



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 13, 2021  
Land Use Action Date: September 28, 2021  
City Council Action Date: October 4, 2021  
90- Day Expiration Date: October 11, 2021

DATE: July 9, 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 #213-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the structure and construct a new two-family dwelling in a new configuration with four surface parking stalls at **2163 Commonwealth Avenue**, Ward 4, Auburndale, on land known as Section 41 Block 18 Lot 0032 containing approximately 10,535 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3, 7.4, 7.8.2.c.2, 3.4.1 of the City of Newton Rev Zoning Ord, 2017.

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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.



**2163 Commonwealth Avenue**

## EXECUTIVE SUMMARY

The subject property located at 2163 Commonwealth Avenue consists of 10,535 square foot lot in a Single Residence 3 (SR3) zoning district. The petitioner razed a previously existing nonconforming two-family dwelling that was constructed in 1910 and now proposes to construct a new two-family dwelling with four surface parking stalls served by two driveways.

As two-family dwellings are not allowed in SR3 districts per Sec. 3.4.1 of the Newton Zoning Ordinance (NZO), the proposed nonconforming two-family dwelling in a new configuration requires a special permit per Sec. 7.8.2.C.2.

Further, as two-family dwellings are not allowed in any Single Residence districts, no density or dimensional controls are provided for the use in such districts. Per Sec. 3.1.2.A.3, the proposed dwelling is therefore subject to the most restrictive density or dimensional controls applicable to that use in any districts where it is allowed by right, which in the present case is the Multi Residence 1 (MR1) zoning district.

The Planning Department is generally not concerned with the proposed two-family dwelling given its compliance with relevant dimensional requirements. However, the Department recommends that the petitioner consider modifying some aspects of the site plan to possibly consolidate and reduce the amount of paved area proposed for driveway and parking use.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed two-family dwelling as designed would be substantially more detrimental than the existing nonconforming use to the neighborhood (§3.4.1, §7.8.2.C.2)

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The surrounding neighborhood is developed with a mix of single- and multi- family dwellings, with exceptions including Lyons Field approximately 100 feet to the west and the St. Antoine Daveluy Parish at Corpus Christi property located across Commonwealth Avenue to the south. The site and surrounding area north of Commonwealth Avenue are zoned SR3, while across Commonwealth Avenue are Multi Residence 1 (MR1) and Multi Residence 2 (MR2) zoning districts (**Attachments A & B**).

#### B. Site

The subject property consists of level 10,535 square foot vacant previously occupied by a two-family dwelling built circa 1910.

Vehicular access is provided by a paved driveway along the right (eastern) portion of the site and an associated curb cut shared with the easterly abutting property. The site also features lawn area and mature shrubbery and other vegetation, especially along the parcel's boundaries. A City sewer easement crosses the property at its front left corner.

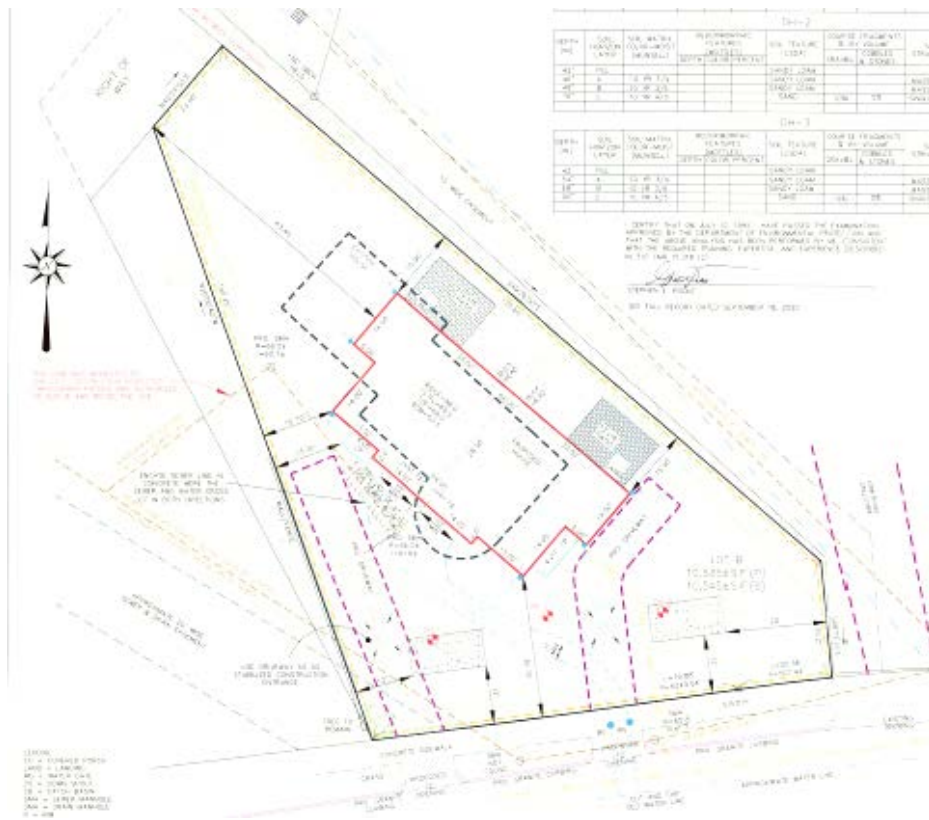
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would be a two-family dwelling.

