



Setti D. Warren  
Mayor

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

**#49-16(2)**

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Barney Heath  
Director

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## **PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	October 24, 2017
Land Use Action Date:	January 2, 2018
City Council Action Date:	January 8, 2018
90-Day Expiration Date:	January 22, 2018

DATE: October 20, 2017

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #49-16(2)**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #49-16 to allow for changes to the site plan at 103 Court Street, Ward 2, on land known as Section 23, Block 16, Lots 36 and 36A containing approximately 22,848 sq. ft. of land in a district zoned MR1. Ref: 7.3.3, 7.4, of the City of Newton Rev Zoning Ord, 2015.

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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.



**103 Court Street**

## **EXECUTIVE SUMMARY**

In 2016 the petitioners were granted Special Permit #49-16 to allow the creation of a rear lot on then-22,783 square foot parcel at 103 Court Street located in a MR1 zoning district in Newtonville. As per that special permit, the petitioner constructed a two-family dwelling on the newly created 12,084 square foot rear lot with access of Wilton Road while maintaining the existing two-family dwelling, expanded with a new attached garage, on a 10,699 square foot front lot on Court Street.

The current petition seeks to amend Special Permit #49-16 as it pertains to proposed and/or constructed modifications to the site inconsistent with the site plan approved pursuant to Special Permit #49-16.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION:**

When reviewing this petition, the City Council should consider the following:

- the site in the Multi-Residence 1 district is an appropriate location for the proposed modifications to the approved site plan (§7.3.3.C.1)
- the proposed modifications to the approved site plan will not adversely affect the neighborhood, (§7.3.3.C.2)
- there would be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3); and
- 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 properties now identified as 103 Court Street and 15 Wilton Road are located on the north side of Court Street and at the eastern end of Wilton Road, respectively. The neighborhood is a mix of one-, two, and three- family houses and commercial uses, with housing predominating in the areas to the northeast and northwest of the nearby intersection of Court Street and Central Avenue. The block-front directly across Court Street is a mix of commercial and residential uses (**Attachment A**). The site and surrounding areas to the east, north and west of the site are zoned Multiple Residence 1 (MR1). Directly across the Court Street to the south is a Business 2 (BU2) zoning district (**Attachment B**).

#### **B. Site**

The property was previously a single 22,783 square foot lot improved with a two-family dwelling and a detached garage. Now, pursuant to Special Permit #49-16, it is

comprised of two parcels- "Lot A" (103 Court Street), a 10,699 square foot lot occupied by the previously existing two-family dwelling (now-expanded with an attached garage) and "Lot B" (15 Wilton Road) a 12,084 square foot lot with a new two-family dwelling.

Both the original two-family house on Lot A and Unit 1 in the new two-family dwelling on Lot B are accessed via a paved driveway on the east side of the property shared with 97 Court St. Unit 2 of the new two-family dwelling is accessed via Wilton Road.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The principal use of the site is and will continue to be four dwelling units located in two, two-family dwellings, each on a separate lot.

#### B. Building and Site Design

In 2016 the petitioner received Special Permit #49-16 to create a rear lot by dividing the then-22,783 square foot 103 Court St. lot into a 10,699 square foot front lot (Lot A) with the existing two unit dwelling expanded with a new attached two car garage and two outdoor parking stalls; and a 12,084 square foot rear lot (Lot B) with a new two-family dwelling. The four spaces associated with Lot A, as well two spaces for Unit 1 on Lot B as are accessed via a previously existing shared driveway from Court Street. The two spaces associated with Unit 2 of Lot B are accessed from Wilton Road.

