



Setti D. Warren
Mayor

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

191-12
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

MEMORANDUM

Public Hearing Date: August 14, 2012
Land Use Action Date: October 16, 2012
Board of Aldermen Action Date: November 5, 2012
90-Day Expiration Date: November 12, 2012

DATE: August 10, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ^{ET}
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition 191-12, MAXIMILLIAN CANDIDUS/337 WASHINGTON STREET REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 7 parking stalls required as a result of expanding a restaurant from 12 to 37 seats and to waive the associated design standards for parking facilities with greater than 5 stalls at 323-333 WASHINGTON STREET, Ward 1, Newton Corner, on land known as SBL 71, 3, 7, in a district zoned Business 1. Ref: Sec. 30-24, 30-23, 30-19(c)(3), (d)(13), 30-19(h), (i), (k) and (m) of the City of Newton Rev Zoning Ord, 2012.

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.

EXECUTIVE SUMMARY

The petitioner's restaurant is located within a commercial building on a parcel consisting of 7,635 square feet of land in the Business 1 zone. The site is located north of the Massachusetts Turnpike in Newton Corner village center. Max and Leo's Artisan Pizza occupies one of the commercial spaces and seeks to expand operations into the adjacent storefront, formerly occupied by a paint store. This proposal will increase the number of seats from 12 to 37 requiring a waiver for seven required parking stalls. At the rear of the building is a 15-stall parking facility which is noncompliant with respect to a number of dimensional and landscaping requirements.

The *2007 Comprehensive Plan* encourages vibrant, attractive village centers with a mix of small businesses that are responsive to resident's needs within these centers. This expansion proposal will enhance a thriving, locally-oriented business within a village center.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether the following apply:

1. A waiver for seven parking stalls is appropriate since literal compliance with the parking requirements is impracticable due to the small size of the lot and its location within a village center.
2. A waiver for the required design standards for a parking facility is appropriate since this condition has existed since at least 1986 and redesigning the parking facility to meet current dimensional standards would likely require the elimination of parking stalls which are a valuable resource to the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject site is located in the Newton Corner village center. It is located in an area of Business 1 zoning located on both sides of Washington Street. The zoning transitions to Multi-Residence 2 to the north of the site. The petitioner's space is located in one of several commercial buildings located along Washington Street.

B. Site

The site consists of 7,635 square feet of land and is improved with the multi-tenant commercial building with a parking facility to the rear. The parking facility has been modified over time and does not meet current design standards. The

existing parking scenario is one that is common behind many of the older commercial buildings throughout village centers. As businesses expand and change ownership, the parking arrangement changes, often resulting in restriping and dimensional noncompliance.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The existing restaurant use will be expanded into the adjacent storefront.

B. Building and Site Design

Since opening in 2011, Max and Leo's Pizza has operated with limited seating around the perimeter of the restaurant and one unisex handicap restroom. The proposal is to expand into an adjacent storefront currently used by a dry cleaning establishment. This will increase the seat count from 12 to 37, while also expanding the kitchen area and adding an additional restroom facility. The Chief Plans Examiner has indicated that the petitioner will have to add an additional handicap restroom or seek a waiver for this requirement from the Massachusetts Architectural Access Board.

C. Parking and Circulation

A parking plan on file is dated May 1978 (ATTACHMENT E) and shows a ten-stall parking facility that conformed to the design standards in effect at that time. This plan was produced as part of a 1978 building permit, which authorized the demolition of a two-story house behind the existing commercial building. Sometime after the issuance of the 1978 permit, the parking configuration was changed to accommodate 15 parking stalls that are presumably noncompliant with the standards for the construction of parking facilities. This is illustrated in a plan dated June, 1986 (ATTACHMENT D). In adding five parking stalls, most of the stalls became dimensionally noncompliant. The landscaping was also removed from the parking facility at that time. The petitioner can either seek a waiver for dimensional requirements for stalls and for landscape requirements for parking facilities of greater than five stalls, or can redesign the facility to meet today's design standards. Since the parking facility is presumed to have operated as currently constituted for over three decades and the additional stalls provide a neighborhood benefit by keeping employee parking off of residential streets, the Planning Department recommends the issuance of waivers for these design standards.

