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Mayor

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#388-21

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	December 14, 2021
Land Use Action Date:	March 1, 2022
City Council Action Date:	March 7, 2022
90-Day Expiration Date:	March 14, 2022

DATE: December 10, 2021

TO: City Council

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

SUBJECT: **Petition #388-21** to construct an addition to the existing structure and a second two-unit structure, allowing four single-family attached dwelling units in two buildings, to allow reduced side and rear setbacks and to allow a driveway within ten feet of the side lot line at **300 Elliot Street**, Ward 5, Newton Upper Falls, on land known as Section 51 Block 38 Lot 19, containing approximately 19,057 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.1.8.A.1, 5.1.13, 5.1.8.A.2, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.D.1, 5.1.8.E.1, 1.5.4.G.2.a, 1.5.4.G.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.



300 Elliot Street

EXECUTIVE SUMMARY

The property at 300 Elliot Street consists of 19,057 square feet in a Multi Residence 1 (MR1) zoning district improved with a single-family dwelling built circa 1840 and an accessory structure.

The petitioner intends to construct a rear addition, containing a second unit, to the existing dwelling, and to convert the accessory structure into two units. Additionally, the petitioners intend to construct a detached two-car garage. The modifications would result in four single-family attached dwellings in two structures and a detached garage

Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district. As designed, the proposed project requires certain additional zoning relief.

The proposed addition to the rear of the existing structure which would create a 14.21-foot side setback, and the accessory structure to be converted to two dwelling units would have a 12.6-foot side and an 18-foot rear setback. As Sec. 3.2.4 requires attached single-family dwellings to have a 25-foot setback from the front, rear and side lot lines, a special permit per Sec. 3.2.4 would be required.

A special permit would be required to waive several parking facility regulations, including those established by Sec. 6.2.3.B.2 related to locating driveways within 10 feet of a side lot line and parking within 20 feet of a property line and within a side setback. Other parking regulations, established by Sec. 5.1, would need to be waived, such as those related to stall width and length, tandem stalls, minimum driveway width, and locating stalls within five feet of a building containing dwelling units.

The petitioners propose to construct the detached garage with a gable dormer that extends the wall plane up through the dormer requiring a special permit to waive the requirement per Sec. 1.5.4.G.2. that a roofline overhang must be continued between the dormer and the story next below to avoid the appearance of an uninterrupted wall plane.

The petitioner proposes to construct the garage with a gable dormer 14 feet wide where the wall plane below it is 25.2 feet wide. Per section 1.5.4.G.2.b a dormer may not be wider than 50% of the exterior wall of the story next below. As the proposed dormer measures 56%, it would require a special permit.

As the project would preserve two existing structures and create several new dwelling units, the Planning Department is generally supportive of the project, subject to some concerns discussed below, including those regarding the setback of the proposed addition and the practicality of some of the parking arrangements.

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 four single family detached dwellings in two structures as designed, with reduced side and rear setbacks and a dormer with a continuous wall plane and width greater than 50% of the wall below (§7.3.3.C.1)
- The proposed four single family detached dwellings in two structures as designed, with reduced side and rear setbacks and a dormer with a continuous wall plane and width

- greater than 50% of the wall below, will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed four single family detached dwellings in two structures as designed, with reduced side and rear setbacks and a dormer with a continuous wall plane and width greater than 50% of the wall below, 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 parking/driveway dimensional requirements established by Sec. 5.1.8.B as related to location of a driveway within 10 feet of a lot line, parking within a side setback, parking within five feet of a structure containing dwelling units, stall width, stall depth, width of a two way driveway and tandem parking, 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 (§5.1.13)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the south side of Elliot Street just west of its intersection with High and Oak streets. The surrounding neighborhood includes a mix of single- and two-family dwellings, commercial uses, and institutions (**Attachment A**). The neighborhood is predominantly zoned Multi Residence 1 (MR1) with exceptions including several Multi Residence 2 (MR2) and Public Use (PU) zoned parcels to the north (**Attachment B**).

B. Site

The property consists of a 19,057 square foot lot improved with a single-family dwelling built circa 1840 and an accessory structure in the rear right (southwest) portion of the lot.

The site has an upward grade of approximately nine feet from front to back, toward the accessory structure. The lot is accessed via a paved driveway on the right (west) side of the property that serves the existing accessory structure .

