



Setti D. Warren
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089

www.newtonma.gov

James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 14, 2014
Land Use Action Date: November 18, 2014
Board of Aldermen Action Date: December 15, 2014
90-Day Expiration Date: January 5, 2015

DATE: October 10, 2014

TO: Board of Aldermen

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

SUBJECT: **Petition #337-14**, A&M REALTY TRUST, ANDREW & MONICA HEALY TRUSTEES for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND A NONCONFORMING STRUCTURE to convert an existing detached structure into an accessory apartment at **59-61 Warwick Road**, Ward 3, on land known as SBL 31, 28, 62 and 64, containing approx. 11,218 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(b), 30-8(d)(4), 30-15 Table 1, and 30-15(m)(2) and (3), Table 30-8 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 Public Hearing.



59-61 Warwick Road

EXECUTIVE SUMMARY

The property at 59-61 Warwick Road consists of a 5,763 square foot lot in a Single-Residence 3 zoning district, improved with a two-family dwelling built in 1925, and a detached two-car garage. The petitioner also owns the adjacent approximately 5,455 square foot parcel to the west, which consists of a nonconforming, approximately 1,197 square foot two-story building, built in 1910 as a stable and shed. The petitioner is seeking a special permit to use this building as an accessory apartment. The petitioner is proposing extensive interior renovations to the building, consisting of the addition of two bathrooms and a kitchen, and modest changes to the exterior to add windows and construct a new entry way. The petitioner is not proposing any changes to the overall site plan on either parcel.

The Planning Department has no particular concerns with the proposed accessory apartment use, or with the proposed changes to the exterior of the nonconforming structure. This project supports the goals of the 2007 *Newton Comprehensive Plan* to increase the diversity and affordability of the City's housing stock, to allow residents to age in place, and to preserve the City's existing structures.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The site is an appropriate location for an accessory apartment, as it meets the requirements of the Newton Zoning Ordinance. (§30-24(d)(1))
- The proposed accessory apartment will not adversely affect the neighborhood, as the structure already exists and the net increase of one unit will have a minimal impact. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians, as there is adequate parking on the site. (§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 site is located on Warwick Street, adjacent to the Fessenden School campus. The land uses in the surrounding neighborhood include single- and two-family residences, and the Fessenden School (**ATTACHMENT A**). The subject property and the surrounding residential properties are zoned Single Residence 3 (**ATTACHMENT**

B). The surrounding lots and structures are similarly sized and oriented to the street as the subject property.

B. Site

The lot at 59-61 Warwick Road consists of approximately 5,763 square feet of land, and the adjacent lot to the west, which is also owned by the petitioner, consists of 5,455 square feet of land. The two lots are improved with several structures, including a nonconforming two-family dwelling, a detached garage, and two-story building originally constructed in 1910 as a stable and shed. The former stable/shed is nonconforming as to height (22.3 feet versus 22 feet allowed) and number of stories (two stories versus 1½ stories allowed) for a detached structure. There are two curb cuts on the site, one to the detached garage and one to the proposed accessory apartment structure. The site plan does not identify whether the accessory apartment structure has any existing utilities.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is seeking a special permit to allow an accessory apartment use in the nonconforming two-story accessory building. The Planning Department believes that the proposed accessory apartment will help to achieve several of the goals in the 2007 *Newton Comprehensive Plan*, including increasing the diversity and affordability of the City's housing stock, allowing the petitioners to age in place, and preserving an existing structure. The Planning Department also notes that the location is approximately one mile from West Newton's and Newtonville's village centers, and within two miles of Moody Street, which overall provides reasonable access to amenities and transportation.

