



Setti D. Warren  
Mayor

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James Freas  
Acting Director


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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: May 12, 2015  
Land Use Action Date: June 9, 2015  
Board of Aldermen Action Date: June 15, 2015  
90-Day Expiration Date: August 10, 2015

DATE: May 8, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Stephen Pantalone, Senior Planner 

SUBJECT: **Petition #90-15, JAMES P. ROBERTSON JR & CLAIRE RYAN-ROBERTSON** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE in order to raze an existing garage and rebuild a larger 1½-story garage to accommodate two cars and to build a porch and interior finished space on the front of a single-family dwelling, which will increase the Floor Area Ratio from .30 to .34, where .33 is the maximum allowed by right, at 158 NEWTONVILLE AVENUE, Ward 1, Newton, on land known as SBL 12, 22, 19, containing approximately 15,052 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(g) and (m), 30-15 Table 1, 30-15(u)(2), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**158 Newtonville Avenue**

### **EXECUTIVE SUMMARY**

The property at 158 Newtonville Avenue consists of 15,052 square feet of land, improved with a single-family dwelling constructed in approximately 1880 and a single-story two-car detached garage located along the front property line. The petitioner is proposing to replace the existing garage with a larger 1½-story garage, and to create a new uncovered parking stall adjacent to the new garage. The proposed work will require a special permit to extend a nonconforming structure in the front setback, to locate parking within five feet of the street, and to locate a retaining wall greater than four feet in the front setback. The petitioner is also proposing to enclose the existing front porch and build a new front porch. The combination of the larger garage and the enclosure of the existing front porch will increase the Floor Area Ratio (FAR) from .30 to .34 where .33 is the maximum allowed by right. The petitioner received approval for the proposed project from the Newton Historical Commission (“NHC”) (**ATTACHMENT A**).

The Planning Department does not have any concerns with the replacement of the garage and the creation of a third parking stall, which will require cutting into the slope in the front lawn and building an approximately nine foot retaining wall in the front setback. This project is consistent with many of the properties on Newtonville Avenue, which have also created parking stalls in their front setbacks using retaining walls. The design of the new garage will be an improvement over the existing structure and a benefit to the neighborhood. The petitioner will need to address the comments raised in the Engineering memorandum (**ATTACHMENT B**), however the Planning Department believes that these issues can be resolved during the building permit process.

The Planning Department is also not concerned with the request to exceed the maximum FAR by approximately 70 square feet. The enclosure of the existing porch and construction of a new porch will result in a negligible increase in the bulk and mass of the structure and will not be in derogation of the size of the other structures in the neighborhood.

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

When reviewing this request, the Board should consider whether:

- The proposed detached garage and additional parking stall in the front setback is not substantially more detrimental than the existing nonconforming detached garage is to the neighborhood. (§30-21(b))
- The specific site is an appropriate location for the proposed garage and the enclosure of the existing deck. (§30-24(d)(1))
- The proposed project as developed and operated will not adversely affect the neighborhood. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-

24(d)(3))

- Literal compliance with the parking requirements of the Newton Zoning Ordinance (NZO) is impracticable 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. (§30-19(m))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The site is located on Newtonville Avenue between Howard Street and Summit Street. The land uses in the surrounding neighborhood consist of a variety of single-family and multifamily dwellings (**ATTACHMENT C**). The zoning districts in the surrounding neighborhood consist of a Single Residence 2 and Multi Residence 1 districts (**ATTACHMENT D**). Due to the topography of Newtonville Avenue and the surrounding streets, many lots have located parking in the front setback and utilized retaining walls.

### B. Site

The site consists of 15,052 square feet of land, improved with a single-family dwelling and a detached one-story two-car garage. There is a significant upward slope from the front to the rear of the property and an approximately three-foot retaining wall that runs along the front property line.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The petitioner is proposing to maintain the existing single-family dwelling use.

### B. Building and Site Design

The petitioner is proposing to demolish the existing garage and replace it with a larger 1½-story two-car garage. The proposed garage will include an attic space for storage that can be accessed from the lawn level. The petitioner is also proposing to create a third parking stall by cutting into the front lawn and utilizing an approximately nine foot high retaining wall.