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would change from a two-family dwelling to four single-family attached dwellings in two structures.

B. Building and Site Design

The petitioner is proposing to create four attached dwelling units, two within each of two structures, one existing and expanded (the front dwelling), the other renovated for residential use (the rear dwelling). The two structures would be separated from each other by approximately 20 feet. Additionally, the petitioners intend to construct a detached two-car

garage in the rear left of the lot.

The front and rear dwellings would continue to have their existing heights and stories of 31 feet and 2 ½ stories and 28.1 feet and two stories, respectively, both remain below the maximum 36 feet allowed by right. The proposed one-story garage would measure 21.25 feet in height, just below its 22-foot maximum.

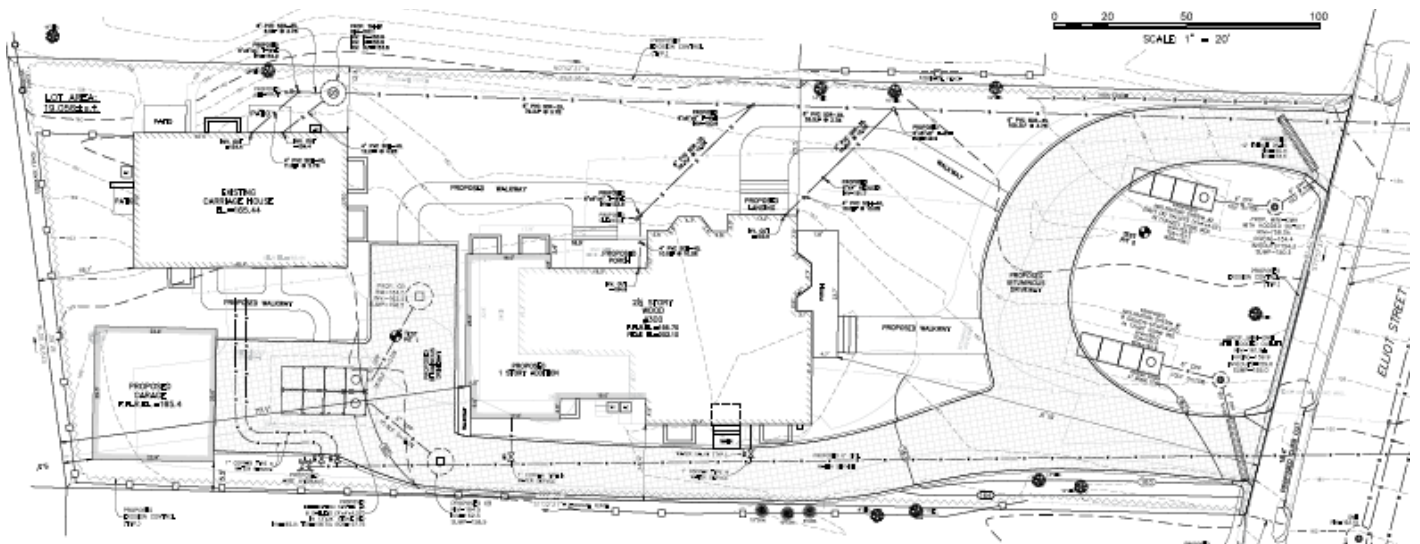
The proposed lot area per unit is 4,769 square feet, more than the minimum 4,000 square feet required but significantly less than the current 19,075 square feet.

Regarding setbacks, single-family attached dwellings require 25-foot front, side, and rear setbacks. Taking the proposed expanded front and rear dwellings together, the existing conforming 83.1-foot front setback would be maintained, and the conforming 25-foot side setback would be reduced to 12.4 feet; the other side setback would measure 14.4 feet. The rear setback as measured from the existing rear dwelling would measure 18.1 feet. The proposed garage would have rear and side setbacks of 5.5 feet, just above the minimum 5 feet allowed.

The Planning Department notes that the proposed setback nonconformities reflect existing conditions, with the exception of the left (east) side of the addition to the front residence being sited so that while it is no closer to the left side property line than the existing portions of the residence, it is less than 25 feet, likely allowing it to be larger than if the addition was designed to conform with the 25-foot setback.

