



City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: April 3, 2025

TO: City Council

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

SUBJECT: **Petition #76-25** to amend Special Permit #419-22 to allow for a change to the configuration of the rear addition which results in a three-story structure at 148 Auburndale Avenue, Ward 3, West Newton, on land known as Section 33 Block 18 Lot 03, containing approximately 6,616 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017

PROJECT MATERIALS: <https://newtonma.portal.opengov.com/records/861030>

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.



148 Auburndale Ave.

I. Project Description

Use – Single-Family Dwelling

Zone – Single-Residence 3 (SR3)

Lot size – 6,616 square feet

Proposal – The petitioner is seeking to amend Special Permit #419-22 to allow for a third story.

Background

The subject property was granted Special Permit #419-22 to further extend the nonconforming front setbacks from Auburndale Avenue and Fernwood Road. Subsequent to that Special Permit, a Consistency Ruling in February 2024 with input from the Land Use Committee allowed for an increase in the size and height of the addition to the front and rear of the dwelling. During construction of this addition, the petitioners added knee walls above the second story that were not shown in the plans approved by the Special Permit or Consistency Ruling. This created a third story as the sloped roof intersects with the top of the knee wall. The definition of a half-story per Section 1.5.4.C of the Zoning Ordinance requires that the sloped roof intersects with the floorplate and if the sloped roof intersects above the floorplate, it is deemed an additional story. On January 30, 2025, Inspectional Services issued a Stop Work Order due to the construction of the unapproved third story and directed the petitioners to seek an amendment to their existing Special Permit.

Analysis

Planning finds that the resulting portion of the dwelling considered to be a third story is relatively minor compared to the overall dwelling and appears in keeping with other dwellings of similar historic architectural styles in the vicinity. The portion of this property requiring an amendment to the existing Special Permit is a 432 square foot addition to the rear where the roof was raised by 2.5 feet, resulting in a height of 31.5 feet and a noncompliant third story that were not a part of the approved architectural plans. Given this portion is towards the rear of the dwelling, and well under the 36-foot maximum height for single-family dwellings, the dwelling will not appear to have a third story from the street level and will appear similar in height and massing to other dwellings in the surrounding area.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Amend Special Permit #419-22	
§3.1.3	To allow three stories	S.P. per §7.3.3

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

III. Criteria for Consideration per §7.3.3:

- The specific site in SR3 is an appropriate location for the third story;
- The third story as developed and operated will not adversely affect the neighborhood;
- There will be no nuisance or serious hazard to vehicles or pedestrians created by the third story;
- Access to the site over streets is appropriate for the types and numbers of vehicles involved with the third story.

IV. Project Proposal and Site Characteristics

Special Permit #419-22 approved construction of a two-story addition to the front and rear of the house, further extending the nonconforming front setback along the Fernwood Road facing side. With the Consistency Ruling from Inspectional Services, the petitioners extended the addition eight feet to the rear and enclosed a first-floor porch. While constructing the rear addition, the petitioners installed kneel-walls on a portion of the rear-left area above the second story, effectively creating a third story consisting of 432 square feet. The petitioners also proposed adding a balcony to the rear of the third story, which does not require any relief, but does constitute a change to the previously approved architectural plans under the Special Permit.

V. Interdepartmental Review

No departmental review is required.

VI. Petitioner’s Responsibilities

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum
ATTACHMENT B: Newton Historical Commission Demolition Review Decision
ATTACHMENT C: DRAFT Council Order



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 28, 2025

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Christopher and Gretchen Rutan, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to amend Special Permit #419-22 and to allow a three-story structure

Applicants: Christopher and Gretchen Rutan	
Site: 148 Auburndale Avenue	SBL: 33018 0003
Zoning: SR3	Lot Area: 6,616 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 148 Auburndale Avenue consists of a 6,616 square foot corner lot improved with a single-family dwelling constructed in 1920. The petitioners were granted a special permit in 2022 to construct two-story additions to the front and rear of the dwelling which further extended the nonconforming front setbacks. The petitioners seek to amend the special permit to allow for a change to the configuration of the rear addition which results in a three-story structure, requiring additional special permit relief.

