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PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 18, 2022
Land Use Action Date:	December 27, 2022
City Council Action Date:	January 2, 2023
90-Day Expiration Date:	January 16, 2023

DATE: October 14, 2022

TO: City Council

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

SUBJECT: **Petition #446-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to construct a singlefamily dwelling and relocate the existing dwelling forward at 113 Grove Street, Ward 4, Newton, on land known as Section 43 Block 31 Lot 15, containing approximately 23,063 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.5, 3.1.10, 1.5.2.G.1 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.



113 Grove Street

EXECUTIVE SUMMARY

(Please note that the petitioner has indicated that it intends to modify the subject property by conveying out a 31 square foot, one-foot deep strip of land at the lot's boundary along the end of Lasell Street with the intended effect of eliminating the lot's frontage on that public way.

As of the writing of this memorandum the petitioner has not submitted documentation of this proposed change to the NewGov portal or City Clerk's Office. As such, the following memorandum reflects the proposal as originally submitted, which required both a special permit and an amendment to the Zoning Ordinance which consisted of a proposed change to the rear lot subdivision definition to allow the project as initially proposed. The petitioner should submit the requested materials for the record and for the Planning Department to respond to. The Planning Department expects to revise its comments as appropriate at the upcoming public hearing on this petition.)

The subject property at 113 Grove Street consists of a 23,063 square foot lot located in a Single Residence 3 (SR3) zoning district improved with a single-family dwelling built circa 1860.

The applicant proposes to subdivide the lot to create a 10,015 square foot front lot along Grove Street (Lot 1) and a 12,897 square foot rear lot (Lot 2). The existing single-family home would be moved forward on the former toward Grove Street, and a new single-family dwelling would be constructed on the latter. To subdivide the land as proposed requires a special permit from the City Council create a rear lot subdivision per Sections 3.1.5 and 3.1.10 of the Newton Zoning Ordinance (NZO).

Due to a proposed addition, the existing dwelling proposed to be relocated on Lot 1 would contain 2,574 square feet of floor area (including 300 square feet within an attached garage), 516 square feet larger than what currently exists. The new dwelling proposed for Lot 2 would contain 3,005 square feet of floor area (495 square feet within an attached garage).

The property has 104 feet of frontage on Grove Street at the front of the lot and 30 feet of frontage on Lasell Street at the rear. As designed, Lot 2 (the rear lot) would be accessed via the Lasell Street frontage.

As discussed in the attached Zoning Review memorandum, per Sec. 1.5.2.G.1 a rear lot is defined as a parcel not fronting or abutting a street, which does not have the required minimum frontage directly on a street, and which has limited access to a street by either a panhandle, an easement over another lot, or private right-of-way. The petitioner does not intend to provide access or an easement for Lot 2 over Lot 1 and intends to rely solely on the access provided by the 30 feet of frontage on Lasell Street for the rear lot. The proposed lot does not meet the definition of a rear lot as it fronts on a public way and would require a variance per Sec. 7.6 to allow for access from a public right-of-way. Instead of a variance, the petitioner is pursuing a change to the definition of rear lot subdivision in the Zoning Ordinance to allow this configuration.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

The creation of a rear lot requires a special permit. The City Council may grant a special permit for a rear lot that satisfies the minimum frontage requirement by measuring lot frontage along the rear line of the lot or lots in front of it (§3.2.12.A).

When reviewing this petition, the City Council should consider whether the rear lot meets the general standards for the requested special permit, namely whether:

- the site is an appropriate location for the two proposed one-family dwellings (§7.3.3.C.1)
- the project as proposed will not adversely affect the neighborhood, (§7.3.3.C.2)
- there would be no 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)

As the petition is requesting approval of a rear lot development in a residential zoning district, the City Council shall also consider the following additional criteria:

- whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes (§7.3.4.B.1)
- the scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood (§7.3.4.B.2)
- topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes (§7.3.4.B.3)
- proposed landscape screening (§7.3.4.B.4)
- adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways (§7.3.4.B.5)
- whether any historic or conservation public benefit is provided or advanced by the proposed development (§7.3.4.B.6)
- siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes (§7.3.4.B.8); and
- impact of proposed lighting on the abutting properties (§7.3.4.B.9)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the west side of Grove Street just south of Woodland Road and at its intersection with Myrtle Avenue. The properties in the neighborhood feature a mix of residential and educational uses, with the latter including the Williams School abutting to the south and Lasell University abutting across Grove Street to the east. The site and surrounding areas to the west of Grove Street are zoned Single Residence 3 (SR3); the area to the northeast above Woodland Road are zoned Single Residence 2 while those to the east/southeast across Grove Street are zoned Single Residence 1 (SR1).