D. Landscape Screening

The petitioner is not proposing any exterior changes on a site that is already mostly covered by buildings and hardscape. Therefore, no landscaping is

necessary.

IV. COMPREHENSIVE PLAN

The *2007 Comprehensive Plan* encourages vibrant, attractive village centers with a mix of small businesses that are responsive to residents' needs within village centers. This proposal will result in the continued expansion of a thriving, locally-oriented business within a village center.

V. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum (ATTACHMENT C) provides a complete analysis with respect to zoning. The petitioner is seeking a waiver for seven required parking stalls for the expansion of the seating in the restaurant.

In addition, the latest parking plan on file appears to be noncompliant with respect to landscape screening, parking stall dimensions and internal landscaping requirements. The petitioner is not proposing any changes to this condition, so he must seek a waiver for these requirements.

B. Newton Historical Commission

Newton Historical Commission review is not required.

C. Engineering Review

The proposed changes will not result in an increase in the amount of impervious surface on site and therefore do not require review by the Engineering Division of the Department of Public Works.

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (ATTACHMENT C), the petitioner is seeking the following reliefs:

- Section 30-19(c)(3), 30-19(d)(13), 30-19(m) to waive seven required parking stalls
- Section 30-19(h), 30-19(i), 30-19(k), 30-19(m) to waive required design standards for parking facilities with greater than five stalls

VII. PETITIONERS' RESPONSIBILITIES

The petitioner should provide a parking study prior to the working session.

ATTACHMENTS:

ATTACHMENT A: VICINITY LAND USE MAP

ATTACHMENT B: VICINITY ZONING MAP

ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: 1986 SITE PLAN

ATTACHMENT E: 1978 SITE PLAN

191-12 323-333 Washington

Land Use

City of Newton,
Massachusetts



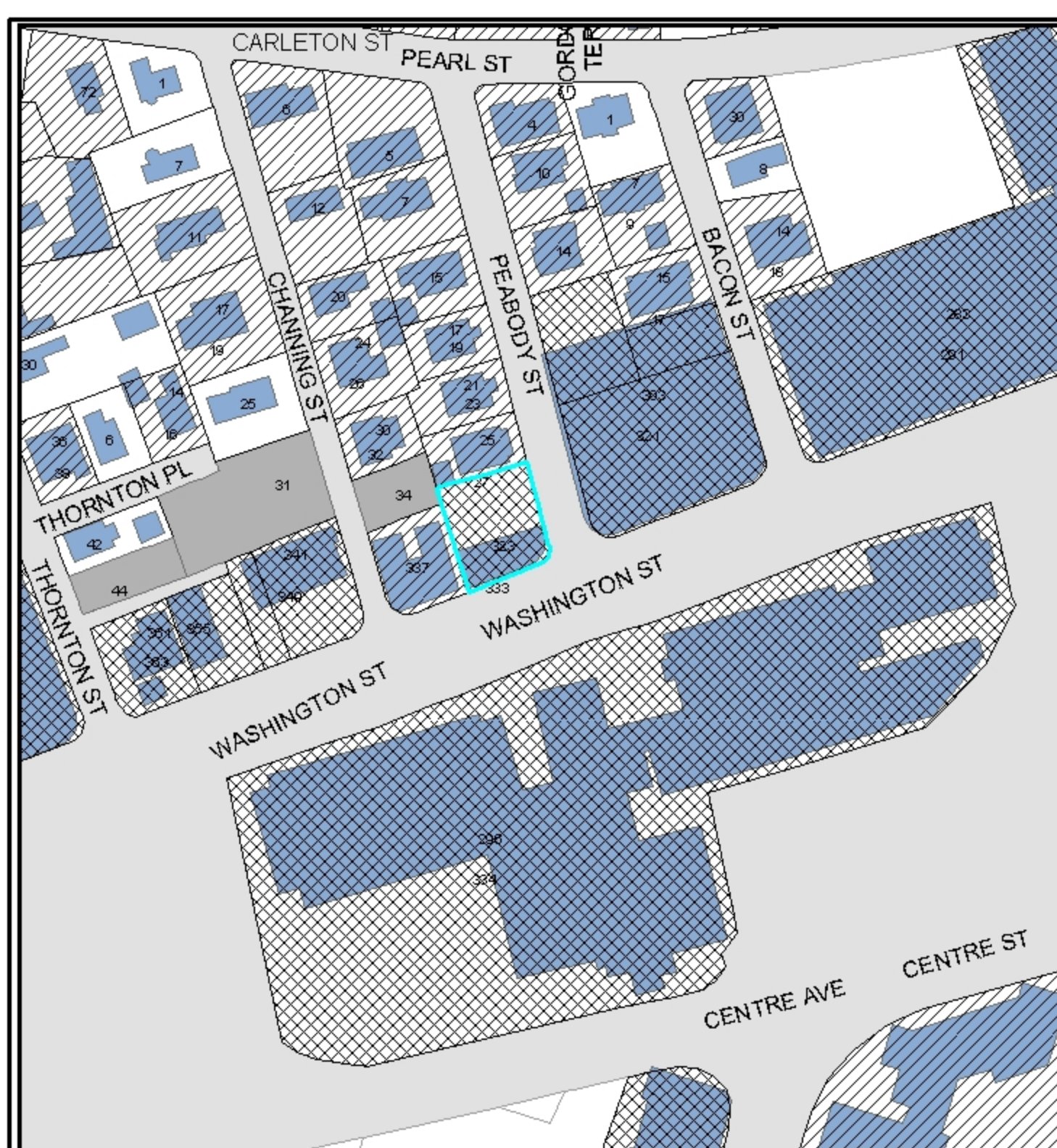
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Attachment A

