



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

#18-18

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

Ruthanne Fuller  
Mayor

Barney Heath  
Director

---

**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: January 9, 2018  
Land Use Action Date: March 27, 2018  
City Council Action Date: April 2, 2018  
90-Day Expiration Date: April 9, 2018

DATE: January 5, 2018

TO: City Council

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

SUBJECT: **Petition #18-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a dormer wider than 50% of the exterior wall below at **165 Harvard Street**, Ward 2, Newtonville, on land known as SBL 12, 23, 02 containing approximately 9,273 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. §1.5.4.G.2, §1.5.4.G.2.b, and §7.3.3 of Chapter 30 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**165 Harvard Street**

## EXECUTIVE SUMMARY

The property located at 165 Harvard Street consists of a 9,273 square foot lot improved with a single-family residence circa 1920. The structure is an example of Modern Traditional architecture and is located in a Multi-Residence 1 (MR-1) zone in Newtonville. The petitioner is seeking to construct a dormer to the attic level of the rear façade which is greater than 50% of the exterior wall of exterior wall below; therefore, the petitioners require a special permit to construct an oversized dormer.

The Planning Department notes the proposed dormer is on the rear façade which is not visible from the street. In addition, due to the height of the attic, the dormer will not create any “habitable space” per building code and therefore, will not have an effect on the floor area ratio calculation (FAR). For these reasons staff believes the proposed dormer will not have an adverse effect on the neighborhood. However, it is not certain whether the dormer meets all of the criteria of the Newton Zoning Ordinance (Ordinance) which may require the plans to be revised or additional relief from the Ordinance via a supplemental advertisement. Staff expects to provide the Committee with an update at the public hearing.

### SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for a single-family dwelling with a dormer wider than 50% of the exterior wall below (§7.3.3.C.1).
- The proposed structure will not adversely affect the neighborhood (§7.3.3.C.2).
- The structure as proposed will not be a nuisance or create a serious hazard to vehicles or pedestrian (§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).

### I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on Harvard Street, in the MR-1 zone in Newtonville. The immediate neighborhood is located entirely within the MR-1 zone and consists of single and multi-family residences (**Attachments A & B**).

#### B. Site

The site consists of 9,273 square feet of land, and is improved with a 2.5-story, single-family dwelling circa 1920. There is an approximately four foot tall retaining wall along the frontage of the property as the lot sits above the street elevation. The grade continues to slope up from the dwelling to the rear of the lot where a two foot tall retaining wall allows for a terraced backyard. A two-story addition to

the right of the dwelling was completed 2014 which is the last alteration to the structure. The addition extended the footprint of the structure to allow for two-car garage in the basement level with two floors of living space above. The property file reveals this addition never received a final inspection from Inspectional Services. However, a final walk-through was conducted which indicates the outstanding item(s) are minor. As a result, staff has asked the petitioner to coordinate with Inspectional Services to close out the permit. Should this petition be approved, staff suggests a condition requiring a final of inspection of the addition to be obtained prior to the issuance of a building permit for the dormer.

## II. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

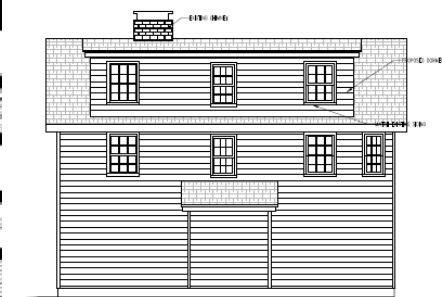
The principal use of the site is and will remain a single-family dwelling.

### B. Building and Site Design

The petitioners are seeking to construct a dormer to the attic level of the rear façade to create storage space. The Ordinance requires dormers above the second floor of single and two-family structures to be less than or equal to 50% of the width of the exterior wall below. As shown below, the exterior wall of the dwelling is approximately 28.5 feet wide, while the proposed dormer is 23.5 feet wide. The Inspectional Services Department does not interpret “the exterior wall below” to include the façade of the addition, which is off-set from the original structure by approximately 2.5 feet. Therefore, the width of the dormer is restricted to 50% of the original rear façade. For reference, given the width of the exterior wall of this facade, a dormer of 14.25 feet wide can be constructed as of right.



