



Ruthanne Fuller
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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 5, 2018
Land Use Action Date: August 14, 2018
City Council Action Date: August 20, 2018
90-Day Expiration Date: September 3, 2018

DATE: June 1, 2018

TO: City Council

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

SUBJECT: **Petition #291-18** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a detached accessory apartment in a 353 sq. ft. existing detached structure at **1224 Boylston Street**, Ward 5, Newton Upper Falls, on land known as Section 51 Block 09 Lot 21 containing approximately 12,652 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 6.7.1.E.1of the City of Newton Rev Zoning Ord, 2015.

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.



1224 Boylston Street

Preserving the Past  Planning for the Future

Preserving the Past  Planning for the Future

EXECUTIVE SUMMARY

The property at 1224 Boylston Street consists of a 12,652 square foot corner lot in a Single Residence 3 (SR3) district. It is improved with an approximately 1,600 square foot, 1 ½ story single family dwelling built in 1825, a 353 square foot accessory structure constructed in 1926 and a small shed.

The petitioner is seeking a special permit per §6.7.1.E.1 to convert the detached accessory structure into an accessory apartment in a detached structure accessory to a single-family dwelling. No exterior changes are proposed for the structure, and no other changes are proposed for the site.

The Planning Department is generally not concerned with the creation of the proposed accessory apartment. The Planning Department believes the subject property is an appropriate location for the proposed accessory apartment as it would be within an existing structure, will not adversely affect the surrounding neighborhood as it has sufficient setbacks from the adjacent properties and public ways, and would further diversify Newton's housing stock.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site in a Single Residence 3 (SR3) district is an appropriate location for the proposed accessory apartment in an existing detached structure (§7.3.3.C.1);
- The proposed accessory apartment in an existing detached structure will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed accessory apartment in an existing detached structure 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).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the south side of Boylston Street (Route 9), just east of Lucille Place.

The neighborhood is a mostly a mix of single- and two- family dwellings, with exceptions including a nine unit property at the end of Lucille Place (approx. 200 feet to the south) and an eight-unit property directly across Boylston St., and the aqueduct corridor about 250 feet to the west (**Attachment A**). The site and surrounding area south of Boylston Street are zoned SR3 while the properties across Boylston Street are zoned Multi-Residence 1 (MR1), with Single Residence 2 (SR2) properties beyond those to the north (**Attachment B**).

B. Site

The property consists of a 12,652 square foot lot, improved with an approximately 1,600 square foot, 1 ½ story single family dwelling built in 1825, a 353 square foot accessory

structure constructed in 1926 and a small shed. The site is slopes upward from north to south. The lot is accessed via a paved driveway between the house and eastern property line. The remaining portions of the site feature lawn with some shrubs and mature trees, especially on the property's perimeter. There is also fencing along portions of its street frontages and a low stone wall along its eastern boundary.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence and, if approved, an accessory apartment will be located in an existing detached accessory structure.

B. Building and Site Design

The property consists of a 12,652 square foot corner lot in a Single Residence 3 (SR3) district improved with an approximately 1,600 square foot, 1 ½ story single family dwelling built in 1825, a 353 square foot accessory structure constructed in 1926 and a small shed.

The petitioner proposes to convert the peaked roofed accessory structure into an accessory apartment. No exterior changes are proposed for the structure, nor are any other changes proposed for the site.

The property and structures conform with lot size, frontage, setback and dimensional requirements. The lot coverage, which will not change is 15.8%, considerably lower than the maximum 30% allowed; the open space will remain at approximately 72%, considerably above the required minimum of 50%. The floor area ratio (FAR) will remain unchanged at 0.20, below the maximum 0.39.

