



## City of Newton, Massachusetts

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

Ruthanne Fuller  
Mayor

Barney Heath  
Director

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### PUBLIC HEARING MEMORANDUM

**DATE:** October 18, 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 #360-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to expand the existing driveway to accommodate two parking stalls within the front setback and to further extend nonconforming parking to allow an additional parking stall within five feet of the front lot line at 31 Chase Street, Ward 6, Newton Centre, on land known as Section 61 Block 37 Lot 05, containing approximately 7,036 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 5.1.7

APPLICATION RECORD: <https://newtonma.portal.opengov.com/records/841616>

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.



**31 Chase Street**

I. Project Description

*Use* – Single-family dwelling

*Zone* – Multi-Residence 1/Multi-Residence Transit

*Lot size* – 7,036 square feet

*Existing Nonconformities* – Lot size, parking stall within five feet of the street

*Proposal*- The petitioners propose to add 98 square feet of impervious surface to replace existing gravel area, creating a second parking stall in the front setback and within five feet of the street (an existing nonconformity).

*Grading* – While a grading plan was not provided, nor is necessary for this special permit, the neighborhood between Chase Street and Braeland Avenue is known to have topographical differences, with Chase Street at a higher elevation than Braeland Avenue. The property has a retaining wall in the rear yard that points to a downwards slope of the lot towards the rear abutter.

*Analysis*

Planning believes the proposed project will not contradict the intent and purposed of the Zoning Ordinance’s standards on parking as outlined in Section 5.1.1. Given the current position of the house on the site, there is no feasible option for two on-site parking stalls other than within the front setback and five feet from the front lot line. There is insufficient width for a car to pass on either side of the dwelling. While the gravel provides additional parking area that can accommodate a second parking stall, it was never shown on prior plans and is therefore not recognized as nonconforming to accommodate the second parking stall.

The second parking stall would allow the petitioners a second legal parking stall with minimal visible impact or impact on surrounding parking and circulation. Planning finds that the proposed project will not pose any obstacles to vehicular or pedestrian safety as the second parking stall will be fully removed from any pedestrian or vehicular right-of-way.

II. Zoning Relief Requested:

| Zoning Relief Required            |   |                 |
|-----------------------------------|---|-----------------|
| Ordinance                         |   | Action Required |
| §5.1.7.A<br>§5.1.13               | To allow two parking stalls within the front setback  | S.P. per §7.3.3 |
| §5.1.7.A<br>§5.1.13<br>§7.8.2.C.2 | To further extend nonconforming parking to allow an additional parking stall within five feet of the front lot line | S.P. per §7.3.3 |

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

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

1. The specific site is an appropriate location for the second parking stall in the front setback. (§7.3.3.C.1)
2. The proposed second parking stall in the front setback as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the creation of a second parking stall in the front setback. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved with the creation of a second parking stall in the front setback, where there had been one nonconforming parking stall in the front setback. (§7.3.3.C.4)
5. The extension of the nonconforming parking configuration that places a parking stall within five feet of the street shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2)
6. Literal compliance with the maximum number of parking stalls in the front setback 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

