



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#33-23
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 7, 2023

DATE: February 3, 2023

TO: City Council

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

SUBJECT: **Petition #33-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-story structure with 32 feet in height; to allow an FAR of 1.42 and to reduce the number of required parking stalls at 296 Watertown Street, Ward 1, Newton, on land known as Section 11 Block 14 Lot 02, containing approximately 5,388 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.1.2.B.3, 4.1.3, 5.1.4, 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 conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



296 Watertown Street

EXECUTIVE SUMMARY

The subject property consists of a 5,388 square foot lot improved with a single-family dwelling constructed circa 1900. The petitioner proposes to raze the existing single-family dwelling and construct a three-story structure with commercial space and parking at the ground level and two residential units above. As proposed, this project requires a special permit to allow for a three-story structure with 32 feet in height. The initial plans filed for zoning review which the memo was issued in March 2021, identified relief for the project for an FAR of 1.42, however the petitioner submitted an FAR worksheet of 1.25. The petitioner should clarify any project changes between zoning review and special permit submission.

The petitioner is proposing three parking stalls on site and should clarify whether residential tenants or commercial tenants would have access to those. The request to waive seven parking stalls is reasonable due to the available of on street parking for the commercial use.

The Planning Department is unconcerned with the request to exceed the by right height and floor area ratio. The site within the BU-1 zone is an appropriate location for a small mixed-use building; units above the ground level are allowed subject to listed standards in that commercial uses are provided on the ground floor. This project provides that but requires dimensional waivers for stories, height and FAR. Many of the buildings in the neighborhood have a similar size and scale, and the site is directly adjacent to the commercial core of Nonantum.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in BU-1 is an appropriate location for the proposed mixed-use project which requires relief to allow a three-story structure with 32 feet in height, to allow an FAR of 1.25, and to waive seven parking stalls (§7.3.3.C.1)
- The proposed mixed-use project which requires relief to allow a three-story structure with 32 feet in height, to allow an FAR of 1.25, and to waive seven parking stalls will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed mixed-use project which requires relief to allow a three-story structure with 32 feet in height, to allow an FAR of 1.25, and to waive seven parking stalls will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed FAR of 1.25, where 1.00 is the maximum allowed as of right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§4.1.3 and §7.3.3)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance 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).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located at 296 Watertown Street in Nonantum in the BU-1 district and consists of a 5,388 square foot lot improved with a single-family dwelling constructed circa 1900. The property's current land use is single-family residential. Most of the properties to the west of the site along Watertown Street are also zoned BU-1. There are multi residence zones beyond the Business zones to the north and south, and a public use zone, Coletti-Magni Park, to the east along Watertown Street. There is a diverse mix of uses in the area including residential, commercial, mixed use, and open space.

B. Site

The site consists of a 5,388 square foot lot improved with a single-family dwelling constructed circa 1900. Vehicular access is provided via a curb cut on Watertown Street leading to a paved driveway.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

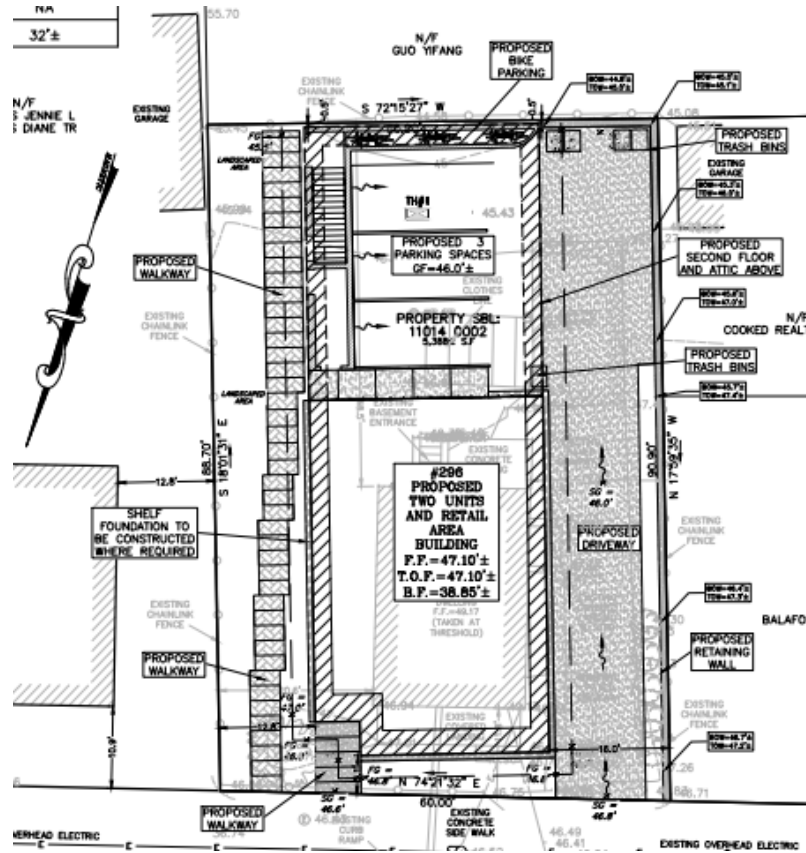
The principal use of the site will change from single-family use to mixed use, with ground floor commercial space and two residential units above.