In pursuing the work permitted by the Special Permit #49-16, the petitioner created, modified and/or is proposing modifications to several elements of the approved site plan. Regarding Lot A, the following changes were made:

- a) an approximately 37 square foot increase in the garage mass below grade to allow an enclosed connection between the new attached garage and the rear basement door;
- b) the driveway along the rear of the dwelling serving the new attached garage was built 2 feet lower than approved. In response, petitioners propose relocating the two outdoor parking spaces from their previous identified location in the rear left of the parcel and making them tandem spaces along the rear property line;
- c) the dwelling's right side stair was reoriented toward the new rear driveway, rather than to the existing common driveway;
- d) these changes have resulted in Lot A's lot coverage increasing from the 20.3% contemplated by Special Permit #49-16 to 22.3% and its open space calculation being reduced from 59% to 57.4%.

Regarding Lot B, the following changes were made:

- a) Pursuant to an agreement with the owner of the abutting 95-97 Court Street parcel, the petitioner has indicated that a portion of the shared easement, generally located along the eastern boundary of Lot B, will be abandoned. This agreement, which would continue to allow access to the driveway at the rear of Lot A and two parking stalls provided for Unit 1 of Lot B, facilitated the relocation of the retaining wall from the location shown on the approved site plan as approximately five feet west of Lot B's eastern property line to directly along that line. The height of that wall has also been reduced from 3.5 to 3.0 feet above the new grade.
- b) An agreement with the owners of 9-11 Wilton Road regarding the properties' grades has obviated the need for the retaining wall between Lot B and that parcel.
- c) As Unit 1 of Lot B will have access to Court Street via Lot A (the 103 Court Street parcel), the petitioner proposes to eliminate the perimeter gravel walk (and associated retaining wall) that would have facilitated pedestrian access to Unit 1 from Wilton Road as shown on the approved site plan along the parcel's northern boundary (and within the city drainage easement located there) and the above-referenced eastern boundary.
- d) Two tree wells have been installed within a city drainage easement located along Lot B's northern boundary, in close proximity to an existing box culvert. The Tree Warden has stated that the installation of the wells give two large diameter trees a better chance of survival by avoiding possible damage from the placement of fill over their roots.

The petitioner is seeking to maintain these two tree wells, as well as a section of retaining wall at the northeast corner of the site, within the city easement. The Planning Department notes the Engineering Division and Law Department have indicated that the petitioner would need to be granted a license authorizing the installation and maintenance of these tree wells and the above-referenced section of retaining wall within the city-owned easement. As of the writing of this memorandum the Planning Department has not received evidence of such a license (or other adequate permission) and recommends that in the event the present petition is granted the petitioner be required to submit such a license to the Law Department for its review and approval before any Final Certificate of Occupancy is issued and this be made a condition of the Order.

C. Landscaping

A landscape plan is cited in Special Permit #49-16.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The petitioner is seeking the following relief:

- Special Permit per §7.3.3 to amend Special Permit #49-16 to allow for changes to the site plan

B. Engineering Review:

The Engineering Division Memorandum, (**Attachment C**), provides an analysis of the proposal with regard to engineering issues.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

**Attachment A:** Land Use Map  
**Attachment B:** Zoning Map  
**Attachment C:** Engineering Memo



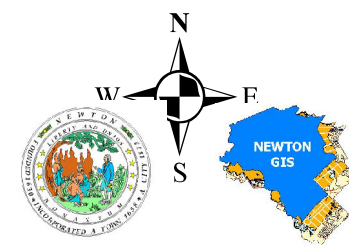
Map Date: October 18, 2017



## Zoning

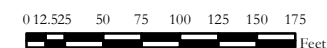
*City of Newton,  
Massachusetts*

- Multi-Residence 1
- Business 1
- Business 2
- 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 - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: October 18, 2017



CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 103 Court Street

Date: October 18, 2017

CC: James McGonagle, Commissioner DPW  
Barney Heath, Planning Director  
Lou Taverna, PE City Engineer  
Ted Jerdee, Utilities Director  
Jennifer Caira, Chief Planner  
Michael Gleba, Sr. Planner  
Nadia Khan, LU Clerk

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

*Topographic Site Plan  
Showing Proposed Conditions at  
#103 Court Street  
Newton, MA  
Prepared by: VTP Associates, Inc.  
Dated: February 9, 2016  
&  
September 11, 2017*

Executive Summary:

I performed a site visit today and based on the field conditions there are a few modifications and changes between the proposed plan that was approved by the Land Use Committee and what has actually been constructed. Attached is a marked up plan based on the field observations and site photos.



