



Ruthanne Fuller
Mayor

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

#59-21
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: August 6, 2021
MEETING DATE: August 10, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #59-21

1092-1094 Chestnut Street

Special Permit/Site Plan Approval to allow four single-family attached dwellings in two buildings with dimensional waivers to reduce side and rear setbacks.

The Land Use Committee (the "Committee") held a public hearing on this petition on Tuesday, March 9, 2021. The public hearing was held open for the petitioner to respond to questions and concerns raised in the Planning Department's memorandum and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised materials submitted by the petitioner as of August 6, 2021.

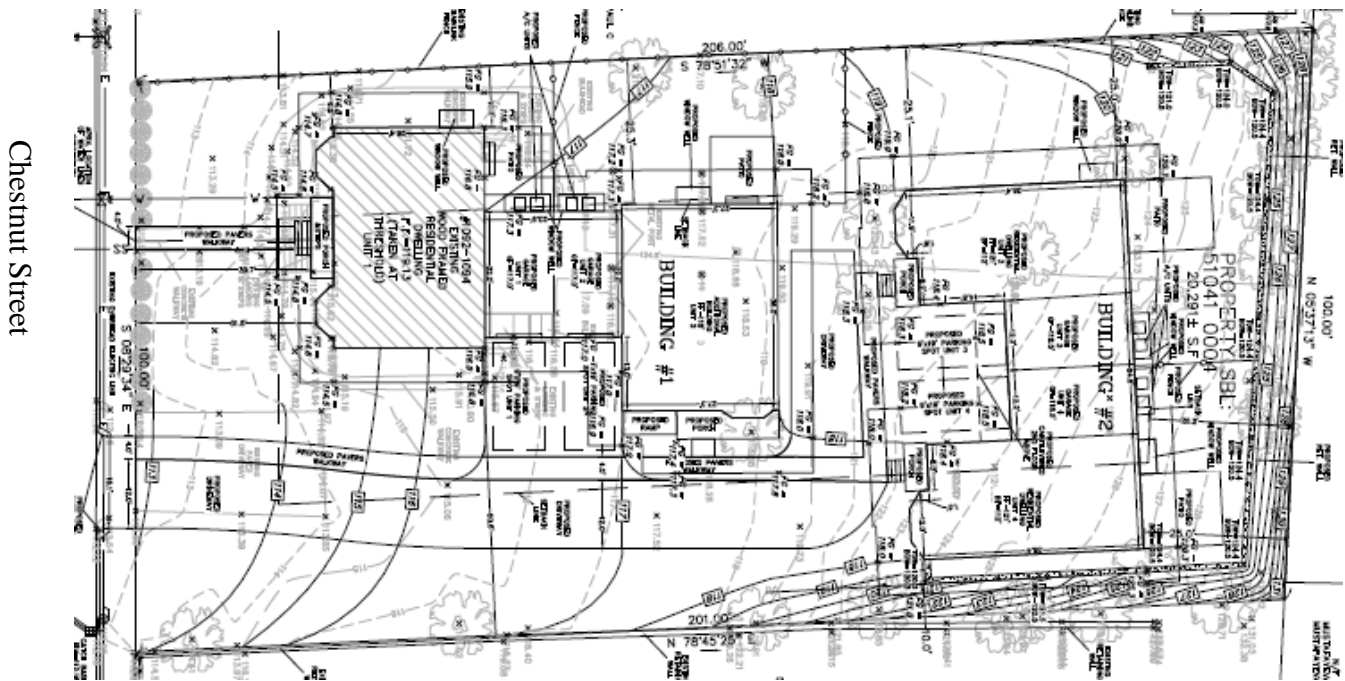
Background

The property located at 1092-1094 Chestnut Street contains a 20,291 square foot lot in the Multi Residence 1 (MR-1) zone in Newton Upper Falls. The lot is improved with a two-family dwelling constructed circa 1881. The petitioner is seeking to construct single-family attached dwellings by retaining the two-family dwelling, constructing an addition, and converting the structure to two single-family attached dwellings. A new structure with two single-family attached dwelling units is proposed at the rear of the site. The single-family attached dwellings building type requires a special permit and has setback requirements of 25 feet from each property line, which can be waived or reduced by special permit. The petitioner is seeking a relief to reduce the required side setbacks.

