direction of the Committee.

V. Interdepartmental Review

No further reviews are required at this time.

VI. Petitioner's Responsibilities

The petition is complete.

**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

Attachment A

(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Barney Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: December 20, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Terrence Morris, Attorney  
William Swartz, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: **Request to allow a parking stall within five feet of the street and to waive parking stall depth**

Applicant: William Swartz	
Site: 113 Edinboro Street	SBL: 21023 0004
Zoning: MR1	Lot Area: 3,250 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 113 Edinboro Street is located in the MR1 district and is improved with a single-family dwelling constructed circa 1870. The 3,250 square foot lot has only 25 feet of frontage, widening at the back to 40 feet. The applicant is seeking a special permit to allow for the creation of a parking stall in front of the dwelling, within five feet of the street and lacking the required depth. A special permit is required to allow an undersized parking stall and to allow its location within five feet of the street.

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

- Zoning Review Application, prepared by Terrence P Morris, attorney, dated 10/2/2016
- Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 11/13/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. Section 5.7.1.A allows one parking stall within the front setback but prohibits parking within five feet of the street without a special permit. The lot has 25 feet of frontage and widens toward the back to 40 feet. The existing single family dwelling is set back 16 feet from the street and is approximately 17 feet wide, leaving 3.7 feet on one side, and approximately five feet on the other side, neither of which is wide enough to allow passage of a vehicle to a potential parking area behind the house. The applicant requests a special permit to allow for a parking stall in front of the dwelling within five feet of the street, per Section 5.7.1.A.
2. The dwelling has an existing front setback of 16 feet. The applicant proposes one parking stall in front of the dwelling measuring 9 feet wide by 15 feet deep, where a 19 foot depth is required per Section 5.1.8.B.2. A special permit is required to allow a parking stall with a 15 foot depth.

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	8,000 square feet	<b>3,250 square feet</b>	<b>No change</b>
Frontage	70 feet	<b>25 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	<b>16 feet</b>	<b>No change</b>
• Side	7.5 feet	<b>3.7 feet</b>	<b>No change</b>
• Rear	15 feet	40 feet	No change
Stories	2.5	2.5	No change
Max Lot Coverage	30%	20%	No change
Min Open Space	50%	76%	72%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§5.1.7.A	To allow parking within five feet of a street	S.P. per §7.3.3
§5.1.8.B.2	To waive minimum stall depth	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 OR DENIAL** to allow a parking stall within five feet of the street and to waive parking stall depth for the use as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The site is an appropriate location for the proposed parking stall in the Multi-Residence 1 district. (§7.3.3.C.1)
2. The proposed parking stall will not adversely affect the neighborhood. (§7.3.3.C.2)
3. The proposed parking stall will not create a nuisance or serious hazard to vehicles or pedestrians because the curb cut will provide adequate access to the parking area. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with the requirement that no parking stall be located within five feet of a street and measure at least 19 feet in depth 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)



PETITION NUMBER: #10-24

PETITIONER: William Swartz

LOCATION: 113 Edinboro Street, on land known as Section 21, Block 23, Lot 4, containing approximately 3,250 square feet of land

OWNER: William Swartz

ADDRESS OF OWNER: 113 Edinboro Street  
Newton, MA 02460

TO BE USED FOR: Parking

RELIEF GRANTED: Special Permit relief to allow a parking stall within five feet of a street with less than 19 feet in depth (§5.1.7.A, §5.1.13, §5.1.7.B.2)

ZONING: Multi-Residence 1

**Approved OR Denied**, 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. Plot plan prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, Professional Land Surveyor, Professional Engineer, dated November 13, 2023 and revised January 16, 2024
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.