



Land Use Committee Report

City of Newton In City Council

Tuesday, December 1, 2020

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

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. Presentations for each project can be found at the end of this report.

#428-20 Petition to allow 32-stall parking waiver at 858 Walnut Street

858 WALNUT STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to locate a religious institution in the existing space, requiring a waiver of 32 parking stalls as well as to allow single-level non-accessory parking at 858 Walnut Street, Ward 6, on land known as Section 64 Block 5 Lot 04, containing approximately 23,250 sq. ft. of land. Ref: Sec. 7.3.3, 7.4, 7.5.2, 6.3.12.B.2.a, 5.1.4.A, 5.1.13, 4.4.1 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved Withdrawal without Prejudice 6-0 (Councilor Laredo not Voting)

Note: The Committee expressed no concerns relative to the request to withdraw without prejudice. Councilor Downs motioned to approve the withdrawal which carried 6-0 (Councilor Laredo not Voting).

#332-19(2) Request for an Extension of Time to Exercise Special Permit #332-19(2) at 77 Paul St/1400 Centre St

MARK F DONATO petition for a two-year EXTENSION OF TIME to EXERCISE SPERMIT/SITE PLAN APPROVAL of Council Order #332-19 to amend Special Permit Board Orders #650-86(2) to allow alteration to an existing structure at 7400 Centre Street/77 Paul Street, Ward 6, Newton Centre, on land known as Section 62 Block 13 Lot 9, containing approximately 30,023 sq. ft. of land in a district zoned MULTI RESIDENCE 3. Said Extension of Time to run from December 4, 2020 to December 4, 2022. Ref: Sec. 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.2.2.A.3, 4.2.3 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0

Note: The Committee expressed no concerns relative to the request for an extension of time to exercise special permit #332-19 at 77 Paul Street/1400 Centre Street. Councilor Downs motioned to approve the extension of time which carried 7-0

Note: The Committee discussed a consistency ruling to allow an increase in parking capacity at 60-64 Needham Street. Chief Planner Neil Cronin presented the request for a consistency ruling to allow the construction of three additional parking stalls on site. A copy of his presentation can be found at the end of this report. Mr. Cronin noted that the proposed stalls are dimensionally compliant and meet the setback requirements at the site. The Chair noted that the additional stalls are required based on a change in use for one of the spaces at the site. The Committee expressed no concerns relative to the request.

#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: At the public hearing on November 24, 2020, updated plans were submitted that could not be reviewed fully before the public hearing. There was a discrepancy in the analysis relative to the size of the principal dwelling unit and the corresponding size of the accessory apartment. The Committee asked the Planning Department to verify the calculations and held the item.

Senior Planner Katie Whewell reviewed the requested relief, criteria for consideration and details of the plans as shown on the attached presentation. Ms. Whewell explained that the principal dwelling unit + proposed additions measures 2,347 sq. ft. and noted that 40% of this unit would be 948 sq. ft. She stated that although the petitioner has reduced the size of the accessory apartment, the updated plans do not show all of the dimensions and the Planning Department is not comfortable confirming that the proposed accessory apartment represents 40% or less the size of the principal dwelling unit. Ms. Whewell confirmed that Planning will continue to work with the petitioner with respect to the size of the accessory unit. With that, Councilor Laredo motioned to hold the item which carried 7-0.

#313-20 **Amended Petition to extend nonconforming single-family dwelling at 12 Hanson Road**
ESTHER DEZUBE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-family dwelling and construct a two-family dwelling, extending the nonconforming residential use in the BU1 zoning district, to allow extension and altering of a nonconforming side setback, to allow a structure with 28.4' in height and more than two stories at 12 Hanson Road, Ward 8, Newton Centre, on land known as Section 84 Block 15 Lot 03 containing approximately 7,829 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2, 4.1.3 of the City of Newton Rev Zoning Ord, 2017.

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

Note: Attorney Laurance Lee, offices of Rosenberg, Freedman and Lee, represented the petitioner, Esther Dezube. Atty. Lee presented the request to extend the non-conforming single-family dwelling in the BU1 district at 12 Hanson Road. The petitioner proposes to raze the existing single-family dwelling and replace it with a two-family dwelling, each with a one-car garage. Atty. Lee noted that the

site is zoned BU1, but has an existing, non-conforming single-family dwelling unit. The site is surrounded by SR2 and SR3 zones. Atty. Lee noted that the by-right uses include dry cleaning, retail, convenient store, personal services or a take-out restaurant. He noted that any other use would generate more traffic than the proposed use and stated that the site could be converted into a parking lot.

Senior Planner Katie Whewell reviewed the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Ms. Whewell stated that the petitioner should reconsider the additional curb cut proposed and consider ways to consolidate the curb cuts to minimize disruptions to pedestrians and cars. She noted that while the petitioner has submitted a landscape plan, Planning recommends the petitioner submit a per caliper analysis prior to issuance of a building permit.

The Public Hearing was Opened.

Barbara Chan, 621 Saw Mill Brook Parkway, expressed concern relative to the two-family use and the impact on traffic and street parking. She noted that because the house is the second house from Saw Mill Brook Parkway, it could impact school bus operations. Ms. Chan noted that the proposed two-family use is not consistent with other homes in the neighborhood and questioned what public need will be served.

Simon French, Glen Avenue, noted that if a business was located at the site, the petitioner would have to also provide parking.

