



#317-19

Telephone

(617) 796-1120

Telefax

(617) 796-1142

TDD/TTY

(617) 796-1089

www.newtonma.gov

City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 5, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	December 8, 2019

DATE: October 4, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #317-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow Single-Family Attached Dwellings with waivers to the dimensional standards and to allow a retaining wall exceeding four feet within the setback at **67 Walnut Street**, Ward 2, Newtonville, on land known as Section 21, Block 24, Lot 15, containing approximately 14,520 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §3.2.4, §3.4.1, §5.4.2.B, §6.2.3.B.2, §7.3.3, and §7.4 of 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.



67 Walnut Street

EXECUTIVE SUMMARY

The subject property located at 67 Walnut Street consists of a 14,520 square foot lot in the Multi-Residence 1 (the “MR-1”) zone in Newtonville. The lot is improved with a single-family, 2.5-story dwelling constructed circa 1880. The petitioner is proposing to raze the existing structure to construct three Single-Family Attached Dwellings. The petitioner is seeking special permits to waive certain dimensional standards of Single-Family Attached Dwellings such as lot area, side setback, and to allow a driveway within 10 feet of a side lot line. The petitioner is also seeking a special permit to allow retaining walls of four feet in height within the front and the side setbacks.

The Planning Department is unconcerned with the request to increase the number of dwelling units on site from one to three given the size of the lot and the presence of other multi-family uses in the area. Staff suggests that the petitioner work to create a stronger Walnut Street façade and provide additional information, such as whether Unit 1 will be accessible to persons in wheelchairs, a caliper inch analysis, and a revised turning template plan.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Single-Family Attached Dwellings. (§7.3.3.C.1)
- The Single-Family Attached Dwellings as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- The Single-Family Attached Dwellings 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)
- Literal compliance with the dimensional standards of Single-Family Attached Dwellings, specifically lot area, side setback, and a driveway within ten feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, 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. (§3.2.4 and §6.2.3.B.2)
- The specific site is an appropriate location for retaining walls of four feet in height within the front and the side setbacks. (§5.4.2.B)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

