



Zoning & Planning Committee Report

City of Newton In City Council

Thursday, November 14, 2024

Present: Councilors Baker (Chair), Oliver, Albright, Wright, Krintzman, Getz, Danberg, and Kalis

Also Present: Councilors Lucas, Leary, Malakie, Block, Greenberg, Lipof, and Lobovits

City Staff: Andrew Lee, Senior Assistant City Solicitor; Barney, Heath, Director of Planning; Jennifer Caira, Deputy Director of Planning; Nora Masler, Planning Associate; and Jaclyn Norton, Committee Clerk

Planning & Development Board Members Present: Kevin McCormick (Chair), Ed Dailey, Lee Breckenridge, and Peter Doeringer

All agendas and reports, both past and present can be found at the following link: [Zoning & Planning Committee | City of Newton, MA \(newtonma.gov\)](https://www.newtonma.gov/zoning-planning)

For more information regarding this meeting, a video recording can be found at the following link: [Zoning & Planning Committee - November 14, 2024](https://www.newtonma.gov/zoning-planning)

#311-24 Requesting discussion and possible amendments to dormer regulations in Chapter 30 Zoning

HER HONOR THE MAYOR requesting a discussion and possible amendments to dormer regulations for Residential Buildings in Chapter 30 Zoning Section 1.5.4.G to clarify language regarding overall dormer length calculations.

Action: **Zoning & Planning Approved 7-0 (Councilor Krintzman Not Voting)**

Note: Nora Masler, Planning Associate, presented the attached presentation that outlines the definition of a dormer along with the current regulation. The proposed amendment would change the maximum width of a dormer from being no wider than 50 percent of the length of the exterior wall the story below to 50 percent of the uninterrupted roof plane excluding overhangs. This is due to the current interpretation of the ordinance having each wall plane considered a separate wall and bringing the ordinance in line with the intent of the ordinance. The attached presentation contains the redline of the proposed amendment.

The public hearing was opened.

Jay Walter, 83 Pembroke St, spoke on behalf of a group of builders, architects, and other industry professionals. He voiced support for the proposed amendment.

Councilors voted 7-0 (Councilor Krintzman Not Voting) on a motion to close the public hearing from Councilor Kalis. Planning & Development Board members voted 4-0 on a motion to close the public hearing from Ed Dailey.

A Councilor asked for clarification on an uninterrupted roof plane. Ms. Masler noted that this would be the measurement of an area that does not have a change in pitch or a clear visual break. Planning staff worked with the Inspectional Services Department to ensure proper interpretation of the ordinance. In response to a question regarding the example of a dormer not allowed under the current ordinance, Ms. Masler clarified that these images were not to scale and would not be part of the ordinance. They are purely illustrative.

Committee members voted 7-0 (Councilor Krintzman Not Voting) on a motion to approve from Councilor Albright. The Planning & Development Board voted 4-0 on a motion to approve from Ed Dailey.

#317-24 Requesting discussion and possible amendments to Section 5.4.2

HER HONOR THE MAYOR requesting a discussion and possible amendments to retaining wall regulations for Multi-Family/Commercial/Industrial/Civic Buildings in Section 5.4.2 of Chapter 30 Zoning.

Action: **Zoning & Planning Held 4-3 (Councilors Albright, Danberg, and Kalis Opposed)**
(Councilor Krintzman Not Voting)

Note: Councilors voted 4-3 (Councilors Albright, Danberg, and Kalis Opposed) (Councilor Krintzman Not Voting) on a motion to hold from Councilor Wright. The Planning & Development Board voted 4-0 on a motion to hold from Ed Dailey. A written report will be provided at a later date.

#385-24 Requesting amendment to Section 9.1 of Chapter 30, Zoning

HER HONOR THE MAYOR requesting a minor technical amendment to the opt-in requirements for Village Center Overlay Districts in Section 9.1 of Chapter 30, Zoning.

Action: **Zoning & Planning Approved 7-0 (Councilor Krintzman Not Voting)**

Note: Jennifer Caira, Deputy Director of Planning, described that this amendment to the zoning ordinance is at the request of the state to satisfy compliance with the MBTA Communities Act. The state requested this change as the prior language was interpreted that all existing buildings would be non-conforming. This is a technical amendment to clarify the intent of the overlay district in that any property can opt-in even those that are non-conforming under the underlying zoning. Ms. Caira shared the attached redline language.

Seeing no members of the public looking to speak the Committee voted 7-0 (Councilor Krintzman Not Voting) on a motion to close the public hearing from Councilor Oliver. The Planning and Development Board voted 4-0 on a motion to close the public hearing from Ed Dailey.

Committee members voted 7-0 (Councilor Krintzman Not Voting) on a motion to approve from Councilor Albright. The Planning & Development Board voted 4-0 on a motion to approve from Ed Dailey.

#383-24 Appointment of Charles Eisenberg as an associate member of the Zoning Board of Appeals

HER HONOR THE MAYOR appointing Charles Eisenberg, 4 Ashford Road, Newton as a member of the Zoning Board of Appeals for a term of office to expire on November 18, 2025. (60 Days: 12/20/24)

Action: **Zoning & Planning Approved 5-0-2 (Councilors Oliver and Wright Abstained) (Councilor Krintzman Not Voting)**

Note: Mr. Eisenberg described his previous involvement with the City and his work as a real estate development consultant. He added that his professional experience would bring a unique perspective to the Zoning Board of Appeals in being able to evaluate projects on their appropriateness and feasibility. Councilors asked if Mr. Eisenberg would be comfortable invoking safe harbor if the City is eligible at that moment. Mr. Eisenberg affirmed that in most cases he would invoke safe harbor to allow the ZBA to have more discretion on a project. When asked for an example of a case where he would not invoke safe harbor Mr. Eisenberg described a project, he previously worked on which required the comprehensive permit to be amended. Councilors voiced support for this appointment noting his experience. Councilors voted 5-0-2 (Councilors Oliver and Wright Abstained) (Councilor Krintzman Not Voting) on a motion to approve from Councilor Baker.

