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Mayor

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 12, 2021
Land Use Action Date: March 30, 2021
City Council Action Date: April 5, 2021
90-Day Expiration Date: April 12, 2021

DATE: January 8, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #552-20** SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retaining wall in excess of four feet in height within the side and rear setbacks at **17 Wallace Street**, Ward 8, Newton Highlands, on land known as Section 83 Block 34 Lot 18, containing approximately 5,000 sq. ft. in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



17 Wallace Street

EXECUTIVE SUMMARY

The property at 17 Wallace Street consists of a 5,000 square foot lot in a Single Residence 3 (SR3) district improved with a single-family residence constructed in 1950.

The petitioner seeks to construct retaining walls along portions of the property's perimeter, including a 50 foot-long concrete retaining wall with a maximum height of 12 feet along the property line at the rear (north) of the property and two perpendicular walls approximately 14-feet long running parallel to the rear of the left and right property lines. As the rear wall would be located only 3-feet from the back property line and the side walls would be set only one-foot from each property line, the proposed work requires a special permit per Section 5.4.2.B of the Newton Zoning Ordinance (NZO) to allow retaining walls exceeding four feet in height within required setbacks.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed retaining walls in excess of four feet in height within setbacks in a Single Residence 3 (SR3) district (§7.3.3.C.1)
- The proposed retaining walls in excess of four feet in height within a setback will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed retaining walls in excess of four feet in height within a setback will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the north side of Wallace Street just west of Winchester Street. The surrounding neighborhood is developed largely with single-family dwellings, with a golf course located directly to the south (**Attachment A**). The site and immediate vicinity (including the golf course) are in a Single Residence 3 (SR3) district. A Single Residence 1 (SR1) district is located approximately 300 feet to the east and several Public Use-zoned parcels are located approximately twice that distance to the west (**Attachment B**).

B. Site

The subject property of a 5,000 square foot lot improved with a single-family residence constructed in 1950. Vehicular access to the lot is provided via a driveway and associated curb cut off Wallace Street on the left front. The back yard was historically sloped downward approximately 10 feet from the rear property line to the rear of the dwelling. Recent observations indicate some excavation of the slope has occurred. The remaining portions of the site are largely occupied by the home and lawn areas.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioner seeks to construct concrete retaining walls within the rear and side setbacks.

One wall located three feet from, and parallel to, the rear (northern) property line would measure 50-feet in length and up to 12 feet in height (it would average eight feet). There would also be two 14-foot long perpendicular walls located one-foot from, and parallel to, the rear of each of the left and right property lines. These walls would be approximately 8.75 feet tall. All three walls are proposed to be topped with 3.5-foot-high fences or railings.

The proposed work would allow for the creation of more level backyard area.

C. Parking and Circulation

As referenced above, vehicular access to the lot is provided via a driveway and associated curb cut off Wallace Street serving an existing attached garage. No changes are proposed to the driveway or garage.

D. Landscaping

A landscape plan was not submitted with this petition. The Planning Department recommends the petitioner consider providing some screening to adjacent properties in the form of fencing, vegetation, or some combination thereof.

IV. 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 completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to allow a retaining wall exceeding four feet in height within a setback (§3.4.2.B)

B. Engineering Review

On January 5, 2021, the Engineering Division issued a memorandum on this petition (**Attachment D**). The memorandum indicates certain construction-specific concerns related to the proposed walls. That said, it notes that, as with all retaining walls, a structural analysis will be required by the Inspectional Services Department prior to the issuance of any building permit for the proposed wall.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A