The Planning Department believes that the proposed garage will be more visually appealing than the existing structure and notes that the NHC waived the demolition delay based on the proposed design. The Planning Department believes that the creation of a third parking stall is appropriate considering that the petitioner does

not have a driveway, and this portion of Newtonville Avenue is relatively narrow to easily accommodate guest parking. Furthermore, many of the properties in the neighborhood have cut into their front lawns to create parking stalls and have utilized retaining walls to account for the slope. There is also no sidewalk on the petitioner's side of the street and some of the properties on their side also locate parking within five feet of the street. The Planning Department believes that this project is not out of character with the neighborhood and that the unique topography of the lot supports the requested relief.

The Planning Department also has no concerns regarding the enclosure of the front porch and construction of a new front porch. The petitioner is proposing to exceed the allowable FAR by approximately 70 square feet, which is a negligible amount in terms of the additional bulk and mass. The NHC reviewed and approved the proposed plans.

C. Landscape Screening

Landscaping is not applicable for this project as there is no ability to screen the proposed garage given the site conditions.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT E**) provides an analysis of the proposal with regard to zoning. The petitioner is seeking the following reliefs:

- §30-15 Table 1 and §30-21(b), to extend a nonconforming accessory structure with regard to front setback
- §30-19(g) and §30-19(m), to locate a parking stall within 5 feet of the street
- §30-5(b)(4), to locate a retaining wall in excess of 4 feet within the front setback
- §30-15(u)(2), to exceed maximum allowed FAR

B. Engineering Review

The Engineering Division Memorandum, (**ATTACHMENT B**), provides an analysis of the proposal with regard to engineering issues. The memorandum indicates that petitioner needs to properly account for the additional impervious surface that is proposed and identify whether any utilities may be affected by the proposed work. The worst case scenario would be that the petitioner could not build the additional uncovered stall. Considering the size of the project, the Planning Department believes that the petitioner can work with the City Engineer to address their concerns during the building permit process.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Newton Historical Commission Decision
- Attachment B:** Engineering Memorandum
- Attachment C:** Land Use Map
- Attachment D:** Zoning Map
- Attachment E:** Zoning Review Memorandum



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Setti D. Warren  
 Mayor

Candace Havens  
 Director

**REQUEST FOR DEMOLITION REVIEW**

DATE RECEIVED: 6-13-2014 PROJECT #: 14060046  
 PROJECT ADDRESS: 158 Newtonville Ave

**PROJECT INFORMATION**

TYPE OF DEMOLITION:  PARTIAL \*\*  TOTAL

(\* "Partial" demolition of a structure is the alteration or removal of over 50% of any single exterior wall surface or roof structure. Each is calculated by square footage.)

STRUCTURE TO BE DEMOLISHED (Check all that apply):

HOUSE  GARAGE  SHED  NON-RESIDENTIAL BUILDING  OTHER

IF OTHER, PLEASE DESCRIBE: \_\_\_\_\_

WHAT YEAR WAS THE STRUCTURE BUILT: 1930

IS THE STRUCTURE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES?  YES  NO

DESCRIPTION OF THE DEMOLITION REQUEST BELOW (Briefly describe the project):

Expand existing garage to accommodate 2 of today's size cars

IF KNOWN, BRIEFLY DESCRIBE THE KNOWN HISTORY OF THE PROPERTY:

**THE REVIEW APPLICATION SHOULD INCLUDE THE FOLLOWING INFORMATION**

**REQUIRED DOCUMENTATION:**

- PHOTOGRAPHS OF THE AFFECTED STRUCTURE FROM THE FRONT, REAR, AND SIDES AND STREET.
- ASSESSOR'S MAP SHOWING PROPERTY LOCATION
- BUILDING ELEVATION PLANS 11" X 17" OR SMALLER (FOR PARTIAL DEMOLITIONS ONLY).

**SUGGESTED DOCUMENTS:**

- BUILDING ELEVATION PLANS OR SKETCHES 11" X 17" OR SMALLER
- BUILDING PRODUCT/MATERIAL INFORMATION
- SITE PLAN
- PHOTOS OF NEIGHBORHOOD

**APPLICATION AUTHORIZATION**

PROPERTY OWNER: JAMES P ROBERTSON JR [Signature] 6-13-2014  
 (Print name) (Signature name) (Date)

(All plans **MUST** be dated, drawn to scale, and clearly labeled. An inaccurate or incomplete application will **NOT** be accepted. Please review the reverse of this form for additional information.)

