



#13-20

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

[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 7, 2020  
Land Use Action Date: March 24, 2020  
City Council Action Date: April 6, 2020  
90-Day Expiration Date: April 6, 2020

DATE: January 3, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Katie Whewell, Planning Associate

SUBJECT: **Petition #13-20**, SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking facility waivers including; to allow parking in the front setback, to waive interior landscape requirements, to waive lighting requirements and to waive bicycle parking requirements in order to expand an existing parking area at 55-67 Border Street, Ward 3, West Newton, on land known as Section 33 Block 13 Lot 17, containing approximately 38,036 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec. 7.3.3, 7.4, 5.1.8.A.1, 5.1.13, 5.1.9.B, 5.1.10, 5.1.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**55-67 Border Street**

## **EXECUTIVE SUMMARY**

The subject property at 55-67 Border Street consists of a 38,036 square foot lot improved with a one-story machine repair and assembly building constructed in 1961 as well as a surface parking area consisting of 29 parking stalls. The property is located in the Manufacturing (MAN) zone in West Newton. The petitioner is seeking to pave an existing gravel area and requires relief from sections of the Newton Zoning Ordinance pertaining to parking, lighting, and landscaping. The petitioner is seeking waivers for the following requirements: to allow parking in the front setback, waive interior landscaping requirements, to waive the lighting requirements and to waive bicycle parking requirements.

The Planning Department is unconcerned with the petitioner's request for relief from the parking, lighting, and landscaping requirements, however the petitioner should find space for bicycle parking on site. The site is located in a manufacturing zone and abuts residential zones and uses, making the lighting waiver appropriate for the location, and the landscaping on site will be increasing. The proposed changes largely reflect what is existing and will consist of paving and striping an existing parking area, which will aid parking and circulation.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION:**

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed site changes and parking and landscape waivers (§7.3.3.1).
- The proposed site changes and parking and landscape waivers will not adversely affect the neighborhood (§7.3.3.2).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).
- Literal compliance is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

#### **A. Neighborhood and Zoning**

The site is located on the corner of Harvey Place and Border Street in the Manufacturing (MAN) Zone in West Newton. Border Street is largely in the Manufacturing Zone in addition to a Public Use zone that screens Border Street from

Washington Street. There is also a Multi Residence 1 zone to the north with single and multi-family residential uses. Border Street has a mix of uses including residential, commercial, and the site as an industrial use (**Attachments A and B**).

B. Site

The site consists of a 38,036 square corner foot lot improved with a one-story, machine repair shop and assembly building constructed in 1961. There is a paved parking area with 29 stalls and unlined gravel parking area. The site is relatively flat and is largely impervious surfaces. The site currently has chain link fencing around the perimeter and is only accessible from Border Street.

The existing parking facility is nonconforming, however is unaffected by the proposed changes as they pertain to the adjacent gravel parking area.