Land Use

17 Wallace St.

*City of Newton,
Massachusetts*

Land Use

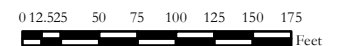
Land Use

-  Single Family Residential
-  Golf Course
-  Open Space
-  Vacant Land

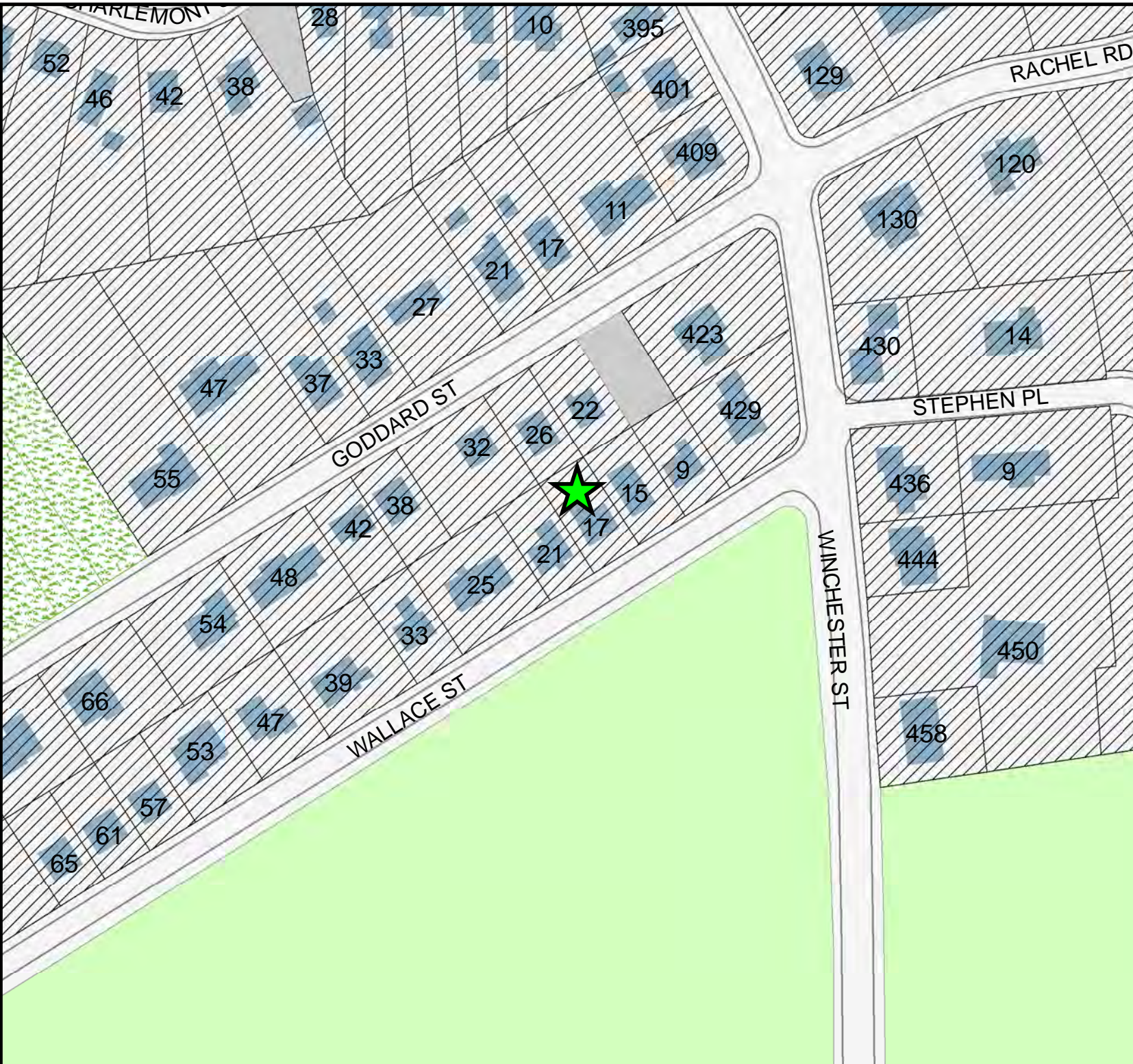


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: January 07, 2021






ATTACHMENT B

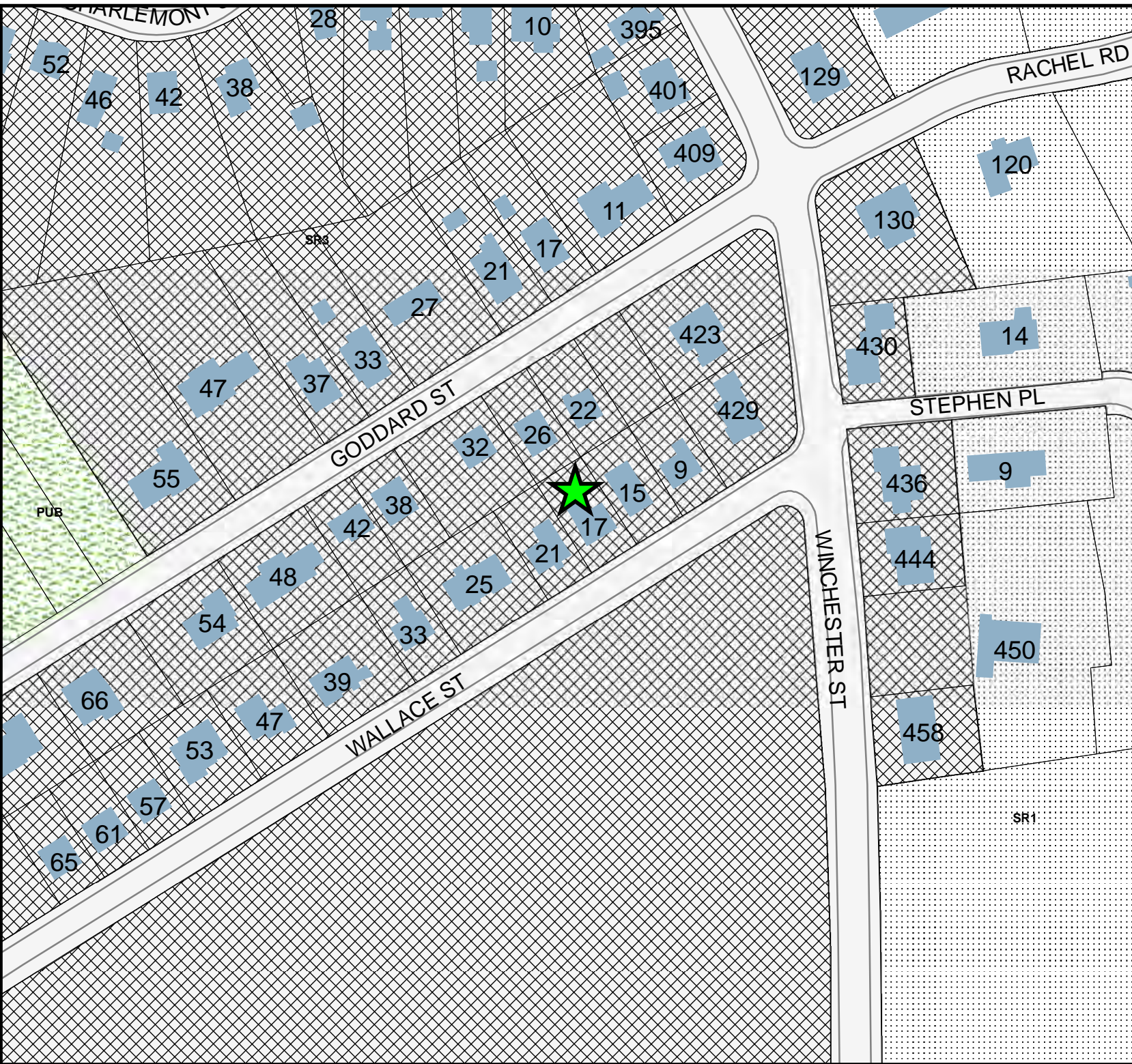
Zoning

17 Wallace St.

*City of Newton,
Massachusetts*

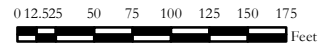
Legend

-  Single Residence 1
-  Single Residence 3
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
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Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 2, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Ali Kiapour, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a retaining wall exceeding 4 feet in height within a setback

Applicant: Ali Kiapour	
Site: 17 Wallace Street	SBL: 83034 0018
Zoning: SR3	Lot Area: 5,000 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 17 Wallace Street consists of a 5,000 square foot lot improved with a single-family residence constructed in 1950. The petitioner seeks to construct a retaining wall at the rear of the property exceeding four feet in height within the side and rear setbacks, requiring a special permit.

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

- Zoning Review Application, prepared by Ali Kiapour, applicant, dated 7/13/2020
- Existing Conditions Site Plan, prepared by Peter Nolan & Associates, surveyors, dated 6/10/2020
- Proposed Conditions Site Plan, prepared by Peter Nolan & Associates, surveyors, dated 6/10/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner seeks to construct a retaining wall with a maximum height of 12 feet for 50 feet along the entire rear property line. The proposed wall will be located within the side and rear setbacks. Per section 5.4.2.B, a special permit is required to allow a retaining wall in excess of four feet in height within a setback.

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.2.B	Request to allow a retaining wall exceeding four feet in height within a setback	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

ATTACHMENT D

CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 17 Wallace Street

Date: January 5, 2021

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Neil Cronin, Chief Planner
Michael Gleba, Sr. Planner

