



City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 14, 2020
Land Use Action Date: June 29, 2020
City Council Action Date: July 6, 2020
90-Day Expiration Date: July 13, 2020

DATE: April 10, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #145-20** for SPECIAL PERMIT/SITE PLAN APPROVAL to convert space on the third floor of the existing two-family structure to allow an interior accessory apartment exceeding 1,000 sq. ft. at **169 Hunnewell Avenue**, Ward 1, Newton, on land known as Section 71 Block 32 Lot 01, containing approximately 9,568 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.D.2 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



169 Hunnewell Avenue

EXECUTIVE SUMMARY

The property at 169 Hunnewell Avenue consists of a 16,700 square foot lot located in a Multi Residence 1 (MR1) district improved with a 4,600 square foot two-family dwelling constructed circa 1890. Originally constructed as a single-family home, the dwelling was converted to a two-family dwelling in 1942. A third unit located in the attic and was removed by an enforcement action in 1972.

The petitioner proposes to convert existing finished attic-level space into a 1,092 square foot internal accessory apartment. Per section 6.7.1.D.2 of the Newton Zoning Ordinance, an internal accessory apartment may be, by-right, between 250 and 1,000 square feet, or 33 percent of the total habitable space, whichever is less. The City Council may grant a special permit for a larger accessory apartment up to 1,200 square feet or 40 percent of the total habitable space, whichever is less. As 40 percent of the structure's total habitable space is 1,840, the maximum allowed is 1,200 square feet, and, therefore, the proposed 1,092 square foot internal accessory apartment requires a special permit.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

1. The specific site is an appropriate location for a internal accessory apartment (§7.3.3.C.1)
2. The proposed 1,092 square foot internal accessory apartment will adversely affect the neighborhood (§7.3.3.C.2)
3. The 1,092 square foot internal accessory apartment as proposed will be a nuisance or create a serious hazard to vehicles or pedestrian (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The neighborhood is a mix of Single Residence 3 (SR3), Multi Residence 1 (MR1), Multi Residence 2 (MR2) and Public Use (PUB) parcels. It is occupied by a mix of single- and two- family dwellings, but with exceptions such as an 18-unit apartment house just to the southwest, a four-unit dwelling to the south across Hunnewell Avenue to the south, as well as the Massachusetts Turnpike and associated Public Use-zoned parcels to the north (**Attachments A & B**).

B. Site

The property consists of a 16,700 square foot lot improved with a two-family dwelling. The property is generally level, with a slight downward slope toward the rear

right of the lot. The lot is accessed by a driveway along the left side of the property served by curb cut off Hunnewell Avenue; there is also a driveway/parking area in the right side of the property served by a second curb cut. The property features several mature trees as well as lawn area and various shrubs.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will contain a two-family dwelling with, if the present petition is granted, an accessory apartment.

B. Building and Site Design

The Petitioner proposes to convert existing space within the attic level to be used as a 1,092 square foot accessory apartment. No additions to the existing structure are contemplated by this petition.

The Planning Department notes that the materials submitted included a site plan that shows a "Proposed Deck" on the right (north) side of the parcel. The petitioner has indicated that approval for said deck is not being sought with the present petition which is only for the proposed accessory apartment, the Planning Department notes that any relief granted pursuant to this petition would not include any relief that might be needed for such a deck and that any order should not reference any site plan showing such a deck.

As the proposed modifications to the structure are internal to it, the property's dimensional characteristics, e.g., floor area ratio (FAR), height, setbacks, lot coverage, open space, would remain unchanged.

C. Parking and Circulation

The proposed internal accessory apartment would not increase the parking required for the site.

The Planning Department notes that the submitted site plan depicts "reciprocal driveway easements" with the property that abuts to the left (south) side of the subject parcel (176 Hunnewell Avenue). It also seems to indicate that the driveway/parking area on the right (north) side of the property (referenced above) extends into the abutting City-owned parcel. The Planning Department recommends that the petitioner be prepared to discuss the status of these driveways at the public hearing.

D. Landscape Screening

No landscaping plan was provided with the petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**Attachment C**) provides an analysis of the proposal with regard to zoning. Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit/Site Plan Approval for the following relief:

- Special permit per §7.3.3 to allow an accessory apartment larger than 1,000 square feet (§6.7.1.D.2)

B. Engineering Review

Review of this petition by the Engineering Division of Public Works is not required at this time.

V. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time. The petitioner should coordinate with the Fire Department and Inspectional Services Department to ensure that the proposed work and uses comply with all relevant codes.

ATTACHMENTS:

- | | |
|----------------------|--------------------------|
| Attachment A: | Zoning Map |
| Attachment B: | Land Use Map |
| Attachment C: | Zoning Review Memorandum |
| Attachment D: | DRAFT Order |





ATTACHMENT A

Zoning

169 Hunnewell Ave.

City of Newton,
Massachusetts

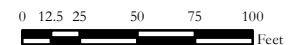
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Public Use

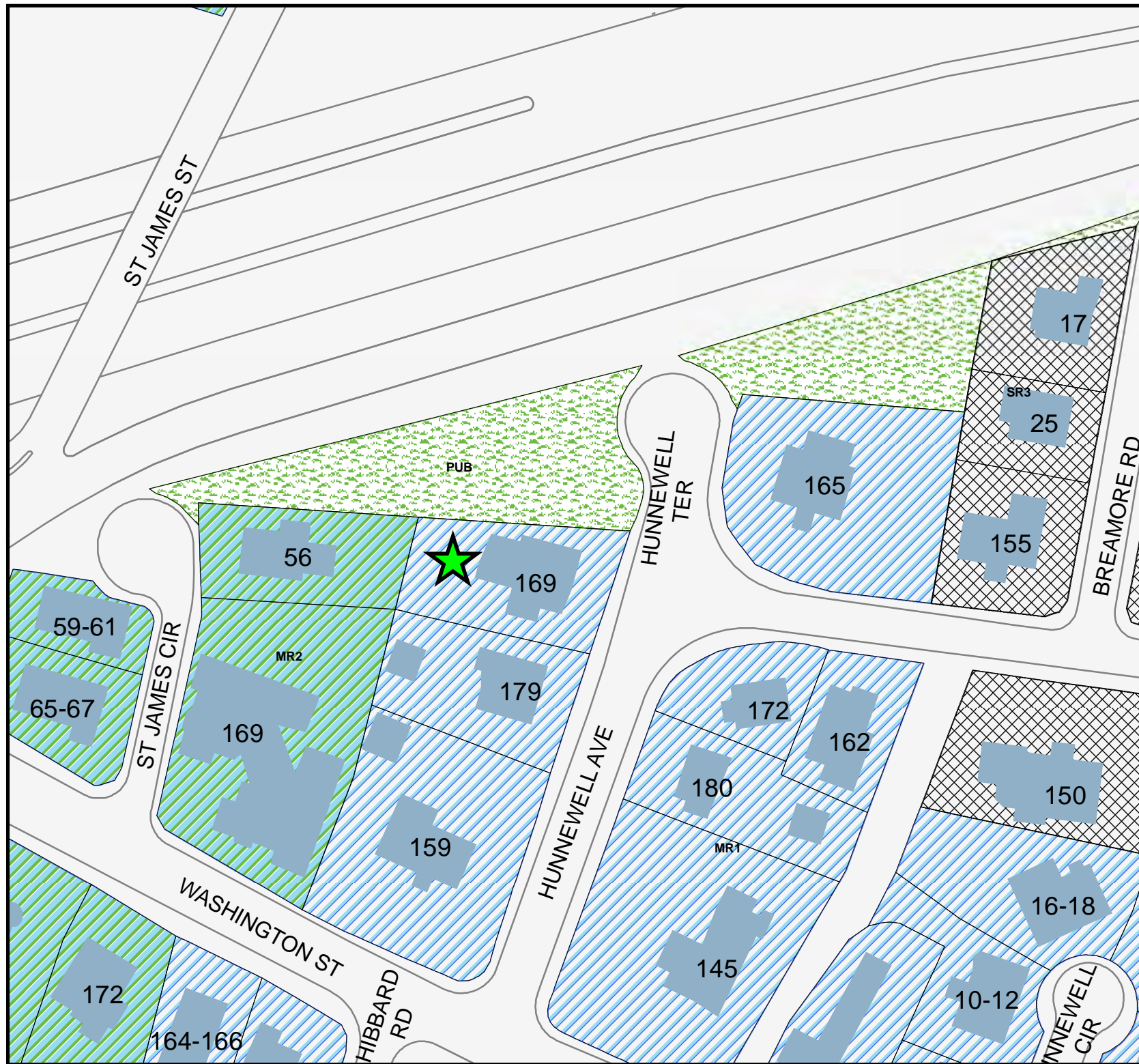


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: April 03, 2020



ATTACHMENT B




Land Use

169 Hunnewell Ave.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space



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CITY OF NEWTON, MASSACHUSETTS
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Map Date: April 03, 2020





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 8, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Jordana Roubicek Greenman, Attorney
Mojo Realty Trust, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow an accessory apartment exceeding 1,000 square feet

Applicant: Mojo Realty Trust	
Site: 169 Hunnewell Avenue	SBL: 71032 0001
Zoning: MR1	Lot Area: 9,568 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with an accessory apartment

BACKGROUND:

The property at 169 Hunnewell Avenue consists of a 16,700 square foot lot improved with a two-family dwelling constructed circa 1890. The dwelling was originally constructed as a single-family home, and was converted to a two-family use in 1942. A third unit was constructed in the attic and was removed by an enforcement action in 1972. The dwelling is currently used as a legal two-family. The Petitioner proposes to convert existing space within the attic level to be used as an accessory apartment.

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

- Zoning Review Application, prepared by Jordana Roubicek Greenman, attorney, submitted 11/21/2019
- Second and Third Floor Plans, prepared by John Seger, architect, dated 10/21/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to convert existing attic level finished space into a 1,092 square foot accessory apartment. Per section 6.7.1.D.2, an internal accessory apartment may be between 250 and 1,000 square feet, or 33 percent of the total habitable space, whichever is less by right. Per the City Assessor's database, the total building size of the two-family dwelling is 4,600 square feet, allowing for a 1,000 square foot apartment (33 percent is equal to 1,518 square feet). The City Council may grant a special permit for a larger accessory apartment up to 1,200 square feet or 40 percent of the total habitable space, whichever is less. As 40 percent is 1,840, the maximum allowed is 1,200 square feet. To allow for the 1,092 square foot internal accessory apartment requires a special permit per section 6.7.1.D.2

