



Setti D. Warren
Mayor

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

141-13
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

MEMORANDUM

Public Hearing Date: May 14, 2013
Land Use Action Date: July 16, 2013
Board of Aldermen Action Date: July 22, 2013
90-Day Expiration Date: August 13, 2013

DATE: May 10, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ^{ET}
Alexandra Ananth, Senior Planner

SUBJECT: **Petition #141-13**, Zion Yehoshua & Nikzun Gordon, for SPECIAL PERMIT/SITE PLAN APPROVAL to re-grade an existing driveway to make it less steep by rebuilding existing retaining walls within the setback at a maximum height of 6 feet and to provide 2 parking spaces within the front setback at **74 Newtonville Avenue**, Newton, Ward 1, on land known as SBL 12, 21, 25 containing approx. 10,021 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-19(g)(1), 30-19(m), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

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



74 Newtonville Ave.

EXECUTIVE SUMMARY

The property at 74 Newtonville Avenue consists of a 10,021 square foot lot improved with a single-family residence constructed in 1973. The existing house contains an attached two-car garage and the driveway on the property has a significant slope from the garage down to the street. The petitioner is proposing to re-grade the driveway to make it less steep. In order to achieve the desired grade the petitioner is proposing to rebuild existing retaining walls within the setback and with a maximum height of six feet. The proposed new walls will block access to the garage and will create two required parking stalls within the front yard setback.

The petitioner began work on this project without a building permit and received a stop work order from the Inspectional Services Department that the petitioner is now seeking a special permit for. The petitioner does have a permit to construct retaining walls behind the house which do not require a special permit. Work behind the house has been allowed to continue.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed retaining walls will not adversely affect the neighborhood and all runoff will be contained on site.
- The proposed exceptions to the parking requirements are appropriate as literal compliance 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.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on the south side of Newtonville Avenue between Summit Street and Centre Street in Newton Corner. Newtonville Avenue consists mostly of single-family homes although there is a condominium located behind the subject property. The site is located in an area zoned Single Residence 3.

B. Site

The site consists of 10,021 square feet of land and is improved with a single-family house and attached two-car garage. The site slopes up from the street and the house is located over ten feet above street grade. The existing driveway is quite steep and existing retaining walls are located throughout the site to create usable yard area. There is also a significant system of stairs leading from the street up to the front door. Due to the slope of this street many of the residents in the

immediate neighborhood park two cars in the front setback.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to level the driveway to create two parking spaces in the front setback. Proposed retaining walls will cut off access to the existing garage rendering it useless for parking purposes. It is not clear what the petitioner intends to do with the former garage space.

As mentioned above many of the houses in the immediate neighborhood have similar constraints due to the slope of the land. However, no other houses that have attached garages appear to have cut off access to the garage in favor of at-grade parking in the front setback.

C. Parking and Circulation

The proposed parking area is approximately 22 ft. by 20 feet and is set at an elevation of 102 feet.

The Planning Department notes that the proposed parking area must be enlarged to show a depth of 24 feet from the front property line for both cars so that no cars are parked within five feet of the front property line. Prior to being scheduled for a working session the petitioner must submit a revised plan showing two compliant parking stalls (9' x 19') located at least five feet from the front property line.

Although the Planning Department is concerned with parking stalls located in the front setback similar conditions exist at some neighboring properties. The Planning Department encourages the petitioner to consider pavers in order to improve the streetscape.

The petitioner did not submit elevations so it is not clear if the existing garage doors will be removed or if they will be maintained. The petitioner should clarify how the existing garage space will be used and treated (architecturally) at the public hearing.

D. Landscape Screening

No landscape plan was required for this petition however the petitioner is proposing to install a 42-inch metal railing on top of the concrete walls for safety

purposes.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioners are requesting a special permit to allow retaining walls of greater than four feet within a front yard setback, and to provide two required parking spaces within the front setback.

B. Engineering Review

The Associate City Engineer completed a review of this project and notes that on site drainage improvements will be required (**ATTACHMENT B**).

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-5(b)(4), to locate retaining walls greater than four feet within a front yard setback.
- Section 30-19(g) (1), to permit two required parking spaces within the front setback.