Irena Sadovnikov, 35 Hanson Road, noted that the existing structure is not compliant with the setbacks currently and stated the proposal is inconsistent with the character in the neighborhood.

Alexei Sadovnikov, 35 Hanson Road, stated that the extension of the non-conforming residential use will be substantially more detrimental than the existing nonconforming residential use. He noted that the extension of the nonconforming residential use will make an impact on the neighborhood and echoed the concerns voiced by Barbara Chan.

Jon Sneider, 634 Saw Mill Brook Parkway, expressed concern relative to the two curb cuts and increase in parking at the site and on the street. Mr. Sneider noted that residents will be parked on other frontages as the frontage for the subject property will be broken up by the two curb cuts. He noted that there is often traffic getting off of the street and noted that additional cars will exacerbate the traffic in the neighborhood.

May Yee Chin, 11 Hanson Road, expressed concerns relative to the impact on traffic and parking and noted that the street is busy.

Atty. Lee noted that the proposed project setbacks are improving and will be increased from 7' to 9'. In response to questions from the Committee, Atty. Lee confirmed that the proposal is the same as when it was originally presented to the Committee in 2019. Ms. Dezube noted that the setback was increased in order to provide enough space in the driveway to address parking on the street. She explained that the two curb cuts allow a design of the project that creates more green space and stated that there are other properties in the neighborhood with very large driveways.

Committee Discussion

It was noted that the proposed structure maintains a lower height because it is designed with flat roofs, which is out of context for the neighborhood. Atty. Lee responded to questions from the Committee relative to size of the proposed units. He noted that each unit is 2700 sq. ft., which includes the size of the single-car garages. Additionally, there is a basement level bedroom. Atty. Lee explained that the basement level bedroom has a window well as the second means of egress. The way into the basement is the first. Mr. Cronin confirmed that Planning will confirm the appropriate means of egress with Inspectional Services. Atty. Lee noted that the bump out above the second story is for mechanicals. It was explained that the grading of the lot influences the height of the building. It was confirmed that the building is 28.4' in height with two, 9.5' floors. The basement is 8'. Materials used between the floors and on top of the building make up for the difference. Because of the grading of the lot, the building is 30' high.

The Committee noted that although the proposed use may have less impact than a by-right use, it does not have less impact than the existing use. The Committee noted that it is not likely that one of the by-right uses would be successful at the site. The Committee asked that the Planning Department provide some analysis of average parking requirements for some of the by-right uses. The Committee expressed concern relative to the size of the proposed two-family dwelling, noting that each of the units will be 2700 sq. ft.. The Committee asked the Planning Department to provide analysis on the size that a single-family dwelling could be.

Committee members noted that consolidation of the curb cut may be a better option, particularly considering the concerns raised by members of the neighborhood. The Committee urged the petitioner to consider alternate options for the driveway but expressed support for the one-car garages. With that, Councilor Kelley motioned to hold the public hearing which carried unanimously.

#427-20 Petition to allow a rear-lot subdivision at 41 Washington Street

JOSEPH AND SHEILA KEEGAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to create two lots, abandon the two-family use in the existing structure and construct a single-family on the rear 12,000 sq. ft. lot, extending the existing non-conforming side setback at 41 Washington Street, Ward 1, Newton, on land known as Section 71 Block 29 Lot 07, containing approximately 25,902 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3, 7.4, 3.1.5, 3.1.10, 3.1.3, 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: Attorney Terry Morris, offices at 57 Elm Road, represented the petitioners Joseph and Sheila Keegan. Atty. Morris noted that feedback received from the Planning Department and members of the neighborhood have informed the petitioner's decisions with respect to the plans which will be revised and resubmitted for the next public hearing.

The Committee was joined by Associate City Engineer John Daghljan to ask questions relative to drainage concerns. Mr. Daghljan explained that the City required this petitioner's design engineer to perform a soil evaluation. Based on the site plan, they performed a test pit on the southwest corner. The test pits were

dug 9' and no groundwater was encountered. Mr. Daghlian noted that there is no apparent ledge at the site and the water percolated 30 minutes/inch. The City requires that the test pit is within 25'. One of the systems is within 10' of the test pit. A second drainage system near the driveway would require another test pit.

Mr. Daghlian noted that the City can only control surface water. The Department of Environmental Protection (DEP) mandates infiltration of surface water into the ground. On site infiltration is best for ensuring that the City is compliant with phosphorus reduction requirements. Mr. Daghlian noted that one drainage system is designed to collect for a one-hundred-year storm. The second system is designed to collect for a two-year storm. He confirmed that this design is insufficient, and the petitioner would be required to submit a revised plan. It was noted that as plans change after approval of the special permit, the Engineering Department conducts an additional review of the plan prior to issuance of a building permit. Mr. Daghlian explained that in many communities, single-family homes are not required to meet any standards for water collection. He noted that Newton requires the collection of infiltration of water on-site as well as approval of an Operations and Maintenance plan. He stated that once the O&M plan is recorded with the Registry of Deeds, when the property changes hands, new property owners understand the obligation to maintain the stormwater systems.

