



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: August 14, 2025

TO: City Council

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

SUBJECT: **Petition #223-25** to amend the approved site plan from Special Permit #101-21 to change the configuration of the walls and allow a combination of retaining walls exceeding four feet in height at 667-673 Boylston Street, Ward 6, Newton, on land known as Section 52 Block 29 Lot 41, containing approximately 16,959 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec. 7.3.3, and 5.4.2.B.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

PROJECT MATERIALS: <https://newtonma.portal.opengov.com/records/877858>

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.



667-673 Boylston Street

I. Project Description

Background

The subject property was granted Special Permit #101-21 to allow four single family attached dwellings in two structures with associated dimensional and parking relief. While the approved site plan showed a retaining wall lower than four feet along the left property line, the as built plan that was submitted at the occupancy phase showed a different configuration of retaining walls. The constructed walls result in a series of retaining walls exceeding four feet in height, requiring an amendment to the special permit and additional zoning relief.

Analysis

The petitioner should account for the change between the plans, explain why the location of the originally approved walls changed and the reason additional walls were constructed beyond what was approved. Since there were retaining walls initially contemplated and approved for this site, the site may be an appropriate location for the series of retaining walls exceeding four feet. As the series of walls that require additional zoning relief beyond the amendment are located between the two buildings, they are screened from the street and public ways. This site and properties east of the site on Boylston Street are set at a higher elevation from street level with low retaining walls along the frontage. Thus, the walls constructed within the front setback of the site that deviate from the approved plans are consistent with the neighboring properties to the east on Boylston Street.

Additional Information Required

There are three additional areas which are inconsistent with the approved plans that were observed on a site visit by Planning staff. These require further action from the petitioner. They also are likely to require additional zoning relief, which was not identified as it was not shown on any plan, thus not requested under this amendment.

While not shown on any approved plan, there is an area constructed of pavers on the site subtly referred to on the as built plan as “existing paving walkway.” This area would effectively function as an additional parking stall in the front setback, requiring additional zoning relief.

Planning also observed two areas of crushed stone on the property, one at the front of the site and one which extends beyond the driveway towards the rear property line. The Commissioner of Inspectional Services has long interpreted areas like these as areas a car could park, thus should be counted against the minimum required open space of the site (reducing the number). With the as built open space at 54.93%, a revised open space calculation will need to be submitted, or the areas will need to be landscaped or physically separated from the established parking spaces and driveway. In response to the concerns raised, the petitioner submitted a revised as built plan on August 14 showing the portions of site comprised of pea stone and separated by concrete curb. Staff notes that these areas were intended to be landscaped and are now constructed of pea stone, a further inconsistency for the Committee to evaluate under this

request. Staff will confer with Inspectional Services as to whether the separation is adequate.

In the event a resolution is reached before the public hearing, a draft council order is attached for the Committee to consider when the time is appropriate.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
	Amend Special Permit #101-21	
§5.4.2.B.1	To allow a series of retaining walls exceeding 4 feet in height	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 is an appropriate location for the series of retaining walls exceeding four feet in height;
- The series of retaining walls exceeding four feet in height will not adversely affect the neighborhood;
- There will be no nuisance or serious hazard to vehicles or pedestrians created by series of retaining walls exceeding four feet in height;
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.
- The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of the two retaining walls over four feet in height (§5.4.2c)
- The proposed retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public (§5.4.2c)
- The proposed retaining walls over four feet in height is the minimum structure necessary to allow a subject property to be reasonably utilized (§5.4.2c).

IV. Amendment to #101-21 and Retaining Wall Relief

Special permit #101-21 approved construction of four single family attached dwellings with dimensional relief for reduced front and rear setbacks, parking in the side setback, and a driveway within 10 feet of the side lot line. As construction neared completion and the Petitioner sought occupancy permits by closing out the building permit, the as built plan showed a different configuration of retaining walls from what was originally approved.

The special permit (2021) approved plans showed retaining walls around the perimeter of the site as well as shorter walls in both length and height around the entrances to each unit. The top and bottom of wall dimensions showed that the walls remained below four feet in height.

The building permit plans (2022) only showed retaining walls along the west (left) and north (rear) property lines as well as shorter walls in both length and height around the entrances to each unit. The retaining walls shown on the building permit plans did not exceed four feet in height with the tallest points at 3.75 feet (western property line) and 3.9 feet (northern property line).

