



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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Candace Havens  
Director

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**MEMORANDUM**

Public Hearing Date: January 10, 2012  
Land Use Action Date: March 20, 2012  
Board of Aldermen Action Date: April 2, 2012  
90-Day Expiration Date: April 9, 2012

DATE: January 6, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner Current Planning ET  
Alexandra Ananth, Senior Planner

SUBJECT: PETITION # 282-11(2), RICHARD D. SEWALL for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four attached dwellings in two buildings; to waive the side and rear setback requirement; and to allow a lot coverage of more than 25% at 87-89 WABAN STREET, Ward 1, on land known as SBL 12, 4, 27, containing approximately 20,082 sq. ft. of land in a district zoned Multi-Residence 1. Ref: Sec 30-24, 30-23, 30-(9)(b)(5), 30-9(b)(5)b) of the City of Newton Rev Zoning Ord, 2007.

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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 subject property is located at 87-89 Waban Street and consists of a 20,082 square foot lot. The site is improved with a two-family residence in deteriorating condition. The lot also contains a detached garage and is located in a Multi-Residence 1 district.

The petitioner is proposing to demolish the detached garage and an addition to the rear of the original structure and to reconfigure and add onto the dwelling to create two attached dwelling units. The petitioner is also proposing to construct a new building with two additional attached dwelling units, for a total of four attached dwellings on the lot in two separate buildings.

The petitioner must seek relief to allow four attached dwellings in two buildings, to allow side setbacks of 11 and 14.4 feet and a rear setback of 16.4 feet where 25 feet is required, and to allow lot coverage of 28.8% where a maximum of 25% is allowed. The petitioner is also seeking relief for a driveway closer than 10 feet from the side lot line and to allow parking stalls which measure 8 by 18 feet where 9 by 19 feet is required. This petitioner originally filed for special permits in November 2011 but withdrew the application after the public hearing. Since that time, the petitioner revised the site plan to incorporate feedback from city officials, city staff and abutters.

The Planning Department is pleased that the petitioner is proposing to preserve and restore the original structure as part of the project and has agreed to limit the height of the new units so as not to exceed the existing historic structure. Additionally, the revised layout of the units on the site will further complement the existing structure and will have fewer impacts on the immediate abutters.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether:

- The site is an appropriate location for the proposed four-unit attached dwelling use and structures and whether the use as developed and operated will adversely affect the neighborhood.
- The location and configuration of structures and the relationship of the site's structures to nearby structures is appropriate and in keeping with the historic neighborhood.
- The design and location of access driveways are appropriate to the site and neighborhood.
- The disruption or removal of historic resources (structures and trees) will be

minimized.

- The proposed waivers to the side and rear setback requirements and lot coverage ratios are appropriate as literal compliance 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 petition is consistent with Newton's *Comprehensive Plan*.

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located in Newton Corner. Waban Park was laid out as a mid-19<sup>th</sup> century neighborhood designed by Alexander Wadsworth who also laid out Walnut Park, Washington Park, Webster Park and other similar neighborhoods with a central green space integral to their character. Many of the houses in the neighborhood were built prior to the invention of the automobile and do not have garages or driveways. Several garages have subsequently been built, however vehicular access to many of these properties is in the rear and from adjacent streets rather than directly from Waban Street, which preserves the character of the historic neighborhood.

The neighborhood is zoned Multi-Residence 1. Much of the neighborhood was originally built with single-family residences that were later converted to two-family structures. Many of the surrounding homes are located on narrow lots with legally nonconforming side setbacks.

### B. Site

The site consists of a relatively level 20,082 square foot lot improved with a circa 1848 Italianate home originally occupied by George Lord, president of New England Mutual Insurance Company, and later by Frank A. Day, a wealthy banker and philanthropist. The F. A. Day School is named for Day due to his support of education in Newton. The house was one of the original residences built on Waban Street and was built in the Italianate style though it was later altered during the Colonial Revival period. The exterior of the house has not been well maintained in recent years and has significantly deteriorated.

The property also contains a detached garage, which is accessed via a driveway that is shared with the abutter to the west.

There is a large tree in the middle rear of the lot. The abutter to the east has a

row of tall evergreens planted close to the lot line whose branches significantly encroach over the subject property.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The petitioner is proposing to convert the two-family residence to attached dwelling use with a total of four units in two separate buildings.