Revised Plans

At the public hearing Committee members expressed concerns with the setback waivers and questioned whether the setbacks could be adjusted to be more compliant with the required 25-foot setbacks. The petitioner submitted revised plans shifting the rear building, Building 2, towards the southern (right) property line by approximately eight and half feet and forward approximately five feet. As a result, the rear building now has a proposed side setback of ten feet from the southern (right) property line, where 16.5 feet was previously proposed, and 50.5 exists. Building 2 complies with the 25-foot required setback from the northern (left) property line. Building 1 maintains the existing setback from the northern (left) property line of 9.5 feet, while the rear addition to Building 1 complies with the required 25-foot setbacks.

Revised Site Plan



Members of the Committee also requested the petitioner incorporate more native plants rather than invasive and exotic species. A revised landscape plan was submitted with the revised plans, the petitioner should confirm the inclusion of native and drought tolerant plants. Members of the committee also expressed interest in whether bicycle parking could be accommodated on site. The revised site plan did not include designated bicycle parking. The petitioner should confirm as to where bikes would be stored.

Unit Sizes and FAR

While FAR is not a dimensional standard applicable to single-family attached dwellings, the proposed floor area ratio “the FAR” is .48 translating to 9,607 square feet. For comparison, a by-right two-family structure in the MR-1 zoning district would have an FAR of .43 with the option of obtaining the bonus of .02 for utilizing new lot setbacks. A two-family structure with an FAR of .43 would consist of 8,725 square feet of floor area and if utilizing the bonus, would consist of approximately 9,131 square feet of floor area.

Planning Staff requested the unit sizes of the project, to which the petitioner submitted a habitable space calculation. These calculations are presented in the Habitable Space column in the following table. Planning Staff calculated the garage square footage from the plans provided for the total unit size inclusive of garage space. It should be noted that the petitioner submitted a habitable space calculation of 0 in the basement for Unit 1.

Table 1. Unit Sizes

Unit	Type	Habitable Space	Garage	Total with garage
1	3 Bedrooms	2,912 square feet	254 square feet	3,166 square feet
2	3 Bedrooms + Office	3,147 square feet	254 square feet	3,401 square feet
3	3 Bedrooms	2,759 square feet	252 square feet	3,011 square feet
4	3 Bedrooms	2,758 square feet	252 square feet	3,010 square feet

ATTACHMENTS:

Attachment A: Revised 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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 4, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Terrence P. Morris, Attorney
Richard D. Sewell, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow four single-family attached dwellings in two structures

Applicant: Richard D. Sewell	
Site: 1092-1094 Street	SBL: 51041 0004
Zoning: MR1	Lot Area: 20,291 square feet
Current use: Two-family dwelling	Proposed use: Two two-unit single-family attached dwellings

BACKGROUND:

The property at 1092-1094 Chestnut Street consists of 20,291 square feet and is improved with a detached two-family dwelling built in 1881 in the MR1 zoning district. The petitioner intends to convert the existing two-family dwelling into one unit and attach a second unit to the rear resulting in two townhouse-style units, as well as to construct a second structure at the rear containing two single-family attached dwellings. The modifications would result in two structures, each containing two single-family attached dwellings.

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

- Zoning Review Application, prepared by Terrence P. Morris, Attorney, dated 12/8/2020
- Existing Conditions Site Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 7/8/2020
- Proposed Conditions Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 11/23/2020, revised 4/30/2021, 5/20/2021
- Architectural Plans and Elevations, signed and stamped by Ronald Jarek, dated 12/3/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to convert the existing two-family dwelling into one unit and construct an additional unit attached behind it resulting in two townhouse-style units, as well as a second two-unit townhouse-style structure at the rear of the property creating four single-family attached dwellings within two separate structures. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. The existing dwelling has a side setback of 9.5 feet, where 25 feet is required for single-family attached dwellings per section 3.2.4. The petitioners intend to maintain the existing structure and the nonconforming 9.5-foot side setback on the northern boundary as well as construct a second structure with proposed side setback of 10 feet on the southern boundary. Per section 3.2.4, the petitioner seeks a waiver of the side setback requirement for a 9.5-foot side setback for the existing front structure and a 10-foot side setback for the proposed rear structure.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	20,291 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 25 feet 25 feet 25 feet	30.7 feet 9.5 feet 50.5 feet >100 feet	No change No change 10 feet 25 feet
Building Height	36 feet	35.6 feet	Units 1-2: 31.6 feet Units 3-4: 31.1 feet
Max Number of Stories	2.5 (3 by special permit)	2.5	No change
Lot Coverage	25%	7.2%	25.3%
Open Space	50%	86.3%	59.5%
Lot Area Per Unit	4,000 square feet	10,146 square feet	5,073 square feet

