



#267-19

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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 24, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	December 23, 2019

DATE: September 20, 2019

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 #267-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #608-89 to allow a three-story structure, at **410 Newtonville Avenue**, Ward 2, Newtonville, on land known as SBL 22, 05, 14 containing approximately 14,547 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §3.2.4, §7.3.3, and §7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**410 Newtonville Avenue**

## **EXECUTIVE SUMMARY**

The subject property located at 410 Newtonville Avenue consists of a 14, 547 square foot lot in the Multi Residence 1 (the “MR-1”) zone in Newtonville. The property is subject to a special permit from the then Board of Alderman in conjunction with a variance from the Zoning Board of Appeals which created a three-unit, multi-family dwelling (**Attachments A & B**). The petitioner is proposing to construct an addition to the attic level of the structure, thereby creating a three-story structure. Three-story structures are allowed only by special permit in the MR-1 zone; therefore, the petitioner requires a special permit to amend Council Order #608-89 to allow a three-story structure.

The Planning Department is unconcerned with the request to create the third story. The proposed ridgeline will be consistent with the structure’s principal ridgeline and it will not increase the height of the structure. Also, the structure is one in a group of structures in the area known for their massing and scale. Lastly, the plans have been approved by the Newton Historical Commission in accordance with the preservation restriction governing the structure.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed three-story structure. (§7.3.3.C.1.)
- The site, due to the proposed three-story structure, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed three-story structure. (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

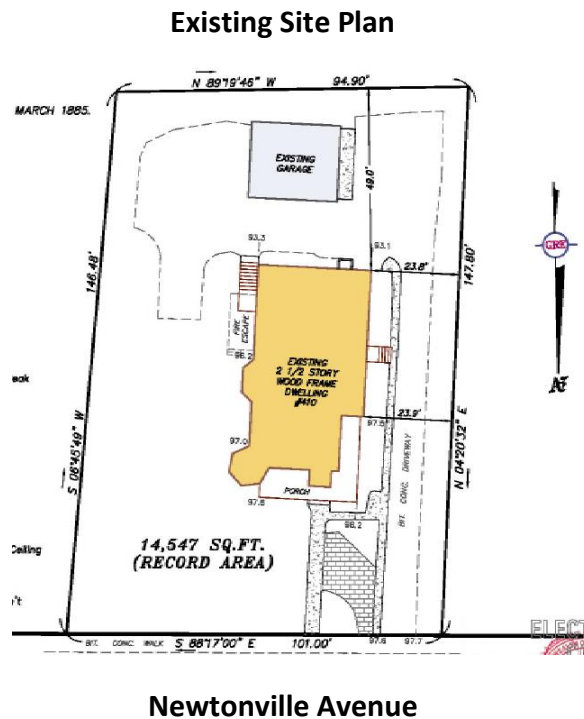
### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

#### **A. Neighborhood and Zoning**

The subject property is located on Newtonville Avenue in the MR-1 zone in Newtonville. The MR-1 zone encompasses the immediate area, but a Business Use 1 zone exists to the west along Walnut Street and at the intersection of Walnut and Bowers Streets (**Attachment C**). As such, the neighborhood is comprised mostly of single- and multi-family uses except some mixed use parcels, nonprofit organizations, as well as some commercial uses to the west (**Attachment D**).

B. Site

The site consists of 14,547 square feet of land and it is improved with a 2.5 story multi-family dwelling. There is a curb cut at the northwest corner of the site providing access to a driveway, a detached two car garage, and a large parking area at the rear of the site. There is a slight downward slope from the front to the rear, portions of the site are enclosed with fencing, and the site is sprinkled with mature landscaping.



C. Property History

Per City of Newton records, the structure had contained four dwelling units dating to 1945, but the property owner failed to legally establish the multi-family dwelling. Multi-family dwellings are not allowed in the MR-1 zone, but a provision in the Newton Zoning Ordinance allows two-family structures to convert to a multi-family use by adding one dwelling unit. Such addition is allowed by special permit provided that the structure was in existence as of 1979, that no exterior alterations were made to the structure unless such alterations were necessary to comply with applicable Health, Building and Fire codes, and that there be a minimum lot area of 5,000 square feet per unit. Because the lot did not meet this requirement, the special permit approval required the petitioner to obtain a variance from the Zoning Board of Appeals to reduce the lot area per unit. The approval also required the petitioners to enter into a preservation restriction with the Newton Historical Commission (the

“NHC”) to preserve the architectural integrity, features, and details of the structure. The petitioners subsequently obtained the variance, and as a result, the structure is a legal multi-family dwelling.

