



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

**#119-22**

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Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: March 1, 2022  
Land Use Action Date: May 10, 2022  
City Council Action Date: May 16, 2022  
90-Day Expiration Date: May 30, 2022

DATE: February 25, 2022

TO: City Council

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

SUBJECT: **Petition #119-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #187-94 to allow modifications to the approved site plan including a rear addition and modifications to the front façade at 15 Roberts Avenue, Ward 2, Newton, on land known as Section 21, Block 33, Lot 10, containing approximately 5081 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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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.



**15 Roberts Ave**

## EXECUTIVE SUMMARY

The subject property located at 15 Roberts Avenue consists of a 5,081 square foot lot in the Multi Residence 1 (the "MR-1") zone in Newtonville. The site is improved with a single-family residence constructed in 1930. The petitioner is seeking to remove an enclosed front entry, allowing for landing with stairs. The petitioner is also proposing to construct rear additions as well as a shed in the rear yard. The proposed changes require an amendment to Special Permit #187-94 to amend the site plan, which granted relief for an extension of a nonconforming front setback.

As designed, the proposed front entry modifications and rear additions meets all dimensional standards and is not higher than the existing structure. The proposed additions are below the maximum floor area ration (the "FAR") for the MR-1 zoning district. Due to this, the Planning Department is unconcerned with the proposed project that amends Special Permit #187-94.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed rear addition and front entry modifications. (§7.3.3.C.1)
- The proposed rear addition and front entry modifications will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed rear addition and front entry modifications 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)

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on Roberts Avenue in the MR-1 zone in Newtonville. The surrounding neighborhood is also zoned MR-1 with Multi-Residence 2 and 3 zones to the north and south of the site (**Attachment A**). Roberts Avenue consists of single family uses, with a mix of single-family and multi-family residential uses extending in all directions from the site (**Attachment B**).

#### B. Site

The site consists of approximately 5,081 square feet of land and is improved with a single-family dwelling constructed in 1930. The site has five boundaries with a rounded front lot line, as such, there are two side setbacks, and two rear setbacks. The site is accessed from Roberts Avenue via a driveway entrance, flush with the

street, consisting of concrete pads and brick in the front and side of the dwelling. Special Permit #187-94 allowed the extension of a nonconforming front setback that allowed the prior owners to construct an addition. The front setback is four feet from Roberts Avenue. Aside from the nonconforming front setback, the dwelling meets side and rear setback requirements and dimensional standards.