III. PROJECT DESCRIPTION AND ANALYSIS

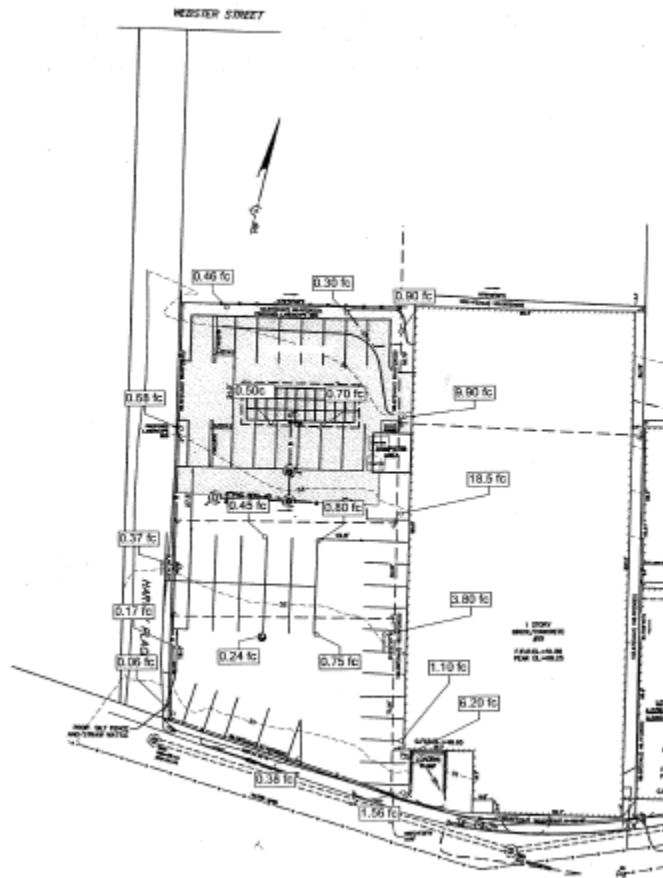
A. Land Use

The land use of the site is currently industrial, with a machine repair shop.

B. Site Design

The petitioner is proposing to expand the existing parking facility by paving and striping an existing gravel area. The proposed changes to the site require special permit relief for parking in the front setback on Harvey Street, waiver of interior landscaping requirements, waiver of lighting requirements, and a waiver of the bicycle requirements.

The site has frontage on both Harvey Place and Border Street, and the proposed paving and striping places stalls in the front setback on Harvey Street.



**Proposed Site Plan**

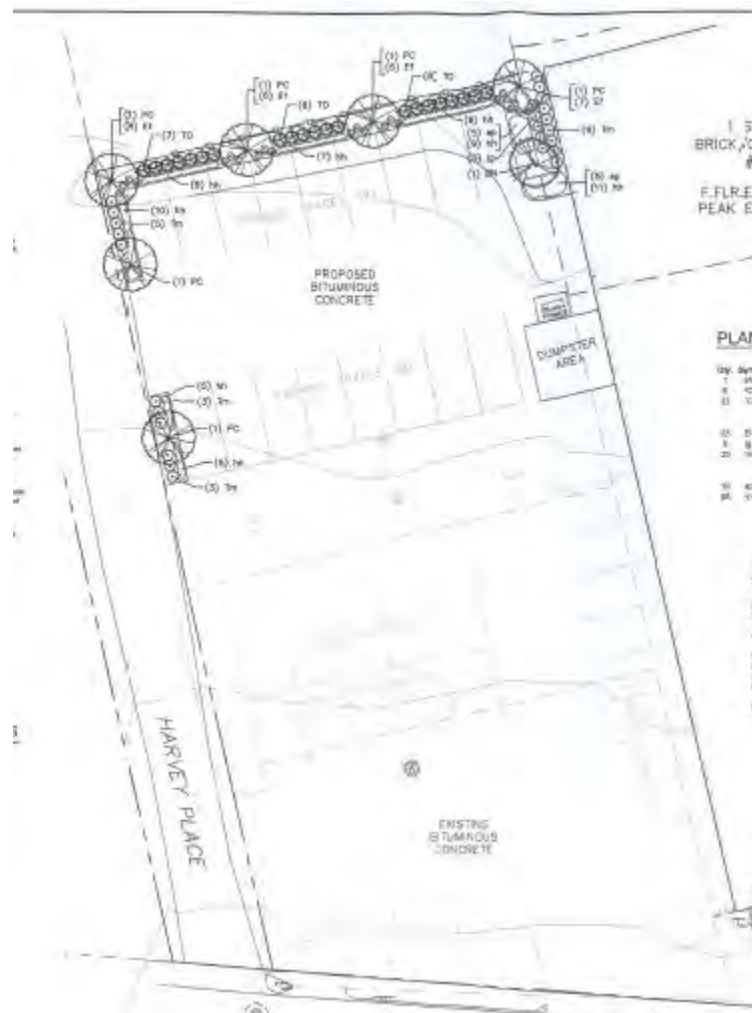
The proposed site changes add 6,473 square feet of impervious area.