**NOTE: This Application MUST be accompanied by a General Permit Application.**



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Candace Havens  
Director

**Newton Historical Commission Demolition Review Decision**

Date: 6/16/2014 Zoning & Dev. Review Project# 14060046

Address of structure: 158 Newtonville Road

Type of building : garage

If partial demolition, feature to be demolished is \_\_\_\_\_

The building or structure:

- is \_\_\_\_\_ is not  in a National Register or local historic district not visible from a public way.
- is \_\_\_\_\_ is not  on the National Register or eligible for listing.
- is \_\_\_\_\_ is not  importantly associated with historic person(s), events, or architectural or social history
- is  is not \_\_\_\_\_ historically or architecturally important for period, style, architect, builder, or context.
- is \_\_\_\_\_ is not  located within 150 feet of a historic district and contextually similar.

is \_\_\_\_\_ **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.  
*Demolition is not delayed and no further review is required.*

is  **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

**APPROVES** the proposed project based upon materials submitted see below for conditions (if any).  
*Demolition is not delayed, further staff review may be required.*

\_\_\_\_\_ **DOES NOT APPROVE** and the project requires  
Newton Historical Commission review (See below).

Review of final plans required
_____
_____
_____

The Newton Historical Commission finds the building or structure:

is \_\_\_\_\_ **NOT PREFERABLY PRESERVED**  
*Demolition is not delayed and no further review is required.*

is \_\_\_\_\_ **PREFERABLY PRESERVED – (SEE BELOW).**

Delay of Demolition:

\_\_\_\_\_ is in effect until \_\_\_\_\_

\_\_\_\_\_ has been waived - see attached for conditions

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.
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Determination made by:

*Kate Gale*  
*Nite*



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Candace Havens  
Director

**Newton Historical Commission Demolition Review Decision**

Date: 3/5/15 Zoning & Dev. Review Project# 15020058

Address of structure: 158 Newtonville Avenue

Type of building : House

If partial demolition, feature to be demolished is porch

The building or structure:

- is  is not  in a National Register or local historic district not visible from a public way.
- is  is not  on the National Register or eligible for listing.
- is  is not  importantly associated with historic person(s), events, or architectural or social history
- is  is not  historically or architecturally important for period, style, architect, builder, or context.
- is  is not  located within 150 feet of a historic district and contextually similar.

is  **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.  
*Demolition is not delayed and no further review is required.*

is  **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

**APPROVES** the proposed project based upon materials submitted see below for conditions (if any).  
*Demolition is not delayed, further staff review may be required.*

**DOES NOT APPROVE** and the project requires  
Newton Historical Commission review (See below).

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The Newton Historical Commission finds the building or structure:

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*Demolition is not delayed and no further review is required.*

is  **PREFERABLY PRESERVED – ( SEE BELOW).**

**Delay of Demolition:**

is in effect until \_\_\_\_\_

has been waived - see attached for conditions

Determination made by:

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.





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Candace Havens  
Director

**RECORD OF ACTION:**

**DATE:** March 5, 2015  
**SUBJECT:** 158 Newtonville Avenue

At a scheduled meeting and public hearing on February 26, 2015 the Newton Historical Commission, by vote of 7-0:

**RESOLVED** to find the property at 158 Newtonville Avenue **preferably preserved** for architectural integrity and historic context.

Voting in the Affirmative:      Voting in the Negative:      Abstained:

- Nancy Grissom, Member
- Jeff Templar, Member
- Mark Armstrong, Member
- Peter Dimond, Member
- Laura Fitzmaurice, Member
- Jean Fulkerson, Member
- Ellen Klapper, Alternate

At a scheduled meeting and public hearing on February 26, 2015 the Newton Historical Commission, by vote of 7-0:

**RESOLVED** to waive the demo delay on the partial demo of 158 Newtonville Avenue as proposed and approve the new veranda.

Voting in the Affirmative:      Voting in the Negative:      Abstained:

- Nancy Grissom, Member
- Jeff Templar, Member
- Mark Armstrong, Member
- Peter Dimond, Member
- Laura Fitzmaurice, Member
- Jean Fulkerson, Member
- Ellen Klapper, Alternate

Katy Hax Holmes  
Staff

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 158 Newtonville Avenue

Date: May 6, 2015

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

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

*Plan of Proposed Construction  
158 Newtonville Avenue  
Newton, MA  
Prepared by: Greater Boston Surveying & Engineering  
Dated: February 2, 2015*

*Executive Summary:*

The owners of this single family dwelling propose to demolish an existing garage that is built partially within the right-of way, and build a new two-stall garage and 2 stall parking alcove with a 9' high retaining wall. Additionally a covered porch is proposed to be built on the façade of the dwelling and the site is to be regraded. The submitted plans are not to scale, and lack any drainage improvements. The runoff from the new impervious surfaces needs to be collected and infiltrated on-site. The existing utilities need to be shown on the plans to ensure that the proposed construction does not conflict with the water, sewer and gas services.

