



Ruthanne Fuller
Mayor

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

#23-18
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 23, 2018
Land Use Action Date: April 10, 2018
City Council Action Date: April 16, 2018
90-Day Expiration Date: April 23, 2018

DATE: January 19, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #23-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-unit multi-family dwelling, allow a garage in excess of 700 square feet, allow parking in the front setback, allow a driveway width in excess of 20 feet, and allow a retaining wall of greater than four feet in the setback at **19-21 Orchard Street**, Ward 1, Newton Corner, on land known as SBL 71, 16, 1, containing approximately 12,320 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: §3.4.1, §3.4.2.C.1, §5.1.7, §5.1.7.A, §5.4.2.B, §5.1.13, and §7.3.3 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



19-21 Orchard Street

EXECUTIVE SUMMARY

The property located at 19-21 Orchard Street consists of a 12,370 square foot corner lot in the Multi Residence 2 (MR-2) zone in Newton Corner. The lot is improved with a two-family dwelling constructed circa 1855. The petitioner is seeking to raze the existing dwelling and construct a three-unit, multi-family dwelling, which requires a special permit. In order to construct the dwelling as proposed, the petitioner also requires special permits to allow a retaining wall greater than four feet in the setback, to allow a garage in excess of 700 square feet, to allow parking within the front setback, and to allow a driveway entrance width greater than 20 feet.

The Planning Department is generally unconcerned with the multi-family structure as proposed due to the multi-family character and density of the neighborhood. Staff believes the design creates a balance between open space and developed areas, but believes further refinements can be made with respect to the parking facility along Orchard Street. Additionally, staff suggest the petitioner explore creating a pedestrian entrance from Charlesbank Road which will give the structure more of a presence from the street.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling (§7.3.3.C.1).
- The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood (§7.3.3.C.2).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
- Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
- Literal compliance with the parking standards, including allowing parking within the front setback, and allowing a driveway entrance greater than 20 feet, is impractical 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 (§5.1.13)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

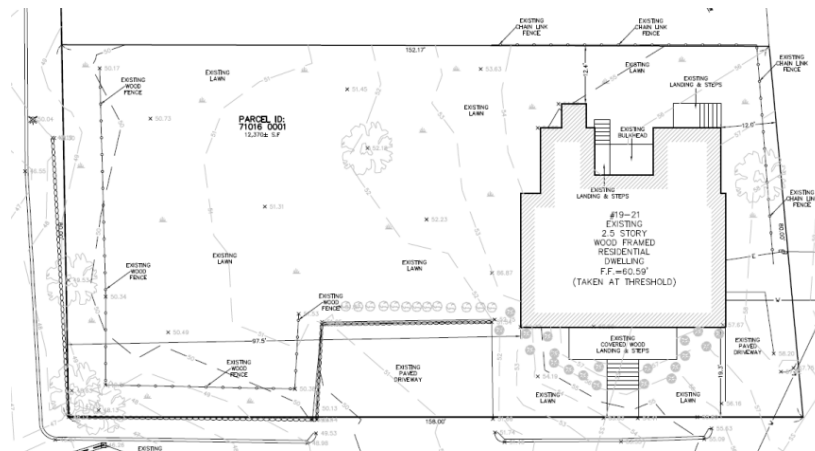
A. Neighborhood and Zoning

The subject property is located on Orchard Street in the MR-2 zone in Newton Corner. The immediate area and surrounding neighborhood consists almost entirely of residential properties containing single and multi-family uses. The exceptions include three lots to the west located in the Public Use district which

make up Charlesbank Park and some Business Use parcels to the southwest which help comprise the Newton Corner village center (**Attachments A and B**).

B. Site

The site is a corner lot with frontages on Charlesbank Road, Orchard Street, and Curve Street totaling 12,320 square feet. The site is improved with a 2.5-story, two-family dwelling that is an example of Greek Revival architecture. There are two curb cuts servicing the property: one curb cut along Orchard Street is approximately 33 feet wide providing access to a four-stall surface parking facility; the other curb cut at the southeast portion of the site is approximately fifteen feet wide providing access to a tandem, two-stall surface parking facility. The grade of the lot slopes down across the site from east to west, with a difference of about nine feet from the eastern to the western boundary. Portions of the eastern and western boundaries are enclosed with fencing, and the lot contains scattered trees and mature vegetation including a large lawn area to the left of the existing dwelling.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to change the use of the property from a two-family dwelling to a three-unit, multi-family dwelling.

