



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: February 2, 2023

TO: City Council

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

SUBJECT: **Petition #78-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to the existing dwelling, to convert the single-family dwelling into a two-family dwelling, and adding a half-story which vertically extends the nonconforming front setback at 300 Cabot Street, Ward 2, Newtonville, on land known as Section 22 Block 20 Lot 16, containing approximately 8,339 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 3.2.3, 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.



300 Cabot St.

Project Description

Background

The subject property at 300 Cabot St. consists of a single-family dwelling on an 8,399 square foot lot constructed circa 1880. The property is located in the Multi-Residence 1 zone (MR1). The lot also has a small shed to the rear of the driveway and is also bisected from northeast to southwest by a 25-foot-wide Laundry Brook Easement. The abutting and adjacent properties are a mix of single-family and two-family dwellings. The dwelling currently has a nonconforming 10.5-foot front setback but meets all other requirements of the MR1 zone. The applicants are constructing additions to the rear and side of the dwelling as well as increase the square footage within the half story. In total, the additions consist of 2,124 of floor area, but remain within the by right FAR. The petitioner plans to convert the single-family dwelling into a two-family dwelling, which is allowed as of right due to its location in the MR1 zoning district.

Special Permit

The additional living space and reconfiguration of the half story requires a special permit to vertically extend the 10.5-foot nonconforming front setback, which will remain unchanged. k. No additional relief is required as all proposed work, including the FAR, will be within the zoning standards for the MR1 zone.

Analysis

Planning is unconcerned with the proposed Special Permit project. The proposed additions are designed to not require any additional relief beyond the existing nonconforming front setback. As the Laundry Brook Easement diagonally bisects the 8,399 square foot lot, designing a dwelling that conforms with the 25-foot front setback requirement is likely not feasible. As the surrounding neighborhood features a mix of single- and two-family homes of various designs and sizes, many predating the City’s Zoning Ordinance and with nonconforming setbacks, the proposed project will closely match the character of the neighborhood.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §7.8.2.C.2	To alter/extend a nonconforming front setback	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:

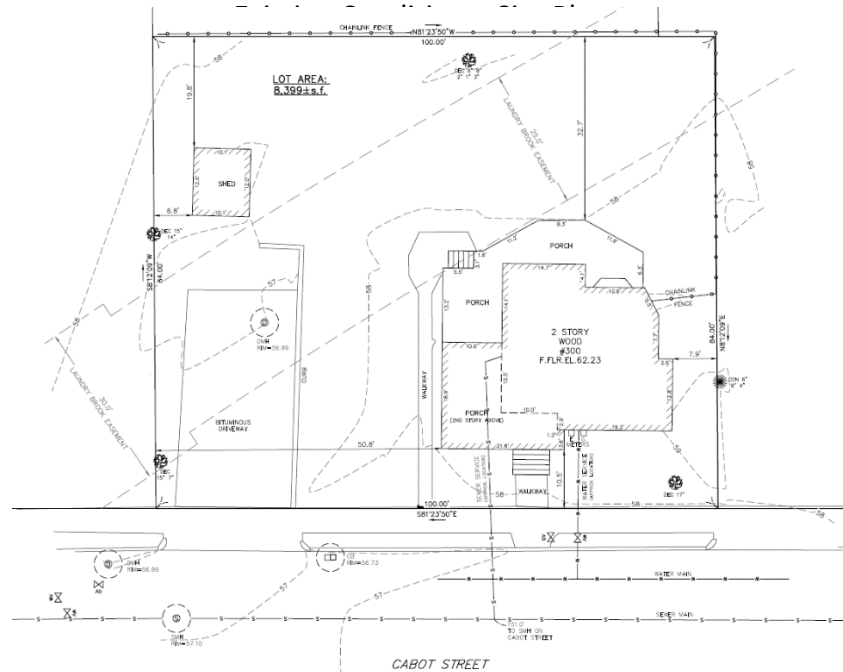
- The proposed additions, which will vertically extend the nonconforming front setback,

are not substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2)

III. Project Proposal and Site Characteristics

A. Site - Existing Conditions

The property at 300 Cabot St. consists of a 1,681 square foot (floor area) single-family dwelling constructed circa 1880 atop a 8,399 square foot lot. At 10.5 feet the front setback is considered nonconforming as it does not meet the 25-foot requirement, however the existing dwelling meets all other zoning requirements for the MR1 zone. The Laundry Brook Easement diagonally bisects the lot, limiting where a dwelling and/or permanent structures may be sited.



PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

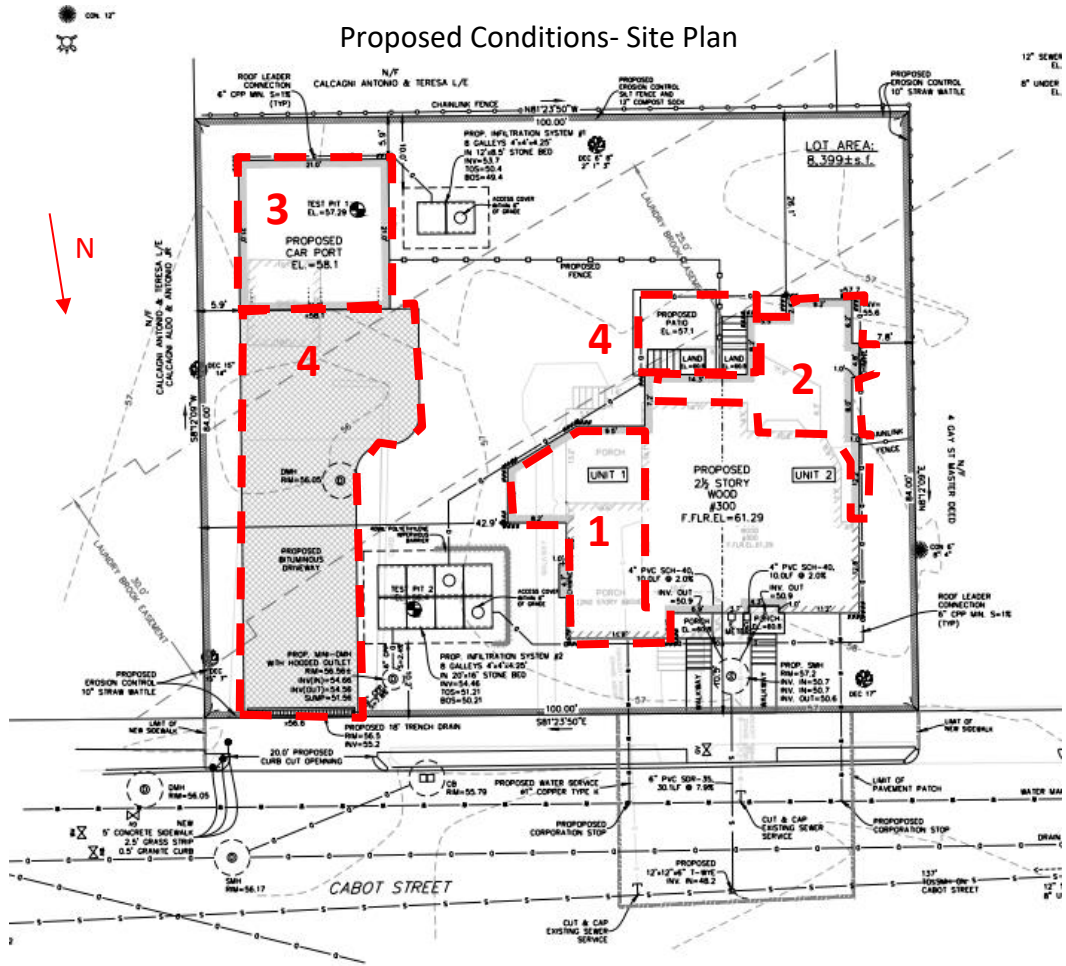
If approved, the use will change from a single-family, detached dwelling to a two family, detached dwelling. This use is permitted by right in the MR1 zone per Sec.

