



Setti D. Warren  
Mayor

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

**#286-16**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

---

**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: September 27, 2016  
Land Use Action Date: December 12, 2016  
City Council Action Date: December 19, 2016  
90-Day Expiration Date: December 26, 2016

DATE: August 5, 2016

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #286-16**, for SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER INCREASE NONCONFORMING SETBACK by building a 308 sq. ft. one story addition including a mudroom, study and half bath at 115 Waban Street, Ward 1, Newton, on land known as SBL 12004 0032, containing approximately 7,072 sq. ft. in a district zoned MULTI-RESIDENCE 1. Ref: 7.3, 7.4, 3.2.3, 7.8.2.C.2 of Chapter 30 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 which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



**115 Waban Street**

### EXECUTIVE SUMMARY

The property at 115 Waban Street consists of a 7,072 square foot lot located on a curve of Waban Street that create two sides of the building with the same frontage. It is within a Multiple Residence 1 (MR1) district and is improved with a 2,362 square foot single-family dwelling constructed circa 1912. The dwelling has an existing nonconforming front setback from Waban Street of 18 feet at its closest point where 25 feet is required per Section 3.2.3. The applicant proposes a 274 square foot one-story addition that would further decrease the nonconforming front setback to 14.73 feet, requiring a special permit per Section 7.8.2.C.2.

The Department of Planning and Development is generally not concerned with this petition as it believes the proposed addition and the resulting modest decrease of the front setback will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Furthermore, the Planning Department believes that the proposal is consistent with the 2007 Newton Comprehensive Plan's encouragement of residential property owners to consider modest additions to older homes to preserve existing structures while allowing them to meet the needs of today's families.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

1. The proposed extension of the structure, which will further decrease the nonconforming front setback of the residence on the site from 18 feet to 14.73 feet where 25 feet is the minimum allowed, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§7.8.2.C.2)
2. The site is an appropriate location for the proposed addition. (§7.3.3.C.1)
3. The proposed addition will not adversely affect the neighborhood. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. 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 property is located on a curve of Waban Street, between Pearl Street and Walnut Park. The surrounding structures to the north and east are a mix of single- and multi- family residences, with exceptions including the Lincoln-Eliot School approximately 250 ft. to the north, as well as some isolated mixed use and open space lots. (**Attachment A**). Directly to the south is the former Aquinas College site, currently being used as offices for the Newton Fire Department, with the Jackson School adjacent to the south. The subject property and immediate area is

zoned MR1, with MR2 and Public Use (PU) districts in close proximity (**Attachment B**).

B. Site

The subject property is a 7,072 square foot corner lot improved with a legally nonconforming 2½-story, 2,362 square foot single family dwelling. The residence is considered nonconforming due to an existing substandard front setback of 18 feet, where 25 feet is required. The front of the property includes lawn and a mature tree and shrubbery. The property has a detached one-car garage and associated driveway on its north side.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property would remain a single-family residence.

B. Building and Site Design

The applicant proposes an approximately 22 foot by 12 foot wood-framed, one-story addition to the front of the dwelling that would further decrease its nonconforming front setback from 18 feet to 14.73 feet where 25 feet is required.

The proposed addition would be located in an area currently occupied by a porch and walkway. As designed, it would be compatible with the dwelling's architectural style. It would provide access to the first floor of the dwelling via a new stair and an expanded "mud room," as well as a new bathroom and study. The addition would have a basement.

At approximately 12.75 feet in height, the one-story addition would be significantly lower than the dwelling's existing height of 31 feet 10 inches above the average grade plane. The addition would add approximately 274 square feet to the dwelling on its first floor, resulting in a total of 2,636 square feet of floor space. The subject property's floor area ratio (FAR) would increase from 0.33 to 0.37, below the allowed maximum 0.43. The subject property's lot coverage would increase, from 19.8% to 24.1% where a maximum of 30% is allowed. Open space would correspondingly decrease, from 73.5% to 69.2% but remain well above the required 50%.

Given its modest size and the correspondingly modest increase in the dwelling's front setback nonconformity, the Planning Department generally has no concerns about this petition and believes that, as proposed, the addition will not cause the expanded dwelling to be substantially more detrimental to the neighborhood than the existing nonconforming structure.

C. Parking and Circulation

There are no proposed changes to either on-site parking or circulation.

D. Landscaping

As the existing mature tree in the vicinity of the proposed addition will apparently be removed to facilitate construction, the petitioner may want to consider planting a new tree in the front setback of the property.

IV. TECHNICAL REVIEW

1. 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 Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to further increase nonconforming front setback (§3.2.3; §7.8.2.C.2).