The Committee questioned whether collection designed to meet a one-hundred-year storm is still adequate? Mr. Daghlian confirmed that the standard has changed over time and a one-hundred-year storm is adequate. He stated that the City permits overflow connection to the city system if residents in the area are having drainage issues. Mr. Daghlian confirmed that the Engineering Department's analysis is based on verifying that there is no negative impact to any abutter. He stated that what is measured for collection and infiltration is net new impervious surface.

The Public Hearing was Opened.

Liam Ryan, 125 Grasmere Street, noted that the subject lot and another lot came into continuous ownership prior to sale of this property. He noted that this could be a new lot, not subject to grandfathering.

Paul Fair, 20 Martin Street, noted that there are underground springs at the site. He suggested there should be more of a plan prior to issuance of the special permit. He questioned where the water is going and noted that there is groundwater. It was noted that there are natural springs there which raise concerns relative to overflow in the neighborhood.

Jodi Vito, 128 Grasmere Street, questioned if there are geotechnical engineers on staff and noted that the springs can be impacted if the ground is impacted. She noted that there is a significant amount of runoff currently and that impact to the natural springs can exacerbate problems.

Ian Gleason, 41 Washington Street noted that he just heard about the natural springs. He confirmed that the petitioners are willing to upgrade the drainage systems at the site to ensure there is no additional discharge onto abutting properties.

James Meigs, 71/80 Elmhurst, noted that the test pits were performed uphill of the proposed development. He noted that the development slopes south to north and reiterated that test pits were dug uphill of the springs.

Atty. Morris confirmed that the petitioners will communicate with members of the community as the plans change. With that Councilor Greenberg motioned to hold the item which carried unanimously.

#439-20 **Petition to exceed FAR and extend nonconforming front setback at 728 Walnut Street**
MARK AND KELLY ANSELM petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct first and second floor additions on all sides, extending the nonconforming front setback and increase the habitable space in the half story, creating an FAR of .56 where .27 exists and .42 is allowed at 728 Walnut Street, Ward 2, Newton Centre, on land known as Section 64 Block 08 Lot 01, containing approximately 7,815 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

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

Note: Architect Dan Krill, Lincoln Architects, represented the petitioners Mark and Kelly Anselmi. Mr. presented details of the proposed project. He noted that the petitioner has received approval from the Historic Commission.

Senior Planner Michael Gleba confirmed that the petitioner's plans reflect a modification in the plans submitted with the special permit application. The Committee expressed concerns that the petitioner's revised plans reflect complete demolition of the house where the plans submitted with the application only reflected a renovation project. It was noted that the dimensions of the plans are not significantly different. The Committee asked that the Planning Department conduct a review of the plans pending before the Committee and work with the petitioner. The Chair opened the public hearing. Councilor Laredo motioned to hold the item which carried unanimously.

The Committee adjourned at 9:15 pm.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



