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James Freas  
Acting Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: June 16, 2015  
Land Use Action Date: June 23, 2015  
Board of Aldermen Action Date: August 10, 2015  
90-Day Expiration Date: September 8, 2015

DATE: June 12, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Daniel Sexton, Senior Planner

SUBJECT: **Petition #121-15, THE NEIGHBORHOOD HARDWARE GROUP, INC./DTS TRUST**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive five parking stalls and for associated waivers of various requirements for an existing parking facility, including parking in the front and side setbacks, and screening, interior landscaping, and lighting requirements for an existing hardware store at 2-12 WINDSOR ROAD (1641 BEACON STREET) Ward 5, Waban, on land known as SBL 53, 29, 2A, containing approx..54,198 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-19(c)(2)a), 30-19(h)(1), 30-19(d)(10), 30-19(i)(1) and (2), 30-19(j), and 30-19(m) of the City of Newton Rev Zoning Ord., 2012.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision-making process of the Board of Aldermen. 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 Board of Aldermen will want to consider in its discussion at a subsequent working session.



**2-12 Windsor Road  
(1641 Beacon Street)**

## **EXECUTIVE SUMMARY**

The property at 2-12 Windsor Road consists of a 54,198 square foot lot improved with a commercial building built in 1910, which was expanded in 1924, and a surface parking lot in the rear. The building has frontage on Windsor Road and Beacon Street, and contains several commercial tenants. The tenants within the building share a 56-stall parking lot at the rear of the site. The property has been the subject of two prior special permits via Board Order #90-98 (authorized the waiver of five parking stalls for a restaurant) and Board Order #388-11 (authorized the waiver of nine parking stalls for a restaurant). The petitioner recently purchased the retail store at 1641 Beacon Street which has been used as a hardware store, known commonly as 'Waban Hardware', and is proposing to expand the retail space into the basement level. In order to allow the expansion of the retail space, the petitioner is seeking a waiver of five parking stalls since the site is fully developed and no additional parking can be provided. The parking lot in the rear of the site is legally nonconforming in terms of the design and dimensional controls for parking facilities per Board Order #388-11; thus, the petitioner is seeking waivers to address these nonconformities as part of this petition.

The Planning Department does not have any significant concerns with the requested waiver of parking stalls which will allow the expansion of the current retail space, as the footprint of the building will not be expanding and the site is located in a neighborhood with a mixture of uses. The Department is not concerned with the waivers to the design and dimensional controls to legalize the existing legally nonconforming parking lot at the rear of the site, as it has existed in its current state for many years and no complaints have been received regarding the lot. Per different visits to the site by staff, a lack sidewalk and curbing adjacent to the parking lot driveway and a significant amount of debris (i.e. display racks, pallets, and trash) was noted at the rear of the site. The Department encourages the petitioner and/or landlord to voluntarily contribute funds to make the sidewalk and curbing improvements along the parking lot frontage as a public benefit. The Department also encourages the petitioner to work with the property owner and other tenants to clean-up the rear of the site so it does not become a nuisance to the surrounding neighborhood. The Department recommends that a designated area for dumpsters be created, which is screened.

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

When reviewing this request, the Board of Aldermen should consider whether:

- The literal compliance with the parking requirements and design and dimensional controls of the Newton Zoning Ordinance (NZO) 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. (§30-19(d)(10), §30-19(h)(1), §30-19(i)(1) and (2), §30-19(j), and §30-19(m))
- The proposed project, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(3))
- Access to the site over streets is appropriate for the types and number of vehicles involved. (§30-24(d)(4))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The property is located in Waban center, at the intersection of Windsor Road and Beacon Street. The site also borders the Massachusetts Bay Transportation Authority (MBTA) Green Line subway route to the southwest. The land uses in the surrounding neighborhood consist of a mix of uses, including commercial, golf course, mixed-use, nonprofit organizations, open space, and single- and multi-family residences (**ATTACHMENT A**). The zoning in the surrounding neighborhood consists of Single Residence 1 and 2, Multi-Residence 1, Business 1, and Public Use districts (**ATTACHMENT B**). The site is zoned Business 1.