Map Date: August 07, 2012



191-12 323-333 Washington Zoning

City of Newton,
Massachusetts

Legend

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



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



Attachment B

Map Date: August 07, 2012





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Mayor

City of Newton, Massachusetts
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Attachment C
191-12

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ZONING REVIEW MEMORANDUM

Date: July 2, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Max Candidus, applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to waive seven required parking stalls**

Applicant: Macky Brown Enterprises, LLC	
Site: 323-333 Washington Street	SBL: 71003 0007
Zoning: BU1	Lot Area: 7,635 square feet
Current use: Restaurant with 12 seats	Proposed use: Restaurant with 37 seats

BACKGROUND:

The property at 323-333 Washington Street consists of a 7,635-square foot lot improved with a commercial building and a small parking lot. One of the building tenants, Max and Leo's Coal Fired Pizza, proposes to expand its space and number of seats from 12 to 37.

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

- Architectural floor plans, by Lennard Roberts Architect, unsigned and unstamped, dated 5.18.12
- Copy of site plan related to approved building permit, dated May 1978
- Copy of site plan showing existing conditions, dated June 3, 1986

ADMINISTRATIVE DETERMINATIONS:

1. The proposed use, a restaurant with 37 seats, is a permitted use in the Business 1 District.
2. In 1978, a two-story house behind the commercial buildings was demolished to make space for a parking facility. A plan dated May 1978 shows a ten-stall facility that conformed to the parking design standards of the time. At some point following the original 1978 building permit, a different parking configuration was created, as recorded in a plan filed with the Registry of Deeds in 1986

showing fifteen parking stalls that do not conform to the design standards for parking facilities. The property owner has two options for remedying this situation: (1) apply for and obtain a special permit from the Board of Aldermen per Section 30-19(m) to waive the dimensional and design requirements of Sections 30-19(h), 30-19(i), and 30-19(k), legalizing the existing 15-stall parking facility, or (2) renovate the parking facility to bring it into compliance with the required dimensional standards.