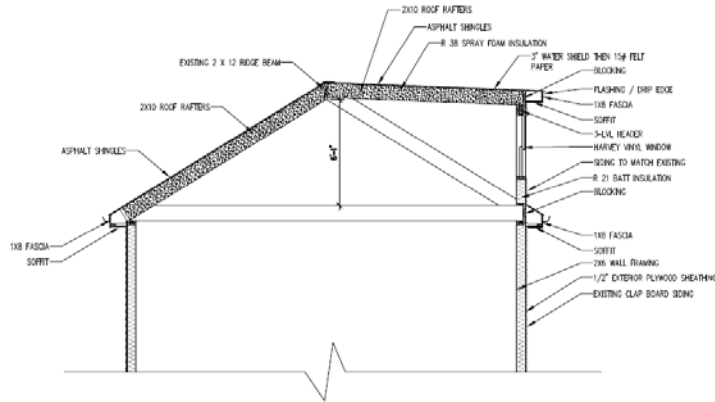
Existing Rear Facade



Proposed Rear Facade

The Ordinance also requires that the vertical side wall of a dormer to be at least three feet from the wall of the main building wall. In the submitted plans, it is not clear whether or not the dormer satisfies this criterion. As a result, the plans may need to be revised to comply with this rule or the petition may require additional relief from the Ordinance via a supplemental advertisement. Staff plans to provide an update at the

public hearing. Dimensionally, the dormer does not create any “habitable space” in the attic per building code and therefore the space does not count towards the FAR calculation. In order to count as habitable space, the ceiling of the attic must reach a height of seven feet. As shown in the cross-section below, the dormer does not increase the height of the attic beyond 6 feet, one inch.



Proposed Cross-Section

The architectural plans indicate the dormer is to be sided with clapboard to match the existing structure. In addition, the dormer will be treated with windows to allow for natural light. These features, combined with the context of the entire rear façade, reveal that the dormer does not seem to have a negative effect on the dwelling or the abutting residences. Lastly, the structure and lot will remain in compliance with the dimensional controls for an old lot in the MR-1 zone.

C. Parking and Circulation

There are no proposed changes to either the parking or circulation.

D. Landscape Screening

A landscape plan is not required with this petition.

III. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §1.5.4.G.2, §1.5.4.G.2.b, and §7.3.3 of Section 30, to allow a dormer wider than 50% of the exterior wall below

B. Other Departmental Review

Review from other City departments is not required at this time.

IV. PETITIONER'S RESPONSIBILITIES

At the public hearing or prior to being scheduled for a working session, the petitioner should provide plans detailing the applicable dimensions of the proposed dormer and existing structure.






**ATTACHMENTS:**

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Order

# Attachment A Zoning Map Harvard St., 165

*City of Newton,  
Massachusetts*

### Legend

-  Single Residence 2
-  Multi-Residence 1
-  Building Outlines
-  Surface Water
-  Property Boundaries