B. Site

The subject property consists of 23,063 square feet of land improved with a single-family dwelling located near the center of the parcel. It has 104 feet of frontage on Grove Street at the front of the lot and 30 feet of frontage on Lasell Street at the rear, and vehicular access is provided via a gravel driveway along the right (north) side property line. A low stone retaining wall is located along much of the front of the lot which is heavily vegetated and features mature trees.

The parcel slopes downward about 10 feet from its high point along its southern boundary to its northern ; it also slopes downward about eight feet from the front to back (east to west) boundary lines.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

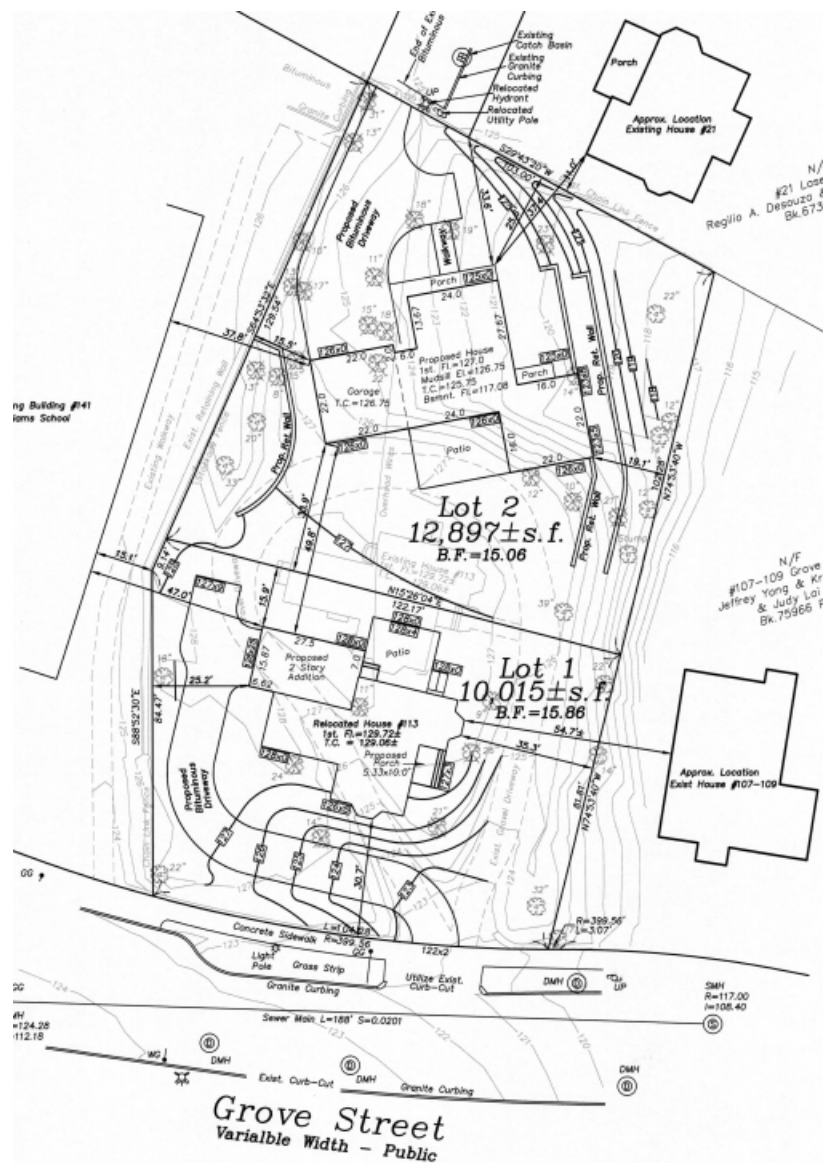
If built as proposed, the principal use of the site would be two single-family homes, one on each of two newly created lots.