#391-24 Appointment of Deborah Crossley as an associate member of the Zoning Board of Appeals

HER HONOR THE MAYOR appointing Deborah Crossley, 26 Circuit Avenue, Newton as an associate member of the Zoning Board of Appeals for a term of office to expire on November 18, 2025. (60 Days: 12/20/24)

Action: **Zoning & Planning Motion to Approve Failed 4-4 (Councilors Oliver, Wright, Getz, and Kalis Opposed)**

Note: Ms. Crossley has a background in environmental design and architecture having run her own architecture business. This skill set is not present on the ZBA as currently, no architect serves on the Board. Ms. Crossley described using these skills to aid colleagues while serving as a City Councilor on the Land Use and Zoning & Planning Committees. She affirmed her respect for the law, ordinances, and the limit of authority of the Zoning Board of Appeals. Regarding the Chair's question on if she would be comfortable invoking safe harbor, Ms.

Crossley stated that she would invoke safe harbor if eligible on most projects with an exception being if a project is very minor. When the memo from the Law Department was published on this topic in February, she spoke with Deputy City Solicitor Jonah Temple to ensure a full understanding of what it meant that the City had achieved the ability to invoke safe harbor.

Multiple Councilors, both on and off the Committee, spoke highly of Ms. Crossley's qualifications and how she would be an asset to the Zoning Board of Appeals. A Councilor especially noted the high quality of review that Ms. Crossley put into projects as a member of the Land Use Committee. Other Councilors raised concerns that Ms. Crossley could not exercise balanced judgment on the Zoning Board of Appeals due to her pro-housing advocacy work and citing heated discussions during the development of the VCOD. One Councilor noted that this appointment might be too soon due to her recent departure from the City Council and asked if she could review projects objectively. Ms. Crossley noted the need to listen to all points of view and stated that every project needs to be evaluated on its merits along with the input received from the public. Later in the discussion, she reaffirmed the importance of considering the context of the project to make sure it fits within the current community context.

Councilors voted 4-4 (Councilors Oliver, Wright, Getz, and Kalis Opposed) on a motion to approve from Councilor Danberg. This motion fails. The Chair stated that due to this an affirmative vote at full Council would be in support of rejecting the appointment.

#85-24 Request for discussion and possible amendments to enhance the preservation of existing homes.

COUNCILORS BAKER, OLIVER, MALAKIE, KALIS, GETZ, LUCAS, LOBOVITS, AND WRIGHT requesting a discussion and possible amendments to Chapter 30 Zoning or other City Ordinances to enhance the preservation of existing homes over their replacement by larger and more expensive structures.

Zoning & Planning Held 7-0 on 02/15/24

Zoning & Planning Held 6-0 (Councilor Albright Not Voting) on 03/11/24

Zoning & Planning Held 8-0 on 04/08/24

Zoning & Planning Held 7-0 on 07/22/24

Zoning & Planning Held 7-0 on 09/09/24

Zoning & Planning Held 7-0 on 10/10/24

Action: **Zoning & Planning Held**

Note: Committee members voted 8-0 on a motion to hold items #85-24 and #41-24 from Councilor Kalis. A written report will be posted at a later date.

#41-24 Amend the setbacks in the MR zones to encourage preservation of existing buildings

COUNCILORS ALBRIGHT, DANBERG, KRINTZMAN, AND LEARY seeking a discussion with the Planning Department to consider ordinance amendments

that would revise the metrics in the multi-residence (MR1, MR2 and MR3) zones, to regulate the size of new buildings better, enable a wider range of housing options close to public transit, and better incentivize preservation and renovation of existing housing stock.

Zoning & Planning Held on 02/15/24, 03/11/24

Zoning & Planning Held 8-0 on 04/08/24

Zoning & Planning Held 7-0 on 07/22/24

Zoning & Planning Held 7-0 on 09/09/24

Zoning & Planning Held 7-0 on 10/10/24

Zoning & Planning Held 8-0 on 10/28/24

Action: **Zoning & Planning Held**

Note: This item was discussed concurrently with item #85-24. A written report can be found with item #85-24.

The meeting adjourned at 10:20pm.

Respectfully Submitted,

R. Lisle Baker, Chair

#311-24 Amendments to dormer regulations

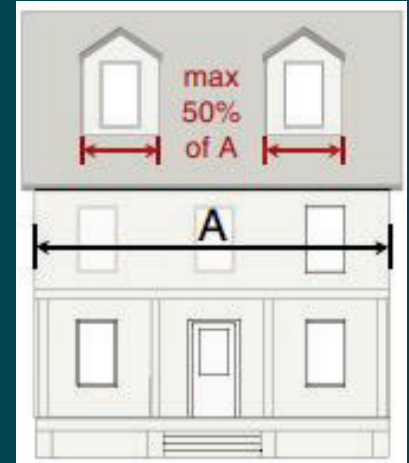
Chapter 30 Zoning

What is a Dormer?



How are dormers regulated in Newton?

A dormer may be no wider than 50 percent of the length of the exterior wall of the story next below. Where more than one dormer is located on the same side of the roof, the width of all dormers combined may not exceed 50 percent of the length of the exterior wall next below.



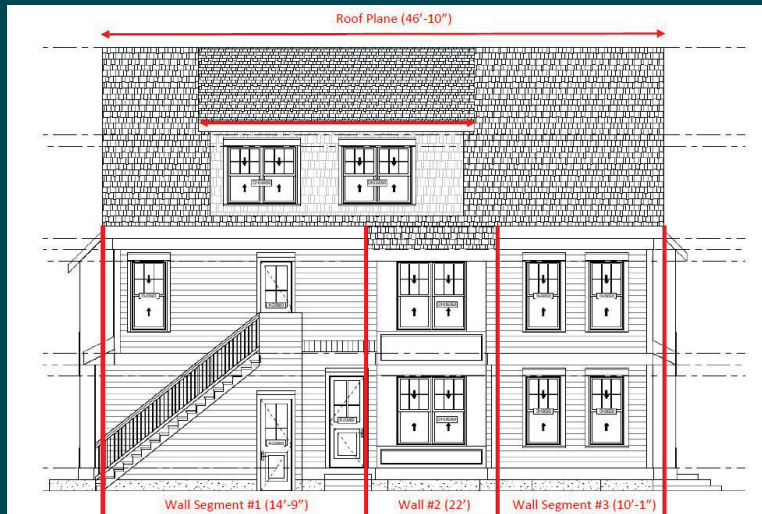
Interpretation

A dormer may be no wider than 50 percent of the length of the exterior wall of the story next below. Where more than one dormer is located on the same side of the roof, the width of all dormers combined may not exceed 50 percent of the length of the exterior wall next below.

Interpretation = Length of exterior walls can be broken by jogs or changes in the wall plane such as bays. Each wall plane is considered a separate wall and a dormer cannot be more than 50 percent of that plane.