B. Building and Site Design

The petitioner intends to raze the existing single-family dwelling and construct a new 32 feet tall, three-story mixed-use structure. A special permit is required to allow for a three-story structure with 32 feet in height. Per section 4.1.3, the maximum by-right FAR is 1.00, with up to 1.50 allowed by special permit.

The building is proposed with a total of 7,567 square feet, which includes 951 square feet of covered ground level parking enclosed on three sides. The petitioner proposes an FAR of 1.25, requiring a special permit. The floor plan indicates that each of the two residential units will be approximately 2,694 square feet with three bedrooms and three bathrooms. Each unit has a private balcony on the top floor.

Proposed Site Plan

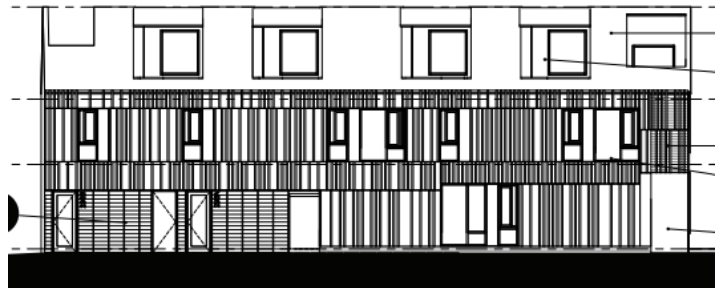


The Planning Department believes the site to be an appropriate location for the proposed mixed-use project. The site's location in the BU-1 zone lends itself to residential units above the ground floor, provided there is commercial space below per section 6.2.4.B.1. There is a history of commercial uses on this stretch of Watertown Street and the site is adjacent to buildings of a similar scale contain a mix of uses to the west. As proposed, the project meets all setback requirements and exceeds the required lot area per unit for the residential use. The Planning Department recommends that the petitioner clarify whether any external machinery such as conditioner units or condensers is proposed for this project, and if so that the position of any of these units be included on a revised site plan.

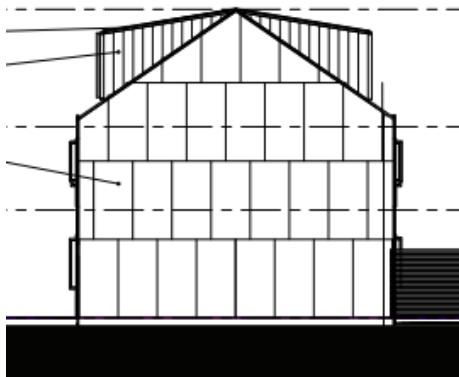
Proposed Elevations



Front (north)



Side (East)



Back (south)