2. Engineering Review:

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed additions should this petition be approved.

3. Historical Commission:

The Newton Historical Commission reviewed the project and approved it on August 24, 2016, based upon submitted materials and conditioned upon review of final plans.

V. PETITIONERS' 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

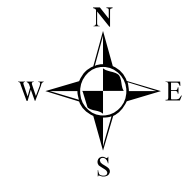
# Existing Land Use 115 Waban Street

*City of Newton,  
Massachusetts*

**Legend**

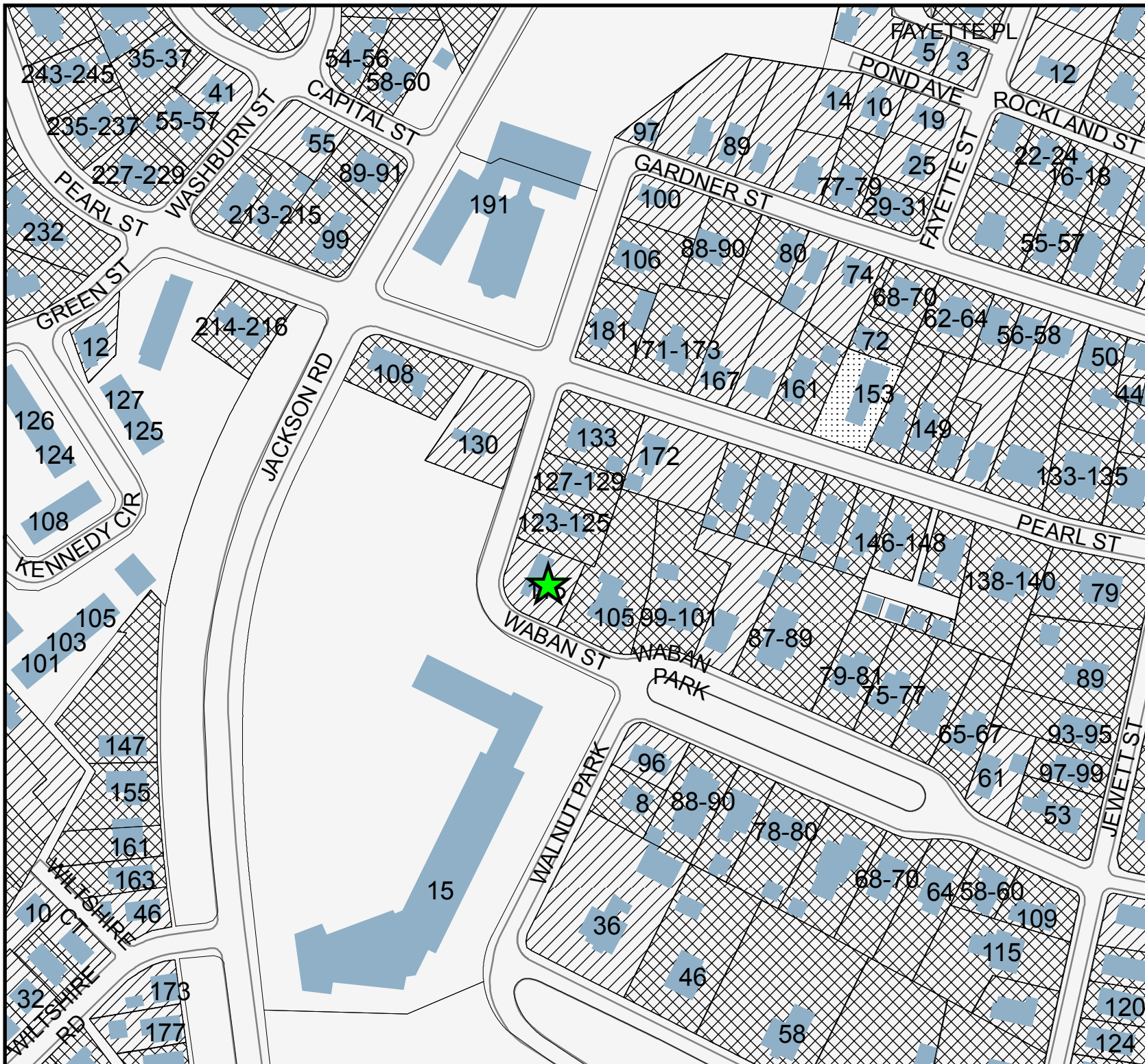
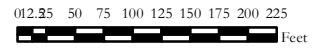
**Land Use**