Interpretation

The Dormer below is not permitted under current zoning language

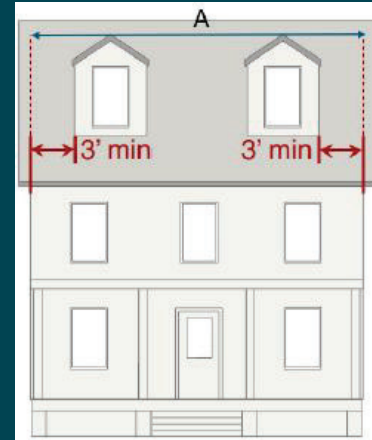


Additional Limitation to Dormers

Dormers are also limited by Section 1.5.4.C, which defines a half story as “a story directly under a sloping roof where the area with a ceiling height of 7 feet or greater is less than $\frac{2}{3}$ of the area of the next story below.”

Proposed Change

A dormer may be no wider than 50 percent of the length of the exterior wall of the story next below the widest length of the uninterrupted roof plane excluding overhangs.

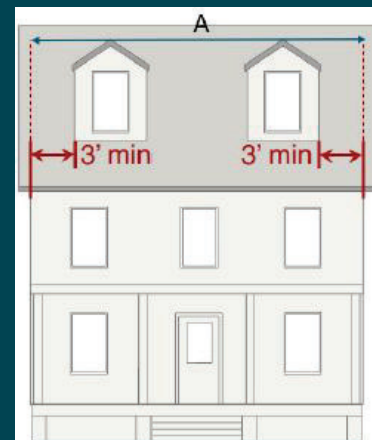


Proposed Change

1.5 Rules of Measurement

G. Dormers.

1. **Defined.** A projection built out from a sloping roof, usually containing a window or vent.
2. Except as may be allowed by special permit in accordance with Sec. 7.3, the following restrictions apply to dormers above the second story in single- and two-family dwellings and to dormers in accessory structures.
 - a. A roof line overhang shall be continued between the dormer and the story next below so as to avoid the appearance of an uninterrupted wall plane extending beyond two stories.
 - b. A dormer may be no wider than 50 percent of the ~~length of the exterior wall of the story next below~~ **the widest length of the uninterrupted roof plane excluding overhangs**. Where more than one dormer is located on the same side of the roof, the width of all dormers combined may not exceed 50 percent of the length of the exterior wall next below.
 - c. The vertical plane of the side wall of any dormer shall not be closer than 3 feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer.
 - d. No dormer may project above the main ridgeline of the single- or two-family dwelling or the accessory structure.



Next Steps

- Vote on proposed language

#317-24 - Discussion and Possible Amendments to Retaining Wall Regulations for Multi-Family/Commercial/Industrial/Civic Buildings

Recent Regulation Change

- Previously, only retaining walls over four feet within the setback required a special permit while retaining walls outside of the setback areas had not required a special permit.
- Special permit requirement for any retaining wall over four feet in height in all zoning districts and for all building types voted for in April 2024
- The Village Center Overlay District (VCOD), adopted last December, contains a similar provision.

Intent of Special Permit Requirement:

Address concerns particularly for **single- and two-family** developments

Reduce the use of by-right retaining walls to:

- Create a basement that does not count towards stories or FAR
- Raise basements above high groundwater
- Significantly alter the grade to create a flat site

Unintended Consequence of Special Permit Requirement

Limiting the by-right ability to provide access to parking garages in multi-family and mixed-use buildings.

Retaining Wall Special Permit Requirement and MBTA Communities Law Compliance

Letter from Executive Office of Livable Communities (EOHLC) regarding Conditional Compliance of Newton's Village Center Overlay District with MBTA Communities Law:

"Section 9.2.6.A.7 requires a special permit for any retaining wall over 4 feet high. This requirement could require a special permit for many development proposals, as retaining walls are often part of routine site work for multi-family housing. This requirement must be removed in order for the zoning to allow multi-family housing as of right."

Proposed Change

Though EOHLC would prefer a broader exemption, the following would be acceptable which limits the exemption to the **VCOD**:

9.2.6 Development and Design Standards

A. Site Design Standards

This section provides the design standards for lot improvements within the VCOD zones, defines how to measure certain standards, and provides other requirements and information.

7. Retaining Walls

- a. The placement of a retaining wall of four (4) feet or more anywhere on a lot requires a special permit. When a combination of retaining walls are within 25 feet of each other (measured from front-face of wall to front-face of wall), height is measured from the foot of the lowest wall to the top of the highest wall.
- b. Walls, or combinations of walls, may exceed four (4) feet without a special permit when the wall(s) are enabling access to parking or loading facilities.

Additional Safeguards

Against excessive retaining wall heights include:

- Revised Definition of Height
- VCOD Exemption from Floor Area Requirements

Examples 935 Washington Street (corner of Washington and Lowell) – 18 units



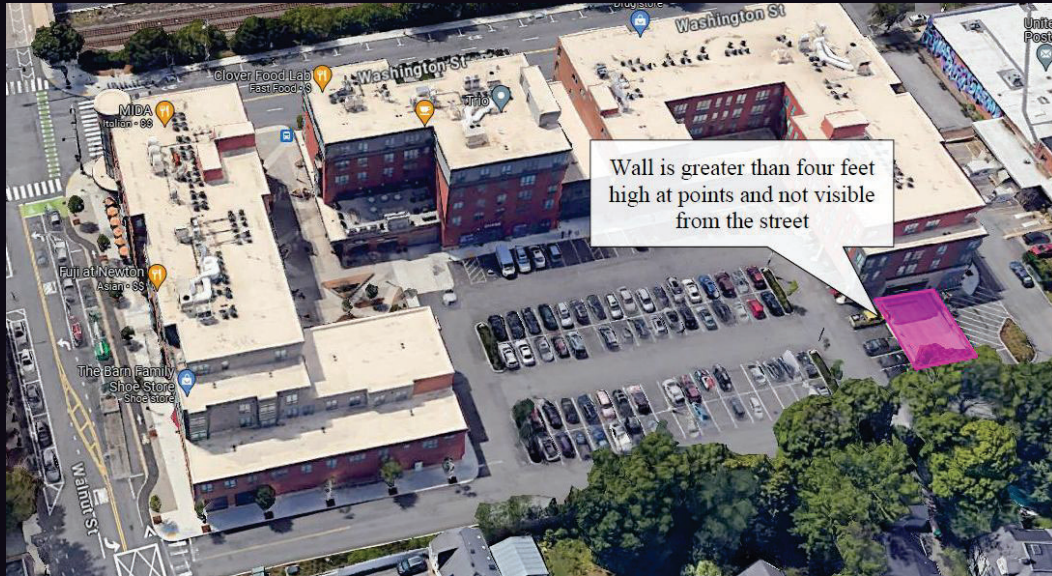
Examples 429 Cherry Street (West Newton) – 19 units