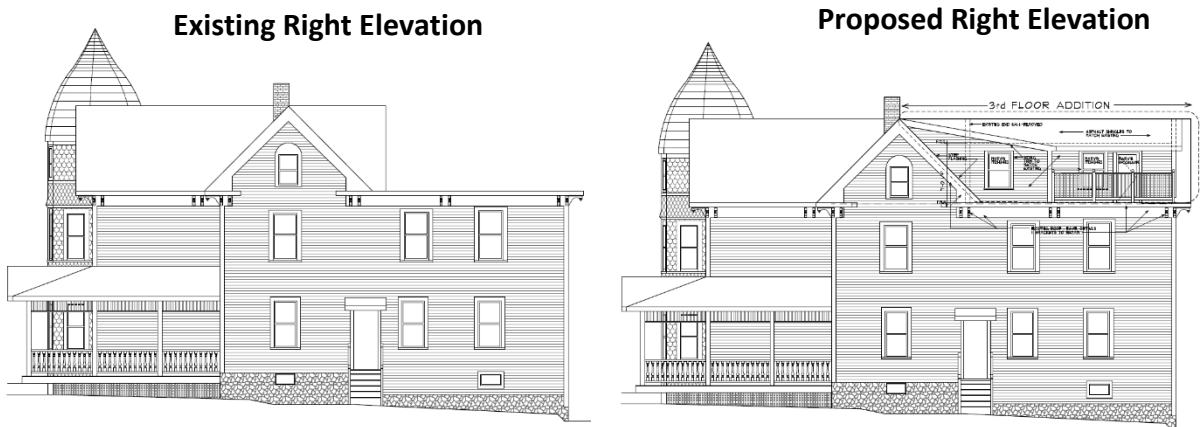
### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The principal use of the site is and will remain a multi-family dwelling.

#### B. Site and Building Design

The petitioner is not proposing any changes to the site. The petitioner is proposing to construct an addition to the attic level to create more living space. Currently, the attic features a gable roof that extends approximately half the depth of the structure before dropping off to the second story which features a flat roof. The petitioner is proposing to extend the ridge line of the gable roof to the rear of the structure. The addition will also feature two dormers: one on the existing rear ell gable peak; and the other on the left elevation. These dormers increase the amount of habitable space in the attic, but do not extend beyond the height of either the existing or proposed ridge line.



To qualify as a half-story, the space above the second story must contain no more  $\frac{2}{3}$  of the habitable space of the story below. Currently, the attic contains 587 square feet while the second story contains 1,626 square feet, meeting the definition. The addition will increase the habitable space in the attic by 628 square feet, for a total of 1,216 square feet. Because the amount of habitable space exceeds  $\frac{2}{3}$  of the space in the second story, the attic is now considered a third story, and requires a special permit.

The structure is a legal multi-family dwelling which is not allowed in the MR-1 zone. To compare the proposed structure with a by-right two family structure, staff created the below table.

**Table I: Comparison**

<b>Dimensional Standard</b>	<b>Two-Family</b>	<b>Proposed Structure</b>
Lot Size (square feet)	7,000	14,547
Frontage (feet)	80	101
Setbacks (feet)		
➤ Front	25	>25
➤ Side	7.5	23.8
➤ Side	7.5	>7.5
➤ Rear	15	49
Number of Stories	2.5 (3 by special permit)	3
Building Height (feet)	36	34.9
Floor Area Ratio	.48	.46

The Planning Department is unconcerned with the request to create the third story. The proposed ridgeline will be consistent with the structure’s principal ridge line and it will not increase the height of the structure. Also, the structure is one in a group of structures in the area that are distinct for their massing and scale.

C. Parking and Circulation

The petitioner is not proposing changes to either the parking or circulation on site.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment E**). Based on the Memorandum, the petitioner is seeking the following relief:

- To amend Council Order #608-89.

