



#381-21

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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

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	November 16, 2021
Land Use Action Date:	February 1, 2022
City Council Action Date:	February 7, 2022
90-Day Expiration Date:	February 14, 2022

DATE: November 12, 2021

TO: City Council

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

SUBJECT: **Petition #381-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a three-story rear addition with a three-car garage and living space above at **127 Clark Street**, Ward 6, Newton Centre, on land known as Section 52 Block 29 Lot 29, containing approximately 10,830 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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.



127 Clarke Street

EXECUTIVE SUMMARY

The subject property located at 127 Clarke Street consists of a 10,830 square foot lot in the Multi Residence 1 zone (the “MR-1 zone”) in Newton Highlands. The lot is improved with a single-family residence constructed circa 1927. The petitioners are seeking to construct a rear addition which would render the proposed structure a three-story structure. As a result, the petitioners require a special permit to allow a three-story structure. The Planning Department is unconcerned with the addition because its architecture complements the existing structure and complies with the dimensional standards of the MR-1 zone.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed three-story structure (§7.3.3.C.1)
- The proposed three-story structure will adversely impact the neighborhood. (§7.3.3.C.2)
- The proposed three-story structure will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

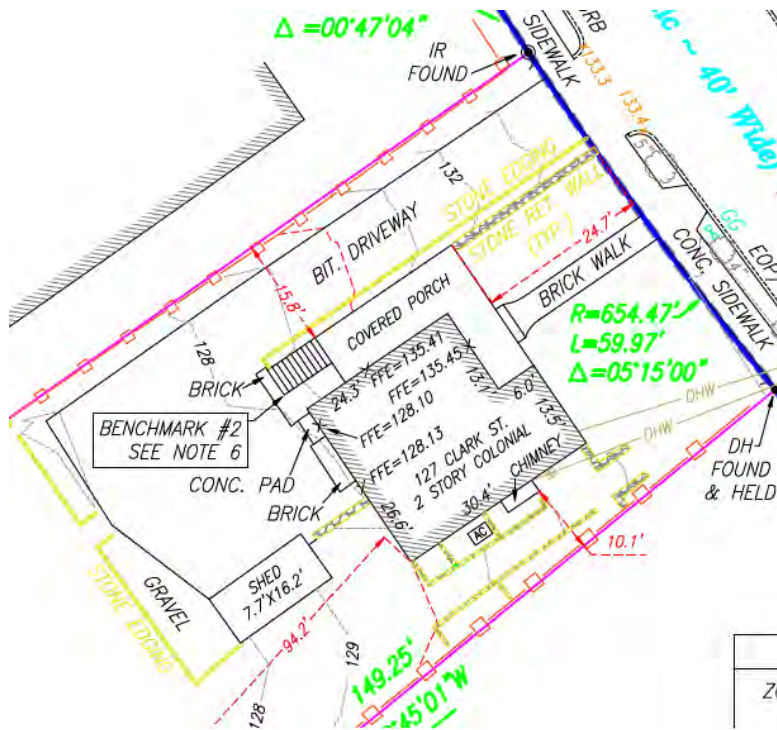
A. Neighborhood and Zoning

The subject property is located on Clark Street in the MR-1 zone in Newton Highlands. The MR-1 zone encompasses the western side of Clark Street north of Boylston Street, while the eastern side is located within the Single Residence 3 district; the southern side of Boylston Street is also located within the Single Residence 3 district (**Attachment A**). As such, the area consists of single- and multi-family use along with two open space parcels (**Attachment B**).

B. Site

The site consists of 10,830 square feet and it is improved with a 2-story single-family dwelling. The site is served by a curb cut at the northwest corner providing access to a driveway and a surface parking area at the rear of the dwelling. The grade of the lot slopes downward from the frontage to the rear of the dwelling by approximately five feet. The site is enclosed with fencing and contains a large, flat, grassy area at the rear.

Figure I: Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Site Design

The petitioners are proposing to construct a rear addition consisting of garage space with two levels of living space above. The addition would extend the structure approximately 44 feet to the rear (south). Due to the topography, the garage portion of the addition, as well as the existing basement, would be considered the first story, rendering the proposed structure a three-story structure. Additionally, the building height would increase from 29 feet to 32.5 feet, however the ridge of the addition would not exceed the existing ridge. Because the garage and existing basement are considered the first floor, they count in their entirety toward the floor area ratio, and the proposed structure complies with the .48 maximum. The petitioners are not proposing any other changes to the site.

The addition would feature a gambrel roof to complement the existing structure. The addition would also step down from three stories to one which would break down the

massing; the decks at the second and first stories also help in this regard. Lastly, the addition is offset which would mitigate the appearance of a continual wall plane. For these reasons, the Planning Department is unconcerned with the addition because the addition would complement the existing structure and the proposed structure would comply with the dimensional standards of the MR-1 zone.

