



Ruthanne Fuller  
Mayor

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

Petition: #331-24  
Public Hearing: 9/10/24

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

DATE: September 5, 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 #331-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming front setback

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**98 Parker Avenue**

I. Project Description

**Current Use:** Single family residential

**Zoning:** SR-3

**Lot size:** 6,160 square feet

**Existing nonconformities:**

- 21.8-foot front setback where 25 feet is required
- Lot size of 6,160 square feet (7,000 square feet required)
- Frontage of 55 feet (70 feet required)

**Proposal:** The petitioners seek to construct a larger landing including new stairs at the front entrance of the home. The expansion of the proposed landing will further extend the nonconforming front setback, which requires a special permit. [The project materials can be found here.](#)

**Analysis:** The Planning Department is not concerned with the petition for the expansion of a landing that would further extend the nonconforming front setback. Though the work proposed does encroach further into the setback than what currently exists, the extension is limited to stairs and the landing and does not require any additional relief for other dimensional regulations such as open space or lot coverage. Staff believe that the work proposed is likely to have a minimal impact on the neighborhood and abutters and will allow for more convenient access to the dwelling for the petitioners while maintaining the form and massing of the existing dwelling as-is other than the new landing.

II. Zoning Relief Requested:

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

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming front setback	S.P. per §7.3.3

III. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The proposed extension of the nonconforming setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

IV. Project Proposal and Site Characteristics

The property is located on a a 6,160 square foot which is improved with a two and a half story dwelling constructed in 1940. The site is relatively flat. The zoning of this property and surrounding lots is SR-3, and the neighborhood is primarily residential in character.

The subject lot is undersized at 6,160 square feet square where 7,000 square feet is required. The front setback is nonconforming with a 21.8-foot front setback where 25 feet is required. The existing front landing and steps extend into the setback, resulting in an 18-foot setback. However, because they are the minimum required to meet building code, the existing landing and steps are not considered in the setback measurement for the purposes of zoning.

The petitioner proposes to remove and reconstruct the front landing and steps, increasing the width of the landing to eight feet where it is currently about five and half feet wide to improve access to the front door. Because the petitioner proposes a landing and steps that are larger than the minimum required to meet the building code, they are then factored into the front setback measurement. The proposed construction therefore reduces the front setback to 14.7 feet, requiring a special permit. Also proposed in the scope of work is repaving the driveway and reworking the walkway in frontof the dwelling to connect it to the driveway. The proposed lot coverage will stay the same at 22.8%, and open space will decrease slightly from 52.7% to 52.5%, which requires no relief as a 50% minimum is required.

V. Interdepartmental Review

No interdepartmental review is required at this time.

VI. Petitioner's Responsibilities

The petition is considered complete.

**ATTACHMENTS:**

**Attachment A:** Zoning Review Memorandum  
**Attachment B:** DRAFT Council Order



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City of Newton, Massachusetts  
Department of Planning and Development  
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Attachment A  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: July 11, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Alexander Zaslavsky, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to extend a nonconforming front setback

Applicant: Alexander Zaslavsky	
Site: 98 Parker Avenue	SBL: 81026 0006
Zoning: SR3	Lot Area: 6,160 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 98 Parker Street consists of a 6,160 square foot lot improved with a single-family dwelling constructed circa 1940. The petitioner proposes to construct a larger front landing and new steps, extending the nonconforming front setback and requiring a special permit.

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

- Zoning Review Application, prepared Alexander Zaslavsky, applicant, submitted 6/27/2024
- Civil Plan, signed and stamped by Edmond Spruhan, engineer and Christopher C. Charlton, surveyor, dated 10/26/2023, revised 11/27/2023, 1/25/2024, 2/9/2024, 2/15/2024, 5/30/2024, 6/6/2024, 6/27/2024

**ADMINISTRATIVE DETERMINATIONS:**

1. The dwelling has an existing nonconforming front setback of 21.8 feet where 25 feet is required per section 3.1.3. The existing front landing and steps extend into the setback (resulting in an 18-foot setback), but are the minimum required to meet building code and are not considered in the setback measurement per zoning. While no additions of habitable space are proposed to the dwelling, to improve access to the front door, the petitioner proposes to raze and reconstruct the landing and steps, increasing the width of the landing to 8 feet. By having a landing and steps that are larger than the minimum required to meet the building code, they are then factored into the front setback measurement. The proposed construction of the larger landing and steps reduces the front setback to 14.7 feet, requiring a special permit per section 7.8.2.C.2.

<b>SR3 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	7,000 square feet	<b>6,160 square feet</b>	<b>No change</b>
Frontage	70 feet	<b>55 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	<b>21.8 feet</b>	<b>14.7 feet*</b>
• Side	7.5 feet	13.1 feet	No change
• Side	7.5 feet	9.4 feet	No change
• Rear	15 feet	48.9 feet	No change
Height	36 feet	31.4 feet	No change
Stories	2.5	2.5	No change
Max Lot Coverage	30%	22.8%	No change
Min. Open Space	50%	52.7%	52.5%

**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 front setback	S.P. per §7.3.3

#331-24  
98 Parker Avenue

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 further extend a nonconforming front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing nonconforming structure because the work proposed will not create any new habitable space and is limited to the expansion of a front landing. (§7.8.2.C.2)

PETITION NUMBER: #331-24

PETITIONER: Alexander Zaslavsky

LOCATION: 98 Parker Avenue, Ward 6, Newton Highlands, on land known as Section 81 Block 26 Lot 06, containing approximately 6,160 sq. ft. of land

OWNER: Alexander Zaslavsky and Oxana Zaslavsky

ADDRESS OF OWNER: 98 Parker Ave  
Newton, MA 02461

TO BE USED FOR: Single Family dwelling

RELIEF GRANTED: Special Permit per §3.1.3 and §7.8.2.C.2 to vertically a nonconforming front setback

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. A plot plan prepared signed and stamped by Edmond Spruhan, engineer and Christopher C. Charlton, surveyor, dated 10/26/2023, revised 11/27/2023, 1/25/2024, 2/9/2024, 2/15/2024, 5/30/2024, 6/6/2024, and 6/27/2024
  
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 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.