➤ §3.2.3 and §7.3.3 of Section 30, to allow a three-story structure.

B. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

C. Newton Historical Commission Review

The structure is subject to a preservation restriction with the NHC as a result of Council Order #608-89. The NHC approved the addition in accordance with the restriction at its December 20, 2018 meeting. Should this petition be approved, the Chief Preservation Planner will review and approve the plans and materials prior to the issuance of a building permit.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Council Order #608-89  
**Attachment B:** Variance #43-90  
**Attachment C:** Zoning Map  
**Attachment D:** Land Use Map  
**Attachment E:** Zoning Review Memorandum, dated July 16, 2019  
**Attachment F:** DRAFT Order

#608-89

CITY OF NEWTON  
IN BOARD OF ALDERMEN

June 18, 1990

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted in accordance with the recommendation of the Land Use Committee and based upon the following specific findings, facts and conclusions, and the reasons given by the Committee therefor through its Chairman, Susan M. Basham:

Petition number: 608-89

Petitioner: John T. and Carol W. Curry

Location: 410 Newtonville Avenue

Owner: John T. and Carol W. Curry

Address of Owner: 20 Oakland Avenue  
Auburndale, MA 02166

To be used for: 3 residential units

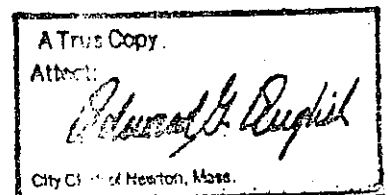
Construction: Wood frame

Explanatory note: Section 30-24 allows the Board of Aldermen to grant a SPECIAL PERMIT to convert a structure in existence on May 7, 1979 to occupancy by more than two families.

Land referred to is in: Multi Residence 1 District

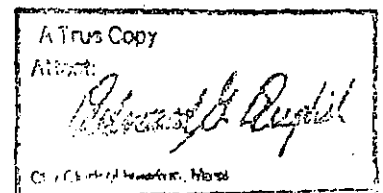
Approved, subject to the following conditions:

1. That, except as amended below, the building, parking stalls, driveways, maneuvering aisles, landscaping and other site features be constructed and located as indicated on plans entitled "C-1 Plan of proposed



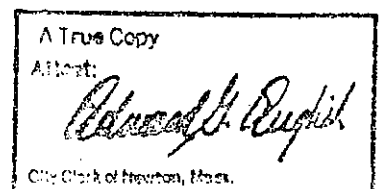
landscaping and parking dated August 8, 1986 and revised to September 7, 1989; C-2 Plans of proposed alterations to existing Curry apartment building for 410 Newtonville Avenue dated August 4, 1986 revised to January 13, 1988" by Dooling Architects, Inc., submitted by the petitioner.

2. That the front porch be repaired and all materials and profiles match the existing ones.
3. That the anti-pigeon screening be removed and replaced with less visible "Nix-O-Lite" or a similar product.
4. That a preservation restriction be executed with the Newton Historical Commission and be recorded at the Registry of Deeds as specified in Condition ll, g through h.
5. That a shed or fenced common area for trash be constructed with the location, design and landscape screening to be reviewed and approved by the Director of Planning and Development.
6. That if at anytime after the date of this Special Permit the utility service(s) is changed, upgraded or a new service is installed, all utilities will be installed underground from the street line at that time.
7. That the basement not be used for residential purposes except storage.
8. That the Petitioner receive a variance from the Newton Zoning board of Appeals for lot area.
9. That no parking be permitted in the required front setback other than as permitted by this special permit.
10. That the building and property shall be maintained in good condition.
11. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL until:
  - a. The Director of Planning and Development shall have reviewed and approved plans for the location of the parking area and driveway and trash enclosure location and materials, and a statement certifying such approval shall have been filed with the City Clerk and Inspectional Services Department.

