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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 10, 2015
Land Use Action Date: March 31, 2015
Board of Aldermen Action Date: April 5, 2015
90-Day Expiration Date: June 1, 2015

DATE: March 6, 2015

TO: Board of Aldermen

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

SUBJECT: Petition #233-07(2), THOMAS D. MURPHY & MAIREAD A. MURPHY, for a SPECIAL PERMIT/SITE PLAN APPROVAL to create an accessory apartment in an existing two-family dwelling and to create a third parking stall, which will decrease the existing nonconforming open space from 39.2% to 37.5%, where 50% is required, at 15-17 WELDON ROAD, Ward 1, on land known as SBL 12, 22, 4A, containing approximately 11,113 sq. ft. of land in a district zoned SINGLE RESIDENCE 2.

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.



15-17 Weldon Road

EXECUTIVE SUMMARY

The two-family dwelling at 15-17 Weldon Road was once an accessory garage structure within the larger “Whittemore” estate. In 1927, the property owner of the garage at this site submitted a petition (#57494) to the Board of Alderman to permit the conversion of the garage to a two-family dwelling. The request for special permit was granted under a zoning provision that was subsequently discontinued in the 1960s. This provision allowed building adaptations subject to certain requirements. The conversion was completed in May 1927. In 2007 Board Order #233-07 allowed for the replacement of two existing decks with two slightly larger decks (one per unit), further decreasing the existing substandard open space from 41.1% to 38.9%.

The owner of 17 Weldon Road is now requesting to amend Board Order #233-07 to establish an accessory apartment within their unit in the two-family structure in a Single Residence 2 district and to further decrease their nonconforming open space from 39.2% to 37.5%. The proposed reduction in open space is the result of the additional parking stall required for the accessory apartment. Besides the creation of an additional parking stall no other site changes are proposed; all alterations for the accessory apartment are internal and the proposed unit meets all of the requirements for an accessory apartment.

The Planning Department has no concerns with the proposed accessory unit. The 474 square foot unit will add to the diversity of the City’s housing stock and will appropriately reduce the size of the existing unit which is quite large. The decrease in open space is minimal and the owner of the adjacent unit (Unit 15) supports the proposed request (**ATTACHMENT A**). The Planning Department believes the proposed accessory apartment and decrease in open space will not be substantially more detrimental to the surrounding neighborhood than the existing two-family use.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The site is an appropriate location for an accessory apartment in a two-family dwelling in the Single Residence 2 district. (§30-24(d)(1))
- The accessory apartment will not adversely affect the neighborhood. (§30-24(d)(2))
- The decrease in nonconforming open space will not be substantially more detrimental than the existing nonconforming open space to the neighborhood. (§30-15, Table 1, §30-21(b), and BO #233-07)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject site is located on a short dead-end street, off Summit Street, south of Newtonville Avenue. The immediate neighborhood is predominately single-family

homes in an area defined as Nonantum by zip code, but more convenient to Newtonville (**ATTACHMENT B**). Many of the homes in the immediate area were constructed on lots broken off from earlier estate properties, and represent a variety of architectural styles. The site is in an area zoned Single Residence 2 (**ATTACHMENT B**) and is abutted on all sides by single-family structures.

B. Site

The 11,113 square foot lot is improved with a two-family dwelling that was converted from a garage in 1927. The garage was formerly part of the Whittemore estate. According to City documents it is not considered an historic resource.

The site drops off towards the rear (north). A bituminous driveway runs along the eastern side of the property and along the north side of the house. The house appears to be divided down the middle and each unit has one garage space with tandem parking in front of the garage. There is an existing stockade fence along the northern property line with some mature trees on the abutting property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use will remain a two-family residence with Unit 17 having an accessory apartment. An accessory apartment at Unit 17 precludes the ability of Unit 15 to have the same, as only one accessory apartment is allowed per lot. As mentioned above, Unit 15 is aware of this limitation and is supportive of this petition.

B. Building and Site Design

The petitioner is proposing to convert a portion of their basement into an accessory apartment. The accessory apartment will be a studio layout and total approximately 474 square feet. The apartment meets all of the controls for an accessory apartment. One exterior parking space is proposed just north of the unit. With the exception of the additional parking stall no other changes are proposed for the site.