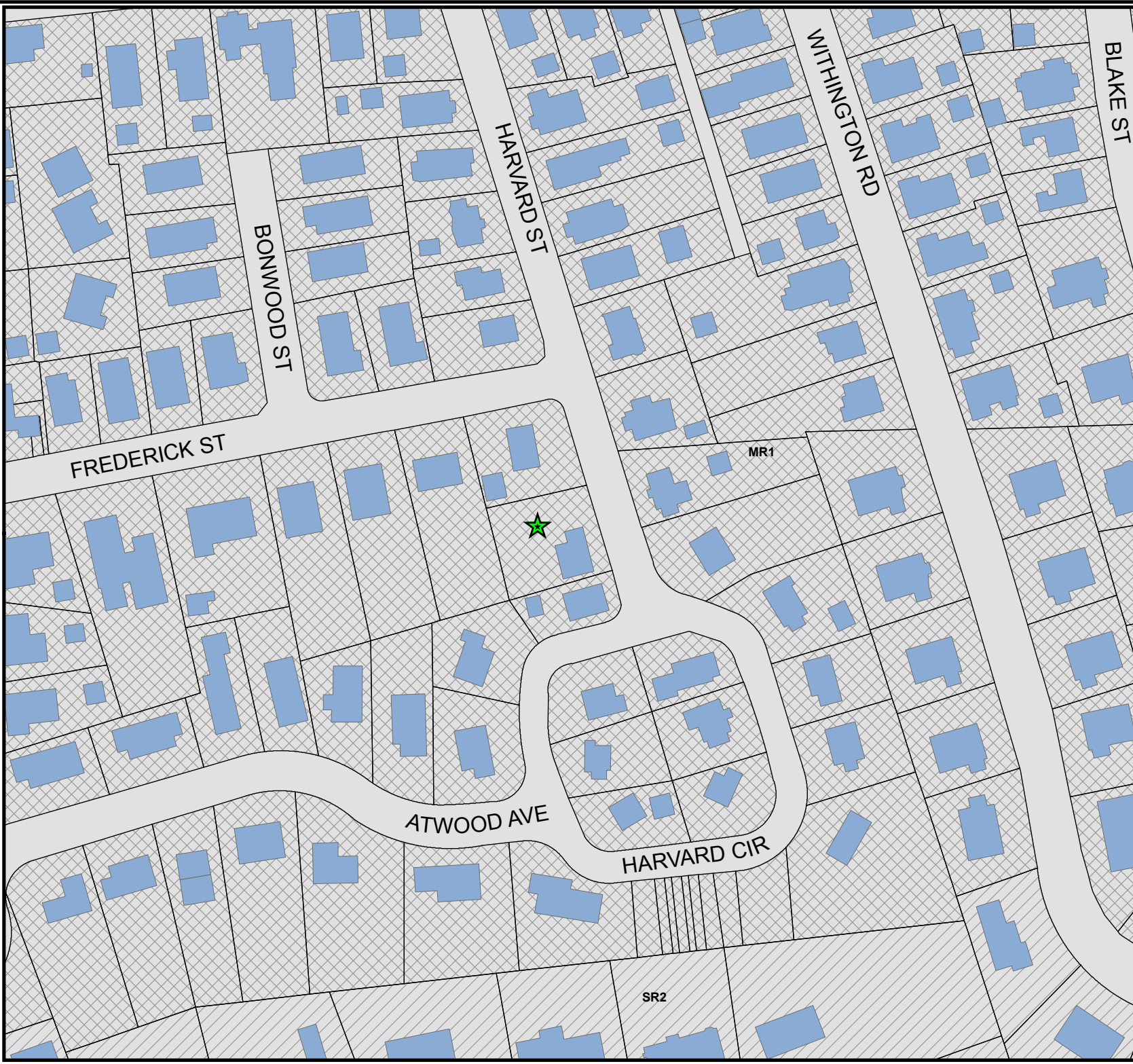


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: December 14, 2017









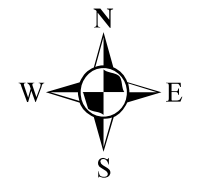


# Attachment B Land Use Map Harvard St., 165

*City of Newton,  
Massachusetts*

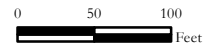
### Legend

- Land Use**
-  Single Family Residential
  -  Multi-Family Residential
  -  Vacant Land
  -  Building Outlines
  -  Surface Water
  -  Property Boundaries

