



Ruthanne Fuller
Mayor

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

#29-21

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

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 9, 2021
Land Use Action Date: April 27, 2021
City Council Action Date: May 3, 2021
90-Day Expiration Date: May 9, 2021

DATE: February 5, 2021

TO: City Council

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

SUBJECT: **Petition #32-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow three single-family attached dwellings with the following dimensional waivers: waive side setback requirements, allow parking in the front setback, and allow a driveway within 10' of a side setback at 63-65 Broadway, Ward 1, Newtonville, on land known as Section 53 Block 33 Lot 4, containing approximately 18,000 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.1.7.A, 5.1.13 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.



63-65 Broadway

EXECUTIVE SUMMARY

The property located at 63-65 Broadway consists of a 18,000 square foot lot in the Multi Residence 1 (MR-1) zone in Newtonville. The lot is improved with a 2.5 story, two-family dwelling constructed in 1928. The petitioner is seeking to construct an additional dwelling unit on site, resulting in three single-family attached dwellings. The design requires special permits for: three single-family attached dwellings, to reduce the side setbacks, to allow a driveway within ten feet of the side lot line, and to allow parking within the front setback.

The petition complies with many of the dimensional standards set forth for single-family attached dwellings. The waivers for the side setbacks and driveway within 10 feet of a side property line largely reflect existing conditions. The Planning Department notes the structure proposed is within one of the required side setbacks, while meeting the other. The Planning Department questions the location of the proposed parking stalls within the front setback because of the proposed design.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed three single-family attached dwellings. (§7.3.3.C.1)
- The proposed three single-family attached dwellings will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed three single-family attached dwellings 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. (§7.3.3.C.4)
- Literal compliance with the dimensional standards for the side setbacks, parking within the front setback, and a driveway located within ten feet of the side lot line, is impractical due to the nature of the use, or the location, size, frontage, 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 (§3.2.4, §6.2.3.B.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

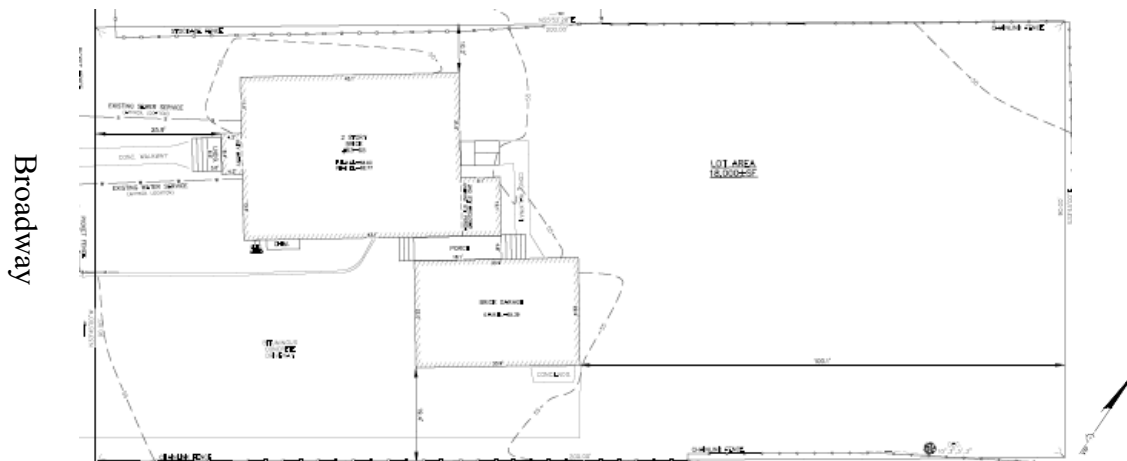
The subject property is located on Broadway in Newtonville in the MR-1 zone. The MR-1 zone encompasses properties immediately to the north, south, and east, with a Single Residence 3 zone abutting the site to the west (**Attachment A**). Broadway as well as the surrounding neighborhoods consists of both single and two-family

residential uses (**Attachment B**).