III. PROJECT DESCRIPTION AND ANALYSIS

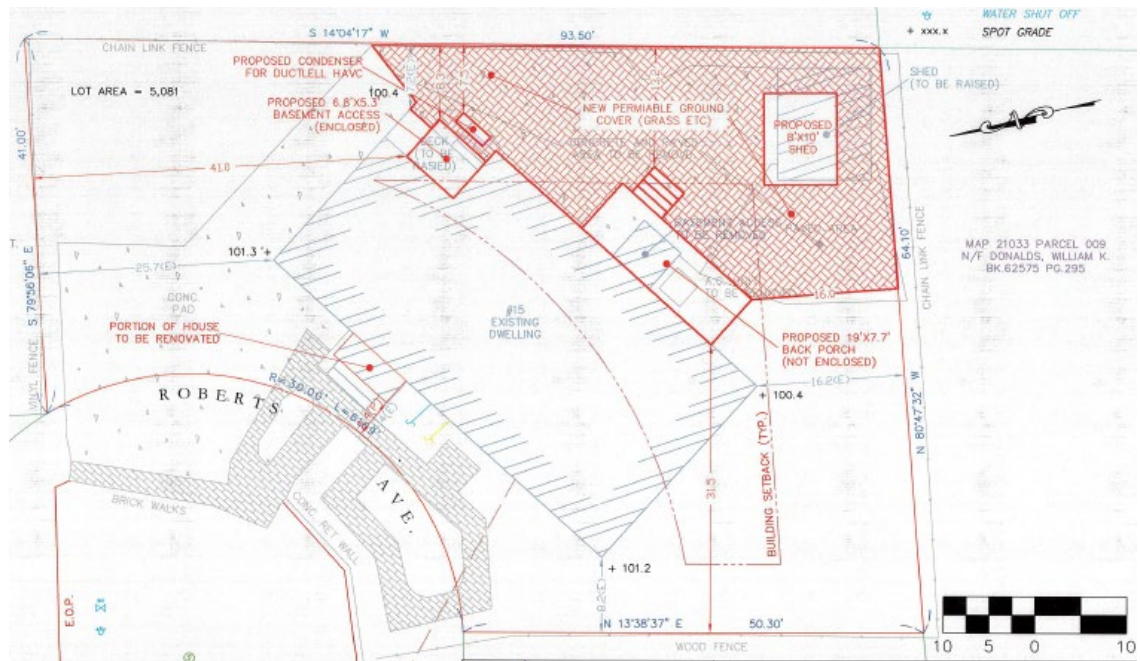
A. Land Use

The principal use of the site is and will remain single-family.

B. Building and Site Design

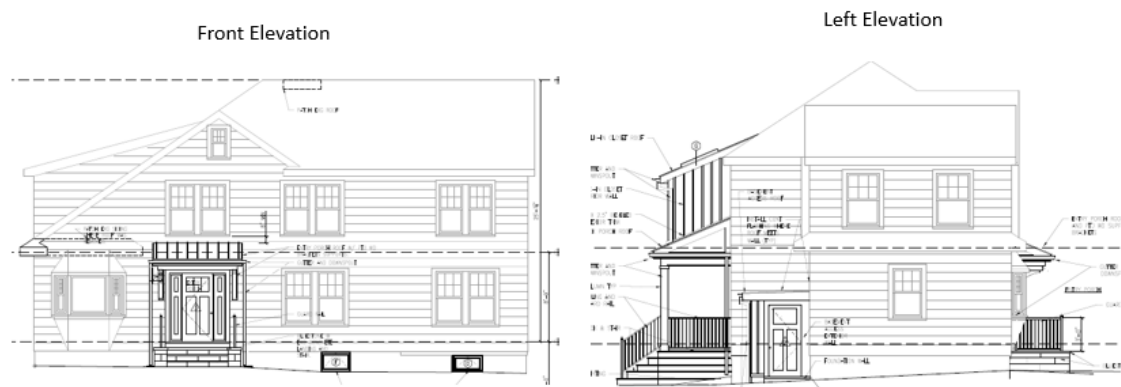
The petitioner is seeking to amend Special Permit #187-94 to demolish an enclosed front entry to allow for an unenclosed landing and stairs, and to construct a rear addition of a covered porch with living space above. The modifications to the front entry are within the footprint and would not further decrease the front setback.

Proposed Site Plan



The proposed rear addition consists of a covered back porch with living space above, adding 58 square feet to the dwelling. The addition meets the setback requirements. A

proposed compressor alters the eastern rear setback from 7.2 feet to 7.5 feet. The petitioner is also proposing enclosed access to the basement within the rear setback. The proposed enclosed access is allowed by de minimis because the proposed basement access enclosure does not exceed 200 square feet. The existing side setbacks would not be impacted by the proposed changes. The petitioner is also proposing an 80 square foot shed in the southwest corner of the site. With the removal of the enclosed front entry, the project adds 38 square feet of floor area to the dwelling, increasing the FAR from .47 to .48, where .58 is the maximum allowed as of right.



The Planning Department is unconcerned with modifications to the front entry and proposed rear addition. The work does not require any additional zoning relief and is under the maximum allowed FAR.

C. Parking and Circulation

There are no changes to the parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The petitioner is seeking the following relief:

- §3.1.3 and §7.3.3 of Section 30, to amend Special Permit #187-94 to allow modifications to the site plan.

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

This petition is not subject to Historic Review.

