



Ruthanne Fuller
Mayor

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

ZONING BOARD OF APPEALS

To: Zoning Board of Appeals Members
From: Adrianna Henriquez, Clerk
Date: 4/22/19
Subject: Materials for **May 22, 2019** Public Hearing

Hello,

Please see the following supplemental materials for the upcoming hearing on **May 22, 2019** Public Hearing. The following board members are scheduled to sit: **Brooke Lipsitt (Chair), Stuart Snyder, Barbara Huggins Carboni, Michael Rossi, Michael Quinn and Timothy Durken (Alternate).**

1. Agenda for May 22, 2019
2. Appeal for 35-37 William Street (#03-19) filed on April 3, 2019
3. Supplemental Material for 35-37 William Street (#03-19) filed on April 10, 2019
4. 35-37 William Violation

Thank you,

Adrianna Henriquez

ahenriquez@newtonma.gov | (617) 796 1133



Ruthanne Fuller
Mayor

CITY OF NEWTON, MASSACHUSETTS

City Hall
1000 Commonwealth Avenue, Newton, MA 02459-1449
Telephone: (617) 796-1060 Fax: (617) 796-1086
www.newtonma.gov

ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

AGENDA

(Previously Scheduled For April 24, 2019)

A public hearing of the Newton Zoning Board of Appeals will be held on Wednesday, May 22, 2019 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:

#03-19 Traolach Cahillane, 35-37 William Street, Newton, Massachusetts, pursuant to M.G.L. c. 40A, § 8, and 15, appealing the March 8, 2019 Notice of Violation issued by the Commissioner of Inspectional Services for violation of Sections 5.3 and 8.3 of the Newton Zoning Ordinance governing stormwater management and usable open space and for violation of Section R105 of the State Building Code, 780 CMR 51.00, governing building permits. The Appellant contends that the violation order and decision of the Commissioner of Inspectional Services was improperly issued. The subject property consists of a 3,040 square foot lot and is located in a Multi-Residence 2 District.

Newton Tab

**May 8th & May 15th,
2019**

**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 or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089.

For the Telecommunications Relay Service (TRS), please dial 711.



RECEIVED
City of Newton
Zoning Board of Appeals

APR 03 2019

Board Clerk

CITY OF NEWTON
ZONING BOARD OF APPEALS

CHECKLIST COVER PAGE
FOR ADMINISTRATIVE APPEAL

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

PROPERTY LOCATION: _____ DATE: _____

PETITIONER: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

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)	<u>✓</u>	_____
Application Fee	<u>✓</u>	_____
Decision/Order being appealed	<u>✓</u>	_____
Statement of Reasons	<u>✓</u>	_____
Reference to Zoning Ordinance	<u>✓</u>	_____
Electronic Copy <i>on email</i>	<u>✓</u>	_____

CITY OF NEWTON
ZONING BOARD OF APPEALS

To be completed by Staff: Project No.: Petition No.:
PROPERTY LOCATION: 35-37 William St DATE 4-4-2018
PETITIONER: Troolach Cahillane
ADDRESS: 54 Jefferson St Newton
PHONE: 617 254 5931 EMAIL: Troolachcahillane@hotmail.com
POINT OF CONTACT: Troolach Cahillane

DOCUMENTS

ENCLOSED

(checked by Petitioner)

CONFIRMED

(checked by Clerk)

Application for Administrative
Review Form (25 copies)

✓

Application Fee

✓

Decision/Order being appealed

✓

Statement of Reason:

✓

Reference to Zoning Ordinance

✓

Electronic Copy original

✓

CITY OF NEWTON
ZONING BOARD OF APPEALS

APPLICATION FOR ADMINISTRATIVE APPEAL

IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS FORM

RECEIVED
Newton City Clerk
2019 APR - 3 PM 12:56
David A. Olson, City Clerk
Newton, MA 02459

