

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, MARCH 6, 2012

Present: Ald. Hess-Mahan (Chairman), Ald. Fischman, Albright, Laredo, Crossley, Harney, Schwartz, and Merrill

City staff: Derek Valentine (Senior Planner), Ouida Young (Associate City Solicitor), Robert Waddick (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board)

416-11      K.J.R., INC/JOSEPH BONTEMPO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE to expand the seating capacity of an existing restaurant by 15 seats to allow for an outdoor roofed patio at 7 WEST STREET, Ward 1, Nonantum, on land known as SBL 14, 14, 41, containing approximately 2,850 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(d)(13) and (m) 30-15(m), 30-15 Table 1, 30-9 of the City of Newton Rev Zoning Ord, 2007.

ACTION:      APPROVED 8-0

NOTE: The public hearing was opened and closed on January 10, 2010. Attorney G. Michael Peirce represented the petitioners who are seeking to add 15 seats in a 16' x 30' covered patio at the rear of their restaurant. The petitioners purchased the business three years ago and wish to remain competitive. Their experience has been that business drops off at the end of the school year through the summer and they believe an outdoor dining amenity will attract patrons in the spring, summer and early fall. The 15 seats are only for the patio, they cannot be transferred to the interior.

The building has contained a restaurant for more than 70 years and although it is located in a residential district it also abuts businesses and mixed uses. Currently, there are two nonconforming accessory structures (sheds) and a small dumpster where the patio is proposed. The sheds will be removed. The dumpster will be removed and replaced with residential trash containers during the seasonal use of the patio. Because numerous restaurants have occupied the site before parking regulations were adopted, a number of parking spaces are grandfathered for a credit of 20 spaces based on the parking requirement for the existing 53 seats. Since there is no parking on the site, the petitioners depend on off-site parking including the Chapel Street municipal lot, which contains approximately 50 parking spaces. In addition, the neighboring commercial uses close early, freeing on-street parking spaces in the evening.

Zoning relief is sought:

- to extend a nonconforming use, a restaurant in a residential zone;
- to increase a nonconforming side setback from 1.41 feet to 2.5 feet, where 5 feet is required/allowed;
- to increase the nonconforming lot coverage from 51.8% to 62.8%, where 30% is required; and,
- to waive 6 parking stalls, which are required for the 15 additional seats and one additional wait staff.

The proposed patio will be located at the southeastern corner of the site. It will be covered by an 11'6" tall pergola structure with a Plexiglas roof and enclosed with a stockade and lattice-work fence. There is existing stockade fencing on the eastern property line. The combination of fences will provide visual screening. Proposed access to the patio will be primarily through the restaurant, although there will be a gate in the fence that encloses the patio. The petitioners do not intend to have TV, music, or live entertainment on the patio. Its hours of operation will be 10:00 AM to 10:00 PM.

In its memorandum dated January 6, 2012 the Planning Department asked the petitioners to address: signage directing patrons to the Chapel Street municipal lot; the type of lighting proposed for the patio; management of garbage disposal. The Chairman noted there is a 15' right-of-way that provides access to parking for 376-380 Watertown Street, a property previously owned by the owner of the subject site, Mr. Bontempo, who also owns 372 Watertown Street directly adjacent to the site. Mr. Peirce will provide a site circulation plan and lighting plan for the working session.

*Public comment:*

*Janet Edsall*, 25 Chandler Street, Newton, the current owner of 376-380 Watertown Street, a mixed-use building, has had a problem with restaurant patrons parking in her residential tenants' spaces. The right-of-way over Mr. Bontempo's property is in her deed. Getting calls in the middle of the night, calling the tow truck, having a turnover in residential tenants is stressful. She would like better signage and perhaps striping of the right-of-way and parking spaces. She and her attorney Jason Rosenberg met today with Mr. Peirce and she is feeling more comfortable now about the petition. Mr. Peirce suggested that the petitioners install directional signage and include information relative to parking on their menu and website.

*Doug Dubois*, owner of 382-384 Watertown Street, has no problem with the patio, but is concerned about water runoff into his basement. However, the Committee noted that Mr. Dubois' property abuts Ms. Edsall's property, not the subject site.

*Dino Rossi*, 248 Valentine Street, Newton, owns 356 Watertown Street. He supports the petition. It is a great business and good for the neighborhood.

*Michelle Pompei*, 30 West Street, supports the petition. The restaurant is frequented by many people in the neighborhood. The petitioners do a lot for the community and they are great neighbors.

*Allan Ciccone, Jr.*, 22 West Street, who lives directly across the street, supports the petition. The proposed addition of 15 outdoor seats is an added plus to the neighborhood.

The Board of Aldermen received a letter dated January 8, 2012 from the Newton Firefighters Association in support of the petition.

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This evening, the Planning Department reported that the petitioner has clarified the following:

*Trash.* During winter months, the patio will be disassembled and the dumpster will return where it is currently located to the rear of the building. When the patio is in use, trash will be stored in four wheeled bins, similar to the residential bins supplied by the city. The bins will be located at the southwest corner of the building and the petitioners will construct an enclosure.

*Lighting.* Low-intensity residential-style lanterns will be located on the support beams of the patio.

*Adjacent Parking Lot.* The petitioners use the parking on the abutting property at 372 Watertown Street, which is owned by their landlord Mr. Bontempo. The petitioners have agreed to work with the neighboring property owner at 376-380 Watertown Street, but because 372 Watertown Street, the lot upon which is the right-of-way is located, is not part of this special permit application, such offline agreement would not be included in a special permit.

*Access to patio.* The proposed patio will be accessed mostly through the front of the restaurant through the dining room, although the gate in the patio enclosure will provide some access/egress. Rear access needs to be maintained because the handicap lift is located to the rear of the building within the proposed patio enclosure. The patio will be staffed when open to comply with Licensing Board requirements.

*Signage.* The petitioners have agreed to provide signage directing patrons to the Chapel Street municipal parking lot. They will work with the Planning Department and Department of Public Works to purchase and install the signage. They also will provide information on their website and menu. Installing bike racks is impractical because of the width of the sidewalk and ADA compliance issues.

Alderman Merrill moved approval of the petition with the findings and conditions included in the draft special permit dated March 19, 2012, attached. The motion to approve carried unanimously, 8-0.

#10-12      DT-ARCO, LLC/IERACI REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to relocate an existing 2-family dwelling and construct a new structure containing two additional attached dwelling units for a total of four attached dwellings in two structures at 37 ELM STREET, West Newton, Ward 3, on land known as SBL 33, 23, 20, containing approximately 25,000 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec 30-24, 30-23, 30-9(b)(5)a) and b), 30-15 Table 1, 30-15(t) 1-4 of the City of Newton Rev Zoning Ord, 2007.

ACTION:      APPROVED 8-0

NOTE: The public hearing was opened and closed on February 14, 2012. The petitioner was represented by Attorney Terrence Morris. Mr. Morris presented the attached PowerPoint. The petitioner is seeking a special permit to move to the center of the lot an existing 1880's Queen Anne style two-family dwelling. The petitioner proposes to construct a new addition to the rear of the relocated home which will contain two units and to add a second structure to behind the renovated home which also will contain two units, for a total of four units in two structures. To accomplish this, two outbuildings and later additions on the rear of the house will be demolished. Moving the house will make it more prominent on the site and preserve a significant Japanese maple tree in the front yard. The Historical Commission has reviewed the proposed plans and approved demolition of the outbuildings and the rear portion of the existing house.

Relief sought is:

- to allow 4 attached dwellings in two buildings;
- a side setback of 15.5' where 25' is required
- a rear setback of 16.2' where 25' is required;
- lot coverage of 28.4% where 25% is the maximum allowed
- to allow a driveway closer than 10 feet from the side lot line;

- to allow dormer(s) greater than 50% of the exterior wall next below, without a continuous roof line overhang, closer than 3 feet to the building end wall nearest the dormer, and projecting above the main ridgeline.

