



Ruthanne Fuller
Mayor

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

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: October 17, 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 #362-24**, Request to allow four single-family attached dwellings, to reduce the side setback, and to allow a driveway within 10 feet and parking within 20 feet of side lot line

Project Materials: <https://newtonma.viewpointcloud.com/records/841045>

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.



51 Oak Avenue

Project Description

Background

The subject property consists of a 29,700 square foot parcel in the Multi-residence 1 (MR-1) district. The site is improved with a two-family dwelling constructed circa 1880.

The site is located on Oak Avenue between Webster Street and Auburndale Avenue. The neighborhood is primarily residential with a mix of single and multifamily dwellings. Webster Park abuts the site to the west, with associated sports fields also located in close proximity. The parcels immediately closest to 51 Oak Ave are zoned Multi-Residence 1 and Public Use, though there is a greater diversity of zoning and uses north along River Street and south near West Newton village center. The West Newton commuter rail station is less than half a mile from the site.

Special Permit and Rezoning

The petitioner proposes to demolish the existing dwelling and construct four single-family attached dwellings in two buildings. Relief is required to allow attached single-family dwellings, to allow a reduced side setback, and to allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line.

Analysis

The Planning Department is generally not concerned with the proposed single-family attached use. The site is located in a multi-residence district in an area that has a mix of different housing types and sizes, so a four-unit project is contextually appropriate, and the site is in close proximity to public transportation, a grocery store, and other neighborhood amenities. The units are sited on a long narrow lot, and will be located in two separate buildings, which results in a visual breakup of the massing when viewed from the street.

The site is relatively long and narrow, and a significant portion of the lot has construction restrictions because it is subject to the Floodplain Ordinance. Though the project does need relief for a reduced side setback and to allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line, none of the proposed work will impede into the floodplain. Screening in the form of fencing on the left side of the lot is proposed, which will help mitigate the impact of the driveway close to the southern lot line. Staff suggest the petitioners consider a reduction in the amount of impervious paving on the site where possible. While staff cannot prevent a petition from filing for a special permit without a landscape plan, staff have since requested a landscaping plan that clarifies the planting plan for the site and demonstrates adequate screening.

I. Zoning Relief Requested:

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

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To allow a reduced side setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

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

- The site is an appropriate location for the proposed residential development with a reduced side setback (§7.3.3.C.1)
- The proposed project residential development as designed will not adversely affect the neighborhood (7.3.3.C.2)
- The proposed residential development will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
- Literal compliance with the parking requirements is impractical due to the nature of the use, or the location, size, frontage, 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)

III. Project Proposal and Site Characteristics

A. Site

The site has an existing downwards slope of approximately thirteen feet from the front to the back of the property, which abuts Webster Park. Due to the slope of the site and proximity to the Dolan Pond Conservation Area, there is a portion of the site that lies below the 52-foot contour line demarcating the jurisdiction of the City Floodplain. The existing dwelling and all associated structures on the site lie outside the Floodplain and above the 52-foot contour line. Grass, hedges, shrubs, and several mature trees are located on the site, in addition to some fencing. Vehicular

access is provided via two curb cuts on Oak Avenue on either side of the building.

IV. Project Description and Analysis

A. Land Use

If approved the principal use of the site will change from a two-family residential building to four attached single-family dwellings in two separate buildings.

B. Site Design

The petitioner proposes to raze the existing dwelling and construct four attached single-family dwellings in two separate buildings. Special permit relief is required to allow attached single-family dwellings in the MR-1 district. Both buildings are proposed to be 2.5 stories tall, with Building 1 proposed at 34.5 feet tall and Building 2 proposed at 34.8 feet tall, where up to 36 feet and 2.5 stories is allowed by right. No relief is needed for the height or number of stories for either building. Lot coverage is proposed at 17.1% where up to 25% is allowed by right. The open space for the site will be 69.9% where a minimum of 50% is required. The lot area per unit is proposed at 7,425 square feet where a minimum of 4,000 square feet is required.

All setbacks on the existing building are conforming for the two-family dwelling in the MR-1 district. The proposed buildings will reduce all four setbacks, but only one side setback needs relief. The front setback will decrease from 19.3 feet to 15.3 feet where 12.8 feet is required (due to the averaging provision), the rear setback will decrease from 265.5 feet to 183.7 feet where 25 feet is required, and the left side setback will decrease from 39 feet to 27.7 feet where 25 feet is required. The right-side setback will decrease from 26.1 feet to 11.3 feet where 25 feet is required, which requires special permit relief.