Also, the petitioner proposes to construct a gable dormer on the detached garage that would measure 14 feet wide, 56%, of the 25.2-foot-wide wall plane below and therefore in excess of the maximum 50% allowed.

Lastly, the Planning Department notes that the by right alternative would be an approximately 8,400 square foot, one- or two- family dwelling with an allowed floor area ratio (FAR) of approximately 0.44, slightly more than the proposed project's FAR of 0.43. .



Proposed site plan

C. Parking and Circulation

The petitioner proposes to construct a circular drive at the front of the property, both sides of which would be located within ten feet of the side lot lines. Also, the proposed two-way driveway would continue along the left (east) side lot line to the rear of the property to serve the proposed two-car garage. The driveway narrows to 10 feet wide at the left side of the front dwelling but otherwise measures 12 feet in width (less than the by right minimum width of 20 feet for two-way driveways).

Two of the six surface parking stalls would be located within 20 feet of the side lot lines and within a side setback. Two stalls would be located within five feet of a structure containing dwelling units, one just to the rear of the front dwelling, another just in front of the rear dwelling .

Four of the six surface parking stalls would have a width of 8 feet, less than the 9 feet required; two angled surface parking stalls and two parallel stalls would have with depths of 18 feet, less than the 19 and 21 feet respectively required. Two surface stalls would be established directly in front of the proposed two-car garage, creating two pair of tandem stalls.

The Planning Department notes that the proposed distribution of parking stalls in various locations on the site, and the storage of two in the proposed garage, would limit the visual impact of eight vehicles on-site.

That said, the Planning Department does have some concerns regarding the submitted turning templates as they do not seem to contemplate the tandem spaces that would be located in front of the proposed garage and, as such, some of the depicted maneuvers seem impractical if vehicles were occupying those tandem stalls. The Planning Department recommends the petitioner revisit the placement of some exterior parking stalls to address this issue.

D. Landscaping

A landscaping plan was submitted with this petition. It includes the preservation of several trees on the left-front and front of the property. Most other aspects of the proposed landscaping involve the installation of shrubs throughout the property and several arborvitaes to delineate open space adjacent to the rear dwelling.

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 single-family attached dwellings (§3.4.1)

- reduce the side and rear setback (§3.2.4)
- allow a driveway within ten feet of a lot line (§6.2.3.B.2)
- allow parking within a side setback (§6.2.3.B.2, §5.1.8.A.1, §5.1.13)
- allow parking within five feet of a building containing dwelling units (5.1.8.A.2, §5.1.13)
- reduce parking stall width (§5.1.8.B.1, §5.1.13)
- reduce parking stall depth (§5.1.8.B.2, §5.1.13)
- reduce the minimum width of a driveway for two-way use (§5.1.8.D.1, §5.1.13)
- allow tandem parking (§5.1.8.E.1, §5.1.13)
- allow a continuous wall plane in a dormer (§1.5.4.G.2.a)
- allow a dormer wider than 50% of the wall below (§1.5.4.G.2.b)

B. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum dated November 12, 2021 (**Attachment D**), providing an analysis of the proposal with regard to engineering issues. These include that the proposed stormwater collection and infiltration system has been consistent with DPW Stormwater Policy and that a Construction Management Plan (CMP) and an Operations & Maintenance (O&P) will be required.

C. Historic Review

On June 11, 2021, the Newton Upper Falls Historic District Commission resolved to grant a Certificate of Appropriateness for the project subject to certain identified conditions.

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 E: DRAFT Order

ATTACHMENT A








Land Use

300 Elliot St.

City of Newton,
Massachusetts

Land Use

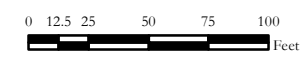
Land Use

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



The information on this map is a 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: November 24, 2021



