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**Barney S. Heath**  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** November 10, 2022  
**MEETING DATE:** November 15, 2022  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

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

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### **PETITION #446-22**

113 Grove Street

**Petition #446-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to construct a single-family 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.

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The Land Use Committee (the "Committee") held a public hearing on October 8, 2022, on this petition. This memo reflects additional information addressed to the Planning Department as of November 9, 2022.

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### **BACKGROUND**

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 12,866 square foot rear lot (Lot 2). The petitioner has indicated that it intends to modify

the subject property by also 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.

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.

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. Lot 2 (the rear lot) would be accessed from the end of Lasell Street via an easement on 31 square foot strip to be conveyed out of the property.

### **UPDATE**

As the previous hearing on this petition the petitioner discussed its intent to convey 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.

The Planning Department consulted with the Law Department regarding this proposed approach. It is recommended that in the event this approach is taken, and the special permit is granted, the council order should include a condition that such conveyance should occur before any building permit can be issued, must be to a bona fide third-party purchaser, and the strip must remain in separate ownership and control.

Also, per an earlier request, the petitioner should confirm the location of any proposed mechanical equipment per §7.3.4.B.7 of the Newton Zoning Ordinance in advance of or at the upcoming public hearing.

### **ATTACHMENT(S)**

**Attachment A**          DRAFT Council Order

# ATTACHMENT A

#446-22  
113 Grove Street

## CITY OF NEWTON

### IN CITY COUNCIL

#### ORDERED:

That the 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 for a rear lot subdivision by allowing the frontage of the rear lot to be measured along the rear lot line of the lot in front, and to construct one single family dwelling on each of the resulting lots, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the two proposed one-family dwellings as the proposed new front and rear lots will be used as single-family dwellings, an allowed use in a Single Residence 3 (SR3) district (§7.3.3.C.1)
2. The proposed single-family dwellings in the SR3 district will not adversely affect the neighborhood because the project meets the dimensional standards of the Ordinance (§7.3.3.C.2)
3. There would be no nuisance or serious hazard to vehicles or pedestrians as all parking is contained on site (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the front lot would use an existing curb cut on Grove Street and the rear lot would be served by an access easement to Lasell Street (§7.3.3.C.4)
5. At 28.33 feet the height of the proposed rear dwelling would be similar to that of abutting residential buildings (§7.3.4.B.1)
6. The massing and scale of the relocated single-family dwelling on the front lot and the proposed single-family dwelling on the rear lot will be in character and consistent with adjacent existing and allowed residential structures in the surrounding Single Residence 3 (SR3) zoning district (§7.3.4.B.2)
7. Differences in the relative dwelling heights between the proposed rear dwelling and structures on abutting properties are due to the neighborhood's topography (§7.3.4.B.3)
8. The proposed landscape plan includes the extensive installation of trees and other

vegetation which will screen the dwellings from abutting residential properties (§7.3.4.B.4)

9. Vehicular access is provided by two curb cuts, one in an existing location on Grove Street, the other at the terminus of Lasell Street (§7.3.4.B.5)
10. The existing historic house on the property will be retained, renovated, and expanded as approved by the Newton Historical Commission (§7.3.4.B.6)
11. *Mechanical equipment on the rear lot or on abutting lots will not negatively impact either the proposed rear lot development or an abutting property (§7.3.4.B.7)*
12. The proposed siting of the front dwelling and the rear dwelling structure are appropriate given the scales and locations of abutting residential structures (§7.3.4.B.8)
13. Lighting will be residential in character and will not impact abutting properties (§7.3.4.B.9)

PETITION NUMBER: #446-22

PETITIONER: 113 Grove Street LLC

LOCATION: 113 Grove Street, Ward 4, Newton, on land known as Section 43 Block 31 Lot 15, containing approximately 23,063 sq. ft. of land

OWNER: 113 Grove Street LLC

ADDRESS OF OWNER: 27 Lill Avenue  
Newton, MA 02466

TO BE USED FOR: Rear lot subdivision and construction of two new single-family dwellings, one on the resulting 10,015 square foot front lot, the other on the resulting 12,897 square foot rear lot.

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special Permit per §7.3. to allow the subdivision of a rear lot (§3.2.10)

