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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: November 30, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Barbara & Gerald Baratz Revocable Trusts, Applicant  
Laurance Lee, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to allow a 12-unit multi-family dwelling**

**Applicant: Barbara and Gerald Baratz Revocable Trusts**

<b>Site:</b> 383-387 Boylston Street	<b>SBL:</b> 65011 0004
<b>Zoning:</b> BU1	<b>Lot Area:</b> 14,866 square feet
<b>Current use:</b> Mixed commercial	<b>Proposed use:</b> 12-unit multi-family dwelling

### BACKGROUND:

The subject site consists of a 14,866 square foot lot improved with two multi-tenanted single-story commercial buildings built in 1930 with surface parking. The petitioner proposes to raze the buildings and construct a 12-unit three-story multi-family dwelling with underground garage parking.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 3/18/2021
- Existing Conditions Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 12/4/2020
- Proposed Plot Plan, prepared by Spruhan Engineering, dated 3/15/2021 revised 10/17/2021, 11/3/2021, 11/10/2021
- FAR worksheet, signed and stamped by Mark L. Dooling, architect, submitted 3/18/2021, 11/15/2021
- Floor Plans and Elevations, prepared by Mark L. Dooling, architect, submitted 3/15/2021 revised 11/11/2021
- Delivery truck option locations, submitted 11/30/2021

**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner intends to raze the two mixed commercial buildings and construct a three-story 12-unit multi-family dwelling with underground parking. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor in a Business 1 zoning district.
2. Per section 4.1.2.B.1, a special permit is required for any development in a Business district of over 20,000 square feet or more of new gross floor area. The proposed building is 22,266 square feet, requiring a special permit.
3. The petitioner intends to construct a three-story multi-family dwelling. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 35.97 feet in height.
4. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed with a total of 22,266 square feet resulting in an FAR of 1.50, requiring a special permit.
5. The building known as 383 Boylston has a nonconforming side setback of 4.2 feet where 9.9 feet is required for the 19.73-foot tall building. The petitioner proposes to construct a 35.97-foot tall building, which requires an 18-foot side setback per section 4.1.3. The petitioner seeks a special permit per sections 4.1.3 and 7.8.2.C.2 to alter and extend the nonconforming side setback on the easterly side to allow for an 8-foot side setback where 18 feet is required.
6. Per section 5.1.8.B.1, the minimum required stall width is 9 feet. The petitioner proposes parking stalls with an 8.5-foot width, requiring a special permit per section 5.1.13.
7. The petitioner intends to construct a loading zone for use by delivery trucks as needed within the driveway. The loading area meets the dimensional requirement of 10 feet in width by 35 feet in length per section 5.1.12.D.1. The driveway is 22-feet wide, which meets the minimum requirement of 20-feet in width for two-way use per section 5.1.8.D.1. However, while the loading zone is for temporary use during deliveries and passenger pick-ups, the 10-foot wide stall renders the driveway 12-feet wide while in use, requiring a special permit from the two-way use driveway width requirement.
8. Section 5.1.12.D.5 requires that loading facilities be designed and used so as not to be a nuisance or hazard or unreasonable impediment to traffic. The proposed loading zone blocks traffic within the site while in use, as well as requiring that the delivery vehicle back out into street traffic. A special permit to waive this provision is required.
9. Section 5.4.2 requires a special permit for retaining walls within the setback of four feet in height or greater. The petitioner proposes to construct a retaining wall on the westerly side of the property reaching a maximum height of 9 feet. A special permit per section 5.4.2 is required to construct the retaining wall as proposed.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	14,866 square feet	No change
Setbacks			
• Front (Boylston St)	10 feet	19.7 feet	16.1 feet
• Front (Jackson St)	10 feet	<b>3.4 feet</b>	14.3 feet
• Side (west)	18 feet	<b>2.7 feet*</b>	18.3 feet
• Side (east)	18 feet	<b>4.2 feet**</b>	<b>8 feet***</b>
Building Height	24 feet (36 feet by SP)	17.5 feet/19.73 feet	<b>35.97 feet***</b>
Max Number of Stories	2 (3 by SP)	1	<b>3***</b>
Lot Area Per Unit	1,200 square feet	NA	1,239 square feet
FAR	1.00 (1.50 by SP)	.33	<b>1.50***</b>

\*The building known as 387 Boylston is 17.5 feet tall, requiring an 8.75 foot side setback

\*\* The building known as 383 Boylston is 19.73 feet tall, requiring a 9.9 foot setback

\*\*\*Requires relief

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use	S.P. per §7.3.3
§4.1.2.B.1	Request to allow a building with more than 20,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.50	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming side setback	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	Request to reduce the width of parking stalls	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	Request to reduce the driveway width for two-way traffic	S.P. per §7.3.3
§5.1.12.D.5 §5.1.13	Request to allow a loading facility which may impede traffic	S.P. per §7.3.3
§5.4.2	Request to allow a retaining wall greater than four feet in height within the setback	S.P. per §7.3.3