B. Building and Site Design

The petitioners are proposing to construct a new two-family dwelling, replacing a previously existing, but recently demolished, nonconforming two-family dwelling. As detailed in the attached zoning review memorandum, since two-family dwellings are not allowed in any Single Residence districts, the proposed dwelling is subject to the density and or dimensional controls provided by the NZO for two-family dwellings in Multi Residence 1 (MR1) zoning districts, i.e., the most restrictive density or dimensional controls applicable such structures where they are allowed by right.



**Proposed site plan**

The proposed structure would have a floor area ratio (FAR) of 0.34, the same as the now demolished structure. This would be considerably less than the maximum 0.48 allowed by

right. The dwelling would have 2 ½ stories, the same as the previously existing house. At 32 feet, the measured height of the structure would be four feet lower than the maximum 36 feet allowed by right.

Regarding setbacks, the new dwelling would be constructed closer to the front property line along Commonwealth Avenue than the previous structure, resulting in a front setback of 30.7 feet, slightly more than the minimum 30 feet required. The two side setbacks would measure approximately 16 feet, more than the previous 13 feet (for both) and the 10 feet minimum required. At 63.4 feet the proposed rear setback would be considerably exceed the previous structure's 47 feet as well as the 15 feet required.

Each of the units would have a 12 foot by 16 foot paved patio located in the right (northeast) portion of the property.

C. Parking and Circulation

The petitioners are proposing to provide four surface parking stalls accessed by two driveways, one for each of the two units. Each of the two driveways would have an associated 12-foot-wide curb cut; the widths of the driveways themselves are not specifically indicated and should be clarified by the petitioner. Use of the existing driveway near the right side of the property would presumably be abandoned.

The Planning Department suggests that the petitioner consider redesigning the proposed driveways to require a single curb cut, with perhaps the driveway branching off within the property to access parking areas on either side of the proposed structure. Depending on the configuration, this could serve to reduce the number of curb cuts as well as the amount of paving on the property. Also, this could allow for the avoidance of placing the left proposed driveway within the City sewer easement that crosses the property at its front left corner.

D. Landscaping and Screening

The petition has submitted a plan indicating that an existing tree at the left front (southwest) corner of the lot would be preserved. The Planning Department notes that this location could likely be affected by the new driveway that is proposed on the left side of the property and encourages the petitioner to take steps necessary to best ensure the survival of that tree.

The Planning Department suggests that the petitioner clarify the proposed retention, replacement, etc., of any fencing and/or other screening along the property's right (east, northeast) boundary lines.

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 alter and reconstruct a nonconforming two-family dwelling (§3.4.1, §7.8.2.C.2)

B. Engineering Review

The attached Engineering Division Memorandum (**Attachment E**) provides an analysis of the proposal with regard to engineering issues. The memo notes that the submitted plans are difficult to read and that a drainage report was not provided for this review, and states that the engineer of record needs to update the plans and provide all drainage reports for a proper review.