CONSISTENCY REQUEST

60 NEEDHAM STREET

#437-03

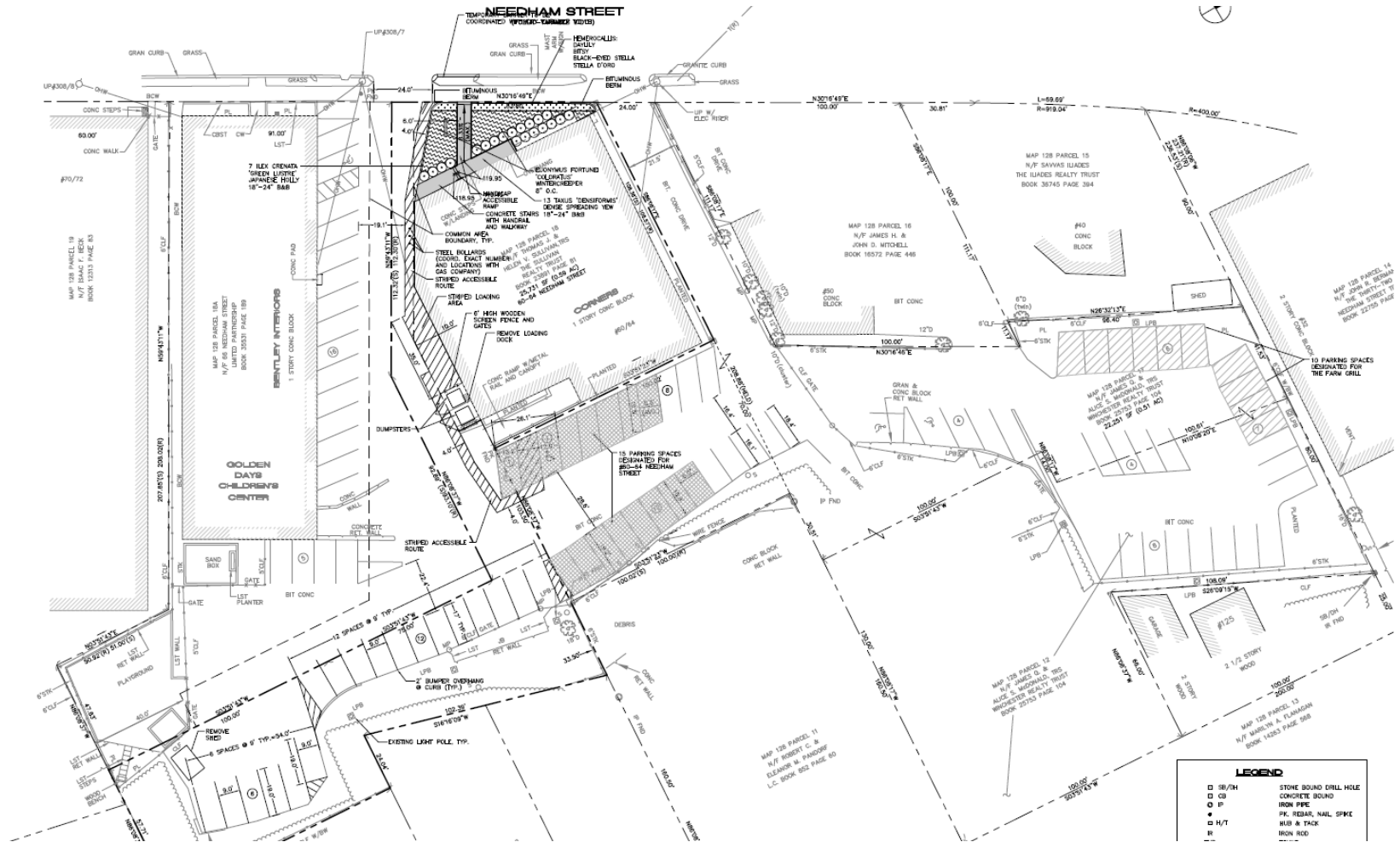
DECEMBER 1, 2020

Consistency Request



- The petitioner obtained a special permit on December 1, 2003 to locate 15 parking stalls off site and to waive the requirements of parking facilities containing more than five stalls.
- The petitioner seeks a consistency ruling to construct three parking stalls on site.
- All parking stalls are dimensionally compliant and meet the setback requirement of the Mixed Use 2 zone.