3.4.1 of the Zoning Ordinance.

B. Site and Building Design

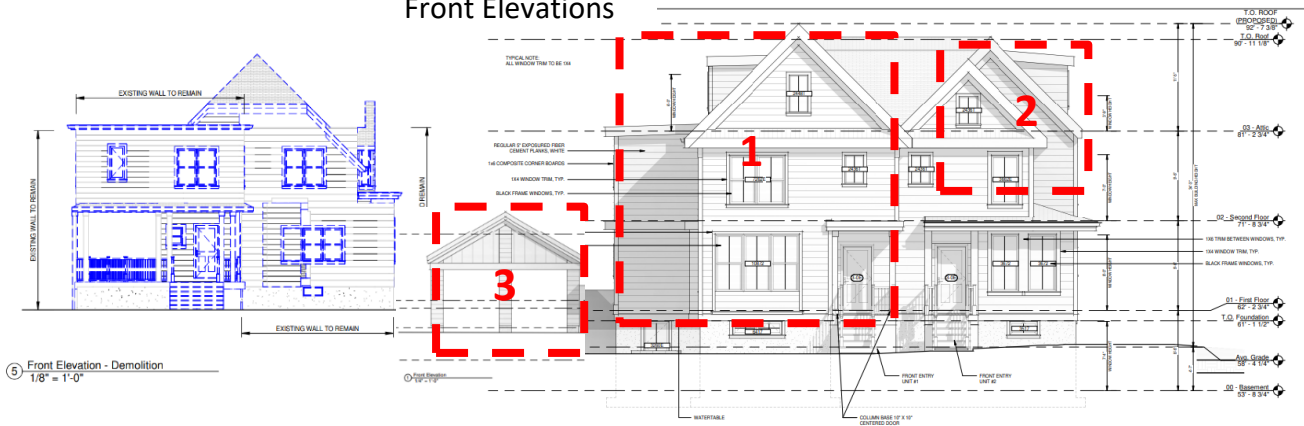
The proposed changes add 2,124 of floor area by constructing additions to the side and rear of the dwelling as well as raising the roof to add additional floor area in the half story. The relief required only pertains the vertical extension of the front setback by increasing the peak of the roof to create floor area within the half story, however the project consists of additions that would be considered as of right, shown below with corresponding numbers in red, the plans depict four major areas of work.

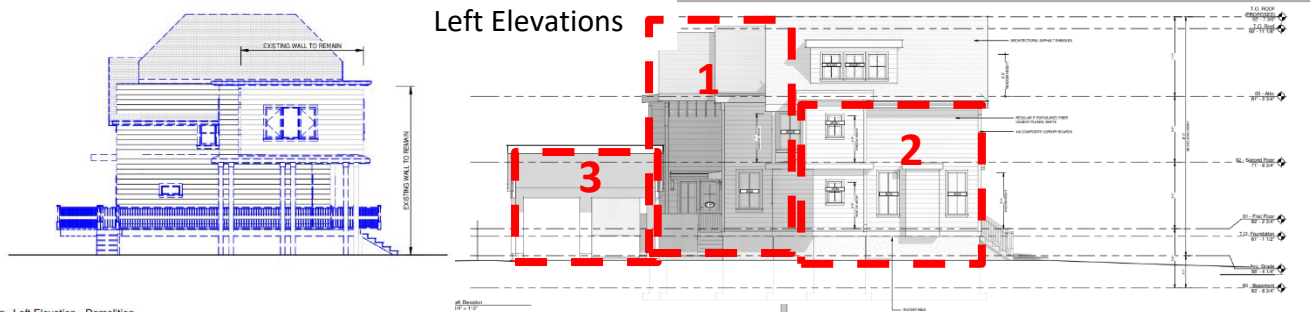
1. 2.5 story addition of living space to the front and side of the dwelling.
2. 2.5 story addition of living space to the rear of the property, expanding the footprint of the dwelling while complying with all applicable standards for MR1 and without placing any permanent structures over the easement.
3. Removal of the existing shed and the addition of a carport at the end of the proposed driveway, in the southwest corner of the site.
4. , Addition of a patio and expanded driveway for the building.



