



#260-19

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

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 5, 2019
Land Use Action Date: October 15, 2019
City Council Action Date: October 21, 2019
90-Day Expiration Date: November 4, 2019

DATE: September 30, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #260-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to further extend the nonconforming front setbacks from 14.9 feet to 14.7 feet and from 14.7 feet to 14.8 feet, where 25 feet is the minimum allowed, and to allow a parking stall within the front setback and within five feet of a street, at **28 Wade Street**, Ward 5, Newton Highlands, on land known as SBL 83, 01, 01 containing approximately 4,587 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. §3.1.3, §5.1.7.A, §5.1.13, §7.8.2.C.2, and §7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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 that the Land Use Committee of the City Council can consider at a subsequent working session.



28 Wade Street

EXECUTIVE SUMMARY

The subject property located at 28 Wade Street consists of a 4,587 square foot lot in the Single Residence 3 (the “SR-3”) zone in Newton Highlands. The property is improved with a two-story, single-family, dwelling constructed circa 1906. The lot is a corner lot with frontages on Wade and Hershey Streets. The structure has nonconforming front setbacks of 14.7 feet and 14.8 feet from Wade and Hershey Streets, respectively where 25 feet is the minimum allowed. The petitioners are seeking to raze the existing dwelling to construct a 2.5-story, single-family dwelling. The proposed dwelling will be constructed on largely the existing footprint and therefore seeks to maintain the nonconforming front setbacks. Additionally, parking for the dwelling will consist of two surface stalls within the front setback of Hershey Street and within the five feet of Hershey Street. As a result, the petitioner requires special permits to further extend the nonconforming front setbacks and to allow a parking stall within the front setback and within five feet of a street.

The Planning Department believes that the proposed structure is sited appropriately to complement the abutting structures and to maintain the rhythm of the street. Also, the dwelling will comply with the dimensional standards of an old lot in the SR-3 zone, including building height and floor area ratio. For these reasons, staff does not believe that the extension of the nonconforming front setbacks will be substantially more detrimental than the existing setbacks are to the neighborhood. Staff is unconcerned with the request to allow an additional parking stall within five feet of a street due to the shallow depth of the lot. The petitioner provided revised plans that removes parking within five feet of a street, and staff suggests that the petitioner withdraw their request to seek such relief.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The proposed extensions in the nonconforming front setbacks are substantially more detrimental than the existing nonconforming setbacks are to the neighborhood. (§3.1.3 and §7.8.2.C.2)
- Literal compliance with the parking requirements 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 (§5.1.7.A and §5.1.13)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

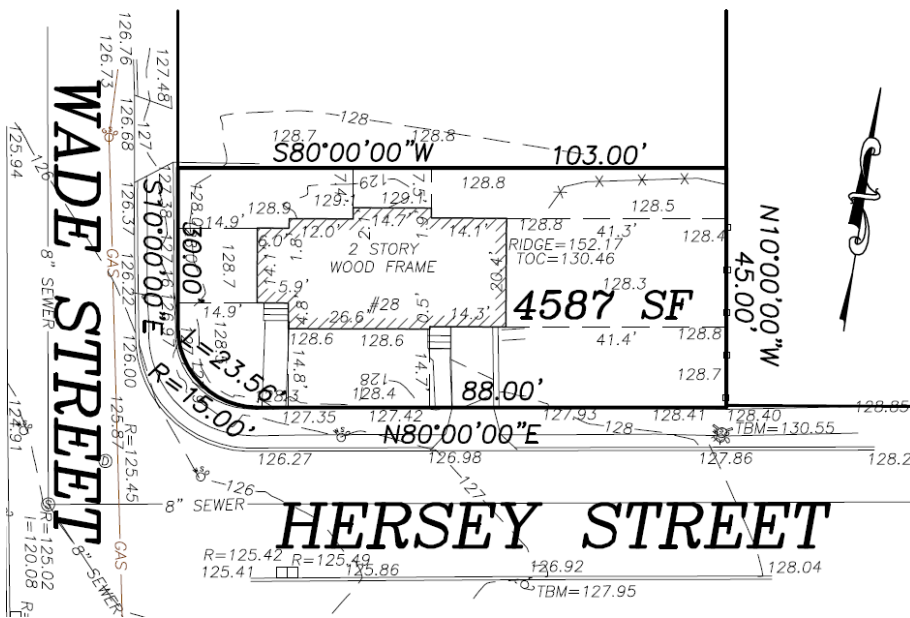
The subject property is located on Wade Street in the SR-3 zone in Newton Highlands.