Mr. Morris pointed out the difference between the 1973 and 2007 dimensional controls for attached dwellings. There is a different definition and there are different parking requirements, maximum lot coverage and open space requirements, and no Floor Area Ratio. However, the rationale for retaining 25' setbacks for attached dwellings versus 7.5' and 15' for single- or two-family dwellings is unclear. Generally greater setbacks are associated with greater height. An attached dwelling is defined as one that contains 3 or more dwelling units attached to one another at the ground level, each having a separate primary and secondary ground-level access, or contains 2 dwelling units, but is not a two-family dwelling. A two-family dwelling is defined as one that contains 2 units with either a common floor-ceiling assembly between upper/lower level units or common wall/roof connectors. Mr. Morris included in the PowerPoint a list of attached dwelling projects. He noted there has been a clear shift from the linear approach and that shift has clearly produced better designs.

Much of the neighborhood surrounding the site was created by rear lot subdivisions either by-right or special permit. Of the 18 lots between River and Webster Streets, 9 have a greater density and 9 have less density than this proposal. He said that most other parties who expressed interest in the property wanted to demolish the existing house and build linear attached dwellings. The by-right option is two, 2-family dwellings.

There are currently two driveways on the site, the petitioner plans to keep the north drive and eliminate the south drive. The driveway is 18' wide, including the width of an adjacent paver walk, and consists of bituminous and brick and stone pavers. The Fire Department has approved the schematic site plan. The petitioner will replace the sidewalk along the Elm Street frontage.

The proposed Queen Anne style turret is exempt from the height requirement because it is an ornamental feature; however, the Commissioner of Inspectional Services determined that it and other extensions on the roof are dormers requiring relief under the dormer ordinance because either the width exceeds 50% of the width of the wall next below; they don't have the required continuous skirt overhang; or they are 3' to the end wall; one needs relief because it projects above the main ridgeline.

The petitioner sent letters to and met with abutters from 29 and 51 Elm and the family that owns 21, 22, 26, and 32 Elm Street. Mr. Morris said the Taranto family who owns several properties declined a meeting prior to this evening.

Architect Lawrence Reeves described the proposal. Underneath the vinyl there is a nice Queen Anne stick-style home, moving it to the center of the lot will expose the front door and give it a presence on the site, while preserving the Japanese maple. Details of the proposed addition and new structure mimic the existing house. Both the addition and new structure have been designed with a Victorian feel to break up the massing. Mr. Reeves was the architect for a similar project at 55-61 Prescott Street which was granted a special permit in 2000. The Committee suggested that a reduction in the size of the units might mitigate or reduce the perceived mass of the dwellings. Mr. Morris said the market dictates the size, but they would try to address the massing issue, lot coverage and size of the units. In response to whether the project would affect the light on neighboring properties, Mr. Morris said that moving the house from its more northerly location has probably reduced shadowing on abutters' properties. The new duplex could create some slight but not significant shadowing.

As to landscaping, there are existing arborvitae and hemlock hedge along the northerly property line and a mixed arborvitae and evergreen screen with a 6-foot fence along the southerly property line. Gaps in the existing arborvitae will be filled in. The existing hedge in front of the property will remain. The landscaping plan shows a mix of small flowering trees, shrubs, shade trees, and perennials.

*Public comment:*

*Michael Taranto*, whose family owns 38, 46, 68-70 Elm Street, spoke on behalf of his parents. His parents are concerned about the loss of privacy. His family feels the scope of the proposal is unsettling and will change the face of the neighborhood. Lots that are in common ownership have the potential for similar projects and should be taken into consideration.

*John Arpino*, who lives at 51 Elm Street, which abuts the southerly side of the petitioner's property, and whose family owns 43-45 Elm Street, suggested the real reason for moving the house is to create access to the rear, not to preserve the Japanese maple. An arborist could be hired to move the tree. The proposal is really 3 stories. The average square footage of all the homes in the neighborhood is probably slightly over 3,000 square feet. The open space in the back yards extends to River Street. He believes there is potential to create 22 additional units all the way to River Street. The building is too high. The attic windows will overlook his backyard and result in a loss of privacy.

*Richard Baima*, 29 Elm Street, which abuts the northerly side of the petitioner's property, felt uncomfortable speaking because they are all neighbors. His main concern is the number of cars and traffic. He believes his house will probably get shadowed

*Eugene Caruso*, 51 Oak Avenue, has no objection to the project.

The Committee agreed to a site visit. The petitioner will provide a solar study and in response to a discrepancy in the plans will submit a revised site plan prior to the working session. The petitioner also agreed to address the massing issue, lot coverage and size of the units. The Committee asked what by-right use could be built on the site.

Subsequent to the public hearing the Committee received a letter dated February 21 and two emails, one dated February 24 and the other dated March 6, from John and Valerie Arpino, in which they continued to express concern about the side setbacks and height.

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This evening, the Chairman noted that several members of the Committee visited the site on February 29. The petitioner submitted revised plans on February 29. The Planning Department reported that the petitioner has reduced the lot coverage from 28.4% to 25.5%, which is close to the 25% requirement. It also confirmed that a property in the Multi Residence 1 zone which has a minimum lot area of 10,000 square feet could support by-right single- and two-family houses of one unit per 5,000 square feet of lot area. As to subdividing the lot, although it contains 25,000 square feet, satisfying the 80-foot frontage requirement for each lot would be impossible, so a subdivision is unlikely. As to the development potential in the neighborhood, attached dwellings are allowed in the MR1 zone by special permit only. A parcel must have at least 15,000 square feet with 80' of frontage. There are three parcels on Elm Street that meet these criteria: nos. 13, 21, and 62-68. The parcel at 13 Elm Street is 30,948 square feet and a special permit for 5 attached dwelling units was approved for that site in 2007, but never exercised.

The petitioner also submitted a list of comparable two-unit residential buildings in the West Newton area compiled with data from the Assessor's database. The square footage has

been reduced for the proposed units. Three of the four units have been reduced to less than 3,000 square feet and the data show proposed unit nos. 1 through 4, at 3,168, 2,989, 2,863, and 2,868, respectively, are the median compared to the ten shown.

The petitioner has moved the building forward and increased the rear setback to 25' which conforms to the requirement. In addition, the building is stepped back to move the upper stories away from the side property lines, with one level stepped back to 25'. In response to whether the setbacks could be increased, Mr. Morris said in good faith the petitioner cannot do any more. The petitioner is preserving an historic building and like the recently approved petition on Waban Street needs four marketable units to finance preservation of the historic house.

The petitioner submitted a shadow study indicating there will be very minor if any shadows cast upon neighboring properties. The petitioner also provided streetscape photos (attached) showing the existing house in context with its neighbors, which the Committee found helpful.

Alderman Albright moved approval of the petition with the findings and conditions included in the draft board order dated March 19, 2012, attached. The motion to approve the petition carried unanimously. The Chairman commented that along with findings for zoning relief, saving the historic structure and streetscape for him was a compelling reason to approve the petition.

The meeting was adjourned at approximately 9:30 PM.

Respectfully submitted,  
Ted Hess-Mahan, Chairman

CITY OF NEWTON  
IN BOARD OF ALDERMEN

March 19, 2012

ORDERED:

That the Board, 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 EXTEND A NONCONFORMING USE to expand the seating capacity of an existing restaurant by 15 seats to allow for an outdoor, roofed patio as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

- 1) The expansion of the nonconforming restaurant use will not be substantially more detrimental to the neighborhood for the following reasons:
  - a) The proposed patio expansion is located to the rear of the existing building.
  - b) The expansion of an existing restaurant use in this location is consistent with the *2007 Newton Comprehensive Plan*, which supports strengthening unique and viable businesses that contribute to the vitality of Newton's village centers.
  - c) The proposed patio will be enclosed with a stockade fence/ pergola structure which will minimize the audible and visual impact of the patio on the surrounding neighborhood.
  - d) The proposal is for a modest increase of 15 seats and will have limited hours of operation.
  - e) The patio will be staffed when in use.
  - f) The proposed patio will be a seasonal use.
- 2) The replacement of two nonconforming accessory structures with another nonconforming accessory structure (the pergola) will not be substantially more detrimental to the neighborhood than the existing accessory structures for the following reasons:
  - a) The proposed pergola will be setback 2.5' from the side property line, making it less nonconforming than the existing structure which is 1.71' from that same property line.
- 3) The extension of the nonconformity with respect to lot coverage is not substantially more detrimental to the neighborhood than the existing conditions because the area

proposed for the patio is already surfaced with bituminous concrete.