The Planning Department has no concerns with the proposed accessory apartment, as the unit is small and should not be disruptive to the neighborhood. The proposed unit is interior to Unit 17 and does not require any expansion of the current dwelling footprint. Further, Unit 17 is approximately 2,830 square feet and the resulting accessory unit will further diversify Newton's housing stock with minimal impact to the surrounding neighborhood.



Figure 1: Existing conditions at rear of dwelling.

C. Landscape Screening

The site is well screened on the northern property line by mature trees and a stockade fence. The existing screening appears adequate to screen the additional parking space, and the resulting decrease in open space does not appear to be significant.

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 D**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- §30-8(d)(1) and §30-8(d)(2), to create an accessory apartment in a two-family dwelling in the Single Residence 2 district.
- §30-15, Table 1, §30-21(b) and BO #233-07, to further reduce the nonconforming open space.

B. Engineering Review

Due to the minimal amount of paving being added to the site no Engineering Division review is required for the proposed project.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- ATTACHMENT A:** Letter of Support from Unit 15, dated January 14, 2015
ATTACHMENT B: Land Use Map
ATTACHMENT C: Zoning Map
ATTACHMENT D: Zoning Review Memorandum, dated January 5, 2015

ATTACHMENT A

January 14, 2015

Ms. Abby Flam
15 Weldon Road
Newton, MA 02458
(617) 699-8458

City of Newton, Massachusetts
Department of Planning & Development
1000 Commonwealth Avenue
Newton, MA 02459

Dear Commissioner Lojek,

The purpose of this letter is to confirm my awareness and support of the proposed special permit requesting the establishment of an accessory apartment in unit 17 of the two-family dwelling at 15-17 Weldon Road. I have seen the revised site plan and the requirement for a parking space that will be utilized by this accessory apartment.

Finally, I am aware that there can only be one accessory apartment in a two-family dwelling under current ordinances. If the permit is granted to establish an accessory apartment in Unit 17, there is no ability to establish an accessory apartment in my unit (Unit 15).

