



Setti D. Warren  
Mayor

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Candace Havens  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: April 8, 2014  
Land Use Action Date: May 13, 2014  
Board of Aldermen Action Date: June 16, 2014  
90-Day Expiration Date: July 7, 2014

DATE: April 4, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #69-14**, Joshua Gann for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a retaining wall greater than four feet in the rear setback to create a usable backyard, at **79 Shornecliffe Road**, Ward 7, Newton, on land known as SBL 72, 31, 24, containing approx. 20,600 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-5(b)(4), of the City of Newton Rev Zoning Ord, 2012.

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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.



**79 Shornecliffe Road**

### **EXECUTIVE SUMMARY**

The property at 79 Shornecliffe Road consists of a 20,600 square foot lot in a Single-Residence 1 zoning district, improved with a single-family 2½-story residence constructed in approximately 1915. The petitioner is proposing to construct a six-foot tall retaining wall approximately five feet from the rear lot line, to support a usable rear yard area. The petitioner is also making by-right changes to the site, including changing the grade in the rear of the site, constructing additions to the rear of the existing house, and interior work. The only relief the petitioner is seeking is for a special permit to allow a retaining wall greater than four feet in the rear setback.

Prior to the current construction work, for the by-right additions and changes to the grading, there was a steep downhill vegetated slope from the rear of the existing house through the abutting properties. The grade change was more than 15 feet from the rear of the existing house to the rear property line. The petitioner has removed most of the slope on the site, and there is now a significant drop in the grade between the rear of existing house and the newly created rear yard area. The rear yard area ends approximately five feet from the property line, and will be supported by the proposed retaining wall.

The petitioner is proposing landscaping along the edge of the rear yard near the top of the retaining wall, to screen the rear yard and portions of the new additions. Existing fencing on abutting properties will screen most of the proposed retaining wall along the rear property line. The Planning Department believes that in general, the proposed landscaping plan will create an aesthetically pleasing buffer to the rear yard, and will replace the vegetation that was removed in re-grading the site. The Planning Department suggests providing low maintenance plantings/groundcover between the retaining wall and the existing fencing, to improve soil stability and mitigate runoff.

The petitioner has not provided a drainage plan to the Associate City Engineer, which should be designed to infiltrate water and avoid surface runoff onto abutting properties. The petitioner should provide a drainage plan prior to being scheduled for a working session.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The site is an appropriate location for a retaining wall within the rear setback. (§30-24(d)(1))
- The proposed retaining wall will not adversely affect the neighborhood, as it will be mostly screened by proposed vegetation and existing fencing. The drainage

plan will be designed to avoid water runoff onto abutting properties (§30-24(d)(2))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The site is located on Shornecliffe Road in a mostly single-family neighborhood (**ATTACHMENT B**). The site is located on a hill that slopes down from the front of the site (north) to the rear of the site (south), and continues through abutting properties (**ATTACHMENT D**). The site is zoned Single-Residence 1 (**ATTACHMENT C**).

### B. Site

The site, which is currently under construction for by-right additions, consists of 20,600 square feet of land and is improved with a single-family 2½-story residence constructed in approximately 1915. There is a driveway on the southwest side of the property that accesses the parking area, and open space on the northeast/front and rear portions of the site. There is a significant drop in the grade at the rear of the existing house, which was created during the re-grading of the rear of site. There is fencing on abutting properties that runs along the rear property line.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The site will remain as a single-family residence.

### B. Building and Site Design

The proposed retaining wall is part of a larger project that includes by right additions to the rear of the existing house, a new screen porch, and interior work. The ongoing and proposed work also includes changing the grade in the rear of the site to create a flat backyard, which resulted in a significant drop in the grade at the rear of the existing house. A retaining wall was constructed to facilitate the grade change between the house and the rear yard, however that retaining wall is out of the setback and therefore allowed by right. It appears that a number of trees have been removed from the site as part of the construction. As it appears the site is being developed by a home owner for their use, there does not appear to be any violation of the Tree Ordinance.