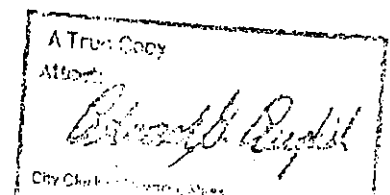




- b. A final landscape plan including lighting and fixture design indicating the location, number, size and type of landscaping and landscape materials to be installed, including a 3' high evergreen screen along the driveway and parking area and a fence at the property edges, shall have been submitted to and approved by the Director of Planning and Development and a statement certifying such approval shall have been filed with the City Clerk and the Inspectional Services Department.
- c. Condition 4 has been complied with and a statement by the Newton Historical Commission certifying such compliance shall have been filed with the City Clerk and the Inspectional Services Department.
- d. The Newton Historical Commission shall have reviewed and approved architectural plans including the facade, porch and roof materials and colors of the building and a statement certifying such approval shall have been filed with the City Clerk and the Inspectional Services Department.
- e. The City Engineer shall have reviewed and approved the plans for site grading and storm and sewer drainage, sidewalk improvements to meet City standards as determined by the City Engineer, water service, and a statement by the City Engineer certifying such approval shall have been filed with the City Clerk, the Inspectional Services Department, and the Department of Planning and Development.
- f. The Fire Department shall review and approve the stamped Site Plan as to consistency of emergency access and a statement by the Fire Chief certifying such approval shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
- g. The Petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copies of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL and Preservation Restriction in Condition 4 with appropriate reference to the book and page of the recording of the Petitioner's title deed.
- h. Certified copies of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.



12. That no building or structure or portion thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL shall be occupied until:
- a. The Petitioner shall have filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition 1 has been complied with.
  - b. There shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, sidewalks, and utility installations have been constructed to the standards of the City of Newton Engineering Department.
  - c. There shall have been filed with the City Clerk and the Inspectional Services Department a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, parking areas, fences, and lighting installation, and certifying that conditions 2-5 have been complied with.
  - d. There shall have been filed with the City Clerk and the Inspectional Services Department a statement by the Chairman of the Newton Historical Commission that conditions 2-4 have been complied with.
  - e. Notwithstanding the provisions of Sections a-c, hereof, the Commissioner of Inspectional Services may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to installation of final landscaping provided that the Petitioner shall have first filed with the Director of Planning and Development a bond, letter of credit, cash or other security in a the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
  - f. A statement by the Inspectional Services Department that it intends to issue the Certificate of Occupancy which documents the compliance of the building with the State of Massachusetts Building Code, including any permits issued by said Department, and that the premises are suitable for occupancy shall have been filed with the City Clerk and the Department of Planning and Development.

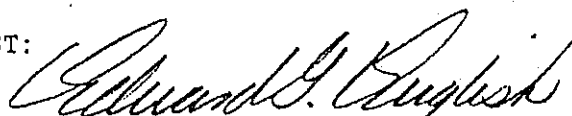


- g. A statement shall be filed by the Chairman of the Newton Community Development Authority with the Inspectional Services Department that the Petitioner has conveyed a cash contribution to the Authority's subsidized housing fund (a.k.a. 10% Account) Section 30-24(d)(5)(f) of the Zoning Ordinance. Said cash contribution shall be determined by the following formula: Average sales price of the three (3) units x .15 x .125 (as determined by signed Purchase and Sales agreements).
- h. A statement by the Director of the Newton Housing Authority that there has been full compliance with the low-income requirement of Section 30-24(d)(5) of the Zoning Ordinance shall have been filed with the City Clerk and the Department of Planning and Development.

Under Suspension of Rules  
 Readings Waived and Approved  
 16 yeas 5 nays (Ald. Baker,  
 Bauckman, Bryson, Kraus and  
 Robinson) 3 absent (Ald. Balser,  
 Bullwinkle and Creem)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on June 18, 1990. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT and SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the Planning and Development Board and the City Clerk.

ATTEST:

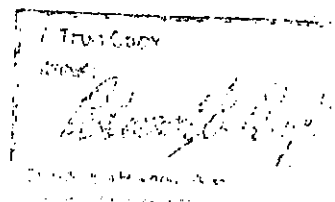


(SGD) EDWARD G. ENGLISH, City Clerk  
 Clerk of the Board of Aldermen

I, Edward G. English as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON hereby certifies that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on June 18, 1990 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST

Edward G. English  
~~EDWARD G. ENGLISH, City Clerk~~  
 acting



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O.C.



