



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: March 28, 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: **Working Session Memo for Petition #117-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct rear and front additions and add dormers, which will further extend the nonconforming two-family use in a Single Residence zone and alter the nonconforming setback at 265-267 River St., Ward 4, West Newton, on land known as Section 44 Block 12 Lot 01, containing approximately 6,671 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 3.1.2.A.3, 3.2.3, 3.4.1, 7.3.3, and 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The public Hearing for 265-267 River St. was originally opened on February 27, 2024. The Land Use Committee voted 8-0 to hold the item to give the applicant time to reconfigure parking in response to concerns from neighbors.

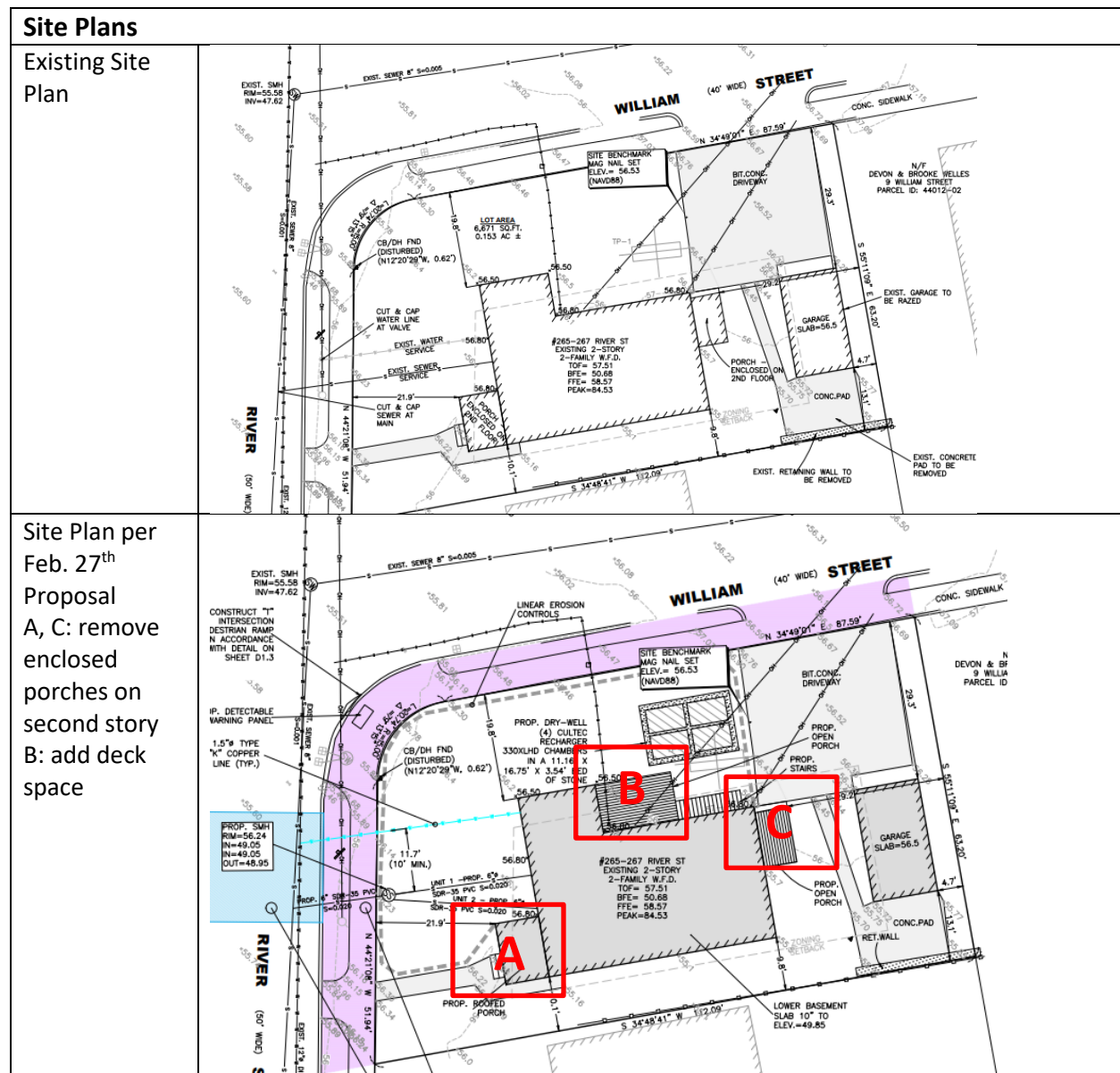
Background

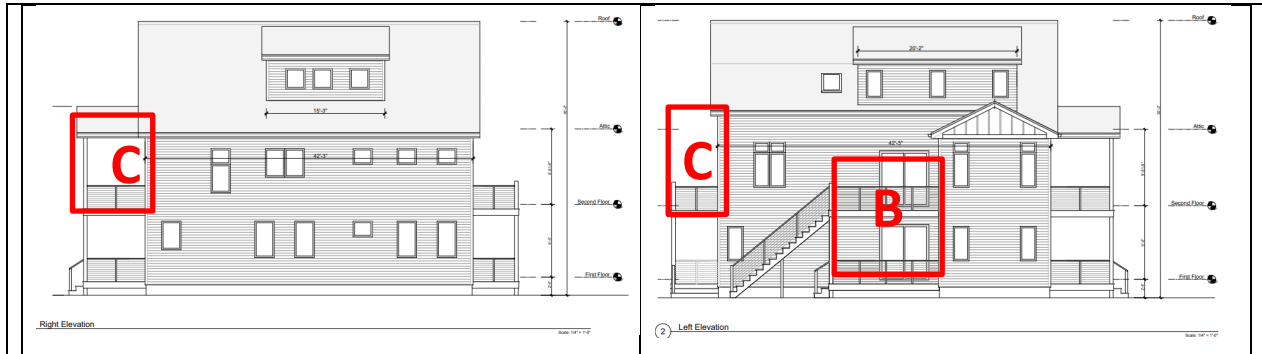
The subject property in the Single Residence 3 (SR3) zone is nonconforming two-family use seeking to construct a rear addition and add dormers, further extending the nonconforming use and nonconforming front setback. During the February 27, 2024 Public Hearing, neighbors noted concerns about parking given past residents would block sidewalk access from the driveway and often utilize street parking near the intersection of Williams Street and River Street that would inhibit lines of sight for drivers entering or exiting Williams Street from River Street. While the proposed project did not require any change to parking or circulation per the Zoning Ordinance, Councilors recommended, and the petitioner agreed, to reconfigure parking on the site.

On March 21, 2024, the petitioner submitted plans that removed the garage and expanded the driveway to show four clearly marked parking stalls. The removal of the garage and minor changes to the architectural plans do lessen the degree of relief needed for Floor Area Ratio (FAR) and do not change the relief required for the nonconforming front setback or continued nonconforming use of the property as a two-family dwelling in a Single Residence Zone.

Revised Site and Architectural Plans

On March 21, 2024, the petitioner submitted plans that removes garage and expands the driveway to show four clearly marked parking stalls (see number 4 in images of site plan below). The removal of the garage decreases the gross floor area by 250 square feet that counts towards the FAR. The petitioner's revised plans also include proposed additions (increasing gross floor area by less than 250 square feet), which widen the right side dormer from 15'3" to 17'9" (see number 2 in images below), widen the roof by 8 feet (see number 1 in images below), and keep the second floor porch enclosed (see number 3 in images below) resulting in a FAR of 0.48 where the existing dwelling is 0.408 and the previous proposal would have resulted in a FAR of 0.49.

