



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, November 24, 2020**

**Present:** Councilors Lipof (Chair), Kelley, Greenberg, Markiewicz, Downs, Bowman, Laredo and Wright

**City Staff Present:** Chief Planner Neil Cronin, Associate City Solicitor Jonah Temple, Senior Planner Katie Whewell, Senior Planner Michael Gleba

All Special Permit Plans, Plan Memoranda and Application Materials can be found at [http://www.newtonma.gov/gov/aldermen/special\\_permits/current\\_special\\_permits.asp](http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp). Presentations for each project can be found at the end of this report.

**#426-20      Petition to exceed FAR at 39 Norwood Avenue**

JOHN SHIELDS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to enlarge the existing garage and construct a single-story rear addition, creating an FAR of .42 where .37 exists and .38 is allowed at 39 Norwood Avenue, Ward 6, Newton Centre, on land known as Section 62 Block 01 Lot 29, containing approximately 10,417 sq. ft. of land in a district zoned SR2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved Withdrawal without Prejudice 7-0**

**Note:**      The Committee expressed no concerns relative to the request to withdraw without prejudice petition for special permit petition #426-20. Councilor Laredo motioned to approve the withdrawal which carried 7-0.

**#340-20      Petition to allow three single-family attached dwelling units at 27 Winchester Road**

27 WINCHESTER LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow three single-family attached dwelling units, relocating the existing dwelling and construction two additional units, to allow greater than 36' in height, to allow a driveway within 10' of the side lot line and to allow retaining walls of four feet or more in height within the setback at 27 Winchester Road, Ward 1, Newton, on land known as Section 13 Block 05 Lot 07, containing approximately 15,833 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved Withdrawal without Prejudice 7-0**

**Note:**      The Committee expressed no concerns relative to the request to withdraw without prejudice for special permit petition #340-20. Councilor Laredo motioned to approve the withdrawal which carried 7-0.

**#425-20**      **Petition to allow accessory apartment and extend front setback at 146 Langley Road**  
BOGDAN AND MARIA PILAT petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition to accommodate an internal accessory apartment in excess of 1,000 sq. ft., extending the nonconforming front setback and to construct a three-car rear garage at 146 Langley Road, Ward 6, Newton Centre, on land known as Section 61 Block 41 Lot 02, containing approximately 10,312 sq. ft. of space in a district zoned MR1. Ref: Sec. 7.3.3, 7.4, 6.7.1.D.2, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Held 7-0; Public Hearing Continued**

**Note:**          Th petitioner, Ms. Maria Pilat presented the request for a special permit petition to extend the front setback and allow an accessory apartment measuring 1,084 sq. ft. at 146 Langley Road. Ms. Pilat noted that the existing house needs updating and it is the intent to add a first floor and second floor addition as well as a three-car garage.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Ms. Whewell noted that in the Planning Memo, the analysis relative to the size of the principal dwelling unit was miscalculated. She explained that according to the ordinance, the accessory apartment must be 1,000 sq. ft. or 40% of the principal dwelling unit, whichever is smaller. The size of the accessory apartment was originally calculated based on the entire structure (measuring 4,230 sq. ft.), not the principal dwelling unit. Because the principal dwelling unit is actually 2,688 sq. ft., the accessory apartment represents 40% of the size of the principal dwelling unit rather than 26% as originally calculated.

The Public Hearing was Opened.

Lisa Gordon, 76 Elgin Street, is an abutter to the rear. She noted that the property slopes to the rear and questioned whether additional water will be discharged onto her property. She stated that while most of the two-family houses have two-car garages, she is not concerned with the three-car garage as long as there is no impact on flooding.

It was noted that the petitioner will not be able to obtain a building permit if the Engineering Department is not satisfied that the additional impervious surface will be contained on site. It was noted that the proposed lot coverage is 27.7% of the lot with the proposed additions. The Committee shared concerns relative to the miscalculation in the size of the principal dwelling unit. Ms. Whewell noted that the discrepancy was not identified until the afternoon of the public hearing. The Committee urged the Planning Department to verify the numbers, noting that the proposed accessory apartment is exactly at the 40% limit. The Committee requested additional information relative to the stairway that will be redesigned but is not pictured on the plans. Ms. Whewell confirmed that she will work with the petitioner to verify the size of the accessory apartment and principal dwelling unit. With that, Councilor Bowman motioned to hold the item which carried unanimously.

**#424-20**      **Petition to extend nonconforming residential use at 336 Elliot Street/7 Hale Street**  
YOGESH REDDY AND SUPRIYA SHEKAR petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #222-01 to convert a commercial unit into a dwelling unit and construct additions, further extending the nonconforming first floor residential

use in the BU1 district at 336 Elliot Street/7 Hale Street, Ward 5, Newton Upper Falls on land known as Section 51 Block 41 Lot 13, containing approximately 7,218 sq. ft. of land in a district zoned BU1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Approved 7-0; Public Hearing Closed 11/24/2020**

**Note:** Attorney Adam Sherwin represented Yogesh Reddy and Supriya Shekar. Atty. Sherwin presented the request for an amendment to special permit #222-01 to turn existing commercial space at 336 Elliot Street/7Hale Street into a residential unit and construct a rear addition. The petitioners proposed to remove an existing dormer and replace it with two smaller dormers. The proposed construction will revert the property to its original, residential use. As a result, it is anticipated that the parking and traffic will be reduced as there will be no business and/or customers visiting the site. Atty. Sherwin noted that the petitioner has communicated plans with neighbors, who are supportive of the project.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown in the attached presentation.

The Public Hearing was Opened.

Christopher and Miriam Masterman, 19-21 Hale Street, expressed support for the petition noting that it will improve the property and revert the house to its original use and consistent with the neighborhood.

Seeing no member of the public wished to speak, Councilor Laredo motioned to close the public hearing which carried unanimously. Committee members expressed support for the petition. Councilor Downs motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown on the attached presentation and voted unanimously in favor of approval.

**#351-15(2) Petition to amend Special Permit Council Order #351-15 at 1110 Chestnut Street**  
CHARLES ZAMMUTTO/1110 CHESTNUT STREET LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to AMEND Special Permit Order #351-15 to allow changes to the site plan at 1110 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as Section 51 Block 41 Lot 02, containing approximately 22,800 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 7.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Approved 7-0; Public Hearing Closed 08/04/2020**

**Note:** The petitioner originally sought a consistency ruling to allow changes to the site plan after approval of a special permit. The Committee expressed concerns relative to the proposed changes at the site, noting that a significant difference in the amount of paved area. The petitioner removed part of the paved area in response to concerns from the Committee, leaving space only for a turnaround and eliminating space that could be used for additional parking. Atty. Morris noted that the petitioner's revised plan reflects the as-built changes and stated that the Commissioner of Inspectional Services has issued a temporary Certificate of Occupancy based on the changes.

Senior Planner Michael highlighted the changes to the proposed plan as shown on the attached

presentation. The Committee expressed support for the improvement at the site. Councilor Downs motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown on the attached presentation and voted 7-0 in favor of approval.

The Committee adjourned at 8:10 pm.

**Respectfully Submitted,**

**Richard Lipof, Chair**

# Department of Planning and Development



**PETITION #425-20**  
**146 LANGLEY ROAD**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO EXTEND THE  
NONCONFORMING FRONT  
SETBACK AND TO ALLOW AN  
OVERSIZED ACCESSORY  
APARTMENT

NOVEMBER 24, 2020



# Requested Relief



Special Permit per §7.8.2.C.2 and §7.3.3 of the NZO to:

- Extend the nonconforming front setback (§3.2.3)
- Allow an oversized internal accessory apartment (§6.7.1.D.2)

# Criteria to Consider



When reviewing this request, the Council should consider whether:

- The site is an appropriate location for the proposed oversized accessory apartment. (§6.7.1.D.1, §7.3.3.C.1)
- The proposed oversized accessory apartment will adversely affect the neighborhood. (§6.7.1.D.1, §7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§6.7.1.D.1, §7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§6.7.1.D.1, §7.3.3.C.4)
- The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing nonconforming setback is to the neighborhood. (§3.2.3, §7.8.2.C.2)