As Newtonville Avenue has been repaved within the last 5-years, any damage to the roadway surface will result in milling from curb line to curb line; then paved with 1-1/2” of Type I-1 Bituminous Concrete.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton’s 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the project. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
2. An on-site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the drainage study. The locations of these tests need to be shown on the site plan and must be performed within 25-feet of a proposed system.
3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

- 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.

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 drainage system installation. The system 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, 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. *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.

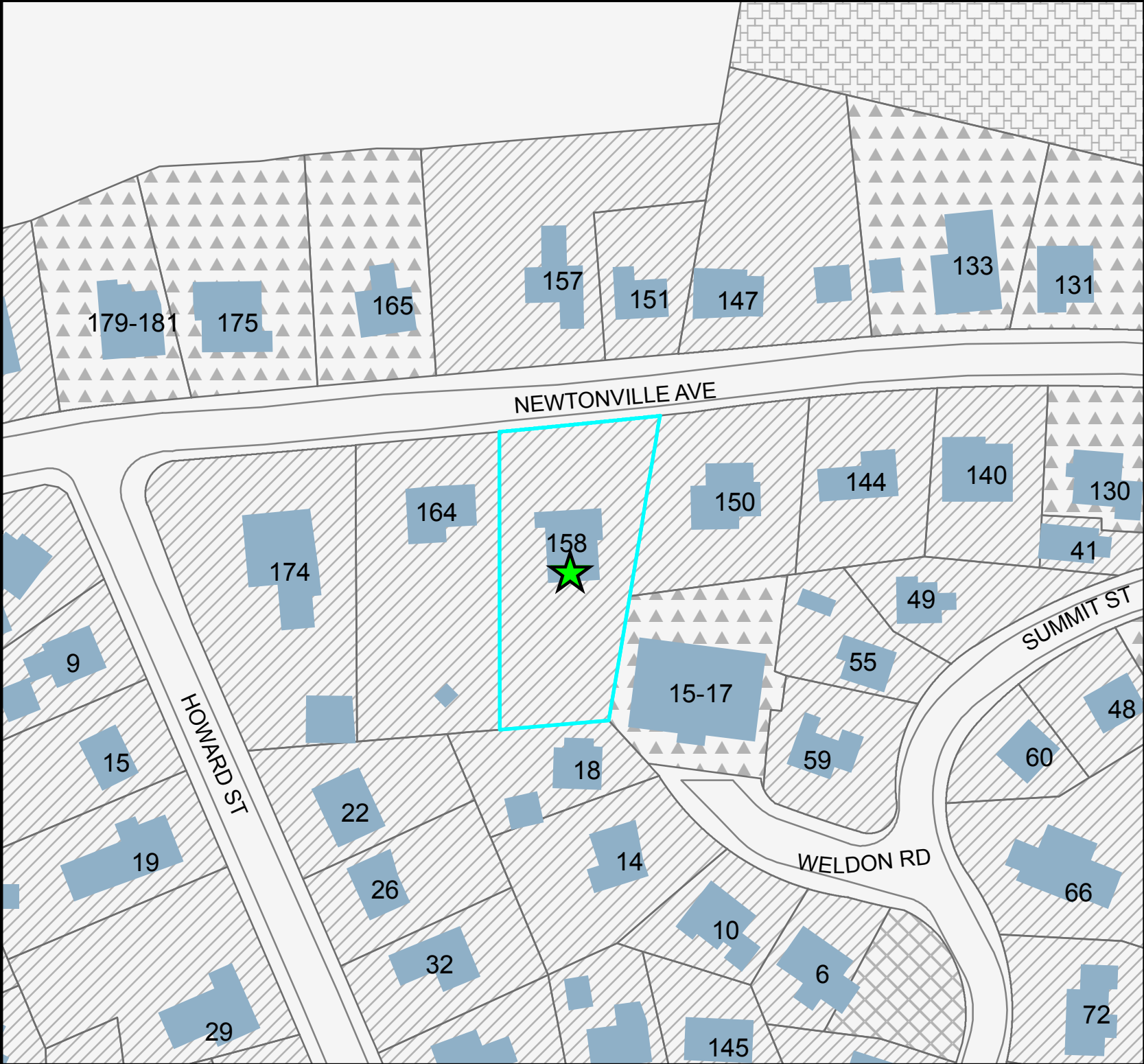
If you have any questions or concerns please feel free to contact me @ 617-796-1023.