**City of Newton, Massachusetts**

Founded 1630 Incorporated a City 1873

City Hall

1000 Commonwealth Avenue, Newton Centre 59

ZONING BOARD OF APPEALS

#43-90

**Detailed Record of Proceeding and Decision**

**Petition of John and Carol Curry of 20 Oakland Street, Newton, MA.**

For a variance from lot density requirement to convert a two-family dwelling to a three-family dwelling at 410 Newtonville Avenue, Newton, MA.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on October 30, 1990, at 6:30 P.M. in the Aldermanic Chamber at City Hall, Newton, Massachusetts.

The following members of the Board were present:

- Anthony Summers, Acting Chairman
- Edna Travis
- John Kaitz
- Robert Brauneis
- Renee Chow

The petition was filed on August 15, 1990.

Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the News Tribune a newspaper of general circulation in Newton, Massachusetts.

Accompanying the petition were plans entitled "Plan of Land to Accompany the Petition of Carol W. Curry" dated April 3, 1989 by Apex Associates, Land Surveyors.

**FACTS:**

The petitioners were represented by Attorney Peter Harrington of 505 Waltham Street, Newton, MA.

The subject site is located at 410 Newtonville Avenue, Ward 2, Section 22, Block 5, Lot 14 containing approximately 14,546 square feet in a Multi-Residence 1 District.

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CITY CLERK  
NEWTON, MA 02459

The petitioner stated that the site was used as a residential dwelling for four families. The existing structure contains more than 3,755 Square feet of living space and has been assessed by the City of Newton as a five-family residential dwelling since 1963. The petitioner stated that at least four families have resided on the premises since 1945.

The petitioner stated that a Special Permit has been granted by the Board of Aldermen to convert to a 3-family dwelling subject to a variance being granted by the Zoning Board of Appeals for minimum lot area per unit. Section 30-15 requires a lot size of 15,000 sq. ft. and the petitioner's lot contains 14,547 sq. ft. or 463 sq. ft. below the requirement.

No one spoke in opposition.

**FINDINGS AND DETERMINATION:**

1. The site is unique due to its narrow configuration.
2. A hardship exists in that the site's existing Victorian character cannot be preserved if the site remains in a two-family use.
3. No substantial detriment to the public would occur since the three family would be in conformity with the neighborhood.
4. Granting the variance would not derogate from the spirit and intent of the Zoning Ordinance in that the departure from the Zoning Ordinance requirement would not change the character of the surrounding area.

The Board felt that the amount of the variance was de minimis and that preservation of the Victorian structure was of import. Accordingly, a motion was made by Mr. Kaitz and duly seconded by Ms. Travis to grant the petition which motion passed, five in favor and none opposed. Therefore, the variance is granted subject to the following conditions:

1. That this variance must be exercised within twelve months from the date of its filing with the City Clerk or the variance lapses.
2. That this variance must be recorded with the Middlesex Registry of Deeds within six months from the date of its filing with the City Clerk or the variance lapses.

  
Anthony Summers, Acting Chairman

**AYES:** Anthony Summers  
Edna Travis  
Renee Chow  
John Kaitz  
Robert Brauneis

Copies of this decision and all plans referred to in this decision have been filed with the Planning and Development Board and the City Clerk.

The decision was filed with the City Clerk on **NOVEMBER 23, 1990**

The City Clerk certified that all statutory requirements for the issuance of this VARIANCE have been complied with and that 20 days have lapsed since the date of filing of this decision and no appeal, pursuant to Section #17, Chapter 40A has been filed.

  
Edward English, City Clerk

I, Pam Hough, am the Clerk of the Zoning Board of Appeals and the Keeper of its records. This is a true copy of its decision.