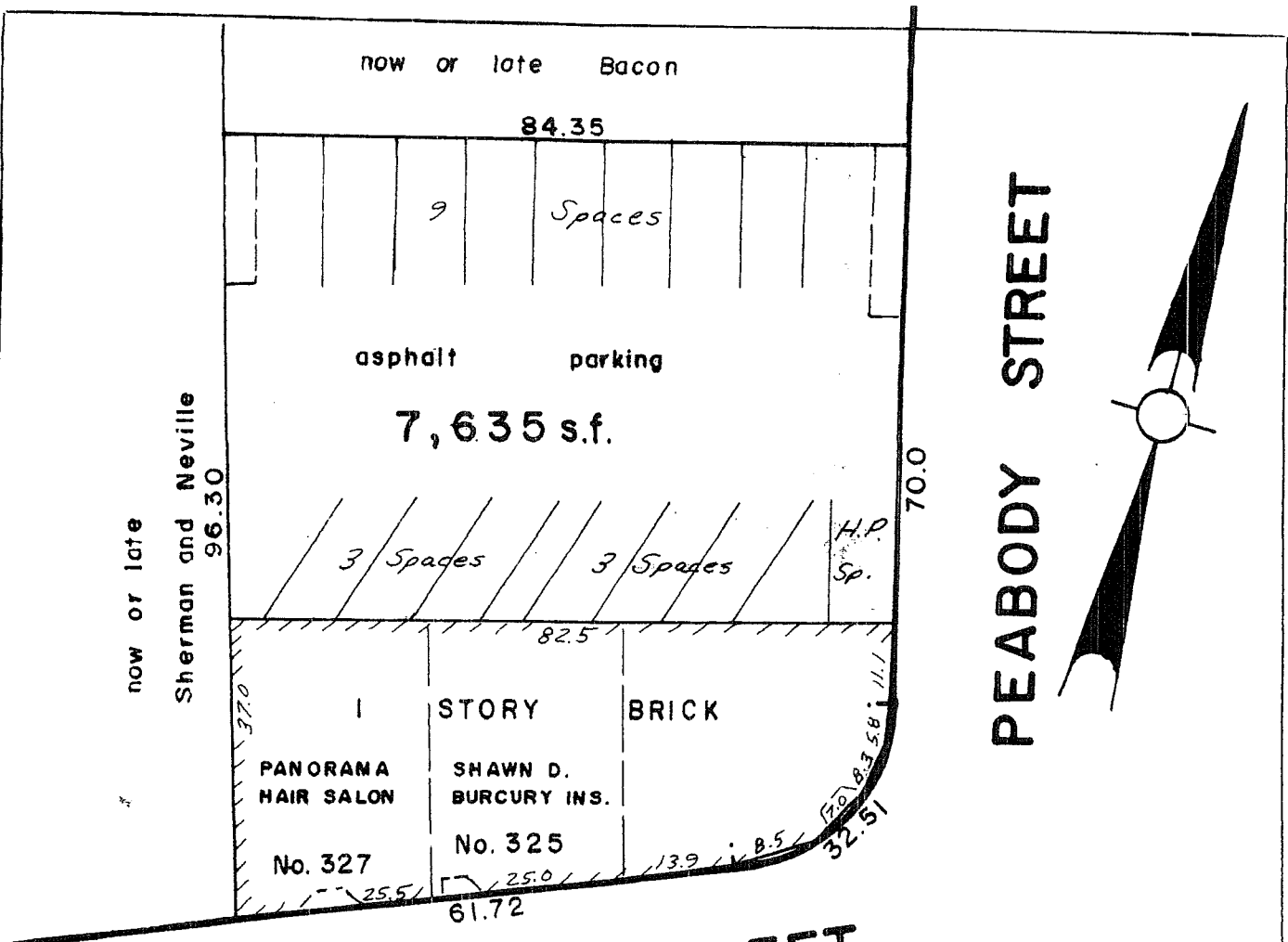
3. The applicant must comply with the parking regulations of Section 30-19 of the Newton Zoning Ordinance. The proposed use, a 37-seat restaurant, has a parking requirement of one stall per three seats and one stall per three employees on the largest shift per Section 30-19(d)(13). The existing use is a 12-seat restaurant with three employees on the largest shift for a total parking requirement of five stalls ($12/3 = 4$; $3/3 = 1$). The applicant is proposing a 37-seat restaurant with five employees on the largest shift for a total parking requirement of 15 stalls ($37/3 = 13$; $5/3 = 2$), an increase of ten required parking stalls. The expansion will occupy an additional 375 square feet formerly used as a retail paint store. Per section 30-19(d)(10), retail stores have a parking requirement of one stall per 300 square feet and per 3 employees on the largest shift. Therefore, the applicant has a credit of three stalls ($375/300 = 2$; $1/3 = 1$). The applicant's plans do not propose any additional off-street parking on the site. To expand the restaurant use as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-19(m) to waive seven required parking stalls (see the table below).

