



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Petition: #423-24
Public Hearing: 11/19/24

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: November 14, 2024

TO: City Council

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

SUBJECT: **Petition #423-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow three attached single-family dwellings, to waive the required lot area and side and rear setback requirements, parking in the front setback and a retaining wall exceeding four feet in height at 15 Algonquin Road

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 Algonquin Road

Project Description

Background

The subject property consists of a parcel in the 12,496 square feet in the multi-residence 1 (MR-1) zoning district, which is improved with a single-family dwelling built in 1987. This parcel in conjunction with 71 Commonwealth Avenue was granted a special permit for a different design in 2023, which the owner opted not to exercise and is therefore now inactive. The lot was created in 2024 when three separate lots were created by reconfiguring the subject parcel and 71 Commonwealth Avenue.

Special Permit

The petitioner seeks to demolish the existing structure and construct three single-family attached dwellings in one building. Relief is required to allow attached single-family dwellings in addition to dimensional relief for the proposed building, relief for the proposed parking configuration, and relief to allow a retaining wall exceeding four feet in height.

Analysis:

The Planning Department is not concerned with the proposed nonconforming single family attached use. Constructing three single family attached dwellings will maintain the existing residential character of the surrounding buildings while allowing for one additional unit than what is allowed by right. The Planning Department recommends the Committee pay particular attention to the massing of the proposed building and the new grading and retaining walls on the site. The building requires relief to allow reduced setbacks, to exceed maximum lot coverage, and reduced lot area. Staff recommend the petitioner consider incorporating permeable paving to reduce the amount of impervious cover on the site, and potentially reducing the size of the units to come closer to complying with the by-right lot coverage dimensions and setbacks. The project proposes retaining walls over four feet in height and grading work that will raise the existing grade several feet above what currently exists.

I. Zoning Relief Requested:

For more details around the zoning analysis please refer to **Attachment A**.

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1	Request to allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	Request to allow reduced lot area	S.P. per §7.3.3
§3.2.4	Request to allow reduced side setbacks	S.P. per §7.3.3
§3.2.4	Request to allow a reduced rear setback	S.P. per §7.3.3
§3.2.4	Request to exceed maximum lot coverage	S.P. per §7.3.3
§5.1.7.A §5.1.13	Request to allow parking in the front setback	S.P. per §7.3.3
§6.2.3.B.2	Request to allow parking within 20 feet of the front lot line	S.P. per §7.3.3
§5.4.2.B.1	Request to allow a retaining wall exceeding four feet in height	S.P. per §7.3.3

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site is an appropriate location for the proposed attached single-family dwellings as designed (§7.3.3.C.1)
- The proposed attached single-family dwellings as designed will not adversely affect the neighborhood (7.3.3.C.2)
- The proposed attached single-family 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)
- Literal compliance with the parking requirements 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 (§5.1.13)
- The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of retaining walls over four feet in height (§5.4.2c)
- The proposed retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public (§5.4.2c)
- The proposed retaining wall over four feet in height is the minimum structure necessary to allow a subject property to be reasonably utilized (§5.4.2c).

III. Project Proposal and Site Characteristics

A. Site

The subject property is located in Chestnut Hill in the MR-1 district and is located in the Chestnut Hill Local Historic District but is not subject to any historic restrictions. The area is predominantly residential with a mix of single and multi-family uses in addition to private educational use on Boston College's property across Commonwealth Avenue. The properties north on Algonquin Street and east on Commonwealth Avenue are primarily in the MR-1 zone, with some Single Residence-2 to the west and Multi Residence -2 east on Commonwealth Ave. There is a Public Use zone east of the site, at the Boston College MBTA station, which is located less than a quarter of a mile from the site. The property has two curb cuts leading to a paved driveway that provides access to an attached garage.

The topography of the site slopes down from the street to the back of the site, with a high point elevation of around 210 to 212 feet along the frontage of the site down to a low of 198 feet at the rear left of the site. Grass, shrubs, and several trees are located on the site. Several concrete retaining walls measuring over four feet tall are located along the rear and sides of the site, and a wood fence runs along the rear property line.

IV. Project Description and Analysis

A. Land Use

If approved, the principal use of the site will change from a single-family residential building to three attached single-family dwellings in one building.

B. Site Design

The petitioner proposes to demolish the existing dwelling and construct in its place three single family attached dwellings in one building. Special permit relief is required to allow attached single-family dwellings, and for the size of the lot, which is 12,496 square feet, where 15,000 square feet is required. The building is proposed at height of 35.6 feet and 2.5 stories where up to 36 feet and 2.5 stories is allowed by right. Lot coverage is proposed at 29% where up to 25% is allowed by right, requiring relief. The open space will be 56.6% where a minimum of 50% is required. The lot area per unit is proposed at 4,165 square feet where a minimum of 4,000 square feet is required. Single family attached dwellings require 25-foot setbacks by right on all sides. The front setback is proposed at 31 feet where 25 feet is required, requiring no relief. Relief is required for the rear setback, proposed at 11.6 feet, and both side setbacks, proposed at 10.2 and 10.3 feet.

