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**Barney S. Heath**  
Director

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## **PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** October 29, 2021  
**MEETING DATE:** November 4, 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  
Katie Whewell, Senior Planner  
**CC:** Petitioner

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

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### **PETITION #29-21**

**145 Warren Street**

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Special Permit/Site Plan Approval to allow five single-family attached dwellings, to allow reduced side setbacks, to increase the allowed lot coverage, to allow a driveway within ten feet of the side lot line, to allow retaining walls greater than 4' within a setback, to waive three parking stalls and to allow a reduced driveway width.

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The Land Use Committee (Committee) last held a public hearing on this petition on June 8, 2021. The petition was recommitted to the Land Use Committee by the full Council. At the direction of the Law Department, the petitioner submitted a new application that has been advertised and noticed. Subsequently, the Committee will hold a new public hearing on Thursday, November 4<sup>th</sup>. This memo will outline the differences between the new petition and the petition that was approved by the Land Use Committee on June 8, 2021.

### **Status as a Local Landmark**

The structure was designated a Newton Landmark Preservation Site at a Newton Historical Commission (NHC) hearing on June 24, 2021. As part of the designation, the NHC stated that the building is an unusual design in this neighborhood and is an individually listed property on the National Register of Historic Places since 1990. In the local landmark report, the defining features of this building as described are the general size and massing of the structure, its role as a prominent visual anchor on Warren Street, and the original Craftsman Style architectural detail found on the house. The 'Aloha'

signage, the orange tile roof, front bench, banded siding, and single-pane windows throughout are important characteristics to preserve. Features not to be included in the designation would be the rear façade and the detached garage. A full report of the landmark report can be found at the link below: <https://www.newtonma.gov/home/showpublisheddocument/72092/637614457457270000>

Due to its designation as a Landmark Preservation site, the property is now subject to the Landmark Ordinance which states, “unless the commission shall first have issued a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, no building, structure, exterior architectural feature or landscape of a landmark shall be altered or demolished, nor any building or demolition permit issued therefor by the city or any department thereof.” The site was previously reviewed by the NHC in accordance with the demolition delay and approved partial demolition. The site is now subject to review by the NHC in accordance with the Landmark Ordinance. The petitioner should work with the Chief Preservation Planner to be placed on the next agenda of the NHC meeting.

### Program Modifications

The approved petition contained four dwelling units. The petitioner proposes to increase the project by one unit, for a total of five single-family attached dwelling units. To accomplish this, the petitioner redistributed area previously designated to Units 3, and 4, a total of 4,590 square feet, to be designated between Units 3, 4, and 5 for approximately 1,500 square feet per unit. Below is a table describing the unit mix and square footage. The table below does not include the space for the garage, which adds approximately 2,868 square feet of floor area (“the FAR”) to the structure.