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.D.2	To allow an accessory apartment larger than 1,000 square feet	S.P. per §7.3.3

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an interior accessory apartment exceeding 1,000 sq. ft. 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 1,092 square foot internal accessory apartment within a two-family dwelling in a Multi-Residence 1 (MR1) district because the neighborhood is comprised of a mix of single-, two-, and multi- family dwellings and will contribute to a diversity of housing options (§7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within a two-family dwelling (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians, as the property's paved parking area is able to accommodate the parking demand of the two principal dwellings and the proposed accessory apartment (§7.3.3.C.3)
4. Access to the site is appropriate for the number of vehicles related to the residential use of the site (§7.3.3.C.4)

PETITION NUMBER: #145-20

PETITIONER: Tom Dowd

LOCATION: 169 Hunnewell Avenue, on land known as Section 71, Block 32, Lot 1, containing approximately 16,700 square feet of land

OWNERS: Tom Dowd and Marc Resnick, Trustees of MOJO Realty Trust

ADDRESS OF OWNER: 100 Felton st.
Suite 201
Waltham, MA 02452

TO BE USED FOR: Accessory apartment in a two-family dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to allow an accessory apartment larger than 1,000 square feet (§6.7.1.D.2)

ZONING: Multi Residence 1 (MR1) 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:
 - a. Architectural plans entitled "169 Hunnewell Ave., 169 Hunnewell Avenue, Newton, MA 02458," prepared by Seger Architects, Inc., dated January 27, 2020, signed and stamped by John A. Seger:
 - i. Existing Second & Third (*sic*) Floor Plan (EX-1)
 - ii. Third Floor Plan (A-1)
2. The accessory apartment must be held in common ownership with at least one of the two principal dwelling units.
3. The owner of the principal dwelling unit to which the accessory apartment is accessory to shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
5. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

6. No Final Inspection and/or Occupancy Permit for the buildings 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 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.