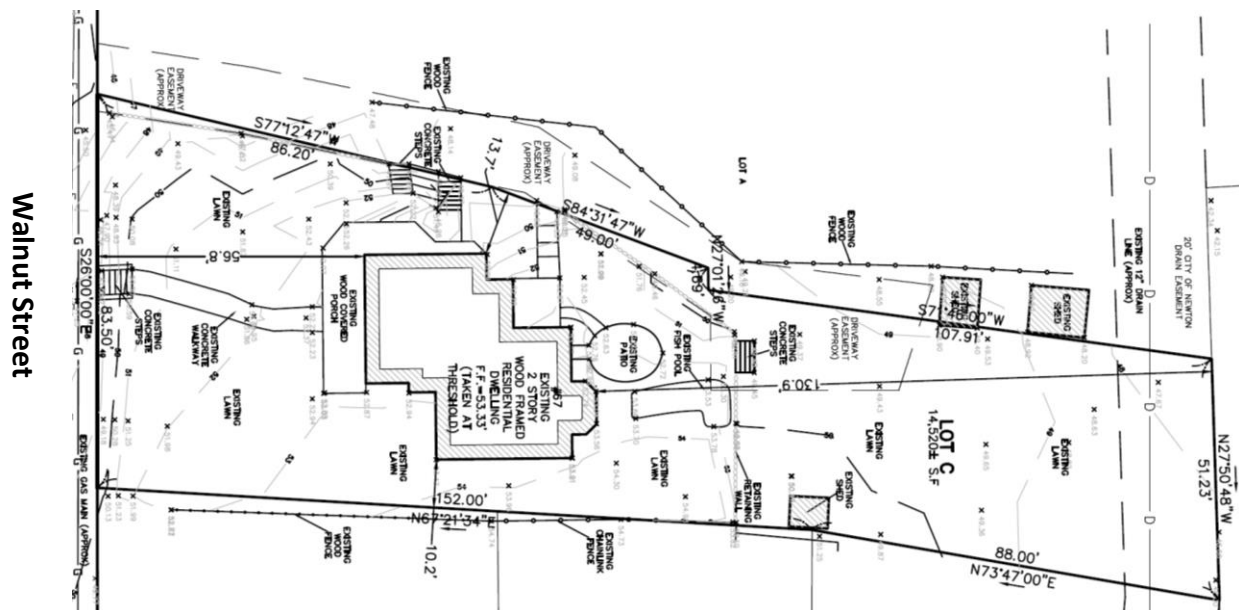
A. Neighborhood and Zoning

The subject property is located on Walnut Street within the MR-1 zone in Newtonville. The MR-1 zone continues to the west along Linwood Avenue, while a Multi Residence 2 zone exists to the south. A Public Use zone lies to the east, and a Single Residence 3 zone lies to the north (**Attachment A**). The neighborhood is comprised predominantly of single- and multi-family uses, except an open space parcel and a mixed-use parcel to the east (**Attachment B**).

B. Site

The site consists of 14,520 square feet of land and it is improved with a 2.5-story, single-family dwelling constructed circa 1880. The structure is set back from the street by approximately 56 feet, where 25 feet is the minimum required. The structure is nonconforming regarding building height, measuring 42.9 feet, where 36 feet is the maximum allowed. The grade slopes up from the Walnut Street boundary such that lot lies above the grade of the street. The lot is accessed via a driveway shared with the abutter to the south at 83 Walnut Street. Portions of the rear yard are enclosed with fencing and the lot is sprinkled with mature landscaping. Lastly, there is a 20-foot wide City of Newton drain easement along the rear boundary.

Existing Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

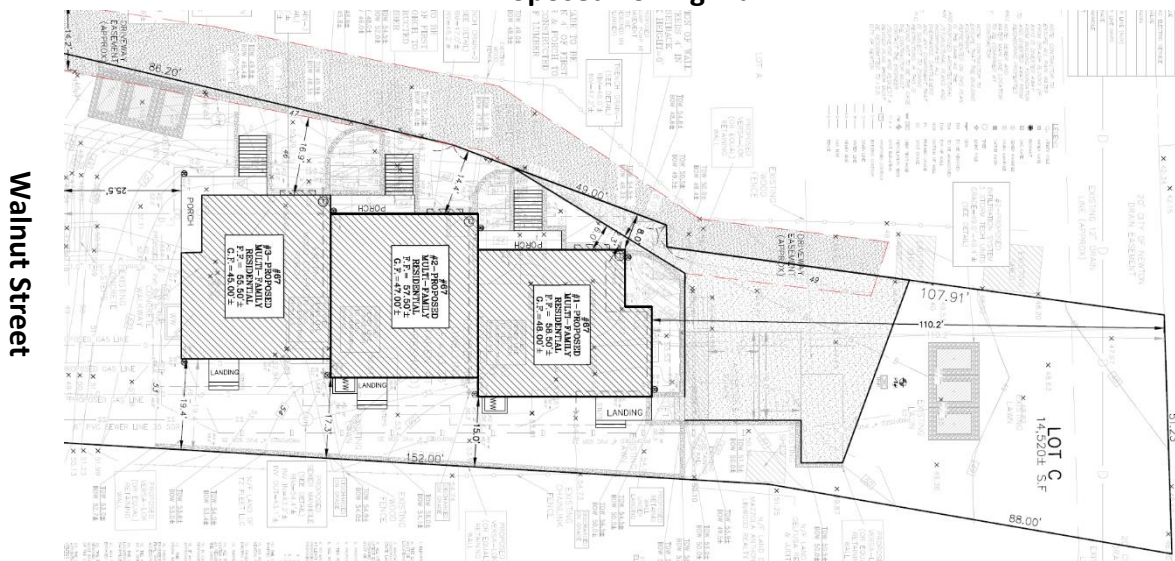
The principal use of the site will change from a single-family use to a multi-family use consisting of three Single-Family Attached Dwellings.

B. Site Design

The petitioner is proposing to raze the existing single-family dwelling to construct three Single-Family Attached Dwellings (the "Attached Dwellings"). The Attached Dwellings will be brought closer to the street, reducing the front yard setback from 56 feet to 25 feet, the minimum required. The side setbacks are proposed at 15 feet and eight feet at the northern and southern boundaries, respectively where 25 feet is the minimum required. The rear setback is 110.2 feet, where 25 feet is the minimum required.

