



Land Use Committee Report

City of Newton In City Council

Tuesday, February 6, 2018

Present: Councilors Lipof (Acting Chair), Laredo, Scibelli-Greenberg, Kelley, Markiewicz, Crossley

Absent: Councilors Auchincloss, Schwartz

City Staff Present: Associate City Solicitor Bob Waddick, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba

All Special Permit Plans, Memos and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Planning Department Presentations for each project can be found at the end of this report.

The Committee will hear a Consistency Ruling relative to #261-17 (14 Pond Avenue). Requesting a reconfiguration of the plans approved in 2017.

Note: Petitioner Kevin Fahey presented the request for a consistency ruling for the Special Permit at 14 Pond Avenue. After the Special permit approval in November, it became clear that construction could not start in 2017. Mr. Fahey questioned whether the gabled dormers could be changed into a shed look. He stated that the proposed, shed style dormers will be taken in 1', resulting in approximately 26' fewer feet and a reduction in the FAR. Mr. Fahey hopes to use some of the space to create a deeper mudroom.

Senior Planner Neil Cronin confirmed that the Planning Department has no concerns relative to the request. Committee members were in agreement that the changes are consistent with the approved plans. It was asked that Mr. Cronin convey that the Committee has no concerns to the Commissioner of Inspectional Services.

#18-18 Special Permit Petition to allow oversized dormer at 165 Harvard Street

DIEGO TEBALDI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow dormer greater than 50% of the exterior wall below it at 165 Harvard Street, Ward 2, Newtonville, on land known as Section 22, Block 23, Lot 2, containing approximately 9,273 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 1.5.4.G.2, 1.5.4.G.2.b of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Opened 01/09/2018; Land Use Held to 02/27/18

Note: It was noted that the petitioner has submitted a request to continue the item until February 27, 2018. With a motion to hold the item, Committee members voted unanimously in favor.

#26-18 **Special Permit Petition to allow attached dwellings at 20 Dale St/19 Simpson Terr**
SCOTT ROSS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition, creating two attached dwelling units, allowing waivers to the lot area requirements and lot area per unit requirements, to reduce the side setback requirement, to reduce the lot coverage requirement, to allow a driveway within 10' of a side lot line and to allow parking within 20' of a side lot line at 20 Dale Street/19 Simpson Terrace, Ward 2, Newtonville, on land known as Section 22, Block 14, Lot 03, containing approximately 5,968 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.2.4, 6.2.3.B.2 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 6-0**

Note: Petitioner Scott Ross presented at the Committee meeting on January 23, 2018. At the Committee meeting, Committee members raised concerns relative to whether the proposed structure is a single family attached dwelling. Associate City Solicitor confirmed that the proposed structure meets the definition of a single family attached dwelling. He noted that after approval of the Special Permit, the petitioner would be able to convert the units into condos, if he chooses to do so.

At the Public Hearing on January 23, 2018, Committee members also requested that the Planning Department review the proposal with what could be done as a matter of right. Mr. Cronin noted that single family attached dwellings are not regulated by FAR, however, the proposed FAR is .57. A single family detached unit with an FAR of .56 would be permissible. He noted that while the median FAR of the immediately abutting properties is .38, that figure does not include some attic and basement space.

No member of the public wished to speak. With a motion from Councilor Crossley to close the public hearing, Committee members voted unanimously in favor. Committee members reviewed and made no changes to the following findings:

1. The site is an appropriate location for two Attached Single-Family Dwellings because Attached Single-Family Dwellings are an allowed use the Multi-Residence 1 zone and multi-family uses exist in the neighborhood. (§7.3.3.C.1)
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood given the presence of multi-family uses in the immediate area. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians as parking is accommodated on site. (§7.3.3.C.3)
4. Access to site is appropriate for the number and types of vehicles involved given the site has access via Dale Street and Simpson Terrace. (§7.3.3.C.4)
5. Literal compliance with the dimensional standards of Single-Family Attached Dwellings specifically, lot area, lot area per unit, lot coverage, side setback, parking within twenty feet of a side setback, and a driveway within ten feet of a side lot line are impractical due to the size of the lot, and are in the public interest because:
 1. The proposed Single-Family Attached Dwellings align with the neighborhood's pattern of development;

2. The proposed Single-Family Attached Dwellings are in keeping with the architecture of the existing dwelling; and
3. Parking is accommodated on site;

Committee members reviewed and made no changes to the following conditions.

1. Plan Referencing Condition.
2. The petitioner shall comply with the Tree Preservation Ordinance.
3. Standard Building Permit Condition.
4. Standard Occupancy Permit Condition.

Committee members voted unanimously in favor of Councilor Crossley's motion to approve the petition.

#66-18 Petition to further extend non-conforming FAR at 48 Nathan Road
DAVID METCALF petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 270 sq. ft. rear addition, further increasing the non-conforming FAR from .44 to .47 where .43 is allowed at 48 Nathan Road, Ward 2, Newton Centre, on land known as Section 13, Block 32, Lot 19, containing approximately 7,983 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Closed; Land Use Approved 6-0

Note: Petitioner David Metcalf and Architect Henry Finch presented the request to extend the kitchen into the backyard, increasing the existing non-conforming FAR at 48 Nathan Road. Mr. Metcalf noted that this renovation will not encroach into the setback and is not visible from the street.

Mr. Cronin reviewed the requested relief for the petition and the criteria for consideration as follows:

Special Permit per §7.8.2.C.2 of the NZO to:

- Further increase the nonconforming FAR (§3.1.3 and §3.1.9).

When reviewing the requested special permits the Council should consider whether:

- The nonconforming FAR from 0.44 to 0.47, where 0.43 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9 and §7.8.2.C.2).
- The proposed extension in the nonconforming FAR will be substantially more detrimental than the existing nonconforming FAR is to the neighborhood (§3.1.9 and §7.8.2.C.2).

Mr. Cronin's provided an overview of the neighborhood on the attached presentation. The Public Hearing was Opened. With no member of the public wishing to speak, Councilor Laredo motioned to close the public hearing. Councilor Laredo motioned to approve the petition. Committee members reviewed the drafts findings and conditions below.

Findings

1. The proposed increase in the nonconforming FAR will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be adding 270 square feet to the structure and subordinate to the existing ridge. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR will not be substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the addition is to the rear of the structure and not visible from a public way. (§3.1.9 and §7.8.2.C.2)

Conditions

1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

Without changes to the findings or conditions, Committee members voted unanimously in favor of the petition.

#64-18 **Special Permit Petition to allow detached accessory apartment at 361 Wolcott St**
PETER GREEN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a detached structure for use as an accessory apartment at 361 Wolcott Street, Ward 4, Auburndale, on land known as Section 44, Block 29, Lot 26, containing approximately 18,200 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 6.7.1.E.1 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 5-0 (Markiewicz Recused)**

Note: Petitioner Peter Green presented the request to locate a detached accessory apartment at 361 Wolcott Street. Mr. Green stated that the proposed detached accessory apartment has been located to the right of the main house, where there is ample setback from the road and abutters. Mr. Green noted that the design is similar to the principal structure and there is a large mature tree that shades the area of the proposed structure. He noted that there is also 6' hedge that will shield the accessory structure from view. Architectural details on the accessory structure include a small porch in keeping with the main house, a matching roof pitch and columns. Mr. Green noted that the windows used on the accessory structure are the same as the windows used on the main house. He confirmed that he solicited feedback from neighbors and did not hear any concerns relative to the proposal.