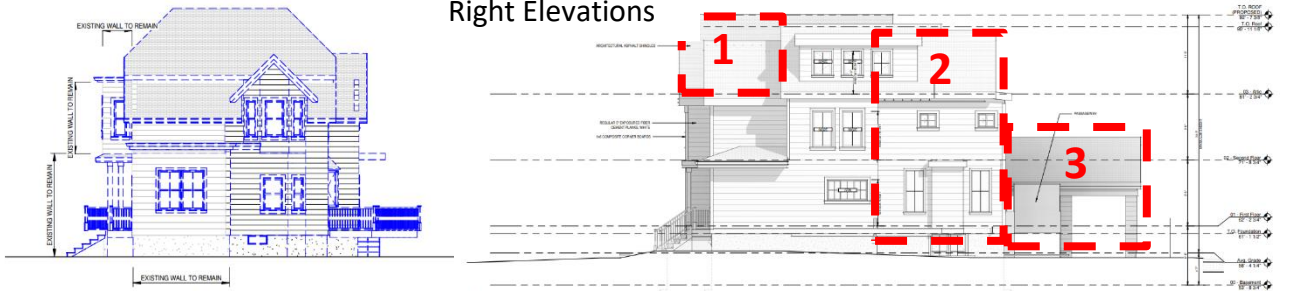
Existing and Proposed Elevations

Front Elevations

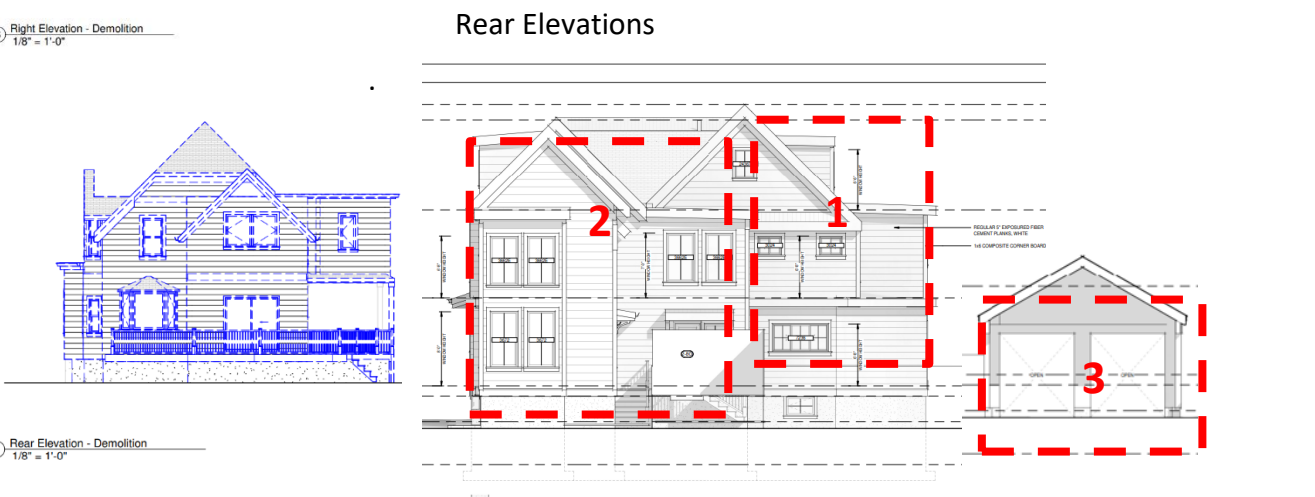




6 Left Elevation - Demolition
 1/8" = 1'-0"



8 Right Elevation - Demolition
 1/8" = 1'-0"



7 Rear Elevation - Demolition
 1/8" = 1'-0"

C. Parking and Circulation

The proposed project increases the property's parking requirement from two to four spaces. The proposed plans meet these requirements by providing parking for two cars in the proposed carport and the driveway. As the carport is 21 feet wide by 21 feet long, the maximum stall width of nine feet and depth of nineteen feet will be accommodated. An additional two spaces of parallel parking will be provided by the driveway with two stalls measuring nine feet wide and 21 feet long, this will provide adequate space for circulation given the driveway entrance width is 20 feet.