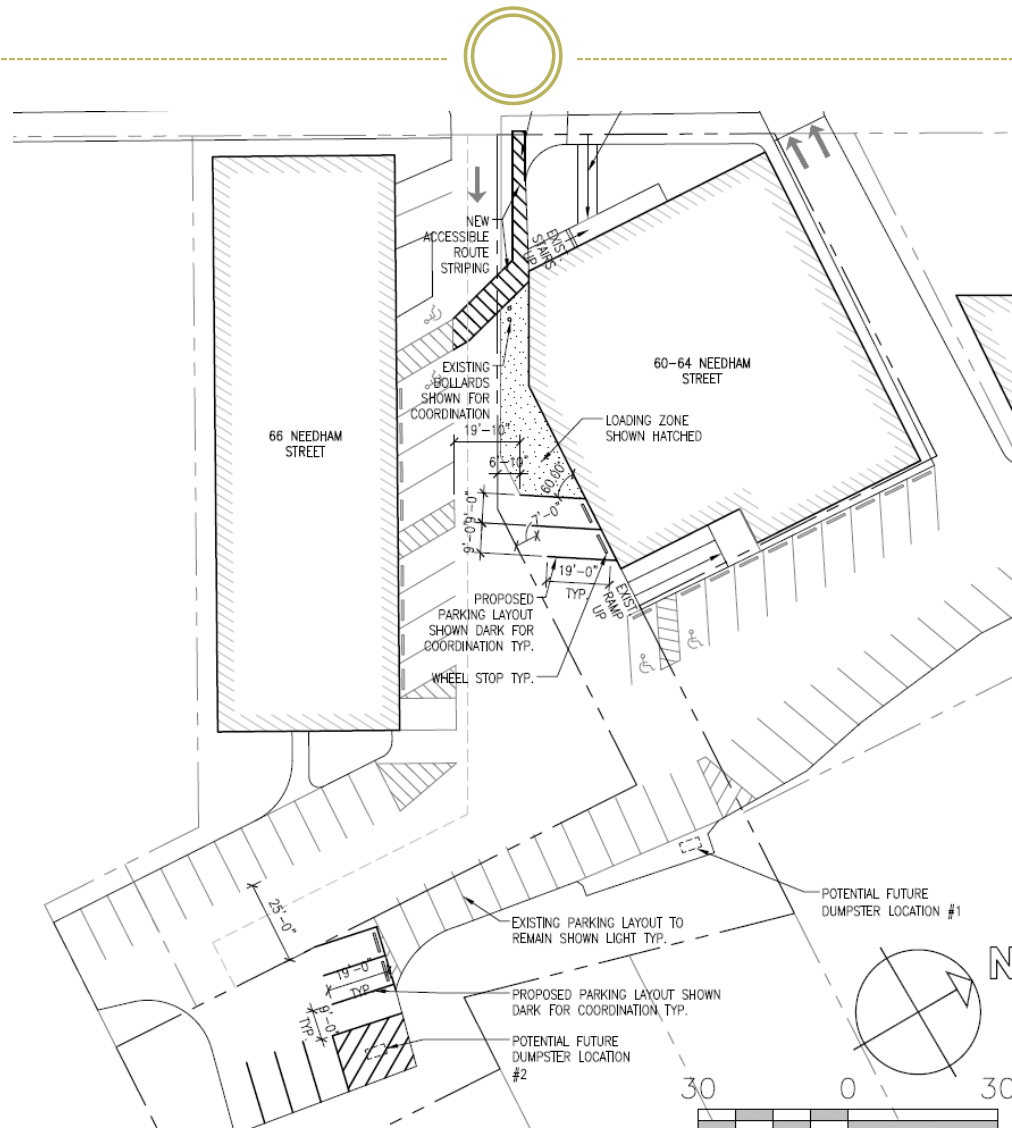
2003 Approved Plan



LEGEND

□ 8R/TH	STONE BOUND DRILL HOLE
□ CB	CONCRETE SOUND
○ IP	IRON PIPE
●	REBAR, NAIL SPIKE
□ H/T	BAR & TRACK
— R	IRON ROD

Proposed Conditions



12 HANSON ROAD NEWTON

Land Use Committee

Public Hearing

December 1, 2020

ZONING
MAP



AERIAL MAP OF SITE

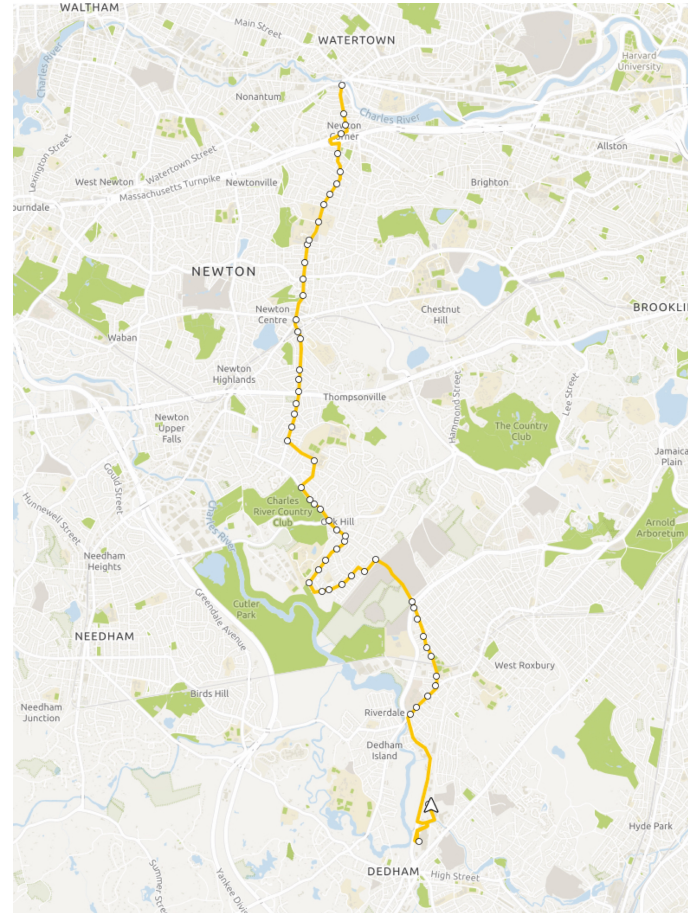
- Business One District – Oak Hill Area
- Access to MBTA Bus (No. 52)
- Existing Non-Conforming Single-Family Use
- NHC – Not historically significant
- Consists of 7,829 SF of land
- Mixed Uses of Commercial and Residential on this unique “Island” of BU-1 Zone
- Special Permit Request to Keep Residential Use (instead of by-right business)
- Example of Business Uses Allowed: Bank; Dry-Cleaning; Health Club; Office; Retail Services.



MBTA BUS ROUTE – NO. 52 BUS

(SOURCE: MBTA.COM)

ACCESS FROM WATERTOWN
TO DEDHAM





NEIGHBORHOOD PICTURES
655 SAW MILL BROOK PARKWAY
(VIEW FROM COLELLA ROAD)



NEIGHBORHOOD PICTURES
655 SAW MILL BROOK PARKWAY
(VIEW FROM SAW MILL BROOK PARKWAY)



VIEW OF 655 SAW MILL BROOK FROM
REAR OF 12 HANSON ROAD



VIEW OF HANSON ROAD
(LOOKING NORTHWESTERLY)



VIEW OF SAW MILL BROOK PKWY
(LOOKING SOUTHWESTERLY)