Senior Planner Michael Gleba presented the requested relief and criteria for consideration as follows:

Special permit per §7.3.3 to:

allow an accessory apartment in a detached accessory structure (§6.7.1.E.1

When reviewing the requested special permits the Council should consider whether:

1. The site is an appropriate location for an accessory structure that contains an accessory apartment (§7.3.3.C.1)

2. The proposed accessory structure containing an accessory apartment will not adversely affect the neighborhood (§7.3.3.C.2)
3. The proposed accessory structure containing an accessory apartment will not be a nuisance or create a serious hazard to vehicles or pedestrian (§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 creation of the proposed accessory structure for an accessory apartment is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3).

Mr. Gleba stated that the surrounding area is primarily residential and noted that the proposed accessory dwelling (to the east) is setback by approximately 32'. The Planning Department presentation is attached.

The Public Hearing was Opened.

Karen, 387 Wolcott Street, is in support of the project. She believes it will be a great addition to the neighborhood.

With no other member of the public wishing to speak, Councilor Laredo motioned to close the public hearing which carried 5-0 (Councilor Markiewicz recused). Councilor Laredo motioned to approve the item. A Committee member noted that there are two drives and questioned whether the Planning Department had any concerns. Mr. Gleba confirmed that given the age and distance between the drives, the Planning Department is not concerned. It was also noted that the accessory apartment requires additional parking. Mr. Green stated that the two drives previously connected to form a circular drive. He noted that circular drives are a common feature in the neighborhood.

Committee members reviewed the draft findings and conditions as shown below. A Committee member noted that there is a grammatical error in Finding #2. Mr. Green confirmed that the accessory apartment will remain in common ownership with the principal structure.

Findings

1. The site is an appropriate location for an accessory structure containing an accessory apartment (§7.3.3.C.1);
2. The proposed accessory structure containing an accessory apartment will not adversely affect the neighborhood as it be set back from the adjacent public way and abutting properties (§7.3.3.C.2);
3. The structure as proposed will not be a nuisance or create a serious hazard to vehicles or pedestrians (§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 proposed accessory structure containing an accessory apartment is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3);

6. The proposed accessory apartment will help to diversify Newton's housing stock consistent with Newton's Comprehensive Plan.

Conditions

1. Standard Plan Referencing Condition
2. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
3. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
5. Standard Building Permit Condition.
6. Plus- "Submitted to the Director of the Department of Planning and Development the proposed accessory structure's exterior finish material for review and approval."
7. Standard Final Inspection/Certificate of Occupancy Condition.

It was noted that the material used on the accessory structure does not have to be identical. Mr. Gleba confirmed that the exterior finish material must be the same or visually compatible in type, size or placement to the principal structure and will be reviewed by the Planning Department. Committee members voted 5-0 in favor of the petition, Councilor Markiewicz recused.

#20-18 **Special Permit Petition to extend non-conforming commercial use at 203 Elliot St**
BRICE BEN HOBBS AND REBECCA BELLA WANGH petition for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the non-conforming commercial use, extend the non-conforming front setback, extend the non-conforming side setback and exceeding the maximum FAR by extending the commercial use from retail to an art studio and constructing a second floor residence at 203 Elliot Street, Ward 5, Newton Upper Falls, on land known as Section 51, Block 18, Lot 4, containing approximately 4,164 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.1.4, 7.8.2.C.2, 3.2.3, 3.2.11 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed 01/09/2018; Land Use Approved 6-0**

Note: The Land Use Committee approved the request to extend the non-conforming commercial use at 203 Elliot Street to create a residence and art space at 203 Elliot Street. After approval by the Land Use Committee, the petitioner reevaluated the option to include an accessible entrance and bathroom, allowing art classes at the site. The Land Use Committee recommitted the item for further review of the site plan. Attorney Laurance Lee, representing the petitioners. Atty. Lee stated that the petitioners have been working with the Planning Department to address concerns related to increased traffic. The petitioner hopes to hold workshops for community members.

Atty. Lee explained that conditions have been crafted in collaboration with the Planning Department that will limit the number of participants to 11 (based on fire code), limit the workshops to participants who register in advance (no walk-ins), limit the hours of operation, incentivize participants to use other methods of transportation as well as encouraging drivers to park throughout the neighborhood and not only on abutting streets.

Atty. Lee confirmed that the petitioner has agreed to a condition to include 15 minute breaks between classes to minimize the parking burden on the neighborhood. He noted that the classes will be limited to three per day. A Committee member reiterated support for the project and the creative use of the Area Council as a liaison between the art studio and the neighborhood.

Committee members reviewed the draft findings and conditions as shown below. A Committee member questioned whether there should be a condition limiting the number of classes. Atty. Lee confirmed that the petitioner is anticipating a maximum of two classes per day. He noted that a condition limiting the number of classes to three with 15 minute intervals is acceptable.

Findings

1. The proposed extension of the existing nonconforming commercial use to allow a single-family dwelling above will not be substantially more detrimental than the existing nonconforming use is to the neighborhood because the proposed residential unit is a by-right use in the Multi Residence 1 zone and will increase the diversity of housing stock in the City (§3.4.1 and §7.8.2.C.2).
2. The proposed extension of the existing nonconforming front setbacks will not be substantially more detrimental than the existing nonconforming setbacks are to the neighborhood because the addition will not encroach any farther into the setback than the existing footprint and the addition is set back from the existing street to add depth to the facade (§3.2.3 and §7.8.2.C.2).
3. The proposed extension of the existing nonconforming rear setback will not be substantially more detrimental than the existing setback is to the neighborhood because the addition will not encroach any farther into the setback than the existing structure and different materials will be used to avoid the appearance of a continual wall plane (§3.2.3 and §7.8.2.C.2).
4. The proposed increase in FAR from .26 to .63, where .58 is the maximum allowed is consistent with and will not be in derogation of the size, scale, and design of other structures in the neighborhood because the design of the structure will utilize elements and techniques to reduce the bulk and mass of the structure and preserve the existing historic structure (§3.2.3 and §3.2.11).

Conditions

1. Plan Referencing Condition
2. Final Site Plan Condition
3. Final Landscape Plan Condition
4. O & M Condition
5. Standard Occupancy Permit Condition
6. The art studio shall be operated in accordance with the below limitations:
 - a. Hours of Operation shall be from 10:00 a.m. to 8:00 p.m.

- b. The number of persons in the art studio at any given time shall not exceed the then applicable fire code occupancy limit for the art studio.
- c. Workshop registration shall be limited to online or telephone only; walk-ins are only permitted so long as the number of participants do not exceed the then applicable fire code occupancy limit for the art studio;
- d. At the time of registration, Petitioner agrees to provide incentives for participants of art workshops to use alternative modes of transportation (e.g. public transportation; bike; walk) and to encourage carpooling;
- e. Should the Petitioner or City receive legitimate complaint(s) of parking problems by art studio participants, then Petitioners shall use diligent efforts to appear before the Upper Falls Area Council to resolve such complaint(s).