B. Building and Site Design

The petitioner is proposing to move the existing single-family home forward toward Grove Street and divide the property to create two new lots. Both lots meet the frontage requirement of 100 feet for "new lots" per Section 3.1.10.B.2. Lot 1 would inherit the existing undivided lot's frontage of 31 feet along Grove Street; Lot 1B's frontage would be established along Lot 1's rear lot line which measures 31.8 feet, which meets the requirements of the Ordinance. Lot 1 would continue to be accessed by a curb cut and associated driveway on Grove Street. As proposed, Lot 2 would be accessed from Lasell Street

Lot 1 (the front lot) would measure 10,015 square feet and would contain the existing,

but expanded and relocated, existing two-story single-family dwelling. With 2,574 square feet of gross floor area, it would have a floor area ratio (FAR) of 0.26, below the 0.41 allowed by right. Its height, as measured above average grade, would be 29.98 feet, below the maximum 36 feet allowed. The Planning Department notes that the petitioner has seemingly not submitted architectural drawings for the to-be-relocated existing dwelling. These should be submitted, especially as additions to that structure are planned.



Proposed site plan

The lot's front setback would be 31 feet, slightly greater than the required 30 feet. The right (north) side setback would be 35.3 feet and its left (south) side setback would be 25.2, both well above the required 10 feet. The rear (west) setback would be conforming at 15.4 feet, just above the 15 feet required. The Lot Coverage would be 15.23%, below the maximum 20.0% allowed; the Open Space percentage would be 68.2%, above the required 50%.

Lot 2 (the rear lot) would contain 12,897 square feet and be improved with a new 2 ½ story, 3,005 square foot single-family dwelling located near the center of the proposed rear lot. It would have a floor area ratio (FAR) of 0.23, slightly lower than the maximum 0.24 allowed for a single family detached dwelling on a rear lot in an SR3 zone. Its height, as measured above average grade, would be 32 feet, below the maximum 36 feet allowed.

Lot 2's front setback, as measured from Lot 1's rear lot line, would be 31.8 feet, just greater than the required 30 feet. As shown in submitted plans, the left (south) side setback would be 15.5 feet, slightly above the minimum 23 feet required (its right (north) side setback would be 19.1 feet). The Lot Coverage would be 16.6%, well below the maximum 25% allowed; the Open Space percentage would be 71.2%, well above the required 50%.





Proposed elevations- new Lot 2 dwelling

In aggregate the two dwellings would contain approximately 5,579 square feet of floor area. It should be noted that on the existing undivided 23,063 square foot lot this would represent a combined FAR of 0.24, less than the maximum 0.37 allowed for a single-family dwelling on a lot that size in a SR3 district.

The Planning Department notes that § 7.3.4 of the NZO establishes additional, special requirements for rear lots in residential districts, including additional review criteria (see above). These include assessing analysis of the height, scale, and topographical differences of and between proposed structures which are the products of rear lot subdivisions and abutting and adjacent residential buildings and structures used for accessory purposes. Other additional criteria include potential impacts on abutting properties from mechanical equipment and lighting. Toward that end, §7.3.4.B provides that petitioners seeking rear lot subdivisions submit additional materials so as to allow analysis of the proposed projects under those criteria. While the petitioner has submitted an area plan with some of the information required by that section, other important information (e.g., heights and number of stories of existing nearby residential buildings and structures) has not, as of the writing of this memorandum, been received by the Planning Department. Particularly helpful would be information regarding height differences between the proposed and adjacent residential structures as that would allow analysis per the criteria provided by §7.3.4.B.1-3.

The Planning Department notes that this information has been requested from the petitioner and expects to provide an update at the public hearing or a subsequent working session.

C. Landscape and Screening

The petitioner has submitted a landscaping plan. It features approximately 60 evergreen and 14 deciduous trees and extensive shrubbery, perennials, and grasses as well as lawn area. The plantings would be installed, especially the trees, to

extensively screen all four sides of Lot 1 and three sides of Lot 2 (much of the remaining side of the latter would be the location of the proposed driveway for that lot).