### B. Site

The site consists of a 54,198 square foot lot improved with a commercial building built in 1910, which was expanded in 1924, and a surface parking lot in the rear. The commercial building has multiple tenants which share the 56-stall parking lot. The current parking lot is legally nonconforming, as the site plan approved under Board Order #388-11 authorized parking stalls to be located in the front and side setbacks, no screening measures along the perimeter of the parking lot, no interior landscaped areas, and no lighting over the parking lot.

The topography of the site slopes down significantly from Beacon Street to the parking lot in the rear of the site and from the western side of the site towards Windsor Road (**ATTACHMENT C**). The site is almost entirely comprised of impervious surfaces, except for a small portion of the site that contains a few mature trees. A sight-obscuring fence has been erected by the adjacent commercial property to the northwest along the common property line, which partially screens the site from this direction.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The petitioner is proposing to expand an existing retail space, known commonly as 'Waban Hardware', which is a use allowed by right in the Business 1 district. The Planning Department does not have any concerns with the expansion of this use, as it already exists, and any expansion in terms of capacity appears to be minimal due to the nature of the use. Furthermore, the site is located in a neighborhood with a mix of uses and the remainder of the building will continue to contain a mixture of commercial uses.

### B. Building and Site Design

The petitioner is proposing to expand the current retail space into the basement level of the structure, which was previously used by the former store owner for storage. This expansion will increase the amount of retail space open to customers from 1,261 square feet to 2,968 square feet. The establishment will be accessible from the rear parking lot at basement level. The petitioner is not proposing any other changes to the site.

The Planning Department believes that the expanded establishment will improve the economic viability of the business and enhance the vitality of the village center. During numerous visits to the site, staff observed a significant amount of debris (i.e. display racks, pallets, and trash) scattered throughout the rear of the site. The Department encourages the petitioner to work with the property owner and other tenants to clean-up the rear of the site so it does not become a nuisance to the neighborhood. The Department recommends that a designated area for dumpsters be created, which is screened. Further, the petitioner should be prepared to discuss how snow storage will be handled on the site, as there does not appear to be a designated snow storage area.

C. Traffic and Parking

The proposed expansion of the retail space will not change the number of employees on the largest shift, which is anticipated to be four. Based on the proposed 2,968 square feet of retail space, the petitioner is required to provide a total of 12 parking stalls per §30-19(d)(10) of the NZO. Pursuant to §30-19(c)(2)(a), the petitioner is able to take advantage of a seven stall parking credit; thus needing to seek a waiver of five stalls. As noted above, the property has been the subject of two prior special permits via Board Order #90-98 (authorized the waiver of five parking stalls) and Board Order #388-11 (authorized the waiver of nine parking stalls), for a total of 14 parking stalls already waived for other uses on the site. If approved, this request will bring the total number of waived parking stalls to 19.

To understand the availability of parking on-site and in the surrounding area, the petitioner contracted with Planning Horizons to complete a parking utilization study. According to the study's results, there are 93 parking stalls in the area open to public and an average of 40 parking stalls are available throughout the day, which drops slightly to 37 stalls during the peak lunch period. As such the petitioner's consultant has determined that the requested waiver is justified considering the study's results.

The petitioner is also requesting waivers to the design and dimensional controls for parking facilities with more than five parking stalls under the NZO, to legalize the current legally nonconforming parking lot. The current parking lot is legally nonconforming as the site plan approved under Board Order #388-11 authorized the placement of parking stalls in the front and side setbacks, no screening measures along the perimeter of the parking lot, no interior landscaped areas, and no lighting over the parking lot. The petitioner is not proposing to change the parking configuration or pavement striping of the current parking lot.

