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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 2, 2018
Land Use Action Date: December 11, 2018
City Council Action Date: December 17, 2018
90-Day Expiration Date: December 31, 2018

DATE: September 28, 2018

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner
Michael Gleba, Senior Planner

SUBJECT: **Petition #423-18**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow reconfiguration of an existing tandem driveway to allow two side-by-side stalls within 5' of a setback and within 5' of the street on the corner lot at Ward 6, Newton Centre, at **27 Albion Street** on land known as Section 62 Block 04 Lot 27, containing approximately 3,377 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 5.1.7.A, 5.1.13 of Chapter 30 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 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.



27 Albion Street (right, from Albion Place)

EXECUTIVE SUMMARY

The property at 27 Albion Street consists of a 3,377 square foot new lot in a Single Residence 2 (SR2) district improved with a single-family residence constructed circa 1905. The lot is located at the northwest corner of Albion Street and Albion Place. There is an existing driveway off Albion Place near the western property boundary. The applicants are proposing to reconfigure the parking to allow for two side-by-side stalls along Albion Place.

The petitioners have apparently utilized the area along the western property line for two tandem-parking stalls, with one stall located in the front setback. Per section 5.1.7.A, parking in conjunction with a single-family dwelling may have two stalls in the side setback and one within the front setback. The petitioners propose to place both stalls within the front setback, requiring a special permit per section 5.1.13.

Section 5.1.7.A further states that no parking may be located within five feet of the street. Both proposed parking stalls are located along the front lot line, and thus closer than five feet to the street. As the parking exists, there is one stall within five feet of the street. The petitioners proposed to locate both parking stalls within five feet of the street, also requiring a special permit per section 5.1.13.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider:

- Whether literal compliance with the requirement that no parking stalls be located within five feet of a street (§5.1.7.A) is impracticable due to the nature of the use, or the location, 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)
- Whether literal compliance with the requirement that no parking stalls be located within a front setback (§5.1.7.A) is impracticable due to the nature of the use, or the location, 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 properties in the surrounding immediate area are almost uniformly single-family dwellings. Exceptions include several two-family dwellings, including one directly across Albion Place from the site (**Attachment A**). The subject property and most of

the immediately surrounding neighborhood are zoned SR2, with some Multi-Residence 2 (MR2) properties located to the northeast along the south side of Beacon Street and along the aqueduct corridor to the west (which itself is zoned Public Use (PU). There are also Business-zoned parcels to the northwest at the intersection of Beacon and Walnut streets (**Attachment B**).

B. Site

The property is located at the northwest corner of Albion Street and Albion Place, the latter of which is a dead end that terminates adjacent to the west boundary of the property. The site is a generally level, 3,377 square foot corner lot improved with a single-family dwelling. The dwelling would remain unchanged with the exception of the removal of a deck that was in the area to be occupied by the proposed parking stalls.

As the property is a corner lot, it has two frontages; both front setbacks are nonconforming - the one along Albion Street is 12 feet and the one along Albion Place is 5.6 feet where 25 feet is required. The existing lot coverage for the property is nonconforming at 42.1%, where the maximum allowed is 30% per section 3.1.3. The removal of the deck and the proposed reconfiguration of the parking area would result in an unchanged lot coverage of 42.1%. Similarly, the lot's existing nonconforming open space of 44.4% where 50% is the minimum required would remain unchanged. The impervious area of the lot would increase by 96 square feet, or 2.8%.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence.

B. Site Design, Parking, Circulation and Landscaping

The petitioners are proposing to install two parking spaces along the property's Albion Place frontage. Each space would be accessed directly off Albion Place via an existing curb cut. The two stalls would almost completely occupy the space between the dwelling and the property's western boundary line (the one perpendicular to Albion Place). Both would be within the front setback and within five feet of the street. While the proposed stalls' 9 foot by 19 foot dimensions meet applicable size standards, the spaces would be located right on the back of the sidewalk and lack the five foot buffer required by the NZO.

The Planning Department notes that as the spaces would be located at the end of a dead end street, there would be limited potential conflict with street traffic. That said, vehicles pulling in and out of the proposed spaces would do so immediately in front of

the access to the adjoining property at 25 Albion Place. As such, the Planning Department recommends that in the event the present petition is granted the petitioner work with that abutter and City staff to address any visibility issues, including those related to landscaping and fencing, and perhaps installing a mirror that allows for better visibility of vehicles and pedestrians where the two property's entries are in close proximity.

