



# CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1065 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086  
www.ci.newton.ma.us

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

**To:** Zoning Board of Appeals Members  
**From:** Adrianna Henriquez, Clerk  
**Date:** March 23, 2020  
**Subject:** Materials for **March 25, 2020** Public Hearing

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Hello,

Please see the following supplemental materials for the upcoming hearing on March 25, 2020, Public Hearing. The following board members are scheduled to sit:  
***William McLaughlin (Chair), Barbara Huggins Carboni, Michael Rossi, Stuart Snyder, and Timothy Durken (Alternate)***

1. Revised March 25, 2020 Agenda
2. 129 Grasmere Street Appeal
3. Extension Agreement for Reference
4. January 22, 2020 (2) Meeting Minutes

Thank you,

Adrianna Henriquez

**ahenriquez@newtonma.gov | (617) 796 1133**



# CITY OF NEWTON, MASSACHUSETTS

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Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

**The Zoning Board of Appeals will hold this meeting as a virtual meeting on Wednesday, March 25, 2020 at 7:00 pm. No in-person meeting will take place at City Hall.**

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at [www.zoom.us](http://www.zoom.us). At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: 842 942 8454.

To view and participate in this virtual meeting on your computer, at the above date and time, go to [www.zoom.us](http://www.zoom.us), click “Join a Meeting” and enter the following Meeting ID: 842 942 8454.

## AGENDA REVISED 3/23/20

**A public hearing of the Newton Zoning Board of Appeals will be held on Wednesday, March 25, 2020 at 7:00 p.m. in the City Council Chambers, Room 207, Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts on the following petitions:**

1. **#02-20** Marry Grassmere Realty, LLC of 55 Washington Street, Newton, Massachusetts, pursuant to M.G.L. c. 40A, § 8, and 15, appealing the December 17, 2019 Notice of Zoning Violation issued by the Commissioner of Inspectional Services based on the existence of illegal apartments at 129 Grasmere Street. The Appellant contends that the violation order and decision of the Commissioner of Inspectional Services was improperly issued. The subject property is located at 129 Grasmere Street, Newton, Massachusetts, and consists of a 6,947 square foot lot. This property is located in a Single-Residence 3 District.

**Clerks Note:** This hearing will be continued at the request of the applicant.

2. Review and approval of minutes for January 22, 2020 meeting

**Newton Tab**

**March 11th & March  
18th, 2020**

**Adrianna  
Henriquez**

**Board  
Clerk**

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton’s ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

City Clerk Date/Time Stamp

ZBA Date/Time Stamp

**CITY OF NEWTON  
ZONING BOARD OF APPEALS**

**CHECKLIST COVER PAGE  
FOR ADMINISTRATIVE APPEAL**

To be completed by Staff: Project No.: Petition No.:

PROPERTY LOCATION: 129 Grassmere ST DATE: Jan 17, 2020

PETITIONER: Mary Grassmere Realty LLC

ADDRESS: 16 Peter Harrington 505 Waltham St Newton MA 02465

PHONE: 617 558 7722 EMAIL: PFH@harringtonandmartins.com

POINT OF CONTACT: \_\_\_\_\_

**PLEASE CONFIRM THAT YOU HAVE INCLUDED THE FOLLOWING WITH YOUR APPEAL APPLICATION. THIS CHECKLIST MUST BE INCLUDED WITH YOUR APPLICATION AS THE FIRST PAGE.**

**APPLICATIONS WILL NOT BE ACCEPTED FOR PROCESSING & SCHEDULING UNLESS ALL REQUIRED DOCUMENTS ARE PROVIDED**

**DOCUMENTS**

**ENCLOSED**  
(checked by Petitioner)

**CONFIRMED**  
(checked by Clerk)

Application for Administrative Review Form (15 copies)

✓

\_\_\_\_\_

Application Fee

✓

\_\_\_\_\_

Decision/Order being appealed

✓

\_\_\_\_\_

Statement of Reasons

✓

\_\_\_\_\_

Reference to Zoning Ordinance

\_\_\_\_\_

\_\_\_\_\_

Electronic Copy

✓

\_\_\_\_\_

CITY OF NEWTON  
ZONING BOARD OF APPEALS

**APPLICATION FOR ADMINISTRATIVE APPEAL**

**IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS FORM**

**PETITIONER INFORMATION**

NAME: MARRY GRASSMERE REALTY LLC  
ADDRESS: c/o P F HARRINGTON 505 WALTHAM ST NEWTON MA 02465  
PHONE: 617 558 7922 EMAIL: PFH@HARRINGTONANDMARTINS.COM