The as built plan (2025) showed retaining walls at the entrances of each unit, between the buildings, at the front of the site and along the eastern (right) property line. The walls between the two buildings are within twenty-five feet of each other and when taking the bottom of the lowest wall's elevation to the top of the highest wall results in a height of 4.38 feet, requiring special permit relief. The retaining wall that was constructed along the eastern (right) property line maintains a height of 2 feet to 2.8 feet along the length of the property line. The wall at the front of the site reaches a maximum height of 2.1 feet.

Other discrepancies between the plans involve the height of the buildings, both building heights are increasing by less than one foot and remaining below the 36 feet maximum allowed. This is largely due to a lowering of the average grade, increasing the distance between the average grade and the peak of the roof.

V. Parking Deviations

There are three areas which are inconsistent with the approved plans that were observed on a site visit by Planning staff and require further action or information from the petitioner.

While not shown on any approved plan but exists on the site and subtly referred to on the as built as "existing paving walkway" is an area constructed of pavers that would effectively function as an additional parking stall in the front setback, requiring additional zoning relief.

Planning also observed two areas of crushed stone on the property, one at the front of the site and one which extends beyond the driveway towards the rear property line. The Commissioner of Inspectional Services has long interpreted areas like these as areas a car could park, thus should be counted against the open space of the site. With the as built open space at 54.93%, a revised open space calculation will need to be submitted, or the areas will need to be landscaped or physically separated from the established parking spaces and driveway.

These deviations require additional information and updates to the submitted plans. The petitioner should update staff and the Committee with how they wish to proceed to correct these deviations. Based on site observations, additional zoning relief required may include but is not limited to: parking within the front setback, parking within 20 feet of a boundary (front), and reduction in open space. If the petitioner were to landscape these areas, as shown in the approved plans, the petition may proceed.

VI. Interdepartmental Review

No departmental review is required.

VII. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum

ATTACHMENT C: DRAFT Council Order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Attachment A
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 27, 2025

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: CZ Fleet LLC, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to amend the site plan associated with Special Permit #101-21 and to allow a combination of walls exceeding four feet in height

Applicant: CZ Fleet LLC	
Site: 667-673 Boylston Street	SBL: 52029 0041
Zoning: MR1	Lot Area: 16,959 square feet
Current use: Four single-family attached dwellings in two buildings	Proposed use: No change

BACKGROUND:

The property at 667 Boylston Street consists of 16,959 square feet and is improved with four single-family attached dwellings in two separate buildings allowed by Special Permit #101-21. The petitioner seeks to allow changes to the site plan related to retaining walls, requiring an amendment to the existing special permit and relief to allow a combination of retaining walls 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 Terrence P. Morris, attorney, dated 6/23/2025
- Special Permit #101-21 dated 10/18/2021
- Memorandum, prepared by Terrence P Morris, attorney, dated 6/16/2025
- Proposed Civil Plan, signed and stamped by Christopher C. Charlton, surveyor and Edmond T Spruhan, engineer, dated 4/16/2021, revised 7/7/2021, revised 10/28/2021, 2/15/2022
- Final As Built Plan, signed and stamped by Peter J. Nolan, dated 6/13/2024, revised 6/17/2025, 6/20/2025

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner was granted Special Permit #101-21 to construct four single-family attached dwellings in two structures. The site plan associated with the approved special permit indicated that a retaining wall was to be constructed as an extension of an existing retaining wall on the abutting property along the rear (north) lot line and extending along the eastern and western side lot lines. The walls did not require any relief for height.

The petitioner seeks an amendment to the approved site plan to change the configuration of the walls. The proposed extension along the rear (northern) lot line will not be constructed. Instead, the petitioner proposes to construct a retaining wall along the easterly lot line ranging in height from 2.1' to 2.7' in the northeast corner where it creates a well to protect a mature tree, extending all the way to Boylston Street.

A retaining wall is also proposed spanning from the front of the dwelling at 667-669 Boylston Street to the street and along the street frontage, providing stairs to the Boylston Street entrance.

The retaining walls and stairs along the western sides of the dwellings and driveway have been reconfigured. The petitioner proposes to construct walls and steps leading to a landing at the northwest corner of the dwelling where only stairs were shown on the approved plan. A retaining wall and reconfigured stairs are proposed connecting the buildings in the center of the property where the approved plan shows the walls and stairs separate for each building. A wood deck and steps connects those central walls to another set of stairs and retaining walls at the front (southwest) corner of the building. None of the walls or combination of walls exceed four feet in height.