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment A**). Based on the completed Zoning Review Memorandum, the petitioner is seeking as Special Permit per §7.3. to :

- allow the subdivision of a rear lot (§3.2.10)

The project as designed will also require a Variance per §7.6 to waive the definition of “Rear Lot” (§1.5.2.G). Instead, the petitioner is seeking an amendment to change the rear lot subdivision definition in the Newton Zoning Ordinance.

B. Engineering Review

Review by the Engineering Division is not required at this time.

C. Historical Review

On June 15, 2022, the petitioner was granted a Certificate of Appropriateness for the project as submitted to that body “to move the existing house, change the driveway configuration, and build an addition with an attached garage, and to build a new house with an attached garage and driveway on the back lot with access from Lasell Street.”

V. PETITIONER’S RESPONSIBILITIES

The petitioner should submit the additional information referenced above, including an area plan with all required information, additional architectural drawings and information related to lighting and mechanical equipment so as to allow full review of the project, including but not limited to those criteria established by §7.3.4.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

ATTACHMENT A



Ruthanne Fuller
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 16, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Terrence P. Morris, Attorney
113 Grove Street LLC, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a rear-lot subdivision and a variance from the rear lot definition

Applicant: 113 Grove Street LLC	
Site: 113 Grove Street	SBL: 43031 0015
Zoning: SR3	Lot Area: 23,063 square feet
Current use: Single-family dwelling	Proposed use: Two single-family dwellings on two separate lots

BACKGROUND:

The property at 113 Grove Street consists of 23,063 square feet and is improved with a single-family dwelling built circa 1860 in the SR3 zoning district with 30 feet of frontage on Lasell Street. The applicant proposes to subdivide the lot to create a 12,897 square foot rear lot intended for the construction of a single-family dwelling, relocate the existing dwelling and move it forward to a 10,015 square foot front lot.

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

- Zoning Review Application, prepared by Terrence Morris, Attorney, dated 3/7/2022
- Proposed Conditions Site Plan, signed and stamped, surveyor, dated 2/21/2022
- Architectural Plans and Elevations, signed and stamped by Charles D. Calhoun, architect, dated 3/20/2022
- FAR worksheet, signed and stamped by Charles D. Calhoun, architect, submitted 3/7/2022

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to create a rear lot subdivision per Sections 3.1.5 and 3.1.10. To subdivide the land as proposed, the applicant must obtain a special permit from the City Council per section 3.1.10.A.
2. The lot has 104 feet of frontage on Grove Street at the front of the lot and 30 feet of frontage on Lasell Street at the rear. The applicant intends for the rear lot gain its access from the Lasell Street frontage. Per section 1.5.2.G.1 a rear lot is defined as a parcel not fronting or abutting a street, which does not have the required minimum frontage directly on a street, and which has limited access to a street by either a panhandle, an easement over another lot, or private right-of-way. The applicant does not intend to provide access or an easement over the front lot and instead intends to rely solely on the access provided by the 30 feet of frontage on Lasell Street for the rear lot. The proposed lot does not meet the definition of a rear lot as it fronts on a public way, and requires a variance per section 7.6 to allow for access from a public right-of-way.

Front Lot (Lot 1) per Section 3.1.3

SR3 Zone	Required/Allowed	Proposed
Lot Size	10,000 square feet	10,015 square feet
Frontage	80 feet	104 feet
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	30 feet 10 feet 15 feet	31 feet 25.3 feet 15.4 feet
FAR	.41	.26
Maximum Stories	2.5	2
Max. Lot Coverage	20%	15.23%
Min. Open Space	50%	68.2%

Proposed Rear Lot (Lot 2), per Section 3.1.5

SR3 Zone	Required/Allowed	Proposed
Lot Size	12,000 square feet	12,897 square feet
Frontage	100 feet	122.17 feet
Vehicle Access	20 feet	30 feet
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	30 feet 15 feet 23 feet	31.8 feet 16.3 feet 23.4 feet
FAR	0.24	0.23
Building Height	36 feet	32 feet
Maximum Stories	2.5	2.5
Max. Lot Coverage	25%	16.6%
Min. Open Space	50%	71.2%

3. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.1.5 §3.1.10	Request to allow a rear lot subdivision	S.P. per §7.3.3
§ 1.5.2.G.1	Request to waive the definition of "Rear Lot"	Variance per §7.6