#### B. Building and Site Design

The proposed development includes four townhouse-style attached dwelling units in two separate buildings, with one of the units being the original residence constructed on this lot. The buildings are oriented in an L-shape with the existing driveway serving Units #1 and #4 and a proposed new driveway serving Units #2 and #3. Both buildings are 2½ stories with a pitch-style roof with dormers for the proposed new construction. Each unit will have an attached two-car garage.

The proposed architecture of the new units nicely mimics the detail of the existing house and proposed materials are clapboard and asphalt shingle. The proposed new construction is noted as the same height as the original historic structure. The Planning Department suggests the petitioner consider restoring the original window on the front facing ell of the original structure (**ATTACHMENT "A"**), and install carriage-style doors on all garages. Additionally, the petitioner should consider a pedestrian walkway leading to Unit #1.

#### C. Parking and Circulation

Although the petitioners are proposing an additional curb cut and driveway the Planning Department has no concerns with parking or circulation at this time. The petitioner is proposing parking stalls smaller than required by ordinance but appropriate for the residential use and are necessary on this site to ensure that the attached garages do not overwhelm the existing historic structure. The Planning Department notes that the width of the proposed new driveway is not noted on plans and should be submitted at the public hearing.

#### D. Landscape Screening

The petitioner did not submit a tree removal or landscape plan with this petition. There is a significant tree located on this lot that will need to be removed and the Tree Preservation Ordinance may apply. The petitioner should meet with the Director of Urban Forestry to discuss an appropriate tree replacement plan for this site prior to being scheduled for a working session.

## IV. COMPREHENSIVE PLAN

Newton's *Comprehensive Plan* encourages the retention of historically significant structures and context-sensitive design, as well as incentives and partnerships to encourage preservation and adaptive reuse. The Planning Department commends the petitioner for proposing to preserve the original structure as part of this project. Although the Planning Department was originally concerned with the density proposed for the site, the current design complements the historic structure without overwhelming it. In addition, due to the large lot size, this development is compatible with the rest of the neighborhood with respect to lot area per unit.

## V. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum, dated December 13, 2011 (**ATTACHMENT "B"**), provides an analysis of the proposal with regard to zoning. The petitioner must seek relief to allow four attached dwellings in two buildings, to allow side setbacks of 11 feet and 14.4 feet and a rear setback of 16.4 feet where 25 feet is required, and to allow lot coverage of 28.8% where 25% is the maximum allowed.

B. Newton Historical Commission.

The petitioner applied to the Newton Historical Commission to demolish the existing house in May 2011 and the Commission placed a Demolition Delay on the property. The delay was waived and the plans were given final approval on December 22, 2011.

C. Engineering Review.

The Associate City Engineer has reviewed proposed plans and raises a number of issues in his Memorandum, dated October 28, 2011 (**SEE ATTACHMENT "C"**). The petitioner should submit revised plans to the Engineering Division prior to being scheduled for a working session.

D. Fire Department Review.

The Assistant Fire Chief has reviewed and accepted plans for site plan review only.

## VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioners are seeking the following reliefs:

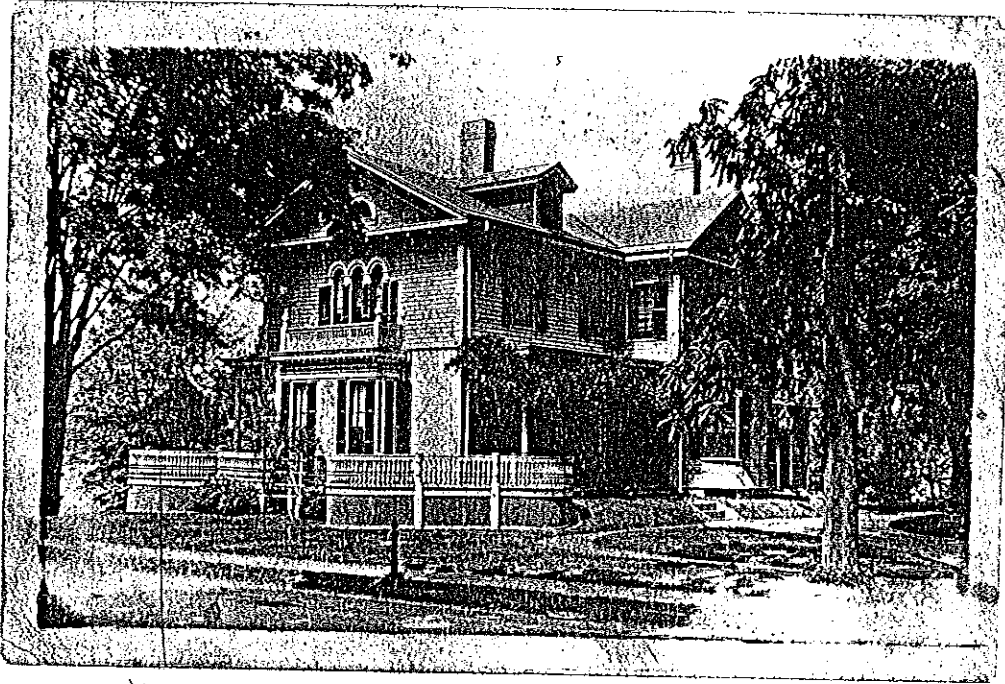
- Section 30-9(b)(5) to allow four attached dwellings in two buildings;
- Section 30-15, Table 1 & Section 30-9(b)(5)b to allow side setbacks of 11 and 14.4 feet and a rear setback of 16.4 feet where 25 feet is required;
- Section 30-15, Table 1 & Section 30-9(b)(5)b to allow a lot coverage of 28.8% where 25% is the maximum allowed;
- Section 30-9(b)(5)a & Section 30-9(b)(5)b to allow a driveway closer than 10 feet from the side lot line;
- Section 30-19(g)(2) & Section 30-19(m) to allow a parking stalls which measure 9 feet by 18 feet where 9 feet by 19 feet is required.