**SUBJECT PROPERTY INFORMATION**

LOCATION OF PROPERTY: 129 GRASSMERE ST  
ZONING DISTRICT: SR 3 PROPERTY SBL NO.: 71030 0006  
OWNER OF RECORD: MARRY GRASSMERE REALTY LLC  
RELATIONSHIP TO SUBJECT PROPERTY (i.e. owner, abutter, etc.):  
owner

**APPEAL INFORMATION**

1. What decision are you appealing - is it an inability to obtain a building permit, the issuance of a building permit, an order or decision of the Commissioner of Inspectional Services or a zoning violation?

Decision of the Commissioner, copy attached as Exhibit 1

Date of decision: December 17, 2019

(A copy of the decision, order, permit or notice being appealed must be included)

2. State the basis or grounds for contesting the decision, providing any information that you feel will aid the Board in its review of your appeal:

see attached Notice of Appeal

3. Identify and describe all supporting documents being submitted with this appeal:

- 1) Commissioner's Decision
- 2) Deed
- 3) Health Department Records
- 4) additional documents will be provided upon request or as needed.

4. State all sections of the Newton Zoning Ordinance implicated in the appeal:

3 Family home on single Family zone.

5. Explain why you are aggrieved by the decision being appealed:

owner believes property is existing nonconforming structure  
owner is not aware that Building permits were needed to do work - there are no specific complaints in Building Commissioner's letter

6. What outcome do you request if your appeal is granted?

Building Commissioner's decision be overturned or modified as set out in attached document

**PETITIONER CONSENT, CERTIFICATION & SIGNATURE**

*(Signatures of Petitioner(s) are required)*

I (we) consent and certify as follows:

1. I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this application;
2. I (we) certify that I (we) have read the Board's Rules and Procedures before submittal to insure the completeness of my (our) application;
3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X Mary Grace Realty LLC      Jan 17, 2020  
    (Petitioner Signature)                      (Date)

X by Peter Harrington, Atty for LLC      Jan 17, 2020  
    (Petitioner Signature)                      (Date)

**If Applicable:**

Name of Attorney/Agent for Applicant: Peter Harrington

Address of Attorney/Agent: 505 Waltham St

Phone Number of Attorney/Agent: 617 558 7722

Email Address of Attorney/Agent: ph@harringtonandmontus.com

**CITY OF NEWTON  
ZONING BOARD OF APPEALS**

**NOTICE OF APPEAL**

Now comes Marry Grassmere Realty, LLC, with an address of 55 Washington Street, Newton, MA 02458, and claims an appeal from a decision of the Inspectional Services Department, dated December 17, 2019 with reference to property at 129 Grassmere Street, Newton, MA.

1. The decision of the Inspectional Services Department is set forth in a letter dated December 17, 2019, a copy of which (2 pages) is attached hereto, marked Exhibit 1 and incorporated herein by reference.
2. The Appellant says that said 129 Grassmere Street was purchased by the Appellant's predecessor on August 30, 1979. A copy of the purchase deed is attached hereto, marked Exhibit 2 and incorporated herein by reference.
3. The Appellant further says that at the time of the purchase, the property contained 3 apartments.
4. The Appellant further says that at the time of the purchase of the property, the City of Newton Health Department inspected said property on September 4th, requested certain work be completed and on September 13th issued an Occupancy Permit, with the knowledge that the building contained 3 apartments. See attached documents (4 pages) marked Exhibit 3 and incorporated herein by reference.
5. The Appellant further says that at the time any work was done on the property, the Appellant was not aware that a Building Permit was required.
6. The Appellant further says that if a Building Permit was required for work done by owners of the property prior to August 30, 1979, copies of the applications, permits and inspections have been lost by the City of Newton.