# Aerial/GIS Map







ATTACHMENT A

Zoning

146 Langley Road

City of Newton,  
Massachusetts

Zoning

-  Single Residence 2
-  Multi-Residence 1

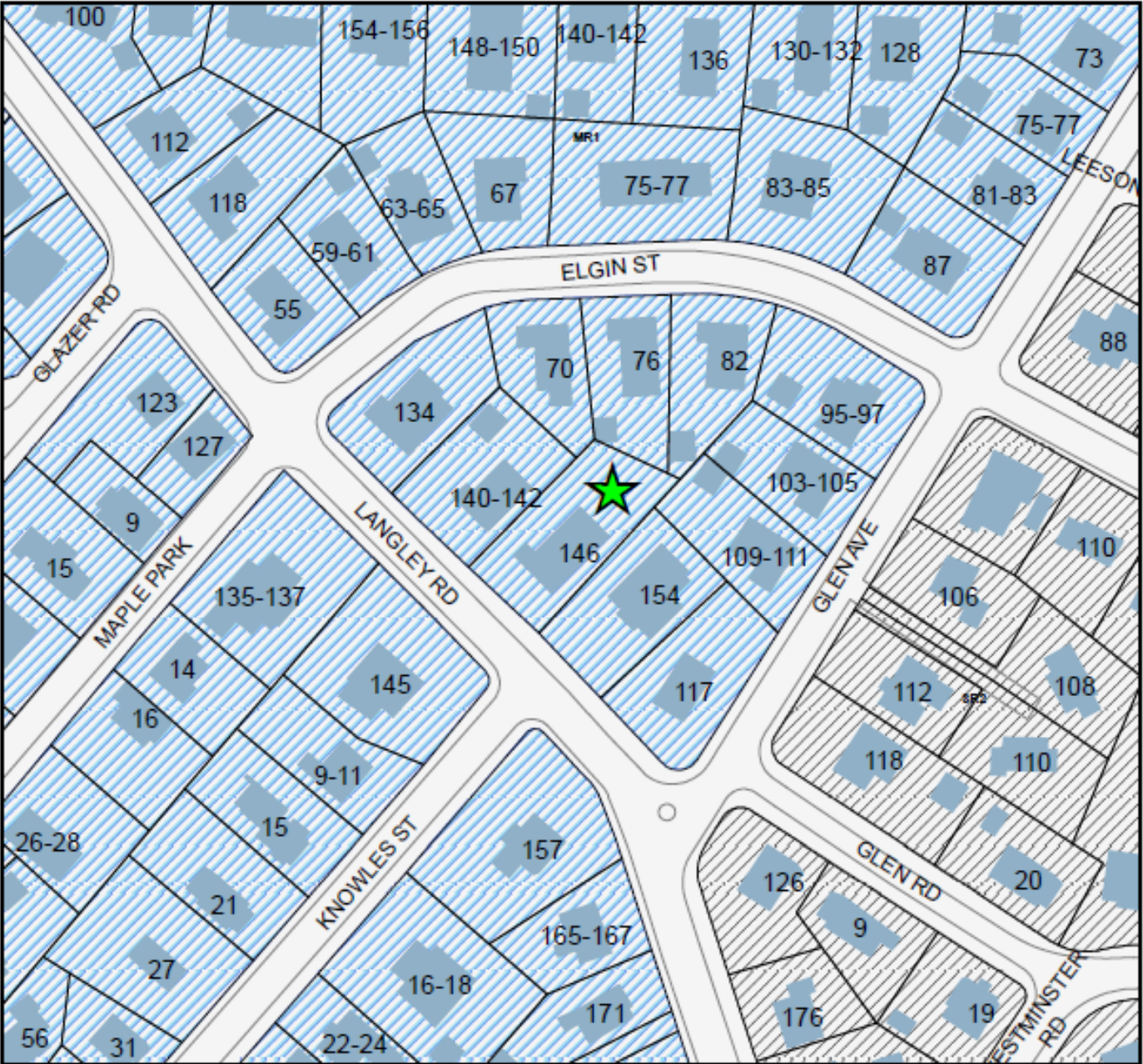


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Barbara Fuller  
GIS Administrator - Douglas Greenfield



Map Date: November 16, 2020



# ATTACHMENT B




## Land Use

146 Langley Road

*City of Newton,  
Massachusetts*

## Land Use

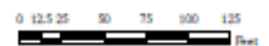
### Land Use

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

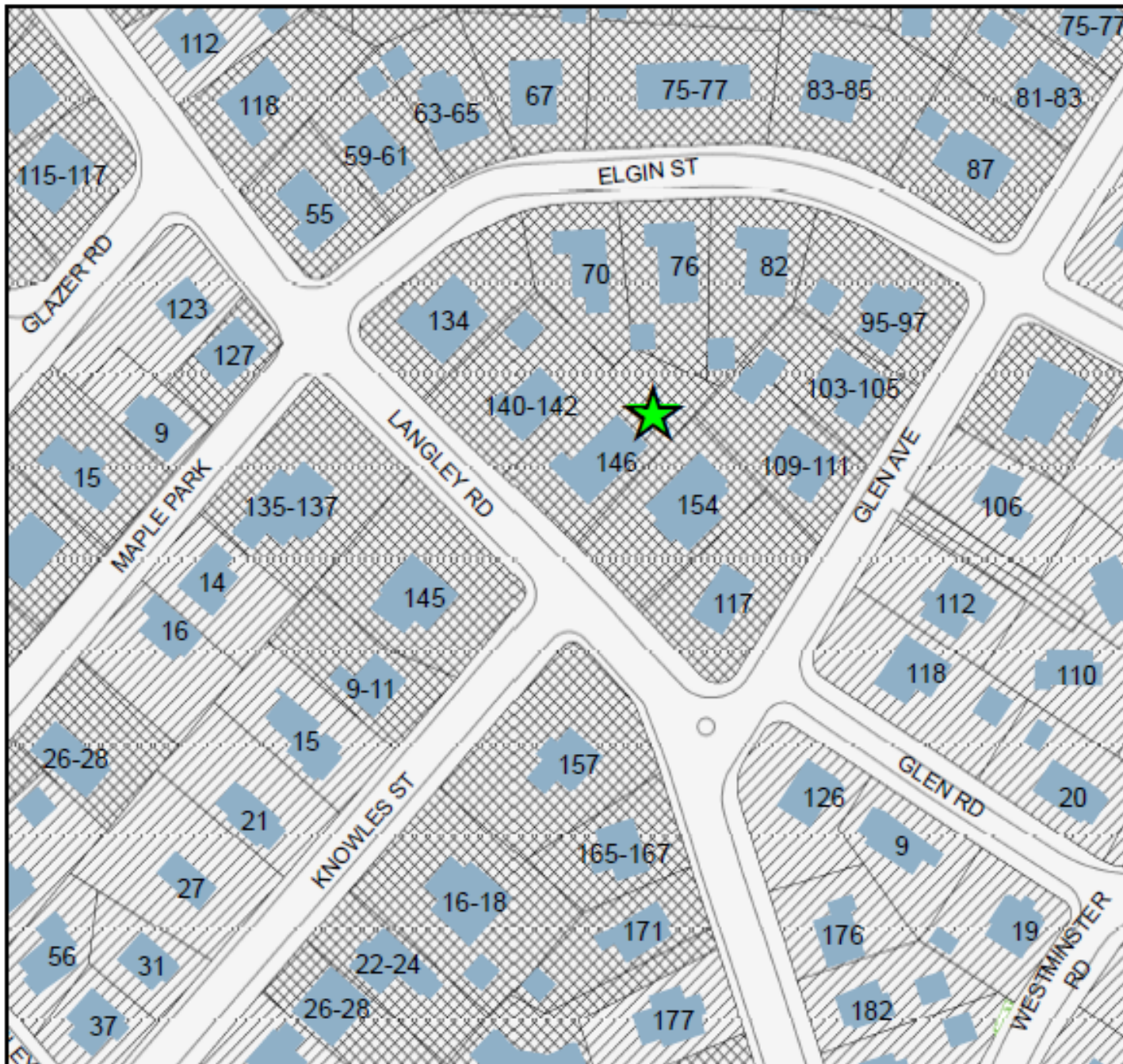


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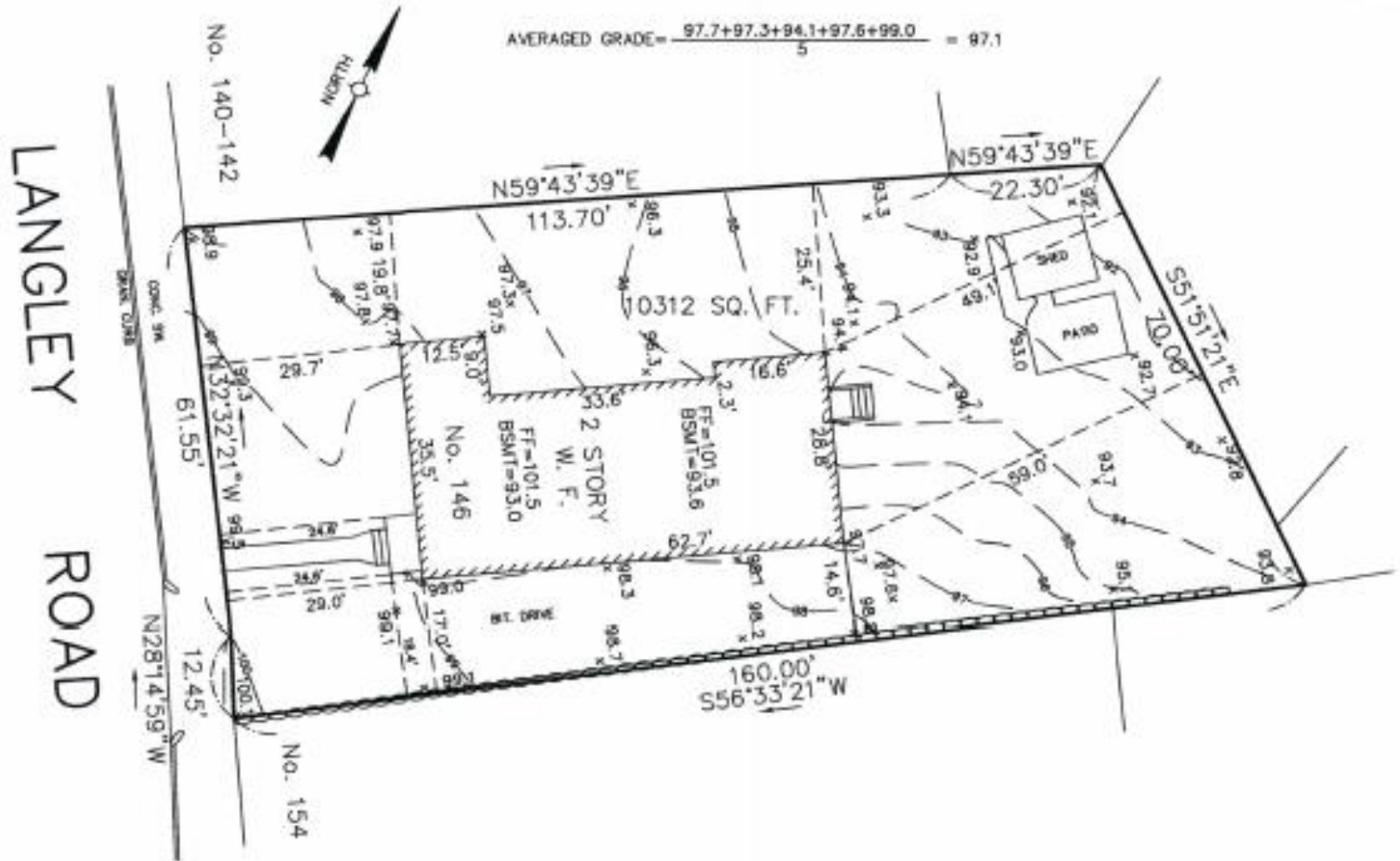
CITY OF NEWTON, MASSACHUSETTS  
Mayor - Rathanne Fuller  
GIS Administrator - Douglas Greenfield