Four units in total are proposed, and will be split in two separate buildings, with two units per building. Buildings 1 will be located closer to Oak Avenue, with Building 2 behind it. All work on the site is proposed above the 52-foot contour line delineating the watershed area and is therefore does not need to be reviewed and approved by the Conservation Commission.

In total, the gross floor area for both buildings will be 11,835 square feet. Each unit is approximately 2,650 square feet, not including garage space. Though Floor Area Ratio (FAR) restrictions do not apply to single-family attached dwellings, as a point of comparison, this project would have a FAR of approximately .40, where .38 is the maximum allowed by right for a single- or two-family detached project in the district on a lot of this size.

C. Grading

The plans note an increase in the grade from existing conditions of up to a foot at the midpoint of the site between Buildings 1 and 2 as well as a retaining wall along the rear of Building 2 to create a level surface necessary to construct the project as proposed. The wall begins with a height of one foot along the driveway and makes a right hand turn behind the rear of the buildings, reaching a height of three feet at the turning point and tapering down to one foot where it terminates at the northern (right) property line.

D. Parking and Circulation

The curb cut and driveway on the north side of the site will be removed, and new curbing put in its place. A new driveway will be constructed in roughly the same location as the existing driveway on the southern side of the Oak Avenue frontage. This new driveway will extend back to provide access to both buildings. The driveway will lie within two feet of the southeastern lot line, requiring a special permit. Planning notes that the existing driveway is right up against the lot line, so the proposed driveway does not alter that configuration.

Each unit will have one garage parking space and one surface stall tandem to the garage. Because at least eight parking stalls are proposed for the four units, no relief is needed for the amount of parking on the site. Three of the four surface parking stalls (the stalls associated with Units 1, 2 and 3) are located within 20 feet of the southeastern lot line, which requires special permit relief.

E. Landscaping

While staff cannot prevent a petition from filing for a special permit without a landscape plan, staff have requested a landscaping plan that clarifies the planting plan for the site and demonstrates adequate screening.

V. Interdepartmental Review:

A. Conservation Commission review

A portion of the rear of the site is included in the Floodplain Overlay District and is subject to certain development restrictions. Chief Environmental Planner Jennifer Steel has reviewed the proposed project and issued a Determination of Applicability dated 7/15/24 (**Attachment B**). The determination states that land on the lot that lies below the 52-foot contour (including portions of the rear of the lot) is within the floodplain and is subject to development constraints. However, all work proposed in this petition lies above the 52-foot contour and is therefore outside of the designated floodplain area and needs no further review.

or approval by the Newton Conservation Commission.

B. Historic Preservation Review

At a public hearing of the Newton Historical Commission held on November 30, 2023, the NHC reviewed this project (**Attachment C**). In a memo provided by the Chief Preservation Planner, staff noted that the home is historically significant as defined by the Newton Demolition Delay Ordinance, in part because the dwelling retains elements of a Colonial Revival style, including the front gabled roofline and ornamental porch

A motion to preferably preserve the dwelling failed. The NHC has waived the demolition delay, and no further review is required.

C. Engineering Review

Engineering has not reviewed this petition at this phase. Should this petition be approved, the project will be reviewed for compliance with the city's stormwater ordinance prior to the issuance of a building permit.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Review memo
- Attachment B:** Conservation Committee letter
- Attachment C:** NHC Demo Delay memo
- Attachment D:** DRAFT Council order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A
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(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 22, 2024

To: Anthony Ciccarriello, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, Attorney
YZ Fleet LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow four single-family attached dwellings, to reduce the side setback, and to allow a driveway within 10 feet and parking within 20 feet of side lot line

Applicant: YZ Fleet LLC	
Site: 51 Oak Avenue	SBL: 33022 0017
Zoning: MR1	Lot Area: 29,700 square feet
Current use: Two-family dwelling	Proposed use: Four single-family attached dwellings in two buildings

BACKGROUND:

The subject site consists of 29,700 square feet in the MR1 zoning district abutting Webster Park. The site is improved with a two-family dwelling constructed circa 1880. The petitioners propose to demolish the existing dwelling and construct four single-family attached dwellings in two buildings.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 7/17/2024
- Floor plans and elevations, prepared by Scott Lewis, dated 6/10/2024
- FAR calculations, submitted 7/17/2024
- Existing Conditions Site Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 2/2/2024, revised 6/3/2024, 7/12/2024
- Proposed Conditions Site Plan, signed and stamped by Christopher C. Charlton, surveyor, and Edmond Spruhan, engineer, dated 4/8/2024, revised 7/1/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze the existing two-family dwelling and construct four single-family attached dwellings in two buildings. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Section 3.2.4 requires 25-foot setbacks from each lot line unless an exception by special permit is granted by the City Council. The petitioners propose a side setback of 11.3 feet from the northwestern lot line for both buildings, requiring a special permit.

Per this same section and section 1.5.3.B, a building need not be set back more than the average of the setbacks of the buildings on the lots on either side. Averaging the setbacks of the buildings at 45-47 and 57 Oak Avenue result in a front setback requirement of 12.8 feet for the subject property. Building 1 is proposed with a front setback of 15.3 feet, requiring no relief.

3. Per section 6.2.3.B.2, no parking space may be within 20 feet of a boundary line and no driveway may be located within 10 feet of a side or rear lot line, unless by special permit. Each dwelling unit will have one garage parking stall and one surface stall tandem to the garage. The surface parking stalls associated with Units 1, 2 and 3 are located within 20 feet of the southeastern lot line. Additionally, the driveway is within 2 feet of that same southeastern boundary, requiring a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	29,700 square feet	No change
Frontage	80 feet	90 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	12.8 feet 25 feet 25 feet 25 feet	19.3 feet 39 feet 26.1 feet 265.5 feet	15.3 feet 27.7 feet 11.3 feet* 183.7 feet
Building Height	36 feet	34.5 feet	34.5 feet (Bldg 1) 34.8 feet (Bldg 2)
Max Number of Stories	2.5 (3 by SP)	2.5	No change
Lot Coverage Max	25%	3.6%	17.1%
Open Space Min	50%	89.1%	69.9%
Lot Area Per Unit	4,000 square feet	14,850 square feet	7,425 square feet

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To allow a reduced side setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3



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Attachment B
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Barney S. Heath
Director

August 2, 2024

YZ Fleet
Tom Zou
37 Upham St, Newton, MA 02465
Tom.zou@hotmail.com | 617 461 9245

RE:

51 Oak Avenue

**Determination of Applicability, Approval of City Floodplain Line and
Closure of Friendly Enforcement Order**

Referenced Plan: 51 Oak Ave., Newton, MA, Sheet 1 of 1, by Spruhan Engineering, stamped by Christopher Charlton, last revised 7/15/2024

Dear Mr. Zou:

Enclosed is the Newton Conservation Commission's Determination of Applicability under the Wetlands Protection Act, MGL Ch. 131, s. 40 and the Newton Floodplain/Watershed Protection Ordinance, Section 22-22. The Determination is a "Negative-1" Determination (i.e., the area described in the Request and shown on the referenced plan is not an area subject to jurisdiction under the Wetlands Protection Act) and a "Negative-6" Determination (i.e., the area and/or work described in the Request is not subject to additional review and approval by the Newton Conservation Commission under its Floodplain Ordinance).

This means that the land below the 52-foot contour on the referenced plan is within the City Floodplain and the land above the 52-foot contour on the referenced plan is outside the City Floodplain. None of the lot is subject to the federal/FEMA floodplain regulations.

Since you have successfully restored the City Floodplain by reestablishing the 52' contour and flood storage capacity between 50' and 52' (as confirmed with the survey and accepted by the Commission with the enclosed Negative Determination), the Commission officially closes the Friendly Enforcement Order.

If you have any questions regarding this Determination, please contact me.

Sincerely,

Jennifer Steel

Jennifer Steel, Chief Environmental Planner



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Newton
Municipality

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



From:

Newton
Conservation Commission

To: Applicant

YZ Fleet LLC
Name
37 Upham St
Mailing Address
Newton MA 02465
City/Town State Zip Code
617 461 9245
Phone Number
tom.zou@hotmail.com
Email Address

Property Owner (if different from applicant):

Tom Zou
Name
37 Upham St
Mailing Address
Newton MA 02465
City/Town State Zip Code
617 461 9245
Phone Number
tom.zou@hotmail.com
Email Address (if known)

