



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: November 8, 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: **Working Session Memo for Petition #329-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to waive two parking stalls at 15-17 Playstead Road, Ward 1, Newton, on land known as Section 71 Block 37 Lot 05, containing approximately 5,101 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 5.1.4, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.portal.opengov.com/locations/102741>

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.



15-17 Playstead Road

Background

The Public Hearing for this petition was opened on September 10, 2024. The Land Use Committee voted 8-0 to hold the matter. The report from that meeting may be found here- <https://www.newtonma.gov/home/showpublisheddocument/122447/638620769702200000> the recording may be found here- <https://www.youtube.com/watch?v=6oX-uVjkHPI>. The public and Councilors made comments regarding parking on the site and on the street, some noting the minor nature of the relief and others raising concerns about street parking and the operation of an Airbnb on site. Given there had only recently been a Zoning Violation issued for an unregistered Airbnb on the premises, Committee members and staff voiced support for holding the item to clarify if the Airbnb was still in operation.

Project Updates

There are no changes to the plans since the September 10th Public Hearing. The only materials submitted since the opening of the Public Hearing and in conjunction with this Working Session are the Petitioner Notarized Statements, found in Attachment A. These statements are intended to demonstrate that the petitioners are now in full compliance with the City's short term rental ordinances and will be in compliance in the future. The draft order remains unchanged and if approved, will bind the petitioners to the plans submitted in advance of the last hearing showing two parking stalls and other no changes to the site or building. Specifically, the binding plan, if approved, for this project is the Plot Plan signed and stamped by Bruce Bradford, Registered Land Surveyor, as revised June 18, 2024.

Analysis

The statements provided in Attachment A ensure that the petitioners are and will be in full compliance with the City's ordinances on short-term rentals. Short-term rentals do not require additional parking stalls or any per the Zoning Ordinance. Therefore, if the petitioners do elect to operate a short-term rental in compliance with City Ordinances, there would be not effect on the relief associated with this petition and no additional amendment or consistency ruling required for the Special Permit, if approved.

ATTACHMENTS:

- ATTACHMENT A:** Petitioner Notarized Statement
- ATTACHMENT B:** Land Use Committee Memorandum, September 6, 2024
- ATTACHMENT C:** Zoning Review Memorandum
- ATTACHMENT D:** Recorded Variance
- ATTACHMENT E:** DRAFT Council Order

SHORT TERM RENTAL AFFIDAVIT OF ZHEN SUN

I, ZHEN SUN, on oath hereby depose and state as follows:

1. My spouse, Yanting Sun, and I own the property located at 15-17 Playstead Road, Newton, MA (the "Property") as described in the Quitclaim Deed from Guoyong Zhu and Zhendi Yan dated June 23, 2020 and recorded with the Middlesex South Registry of Deeds in Book 75097, Page 119.
2. I received a Notice of Violation dated September 9, 2024 for the operation of an unregistered short term rental at the Property in violation of the Newton Ordinances.
3. As of today's date, the operation of the short term rental at the Property has ceased. All short term rental occupants have vacated the Property, all future short term rental reservations have been cancelled, and all short term rental advertisements for the Property have been removed.
4. I will not operate or permit the future operation of a short term rental at the Property without first successfully registering with the City of Newton Inspection Services Department in accordance with Section 20-161(b) of the Newton General Ordinances and following all applicable requirements set for short term rentals set forth in the Newton General Ordinances and the Newton Zoning Ordinances.

Signed under the pains and penalties of perjury this 11 day of Oct, 2024.



ZHEN SUN

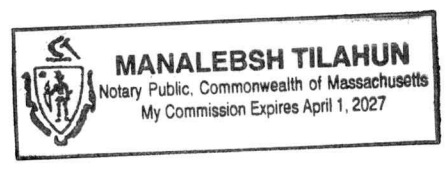
Suffolk
~~Middlesex~~, SS,

Commonwealth of Massachusetts

On this 11 day of October, 2024, before me, the undersigned notary public personally appeared the above-named ZHEN SUN, proved to me through satisfactory evidence of identification, which was MA/DL, to be the person whose name is signed on the preceding document, and acknowledged to me that (s)he signed it voluntarily for its stated purpose.

Notary Public: 

My Commission Expires: 04/01/2027



SHORT TERM RENTAL AFFIDAVIT OF YANTING SUN

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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: September 6, 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 #329-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to waive two parking stalls at 15-17 Playstead Road, Ward 1, Newton, on land known as Section 71 Block 37 Lot 05, containing approximately 5,101 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 5.1.4, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.viewpointcloud.com/records/835499>

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.



