

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

---

**PUBLIC HEARING MEMORANDUM**

**DATE:** August 4, 2023

**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 #242-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a second driveway on the eastern lot line, resulting in two vehicles within the front setback at **97 Waban Hill Road North**, Ward 7, Chestnut Hill, on land known as Section 63 Block 04 Lot 26, containing approximately 6,887 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 5.1.7.A, 5.1.13 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 which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



**97 Waban Hill Road North**

## **Project Description**

### **Background**

The subject property at 97 Waban Hill Road North consists of a 6,887 square foot lot in a Single Residence 2 (SR2) zoning district improved with a single-family dwelling constructed circa 1916. There is an existing approximately 9 foot by 34 foot driveway on the left (west) side of the lot which accommodates one conforming parking stall.

The petitioner proposes to construct a new, second driveway on the opposite side of the lot. Located directly at the back of the sidewalk, it would measure 9 feet by 19 feet and be accessed via a new, 12-foot wide curb cut. It would be parallel to, and approximately four feet from, the right (east) lot line.

The parcel has an approximately 22-foot downward grade change from its highest point at the front left (southwest) corner of the property to its rear. The surrounding neighborhood is predominantly zoned Single Residence 2 (SR2), with an Multi Residence 1 (MR1) neighborhood to the northeast. The Public Use (PU) zoned Newton Commonwealth Golf Course and Newton Reservoir properties are located to the north and south respectively.

### **Need for Special Permit**

As only one parking stall may be located in the front setback for use in conjunction with a single-family dwelling, per Section 5.1.7.A of the Newton Zoning Ordinance (NZO) a special permit per Sec. 5.1.13 of the NZO is required to allow an additional parking stall in the front setback.

Also per Sec. 5.1.7.A, no parking stall may be within five feet of the front lot line. The proposed parking stall would be located right at the front lot line, requiring relief per Sec. 5.1.13.

### **Analysis and Recommendations**

The Planning Department recommends that the petitioner explore other options for providing an additional parking stall without creating one with significant nonconformities.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
Ordinance		Action Required
§5.1.7.A §5.1.13	Request to allow a second parking stall in the front setback and within five feet of the street	S.P. per §7.3.3

For more details regarding the zoning analysis please refer to **Attachment A**.

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

1. The specific site is an appropriate location for a second parking stall in the front setback and a parking stall within five feet of the front lot line. (§7.3.3.C.1)
2. The second parking stall in the front setback and a parking stall within five feet of the front lot line as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§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)
5. Literal compliance with the requirements that only one parking stall may be located in a front setback and that a parking stall not be located within five feet of the front lot line is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property consists of a 6,887 square foot lot improved with a single-family dwelling constructed circa 1916. The parcel has an approximately 22-foot downward grade change from its highest point at the front left (southwest) corner of the property to its rear.

Vehicular access is provided via an approximately 9 foot by 34 foot paved driveway located parallel to, and approximately 3 feet from, the left property line. The lot also features walkways and mature lawn area, shrubs, and trees.



The Planning Department notes that while the screening of new parking stalls is often recommended, in the event this petition was granted the proposed space's proximity to the street would militate against such a recommendation given safety concerns related to oncoming traffic and pedestrians.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** Review of this petition by the Newton Historical Commission is not required.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Review Memorandum  
**Attachment B:** DRAFT Council Order

# ATTACHMENT A



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: July 11, 2023

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Katie Whewell, Chief Planner for Current Planning

Cc: Kevin Barry, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to allow parking in the front setback and within five feet of the front lot line**

### Applicant: Kevin Barry

<b>Site:</b> 97 Waban Hill Road North	<b>SBL:</b> 63004 0026
<b>Zoning:</b> SR2	<b>Lot Area:</b> 6,887 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 97 Waban Hill Road North consists of a 6,887 square foot corner lot improved with a single-family dwelling constructed in 1916. There is an existing driveway on the western side of the lot which can accommodate a single vehicle. The applicant seeks to construct a second driveway on the eastern lot line, resulting in two vehicles within the front setback, requiring a special permit.

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

- Zoning Review Application, prepared Kevin Barry, applicant, completed 5/1/2023
- Plan of Land proposed driveway, signed and stamped by Bruce Bradford, surveyor, dated 2/7/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. There is an existing driveway on the western side lot line of the property. The petitioner intends to seek an additional curb cut for the construction of a second driveway for a parking stall on the eastern lot line. Both stalls will be located within the front setback on opposite sides of the lot. Per section 5.1.7.A only one parking stall may be located in the front setback for use in conjunction with a single-family dwelling. A special permit per section 5.1.13 is required to allow an additional parking stall in the front setback.

Per this same section 5.1.7.A, no parking stall may be within five feet of the street. The proposed parking stall will be located within five feet of the front lot line, requiring relief per section 5.1.13.

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.7.A §5.1.13	Request to allow a second parking stall in the front setback and within five feet of the street	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

# ATTACHMENT B

ATTACHMENT B- DRAFT #242-23

97 Waban Hill Road North

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 a second parking stall in the front setback located within five feet of the front lot line, 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 a second parking stall in the front setback located within five feet of the front lot line. (§7.3.3.C.1)
2. The second parking stall in the front setback located within five feet of the front lot line as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§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)
5. Literal compliance with the requirements that only one parking stall may be located in a front setback and that a parking stall not be located within five feet of the front lot line is impracticable due to the size, width, depth, and grade of the lot. (§5.1.13)

PETITION NUMBER: #242-23

PETITIONER: Kevin Barry

LOCATION: 97 Waban Hill Road North, Ward 7, Chestnut Hill, on land known as Section 63 Block 04 Lot 26, containing approximately 6,887 sq. ft.

OWNER: Kevin and Robyn Barry

ADDRESS OF OWNER: 97 Waban Hill Road North  
Newton, MA 02467

TO BE USED FOR: Single-family dwelling

EXPLANATORY NOTES: Special permit as per §7.3.3 to allow a second parking stall in the front setback and within five feet of the street (§5.1.7.A, §5.1.13))

ZONING: Single Residence 2 (SR2) 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 the following plans:
  - a. A site plan entitled "Plan of Land in Newton, MA, 97 Waban Hill Road North, Proposed Driveway," prepared by Everett M. Brooks Co., dated February 7, 2023, as revised through April 27, 2023, signed and stamped by Bruce Bradford, Professional Land Surveyor, April 27, 2023.
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
  - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
  - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the petitioner has:
  - a. Filed with the building permit record statements by a registered architect, professional land surveyor, or professional engineer, certifying compliance with Condition #1.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.