The Planning Department is not concerned with the requested waiver of parking stalls, as the additional parking demand generated by the expanded use will be minimal. The Department recommends that the petitioner develop a parking management plan to describe how customers and employees will be encouraged to park or take public transportation. In terms of the petitioner's requested waivers to the design and dimensional controls for the current parking lot, the Department is comfortable with granting the requested waivers as long as the petitioner works with the landlord to have pavement markings and signage to direct vehicle traffic in

the rear parking lot.

Based on staff's visits to the site, there is no sidewalk or curbing separating the parking lot from the street, which could result in hazardous interactions between pedestrians and vehicles. The petitioner and/or landlord are encouraged to make a voluntary contribution of funds to make these improvements along the parking lot frontage as a public benefit. These improvements would make the potential interactions between pedestrians and vehicles safer and provide a more attractive streetscape to the lot.

D. Landscape Screening

The site is almost entirely comprised of impervious surfaces, except for a small portion of the site that contains a few mature trees. As such, no landscape plan was required for this petition. While the Planning Department would typically encourage the petitioner to improve the visual appearance of the site through landscape plantings and screening measures, the development pattern on the site and in the surrounding neighborhood limit the potential for additional enhancements.

IV. TECHNICAL REVIEW

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

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

- §30-19(d)(10), to waive five parking stalls.

Although the Zoning Memorandum notes a number of nonconformities with the existing parking lot at the rear of the site, this lot is considered legally nonconforming as a result of Board Order #388-11. The petitioner is, however, seeking the following reliefs for these nonconformities:

- §30-19(h)(1), to allow parking in the front and side setbacks;
- §30-19(i)(1), to waive the parking lot screening requirement;
- §30-19(i)(2), to waive the interior landscaping requirement; and
- §30-19(j), to waive the parking lot lighting requirements.

B. Engineering Review

No engineering review is necessary as the existing site is almost entirely comprised of impervious surfaces.

V. PETITIONER'S RESPONSIBILITIES

The Planning Department recommends that the petitioner should consider the comments and suggestions raised by the Planning Department prior to the close of the public hearing or scheduling of a working session.

**ATTACHMENTS:**

- ATTACHMENT A:** Land Use Map
- ATTACHMENT B:** Zoning Map
- ATTACHMENT C:** Topography Map
- ATTACHMENT D:** Zoning Review Memorandum











# Land Use Map 2-21 Windsor Road

City of Newton,  
Massachusetts

## ATTACHMENT A

### Legend

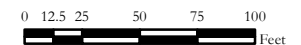
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Golf Course
-  Open Space
-  Nonprofit Organizations
-  Vacant Land
-  Property Boundaries
-  Building Outlines