B. Building Design

The petitioner is proposing to raze the existing two-family dwelling to construct a 2.5-story, three-unit multi-family structure. The proposed structure will be more centrally located on the lot to make use of the existing curb cut along Orchard Street. The structure is approximately 31 feet tall with living area on all levels. The proposed multi-family structure features an average unit size of 2,710 square feet, excluding

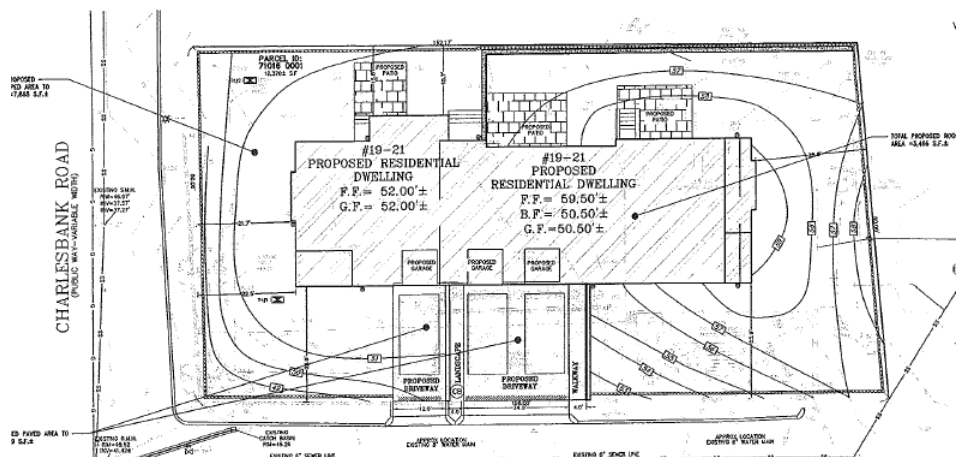
garage space. The proposed structure is of modern design which features a centered porch with paired columns; dormers are featured at the attic level to increase headroom and allow light into the units.



View from Orchard Street

C. Site Design

As noted above, the proposed multi-family dwelling will be more centrally located on the lot than the existing dwelling to comply with the front yard setback from Curve Street (eastern boundary). The structure will also meet the required front yard setbacks from Orchard Street and Charlesbank Road via averaging. Due to the slope of the lot, the design utilizes retaining walls along the Orchard Street frontage that are perpendicular to the street to create level ground for the driveways. The easternmost wall which separates the front yard from the driveway is four feet at its highest point, while the westernmost wall is two feet tall at its highest point. In the rear yard (opposite Orchard Street) a four-foot tall wall extends towards the property rear line to create some level ground for the unit patios. This wall then runs approximately 80 feet along the rear property line before decreasing to one foot in height and terminating at the northeast corner.



As proposed, the lot area per unit is 4,123 square feet, which is in excess of the minimum 3,000 square feet required. For reference, the median lot area per unit of the 36 properties with two or more units within 300 feet is 2,874.5 square feet. The Newton Zoning Ordinance (Ordinance) does not establish floor area ratio requirements for multi-family dwellings in a Multi-Residence district, but staff notes that the proposed project's floor area ratio (FAR) is 0.51. For comparison, by right single- and two- family structures in an MR-2 zone on a lot of this size are limited to an FAR of 0.51, if utilizing new lot setbacks.

The Planning Department is generally not concerned with the multi-family structure as proposed given the multi-family character and density of the neighborhood. Staff believes the design utilizes features such as dormers and a front porch to add interest to the facades and reflect the context of the neighborhood. Additionally, staff believes the petitioner has sited the structure to achieve a balance between open space and vehicular access, but believes further refinements can be made to the width of the curb cut along Orchard Street. Lastly, staff suggests the petitioner explore creating a pedestrian entrance from Charlesbank Road to the westernmost unit which may give the structure more of a presence from the street.