ZONING: Single Residence 3 (SR3) 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. A set of plans prepared by Verne T. Porter Jr., PLS, signed and stamped by Paul J. Tyrell, Professional Land Engineer and Verne T. Porter, Professional Land Surveyor:
    - i. "Proposed Conditions Site Plan, 113 Grove Street, Newton, Massachusetts," dated July 22, 2022, as revised through October 24, 2022, signed and stamped by Paul J. Tyrell, Professional Land Engineer and Verne T. Porter, Professional Land Surveyor
    - ii. "Area Plan, 113 Grove Street, Newton, Massachusetts," dated July 22, 2022, as revised through October 24, 2022, signed and stamped by Verne T. Porter, Professional Land Surveyor
    - iii. "Zoning Plan, 113 Grove Street, Newton, Massachusetts," dated July 22, 2022, as revised through October 24, 2022, signed and stamped by Verne T. Porter, Professional Land Surveyor
    - iv. "Subdivision Plan of Land, 113 Grove Street, Newton, Massachusetts," dated July 22, 2022, as revised through October 24, 2022, signed and stamped by Verne T. Porter, Professional Land Surveyor
  - b. A set of architectural drawings for the relocated one-family dwelling, entitled "Remodel & Addition to 113 Grove Street," prepared by C.D. Calhoun Associated Incorporated, undated:
    - i. "New Design Floor Plans," (showing "New Design Second Floor Plan" and "New Design First Floor Plan" (Sheet A-3)
    - ii. "New Elevations," (showing "New Left Elevation," "New Right Elevation," "New Front Elevation," and "New Rear Elevation," (Sheet A-4)
  - c. A set of architectural drawings for the new one-family dwelling and attached garage, entitled "New House for Rear Lot @113 Grove Street," prepared by C.D. Calhoun Associated Incorporated, undated:
    - i. "Front & Right Elevations," (Sheet A-8)
    - ii. "Rear and Left Elevation," (Sheet A-7)
  - d. A document entitled "Floor Area Ratio Worksheet, Property Address: 113 Grove St (Front Lot- Existing House)" indicating a proposed gross floor area of 2,574 square feet and a proposed FAR (floor area ratio) of 0.26, signed and stamped by Charles D. Calhoun, Registered Architect
  - e. A document entitled "Floor Area Ratio Worksheet, Property Address: 113 Grove St (Proposed Rear Lot)" indicating a proposed gross floor area of 3,005 square feet and a proposed FAR (floor area ratio) of 0.24, signed and stamped by Charles D. Calhoun, Registered Architect
  - f. A landscaping plan entitled "113 Grove Street, Newton, MA 02446, Planting Plan," prepared by Shoplick Associates, dated April 19, 2022, signed and stamped by Jane Shoplick, Registered Landscape Architect

2. All utilities shall be located underground from the property line.
3. All lighting fixtures shall be residential in scale.
4. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final **Operations and Maintenance** Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
5. 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.
6. Prior to the issuance of any Building Permits, the petitioner shall provide a Final Landscape Plan showing all new plantings, for review and approval by the Director of Planning and Development.
7. Prior to the issuance of any Building Permit, the petitioner shall submit a final **Construction Management Plan (CMP)** to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should include at a minimum:
  - 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 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
  - c. 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.
  - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
  - e. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
  - f. To ensure emergency vehicle access there shall be no parking in the driveway.
  - g. The CMP shall also address the following:
    - i. location(s) of a staging site for construction equipment and parking for construction workers vehicles;
    - ii. identification of building materials;

- iii. phasing of the project with anticipated completion dates and milestones;
  - iv. safety precautions;
  - v. anticipated dewatering during construction;
  - vi. site safety and stability;
  - vii. impacts on abutting properties, including any on the retaining wall located on the adjacent property to the west.
5. 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 for review and approval prior to issuance of any demolition or building permit. A copy of such approval 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.
8. Prior to the issuance of any building permit for one or both of the dwellings, the petitioner shall provide an Approval Not Required ("**ANR**") plan dividing the parcel into three lots as shown in Condition **1(a)(4)** one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex South Registry of Deeds. A recorded copy of the ANR plan shall be submitted to the Engineering Division of Public Works and submitted with the building permit application.
9. Prior to the issuance of any building permit for one or both of the dwellings, evidence of the proposed conveyance of the 31 square foot, one-foot-deep parcel of land at the lot's boundary along the end of Lasell Street (as shown in the plan identified above in Condition 1(a)(4)) to **a bona fide third-party purchaser** must be submitted to the Law Department for review and approval. Said parcel shall remain in separate ownership and control from either and/or both of the two other parcels.
10. No Building Permit for one or both of the dwellings shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has, as such relates to the dwelling(s) for which such building permit is requested:
- a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
  - b. 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.

- c. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
  - e. Obtain a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M in accordance with Condition #4.
  - f. Filed a final Landscape Plan to the Director of Planning and Development for review and approval.
  - g. Recorded a certified copy of an Approval Not Required (ANR) plan showing the division of the property consistent with the plans referenced in Condition #1 with the Registry of Deeds for the Southern District of Middlesex County and has filed a copy of such recorded ANR plan with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
11. No Final Inspection and/or Occupancy Permit for one or both of the dwellings constructed pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has, as such relates to the dwelling(s) for which such Final Inspection and/or Occupancy Permit is requested:
- 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.
  - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - c. Filed with the City Clerk and 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 and fencing.
  - d. 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.
12. No Final Inspection and/or Occupancy Permit for one or both of the dwellings constructed pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has, as such it relates to the such dwelling(s) for which the such Final Inspection and/or Occupancy Permit is requested, has 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 the stormwater and drainage improvements identified in the provisions of Condition #1 above have been constructed to the standards of the City of Newton Engineering Department.



13. Notwithstanding the provisions of Condition #11 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed 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 landscaping to secure installation of such landscaping.
14. The landscaping shown on the approved Final Landscape Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.