IV. TECHNICAL REVIEW

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

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

- Special permit per §7.3.3:
 - to allow parking in the front setback, and to park within five feet of a street (§3.1.3, §5.1.7.A, §5.1.13)

B. Engineering Review:

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed work in the event this petition is approved.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A








Land Use

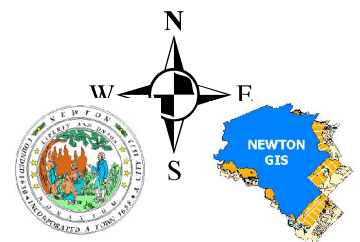
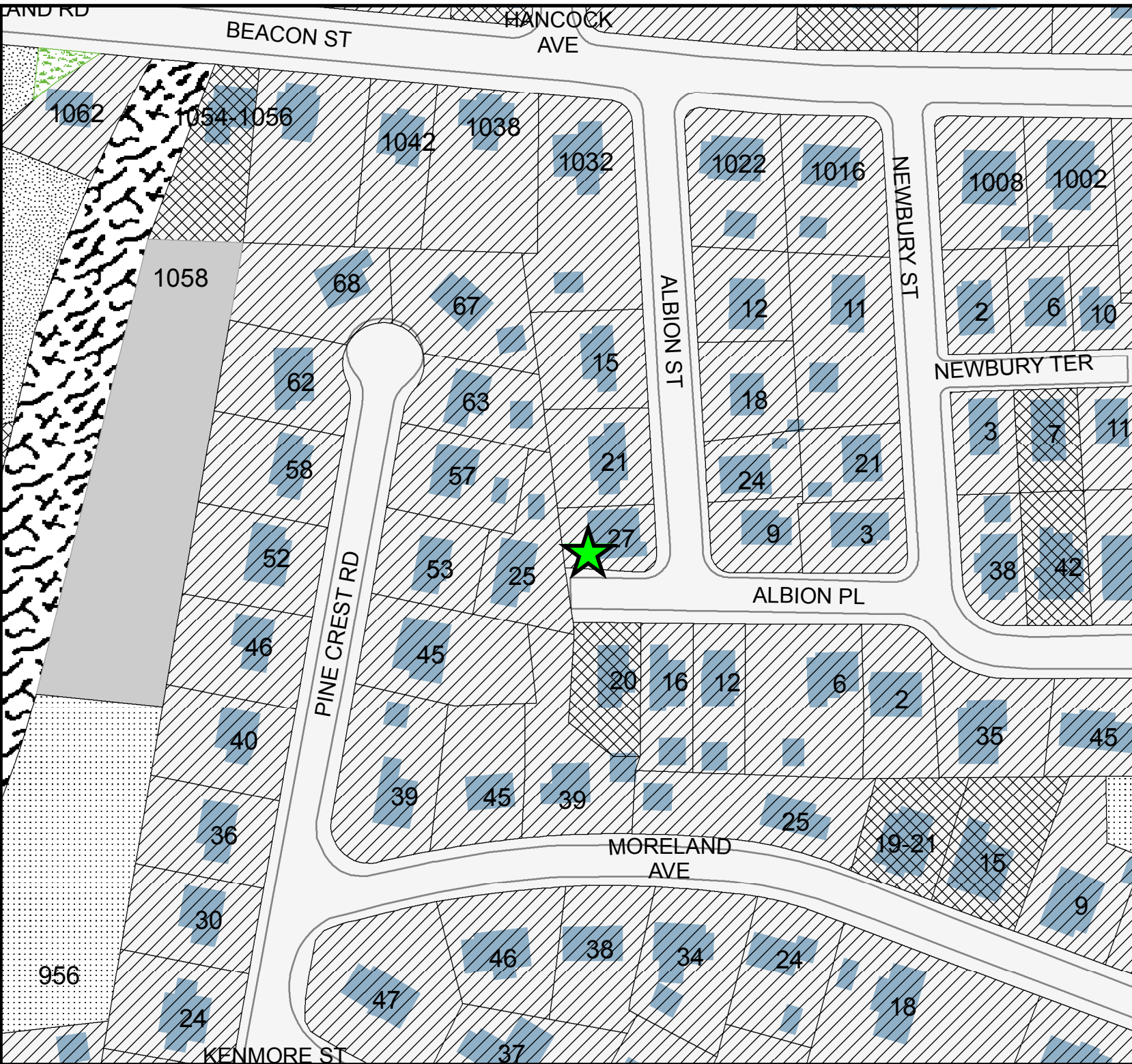
27 Albion St.

