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Candace Havens
Director

MEMORANDUM

Public Hearing Date: October 9, 2012
Land Use Action Date: December 4, 2012
Board of Aldermen Action Date: December 17, 2012
90-Day Expiration Date: January 7, 2013

DATE: October 5, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning^{ET}
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #259-12 by NINE RIPLEY LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to add an attached dwelling to an existing dwelling and to construct two additional attached dwellings for a total of four dwellings; to waive the setback requirements; allow a driveway 5 feet from a side lot line, construct a retaining wall greater than 4 feet in height within a required setback; and, to allow parking within the required side setbacks at 9 RIPLEY STREET, Ward 6, Newton Centre, on land known as SBL 65, 19, 20, containing approx. 19,367 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-9(b)(5), (b)(5)a, b), (b)(4), 30-19(g)(1), and (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.



EXECUTIVE SUMMARY

The site consists of 19,397 square feet of land improved with a single-family residence built in 1866. The proposal is for an attached dwelling project, adding one unit to the existing single-family dwelling and constructing a second building containing two dwelling units for a total of four units. The existing structure was once a carriage house on what was historically an estate property and it has since been converted into a residence.

The existing structure currently conforms to all dimensional controls. However, the setbacks for attached dwellings are larger than for single- and multi-family homes in the MR 1 zone. When the use is changed to attached dwellings, and the setbacks expand, the existing structure becomes within the setbacks. The proposed new structure requires an additional waiver to be located within the front and side setbacks. In addition, various retaining walls, driveways, and required parking stalls are proposed within the setbacks. The Planning Department is concerned that the amount of encroachment into the setbacks is incongruous with the character of the neighborhood and as a result, the project should be redesigned so as to be built in a manner that does not require this degree of relief.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this petition, the Board should determine whether the following apply:

- 1) The specific site is an appropriate location for attached dwellings.
- 2) A front setback of 20.1 feet, a side setback of 15.2 feet and a rear setback of 16.3 feet where 25 foot setbacks are required is appropriate and literal compliance with these requirements is impractical due to the location, size, frontage, depth, shape, or grade of the lot.
- 3) A driveway five feet from the side lot line where 10 feet is required is appropriate, and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.
- 4) A retaining wall greater than four feet in height within a required setback will not create any nuisance or serious hazard to vehicles or pedestrians.
- 5) The location of three parking stalls within the required side setbacks will not adversely affect the neighborhood.

CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Ripley Street very close to the intersection with Chase Street and within a short walk to Newton Centre village. The parcel is within a vast area of Multi-Residence 1 zoning. The neighborhood features a mix of single-family and multi-family uses. This includes multi-family dwellings to the west and south of the site and single-family dwellings to the north and southwest of the site.

B. Site

The site consists of 19,367 square feet of land in a Multi-Residence 1 zone. It has a number of mature trees along the street with split rail fencing along the property lines. The existing single-family residence is set back from the street roughly 112 feet, providing a generous front yard area.

II. PROJECT DESCRIPTION AND ANALYSIS



A. Land Use

The proposal is to convert the property from single-family to attached-dwelling use by adding a second unit to the existing residence and constructing a second building to contain two new dwelling units for a total of four units.

B. Building and Site Design

The proposal is to reestablish the prominence of the mansard roof on the existing structure by removing a gable end pediment (added sometime after construction) to more closely reflect what the building would have looked like when originally constructed as a carriage house. The second unit will be connected to the north side of this unit and will also have a mansard roof. The materials of construction are not indicated on any of the plans and this should be clarified prior to the working session.

To the east, and in front of, the newly-expanded structure, the petitioner is proposing a second structure which would be built to mimic the Queen Ann architecture that is reflective of the older houses in the neighborhood. This new building is proposed close to the street and it would appear as though all of the mature plant material along the roadway will have to be removed to accommodate it. Relief is being requested to locate the front structure 20.1 feet from the front property line and 17.5 feet from the side setback, where a setback of 25 feet is required for attached dwellings. The Planning Department does not believe that there is anything about the dimensions or topography of the lot that would warrant this encroachment. The Department recommends that the project be redesigned or scaled back so to accommodate this structure within the prescribed setbacks.

The units will be accessed via two driveways off of Ripley Street. The first driveway will access a garage-under parking stall within the new construction building. A retaining wall to exceed four feet will be located within the side setback to provide this below-grade access. This is yet another encroachment that could be eliminated with a redesign so as to have a reduced impact on abutters. If these walls are approved as proposed, the petitioner should provide a fence at the top of the retaining walls of a material to be reviewed and approved by the Director of Planning and Development.