Examples 109 Needham Street (Multifamily)



Examples Trio (corner of Washington and Walnut) – Mixed-Use



Examples Wegman's/Equinox



Next Steps

- Vote on proposed language

9.1.1 General

- A. As set forth herein, the provisions of Article 9 shall apply to all real property within a defined Overlay District as shown on the Newton Zoning Map. The provisions of the Overlay District will modify the form, location, and use of buildings by applying special dimensional, use, and other standards in a variety of areas in the City tailored to those specific areas and relevant policy objectives. Compliance with the Overlay District provisions may be voluntary or required based on the following criteria:
1. The owner of a site may opt-in to an Overlay District by obtaining and exercising a building and/or zoning permit for development of the site, or any portion thereof, under the provisions and standards of the Overlay District. Until a site has opted-in to an Overlay District, future development on the site, or any portion thereof, shall be in accordance with the underlying zoning district. When a site, or any portion thereof, opts-in to an Overlay District, the site shall be deemed to be zoned in the Overlay District and the provisions of Article 9 shall apply to and control any future development on the site.
 2. Buildings or structures that lawfully exist pursuant to the underlying zoning district at the time a site opts-in to an Overlay District, but do not fully comply with the dimensional standards contained in the Overlay District, shall be deemed a nonconforming building or structure and shall be subject to the provisions of Section 7.8. Sites with uses that are not permitted in an Overlay District may not opt-in to the Overlay District.

City of Newton
Zoning & Planning Committee

Residential District Zoning Review: Existing Regulation Analysis

November 14, 2024

Content

1. Introduction
2. Zoning Use Realignment
3. Supporting Modest-Sized Homes
 - a. Option 1: New Lot standards for teardowns
 - b. Option 2: Sliding scale adjustment to FAR
 - c. Option 3: Large House Review
 - d. Option 4: Accessory Dwelling Units
 - e. Option 5: Adaptive Reuse
 - f. Option 6: Contextual Subdivision
4. Next Steps

Introduction

Why We're Here

To review new development, and identify trends, within Newton's residential neighborhoods.

We are here to analyze the factors that contribute to property teardowns, including issues related to zoning and non-zoning regulations, as well as the market-related pressures that impact development decisions.

Today, we'll discuss initial ideas for concepts that support modest-sized homes.

Before

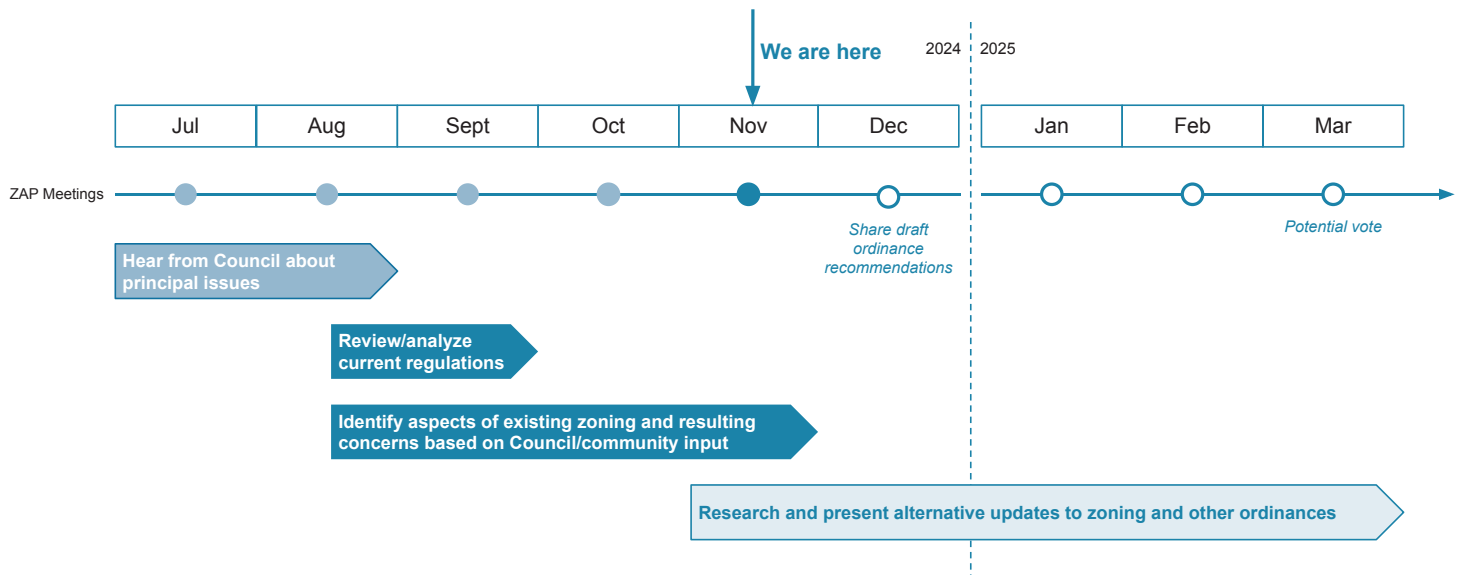


After



Introduction

Timeline



Zoning Use Realignment

- 1. Introduction
- 2. Zoning Use Realignment
- 3. Supporting Modest-sized homes
 - Option 1 - New Lot standards for tear downs
 - Option 2 - Sliding scale adjustment to FAR
 - Option 3 - Large House Review
 - Option 4 - Accessory Dwelling Units
 - Option 5 - Adaptive Reuse
 - Option 6 - Contextual Subdivision

The following page outlines the issues with fully residential developments in business zones and explores potential solutions and next steps to address them.