The immediate area is located entirely within the SR-3 zone while, farther west is a Public Use District, and to the north is a Multi-Residence 2 district (**Attachment A**). As such, the area consists predominantly of single-and multi-family uses and the Newton Highlands Playground (**Attachment B**).

B. Site

The site consists of 4,587 square feet of land and it is improved with a two-story, single-family dwelling constructed circa 1906. The existing dwelling is approximately 23.7 feet tall and features a gambrel roof. The lot is a corner lot with frontages on Wade and Hershey Streets, with access from Hershey Street. Parking consists of one stall within a garage in the first floor of the dwelling and one surface stall within the front setback. The site is generally flat, and there is some mature landscaping at the northern (side) and eastern (rear) boundaries

Existing Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

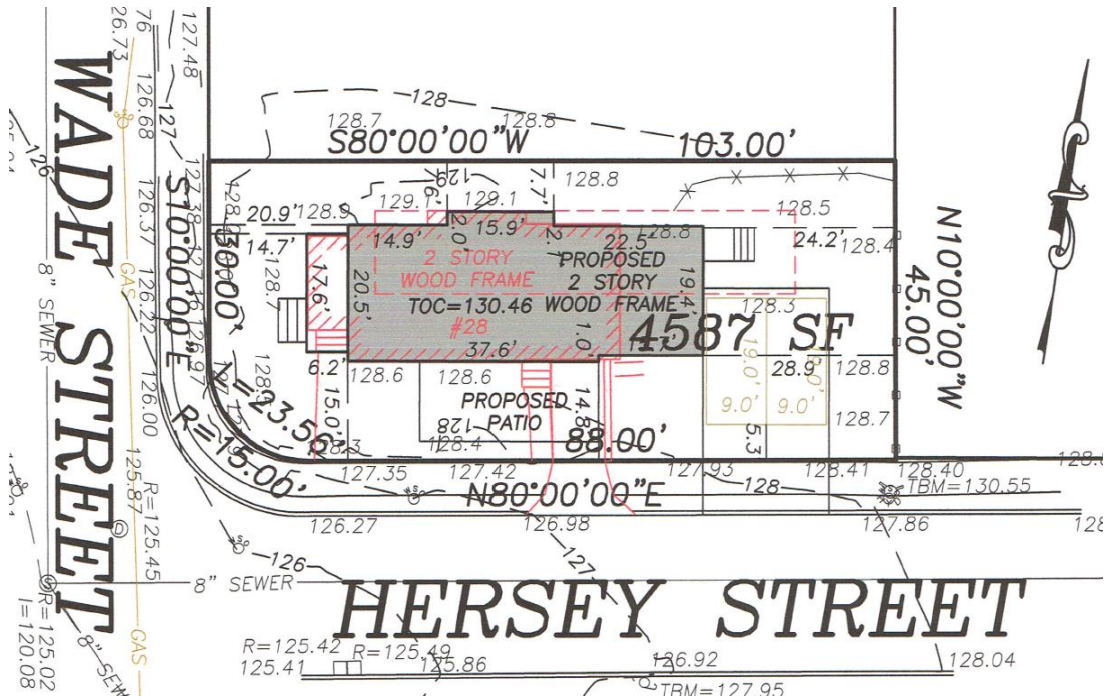
The principal use of the site is and will remain a single-family residence.

B. Building Design

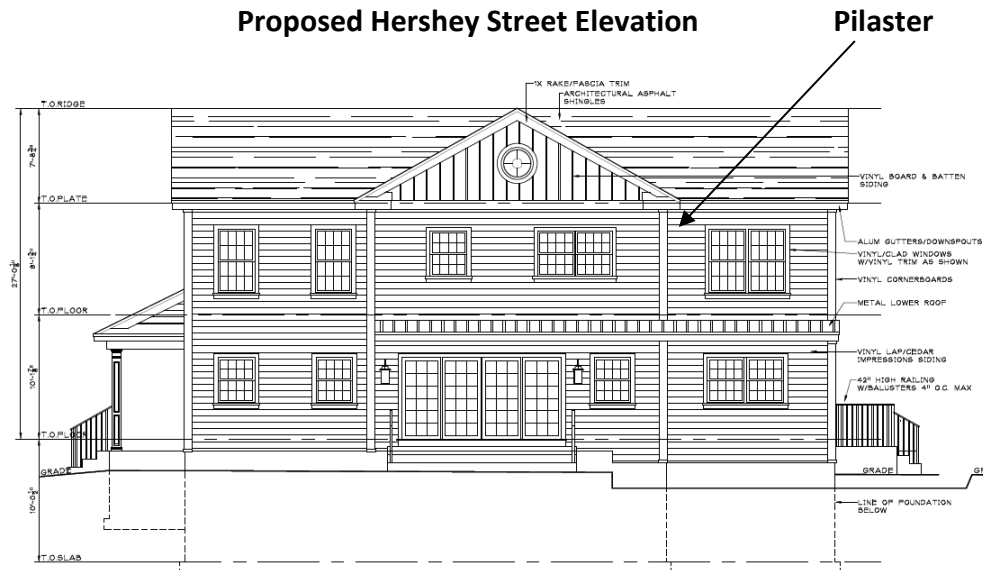
The petitioners are proposing to raze the existing dwelling to construct a 2.5-story single-family dwelling. The petitioner proposes to construct the dwelling on largely