Zoning

300 Elliot St.

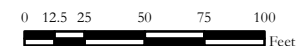
*City of Newton,
Massachusetts*

-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Public Use

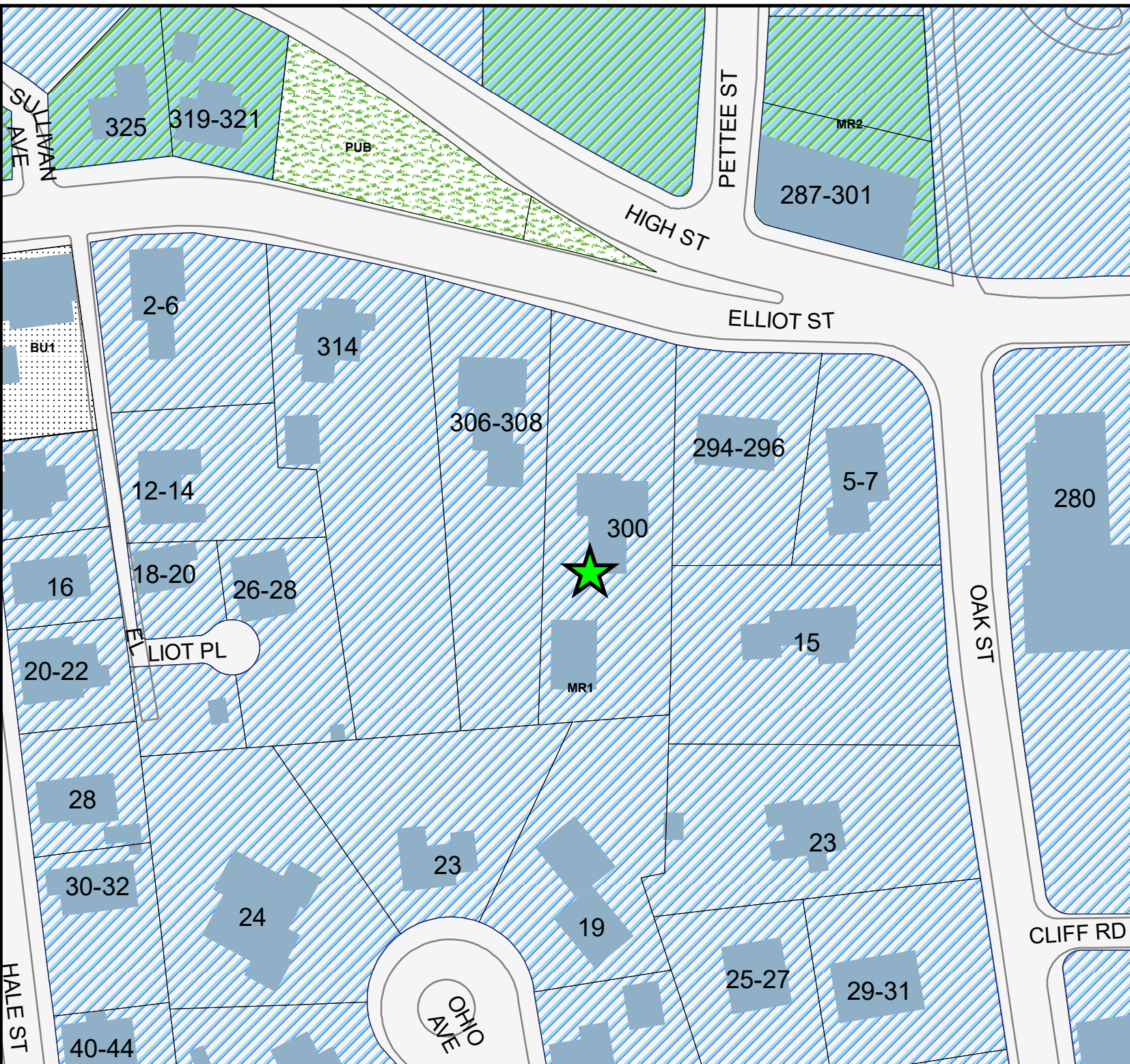


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CITY OF NEWTON, MASSACHUSETTS
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Map Date: November 24, 2021





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 23, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Terrence P. Morris, Attorney
The Homes at Elliot Street LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow four single-family attached dwellings in two structures

Applicant: The Homes at Elliot Street LLC	
Site: 300 Elliot Street	SBL: 51038 0019
Zoning: MR1	Lot Area: 19,057 square feet
Current use: Single-family dwelling and accessory structure	Proposed use: Two two-unit single-family attached dwellings

BACKGROUND:

The property at 300 Elliot Street consists of 19,057 square feet and is improved with a single-family dwelling built circa 1840 and an accessory structure in the MR1 zoning district. The petitioner intends to construct a rear addition, containing a second unit, to the to the dwelling, as well as convert the accessory structure into two units. Additionally, the petitioners intend to construct a detached two-car garage. The modifications would result in four single-family attached dwellings in two structures.