The Appellant asks that if the Board determines that the Appellant is required to obtain Building Permits for work done by previous owners, that the Appellant's obligation be limited to showing that the work done conformed to the terms and requirements of the then building code.

The Appellant asks that if the Board determines that the Appellant is required to obtain Building Permits for work done by the Appellant, that the Appellant's obligation be limited to showing that the work done conformed to the terms and requirements of the then building code.

By its Attorney



Peter F. Harrington, Esq., Harrington & Martins  
505 Waltham Street  
West Newton, MA 02465  
617-558-7722  
pfh@harringtonandmartins.com  
January 17, 2020

# **EXHIBIT 1**



City of Newton



Ruthanne Fuller  
Mayor

## Inspectional Services Department

John D. Lojek, Commissioner  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449  
Telephone: (617) 796-1060  
Fax: (617) 796-1086  
[www.ci.newton.ma.us](http://www.ci.newton.ma.us)

Building/Zoning Inspectors  
(617) 796-1060  
Zoning Board of Appeals  
(617) 796-1065  
Plumbing and Gas Division  
(617) 796-1070  
Electrical Division  
(617) 796-1075  
TDD/TTY  
(617) 796-1089

### NOTICE OF VIOLATION

**Craig Edsall – Zoning Enforcement Agent (617) 796-1063**  
**[cedsall@newtonma.gov](mailto:cedsall@newtonma.gov)**

December 17, 2019

Marry Grasmere Rlty LLC  
55 Washington Street  
Newton, MA 02458

**RE: 129 Grasmere Street**

Dear Property Owner:

An inspection was conducted at your property, known as 129 Grasmere Street, Newton, MA on Friday, November 22, 2019. As a result of the inspection, along with a review of the property file, the following violations were observed:

#### **Violations at 129 Grasmere Street (Including but not limited to)**

- **Illegal apartments**
- **Construction without building permits**
- **Inadequate means of egress**
- **Plumbing and electrical work done without permits**
- **Inadequate smoke and carbon monoxide detectors and/or lack of Fire Department approvals**

**The City of Newton Revised Zoning Ordinances, Section 7.9.1 (b) Violations**, mandates an inspection of a property under investigation for a zoning violation (alleged), and directs the issuing of a Notice of Violation for confirmed infringements.

#### **780 CMR State Building Code Violations**

**Section 105.1 Permits Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing

*Strict code enforcement makes the city safer  
Before buying, renting or leasing check zoning*

system, the installation of which is regulated by this code, or to cause any such work to be done, **shall first make application to the building official and obtain the required permit.**


**Remedies:** Vacate illegal unit bedrooms and remove all beds and remove all illegal elements or vacate illegal units and bedrooms and remove bedding and submit application for accessory apartment and secure all required permits to build additional kitchen and approved second means of egress per state building code. Apply for and secure all required permits, inspections and approvals.

**Penalties: Massachusetts General Law Chapter 143 Section 94 (a).** Whoever violates any provision of the state building code, except any specialized code as described in section ninety-six, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both, for each such violation. Each day during which a violation exists shall constitute a separate offense.

**Right of Appeal: Massachusetts General Law Chapter 143 Section 100 (a).** Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and regulations, except any specialized code as described in section ninety-six, may within forty-five days after the service of notice thereof appeal from such interpretation, order, requirement, direction, or failure to act to the Massachusetts State Building Code Appeals Board. Appeals hereunder shall be on forms provided by the appeals board and shall be accompanied by such fee as said appeals board may determine.

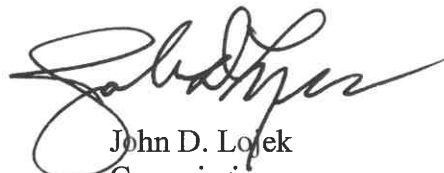
**Failure to comply within thirty (30) days of receipt of this notice may result in a criminal complaint being filed in Newton District Court.**