15-17 Playstead Street

I. Project Description

Use –single-family

Zone – Multi-Residence 1

Lot size – 5,101 square feet

Existing Nonconformities –lot area and lot area per unit requirement for two-family use

Proposal- The petitioner is seeking to convert the existing single-car garage to living space, resulting in a requested waiver of two required parking stalls, where four is required for the two-family dwelling.

Analysis

The lot, undersized at 5,101 square feet and steeply graded, provides minimal opportunity for expansion without more special permit relief or potentially a variance. The proposal to convert the garage to living space minimizes the relief required compared to any external addition of living space. However, the proposed relief does not exempt the petitioners from complying with all parking regulations and if approved, the petitioners should be mindful of these regulations to ensure there is no obstruction of vehicles onto the sidewalk. Obstructing the sidewalk may result in parking citations and/or zoning violations. The petitioners and subsequent property owners must ensure that the sidewalk is always clear if the driveway is used to park vehicles in addition to the two assigned parking stalls.

Playstead Road is a horseshoe shaped street, with the subject property sited outside of the horseshoe. The City’s Traffic and Parking Regulations allow parking on the outside of the horseshoe in two-hour increments from 8:00 a.m. to 6:00 p.m., except by Newton Corner permit. The petitioner should address how they plan to handle parking with the elimination of two required parking stalls.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.4 §5.1.13	Request to waive two parking stalls	S.P. per §7.3.3
	To amend Variance #7-95 to alter approved plans	Variance per §7.6

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

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

- The specific site is an appropriate location for waiving two required parking stalls. (§7.3.3.C.1)
- The conversion of garage to habitable space requiring a waiver for two parking stalls as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians created by the conversion of garage to habitable space requiring a waiver for two parking stalls. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved in the conversion of garage to habitable space requiring a waiver for two parking stalls. (§7.3.3.C.4)
- Literal compliance 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 see parking. (§5.1.13)

IV. Project Proposal and Site Characteristics

The proposed project consists entirely of internal work to convert the existing single-car garage space to living area, which eliminates two of the four required parking stalls for the property. The existing dwelling is a two-family dwelling on a 5,101 square foot lot which required a variance to comply with the minimum lot area per unit. The provided site plan shows that the driveway can only accommodate two nineteen feet long by nine feet wide stalls. With approximately 34.5 feet in length and just over eighteen feet in width, there is no room within the existing driveway for additional parking stalls. Additionally, at the end of the driveway there is an approximately six-foot retaining wall. An expansion of the driveway would require altering the retaining wall and may require additional zoning relief.

The site is steeply graded, with an increase of about sixteen feet diagonally across the lot from the front left or west corner to the rear right or east corner of the lot. There are several large existing retaining walls on the site, including the rear retaining wall which reaches 8.4 feet. With the grade and undersized total lot area of 5,101 square feet, any expansion of living area would present challenges in terms of compliance with setbacks, floor area ratio, and applicable zoning dimensional standards.

Playstead Road is a horseshoe shaped street, which is reflected in the City's Traffic and Parking Regulations. The City's Traffic and Parking Regulations prohibits parking inside of the horseshoe on Playstead Road on all days. Outside of the horseshoe, where the subject property is sited, parking is allowed in two-hour increments from 8:00 a.m. to 6:00 p.m., except by Newton Corner permit. The petitioner should address how they plan to handle parking with the elimination of two required parking stalls.

I. Interdepartmental Review

No departmental review is required.

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

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 15, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Yanting and Zhen Sun, Applicants
Robert Pellegrini, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to amend Variance #7-95 and to waive two parking stalls

Applicant: Yanting and Zhen Sun	
Site: 15-17 Playstead Road	SBL: 71037 0005
Zoning: MR1	Lot Area: 5,101 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 15-17 Playstead Road consists of a 5,101 square foot lot improved with a two-family dwelling constructed in 1951. The dwelling was granted Variance #7-95 waiving the lot area and lot area per unit requirement to legalize the prior conversion from a single into a two-family dwelling. The petitioner seeks to convert the existing single-car garage into living space for one of the units, eliminating the required parking stall it provides. The proposed construction requires an amendment to the variance and a special permit to waive two parking stalls.

