



Ruthanne Fuller  
Mayor

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

**#188-22**  
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:** April 29, 2022  
**MEETING DATE:** May 3, 2022  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
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 #188-22**

**55 Colella Road**

---

Special Permit/Site Plan Approval to alter and extend a nonconforming single family residential use to a two-unit residential use, and to allow a 2.5 story structure with over 24' in height.

---

### **Background**

The subject property located at 55 Colella Road consists of 7,541 square feet of land, improved with a single-family dwelling constructed in 1949. The property is located within the Business 1 (the "BU-1") zone in Oak Hill Park. The petitioner proposes to demolish the existing structure to construct a two-unit structure. To construct the two-unit structure as designed, the petitioner requires special permit relief to alter and extend the nonconforming residential use in a BU-1 zone and to allow a structure with more than 24 feet in height and with two and a half stories.

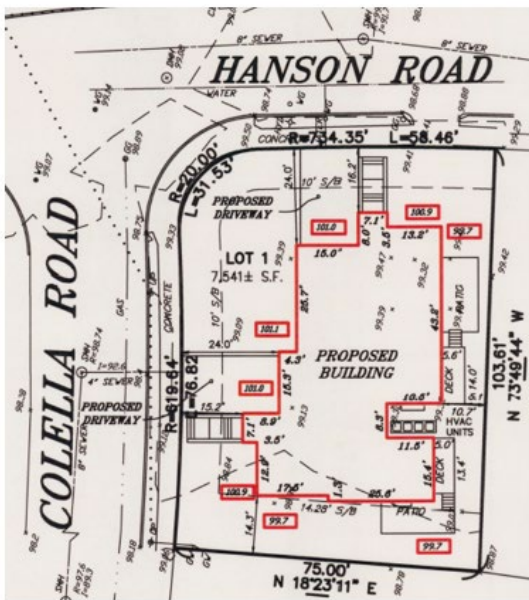
The Land Use Committee (the "Committee") last held a public hearing on this petition on April 5, 2022. The Committee voted to hold the item to allow the petitioner to make changes to the design of the structure around the rear setback.

### **Revised Plans**

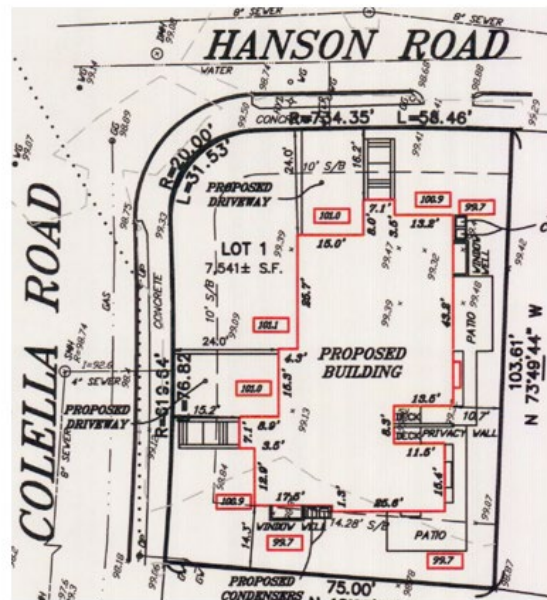
The plans submitted with the application show an eastern rear setback of 5.1 feet. While the site is in the BU-1 zone, where 0 feet is required for the rear setback, the Planning Department questioned

whether the side setback could be increased to be more consistent with residential standards and the neighborhood context of nearby single- and two-family residential uses. The petitioner submitted revised plans showing the eastern rear setback increased to 10.7 feet, with the removal of the previously proposed deck. The petitioner stated that the footprint remains the same, thus the FAR was not impacted by increasing the setback and remains at .76, or 5,765 square feet of floor area.

Site Plans



Initial Submission



Revised Site Plan

Rear Elevations



Initial Submission



Revised Rear Elevation

**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: April 25, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: 55 Colella Rd LLC, Applicant  
Michael Lohin, Developer  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request for a special permit to alter and extend a nonconforming residential use and for height and number of stories**

Applicant: 55 Colella Rd LLC	
<b>Site:</b> 55 Colella Road	<b>SBL:</b> 84015 0001
<b>Zoning:</b> BU1	<b>Lot Area:</b> 7,541 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> 2-unit dwelling

### BACKGROUND:

The property located at 55 Colella Road consists of a 7,541 square foot corner lot improved with a two-story single-family dwelling constructed in 1949 in the Business 1 zoning district. The petitioner proposes to raze the dwelling and construct a two-unit dwelling with two garage parking stalls and two surface stalls. The property will be accessed by two curb cuts, one on Colella Road and the other on Hanson Road. To construct the project as proposed, the petitioner requires a special permit.