#### VII. PETITIONERS' RESPONSIBILITIES

Prior to being scheduled for a working session the petitioner should detail the width of the proposed new driveway and meet with the Director of Urban Forestry to discuss an appropriate tree replacement plan.

#### **ATTACHMENTS:**

- ATTACHMENT A:** HISTORICAL PHOTOGRAPH CIRCA 1900-1910  
**ATTACHMENT B:** ZONING REVIEW MEMORANDUM DATED DECEMBER 13, 2011  
**ATTACHMENT C:** ENGINEERING DIVISION REVIEW MEMORANDUM DATED OCTOBER 28, 2011  
**ATTACHMENT D:** ZONING MAP  
**ATTACHMENT E:** LAND USE MAP



*original c. 1910-1910*

*copy of post card 1996*



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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282-11(2)  
Attachment "B"

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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: December 13, 2011

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to allow the construction of four attached dwellings, waive the required side and rear setbacks and maximum permitted lot coverage, and waive the minimum parking stall dimensions**

Applicant: Richard D. Sewall	
Site: 87-89 Waban Street	SBL: 12004 0027
Zoning: MR1	Lot Area: 20,082 square feet
Current use: Two-family dwelling	Proposed use: Four attached dwellings in two groups

### Background:

The property at 87-89 Waban Street consists of a 20,082 square foot lot that is located in the MR1 zone containing a two-family dwelling and a detached garage. The applicant proposes to demolish the detached garage, reconfigure and add onto the existing two-family dwelling, and construct a new two-dwelling structure to create four attached dwellings in two groups. A previous Zoning Review was completed on September 14, 2011.

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

- Revised site plan, unsigned, unstamped, dated 12/4/11 showing the four units now separated into two structures
- Revised architectural plans, signed and stamped by Ronald F. Jarek, undated, showing the four units now separated into two structures
- Proposed site plan, signed and stamped by Frank Iebba, dated 11/17/11
- Existing site plan, signed and stamped by Frank Iebba, dated 5/25/11
- Architectural plans, signed and stamped by Ronald F. Jarek, undated, showing first floor plans and elevations for the proposed construction



**ADMINISTRATIVE DETERMINATIONS:**

1. The applicant proposes to renovate an existing two-family dwelling and construct a new structure behind the existing house in an “L” shape to create four attached dwellings. Per the requirements of Section 30-9(b)(5), the applicant must obtain a special permit from the Board of Aldermen to allow the proposed use.
2. The property is in the MR1 zone and must comply with the dimensional standards of Section 30-15, Table 1, (see chart below).

MR1 Zone	Required/Allowed*	Existing	Proposed
Lot Size	15,000 square feet	20,082 square feet	No change
Lot Area per Unit	4,000 square feet	n/a	5,020 square feet
Frontage	80 feet	116 feet	No change
Setbacks			
• Front	25 feet	27.2 feet	No change
• Side (Left)	25 feet	<b>14.4 feet</b>	<b>No change</b>
• Side (Right)	25 feet	54.9 feet	<b>11 feet</b>
• Rear	25 feet	63.0 feet	<b>16.4 feet</b>
Building Height	36 feet	28 feet	32 feet
Maximum Stories	2.5	2.5	No change
Max. Lot Coverage	25%	14%	<b>28.8%</b>
Min. Open Space	50%	74%	51%

\*The proposed attached dwellings use has higher dimensional requirements than for the existing two-family dwelling use.