City of Newton,
Massachusetts

Land Use

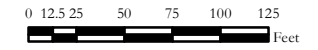
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land



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 - Setti D. Warren
GIS Administrator - Douglas Greenfield








ATTACHMENT B

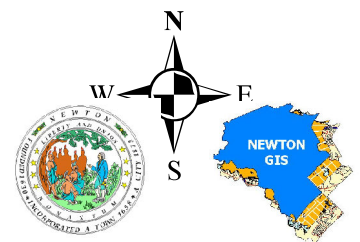
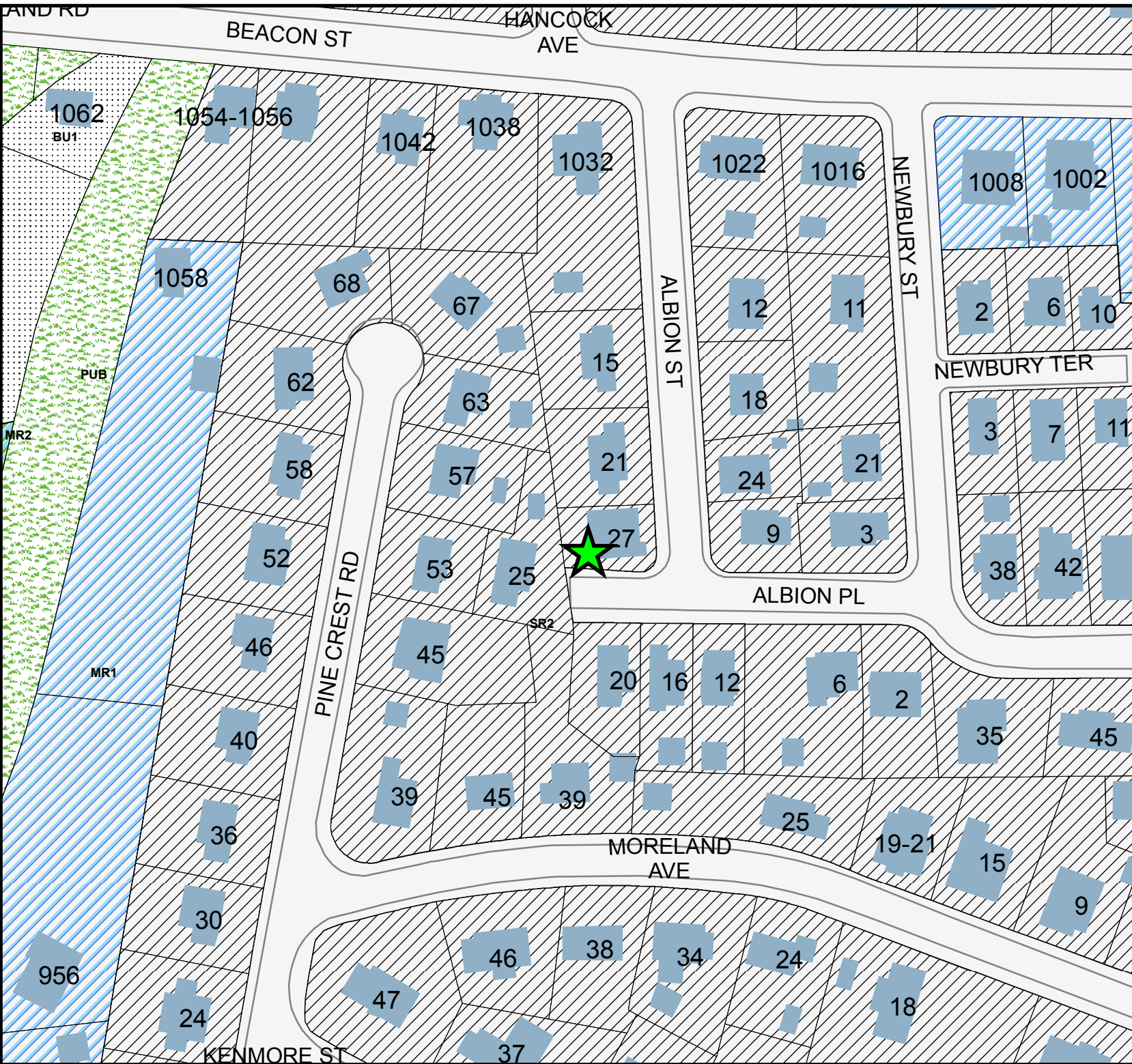
Zoning

27 Albion St.

City of Newton,
Massachusetts

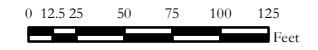
Legend

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



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 24, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Robert and Cristina DeMento, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to allow parking in the front setback, and within five feet of a street

Applicant: Robert and Cristina DeMento	
Site: 27 Albion St	SBL: 62004 0027
Zoning: SR2	Lot Area: 3,377 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 27 Albion Street consists of a 3,377 square foot new lot improved with a single-family residence constructed circa 1905. The lot is located at the corner of Albion Street and Albion Place. There is an existing driveway with tandem parking for two cars off of Albion Place along the western property boundary. The applicants are proposing to reconfigure the parking to allow for two side-by-side stalls along Albion Place, which will require a special permit.