4) Literal compliance with the parking ordinance is impractical and a waiver for six required parking stalls is appropriate for the following reasons:

- a) The petitioner's site consists of only 2,805 square-feet of land, almost entirely occupied by the commercial building.
- b) The site is within close proximity to public transportation as well as a municipal parking lot, therefore a waiver will not have adverse effects on traffic, circulation, and parking in the area.
- c) The petitioner will provide wayfinding signage directing patrons to municipal parking facilities.

PETITION NUMBER: #416-11

PETITIONER: Jessica B. Roche/K.J.R., Inc.

ADDRESS OF PETITIONER: 7 West Street, Newton, MA

LOCATION: 7 West Street, Section 14, Block 14, Lot 1 containing approximately 2,850 square feet of land in the MR 2 Zone

OWNER: Joseph Bontempo

ADDRESS OF OWNER: 420 Fuller Street, West Newton, MA 02465

TO BE USED FOR: Expansion of seating capacity for existing restaurant to accommodate 15 additional seats in an enclosed patio

CONSTRUCTION: Wood pergola and fence

EXPLANATORY NOTES: Section 30-9 & 30-21(b), to allow the extension of a nonconforming restaurant use; Section 30-15(m) & 30-12(b) to allow the replacement of two nonconforming accessory structures with a less nonconforming accessory structure; Section 30-15 Table 1 & 30-21(b) to allow an extension of a nonconforming lot coverage; and Section 30-19(d)(13)&30-19(m) to waive six required parking stalls

ZONING: Multi-Residence 2

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 the following plans :



- “Site Plan Showing Proposed Conditions at 7 West Street, Newton, MA”, prepared by VTP Associates, Stamped by Joseph R. Porter, Professional Land Surveyor, dated June 22, 2011 and revised September 8, 2011.
  - Assessor’s Map modified by the petitioner to indicate the location of four (4) wheel-off containers for the removal of trash, received February 28, 2012.
  - “West Street Tavern and Restaurant Proposed Outdoor Seating Area”, prepared by Leah Greenwald, Registered Architect, dated September 7, 2011 and revised February 24, 2012 including the following:
    - a. Sheet A1 Side Elevation from Parking Lot
    - b. Sheet A2 Plan and Detail
2. Should the parking demand generated by this use routinely exceed the neighborhood supply of parking, as determined by the Commissioner of Inspectional Services, the petitioner shall submit a parking management plan for review and approval by the Director of Planning and Development and the Director of Transportation.
  3. Trash bins will be located according to plans submitted and will be enclosed with a stockade fence. This area is to be kept clean and the enclosure shall remain closed at all times.
  4. Hours of operation for the patio will by 10:00 AM to 10:00 P.M.
  5. There will be no outdoor entertainment (live or recorded) or amplified sound in the patio area.
  6. The petitioner will design, locate, and install signage directing patrons to the Chapel Street Municipal Lot, subject to approval by the Director of Planning and Development and the Director of Transportation.
  7. The petitioner shall provide current information on their website and on their menus directing patrons to available neighborhood parking.
  8. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
    - a. Provided details of the garbage bin enclosure for approval by the Director of Planning and Development;
    - b. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County;
    - c. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development;
    - d. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
  9. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
    - a. provided a statement by a registered architect certifying that the patio has been

- built in accordance with plans referenced in Condition #1;
- b. Installed directional signage in accordance with Condition #5.

10.12



## Meet the Team

**DREAM CASA**  
Luis Diazgranados, Principal

Dream Casa is an agency that offers unique architectural and design solutions to residential and commercial properties in Boston metro area and surrounding suburbs as investment opportunities. We are a one-stop service agency which takes care of finding the right place to invest in. We oversee architectural alterations and refurbishment.

Our philosophy is that of a private concierge service. We take charge of all the hassle and time consuming tasks (chasing real estate agents, probatees, solicitors, contractors, suppliers and retailers) and return to our investors with a deal.

Established in 2010, DREAM CASA evolved from ARCO llc design + build to focus on private investment opportunities, providing our investors the best financial deal in real estate property acquisition, real estate design and re-development transactions, arraying from land development for new construction to re-habilitation & re-development of real estate existing assets.

The architectural design that is part of our service is studied not only to maximize the potential of the property but also to enhance the asset value.



**ARCO design+build**

ARCO llc is a design build firm focused on architecturally driven projects and devoted to high quality craftsmanship, all with the environment in mind. The firm is dedicated to offering clients the best of both worlds: in house architectural design and innovative construction processes.

Established in 2004 by international designer and construction supervisor Luis Diazgranados, ARCO has completed numerous projects ranging from kitchen and bath remodels to new construction homes. In order to insure that sustainability remains a focus the firm is comprised of not only construction focused personnel, but also sustainable designers with training in both the US Green Building Council's LEED program and Passive House US.

ARCO strives to build strong relationships with clients, all by bringing them beautiful spaces by using sustainable construction practices, principles, and techniques.

51 Mt Alama Rd, Chestnut Hill, MA 02467  
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**REEVES DESIGN ASSOCIATES**  
Lawrence Z. Reeves, Principal

Reeves Design Associates specializes in working very closely with clients to transform their unique situations and structures into exciting, cohesive concepts and solutions. The firm derives much about its design style and solutions from the unique contextual cues of each project. The owner's tastes, lifestyle and budget, the building's history and style, the character of the site and its surrounding environment, and countless other factors are considered in order to maximize the potential of every project. Founded in 1990 by National award-winning architect, Lawrence Z. Reeves, AIA, Reeves Design Associates has a history of excellence and recognition in traditional wood frame design and custom residential architecture. With a broad range of experience in historic restoration, adaptive reuse, single and multi-family communities, single family homes, renovations and additions, the firm has also developed a special niche in creating exceptional and unique custom homes, kitchens, baths, renovations, and additions.

79 Highland Street - Marlborough, MA 01752  
508-480-0144 (office & fax) • www.reevesdesign.com

**Terrance P. Morris, Esquire**

Terry has been active in zoning and development matters for more than thirty-five years in both the public and the private sectors. As Vice President/General Counsel for development firms and more recently in his private practice, he has been responsible for: coordinating the preparation of architectural and engineering documents for each project; overseeing public review and approval process for special permit projects; interactions with corporate counsel and municipal departments, including Inspectional Services, Engineering, Planning and Public Works, and evaluation of the zoning and land use aspects of prospective projects. Terry has successfully directed numerous multi-family developments in Newton, Brookline, Watertown, Somerville and Cambridge through the approval process. As a private developer from 1983 to 1988, he coordinated permit approvals for, and oversaw the construction of the adaptive reuse of varied commercial and institutional sites for residential development in Newton. In addition to his private sector work, Terry served on the Newton Board of Aldermen from 1973 to 1983. As chairman of its Land Use Committee, he reviewed all projects that required either zone changes or special permits. As Executive Director of the Cambridge Rent Control Board from 1990-1996, he was responsible for the administration of 12,000 rent-controlled units, including the review of rent increases pertaining to capital improvements on all such properties.

R.O. 1973

§ 244 NEWTON CODE

(10) Private garage with provision for more than three (3) automobiles.

(11) Chapel situated on the grounds of and operated in connection with a cemetery.

(12) Radio or television transmission station.

(13) Nonprofit institutions or organizations organized and operated for welfare and philanthropic purposes and serving the general public of the city.