3. The proposed site plan shows structures that do not conform to the dimensional requirements of Section 30-15, Table 1. Section 30-9(b)(5)b allows the Board of Aldermen to grant exceptions to the dimensional controls in Section 30-15.
4. Per Section 30-9(b)(5)a), no driveway shall be located within ten feet of a side or rear lot line. The applicant must obtain a special permit from the Board of Aldermen to waive this requirement per Section 30-9(b)(5)a).
5. Per Section 30-19(d)(2), the parking requirement for attached dwellings is two stalls per dwelling unit. For four dwelling units, a total of eight parking stalls would be required. The applicant’s site plan shows a total of eight parking stalls, satisfying this requirement. As the parking stalls are located within separate attached garages dedicated to each dwelling, they do not qualify as a single parking facility.
6. Per Section 30-19(g)(2), a required parking stall must be 9 feet by 19 feet for angled parking. The applicant’s plans show some parking stalls which measure only 9 feet by 18 feet. In order to construct the parking facilities as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-19(m).
7. The site is currently improved with a two-family dwelling. The applicant proposes to add two additional dwelling units by special permit for a total of four dwellings. This increase does not trigger the inclusionary housing provisions of Section 30-24(f), which would apply to a residential

project allowed by special permit that increases the number of existing units by more than two, per Section 30-24(f)(2).

8. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-9(b)(5)	Allow four attached dwellings in two buildings	S.P. per §30-24
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-15, Table 1; §30-9(b)(5)b)	Allow side setbacks of 11 feet and 14.4 feet and rear setback of 16.4 feet where 25 feet is required	S.P. per §30-24
§30-15, Table 1; §30-9(b)(5)b)	Allow a lot coverage of 28.8% where 25% is allowed	S.P. per §30-24
§30-9(b)(5)a); §30-9(b)(5)b)	Allow a driveway closer than 10 feet from the side lot line	S.P. per §30-24
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(g)(2); §30-19(m)	Allow parking stalls which measure 9 feet by 18 feet where 9 feet by 19 feet is required	S.P. per §30-24

CITY OF NEWTON  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman  
From: John Daghlian, Associate City Engineer  
Re: Special Permit – 87 Waban Avenue  
Date: October 28, 2011  
CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Alexandria Ananth, Sr. Planner (via email)

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

*Topographic Plan  
87-89 Waban Street  
Newton, MA*

*Prepared by: Frank Iebba, PE PLS ~Essex Engineering & Survey Inc.  
Dated: August 29, 2011*

Executive Summary:

The plans submitted are un-clear and illegible; the line weight and graphic are un-clear and cannot be read. There is no topography on the plan, neither existing nor proposed. There is no benchmark or datum referenced. The plan is missing bearings on the property lines. It appears that the sanitary sewer for the new units is directly next to the water service which is totally unacceptable.

An existing overhead telephone wire is not shown on the plan, it is about 6' off the ground; is there an easement for this wire, will the wire stay. The wire seems to be in line with the proposed units [this needs to be clarified].

The plans do not indicate how drainage from the proposed development will be addressed; currently the existing driveway directs runoff to the neighbor's property. The engineer of record needs to design a system to capture and infiltrate the runoff from the proposal.

The engineer of record needs to address these issues and update the plans so that they can be understood.

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 material, construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor.
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. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site.
2. 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.
3. 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 Homeowners Association.

Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the

existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer man need to match.

2. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected my result in the delay of issuance of the Utility Connection Permit.
3. The new sewer service and/or structures shall be pressure tested or video taped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. The sewer service will NOT be accepted until one of the two methods stated above is completed. 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.*

General:

1. As of January 1, 2009, 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 is 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. *This note must be incorporated onto the site plan.*

7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

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.