# Land Use Map 158 Newtonville Ave

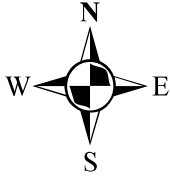
City of Newton,  
Massachusetts

**Legend**

-  Single Family Residential
-  Multi-Family Residential
-  Nonprofit Organizations
-  Vacant Land

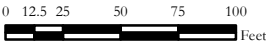


**ATTACHMENT C**



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: May 08, 2015

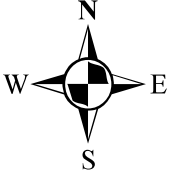
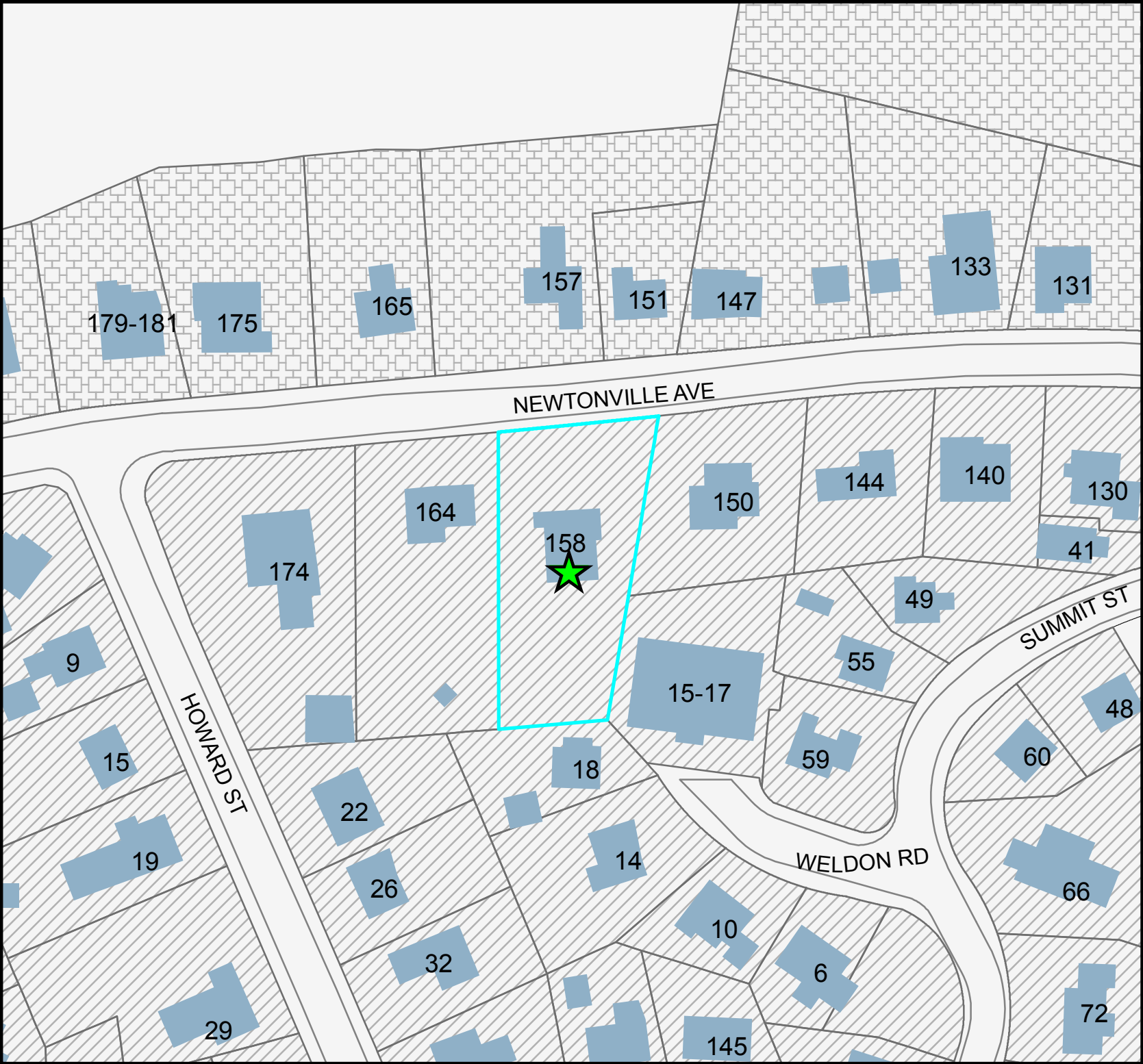
# Zoning Map 158 Newtonville Ave