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

- Zoning Review Application, prepared Robert Pellegrini, attorney, dated June 18, 2024
- Variance #7-95
- Plan of Land Existing Conditions, signed and stamped by Bruce Bradford, dated 6/5/2024
- Plan of Land Proposed Conditions, signed and stamped by Bruce Bradford, dated 5/6/2024, revised 6/18/2024
- Proposed Basement Plan, prepared by T Design LLC, dated 6/2/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to convert the existing basement level one car garage into additional habitable space, eliminating the parking for one vehicle. Per section 5.1.4, two parking stalls are required per each dwelling unit, resulting in a requirement of four parking stalls for the two units. The driveway is approximately 34 feet deep and 21 feet wide, accommodating only two dimensionally-compliant parking stalls (9 feet by 19 feet) per section 5.1.7. The petitioner seeks a waiver of two stalls per section 5.1.13.
2. Variance #7-95 was granted to legalize a prior owner’s conversion of the dwelling from a single- to a two-family use. While the use is allowed in the MR1 district, the lot is undersized and required a variance from the lot area per unit (the variance also granted relief from the total lot area. As the lot already existed and was improved, this relief was not necessary. Condition #1 requires that “the two-family dwelling be maintained consistent with the submitted plans”. The petitioner requires an amendment of Variance #7-95 to alter the approved plans.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.4		
§5.1.13	Request to waive two parking stalls	S.P. per §7.3.3
	To amend Variance #7-95 to alter approved plans	Variance per §7.6



25488-475

CITY OF NEWTON, MASSACHUSETTS

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1000 Commonwealth Avenue
Newton, MA 02159
Telephone (617) 552-7018
Telecopier (617) 964-4539

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ZONING BOARD OF APPEALS
Pamela D. Hough, Board Secretary

CITY CLERK
NEWTON, MA. 02159

#7-95

Detailed Record of Proceeding and Decision

Petition of Mr. Guoyong Zhu & Ms. Zhendi Yan of 15 Playstead Road, Newton, MA.
deed Reference 25082-470

For a variance from the lot area and lot area per unit for a two family dwelling.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on February 28, 1995 at 6:30 p.m. in Room 209 at City Hall, Newton, Massachusetts.

The following members of the Board were present:

- Harold Meizler, Chairman
- Catherine Clement
- Robert Corbett
- Sondra Shick
- Edna Travis

The petition was filed on January 20, 1995.


Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the News Tribune, a newspaper of general circulation in Newton, Massachusetts.

Accompanying the petition were plans entitled "Plan of Land to Accompany the Petition of Gouyong Zhu & Zhendi Yan" dated January 12, 1995 by Verne T. Porter, Land Surveyor, and floor plans entitled " 15 Playstead Road Newton" undated, unsigned.

FACTS:

The petitioners were represented by Attorney Peter F. Harrington of 105 Waltham Street, West Newton, MA.

The subject site is located at 15 Playstead Road Newton, MA, Ward 1, 71, Block 37, Lot 5 containing approximately 5,101 square feet of Residence 1 District.

Attest:

 Pamela D. Hough, Secretary

MSD 07/14/95 02:43:27 788 13.00

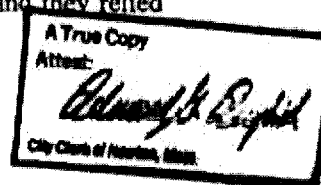
The petitioners seek a variance from the density and dimensional controls set out in Newton Zoning Ordinance, Section 15-30, which require a lot size of 7,000 square feet for lots created prior to December 7, 1953 and require 5,000 square feet per unit for a two-family dwelling.

The petitioners stated that the conditions especially affecting the property are, at the time the property was developed zoning requirements did not prohibit the establishment of a two-family house at Playstead Road. The size and design of the lot and the building were intended to meet all of the then requirements of Newton Zoning Ordinances. Literal compliance with the zoning ordinance would prevent the use of the property for two-family purposes.

The Playstead Road area was developed as a two-family home neighborhood on lots averaging approximately 4,000 square feet. Two-family homes in the immediate area include 7, 10, 11, 26, 30, 33, 34, 40 and 44 Playstead Road, along with 147, 151, 159, 163, 169 and 173 Tremont Street.

The petitioners were both born in China. They immigrated to Massachusetts and rented an apartment at 15 Playstead Road in October, 1989. At the time of their arrival neither had any fluency in English and they have learned the language while residing in the United States. On October 31, 1994, the petitioners entered in to a Purchase and Sale Agreement, believing the property to be a two-family house. Prior to signing the agreement they checked with the Newton Assessor's Office and were advised that the assessor's records showed it as a two-family house. They were not aware of the Building Department records or information concerning the status of the property. Thereafter, they were informed by the mortgagee bank inspector that the property did not have an occupancy permit for a two-family house. After discussions, it was their understanding that it would take some months to prepare and file an application to obtain a permit for a two-family house and that the obtaining of the permit appeared to be a routine procedure requiring the preparation and filing of plans and making the house available for inspections.