The petitioner is proposing to construct a six-foot retaining wall in the rear setback approximately five feet from the rear property line. The retaining wall will support a drop in the grade at the edge of the new rear yard, where the natural

downhill slope continues. The proposed retaining wall will run almost the entire length of the rear property line, and will curve back towards the front of the site near the side lot lines.

The petitioner has not provided a drainage plan, but has indicated to City staff that there will be an infiltration system in the backyard. The petitioner should provide the drainage plans to the Associate City Engineer for his review prior to being scheduled for a working session.

C. Landscape Screening

The petitioner submitted a landscape plan, which showed a mix of evergreen and deciduous trees of varying sizes located at the edge of the rear yard area near the proposed retaining wall. The proposed vegetation is a mix of native deciduous trees, and non-native evergreen trees and shrubs. While the Planning Department generally prefers the use of more native plants consistent with surrounding vegetation, it believes that the proposed landscaping in the rear yard will be aesthetically pleasing and will provide year round screening. There is also existing vegetation on both sides of the site and on abutting properties that provides screening.

The petitioner is not proposing any vegetation between the retaining wall and the property line. The Planning Department believes that the existing fencing on the abutting properties will screen most of the retaining wall, but is concerned about water runoff and soil erosion between the retaining wall and the abutting property. The Planning Department suggests that the petitioner provide shrubs/land cover in this area.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to allow a retaining wall greater than four feet in the rear setback.

B. Engineering Review

The Engineering Division Memorandum, (**ATTACHMENT E**), provides an analysis of the proposal with regard to engineering issues. The Memorandum noted that an underground infiltration system will be needed to avoid runoff onto neighboring properties, and that the plan was not drawn at the proper scale. The petitioner

will need to submit drainage plans at the proper scale to the Associate Engineer for his review and approval.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-5(b)(4), for a retaining wall greater than four feet in the setback.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should provide a drainage plan prior to being scheduled for a working session.

**ATTACHMENTS:**

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



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**City of Newton, Massachusetts**  
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ATTACHMENT A

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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: February 4, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Michael Magee, contractor  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to build a retaining wall in excess of 4 feet in the setback**

Applicant: Michael Magee	
Site: 79 Shorncliffe Road	SBL: 72031 0024
Zoning: SR1	Lot Area: 20,600 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 79 Shorncliffe consists of a 20,600 square foot lot improved with a single-family residence constructed in 1915. The property slopes significantly from the front to back, with a grade change of approximately 17 feet. The applicants are proposing to build a retaining wall in the rear portion of the lot, which is 6 feet high at the highest point and 5 feet from the property line. Section 30-5(b)(4) requires a special permit to locate a retaining wall greater than 4 feet within a setback.

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

- Zoning Review Application, prepared by Michael Magee, contractor, submitted 1/13/14
- Site Plan, undated

**ADMINISTRATIVE DETERMINATIONS:**

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- 1. Section 30-5(b)(4) requires a special permit for a retaining wall within the setback in excess of 4 feet. The applicants are proposing a retaining wall spanning most of the rear of the lot, which is 6 feet tall at it highest point, and 5 feet from the property line at its closest.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	<b>11,250 square feet</b>	No change
Frontage	7,100 feet	190 feet	No change
Setbacks for existing structure			
• Front	25 feet		No change
• Side	12.5 feet		No change
• Rear	25 feet		No change

- 1. See "Zoning Relief Summary" below:

Zoning Relief Required		
§30-5(b)(4)	Allow a retaining wall greater than 4 feet in height in the rear setback	S.P. per §30-24

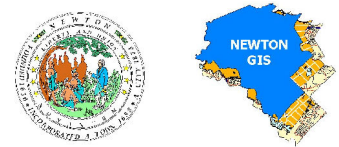
# 69-14 Land Use Map 79 Shornecliffe Rd.

