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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 10, 2015
Land Use Action Date: October 6, 2015
Board of Aldermen Action Date: November 16, 2015
90-Day Expiration Date: December 7, 2015

DATE: September 4, 2015

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 #180-15**, EIGHTH RUN LLC, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to add two dwelling units to an existing 1½-story single-family dwelling, which will involve removing historically insignificant additions and relocating the existing dwelling, and to exceed the maximum lot coverage, locate parking within 20 feet of a side lot line, and locate a driveway within 10 feet of a side lot line at **28 Sumner Street**, Ward 7, on land known as SBL 73, 48, 21, containing approximately 21,205 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5)(a) and b), 30-15 Table 1, 30-19(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.



28 Sumner Street

EXECUTIVE SUMMARY

The property at 28 Sumner Street consists of 21,205 square feet of land, improved with a single-family dwelling constructed circa 1835 and an accessory structure formerly used as an art studio by the owner. The petitioner is proposing to demolish portions of the existing dwelling that are not considered historic and to construct two additional dwellings. The petitioner is seeking a special permit to allow attached dwellings, to exceed the maximum lot coverage percentage, and to locate a driveway within 10 feet of a side lot line. The property was found preferably preserved by the Newton Historic Commission (NHC) and the demolition delay is in effect until October 14, 2015.

The proposed dwelling units will average approximately 2,970 square feet, including a two-car garage for each unit. The total Floor Area Ratio for the project is .42, which equals the .42 maximum FAR that would be allowed for a by-right two-family dwelling. The proposed dwellings will be two stories of living space, which is consistent with the existing building. There is a driveway proposed along the north side property line to access the garages facing the side property line and a driveway closer to the middle of the site to access the garage facing Sumner Street.

The Planning Department does not have any concerns with the proposed land use, as the petitioner will preserve the historic features of the existing dwelling and is only seeking one more dwelling unit than would be allowed by right. The lot area per unit for this project is consistent with the other properties in the Multi Residence district, as most of the two-family dwellings on the eastern side of Sumner Street are located on lots that are less than half the size of the subject property. In terms of the proposed site plan, the Planning Department believes the petitioner has mitigated the appearance of the bulk and mass from the street, and that the project will improve the property.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- Literal compliance with the parking requirements is impracticable due to the nature of the use, or the location, size, width, 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 (§30-19(m))
- The specific site is an appropriate location for three attached dwellings. (§30-24(d)(1))
- The proposed project as developed and operated will not adversely affect the surrounding neighborhood. (§30-24(d)(2))

- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(3))
- Access to site is appropriate for the number and types of vehicles involved. (§30-24(d)(4))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Sumner Street between Ward Street and Commonwealth Avenue. The land uses in the surrounding neighborhood consist of single- and two-family dwellings (**ATTACHMENT A**). The zoning districts in the surrounding neighborhood consist of Single Residence 2 and Multi Residence 1 districts (**ATTACHMENT B**).

B. Site

The site consists of 21,205 square feet of land, improved with a two-story single-family dwelling and an accessory structure formerly used as an art studio for the owner. The original structure was constructed circa 1835 with multiple additions added since that time. There is open space in the rear of the site and vegetation along portions of the property line, as well as fencing along the side and rear property lines.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to expand the existing single-family use to three attached dwelling units. The Planning Department believes that the proposed use is appropriate for the site considering the development patterns of the surrounding neighborhood. The eastern side of Sumner Street consists mostly of two-family dwellings on lots that are less than half of the size of the subject property. The western side of Sumner Street is in a single-family district and mostly consists of single-family homes on lots significantly smaller than the subject property. Given these development patterns the proposed project will be consistent with the density of the neighborhood in terms of lot area per unit.

B. Building and Site Design

The petitioner is proposing to remove the historically insignificant additions to the existing house, and to construct two additional dwelling units. Each of the proposed units will be two stories of living space and will have a two-car garage. There will be two driveways on the site, one along the northern property line to access the rear

units and one in the middle of the site to access the garage facing the street. The driveway on the northern property line will extend past the garage of the last unit to allow for a turnaround. The site will have a stockade fence along the side and rear property lines. The siding of the proposed dwellings will consist of clapboard and the roofing will consist of 40 year asphalt shingles.