B. Site

The site consists of 18,000 square feet of land and is improved with a two-family dwelling constructed in 1928 and a 750 square foot attached garage. The attached garage and Units 1 and 2 are connected via a covered walkway and porch. The driveway opening along the frontage is approximately 33 feet wide and that leads to a substantial surface parking facility between the garage and front property line. The two-family dwelling maintains a 10.2-foot side setback from the northwestern property line, and the garage maintains a rear setback of 100 feet and 19.4 feet from the southeastern boundary. The site is relatively flat and features little to no landscaping. The site features a mix of chain link fencing and stockade fencing along the northwestern and eastern property lines.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

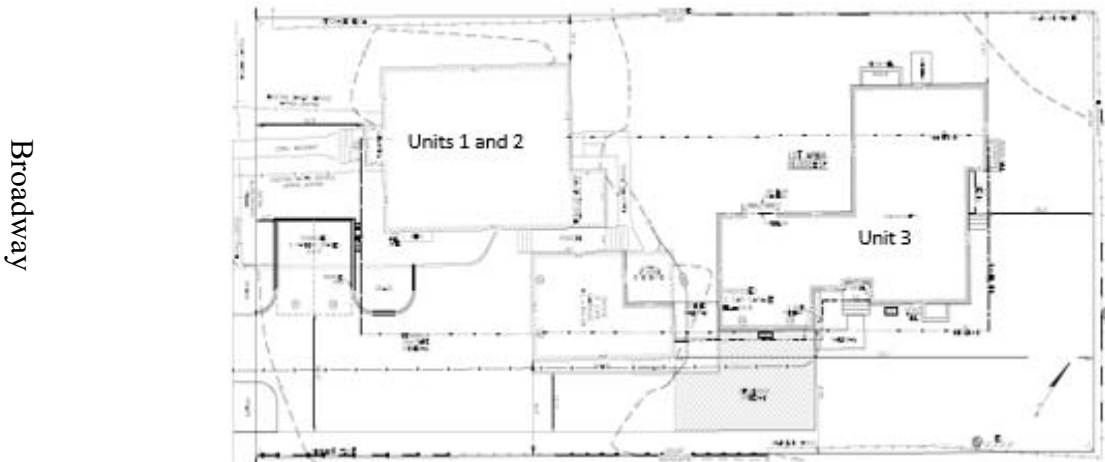
If approved, the principal use of the site will change from a two-family use to a multi-family use, with a total of three single-family attached dwellings.

B. Site Design

The petitioner is proposing to retain the existing site design by constructing to the rear of the garage and extending the driveway along the southeastern property line. The Newton Zoning Ordinance ("the Ordinance") states that the single-family attached

dwelling require a minimum of 25-foot setbacks. While Unit 3 maintains the existing setbacks, the rear setback is being reduced from 100 feet to 25.3 feet between Unit 3 and the eastern boundary. The side setbacks that require a special permit are those which maintain the existing setbacks. While the petitioner requires relief for the side setbacks, the setbacks that require the waiver are the existing setbacks. The conversion of the existing two family to single family attached dwelling units triggers more restrictive setbacks. The proposed Unit 3 meets the 25-foot setback from the southeastern boundary. The proposed side setback for Unit 3 is 14.7 from the northwestern boundary and is greater than the existing setback.

Proposed Site Plan



The site complies with many standards of the single family attached dwelling building type. The site has a proposed lot area per unit of 6,000 square feet, greater than the 4,000 square feet required. The waivers for the side setbacks, and driveway within 10 feet of a side property line largely reflect existing conditions of the site.

C. Building Design

The petitioner is proposing to construct a third dwelling unit on site by constructing an addition to the rear of the detached garage.

The height of the structure is approximately 28 feet. Units 1 and 2 are within the existing two-family dwelling. As proposed, Unit 3 connects via a covered walkway between the existing garage, with a portion proposed to be removed, and the attached garage associated with Unit 3. The bulk of the building is located ninety degrees to the left of the attached garage connection.

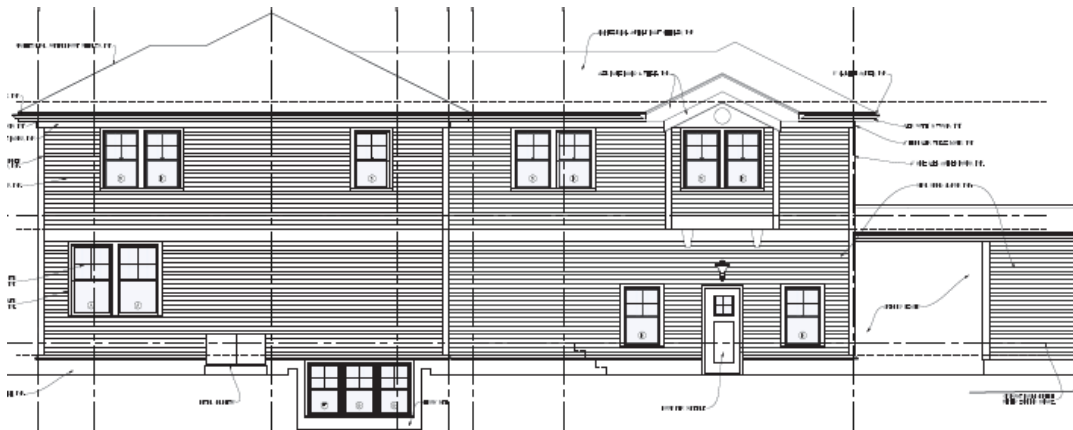
The structures as proposed will consist of 2.5 stories. Units 1 and 2 within the existing structure are stacked vertically but have separate primary and secondary entrances at the ground level. With Unit 3 connecting via the covered walkway, the building type is classified as three single-family attached dwellings.