VI. PETITIONERS' RESPONSIBILITIES

- Prior to being scheduled for a working session the petitioner must submit a revised plan showing two compliant parking stalls (9' x 19') located at least five feet from the front property line.
- The petitioner should clarify their intent for the existing garage space and the architectural treatment of its exterior at the public hearing.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Engineering Division Review Memorandum
Attachment C: Zoning Map
Attachment D: Land Use Map



Setti D. Warren
Mayor

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

141-13
Telephone
(617) 796-1120

ATTACHMENT A

IDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: March 21, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning

ET

Cc: Zion Yehoshua, Applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to re-grade an existing driveway and to rebuild existing retaining walls to a maximum height of six (6) feet and to allow for two required parking spaces within the front and side setbacks.

Applicant: Zion Yehoshua	
Site: 74 Newtonville Ave	SBL: 12021 0025C
Zoning: SR3	Lot Area: 10,021 square feet
Current use: Single-family residence	Proposed use: No Change

BACKGROUND:

The property at 74 Newtonville Ave consists of a 10,021 square foot lot improved with a single-family residence constructed in 1973 and several retaining walls. The driveway on the property has a significant slope from the house to the street, and the applicant wishes to re-grade the driveway to make it less steep due to safety concerns. To achieve the desired grade, the applicant proposes to rebuild existing retaining walls within the setback at a maximum height of six (6) feet.

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

- Zoning Review Application, prepared by Zion Yehoshua, owner, submitted 12/11/2012
- As-Built Plot Plan, signed and stamped by James Herrick, Engineer, dated 1/4/13
- Engineering plans for retaining walls, signed and stamped by James Herrick, Engineer, submitted 12/11/12
- Proposed profiles, plan and sections, created by James Herrick, Engineer, submitted 2/19/13

ADMINISTRATIVE DETERMINATIONS:

1. The proposed retaining walls will reach a maximum height of six (6) feet from the street to where it meets the house. Section 30-5(b)(4) requires a special permit to place retaining walls greater than four feet within a setback.
2. Lowering the grade of the driveway according to the proposed plan will render the garage useless for the purposes of parking and meeting parking requirements for a single-family home. Section 30-19(d)(1) requires a single-family dwelling to provide two parking stalls. Section 30-19(g)(1) states that only one parking stall may be located within any required setback distances from a street or sideline for a single-family dwelling. Without the use of the garage, the two required stalls are now proposed to be located in the front yard setback. Section 30-19(m) requires a special permit to allow this parking configuration.

SR3 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	10,021 square feet	No change
Frontage	80 feet	85 feet	No change
Setbacks for existing structure			
• Front	30 feet	32.1	No change
• Side	10 feet	20 feet on right 21 feet on left	No change
Max. Lot Coverage	30 %	23.4 %	No change
Min. Open Space	50 %	76.6 %	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-5(b)(4)	Locate a retaining wall of four (4) feet or more within a setback	S.P. per §30-24
§30-19(g)(1) §30-19(m)	Provide two required parking spaces within the front setback	S.P. per §30-24

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 74 Newtonville Avenue

Date: April 26, 2013

CC: Lou Taverna, PE City Engineer (via email)
Linda Finucane, Associate City Clerk (via email)
Eve Tapper, Chief Planner (via email)
Alexandria Ananth, Sr. Planner (via email)

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

*As Built Plot Plan
Located at 74 Newtonville (AKA #72)
Newton, MA
Prepared by: Alpha Omega Engineering Inc.
Dated: 3/18/13*

Executive Summary:

A site visit was conducted on April 10th and most of what is proposed was already under construction yet not completed. Based on the proposed reconfiguration of the driveway an on-site drainage system is required to capture the runoff from the driveway before it enters the public road. Although an infiltration system is shown on the site plan, no calculations have been submitted for review. The proposed system only appears to be for the drainage of a portion of the lot and proposed retaining walls. This system will need an impervious barrier along the downstream side of the system to prevent any breakout of water from getting out to the public way. A portion of the existing wall along the northwest corner of the property is failing and MUST be addressed.

Based on the proposed new retaining wall and wall profile, it appears that the new wall will block the two-stall garage; from Station 0+23 to 0+42 shows a solid wall across the two-stall garage, is this truly the design intent? A note on the plan also indicates that the house will be remodeled, if the structure is gutted out then both water and sanitary sewer services shall be updated. The proposed wall section also shows a under drainpipe detail,

where is the water being directed towards? I would suggest that the engineer of record come to the Engineering Division for a review of the design.