View from Charlesbank Road

D. Parking and Circulation

The petitioner is proposing to retain the existing curb cut along Orchard Street to provide access to the structure via an approximately 26-foot long driveway leading to an at-grade garage. The design calls for tandem parking for all three units whereby each unit will have one stall in the at-grade garage and one surface stall. The three surface stalls are located within the front setback, which requires relief from the Ordinance. Additionally, the petitioner has requested relief from the required stall dimensions, but staff sees no evidence of such necessity. As a result, staff suggests

the petitioner withdraw that relief from the petition. Staff suggests the petitioner explore reducing the width of the Orchard Street curb cut from 24 feet to 20 feet to allow for a tighter surface parking facility. Additionally, staff suggested the petitioner remove the curb cut and driveway apron at the south east corner of the site and replace it with granite curbing and sidewalk compliant with modern Americans with Disabilities Act standards; to which, the petitioner has agreed.

E. Landscape Screening

The petitioner submitted an initial landscape plan which shows some plantings along the proposed structure and a few proposed trees on the lot. The petitioner states he is seeking the input of the neighborhood regarding the number and types of plantings before developing a full plan. Staff notes the petitioner will be required to comply with the City's Tree Preservation Ordinance for any trees removed of a certain caliper and the petitioner will seek the Director of Urban Forestry's opinion on the health of certain trees on the lot. As a result of these ongoing discussions, the Planning Department suggests a condition requiring the petitioner to submit a landscape plan to the Director of Planning and Development for review and approval prior to the issuance of a building permit, should this petition be approved.

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 relief:

- §3.4.1 and §7.3.3 to allow a multi-family residential use in an MR-2 zoning district.
- §3.4.2.C.1 and §7.3.3 to allow a private garage in excess of 700 square feet
- §5.1.7.A and §5.1.13 to allow parking within the front setback
- §5.1.7 and §5.1.13 to allow a driveway entrance width greater than 20 feet
- §5.4.2.B and §7.3.3 to allow a retaining wall of four feet or greater in the setback

B. Engineering Review

Associate City Engineer, John Daghlian, provided a brief analysis of the petition (**Attachment D**). The Engineering Division of Public Works will review this project again for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this petition be approved.

C. Newton Historical Commission

As the petition requires the demolition of a structure greater than 50 years old, approval is required from the Newton Historical Commission. At its April 23, 2015 meeting, NHC found the dwelling “Preferably Preserved” for architectural integrity and historical context and a one-year demolition delay was implemented. The delay expired on April 23, 2016; therefore, the petitioner can legally demolish the structure. Staff notes that if the demolition does not occur before April 23, 2018, the petitioner will have to resubmit to NHC, which may result in another demolition delay.

V. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum, dated December 11, 2017
- Attachment D:** Engineering Review Memorandum, dated January 19, 2018

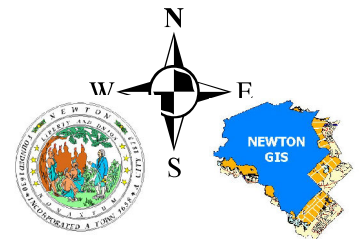
ATTACHMENT A

Land Use

19-21 Orchard St.

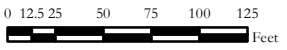
*City of Newton,
Massachusetts*

- Land Use**
- Single Family Residential
 - Multi-Family Residential
 - Commercial
 - Mixed Use
 - Open Space
 - Nonprofit Organizations
 - Vacant Land

