



Ruthanne Fuller
Mayor

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Department of Planning and Development
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Petition: #227-25
Public Hearing:
8/19/2025

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: August 15, 2025

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Deputy Planner for Current Planning
Sondria Berman, Planning Associate

SUBJECT: **Petition #227-25** for an A SPECIAL PERMIT/SITE PLAN APPROVAL to SUPERSEDE Special Permit #139-24 to increase the height and curvature of a retaining wall; to further extend nonconforming floor area ratio (FAR); and to further increase nonconforming lot coverage at 157 Baldpate Hill Road, Ward 8, Newton, on land known as Section 82 Block 25 Lot 63, containing approximately 16,048 sq. ft. of land in a district zoned Single Residence 1. Ref: Sec. 5.4.2.B.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.portal.opengov.com/records/884355>

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.



157 Baldpate Hill Road

Background

157 Baldpate Hill Road consists of an 16,048 square foot lot improved with a single-family dwelling constructed in 1984. Special Permit #139-24 was granted 4/1/2024 to further extend nonconforming FAR and nonconforming lot coverage for a rear addition, which included the construction of a retaining wall outside the setbacks at the rear of the property.

The petitioner now seeks to amend Special Permit #139-24 to allow for an increase in the height of the retaining wall and to further increase in nonconforming lot coverage. Additionally, the petitioner wishes to carry over the prior relief to further extend nonconforming FAR.

Proposal Summary

The petitioner proposes to increase the height of the existing retaining wall at the rear of the property from the initially approved height of 0 to 5.8 feet to a range of 2.2 feet to 8.4 feet high. The curvature of the 86-foot long retaining wall has also been reconfigured to curve closer to the rear of the single-family dwelling for structural safety and stability of the wall relative to the slope of the lot. The proposed retaining wall height of 8.4 feet exceeds the four-foot maximum allowed, requiring an amendment to the existing Special Permit #139-24.

In addition, the petitioner proposes to further increase the nonconforming lot coverage from the approved Special Permit Site Plan titled, "Proposed Addition Location" dated 11/15/2023 and revised 12/20/23 and 2/14/2024 from 22.86% to 23.53% where 20% is the maximum allowed.

Analysis

Planning notes the proposed retaining wall height increase is due to the challenging topography of the lot, the safety and stability of the retaining wall, and applicant's desire to create a level backyard area for their proposed rear addition. The rear portion of the lot slopes significantly downward from the back of the dwelling requiring structural design modifications that increase the height of the retaining wall to ensure necessary foundational support of the retaining wall.

The existing nonconforming lot coverage of 21% (where 20% is the maximum allowed) received prior relief in Special Permit #139-24 to further increase nonconforming lot coverage to 22.9%. The request to amend the special permit further increases the nonconforming lot coverage to 23.5%. Planning notes this to be a nominal change due to the addition of a roof overhang over the rear steps to the left of the dwelling. Planning notes that the proposed increase in nonconforming lot coverage reduces open space to 72.5% from 73.13% where 65% is the minimum required. The lot remains compliant with all other dimensional zoning requirements including setbacks, frontage, and minimum lot area.

I. **Zoning Relief Requested***:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
	Amend Special Permit #139-24	
§5.4.2.B.1	To allow a retaining wall exceeding 4 feet in height	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	To allow a further increase in nonconforming lot coverage	S.P. per §7.3.3

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

II. **Criteria for Consideration per §3.1.3, §7.8.2.C.2 and §5.4.2.C:**

- The proposed increase in nonconforming lot coverage is not substantially more detrimental than the existing nonconforming lot coverage is to the neighborhood. (§3.1.3 and §7.8.2.C.2)
- The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of a retaining wall over four feet in height. (§5.4.2.C.1)
- The proposed retaining wall over four feet in height will not adversely impact adjacent property, the neighborhood, or the public. (§5.4.2.C.2)
- The proposed retaining wall over four feet in height is the minimum structure necessary to allow a subject property to be reasonably utilized. (§5.4.2.C.3)

III. **Existing Site Characteristics**

Lot and Neighborhood Zoning

157 Baldpate Hill Road consists of a 16,048 square foot lot improved with a single-family dwelling constructed in 1984. The lot is in the Single Residence 1 zone with frontage along Baldpate Hill Road situated in the Oak Hill neighborhood. The surrounding neighborhood consists of primarily single-family homes in a Single Residence 1 district. Abutting properties include comparable sized lots and principal dwellings.

Topography

The topography for the slopes significantly downward from Baldpate Hill Road at +270 towards the rear property line an elevation of +228. The rear retaining wall is intended to address elevation changes starting at the rear of the principal dwelling at +256 to the

lowest point of +248, for a height of approximately eight feet.

IV. **Land Use**

If approved, the use will remain a single-family dwelling.

V. **Interdepartmental Review**

a. **Engineering Review**

This project has been submitted to the Engineering Department for review. The Petitioner has also provided a Geotechnical Engineering affidavit for the construction of the retaining wall as well as a Memorandum prepared by McPhail Associates, LLC, dated 5/28/25.

Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum
ATTACHMENT B: DRAFT Council Order



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 28, 2025

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Daniel Krupp, Applicant
S+H Construction, Agent
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to amend the site plan associated with Special Permit #139-24 to allow a retaining wall exceeding four feet in height and to further exceed nonconforming lot coverage

Applicant: Daniel Krupp	
Site: 157 Baldpate Hill Road	SBL: 82025 0063
Zoning: SR1	Lot Area: 16,048 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 157 Baldpate Hill Road consists of 16,048 square feet and is improved with a single-family dwelling constructed in 1984. A special permit was granted in 2024 allowing for an increase in the existing nonconforming FAR and lot coverage for a rear addition. The addition required the construction of a retaining wall at the rear of the property. The petitioner now seeks to allow changes to the site plan related to retaining wall, requiring an amendment to the existing special permit and additional relief to allow a retaining wall exceeding four feet in height.

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

- Zoning Review Application, prepared by Daniel Krupp, applicant, dated 5/27/2025
- Special Permit #139-24 dated 4/1/2024
- Proposed Addition Location Plan, signed and stamped by Verne T. Porter, dated 11/15/2023, revised 12/20/2023, 2/14/2024
- As-Built Proposed Addition Location Plan, signed and stamped by Verne T. Porter, dated 11/15/2023, revised 12/20/2023, 2/14/2024, 5/31/2024, 10/30/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner was granted Special Permit #139-24 to construct rear additions to the existing single-family dwelling. A retaining wall was shown on the approved site plan ranging in height from 2 feet to 5.8 feet behind the dwelling and meeting all setbacks. At the time the special permit was granted, only retaining walls exceeding four feet located within a setback required special permit relief. As the retaining wall was outside of all setbacks, no relief was required, regardless of the height.

The As-Built Site Plan submitted as part of the building permit process indicates that the height of the wall has increased, now ranging in height from 2.2 feet to 8.4 feet, with a slight reconfiguration to the curvature of the wall as it connects with the dwelling. As the regulations have changed since the special permit was granted in 2024, the wall is subject to the current requirements found in section 5.4.2.B.1, which requires a special permit for any retaining wall exceeding four feet in height, regardless of its location. The as-built configuration, reaching a maximum height of 8.4 feet, requires an amendment to Special Permit #139-24 and a special permit per section 5.4.2.B.1.

2. The 2024 special permit granted relief to allow for a further increase in nonconforming lot coverage, proposed to increase from 21.01% to 22.86% where 20% is the maximum allowed per section 3.1.3. The 2025 as-built plan indicates an increase in the lot coverage to 23.53%, requiring relief per section 7.8.2.C.2.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
	Amend Special Permit #139-24	
§5.4.2.B.1	To allow a retaining wall exceeding 4 feet in height	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	To allow a further increase in nonconforming lot coverage	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 A SPECIAL PERMIT/SITE PLAN APPROVAL to SUPERCEDE an existing Special Permit (#139-24) to allow an increase in the height of a retaining wall over four feet in height; to further increase the nonconforming lot coverage as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

FINDINGS:

1. The proposed increase in lot coverage is not substantially more detrimental than the existing nonconforming lot coverage to the neighborhood as the size and scale of the lot and principal structure is commensurate with abutting lots and principal structures. (§3.1.3 and §7.8.2.C.2)
2. The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of the retaining walls over four feet in height to adequately maintain a level portion of the rear lot with a significant downward slope to the rear lot line. (§5.4.2.C.1)
3. The proposed retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public. (§5.4.2.C.2)
4. The proposed retaining walls over four feet in height is the minimum structure necessary to allow a subject property to be reasonably utilized. (§5.4.2.C.3)

PETITION NUMBER: 227-25

PETITIONER: Daniel Krupp

LOCATION: 157 Baldpate Hill Road, Ward 8, Oak Hill, on land known as Section 82 Block 25 Lot 63, containing approximately 16,048 sq. ft.

OWNER: Daniel Krupp

ADDRESS OF OWNER: 155 Baldpate Hill Road
Newton, MA 02459

TO BE USED FOR: Special Permit to SUPERCEDE SP #139-24 to increase the height and modify the curvature of a retaining wall over four feet in height; to further increase the nonconforming lot coverage; to further increase nonconforming FAR

RELIEF GRANTED: **#139- 24: Special Permit** relief per §7.3.3 to further extend nonconforming FAR to .40 and to further extend nonconforming lot area to 22.9% (§3.1.3 and §7.8.2.C.2)

#227-25: Superseding Special Permit to allow retaining walls over four feet in height (§5.4.2.B.1); and to further extend nonconforming lot coverage to 23.5% (§3.1.3 and §7.8.2.C.2)

ZONING: Single Residence 1

This Special Permit #227-25 supersedes, consolidates, and restates provisions of prior Special Permit #139-24 to the extent that those provisions are still in full force and effect. Any conditions in prior Special Permit #139-24 not set forth in this Special Permit #227-25 are null and void.

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 site plan titled “Proposed Addition Location” signed and stamped by Verne T. Porter, Jr., Professional Land Surveyor, and Paul J. Tyrell, Professional Civil Engineer, dated 11/15/2023 and revised 12/20/23, 2/14/2024, 5/31/24, and 10/30/24.
 - b. Architectural plans prepared by Olson Lewis and Architects, signed and stamped dated 11/22/2023, consisting of the following sheets:
 - i. Proposed Elevations (showing right rear and right/west) A2.01
 - ii. Proposed Elevations (showing front and left/east), A2.02
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 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 (or professional engineer) and registered architect (or professional engineer) certifying compliance with Condition #1, including FAR calculations.
 - 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 or professional engineer, as applicable.