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.4.1	To allow single-family attached dwellings	S.P. per §7.3.3
§3.2.4	To reduce the side 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 allow four single-family attached dwelling units in two buildings with reduced side setbacks, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed four single-family attached dwellings in two buildings with reduced side setbacks because the project meets all other dimensional standards of the single-family attached dwellings building type and the proposed setbacks are greater than the existing setback that does not meet the standard for single family attached dwellings. (§7.3.3.C.1)
2. The proposed four single-family attached dwellings in two buildings with reduced side setbacks will not adversely affect the neighborhood because the design of the single family attached dwellings breaks up the massing with two structures and meets the lot area per unit. (§7.3.3.C.2)
3. The proposed four single-family attached dwellings in two buildings with reduced side setbacks will not create a nuisance or serious hazard to vehicles or pedestrians because the proposed site plan maintains the driveway location. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because the required number of parking stalls is accommodated on site. (§7.3.3.C.4)
5. Literal compliance with the dimensional standards for the side and rear setbacks is impractical because the project as designed retains the existing historically significant structure and the new construction reflects the architecture of the existing historic structure (§3.2.4)

PETITION NUMBER: #59-21

PETITIONER: 1092-1094 Chestnut Street Realty Trust

LOCATION: 1092-1094 Chestnut Street, on land known as Section 51 Block 41 Lot 4, containing approximately 20,291 sq. ft.

OWNER: 1092-1094 Chestnut Street Realty Trust

ADDRESS OF OWNER: P.O. Box 95092
Newton, MA 02495

TO BE USED FOR: Four single-family attached dwelling units in two structures

CONSTRUCTION: Wood Frame

EXPLANATORY NOTE: Special permit per §7.3.3 to allow four single-family attached dwelling units with reduced side (§3.4.1, §3.2.4)

ZONING: Multi Residence 1

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with:
 - a. A set of plans prepared by Spruhan Engineering, P.C., signed and stamped by Edmond Spruhan, Professional Land Surveyor:
 - i. "Proposed Conditions Site Plan" showing proposed conditions at 1092-1094 Chestnut Street, dated November 23, 2020; most recently revised June 17, 2021.
 - ii. "Proposed Drainage and Utilities Plan" showing proposed conditions at 1092-1094 Chestnut Street, dated January 30, 2021, most recently revised June 17, 2021.
 - b. Architectural plans entitled "at 1092-1094 Chestnut Street" prepared by Ron Jarek, dated December 3, 2020
 - i. Front Elevation, Building 1, SD.06, dated December 3, 2020
 - ii. Right Elevation, Building 1, SD.07, dated December 3, 2020
 - iii. Left and Rear Elevations, Building 1, SD.08, dated December 3, 2020
 - iv. Front Elevation, Building 2, SD.09, dated December 3, 2020
 - v. Right, Left, and Rear Elevations, Building 2, SD.10, dated December 3, 2020
 - vi. Building 1 First Floor Plan, SD.11, dated December 3, 2020
 - vii. Building 2 First Floor plan, SD.12, dated December 3, 2020
 - viii. Building 1 Second Floor Plan, missing page number, dated December 3, 2020
 - ix. Building 2 Second Floor Plan, missing page number, dated December 3, 2020

- x. Building 1 Basement, missing page number, dated June 17, 2021
 - xi. Building 2 Basement, missing page number, dated June 17, 2021
 - xii. Building 1 Attic, SD.46, dated June 17, 2021
 - xiii. Building 2 Attic, SD.47, dated June 17, 2021
 - c. Landscape Plan prepared by Ron Jarek, registered architect
 - i. Landscape Plan, SD.03, dated June 17, 2021
- 2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, Department of Engineering, and Department of Inspectional Services.
- 3. Prior to the issuance of a building permit, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
- 4. 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 Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. 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.
 - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - g. Submitted a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services the Director of Planning and Development, and the City Engineer.
 - h. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.

5. The petitioner shall comply with the Tree Preservation Ordinance.
6. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
7. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
8. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent 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 of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. 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 and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: 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 and vibration control, in accordance with the City of Newton's Ordinances. 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 for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.

9. No 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 statements by a registered architect and a professional land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. 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, final landscape features, fencing, and parking areas.
10. Notwithstanding the provisions of Condition #9 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping, fencing, signage and parking areas.