A Committee member asked that the work "legitimate" be removed from Condition 6e. After a review of the findings and conditions, Councilor Crossley motioned to approve the item which carried 6-0.

#67-18 **Petition to allow single-family dwelling in MR-1 at 336 Newtonville Avenue**
336 NEWTONVILLE AVE LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to relocate an existing dwelling, add a unit to the rear of the dwelling and construct two additional single-family attached dwellings in an MR-1 district, requiring a special permit at 336 Newtonville Avenue, Ward 2, Newtonville, on land known as Section 22, Block 07, Lot 19, containing approximately 29,896 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Closed; Land Use Approved 5-0-1 (Laredo abstaining)**

Note: Atty. Lee presented the request to construct two, single-family attached dwellings at 336 Newtonville Avenue. Atty. Lee's presentation is attached. The site at 336 Newtonville Avenue contains a historic house on a 30,000 sq. ft. lot. The property is predominantly surrounded by multi-residence properties with some two and three-families. The property at 336 Newtonville Avenue was granted a variance for a three-family use that was not exercised. The historic house and proposed plans have been reviewed by the Historic Commission. The proposed plans include moving the historic house 40' forward on the lot. A second unit will be constructed to the rear of the existing structure and a second, two-unit building will be constructed totaling four units. Atty. Lee noted that the average lot area per unit is 7,500 sq. ft. where surrounding properties have similar or less density. Atty. Lee presented a comparison of the proposed project with what would be allowed as a matter of right (in the attached presentation). He emphasized the petitioner's intent to remain considerate of the size of the lot and noted that if the project were built by-right, the setbacks could be less than the current proposal. Additionally, he noted that the proposed project preserves more open space than a by-right project. Atty. Lee stated that the Historic Commission is in support of the proposed project and noted that if there are issues relative to preservation of the historic house during construction, the Historic Commission has asked that the petitioner return for preservation guidance.

Mr. Gleba reviewed the relief requested, criteria for The Planning Department presentation is attached. Mr. Gleba that some cosmetic changes were made as a result of the Newton Historic Commission review in January 2018.

Special permit per §7.3.3 to:

- allow attached single-family dwellings in an MR1 zoning district (§3.4.1)

When reviewing the requested special permits the Council should consider whether:

- The site in a Multi-Residence 1 (MR1) district is an appropriate location for the two proposed two-unit attached single-family dwellings (§7.3.3.C.1);
- The two proposed two-unit attached single-family dwellings will adversely affect the neighborhood (§7.3.3.C.2);
- The two proposed two-unit attached single-family dwellings 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.

The Public Hearing was Opened.

Atty. Lee confirmed that nothing has changed from the Special Permit petition submitted in 2017 except for the cosmetic changes. He confirmed that the sizes of the structures are: 3500 sq. ft. (existing house), 2283 sq. ft., 2234 sq. ft. and 1964 sq. ft.. He stated that the additional units are designed to be smaller than the principal structure. It was noted that there is a small amount of usable space in the attic of each unit that does not count towards the FAR. Councilor Laredo expressed reservations about whether the proposed project diversifies the housing stock. He noted that the units are relatively large. Some Councilors felt that the proposed project is a better option than the by-right option and mimics the architecture of the existing house. It was noted that some attic space is created, the roof pitch is appropriate for the neighborhood context. One Committee member noted that the attic space is limited and not habitable. Committee members were supportive of the preservation of the historic home. Some Councilors felt that the proposed density is in scale with the neighborhood context. Atty. Lee confirmed that the petitioner has met the concerns raised by the Engineering Department.

With no other member of the public wishing to speak, Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the item. Committee members reviewed the draft findings and conditions as shown below.

Findings

1. The site is an appropriate location for four attached single-family dwellings in two structures as it is located in a neighborhood with a mix of single-, two- and multi- family dwellings and the lot area per unit of the proposed development is 7,474 square feet, significantly exceeding the minimum 4,000 square feet required (§7.3.3.C.1; §3.4.1);
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);

4. Access to site is appropriate for the number and types of vehicles involved. (§7.3.3.C.4).

Conditions

1. Plan Referencing Condition
2. **Newton Historical Commission approval requirement for changes to existing historic dwelling**
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. All lighting fixtures shall be residential in scale.
5. Standard Building Permit Conditions.
6. Submit 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.
7. Submit Final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval.
8. Construction Management Plan (CMP) for review and approval
9. Hours of construction- limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
10. Standard Final Inspection/Certificate of Occupancy Conditions, *plus*

Planning Department to approve final location, number and type of plant materials and final landscape features

Committee members voted 5-0-1 with an abstention from Councilor Laredo.

#65-18 Petition to amend Board Order #152-14 at 1186 Chestnut Street/Indiana Court

SEYED A ZEKAVAT petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #152-14 to allow for the construction of a second driveway at the rear of the property to be accessed from Indiana Court, Ward 5, Newton Upper Falls, on land known as Section 51, Block 40, Lot 23, containing approximately 5,383 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

Action: Public Hearing Continued to 02/27/2018

Note: Attorney Irene del Bono represented the petitioners in presenting the petition to locate a driveway on Indiana Court for access to the house at 1186 Chestnut Street. The petitioners sought to locate a driveway on Indiana Court (at grade level) and were told they did not have the right to access Indiana Court. They installed a garage on Chestnut Street, requiring them to park there and climb stairs to access the house. Atty. Del Bono stated that the petitioners are seeking a grade level, gravel driveway. In response to a suggestion from the Planning Department, Atty. Del Bono confirmed that the petitioner would also construct a turn around for safer egress onto Indiana Court. Atty. Del Bono reviewed history of the site, noting that the deed references some easements but not on Indiana Court. She believes that Indiana Court was dedicated to the public and provides an easement by implication to the petitioners, emphasizing that the petitioners do not have reasonable access from Chestnut Street. Atty. Del Bono confirmed that the petitioners installed the gravel driveway adjacent to Indiana Court after receiving a building permit issued in error.

Senior Planner Neil Cronin reviewed the requested relief and criteria for consideration as follows. Mr. Cronin demonstrated the previously approved site plan and the proposed site plan, demonstrating the gravel driveway with access to Indiana Court.