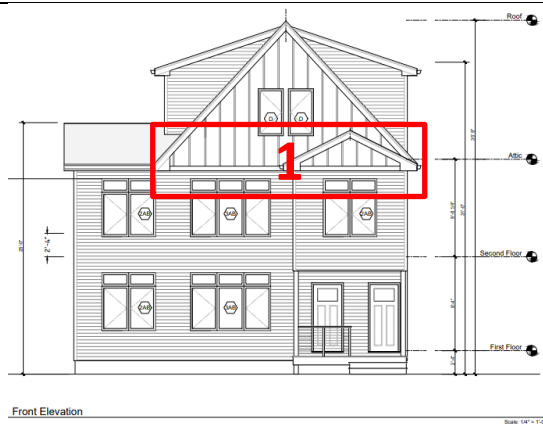




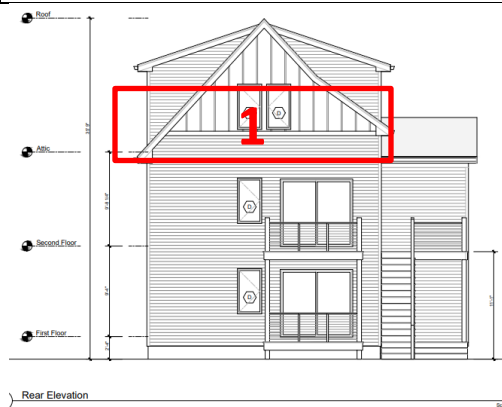
Elevations per April 2nd Proposal Changes from Feb. 27th Prop.:

- 1: widen roof
- 2: enlarge dormer
- 3: retain enclosed porch in front
- 4: remove garage, add 2 spaces

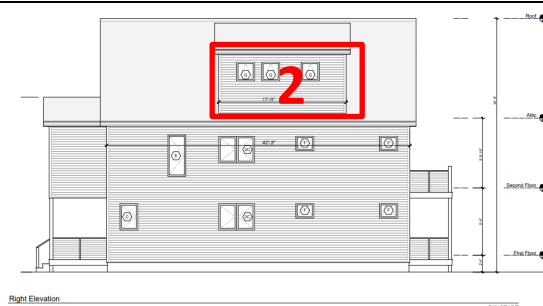
Front Elevation



Rear Elevation



Right Elevation



Left Elevation



Analysis

Planning believes that the proposed changes to the parking stalls satisfy concerns posed by the public and Councilors. Additionally, the newly proposed additions do not increase the degree of

relief required for the nonconforming front setback or two-family use nor do these additions require new relief. Planning's recommendation remains consistent with the recommendation made prior to the February 27th Public Hearing: the 6,671 square foot corner lot limits the property's ability to fully comply with setback regulations and the nonconforming two-family use is in keeping with the neighborhood as there are several nonconforming two-family uses in the immediate vicinity.

ATTACHMENTS:

- Attachment A:** Land Use Committee Report for February 27, 2024
- Attachment B:** Zoning Review Memorandum
- Attachment C:** DRAFT Council Order



City of Newton, Massachusetts

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

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: February 23, 2024

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 #117-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition and add dormers which will further extend the nonconforming two-family use in a Single Residence zone and alter the nonconforming setback at 265-267 River St., Ward 4, West Newton, on land known as Section 44 Block 12 Lot 01, containing approximately 6,671 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 3.1.2.A.3, 3.2.3, 3.4.1, 7.3.3, and 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.



265-267 River St.

I. Project Description

Use – two family, detached

Zone – Single-Residence 3 (SR3)

Lot size – 6,702 square feet

Existing Nonconformities - nonconforming two-family use in a Single Residence zone, nonconforming front setbacks of 19.8 feet along River St. and 21.9 feet along William St. where 30 feet is required as well as 9.8 feet side setback where 10 feet is required, and 3,336 square feet of lot area per unit where 5,000 square feet is required.

Proposal- The petitioner is seeking to add 569 square feet of living space by adding dormers and living space to the area above the second floor and add porches and decks to the ground floor and second story.