Respectfully,



1063

Craig Edsall  
Zoning Enforcement Agent



John D. Lojek  
Commissioner

**EXHIBIT 2**

1830-79 PM J.S.S. STONE \*\*1225

BK 13777 PG 412

low 12.25

MASSACHUSETTS QUITCLAIM DEED SHORT FORM (INDIVIDUAL) 19

I, Margaret B. Cline

of Newton, Middlesex

County, Massachusetts

for consideration of Eighty-six Thousand (\$86,000) Dollars paid, grant to George Marry, Nadja Marry, Mark Marry and Helen Marry, as joint tenants

of 55 Washington Street, Newton with QUITCLAIM COVENANTS

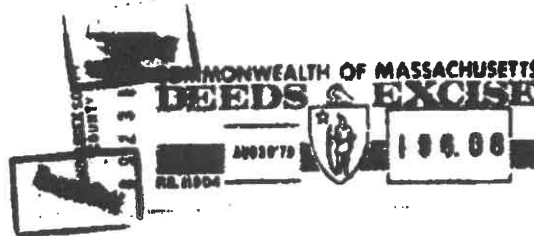
including The Land in Newton, Massachusetts

All of my right, title and interest in the land in Newton, Massachusetts, with the buildings thereon, being shown as Lot 1 on a Plan of Land made by E.S. Smilie, Surveyor, dated December 28, 1891, duly recorded with Middlesex South District Registry of Deeds, Book 2119 End, bounded and described as follows:

- SOUTHEASTERLY On Grasmere Street, 60 feet;
- SOUTHWESTERLY On land now or formerly of French and Linder, as shown on said plan, 120 feet;
- NORTHWESTERLY On land now or formerly of Hardor, as shown on said plan, 55.84 feet; and
- NORTHEASTERLY On Lot 2 on said plan, 119.95 feet.

Be any or all of said measurements more or less.

Being the same premises conveyed to me by Marvin G. Cline by deed dated February 14, 1979 and recorded with the Middlesex South Registry of Deeds in Book 13673, Page 166.



Witness my hand and seal this 30th day of August, 1979.

Margaret B. Cline  
Margaret B. Cline

The Commonwealth of Massachusetts

*Middlebury*

ss.

Then personally appeared the above named and acknowledged the foregoing instrument to be

per Margaret B. Cline August 30 1979

Notary Public

My commission expires

F. 1. 2

1979

**EXHIBIT 3**

City of Newton, Massachusetts  
Health Department  
Tel. No. ~~244-4700~~ Ext. 240

7063  
55707058



T E M P O R A R Y  
O C C U P A N C Y P E R M I T

Location of Property: 129 Gasmore St  
Name of Owner/Agent: George Manly  
Address of Owner/Agent: Mark Manly  
Telephone Number: \_\_\_\_\_

This certifies that the above listed premises may be temporarily occupied until the date of expiration listed below. This temporary permit is issued in accordance with the Revised Ordinances of the City of Newton, Article XIII, Chapter 2, Section 2-102A. The City of Newton does not make any guarantee or warranty as to the conditions of the building and assumes no liability therefor.

Date Issued: 9-4-79  
Date of Expiration: 10-4-79

Susan K. Lombard  
Authorized Signature  
Newton Health Department

CITY OF NEWTON  
HOUSING INSPECTION REPORT

ADDRESS 129 Gramere St.

OWNER George Marry DATE OF INSPECTION 9-4-79

OCCUPANT: Mark Marry + Helen Marry TIME OF INSPECTION 11<sup>00</sup> AM

APPLICABLE  
REGULATION

CONDITIONS CONSTITUTING VIOLATIONS

Back steps need protective railing and handrail  
Step into door needs repairing making sure space  
is filled.  
Third floor apartment needs ~~and~~ exit

*George Marry*

May each violation, or the cumulative effect of all violations endanger or materially impair the health, safety or well being of any occupant or the public? YES  NO

Do any of the above violations appear to be substantially caused by the occupant or any person acting under his control? YES  NO  I can't determine

Date of Follow-Up Inspection \_\_\_\_\_  
Time of Follow-Up Inspection \_\_\_\_\_

*Susan K. Lantman*  
Name of Inspector

CITY OF NEWTON  
HOUSING INSPECTION REPORT

ADDRESS 129 Gramere St  
OWNER George Marry DATE OF INSPECTION 9-13-79  
OCCUPANT Mark Marry TIME OF INSPECTION 2:30 pm

APPLICABLE  
REGULATION

CONDITIONS CONSTITUTING VIOLATIONS

Units are in satisfactory condition

Does each violation, or the cumulative effect of all violations endanger or materially impair the health, safety or well being of any occupant or the public?