C. Parking and Circulation

Driveways associated with attached dwelling units cannot be located within 10 feet of a side lot line. The petitioner is proposing a driveway that is approximately five feet from the side lot line. Again, the Planning Department does not believe that there are any characteristics of this parcel that necessitate the placement of the driveway so close to the property line.

Generally, the Planning Department recommends the consolidation of curb cuts as much as possible. In this case, two curb cuts are not excessive for four units. Furthermore, the two driveways are located in excess of 70 feet apart and will not create a hazard for vehicles or pedestrians. Parking is provided in a combination of three individual garages and surface parking stalls. The Department does have serious concerns with the maneuverability within two of the three garages. The garage for Unit #2 contains two side-by-side parking stalls that are accessed by a single-width garage door. It appears as though it would be difficult to access Stall #1 without hitting the building wall or another car. The garage-under parking for Units #3 and #4 is also accessed by a single-width garage door, but accommodates four parking stalls. The Planning Department has the same concerns related to maneuverability within this garage, particularly with respect to Parking Spaces #3 and #4. The petitioner should provide a template to prove that this layout is functional prior to the working session.

Relief is being requested to locate three surface parking stalls within the side setbacks. The Planning Department believes that this will adversely affect the neighborhood by placing hardscape and vehicles very close to other residential properties. The parking and circulation should be redesigned so as to avoid locating these parking stalls within the setbacks.

D. Landscaping

A landscape plan has not been submitted and should be prior to the working session. An effort should be made to preserve the large stand of mature trees along the road frontage. The petitioner is required to comply with the Newton Tree Ordinance and should consult with the Director of Urban Forestry in providing replacement plantings.

III. COMPREHENSIVE PLAN

The proposal supports the *2007 Comprehensive Plan* by providing additional housing units within walking distance to the Newton Centre MBTA station and a number of other village amenities and preserving an existing structure. However, the project can be improved in accordance with Planning Department recommendations to incorporate “design that shows careful respect for neighborhood context by avoiding disruptive impacts”.

The *Plan* states that a main objective in the provision of housing is: “Supporting a full diversity of ... abilities is also a problem in Newton... Substantial and well-designed efforts are needed in order to improve equality of access, treatment, and social diversity in this community.” The Planning Department recommends that the petitioner try to make one of the units “visitable” by persons with disabilities. The general definition of visitability is: 1) providing a 32-inch clear opening in all interior and bathroom doorways; and (2) providing at least one accessible means of egress/ingress for each unit.

IV. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum (Attachment C) provides a complete analysis with respect to zoning. A special permit is required to locate attached dwellings in a Multi-Residence district. In changing the use of the property from single-family to multi-family use, the required setbacks from all property lines increased to 25 feet. The existing house becomes nonconforming with respect to side and rear setbacks. The proposal will increase the degree of nonconformity with respect to front and side setbacks. The rear setback will not change. The proposed project would be conforming with respect to lot coverage, open space, and lot area per dwelling unit.

The parking and circulation on site requires a number of reliefs to be constructed as proposed. The driveway is proposed five feet from the property line where ten feet is required. Three surface parking stalls are located within the side setbacks. Retaining walls of greater than four feet that facilitate access to the below-grade parking are also within the setback.

B. Engineering Review

The Engineering Division of the Department of Public Works has submitted a memorandum dated September 28, 2012 (Attachment D). The Engineering Department echoes the Planning Department's concerns about the number of trees being removed.

A construction management plan should be submitted to the Engineering Division for review and approval prior to the issuance of a building permit.

C. Fire Department Review

The Planning Department has not yet received Fire Department review. The petitioner should provide this prior to the working session.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (Attachment C), the petitioners are seeking the following reliefs:

- Section 30-9(b)(5) to allow attached dwellings in an MR 1 zone
- Section 30-9(b)(5)(b) to allow a front setback of 20.1 feet, a side setback of 15.2 feet, and a rear setback of 16.3 feet where 25 foot setbacks are required
- Section 30-9(b)(5)(a) and (5)(b) to allow a driveway five feet from a side lot line where a minimum of ten feet is required
- Section 30-5(b)(4) to construct a retaining wall greater than four feet in height within a required setback distance
- Section 30-19(g)(1) and 30-19(m) to permit three parking stalls within the side setbacks

VI. PETITIONERS' RESPONSIBILITIES

- The petitioner should provide architectural plans which indicate specific exterior materials.
- The petitioner should consider the recommendations made by the Planning Department for improving the site design and circulation.
- The petitioner should comply with all requirements of the memorandum prepared by the Engineering Division of the Department of Public Works.