Figure II: Proposed Conditions

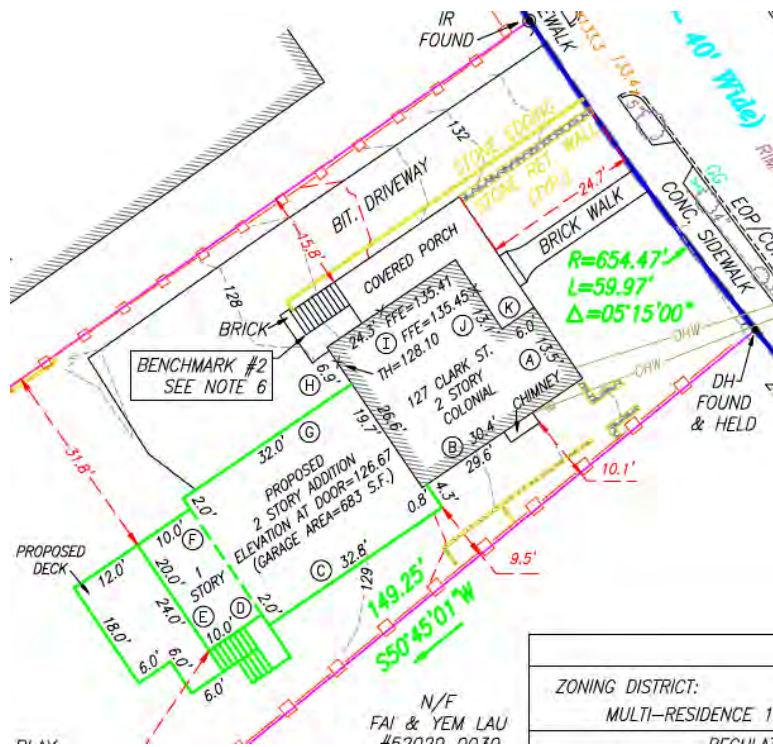


Figure III: Proposed Right and Rear Elevations



C. Parking and Circulation

The petitioners are proposing a three-car garage in the first floor of the addition. Otherwise, there are no changes proposed to either the parking or 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:

- §3.1.3 and 7.3.3 of Section 30, to allow a three-story structure.

B. Engineering Review

The petitioners are proposing to install a subsurface infiltration system in accordance with the addition. Staff recommends the standard operations and maintenance plan condition be incorporated into the council order, should this petition be approved.

C. Historic Preservation Review

The Newton Historical Commission approved the addition on June 17, 2021. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit, should this petition be approved.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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



ATTACHMENT A

Zoning

127 Clark Street

City of Newton,
Massachusetts

Zoning

-  Single Residence 3
-  Multi-Residence 1



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: November 10, 2021



ATTACHMENT B





Land Use

127 Clark Street

City of Newton,
Massachusetts

Land Use

Land Use

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



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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0 12.5 25 50 75 100 125 Feet

Map Date: November 10, 2021





Ruthanne Fuller
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 30, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Lauren Fagerberg, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a three-story structure

Applicant: Lauren Fagerberg	
Site: 127 Clark Street	SBL: 52029 0029
Zoning: MR1	Lot Area: 10,830 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 127 Clark Street consists of a 10,830 square foot lot improved with a single-family dwelling constructed in 1927. The petitioners propose to construct a three-story rear addition consisting of a three-car garage with two stories of living space above. The proposed addition changes the average grade surrounding the structure, creating a three-story dwelling requiring a special permit.

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

- Zoning Review Application, prepared by Lauren Fagerberg, submitted 8/12/2021
- Plan of Land, prepared by A.S. Elliot & Associates, surveyors, dated 2/27/2020
- Architectural plans and elevations, signed and stamped by Bond W. Worthington, architect, dated
- Proposed Conditions and Grading Plan, signed and stamped by Gamze Munden, Engineer, dated 7/29/2021
- Existing Conditions Plan of Land Showing Proposed Improvements, signed and stamped by Elliott Paturzo

ADMINISTRATIVE DETERMINATIONS:

1. The existing topography of the parcel slopes downward from the frontage to the rear. The proposed rear addition alters the average grade such that the basement becomes the first story. The proposed addition renders the dwelling a three-story structure where 2.5 is the maximum allowed per section 3.1.3. Per that same section, a special permit is required for a three-story single-family dwelling.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	10,830 square feet	No change
Frontage	70 feet	60 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	24.7 feet 10.1 feet 94.2 feet	No change No change No change
Max Number of Stories	2.5	2	3*
Max Height	36 feet	29.4 feet	32.5 feet
FAR	.50	.24	.47
Max Lot Coverage	30%	9.3%	18.3%
Min. Open Space	50%	78%	69%

*Requires relief

Figures in **Bold** are nonconforming

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3	Request to allow a three-story structure	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 allow an addition increasing the number of stories to 3, where 2.5 is the maximum allowed by right, 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 third story because the topography slopes down from the front to the rear, rendering the basement the first story. (§7.3.3.C.1)
2. The proposed addition will not adversely affect the neighborhood because the architecture will complement the existing structure. (§7.3.3.C.2)
3. The proposed addition will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location will be maintained. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #381-21

PETITIONERS: Timothy and Lauren Fagerberg

LOCATION: 127 Clark Street, on land known as Section 52, Block 29, Lot 29, containing approximately 10,830 square feet of land

OWNERS: Timothy and Lauren Fagerberg

ADDRESS OF OWNER: 127 Clark Street
Newton, MA 02459

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3 and §7.3.3 to allow a dwelling with three stories

ZONING: Multi Residence 1 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. Site Plan, Proposed Conditions, prepared by A.S. Elliot & Associates, signed and stamped by Elliot J. Paturzo, Professional Land Surveyor, dated May 19, 2021 Revised through July 29, 2021
 - b. Architectural Plans and Elevations, prepared by Paul Worthington Design & Restoration INC., signed and stamped by Bond W. Worthington, Registered Architect, dated February 11, 2021, consisting of nine (9 sheets).
2. Prior to the issuance of any building permit, the petitioners 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. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioners 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 the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - 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. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with Condition #21.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1, including the as built FAR of the structure.
 - 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 licensed land surveyor.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Council Order have been constructed to the standards of the City of Newton Engineering Department.