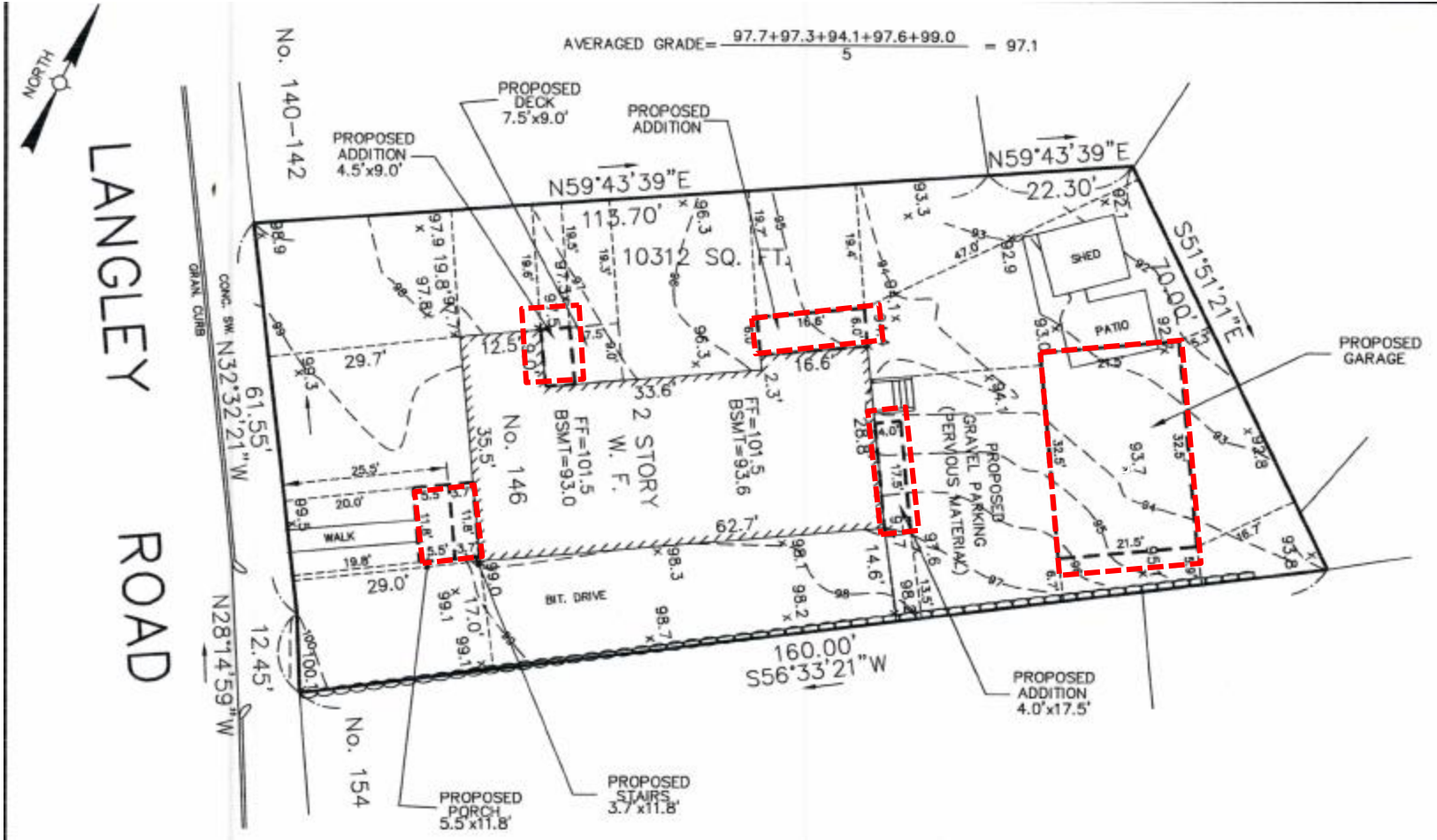
Map Date: November 16, 2020



# Existing Conditions



# Proposed Site Plan



# Left Elevation

Existing Left Elevation



Proposed Left Elevation



# Front Elevation

Existing Front Elevation

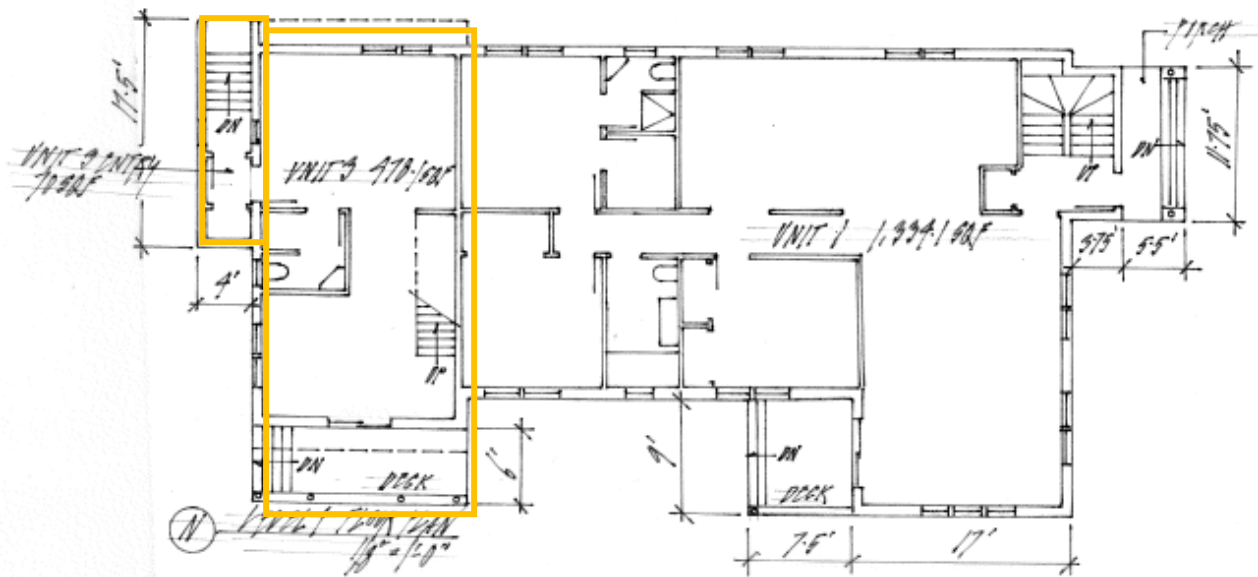


Proposed Front Elevation

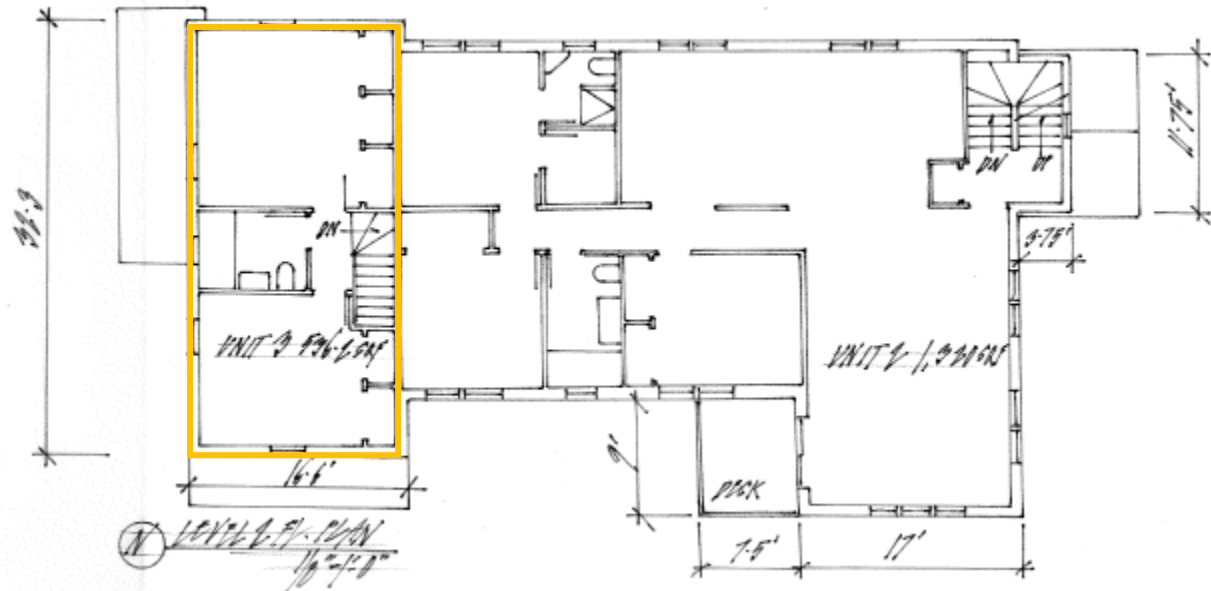


# Accessory Apartment

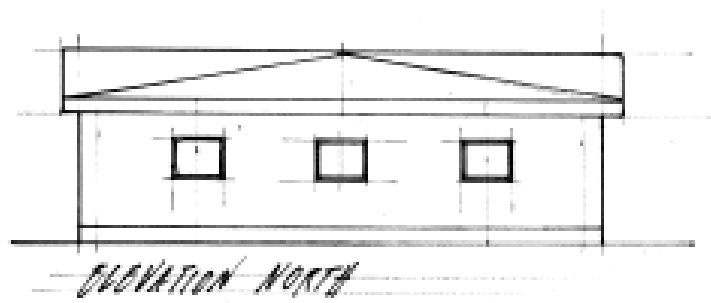
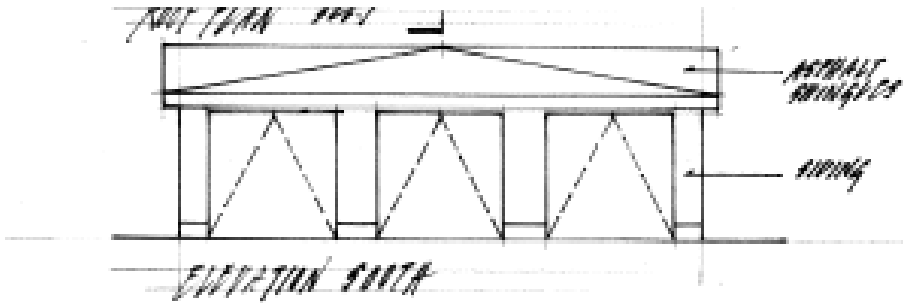
Level 1



Level 2



# Proposed Garage





# Proposed Finding



1. The site is an appropriate location for the proposed oversized accessory apartment due to its location in the Multi Residence 1 zone with nearby multifamily residential uses. (§6.7.1.D.1, §7.3.3.C.1)
2. The proposed accessory apartment will not adversely affect the neighborhood because the bulk of the addition to accommodate the accessory apartment is within the footprint of the existing structure and will not be visible from the street. (§6.7.1.D.1, §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because parking for the existing two units and accessory apartment is contained on site. (§6.7.1.D.1, §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§6.7.1.D.1,, §7.3.3.C.4)
5. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing nonconforming setback is to the neighborhood because it is contextual with other setbacks in the neighborhood (§3.2.3, §7.8.2.C.2)

# Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
  - 2e. O&M Plan condition