(14) Such accessory purposes as are proper and usual with the preceding uses and are not injurious to a residential neighborhood.

(e) In private residence, residence D and residence E districts, the board of aldermen may give permission, in accordance with the procedures in sections 24-24 and 24-29 for the construction of attached dwellings subject to the following conditions:

- (1) Each attached dwelling shall be occupied by not more than one family.
- (2) No row of attached dwellings shall consist of less than four (4) nor more than eight (8) such units.
- (3) Each attached dwelling shall be a minimum of twenty (20) feet wide, measured between party walls.
- (4) There shall be provided for each attached dwelling, in the aggregate, a minimum of thirty-five hundred (3,500) square feet of land area, and there shall be provided for each attached dwelling, in the aggregate, a minimum of twenty-five (25) feet of lot width. The word "lot" as used herein shall have the same meaning as the word "lot" in section 24-13, and lot width shall be measured in accordance with said section.
- (5) The ratio of the gross floor area of all buildings in a single development to the total land area of the single development shall not exceed 0.75.
- (6) Not less than thirty (30) per cent of the land area in the single development shall be free from structures,

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ZONING § 246

streets, parking area, drives, walkways or other constructed approaches or service areas and shall be attractively landscaped and maintained.

(7) The minimum setback line applicable to attached dwellings shall be twenty-five (25) feet.

(8) A twenty (20) foot side yard shall be required at the side lot line at the end of each row of attached dwellings, and no building shall be closer to any other building in the single development than twenty-five (25) feet.

(9) No attached dwelling shall be constructed nearer than twenty-five (25) feet to any rear lot line.

(10) Inner courts shall not be permitted in attached dwelling developments. No outer court shall have a width less than one and one-half (1 1/2) times the average height of the surrounding walls nor a depth greater than its own width.

(11) Parking space shall be provided on the premises on a basis of one and one-half (1 1/2) parking spaces for each attached dwelling unit. No parking space shall be located within the required setback distances from a street and from the side and rear yard lines.

(f) In residence D and residence E districts, the board of aldermen may give permission, in accordance with the provisions of section 24-29 for the construction, alteration, enlargement, extension or reconstruction of buildings, and for the use of buildings, structures or land for a funeral home; provided, that no portion of the lot or tract of land upon which said funeral home is located shall be further than five hundred (500) feet from a business or manufacturing district and subject to the following conditions:

- (1) The proprietor, manager or a person in responsible charge shall maintain a permanent residence therein.
- (2) The lot or tract shall have a minimum area of twenty-four thousand (24,000) square feet if located in a residence D district, and twenty thousand (20,000)

Supp. No. 1 1857

#11-2012

City of Newton

PROJECT INFORMATION  
 Project No. 11-2012  
 Applicant: NEWTON  
 Address: 1000 Newton  
 District: 1000 Newton, MA

CITY OF NEWTON  
 DEPARTMENT OF PUBLIC WORKS  
 1000 NEWTON, MA 02459  
 781-552-3000  
 www.cityofnewton.com

dream casa

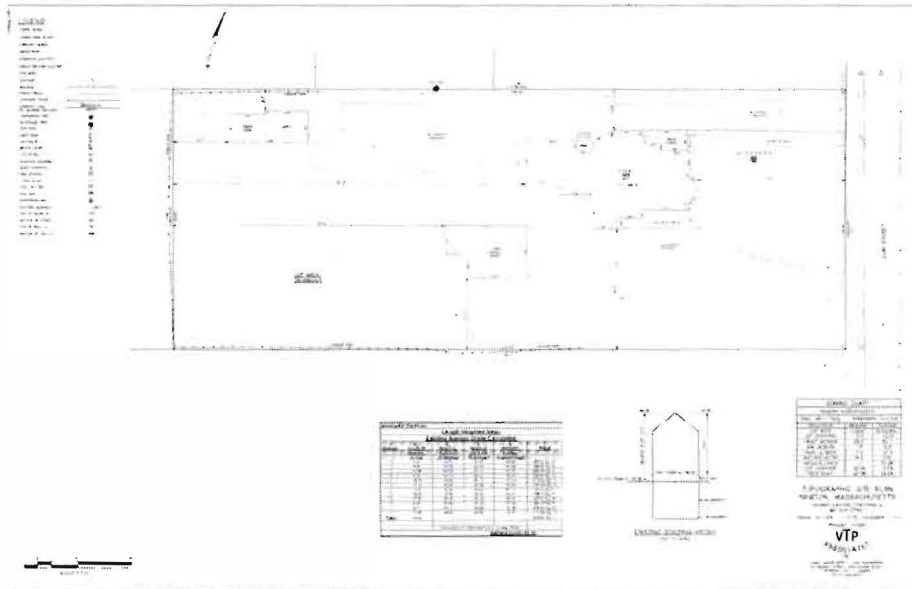
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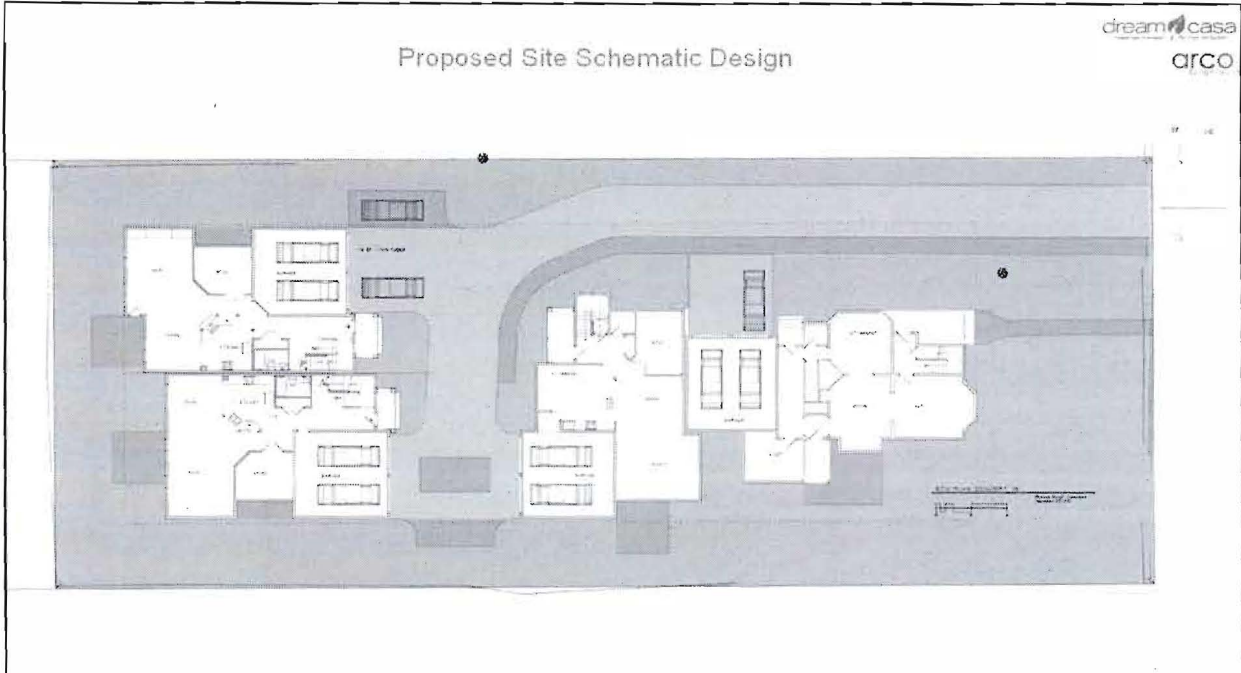
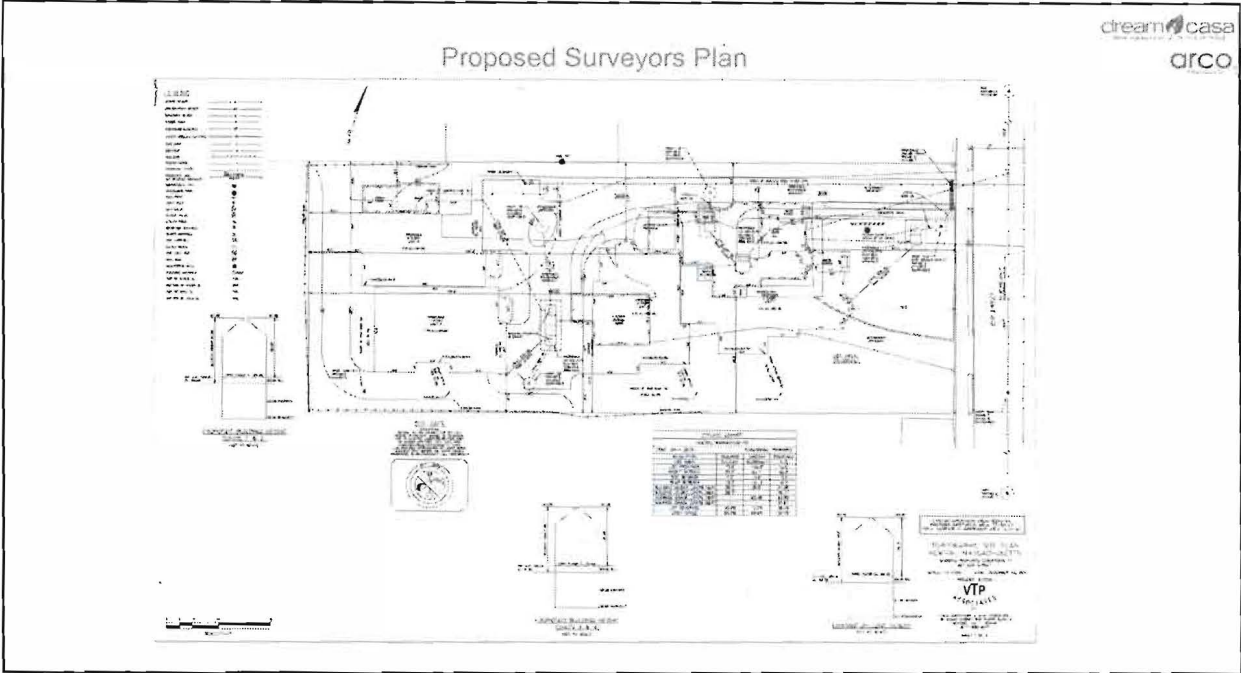
Historic Preservation By Special Permit

