DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON
Massachusetts

DATE: **October 20, 2023**

TO: **City Council**

FROM: **Katie Whewell, Chief Planner for Current Planning**

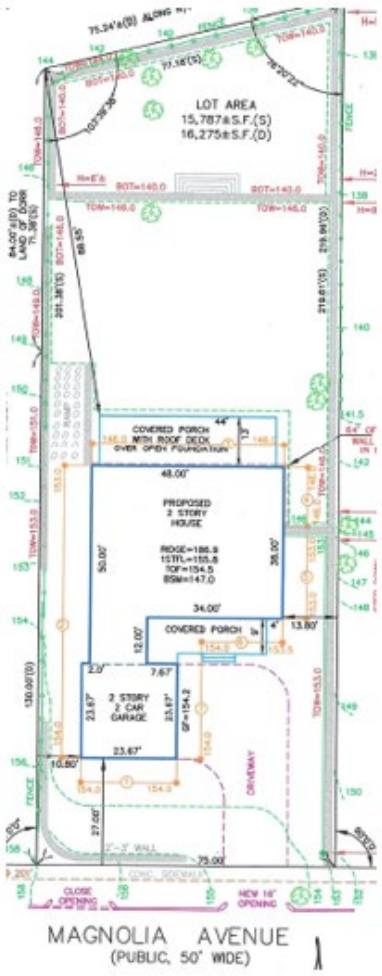
SUBJECT: **Consistency Request**
#161-22, 26 Magnolia Avenue

The petitioner obtained Special Permit #161-22 on April 19, 2022 to exceed the floor area ratio ("FAR"), and to allow retaining walls exceeding four feet in height within a setback. The special permit relief is associated with the new construction of the single-family dwelling, currently under construction.

The approved site plans show the single-family dwelling with an open rear yard aside from a six-foot-tall retaining wall that bisects the rear yard across the width of the lot. The petitioner is now seeking to construct a swimming pool and associated accessory structure where there was previously open space. Swimming pools are required to meet principal building setbacks. While the pool complies with the setbacks prescribed in the Zoning Ordinance, it is a notable change to the previously approved site plan. The shed also complies with the setbacks prescribed for accessory buildings. The petitioners applied for a consistency ruling on September 18, 2023, and the Commissioner of Inspectional Services is seeking input from the Land Use Committee as to whether this is consistent with the approved special permit plans.

If the Committee finds that the proposed changes are inconsistent with the approved special permit, and that the proposed site changes rise to the level of an amendment, the petitioner will need to apply for an amendment to alter the site plans associated with Special Permit #161-22 and abutters within 300 feet will be noticed and given the opportunity to speak at a future public hearing.

If the consistency request is approved, depending on the increase in impervious area, will be subject to review by the Engineering Division of Public Works prior to the issuance of a building permit for the pool.



Special Permit Approved Site Plan

Request for Consistency