



#212-21

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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 13, 2021  
Land Use Action Date: September 28, 2021  
City Council Action Date: October 4, 2021  
90- Day Expiration Date: October 11, 2021

DATE: July 9, 2021

TO: City Council

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

SUBJECT: **Petition #212-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second-story rear addition, vertically extending the nonconforming rear setback at 5 Dedham Street, Ward 8, Newton Highlands, on land known as Section 83 Block 10 Lot 17, containing approximately 7,569 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 7.8.2.C.2, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2017.

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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.



**5 Dedham Street**

## EXECUTIVE SUMMARY

The property located at 5 Dedham Street consists of a 7,569 square foot lot in the Single Residence 3 (SR-3) zone in Newton Highlands. The lot is improved with a single-family residence constructed circa 1935. The petitioners are seeking to construct a 300 square foot addition within the existing footprint which extends the nonconforming rear setback of 7.7 feet.

The Planning Department is unconcerned with the addition to that extends the nonconforming rear setback. The addition does not alter the setback nor the footprint of the structure. For these reasons, staff believes the proposed extension of the nonconforming rear setback will not be substantially more detrimental.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed extension of a nonconforming rear setback is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.4.3.A.1 and §7.8.2.C.2)

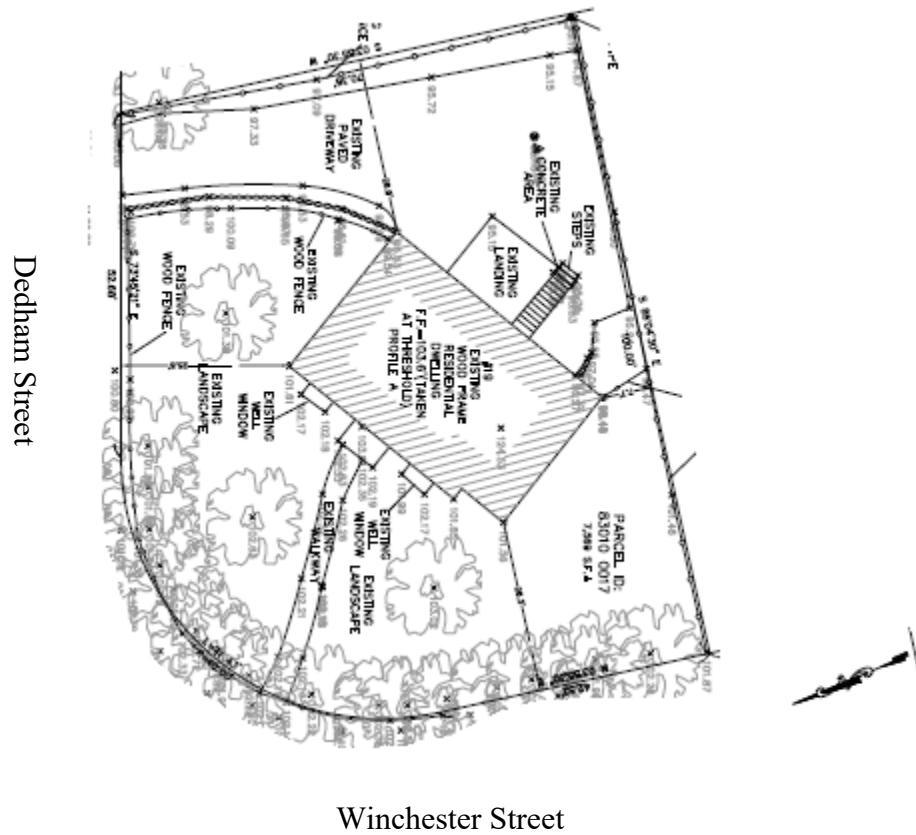
### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on Dedham Street in the SR-3 zone in Newton Highlands. The SR-3 zone encompasses the surrounding neighborhoods to the north, south, and east on Winchester Street, Dedham Street, and Upland Avenue, respectively. To the west on Needham Street are Mixed Use zones and Open Space districts (**Attachment A**). The surrounding area has both single-family and multi-family residential uses to the north, south and east as well as well as commercial uses on Needham Street to the west (**Attachment B**).

#### B. Site

The site consists of 7,569 square feet on a corner lot and is improved with a single-family dwelling constructed circa 1935. The lot is served by one curb cut providing access to a paved driveway. The single-family dwelling has a nonconforming rear setback of 7.7 feet, where 15 feet is required. The site also features dense and mature landscaping, screening the dwelling from both Dedham Street and Winchester Street.