PETITIONER INFORMATION

NAME: Traolach Cahillane
ADDRESS: 54 Jefferson Street Newton MA. 02459
PHONE: 617 2545931 EMAIL: traolachcahillane@hotmail.com

SUBJECT PROPERTY INFORMATION

LOCATION OF PROPERTY: 35-37 William Street Newton Corner
ZONING DISTRICT: _____ PROPERTY SBL NO.: _____
OWNER OF RECORD: Traolach Cahillane
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?
order and decision of Commissioner of Inspectional services

Date of decision: 3-8-2019

(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:
The rear of house was asphalt and concrete before I installed pavers. I did NOT expand driveway. I only changed the material from Asphalt/concrete to pavers.

The surface is now "more" permeable than before. A drywell was installed
2 downspouts now connect into drywell, before none did.

RECEIVED
Newton City Clerk

2019 APR - 3 PM 12: 56

David A. Olson, Clerk
Newton, MA 02459

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

Photos sent by email to Craig Edsall how space was before I changed the surface

Additional documents to follow

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

7.9.2 open space ^{105.2} Sec 8.3, 7.9.2, Storm Water 5.3,
Anything else can only be resolved after open space issue ^{105.1} ^{105.2}

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

1) Building inspector inspected property 12/16/2018 and "signed off"
2) The only parking that exists here is the parking behind the house. It was always there and I don't know why city is trying to take it away
EVERYTHING HERE WAS NOW CONFORMING ALREADY

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

I want my parking to remain and I will meet whatever requirements necessary regarding stormwater management, permits regarding

PETITIONER CONSENT, CERTIFICATION & SIGNATURE

(Signatures of Petitioner(s) are required)

I (we) consent and certify as follows:

ANYONE EXCEPT ALAN GIFFORD

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 Trosack Cahillane
(Petitioner Signature)

3-28-2017
(Date)

X _____
(Petitioner Signature)

(Date)

RECEIVED
 Newton City Clerk
 2019 APR -3 PM 12:56
 David J. Olson, City
 Newton, MA 02459

If Applicable:

Name of Attorney/Agent for Applicant: Cindy Quinn

Address of Attorney/Agent: Dalton + Fingold 34 Essex St Andover MA 01810

Phone Number of Attorney/Agent: 978 269 6410

Email Address of Attorney/Agent: Cquinn@dfllp.com

 **SCANNED**

**35-37 William street
Newton**

RECEIVED
City of Newton
Zoning Board of Appeals

APR 10 2019

 **FILE COPY**

Board Clerk

NEW ENGLAND LAND SURVEY
Professional Land Surveyors

710 MAIN STREET
N.Oxford, MA 01537
PHONE: (508) 987-0025
FAX: (508) 234-7723

REGISTRY SOUTHERN MIDDLESEX

MORTGAGE INSPECTION PLAN

NAME _____
LOCATION 35-37 WILLIAM STREET
NEWTON/WATERTOWN, MA
SCALE 1"=30' DATE 2/8/2018

18MIP0625

BASED UPON DOCUMENTATION PROVIDED, REQUIRED MEASUREMENTS WERE MADE OF THE FRONTAGE AND BUILDING(S) SHOWN ON THIS MORTGAGE INSPECTION PLAN. IN OUR JUDGEMENT ALL VISIBLE EASEMENTS ARE SHOWN AND THERE ARE NO VIOLATIONS OF ZONING REQUIREMENTS REGARDING DWELLING STRUCTURES TO PROPERTY LINE OFFSETS (UNLESS OTHERWISE NOTED IN DRAWING BELOW). NOTE: NOT DEFINED ARE ABOVE GROUND POOLS, DRIVEWAYS, OR SHEDS WITH NO FOUNDATIONS, ETC. THIS IS A MORTGAGE INSPECTION PLAN; NOT AN INSTRUMENT SURVEY. DO NOT USE TO ERECT FENCES, OTHER BOUNDARY STRUCTURES, OR TO PLANT SHRUBS. LOCATION OF THE STRUCTURE(S) SHOWN HEREON IS EITHER IN COMPLIANCE WITH LOCAL ZONING FOR PROPERTY LINE OFFSET REQUIREMENTS, OR IS EXEMPT FROM VIOLATION ENFORCEMENT ACTION UNDER MASS. G.L. TITLE VII, CHAP. 40A, SEC. 7, UNLESS OTHERWISE NOTED. THIS CERTIFICATION IS NON-TRANSFERABLE. THE ABOVE CERTIFICATIONS ARE MADE WITH THE PROVISION THAT THE INFORMATION PROVIDED IS ACCURATE AND THAT THE MEASUREMENTS USED ARE ACCURATELY LOCATED IN RELATION TO THE PROPERTY LINES.