The Floor Area Ratio (FAR) is not a dimensional standard applicable to single-family attached dwellings. The existing structure has approximately 3,961 square feet of floor area, Unit 3 will add 4,027 square feet of floor area for a total of 7,868 square feet or .44. For reference, the maximum allowed FAR is .45 with the option of obtaining the bonus of .02 if new lot setbacks are satisfied.

Proposed Front Elevation-Unit 3
View from southeastern property line



Proposed Rear Elevation-Unit 3
View from northwestern property line



The floorplans of Unit 3 indicate a kitchen would be installed in the basement and on the first floor. The petitioner should clarify whether this is the intent and if so, the petitioner should discuss this arrangement with Inspectional Services.

D. Parking and Circulation

The petitioner is proposing to reduce the driveway opening from 33 feet to 16 feet along the front property line. The surface parking facility can accommodate approximately five vehicles angled from the southeastern property line and additional vehicles in a tandem configuration in front of the garage. The driveway will be extended along the southeastern property line to provide access to Unit 3. The location of the driveway within 10 feet of the side property line requires special permit relief. The petitioner is also proposing surface parking for two stalls within the front setback, requiring a special permit.

While there are other properties on Broadway that feature parking within the front setback, the Planning Department suggests the petitioner consider relocating the two parking stalls within the front setback.

E. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning. Based on the Zoning Review Memorandum, the petitioner is seeking the following relief:

- §3.4.1 and §7.3.3 of Section 30, to allow single-family attached dwellings.
- §3.2.4 and §7.3.3 of Section 30, to waive the side setback
- §5.1.7A, §5.1.13 and §7.3.3 of Section 30, allow parking in the front setback
- §6.2.3.B.2 and §7.3.3 of Section 30, to allow a driveway within 10 feet of the side lot line

B. Engineering Review

The petition exceeds the standards of the Ordinance regarding stormwater management. As such, the Engineering Division of Public Works will review and approve the stormwater management system prior to the issuance of a building permit. Staff suggests incorporating the standard condition regarding the Operations and Maintenance Plan of the stormwater management system prior to the issuance

of a building permit, should this petition be approved.

C. Historic Preservation Review

The structure was reviewed by the Chief Preservation Planner on June 29, 2020 and deemed not historically significant. As such, no further review from the Chief Preservation Planner or Newton Historical Commission is required.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing, as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

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




ATTACHMENT A

Zoning

63-65 Broadway

City of Newton,
Massachusetts

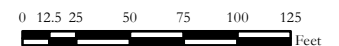
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Public Use