- Special Permit/Site Plan Approval to amend Board Order #152-14 to amend the site plan to construct a driveway and surface parking stall

When reviewing the request, the Council should consider whether:

- The site is an appropriate location for the proposed driveway and surface parking stall. (§7.3.3.C.1)
- The proposed driveway and surface parking stall will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no 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)

Associate City Solicitor Bob Waddick noted that the Law Department has received and reviewed some information from Atty. Del Bono and stated that preliminary review suggests that access to Indiana Court remains in question. According to the City's records, Indiana Court is partially public way and partially private way. At the end of Indiana Court, there was a grassy area that was separated by a fence from the public way portion of Indiana Court. The fence was taken down and the grassy area paved. The end of Indiana Court is a private way. The owners of the private way are the abutters on the sides (11 Indiana Court, 10 Indiana Court, 1188 Chestnut Street). It is the Law Department's opinion that 1186 does not have an interest in the way because it is located at the end and does not have legal access. Atty. Waddick noted that the Law Department has not found an indication in the chain of title that the petitioners have interest in Indiana Court. He confirmed that the Law Department will continue to review documents submitted by the petitioner but at this time feel that the Committee cannot make the appropriate findings with respect to access. He suggested without the determination that the petitioners have access to Indiana Court, the petitioners would need to be granted an easement or declaration from the Land Court. A Committee member questioned who paved the end of Indiana Court. It was confirmed that the owner of 1188 Chestnut Street was given a building permit to construct a driveway into Indiana Court and it is unclear how the remaining portion of the grassy area was paved. The Committee agreed that more information should be provided to the Law Department for further review. With a motion to hold the item, Committee members voted unanimously in favor.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



PETITION #261-17
14 POND AVENUE

SPECIAL PERMIT/SITE PLAN
APPROVAL TO EXCEED THE
FAR



FEBRUARY 6, 2017

Consistency Request



- The Petitioner obtained a special permit on November 6, 2017 to exceed the floor area ratio by constructing a two-story rear addition with dormers on the left and right facades as well as a first-floor mudroom.
- The petitioner seeks a consistency request to change the style of dormer from gable to shed-style and enlarge the first floor mudroom.
- The proposed plans do not increase the floor area beyond what was approved in the special permit.

Department of Planning and Development



PETITION #26-18
20 DALE STREET/19 SIMPSON
TERRACE

SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW
ATTACHED DWELLINGS AND
WAIVERS TO THE
DIMENSIONAL STANDARDS

JANUARY 23, 2018



Requested Relief



Special permit per §7.3.3 to:

- Allow attached single-family dwellings in an MR-1 zoning district (§3.2.4 and §7.3.3).
- To reduce the lot area requirement (§3.2.4 and §7.3.3).
- To reduce the lot area per unit requirement (§3.2.4 and §7.3.3).
- To reduce the side setback requirement (§3.2.4 and §7.3.3).
- To reduce the lot coverage requirement (§3.2.4 and §7.3.3).

Requested Relief Continued



Special permit per §7.3.3 to:

- To allow parking within twenty feet of a side lot line (§6.2.3.B.2, §3.2.4, §7.3.3).
- To allow a driveway within ten feet of a side lot line (§6.2.3.B.2, §3.2.4, §7.3.3).

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The specific site is an appropriate location for the proposed attached single-family dwellings. (§7.3.3.C.1)
- The attached single-family dwellings will adversely affect the neighborhood. (§7.3.3.C.2)
- The attached dwellings will not 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)

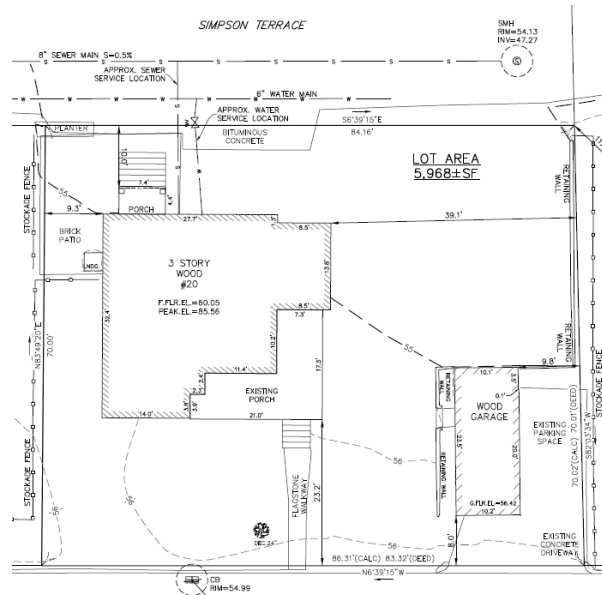
Criteria to Consider Continued

- Literal compliance with the dimensional standards of single-family attached dwellings, specifically lot area, lot area per unit, lot coverage, side setback, a driveway within ten feet of a side lot line, and parking within twenty feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, 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 (§3.2.4 and §6.2.3.B.2)

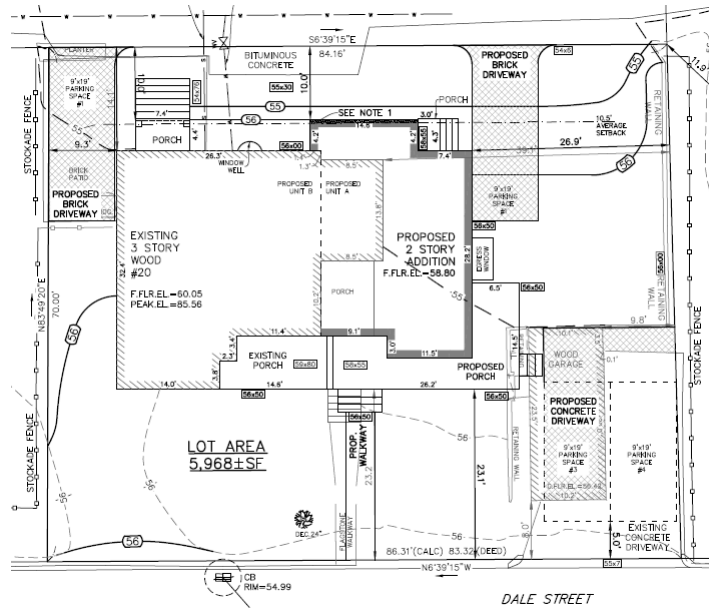
AERIAL/GIS MAP



Existing Site Plan



Proposed Site Plan



Existing Dale Street Elevation



Proposed Dale Street Elevation



Discussion

- Staff notes the petitioner is seeking relief from numerous dimensional standards associated with single-family attached dwellings.
- These relief put forward policy questions regarding how new development should fit or not fit with the context of the neighborhood.
- When reviewing the context of the neighborhood, staff found the petition to be consistent with the existing environment of the neighborhood with respect to use and density.

Additional Items

- The Law Department provided a memo stating the design of the proposed structure fits the definition of a Single-Family Attached Dwelling provided in the Newton Zoning Ordinance.
- Single-Family Attached Dwellings are not regulated by floor area ratio (FAR). If this structure were to remain a single-family dwelling, the maximum allowed FAR is .56. The proposed Single-Family Attached Dwellings have an FAR of .57.
- Using data provided by the Assessor's database the median FAR of the 47 properties within 300 feet is .38.