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

- Zoning Review Application, prepared by Terrence P. Morris, Attorney, dated 12/8/2020
- Existing Conditions Site Plan, signed and stamped by Scott C. Lynch, PLS, dated 3/15/2021
- Zoning Plan, unsigned, by Innovative Collaborations, Inc., dated, 7/21/2021
- Architectural Plans and Elevations, unsigned, by Innovative Collaborations, Inc., dated, 5/13/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct a second unit to the rear of the existing single-family dwelling resulting in two Single-Family Attached Dwellings, as well as convert the accessory structure into a two-units, creating four single-family attached dwellings within two separate structures. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Per section 3.2.4, attached dwellings require a 25-foot setback from the front, rear and side lot lines. The petitioners intend to construct an addition to the rear of the existing structure creating a 14.21-foot side setback. Additionally, the accessory structure is to be converted to two dwelling units and has a 12.6-foot side setback and an 18-foot rear setback. Per section 3.2.4, the petitioner seeks a waiver of the setback requirement to allow a 12.6-foot side setback and an 18-foot rear setback.
3. Per section 6.2.3.B.2, no driveway may be within ten feet of a side or rear lot line. The petitioner proposes to construct a circular drive at the front of the property, of which both sides are within ten feet of the side lot lines. Additionally, the driveway runs along the northern (side) lot line to the rear of the property directly on the side lot line. A special permit to waive the driveway requirement per section 6.2.3.B.2 is required
4. Per section 6.2.3.B.2, no parking space may be located within 20 feet of a property line. Two of the six surface parking stalls are within 20 feet of the side lot lines. Section 5.1.8.A.1 also requires that no parking stall be located within a side setback. A special permit to waive the parking setback requirements per sections 6.2.3.B.2, 5.1.8.A.1 and 5.1.13 is required.
5. Section 5.1.8.A.2 requires that no outdoor parking stall be located within five feet of a building containing dwelling units. Parking stall #3 is within two feet of Unit 2 and stall #4 is within five feet of Unit 3, requiring a special permit per section 5.1.13.
6. Four of the six surface parking stalls have a width of 8 feet, where 9 feet is required per section 5.1.8.B.1. A special permit is required to reduce the required width per section 5.1.13.
7. Section 5.1.8.B.2 requires a stall depth of 19 feet for all angle parking and 21 feet for parallel parking. The petitioner proposes two angled parking stalls with depths of 18 feet and two parallel stalls with depths of 18 feet. A special permit is required to waive the stall depth requirement per section 5.1.13.
8. Section 5.1.8.D.1 requires a minimum width of 20 feet for entrance and exit driveways for two-way use. The driveway narrows to 10 feet wide at the side of Unit 1 and is otherwise 12 feet wide. A special permit is required to waive the driveway width for two-way use per section 5.1.13.
9. Section 5.1.8.E.1 requires a special permit to allow tandem parking. The petitioner proposes to construct two surface stalls in front of the detached garage. A special permit is required to allow the tandem parking per section 5.1.13.
10. Per section 1.5.4.G.2.a the roofline overhang must be continued between the dormer and the story next below to avoid the appearance of an uninterrupted wall plane. The petitioners propose to

construct a detached garage with a gable dormer that extends the wall plane up through the dormer. To construct the garage as proposed requires a special permit.

11. The petitioner proposes to construct a detached garage with a gable dormer. The proposed dormer is 14 feet wide where the wall plane below it is 25.2 feet wide. Per section 1.5.4.G.2.b a dormer wider than 50% of the exterior wall of the story next below requires a special permit. The proposed dormer measures 56%, requiring relief.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	19,075 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 25 feet 25 feet 25 feet	83.1 feet 14.2 feet 25 feet ±100 feet	No change 14.1 feet* 12.6 feet* 18 feet*
Setbacks – Accessory <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 5 feet 5 feet		>150 feet 5 feet 5 feet
Building Height <ul style="list-style-type: none"> • Units 1-2 • Units 3-4 • Accessory 	36 feet 36 feet 22 feet	31 feet 28.1 feet NA	No change No change 21.25 feet
Max Number of Stories <ul style="list-style-type: none"> • Units 1-2 • Units 3-4 • Accessory 	2.5 (3 by special permit) 2.5 (3 by special permit) 1.5	2.5 2 NA	No change No change 1.5
Lot Coverage (Max.)	25%	14.4%	20.6%
Open Space (Min.)	50%	59.6%	55.7%
Lot Area Per Unit (Min.)	4,000 square feet	19,075 square feet	4,769 square feet