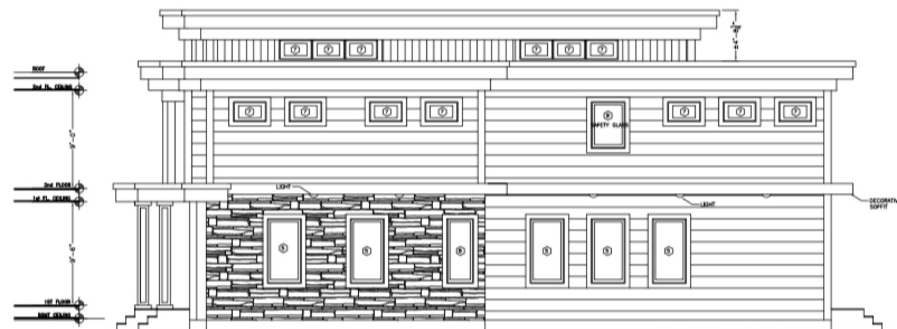
SPECIAL PERMIT RELIEF

Extension of Existing
Non-conforming
Residential Use and
Side Setback

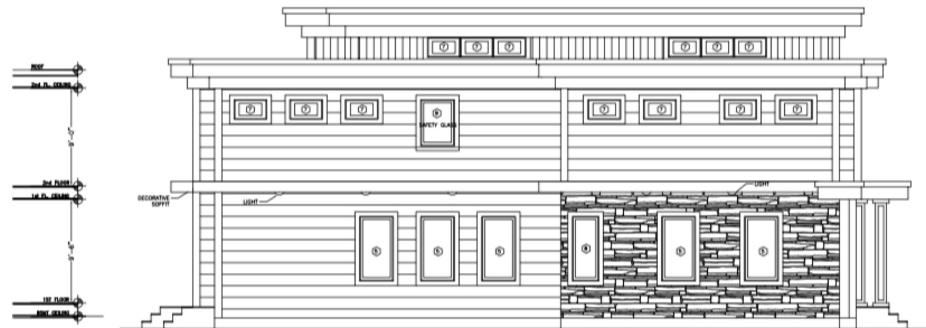
Allow Structure to
be 30 feet in height

Allow Building to be
Greater than Two
Stories

SIDE ELEVATIONS



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

FRONT AND REAR ELEVATIONS





3D RENDERING – FRONT FAÇADE



3D RENDERING – REAR FAÇADE

**PROPOSED
ZONING
DIMENSIONS
COMPARISON**

	SR3	BUI	Proposed
FAR	0.46 (0.48 with bonus)	1.0	0.69
Height	36 feet (slope) 30 feet (flat)	36 feet (3 stories) Requires Special Permit	30 feet
Lot Coverage (max)	30%	Not Applicable	35.1%
Open Space	50%	Not Applicable	51%
Front Setback	25 feet (or average)	Average	27.3 feet
Side Setbacks	7.5 feet (old)	Half of Building Height	9.3 feet 16.2 feet
Rear Setback	15 feet	0 feet (not abutting residential or public use districts)	15.3 feet
Number of Stories	2.5	3 (by special permit)	2+

Department of Planning and Development



PETITION #313-20
12 HANSON ROAD

SPECIAL PERMIT/SITE PLAN APPROVAL
TO RAZE THE EXISTING SINGLE-FAMILY
DWELLING AND CONSTRUCT A TWO-
FAMILY DWELLING, WHICH WOULD
EXTEND THE NONCONFORMING
RESIDENTIAL USE, ALTER A
NONCONFORMING SIDE SETBACK,
ALLOW A STRUCTURE WITH 28.4' IN
HEIGHT AND MORE THAN TWO
STORIES

DECEMBER 1, 2020



Requested Relief



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

- To further extend a nonconforming residential use in the BU-1 zoning district (§4.4.1)
- To alter a nonconforming side setback (§4.1.3)
- To allow a structure with 28.4 feet in height *and more than two stories* (§4.1.3)

Criteria to Consider



When reviewing this request, the Council should consider whether:

- The site is an appropriate location for the proposed two-family structure with a height of 28.4 feet and more than two stories (§7.3.3.C.1, §4.1.3).
- The proposed two-family structure with a height of 28.4 feet and more than two stories will adversely affect the neighborhood (§7.3.3.C.2, §4.1.3).
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3, §4.1.3).
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §4.1.3).
- The proposed nonconforming residential use, and the extension of a nonconforming residential use will be substantially more detrimental than the existing nonconforming residential use is to the neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).
- The proposed alteration of a nonconforming side setback will be substantially more detrimental than the existing nonconforming side setback is to the neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).