The Planning Department believes that the site plan and architectural details are appropriate for the site and will be a significant improvement over the existing structure, and that the location of the units will mitigate the additional mass from the public view. The Planning Department notes that it would not typically support a project that exceeded the maximum lot coverage, however in this case it exceeds the maximum by only 2% and the petitioner is only proposing two stories for most of the building. The Planning Department is also not concerned with the relief requested to locate a drive way within 10 feet of the side lot line because there is a sight obscuring fence along the property line, only two units will use that driveway, and the portion of the driveway that is less than 10 feet is toward the rear of the abutting property's house.

C. Landscape Screening

The petitioner provided a landscape plan which shows screening along all of the property lines. The Planning Department has no concerns regarding the proposed landscaping.

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. The petitioner is seeking the following reliefs:

- §30-9(b)(5)(a), to allow single-family attached dwellings
- §30-9(b)(5)(b) and §30-15 Table 15, to exceed maximum lot coverage
- §30-9(b)(5)(a) and §30-9(b)(5)(b), to locate a driveway within 10 feet of a side lot line

B. Engineering Review

The Engineering Division Memorandum, (**ATTACHMENT D**), provides an analysis of the proposal with regard to engineering issues. The memorandum indicates that the proposed drainage plan meets applicable requirements, and does not raise any significant concerns. The petitioner will need to provide a construction management plan prior to the issuance of a building permit, if approved.

C. Newton Historical Commission

The Newton Historical Commission found the existing structure preferably preserved in October 2014. The petitioner chose not to return to NHC to present their proposed plans; however the petitioner did meet with the City's Senior Planner who staffs the NHC to seek their comments. NHC staff reviewed proposed designs and was in support of retaining the principal portion of the cottage in the new design. NHC staff noted that the use of simple lines, historically appropriate window fenestration and trim, and clapboard siding is consistent with the historic cottage design and style.

V. PETITIONER'S 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:** Engineering Review Memorandum

Land Use Map 28 Sumner Street

*City of Newton,
Massachusetts*

Legend

Land Use

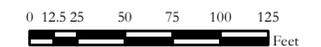
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space