Nonconformities are indicated in **BOLD**

*Requires relief

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.4.1	To allow single-family attached dwellings	S.P. per §7.3.3
§3.2.4	To reduce the side and rear setback	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway within ten feet of a lot line	S.P. per §7.3.3
§6.2.3.B.2 §5.1.8.A.1 §5.1.13	To allow parking within a side setback	S.P. per §7.3.3
5.1.8.A.2 §5.1.13	To allow parking within five feet of a building containing dwelling units	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	To reduce parking stall width	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	To reduce parking stall depth	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	To reduce the minimum width of a driveway for two-way use	S.P. per §7.3.3
§5.1.8.E.1 §5.1.13	To allow tandem parking	S.P. per §7.3.3
§1.5.4.G.2.a	To allow a continuous wall plane in a dormer	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer wider than 50% of the wall below	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 – 30 Elliot Street

Date: November 12, 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:

Topographic Site Plan
Newton, MA
Showing Proposed Conditions at #300 Elliot Street
Prepared by: VTPS Associates Inc.
Dated: October 8, 2021

Executive Summary:

This permit entails the conversion of a single-family dwelling and detached carriage house into a four-unit development with two units in the main house and two units in the detached carriage house in addition to constructing a new detached 2-stall garage. The site is relatively hilly having a low point of 156-feet near Elliot Street towards the north and raises to a high point of elevation 164-feet near the existing carriage house. The property has just over 81 feet of frontage and is surrounded with residential homes on the east-south and western property lines.

The engineer of record has designed a stormwater collection system in accordance with the DPW 100-year storm event to capture the runoff from the impervious surfaces and infiltrate into underground galleries. The site currently has no stormwater controls. The proposed operations and maintenance (O&M) plan is acceptable for the design intent except that I will require the trench drains to be cleaned out two times per year vs. once; this should be updated and if this permit is approved the revised O&M plan must be recorded at the Middlesex Registry of Deeds.

The design also indicates a new horseshoe shaped driveway with a new curb cut on Elliot Street east of the existing curb cut.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.

2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
5. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.

6. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

7. The hydrant detail has an error, the 18" is the clearance required for a hydrant wrench.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.

2. 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.*

3. All tree removal shall comply with the City's Tree Ordinance.

4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*

5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.

6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the as-built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*

7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. 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.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

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.

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 four Single-Family Attached Dwellings with waivers to the dimensional standards, to allow parking within the setback, to allow waivers to the parking stall dimensions, to allow waivers to the entrance and exit driveway dimensions, to allow parking within five feet of a structure containing dwelling units, to allow tandem parking, 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 four Single-Family Attached Dwellings because Single-Family Attached Dwellings are an allowed use in the Multi-Residence 1 zone and the petition exceeds the lot area per unit requirement (§7.3.3.C.1).
2. The proposed Single-Family Attached Dwellings as developed and operated will not adversely affect the surrounding neighborhood due to the presence of other multi-family uses in the area (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
4. Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
5. Granting exceptions to literal compliance with the parking requirements, specifically parking within a setback, parking within five feet of a structure containing dwelling units, parking stall dimensions, entrance and exit drive dimensions, and tandem parking is in the public interest because it allows for the preservation of existing historic structures while providing for adequate parking distributed in various locations on the site (§5.1.8.A, §5.1.8.B, §5.1.8.D.1, §5.1.8.E.1).
6. Granting exceptions to the dimensional standards of Single-Family Attached Dwellings, specifically, side and rear setbacks, locating parking with 20 feet of a lot line, and a locating a driveway within ten feet of a side lot line are in the public interest for the following reasons:
 - a. The site, as proposed, would exceed the required lot area per unit of Single-Family Attached Dwellings;

- b. The structure has a larger setback and a smaller footprint than an as of right two-family dwelling; and
 - c. Retaining existing driveway location preserves open space on site.
- (§3.2.4 and §6.2.3.B.2)
7. The specific site is an appropriate location for a dormer greater than 50% of the width of the exterior wall below and a dormer that creates a continuous wall plan because the dormer would match the architecture of the historically significant dwelling (§1.5.4.G).