Respectfully,

Abby Flam

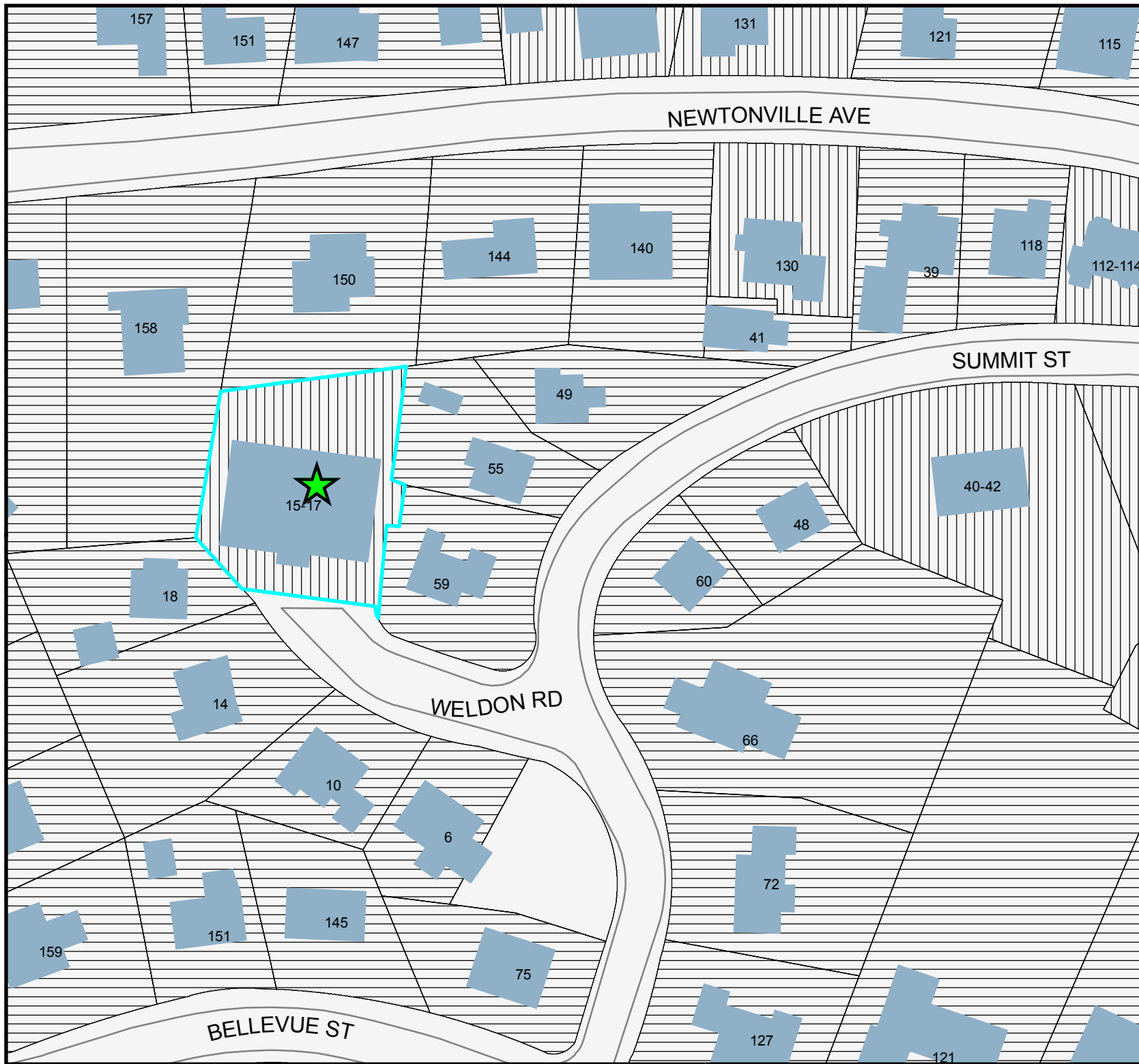
COMMONWEALTH OF MASSACHUSETTS
Abby Flam
personally appeared before me, the undersigned notary public, and proved to me his/her identity through satisfactory evidence, which were MA License and acknowledged he/she signed the foregoing instrument voluntarily for its stated purpose on this 14 day of Jan, 2015.
M Wood
MOONGEE WOOD, Notary Public
My Commission Expires November 15, 2018

RECEIVED
NEWTON CITY CLERK
2015 JAN 21 AM 9:09
DAVID A. OLSON, CLERK
NEWTON, MA 02459

Land Use Map 15-17 Weldon Road

*City of Newton,
Massachusetts*

ATTACHMENT B

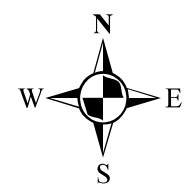


Legend

Street Names

Land Use

- Single Family Residential
- Multi-Family Residential
- 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








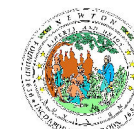
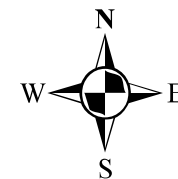
Zoning Map 15-17 Weldon Road

*City of Newton,
Massachusetts*

ATTACHMENT C

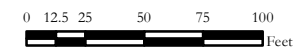
Legend

-  Building Outlines
-  Property Boundaries
- Street Names
-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1