Department of Planning and Development



PETITION #64-18
361 WOLCOTT STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
DETACHED STRUCTURE FOR
USE AS AN ACCESSORY
APARTMENT

FEBRUARY 6, 2018



Requested Relief



Special permit per §7.3.3 to:

- allow an accessory apartment in a detached accessory structure (§6.7.1.E.1)

Criteria to Consider



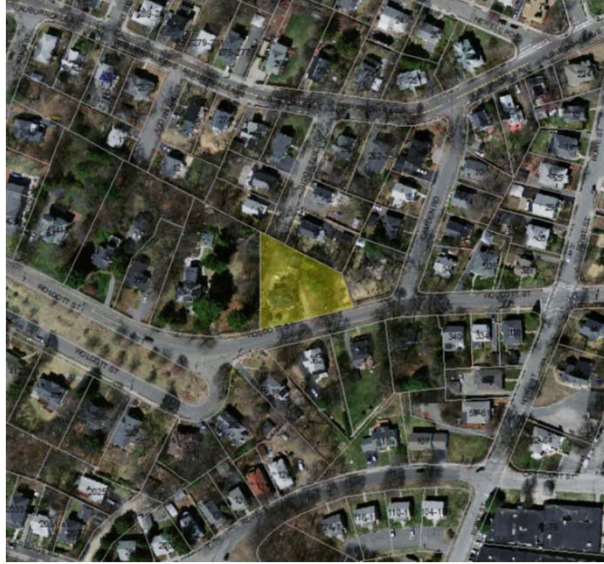
When reviewing the requested special permits the Council should consider whether:

1. The site is an appropriate location for an accessory structure that contains an accessory apartment (§7.3.3.C.1)
2. The proposed accessory structure containing an accessory apartment will not adversely affect the neighborhood (§7.3.3.C.2)
3. The proposed accessory structure containing an accessory apartment will not be a nuisance or create a serious hazard to vehicles or pedestrian (§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 creation of the proposed accessory structure for an accessory apartment is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3).

Criteria to Consider (cont.)



AERIAL/GIS MAP



Zoning



ATTACHMENT I

Zoning

361 Wolcott Street

City of Newton,
Massachusetts

Legend

- Single Residence 3
- Manufacturing
- Public Use



The information on this map is based on the Newton Geographic Information System (GIS). The City of Newton reserves the right to modify the information on this map without notice. The information on this map is not intended to be used for any purpose other than the purpose for which it was prepared. The information on this map is not intended to be used for any purpose other than the purpose for which it was prepared.

CITY OF NEWTON, MASSACHUSETTS
Mayor: Jared D. Wilson
GIS Administrator: Douglas Greenfield

Map Date: January 31, 2018

Land Use



ATTACHMENT .
Land Use
 361 Wolcott Street
 City of Newton,
 Massachusetts

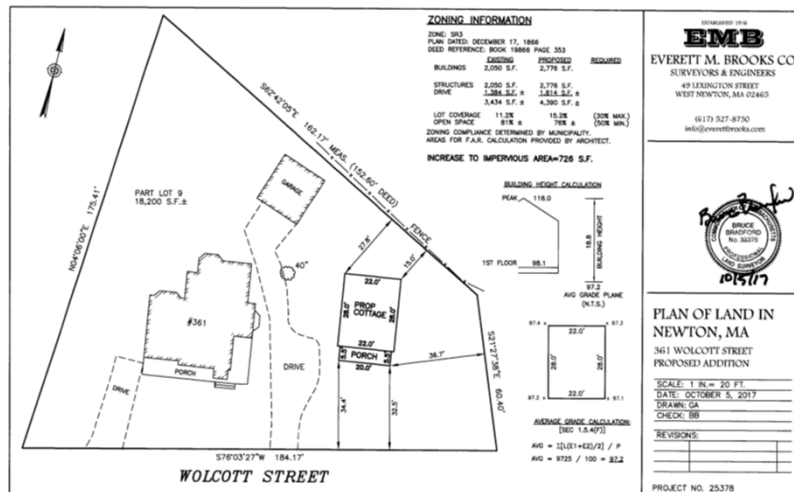
- Land Use**
Land Use
 Single Family Residential
 Multi-Family Residential
 Commercial
 Open Space
 Vacant Land



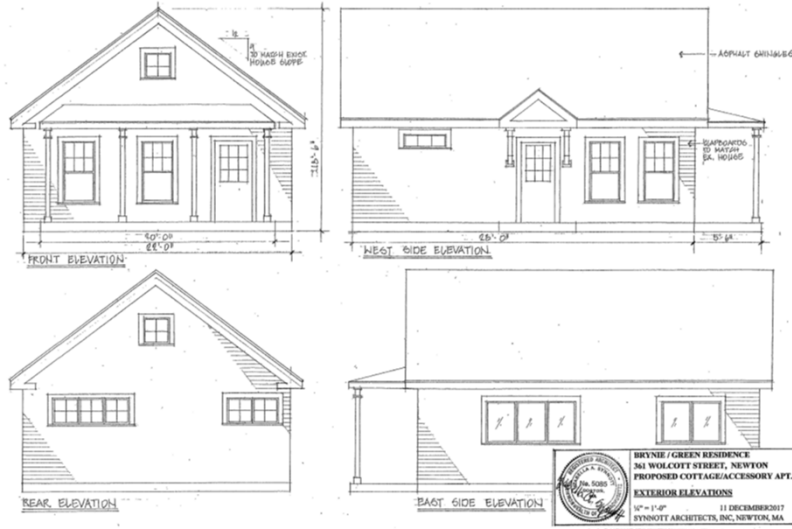
The information on this map is based on the current Geographic Information System (GIS). The City of Newton does not warrant the accuracy of this information. Each user of this map is responsible for determining its suitability for use in any particular situation. City employees will not knowingly approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
 Mayor - David E. Bonior
 GIS Administration - Douglas Greenfield
 Map Date: January 31, 2018

Site Plan



Elevations



Photos



Photos



Photos



Photos



Photos



Photos



Proposed Findings

1. The site is an appropriate location for an accessory structure containing an accessory apartment (§7.3.3.C.1);
2. The proposed accessory structure containing an accessory apartment will not adversely affect the neighborhood as it be set back from the adjacent public way and abutting properties (§7.3.3.C.2);
3. The structure as proposed will not be a nuisance or create a serious hazard to vehicles or pedestrians (§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 proposed accessory structure containing an accessory apartment is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3);
6. The proposed accessory apartment will help to diversify Newton's housing stock consistent with Newton's Comprehensive Plan. -

Proposed Conditions



1. Standard Plan Referencing Condition
2. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
3. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.

Proposed Conditions (con't)



3. Standard Building Permit Condition.
 - Plus- "Submitted to the Director of the Department of Planning and Development the proposed accessory structure's exterior finish material for review and approval."
4. Standard Final Inspection/Certificate of Occupancy Condition.

Proposed Findings

1. The site is an appropriate location for two Attached Single-Family Dwellings because Attached Single-Family Dwellings are an allowed use the Multi-Residence 1 zone and multi-family uses exist in the neighborhood. (§7.3.3.C.1)
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood given the presence of multi-family uses in the immediate area. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians as parking is accommodated on site. (§7.3.3.C.3)
4. Access to site is appropriate for the number and types of vehicles involved given the site has access via Dale Street and Simpson Terrace. (§7.3.3.C.4)

Proposed Findings Continued

5. Literal compliance with the dimensional standards of Single-Family Attached Dwellings specifically, lot area, lot area per unit, lot coverage, side setback, parking within twenty feet of a side setback, and a driveway within ten feet of a side lot line are impractical due to the size of the lot, and are in the public interest because:
 - The proposed Single-Family Attached Dwellings align with the neighborhood's pattern of development;
 - The proposed Single-Family Attached Dwellings are in keeping with the architecture of the existing dwelling; and
 - Parking is accommodated on site;

Proposed Conditions



1. Plan Referencing Condition.
2. The petitioner shall comply with the Tree Preservation Ordinance.
3. Standard Building Permit Condition.
4. Standard Occupancy Permit Condition.