Access to the Attached Dwellings will be maintained in the form of the shared driveway providing access to three one-car garages in the basement of each unit, and a three-stall surface parking facility at the rear. The petitioner is proposing to install a retaining wall along the northern boundary that will be approximately 113 feet long, varying from .5-foot tall to 5.5-foot tall along its length. The petitioner is proposing additional retaining walls along the southern façade to allow for the garage entrances and the front porches. Several of these walls are four feet tall and are within the side setback.

Proposed Zoning Plan



C. Building Design

The Attached Dwellings will be constructed one behind the other from the front of the lot to the rear. The front unit (“Unit 3”), will feature a pedestrian entrance from Walnut Street with a wraparound porch to the southern facade. The middle and rear units, (“Units 2 and 1”), respectively will front the driveway and will feature small porches, second floor balconies, and bay windows to demarcate the units. The units will be articulated by approximately four feet to provide depth and to prevent the appearance of a continual wall plane on the northern facade. The Attached Dwellings will contain two stories and range in height from 30 feet to 33 feet tall, where 36 feet is the maximum allowed. The Newton Zoning Ordinance does not apply Floor Area Ratio (“FAR”) to Single-Family Attached Dwellings, but as a guide, the units total 6,929 square feet. For reference, the maximum allowable FAR for an as of right two-family dwelling on this site is 6,960 square feet. The Attached Dwellings do contain habitable space in the basement which is not counted in the FAR because it is below grade.

South Elevation



The petitioner is proposing to install a lift at the rear of Unit 1 to allow for accessible access into the unit as well as a van-accessible parking stall in the rear parking facility. However, the plans do not indicate whether the unit will be fully accessible to persons in wheelchairs. The petitioner should confirm how this unit will be designed.

D. Parking and Circulation

The petitioner is proposing to incorporate one-car garages in the basement of each unit and a three-stall surface parking facility at the rear of the Attached Dwellings. One of these stalls is a van-accessible stall with a width of 11 feet and a five-foot wide access

aisle. The petitioner provided a turning template demonstrating how vehicles will enter and exit the garages, but staff suggests that the template be overlaid on the site plan to fully demonstrate the maneuvers.

E. Landscaping

The petitioner is proposing three lawn areas: the Walnut Street front yard, the northern boundary, and at the rear yard. In addition, the petitioner is also proposing to install trees along the northern boundary as well as around the rear lawn area. Additionally, the terraced areas adjacent to the porches will contain plantings. Staff suggests that the petitioner provide a tree removal/protection plan as well as a caliper inch analysis to ensure there is no net loss of caliper inches on site.

IV. SINGLE-FAMILY ATTACHED DWELLINGS

A. Single-Family Attached Dwellings

Single-Family Attached Dwellings are allowed only by special permit in the Single- and Multi-Residence zones. This building type has unique dimensional standards that are waivable by special permit. The criteria for granting such waivers is that “Literal compliance with the dimensional standards of Single-Family Attached Dwellings is impractical due to the nature of the use, or the location, size, frontage, 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.”

The Planning Department is unconcerned with the request to increase the number of dwelling units from one to three given the size of the lot and the presence of other multi-family uses in the area; a two-family structure similar in FAR and in building footprint is as of right. The petitioner is creating a strong southern facade with architectural elements such as porches, balconies, and bay windows, and is articulating the units to prevent the appearance of a continual wall plane along the northern facade, but the Planning Department suggests the Walnut Street facade be improved to decrease the number of peaks and ridges visible from the street by creating a stronger Walnut Street facade, articulating the units differently, or by stepping down the height of the middle and rear units.

Walnut Street Facade



V. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.4.1 and §7.3.3 of Section 30, to allow Single-Family Attached Dwellings.
- §3.2.4 and §7.3.3 of Section 30, to reduce the side setback requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the lot area requirement.
- §3.2.4, and §6.2.3.B.2 of Section 30, to allow a driveway within ten feet of a side lot line.
- §5.4.2.B and §7.3.3 of Section 30, to allow a retaining wall of four feet within the side setbacks.

B. Engineering Review

Associate City Engineer, John Daghlian, reviewed this petition for conformance with the City of Newton Engineering Design Standards (**Attachment D**). Planning staff will confer with Mr. Daghlian regarding whether the petition requires more engineering work and staff will provide the Land Use Committee with an update at the public hearing.