C. Parking and Circulation

Vehicular access to the site is provided via a curb cut off Boylston Street and associated existing paved driveway on the east side of the parcel that leads to a parking area between the house and accessory structure. Per §6.7.C, no additional parking is required for the accessory apartment and no changes to the site's parking and/or circulation are proposed. While the addition of a parking space off Lucille Place was once contemplated, as evidenced with its inclusion on the site plan submitted with the petition, the petitioner has withdrawn that request and submitted an amended site plan with the proposed new parking stall deleted.

D. Landscaping and Screening

The accessory structure is screened from the adjacent property to the east by fencing and vegetation. A line of mature tree along the property's Lucille Place frontage provides some screening of the structure which is setback approx. 60 feet from that public way. Also, it is set back approx. 45 feet from the abutting property to the south.

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 to allow the creation of an accessory apartment in a detached structure accessory to a single-family dwelling (§6.7.1.E.1)

B. Engineering Review

Review by the Engineering Division is not required at this time.

C. Upper Falls Historic District Commission

While the property is located in the Upper Falls Historic District, no review by the local historic district commission is required as no exterior alterations are proposed.

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







1224 Boylston St.

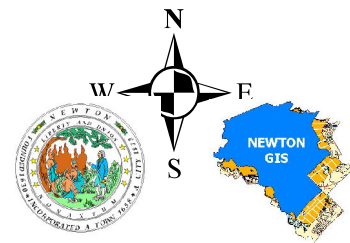
*City of Newton,
Massachusetts*

Legend

Land Use

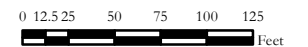
Land Use

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

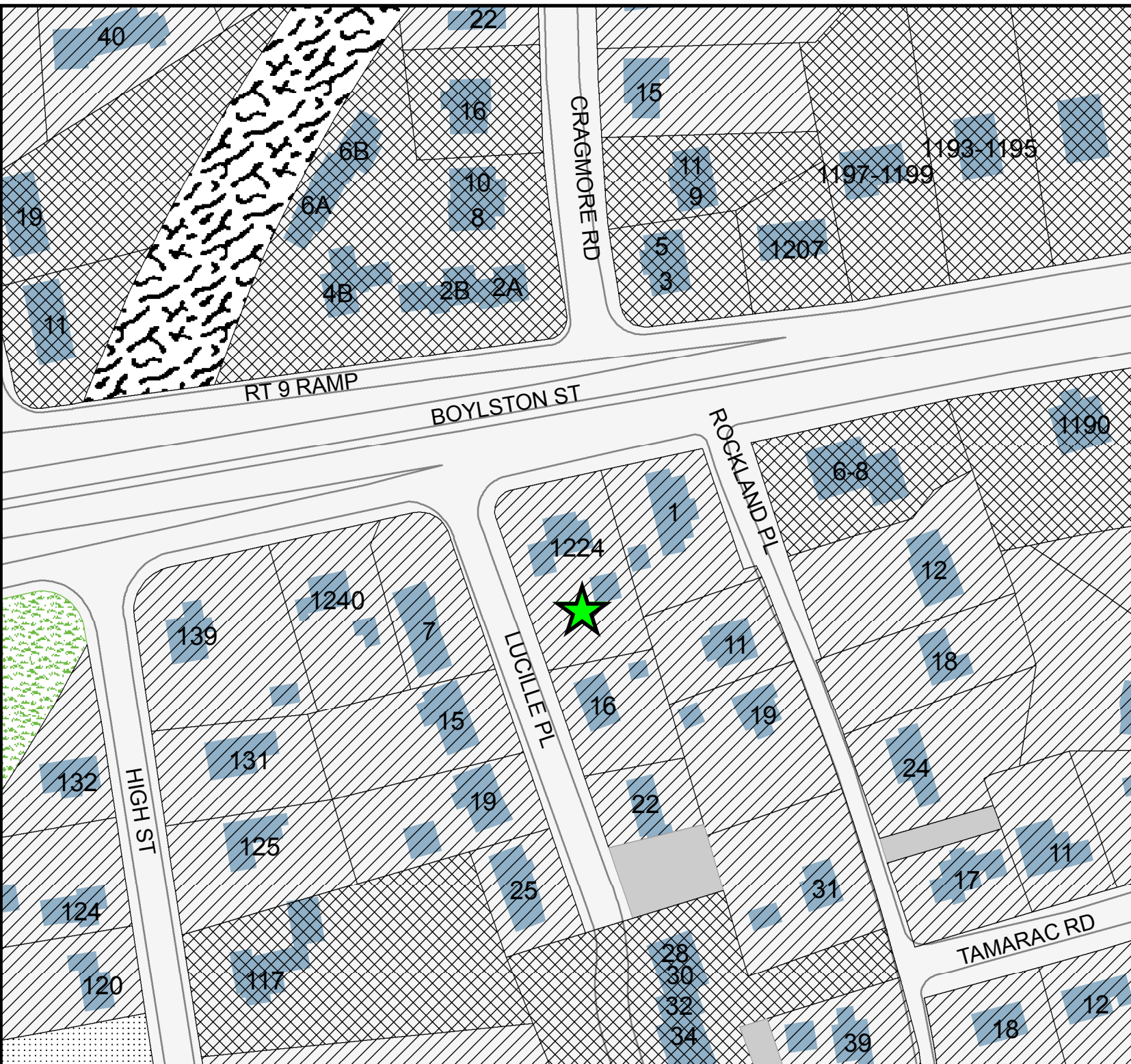


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 31, 2018

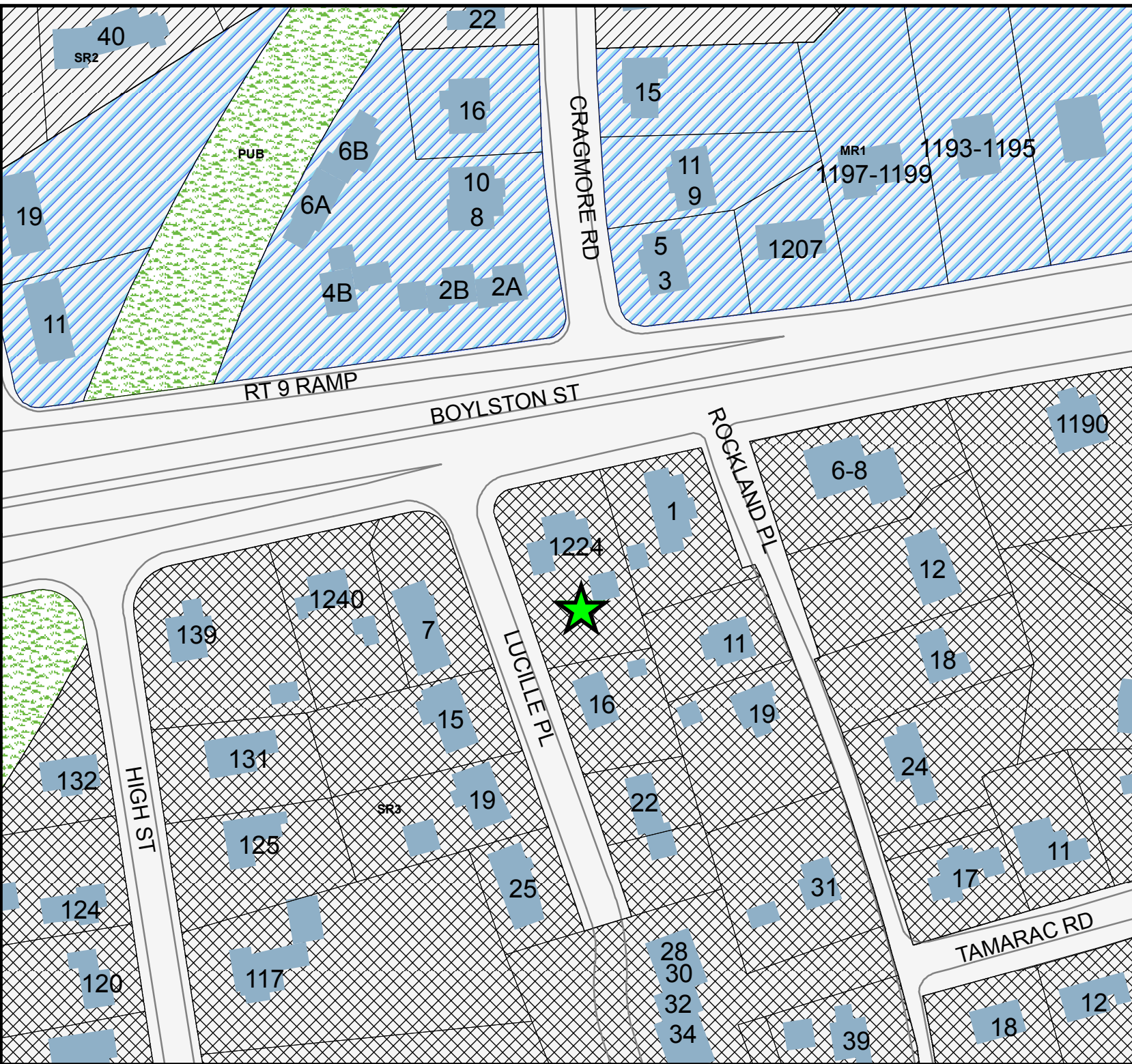


ATTACHMENT B

Zoning

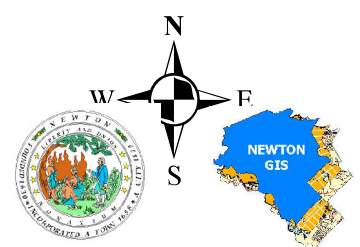
1224 Boylston St.

*City of Newton,
Massachusetts*



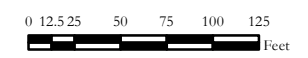
Legend

- Single Residence 2
- Single Residence 3
- Multi-Residence 1
- Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 1, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Amy McMahon, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to establish a detached accessory apartment

Applicant: Amy McMahon	
Site: 1224 Boylston Street	SBL: 51009 0021
Zoning: SR3	Lot Area: 12,652 square feet
Current use: Single-family dwelling	Proposed use: Single-family with a detached accessory apartment

BACKGROUND:

The property at 1224 Boylston Street consists of a 12,652 square foot lot improved with a single-family dwelling constructed circa 1825 in the Upper Falls Historic District. The applicant proposes to convert an existing finished space in a detached accessory structure originally constructed in 1926 into a 353 square foot accessory apartment.

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

- Zoning Review Application, prepared by Amy McMahon, submitted 3/15/2018
- Existing Apartment Plan, signed and stamped by Frank Iebba, surveyor, dated 3/8/2018
- Existing House Plan, signed and stamped by Frank Iebba, surveyor, dated 8/15/2017, revised 9/12/2017

ADMINISTRATIVE DETERMINATIONS:

1. The existing single-family structure is located in an SR3 district. Per section 6.7.1.E.1, a special permit is required to create an accessory apartment in a detached structure accessory to a single-family dwelling in the SR3 district.
2. The accessory apartment may not be held in separate ownership from the principal structure per section 6.7.1.C.1.
3. Per section 6.7.1.C.2, there may be only one accessory apartment per lot. Only one apartment is proposed.
4. Section 6.7.1.C.3 requires that one of the two units be owner-occupied. The applicant must maintain residence in one of the units.
5. Per section 6.7.1.C.4, the total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal unit alone.
6. The dwelling must have been constructed four or more years prior to application per Section 6.7.1.C.5. The primary dwelling was constructed in 1926.
7. The minimum occupancy or rental term for a rental agreement is 30 days per section 6.7.1.C.6.
8. Per section 6.7.1.C.7, sufficient screening for parking areas is required to minimize visual impacts to abutters. The petitioner proposes to add a parking stall.
9. The decisions and determinations required to allow an accessory apartment must be filed at the Registry of Deeds, per section 6.7.1.C.8.
10. Any changes in ownership require notification to the Commissioner of Inspectional Services per section 6.7.1.C.9
11. Per section 6.7.1.C.10, the property owner must file with the Commissioner of Inspectional Services a sworn certification of continued compliance with this section 6.7.1.
12. Section 6.7.1.E.2 requires that an accessory apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet, or 40 percent of the total building size, whichever is less. The proposed apartment is 353 square feet.
13. Section 6.7.1.D.1.c allows for exterior alterations which are in keeping with the architectural integrity of the structure and neighborhood. No exterior alterations are proposed.
14. Section 6.7.1.E.4 requires that the accessory apartment be at least six feet from the principal dwelling unit. The accessory apartment is approximately 15 feet from the principal dwelling.

15. Per section 6.7.1.E.5, the detached accessory apartment must meet the setbacks for the principal dwelling unit, or requires a special permit. The accessory unit meets all principal setbacks and other dimensional requirements.
16. Per section 6.7.1.E.6, a detached accessory apartment is subject to the dimensional requirements of section 3.4.3 for accessory buildings. The existing structure is one story and has a footprint of less than 500 square feet. To the extent that there are any nonconforming dimensions to the structure, no changes are proposed.

Zone SR3	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	12,652 square feet	No change
Frontage	70 feet	71 feet	No change
Setbacks for existing structure			
• Front	25 feet	31 feet	No change
• Side	7.5 feet	17.1 feet	No change
• Rear	15 feet	75.1 feet	No change
Dimensions for detached structures			
• Front	25 feet	±75 feet	No change
• Side	5 feet	±10 feet	No change
• Rear	5 feet	±40 feet	No change
• Height	22 feet	<22 feet	No change
• Max stories	1.5	1	No change
Max Lot Coverage	30%	15.8%	No change
Min Open Space	50%	72.4%	70.6%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.1	Creation of an accessory apartment in a detached structure accessory to a single-family dwelling	S.P. per §7.3

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

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a detached accessory apartment in an existing detached structure, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for an accessory apartment within an existing accessory structure (§7.3.3.C.1);
2. The proposed accessory apartment within an existing accessory structure will not adversely affect the neighborhood as it will be set back from the adjacent public way and abutting properties (§7.3.3.C.2);
3. The proposed accessory apartment within an existing accessory structure will not be a nuisance or create a 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);
5. The proposed accessory apartment within an existing accessory structure is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3);
6. The proposed accessory apartment will help to diversify Newton's housing stock consistent with Newton's Comprehensive Plan.

PETITION NUMBER: #291-18

PETITIONER: Amy N. McMahon

LOCATION: 1224 Boylston Street, Ward 5, on land known as Section 51, Block 9, Lot 21, containing approximately 12,652 square feet of land

OWNER: Amy N. McMahon

ADDRESS OF OWNER: 1224 Boylston Street
Newton, MA

TO BE USED FOR: Detached accessory structure with an accessory apartment

CONSTRUCTION: Wood-framed

EXPLANATORY NOTES: Special permit per §7.3 to allow the creation of an accessory apartment in a detached structure accessory to a single-family dwelling (§6.7.1.E.1)

ZONING: Single-Residence 3

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:
 - i. A site plan entitled "Existing House, 1224 Boylston Street, Newton, MA," prepared by Essex Eng. & Survey, signed and stamped by Frank Iebba, Professional Land Surveyor, dated August 15, 2017 and September 12, 2017.
 - ii. A plan entitled "Existing Accessory Apartment, 1224 Boylston Street, Newton, MA," signed and stamped by Frank Iebba, Professional Land Surveyor, dated March 8, 2018.
2. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
3. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
5. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - 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, the Assessing Department 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.
6. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.