Department of Planning and Development



PETITION #66-18

48 NATHAN ROAD

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
REAR KITCHEN AND BEDROOM
ADDITION, INCREASING A
NONCONFORMING FAR FROM
0.44 TO 0.47 WHERE 0.43 IS
THE MAXIMUM ALLOWED



FEBRUARY 6, 2018

Requested Relief



Special Permit per §7.8.2.C.2 of the NZO to:

- Further increase the nonconforming FAR (§3.1.3 and §3.1.9).

Criteria to Consider



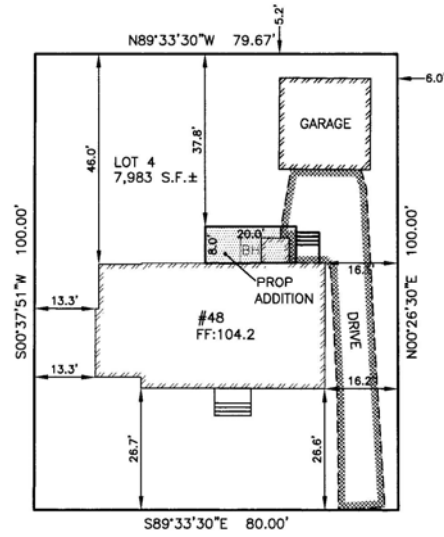
When reviewing the requested special permits the Council should consider whether:

- The nonconforming FAR from 0.44 to 0.47, where 0.43 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9 and §7.8.2.C.2).
- The proposed extension in the nonconforming FAR will be substantially more detrimental than the existing nonconforming FAR is to the neighborhood (§3.1.9 and §7.8.2.C.2).

AERIAL/GIS MAP



Site Plan



NATHAN ROAD

Elevation - East (Existing)



2 Building Elevation Side East - Existing

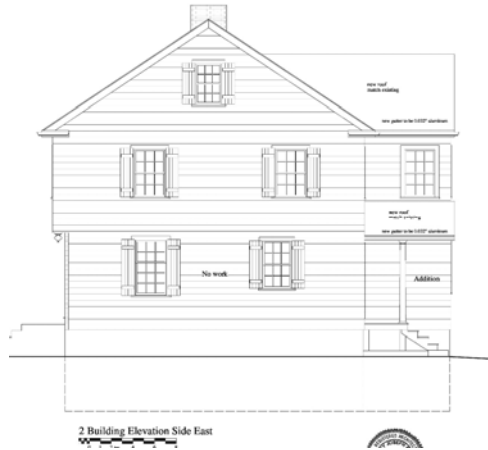
Elevation - North (Existing)



Elevation - West (Existing)

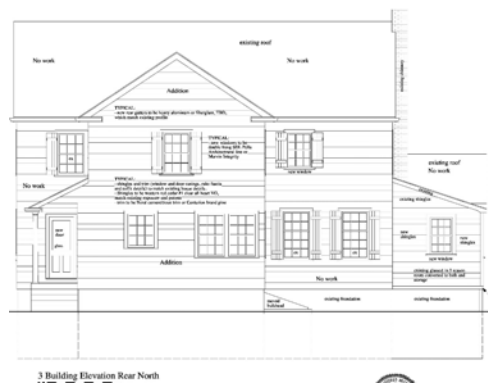


Elevation - East (Proposed)



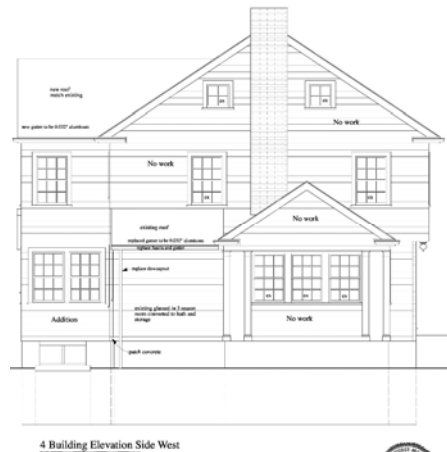
2 Building Elevation Side East

Elevation - North (Proposed)



3 Building Elevation Rear North

Elevation - West (Proposed)



Proposed Findings

1. The proposed increase in the nonconforming FAR will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be adding 270 square feet to the structure and subordinate to the existing ridge. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR will not be substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the addition is to the rear of the structure and not visible from a public way. (§3.1.9 and §7.8.2.C.2)

Proposed Conditions



1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

Photos



Photos



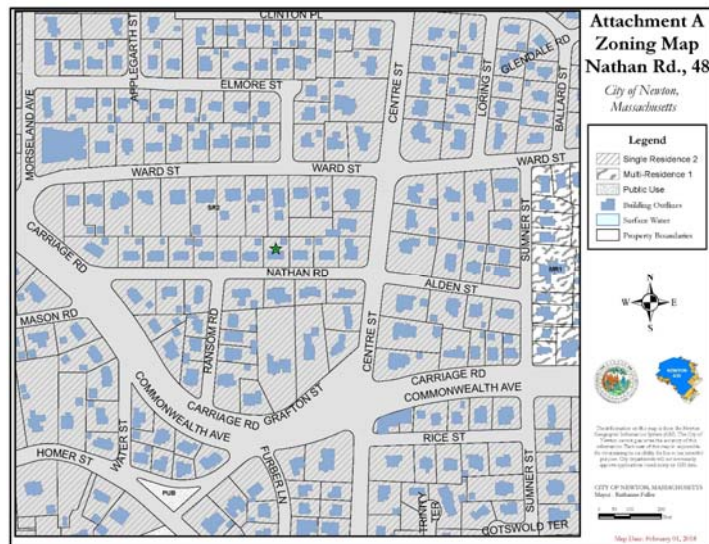
Photos



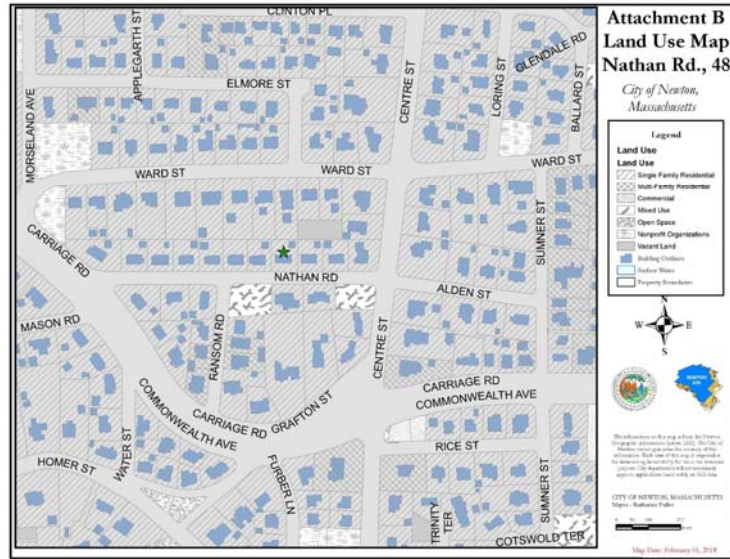
Photos



Zoning



Land Use



Department of Planning and Development



PETITION #67-18

336 NEWTONVILLE AVENUE

SPECIAL PERMIT/SITE PLAN APPROVAL TO RELOCATE AN EXISTING DWELLING, ADD A UNIT TO THE REAR OF THE DWELLING AND CONSTRUCT TWO ADDITIONAL SINGLE-FAMILY ATTACHED DWELLINGS IN AN MR-1 DISTRICT