They were aware that interest rates had increased substantially since they had locked in their mortgage rate and they were advised by the bank that if they did not acquire the property within the time agreed in the Purchase and Sale Agreement that new interest rates would apply to their loan. The petitioners did not have a separate attorney representing them in the acquisition and they relied



on the bank and its attorney with respect to a determination of the problem surrounding the purchase of the property. Since the bank did not appear concerned about the ability to legitimize the two-family status of the property and wished to proceed with the purchase, the petitioners acquired the property.

The petitioners submitted a petition in favor signed by 16 neighbors.

No one spoke in opposition.

FINDINGS AND DETERMINATION:

1. The site is unique to its narrow configuration, abuts a steep slope and the Boston city line.
2. A hardship exists in that the site's existing structure was already converted to a two-family and literal compliance will cause a substantial hardship.
3. No substantial detriment to the public would occur since the two family already exists and would be in conformity with the neighborhood.
4. Granting the variance would not derogate from the spirit and intent of the Zoning Ordinance in that the departure from the Zoning Ordinance requirement would not change the character of the surrounding area.

Accordingly, a motion was made by Mr. Corbett and duly seconded by Ms. Travis to grant the petition which motion passed, five in favor and none opposed. Therefore, the variance is granted subject to the following conditions:

1. That the two family dwelling be maintained consistent with the submitted plans.
2. That the Planning Department approve the facade and floor plans.
3. That this variance must be exercised within one year from the date of its filing with the City Clerk or the variance lapses:

A True Copy
Attest:
Edward J. Ruyhil
City Clerk of Newton, Mass.

- 4. That this variance must be recorded with the Middlesex Registry of Deeds within one year from the date of its filing with the City Clerk or the variance lapses.

Harold Meizler
 Harold Meizler, Chairman

AYES:

- Harold Meizler
- Catherine Clement
- Robert Corbett
- Sondra Shick
- Edna Travis

Copies of this decision and all plans referred to in this decision have been filed with the Planning and Development Board and the City Clerk.

The decision was filed with the City Clerk on 3.22.95

The City Clerk certified that all statutory requirements for the issuance of this VARIANCE have been complied with and that 20 days have lapsed since the date of filing of this decision and no appeal, pursuant to Section #17, Chapter 40A has been filed.

Edward English
 Edward English, City Clerk

I, Pam Hough, am the Clerk of the Zoning Board of Appeals and the Keeper of its records. This is a true copy of its decision.

Pam Hough
 Pam Hough

A True Copy
 Attest:
Edward English
 City Clerk of Newton, Mass.

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 the conversion of an internal garage to living space, requiring a waiver of two parking stalls for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the conversion of garage to habitable space requiring a waiver for two parking stalls as the undersized lot presents significant limitations to adding habitable space or parking stalls. (§7.3.3.C.1)
2. The conversion of garage to habitable space requiring a waiver for two parking as developed and operated will not adversely affect the neighborhood as the site is removed from commercial corridors and high-traffic streets. Further, while there is not enough driveway length to incorporate four standard parking stalls, there is 34.3 feet of driveway length which is sufficient for two vehicles of above average length to park in tandem on each side of the driveway without blocking the sidewalk. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the conversion of garage to habitable space requiring a waiver for two parking stalls because there is not enough driveway length to incorporate four standard parking stalls, there is 34.3 feet of driveway length which is sufficient for two vehicles of above average length to park in tandem on each side of the driveway without blocking the sidewalk or parking at the curb in front of the house where there is a significant curve. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in the conversion of garage to habitable space requiring a waiver for two parking stalls as the proposed scope of work is minimal and internal. (§7.3.3.C.4)
5. Literal compliance 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 as the lot is undersized at 5,101 square feet and features a steep grade that makes expanding the driveway impractical and expanding the existing two-family dwelling otherwise would require additional zoning relief. (§5.1.13)

PETITION NUMBER: #329-24

PETITIONER: Yanting and Zhen Sun

LOCATION: 15-17 Playstead Street

OWNER: Yanting and Zhen Sun

ADDRESS OF OWNER: 15-17 Playstead Street
Newton, MA 02458

TO BE USED FOR: Two-family attached

RELIEF GRANTED: Special Permit per §5.1.4, §5.1.13, and §7.3.3 to waive two parking stalls

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 signed and stamped by Bruce Bradford, Registered Land Surveyor, as revised June 18, 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.