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: December 6, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Benny Lu and Amy Xu, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to extend a nonconforming front setback

Applicant: Benny Lu & Amy Xu	
Site: 300 Cabot Street	SBL: 22020 0016
Zoning: MR1	Lot Area: 8,339 square feet
Current use: Single-family dwelling	Proposed use: Two-family dwelling

BACKGROUND:

The property at 300 Cabot Street consists of an 8,399 square foot lot improved with a single-family dwelling constructed circa 1880. A 30-foot wide easement for Laundry Brook diagonally bisects the property from the northeast corner to the southwest. The petitioners seek to construct additions to the existing dwelling, to convert the single-family dwelling into a two-family dwelling, and to construct a detached carport at the rear of the property. The proposed construction to the dwelling vertically extends the nonconforming front setback, requiring a special permit.

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 11/8/2023
- Proposed conditions plan, signed and stamped by Joseph R. Porter, surveyor, and Mario Besio, engineer dated 10/1/2023
- Floor plans and elevations, signed and stamped by Derek Rubinoff, dated 10/30/2023
- FAR calculation, submitted 11/8/2023

ADMINISTRATIVE DETERMINATIONS:

- The petitioners seek to construct 2.5 story additions to the side and rear, and to raise the roof to increase the square footage of the half story. The dwelling has an existing nonconforming front setback of 10.5 feet where 25 feet is required per section 3.2.3. The petitioners seek to vertically extend the nonconforming front setback by adding to the half story at the front of the structure, requiring a special permit per section 7.8.2.C.2.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	8,399 square feet	No change
Frontage	70 feet	100 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 7.5 feet 7.5 feet 15 feet	10.5 feet ± 50 feet 7.9 feet 32.7 feet	No change* 42.9 feet 7.8 feet 26.1 feet
Setbacks - Accessory <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 5 feet 5 feet 5 feet		± 57 feet 5.9 feet ± 72 feet 5.9 feet
Max Number of Stories <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	2	2.5 1
Max Height <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	31.9 feet	34.3 feet < 22 feet
FAR	.51	.20	.47
Max Lot Coverage	30%	13.9%	24.5%
Min. Open Space	50%	72.7%	62.6%

Nonconformities are indicated in **BOLD**

*Requires relief

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §7.8.2.C.2	To alter/extend a nonconforming front setback	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 for an addition that vertically extends a nonconforming front setback given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed attic level addition which will vertically extend the nonconforming front setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the project meets all other dimensional standards and results in a two and a half story structure, which is contextual with the surrounding neighborhood. (§7.8.2.C.2)

PETITION NUMBER: #78-24

PETITIONER: Terrence Morris

LOCATION: 300 Cabot Street, Ward 2, Newtonville, on land known as Section 22 Block 20 Lot 16, containing approximately 8,339 sq. ft. of land

OWNER: Benny Lu and Amy Xu

ADDRESS OF OWNER: 161 Walnut St.
Newton, MA 02460

TO BE USED FOR: Two-family dwelling

RELIEF GRANTED: Special Permit per §3.2.3 to alter/extend a nonconforming front setback

ZONING: Multi-Residence 1

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. Topographic Site Plan showing Proposed Conditions at 300 Cabot Street signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated October 1, 2023.
 - b. Architectural plan signed, stamped, and dated by Derek A. Rubinoff, Registered Architect, dated November 14, 2023 consisting of the following sheets:
 - i. Front and Left Elevations, A2.01
 - ii. Rear and Right Elevations, A2.02
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 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.