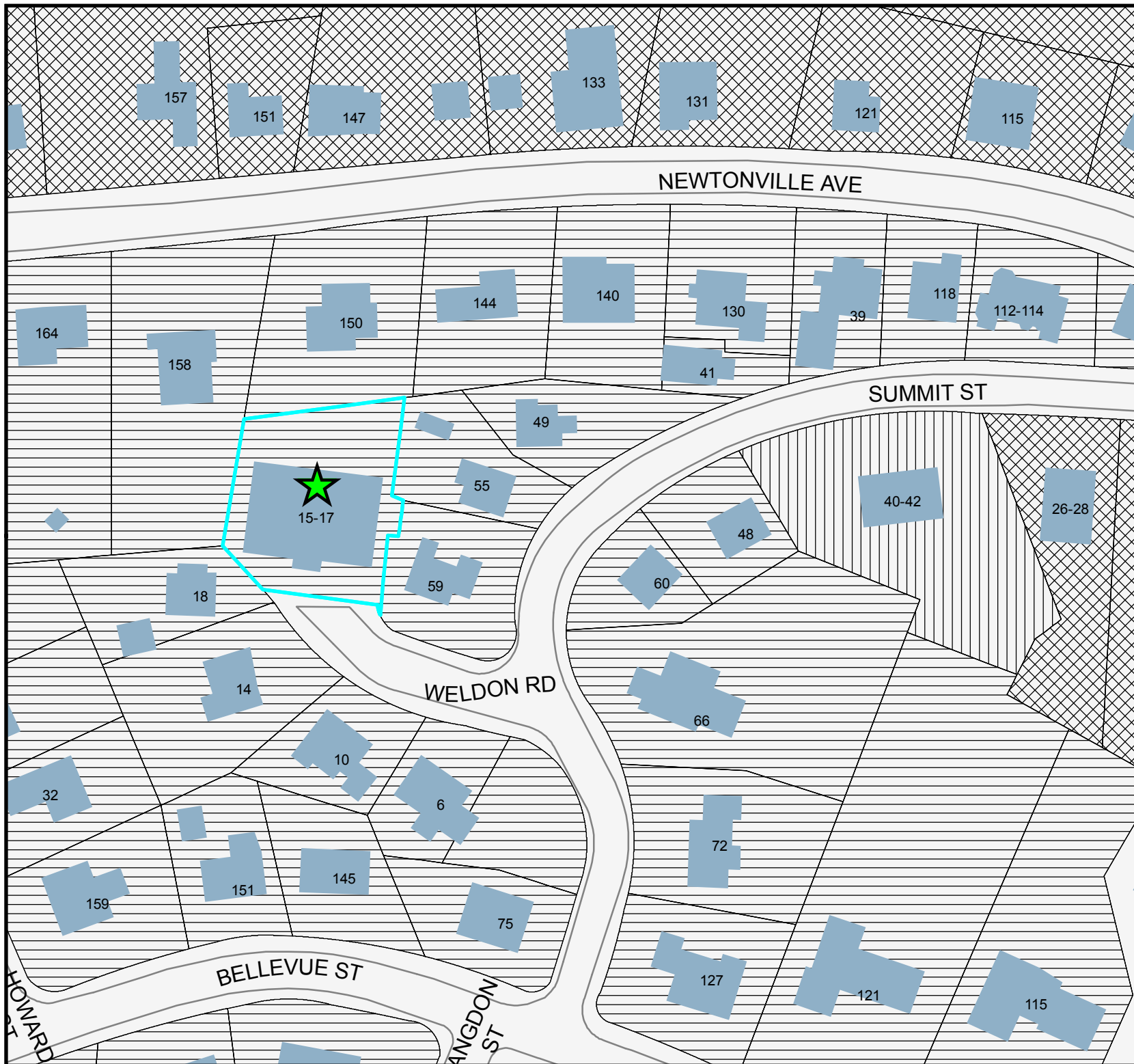


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Map Date: March 02, 2015





Setti D. Warren
Mayor

ATTACHMENT D
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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: January 5, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Thomas and Mairead Murphy, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to establish an accessory apartment in an existing two-family dwelling, to further decrease nonconforming open space, and to amend Board Order #233-07

Applicant: Thomas and Mairead Murphy	
Site: 15-17 Weldon Road	SBL: 12022 0004A
Zoning: SR2	Lot Area: 11,113 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with accessory apartment

BACKGROUND:

The property at 15-17 Weldon Road, located in the SR2 district. The structure was built as a garage in 1915 for a residence at the corner of Summit and Bellevue Street. The main house burned down in 1927 and the garage was converted to the current two-family residence. The Board of Aldermen Order dated May 4, 1927 granted Petition #57494 pursuant to the Ordinance of that day, Chapter 32, Section 556B, para. C. which allowed for the two-family use of the property. A second special permit was issued in 2007, Board Order 233-07, permitting two decks to be built at the rear of the house which further decreased the existing nonconforming open space.

