



Ruthanne Fuller
Mayor

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

Petition: #328-24
Public Hearing:
9/10/2024

Barney Heath
Director

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 #328-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to vertically extend a nonconforming side setback at 228 Grove Street

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.



228 Grove Street

I. Project Description

Use: Single family dwelling

Zoning: Single residence 1 (SR-1)

Lot size: 11,237 square feet

Existing Nonconformities:

- Lot size of 11,237 square feet where 15,000 square feet is required
- Frontage of 60 feet where 100 feet is required
- Left side setback of 8.7 feet where 12.5 feet is required
- Right side setback of 8.3 feet where 12.5 feet is required

Proposal: The petitioners seek to construct a second story addition, which would vertically extend a nonconforming side setback, requiring a special permit. [The project application and plans can be accessed here.](#)

Analysis: The Planning Department is unconcerned with the petition which will further extend the nonconforming side setback. The single-family dwelling was constructed in 1922, predating the applicable zoning regulations for side setbacks. The work proposed is largely within the footprint of the existing structure and adds only 28 square feet of impervious area. Though the work proposed does vertically extend the nonconforming side setback, it does not reduce any of the existing setbacks, and the resulting structure will comply with other applicable regulations including maximum height, minimum open space, and maximum lot coverage. For these reasons, staff believe the work proposed should have a minimal negative impact on abutters or the neighborhood.

II. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §7.8.2.C.2	To vertically extend the nonconforming side 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 addition which will vertically extend the nonconforming side setback will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§7.8.2.C.2)

IV. Project Proposal and Site Characteristics

The site currently consists of a 11,400 square foot lot improved with a two-story single-family dwelling constructed in 1922. The lot is sloped downwards from the front to the rear,

with a shed located at the rear of the property. Vehicular access is provided via a curb cut and paved driveway to the left of the house off of Grove Street.

The petitioners propose to construct a second-story addition over the existing sunroom on the first floor. The majority of the addition will lie within the existing footprint of the building, with the exception of a small, cantilevered portion which will extend beyond the footprint with supporting columns. Though all of the existing setbacks will be maintained, the proposed addition vertically extends the nonconforming side setback on the south side (8.3 feet where 12.5 feet is required) of the dwelling (the right side when looking from Grove Street), requiring a special permit.

The work proposed will increase the Floor Area Ratio (FAR) from .24 to .25, an increase of 182 feet, and approximately 28 square feet of impervious area will be added. Lot coverage will increase from 12.7% to 13.1%, and open space will decrease from 70% to 69%. There will be no change to the height or number of stories.

Proposed front elevation



Proposed left elevation



Proposed rear elevation



Proposed right elevation



V. Interdepartmental Review

The existing dwelling on the site was constructed in 1922. At an Auburndale Historic District Commission meeting held on May 14, 2024, the Commission voted unanimously to approve a Certificate of Appropriateness for the project as proposed (**ATTACHMENT B**). Review from other departments is not required at this time.

VI. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum
ATTACHMENT B: Auburndale Historic District Commission determination
ATTACHMENT C: DRAFT Council Order



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Director

ZONING REVIEW MEMORANDUM

Date: June 28, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: David & Ceire Nevins, Applicants
David Boronkay, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to vertically extend a nonconforming side setback

Applicant: David & Ceire Nevins	
Site: 228 Grove Street	SBL: 43030 0004
Zoning: SR1	Lot Area: 11,400 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 228 Grove Street consists of an 11,400 square foot lot improved with a single-family dwelling constructed in 1922. The petitioners seek to construct a second story addition over an existing sunroom with a nonconforming side 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 David Boronkay, architect, dated 5/29/2024
- Plan of Land Proposed Conditions, signed and stamped by Bruce Bradford, surveyor, dated 4/8/2024
- Floor plans and elevations, prepared by Slocum Hall Design Group, dated 5/23/2024
- FAR calculation, signed and stamped by Jane E. Grover, architect, submitted 5/29/2024

ADMINISTRATIVE DETERMINATIONS:

- The existing two-story single family dwelling has a nonconforming side setback of 8.3 feet where 12.5 feet is required per section 3.1.3. The petitioners propose to construct a second-story addition over the existing sunroom, a portion of which will extend beyond the footprint with supporting columns. The proposed addition vertically extends the nonconforming side setback, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

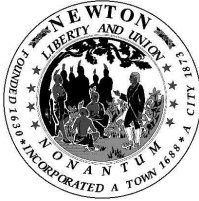
SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	11,237 square feet	No change
Frontage	100 feet	60 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 12.5 feet 12.5 feet 25 feet	29.4 feet 8.7 feet 8.3 feet Not provided	No change No change No change* No change
Max Number of Stories	2.5	2	No change
Max Height	36 feet	27.6 feet	No change
Max Lot Coverage	20%	12.7%	13.1%
Min. Open Space	65%	70%	69%

Nonconformity indicated in **BOLD**

*Requires relief

- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	To vertically extend the nonconforming side setback	S.P. per §7.3.3



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RECORD OF ACTION:

DATE: May 15, 2024

SUBJECT: 228 GROVE ST - Certificate of Appropriateness

At a scheduled meeting and public hearing on May 14, 2024 the Auburndale Historic District Commission, by roll call vote of 5-0,

RESOLVED to **grant** a Certificate of Appropriateness for the project as submitted at 228 GROVE ST to add a second story to the right side bump out.

Voting in the Affirmative:

Dante Capasso, Chair
Paul Dudek, Member
Nancy Grissom, Member
Joel Shames, Member
James Miller, Alternate

Voting in the Negative:

Abstained:

Recused:

Barbara Kurze, Commission Staff

DATE TRACKING

Date Notice Sent: April 30, 2024

Date of Hearing: May 14, 2024

Date of Decision: May 14, 2024

ACTION TAKEN

Accepted: **X**

Denied:

Reason for action: Appropriate

TYPE OF CERTIFICATION ISSUED

Appropriateness

Non-Applicability

Hardship

B Kurze

Chairman or Secretary

May 15, 2024

Date

Please check with Inspectional Services Department to see if a building permit will be required and note that final project work requires Historic Preservation staff or Historic District Commission approval (see attached *Historic District Final Project Approval Process*.)

#328-24
228 Grove Street

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 vertically one nonconforming side setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed vertical extension of the nonconforming side setback is not substantially more detrimental than the existing nonconforming structure because the project adheres to other applicable dimensional regulations such as Floor Area Ratio and height, and the addition which extends the nonconformity is largely within the footprint of the existing dwelling. (§7.8.2.C.2)

PETITION NUMBER: #328-24

PETITIONER: David and Ceire H Nevins

LOCATION: 228 Grove Street, Ward 4, Auburndale, on land known as Section 43 Block 30 Lot 04, containing approximately 11,400 sq. ft. of land

OWNER: David and Ceire H Nevins

ADDRESS OF OWNER: 228 Grove Street
Newton, Massachusetts 02466

TO BE USED FOR: Single Family dwelling

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

ZONING: Single 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. A plot plan prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, professional land surveyor, dated 4/8/2024
 - b. A set of architectural plans prepared by Slocum Hall Design Group, Inc., signed and stamped by Jane E. Grover, registered architect, dated 6/27/2024 consisting of 15 sheets
 - i. "Proposed Exterior Elevations", showing proposed exterior elevations (Sheet A200)
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, including the as built FAR.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.