3. Standard Final Inspection/Certificate of Occupancy Condition.

# Department of Planning and Development



**PETITION #424-20**

**336 ELLIOT ST/7 HALE ST**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO CONVERT A  
COMMERCIAL UNIT INTO A  
DWELLING UNIT AND CONSTRUCT  
ADDITIONS, FURTHER EXTENDING  
THE NONCONFORMING FIRST  
FLOOR RESIDENTIAL USE IN THE  
BU1 DISTRICT

*NOVEMBER 20, 2020*



# Requested Relief



Special permit per §7.3.3 to:

- amend Board Order #222-01
- Special Permit per §7.3.3 further extend a nonconforming first floor residential use in the Business 1 zoning district (§4.4.1; §7.8.2.C.2)

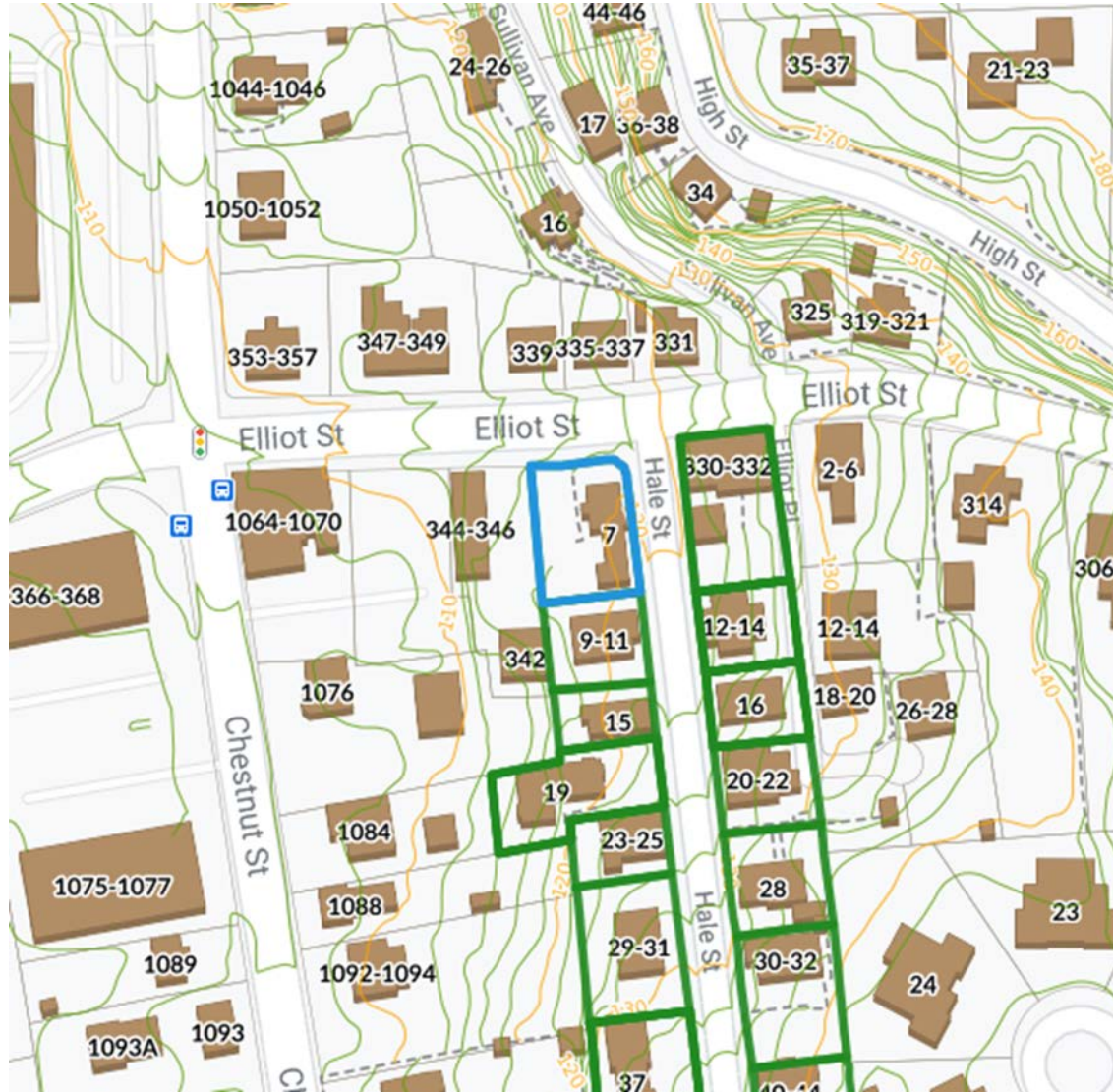
# Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site in a Business 1 (BU1) zoning district is an appropriate location for the proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers (§7.3.3.C.1)
- The proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers, will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers, will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
- The extended nonconforming residential use, as designed with extended residential uses on the ground floor, a second-floor addition and attic-level dormers, is substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)

# AERIAL/GIS MAP



# Zoning



## ATTACHMENT B

### Zoning

336 Elliot St. /  
7 Hale St.

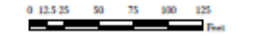
City of Newton,  
Massachusetts

-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Manufacturing
-  Public Use