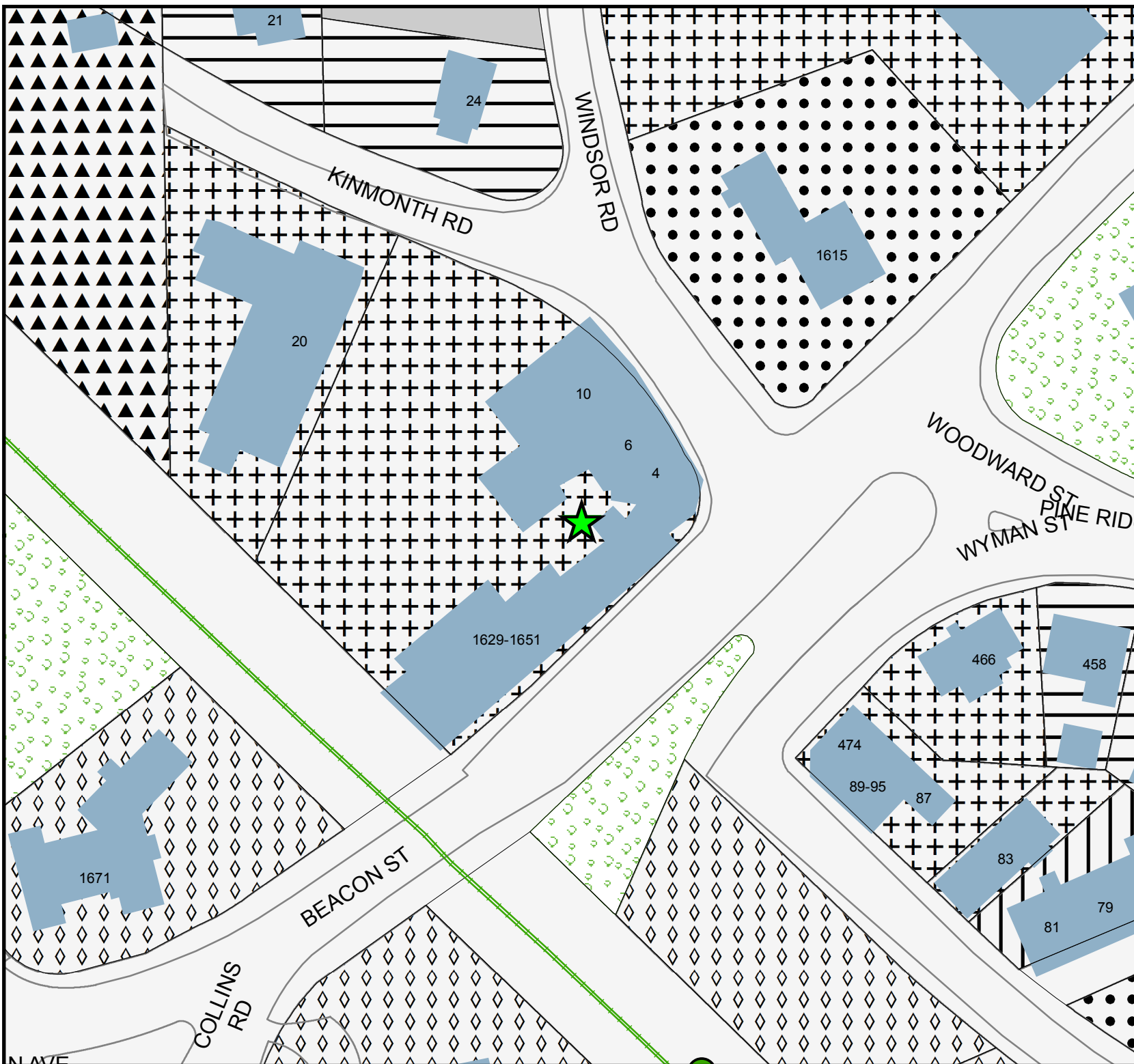


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: June 02, 2015










# Zoning Map 2-21 Windsor Road

City of Newton,  
Massachusetts

## ATTACHMENT B

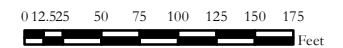
### Legend

-  Single Residence 1
-  Single Residence 2
-  Multi-Residence 2
-  Business 1
-  Public Use
-  Property Boundaries
-  Building Outlines