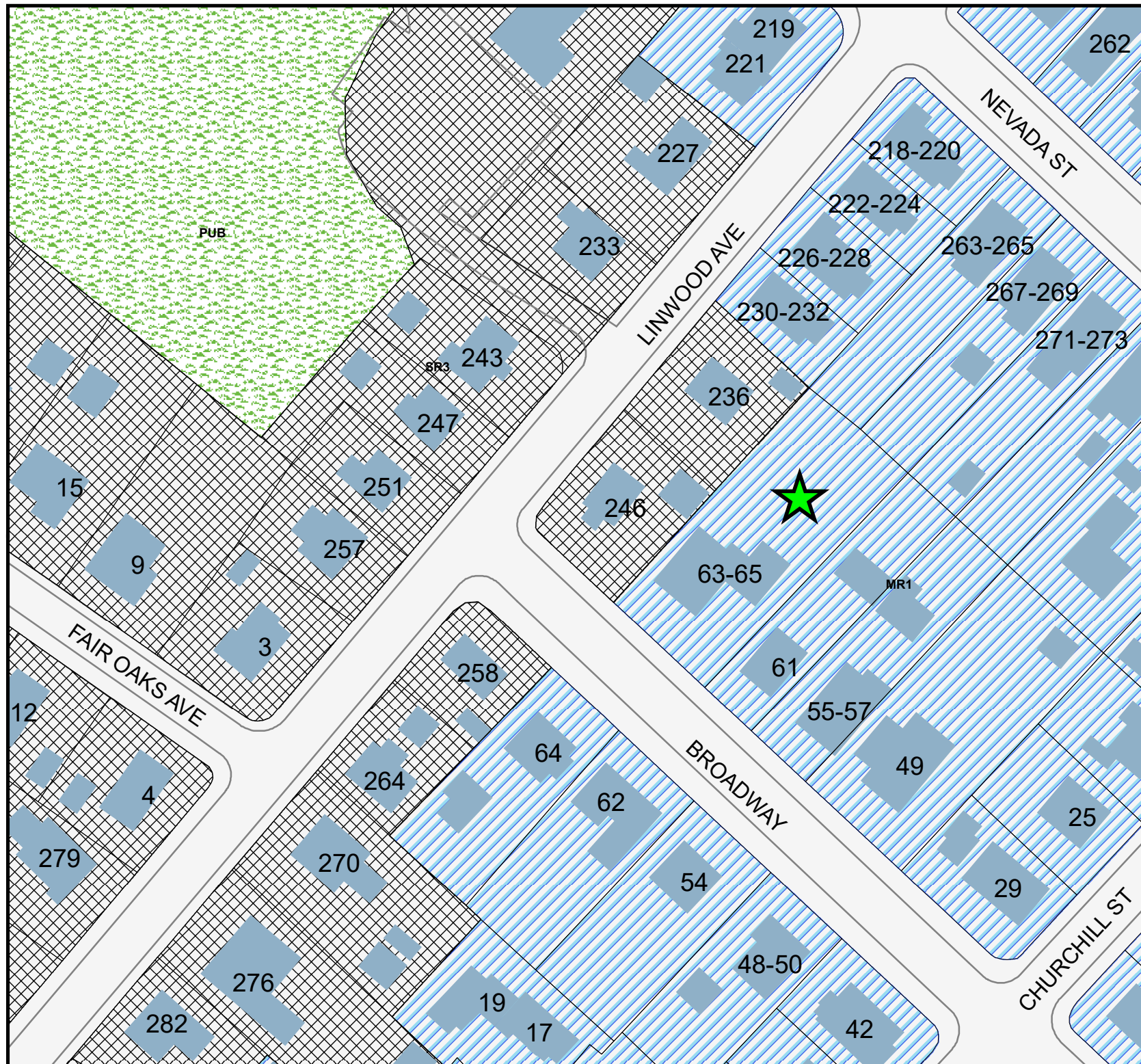


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: February 03, 2021





Ruthanne Fuller
Mayor

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: December 15, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Peter Sachs, Architect
Gilbert Ho, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow single-family attached dwellings

| Applicant: Gilbert Ho | |
|---|---|
| Site: 63-65 Broadway | SBL: 53033 0004 |
| Zoning: MR1 | Lot Area: 18,000 square feet |
| Current use: Two-family dwelling | Proposed use: Three single-family attached dwellings |

BACKGROUND:

The property at 63-65 Broadway consists of an 18,000 square foot lot in the Multi Residence 1 zoning district. The property is improved with a two-family dwelling constructed in 1928. The petitioner intends to construct a rear addition consisting of a third dwelling unit with a two-car attached garage, creating a three-unit single-family attached dwelling structure.

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

- Zoning Review Application, prepared by Peter Sachs, architect, dated 9/23/2020
- FAR worksheet, submitted 9/23/2020
- Site Plan – Existing, prepared by Joseph R. Porter, surveyor, dated 2/20/2020
- Site Plan - Proposed, signed and stamped by Joseph R. Porter, surveyor, dated 6/9/2020, revised 11/5/2020
- Architectural plans and elevations, signed and stamped by Peter Sachs, architect, dated 9/23/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a third unit at the rear of the existing two-unit dwelling. The construction will result in three single-family attached dwellings. Per section 3.4.1 a special permit is required to allow for single-family attached dwellings.

2. Section 3.2.4 requires a 25-foot side setback in the MR1 district for single-family attached dwellings. The existing dwelling has side setbacks of 10.2 feet on the northwestern property line and 19.4 feet on the southeastern line. The proposed addition results in a 14.7-foot side setback on the northwestern line. Section 3.2.4 allows the Council to grant exceptions to the dimensional standards when it is determined that literal compliance is impractical or that such exceptions are in the public interest. The petitioner seeks a waiver from the side setback requirement of section 3.2.4.