Proposed	Parking Formula	Required Parking
37-seat restaurant with five employees on the largest shift	1 stall per 3 seats and 3 employees	15 (A)
Existing	Parking Formula	Parking Credits
12-seat restaurant with three employees on the largest shift	1 stall per 3 seats and 3 employees	5 (B)
375 square foot retail store with one employee on the largest shift	1 stall per 300 square feet and 3 employees	3 (B)
Off-street parking spaces*		10 (C)
Additional Spaces Required:		7

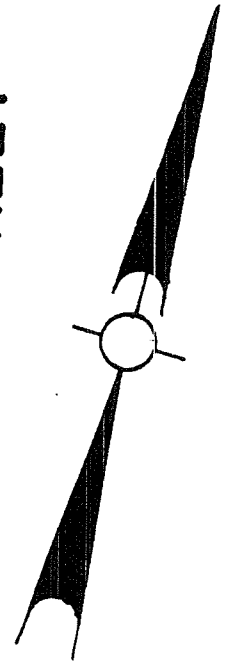
* Number legally approved in 1978 plan. This number could change if dimensional standards are waived by SP. Calculation per §30-19(c)(2): A (15) – B (8) + C(10) = Required number of parking stalls (17)

4. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(c)(3); §30-19(d)(13); §30-19(m)	Waive seven required parking stalls	S.P. per §30-24
§30-19(h); §30-19(i); §30-19(k); §30-19(m)	Waive required design standards for parking facilities with greater than five stalls	S.P. per §30-24 or comply with parking design requirements



PEABODY STREET



WASHINGTON STREET

MORTGAGE PLOT PLAN

Location **NEWTON**
Scale 1 in. = 20 ft. Date June 3, 1986
Plan reference: Being lot described by deed. Recorded in Middlesex So. Dist. Registry of Deeds in Book 13680, Page 18