One of the changes is the encroachment of landscape walls (tree wells) within the City's drainage easement; the walls not only encroach the easement but the regrading has exposed the wall of the drain culvert. The Utilities Director may want the walls to be regraded so that they are not exposed to the elements. The applicant shall follow up with the Director for his determination.

As required from my March 9<sup>th</sup> memo, post construction closed circuit television (CCTV) inspection is required from the applicant. Additionally the applicant needs a license agreement for the placement of the landscape walls within the City's easement.

Various retaining walls were either omitted (see scanned site plans for clarity) or modified from the original design. On lot A the two parking stalls as approved have not been built as observed.

As part of my original requirement an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot.

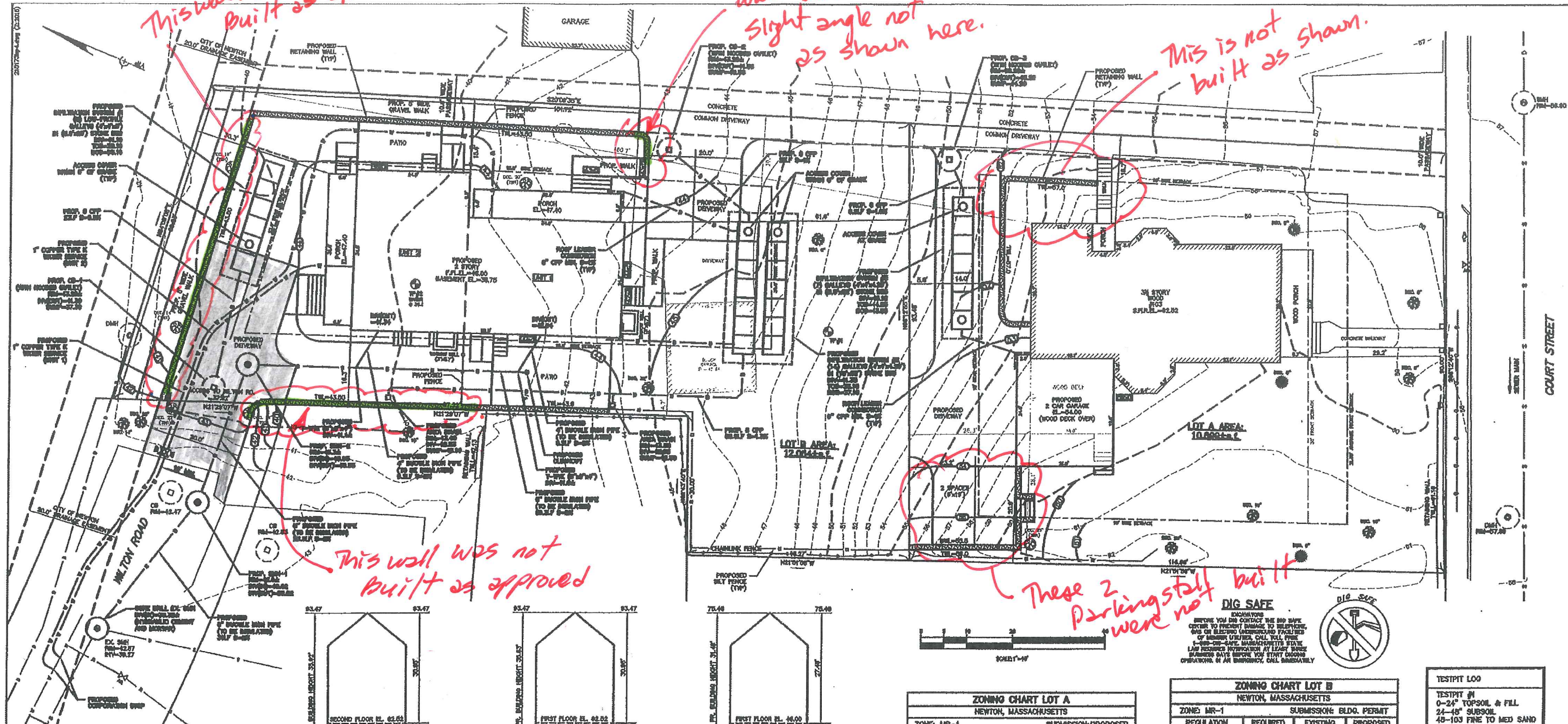
*Additionally:*

1. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
2. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

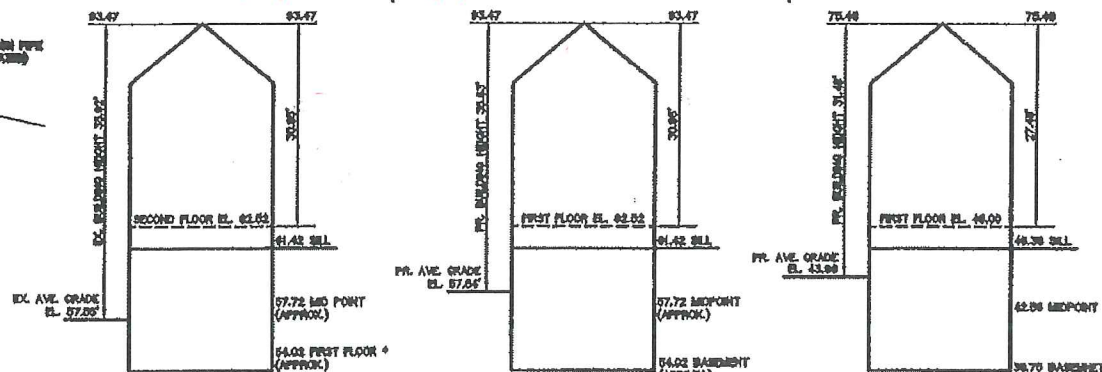
If you have any questions or concerns please feel free to contact me @ 617-796-1023.





