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#544-18

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	November 27, 2018
Land Use Action Date:	February 13, 2018
City Council Action Date:	February 18, 2018
90-Day Expiration Date:	February 25, 2018

DATE: November 23, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #544-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking within the front setback and within five feet of a street at **79 Crescent Street**, Ward 4, Auburndale, on land known as SBL 43, 02, 08 containing approximately 7, 837 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §5.1.7.A, §5.1.13, §7.3.3, and §7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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 that the Land Use Committee of the City Council can consider at a subsequent working session.



79 Crescent Street

EXECUTIVE SUMMARY

The property located at 79 Crescent Street consists of a 7, 837 square foot corner lot in the Multi-Residence 1 (MR-1) zone in Auburndale. The property is improved with a dwelling constructed circa 1954 that was recently expanded to include a second unit. In conjunction to the expansion, the petitioner created a driveway from Robinhood Street for two parking stalls, both stalls are within the front setback and both are within five feet of the street. The Newton Zoning Ordinance (Ordinance) only allows one parking stall within the front setback and only allows parking within five feet of a street by special permit. Therefore, the petitioner requires special permits to allow one parking stall within the front setback and to allow both parking stalls within five feet of the street. The Planning Department does not generally support additional parking within the front setback, but given the constraints of the site combined with the dimensionally compliant stalls and the absence of a sidewalk on Robinhood Street, staff believes the requested special permits will not adversely impact the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- Whether literal compliance with the requirements that only one parking stall shall be located within the front setback and that two parking stalls shall not be located within five feet of a street 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 (§5.1.7.A and §5.1.13).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Crescent Street in the MR-1 zone in Auburndale. The MR-1 zone encapsulates much of the immediate area, except the Public Use District to the east. As such, the area consists predominantly of single and multi-family uses, but a few nonconforming industrial parcels also exist to the south. To the north, beyond Interstate 90, lay a Manufacturing zone, a Business Use 2 zone, and a Single Residence 3 zone. These zones contain commercial, industrial, and single-family uses **(Attachments A & B)**.

B. Site

The site consists of a 7, 837 square foot corner lot with frontages on Crescent and Robinhood Streets. The site has an irregular shape that restricts the building envelope. The site is improved with a 2.5-story two-family residence circa 1954. There are two curb cuts on site: the existing curb cut provides access from Crescent street to a two-stall surface parking facility; the other curb cut provides access from Robinhood Street to a separate two-stall surface parking facility. This curb cut from Robinhood Street was installed in conjunction to the recent expansion that created a second dwelling unit on site. This curb cut is approximately 18 feet wide and 20 feet long before terminating at a retaining wall. The northeast corner of the site contains landscaping and the southern boundary is enclosed with stockade fencing. The site slopes upwards from Robinhood Street.

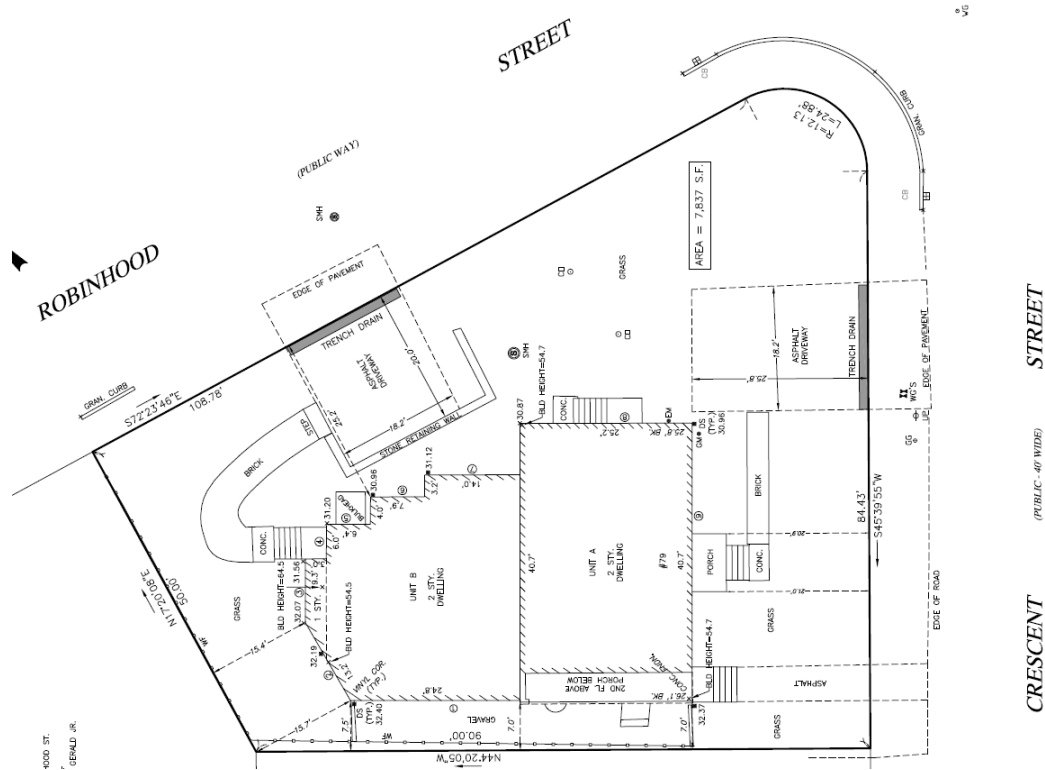
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a multi-family residence.