- The petitioner should work with the Director of Urban Forestry to comply with the Tree Preservation Ordinance.
- The petitioner should submit a construction management plan prior to the issuance of a building permit.

ATTACHMENTS:

ATTACHMENT A: VICINITY LAND USE MAP

ATTACHMENT B: VICINITY ZONING MAP

ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: ENGINEERING DEPARTMENT MEMO

9 Ripley St.

Land Use

City of Newton,
Massachusetts



Legend

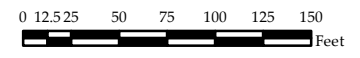
Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space



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



ATTACHMENT A

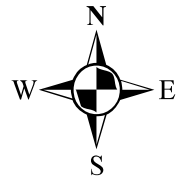
Map Date: October 02, 2012

9 Ripley St. Zoning

City of Newton,
Massachusetts

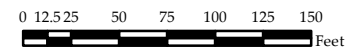
Legend

- Multi-Residence 1
- Business 1
- Public Use



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CITY OF NEWTON, MASSACHUSETTS
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ATTACHMENT B

Map Date: October 02, 2012





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ZONING REVIEW MEMORANDUM

Date: July 24, 2012

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Stephen Buchbinder, attorney representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to allow attached dwellings**

Applicant: Nine Ripley LLC	
Site: 9 Ripley Street	SBL: 65019 0020
Zoning: MR1	Lot Area: 19,367 square feet
Current use: Single-family dwelling	Proposed use: Four attached dwellings

BACKGROUND:

The property at 9 Ripley Street consists of a 19,367-square foot lot occupied by a single-family dwelling constructed in 1866. The applicant proposes to add three additional dwelling units, one attached to the existing dwelling and a new group of two located between the street and the existing dwelling.

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

- Architectural plans, unsigned and unstamped by Kunz Associates, Architects, dated 6/8/12
 - Renderings
 - Proposed Floor Plans Unit 1
 - Proposed Floor Plans Unit 2
 - Proposed Plans Basement & 1st Level, Units 3 & 4
 - Proposed Plans 2nd and 3rd Level, Units 3 & 4
- Revised architectural plans, unsigned and unstamped by Kunz Associates, Architects, dated 6/19/12
- Site plan, signed and stamped by Joseph R. Porter, Surveyor, revised 6/21/12
- FAR/Lot Coverage Calculation
- Letter from Newton Historical Commission, waiving demolition delay, dated 6/23/11

ADMINISTRATIVE DETERMINATIONS:

1. Per Section 30-9(b)(5), attached dwellings require a special permit in the MR1 zone. To use the property as proposed, the applicant must obtain a special permit from the Board of Aldermen.
2. The property is in the MR1 zone and must comply with the dimensional standards of Section 30-15, Table 1 for attached dwellings (see chart below).

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	15,000 square feet	19,367 square feet	No change
Frontage	80 feet	115.1 feet	No change
Lot area per DU	4,000 square feet	19,367 square feet	4,842 square feet
Setbacks			
• Front	25 feet	112.3 feet	20.1 feet
• Side	25 feet*	17.5 feet*	15.2 feet
• Rear	25 feet*	16.3 feet*	16.3 feet
Building Height	36 feet	26.2 feet	34.05 feet
Maximum Stories	2.5	2	2.5
Max. Lot Coverage	25%	10.2%	23.9%
Min. Open Space	50%	76.9%	57.0%

* Setbacks for the existing single-family dwelling are 15 feet to the rear and 7.5 feet to the side