City of Newton,  
Massachusetts

**Legend**

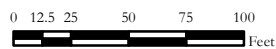
-  Single Residence 2
-  Multi-Residence 1

**ATTACHMENT D**



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CITY OF NEWTON, MASSACHUSETTS  
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James Freas  
Acting Director

## ZONING REVIEW MEMORANDUM

Date: March 30, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: James Robertson and Claire Ryan-Robertson, applicants  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to extend a nonconforming accessory structure, for a parking space in the front setback, for a retaining wall exceeding 4 feet in a setback, and to exceed FAR**

Applicant: James Robertson and Claire Ryan-Robertson	
Site: 158 Newtonville Ave	SBL: 12022 0019
Zoning: SR2	Lot Area: 15,052 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 158 Newtonville Ave consists of a 15,052 square foot lot improved with a single-family residence constructed circa 1880. The residence sits atop a slope and is set approximately 40 feet from the front lot line. A detached garage structure was built into the slope in 1914, three feet over the front lot line.

The applicants propose to raze the existing garage structure, and rebuild a larger one and one-half story garage structure which will be able to accommodate two cars. Due to the steep topography, the half story above the parking area will be accessible from the yard. They also intend to carve out an open parking stall into the slope next to the garage structure. The stall will be created with retaining walls.

The applicants also intend to build a farmer's porch and interior finished space on the front of the structure. The additional square footage of living space, as well as the enlarged detached garage structure, exceed allowable FAR.

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

- Zoning Review Application, prepared by James Robertson Jr., applicant, submitted 2/11/2015
- Plan of Land, prepared by Greater Boston Surveying and Engineering, dated 10/11/2011
- Architectural Plans, prepared by Choo & Company, Inc, architects
  - Proposed garage plans, dated 9/21/2012
  - Proposed garage elevations, dated 9/21/2012
  - Proposed porch plans and elevations, dated 4/26/2012

#### **ADMINISTRATIVE DETERMINATIONS:**

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1. The existing detached garage structure was built by building permit in 1914. According to the permit, the garage was built “practically on” the front lot line. According to the survey, the garage is in fact three feet onto the right of way. The new plan moves the garage back three inches off the front lot line, making it less nonconforming. However, as it is located within the front setback, and is becoming larger, a special permit is required pursuant to Section 30-21(b).
2. The applicants intend to carve an additional open parking stall from the slope to be used as guest parking. Section 30-19(g) states that no parking stall shall be located within five feet of the street. To locate the parking stall as proposed requires a special permit pursuant to Section 30-19(m).
3. To create the parking area as proposed requires the use of retaining walls. The walls are completely located within the front setback and reach a maximum height of nine feet. According to Section 30-5(b)(4), a special permit is required for a retaining wall in excess of four feet in height located within a setback. The retaining walls will be located within the front setback, and requires a special permit.
4. The applicants propose to build a farmer’s porch and interior living space on the main dwelling. The additional square footage from the mudroom, as well as the enlarged garage structure produces as FAR of .34 from the existing .30, where .33 is the maximum allowed. To build the project as proposed requires relief from Section 30-15(u)(2).



SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	15,052 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks for existing structure			
• Front	25 feet	49 feet	39.9 feet
• Side	7.5 feet	24.9 feet	18 feet
• Rear	15 feet	+/- 75 feet	No change
Setbacks for existing accessory structure			
• Front	25 feet	-3 feet	0.25 feet
• Side	5 feet	3.7 feet	No change
• Rear	5 feet	>150 feet	>150 feet
FAR	.33	.30	.34
Max. Lot Coverage	30%	14%	20%
Min. Open Space	50%	88%	84%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table 1, §30-21(b)	Extend a nonconforming accessory structure with regard to front setback	S.P. per §30-24
§30-19(g) §30-19(m)	To locate a parking stall within 5 feet of the street	S.P. per §30-24
§30-5(b)(4)	To locate a retaining wall in excess of 4 feet within the front setback	S.P. per §30-24
§30-15(u)(2)	To exceed maximum allowed FAR	S.P. per §30-24