C. Parking, Landscaping, and Lighting

The site currently has 29 surface parking stalls. The petitioner is proposing to pave an existing gravel parking area which will result in 17 additional spaces on site. The proposed changes to the surface parking facility require relief for parking in the front setback on Harvey Place, waiver from interior landscaping requirements, waiver from the lighting requirements, and waiver from the bicycle parking requirements.

Parking facilities with 20 stalls or more require interior landscaping of an area equivalent to 5% of the total parking facility with a minimum of 25 feet of landscaping. No interior landscaping is proposed, and the proposed changes reflect largely what is already existing on site. The petitioner is proposing perimeter landscaping to the site where there is none and where the site abuts residential uses on Webster Street.

*Proposed Landscape Plan*



The petitioner is also seeking relief from the minimum lighting requirements of the Newton Zoning Ordinance. The Ordinance states that parking facilities used at night must have security lighting with a minimum of one-foot candle. The petitioner is seeking a waiver. The Planning Department is unconcerned with the waiver from

the minimum lighting requirement as it is widely accepted that one-foot candle is unnecessarily high in intensity. The property also abuts several residential uses, therefore the lighting waiver is appropriate for this location.

Parking facilities with more than 20 stalls are required to provide one bicycle parking stall per ten stalls. The petitioner seeks a waiver of the three bicycle parking stalls. The Planning Department recommends the petitioner explore space onsite to provide bicycle parking.

The Planning Department is unconcerned with the remaining requested relief due to the site's location in a Manufacturing district, and that the proposed changes are largely mirroring what is existing and are only looking to pave and stripe the existing gravel parking area.

#### IV. TECHNICAL REVIEW

##### A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**Attachment C**) provides an analysis of the proposal regarding zoning. Based on the Memorandum, the petitioner is seeking the following relief:

- §5.1.8.A.1, §5.1.13, and §7.3.3 of Section 30, to allow parking in the front setback
- §5.1.9.B and §7.3.3 of Section 30, to waive interior screening requirements
- §5.1.9.A and §7.3.3 of Section 30, to waive the lighting requirements
- §5.1.11 and §7.3.3 of Section 30, to waive bicycle parking requirements

##### B. Engineering Review

The plans have been submitted to the Engineering Department and will require review from Engineering prior to final approval.

#### V. PETITIONER'S RESPONSIBILITIES

The petition is complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum, dated December 5, 2019  
**Attachment D:** DRAFT Council Order