Analysis

Planning is unconcerned with the proposed Special Permit project. For both categories of relief, the petitioners are not proposing to increase the degree by which the property is out of compliance with the Zoning Ordinance as the nonconforming front setbacks will remain at the same distance and the use will remain as a two-family dwelling. Given the undersized lot area at 6,671 square feet and its status as a corner lot, there are fewer opportunities to bring the dwelling into conformity with all setback requirements. Additionally, while the two-family use is nonconforming, 265-267 River St. is adjacent to another nonconforming two-family dwelling at 275-277 River St. and in close vicinity to several other nonconforming two-family dwellings.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1	Request to alter/extend a nonconforming two-family dwelling use in the SR3 district	S.P. per §7.3.3
§3.1.2.A.3 §3.2.3	Request to alter/extend the nonconforming front setback	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 proposed deck additions, which extend the nonconforming front setback are not substantially more detrimental than the existing nonconforming structure to the neighborhood. (§7.8.2.C.2)
- The proposed alteration of the two-family use in a Single Residence zone are not substantially more detrimental than the existing nonconforming use is to the

Proposed Elevations



I. Interdepartmental Review

Review from other departments is not necessary or required at this time.

II. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum
ATTACHMENT B: DRAFT Council Order



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 20, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Alex Svirsky, Architect
American Way Development, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to further extend a nonconforming two-family dwelling

Applicant: American Way Development, Inc	
Site: 265-267 River Street	SBL: 44012 0001
Zoning: SR3	Lot Area: 6,671 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 265-267 River Street consists of a 6,671 square foot lot improved with a nonconforming two-family dwelling constructed in 1927 and a detached garage. The petitioner proposes to raise the roof and add dormers, further extending the nonconforming two-family dwelling use, requiring a special permit.

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

- Zoning Review Application, prepared by Alex Svirsky, Architect, submitted 12/15/2023
- Existing Conditions Plan, signed and stamped by Robert S. Rego, engineer, dated 11/8/2023 and Bernard N. Perrotty, surveyor, stamped 12/13/2023
- Floor Plans and Elevations, prepared by architecture sv, architect, dated 12/15/2023
- FAR calculations, submitted 12/15/2023

ADMINISTRATIVE DETERMINATIONS:

- Per section 3.4.1, two-family dwellings are prohibited in the Single-Residence 3 zoning district, rendering the existing two-family dwelling nonconforming. The petitioner proposes to add living space to the half story as well as decks along the Williams Street frontage, further extending the nonconforming two-family dwelling use, requiring a special permit per section 7.8.2.C.2.
- As indicated above, two-family dwellings are not an allowed use in the Single Residence 3 zoning district. As such, there are no density or dimensional controls prescribed to the use in that district. Per section 3.1.2.A.3, where a density or dimensional control is not provided for a use allowed by special permit, the most restrictive density or dimensional control for that use where it is allowed by right should be applied. In this case, the dimensional controls for a detached two-family dwelling in the MR1 district for a post-1953 lot are applied.
- The petitioner proposes to raise the roofline of the dwelling within the existing footprint to accommodate 569 square feet of living space, as well as opening enclosed porches on the first and second story. The proposed construction increases the FAR from .41 to .49, where .54 is the maximum allowed per sections 3.2.3 and 3.2.9 for a by-right MR1 detached two-family dwelling. No relief is required.
- Per section 3.2.3, the required front setback for a detached two-family dwelling on a post-1953 MR1 lot is 30 feet. The structure has nonconforming front setbacks from both River and William Street at 21.9 and 19.8 feet respectively. The petitioner proposes to construct decks on the first and second stories for each unit along the William Street frontage, maintaining the nonconforming 19.8-foot setback but further extending it along the front of the dwelling, requiring a special permit per section 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	6,671 square feet	No change
Frontage	80 feet	164 feet	No change
Setbacks			
• Front (River Street)	30 feet	21.9 feet	No change
• Front (William Street)	30 feet	19.8 feet	No change
• Side	10 feet	9.8 feet	No change
• Rear	15 feet	29.2 feet	No change
Height	36 feet	28.8 feet	35.33 feet
Stories	2.5	2	No change
Lot Area Per Unit	5,000 square feet	3,336 square feet	No change
FAR	.54	.48	.52
Max Lot Coverage	30%	23.4%	22.5%
Min. Open Space	50%	59%	56.3%

BOLD indicates a nonconformity

*Relief required

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
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