



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: September 23, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: James D. Marino, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to extend a nonconforming two-family use to create a structure with three dwelling units and to alter a nonconforming parking facility**

Applicant: James D. Marino	
Site: 9-11 Circuit Avenue	SBL: 31027 0035
Zoning: SR3	Lot Area: 8,471 square feet
Current use: Two-family dwelling	Proposed use: 3-unit Multi-family dwelling

### BACKGROUND:

The property at 9-11 Circuit Avenue consists of an 8,471 square foot corner lot improved with a two-family dwelling constructed circa 1910 in the Single Residence 3 zoning district. The petitioner seeks to create a third unit in the nonconforming two-family dwelling and to make modifications to the existing nonconforming parking facility, requiring a special permit.

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

- Zoning Review Application, prepared by G. Michael Peirce, attorney, submitted 7/28/2021
- Plan of Land, signed and stamped by Joseph R. Porter, surveyor, dated 6/16/2021, revised 9/17/2021
- Zoning Determination, signed by John Lojek, Commissioner of Inspectional Services, dated 5/12/2021

**ADMINISTRATIVE DETERMINATIONS:**

1. The existing two-family dwelling use is legally nonconforming, as two-family dwellings are prohibited in the Single Residence 3 zoning district per section 3.4.1. The petitioner seeks to create a third unit within the dwelling. A special permit is required to extend the nonconforming two-family dwelling use per sections 3.4.1 and 7.8.2.C.2 to allow for a three-unit multi-family dwelling.
2. Per section 3.1.3.A.3, where a density or dimensional control is not set forth for a proposed special permit use, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right is applicable unless otherwise required in the special permit by City Council. A multi-family dwelling is not allowed in any district by right, therefore the appropriate dimensional controls for the use are to be set by the City Council.
3. The petitioner proposes to reconfigure the existing nonconforming parking area to accommodate four vehicles, as well as to provide parking in the rear in a two-car detached garage. Per section 5.1.4.A, two parking stalls are required per dwelling unit. With six parking stalls proposed for three dwelling units, no relief is required.
4. Per section 5.1.8.A.1, in parking facilities with more than five stalls, no stall may be located within any required setback distances and must be set back a minimum of five feet from the front lot line. The existing informal parking area allows for parking within the front setbacks of both Circuit Avenue and Boylston Street. The petitioner proposes to formalize the parking facility which will locate three of the surface stalls within the front setbacks from Circuit Avenue and Boylston Street and one stall within five feet of the Circuit Avenue frontage, requiring a special permit per sections 5.1.13 and 7.8.2.C.2.
5. Section 5.1.8.C.2 requires a minimum width of 24 feet for maneuvering aisles providing access to stalls for two-way traffic. With the proposed changes to the parking area, the petitioner proposes an aisle width of 23 feet at the surface parking, requiring a special permit per sections 5.1.13 and 7.8.2.C.2.

SR3 Zone	Existing	Proposed
Lot Size	8,417 square feet	No change
Frontage	104 feet	No change
Setbacks- Principal		
• Front	10.3 feet	No change
• Side	7.2 feet	No change
• Side	9.9 feet	No change
• Rear	>25 feet	No change
Setbacks – Accessory		
• Front	>50 feet	No change
• Side	>30 feet	No change
• Side	1.4 feet	No change
• Rear	1.4 feet	No change
Lot Area Per Unit	4,209 square feet	2,806 square feet
Stories	3	No change
Max Lot Coverage	24.7%	No change
Min. Open Space	45.2%	No change

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to extend a nonconforming two-family use to allow a three-unit multi-family dwelling	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13 §7.8.2.C.2	Request to alter a nonconforming parking facility to allow parking within the front setback and within five feet of the street	S.P. per §7.3.3
§5.1.8.C.2 §5.1.13 §7.8.2.C.2	Request to alter a nonconforming parking facility to allow a minimum aisle width of 23 feet	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:**

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. 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)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. 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