# ATTACHMENT A

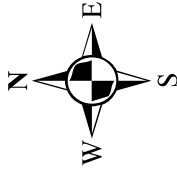
## Zoning

### 55-67 Border Street

City of Newton,  
Massachusetts

#### Zoning

-  Multi-Residence 1
-  Manufacturing
-  Public Use

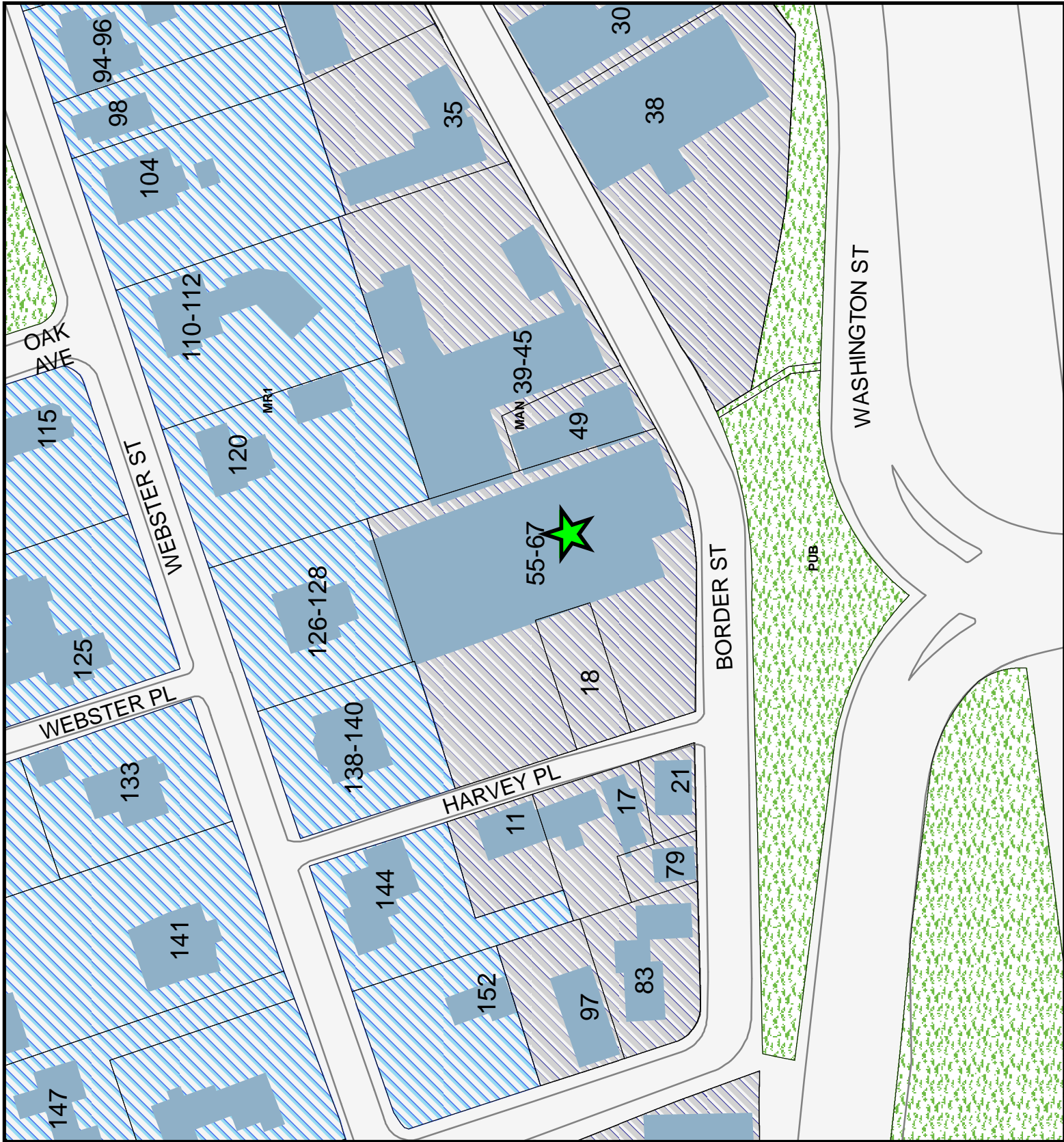


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: December 27, 2019





# ATTACHMENT B

## Land Use

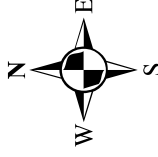
### 55-67 Border Street

City of Newton,  
Massachusetts

#### Land Use

#### Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Open Space

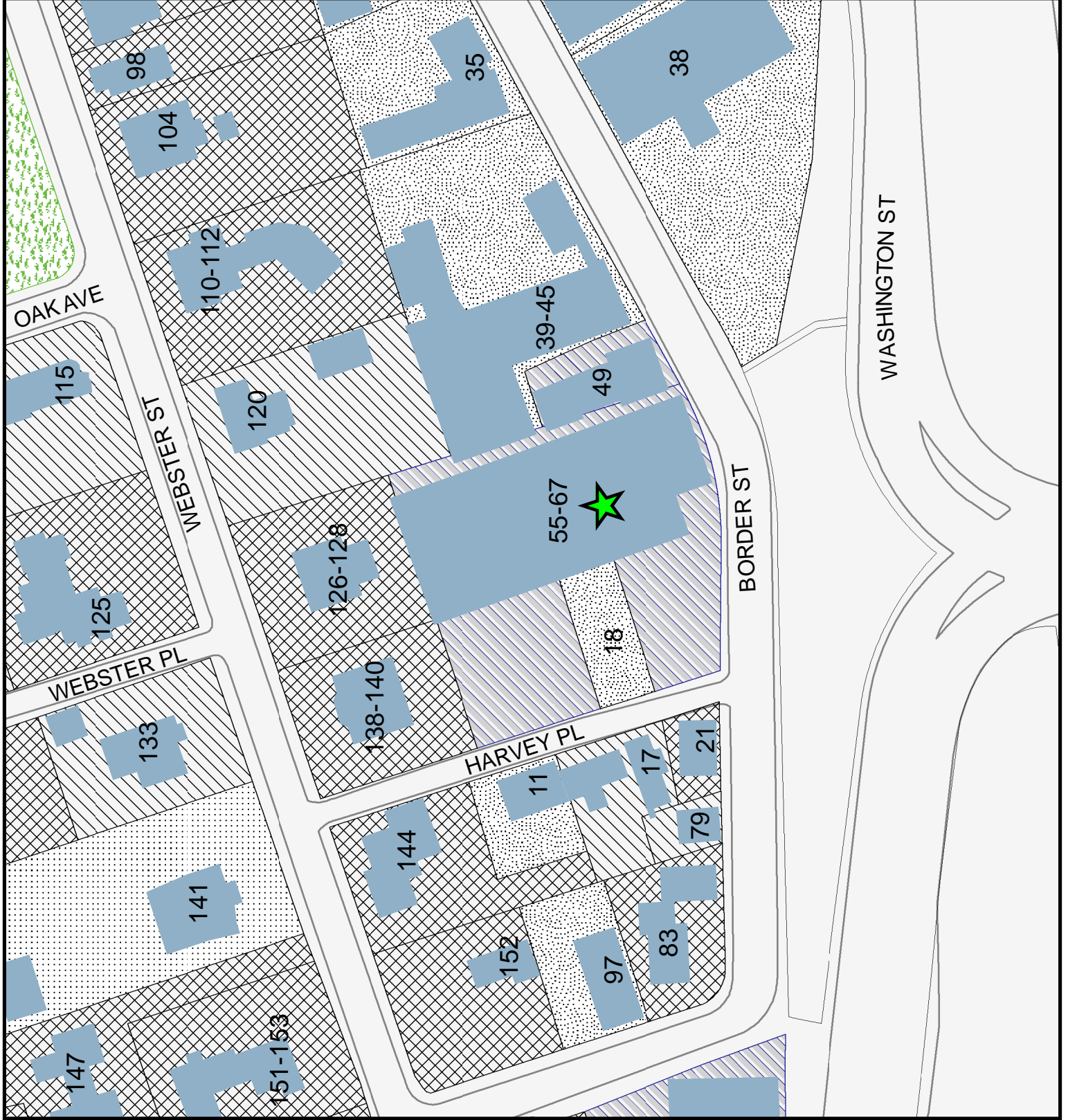


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: December 27, 2019



# Attachment C



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: December 5, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: 55 Border Street LLC, applicant  
G. Michael Peirce, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request for waivers from parking design criteria

Petitioner: 55 Border Street LLC	
Site: 55-67 Border Street	SBL: 33013 0017
Zoning: MAN	Lot Area: 38,036 square feet
Current use: machine repair shop with 29 parking stalls	Proposed use: machine repair shop with 46 parking stalls

### BACKGROUND:

The property at 55-67 Border Street consists of a 38,036 square foot lot improved with a one-story machine repair and assembly building constructed in 1961 with a paved parking area accommodating 29 stalls and an unlined gravel parking area. The petitioners seek to expand the parking by paving and striping the existing gravel area.