# LEGEND

- BUILDING
- PROPERTY LINE 1/2' BEYOND DISTANCE
- CONTOUR
- STOCKADE FENCE
- CHAINLINK FENCE
- POCKET FENCE
- SEWER LINE
- DRAIN LINE
- WATER LINE
- GAS LINE
- GAS VALVE
- WATER VALVE
- DRAIN MANHOLE
- SEWER MANHOLE
- CATCH BASIN
- UTILITY POLE
- LIGHT POLE
- DECIDUOUS TREE
- CONIFEROUS TREE



**LOT A EXISTING BUILDING HEIGHT**  
NOT TO SCALE  
\* BASEMENT DOES NOT MEET DEFINITION THEREFORE FIRST FLOOR

**LOT A PROPOSED BUILDING HEIGHT**  
NOT TO SCALE

**LOT B PROPOSED BUILDING HEIGHT**  
NOT TO SCALE

Address: #103 Court St.

Length Weighted Mean									
Existing Average Grade Calculation									
LINE	STATION	EXISTING GRADE	PROPOSED GRADE	DIFFERENCE	AREA	WEIGHTED GRADE	WEIGHTED AREA	TOTAL AREA	AVERAGE GRADE
1	25.20	62.13	62.87	0.00	1511.94 Sq. Ft.				
2	22.60	62.88	62.85	0.01	1311.38 Sq. Ft.				
3	6.90	62.10	62.05	0.05	348.69 Sq. Ft.				
4	13.20	62.00	62.25	0.25	724.21 Sq. Ft.				
5	28.10	64.92	63.08	1.84	1243.81 Sq. Ft.				
6	18.10	67.45	65.68	1.77	1020.84 Sq. Ft.				
7	23.10	60.13	62.48	2.35	1309.84 Sq. Ft.				
Total					7872.51 Sq. Ft.				
					Total Column F / Total Column B = Average Grade				
					Average Grade: 62.84'				

Address: #103 Court St.