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

- Zoning Review Application, prepared by Chris Rutan, applicant, submitted 2/12/2025
- Proposed Elevations (special permit approved), signed and stamped by Daniel Rain, architect, dated 3/24/2023, revised 3/17/2024
- Proposed Elevations, signed and stamped Daniel Rain, architect, dated 11/05/2024, revised 03/17/2024, 3/28/2024, 9/7/2024, 12/13/2024
- FAR, signed and stamped by Daniel Rain, architect, dated 2/21/2025
- Proposed Plot Plan of Land, signed and stamped by Peter J. Nolan, surveyor, dated 2/11/2025

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners were granted Special Permit #419-22 in 2022 allowing for additions to the front and rear of the dwelling extending both nonconforming front setbacks from Auburndale Avenue and Fernwood Road. A Consistency Ruling with input from the Land Use Committee was granted in February 2024 which allowed for an increase to the size of the additions’ size and height. The rear addition was approved with a half story, however the topmost story was constructed with raised knee-walls. Per section 1.5.4.C, a half story is defined as a story directly under a sloping roof; where the petitioners constructed knee-walls, the sloped roof intersects with the knee-walls rather than the floorplate, creating a full third story. Per section 3.1.3, a special permit is required for a three-story structure.

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Amend Special Permit #419-22	
§3.1.3	To allow three stories	S.P. per §7.3.3



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Newton Historical Commission Demolition Review Decision

Date: June 1, 2022

Application # HRA-22-286

Address of structure: 148 AUBURNDALE AVE

Type of building: House

If partial demolition, feature to be demolished is Partial side and rear elevation of kitchen and garage for additions

Raise roof 30" at Rear ATTIC.

The building or structure is:

- in a National Register historic district or in a historic district eligible for listing
- individually listed on the National Register or individually eligible for listing.
- importantly associated with historic person(s), events, or architectural or social history
- historically or architecturally important for period, style, architect, builder, or context.
- in a local historic district not visible from a public way

is **NOT HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance.
Demolition is not delayed and no further review is required.

Determination made by:

Valerie Birmingham, Chief Preservation Planner

Preserving the Past Planning for the Future

*Changes to plans reviewed and approved
by N.H.C. staff. No further review is
required at this time by the historical commission*

3/3/25
David Lewis

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 for a change to the configuration of the rear addition which results in a three-story structure for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site in SR3 is an appropriate location for the third story as the portion of the dwelling considered a third story is located to the rear of the dwelling. The third story is well under the maximum height allowed for single family dwellings in the zone and the visual impact of the third story will be limited to the rear of the dwelling. (§7.3.3.C.1)
2. The third story as developed and operated will not adversely affect the neighborhood. The additional massing of the third story is to the rear of the dwelling is consistent with the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the third story as the portion of the dwelling considered a third story is removed from any vehicular or pedestrian lines of sight and requires no changes to parking or circulation on site. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved with the third story as no changes to parking or circulation on site are required or have been completed pursuant to the construction of the third story. (§7.3.3.C.4)

PETITION NUMBER: #76-25

PETITIONER: Gretchen and Christopher Rutan

LOCATION: 148 Auburndale Avenue, Ward 3, West Newton, on land known as Section 33 Block 18 Lot 03, containing approximately 6,616 sq. ft. of land in a district zoned Single Residence 3.

OWNER: Gretchen and Christopher Rutan

ADDRESS OF OWNER: 148 Auburndale Avenue

TO BE USED FOR: Single-Family Dwelling

RELIEF GRANTED: Special Permit per §3.1.3 to allow a three story single family dwelling

ZONING: Single Residence 3

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, signed and stamped by Edmond Spruhan, Professional Engineer, and Christopher Charlton, dated 9/24/2024 as revised 2/28/2025
 - b. Architectural Plans, signed and stamped by Daniel Raih, Registered Architect, dated 11/05/2024, consisting of the following sheets:
 - i. A301: Front, Right, Left, and Rear Elevations
2. 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 for the portion of the project for which occupancy is requested and the Petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by professional land surveyor and registered architect 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 professional land surveyor.