YES  NO

Do any of the above violations appear to be substantially caused by the occupant or any person acting under his control?

YES  NO   
I can't determine

Date of Follow-Up Inspection \_\_\_\_\_  
Time of Follow-Up Inspection \_\_\_\_\_

Steven K. Laubma  
Name of Inspector



OCCUPANCY PERMIT

LOCATION OF PROPERTY: 129 Grasmere St.  
NAME OF OWNER/AGENT: George Marry  
ADDRESS OF OWNER/AGENT: Mark Marry  
PHONE NUMBER: \_\_\_\_\_

7  
7

This certifies that the above listed premises have been found fit for human habitation and conform to the Massachusetts State Sanitary Code, Article II, Minimum Standards of Fitness for Human Habitation. The City of Newton does not make any guarantee or warranty as to the conditions of the building inspected, nor does the city assume any liability in the inspection or certification of compliance.

APPLICABLE  
REGULATION

LEAD INFORMATION  READINGS NEGATIVE  
 NO CHILDREN UNDER 6  
DATE ISSUED: 9-13-79  
Susan K. Santman  
AUTHORIZED SIGNATURE  
HEALTH DEPARTMENT

THIS PERMIT IS VALID FOR TWO YEARS FROM DATE OF ISSUE.

X George Marry

May each violation, or the cumulative effect of all violations endanger or materially impair the health, safety or well being of any occupant or the public? YES  NO

Do any of the above violations appear to be substantially caused by the occupant or any person acting under his control? YES  NO   
I can't determine

Date of Follow-Up Inspection \_\_\_\_\_  
Time of Follow-Up Inspection \_\_\_\_\_

Susan K. Santman  
Name of Inspector



Ruthanne Fuller  
Mayor

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

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(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

ZONING BOARD OF APPEALS

AGREEMENT TO EXTEND TIME LIMIT FOR PUBLIC HEARING

Subject Property: 129 Grasmere Street, Newton, MA

Applicant: Marry Grassmere Realty, LLC

Application Type: Administrative Appeal

Date of Filing: January 17, 2020

Under M.G. L. c. 40A, § 15, the Zoning Board of Appeals is to hold a public hearing within 65 days of receipt of an application for Administrative Appeal. The Applicant hereby agrees to extend the date of the opening of the public hearing on the above-referenced application to March 25, 2020.

*Peter F. Harrington*  
(Applicant's Signature) Attorney for Appellant

Peter F. Harrington, Esq.  
(Print Name)

February 20, 2020  
(date)

RECEIVED  
2020 FEB 20 AM 9:48  
CITY CLERK  
NEWTON, MA 02459

Received and agreed to by the Newton Zoning Board of Appeals:

*[Signature]*

Date: February 20, 2020



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Ruthanne Fuller  
Mayor

**ZONING BOARD OF APPEALS**  
Adrianna Henriquez, Board Clerk

## **MEETING MINUTES**

**Wednesday, January 22, 2020**

**7:00 p.m.**

**Council Chambers**

**City Hall – 1000 Commonwealth Avenue, Newton**

**Board Members Present:** Brooke Lipsitt (Chair), Barbara Huggins Carboni, William McLaughlin, Michael Rossi, Michael Quinn and Timothy Durken (Alternate)

**Staff Present:** Jennifer Caira, Deputy Director of Planning and Development; Michael Gleba, Senior Planner; Jonah Temple, Assistant City Solicitor; Jaclyn Zawada, Assistant City Solicitor, Barney Heath, Director of Planning and Development

**A public hearing of the Newton Zoning Board of Appeals will be held on Wednesday, January 22, 2020 at 7:00 p.m. in the City Council Chambers, Room 207, Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts on the following petitions:**

**#09-19** Dunstan East, LLC applying to the Zoning Board of Appeals, pursuant to Massachusetts General Laws Chapter 40B, for the issuance of a Comprehensive Permit authorizing the applicant to construct a 244 unit residential development, which will include 61 affordable housing units and approximately 12,141 square feet of retail space, and to maintain an approximately 8,222 square foot existing office building, all on approximately 3.17 acres of land located in the Business 2 Zoning District at 1149, 1151, 1169, 1171-1173, 1179 and 1185 Washington Street, 12, 18, 24 and 25 Kempton Place, and 32 and 34 Dunstan Street in Newton, Massachusetts.