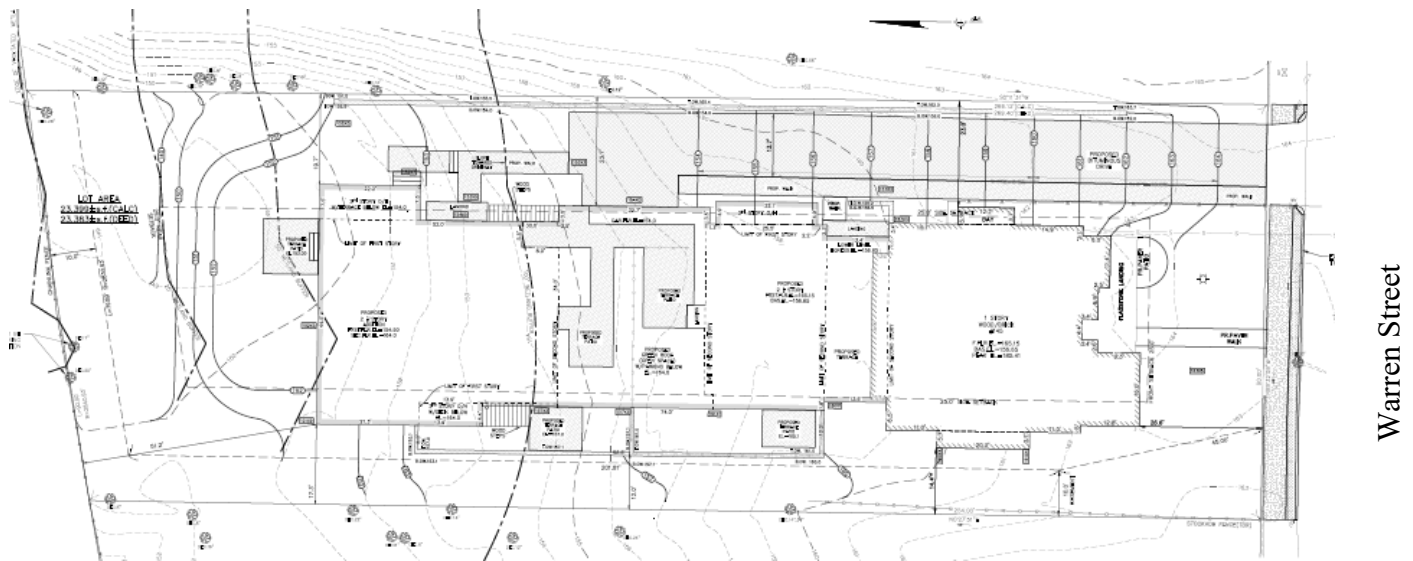
Table 1. Previously Approved and Proposed Unit Sizes, 145 Warren Street

	Land Use Approved Project April 2021 filing		Proposed Project September 2021 filing	
<b>Unit 1</b>	4,250 square feet	3 bedrooms	4,250 square feet	3 bedrooms
<b>Unit 2</b>	1,860 square feet	2 bedrooms	1,860 square feet	2 bedrooms
<b>Unit 3</b>	2,140 square feet	3 bedrooms	1,500 square feet	2 bedrooms
<b>Unit 4</b>	2,450 square feet	3 bedrooms	1,545 square feet	2 bedrooms
<b>Unit 5</b>	<i>Not applicable</i>		1,556 square feet	2 bedrooms
<b>FAR</b>	<b>.58</b>		<b>.58</b>	

The FAR remains the same as the previous project. While FAR is not a dimensional standard applicable to single-family attached dwellings, it is often utilized to get a better sense of the bulk of a structure on a lot. Including the garage area, the project consists of 13,551 square feet of floor area, translating to .58. For the Multi Residence 1 (“the MR-1”) zoning district, the maximum allowed FAR is .40 with the option of obtaining the bonus of .02 for utilizing new lot setbacks. A two-family structure with an FAR of .40 would consist of 9,360 square feet and if utilizing the bonus, would consist of 9,828 square feet.

One minor change to the site plan is the addition of a patio to the rear of the portion of the building containing Units 3, 4, and 5. This patio is located within the buffer zone of a wetland resource area and was administratively approved by the Chief Conservation Planner on September 21, 2021.

### Proposed Site Plan



### Building Design

While the project is increasing by one unit, the footprint of the structure is remaining the same, maintaining the original directive of the NHC that the building be lower and wider in scale as to not subordinate the existing structure. As a result, the project still requires relief for the side setbacks. The side setbacks as proposed are 19.7 feet from the eastern boundary, where 23 feet exists, and 14.4 feet from the western boundary which reflects existing structure. The proposed construction is set back approximately 95 feet from Warren Street. In addition to setbacks, the petition requires a special permit to increase the lot coverage to 33.1% where 25% is the maximum allowed. For reference, an as of right single- or two-family dwelling would be limited to 30% lot coverage.