C. Historic Preservation Review

The Newton Historical Commission found the existing structure “Preferably Preserved” and implemented a one-year demolition delay at its September 27, 2018 meeting. As of September 28, 2019, the petitioner can legally raze the structure.

VI. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.








ATTACHMENTS:

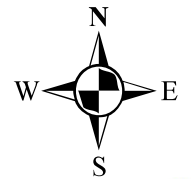
- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum, dated July 18, 2019
- Attachment D:** Engineering Review Memorandum, dated September 12, 2019

Attachment A Zoning Map Walnut St., 67

*City of Newton,
Massachusetts*

Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

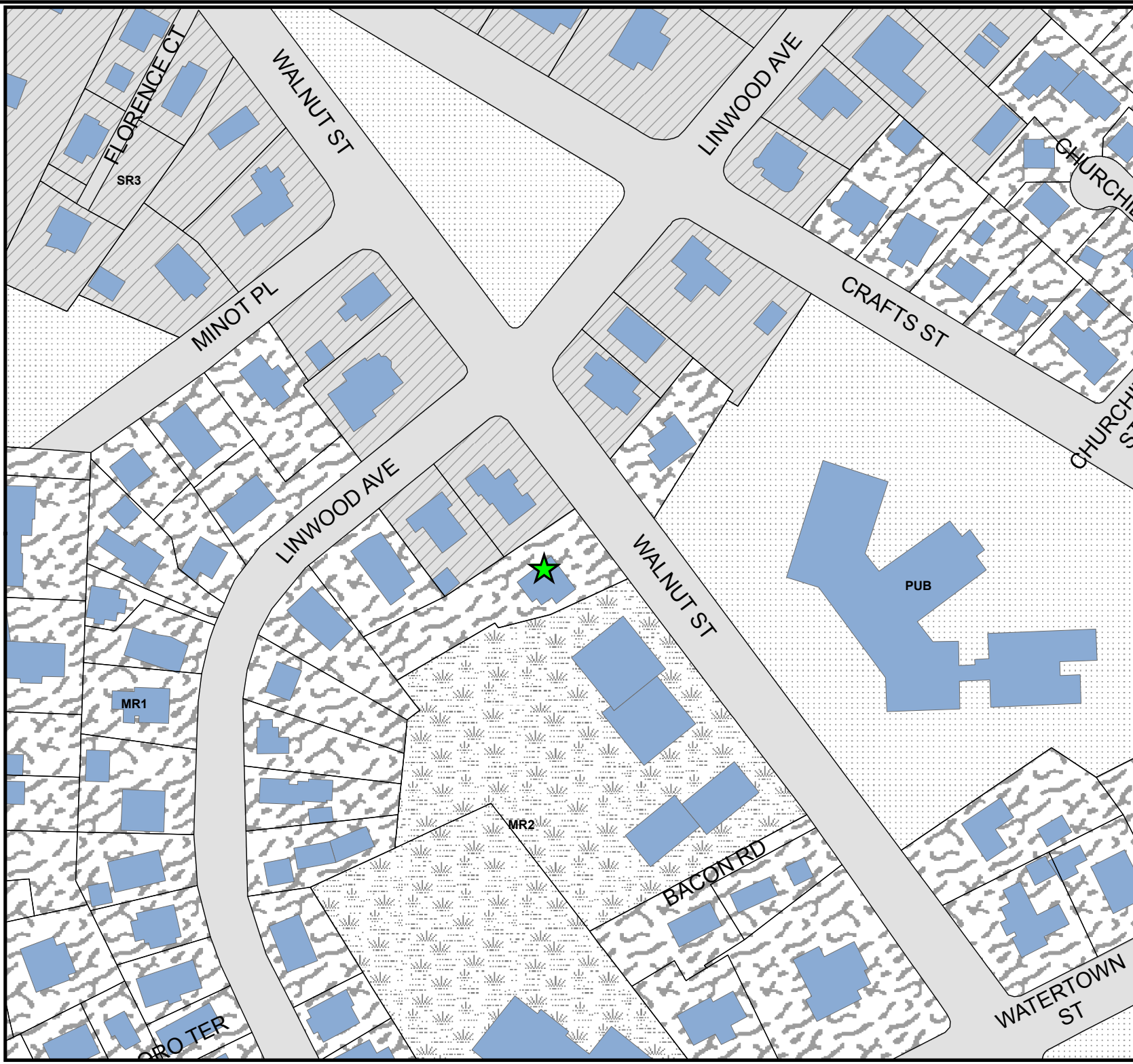


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

0 50 100
Feet

Map Date: September 26, 2019










Attachment B Land Use Map Walnut St., 67

*City of Newton,
Massachusetts*

Legend

Land Use

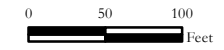
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Building Outlines
-  Surface Water
-  Property Boundaries



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





Ruthanne Fuller
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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 18, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Laurance Lee, Attorney
60 Woodbine Street LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow three single-family attached dwellings

Applicant: 60 Woodbine Street LLC	
Site: 67 Walnut Street	SBL: 21024 0015
Zoning: MR1	Lot Area: 14,520 square feet
Current use: Single-family dwelling	Proposed use: Three single-family attached dwellings

BACKGROUND:

The property at 67 Walnut Street consists of 14,520 square feet and is improved with a single-family dwelling built in 1880 in the MR1 zoning district. The petitioner proposes to raze the existing single-family dwelling. The historic structure was deemed preferably preserved by the Newton Historical Commission, but the demolition delay expires in September of 2019. With the expiration of the demolition delay, the petitioner proposes to construct three attached single-family dwellings in one building, each with one private parking garage and one surface parking stall. The property is accessed via a driveway easement on the property to the southeast at 73-79 Walnut Street.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 6/6/2019
- FAR worksheet, signed and stamped by Richard A. Volkin, engineer, submitted 6/6/2019
- Quitclaim Deed, dated 8/14/2018
- Floor Plans and Elevations, prepared by RAV & Associates, architect, dated 1/2/2019, revised 1/28/2019