PETITION NUMBER: #388-21

PETITIONER: The Homes at Elliot, LLC

LOCATION: 300 Elliot Street, Ward 5, on land known as Section 51, Block 38, Lot 19, containing approximately 19,057 sq. ft. of land

OWNER: The Homes at Elliot, LLC

ADDRESS OF OWNER: 369 Congress Street
Boston, MA 02110

TO BE USED FOR: Four Single-Family Attached Dwellings

EXPLANATORY NOTES: §3.4.1 and §7.3.3 to allow four Single-Family Attached Dwellings; §3.2.4 and §7.3.3 to reduce the side and rear setback requirement; §3.2.4 and §6.2.3.B.2 to allow a driveway within ten feet of a side lot line and parking within 20 feet of a lot line; §5.1.8.A.1 and §5.1.13 to allow parking within a side setback; 5.1.8.A.2 and §5.1.13 to allow parking within five feet of a building containing dwelling units; §5.1.8.B and §5.1.13 to waive the parking stall dimensions; §5.1.8.D.1 and §5.1.13 to reduce the minimum width of a driveway for two-way use; §5.1.8.E.1 and §5.1.13 to allow tandem parking; §1.5.4.G.2 to allow a continuous wall plane in a dormer and to allow a dormer wider than 50% of the wall below

ZONING: Multi-Residence 1 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 engineering plans entitled “Newton, Massachusetts, Showing Proposed Conditions at 300 Elliot Street,” prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Marc Besio, Professional Engineer, consisting of the following sheets:
 - i. Topographic Site Plan (Sheet 1 of 3), dated October 8, 2021.
 - ii. Detail Sheet (Sheet 2 of 3), dated September 30, 2021
 - iii. Detail Sheet (Sheet 3 of 3), dated October 8, 2021
 - iv. Turning Template (Sheet 1 of 1), dated November 10, 2021
 - b. Architectural plans entitled, “300 Elliot St, Newton Falls, MA 02464,” Innovative Collaborations, Inc., dated October 8, 2021, consisting of the following sheets:
 - i. Main House Elevations (A2.1)
 - ii. Main House Elevations (A2.2)
 - iii. Main House Elevations (A2.3)
 - iv. Main House Elevations (A2.4)
 - v. Garage Elevations (A2.7)
 - vi. Floor Plans Unit 1 & Unit 2 (A1.1)
 - vii. Floor Plans Unit 1 & Unit 2 (A1.2)
 - viii. Floor Plans Unit 1 & Unit 2 (A1.3)
 - ix. Floor Plans Unit 1 & Unit 2 (A1.4)
 - x. Carriage House Elevations (A2.5)
 - xi. Carriage House Elevations (A2.6)
 - xii. Floor Plans Unit 3 & Unit 4 (A1.5)
 - xiii. Floor Plans Unit 3 & Unit 4 (A1.6)
 - c. A landscape plan, “The Homes at Elliot Street- Conceptual Planting Plan,” prepared by Innovative Collaborations, Inc., unsigned, unstamped, and undated.
2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
3. 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.
4. Prior to a building permit being issued pursuant to this special permit, the petitioner shall submit a construction management plan (CMP) for review and approval by the Engineering Division and the Director of Planning and Development. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
5. Prior to the issuance of any building permit, the petitioner shall provide a final Operations and Maintenance ("O&M") Plan for stormwater management 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 and implemented. A recorded copy of the O&M plan shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
6. 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.
7. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan for review and approval to the Commissioner of Public Works and the Director of Planning and Development.
8. 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. Recorded at the Registry of Deeds for the Southern District of Middlesex County a certified copy of the O&M and 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.
9. No Occupancy Permit/ Final Inspection 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 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 City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
10. Notwithstanding the provisions of Condition #7 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed 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 landscaping to secure installation of such landscaping.
11. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.