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

- Zoning Review Application, prepared by Michael Lohin, Developer, dated 7/22/2020, revised 2/17/2021
- Proposed Plot Plan, signed and stamped by Scott C. Lynch, surveyor, dated 4/25/2022
- Proposed Conditions Plan, signed and stamped by Clifford E. Rober, surveyor, dated 5/11/2020, revised 11/4/2020, 5/11/2021, 10/27/2021
- Architectural Plans and Elevations, signed and stamped by Timothy B. Mulligan, architect, dated 7/18/2020, revised 11/4/2020, 2/12/2021, 7/23/2021, 10/19/2021

- FAR worksheet, submitted 7/22/2020, revised 2/18/2021

**ADMINISTRATIVE DETERMINATIONS:**

---

1. The petitioner proposes to raze the existing nonconforming two-story single-family dwelling and construct a two-unit 2.5-story dwelling in the BU1 zoning district. A special permit is required to alter and extend the nonconforming residential use per sections 4.4.1 and 7.8.2.C.2.
2. Section 4.1.3 allows for a maximum height of 24 feet and two stories by right, up to 36 feet and three stories by special permit. The petitioner proposes a 2.5 story structure with 28.3 feet in height, requiring a special permit.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	<b>7,541 square feet</b>	No change
Setbacks			
• Front (Colella Rd)	10 feet	27 feet	15.2 feet
• Front (Hanson Rd)	10 feet	NA	16.2 feet
• Side	14.2 feet (1/2 height)	36.4 feet	14.3 feet
• Rear	0 feet	22.5 feet	10.7 feet
Building Height	up to 36 feet (special permit)		<b>28.6 feet</b>
Stories	up to 3 (special permit)	2	<b>2.5 stories</b>
Lot Area Per Unit	1,200 square feet	7,541 square feet	3,770.5 square feet
FAR	1.0	NA	.76

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1 §7.8.2.C.2	Request to alter and extend a nonconforming residential use	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To allow a 2.5 story structure with 28.6 feet in height	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 residential use to a two-unit residential use, to allow a structure with 28.6 feet in height and more than two stories, 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 two-unit structure with a height of 28.6 feet and two and a half stories because the project meets the required lot area per unit, and there are similar two and half story structures as well as structures containing two or more units nearby on Hanson Road and Colella Road (§7.3.3.C.1, §4.1.2.B.3, §4.1.3, §4.4.1).
2. The proposed two-unit structure with a height of 28.6 feet and two and a half stories will not adversely affect the neighborhood because the neighborhood consists of a mix of housing types, uses, and styles (§7.3.3.C.2, §4.1.2.B.3, §4.1.3, §4.4.1).
3. There will not be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3, §4.1.2.B.3, §4.1.3, §4.4.1).
4. Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §4.1.2.B.3, §4.1.3, §4.4.1).
5. The proposed nonconforming residential use will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because the neighborhood contains a mix of uses as well as two and a half story structures (§4.1.3, §4.4.1, §7.8.2.C.2).

PETITION NUMBER: #188-22

PETITIONER: Michael Lohin

LOCATION: 55 Colella Road, on land known as Section 84, Block 15, Lot 01, containing approximately 7,541 square feet of land

OWNER: Brad Cangiamila

ADDRESS OF OWNER: 1 Crest Road  
Wellesley, MA 02482

TO BE USED FOR: Two Unit Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit to extend the nonconforming residential use to a two unit structure with 28.6' in height and more than two stories (§4.1.2.B.3, §4.1.3, §4.4.1, §7.8.2.C.2, §7.3.3)

ZONING: Business 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. Proposed Plot Plan, 55 Colella Road, signed and stamped by Scott C. Lynch, Professional Land Surveyor, dated April 25, 2022
  - b. Architectural Plans and Elevations, prepared by Studio 47 architects, signed and stamped by Timothy Mulligan, dated April 11, 2022 consisting of five (5) sheets:
    - i. A100, First Floor Plan
    - ii. A101, Second Floor Plan
    - iii. A102, Basement Plan
    - iv. A200, Exterior elevations showing the front elevations from Colella Road and Hanson Road
    - v. A201, Rear and Side Elevations
  - c. Landscape Plan, L.1., prepared by Minglewood, LLC, dated September 6, 2021, revised December 8, 2021, and April 14, 2021.
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. The petitioner shall comply with the City of Newton Tree Ordinance.

4. The Petitioner shall do the following to remediate pest and rodent activity:
  - a. Prior to issuance of any demolition or building permit, the petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
  - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copies of such approvals shall be provided to the Department of Planning and Development.
  - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
  - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment and neighborhood.
  - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
5. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the Commissioner of Public Works, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with 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.
  - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - c. 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 materials and delivery vehicles and equipment, and location of any security fencing.

- d. 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.
  - e. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. 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.
  - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
  - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties
6. 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 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.
  - d. The petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
7. 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 statements by a registered architect and 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 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 Order have been constructed to the standards of the City of Newton Engineering Department.

DRAFT