FEBRUARY 6, 2018



Requested Relief



Special permit per §7.3.3 to:

- allow attached single-family dwellings in an MR1 zoning district (§3.4.1)

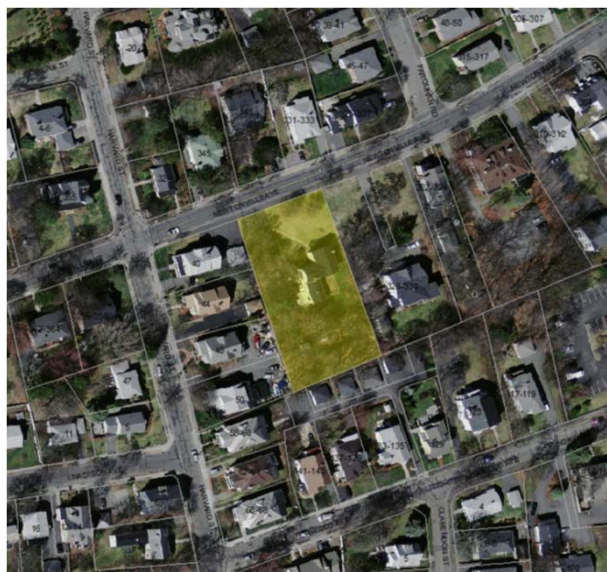
Criteria to Consider



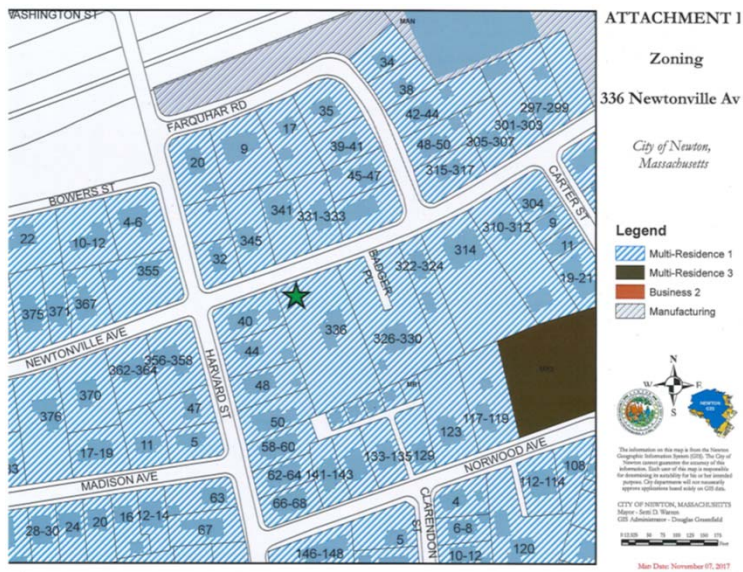
When reviewing the requested special permits the Council should consider whether:

- The site in a Multi-Residence 1 (MR1) district is an appropriate location for the two proposed two-unit attached single-family dwellings (§7.3.3.C.1);
- The two proposed two-unit attached single-family dwellings will adversely affect the neighborhood (§7.3.3.C.2);
- The two proposed two-unit attached single-family dwellings 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.