The units will all be located in the same building, which will have a total gross floor area of 7,346 square feet. Although Floor Area Ratio (FAR) restrictions do not apply to single-family attached dwellings, as a point of comparison, this project would have a FAR of approximately .59. Including garage space, each unit will be approximately 2,449 square feet.

Two curb cuts are proposed. The curb cut on the south side of the street will be 13 feet wide and lead to a paved driveway providing access to the garage for the unit on the right. The middle and left side unit will have separate driveways accessed via a shared 20-foot-wide curb cut. Six parking stalls are proposed for the three units, with each unit having a dedicated one stall garage and one parking stall in front of each garage. The parking for each unit is within the 25-foot front setback, and the stall in the northernmost driveway is also located within the side setback. Relief is required to allow parking within the front and side setbacks. Relief is also required to allow parking within 20 feet of a front lot line.

C. Landscaping

The petitioner has provided a landscape plan with their application which depicts some screening and plantings for the site. This plan indicates that one or two existing trees on site will be retained, and two new trees installed along the front lot line, as well as some shrubs. Staff recommend the petitioner consider additional plantings and screening.

Retaining walls are proposed around the side and rear lot lines. The retaining walls proposed are not taller than what currently exists, but they will extend around more of the perimeter of the site. The retaining walls towards the front of the property will be around 1.5 feet tall, reaching a maximum height of 8.5 feet at the rear directly behind the dwelling. Because portions of the retaining walls exceed four feet in height, relief is required. Staff note that these retaining walls are located close to the lot lines for abutting residential properties to the south and east.

Based on the topographical contours and retaining wall elevations on the existing and proposed plan, much of the site will be regraded, and portions of the site will be raised several feet from the current elevation. The most significant grading work is proposed towards the middle of the site where the dwelling is proposed and at the rear, which has the most significant existing slope. In some portions of the site, the grade will be raised approximately 3.5 to 4 feet. The petitioner has provided illustrative sections to better show how the proposed project will present on the street with the new raised grade.

V. Interdepartmental Review

A. Historic Preservation Review

Because the existing dwelling was constructed in 1987 and it is not located in a local historic district, no historic review is required at this time.

VI. Petitioner's Responsibilities

The petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: DRAFT Council Order



Ruthanne Fuller
Mayor

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

Attachment A
(617) 796-1120
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 30, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Terrence P. Morris, Attorney
15 Algonquin LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: **Request for a special permit to allow three attached single-family dwellings, to waive the lot area, lot coverage and side and rear setback requirements, parking in the front setback and a retaining wall exceeding four feet in height**

Applicant: 15 Algonquin LLC	
Site: 15 Algonquin Road	SBL: 63001 0013A
Zoning: MR1	Lot Area: 12,496 square feet
Current use: Single-family dwelling	Proposed use: Three attached single-family dwellings

BACKGROUND:

The subject site is comprised of 12,496 square feet in the MR1 zoning district and is improved with a single-family dwelling constructed in 1987. The lot was created in 2024 when three separate lots were created by reconfiguring the subject parcel and 71 Commonwealth Avenue. The petitioner seeks to raze the existing dwelling and construct three single-family attached dwellings in one building with associated dimensional relief, requiring a special permit.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 8/14/2024
- Existing Conditions Plan, signed and stamped by Peter J. Nolan, surveyor, dated 1/8/2024
- Zoning Plan, signed and stamped by Edmond Spruhan, engineer and Peter J. Nolan, surveyor, dated 7/8/2024
- Floor Plans and Elevations, prepared by Tise Home Design, dated 8/7/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to raze the existing single-family dwelling and construct three single-family attached dwellings in one building. Per section 3.4.1, a special permit is required to allow attached single-family dwellings in the MR1 district.
2. Per section 3.2.4, a single-family attached dwelling project requires a minimum lot size of 15,000 square feet. The lot is 12,496 square feet. The footnote in the dimensional table found in section 3.2.4 allows the City Council to grant exceptions to the dimensional requirements for single-family attached dwelling projects when appropriate. A waiver in the special permit is required to allow the proposed single-family attached dwellings on the undersized lot.
3. Per section 3.2.4, single-family attached dwellings require a 25-foot side setback. The petitioner proposes a north side lot setback of 10.2 feet and a side setback of 10.3 feet from the south lot line. A waiver in the special permit is required to allow for the reduced side setbacks.
4. Per section 3.2.4 single-family attached dwellings require a 25-foot rear setback. The petitioner proposes an 11.6 foot rear setback, requiring a waiver to allow for a reduced rear setback.
5. Section 3.2.4 allows a maximum lot coverage of 25%. The petitioner proposes 29% lot coverage, requiring special permit relief.
6. Each of the three units is proposed with a single car attached garage and one driveway space in front of the garage. The parking for the units is within the required 25-foot front setback and the stall in the northmost driveway is also within the required 25-foot side setback. Per section 5.1.7.A, no parking stall may be located in the required front or side setback. The proposed configuration requires a special permit per section 5.1.13 to allow parking within the front and side setbacks.

Additionally, section 6.2.3.B.2 requires a special permit to locate parking within 20 feet of a lot line. Where the proposed parking is within 20 feet of the front lot line, a special permit is required.