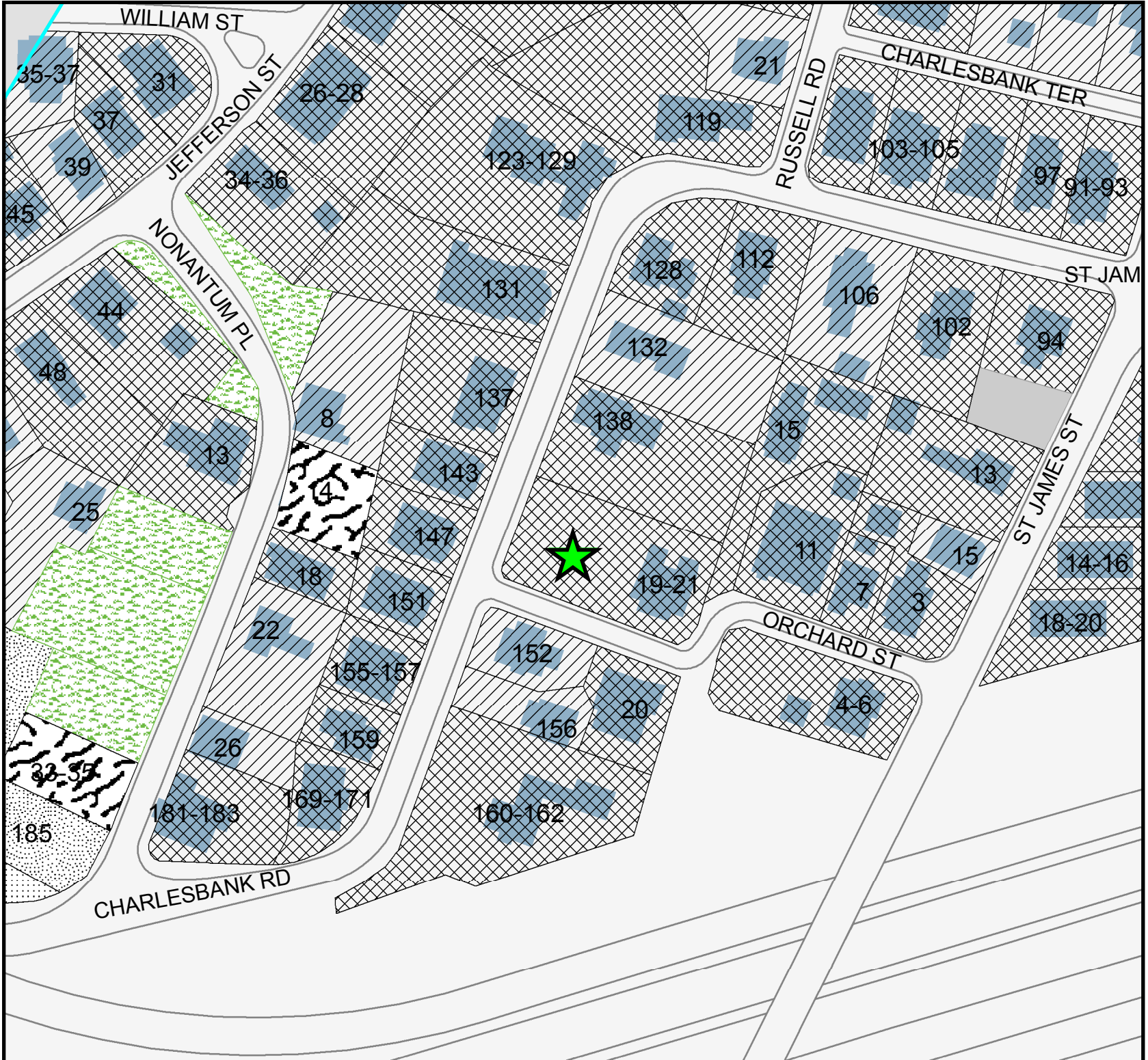


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: January 10, 2018



ATTACHMENT B

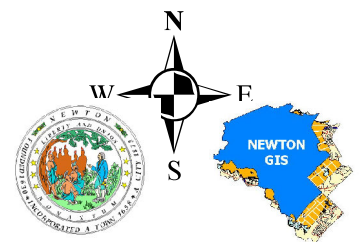
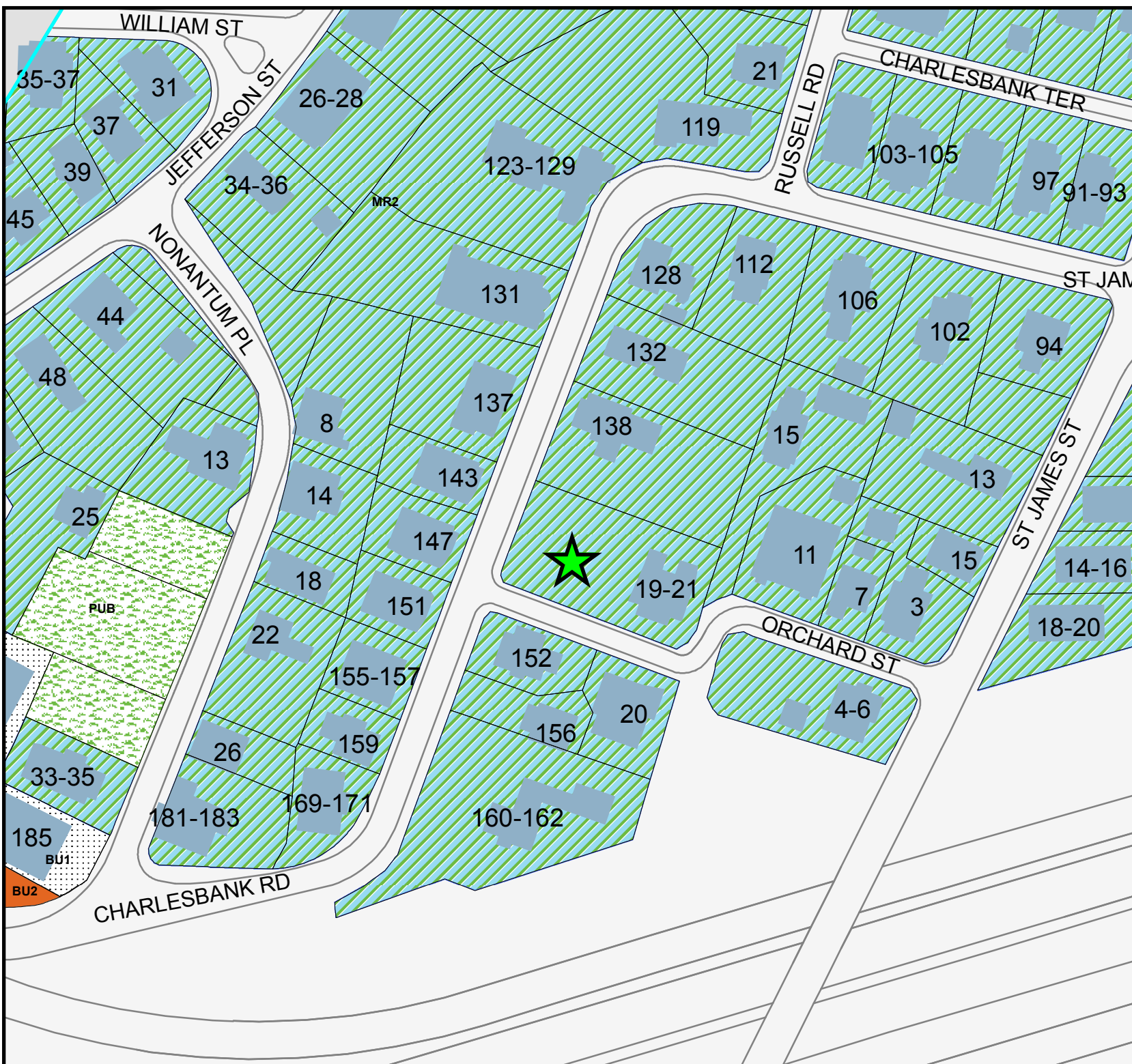
Zoning

19-21 Orchard St.

*City of Newton,
Massachusetts*

Legend

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



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

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





Ruthanne Fuller
Mayor

ATTACHMENT C

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 10, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: David Oliveri, 19-21 Orchard Street LLC, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow for a three-unit multi-family dwelling, a garage in excess of 700 square feet, and various waivers from the parking requirements

Applicant: 19-21 Orchard Street LLC	
Site: 19-21 Orchard Street	SBL: 71016 0001
Zoning: MR2	Lot Area: 12,370 square feet
Current use: Two-family dwelling	Proposed use: Three-unit multi-family dwelling

BACKGROUND:

The property located at 19-21 Orchard Street consists of a 12,370 square foot lot improved with a two-family dwelling constructed circa 1855. The lot is situated at the curve of Orchard Street and the corner of Charlesbank Road, creating three frontages. The petitioner proposes to raze the existing dwelling and construct a three-unit multi-family dwelling.