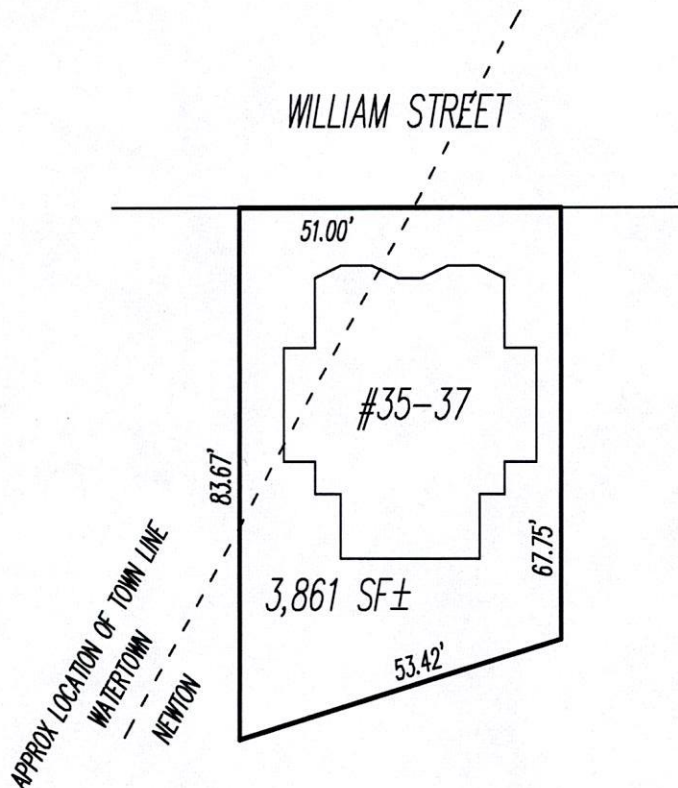
DEED REFERENCE: 6311/544

PLAN REFERENCE: N/A

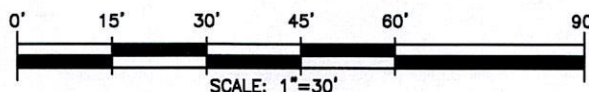
WE CERTIFY THAT THE BUILDING(S) ARE NOT WITHIN THE SPECIAL FLOOD HAZARD AREA. SEE FIRM:

25017C0556E DTD: 06/04/2010

FLOOD HAZARD ZONE HAS BEEN DETERMINED BY SCALE AND IS NOT NECESSARILY ACCURATE. UNTIL DEFINITIVE PLANS ARE ISSUED BY HUD AND/OR A VERTICAL CONTROL SURVEY IS PERFORMED, PRECISE ELEVATIONS CANNOT BE DETERMINED.