4. Next Steps

Zoning Use Realignment

Issue: Fully residential development in business zones

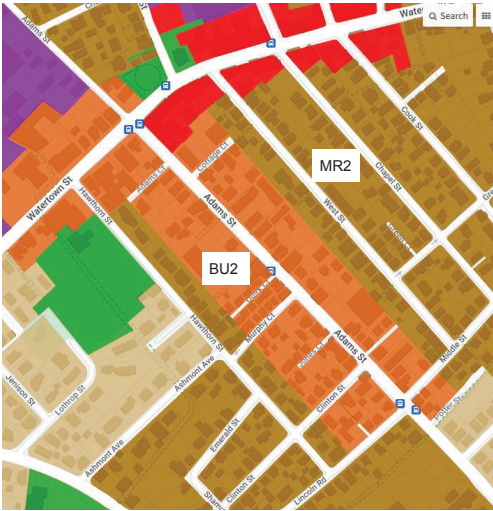
- Business zone setbacks may be greater or less than residential setbacks depending upon adjacent setbacks, building height, and whether there is an adjacent residential zone
- Business and mixed-use buildings allowed by-right and fully residential buildings require a special permit

Potential Solutions:

- Rezone fully residential areas to residential zones
- Revise setbacks in BU zones for fully residential buildings

Next Steps:

- Planning to take this up as separate effort from tear down analysis



Supporting Modest-sized Homes

- 1. Introduction
- 2. Zoning Use Realignment
- 3. Supporting Modest-sized homes
 - Option 1 - New Lot standards for tear downs
 - Option 2 - Sliding scale adjustment to FAR
 - Option 3 - Large House Review
 - Option 4 - Accessory Dwelling Units
 - Option 5 - Adaptive Reuse
 - Option 6 - Contextual Subdivision

The following pages present an initial response to proposed concepts for creating modest sized homes.

- 4. Next Steps

Supporting Modest-Sized Homes

Option 1: New Lot Standards for Teardowns

	Single Residence (SR)			Multi-Residence (MR)			
	SR1	SR2	SR3	MR1	MR2	MR3	MR4
Lot Dimensions							
Lot Area (min)	25,000 SF	15,000 SF	10,000 SF	10,000 SF			
Lot Area / Unit (min)	25,000 SF	15,000 SF	10,000 SF	5,000 SF			
Lot Coverage (max)	15%	20%	30%	30%			
Open Space (min)	70%	65%	50%	50%			
Lot Frontage (min)	140'	100'	80'	80'			
Build Factor (max)	30	25	20	20			
Building Setbacks							
Front (min)	40'	30'	30'	30'	25'	15'	
Side (min)	20'	15'	10'	10'		7.5'	10'
Rear (min)	25'	15'		15'			
Principal Building Height							
Sloped Roof (max)	36'						
Flat Roof (max)	30'						
Stories (max)	2.5 (3.5 by Special Permit)						

There are different dimensional standards for lots created **before/after December 7, 1953**. Standards for lots created after 1953 have:

- Higher minimum lot area
- Lower maximum lot coverage
- Higher open space minimums
- Higher minimum lot frontage
- Higher front and side setbacks

Notes:

- These dimensional standards reflect one-unit and two-unit detached dwellings
- These dimensional standards reflect criteria for lots created after December 7, 1953

Supporting Modest-Sized Homes

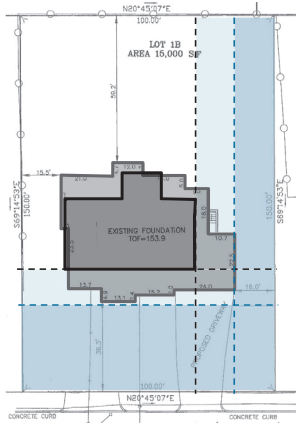
Option 1: New Lot Standards for Teardowns

Key

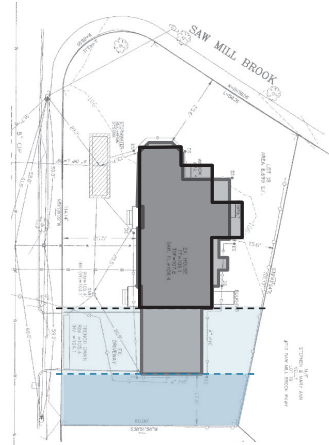
- Property Teardown
- New Construction
- Teardown Setbacks
- New Construction Setbacks

Setbacks

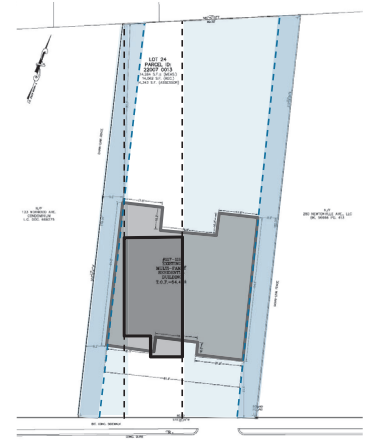
Teardowns have typically been replaced by development with smaller setbacks, resulting in homes that appear much larger from the street.



180 Allen Ave (SR2)



10 Spiers Rd (SR3)



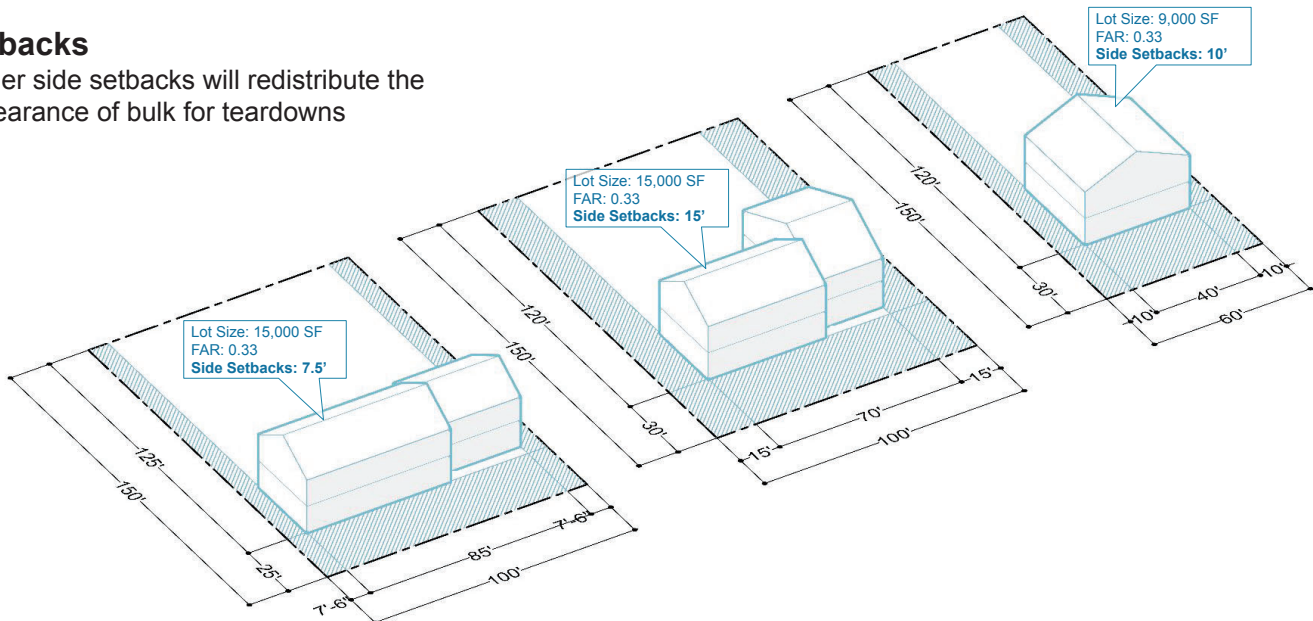
117-119 Norwood (MR1)