3. By changing the use from a single-family dwelling to attached dwellings, the required side and rear setbacks increase to 25 feet. This increase would make the existing structure nonconforming with regard to side and rear setbacks. The applicant also proposes to add a new structure containing two attached dwelling units 15.2 feet from the side lot line and 20.1 feet from the front lot line. To locate the structures as proposed, the applicant must obtain a special permit from the Board of Aldermen, per Section 30-9(b)(5)b) to waive the front, side, and rear setback requirements.
4. Per Section 30-9(b)(5)a), driveways to attached dwellings may not be located closer than ten feet to a property line. The applicant's plans show a driveway located five feet from the north-west side lot line. To locate the driveway as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-9(b)(5)b).
5. Per Section 30-5(b)(4), a special permit is required to locate a retaining wall of greater than four feet within a required setback. The applicant's plans show two retaining walls of greater than four feet located within the front setback to provide access to the below-grade parking facility of the front structure. To construct the walls as proposed, the applicant must obtain a special permit from the Board of Aldermen.
6. Per Section 30-19(d)(2), two parking stalls are required for each dwelling unit, for a total of eight. The applicant's site plan and floor plans show a total of nine conforming parking stalls: one basement parking stall in each of the two rear units, four stalls located in the basement of the front units, and three outside stalls. Therefore, no additional relief is required.

7. As the parking stalls are located in three individual garages and two locations outside, the proposed parking arrangement qualifies as several parking facilities of five or fewer stalls and must meet the requirements of Section 30-19(g). Per Section 30-19(g)(1), no parking stalls shall be located within required side setback distances. The applicant's site plan shows three outdoor parking stalls located within the required 25-foot setbacks. To locate the parking stalls as proposed, the applicant must obtain a special permit per Section 30-19(m).
8. The applicant must comply with Chapter 20 Sections 31-39, Tree Preservation if any trees with a Diameter Breast Height (DBH) of greater than eight inches are removed.
9. As the applicant proposes to create three new residential units through a special permit, the proposed development falls under the scope of Section 30-24(f), *Inclusionary Zoning*. Per Section 30-24(f)(3), the number of required inclusionary units shall be equal to 15% of the three additional units ($15\% * 3 = .45$), which rounds down to zero units required. No additional zoning relief is required.
10. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-9(b)(5)	Allow attached dwellings in an MR1 zone	S.P. per §30-24
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-9(b)(5)b)	Allow a front setback of 20.1 feet, a side setback of 15.2 feet and a rear setback of 16.3 feet where 25 foot setbacks are required	S.P. per §30-24
§30-9(b)(5)a) and (5)b)	Allow a driveway five feet from a side lot line where a minimum of ten feet is required	S.P. per §30-24
§30-5(b)(4)	Construct a retaining wall greater than four feet in height within a required setback distance	S.P. per §30-24
§20-31 thru 29	Permit the removal of trees over eight inches of DBH	Comply with §20-31 thru 39
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(g)(1); §30-19(m)	Permit three parking stalls located within required side setbacks	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 – 9 Ripley Street

Date: September 28, 2012

CC: Lou Taverna, PE City Engineer (via email)
Linda Finucane, Associate City Clerk (via email)
Eve Tapper, Chief Planner (via email)
Derek Valentine, Planner (via email)

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

*Topographic Site Plan Showing Proposed Conditions at
#9 Ripley Street
Newton, MA
Prepared by: VTP Associates, Inc.
Dated: August 8, 2012*

Executive Summary:

The project scope is to add three additional dwelling units on a 19,367 square foot lot; one attached to the existing dwelling and a new group of two located between the street and the existing dwelling.

The drainage design methodology is acceptable and in accordance to City standards; however no on-site soil testing information was submitted. Soil testing is required to confirm design assumptions, placement of systems in relation to seasonal high groundwater.

Several mature deciduous & evergreen trees will need to be cut down for the site access, utilities, and construction, an alternative layout of the driveway should be investigated to avoid cutting so many trees.

The proposed dead-end 6" water service connection ideally should be looped through the site and back out to Ripley Street to provide a better water distribution system in regards to water quality within the project.

As Ripley Street has been reconstructed within the last 5-years, the utility trenches and roadway will have to be milled 25' on both sides of the utility trenches from curb line to curb line; then paved with 1-1/2" of Type I-1 Bituminous Concrete.

Grade Change:

1. Information is needed in regards to the proposed retaining walls within the setback of the southern property line, what is the material construction, finished surface?
2. All walls over 4' need to have a safety fence along its entirety.

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, impact to abutting properties, during and after construction, 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. Anticipated dewatering during construction, site safety & stability.
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. On site soil testing within 20 feet of each proposed underground system is required for the drainage system before final approval. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
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 apparentness including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.

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. 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 may result in the delay of issuance of the Utility Connection Permit.
3. 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.
4. All 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. 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.***

5. 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. 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.
2. 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 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. *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.