- Single Family Residential
- Multi-Family Residential
- Industrial



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






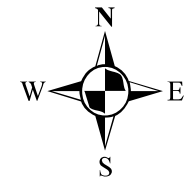


# Zoning Map 115 Waban Street

*City of Newton,  
Massachusetts*

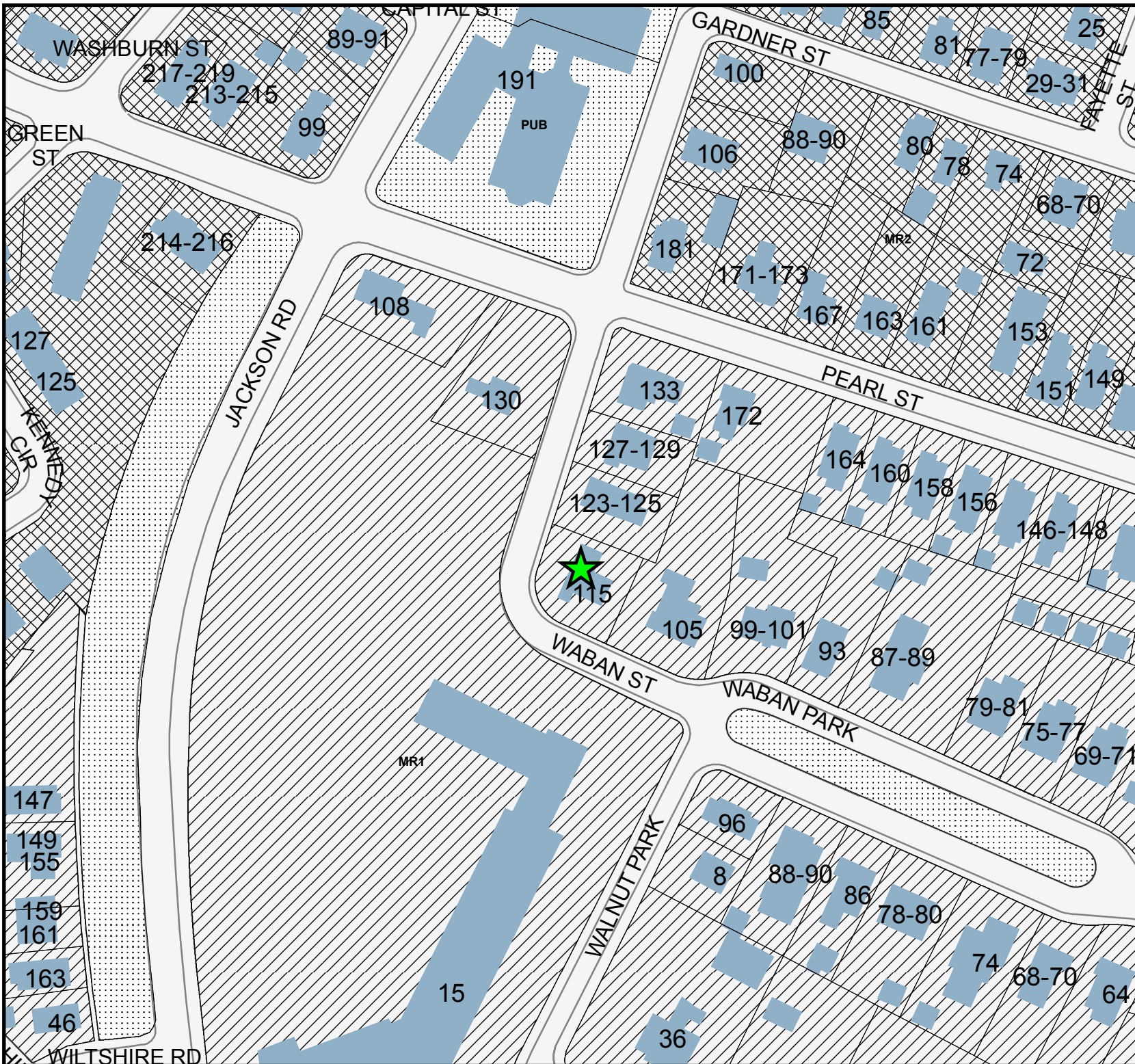
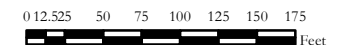
**Legend**

-  Multi-Residence 1
-  Multi-Residence 2
-  Public Use



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





Setti D. Warren  
Mayor

# ATTACHMENT C

## City of Newton, Massachusetts

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

**#286-16**  
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 27, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: John Mulligan, applicant  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to further increase a nonconforming front setback

Applicant: John Mulligan	
Site: 115 Waban Street	SBL: 12004 0032
Zoning: MR1	Lot Area: 7,072 square feet
Current use: Single-family dwelling	Proposed use: No change

#### BACKGROUND:

The property at 115 Waban Street consists of a 7,017 square foot lot improved with a single-family dwelling constructed in 1912. The lot is located on a curve of Waban Street, creating two sides of the building with the same frontage. The structure has an existing nonconforming front setback. The applicant proposes a 308 square foot one-story addition, which will further increase the nonconforming front setback, requiring a special permit.