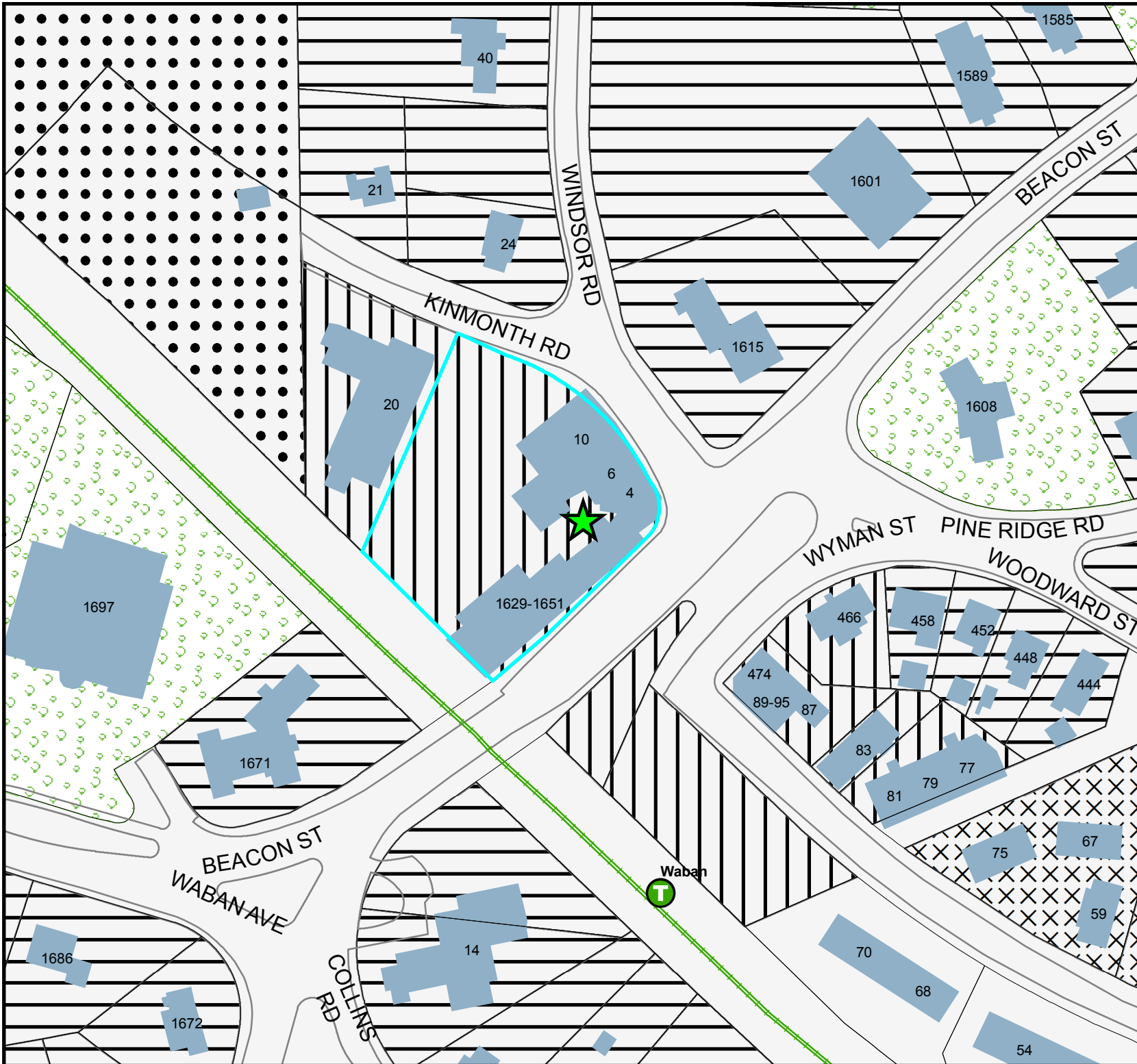


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Map Date: June 02, 2015





# Topography Map 2-21 Windsor Road

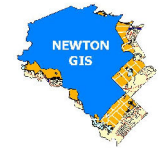
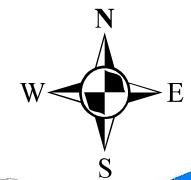
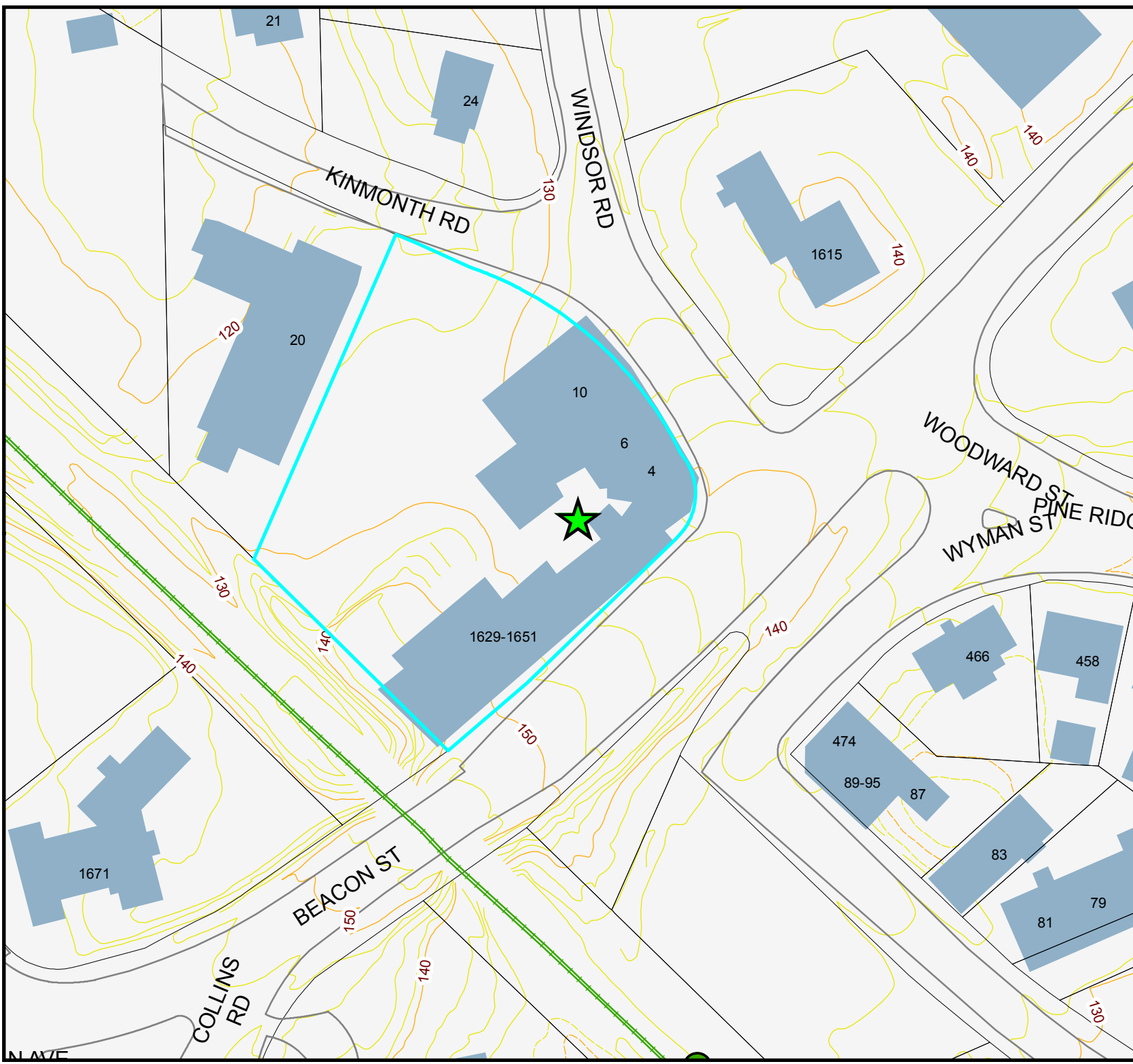
*City of Newton,  
Massachusetts*

## ATTACHMENT C

### Legend

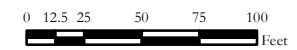
#### Contour Lines

- Two Foot Contour
- Index (10 Foot) Contour
- Depression Contour
- Depression - Index Contour
- Bridge Abutment
- Wall
- Property Boundaries
- Building Outlines



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: June 04, 2015



Setti D. Warren  
Mayor

# ATTACHMENT D

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James Freas  
Acting Director

## ZONING REVIEW MEMORANDUM

Date: April 22, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney  
The Neighborhood Hardware Group, Inc, applicant  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to waive 5 parking stalls and certain parking requirements**

Applicant: The Neighborhood Hardware Group	
Site: 2-12 Windsor Road (1641 Beacon Street)	SBL: 53029 0002A
Zoning: BU1	Lot Area: 54,198 square feet
Current use: Hardware store	Proposed use: Hardware store

### BACKGROUND:

The property at 2-12 Windsor Road consists of a 54,198 square foot lot improved with a commercial building built in 1910, and expanded in 1924. The building houses several commercial tenants, including the applicant's retail storefront which has been used as a hardware store. The applicant intends to maintain the hardware store, known as "Waban Hardware", and to expand the retail space to include the basement.