As the proposed single-family attached dwellings are considered one structure, the height of the structure is 30.05 feet. Unit 1 maintains the existing house and Unit 2 is connected at the rear of Unit 1 and where the property begins to slope downwards allowing for the basement to be partially exposed. Units 1 and 2 are connected to Units 3, 4, and 5 by a one-story garage. The structure will present as one story from the front elevation, and three stories from all other elevations as the grade slopes downwards towards the rear property line. From the western and eastern elevations, the structure presents as two separate structures breaking up the façade so as not to appear as one continuous wall.

## **Parking Waiver**

With five units proposed, the parking requirement increased from eight parking stalls to ten. The parking garage has designated parking stalls for seven cars, including one stall dedicated for visitor parking. The petitioner intends to designate two parking stalls for Unit 1, and one stall per unit for Units 2-5. The Planning Department asked the petitioner to justify the increased parking waiver and to describe measures to encourage alternate modes of transportation and to discourage car ownership beyond one car per unit.

## **ATTACHMENTS:**

**Attachment A:** Zoning Review Memorandum  
**Attachment B:** DRAFT Council Order

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 five single-family attached dwellings with exceptions to dimensional requirements for side setbacks and lot coverage, retaining walls four feet or more in height within a setback, to allow a driveway within ten feet of the side lot line, to allow for a reduced driveway width, and to waive three parking stalls 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 five single-family attached dwellings because such use is allowed within the Multi-Residence 1 zone and the site has the required lot area. (§7.3.3.C.1)
2. The proposed five single-family attached dwellings will not adversely affect the neighborhood due to the proposed building design that preserves the historic structure and locates the additional massing to the rear. (§7.3.3.C.2)
3. The proposed single-family attached dwellings will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved.
5. The specific site is an appropriate location for the proposed retaining wall greater than four feet within the side setback due to the downward slope of the site and to accommodate the driveway along the property line. (§7.3.3.C.1)
6. The specific site is an appropriate location for the waiver of three parking stalls because it is in close proximity to Newton Centre Village Center. (§7.3.3.C.1)
7. Literal compliance with the dimensional standards for the side setback, lot coverage, a driveway located within ten feet of the side lot line, and reduced driveway width is in the public interest because the building design preserves a historic structure, and the site design utilizes the existing driveway. (§6.2.3.B.2 )
8. Literal compliance with the required number of parking stalls is in the public interest because the site is located within one half mile of transit, and secure and indoor bicycle parking is

being provided in lieu of three parking stalls. (§5.1.4, §5.1.13 )

PETITION NUMBER: #29-21

PETITIONER: 145 Warren CREH, LLC AND Norton Point Warren Street, LLC

LOCATION: 145 Warren Street, Ward 6, on land known as Section 61, Block 39, Lot 10, containing approximately 23,399 sq. ft. of land

OWNER: 145 Warren CREH, LLC AND Norton Point Warren Street, LLC

ADDRESS OF OWNER: 12 Morse Lane  
Natick MA 01760

TO BE USED FOR: Five single-family attached dwellings

EXPLANATORY NOTES: Special permit as per §7.3.3 to allow four attached single-family dwellings in a Multi-Residence 1 (MR1) zoning district (§3.4.1); reduce the side setback requirement (§3.2.4); allow increased lot coverage (§3.2.4); allow retaining walls of four feet or more in height within a setback (§5.4.2.B); allow a driveway within ten feet of the side lot line (§6.2.3.B.2); allow reduced driveway width for parking facilities over five stalls (§5.1.8.D.1); and to waive three parking stalls (§5.1.4)

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. A set of plans prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Mark Besio, Professional Engineer:
    - i. "Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, most recently revised: September 17, 2021
    - ii. "Grading, Drainage and Utility Plan, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021
    - iii. "Detail -1, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021
    - iv. "Detail -2, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021