  
Pam Hough

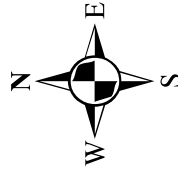
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CITY CLERK  
NEWTON, MA. 02159

# Attachment C Zoning Map Newtonville Ave., 410

*City of Newton,  
Massachusetts*

**Legend**

-  Multi-Residence 1
-  Business 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

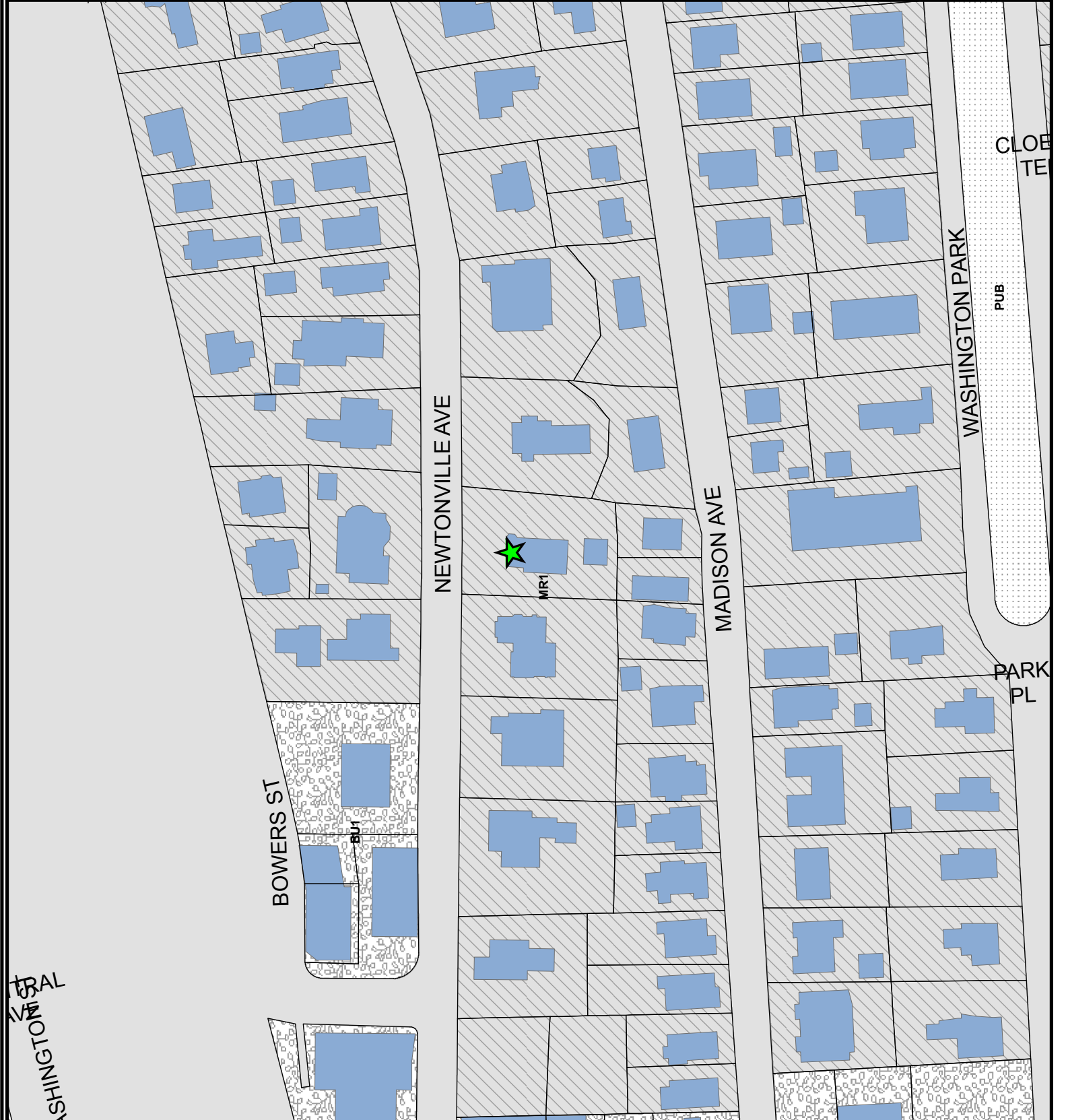


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller



Map Date: September 19, 2019



# Attachment D Land Use Newtonville Ave., 410

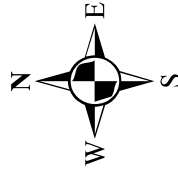
City of Newton,  
Massachusetts

**Legend**

**Land Use**

**Land Use**

- Single Family Residential
- Multi-Family Residential
- Commercial
- Mixed Use
- Open Space
- Nonprofit Organizations
- Building Outlines
- Surface Water
- Property Boundaries