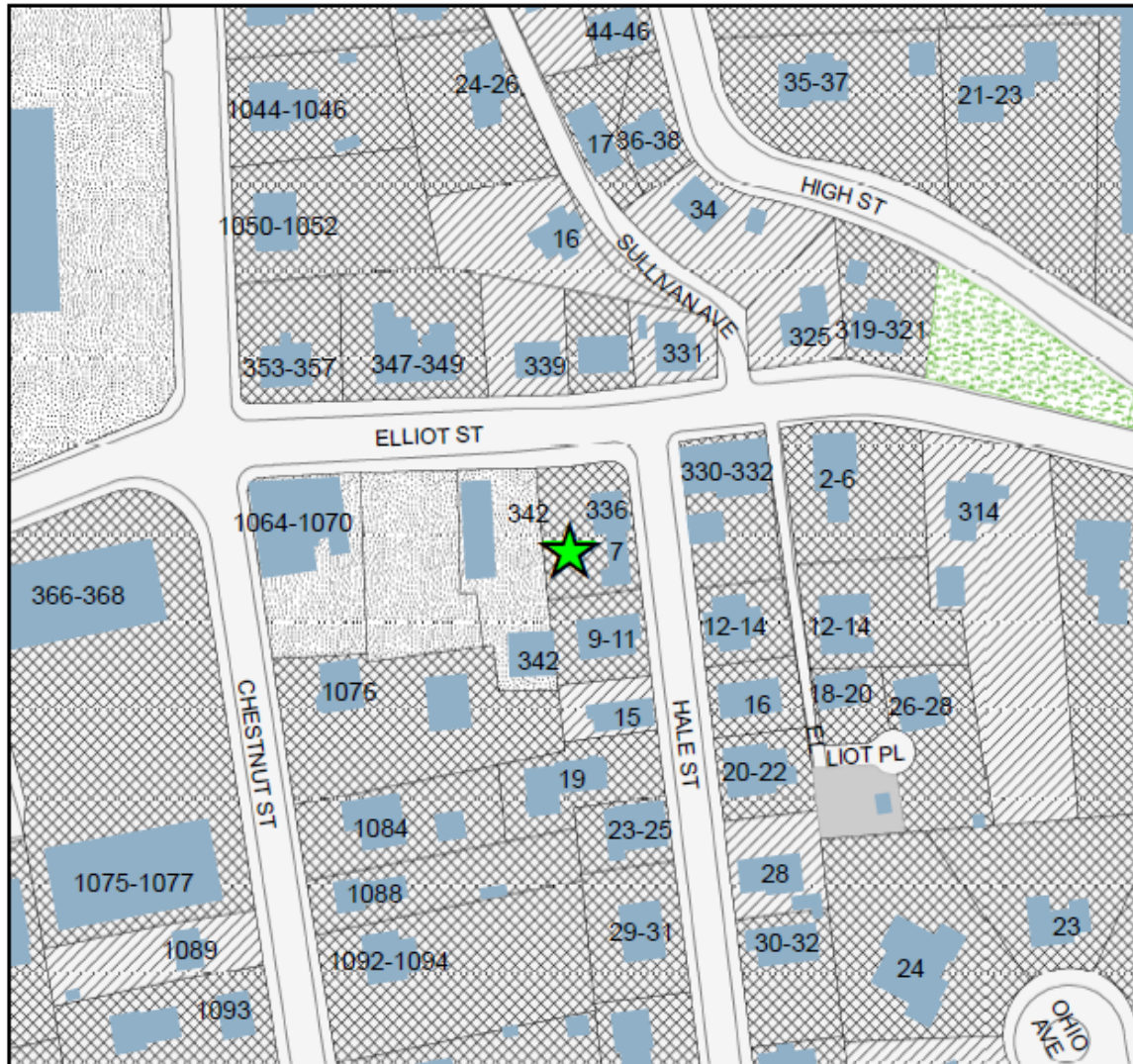
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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: November 20, 2020

# Land Use



## ATTACHMENT A

### Land Use

336 Elliot St. /  
7 Hale St.  
*City of Newton,  
Massachusetts*

### Land Use

#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Vacant Land



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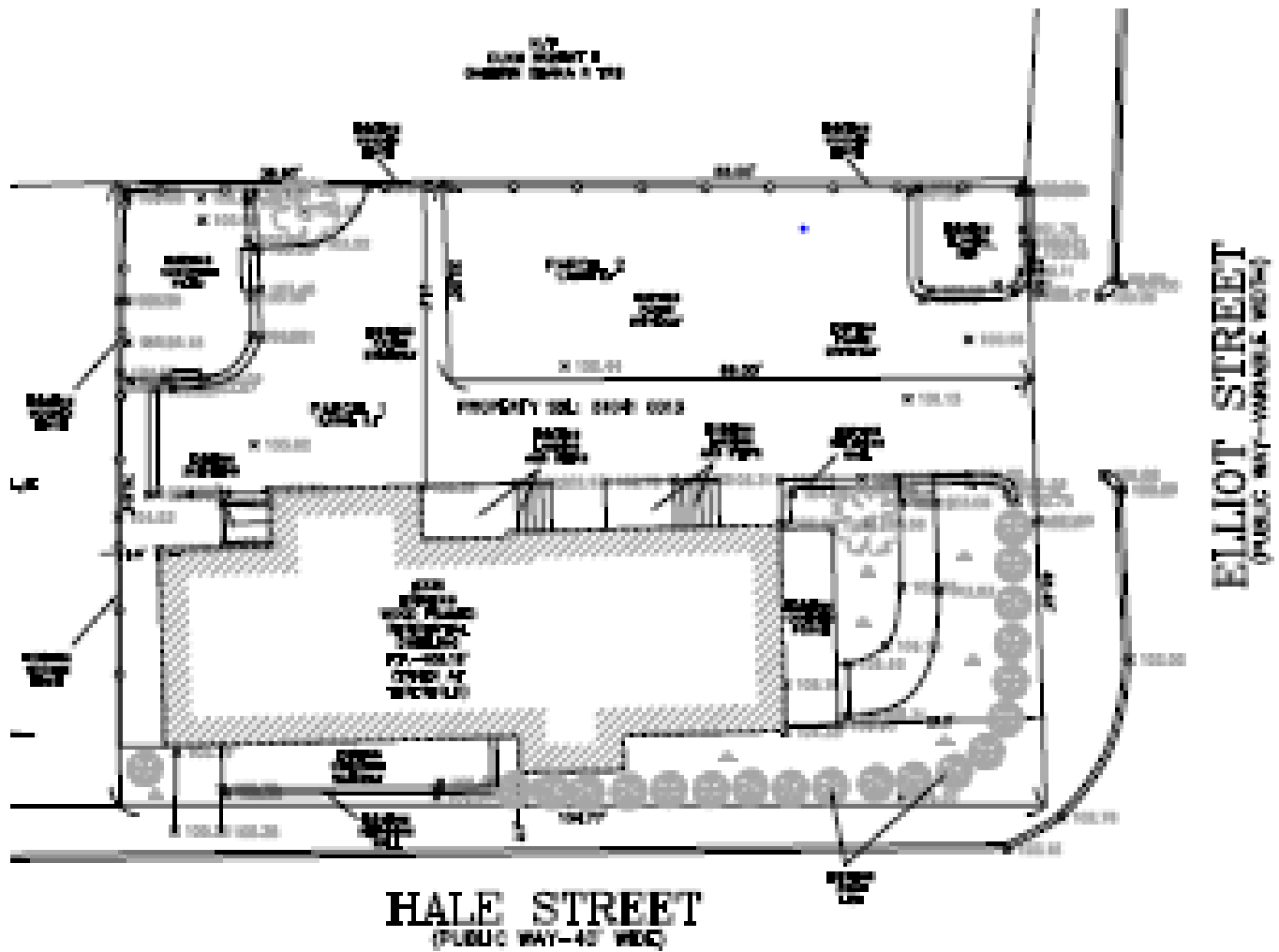
CITY OF NEWTON, MASSACHUSETTS  
Mayor - Katherine Fuller  
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0 12.5 25 50 75 100 125 Feet