### III. PROJECT DESCRIPTION AND ANALYSIS

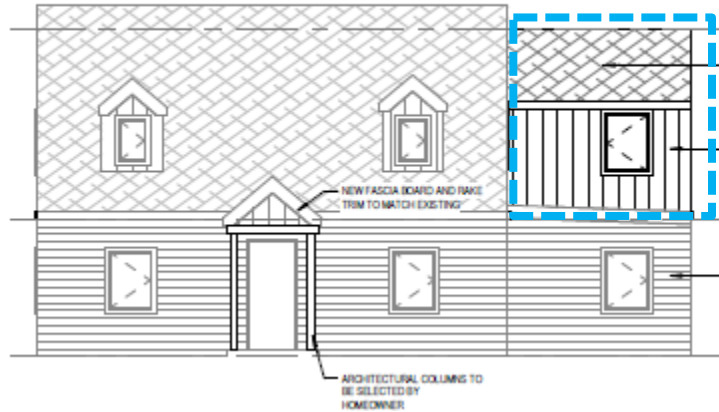
#### A. Land Use

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

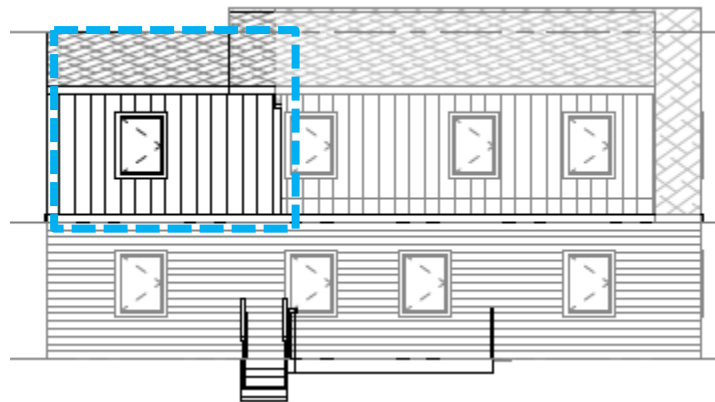
#### B. Building and Site Design

The petitioners are seeking to extend the rear nonconforming setback by constructing a second story addition within the footprint of the existing dwelling. The addition adds approximately 300 square feet to the dwelling, increasing the FAR from .28 to .32, where .47 is the maximum allowed as of right.

### Proposed Front Elevation



### Proposed Rear Elevation



The Planning Department is unconcerned with the addition to that extends the nonconforming rear setback. The addition does not alter the setback nor the footprint of the structure. For these reasons, staff believes the proposed extension of the nonconforming rear setback will not be substantially more detrimental.

C. Parking and Circulation

The petitioners are not proposing any changes to either the parking on circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

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

- §3.1.9, §3.1.3 and §7.8.2.C.2 of Section 30, to further extend a nonconforming rear setback

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

This petition does not meet the minimum threshold for Historic Preservation Review.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum  
**Attachment D:** DRAFT Council Order







# ATTACHMENT A

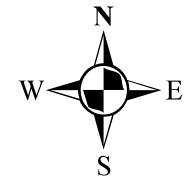
## Zoning

### 5 Dedham Street

City of Newton,  
Massachusetts

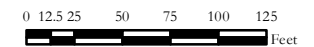
## Zoning

-  Single Residence 3
-  Multi-Residence 1
-  Manufacturing
-  Mixed Use 1
-  Mixed Use 2
-  Public Use



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  
GIS Administrator - Douglas Greenfield



Map Date: July 06, 2021





# ATTACHMENT B







## Land Use

### 5 Dedham Street

City of Newton,  
Massachusetts

## Land Use

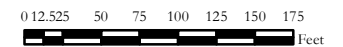
### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Open Space
-  Vacant Land



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CITY OF NEWTON, MASSACHUSETTS  
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Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: May 18, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: Yongjie Yang, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: **Request to extend a nonconforming rear setback**

Applicant: Yongjie Yang	
Site: 5 Dedham Street	SBL: 83010 0017
Zoning: SR3	Lot Area: 7,569 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 5 Dedham Street consists of a 7,569 square foot corner lot improved with a single-family dwelling constructed in 1935 in the Single Residence 3 zoning district. The petitioner intends to construct a second-story addition, vertically extending the nonconforming rear setback, requiring a special permit.

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

- Zoning Review Application, prepared by Yongjie Yang, submitted 4/1/2021
- Plan of Land, signed and stamped by Peter Nolan, surveyor, dated 2/22/2021
- FAR worksheet, submitted 4/1/2021
- Floor Plans and Elevations, submitted 4/1/2021



**ADMINISTRATIVE DETERMINATIONS:**

1. The dwelling has a nonconforming rear setback of 7.7 feet, where 15 feet is required per section 3.1.3. The petitioner intends to construct a second story addition within the setback in the existing footprint. The addition does not increase the nonconformity, but the work within the setback extends the nonconformity vertically, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	7,569 square feet	No change
Frontage	70 feet	95 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front - Dedham Street</li> <li>• Front - Winchester Street</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 25 feet 7.5 feet 15 feet	25.8 feet 26.3 feet 26.9 feet <b>7.7 feet</b>	No change No change No change <b>No change</b>
Height	36 feet	24.7 feet	No change
Stories	2.5	2	No change
FAR	.47	.28	.32
Max Lot Coverage	30%	NA	No change
Min. Open Space	50%	NA	No change

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.C.2	Request to extend a nonconforming rear setback	S.P. per §7.3.3

CITY OF NEWTON  
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend the nonconforming rear setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed extension of a nonconforming rear setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition is within the footprint of the dwelling. (§3.4.3.A.1 and §7.8.2.C.2)

PETITION NUMBER: #212-21

PETITIONER: Yongjie Yang

LOCATION: 5 Dedham Street, on land known as Section 83, Block 10, Lot 17, containing approximately 7,569 square feet of land

OWNER: Yongjie Yang

ADDRESS OF OWNER: 5 Dedham Street  
Newton, MA 02461

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9, and §7.8.2.C.2 to extend a nonconforming rear 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. Plot Plan showing existing conditions at 5 Dedham Street, prepared by Peter Noland and Associates, unsigned and unstamped, dated February 22, 2021;
  - b. Architectural Plans, titled "2<sup>nd</sup> Floor Renovation", unsigned and unstamped, prepared by unknown, issued September 2020, consisting of ten (10) sheets:
    - i. Existing and Demo Plans, X1.01
    - ii. Level 2 Floor Plan, A1.01
    - iii. Roof Plan, A1.02
    - iv. Exterior Elevations A2.01
    - v. Reflected Ceiling Plan A3.01
    - vi. Framing Plans and Section A4.01
    - vii. Exterior Wall Details A5.01
    - viii. Deck Plan and Details A6.01
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.
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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. 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 an architect or 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.