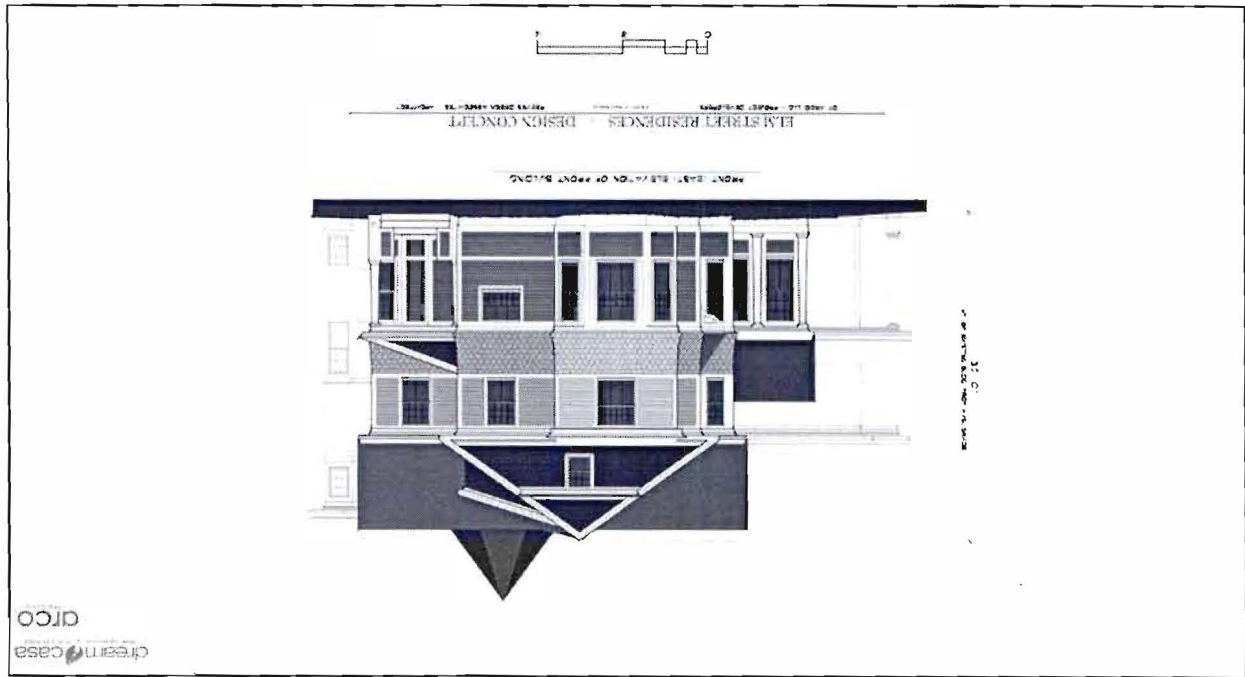
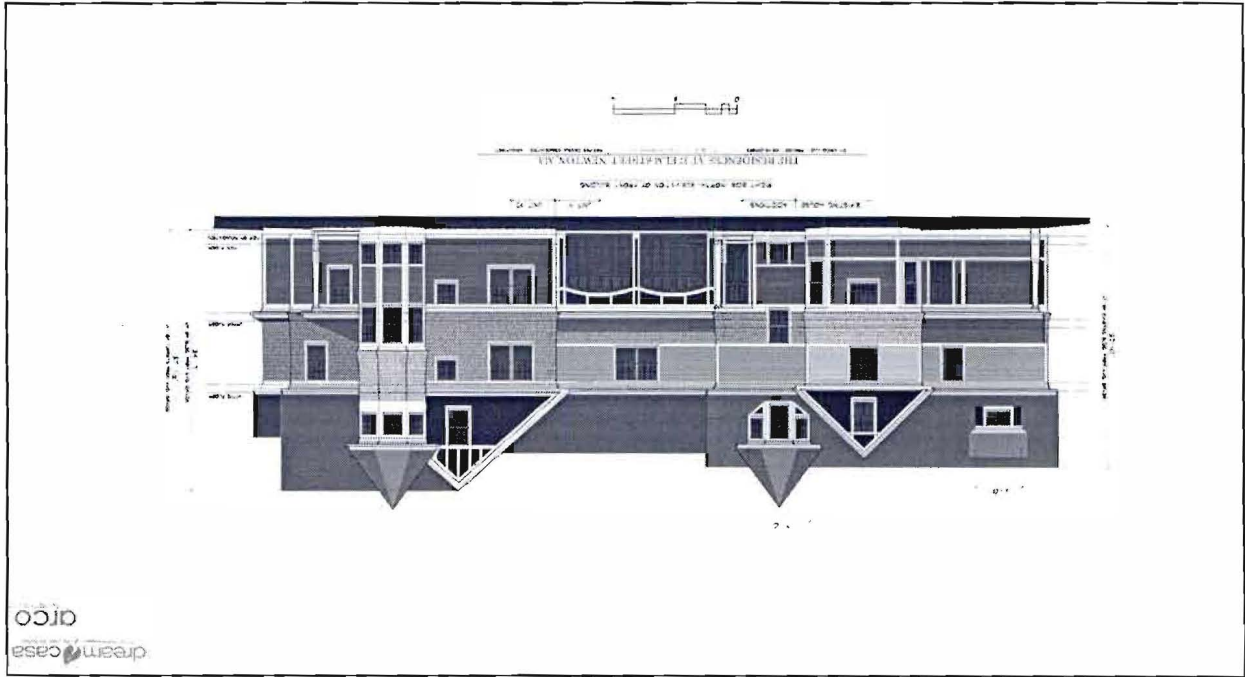
Attached Dwelling Projects  
(Partial)