1. Project Location:

51 Oak Ave
Street Address
Latitude (Decimal Degrees Format with 5 digits after decimal e.g. XX.XXXXX)
Assessors Map/Plat Number

Newton
City/Town
Longitude (Decimal Degrees Format with 5 digits after decimal e.g. -XX.XXXXX)
33022 0017
Parcel/Lot Number

[How to find Latitude and Longitude](#)

[and how to convert to decimal degrees](#)

2. Date Request Filed:

2/8/24

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Confirm that there is no jurisdiction under the Wetlands Protection Act on the property.
Confirm the location of 52' contour and the lower elevations on the property.
Confirm that the City Floodplain Ordinance pertains only to areas below the 52' contour line and the portions of the property above the 52' contour are not under Cons. Commission jurisdiction.

Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

51 Oak Ave, Newton MA Survey Plan, Plan for Request Determination of Applicability, Sheet 1 of 1
Rev. 7/15/24
Date

Title Date

Title Date



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Newton
Municipality

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

- 1. The area described on the referenced plan(s) is an area subject to jurisdiction under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

- 2b. The boundaries of Wetlands Resource Area(s) and Buffer Zone(s) listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

- 3. The work described on referenced plan(s) and document(s) is within an area subject to jurisdiction under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to jurisdiction under the Act. Therefore, said work requires the filing of a Notice of Intent
- 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Newton
Municipality

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
-

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)(c) 2. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to jurisdiction under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to jurisdiction under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to jurisdiction under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
-
-

4. The work described in the Request is not within an Area subject to jurisdiction under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to jurisdiction under the Act.



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Newton
Municipality

B. Determination (cont.)

- 5. The area described in the Request is subject to jurisdiction under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- 6. The area and/or work described in the Request is not subject to additional review and approval by:

Newton (see the project description for details)

Name of Municipality

Pursuant to a municipal wetlands' ordinance or bylaw.

City of Newton Floodplain Ordinance

Name

Section 22-22

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- By hand delivery on By certified mail, return receipt request on

Date 8.2.2024

Date

Certified Mail Number

A copy of this Determination has been sent on the same date, considered the date of issuance, to the appropriate DEP Regional Office and the property owner (if not the applicant) in the manner as follows:

DEP

- By [eDEP DOA Submittal Platform](#) (Attach this form and supporting documents)

- By USPS mail By hand delivery

Date 8.2.2024

Date

Property Owner (if not applicant)

- By mail By hand delivery

Date

Date



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Newton
Municipality

C. Authorization (cont.)

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. As noted above, a copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant) on the same date that the Applicant is issued this Determination.

I, Jennifer Steel, Chief Environmental Planner of the City of Newton, am authorized to execute on behalf of the members of the City of Newton Conservation Commission all Determinations of Applicability, Orders of Condition, and Certificates of Compliance pursuant to the Commission's vote dated April 2, 2020, and recorded with the Middlesex South District Registry of Deeds in Book 74537, Page 433

Jennifer Steel 8.2.2024

Newton Conservation Commission
Issuing Authority

Signatures:

s/Dan Green
Signature
s/Susan Lunin
Signature
s/Kathy Cade
Signature
s/Leigh Gilligan
Signature
s/Jeff Zabel
Signature
s/Ellen Katz
Signature

Dan Green
Printed Name
Susan Lunin
Printed Name
Kathy Cade
Printed Name
Leigh Gilligan
Printed Name
Jeff Zabel
Printed Name
Ellen Katz
Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number: _____

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

_____	_____
a. Street Address	b. City/Town, Zip
_____	_____
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

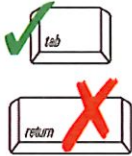
Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	
Phone Number	Fax Number (if applicable)	

4. DEP File Number:

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
 Box 4062
 Boston, MA 02211



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

Request for Departmental Action Fee Transmittal Form

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



Ruthanne Fuller
Mayor

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, MA 02459

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(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

Newton Historical Commission Demolition Review Decision

Date: December 19, 2023 Application # HRA-23-228

Address of structure: 51 OAK AVE

Type of building: House

If partial demolition, feature to be demolished is

The building or structure is:

- in a National Register historic district or in a historic district eligible for listing
- individually listed on the National Register or individually eligible for listing.
- importantly associated with historic person(s), events, or architectural or social history
- historically or architecturally important for period, style, architect, builder, or context.
- in a local historic district not visible from a public way

is **NOT HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is **HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

APPROVES the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

DOES NOT APPROVE and the project requires Newton Historical Commission review on this date November 30, 2023 (See below).