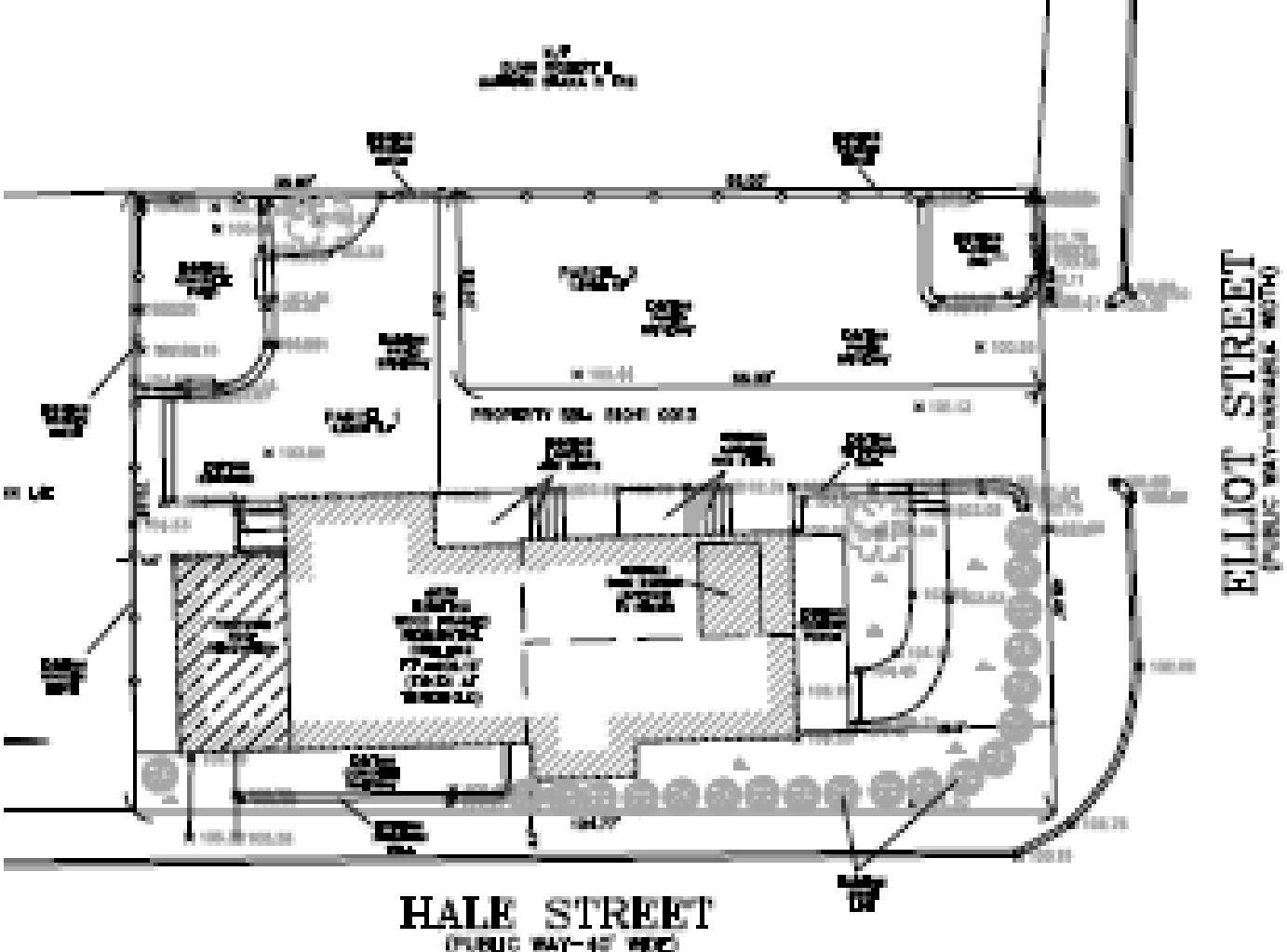
Map Date: November 20, 2020



# Site Plan- existing

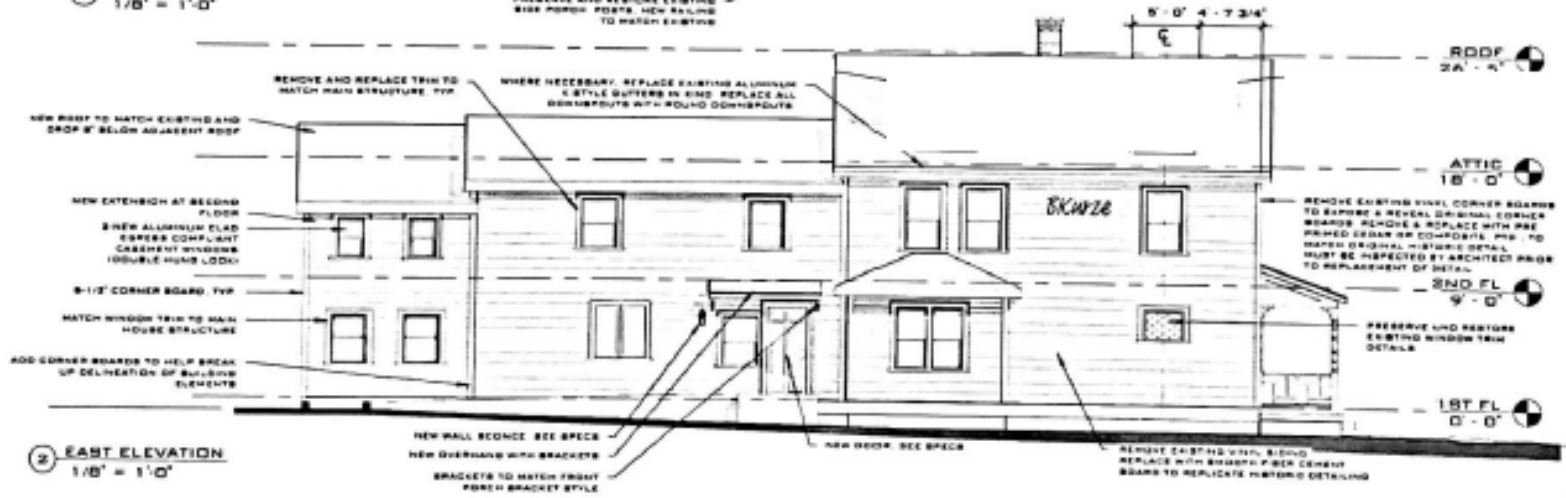
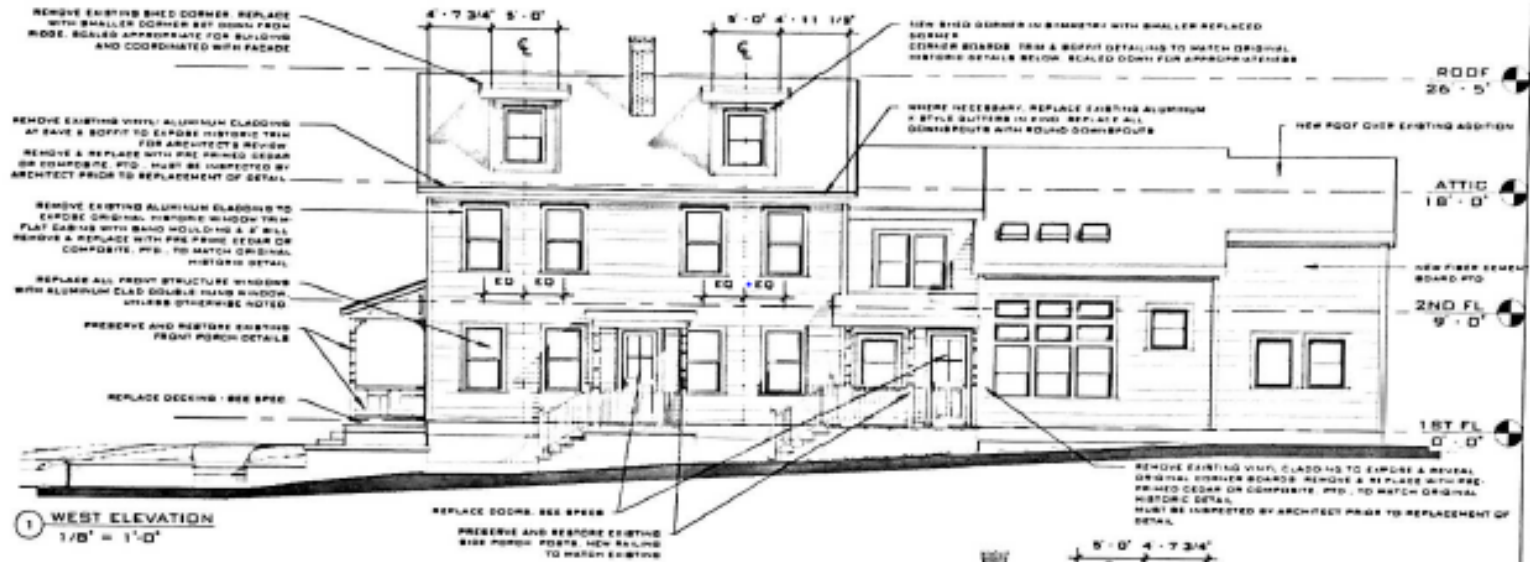


# Site Plan- proposed



# Elevations

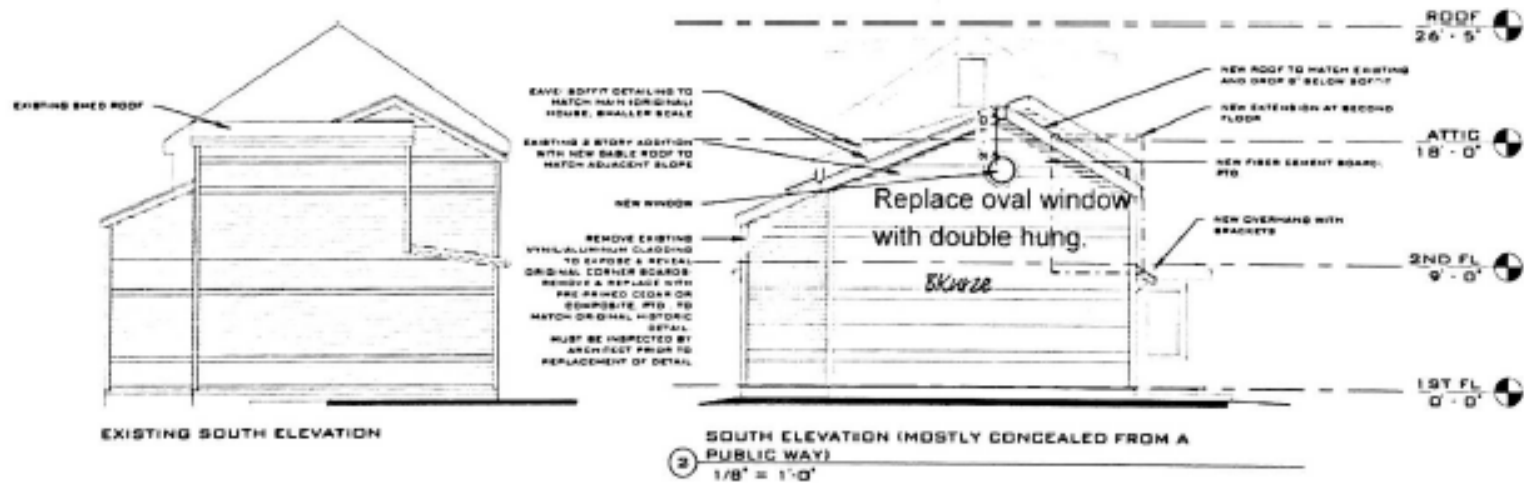
Approved except for Hale Street dormers and with conditions 5-14-2020. *BKwz*



# Elevations

Approved except for dormers on the Hale Street side. Oval window to be replaced with double hung, 5-14-2020.