- b. Architectural plans entitled “145 Warren Street Newton Center” prepared by Civico Development, dated February 24, 2021, Revised August 23, 2021 signed and stamped by Andrew Consigli, Registered Architect:
    - i. Lower Level Plan (A1);
    - ii. Street Level Plan (A2);
    - iii. Upper Level Plan (A3).
    - iv. Elevations (Sides) (A4)
    - v. Elevations (Rear) (A5)
  - c. Proposed Front Elevation titled “Preserving and bringing back Historic features” prepared by Civico, dated June 3, 2021, showing the Front Elevation including door to be restored, sign to be restored, clay tile roof to remain, shingles to be scraped and repainted, windows to be restored, and brick to be repointed, Page 6
  - d. Landscape Plan entitled “Illustrative Planting Plan” prepared by Verdant, dated January 25, 2021, signed and stamped by Blair Hines, Registered Landscape Architect.
2. The petitioner shall preserve the existing proportions, substrate and architectural details that contribute to the historic significance of the original structure including but not limited to all exterior walls, roof structure, and window openings.
  3. Units 2-4 shall be designed and constructed to achieve Passive House certification as described in “145 Warren Street, Green Features” prepared by Sustainable Comfort, dated June 16, 2021 on file with the City Clerk and the Planning Department, and in accordance with the requirements of the Passive House US Institute (PHIUS), the Passive House Institute, or other recognized Passive House standards and/or certification organization.
  4. Unit 1 shall be adapted to Universal Design standards in accordance with “145 Warren Street re: Universal Design” prepared by Sustainable Comfort dated June 15, 2021 on file with the City Clerk and the Planning Department.
  5. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, City Engineer, and Department of Inspectional Services.
  6. Prior to the issuance of a Building Permit, the petitioner shall provide a final design for a standby generator on site and implement such design to the satisfaction of the City Engineer.
  7. Prior to the issuance of a Building Permit, the petitioner shall conduct a closed-circuit television inspection of the City’s drainpipe on site and provide an electronic copy of such inspection to the Commissioner of Public Works.
  8. The petitioner shall comply with the Tree Preservation Ordinance.
  9. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
    - a. 24-hour contact information for the general contractor of the project.

- b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
  - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
  - f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. The CMP shall also address the following:
    - safety precautions;
    - anticipated dewatering during construction;
    - site safety and stability;
    - impacts on abutting properties.
10. 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, and the Department of Planning and Development.
  - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - 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. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.



- f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
  - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
  - h. Filed with the City Clerk, Inspectional Services, and the Planning Department a statement from the Newton Historical Commission approving the final plans.
  - i. Submitted a Passive House narrative and/or checklist prepared and certified by a licensed architect to the Director of Planning and Development, indicating standards that will be achieved for Units two through four in order to achieve Passive House Certification in accordance with Condition #3.
  - j. Submitted a Universal Design narrative and/or checklist prepared and certified by a licensed architect to the Director of Planning and Development, indicating standards that will be achieved Unit One in order to achieve Universal Design designation in accordance with Condition #4.
11. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe on site and provide an electronic copy of such inspection to the Commissioner of Public Works.
12. The Petitioner shall do the following to remediate pest and rodent activity:
- a. Prior to issuance of any demolition or building permit, the petitioner shall hire a licensed pest control operator (the "Operator") to assess the property for pest and rodent activity and develop and implement a pest remediation action plan (the "Plan") to eliminate the activity and prevent off-site migration. The Plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
  - b. A copy of the Plan shall be submitted to the Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copy of such approvals shall be provided to the Department of Planning and Development.
  - c. The Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
  - d. Prior to issuance of the certificate of occupancy, the Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department

and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment.

13. No 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 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.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
  - e. Filed with Inspectional Services and the Planning Department, a statement or certificate from a licensed architect certifying that the portions of the residential building that are designated Passive House have been constructed in accordance with Condition 3.
  - f. Filed with Inspectional Services and the Planning Department, a statement or certificate from a licensed architect certifying that the portions of the residential building that are designated to be Universal Design have been constructed in accordance with Condition 4.
14. Notwithstanding the provisions of Condition #9 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping, fencing, signage and parking areas. This condition shall not apply to the public footpath.
15. The project shall be constructed in accordance with the Order of Conditions issued by the Conservation Commission and must seek approval from the Conservation Commission for any changes to the approved work.