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

17 Wallace Street
Prepared by: Peter Nolan & Associates
&
Robert Therrien, Architect
Dated: 6-10-2020

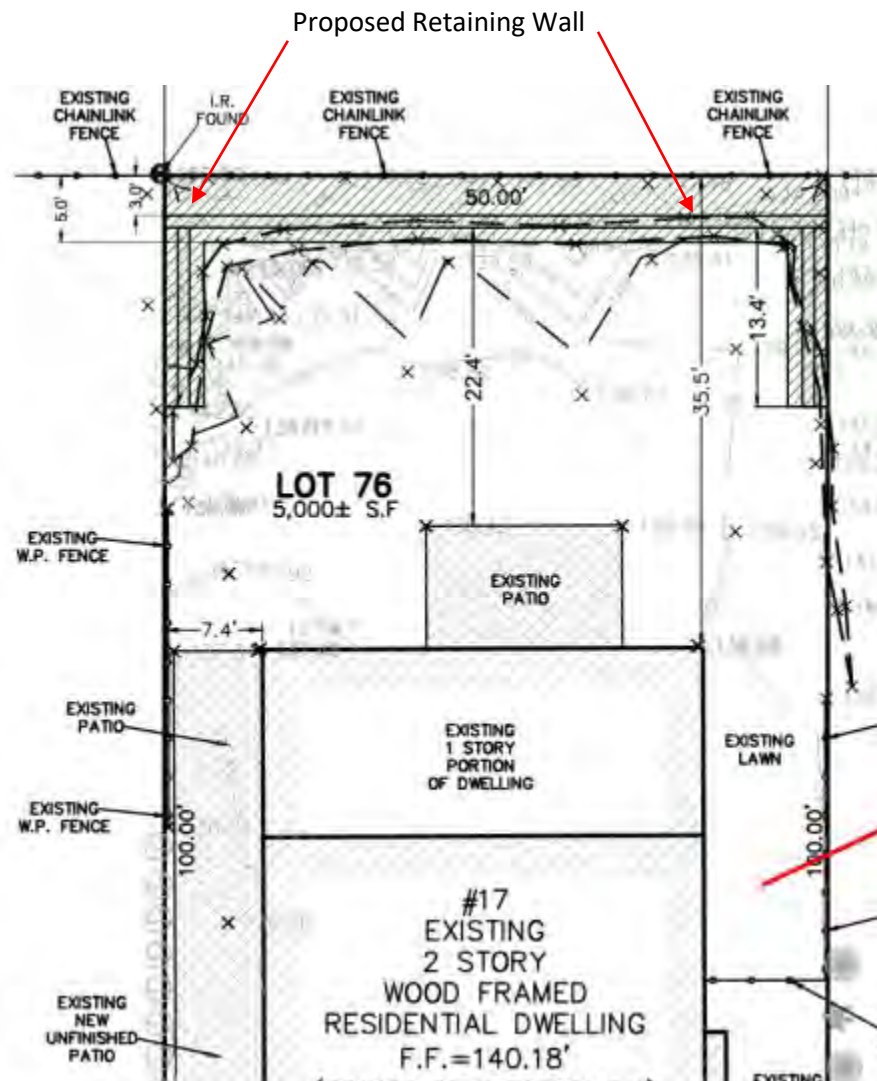
Executive Summary:

This application entails a proposed retaining wall to be constructed along the northern property line to allow the homeowner to create a “flat” back yard. The site is surrounded by residential homes on the west-north-and east property lines; the existing back yard is sloped from the rear property line at elevation +/-150 feet towards the dwelling (finish floor) at elevation 140.18 - feet.

The 50-foot long by 8-foot high (average height ~ exposed face) retaining wall is to be constructed of cast in place cement concrete set 3-feet off the rear property line; and having two perpendicular walls approximately 14-feet long running parallel to the east & west property lines set one-foot off each property line. As with all retaining walls a structural analysis

will be required by the Inspectional Services Department prior to a building permit; the analysis will have to ensure that the wall does not fail in regard to the following or a combination of:

1. Settlement
2. Sliding
3. Over-turning



Backfilling of the wall is critical, properly well drained soil needs to be selected and placed in a manner as not to cause dynamic stress on the wall when backfilling and compacting the soils. The proposed 6" diameter PVC weep hole need in addition to crushed stone filter fabric to be place surrounding the stone to ensure fines do not clog the stone nor pipes.

The plans do not indicate the exposed finish of the cast in place wall, additionally the proposed “safety fence” along the top of the wall should be a non-climbable material. Based on the site constrains a concrete pump truck will be needed to place the cement concrete into the forms from the street; if this process is the method of construction, the contractor or sub-contractor shall obtain a Sidewalk Crossing & Occupancy Permit with DPW prior to occupying the sidewalk and/or street (this is to ensure when the outriggers are placed to stabilize the truck on either the sidewalk or Street any damaged occurred will be the responsibility of the contractor).

General:

1. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
2. All tree removal shall comply with the City’s Tree Ordinance.
3. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
4. Upon completion of the proposed project an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show the wall, fence, property lines and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the regraded areas. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor.
5. All site work including trench restoration, sidewalk, curb, apron and loam border (where applicable) shall be completed. *This note shall be incorporated onto the final plans.*
6. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning 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 at 617-796-1023.