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

- Zoning Review Application, prepared Cristina DeMento, dated 5/28/2018
- Certified Plot Plan, signed and stamped by George C. Collins, surveyor, dated 9/1/2017
- Proposed Parking Area Plan, submitted 5/28/2018

ADMINISTRATIVE DETERMINATIONS:

1. It was discovered after the petitioners bought the property that an 88 square foot triangular parcel on the western boundary of the property was never properly deeded with the rest of the property. It appears that at some point long ago that parcel was inadvertently excluded from the deed when the property was transferred. The parcel likely belongs with the petitioners’ property but a court action of some kind is required to clean up the title. For the purposes of this memo, the small parcel is not included in any dimensional calculations.
2. Per section 5.1.4.A, two parking stalls are required per each single-family dwelling. The petitioners have existing parking for two tandem-parked cars along the western boundary of the property, with one stall located in the front setback. Per section 5.1.7.A, parking in conjunction with a single-family dwelling may have two stalls in the side setback and one within the front setback. The petitioners propose to place both stalls within the front setback, requiring a special permit per section 5.1.13.

Section 5.1.7.A further states that no parking may be located within five feet of the street. Both proposed parking stalls are located along the front lot line, and thus closer than five feet to the street. As the parking exists, there is one stall within five feet of the street. The petitioners proposed to locate both parking stalls within five feet of the street, requiring a special permit per section 5.1.13.

3. The existing lot coverage for the property is nonconforming at 42.1%, where the maximum allowed is 30% per section 3.1.3. The petitioners propose to remove an existing deck and reconfigure the parking area, resulting in an unchanged lot coverage of 42.1%. Since the lot coverage is not increasing, no special permit is required.

The existing open space is nonconforming at 44.4%, where 50% is the minimum required per section 3.1.3. The proposed reconfiguration and deck removal result in an unchanged open space percentage, requiring no relief.

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	3,377 square feet	No change
Frontage	100 feet	120 feet (combined)	No change
Setbacks			
• Front (Albion St)	25 feet	12 feet	No change
• Front (Albion Pl)	25 feet	5.6 feet	No change
• Side	10 feet	3.4 feet	No change
• Rear	15 feet	19 feet	No change
Max Lot Coverage	30%	42.4%	No change
Min. Open Space	50%	44.4%	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3, §5.1.7.A §5.1.13	Request to allow a parking in the front setback, and to park within five feet of a street	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

ATTACHMENT D

DRAFT- 27 Albion Street
#423-18

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 two parking stalls in a front setback and within five feet of a street,* as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. Literal compliance with the requirement that not more than one parking stall be located within a front setback (§5.1.7.A) is impracticable due to the size, width, depth, and shape of the lot, and an exception to the requirement would be in the public interest as it would allow for the provision of off-street parking for the residents of the property. (§5.1.13)
2. Literal compliance with the requirement that no parking stalls be located within five feet of a street (§5.1.7.A) is impracticable due to the size, width, depth, and shape of the lot, and an exception to the requirement would be in the public interest as it would allow for the provision of off-street parking for the residents of the property. (§5.1.13)

PETITION NUMBER: #423-18

PETITIONER: Robert and Cristina DeMento

LOCATION: 27 Albion Street, on land known as Section 62, Block 4, Lot 27 containing approximately 3,3770 square feet of land

OWNER: Robert and Cristina DeMento

ADDRESS OF OWNER: 27 Albion Street
Newton, MA 02459

TO BE USED FOR: Two parking stalls within five feet of a street

CONSTRUCTION: **Brick pavers**

EXPLANATORY NOTES: §5.1.7.A, §5.1.13- Two parking stalls within a front setback; parking stalls within five feet of a street

ZONING: Single Residence 2 (MR2) 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. A plan entitled "Certified Plot Plan, Located at 27 Albion Street, Newton, MA," prepared by Boston Survey, Inc., stamped and signed by George C. Collins, Professional Land Surveyor, dated September 27, 2018.
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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the improvements 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 land surveyor or engineer certifying compliance with Condition #1;
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor;
 - c. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.