



Setti D. Warren  
Mayor

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

Telephone  
**308-13**  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: September 3, 2013

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Peter Harrington, Attorney for the applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to convert an existing dwelling into a three-family residence**

Applicant: Chauncy S Perry	
Site: 432 Newtonville Ave	SBL: 22005 0024
Zoning: MR1	Lot Area: 16,632 square feet
Current use: Four-family dwelling	Proposed use: Three-family dwelling

### BACKGROUND:

The property at 432 Newtonville Ave consists of a 16,623 square foot lot with a dwelling built circa 1875 currently used as a four-family residence. Research into Inspectional Services files indicates that the house was built as a single-family residence and was converted to a two-family residence in 1940 with a valid building permit. No other building or special permits were issued authorizing an increase in the number of units, however there currently exists four units in the dwelling. The applicant states that the premises appear to have been used as a boarding house from 1925 to 1941 for seven or more people. Various Inspectional Services permits for plumbing and electrical work indicate the house as a two-family and a five-family, and the Assessor's Office lists it as a four-family dwelling.

In an effort to legalize the existing multi-family use, a special permit was sought and granted in 1990 for the use of the structure as a three-family residence. The special permit was appealed. The issue sparking the appeal was resolved by an Agreement, the terms of which were filed with the City Solicitor's office. The petitioner did not pursue an amended special permit reflecting the conditions of the Agreement, and it lapsed. The applicant again seeks a special permit to legalize a three-family use within the structure per Section 30-9(c)(1), which allows for the conversion of a structure in existence on May 7, 1979, to occupancy by more than two families.

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

- Zoning Review Application, prepared by Peter F. Harrington, Attorney, dated 8/14/13
- Abutter Area Plan, prepared by Ron Natoli, PLS, dated 6/5/13
- FAR calculations, dated 5/21/13
- Photos of property, prepared by Alan E. Taylor, Architect, dated 5/15/13
- City of Newton Application for Electric Permit, dated 7/1/1975
- City of Newton Application for Permit To Do Gas Fitting, dated 2/23/1972
- City of Newton Application for Plumbing Permit, dated 2/23/1972
- City of Newton Application for Plumbing Permit, dated 1/9/1940
- City of Newton Application for Permit for Alteration, dated 1/10/1940
- City of Newton Application for Plumbing Permit, dated 7/13/1938
- City of Newton Application for Plumbing Permit, dated 8/12/1935
- City of Newton Application for Permit for Alteration, dated 8/12/1935
- City of Newton Application for Plumbing Permit, dated 3/7/1929
- City of Newton Application for Permit to do Plumbing, dated 1/24/1913
- Deed, filed 6/23/1997
- Chauncy Perry vs Newton Board of Aldermen, Commonwealth of Massachusetts Land Court case 150 217, dated 8/31/1990
- Special Permit Board Order #609-89, dated 8/13/1990
- Correspondence between Newton Board of Aldermen and Peter Harrington, Notice of Appeal, dated 8/31/1990
- Correspondence between Peter Harrington and Ouida Young, Assistant City Solicitor, dated 8/4/1993
- Site Plan, signed and stamped by Alan E Taylor, Architect, dated 5/15/13
- Floor Plans, signed and stamped by Alan E Taylor, Architect, dated 5/15/13

#### **ADMINISTRATIVE DETERMINATIONS:**

---

1. The dwelling at 432 Newtonville Ave has been used as a multi-family residence since at least 1972, though City records would indicate this use going back to the 1940's. Special Permit Board Order #609-89 was granted by the Board of Aldermen in 1990 allowing for a three-family dwelling on the site. The permit was never exercised and the rights to it expired.
2. The dwelling has been used for up to five families over the course of the last 70 years, and is presently occupied by four tenants. A three-family use would be less intensive than what exists now. To convert this dwelling to a legal three-family would require a special permit per section 30-9(c)(1).
3. Sections 30-9(c)(b) and 30-19(d)(2) require two parking stalls per each unit. The applicant meets this requirement.
4. Section 30-19(h)(4) requires driveways for two-way traffic to be at least 20 feet wide. The applicant is proposing a 15 foot wide driveway. A special permit is required per Section 30-19(m) to waive this width requirement.
5. Section 30-19(i) and 30-19(j) spell out landscaping and lighting requirements for parking facilities requiring 6-25 stalls. Given the small-scale residential use of the site, a waiver from these requirements is recommended per section 30-19(m).

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	16,623 square feet	No change
Frontage	70 feet	114.2 feet	No change
Setbacks for existing structure			
• Front	25 feet	31.5 feet	No change
• Side	7.5 feet	45.5 feet on right 12 feet on left	No change
• Rear	15 feet	40.2 feet	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-9(c)(1)	Special Permit to convert a structure to occupancy by more than two families	S.P. per §30-24
§30-19(h)(4)(a) §30-19(m)	Special Permit to allow a driveway for two-way traffic less than 20 feet wide	S.P. per §30-24
§30-19(i)	Special Permit to waive landscaping requirements	S.P. per §30-24
§30-19(j)	Special Permit to waive lighting requirements	S.P. per §30-24