Supporting Modest-Sized Homes

Option 1: New Lot Standards for Teardowns

Setbacks

Bigger side setbacks will redistribute the appearance of bulk for teardowns

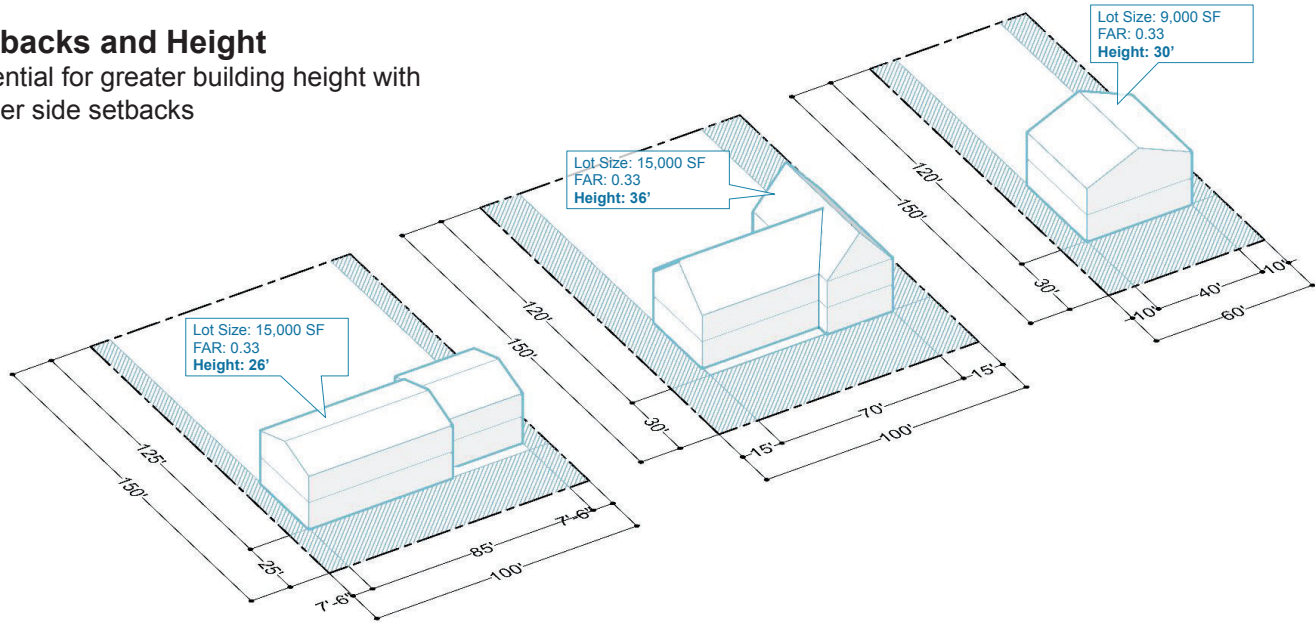


Supporting Modest-Sized Homes

Option 1: New Lot Standards for Teardowns

Setbacks and Height

Potential for greater building height with bigger side setbacks

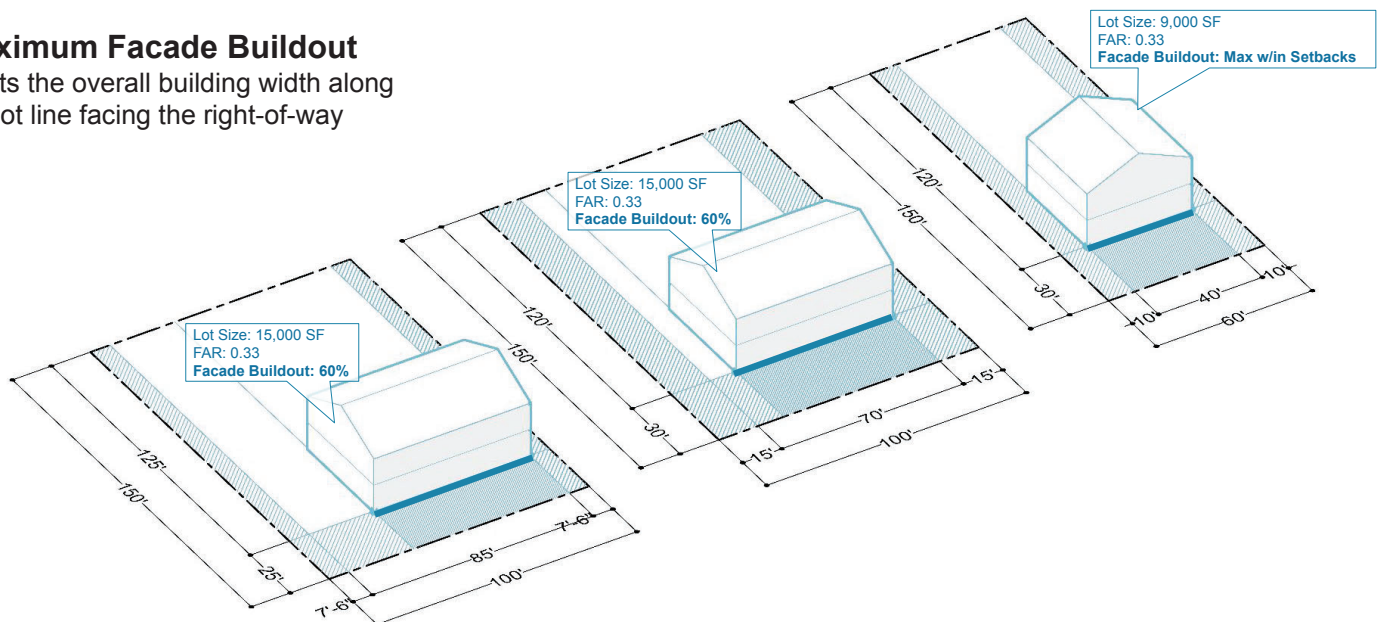


Supporting Modest-Sized Homes

Option 1: New Lot Standards for Teardowns

Maximum Facade Buildout

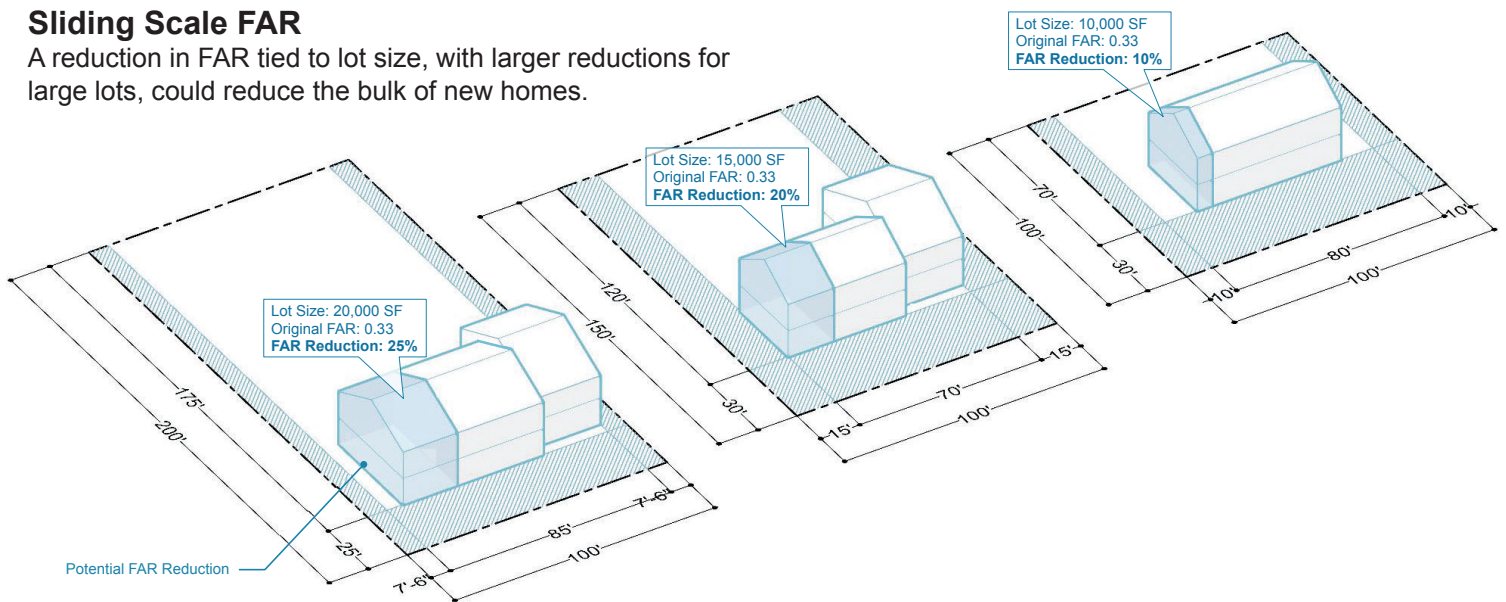
Limits the overall building width along the lot line facing the right-of-way



Option 2: Sliding Scale Adjustment for FAR

Sliding Scale FAR

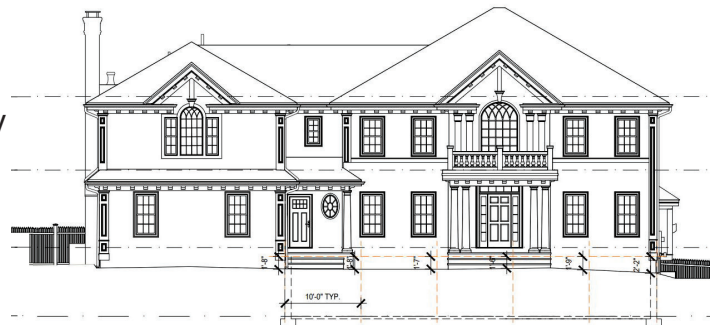
A reduction in FAR tied to lot size, with larger reductions for large lots, could reduce the bulk of new homes.



Option 3: Large House Review

Example: Wellesley, MA

- Process is similar to Newton’s special permit for FAR relief, but with less discretion to deny
- Threshold for LHR is a static number based on total living area and garage (TLAG) and varies by zoning district
- Review focuses on design, landscaping, circulation, lighting, stormwater
- Wellesley does not have stormwater regulations nor do they regulate trees within the site
- A new process seems unnecessary but could consider adjustments to FAR threshold



Option 4: Accessory Dwelling Units

- Current ADU Allowance and Construction
 - Up to 1,000 SF internal ADUs and 900 SF external ADUs by-right.
 - 0.6% of eligible *single- and two-family homes have taken advantage of this allowance. On average 10 ADUs have been constructed per year over the last 10 years.

- Areas for further research
 - What size allowance may lead to increased utilization of ADU ordinance?
 - What other barriers may deter homeowners from constructing ADUs on their property?



**Not including two-unit condos*

Option 5: Adaptive Reuse

- Current Adaptive Reuse allowance and Construction
 - Village Center Overlay District (VCOD), allows for a larger footprint and up to six units by-right when at least the front portion of the existing house is retained
 - Since its adoption Dec. 2023, one adaptive reuse project has been permitted, adding one unit to an existing three family.

- Areas for further research
 - Size and unit allowances that create a feasible and desirable path for reuse
 - Areas most appropriate for adaptive reuse allowance.