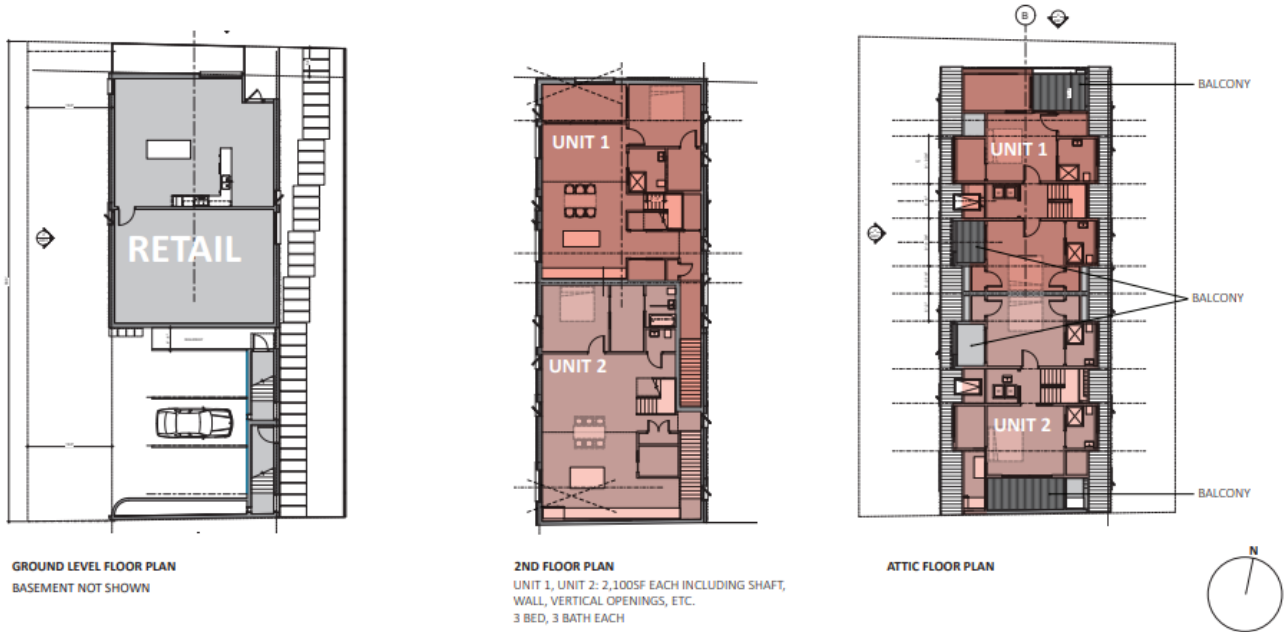


Side (West)

C. Parking and Circulation

The petitioner proposes to construct 1,423 square feet of ground-floor retail. Per section 5.1.4, a retail use requires one parking stall per every 300 square feet plus one stall per every three employees at the busiest shift. The residential use requires two parking stalls per dwelling unit. The proposed uses require a total of ten parking stalls, six for the retail space and four for the two residential dwelling units. Because the petitioner intends to construct three parking stalls in total, a waiver of seven parking stalls is required.

Proposed floor plan



The covered parking area will have three striped stalls at ground level and occupy 911 square feet behind the retail space. Three bicycle parking spaces are shown behind the vehicle parking. The site will maintain driveway access from Watertown Street via a single 16-foot-wide curb cut. The petitioner should clarify who will have use of the three parking stalls.

The Planning Department is supportive of limiting parking in Village Centers and the site is located less than a mile to Watertown Square, with access to several major Greater Boston bus routes. The site is located in a very walkable area with access to several transit options, and metered parking is available in several locations nearby in Nonantum.

Landscaping

The petitioner submitted a landscape plan showing fencing, plantings, and landscaping. A six-foot-tall vinyl fence will run six inches from the property line along the eastern and southern property lines, and a four-foot vinyl fence will run along the western property line.

A concrete walkway leading to the back of the building from the street is proposed along the eastern property line, along with a landscaped area featuring deciduous and evergreen trees as screening. Hedges will be planted along the western property line and several trees are proposed along the frontage on Watertown Street. A by-right

retaining wall is shown along the western property line and a portion of the rear lot line where the driveway ends.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning. Based on the Zoning Review Memorandum (**Attachment A**), the petitioner is seeking the following relief:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 32 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.42	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive seven parking stalls	S.P. per §7.3.3

B. Engineering Review

Associate City Engineer, John Daghlian, is in the process of reviewing this petition for conformance with the City of Newton Engineering Standards, and an analysis will be provided at a future meeting.