C. Historic Commission Review

On September 12, 2017, the Newton Historic Commission found the original structure preferably preserved and imposed a demolition delay which was in effect until August 24, 2018. The petitioner was issued a demolition permit for the property on July 22, 2020, less than two years after the expiration of the demolition delay.

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

### 2163 Commonwealth Ave.

City of Newton,  
Massachusetts

#### Land Use

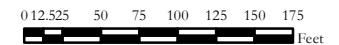
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

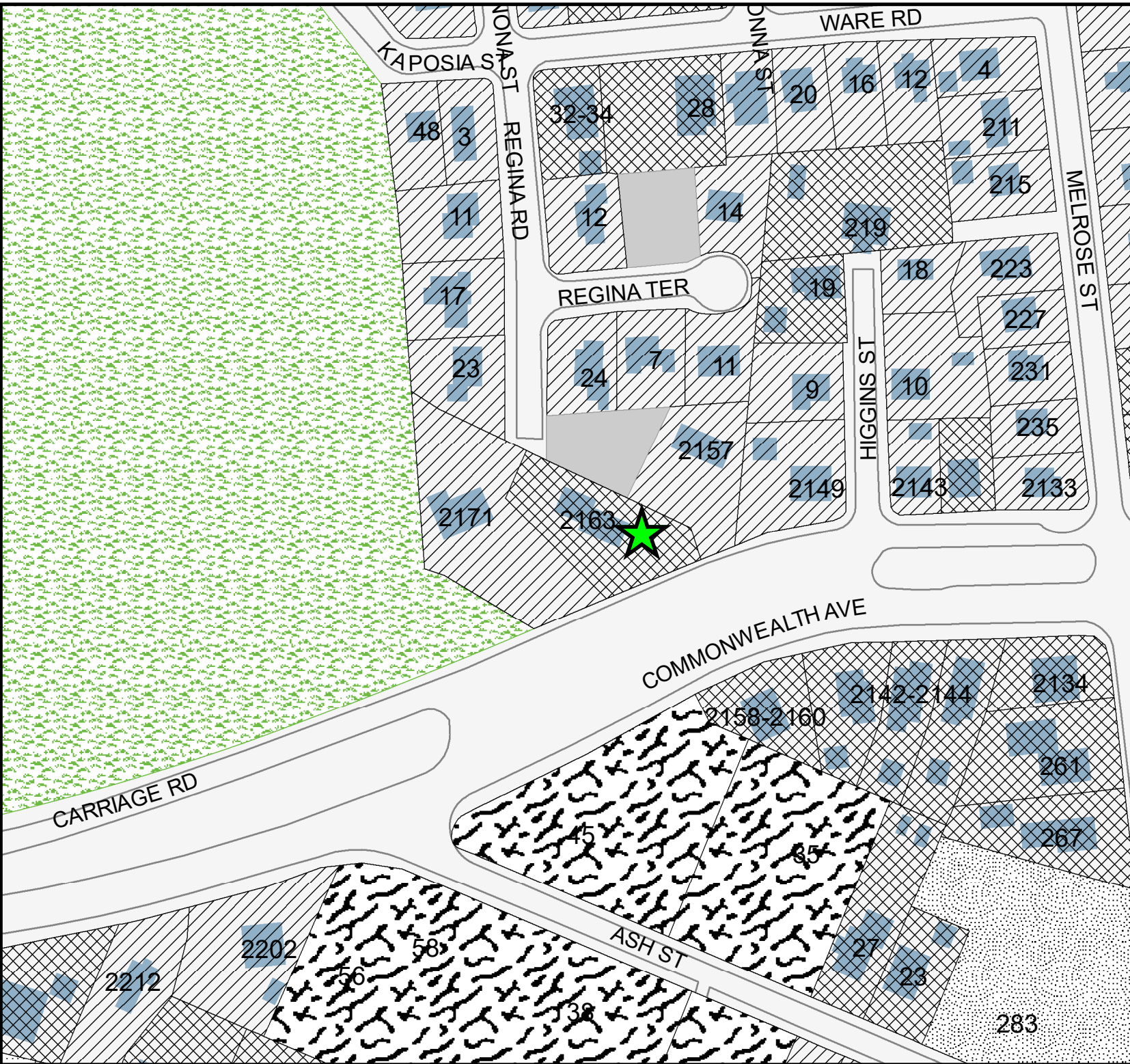