*City of Newton,  
Massachusetts*

**Legend**

- Streets - Pavement Edge
- Building Outlines
- Land Use**
- Single Family Residential

**ATTACHMENT B**



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: March 20, 2014





# 69-14 Zoning Map

## 79 Shornecliffe Rd.

*City of Newton,  
Massachusetts*

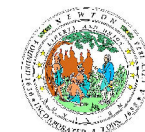
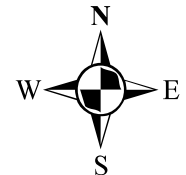
**Legend**

- Streets - Pavement Edge
- Building Outlines

**Zoning**

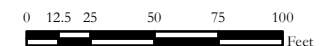
- Single Residence 1
- Single Residence 2

**ATTACHMENT C**

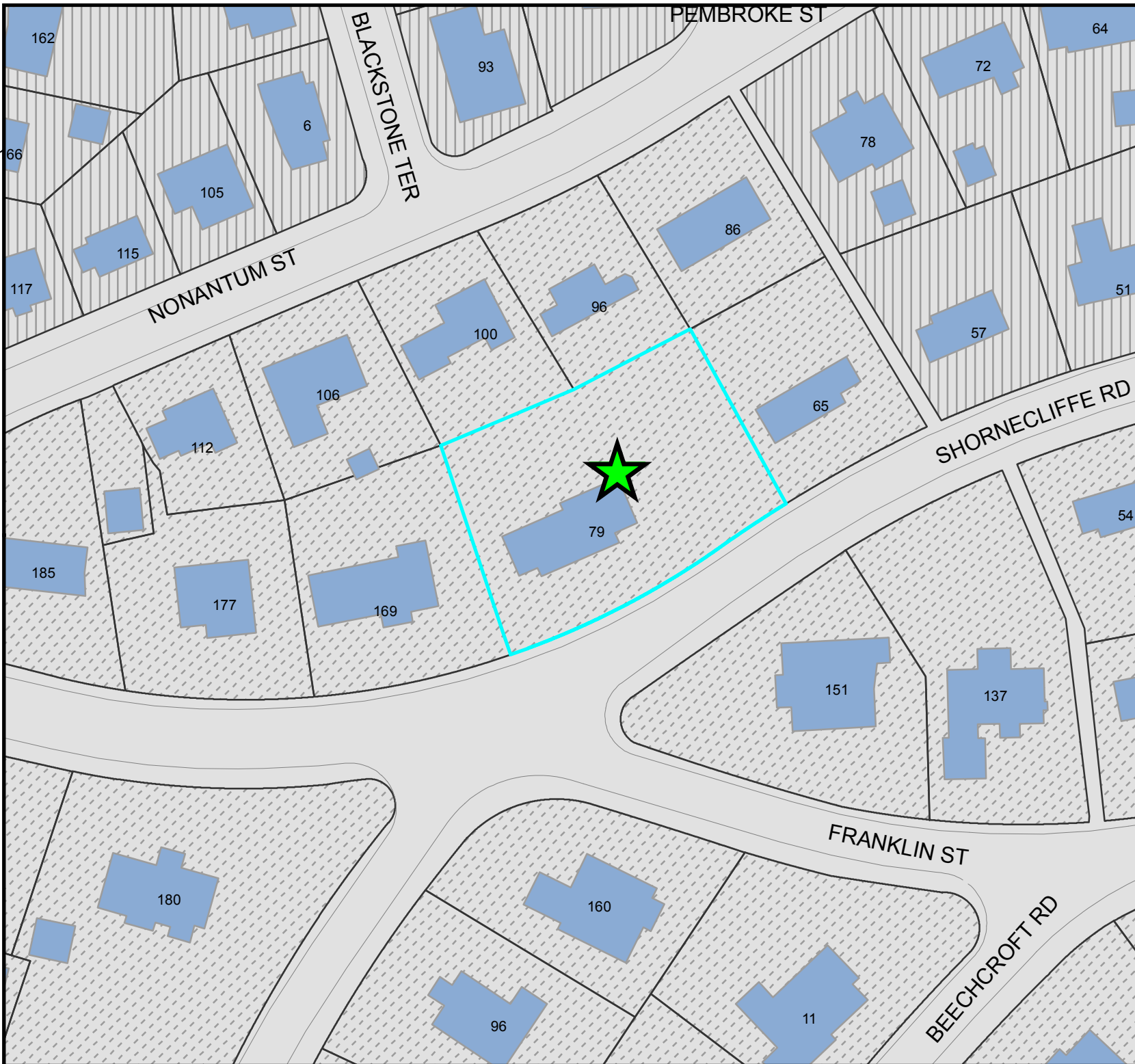


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Map Date: March 20, 2014



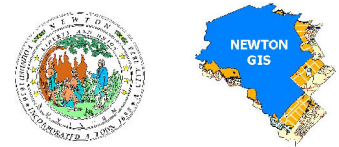
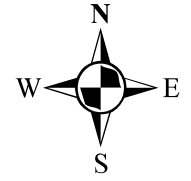
# 69-14 Contour Map 79 Shornecliffe Rd.

*City of Newton,  
Massachusetts*

**Legend**

- Building Outlines
- Contour Lines**
  - Two Foot Contour
  - Index (10 Foot) Contour
  - Wall