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 Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*

4. The applicant will have to apply for Sidewalk Crossing permit with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

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

141-13

Zoning Map 74 Newtonville Ave

*City of Newton,
Massachusetts*

Legend

- Single Residence 1
- Single Residence 2
- Single Residence 3
- Multi-Residence 1
- Building Outlines
- Surface Water



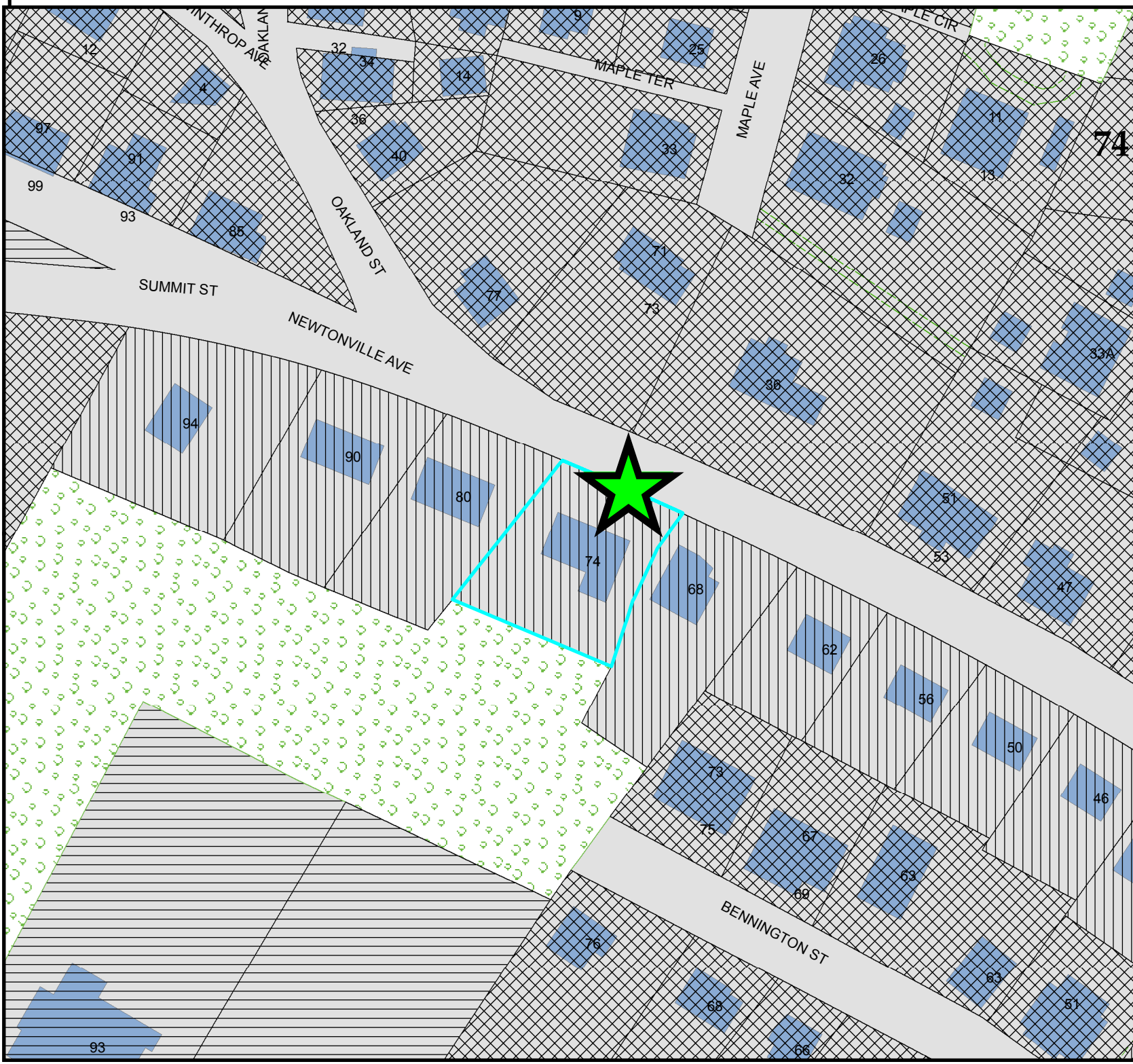
ATTACHMENT "C"

The information on this map is derived from a Geographic Information System. The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not approve applications based solely on this map.

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



Map Date: May



141-13

Land Use Map 74 Newtonville Ave

*City of Newton,
Massachusetts*

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Vacant Land
- Building Outlines
- Surface Water



ATTACHMENT "D"

The information on this map is derived from a Geographic Information System. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not approve applications based solely on this map.

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



Map Date: May