Length Weighted Mean									
Proposed LOT A Average Grade Calculation									
LINE	STATION	EXISTING GRADE	PROPOSED GRADE	DIFFERENCE	AREA	WEIGHTED GRADE	WEIGHTED AREA	TOTAL AREA	AVERAGE GRADE
1	21.00	60.00	60.00	0.00	1249.50 Sq. Ft.				
2	19.80	60.00	60.00	0.00	1164.44 Sq. Ft.				
3	23.10	60.10	60.60	0.50	1399.83 Sq. Ft.				
4	25.20	60.00	60.60	0.60	1500.39 Sq. Ft.				
5	22.60	60.00	60.00	0.00	1333.40 Sq. Ft.				
6	13.20	67.00	67.00	0.00	752.40 Sq. Ft.				
7	21.04	67.00	67.00	0.00	1199.28 Sq. Ft.				
8	7.00	63.60	63.60	0.00	407.61 Sq. Ft.				
9	24.00	64.00	63.30	0.70	1267.00 Sq. Ft.				
Total					177.40				
					Total Column F / Total Column B = Average Grade				
					Average Grade: 62.84'				

Address: #103 Court St.

Length Weighted Mean									
Proposed LOT B Average Grade Calculation									
LINE	STATION	EXISTING GRADE	PROPOSED GRADE	DIFFERENCE	AREA	WEIGHTED GRADE	WEIGHTED AREA	TOTAL AREA	AVERAGE GRADE
1	48.48	43.80	43.80	0.00	2188.35 Sq. Ft.				
2	6.64	43.80	43.80	0.00	300.28 Sq. Ft.				
3	2.30	44.80	44.80	0.00	67.02 Sq. Ft.				
4	24.80	44.80	44.10	0.70	1000.25 Sq. Ft.				
5	27.45	44.00	43.80	0.20	1205.08 Sq. Ft.				
6	6.55	44.10	44.00	0.10	244.63 Sq. Ft.				
7	9.50	44.10	43.90	0.20	418.00 Sq. Ft.				
8	24.80	43.80	43.80	0.00	1073.10 Sq. Ft.				
9	34.00	44.10	44.10	0.00	1489.40 Sq. Ft.				
Total					6137.00 Sq. Ft.				
					Total Column F / Total Column B = Average Grade				
					Average Grade: 43.88'				

**ZONING CHART LOT A**  
NEWTON, MASSACHUSETTS

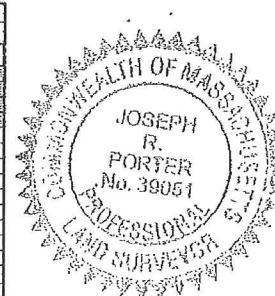
ZONE: MR-1	SUBMISSION: PROPOSED		
	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000.00	12,783.40	10,000.00
LOT FRONTAGE	80.0'	80.0'	N/A
FRONT SETBACK	30.0'	28.2'	N/A
SIDE SETBACK	10.0'	14.7'	N/A
REAR SETBACK	15.0'	180.7'	28.2'
BUILDING HEIGHT	30.0'	35.65'	35.65'
AVERAGE GRADE	30.00	67.69	62.84
LOT COVERAGE	30.00	8.00%	28.3%
OPEN SPACE	60.00	91.00%	71.6%

**ZONING CHART LOT B**  
NEWTON, MASSACHUSETTS

ZONE: MR-1	SUBMISSION: BLDG. PERMIT		
	REQUIRED	EXISTING	PROPOSED
LOT AREA	12,000.00	12,000.00	N/A
LOT FRONTAGE	80.0'	83.48'	N/A
FRONT SETBACK	30.0'	-	61.4'
SIDE SETBACK	15.0'	-	15.0'
REAR SETBACK	25.0'	-	30.3'
BUILDING HEIGHT	30.0'	-	31.4'
AVERAGE GRADE	-	-	43.88
F.A.B.	0.38	-	-
LOT COVERAGE	20.0%	-	17.0%
OPEN SPACE	80.0%	-	83.0%