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 - Ruthanne Fuller







Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: September 12, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Krishna Butaney, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to amend Board Order #608-89, and to allow for a three-story structure**

Applicant: Krishna Butaney	
Site: 410 Newtonville Ave	SBL: 22005 0014
Zoning: MR1	Lot Area: 14,547 square feet
Current use: Three-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 410 Newtonville Avenue consists of a 14,547 square foot lot improved with a three-family residence constructed circa 1900. The property had been used as a multi-family for many years without proper documentation. In 1990, the property received a special permit to allow for the conversion of a structure in existence prior to May 1979 into a multi-family dwelling, as well as a variance from the lot area per unit requirements. The petitioners seek now to amend the special permit to allow for the construction of an addition over an existing flat roof creating a full third story.

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

- Zoning Review Application, prepared Krishna Butaney, petitioner, dated 5/28/2019
- Architectural plans and elevations, signed and stamped by Gregory K. Barriere, architect, dated 4/30/2019
- Plot Plan of Land, signed and stamped by GRE Surveying LLC, dated 12/29/2017

**ADMINISTRATIVE DETERMINATIONS:**

1. The property received a special permit to allow for the conversion of an existing structure into a dwelling for more than two families, per now section 3.2.13 (then section 30-24). A condition of that special permit was a Preservation Restriction. The petitioners have had the proposed changes to the structure approved by the Newton Historical Commission as per the requirements of the Preservation Restriction.

The petitioner proposes to construct an addition on the flat roof over a second story adding bedrooms and a bath, creating a three-story structure. In accordance with Condition #1 of Board Order #608-89, the special permit must be amended to indicate the proposed changes to the structure.

2. The petitioner proposes to construct an addition over the existing second story in the 2.5 story structure. The additional space creates a three-story structure within the same footprint. Per section 3.2.4, a special permit is required for a three-story structure in the MR1 zoning district.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	14,547 square feet	No change
Frontage	80 feet	101 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 15 feet	> 25 feet 23.8 feet 49 feet	No change No change No change
Max Number of Stories	2.5	2.5	<b>3</b>
Max Height	36 feet	34.9 feet	No change
FAR	.48	.41	.46

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Amend Board Order #608-89	S.P. per §7.3.3
§3.2.4	To allow a three-story structure	S.P. per §7.3.3

### **Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

### **The following must be included when filing a Special Permit Application:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

### **Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N

CITY OF NEWTON  
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #608-89 to allow a three-story structure as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed three-story structure because three-story structures are allowed by special permit in the Multi Residence 1 zone and the structure will remain compliant with the dimensional standards of a two-family structure. (§7.3.3.C.1.)
2. The site, due to the proposed three-story structure, as developed and operated will not adversely affect the neighborhood because the structure is one in a group of structures known for their scale and massing. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed three-story structure. (§7.3.3.C.3.)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

PETITION NUMBER: #267-19

PETITIONER: Krishna A. Butaney

LOCATION: 410 Newtonville Avenue, on land known as Section 22, Block 05, Lot 14, containing approximately 14,547 square feet of land

OWNER: Krishna A. Butaney

ADDRESS OF OWNER: 410 Newtonville Avenue  
Newton, MA 02460

TO BE USED FOR: Addition to Multi-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.2.3 and §7.3.3 to amend Council Order #608-89 to allow  
a three-story structure

ZONING: Multi Residence 1 district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
  - a. Plot Plan, prepared by GRE Surveying LLC., signed and stamped by Wesley T. Guillaume, Professional Land Surveyor, dated December 29, 2017.
  - b. Architectural Plans, prepared by Barriere Design Associates, signed and stamped by Gregory K. Barriere Registered Architect, consisting of three (3) sheets:
    - i. Sheet A-1 Existing and Proposed Elevations;
    - ii. Sheet A-2 Existing and Proposed Floor Plans; and
    - iii. Sheet A-3 Survey, FAR, Conceptual Roof Framing & Section Studies, and Electric Plan.
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Department of Inspectional Services and the Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Council Order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
- b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.