Supporting Modest-Sized Homes

Option 6: Contextual Subdivision

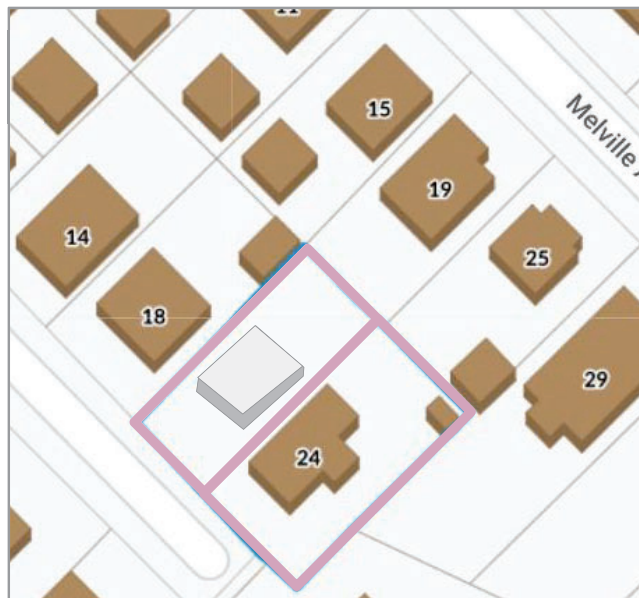
Current Condition



Supporting Modest-Sized Homes

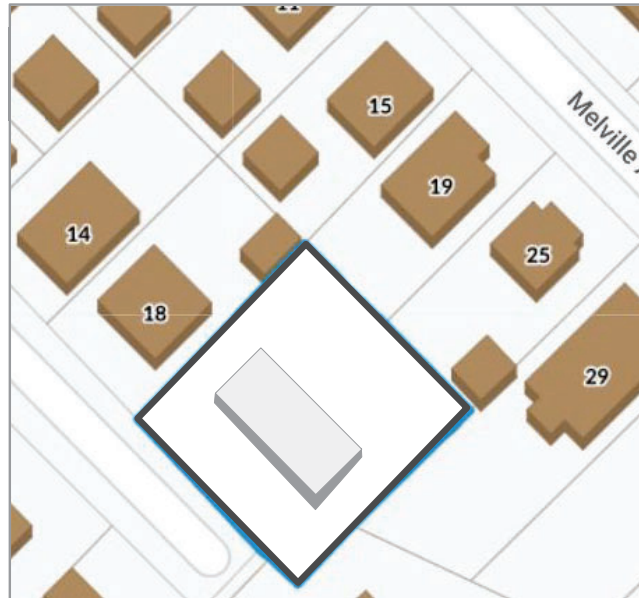
Option 6: Contextual Subdivision

Zoning Amendment Possibility



Option 6: Contextual Subdivision

Estimated Current Zoning Allowance



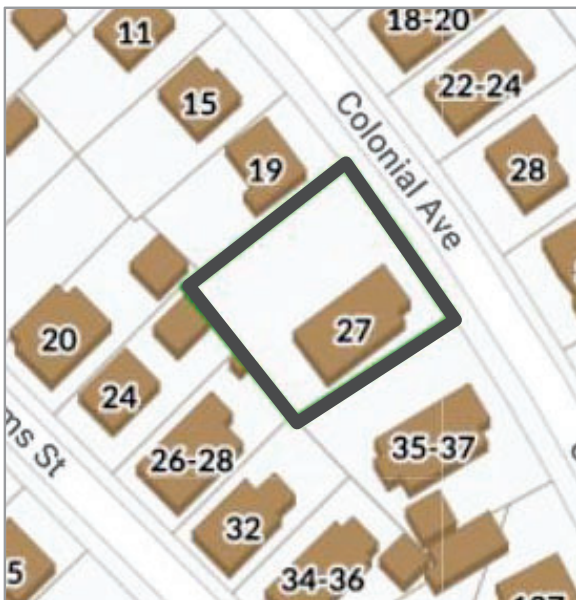
Next Steps

- Return in December with Utile to present additional analysis, including test-fits, to support draft zoning recommendations.
- This analysis will inform the basis to **identify Newton's regulations that may be adjusted** to address Council and community concerns.
- Beginning to conduct community outreach potentially including
 - creating a website
 - conducting a survey
 - hosting an open house

Appendix

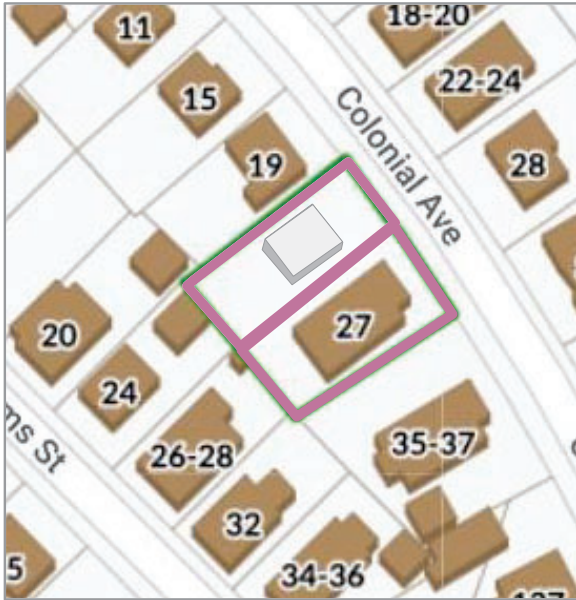
Supporting Modest-Sized Homes

Option 6: Contextual Subdivision



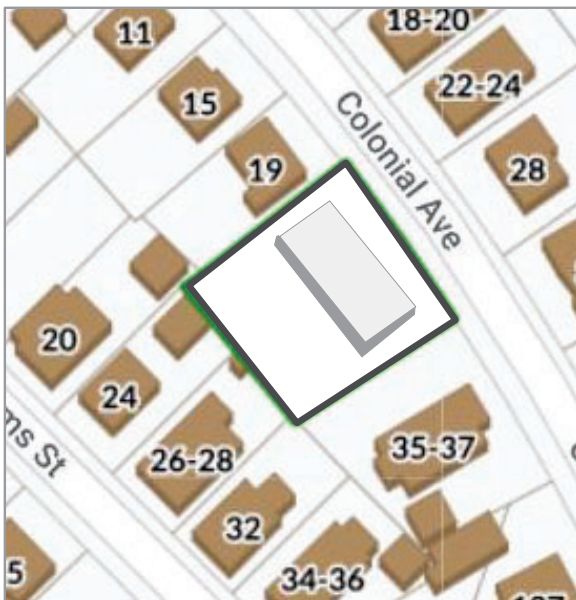
Supporting Modest-Sized Homes

Option 6: Contextual Subdivision



Supporting Modest-Sized Homes

Option 6: Contextual Subdivision



Supporting Modest-Sized Homes

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Supporting Modest-Sized Homes

Option 6: Contextual Subdivision