There is an existing 56-stall parking lot behind the building, which is shared among the tenants. There is no assigned parking. Board Order #90-98 was issued in 1998 waiving five parking stalls to allow for additional seating for Barry's Village Deli. Another special permit (Board Order #388-11) was issued in 2012 waiving nine stalls for a 46-seat restaurant, Kouzina. This request will bring the number of waived parking stalls to 19 if approved.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 4/21/2015
- Parking calculation, submitted 4/21/2015
- Concept Plan, prepared by True Value Company, dated 4/2/2015

- Existing Floor Plan, prepared by DLA Architecture, dated 4/16/2015
- Plot Plan, prepared by Neponset Valley Survey Assoc., Inc., dated 2/20/2012, revised 3/30/2012

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The previous owner of the hardware store, “Waban Hardware,” utilized only the first floor for public retail space, with 1,261 square feet and four employees at the busiest shift. The loft and basement spaces were used for storage only. The former layout of the store required employees to retrieve items requested by customers from the storage areas. The applicant proposes to convert the basement storage space into additional retail space open to customers, which will allow customers to browse and find their own items. The additional space in the basement increases the retail space to 2,968 square feet. This space will be accessible from the rear parking lot at ground level.

Per Section 30-19(d)(10), one parking stall per every 300 square feet, and one parking stall for every three employees at the busiest shift are required for retail uses. The previous use of 1,261 square feet and four employees required a total of seven parking stalls. The increased retail space of 2,968 square feet, and four employees requires 12 parking stalls.

Applying the formula in Section 30-19(c)(2)a):

A (stalls required for proposed use) – B (stalls required for previous use) + C (number of stalls available) = Number of stalls required.

$$A (12 \text{ stalls}) - B(7 \text{ stalls}) + C (0) = 5 \text{ stalls}$$

A waiver of five stalls is required.

2. Board Order #388-11 issued in February 2012 waived nine parking stalls to allow for a 46-seat restaurant within the building. This board order required the property owner to stripe the parking lot. The plan was reviewed and approved by the Commissioner of Inspectional Services and the Planning and Development Department for compliance with handicapped parking regulations and maximization of the number of dimensionally compliant stalls. This accepted parking lot configuration is still in place today, and is reflected in the current applicant’s petition. Any inconsistencies with the Zoning Ordinance are listed below.
3. There are several parking stalls within the front and side setbacks. Per Section 30-19(h)(1), a special permit is required to locate parking within a required setback.
4. Section 30-19(i)(1) requires perimeter screening via landscaping and fencing. No landscaping is proposed at this time. To the extent that the parking does not meet the requirements of Section 30-19(i)(1), a special permit is required.
5. Section 30-19(i)(2) requires interior landscaping for parking facilities with more than twenty stalls. No interior landscaping is visible in the plans. To the extent that the parking lot does not

meet the requirements of Section 30-19(i)(2), a special permit is required to legitimize the situation.

6. Parking facilities are required to provide adequate security lighting per Section 30-19(j). To the extent that the proposed parking does not meet the requirements of this section, a special permit is required.

7. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-19(d)(10), §30-19(m)	Parking waiver of 5 parking stalls	S.P. per §30-24
§30-11(h)(1), §30-19(m)	To allow parking in the front and side setbacks	S.P. per §30-24
§30-19(i)(1), §30-19(m)	To waive the parking lot screening requirements	S.P. per §30-24
§30-19(i)(2), §30-19(m)	To waive the interior landscaping requirements	S.P. per §30-24
§30-19(j), §30-19(m)	To waive parking lot lighting requirements	S.P. per §30-24