*Ekurze*



# Perspectives

REPLACE DORMER. REPLACE  
TRIM SET DOWN FROM  
RIDGE TO PROPORTIONALLY  
FIT INTO FACADE

EXISTING VINYL SIDING  
SMOOTH FIBER CEMENT  
TO HISTORIC DETAILING

VINYL CORNER BOARDS  
REPLACE ORIGINAL HISTORIC  
WITH PRE-PRIMED CEDAR  
OR PVC TO MATCH HISTORIC  
DETAILING

RESTORE EXISTING FRONT  
PORCH RAILING AND DETAILS

Driveway side dormers  
are approved

*BKurze*

NEW LOW PROFILE DORMERS SET DOWN FROM  
RIDGE TO PROPORTIONALLY FIT INTO FACADE  
AS HISTORIC PRECEDENTS

REMOVE EXISTING ALUMINUM CLADDING TO EXPOSE  
ORIGINAL HISTORIC WINDOW TRIM. REMOVE & REPLACE  
WITH PRE-PRIMED CEDAR OR PVC. PTD. TO MATCH  
ORIGINAL HISTORIC DETAIL.

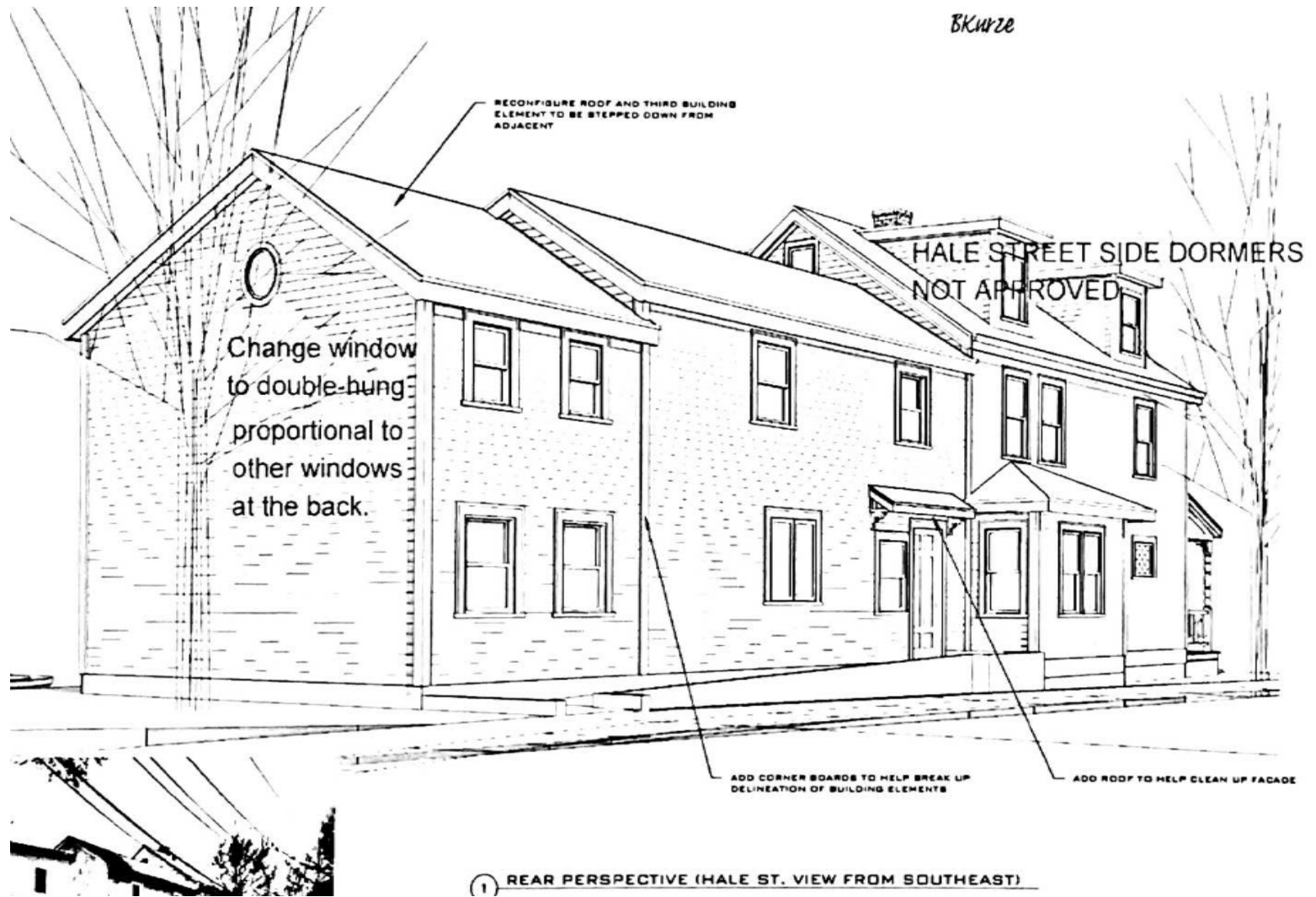
REPLACE WINDOWS WITH HISTORIC ACCURATE  
WOOD AND ALUMINUM CLAD WINDOW. TYP.

RESTORE ORIGINAL FULL HEIGHT WINDOW @ ENTRY PORCH



1 FRONT PERSPECTIVE (ELLIOT ST. VIEW FROM  
NORTHWEST)

# Perspectives



# Photos



# Photos





# Photos



# Proposed Findings



1. The site in a Business 1 (BU1) zoning district is an appropriate location for the proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers, as the neighboring area is a mix of commercial and residential uses, including many two-family dwellings (§7.3.3.C.1)
2. The proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers, will not adversely affect the neighborhood as the area is a mix of commercial and residential uses, including many two-family dwellings (§7.3.3.C.2)
3. The proposed two-family dwelling with extended residential uses on the ground floor, as designed with a second-floor addition and attic-level dormers, will not create a nuisance or serious hazard to vehicles or pedestrians (§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); and
5. The extended nonconforming residential use, as designed with extended residential uses on the ground floor, a second-floor addition and attic-level dormers, is not substantially more detrimental than the existing nonconforming use to the neighborhood as the neighboring area is a mix of commercial and residential uses , including many two family dwellings (§7.3.3.C.5)

# Proposed Findings (cont.)



5. The extended nonconforming residential use, as designed with extended residential uses on the ground floor, a second-floor addition and attic-level dormers, is not substantially more detrimental than the existing nonconforming use to the neighborhood as the neighboring area is a mix of commercial and residential uses , including many two-family dwellings (§7.8.2.C.2)

# Proposed Conditions



1. *Plan Referencing Condition*
2. *Standard Building Permit Condition.*
3. *Standard Final Inspection/Certificate of Occupancy Condition.*

# Department of Planning and Development



**PETITION #351-15(2)**  
**1110 CHESTNUT STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO AMEND SPECIAL  
PERMIT ORDER #351-15 TO  
ALLOW CHANGES TO THE SITE  
PLAN