C. Historic Preservation Review

On September 7, 2021, the Newton Historical Commission voted to waive the demolition delay on the existing structure at 296 Watertown Street based on approved plans as presented at the hearing.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Draft council order



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 3, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Youngsun Park, Applicant
Terrence Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a three-story structure with 32 feet in height, an FAR of 1.42 and to waive seven parking stalls

Applicant: Youngsun Park	
Site: 296 Watertown Street	SBL: 11014 0002
Zoning: BU1	Lot Area: 5,388 square feet
Current use: Single-family dwelling	Proposed use: Ground floor commercial with two residential units above

BACKGROUND:

The property located at 296 Watertown Street consists of a 5,388 square foot lot improved with a single-family dwelling constructed circa 1900. The petitioner proposes to raze the existing single-family dwelling and construct a three-story structure with commercial space and parking at the ground level and two residential units above.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 1/8/2021
- Site survey, prepared by Fish Design and Architecture, undated
- Architectural Plans and Elevations, prepared by Fish Design and Architecture, undated

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to raze the existing single-family dwelling and construct a three-story mixed-use structure with ground level commercial and covered parking and two residential units above. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 32 feet in height.
2. Per section 4.1.3, the maximum by-right FAR is 1.00, up to 1.50 by special permit. The building is proposed with a total of 7,567 square feet, which includes 951 square feet of ground level parking enclosed on three sides. The petitioner proposes an FAR of 1.42, requiring a special permit.
3. The petitioner proposes to construct 1,423 square feet of ground-floor retail and two residential units above. Per section 5.1.4, a retail use requires one stall per every 300 square feet plus one stall per every three employees at the busiest shift; and a residential use requires two parking stalls per each dwelling unit. The proposed uses require a total of ten parking stalls, six for the retail space and four for the two residential dwelling units. The petitioner intends to construct three parking stalls in a ground level facility enclosed on three sides. A waiver of seven parking stalls is required per sections 5.1.4 and 5.1.13.
4. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 32 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.42	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive seven parking stalls	S.P. per §7.3.3

#33-23
296 Watertown Street

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 three-story structure with 32 feet in height, an FAR of 1.25, and to reduce the number of required parking stalls 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 the proposed mixed-use project as proposed due to its location in the BU 1 zoning district which features a diverse mix of uses and buildings of a similar scale nearby. (§7.3.3.C.1)
2. The proposed mixed-use project will not adversely affect the neighborhood because the project meets all setback requirements and will include new plantings and landscaping. (§7.3.3.C.2)
3. The proposed mixed-use project will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway will be well screened. (§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 required number of parking stalls is in the interest of environmental features as the reduction in the number of parking stalls reduces the amount of impervious area. (§6.2.3.B.2)

PETITION NUMBER: #33-23

PETITIONER: Sean Park

LOCATION: 296 Watertown Street, Newton, on land known as Section 11 Block 14 Lot 02, containing approximately 5,388 sq. ft. of land in a district zoned BUSINESS 1

OWNER: Sean Park

ADDRESS OF OWNER: 296 Watertown Street
Newton, MA 02458

TO BE USED FOR: Mixed use building with ground floor retail and two residential units

CONSTRUCTION: Wood Frame

EXPLANATORY NOTE: Special permit per §7.3.3 to allow a three-story structure with 32 feet in height, an FAR of 1.25, a waiver of seven parking stalls

ZONING: Business Use 1

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 Christopher C. Charlton, Land Surveyor, dated January 2, 2023, sheet 1
 - b. Architectural plan titled "Architectural proposal", unsigned and undated, prepared by Fish Design and Architecture LLC
 - c. Landscape Plan signed and stamped by Myoungkeun Kim, Registered Architect, dated September 23, 2022, sheet L001
2. 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.
3. 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. The Pest Control 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.
4. No building permit (other than a demolition permit) 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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - c. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - d. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - e. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
 - f. 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.
 5. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
 6. 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 application statements by a registered architect and a professional land surveyor certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format, signed and stamped by a professional land surveyor.

- c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
- d. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
- e. Filed with 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, fencing, and parking areas.