REQUESTED BY: DALTON & FINEGOLD
DRAWN BY: MEG
CHECKED BY: GES
FILE: 18MIP0625



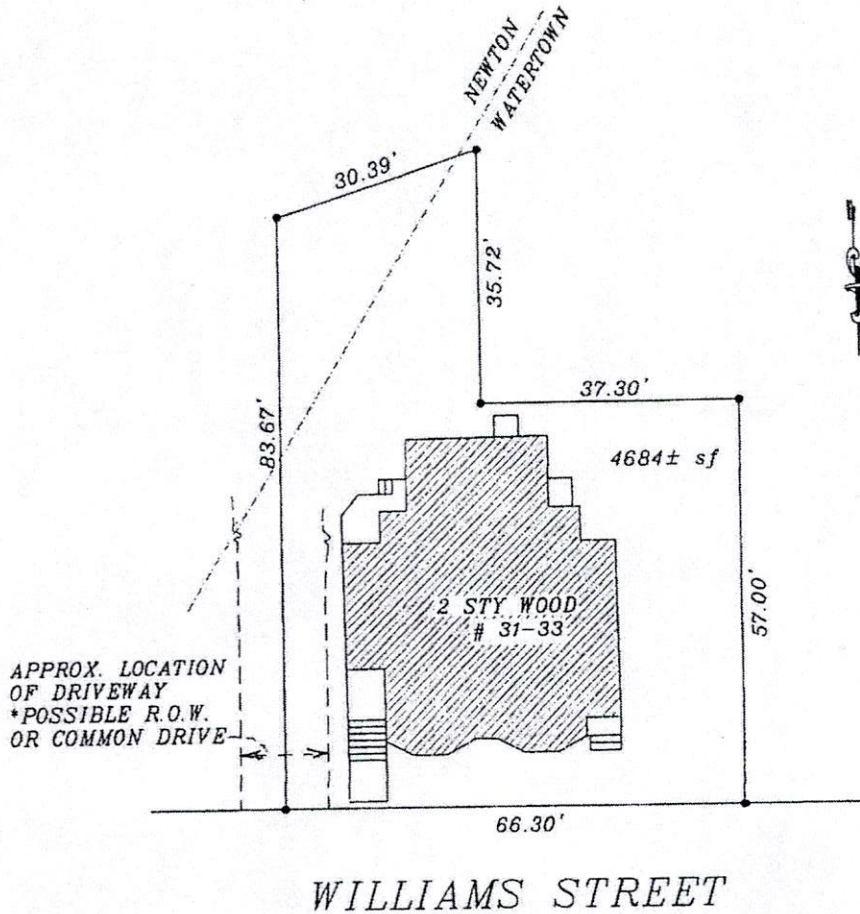
MORTGAGE INSPECTION PLAN

NORTHERN ASSOCIATES, INC.

68 PARK ST, 2ND FLOOR ANDOVER, MA 01810 TEL:(978) 837-3335 FAX:(978) 837-3336

MORTGAGOR: STEVEN WALLER
 LOCATION: 31-33 WILLIAMS ST
 CITY, STATE: WATERTOWN, MA
 DATE: 11/08/13

DEED REF: 45840/393
 PLAN REF: ASSESSORS
 SCALE: 1"=20'
 JOB #: 213/03673



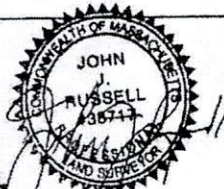
CERTIFIED TO: WATERTOWN SAVINGS BANK

Flood hazard zone has been determined by scale and is not necessarily accurate. Until definitive plans are issued by HUD and/or a vertical control survey is performed, precise elevations cannot be determined.

LOT CONFIGURATION IS BASED ON ASSESSOR'S INFORMATION AND MAY NOT BE EXACT

INSTRUMENT SURVEY RECOMMENDED

NOTE: This mortgage inspection was prepared specifically for mortgage purpose only and is not to be relied upon as a land or property line survey, used for recording, preparing deed descriptions, or construction. No corners were set. Building location and offsets are approximately located on ground and are shown specifically for zoning determination only and are not to be used to establish property lines. The matters shown hereon are based on client-furnished information and may be subject to further out-sales, takings, easements and rights of way, and other matters of record and prescriptive or other rights. Northern Associates, Inc. assumes no responsibility herein to land owner or occupant, accepts no responsibility for damages resulting from said reliance by anyone other than the said mortgagee and its assigns in connection with its proposed mortgage financing to said mortgagee.