- Existing Conditions Site Plan, prepared by Peter Nolan & Associates, dated 9/12/2018
- Proposed Plans, prepared by Peter Nolan & Associates and Spruhan Engineering, dated 3/7/2019
 - Civil Plan
 - Grading Plan
 - Zoning Plan

- Building Height Calculations
- Parking Analysis

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct three attached single-family dwellings within a single structure in the Multi Residence 1 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Section 3.2.4 requires a minimum lot size of 15,000 square feet for an attached single-family dwelling project. The subject lot is 14,520 square feet. A special permit to decrease the 15,000 square foot lot area requirement per section 3.2.3 is required.
3. Section 3.2.4 requires a 25-foot setback for attached dwellings. The petitioners propose an 8 foot side setback on the southern boundary, and a 15 foot setback on the northern. A waiver from the side setbacks of 25 feet are required per section 3.2.4.
4. The petitioner proposes to continue to utilize the driveway easement and access and extend the existing driveway along the northern property line to serve all three units. Per section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line. The shared driveway easement runs along the southern side lot line on the abutting property, and each unit has a driveway leading to a private garage off of the shared drive. The private driveways are all within the side setback, requiring a waiver from section 6.2.3.B.2.
5. Retaining walls are proposed on the northern and southern property boundaries. The walls are located within the required 25-foot setback and are greater than four feet in height. Per section 5.4.2.B, a retaining wall four feet or more in height in the setback requires a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	14,520 square feet	No change
Frontage	80 feet	83.5 feet	No change
Setbacks			
• Front	25 feet	56.8 feet	25.5 feet
• Side	25 feet	10.2 feet	8 feet
• Rear	25 feet	130.9 feet	110.2 feet
Building Height	36 feet	42.9 feet	33.62 feet
Max Number of Stories	2.5 (3 by special permit)	NA	2.5
Lot Coverage	25%	13.3%	24.7%
Open Space	50%	86.3%	61.4%
Lot Area Per Unit	4,000 square feet	14,520 square feet	4,840 square feet

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To reduce required side setbacks	S.P. per §7.3.3
§3.2.4	To reduce required lot area	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway within 10 feet of the side lot line	S.P. per §7.3.3
§5.4.2.B	To allow retaining walls of four feet or more in height within a setback	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – #67 Walnut Street