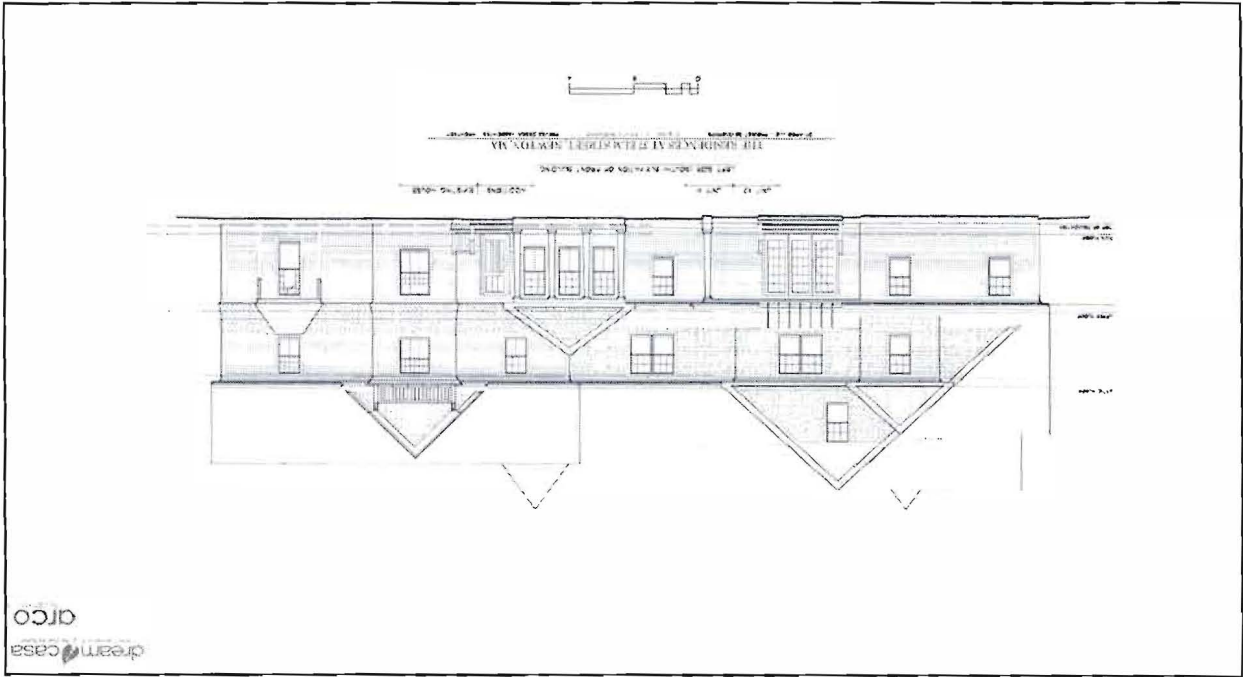
Address	Ward	# of Units	Configuration	Lot Size	Lot area /Unit	Year
888-898 Watertown St	3	6	6 L-shape	40,988	6,831	1979
390-398 Cherry Street	3	7	7 -Linear	38,134	5,448	1980
15-29 Prospect St	3	8	5+4 3-bldgs	35,021	4,378	1989
249-251 Watertown St	1	9	5+3 2-bldgs	54,193	6,021	2002
238-40 Nevada St	2	5	2+3 2-bldgs	31,232	6,246	2002
91-95 Central St	4	3	3 - Linear	18,750	6,250	2005
94-98 Crescent St	3	3	3 - Linear	20,616	6,872	2007
87-89 Waban St	1	4	2+2 L-shape	20,000	5,000	2012
37 Elm St	3	4	2+2 2-bldgs	25,000	6,250	Proposed

Existing Conditions

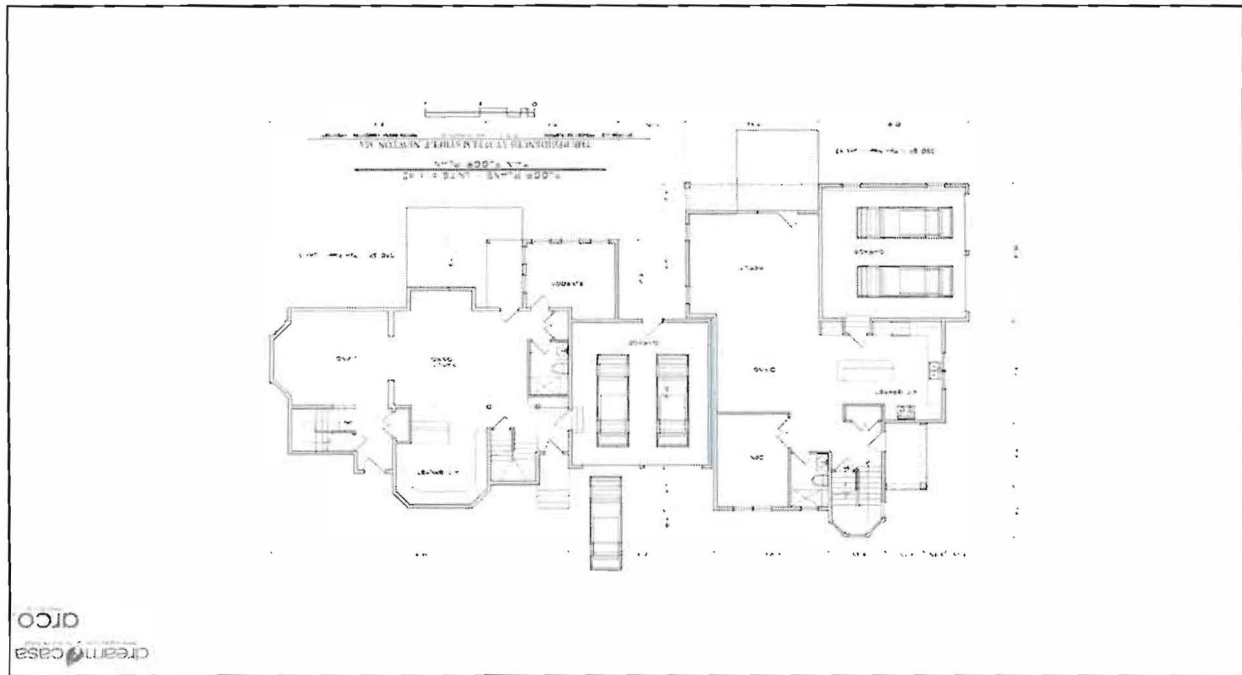
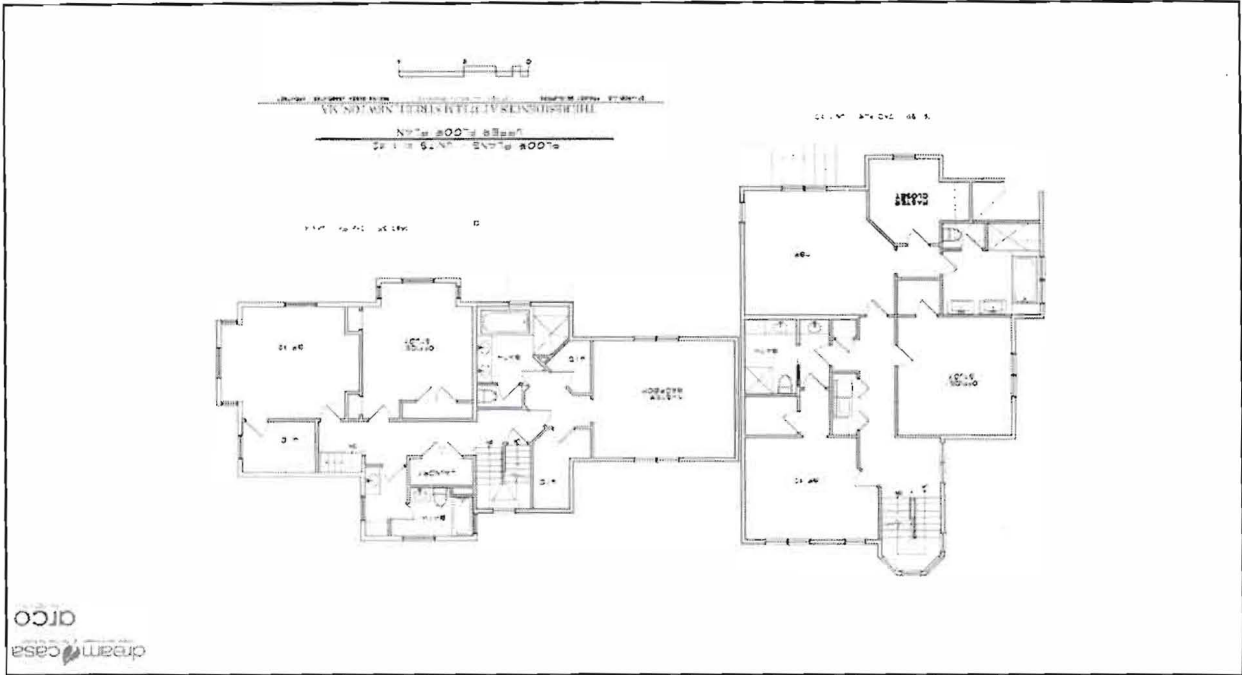