ATTACHMENT D

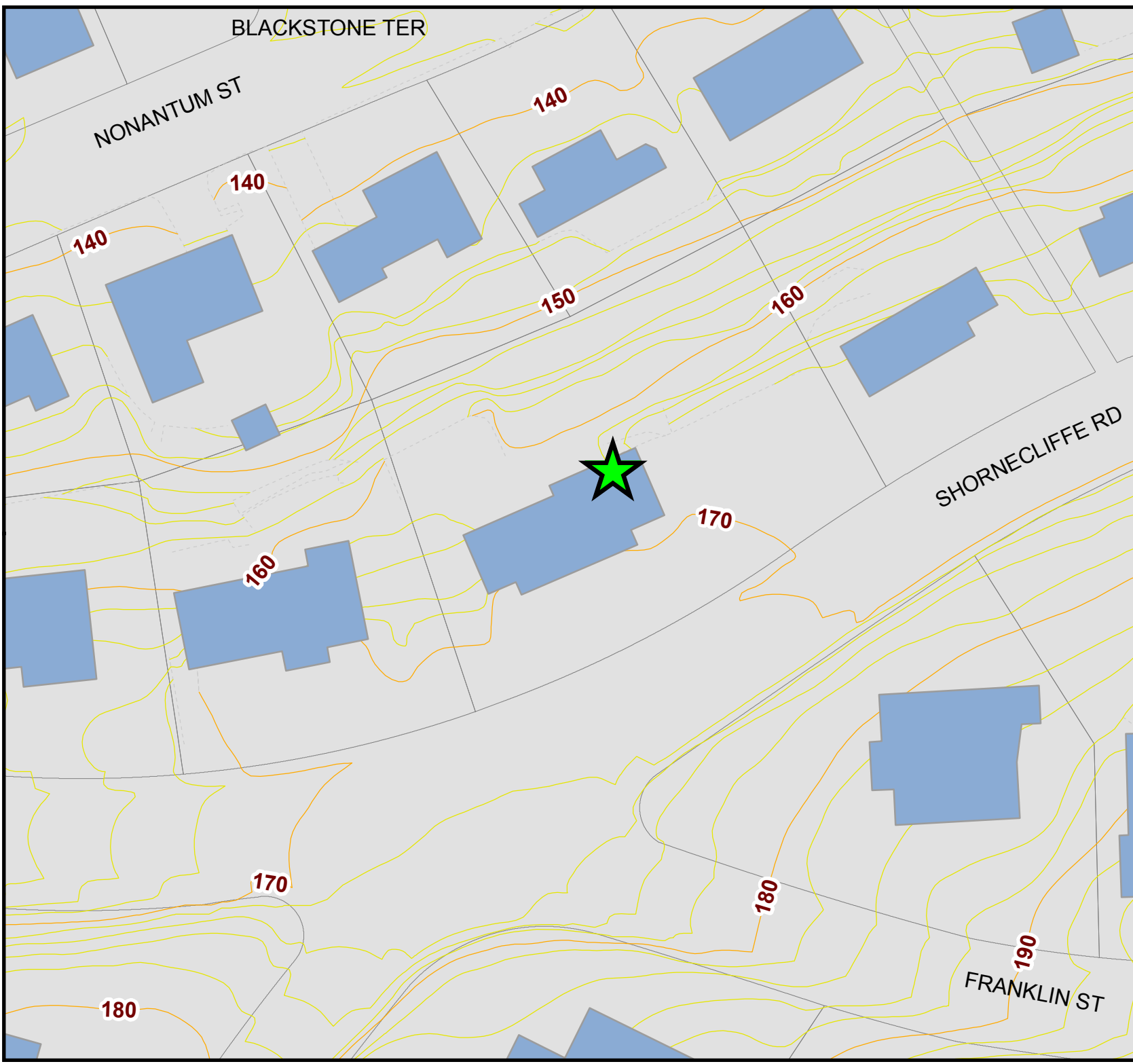


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CITY OF NEWTON, MASSACHUSETTS  
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GIS Administrator - Douglas Greenfield



Map Date: March 28, 2014



**CITY of NEWTON**  
**ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 79 Shornecliffe Road

Date: April 1, 2014

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

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

*Plan of Land in  
Newton, MA  
79 Shornecliffe Road  
Prepared by: Everett M. Brooks Company  
Dated: October 17, 2013*

*Executive Summary:*

The plan submitted is not to proper scale.

This single-family dwelling is undergoing a total renovation and the applicant wishes to flatten out the backyard, which has an existing natural slope of 23% on average. The backyard drops in elevation from 165-feet near the rear of the dwelling down to 158-feet at the northern property line that abuts another residential home.

To achieve a flatter yard the applicant is proposing a retaining wall near the base of the slope constructed of precast concrete segmental blocks that will be placed on a leveling pad and will rise to 6-feet in height. The back of the wall will be backfilled with a well-drained soil and reinforcement placed in alternating layer. The reinforcement specified by the wall manufacturer is a fiberglass mesh like gridded material (envision a “*plastic construction fence*” placed

horizontally) between layers of soil that interlocks the soil particles to help prevent overturning and shifting of the wall. A safety fence is required for walls over 4-feet; a post detail is shown however, the limits of the fence and type of fence also need to be indicated.

The drainage behind the wall is shown in the cross-sectional detail that indicates a 4" perforated pipe that daylight via weep holes at 40' intervals and at the ends of the wall. The collected water should be directed to underground infiltration system to avoid surface runoff issues to the abutting property.

Furthermore if this permit is approved, a restriction should be imposed that prohibits any in ground swimming pool within the zone of Geogrid<sup>®</sup> reinforcement of the wall, as that may comprise the design intent.

On site drainage is needed for new impervious surfaces added over 400 square feet of 4% of the lot. Since the garage floor elevation is more than 6" below the street elevation a catch basin or trench drain is required per the City Ordinance.

#### 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.

#### 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, for the project. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
2. An on-site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the drainage study. The locations of these tests need to be shown on the site plan and must be performed within 20-feet of a proposed system.
3. 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.

4. 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).

Sewer & Water:

1. Since the dwelling is being totally renovated, both the domestic water & sanitary sewer services must be upgraded.
2. 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.
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. 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. All site work must be completed before a Certificate of Occupancy is 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.