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

- Zoning Review Application, prepared by John Mulligan, applicant, dated 6/15/2016
- FAR Worksheet, submitted 6/15/2016
- Plot Plan, signed and stamped by Richard Clinton Nelson, surveyor, dated 6/15/2016
- Architectural Plans, signed and stamped by Peter D. Wright, architect, dated 5/5/2016
  - Existing floor plans
  - Proposed floor plans
  - Elevations

**ADMINISTRATIVE DETERMINATIONS:**

1. The front face of the structure has an existing nonconforming front setback of 18 feet, where 25 feet is required per Section 3.2.3. The applicant is proposing a 308 square foot first floor addition of a half bath, enlarged mudroom and study to the side of the house, which shares its frontage on Waban Street with the front face of the dwelling. The proposed single-story addition will further increase the nonconforming front setback from Waban Street to 14.73 feet, which requires a special permit per Section 7.8.2.C.2.

<b>MR1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	7,000 square feet	7,072 square feet	No change
Frontage	70 feet	150 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 15 feet	<b>18 feet</b> 20 feet 24.4 feet	<b>14.73 feet</b> No change 24 feet
Max Number of Stories	2.5	2.5	No change
FAR	.43	.33	.37
Max Lot Coverage	30%	19.8%	24.1%
Min. Open Space	50%	73.5%	69.2%

1. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3, §7.8.2.C.2	Request to further increase nonconforming front setback	S.P. per §7.3.3



ATTACHMENT D

DRAFT #286-16  
116 Waban Street

CITY OF NEWTON

IN CITY COUNCIL

October 3, 2016

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER INCREASE A NONCONFORMING SETBACK by constructing a front addition to a single-family dwelling which will decrease the nonconforming front setback of the dwelling from 18 feet to 14.73 feet where 25 feet is the minimum allowed, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The extension of the nonconforming structure so as to increase the existing front setback nonconformity by 3.27 feet, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as the proposed addition, which will add 274 square feet of floor area to the dwelling, would be subordinate to the existing structure and have a minimal visual impact on abutting properties and public ways (§3.2.3. and 7.8.2.C.2.);
2. The site is an appropriate location for the proposed expanded structure as its use will continue to be a single family dwelling within a Multi Residence zoning district (§7.3.3.C.1);
3. There will be no nuisance or 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).

PETITION NUMBER: #286-16

PETITIONER: John Mulligan

LOCATION: 115 Waban Street, Section 12, Block 4, Lot 32, containing approximately 7,072 square feet of land

OWNERS: John M. Mulligan and Karen K. Hite

ADDRESS OF OWNER: 115 Waban Street  
Newton, MA 02458

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.2.3 and 7.8.2.C.2, to further increase a nonconforming front setback

ZONING: Multi-Residence 1 (MR1) District

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:
  - a. A plan entitled "Certified Plot Plan of Land in Newton, MA, Owner John M. Mulligan & Karen K. Hite, 115 Waban Street, Newton, MA 02458," prepared by F.O. Waterman and Assoc., Inc., dated June 15, 2016; signed and stamped by Richard Clinton Nelson, Professional Land Surveyor;
  - b. A set of architectural plans and elevations entitled "Mulligan / Hite Residence, 115 Waban Street, Newton, MA," prepared by Peter Wright Studio, Architects, dated **May 5, 2016** and signed and stamped by Peter D. Wright, Registered Architect:
    - i. Existing Basement Plan,
    - ii. Existing First Floor Plan,
    - iii. Existing Front Elevation (South),
    - iv. Existing Side Elevation (West),
    - v. Existing Rear Elevation (North).
  - c. A set of architectural plans and elevations entitled "Mulligan / Hite Residence, 115 Waban Street, Newton, MA," prepared by Peter Wright Studio, Architects, dated **May 25, 2016** and signed and stamped by Peter D. Wright, Registered Architect:
    - i. Proposed Basement Plan,
    - ii. Proposed First Floor Plan,
    - iii. Proposed Front Elevation (South),
    - iv. Proposed Side Elevation (West),
    - v. Proposed Rear Elevation (North).
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

- a. Recorded a certified copy of this order for the approved Special Permit/Site Plan 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, 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.
3. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
- 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. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
  - c. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.