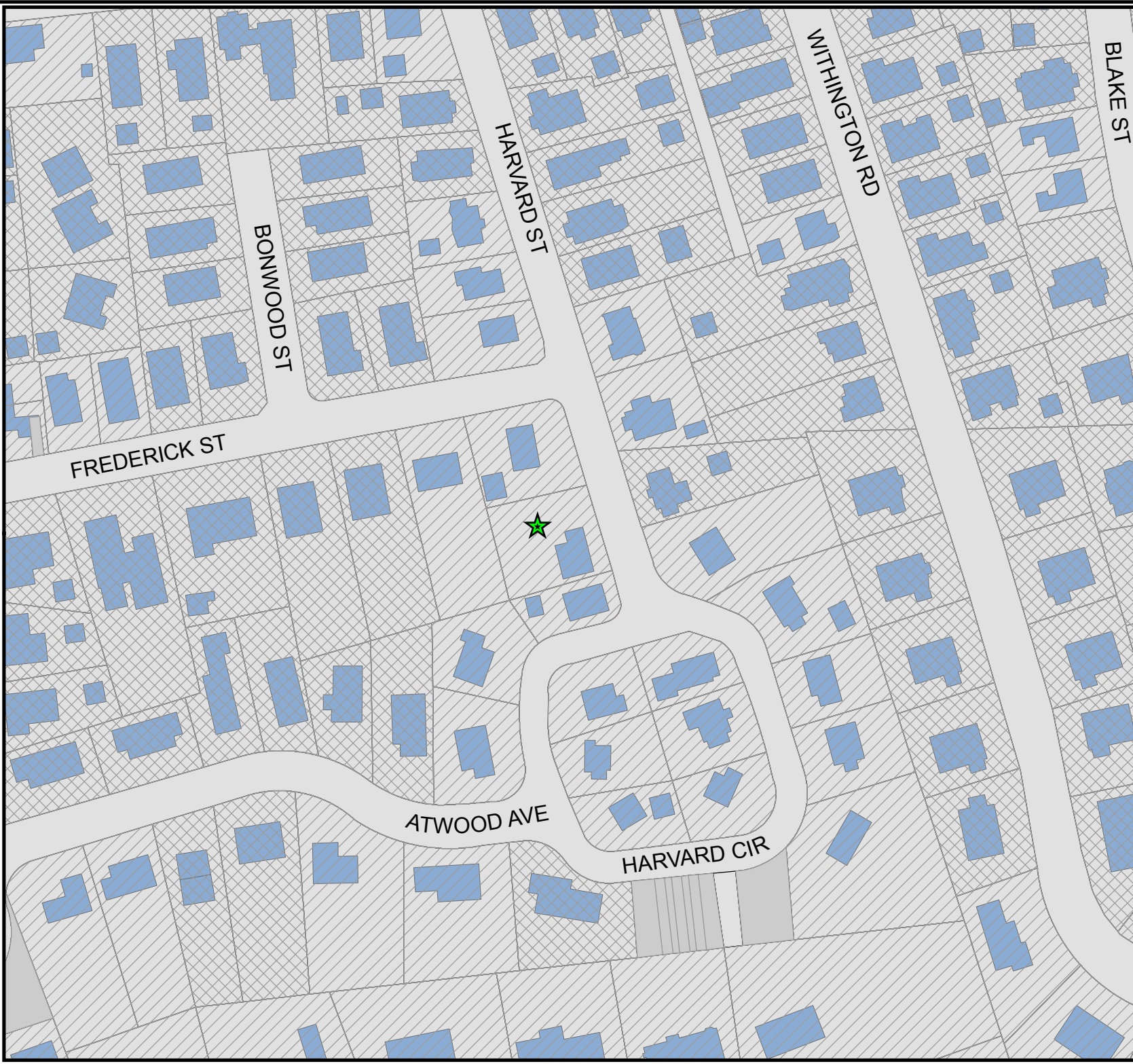


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: December 14, 2017





Setti D. Warren  
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: September 20, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Diego Tebaldi, Applicant  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to allow an oversized dormer**

Applicant: Diego Tebaldi	
Site: 165 Harvard Street	SBL: 122023 0002
Zoning: MR1	Lot Area: 9,273 square feet
Current use: Single-family dwelling	Proposed use: No change

**BACKGROUND:**

The property at 165 Harvard Street consists of a 9,273 square foot lot improved with a single-family dwelling constructed circa 1920. The applicant proposes to construct an oversized dormer in the finished attic to bring in more light to a storage area.