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## ZONING BOARD OF APPEALS

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### Documents Submitted:

1. Comprehensive Permit Application submitted December 24, 2019
2. Public Hearing Memorandum from the Planning Department dated January 16, 2020
3. Letter from the Green Newton Building Standards Committee dated January 14, 2020
4. Letter from Paula Rohrlick dated January 14, 2020
5. Letter from John McElduff dated January 4, 2020
6. Letter from Howard Rosenof dated January 15, 2020
7. Letter from Miriam Tuchman dated January 16, 2020
8. Letter from Aldo Zegarelli and Anna Whitten dated January 13, 2020

### Deliberation:

Representing Dunstan East LLC., Stephen J. Buchbinder, Esq., Schlesinger and Buchbinder, LLP, with offices located at 1200 Walnut St, Newton, MA 02461. Mr. Buchbinder gave a brief overview of the project and gave an introduction of the staff that will be representing various topics on the project.

Damien Chaviano, of Mark Development, LLC., provided an overview of the proposed project. Mr. Chaviano explained that there will be approximately 12,000 square feet of small shop retail space on the ground level and approximately 284,000 gross square feet of residential space which would equate to 244 units. Low grade parking has been incorporated within the project which will include 286 parking stalls and 5 on street parking spaces.

Robert Adams, Principal Landscape Architect of Halvorson Design, explained gave an overview of the site plan and open space plan. Mr. Adams noted that all of the streetscapes will be



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## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

improved with new curbs and sidewalks while following the complete streets guidelines and Washington Street Improvement Plan. Mr. Adams explained that the public green space will be a public amenity and greenspace, but also will help provide some stormwater storage for Cheesecake Brook, as well as providing some wildlife habitat with naturalized plantings.

Standing in for Rich Hollworth of VHB, the projects Civil Engineer, Robert Adams provided some information on stormwater management. Mr. Adams explained that this project will provide opportunity to restore the natural riverine system while improving the flow characteristics and the water quality of Cheesecake Brook. Mr. Adams identified the current objectives which are to implement significant stormwater management improvements, to restore a natural water cycle, control storm water discharge, enhance the water quality and to expand on the existing ample utility infrastructure available which will be supporting the project. He noted that the flooding has been intensified in recent years, and this project provides an opportunity to improve stormwater management and restore a more natural water cycle while reducing potential flooding. The designed stormwater management plan was designed to achieve the following objectives: comprehensive erosion management plan, removing large expanses of impervious surface, the permanent storm water system will collect and retrieve water run off using best management practices, newly vegetated buffers to Cheesecake Brook, deep sump catch basins and will restore natural vegetated edge and large compensatory flood storage.

John Martin, Architect from Elkus Manfredi Architects Ltd., described the project's goals. One of the goals are to create a vibrant street life. There will be 15-foot-wide sidewalks with tree zones following the complete streets design of 6 to 8-foot walking section. Mr. Martin explained that where there are breaks in the buildings, there will be opportunity for cafés that will spill out onto the street which will make it more pedestrian friendly. Where the buildings meet the street, the goal will be to provide active uses such as lobbies, retail spaces, amenity spaces for the



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## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

residents. Long vehicular blocks will be broken to allow pedestrian movement through the block. Referring to his presentation, Mr. Martin gave a further overview of the project.