3. Section 5.1.7.A requires that no parking shall be located in the any required setback distances from a street or side lot lines, unless in conjunction with a single- or two-family dwelling, where one stall per unit is allowed. The petitioner proposes to construct two parking stalls within the front setback. As the parking is associated with a Single-Family Attached Dwelling project, no stalls may locate within the front setback, requiring relief per section 5.1.13.

4. Per section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line. The petitioner proposes to locate the driveway within ten feet of the southeastern boundary, requiring special permits.

| MR1 Zone | Required | Existing | Proposed |
|-----------------------|--------------------|--------------------|-------------------|
| Lot Size | 15,000 square feet | 18,000 square feet | No change |
| Frontage | 80 feet | 90 feet | No change |
| Setbacks | | | |
| • Front | 25 feet | 25.9 feet | No change |
| • Side | 25 feet | 10.2 feet | No change |
| • Side | 25 feet | 19.4 feet | No change |
| • Rear | 25 feet | 100.1 feet | 25.3 feet |
| Lot Area Per Unit | 4,000 square feet | 9,000 square feet | 6,000 square feet |
| Building Height | 36 feet | 27.71 feet | 27.9 feet |
| Max Number of Stories | 2.5 | 2.5 | No change |
| Lot Coverage | 25% | 13.8% | 25% |
| Open Space | 50% | 70.5% | 56.3% |
| FAR | NA | .22 | .44 |

See "Zoning Relief Summary" below:

| Zoning Relief Required | | |
|-------------------------------|---|------------------------|
| <i>Ordinance</i> | <i>Requested Relief</i> | <i>Action Required</i> |
| §3.4.1 | Request to allow single-family attached dwellings | S.P. per §7.3.3 |
| §3.2.4 | Request to waive side setback requirement | S.P. per §7.3.3 |
| §5.1.7.A §5.1.13 | Request to allow parking in the front setback | S.P. per §7.3.3 |
| §6.2.3.B.2 | Request to allow parking within 20 feet and a driveway within 10 feet of a side setback | S.P. per §7.3.3 |

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 three single family attached dwellings, waive the required side setback requirements, to allow parking within the front setback and to allow a driveway within 10 feet of the side property line as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed three single-family attached dwellings due to its location with the Multi Residential 1 zoning district. (§7.3.3.C.1)
2. The proposed three single-family attached dwellings as developed and operated will not adversely affect the neighborhood as the one additional dwelling unit will not be visible from the street, is not taller than the existing two family, and complies with the lot area per unit dimensional standard. (§7.3.3.C.2)
3. The proposed three single-family attached dwellings will not create a nuisance or serious hazard to vehicles or pedestrians because parking will be contained on site. (§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)
5. Literal compliance with the dimensional standards for the side setbacks, parking within the front setback, and a driveway located within ten feet of the side lot line, is impractical because the waivers reflect the existing conditions of the site and many properties on Broadway have similar parking configurations (§3.2.4, §6.2.3.B.2)

PETITION NUMBER: #29-21

PETITIONER: Gilbert and Deborah Ho

LOCATION: 63-65 Broadway, on land known as Section 23, Block 6, Lot 19, containing approximately 18,000 square feet of land

OWNER: Gilbert and Deborah Ho

ADDRESS OF OWNER: 63-65 Broadway
Newton, MA 02460

TO BE USED FOR: Three single-family attached dwellings

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.4.1, §7.3.3 to allow three single family attached dwellings with waivers for the side setback requirements §3.2.4, parking within the front setback §5.1.7.A, §5.1.13, and a driveway within 10 feet of a side lot line §6.2.3.B.2

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. Plot Plan showing proposed conditions at 63-65 Broadway, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated June 2, 2020, most recently revised November 20, 2020
 - b. Architectural Plans and Elevations, "Ho Residence", prepared by Peter Sachs, unsigned and unstamped, dated June 5, 2020, most recently revised August 18, 2020, consisting of the following thirteen (13) sheets.
 - i. A-2 Proposed Basement Plan (Unit 3)
 - ii. A-3 Proposed First Floor Plan (Unit 3)
 - iii. A-4 Proposed Second Floor Plan (Unit 3)
 - iv. A-5 Proposed Roof Plan (Unit 3)
 - v. A-6 First Floor and Roof Link Plans
 - vi. A-7 Proposed Front Elevation (Unit 3)
 - vii. A-8 Proposed Right Elevation (Unit 3)
 - viii. A-9 Proposed Back Elevation (Unit 3)
 - ix. A-10 Proposed Left Elevation (Unit 3)
 - x. A-11 Proposed Left Elevation, showing a section of Unit 3
 - xi. A-12 Proposed Left Elevation, showing a section of Unit 3
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site plan 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, 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.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. The petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.