the same footprint and is therefore seeking to extend the nonconforming front setbacks on Wade and Hershey Streets. The proposed dwelling will extend approximately 15.7 feet to the east (rear) beyond the footprint of the existing dwelling, reducing the rear yard setback from 41.3 feet to 24.2 feet. The proposed structure will be approximately 30-feet tall. The half story does not contain habitable space and therefore does not count against the floor area ratio (the "FAR"). The basement does qualify as habitable space, but this space does not count against the FAR because it is completely below grade.

Proposed Site Plan



The dwelling is a contemporary end-gabled structure featuring an oculus in the half story and an open porch. As such, the dwelling will have a prominent front door on Wade Street. The façade along Hershey Street and the opposite façade will feature a cross-gabled roof, with pilasters, akin to corner boards, that seek to break apart the massing of the structure and to prevent the appearance of a continual wall plane.



The Planning Department believes that the proposed dwelling is sited appropriately on the lot because the abutting structures to the north along Wade Street and to the east along Hershey Street are also sited close to the street. By complementing the setbacks of these structures, the proposed structure will maintain the rhythm of the street. The proposed dwelling will be taller than the existing structure and will extend the length of the building within the setback, but the structure will comply with the remaining dimensional controls of an old lot in the SR-3 zone, including building height and FAR. For these reasons, staff does not believe that the extension of the nonconforming front setbacks will be substantially more detrimental than the existing setbacks are to the neighborhood.

C. Parking and Circulation

The petitioner is proposing to provide two parking stalls within the front setback of Hershey Street. The Newton Zoning Ordinance allows one stall within the front setback as of right, but the second stall requires a special permit. In addition to the second stall within the front setback, both stalls are within five feet of a street, requiring a special permit. The petitioner submitted a revised site plan that indicates that the egress stair at the northeast corner of the dwelling was reoriented. This allows for the vehicles to pull deeper into the lot, and therefore comply with the five-foot requirement. As such, the petitioner should withdraw their request to allow parking within five feet of a street.

The Planning Department is unconcerned with the request to locate the second parking stall within the front setback. The lot's shallow depth combined with the two front setbacks makes providing parking stalls elsewhere on the lot impracticable.

Additionally, both stalls will meet the size dimensions of the Ordinance and will be five feet from the street. Staff suggests that a condition be included into the Council Order to require the petitioner to remove the existing curb cut along the Hershey Street frontage prior to the issuance of an occupancy permit, should this petition be approved.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance)

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.1.3, and §7.8.2.C.2 of section 30, to further extend a nonconforming front setback.
- §5.1.7.A and §5.1.13 of Section 30, to allow parking within the front setback and within five feet of a street.

B. Engineering Review

Review from the Engineering of Public Works is not required at this time. The petition will be reviewed for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this project be approved.

C. Newton Historical Commission Review

The Newton Historical Commission found the structure “Not Historically Significant” in October of 2018. As such, the petitioner can raze the structure.

V. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.




ATTACHMENTS:

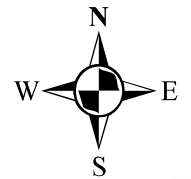
- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum, dated July 18, 2019
- Attachment D:** DRAFT Order

Attachment A Zoning Map Wade St., 28

*City of Newton,
Massachusetts*

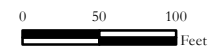
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Mixed Use 2
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: August 20, 2019




Attachment B Land Use Map Wade St., 28

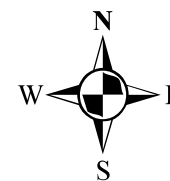
*City of Newton,
Massachusetts*

Legend

Land Use

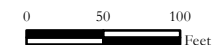
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Vacant Land
-  Tax Exempt
-  Building Outlines
-  Surface Water
-  Property Boundaries



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: August 20, 2019





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1000 Commonwealth Avenue Newton, Massachusetts 02459

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(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 18, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Peter W. Tse, Applicant
Paul Beaulieu, Agent
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to extend nonconforming front setbacks

Applicant: Peter W. Tse	
Site: 28 Wade Street	SBL: 83001 0001
Zoning: SR3	Lot Area: 4,587 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

BACKGROUND:

The property at 28 Wade Street consists of a 4,587 square foot corner lot currently improved with a single-family residence constructed in 1906. The dwelling has been deemed not historically significant by the Newton Historical Commission. The petitioner proposes to raze the existing dwelling and construct a new single-family dwelling, expanding the footprint. The proposed construction requires a special permit to further the extend the nonconforming front setback of the existing dwelling on Wade Street and to alter the nonconforming front setback on Hersey Street.