**TESTPIT LOG**

TESTPIT #1	0-24" TOPSOIL & FILL
	24-45" SUBSOIL
	45-103" FINE TO MED SAND
NO WATER	NO REFUSAL
TESTPIT #2	0-54" PEAT & TOPSOIL
	54-68" COARSE SAND
	68-80" PEAT
WATER @ 46"	NO REFUSAL



## TOPOGRAPHIC SITE PLAN NEWTON, MASSACHUSETTS

SHOWING PROPOSED CONDITIONS AT  
#103 COURT STREET

SCALE: 1"=10' DATE: FEBRUARY 8, 2016

PROJECT: 215173

VTP

ASSOCIATES

INC.

LAND SURVEYORS - CIVIL ENGINEERS, 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02456  
(617) 332-8271

SHEET 1 OF 3



Encroachment into City drain easement - Culvert exposed to elements

Angle of wall modified from proposed plan

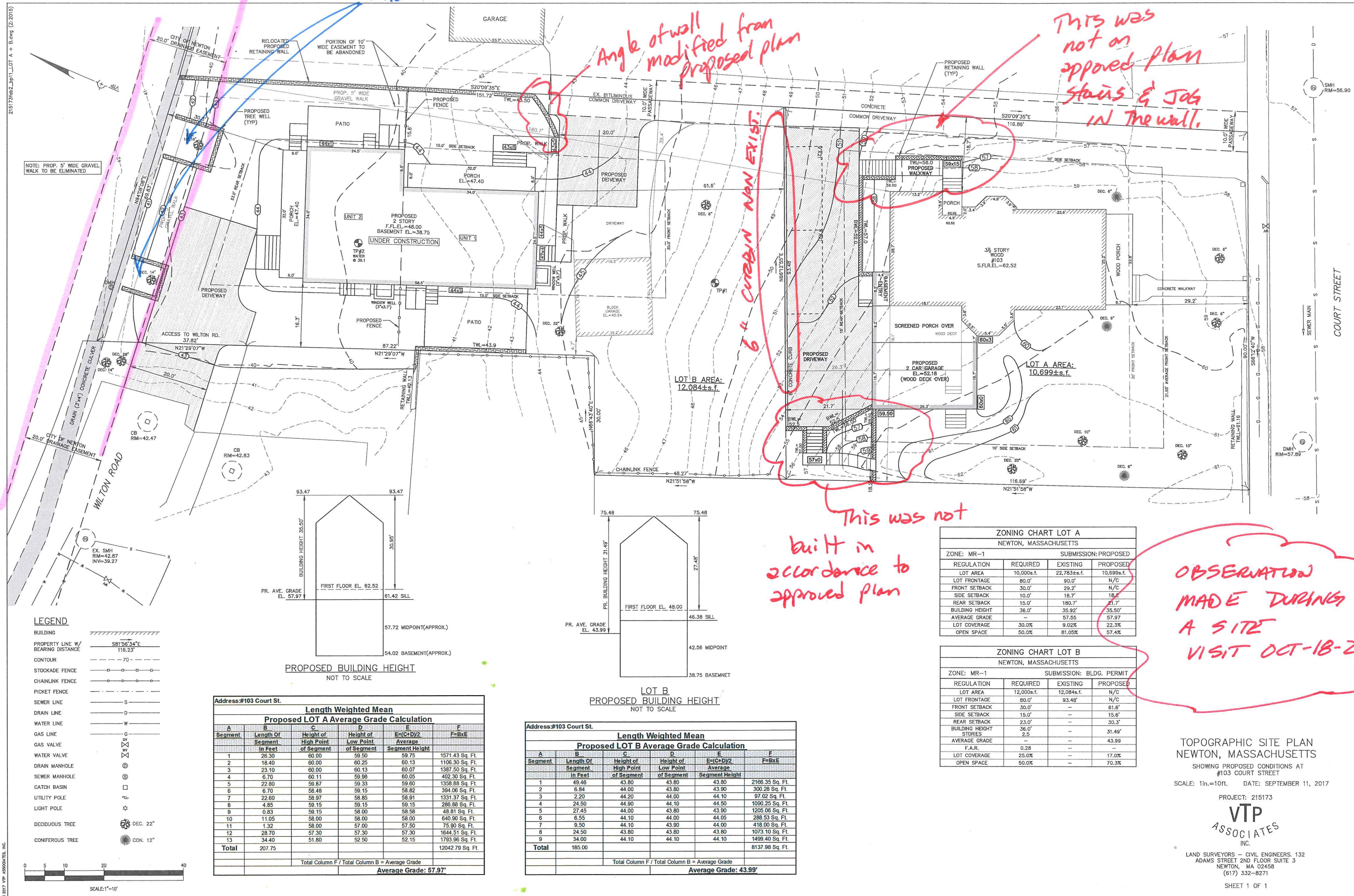
This was not on approved plan stairs & Jog in the wall.