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

### 15 Roberts Avenue

*City of Newton,  
Massachusetts*

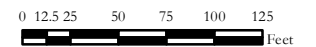
#### Legend

-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Public Use

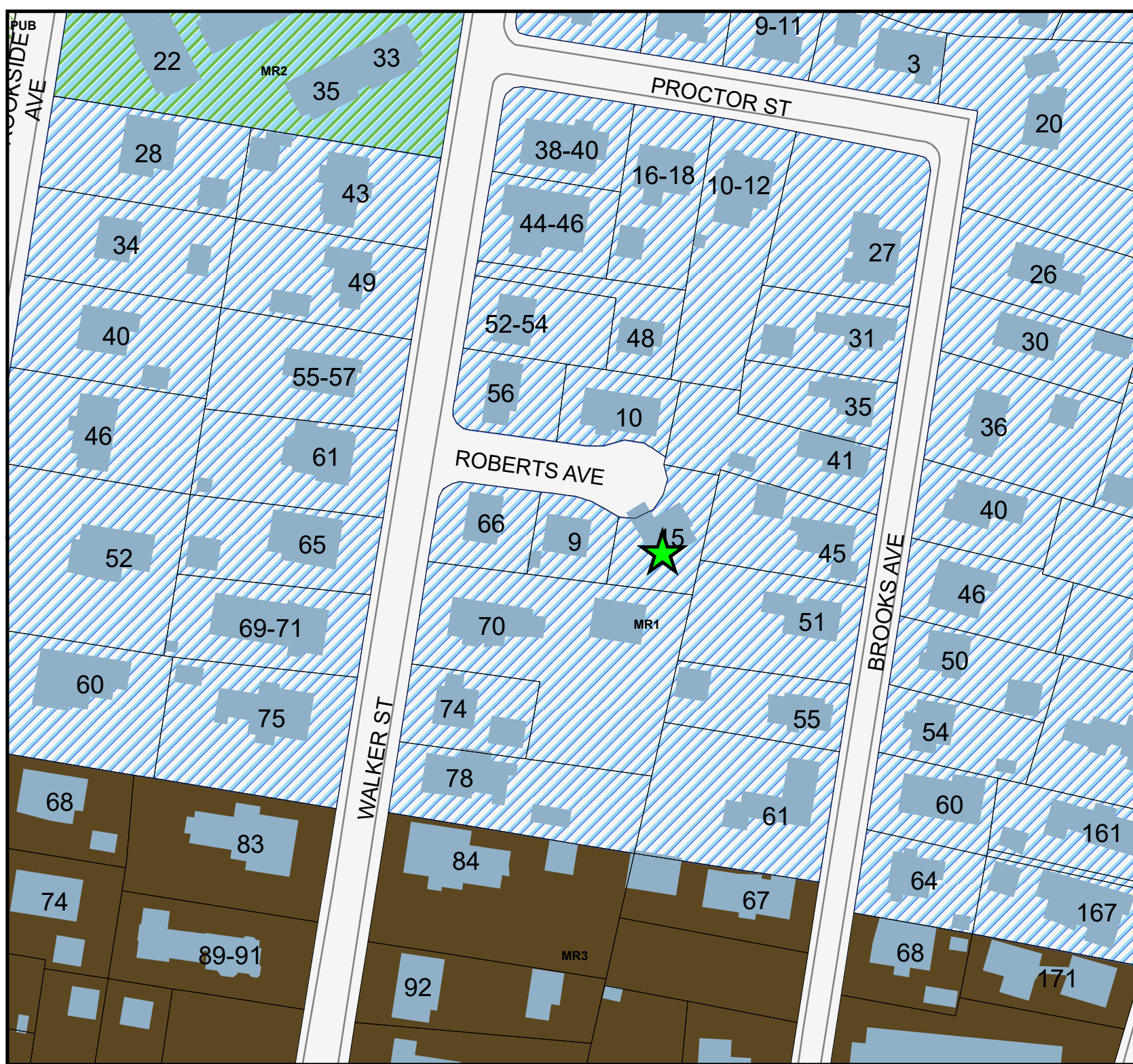


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: February 16, 2022



# ATTACHMENT B



## Land Use

### 15 Roberts Avenue

*City of Newton,  
Massachusetts*

### Legend

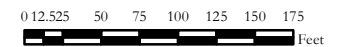
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations

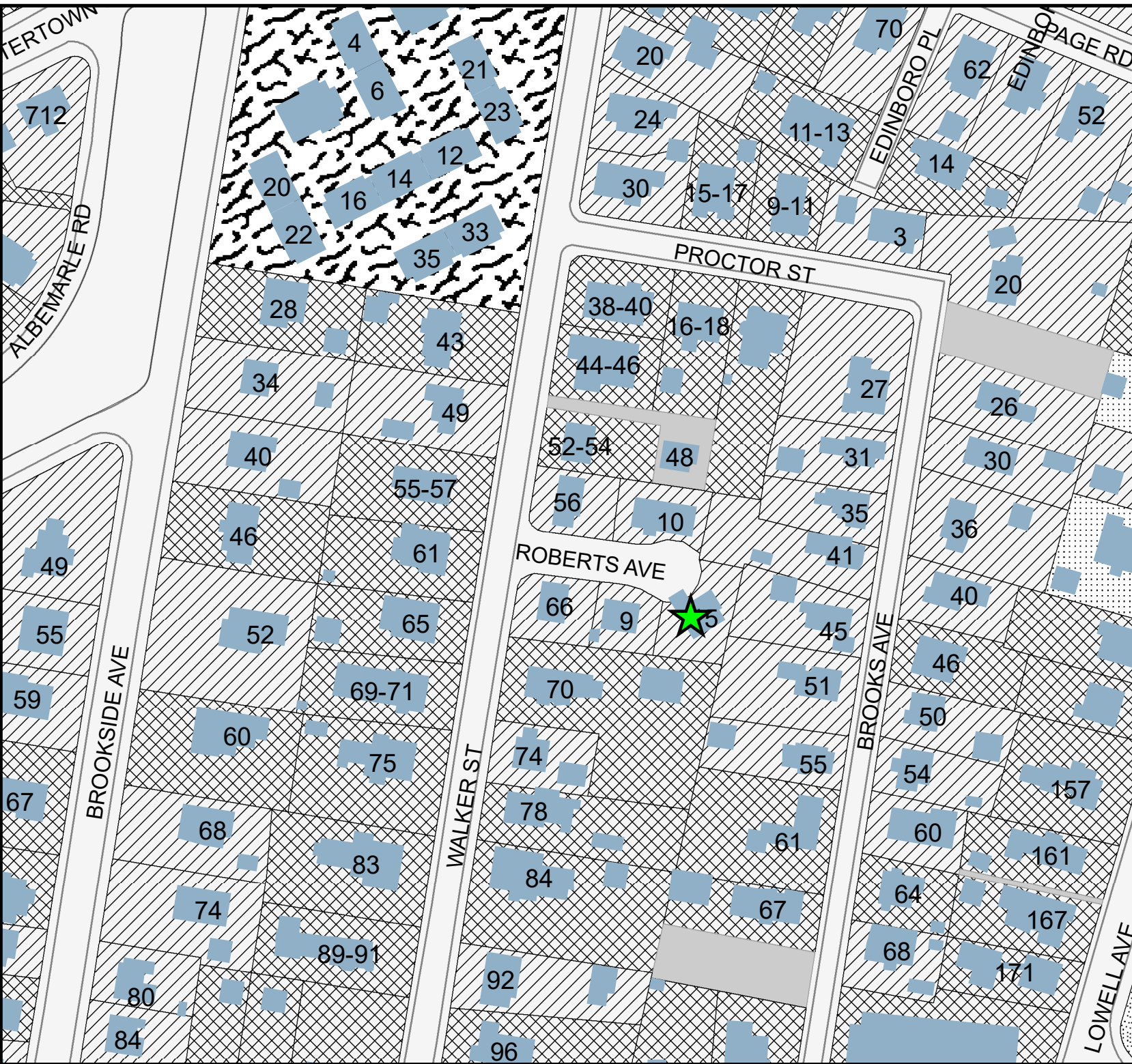


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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: January 18, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Michael Kuczewski, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Associate City Solicitor

**RE: Request to amend Special Permit #187-94**

Applicant: Michael Kuczewski	
Site: 15 Roberts Avenue	SBL: 21033 0010
Zoning: MR1	Lot Area: 5,081 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 15 Roberts Avenue consists of a 5,081 square foot lot improved with a single-family dwelling constructed circa 1930. The property was granted a special permit in 1994 to allow for an addition which further extended the nonconforming front setback. The petitioner seeks to amend the special permit to construct rear additions and cosmetic updates to the front entrance. The proposed alterations require a special permit.