Randy Hart of Vanasse Hangen Brustlin, Inc. (VHB), gave an overview of the prepared Traffic and Impact Study. Mr. Hart noted that there were 30 locations that were used for the study. The most pedestrian movement counts were during three critical periods; 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. on a weekday during commuter peak hours along with 11 a.m. to 1 p.m. on a Saturday, which represent critical retail traffic activity. By looking at the operations and the volumes and accident records at all these locations, they were able to get a strong foundation of existing conditions which serves as the basis of the traffic work. Mr. Hart explained that to get a sense as to the traffic that would be generated by this re-use, the Institute of Transportation Engineers Trip Generation Manual, the 10th edition was used. Within the manual, there are a number of land use categories. The two most appropriate for the proposed project includes land use code to 221, which is mid-rise residential, and they applied that to the 244 units. They also used land use code 820, which is the shopping center rate to apply to the retail aspect of the work. Mr. Hart clarified that the utilization of the shopping center rate in this particular application is a highly conservative approach because the type of retail that's most likely to find its way here would be more complementary to the scale of the project and not a large scaled shopping center. Using their approach, the anticipate net new traffic to the site to be about 167 new trips during the weekday morning peak hour period during the evening peak hour about 82 new vehicle trips and then on a Saturday mid-day peak period, about 53 new vehicle trips.

Mr. Hart explained that in its current condition, there eight curb cuts, two of which are roadways and six are driveways along Washington Street. With the redevelopment in place, those eight curb cuts would be consolidated down to 2. All of the access to the developed part of the site



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## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

would be from Kempton along the east, Dunston along the west. There are 291 parking spaces, six of the spots on Kempton Place and the remainder in the garages.

Mr. Hart explained that they are proposing some time optimization for three traffic signals. The first is at Watertown Street at Edinboro Street on the northeast of the site, the second is it Washington and Elm Street to the west, and then the third is at Washington and Prospect Street. They are also proposing to reconstruct the sidewalk along the site frontage along Washington Street and that reconstruction project would bring it up to ADA compliance in that area. They also want to implement a Traffic Demand Management Program. Mr. Hart noted that there would be a coordinator on site that is responsible for implementation of the project and encouraging use. There are two bus stops to the East along with a 10 to 12-minute walk from the commuter rail. There will be bicycle storage along with a fix-it station on site and electric car charging stations. There's also a carpool ride share program with guaranteed ride home. Mr. Hart explained that they want to try to incentivize people to use the MBTA services available.

Attorney Steven Buchbinder explained that the Planning Department correctly noted a discrepancy in the number of units. He explained that when they applied to mass housing and received approval for 243 units as the project evolved. They adjusted the bedroom mix and we also increased the number of units from 243 to 244 and those changes were submitted to Mass Housing.

*Attorney Buchbinder stated the Applicants were ready and willing to cooperate with the Planning Department with regard to peer reviews. The Board took a vote to determine whether it was necessary to hire outside consultants for peer reviews and the vote carried 5-0.*

Chairman Brooke Lipsitt explained that the Zoning Board of Appeals will be scheduling a public site visit to this site.





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City Hall

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Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

### Public Comment

- Doris Ann Sweet, 281 Lexington Street
- Nancy Zollers, 154 Oliver Road
- Paula Rohrlick, 73 Davis Avenue
- Betsy Harper, 19 Fairmont Avenue
- Randall Block, 45 Lafayette Road
- Tom Gagen, 32 Fern Street
- Arthur Jackson, 19 Shaw Street
- PT Vineburgh, 271 Chestnut Street
- Ruby Lee, 904 Watertown Street
- Sherry Golden, 472 Waltham Street
- Steffanie Brady, 52 Warwick Road
- Tarik Lucas, 36 Central Avenue
- Karen Crystal, 81 Adena Road
- Ned Notis-McConity, 122 Temple Street
- Richard Heald, 45 Eliot Avenue
- Rick Branell, 68 Adella Avenue
- Josephine McNeil, 53B Taft Avenue
- Allison Kelly, 11 Raymond Place

*No further public comment was made*

Brooke Lipsitt asked for clarification on Cheesecake Brook. Chairman Lipsitt also noted that she would like to see a greater level of affordability by making some units at 50% and 65%.





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Board member Barbara Huggins Carboni asked that the board get correspondence from both the Conservation Commission and Engineering provide comments to the board.

Board member Michael Rossi explained that he was hoping the applicant could address the size of the project and whether the proposed retail uses could have alternative uses.

Board member William McLaughlin noted that he had some design concerns and expressed that he believes the site, as proposed, is under parked. He also noted that there is an existing complication of the site control.

Brooke Lipsitt asked council to look into the issue of site control. She noted that the peer review of the parking and traffic plan is critical.

Board member Timothy Durken expressed that the site is under parked and is concerned with traffic on side streets, along with the height and density of the buildings.