Date: September 12, 2019

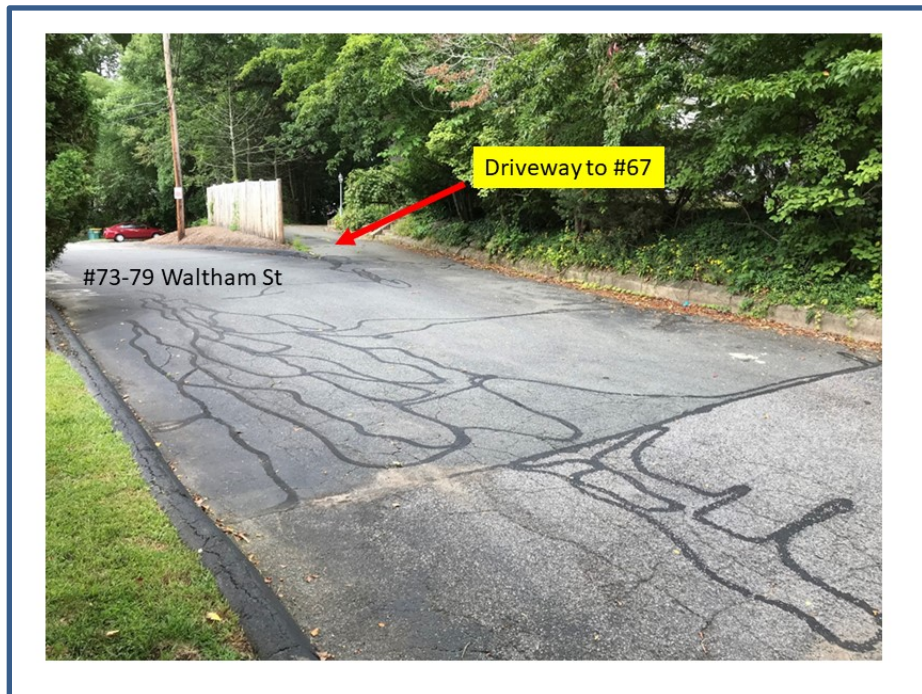
CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*#67 Walnut Street
Proposed Civil Plan
Prepared by: Spruhan Engineering PC
Dated: 11-16-'18
Revised: 8/27/'19*

Executive Summary:

This permit entails the demolition of a single-family dwelling and the construction of three multi-family units on a 14,520 square foot [0.33 acre] lot having approximately 84 feet of frontage on Waltham Street along the east, and residential homes on the north and west. Along the southern property line, a common driveway provides access to the existing home and the neighboring apartment complex; the applicant proposes to utilizing this as the access for the 3-units. The site has a high point elevation of 54-feet along the northern property line, and slopes towards the south and east. The property has an existing City drain easement along the rear border, there is no change proposed within or near this easement.



Existing Common Driveway

A drainage collection system is shown on the site plan, however; no drainage report or soils evaluation was provided for comment. One of the infiltration systems is to be located immediately along the southern property line, the City requirement is a minimum of 10-feet from any abutter, this needs to be relocated, any units less than 10-feet also need to have an impervious barrier along its perimeter to prevent breakout of stormwater.

The design also has a system located in the rear of the lot to infiltrate water from sump pumps. The engineer needs to provide calculations on the sizing of the system based on the amount of groundwater that is expected to be encountered and pumped to this system. The City does not have a standard for modeling groundwater; therefore, design assumptions shall be provided by the engineer of record.

The proposed sanitary sewer alignment is acceptable except that the service connection from unit #3 as proposed has a reverse flow condition [i.e. flowing upstream], therefore the manhole must be shifted a minimum of 10-feet towards the street to provide proper flow.

The Director of Utilities would prefer that one domestic service connection of adequate size be installed to the development and then sub-metered rather than having three individual services installed, additionally the three services as shown run under several retaining walls which is unacceptable. Finally, a 1" copper service is labeled as a fire suppression service, this seems very undersized, fire flow testing and hydraulic calculations are needed to justify the 1-inch fire suppression line.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted to the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if there has been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.

3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. The contractor of record shall contact the Newton Police Department 48 hours in advance and arrange for Police detail to help residents & commuters navigate around the construction activity.

9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.