



Ruthanne Fuller  
Mayor

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

**#338-20**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

**Barney S. Heath**  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** July 23, 2021  
**MEETING DATE:** July 27, 2021  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

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### **PETITION #338-20**

**63 Bourne St.**

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**Petition #338-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing detached garage and create a new detached accessory structure for an accessory apartment greater than 40% of the habitable space of the principal dwelling at **63 Bourne Street**, Ward 4, Auburndale, on land known as Section 41 Block 09 Lot 09, containing approximately 11,355 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.1, 6.7.1.E.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The Land Use Committee (the "Committee") held a public hearing on October 13, 2020 on this petition. This memo reflects additional information addressed to the Planning Department as of July 23, 2021.

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### **Background**

The subject property at 63 Bourne Street consists of an 11,355 square foot lot in a Multi Residence 1 (MR1) district currently improved with an approximately 3,368 square foot, 2 ½ story, two-family dwelling constructed circa 1900 and detached 590 square foot, 1 ½ story garage constructed circa 1995.

The petitioner intends to raze the existing detached garage (and an adjacent 120 square foot shed) and construct a new 1,197 square foot, 1 ½ story detached structure to be used for an accessory apartment

(the two-family dwelling would remain unchanged). Per Secs. 6.7.1.E.1 and 6.7.1.E.2 of the Newton Zoning Ordinance (NZO) a special permit is required for a detached accessory apartment larger than 40% of the habitable space of the principal dwelling unit. No additional parking is required for the proposed accessory apartment.

### **Update**

As originally presented the project involved the construction of a new 780 square foot driveway on the left side of the property that would be in addition to, not a replacement of, the existing driveway on the right side of the property that currently serves the existing, but to-be-demolished, garage.

In its October 9, 2020 public hearing memorandum the Planning Department, recommended that, given the extent of the existing driveway, that the petitioner limit parking to it rather than to create the proposed second driveway (and curb cut) which would be in close proximity to an abutting dwelling.

The Committee expressed some concern relative to the proposed second driveway and curb cut at the October 13, 2020 public hearing. The petitioner confirmed at the that she would be willing to remove the second driveway, and revised plans submitted subsequent to that hearing reflect that modification.

### **ATTACHMENTS**

**Attachment A**                      Planning Department's Public Hearing Memorandum dated October 9, 2020, 2020 (includes DRAFT Order)



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ATTACHMENT A

**City of Newton, Massachusetts**  
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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: October 13, 2020  
Land Use Action Date: December 22, 2020  
City Council Action Date: January 4, 2021  
90-Day Expiration Date: January 11, 2021

DATE: October 9, 2020

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 #338-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing detached garage and create a new detached accessory structure for an accessory apartment greater than 40% of the habitable space of the principal dwelling at **63 Bourne Street**, Ward 4, Auburndale, on land known as Section 41 Block 09 Lot 09, containing approximately 11,355 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.1, 6.7.1.E.2 of Chapter 30 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.



**63 Bourne Street**

### EXECUTIVE SUMMARY

The subject property at 63 Bourne Street consists of an 11,355 square foot lot in a Multi Residence 1 (MR1) district currently improved with an approximately 3,368 square foot, 2 ½ story, two-family dwelling constructed circa 1900 and detached 590 square foot, 1 ½ story garage constructed circa 1995.

The petitioner intends to raze the existing detached garage (and an adjacent 120 square foot shed) and construct a new 1,197 square foot, 1 ½ story detached structure to be used for an accessory apartment (the single-family dwelling would remain unchanged). Per Section 6.7.1.E.1 of the Newton Zoning Ordinance (NZO) a special permit is required for a detached accessory apartment.

Further, per Section 6.7.1.E.2, the size of the proposed accessory apartment must be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the habitable space of the principal dwelling unit, whichever is less, and can be up to 1,500 square feet by special permit. As the principal dwelling unit has 2,043 square feet of habitable space (which would allow an accessory apartment size of up to 817 square feet), at 1,197 square feet the proposed accessory apartment requires a special permit.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Multi Residence 1 (MR1) district is an appropriate location for the proposed 1,197 square foot detached accessory apartment as designed 7.3.3.C.1)
- The proposed 1,197 square foot detached accessory apartment as designed will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed 1,197 square foot detached accessory apartment 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)

#### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

##### A. Neighborhood and Zoning

The subject property is located on the west side of Bourne Street just north of Auburn Street. The neighborhood is predominantly occupied by mix of single- and two- family dwellings interspersed throughout, with exceptions including several multifamily

dwellings (and their associated parking areas) abutting to the west. Both sides of Bourne Street and the blocks immediately to the east and south are zoned Multi Residence 1 (MR1), with the multifamily dwellings abutting to the west zoned Multi Residence 2 (MR2) (**Attachments A & B**).