The applicant now seeks a special permit to allow for the creation of an accessory apartment in the basement level of the unit at 17 Weldon Road. Pursuant to Section 30-8(d)(2), a special permit is required to create an accessory apartment in a two-family dwelling.

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

- Zoning Review Application, prepared by Mairead Murphy, applicant, dated 11/21/2014
- Existing Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 9/15/2014
- Proposed Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 11/5/2014
- As-Built Plan, signed and stamped by Bradley Shotola, architect, dated 4/25/2005
- Architectural Plans, prepared by Bradley Shotola, architect, dated 10/6/2014
 - Proposed Basement
 - Proposed Accessory Apartment, Basement Plan
 - Proposed Accessory Apartment, First Floor Plan
 - Proposed Accessory Apartment, Second Floor Plan

ADMINISTRATIVE DETERMINATIONS:

1. The Board of Aldermen Order dated May 4, 1927 granted Petition #57494, which allowed for the use of the property for a two-family dwelling.
2. The existing two-family structure is located in an SR2 district. Per Section 30-8(d)(2), a special permit is required to create an accessory apartment in the SR2 district.
3. Table 30-8 requires a lot have at least 10,000 square feet for an accessory apartment by special permit. The applicant's lot has 11,113 square feet.
4. Table 30-8 requires that a unit has at least 2,600 square feet to allow an accessory apartment by special permit. The applicant has 2,830 square feet.
5. Sections 30-8(d)(1)a) and 30-8(d)(2) require that an accessory apartment within a two family dwelling must have one of the units occupied by the owner of the property. The owner of the property must maintain residency in the main dwelling or the proposed apartment.
6. Section 30-8(1)(b) requires a two-family dwelling to have been constructed at least ten years prior to the date of application for the permit for the accessory apartment. The dwelling was built circa 1927 and thus meets the requirement.
7. The proposed accessory unit must be greater than the minimum of 250 square feet, and less than the maximum of 1,000 square feet required by the ordinance per Section 30-8(d)(2)(a). The proposed apartment is approximately 474 square feet.
8. Any exterior alterations required to meet applicable building, fire or health codes are permitted, per section 30-8(d)(2)(b).
9. There are no other existing or proposed accessory apartments on the lot, per section 30-8(d)(1)(f).
10. No lodgers are allowed in any unit, per section 30-9(h)(1)(g).
11. Sections 30-8(d)(1)(h), 30-19(d)(19) and 30-19(g) require two parking stalls for each dwelling unit, and one stall for the accessory unit. The existing two-family dwelling contains two attached

garages, one per unit, as well as two undersized stalls located outside in front of the garage stalls, for a total of four stalls on site. The 1987 zoning review prepared by Juris Alksnitis concluded that only two stalls are required for the two-family use, as the use predates the 1977 requirement that two-family dwellings provide four parking stalls (two per unit), and set the minimum size of parking stalls as 9 ft. x 19 ft. The applicants propose to create a new third stall, which meets the dimensional requirements of Section 30-19(g)(2).

12. The property has an existing nonconforming open space of 39.2%, where 50% is required per Section 30-15, Table 1. The construction of the parking stall required for the accessory unit further decreases the nonconforming open space to 37.5%. A special permit per Section 30-21(b) is required, as well as a modification to Board Order #233-07 which authorized a decrease in nonconforming open space in 2007. This project creates a further reduction.

13. The accessory apartment must comply with all applicable building, fire and health codes, per section 30-8(d)(1)(i).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	11,113 square feet	No change
Frontage	80 feet	72 feet	No change
Lot size required for an accessory apartment	10,000 square feet	11,113 square feet	No change
Unit size required for an accessory apartment	2,600 square feet	2,830 square feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	16.9 feet 9.8 feet 24.1 feet	No change No change No change
Height	36 feet	31.32 feet	No change
Stories	2.5	3	No change
Max Lot Coverage	30%	35.3%	No change
Min Open Space	50%	39.2%	37.5%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-8(d)(1), §30-8(d)(2)	Creation of an accessory apartment in a two-family dwelling in the SR2 district	S.P. per §30-24
§30-21(b) §30-15, Table 1, BO #233-07	Further decrease nonconforming open space	S.P. per §30-24