Aerial/GIS Map






ATTACHMENT A

Zoning

12 Hanson Road

City of Newton,
Massachusetts

Zoning

-  Single Residence 2
-  Single Residence 3
-  Business 1

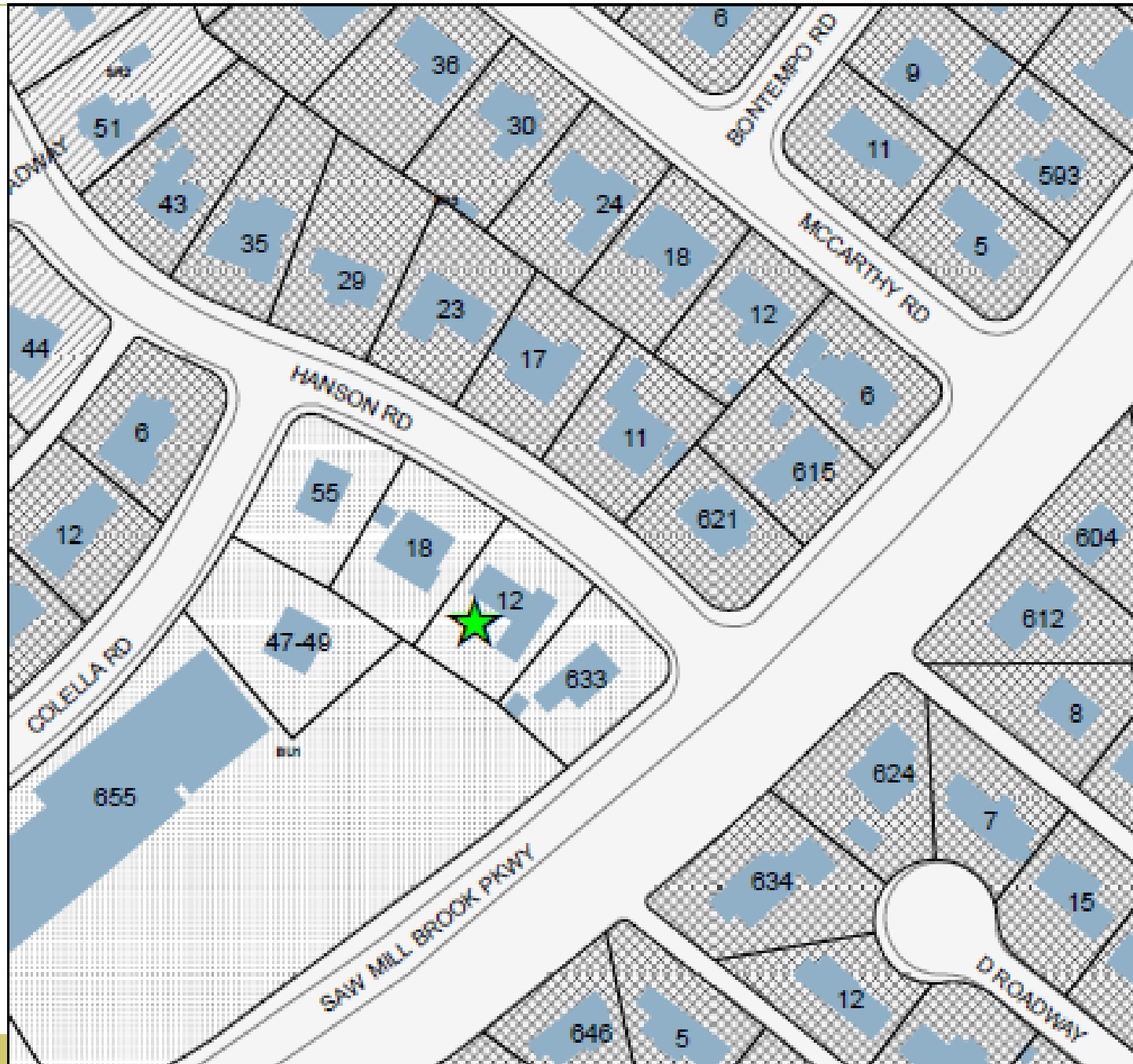


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Katherine Pflieger
GIS Administrator - Douglas Greenfield