Variance #1-63 was issued to this property in February 1963 to extend a nonconforming front setback to allow for the construction of an addition. The proposed dormer is located in the original part of the structure, and on the back side of the house.

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

- Zoning Review Application, prepared by Diego Tebaldi, applicant, submitted 8/12/2017
- Plan of Land, signed and stamped by Wade T. Putnam, surveyor, dated 8/8/2012
- FAR calculations, submitted 8/12/2017
- Architectural plans, prepared by I.S. Hernandez Services INC., dated 5/30/2017



**ADMINISTRATIVE DETERMINATIONS:**

---

1. Section 1.5.4.G.2.b states that a dormer may be no wider than 50% of the length of the exterior wall of the next story below by right. The applicant proposes a dormer on the rear of the house measuring 23.5 feet wide, where the building is 30.5 feet wide at the first story, which is 77% of the exterior wall below. Per Section 1.5.4.G.2, a special permit is required.
2. Section 1.5.5.B.1.a.ii states that for attic space to count toward Floor Area Ratio, there must be a certain portion of that space with at least 7 feet in height. Per the documents provided by the applicant, the attic height does not exceed 6.1 feet, and therefore the dormer addition does not increase the FAR.

Zone MR1	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	9,273 square feet	No change
Frontage	70 feet	87.6 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 15 feet	<b>12.3 feet</b> NA >15 feet	<b>No change</b> No change No change
Max Height	36 feet	27 feet	No change
Max Stories	2.5	2	No change
Max Lot Coverage	30%	15%	No change
Min Open Space	50%	81.7%	No change
FAR	.50	.36	No change

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§1.5.4.G.2 §1.5.4.G.2.b	To allow a dormer wider than 50% of the exterior wall below	S.P. per §7.3

## **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 allow a dormer wider than 50% of the exterior wall below, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Greg Schwartz:

1. The site is an appropriate location for a single-family dwelling with dormer wider than 50% of the exterior wall below because the single-family use is an allowed use Multi-Residential 1 zone and the dormer will not affect the dimensional controls of associated with that zone (§7.3.3.C.1).
2. The structure will not adversely affect the neighborhood because the dormer is located on the rear façade and therefore will not be seen from the street (§7.3.3.C.2).
3. The structure will not be a nuisance or create a serious hazard to vehicles or pedestrians (§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: #18-18

PETITIONER: Diego Tebaldi

LOCATION: 165 Harvard Street, Ward 2, Newtonville, on land known as Section 13, Block 08, Lot 10, containing approximately 8,793 square feet of land

OWNER: Diego and Nina Tebaldi

ADDRESS OF OWNER: 165 Harvard Street  
Newton, MA 02460

TO BE USED FOR: Dormer wider than 50% of the exterior wall below

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §1.5.4.G.2, §1.5.4.G.2.b to allow a dormer wider than 50% of the exterior wall below

ZONING: Multi-Residence 1

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. A plan of land entitled "165 Harvard Street Newton, Massachusetts", signed and stamped by Wade T. Putnam, Professional Land Surveyor, dated August 8, 2012.
  - b. A set of architectural drawings, prepared by I.S. Hernandez Services, Inc., dated May 30, 2017, consisting of the following three (3) sheets:
    - i. Sheet A-1: Cover Sheet
    - ii. Sheet A-2: Existing and Proposed Floor Plans
    - iii. Sheet A-3: Proposed Framing Plans
2. Prior to the issuance of a building permit, the petitioner shall receive a final inspection for the 2.5-story addition known as Permit # 12110758 in the Inspectional Services 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 Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, the Assessing Department 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 or engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.