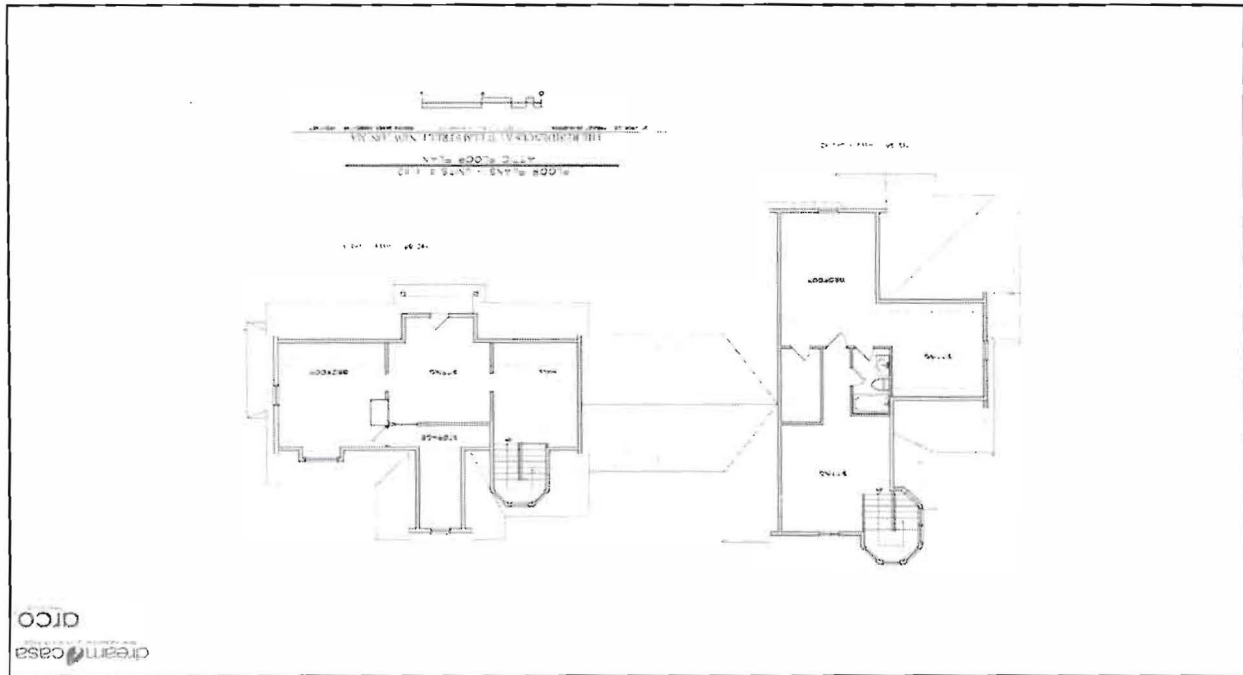
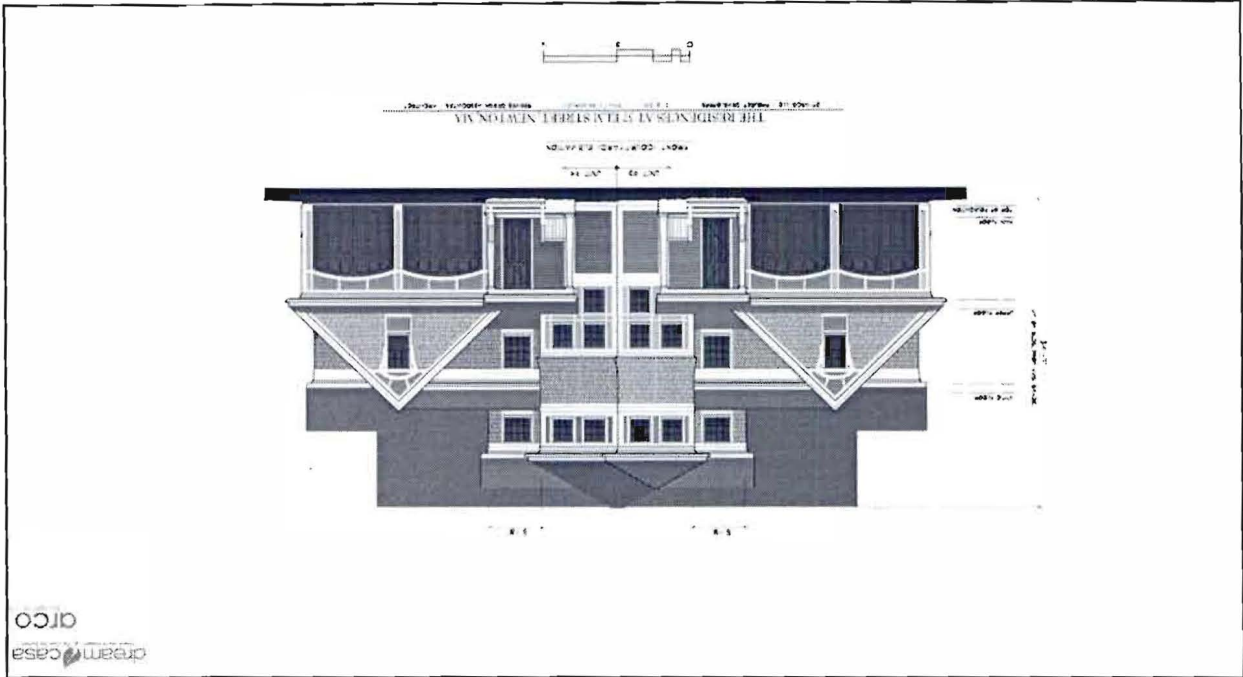














**Main House After Renovation**

**Main House Before Renovation**

**New House**

**Architect's Precedent Case No. 1**

227 & 231 May Ave.  
 Madison City, Mississippi  
 Client: Emerald Development  
 Westport, Mississippi

**Project:** An historic building to be created from an existing highly aged and containing an original Victorian carriage house. The 3000 sq. ft. 2 bedroom, 2 bath carriage house was first renovated to historic requirements to its original condition. A new 4500 sq. ft. 4 bedroom, 4 bath, "boutique" residence, featuring a new main floor, was then created for the site.