0 124 248 372 496 620 744 868 992 Feet

Map Date: August 24, 2020



ATTACHMENT B




Land Use

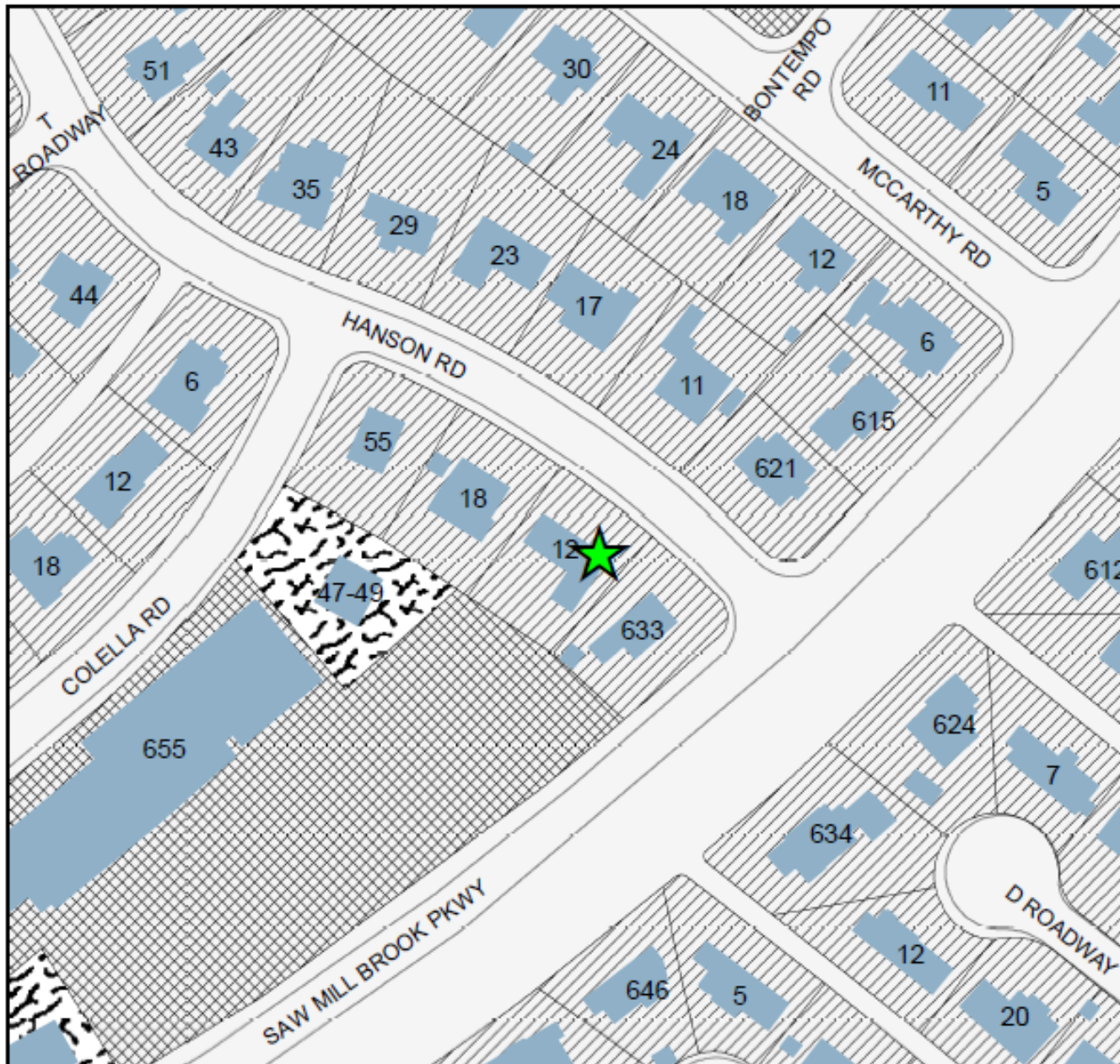
12 Hanson Road

City of Newton,
Massachusetts

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Nonprofit Organizations



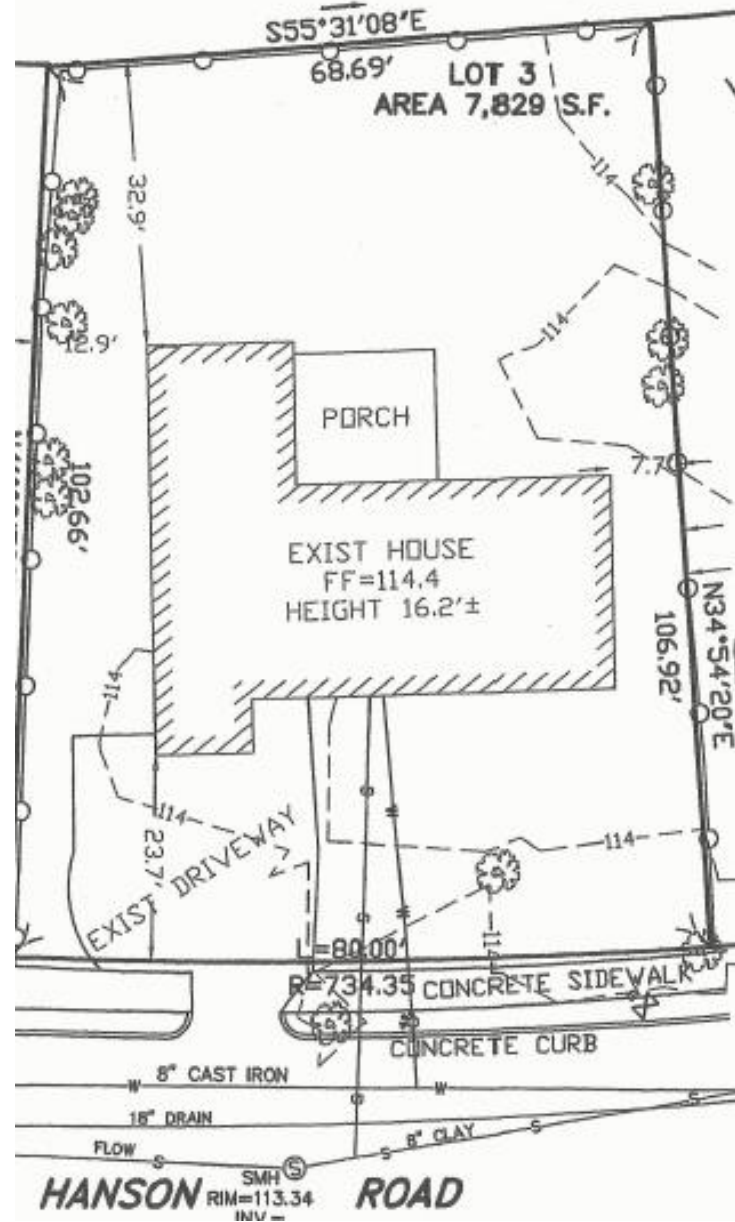
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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125
Feet

Map Date: August 24, 2020

Existing Conditions



Proposed Front Elevation



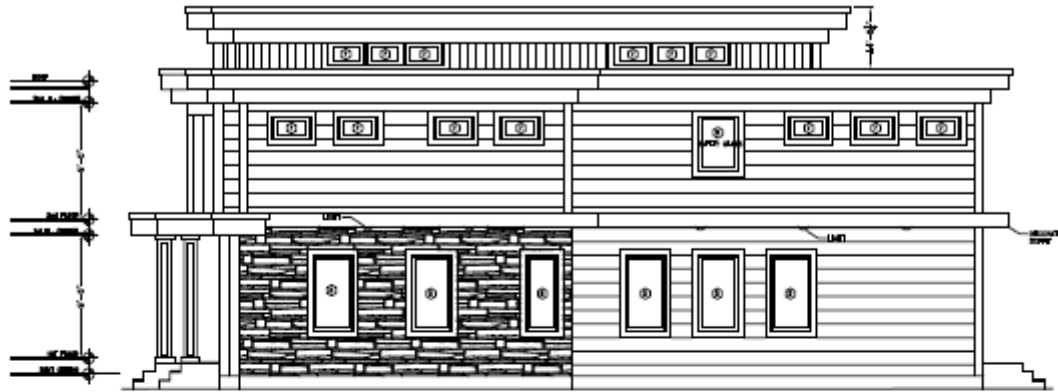
FRONT ELEVATION

Proposed Rear Elevation



BACK ELEVATION

Proposed Side Elevations



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

Landscape Plan