Board member Michael Quinn expressed that he has concerns regarding the massing of the buildings, the lack of parking and traffic. He also noted that he would like to know whether a 21E (Environmental Site Assessment) has been conducted on the various sites.

This meeting will be continued until the March 17, 2020

**Meeting Adjourned:** 9:07 p.m.

**ZBA DECISIONS can be found at:**

**[http://www.newtonma.gov/gov/inspsvcs/appeals/2020\\_hearings.asp](http://www.newtonma.gov/gov/inspsvcs/appeals/2020_hearings.asp)**



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**ZONING BOARD OF APPEALS**  
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## **MEETING MINUTES**

**Wednesday, January 22, 2020**

**6:30 p.m.**

**Council Chambers**

**City Hall – 1000 Commonwealth Avenue, Newton**

**Board Members Present:** Brooke Lipsitt (Chair), Barbara Huggins Carboni, William McLaughlin, Michael Rossi, Michael Quinn, Treff LaFleche and Timothy Durken (Alternate)

**Staff Present:** Jennifer Caira, Deputy Director of Planning and Development; Michael Gleba, Senior Planner; Jonah Temple, Assistant City Solicitor; Jaclyn Zawada, Assistant City Solicitor, Barney Heath, Director of Planning and Development

**A public meeting of the Newton Zoning Board of Appeals will be held on Wednesday, January 22, 2020 at 6:30 p.m. in the City Council Chambers, Room 207, Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts on the following:**

1. Elections; any necessary briefing from the Law Department about items in litigation; any changes to the Rules and Procedures of the Zoning Board of Appeals.

### **Deliberation:**

*Motion made by Michael Rossi moved to nominate Brooke Lipsitt as the Chair of the Zoning Board of Appeals. This motion was duly seconded by Michael Quinn. This motion carries 7-0.*

*Motion made by Michael Rossi moved to nominate William McLaughlin as the Vice-Chair of the Zoning Board of Appeals. This motion was duly seconded by Michael Quinn. This motion carries 7-0*



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*Motion made by Michael Rossi moved to nominate Adrianna Henriquez as the Clerk of the Zoning Board of Appeals. This motion was duly seconded by Michael Quinn. This motion carries 7-0.*

Assistant City Solicitor Jonah Temple gave an overview of one matter in litigation regarding properties located on Dudley Road, Newton, Massachusetts. Mr. Temple explained that a preliminary injunction was sought and obtained that prohibits the property owners from renting out their properties for the duration of the lawsuit. The new ordinance on short term rentals took effect January 2, 2020. The injunction will remain but rather than enforcing it, the City will allow the property owners to register and operate abiding by the new ordinance.

**2. #09-18** 2Life Communities Inc. f/k/a Jewish Community Housing for the Elderly III, Inc., requesting to change the details of the Comprehensive Permit previously granted to the applicant on December 10, 2018, 2018 for a project located at 160 and 160R Stanton Avenue. The applicant proposes to increase the site area from 184,106 square feet to 185,311 square feet, thereby decreasing the Floor Area Ratio from 1.41 to 1.39, and to extend and/or replace an existing 8-foot fence on the site. This item will be heard for the purpose of determining whether the proposed change to the Comprehensive Permit is substantial or insubstantial.

Representing 2 Life Communities Inc. f/k/a Jewish Community Housing for the Elderly III, Inc., Attorney Adam Schecter of Schlesinger and Buchbinder, LLP., with offices located at 1200 Walnut Street, Newton, MA, gave an overview of the request.

*Motion made by William McLaughlin moved to approve the requested change as an insubstantial change. This motion was duly seconded by Michael Quinn. This motion carries 5-0 (Mr. Tim Durken is not voting, as he is sitting as an alternate).*



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3. Review and approval of minutes for November 26, 2019 meetings.

**November 26, 2019:** 4-0-1 (Brooke Lipsitt abstention, as she was not present during the November 26, 2019 meeting).

**ZBA DECISIONS can be found at:**

**[http://www.newtonma.gov/gov/inspsvcs/appeals/2020\\_hearings.asp](http://www.newtonma.gov/gov/inspsvcs/appeals/2020_hearings.asp)**