282-11(2)  
**Zoning Map**  
**87-89 Waban St.**

*City of Newton,  
 Massachusetts*

**Legend**

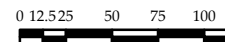
- MR1
- MR2
- PUB
- Building Outlines
- Surface Water
- Property Boundaries



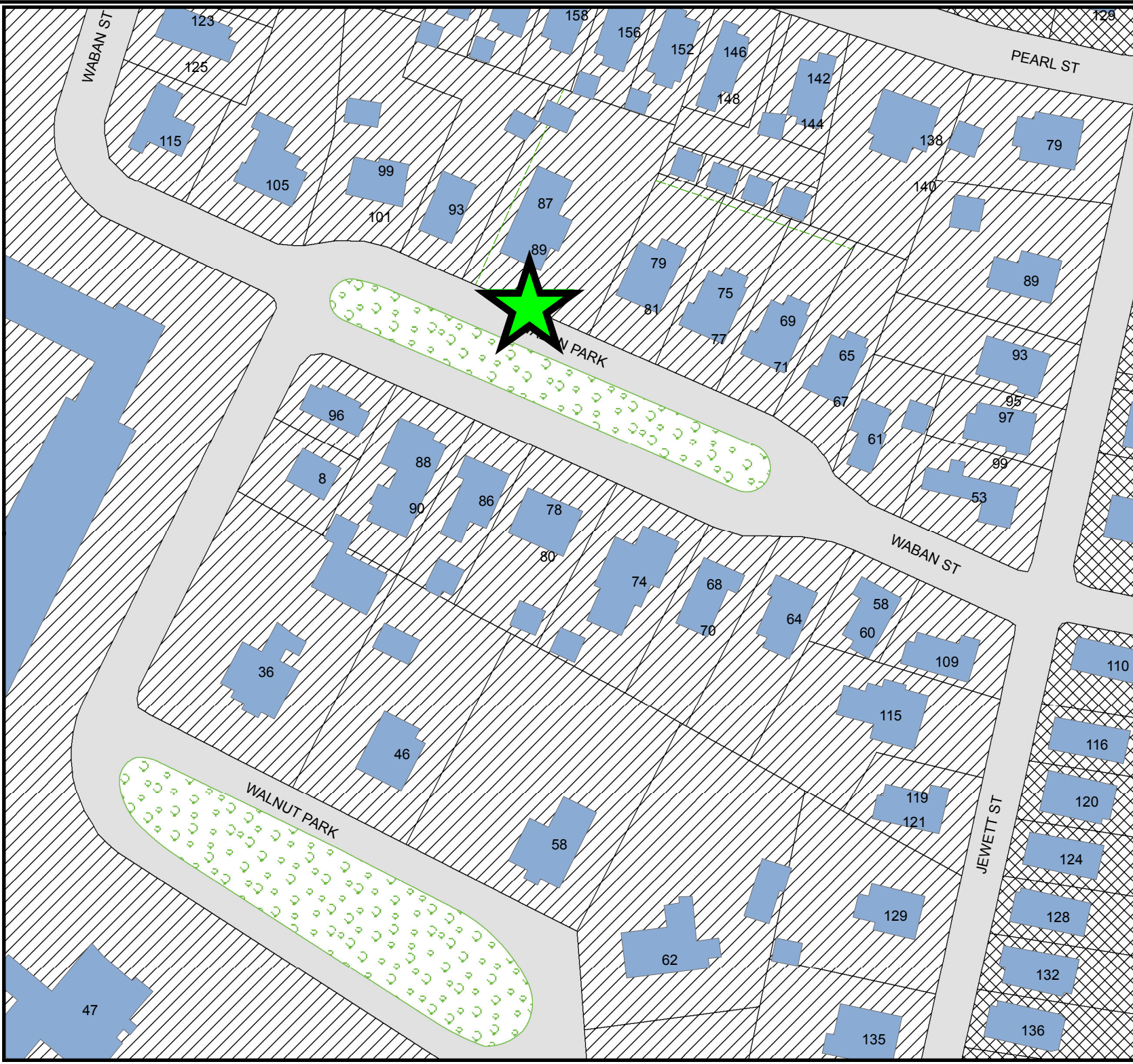
**Attachment "D"**

The information on this map is derived from a 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 their intended purpose. City departments will only approve applications based solely on the information provided on this map.

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










Map Date: January 04, 2012



# 282-11(2) Land Use Map 87-89 Waban St.

*City of Newton,  
Massachusetts*

**Legend**

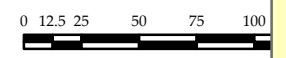
-  Single Family Residential
-  Multifamily Residential
-  Vacant Land
-  Unspecified
-  Building Outlines
-  Surface Water
-  Property Boundaries



**Attachment "E"**

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



Map Date: January 04, 2012