B. Building and Site Design

The petitioner is proposing several modest changes to the exterior of the building where the accessory apartment is proposed including, adding a new front door and portico, a new back door, new windows, and a small bump out on the first floor for a vent. The interior of the building will consist of a kitchen, living room and bathroom on the first floor, and two bedrooms and one bathroom on the second floor. The location of existing and proposed utilities to the accessory building were not shown on the site plan, but will be addressed during the standard building permit process. The parking stall for the accessory apartment will be located in the existing driveway. The Planning Department considers the proposed changes to the exterior of the building to be modest and notes that there are no proposed changes to the overall site plan on either lots.

C. Parking and Circulation

The parking stall for the proposed accessory apartment will be located in front of the building in the existing driveway. The Department has no particular concerns regarding parking and circulation on the site or with the impact of the accessory apartment and associated parking stall on views from the street.

D. Landscape Screening

The site is partially screened along the side and rear property lines by vegetation and fencing. The Planning Department suggests planting additional shrubs along the western property line to further increase the amount of screening from the adjacent property. Due to the existing trees in the front of the property, and the layout of adjacent lots, the Planning Department does not believe that additional planting is necessary along the front property line.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, (**ATTACHMENT C**), provides an analysis of the proposal with regard to zoning. Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-8(d)(2) and Section 30-21(b), to create an accessory apartment in a nonconforming two-family dwelling in a Single Residence 3 district.
- Section 30-8(d)(2) and Section 30-21(b), to create an accessory apartment in a detached structure.
- Table 30-8, to create an accessory apartment to a building at least 1,800 square feet but less than 2,500 square feet.
- Section 30-15(m)(2) and Section 30-21(b), change of use of a detached structure which is nonconforming due to height.
- Section 30-15(m)(3) and Section 30-21(b), change of use of a detached structure which is nonconforming due to number of stories.

B. Engineering Review

As the petitioner is not increasing the impervious surfaces on the lot by more than 4% no engineering review is required. Any new utilities brought into the site will be reviewed by the engineering department as part of the normal building permit review.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should consider additional screening along the western property line.

ATTACHMENTS:

- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum

Land Use Map 59-61 Warwick Rd

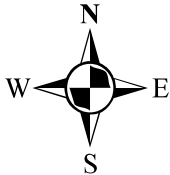
City of Newton,
Massachusetts

Legend

Land Use

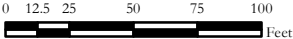
- Single Family Residential
- Multi-Family Residential
- Private Educational
- Vacant Land