**Features:** Tight and highly detailed exterior consisting of quality masonry of the new residence. Original building details were retained to include original ironwork, stone to create beautiful detailed spaces with strong links to outdoor living areas. Existing carriage house, reconfigured to include three units and contemporary interior finishes. New garage was added in order to provide storage and a new front porch and entry were added. Project was reviewed extensively and approved by local historical Commission.

**dream casa**  
**DTCO**

**THE EXHIBITS AT 227 & 231 MAY AVENUE, MADISON, MISSISSIPPI**

1st FLOOR PLAN - 1/8" = 1'-0"

2nd FLOOR PLAN - 1/8" = 1'-0"

3rd FLOOR PLAN - 1/8" = 1'-0"

**dream casa**  
**DTCO**

Architect's Precedent Case No.2

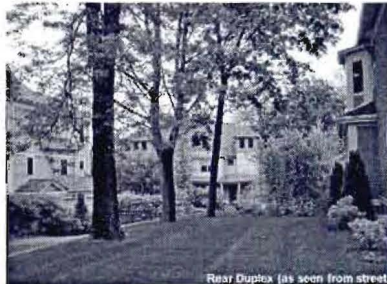
#55, #57/59, & #61 Prescott St.  
Newton, Massachusetts  
Client: Emerald Development  
Watertown, Massachusetts

Project: Complete Renovations and Major Additions to 2 existing Victorian homes. Also includes creation of "Rearlot Sub-division" and design of new 2700 sq ft Duplex Residences, keeping in the Victorian character of the adjacent homes. Design and planning was closely reviewed by active neighborhood association.

Features: Main house (#55) was fully gutted to studs on all four levels. Garage/Office was added, and highly detailed interiors were designed to reflect Victorian period of the home, while creating a thoroughly modern 4600 sq ft home. Second existing 4200 sq ft home (#61) was fully renovated, and spaces reconfigured to bring the home up to current lifestyle needs. New Duplex Units (#57/59) were created with a design to suggest a large, single-family home, and to reflect the neighboring Victorian homes.



Main House



Rear Duplex (as seen from street)



Rear Duplex

Architect's Precedent Case No.3

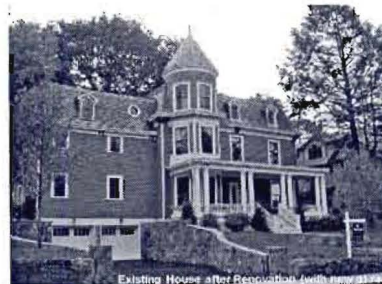
Hillside/Mt. Vernon Residences  
West Newton, Massachusetts  
Client: Emerald Development  
Watertown, Massachusetts

Project: This new, 4500 sq ft, 5 Bedroom, 4 Bath Shingle-style estate home was created to integrate into an established historic neighborhood. The original 1870 Victorian home on the site was demolished, relocated on the site, and fully renovated to its original splendor. Project underwent extensive neighborhood and Historic Commission reviews.

Features: Working with a challenging sloped site, the home was designed in the Victorian Shingle Style with unique details and features, inside and out, reflecting the spirit of the surrounding historic, Victorian-era homes.



New House



Existing House after Renovation (with new driveway)



37 Elm Street Scope

10.12

CITY OF NEWTON  
IN BOARD OF ALDERMEN

March 19, 2012

ORDERED:

That the Board, 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 relocate an existing two-family dwelling and construct a new structure containing two additional attached dwelling units for a total of four attached dwellings in two structures as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. Four single-family attached dwelling units in two buildings are appropriate for the following reasons
  - a. The site is located in a neighborhood of predominantly multi-family residential uses;
  - b. There will be no nuisance to vehicles or pedestrians as a result of this petition since parking will be provided with off-street accommodations and the sidewalk along Elm Street will be upgraded by the petitioner from its deteriorating condition.
2. A waiver for side setbacks is appropriate for this site because literal compliance with side setbacks is impractical due to the long and narrow shape of the lot and the orientation of the existing building. The petitioner will mitigate the effects of this encroachment with the proposed landscaping.
3. Lot coverage of 25.5%, where 25% is allowed by right is appropriate because the petitioner has incorporated an existing historic structure into the site design, thereby saving and rehabilitating this building, and the increased lot coverage is necessary to support the proposed rehabilitation of an historic structure.
4. A driveway closer than ten feet from the side lot line is appropriate since this condition is pre-existing and allowing the driveway to remain in this location will preserve the open front lawn area and a mature Japanese maple tree. Also, the proposal is to eliminate one of the two curb cuts on the property, thereby improving pedestrian and motorist safety.
5. A dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline is appropriate because it is part of an articulated plan to compliment the Queen Anne architecture of the historic structure on the site.
6. The design and materials of the proposed structure have been approved by the Newton

Historical Commission.

7. The Board finds that the location and configuration of structures is appropriate and in keeping with the historic neighborhood and that the petitioner is preserving the existing historic structure which will be a benefit to the neighborhood and will not adversely affect abutters or the immediate neighborhood.

PETITION NUMBER: #10-12

PETITIONER: DT-ARCO, LLC/IERACI REALTY TRUST

LOCATION: 37 Elm Street, Section 33, Block 23, Lot 20 containing approximately 25,000 square feet of land

OWNER: IERACI FRANK TR  
C/O MARIA ARMSTRONG

ADDRESS OF OWNER: 34 Lyme Road, West Newton, MA 02456

TO BE USED FOR: Four attached dwellings in two two-unit buildings

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §30-9(b)(5) to allow four attached dwellings in two buildings; §30-15, Table 1 and 30-9(b)(5)(a) and (b) to allow side setbacks of 17.1 and 17.4 feet where 25 feet is required, for lot coverage of 25.5% where 25% is allowed, and for a driveway closer than 10 feet from the side lot line; § 30-15(t)(1-4) to allow a dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline.

ZONING: Multi-Residence 1 District  
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 the plans listed below:
  - a. "Topographic Site Plan Showing Proposed Conditions at 37 Elm Street, Newton, MA," by VTP Associates, dated February 27, 2012, signed and stamped by Joseph R. Porter, Professional Land Surveyor
  - b. "Planting Plan, 37 Elm Street, Newton, MA", by Rico Associates, dated February 7, 2012



- c. "Elm Street Residences-Design Concept," consisting of 11 sheets including:
  - i. East Elevation of Front Building, dated 2/27/2012
  - ii. North Elevation of Front Building, dated 2/27/2012
  - iii. West Elevation of Front Building, dated 2/27/2012
  - iv. South Elevation of Front Building, dated 2/27/2012
  - v. Floor Plans Units #1 and #2 Main Floor and Upper Floor, dated 2/23/2012
  - vi. Floor Plans Units #1 and #2 Attic, dated 2/23/2012
  - vii. Front Elevation, Rear Building, dated 12/13/2011
  - viii. South Elevation, Rear Building, dated 12/13/2011
  - ix. West Elevation, Rear Building, dated 12/22/2011
  - x. Floor Plans Main Floor Plan, Units #3 and #4, dated 2/23/2012
  - xi. Floor Plans Upper Floor Plan, Units #3 and #4, dated 2/23/2012
  - xii. Floor Plans Attic Floor Plan, Units #3 and #4, dated 2/23/2012
2. The petitioner shall underground all utilities serving the subject property.
3. The petitioner and future condominium association shall maintain the fence along the southern property line for as long as the use authorized by the special permit continues at this site.
4. The petitioner will install the Arborvitae screening shown in the landscape plan on the southern property line as soon as feasible after it takes title to the property and prior to the issuance of any building permit.
5. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
  - a. submitted a Construction Management Plan for review and approval by the Director of Planning and Development and the Engineering Division of the Department of Public Works.
  - b. submitted final engineering plans for review and approval by the City Engineer, and the Director of Planning and Development which show the closing of one curb cut and the replacement of the bituminous sidewalk and concrete curbing along Elm Street.
  - c. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - d. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - e. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
6. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and registered engineer certifying compliance with Condition #1.

- b. submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - c. filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
7. Notwithstanding the provisions of Condition #1 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.