A series of three retaining walls and steps are proposed between the buildings which were not shown on the approved site plan. The combination of walls result in a height of 4.37 feet, requiring a special permit per section 5.4.2.B.1.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
	Amend Special Permit #101-21	
§5.4.2.B.1	To allow a series of retaining walls exceeding 4 feet in height	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 SPECIAL PERMIT/SITE PLAN APPROVAL to Amend Special Permit #101-21 to allow changes to the site plan and to allow a series of retaining walls exceeding four feet in height as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the series of retaining walls exceeding four feet in height due to the topography of the neighborhood, which has many properties set at a higher elevation than the street along this stretch of Boylston Street and further east. (§7.3.3.C.1)
2. The series of retaining walls exceeding four feet in height will not adversely affect the neighborhood because the walls requiring additional zoning relief are screened from public ways and properties to the east have retaining walls in similar locations as the subject property. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by series of retaining walls exceeding four feet in height as the walls do not impact site circulation. (§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. 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. The properties along this stretch of Boylston Street and further east are set a higher elevation from the street, presenting topographic challenges. (§5.4.2c)
6. The proposed retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public because the walls exceeding four feet are between two of the buildings on site and are well screened from the street. (§5.4.2c)

7. The proposed retaining walls over four feet in height is the minimum structure necessary to allow a subject property to be reasonably utilized (§5.4.2c).

PETITION NUMBER: #223-25

PETITIONER: CZ Fleet LLC, Mingzong Zou, Manager

LOCATION: 667 Boylston Street, Ward 6, on land known as Section 52, Block 29, Lot 40 and 41, containing approximately 16,9592 sq. ft. of land

OWNER: CZ Fleet LLC, Mingzong Zou, Manager

ADDRESS OF OWNER: 227 Cherry Street
Newton, MA 02465

TO BE USED FOR: Four single-family attached dwellings in two structures

RELIEF GRANTED: Under #101-21: special permit as per §7.3.3, To allow single-family attached dwellings (§3.4.1), to reduce required front and rear setbacks (§3.2.4), to allow parking in the side setback (§5.1.13, §5.1.7.A), to allow a driveway within 10 feet of the side lot line (§6.2.3.B.2)
Under #223-25: Special permit to allow retaining walls exceeding four feet in height (§5.4.2.B.1)

ZONING: Multi-Residence 1 (MR1) district

The prior special permit for this property is Special Permit #101-21. This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this Special- Permit #101-21 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. Final As Built Plan, titled "667 Boylston Street, Newton, Massachusetts," prepared by Peter Nolan and Associates, signed and stamped by Peter J. Nolan, Professional Land Surveyor, most recently revised July 14, 2025.

- b. A set of architectural drawings entitled "667 Boylston Street, North Building, Newton MA," prepared by Scott Lewis, dated February 26, 2021, consisting of the following sheets:
 - i. Front Elevation (East) (A7)
 - ii. Left Side Elevation (South) (A8)
 - iii. Rear Elevation (West) (A9)
 - iv. Right Elevation (North) (A10)
 - c. A set of architectural drawings entitled "667 Boylston Street, South Building, Newton MA," prepared by Scott Lewis, dated February 26, 2021, consisting of the following sheets:
 - v. Front Elevation (East)
 - vi. Left Side Elevation (South)
 - vii. Rear Elevation (West)
 - viii. Right Elevation (North)
 - d. A landscape plan, entitled "667 Boylston Street, Newton, Massachusetts," prepared by Spruhan Engineering, P.C., dated April 21, 2021, consisting of the following sheet:
 - i. Proposed Landscape Plan (Sheet 1 of 1)
2. All lighting fixtures shall be residential in scale.
 3. The petitioner shall comply with the Tree Preservation Ordinance.
 4. The petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the petitioner shall hire a licensed pest control operator (the "Operator") to assess the property for pest and rodent activity and develop and implement a pest remediation action plan (the "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 Plan shall be submitted to the Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copy of such approvals shall be provided to the Department of Planning and Development.
 - c. The 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. The Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.

- d. Prior to issuance of the certificate of occupancy, the Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment.
5. Prior to a building permit being issued pursuant to this special permit, the petitioner shall submit a construction management plan (CMP) for review and approval by the Engineering Division and the Director of Planning and Development. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
6. Prior to the issuance of any building permit pursuant to this special permit, an Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review and approval by the Engineering Division. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
7. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. 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.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, and the Engineering Division of Public Works. Said plan shall indicate the width of the proposed driveway, including any variations along its length.
 - d. Provided a Final Landscape Plan showing for review and approval by the Director of Planning and Development.
 - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
8. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.

- b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
9. Notwithstanding the provisions of Condition #9 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 provided 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.