Conditions:

The Newton Historical Commission finds the building or structure:

is **NOT PREFERABLY PRESERVED**

Demolition is not delayed and no further review is required.

is **PREFERABLY PRESERVED – (SEE BELOW).**

Owner of Record:
YZ FLEET LLC

Delay of Demolition:

is in effect until

has been waived - see conditions

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

Determination made by:

David Lewis, Chief Preservation Planner



Ruthanne Fuller
Mayor

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, MA 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

RECORD OF ACTION

DATE: December 19, 2023

SUBJECT: 51 OAK AVE

At a scheduled meeting and public hearing on November 30, 2023, the Newton Historical Commission, by vote of 3 to 4:

RESOLVED to: Find the property preferably preserved. The motion failed.

Voting in the Affirmative:

Nancy Grissom
John Rice
Harvey Schorr

Voting in the Negative:

Doug Cornelius, Chair
Mark Armstrong
Anne Marie Stein
Katie Kubie

Abstained:

Recused:

Title Reference:

Owner of Property: YZ FLEET LLC
Deed recorded at: Middlesex County Registry of Deeds
Book/Page
Date

David Lewis, Chief Preservation Planner

Newton Historical Commission
1000 Commonwealth Avenue, Newton, Massachusetts 02459
Email: dlewis@newtonma.gov
www.newtonma.gov

#362-24
51 Oak 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 allow four single-family attached dwelling units with relief for a reduced side setback, parking within 20 feet of a boundary line, and a driveway within 10 feet of side lot line as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the proposed residential project with a reduced side setback because the site is in a residential neighborhood with dwellings that vary in size and scale and proximate to multifamily uses on Elm Street. (§7.3.3.C.1)
2. The proposed residential project as designed will not adversely affect the neighborhood because the lot area per unit and open space exceeds what is required for the district and is proximate to multifamily uses on Elm Street. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because the two curb cuts and driveways will be consolidated into one shared curb cut and driveway in the same location as the existing driveway. The elimination of one curb cut reduces the likelihood of potential conflicts between drivers and pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because the driveway location is being maintained. (§7.3.3.C.4)
5. Literal compliance with the parking requirements is impractical due to the proposed configuration of parking areas on the site. Relocating the driveway and parking to comply with the standards would require an increase in paving on the site which is contrary to goals set forth in the Climate Action Plan. The driveway and parking do not represent a significant departure in the existing conditions on site, as the driveway and parking areas are being consolidated to one portion of the site. (§5.1.13)

PETITION NUMBER: #362-24

PETITIONER: YZ Fleet LLC

LOCATION: 51 Oak Avenue, Ward 3, West Newton, on land known as Section 33 Block 22 Lot 17, containing approximately 29,700 sq. ft. of land

OWNER: YZ Fleet LLC
37 Upham Street
Newton, MA 02465

TO BE USED FOR: Construction of four attached single-family dwellings in two separate buildings with relief for a reduced side setback and to allow parking within 20 feet of a boundary line and a driveway within 10 feet of a side lot line

RELIEF GRANTED: Special Permit per §7.3 to allow attached single-family dwellings (§3.4.1) and a reduced side setback (§3.2.4) and to allow parking within 20 feet of a boundary line and a driveway within 10 feet of a side lot line (§6.2.3.B.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. Site plan prepared by Spruhan Engineering, P.C., signed and stamped by Christopher C. Charlton, Professional Land Surveyor, and Edmond T. Spruhan, Professional Engineer, dated 4/8/24 and revised 7/1/24
 - b. A set of architectural drawings prepared by Scott Lewis dated 6/10/2024
 - i. "Front elevation" (Sheet A8)
 - ii. "Right side elevation" (Sheet A9)
 - iii. "Rear elevation" (Sheet A10)
 - iv. "Left side elevation" (Sheet A11)
2. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works

for review and approval, should a system be required. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.

3. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
4. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy.
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to

clean muddy wheels on all truck and construction vehicles before exiting the site.

- f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
5. All appliances and utilities for the building shall be all-electric, including heating and cooling.
6. 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. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - c. Submitted a Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with this Order.
 - d. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
 - e. 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.
7. 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, 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.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
8. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
9. Provided that all other requirements in Condition #7 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).