This mortgage inspection was prepared in accordance with the Technical Standards for Mortgage Loan Inspections as adopted by the Massachusetts Board of Registration of Professional Engineers and Land Surveyors 250 CMR 605. I further state that in my professional opinion that the structures shown conform with the local zoning horizontal dimensional setback requirements at the time of construction or are exempt under provisions of M.G.L. CH. 40-A Sec. 7.

- 1. Property/House is not in Flood Hazard.
- 2. Property/House is in a Flood Hazard Area.
- 3. Information is insufficient to determine Flood Hazard.

Flood Hazard determined from latest Federal Flood Insurance Rate Map Panel 25017C 0556E
 Date 6/04/10 Zone X-UNSHADED

From: Traolach Cahillane traolachcahillane@hotmail.com
Subject: Fw: 35-37 William
Date: Apr 8, 2019 at 2:11:56 AM
To: Bernhard Neuhauser bneuhauser20@gmail.com

16 copies of this email

From: Traolach Cahillane <traolachcahillane@gmail.com>
Sent: 05 April 2019 19:26:18
To: Traolach Cahillane
Subject: 35-37 William

----- Forwarded message -----

From: **Jlm Marcolina** <jlmarcolina@jlmlandscapedesign.com>
Date: Tuesday, February 12, 2019
Subject: williams 7
To: Traolach Cahillane <traolachcahillane@gmail.com>

that whole area was asphalt

its just weeds and dirty piled up on top of the asphalt that grew over time
because it was neglected so long



From: Traolach Cahillane traolachcahillane@hotmail.com
Subject: Fw: Rear of 35-37 William
Date: Apr 8, 2019 at 2:15:39 AM
To: Bernhard Neuhauser bneuhauser20@gmail.com

16 copies of this email also

From: Traolach Cahillane <traolachcahillane@gmail.com>
Sent: 08 April 2019 06:14:01
To: Traolach Cahillane
Subject: Fwd: Rear of 35-37 William

----- Forwarded message -----

From: **steve waller** <steve.karen.waller@gmail.com>
Date: Tuesday, February 19, 2019
Subject: Rear of 35-37 William
To: Traolach Cahillane <traolachcahillane@gmail.com>

Tray

Sorry for the delay, but my wife had heart surgery and I have been preoccupied. I believe jimmy sent you pictures . Those are as good as my recollections. It was never used by the older gentlemen that lived there so it became overgrown and deteriorated through disuse.

Hope this helps. Steve.

On Mon, Feb 11, 2019, 3:36 PM Traolach Cahillane
<traolachcahillane@gmail.com> wrote:

Steve,

The violation (inadvertantly) triggered from Jimmy scraping the driveway back on Jan 4/5 when inspector stopped by will cause a problem with my parking at rear of my property

They seem to think that there may have been some green space there prior which I don't believe was the case, just a couple of dead trees and overgrowth coming in from house @ rear

In preparing to appeal, is it possible to get a notarised letter stating that having plowed the houses for many years and to the best of your knowledge it was always a combination of asphalt/concrete back there which deteriorated over the years when you plowed it?

Also, that entire left walkway was concrete/asphalt.

I understand totally if you are not comfortable stating this and would not affect our situation as neighbors in any way

Thank you,
Tray



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

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: ITY
(617) 796-1089

NOTICE OF VIOLATION

Craig Edsall – Zoning Enforcement Agent (617) 796-1063

cedsall@newtonma.gov

March 8, 2019

Traolach Cahillane
40 Presentation Rd.
Brighton, MA 02135

RE: 35-37 William St., Newton, MA

Dear Property Owner:

An inspection was conducted at your property, known as 35-37 William St., Newton, MA on Tuesday, February 12, 2019. As a result of the inspection, along with a review of the property file, the following violations were observed:

Violations at 35-37 William St. (Including but not limited to)

- Construction of a driveway without a building permit
- Open Space. usable
- Stormwater Management

The City of Newton Revised 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.