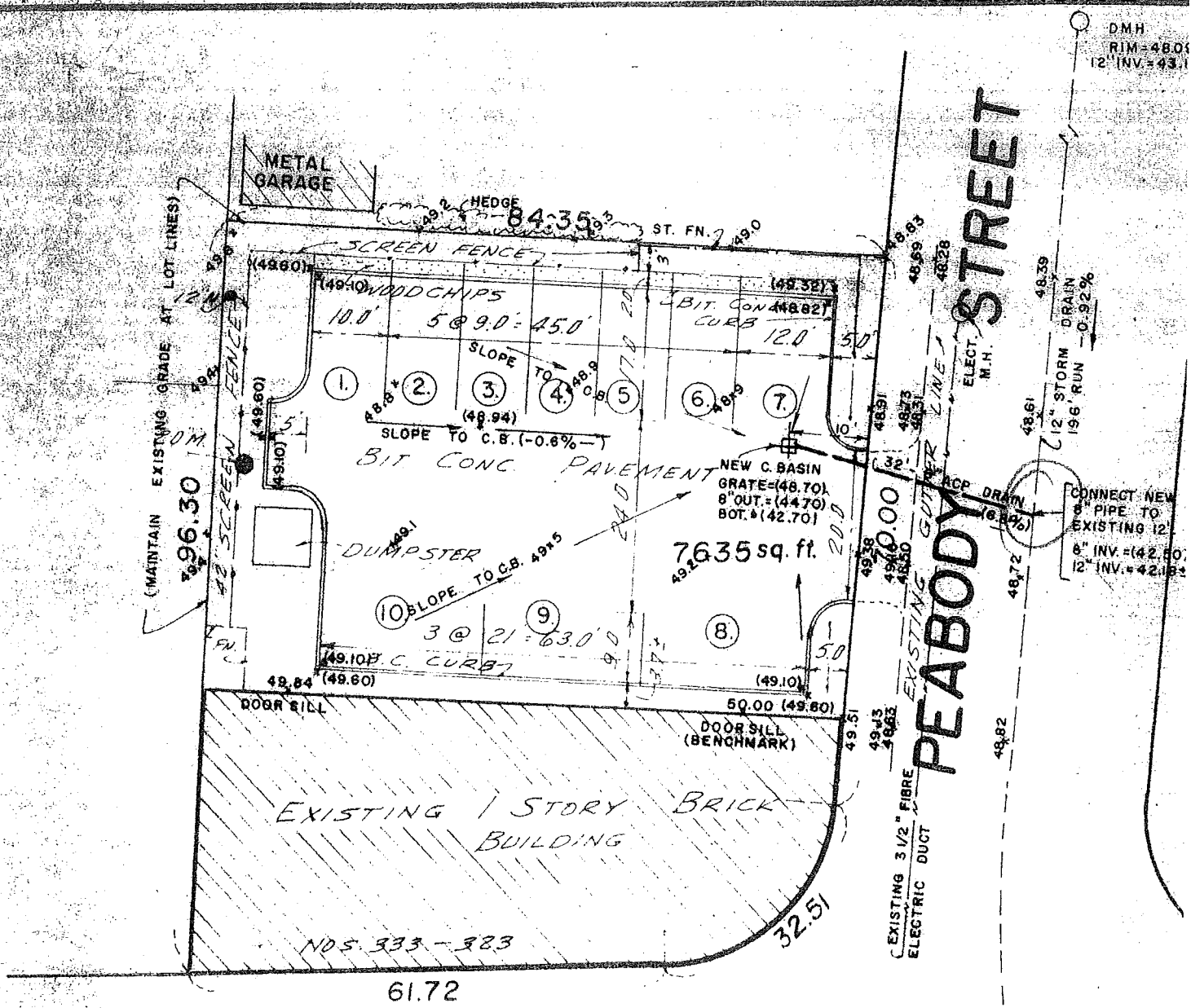
SELWYN & KIRWIN ASSOC., Land Surveyors
14 Linden Avenue, Belmont

I hereby certify that the building shown on this plan is located on the ground as shown thereon and that it conforms to the zoning and building laws of the city of Newton when constructed and to restrictions on record

John P. Kirwin

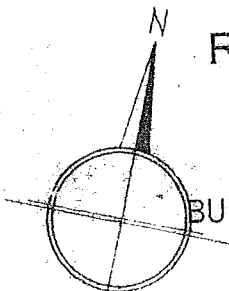
NOTE: I HEREBY CERTIFY THAT THE PREMISES SHOWN ON THIS PLAN ARE NOT LOCATED WITHIN THE FLOOD HAZARD AREA AS DELINEATED ON THE MAP OF COMMUNITY NO. 250208B-NEWTON MASS. EFFECTIVE NOV. 2, 1983 BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-FEDERAL INSURANCE ADMINISTRATION

This plot plan was not made from an instrument survey and is drawn for the use of the mortgage, for mortgage purposes only.



WASHINGTON

STREET



RECEIVED
MAY 23 1978
BUILDING DEPARTMENT

GRADING PLAN OF
PROPOSED PARKING LAYOUT
IN

NEWTON, MASS.

SCALE 1 IN. = 20 FT. MAY 1978

BARNES ENGINEERING COMPANY, INC.
411 LEXINGTON ST. AUBURNDALE, MASS.

- NOTES
- EXISTING GRADES: (49x0)
 - PROPOSED GRADES: (49x0)
 - NEW CATCH BASIN TO CONFORM