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

- Zoning Review Application, prepared by Michael Kuczewski, applicant, submitted 12/17/2021
- Plan of Land, signed and stamped by Dennis O'Brien, surveyor, dated 6/15/2021, revised 11/23/2021, 1/11/2022
- Floor plans and elevations, signed and stamped by Faith D. Baum, architect, dated 11/1/2021, revised 12/1/2021
- FAR worksheet, signed and stamped by Faith D. Baum, architect, submitted 12/17/2021
- Special Permit #187-94



**ADMINISTRATIVE DETERMINATIONS:**

1. The property was granted Special Permit #187-94 to allow for an addition which further extended the nonconforming front setback. An amendment to the special permit is required to for proposed additions to the single-family dwelling.
2. The petitioner seeks to construct a rear porch with living space above, adding 182 square feet of footprint to the first floor. Additionally, a nonconforming rear deck is to be replaced with an enclosed 36 square foot basement access. The proposed basement access meets the requirements of the de minimis provisions of section 7.8.2.B.2.c for first floor additions in the side and rear which do not total more than 200 square feet.
3. The petitioner proposes to place a heat pump compressor resulting in a 7.5-foot setback from the rear lot line. Per section 1.5.3.D.2, heat pump compressors may be located in the setback.
4. The petitioner intends to demolish the existing enclosed front entrance and replace with an open entry stair and landing. The footprint remains un-changed and no relief is required.
5. The existing open space is nonconforming at 38.1% where a minimum of 50% is required per section 3.2.3. The petitioner intends to remove paving at the rear of the property, bringing the property into conformance at 56.1%.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>5,081 square feet</b>	<b>No change</b>
Frontage	70 feet	<b>62 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	<b>4 feet</b>	<b>No change</b>
• Side	7.5 feet	25.7 feet	No change
• Side	7.5 feet	8.2 feet	No change
• Rear	15 feet	<b>7.2 feet</b>	<b>7.5 feet</b>
• Rear	15 feet	16.2 feet	16 feet
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	28.6 feet	No change
FAR	.58	.46	.47
Max Lot Coverage	30%	23.7%	25%
Min. Open Space	50%	<b>38.1%</b>	56.1%

6. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #187-94	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 #187-94 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 rear addition and front entry modifications because the proposed changes meet all the dimensional standards, for the Multi Residence 1 zoning district. (§7.3.3.C.1)
2. The proposed rear addition and front entry modifications will not adversely affect the neighborhood because the rear addition and the front entry modifications do not require additional relief. (§7.3.3.C.2)
3. The proposed rear addition and front entry modifications will not create a nuisance or serious hazard to vehicles or pedestrians because there are no changes proposed concerning access to the site. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because there are no changes proposed concerning access to the site. (§7.3.3.C.4)

PETITION NUMBER: #119-22

PETITIONER: Michael Kuczewski

LOCATION: 15 Roberts Avenue, on land known as Section 21 Block 33  
Lot 10, containing approximately 5,081 sq. ft. of land

OWNER: Michael Kuczewski

ADDRESS OF OWNER: 15 Roberts Avenue

Newton, MA 02460

TO BE USED FOR: Remodeled front entry, rear addition, and amendments to the site plan

CONSTRUCTION: NA

EXPLANATORY NOTE: §7.3.3 to amend Special Permit #187-94 which allowed for the extension of a nonconforming front setback (§7.8.2.C.2).

ZONING: Multi Residence 1

The prior Special Permit/Site Plan Approval governing this property is #187-94, which allowed the extension of the nonconforming front setback. This Special Permit/Site Plan Approval supersedes #187-94. As such, #187-94 is null and void.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with:
  - a. Certified Plot Plan located at 15 Roberts Avenue, signed and stamped by Dennis O'Brien, Professional Land Surveyor, dated June 15, 2021, revised January 11, 2022
  - b. Architectural Plans, prepared by Faith Baum architects, unsigned and unstamped, dated July 8, 2021, revised December 1, 2021 consisting of the following sheets:
    - i. North Elevation A-3.0
    - ii. East Elevation A-3.1
    - iii. South Elevation A-3.2
    - iv. West Elevation A-3.3
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Inspectional Services and the Department of Planning and Development.
3. 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 board order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect and a professional land surveyor 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 an architect and licensed land surveyor including the as built floor area ratio of the structure.