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

- Zoning Review Application, prepared Paul Beaulieu, dated 6/4/2019
- FAR Worksheet, submitted 6/4/2019
- Certified Plot Plan, signed and stamped by Bradley J. Simonelli, surveyor, dated 6/3/2019
- Architectural plans and elevations, prepared by AP Design/Build, dated 6/4/2019

ADMINISTRATIVE DETERMINATIONS:

1. The existing dwelling has a front setback of 14.9 feet from Wade Street and 14.7 feet from Hersey Street, where 25 feet is required by section 3.1.3. The petitioners intend to raze the existing dwelling and reconstruct another single-family dwelling. The proposed dwelling will be sited with a 14.7 foot front setback from Wade Street and a 14.8 foot front setback from Hersey Street, and extends further to the back lot line opposite Wade Street. The petitioner requires a special permit to extend the nonconforming front setbacks per sections 3.1.3 and 7.8.2.C.2.
2. The petitioners propose to construct two parking stalls at the rear of the property off Hersey Street located on the front lot line. Section 5.1.7.A states that there may be only one parking stall of the two required within the front setback and no stall may be within five feet of the street. The petitioner requires a special permit to allow one of the parking stalls to be within the front setback and to allow both to be within five feet of the street per section 5.1.13.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	4,600 square feet	No change
Frontage	70 feet	45 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Wade St) • Front (Hersey St) • Side • Rear 	25 feet 25 feet 7.5 feet 7.5 feet	14.9 feet 14.7 feet 7.4 feet 41.3 feet	14.7 feet 14.8 feet 7.6 feet 24.2 feet
Max Number of Stories	2.5	2	No change
Max Height	36 feet	23.58 feet	28.87
FAR	.48	.32	.47
Max Lot Coverage	30%	20.8%	26.9%
Min. Open Space	50%	72.8%	54.4%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to further extend nonconforming front setbacks	S.P. per §7.3.3
§5.1.7.A §5.1.13	Request to allow parking in the front setback and within five feet of a street	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to further extend nonconforming front setback from 14.9 feet to 14.7 feet, from 14.7 feet to 14.8 feet and to allow a second parking stall within the front setback, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed extension of the nonconforming front setbacks is not substantially more detrimental than the existing setbacks are to the neighborhood because the proposed structure will be set back in accordance with neighboring structures maintaining the rhythm of the street and the structure will comply with the remaining dimensional standards of an old lot in the Single Residence 3 zone. (§3.1.3 and §7.8.2.C.2).
2. Literal compliance with the requirement that only one parking stall be located within the front setback is impracticable due to the shallow depth of the lot. (§5.1.7.A and §5.1.13)

PETITION NUMBER: #260

PETITIONER: Peter W. Tse

LOCATION: 28 Wade Street, on land known as Section 83, Block 01, Lot 01, containing approximately 4,587 square feet of land

OWNER: Peter W. Tse

ADDRESS OF OWNER: 10 Seaport Drive, Unit 2605
Quincy, MA 02171

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3 and §7.8.2.C.2 to further extend the nonconforming front setbacks; §5.1.7.A and §5.1.13 to allow a parking stall within the front setback

ZONING: Single Residence 3 district

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. Civil Plan Set, prepared by Field Resources, Inc., signed and stamped by Bradley J. Simonelli, Professional Land Surveyor, dated July 17, 2019, Revised July 31, 2019, containing two sheets.
 - b. Architectural Plans, prepared by AP Design Build, signed and stamped, dated June 4, 2019, Revised July 24, 2019, consisting of the following nine (9) sheets:
 - i. Sheet A-1, First and Second Floors
 - ii. Sheet A-2A, Front and Right Elevations
 - iii. Sheet A-2B, Rear and Left Elevations
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Council Order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. Prior to the issuance of a certificate of occupancy, the petitioner shall receive approval from the Engineering Division for removal of the existing curb cut along the Hershey Street frontage.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or a professional land surveyor certifying compliance with Condition #1.
- b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.
- c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.