ATTACHMENT A

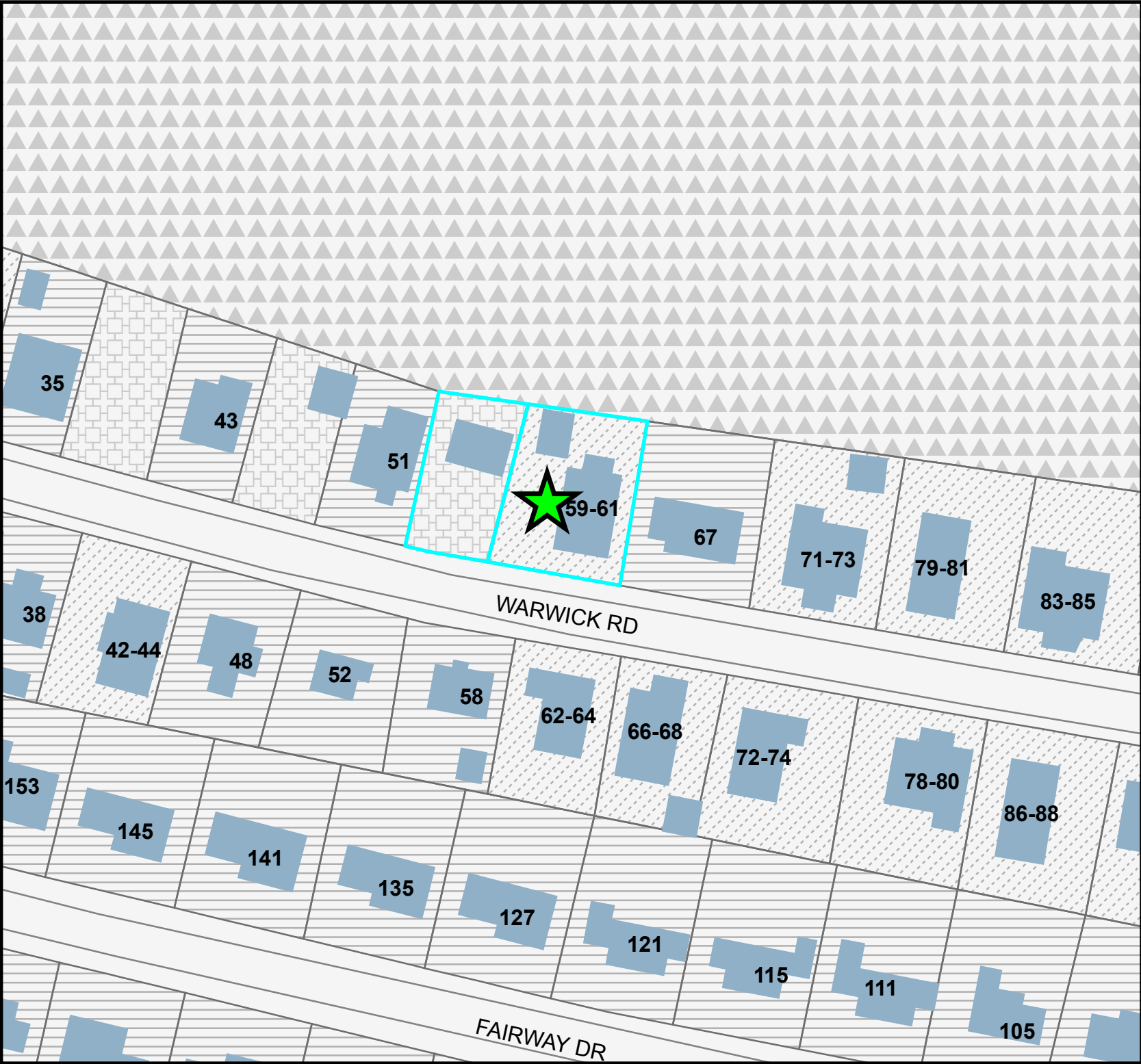


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: September 25, 2014



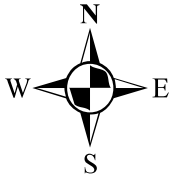
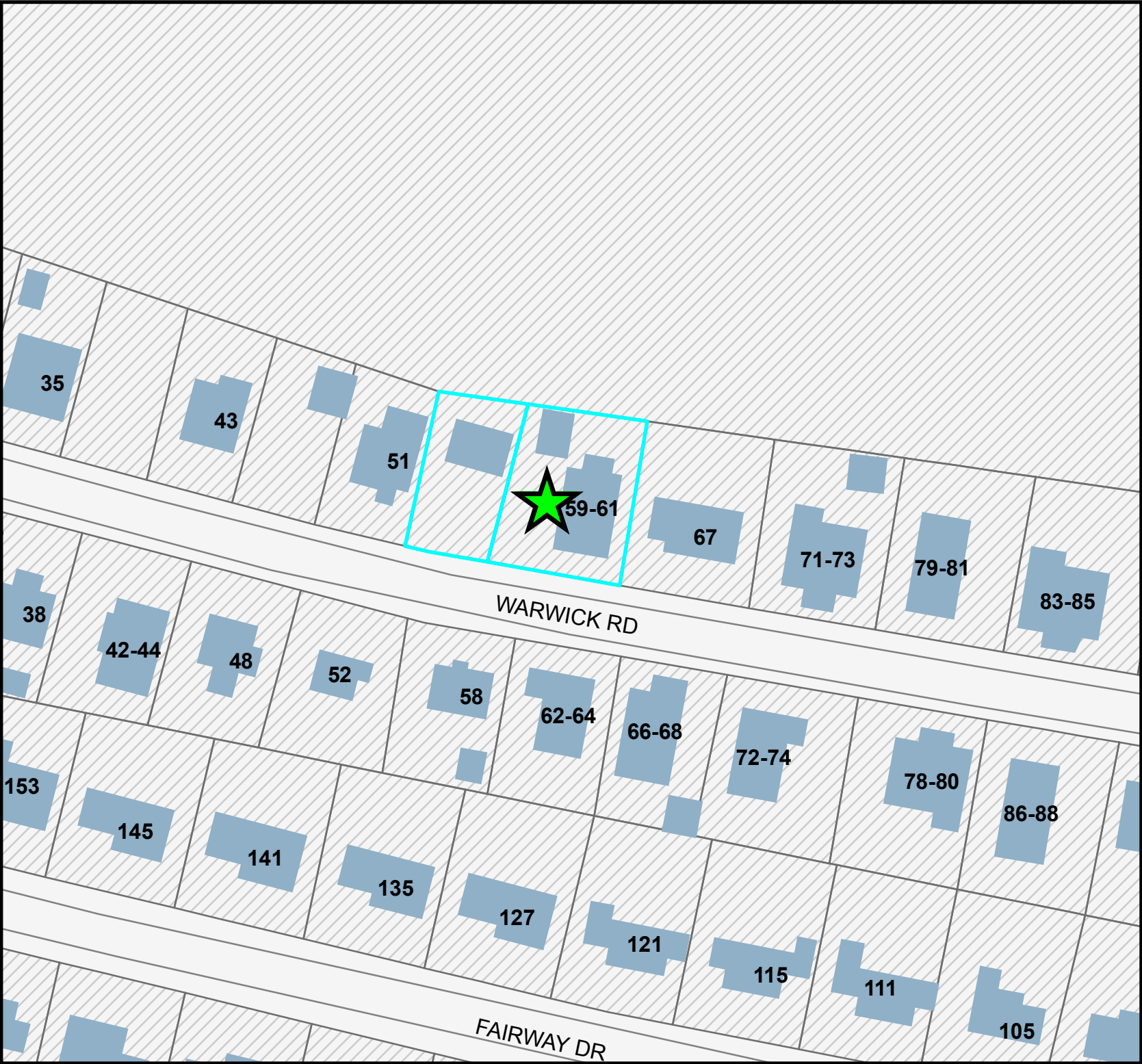
Zoning Map 59-61 Warwick Rd

*City of Newton,
Massachusetts*

Legend

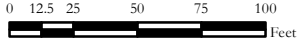
 Single Residence 3

ATTACHMENT B



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ATTACHMENT C

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TDD/TTY
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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: September 9, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Terrence Morris, Attorney
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to establish an accessory apartment in a nonconforming detached structure accessory to an nonconforming existing two-family dwelling less than 2,500 square feet.

Applicant: Andrew and Monica Healy	
Site: 59-61 Warwick Rd	SBL: 31028 0062 and 31028 0063
Zoning: SR3	Lot Area: 11,218 square feet
Current use: Two-family dwelling	Proposed use: Two-family with accessory apartment

BACKGROUND:

The property at 59-61 Warwick Road, located in the SR3 district, is improved with a two-family dwelling built in 1925 and a detached two-car garage. The applicant also owns the adjacent parcel, which is improved with an existing 640 square foot building built in 1910 as a stable and shed. This parcel was associated with the property at 51 Warwick Rd in 1910, but has since become associated with the Applicants' parcel at 59-61 Warwick Road. The applicant proposes to convert the stable into an accessory apartment.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, dated 8/5/2014
- Certified Plot Plan, signed and stamped by Kenneth B. Anderson, surveyor, dated 7/1/2014
- Existing and Proposed Floor Plans, prepared by Ronald F. Jarek, architect, dated 7/7/2014, revised 9/8/2014
- Existing and Proposed Elevations, prepared by Ronald F. Jarek, architect, dated 7/7/2014, revised 9/8/2014