*Existing Conditions*

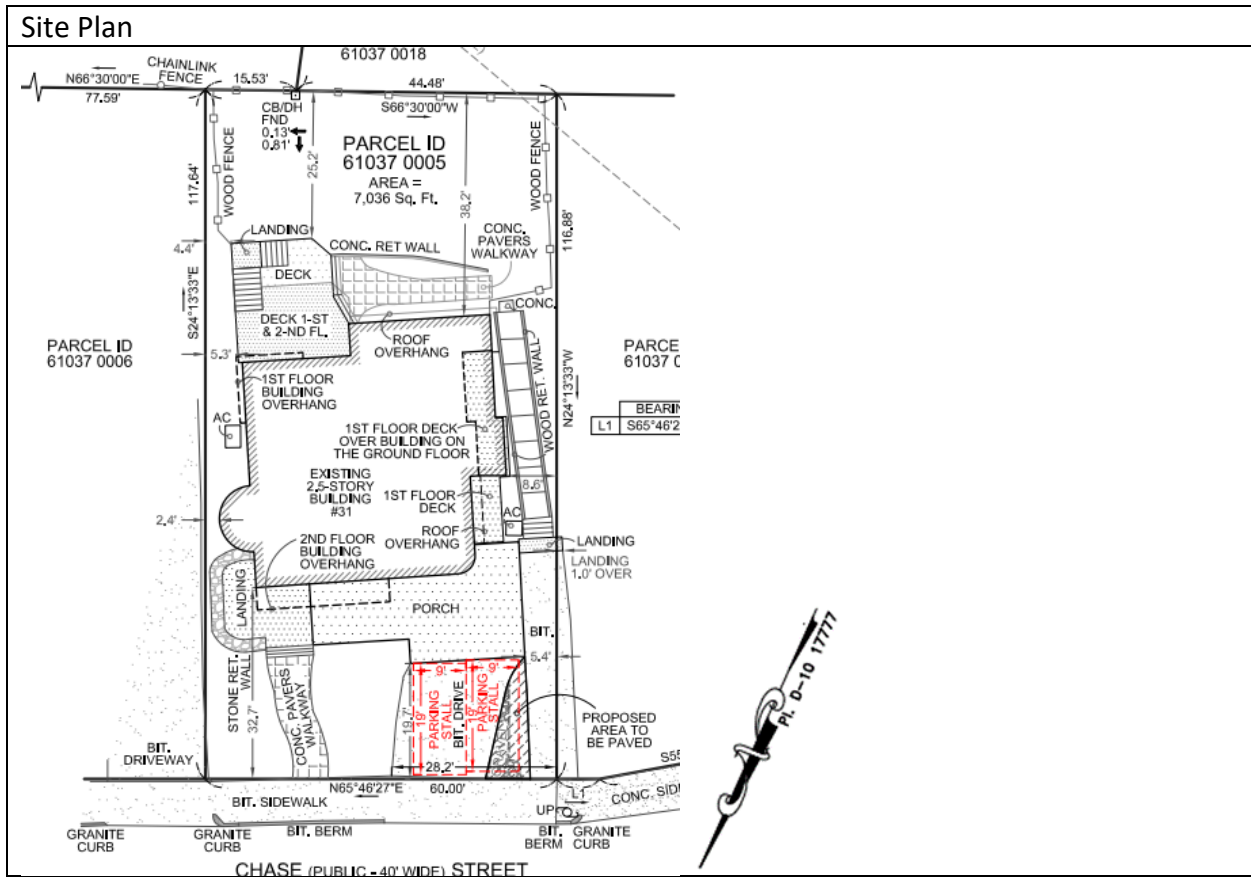
The site consists of a single-family dwelling constructed in 1900 on an undersized 7,036 square foot lot. The dwelling has two nonconforming setbacks with the front setback of back 19.7 feet, 2.4 feet from the left side property line, and a compliant 8.6 foot right side setback. With the dwelling's positioning on the lot, there is not sufficient space for a vehicle to pass on either side of the dwelling in order to locate any additional parking to the rear of the dwelling. The existing driveway was angled to avoid a previously existing tree that was in between the right side of the driveway and paved area that straddles the property line with the abutter to the right. The tree has since fallen and was replaced with a 98 square foot patch of gravel. This patch of gravel has not been shown on previous plans and therefore is not legalized nor considered nonconforming.

*Proposed Project*

The proposed project consists of replacing the 98 square foot patch of gravel with pavement, expanding the existing parking area to fit two side-by-side parking stalls. There are no improvements to the dwelling or site associated with this project other than the proposed paving. The resulting area will feature two side-by-side parking stalls that meet the minimum dimensions of nine feet in width and nineteen feet in depth. The parking stalls will be within the

five feet of separation from the lot line required per Section 5.1.7 and within the 25-foot front setback. However, the proposed parking design is able to accommodate two fully dimensioned parking stalls without any overhang past the lot line.

Planning does not find the proposed additional parking stall to pose any threats to pedestrian or vehicular safety. The configuration currently exists and neither parking stall will protrude the sidewalk or otherwise inhibit pedestrian or vehicular traffic, there are no obstacles to visibility from the proposed parking stall, and no further relief is needed beyond the need for relief for two parking stalls in the front setback and extension of the nonconforming parking stall in the front setback.