B. Building and Site Design

The petitioner is not proposing any changes to the two-family residence. The petitioner received a building permit to construct a 2.5-story addition to create a second dwelling unit on site, which requires four parking stalls. The Ordinance only allows one parking stall to be located within the front setback and parking within five feet of a street is only allowed via special permit. The parking facility from Crescent Street is legal nonconforming regarding the second parking stall within the front setback and this condition may continue as exists. The petitioner created the second driveway from Robinhood Street to allow for two parking stalls, but it was determined later that one stall requires relief for its location within the setback and that both stalls require relief because of their location within five feet of the street.



The site plan indicates the retaining wall is 20 feet from the property line which allows for two compliant 19-foot long parking stalls with a one-foot buffer from the street. The Planning Department believes the Ordinance requires parking to be located five feet from a street to help ensure sidewalks are not restricted by vehicles. There is no sidewalk on either side of Robinhood Street which eases that concern, but there appears to be enough right of way should one be contemplated in the future. The surrounding neighborhood predominantly features surface parking in either tandem or side by side format. In cases of tandem parking, one parking stall within the front setback is common. Parking within five feet of a street does exist in the neighborhood but it is not common. Given the shape of the lot, the only other option would be to construct a driveway along the western boundary which would require the removal of a street tree and additional landscaping.

The Planning Department does not generally support additional parking within the front setback, but given the shape of the lot, this appears to be the best location. Additionally, the stalls are dimensionally compliant, and the absence of a sidewalk on Robinhood Street mitigates vehicular/pedestrian conflict. For these reasons, staff does not believe the parking facility will adversely affect the neighborhood.

C. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

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

- §5.1.7.A and §5.1.13 of Section 30, to allow one parking stall within the front setback.
- §5.1.7.A and §5.1.13 of Section 30, to allow two parking stalls within five feet of a street.

B. Engineering Review

The Engineering Division reviewed and approved the site plan as part of the building permit to create the second residential unit, further review is not required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

Attachment A:	Zoning Map
Attachment B:	Land Use Map
Attachment C:	Zoning Review Memorandum
Attachment D:	DRAFT Council Order

Attachment A Zoning Map Crescent St., 79

*City of Newton,
Massachusetts*

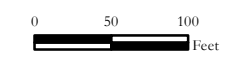
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Business 2
-  Manufacturing
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: November 16, 2018










Attachment B Land Use Map Crescent St., 79

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Building Outlines
-  Surface Water
-  Property Boundaries



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

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Feet

Map Date: November 16, 2018



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 4, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Ji Shi, Applicant
JYAT Construction
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to allow parking within the front setback, and within five feet of the street

Applicant: Ji Shi	
Site: 79 Crescent Street	SBL: 43002 0008
Zoning: MR1	Lot Area: 7,837 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 79 Crescent Street consists of a 7,837 square foot corner lot improved with a two-family built in 1954 that was recently expanded. The existing two-family dwelling received a building permit from Inspectional Services to reconfigure the existing space into one unit, and to add a rear addition of a second unit. There was an existing driveway off of Crescent Street, and the petitioner constructed a second driveway at the rear of the property off of Robinhood Street. The new driveway is located within the front setback.

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

- Zoning Review Application, prepared Ji Shi, applicant, dated 9/28/2018
- Plot Plan, signed and stamped by Antoni Szerszunowicz, surveyor, dated 9/25/2018
- Proposed Addition Location Plan, signed and stamped by Antoni Szerszunowicz, surveyor, dated 6/13/2016
- Topographic Site Plan, signed and stamped by Tuan Nguyen, Engineer, dated 5/10/2017

ADMINISTRATIVE DETERMINATIONS:

- 1. There are two existing parking stalls on the property located off of Crescent Street. In accordance with the requirement for two parking stalls per dwelling unit found in section 5.1.4.A, the petitioner has constructed two additional parking stalls off of Robinhood Street. All four of the parking stalls are located within the front setback, as well as within five feet of the street. Per section 5.1.7.A, each unit may have one stall located within the front setback, and none may be located within five feet of the street. With all four stalls located in the front setback, and only one per unit allowed, the parking configuration requires relief from section 5.1.7.A.
- 1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§5.1.7.A §5.1.13	Request to allow parking within 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

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking within the front setback and to allow parking within five feet of a street, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. Literal compliance with the requirements that only one stall be located within the front setback, and that no parking stall be located within five feet of a street is impracticable due to the size, width, depth, and shape of the lot, and that the proposed location will preserve a mature street tree (§5.1.13).

PETITION NUMBER: #544-18

PETITIONER: JYAT Construction, LLC

LOCATION: 79 Crescent Street, on land known as Section 43, Block 02, Lot 08, containing approximately 7, 837 square feet of land

OWNER: JYAT Construction, LLC

ADDRESS OF OWNER: 355 Walnut Street
Newton, MA 02460

TO BE USED FOR: One parking stall within the front setback and within five feet of a street

CONSTRUCTION: N/A

EXPLANATORY NOTES: §5.1.7.A, §5.1.13 for a parking stall to be located within the front setback and two parking stalls within five feet of a street.

ZONING: Multi Residence 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 entitled "79 Crescent Street" signed and stamped by Antoni Szerszunowicz, Professional Land Surveyor, dated September 25, 2018.
2. No Final Inspection and/or Occupancy Permit for the improvements covered by this Special Permit/Site Plan approval shall be issued 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. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor or engineer certifying compliance with Condition #1.
 - d. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - e. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.