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

- Zoning Review Application, prepared by David Oliveri, applicant, submitted 10/2/2017
- Existing Conditions Site Plan, prepared by Peter Nolan & Associates, surveyor, dated 6/23/2017
- Site Plan, prepared Olinger Architects, dated 9/25/2017
- Floor Plans, prepared by Olinger Architects, dated 9/25/2017
- Elevations, prepared by Olinger Architects, dated 9/25/2017
- Proposed Plot Plan, prepared by Peter Nolan & Associates, surveyor, dated 11/13/2017, revised 1/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to raze the existing two-family dwelling and construct a three-unit multi-family dwelling. Per section 3.4.1, a special permit is required to construct a multi-family dwelling in the MR2 zoning district.
2. The petitioner proposes to construct a basement level garage accommodating three vehicles. Section 3.4.2.C.1 requires a special permit to construct a private garage of more than 700 square feet in area. To the extent that the garage is greater than 700 square feet, a special permit is required per section 3.4.2.C.1.
3. Three garage bays are proposed in the basement level of the multi-family dwelling, with one surface stall in front of each bay in the driveway off of Orchard Street. All three stalls are located within the required 25 foot front setback. Per section 5.1.7.A, no parking may be located within the front setback for a multi-family use.
4. Section 5.1.7.C requires that a driveway not exceed a maximum width of 20 feet. The existing driveway onto the property is 20 feet wide, however it does not align with the proposed garage entrance. The petitioner requests a special permit to exceed the 20 foot maximum width to widen the driveway by two feet to accommodate the garage door entrances.
5. To accommodate the basement level parking, two retaining walls are proposed along the driveway off Orchard Street. One of the proposed retaining walls is 4 feet at its highest, and is located within the front setback from Orchard Street. Per section 5.4.2.B, a retaining wall of 4 feet or more within a setback requires a special permit.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,370 square feet	No change
Frontage	80 feet	80 feet (Charlesbank Rd) 158 feet (Orchard St)	No change
Setbacks <ul style="list-style-type: none"> • Front (Charlesbank Rd) • Front (Orchard St south) • Front (Orchard St east) • Side • Rear 	17.75 feet* 25 feet 25 feet 7.5 feet 15 feet	>80 feet 19.25 feet ±10 feet 12.4 feet	21.7 feet 25.9 feet 25.8 feet 15.7 feet
Building Height	36	NA	30.9 feet
Stories	3	2.5	3
Lot Area Per Unit	3,000 square feet	6,185 square feet	4,123 square feet
Max Lot Coverage	30%	14%	28%
Min. Open Space	50%	80%	59.7%

Per section 1.5.3.B, no building need be set back more than the average of the setbacks of the buildings on the nearest lot on either side

See “Zoning Relief Summary” below:

Zoning Relief Required

<i>Ordinance</i>		<i>Action Required</i>
§3.4.1	Request to allow a multi-family dwelling	S.P. per §7.3.3
§3.4.2.C.1	Request to allow a private garage exceeding 700 square feet	S.P. per §7.3.3
§5.1.7.A §5.1.13	Request to allow parking in the front setback	S.P. per §7.3.3
§5.1.7. §5.1.13	Request to allow a driveway width in excess of 20 feet	S.P, per §7.3.3
§5.4.2.B	Request to allow a retaining wall greater than 4 feet in a setback	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 19-21 Orchard Street

Date: January 19, 2018

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Neil Cronin, Sr. Planner

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

*19-21 Orchard Street
Newton, MA
Civil Plan
Prepared By: Peter Nolan & Associates
Dated: 12-8-'17*

Executive Summary:

The existing two family dwelling is to be razed and a new multi- family unit is to be constructed on the site with a larger foot print. The site has a high point of 58' near the easterly property line and a residential home, and slopes towards Charlesbank Road at elevation 49'. The site currently has no stormwater management system; the proposed drainage system will improve water quality and lessen runoff from the site. The engineer of record has designed a stormwater collection system based on the net impervious surface, and stores the flow in underground chambers. The system does not take into account infiltration due to shallow ledge on site, and relies on an overflow connection to the City's drainage system. The proposed overflow pipe is too large; it needs to be resized to a 6" pipe. Soil testing logs need to be submitted for verification.

There is a typo in the drainage report, the drainage calculations have incorrect units for volume the need to be in (acre-feet) of flow. Second, the engineer needs to do a stormwater system analysis on the existing watershed, perform a closed circuit television inspection (CCTV) on the existing City drainage system and determine if there is enough capacity in the system for the additional flow.

Is the water main within Orchard Street accurately located, it appears that the main is on private property? The site plan also shows a water service from the east side of the property without notation about its removal.

Drainage:

1. The Operations and Maintenance (O&M) plan for Stormwater Management Facilities is acceptable. 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.
2. 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).

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. Watertown Street is a concrete roadway, restoration of the utility trenches shall be reinforced concrete as originally designed, with two-way epoxy coated rebar; the slab shall be cut back to either a 1/3 or half of the slab depending upon the alignment of the utility trench in relation with the slab(s).
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 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.***
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. ***This note must be added to the final approved plans.***
6. The sewer manhole rim and invert elevations in Charlesbank Road are required.

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. 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, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must being 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.