ADMINISTRATIVE DETERMINATIONS:

1. The existing legal nonconforming two-family structure is located in an SR3 district. Per Section 30-8(d)(2), a special permit is required to create an accessory apartment in an existing nonconforming two-family structure.
2. The applicant proposes to convert an existing detached stable in to an accessory apartment. Section 30-8(d)(2) requires a special permit to create an accessory apartment in a detached structure.
3. Table 30-8 requires a lot have at least 10,000 square feet for an accessory apartment in the SR3 district. The Applicant's lot has 11,218 square feet.
4. The Applicant's main structure has 2,190 square feet. Table 30-8 requires a special permit for the creation of an accessory apartment associated with a dwelling which is at least 1,800 square feet, but less than 2,500.
5. Section 30-8(d)(1)(a) requires that when there is an accessory apartment within a two-family dwelling, one of the units must be occupied by the owner of the property. The owner of the property intends to maintain residency on the property.
6. Section 30-8(d)(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 in 1925, and the stable in 1910, and thus meet the requirement.
7. The proposed accessory unit must be greater than the minimum of 250 square feet, and less than the maximum of 1,200 square feet required by the ordinance per Section 30-8(d)(2)(a). The proposed apartment is 1,197 square feet.
8. Any exterior alterations required to meet applicable building, fire or health codes are permitted, per section 30-8(d)(1)(d).
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 30-8(d)(1)(g).
11. Sections 30-8(d)(h), 30-19(d)(19) and 30-19(g) require two parking stalls for each dwelling unit, and one stall for the accessory unit. There currently exists a two-car detached garage associated with the main two-family dwelling, as well as at least two parking stalls in the driveway. The stable building has its own driveway and provides parking for at least two vehicles.
12. The accessory apartment must comply with all applicable building, fire and health codes, per section 30-8(d)(1)(i).
13. Section 30-15(m)(2) states that an accessory building with a sloping roof shall have a maximum height of 22 feet. The existing stable structure was built in 1910 with a height of 22.3 feet at the

peak, and is therefore legally nonconforming. The Applicant is not proposing to increase the height of the existing accessory structure.

14. The Ordinance requires an accessory structure to have no more than 1½ stories per Section 30-15(m)(3). The existing stable was built with two stories and is legally nonconforming due to its age. The Applicant is not proposing to increase the number of stories.

SR3 Zone	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	11,218 square feet (5,762.9sf and 5,455.1 sf)	No change
Frontage	70 feet	125 feet (62 ft and 63 ft)	No change
Lot size required for an accessory apartment	10,000 square feet	11,218 square feet	No change
Building size required for an accessory apartment	1,800-2,500 square feet	2,191 square feet	No change
Size of accessory apartment	250 sf minimum to 1,200 sf maximum		1,197 square feet
Max height of accessory building	22 feet	22.3 feet	No change
Max stories of accessory building	1½	2	No change
Lot Coverage	30%	21.5%	No change
Open Space	50%	57.1%	No change
FAR	.40	.40	.40

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-8(d)(2) §30-21(b)	Creation of an accessory apartment in a nonconforming two-family dwelling in the SR3 district	S.P. per §30-24
§30-8(d)(2) §30-21(b)	Creation of an accessory apartment in an detached structure	S.P. per §30-24
Table 30-8	Create an accessory apartment accessory to a building at least 1,800 square feet but less than 2,500 square feet	S.P. per §30-24
§30-15(m)(2) §30-21(b)	Change of use of a detached structure which is nonconforming due to height	S.P. per §30-24
§30-15(m)(3) §30-21(b)	Change of use of a detached structure which is nonconforming due to number of stories	S.P. per §30-24