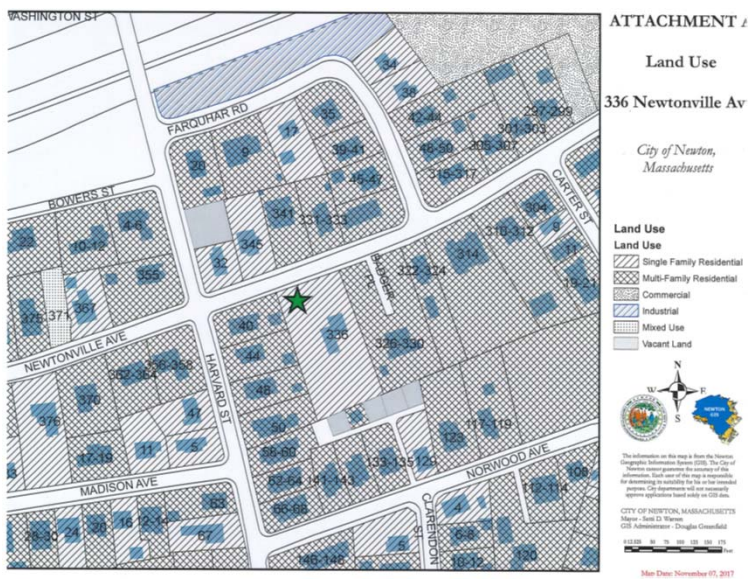
AERIAL/GIS MAP



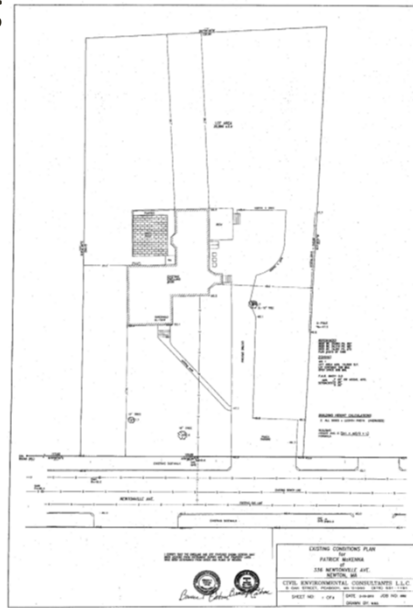
Zoning



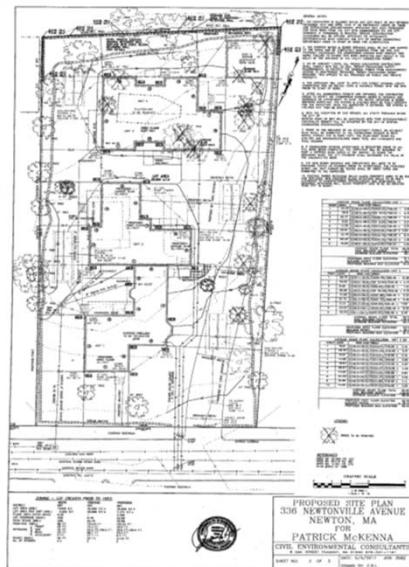
Land Use



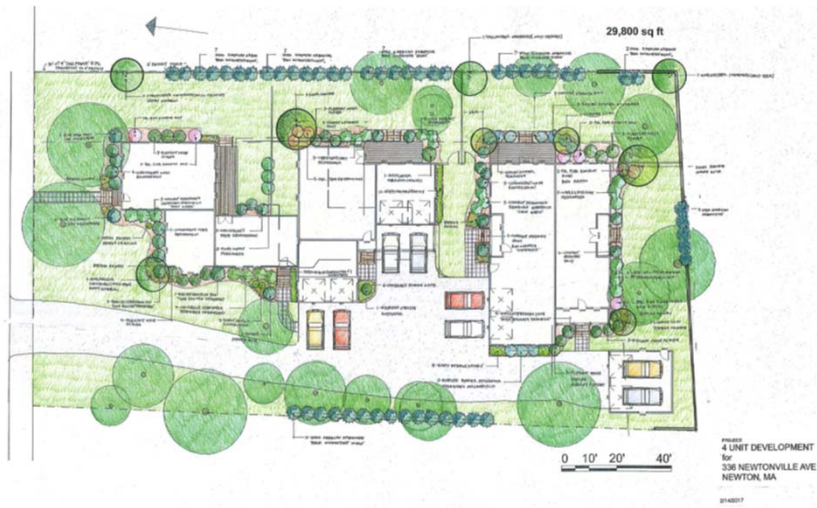
Site Plan- existing



Site Plan- Proposed



Landscape Plan



Units



Perspective



Photos



Photos



Photos



Photos



Photos



Photos



By-right

- Detached single-family or two-family dwelling
 - (Several other uses, subject to listed conditions and/or administrative site plan review, including: dormitories for 20 or more residents, schools, public uses, and religious institutions.)
- Dimensional requirements:
 - Floor area ratio (FAR) - 0.38
(11,300 square feet of floor area in one or two units)
 - Front, side and rear setbacks of 25 ft., 7.5 ft. and 15 ft., respectively
(Proposed- 33.5, 25.5 and 25.5 feet)
 - Height- 2 ½ stories; 36 ft. high sloped roof, 30 ft. flat roof
(Proposed- 32 and 31 ft. high peaked roofs)
 - Lot Coverage- 30% (more than the 25% allowed by special permit and/or proposed 22.9%)
 - Open Space- 50% (Proposed- 58.8%)

Preservation Condition

2. The petitioner shall preserve the existing proportions, substrate (underlying shell) and architectural details that contribute to the historic significance of the original structure including but not limited to all exterior walls, roof structure, and window openings. Changes to the existing proportions or substrate of the original structure shall not be made without an amendment to this special permit. The materials for the structure shall consist of those approved by the Newton Historical Commission (NHC) which are listed on Sheet A-1 of the I plans referenced in Condition #1 above. Any replacement in kind or deviation regarding said materials shall be by prior approval only by Preservation Planning and ISD staff.

Preservation Condition- from Draft Order (2/2/2018)

2. Any modifications to the plans referenced in Condition #1 related to the proposed relocation and/or renovation of the historic house shall be submitted to the Newton Historic Commission for its review and approval.

Preservation Condition- submitted by Petitioner (2/2/2018)

- The petitioner shall preserve the existing proportions, substrate (underlying shell) and architectural details that contribute to the historic significance of the original structure including but not limited to all exterior walls, roof structure, and window openings. Any unforeseen changes to the existing proportions or substrate of the original structure or the planned relocation of the existing house shall not be made without approval by the Newton Historical Commission. Any replacement in kind or deviation regarding the materials shown on the plans referenced in Condition #1 above shall require the prior approval by the Preservation Planner and ISD staff prior to such replacement.

Proposed Findings

1. The site is an appropriate location for four attached single-family dwellings in two structures as it is located in a neighborhood with a mix of single-, two- and multi- family dwellings and the lot area per unit of the proposed development is 7,474 square feet, significantly exceeding the minimum 4,000 square feet required (§7.3.3.C.1; §3.4.1);
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to site is appropriate for the number and types of vehicles involved. (§7.3.3.C.4).

Proposed Conditions

1. Plan Referencing Condition
2. **Newton Historical Commission approval requirement for changes to existing historic dwelling**
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. All lighting fixtures shall be residential in scale.
5. Standard Building Permit Conditions.
6. Submit 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.
7. Submit Final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval.

Proposed Conditions (cont.)

7. Construction Management Plan (CMP) for review and approval
8. Hours of construction- limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
9. Standard Final Inspection/Certificate of Occupancy Conditions, *plus*
 Planning Department to approve final location, number and type of plant materials and final landscape features

Neighborhood Comparison- Lot Area per Unit



40 Harvard St.
44 Harvard St.
48 Harvard St.
50 Harvard St.
58-60 Harvard St.
62-64 Harvard St.
66-68 Harvard St.

Units	Lot area	Area per unit	Units	Total lot area	Area per unit
3	8,226	2,742			
2	8,503	4,252			
2	7,631	3,816			
2	7,880	3,940	9	32,240	3,582
2	6,746	3,373			
2	5,555	2,778			
2	5,668	2,834	8	25,849	3,231
Totals	15	50,209			3,347
336 Newtonville Ave. (proposed)	4	29,800			7,450

Photos



Elevations- Front



Department of Planning and Development



PETITION #65-18

SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND
BOARD ORDER #152-14 TO
AMEND THE SITE PLAN



FEBRUARY 6, 2018

Requested Relief



- Special Permit/Site Plan Approval to amend Board Order #152-14 to amend the site plan to construct a driveway and surface parking stall

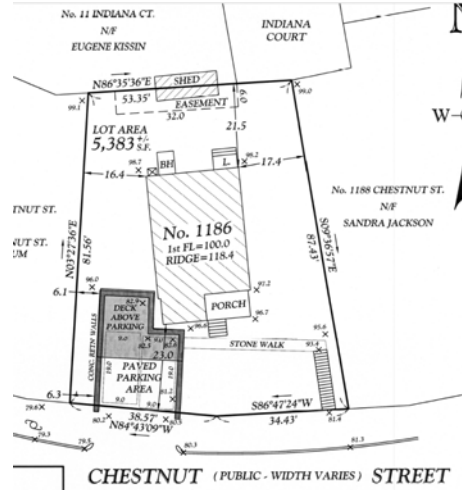
Criteria to Consider

- The site is an appropriate location for the proposed driveway and surface parking stall. (§7.3.3.C.1)
- The proposed driveway and surface parking stall will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no 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)

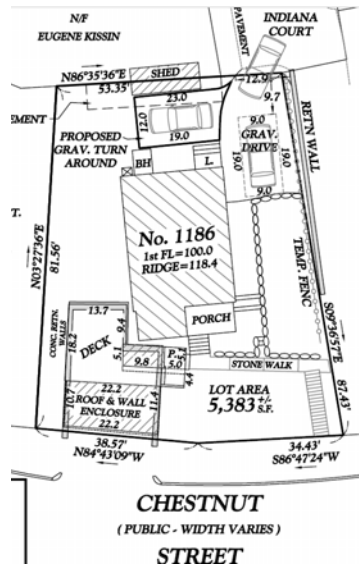
AERIAL/GIS MAP



Previously Approved Site Plan



Proposed Site Plan



Outstanding Item



1. It is the opinion of the Law Department that the petitioner does not have legal access to Indiana Court because that portion of Indiana Court is a private way. As the driveway and surface parking stall are accessed via Indiana Court, the Law Department does not believe the City Council can make the finding that "Access to the site is appropriate for the types and number of vehicles involved".