B. Site

The subject property at consists of an 11,355 square foot lot in a Multi Residence 1 (MR1) district currently improved with an approximately 3,368 square foot, 2 ½ story, two-family dwelling and detached 590 square foot, 1 ½ story garage located just to the rear right of the dwelling. There is also a 120 square foot shed to the rear of the garage.

Access to the property is provided by a curb cut off Bourne Street and an asphalt parking and circulation area between the dwelling and the right (south) property line the garage. There is also and mature vegetation, including trees, shrubbery and lawn area.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a two-family dwelling but with the addition of detached accessory apartment.

B. Building and Site Design

As referenced above, no modifications to the existing 2 ½ story, 3,368 square foot two-family dwelling are contemplated. Rather, the petitioner intends to replace the existing 590 square foot, 1 ½ story detached garage located to the rear and right of the dwelling with a new 1,197 square foot, 1 ½ story detached structure located further back and in the rear left of the property to be used or an accessory apartment. A 120 square foot shed adjacent to the existing garage would also be removed.

At 21.7 feet the proposed structure's height would be just below the 22-foot-high existing garage and the maximum height for such structures.

The accessory apartment would have a footprint of approx. 695 square feet, with an additional 502 square feet on the attic level. The proposed replacement of the existing garage with the proposed accessory structure would therefore add approximately 267 square feet of floor area to the property. With this increase, the property's floor area ratio (FAR) would increase from 0.38 to 0.40, remaining below the maximum 0.42 allowed. The Planning Department notes that while none of the structure's basement level's approx. 695 square feet is countable toward the FAR calculation, it is unclear

whether it is intended to be included in the accessory apartment. The petitioner should be prepared to address this issue in advance of or at the public hearing.

Per Sec. 6.7.1.E.5 a detached accessory apartment must meet the setback requirements of the principal dwelling. The proposed side and rear setbacks of eight and 15.3 feet, respectively, meet the relevant 7.5 and 15 feet minimums for principal dwelling in an MR1 district.

The Planning Department notes that, as required per Sec. 6.7.1.E.3, the proposed structure would feature clapboards and trim visually compatible with the principal dwelling. It would be in keeping with the architectural integrity (if not necessarily the style) of the principal dwelling and the residential character of the neighborhood.

C. Parking and Circulation

No additional parking is required for the proposed accessory apartment. As referenced above, the existing garage would be eliminated. Per the submitted proposed site plan, the petitioner intends to create a new 780 square foot driveway on the left side of the property in addition to the existing driveway on the right side of the property that currently serves the existing, but to-be-demolished garage. Given the extent of the existing driveway, the Planning Department recommends that parking be limited to it, rather than create the proposed second driveway (and curb cut) which would be in close proximity to an abutting dwelling.

D. Landscaping and Screening

No landscaping plan was submitted as part of the petition. Regarding screening, fencing is in place in the vicinity of the parcel's rear and right sides, although per the site plan it appears to be located on adjacent properties. It also appears per the proposed site plan the petitioners intend to install new fencing along the left property line along the proposed driveway discussed above and continuing to the rear left of the property, including up to and past the proposed detached accessory apartment. The Planning Department notes that site plan does not indicate the height(s) of this fence and questions whether the portion of the fence adjacent to the proposed second driveway would be appropriate in the absence of that driveway. The petitioner should be prepared to address these issues at the public hearing.

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 a Special Permit per §7.3.3 to:

- allow a detached accessory apartment (§6.7.1.E.1)
- allow an oversized detached accessory apartment (§6.7.1.E.2)

B. Engineering Review

Review of the proposal by the Engineering Division is not required at this time.

C. Newton Historical Commission

Review of the proposal by the Newton Historical Commission is not required as the garage to be demolished is only approx. 25 years old.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time. The petitioner should be prepared to address any issues raised above at the public hearing.