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: July 06, 2021

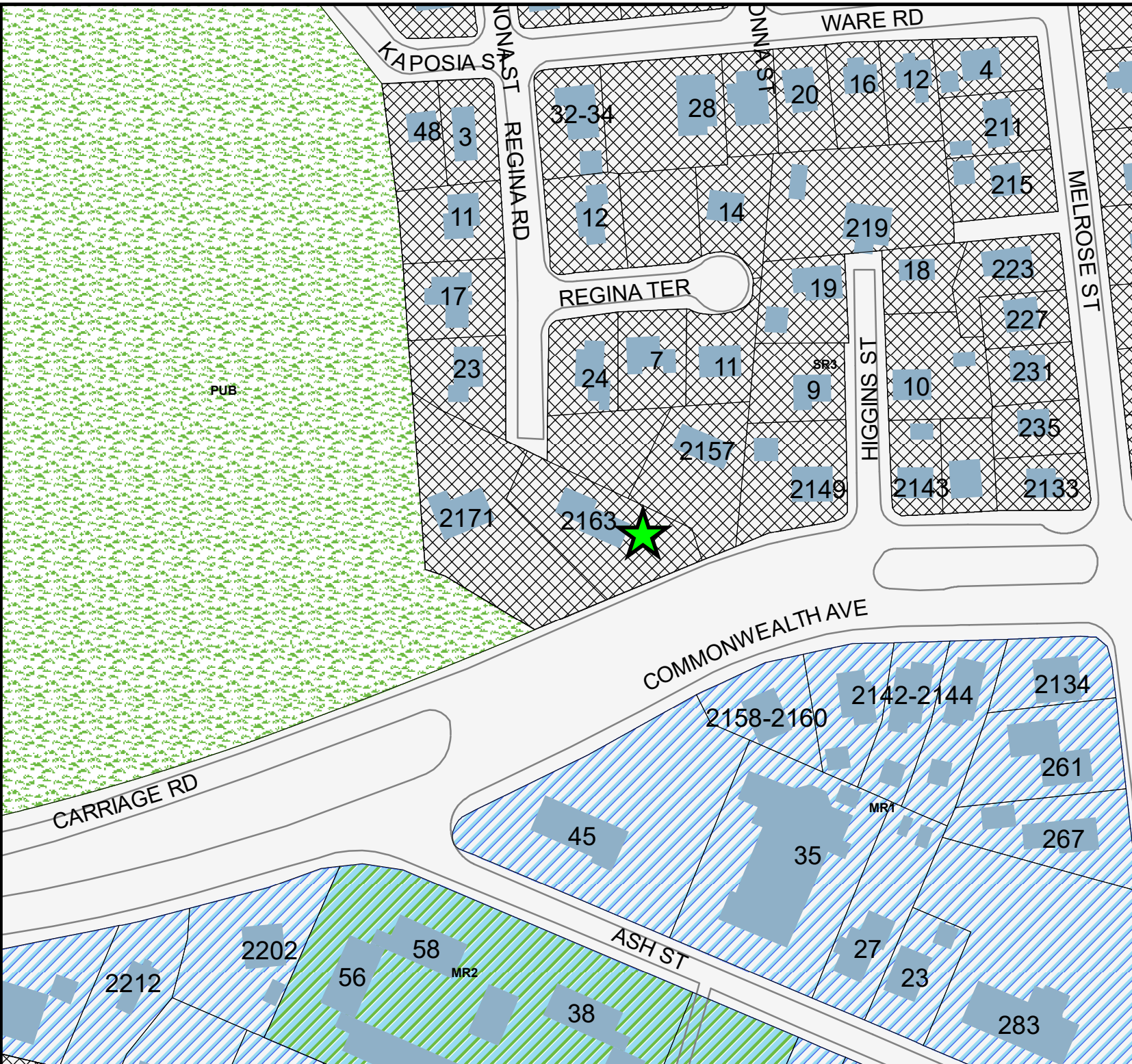


# ATTACHMENT B

## Zoning

### 2163 Commonwealth Ave.

City of Newton,  
Massachusetts

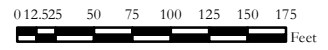


-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: July 06, 2021

ATTACHMENT C



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

**ZONING REVIEW MEMORANDUM**

Date: March 8, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Kane Built Inc, Applicant  
Michael J. Quinn  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to reconstruct a nonconforming two-family dwelling use