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

- Zoning Review Application, prepared by G. Michael Peirce, attorney, dated 7/24/2019
- Zoning Plan, signed and stamped by Joseph R. Porter, dated 7/17/2019

**ADMINISTRATIVE DETERMINATIONS:**

1. The existing parking facility is nonconforming with regard to several dimensional and design regulations. The existing paved facility will not be modified and this memo addresses changes to the gravel parking area at the rear of the property.
2. Section 5.1.8.A.1 states that no parking shall be located within any required setback distance from a street or side lot lines. Per section 4.3.3, the required front setback in the Manufacturing district is the greater of half the building height or 15 feet when abutting a residential district. The one-story building requires a 15-foot front setback as it abuts an Multi Residence 1 district to the north. The petitioner proposes to construct parking stalls within five feet of Harvey Place, thus located within the front setback, requiring a special permit per sections 5.1.8.A.1 and 5.1.13.
3. Parking facilities must provide handicapped parking stalls per 521 CMR 23 and section 5.1.8.B.3 of the Newton Zoning Ordinance. The requirement for a parking facility containing 46 parking stalls is that three stalls be identified as handicapped accessible. Nonconforming protections do not apply to the number of handicapped parking stalls.
4. Outdoor parking facilities with more than twenty stalls are required to provide interior landscaping per section 5.1.9.B. An area equivalent to at least five percent of the total parking facility must be landscaped with a minimum 25 square feet and with no dimension less than five feet. Further, there must be at least one tree per each ten parking stalls. No interior landscaping is proposed. The petitioner requires the interior landscaping requirements to be waived per sections 5.1.9.B and 5.1.13.
5. Section 5.1.10.A requires that parking facilities which are used at night have security lighting with a minimum intensity of one foot candle on the entire surface of the parking facility. The petitioner seeks a waiver from the requirements of section 5.1.10.A.
6. Section 5.1.11 requires that parking facilities with more than 20 stalls provide one bicycle parking stall per ten vehicle stalls. The petitioner seeks a waiver of the three bicycle stalls required per section 5.1.11.
7. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§5.1.8.A.1 §5.1.13	To allow parking in the front setback	S.P. per §7.3.3
§5.1.9.B §5.1.13	To waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive the lighting requirements	S.P. per §7.3.3
§5.1.11 §5.1.13	To waive bicycle parking requirements	S.P. per §7.3.3

# Attachment D

55-67 Border Street  
#13-20

## CITY OF NEWTON

### IN CITY COUNCIL

#### ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow parking facility waivers including: parking in the front setback, waiver of lighting requirements, waiver of interior screening requirements, and to waive bicycle parking requirements as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed site changes and parking and landscape waivers due to its location in the Manufacturing Zone (§7.3.3.1).
2. The proposed site changes and parking and landscape waivers will not adversely affect the neighborhood as the proposed changes largely reflect the existing layout of the site and the petitioner is proposing landscaping where there currently is none (§7.3.3.2).
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3).
4. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).
5. Literal compliance is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

PETITION NUMBER: #13-20

PETITIONER: 55 Border Street LLC

LOCATION: 55-67 Border Street , on land known as Section 33 Block 13  
Lots 17 and 20, containing approximately 38,036 square feet  
of land

OWNER: 55 Border Street LLC

ADDRESS OF OWNER: 45 Border Street  
Newton, MA 02465

TO BE USED FOR: Redesign existing nonconforming parking facility and various design waivers

CONSTRUCTION: Site Work Only

EXPLANATORY NOTE: §5.1.8.A.1, §5.1.13 to allow parking in the front setback, §5.1.9.B to waive interior screening requirements, §5.1.9.A to waive the lighting requirements, §5.1.11 to waive bicycle parking requirements

ZONING: Manufacturing

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with:
  - a. Site Plan prepared by VTP Associates, signed and stamped by Joseph Porter, Professional Land Surveyor, dated June 13, 2019
  - b. Zoning Plan prepared by VTP Associates, signed and stamped by Joseph Porter, Professional Land Surveyor, dated July 17, 2019
  - c. Planting Plan, prepared by Leone Company, signed and stamped Randall Clemence, dated November 17, 2019
  - d. Civil Details C-3.1, signed and stamped by Stephen Garmin, Registered Professional Engineer, dated March 11, 2019
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - e. Provided a Final Landscape Plan for review and approval by the Director of Planning and Development.

- f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
    - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
3. No Occupancy Permit/Final Inspection 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 or engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - 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.
  - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
4. Notwithstanding the provisions of Condition #3 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided 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.
5. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.