**ATTACHMENTS:**

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









# ATTACHMENT B

## Zoning

### 44 Billings Park

*City of Newton,  
Massachusetts*

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

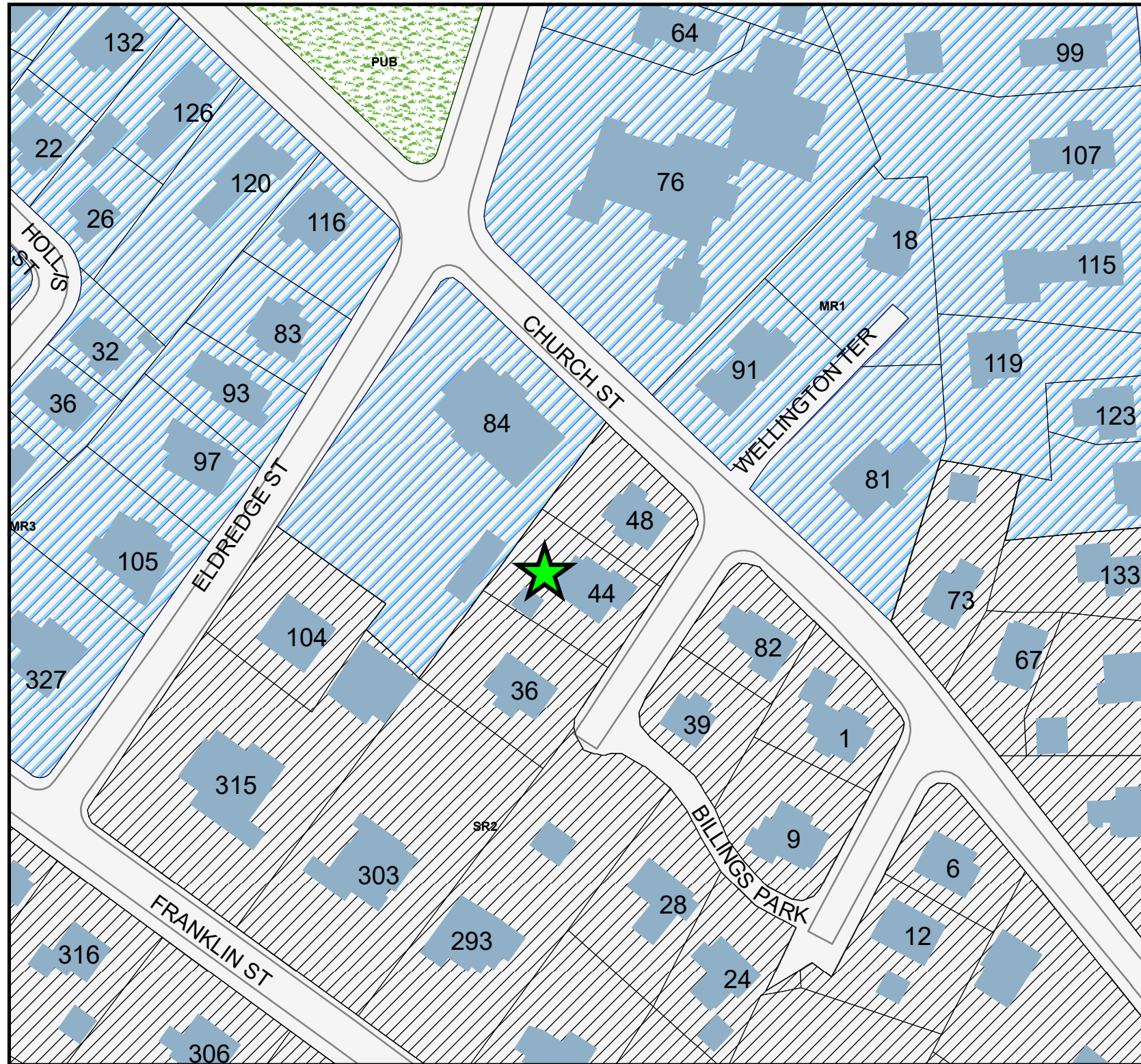


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: October 08, 2020





Ruthanne Fuller  
Mayor

# ATTACHMENT C

City of Newton, Massachusetts  
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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: August 10, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Anna Lavrinenko, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to allow an accessory apartment in a detached accessory structure

Applicant: Anna Lavrinenko	
Site: 63 Bourne Street	SBL: 41009 0009
Zoning: MR1	Lot Area: 11,355 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with an accessory apartment

### BACKGROUND:

The property at 63 Bourne Street consists of an 11,355 square foot lot currently improved with a two-family dwelling constructed circa 1900 and detached garage. The petitioner intends to raze the existing detached garage and construct a new detached structure for an accessory apartment.