6" CURB NOT EXIST.

This was not

built in accordance to approved plan

OBSERVATION MADE DURING A SITE VISIT OCT-18-2017



ZONING CHART LOT A NEWTON, MASSACHUSETTS				
ZONE: MR-1		SUBMISSION: PROPOSED		
REGULATION	REQUIRED	EXISTING	PROPOSED	
LOT AREA	10,000 s.f.	22,783 s.f.	10,699 s.f.	
LOT FRONTAGE	80.0'	90.0'	N/C	
FRONT SETBACK	30.0'	29.2'	N/C	
SIDE SETBACK	10.0'	18.7'	18.2'	
REAR SETBACK	15.0'	180.7'	21.7'	
BUILDING HEIGHT	36.0'	35.92'	35.50'	
AVERAGE GRADE	-	57.55	57.97	
LOT COVERAGE	30.0%	9.02%	22.3%	
OPEN SPACE	50.0%	81.05%	57.4%	

ZONING CHART LOT B NEWTON, MASSACHUSETTS				
ZONE: MR-1		SUBMISSION: BLDG. PERMIT		
REGULATION	REQUIRED	EXISTING	PROPOSED	
LOT AREA	12,000 s.f.	12,084 s.f.	N/C	
LOT FRONTAGE	80.0'	93.48'	N/C	
FRONT SETBACK	30.0'	-	61.6'	
SIDE SETBACK	15.0'	-	15.6'	
REAR SETBACK	23.0'	-	30.3'	
BUILDING HEIGHT	36.0'	-	31.49'	
STORIES	2.5	-	43.99	
AVERAGE GRADE	-	-	43.99	
F.A.R.	0.28	-	-	
LOT COVERAGE	25.0%	-	17.0%	
OPEN SPACE	50.0%	-	70.3%	

TOPOGRAPHIC SITE PLAN  
NEWTON, MASSACHUSETTS  
SHOWING PROPOSED CONDITIONS AT  
#103 COURT STREET

SCALE: 1 in. = 10 ft. DATE: SEPTEMBER 11, 2017

PROJECT: 215173

VTP  
ASSOCIATES  
INC.

LAND SURVEYORS - CIVIL ENGINEERS, 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02458  
(617) 332-8271

SHEET 1 OF 1





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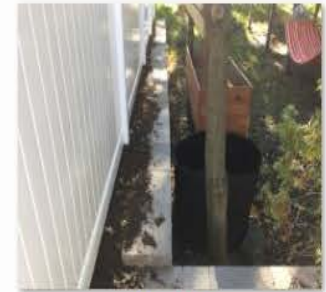
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