- V. Interdepartmental Review  
 No further departmental review is required.

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**  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: September 3, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

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

**RE: Request to allow parking in the front setback and within five feet of the front lot line**

| Applicant: Cara Candal                     |                                    |
|--|------------------------------------|
| <b>Site:</b> 31 Chase Street               | <b>SBL:</b> 61037 0005             |
| <b>Zoning:</b> SR3                         | <b>Lot Area:</b> 7,036 square feet |
| <b>Current use:</b> Single-family dwelling | <b>Proposed use:</b> No change     |

### BACKGROUND:

The property at 31 Chase Street consists of a 7,036 square foot lot improved with a single-family dwelling constructed circa 1900. The petitioner seeks to expand the existing driveway to accommodate two parking stalls within the 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 Cara Candal, applicant, dated 7/27/2024
- Plot Plan, prepared by Patrick Roseingrave, surveyor, dated 7/26/2024
- Proposed Plot Plan, prepared by Patrick Roseingrave, surveyor, dated 7/25/2024

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to expand the paved portion of the existing driveway to accommodate two dimensionally-compliant parking stalls. The existing driveway consists of bituminous paving and gravel and the petitioner seeks to pave the gravel portion which had not been previously shown on approved plans, and is therefore not protected under zoning. Per section 5.1.7.A only one parking stall may be located in the front setback for use in conjunction with a single-family dwelling. The proposed configuration adds a second parking stall within the front setback. A special permit per section 5.1.13 is required to allow the proposed configuration.
2. Per that same section 5.1.7.A, no parking is allowed within five feet of the front lot line. The existing 9- by 19-foot parking stall extends from the front porch to the front lot line, placing the stall within five feet of the front lot line. The petitioner seeks to extend this nonconformity by adding a second stall adjacent to the existing, resulting in two parking stalls within five feet of the street. A special permit per sections 5.1.13 and 7.8.2.C.2 is required to further extend the nonconforming parking configuration.

See “Zoning Relief Summary” below:

| <b>Zoning Relief Required</b>     |   |                        |
|-----------------------------------|---|------------------------|
| <b>Ordinance</b>                  |   | <b>Action Required</b> |
| §5.1.7.A<br>§5.1.13               | To allow two parking stalls within the front setback  | S.P. per §7.3.3        |
| §5.1.7.A<br>§5.1.13<br>§7.8.2.C.2 | To further extend nonconforming parking to allow an additional parking stall within five feet of the front lot line | 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 the addition of a second parking stall in the front setback and to extend the nonconforming parking within five feet of the street for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the second parking stall in the front setback as the dwelling is set back less than twenty feet from the front property line, providing insufficient room to create parking stalls elsewhere on site. (§7.3.3.C.1)
2. The proposed second parking stall in the front setback as developed and operated will not adversely affect the neighborhood because other properties in the neighborhood have similar parking configurations. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the creation of a second parking stall in the front setback as no additional curb cut is being created and the proposed parking stall will not block the sidewalk. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved with the creation of a second parking stall in the front setback, where there had been one nonconforming parking stall in the front setback because access to the site is unchanged. (§7.3.3.C.4)
5. The extension of the nonconforming parking configuration that places a parking stall within five feet of the street shall not be substantially more detrimental than the existing nonconforming use to the neighborhood because the parking configuration currently exists. (§7.8.2.C.2)
6. Literal compliance with the maximum number of parking stalls in the front setback 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. Specifically, compliance by way of creating additional parking elsewhere is impracticable due to grade of the lot with Chase Street at a higher elevation than Braeland Avenue to the north as well as the dwelling's placement on the lot. (§5.1.13)



PETITION NUMBER: #360-24

PETITIONER: Cara Candal

LOCATION: 31 Chase Street

OWNER: Cara and Eugenio Candal

ADDRESS OF OWNER: 31 Chase Street  
Newton, MA 02469

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to allow a second parking stall in the front setback and to extend the nonconforming parking within five feet of the street (§5.1.7.A, §5.1.13, §7.8.2.C.2)

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. Plot Plan prepared by Patrick Roseingrave, Professional Land Surveyor, dated July 25, 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 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.