7. Retaining walls are proposed along the side and rear lot lines. The wall along the rear sections of the lot reaches a maximum height of 8.5 feet directly behind the proposed structure, with a bottom of wall (BOW) measurement of 201 feet and the top of wall (TOW) measurement of 209.5 feet. This portion of the wall replaces an existing retaining wall in a similar location which reaches a maximum height of 9 feet. Per section 5.4.2.B.1, a special permit is required for a retaining wall four feet or more in height.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	12,496 square feet	No change*
Frontage	80 feet	128 feet	No change
Setbacks			
• Front	25 feet	31 feet	25.4 feet
• Side	25 feet	11.3 feet	10.2 feet*
• Side	25 feet	11.5 feet	10.3 feet*
• Rear	25 feet	15 feet	11.6 feet*
Height	36 feet	Not provided	35.6 feet
Stories	2.5	Not provided	2.5
Lot Area Per Unit	4,000 square feet	12,496 square feet	4,165 square feet
Max Lot Coverage	25%	Not provided	29%*
Min. Open Space	50%	Not provided	56.6%

*Requires relief

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
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§3.2.4	Request to allow reduced lot area	S.P. per §7.3.3
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§3.2.4	Request to exceed maximum lot coverage	S.P. per §7.3.3
§5.1.7.A §5.1.13	Request to allow parking in the front setback	S.P. per §7.3.3
§6.2.3.B.2	Request to allow parking within 20 feet of the front lot line	S.P. per §7.3.3
§5.4.2.B.1	Request to allow a retaining wall exceeding four feet in height	S.P. per §7.3.3

#423-24
15 Algonquin Rd.

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 three attached single-family dwellings with relief for a reduced lot area, reduced side and rear setbacks, to exceed maximum lot coverage, parking in the front setback, parking within 20 feet of the front lot line, and retaining walls over four feet in height for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

FINDINGS:

1. The site is an appropriate location for the proposed single-family attached dwellings because it is a residential use, which maintains the residential character of surrounding buildings. (§7.3.3.C.1)
2. The proposed single-family attached dwellings as designed will not adversely affect the neighborhood because the project exceeds the required lot area per unit and minimum open space required, and new plantings are proposed. (7.3.3.C.2)
3. The proposed attached single-family attached dwellings will not create a nuisance or serious hazard to vehicles or pedestrians because there will be adequate parking provided on the site. (§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 parking requirements is impractical due to the topography of the site and shape of the lot. Relocating the stalls outside of the setbacks and front lot line would require an increase of paving and impervious groundcover, which is not in the public interest, or raising the grade of additional portions of the site. (§5.1.13)
6. The lot presents challenging topography which limits the use of the property because the site is sloped, and portions of the site could not be improved without constructing a system of retaining walls over four feet in height. (§5.4.2.B)

7. The proposed system of retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public because the existing site has retaining walls of comparable height, and it is located in a neighborhood that already features several retaining walls on nearby properties. (§5.4.2.B)
8. The proposed system of retaining walls over four feet is the minimum structure necessary to allow the property to be reasonably utilized because the site as it exists is sloped. The retaining walls will assist in soil stabilization given the grades of this and adjacent properties. (§5.4.2.B)

PETITION NUMBER: #423-24

PETITIONER: 15 Algonquin LLC

LOCATION: 15 Algonquin Road, Ward 7, Chestnut Hill, on land known as Section 63 Block 01 Lot 13A, containing approximately 12,496 sq. ft. of land

OWNER: 15 Algonquin LLC

ADDRESS OF OWNER: 73R Morse Street
Watertown, MA 02472

TO BE USED FOR: 3 Single-family attached dwellings

RELIEF GRANTED: Special Permit per §7.3 to allow the following:

- Single family attached dwellings (§3.4.1)
- Reduced lot area (§3.2.4)
- Reduced side and rear setbacks (§3.2.4)
- Exceed maximum lot coverage (§3.2.4)
- Parking in the front setback (§5.1.7.A and §5.1.13)
- Parking within 20 feet of front lot line (§6.2.3.B.2)
- Retaining wall exceeding four feet in height (§5.4.2.B.1)

ZONING: Multi-Residence 1

CONDITIONS:

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 Edmond Spruhan, Professional Engineer, and Peter J. Nolan, Registered Land Surveyor, dated 8/7/2024
 - b. Architectural plans prepared by Tise Home Design dated 8/12/24 consisting of the following sheets:
 - i. "Elevations: Front and Left" (showing front and left exterior elevations), Sheet 04
 - ii. "Elevations: Rear and Right" (showing rear and right exterior elevations), Sheet 05
 - c. Landscaping plan prepared by Tise Home Design dated 11/6/2024 consisting of one sheet
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, should a system be required. 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.
4. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be

consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:

- a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy.
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
5. No building permit (other than a demolition permit) and unless otherwise specified 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. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
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 for the portion of the project for which occupancy is requested and the Petitioner has:

- a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format, stamped, and signed by a professional land surveyor or professional engineer, as applicable.
7. 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.