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

- Zoning Review Application, prepared by Anna Lavrinenko, applicant, submitted 6/16/2020
- Proposed Site Plan, signed and stamped by Richard Volkin, engineer, dated 5/22/2020
- Architectural plans and elevations, signed and stamped by Richard Volkin, engineer, dated 7/16/2019

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner intends to raze the existing detached garage and construct a new detached structure for use as an accessory apartment. Per section 6.7.1.E.1 a special permit is required for a detached accessory apartment.
2. Per section 6.7.1.E.2, a detached accessory apartment may be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the habitable space of the principal dwelling unit, whichever is less. The principal dwelling unit has 2,043 square feet of habitable space, allowing an apartment up to 817 square feet by right, or up to 1,500 square feet by special permit. The proposed apartment is 1,107 square feet, requiring a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	11,533 square feet	No change
Frontage	70 feet	<b>65 feet</b>	<b>No change</b>
Setbacks - Principal <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 7.5 feet 15 feet		No change No change No change No change
Setbacks – Accessory <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 5 feet 5 feet	>80 feet	>100 feet 8 feet 15.3 feet
Height (Accessory)	22 feet		21.7 feet
Stories (Accessory)	1.5	1.5	1.5
FAR	.42	.38	.40
Max Lot Coverage	30%	19.1%	19.2%
Min. Open Space	50%	62.4%	56.7%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§6.7.1.E.1	Request to allow a detached accessory apartment	S.P. per §7.3.3
§6.7.1.E.2	Request to allow an oversized detached accessory apartment	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:**

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. 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)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. 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 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an oversized detached accessory apartment (§6.7.1.E.1§6.7.1.E.2)), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The site in a Multi Residence 1 (MR1) district is an appropriate location for the proposed detached accessory apartment as designed as it meets relevant dimensional requirements, and is visually compatible with and in keeping with the architectural integrity of the principal dwelling and the residential character of the neighborhood (7.3.3.C.1)
- 2) The proposed 1,197 square foot detached accessory apartment as designed will not adversely affect the neighborhood as it meets other relevant dimensional requirements, is in keeping with the residential character of the neighborhood, and is not expected to generate significant noise, light or activity (§7.3.3.C.2)
- 3) The proposed detached accessory apartment will not create a nuisance or 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: #338-20

PETITIONER: Anna Lavrinenko

ADDRESS OF PETITIONER: 63 Bourne Street #2  
Newton, MA

LOCATION: 63 Bourne Street , on land known as Section 41, Block 9, Lot 9, containing approximately 11,355square feet of land

OWNERS: Anna Lavrinenko

ADDRESS OF OWNERS: 63 Bourne Street #2  
Newton, MA

TO BE USED FOR: Two-Family Dwelling with a Detached Accessory Apartment

EXPLANATORY NOTES: Special permits per §7.3.3:

- allow a detached accessory apartment (§6.7.1.E.1)
- allow an oversized detached accessory apartment (§6.7.1.E.2)

ZONING: Multi Residence 1 (MR1) district

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. Site plans entitled "63 Bourne Street, Newton, Massachusetts," prepared by RAV & Assoc., Inc., dated May 22, 2020, consisting of the following sheets:
    - i. Proposed site plan (Sheet 1 of 2) signed and stamped by A. Matthew Belski, Jr., Professional Land Surveyor and Richard A. Volkin, Registered Professional Engineer on May 27, 2020,
    - ii. Details (Sheet 2 of 2) signed and stamped by A. Matthew Belski, Jr., Professional Land Surveyor on May 27, 2020
  - b. A set of plans entitled "63 Bourne Street, Newton, Massachusetts," prepared by RAV & Assoc., Inc., dated July 16, 2019, signed and stamped by Richard A. Volkin, Registered Professional Engineer consisting of the following sheets:
    - i. Main House Area Alculations (*sic*) (A1)
    - ii. Proposed Plans (A2)
    - iii. Proposed Elevations (A3)
  - c. A document entitled "Floor Area Ratio Worksheet," indicating a proposed "Total gross floor area" of 4,565 square feet.
2. The Petitioner and the accessory apartment must at all times comply with all applicable rules for accessory apartments set forth in Section 6.7 of the Newton Zoning Ordinance. The accessory apartment cannot constitute its own unit within a condominium.

3. The accessory apartment must be held in common ownership with the principal dwelling unit in accordance with Section 6.7.C.1 of the Newton Zoning Ordinance.
4. The owner of the principal dwelling unit to which the accessory apartment is accessory to shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
5. If so required by the City Engineer, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval prior to the issuance of any Building Permit. Once approved, the O&M must be adopted by the applicant, incorporated into the deeds and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
6. 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 board 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 board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. 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.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
8. 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 a statement by an architect certifying compliance with Condition #1.
  - b. Filed with the Clerk of the Board, 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.
  - c. 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