Chapter 30 City Ordinances

Sec. 5.3. Stormwater Management

- A. Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties, and shall be substantially landscaped.

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

Page 2 of 3
2019 APR -3 PM 12:41
RECEIVED
CITY CLERK
CRAIG A. EDSELL, CITY
ENFORCEMENT AGENT
NEWTON, MA 02459

B. Projects increasing impervious surface area by more than the lesser of a) 4 percent of lot size or b) 400 square feet, or that involve altering the landscape in such a way that may result in alteration of the runoff of surface water to abutting properties or erosion of soil, shall be reviewed by the Commissioner of Inspectional Services and the City Engineer to ensure compliance with this Sec. 5.3. The Commissioner of Inspectional Services and the City Engineer may reject a project if they believe it will cause runoff of surface water to abutting properties or the erosion of soil.

Sec. 8.3. Defined Terms

Open Space, usable: All the lot area not covered by buildings and/or structures, roadways, drives, surface parking area or paved surfaces other than walks. The area devoted to lawns, landscaping, exterior tennis courts, patios, in-ground swimming pools and nonstructural recreational amenities shall be included as usable open space. The area covered by roof overhangs of up to 2 feet shall be included in the calculation of open space.

7.9.2. Penalties

1. Whoever violates any of the provisions of this Chapter shall be punished by a fine of not more than \$300 for each day during which the violation continues. Upon any well-founded information in writing from any citizen that this Chapter is being violated, or upon his own initiative, the Commissioner of Inspectional Services shall take immediate steps to enforce this Chapter by causing complaint to be made before the district court or by applying for an injunction in the superior court.

Remedy: Remove asphalt driveway expansion and restore to original specifications.

Right of Appeal: Decisions of the Commissioner of Inspectional Services may be appealed to the Zoning Board of Appeals within 30 days of such decision.

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

780 CMR State Building Code Sec. R105 Permits

R105.1 Required.

It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a building or structure; or to change the use or occupancy of a building or structure; or to install or alter any equipment for which provision is made or the installation of which is regulated by this code without first filing a written application with the building official and obtaining the required permit.

R105.2 Work Exempt from Permit

Except for permit which may require a permit pursuant to other laws, and the specialized codes of M.G.L. c. 143, § 96, a building permit is not required for the following activities:

- 4. Driveways

2019 APR 11 10:51 AM RECEIVED

Commissioner's Bulletin #12-01 Clarification of Driveways

Permits are required for the paving, repaving, change to or expansion of any driveway. We are authorized to require permits for these types of improvements per the State Building Code 780CMR Sec. 105.2.

Sec. 105.2 Exemptions:

Exemption from permit requirements of this code shall not be deemed to grant authorization for any work done in a manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction (e.g., zoning, conservation, historic, etc.).

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.

Remedy: Remove installed driveway expansions and restore landscape to its original condition. Obtain stamped survey from licensed surveyor to calculate open space compliance. Have any new proposed driveway surface reviewed and stamped by the City of Newton Engineering Department to comply with drainage requirements. Obtain building permit from the Inspectional Services Department for any new driveway installation or expansions.

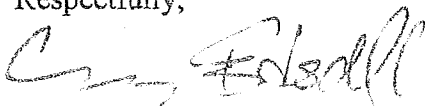
Right of Appeal: Massachusetts General Law Chapter 143 Section 100 (a). Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code 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.

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.

Right of Appeal: Decisions of the Commissioner of Inspectional Services may be appealed to the Zoning Board of Appeals within 30 days of such decision.

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

Respectfully,



Craig Edsall
Zoning Enforcement Agent


John Lojek
Commissioner