*NOVEMBER 24, 2020*



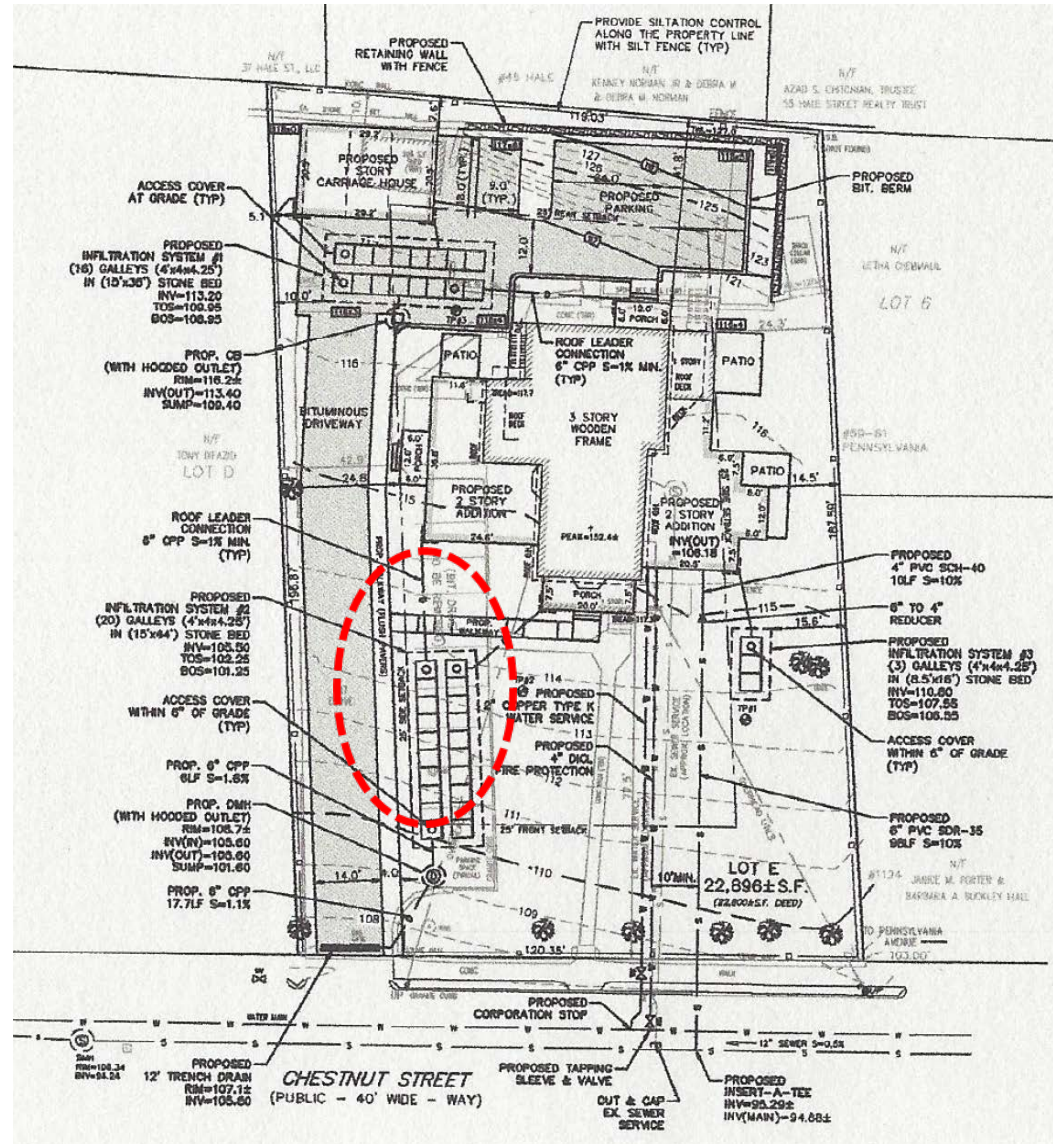
# Requested Relief



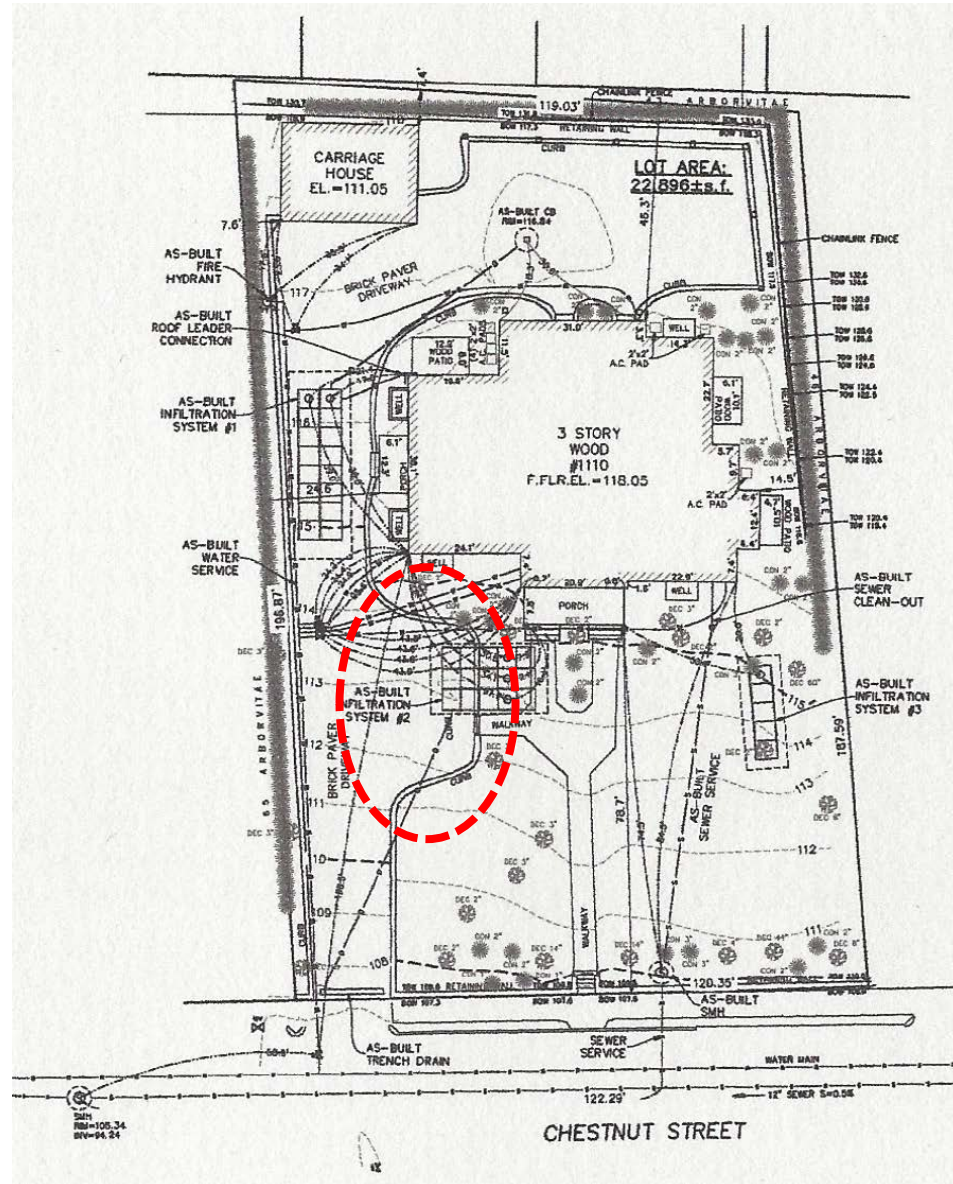
Special Permit per sec. 7.3.3 to:

- Amend Special Permit Order #351-15 to allow changes to the site plan
- The property was granted a special permit in 2015 (#351-15) to extend a nonconforming structure to create four attached dwelling units in an existing two-family dwelling along with certain waivers.
- The petitioner seeking to amend the special permit to replace the special permit-approved site plan with an as-built site plan reflecting the project as constructed, including changes to the structures, parking areas, driveways and retaining walls.

# Site Plan- Special Permit- approved

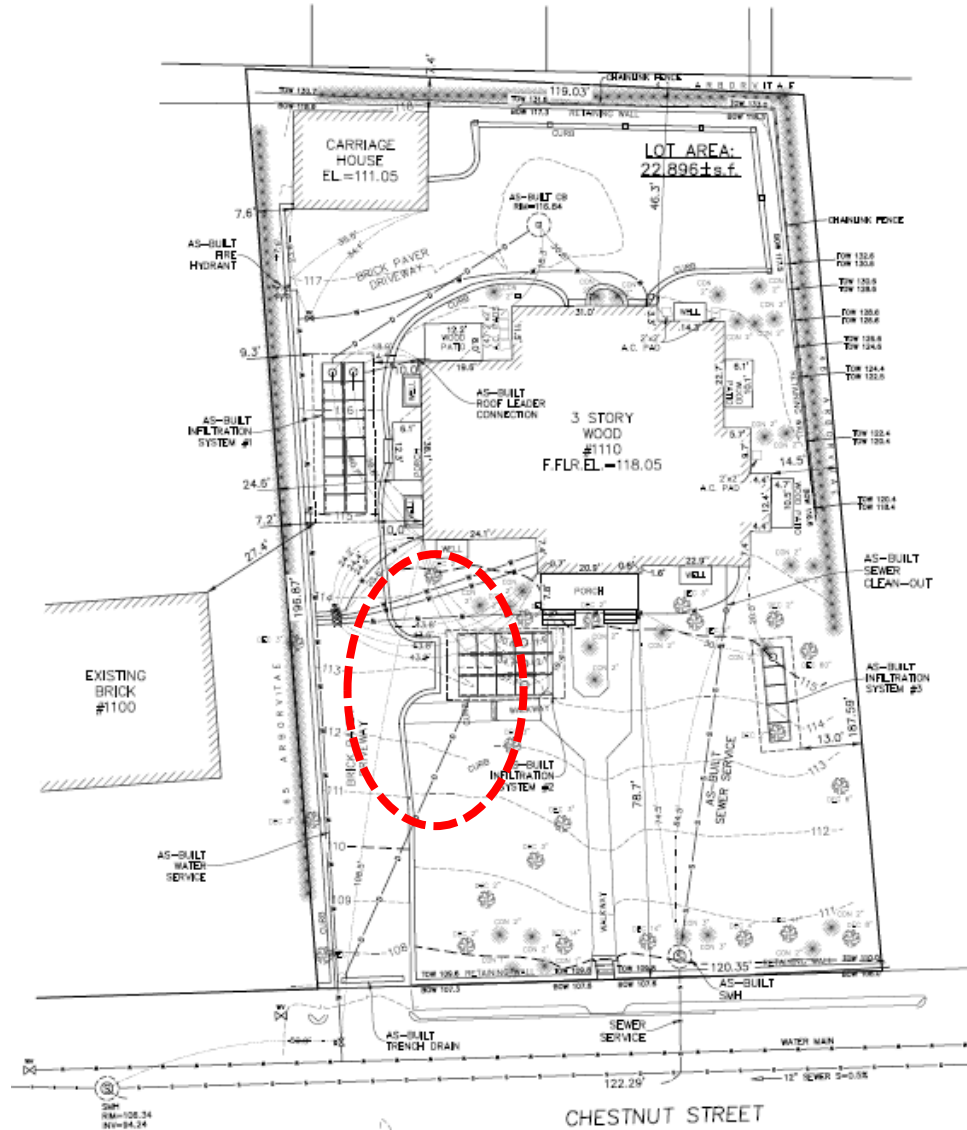


# Site Plan- "as-built" dated 4/8/2020





# Site Plan- "as-built" dated 10/15/2020



# Photos



# Photos



# Photos