ATTACHMENT A

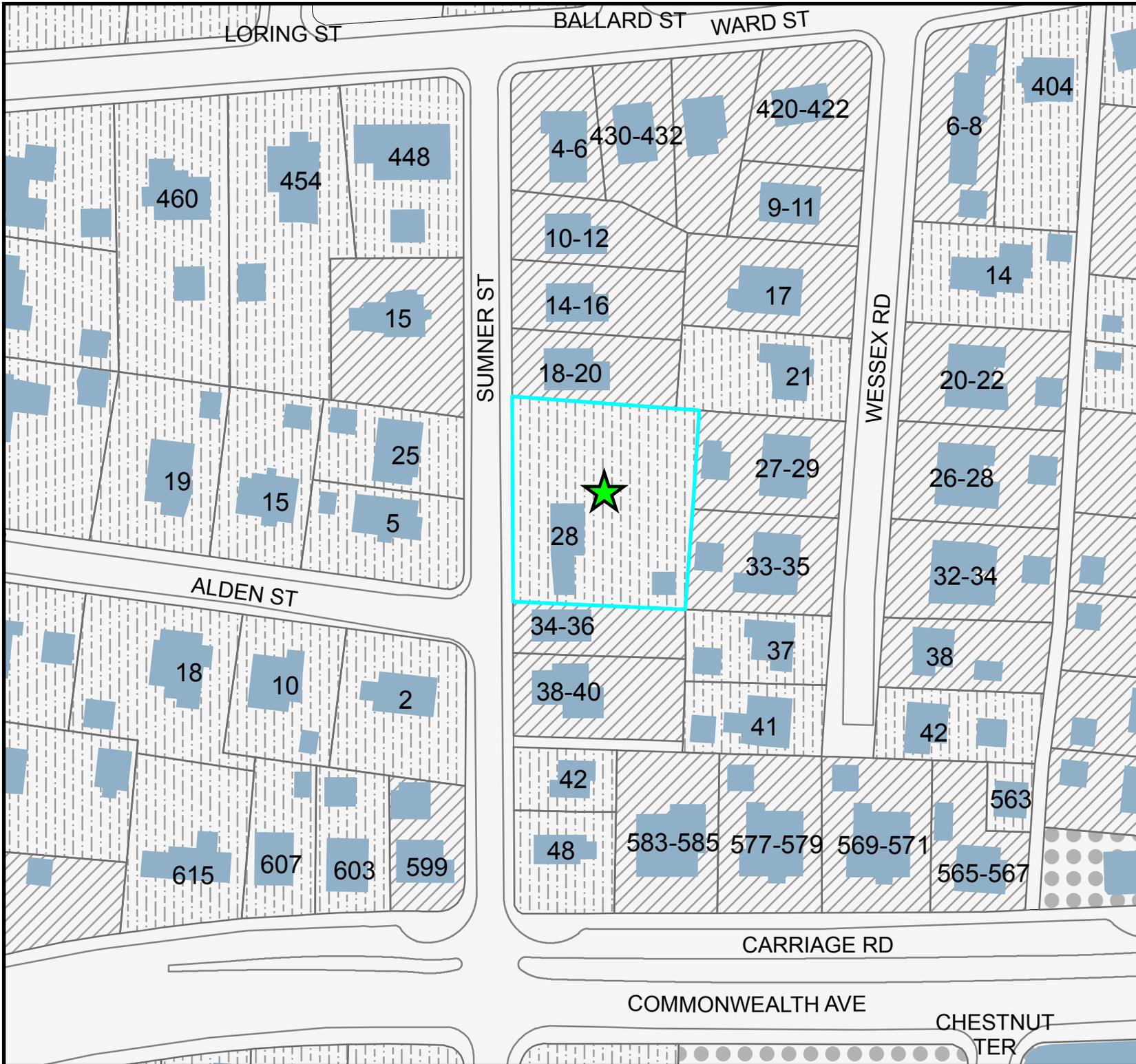


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: August 23, 2015



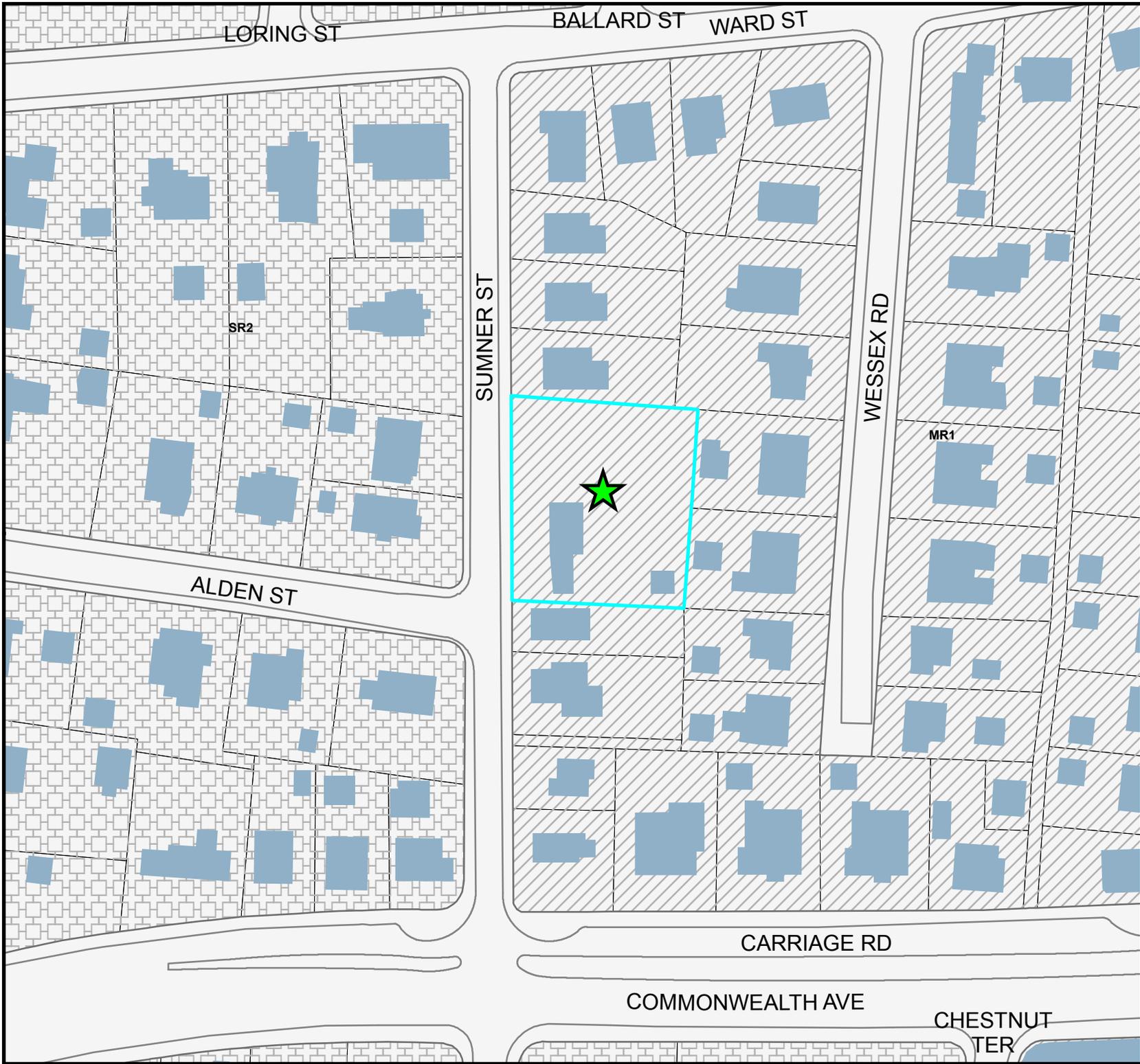
Zoning Map 28 Sumner Street

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1

ATTACHMENT B



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CITY OF NEWTON, MASSACHUSETTS
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Map Date: August 23, 2015



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ATTACHMENT C

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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: July 1, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurence Lee, Attorney
Eighth Run, LLC, Applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to construct three (3) single-family attached dwellings

Applicant: Eight Run, LLC	
Site: 28 Summer Street	SBL: 73048 0021
Zoning: MR1	Lot Area: 21,205 sf
Current use: Single-family residence	Proposed use: Three attached dwellings

BACKGROUND:

The property at 28 Sumner Street consists of 21,205 square feet in the Multi-Residence 1 zoning district. There currently exists a one and one-half story single-family dwelling and an accessory structure formerly used as an art studio for the owner. The dwelling was built circa 1835, with several additions built over the years.

The applicant proposes to remove the historically insignificant additions to the house, and relocate the original dwelling on the site. The existing dwelling will be centrally located in the façade of the proposed building facing the street, and two additional units will be added to the sides and rear. Two driveways will be added to serve the units.

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

- Zoning Review Application, prepared by Laurence Lee, Attorney, submitted 5/8/2015
- Topographic site plan, signed and stamped by Joseph R. Porter, surveyor, dated 5/5/2015
- Area Plan of Land, signed and stamped by Joseph R. Porter, surveyor, dated 5/5/2015
- Architectural Plans, signed and stamped by Michael McKay, architect, dated 8/20/2014, 2/3/2015
 - Site Plan

- First Floor Plan
- Second Floor Plan
- Sumner Street Elevation
- Right Side Elevation
- Rear Elevation
- Left Side Elevation

ADMINISTRATIVE DETERMINATIONS:

1. The subject property is located in the MR-1 zoning district. The applicant is proposing three single-family attached dwelling units on a 21,205 square foot lot. Section 30-9(b)(5) of the Newton Zoning Ordinance allows single-family attached dwellings in one or more groups provided that the applicant obtains a special permit from the Board of Aldermen.
2. Per Section 30-15, Table 1, the maximum lot coverage allowed without additional relief for an attached dwelling project is 25%. The project has a proposed lot coverage of 27.2%. A special permit per Sections 30-9(b)(5)b) and 30-15, Table 1 is required.
3. The proposed driveway serving units 2 and 3 is located on the northern property boundary. It is 20 feet from the lot line at the street, however due to the angle of the property line, the distance from the side lot line narrows to 3 feet. Pursuant to Section 30-9(b)(5)a), a special permit is required to located a driveway for attached dwellings within 10 feet of a side lot line.
4. An additional parking stall is proposed at the end of the driveway, located 9 feet from the side lot line on the northern boundary. Section 30-9(b)(5)a) requires a special permit to located a parking stall within 20 feet of a boundary line.

Zone MR-1	Required	Existing	Proposed
Lot Size	15,000 square feet	21,205 square feet	No change
Lot area per unit	4,000 square feet		7,068 square feet
Frontage	80 feet	155 feet	No change
Setbacks			
• Front	25 feet	30.4 feet	26.1 feet
• Side (left)	25 feet	9.3 feet	25.5 feet
• Rear	25 feet	75.7 feet	28.2 feet
Building Height	36 feet	30.44 feet	34.92 feet
Max number of stories	2.5	1.5	2.5
Max building lot coverage	25%	15.9%	27.2%
Min open space	50%	76.5%	57.1%
Parking stalls/dwelling units	6 spaces (2 per unit)	3	7
FAR*	.42		.42

*There is no FAR requirement for Attached Dwellings in the MR1 district. The FAR above reflects the requirement for a by-right single- or two-family use.

5. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-9(b)(5)(a)	Allow single-family attached dwellings	S.P. per §30-24
§30-9(b)(5)(b) §30-15, Table 1	To exceed maximum lot coverage	S.P. per §30-24
§30-9(b)(5)(a) §30-9(b)(5)(b)	Locate parking stall within 20 feet of a side lot line	S.P. per §30-24
§30-9(b)(5)(a) §30-9(b)(5)(b)	Locate driveway within 10 feet of a side lot line	S.P. per §30-24

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 28 Sumner Street

Date: August 31, 2015

CC: Lou Taverna, PE City Engineer
Linda Finucane, Associate City Clerk
Alexandria Ananth, Chief Planner
Stephen Pantalone, Sr. Planner

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

*Topographic Site Plan
Newton, MA
Showing Proposed Conditions at #28 Sumner Street
Prepared by: VTP Associates, Inc.
Dated: April 2, 2015
Revised: July 23, 2015*

Executive Summary:

The proposed project involves the creation of three dwelling units on a 21,205 square foot lot; approximately a half acre parcel that is relatively flat in topography (there is only a two foot differential from the rear of the lot toward Sumner Street). New municipal utilities will be installed and the engineer of record has designed an on-site drainage collection and infiltration system that is properly design for the City's Stormwater Policy.

All surface runoff will be collected and infiltrated on site, which will improve water quality and re-charge the groundwater as required by the Department of Environmental Protection. The only requirement on the drainage system is that an impervious barrier be

installed for the system within the northern driveway and along the abutter's side of the system.

In concert with all the proposed utility work associated with demolition and new construction, the applicant will be required to replace the entire sidewalk along the frontage. It is recommend that the entire frontage be repaved since there will be 6 utility trenches within the limits of work.

Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to 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. 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).

Construction Management:

- 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.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted 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 they have 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. The Newton Fire Department may require a fire suppression system for these three units.
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. Finalized utility connection plan reflecting the above changes that meets the minimal design standards of the City of Newton must be submitted for approval by the contractor of record with appropriate Bonds & Insurance. The Engineering Division makes no representations and assumes no responsibility for the design(s) in terms of suitability for the particular site conditions or of the functionality or

performance of any items constructed in accordance with the design(s). The City of Newton assumes no liabilities for design assumption, error or omissions by the Engineer of Record.

2. 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*
3. All tree removal shall comply with the City's Tree Ordinance.
4. 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*
5. 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.*
6. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
7. 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.*
8. All site work being completed prior to a Certificate of Occupancy being issued. *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.