Applicant: Kane Built Inc.	
Site: 2163 Commonwealth Avenue	SBL: 41018 0032
Zoning: SR3	Lot Area: 10,535 square feet
Current use: Two-family dwelling	Proposed use: No change

**BACKGROUND:**

The property located at 2163 Commonwealth Avenue consists of 10,535 square feet and is improved with a nonconforming two-family dwelling constructed in 1910 in the Single Residence 3 zoning district. The petitioner proposes to raze the structure and construct a new two-family dwelling with four surface parking stalls in a split driveway. To reconstruct the nonconforming two-family dwelling use in a new configuration requires a special permit.

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

- Zoning Review Application, prepared by Michael Quinn, dated 1/27/2021
- Proposed Conditions Plan, signed and stamped by Robert Bibbo, surveyor and Tsung Ting Chiang, Engineer, dated 1/7/2021
- Architectural Plans and Elevations, signed and stamped by Michael Burke, Engineer, dated 7/8/2020
- FAR worksheet, submitted 1/27/2021



**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner proposes to raze the existing nonconforming two-family dwelling and construct a new two-family dwelling. Per section 3.4.1, two-family dwellings are not allowed in the Single Residence 3 district. A special permit per section 7.8.2.C.2 is required to reconstruct the nonconforming two-family use.
2. A two-family dwelling is not allowed in any Single Residence district. Per section 3.1.2.A.3, where a density or dimensional control is not listed for a use allowed by special permit, the most restrictive density or dimensional controls applicable to such use in any district where it is allowed by right shall be applied, unless otherwise required in the special permit. Two-family dwellings are allowed by right in the MR1 zoning district, the most restrictive for this use. As such, the dimensional controls for a single- or two-family dwelling on a new lot in the MR1 district are applied.

SR3 Zone	Required*	Existing	Proposed
Lot Size	10,000 square feet	10,535 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front	30 feet	36.1 feet	30.7 feet
• Side	10 feet	13 feet	15.7 feet
• Side	10 feet	12.9 feet	15.9 feet
• Rear	15 feet	47 feet	63.4 feet
Building Height	36 feet	NA	32 feet
Stories	2.5	2.5	No change
Lot Area Per Unit	5,000 square feet	5,268 square feet	No change
FAR	.48	.34	No change
Maximum Lot Coverage	30%	17.3%	17.6%
Minimum Open Space	50%	66.6%	68.2%

\*The required dimensional controls for a post 1953 Multi Residence 1 lot have been applied.

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to alter and reconstruct a nonconforming two-family dwelling	S.P. per §7.3.3

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 – #2163 Commonwealth Avenue

Date: June 25, 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

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

Site plan Showing Proposed Two-Family House  
Prepared by: Bibbo Brothers & Associates  
Dated: October 7, 2020  
Revised: October 27, 2020  
Received by Engineering: 5/13/2021

Executive Summary:

This plan entails the demolition of an existing single-family dwelling which has already been razed, and the proposed construction of a new two-family unit on a 10,535 square foot lot. The site is relatively flat although the plan does not show any contours. The lot has approximately 100-feet of frontage on Commonwealth Avenue to the south, and residential homes to the north, east and west. The property current has a common driveway apron that is shared with #2157 Commonwealth Avenue, additionally two new driveway aprons are proposed to provide access to each unit. The plan is difficult to read as some features are either shaded out and not labeled. The plan references a drainage report from Dr. Chiang, PE but was not provided for this review.

The engineer of record needs to update the plans and provide all drainage reports for a proper review.



*Existing dwelling razed photo taken: 6/24/2021.*



*Existing common driveway apron*

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