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**#26-18**

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	January 23, 2018
Land Use Action Date:	April 10, 2018
City Council Action Date:	April 16, 2018
90-Day Expiration Date:	April 23, 2018

DATE: January 19, 2017

TO: City Council

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

SUBJECT: **Petition #26-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow attached dwellings with waivers to the dimensional standards at **20 Dale Street**, Ward 2, Newtonville, on land known as Section 22, Block 14, Lot 03, containing approximately 5,968 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §3.2.4, §6.2.3.B.2, §7.3.3, and §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.



**19 Dale Street/20 Simpson Terrace**

### **EXECUTIVE SUMMARY**

The property located at 20 Dale Street (19 Simpson Terrace) contains a 5,968 square foot lot in the Multi-Residence 1 (MR-1) zone in Newtonville. The lot is improved with a 2.5 story, single-family residence constructed circa 1920 that is an example of Colonial Revival architecture. The petitioner is seeking to construct a 2.5-story addition to create a second dwelling unit on the property, which requires a special permit to allow single-family attached dwellings. The petitioner is also seeking special permits to waive the dimensional standards for a single family attached dwelling relative to lot size, setbacks, lot coverage, lot area per unit, as well as to allow parking within 20 feet of a side lot line and to allow a driveway within 10 feet of a side lot line.

Staff notes that while the petitioner is seeking to deviate from numerous zoning requirements, the proposed project is mostly consistent with the neighborhood context. Much of the surrounding neighborhood was developed prior to zoning and therefore would not meet the standards applied to a new single-family attached dwelling of this sort. The current Zoning Ordinance establishes dimensional standards regardless of neighborhood context and one of the goals of the Zoning Redesign effort currently underway is to create zoning that more closely relates to existing conditions. Staff finds the proposed petition to be generally compatible with the use, density, and character of the neighborhood while maintaining the style of the historic dwelling.

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

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed attached single-family dwellings (§7.3.3.C.1).
- The attached single-family dwellings will adversely affect the neighborhood (§7.3.3.C.2).
- The attached dwellings will not 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 dimensional standards of single-family attached dwellings, specifically lot area, lot area per unit, lot coverage, side setback, a driveway within ten feet of a side lot line, and parking within twenty feet of a side lot line 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 (§3.2.4 and §6.2.3.B.2)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Dale Street in the MR-1 zone in Newtonville. The immediate area and surrounding neighborhood lay within the MR-1 zone. There is a Single Residence 2 zone to the south along Cabot Street, and there is also a Public Use district to the north which consists of the Washington Park pocket park **(Attachment A)**. The neighborhood is almost entirely single and multi-family land uses with the lone exception being a mixed use parcel to the southeast **(Attachment B)**.

### B. Site

The site is a through lot with frontages on both Dale Street and Simpson Terrace (Simpson Terrace is a private way). The site is Improved with a 2.5-story, single-family dwelling constructed circa 1920. The structure has an existing nonconforming front setback from Simpson Terrace of 10 feet, where 10.5 feet is the minimum allowed via averaging. The front setback from Dale Street is approximately 23.1 feet, but this is not nonconforming due to averaging. There is a detached one-car garage to the southwest of the dwelling which is accessed via an approximately 22 foot wide curb cut on Dale Street. The garage has an existing nonconforming front setback from Dale Street of eight feet, where 25 feet is the minimum allowed. The second parking stall associated with the single-family structure is a surface stall adjacent to the garage. The site is predominantly flat with an approximately two-foot tall retaining wall along the southern boundary while the northern boundary is partially enclosed with fencing. The remaining portions of the site feature lawn and mature trees and shrubs. Lastly, there is a brick patio at the northeast corner of the property along the Simpson Terrace frontage.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site will change from a single-family to a multi-family use.

### B. Building Design

The petitioner is seeking to construct a 2.5-story addition to the south side of the structure to create a second dwelling unit. The footprint of the structure will be extended approximately 13 feet to the south which decreases the side yard setback from 39 feet to 26 feet. As part of this extension, an existing one-story bump-out of the structure will be demolished. The addition will contain living space on all levels of the structure. In total, the addition will add 1,730 square feet of floor area ratio to the

structure. The height of the dwelling will increase by approximately three feet from 30 feet, to 33 feet. This increase in height is due in part to retain habitable space in the attic after the petitioner followed the recommendation of the Newton Historical Commission (NHC) to change the dormers in the attic from gable to shed style. Overall, the design of the addition will be retain the existing shingle-style of the dwelling and preserve the single-family appearance from both frontages. The design also retains the existing wrap-around porch on the Dale Street frontage which will be extended approximately 26 feet to wrap around to the south side of the addition.

C. Site Design

The petitioners are not proposing to significantly alter the site. The proposed addition will result in the removal of a landscape hedge along the Simpson Avenue frontage as well as some existing lawn area; a surface parking stall will also be created along this frontage. Staff notes that Simpson Terrace does not contain sidewalks, and therefore it does not contain curb cuts.

ADD PROPOSED SITE PLAN

D. Parking and Circulation

The petitioners are proposing to demolish the existing one-car, detached garage on the property as part of the petition. In its place will be a surface parking stall and the existing adjacent surface stall in this location will be kept. To accommodate the additional two stalls for the second unit, the existing patio at the northeast corner of the property will serve as one surface parking stall, and the petitioners are proposing to create the remaining stall along the Simpson Terrace frontage. The plan indicates this stall will meet the dimensional standards for a stall as laid out in the Ordinance and will constructed out of alternative materials to reduce the amount of paving on site.

E. Landscaping

A landscape plan is not required with this petition.

IV. SINGLE-FAMILY ATTACHED DWELLINGS

A. Neighborhood Context

A review of the properties within three hundred feet found that much of the area was developed in the early 1900s before zoning. As a result, many of the properties are not in conformance with the standards of the Ordinance. For example, eleven of the 30 properties containing a two-family structure do not comply with the minimum lot area requirement of 7,000 square feet and subsequently the lot area per unit requirement of 3,500 square feet. If the project is approved, the property would have a lot area per unit of 2,991.5 square feet. For reference, the median lot area per unit of the eleven lots which do not meet the lot area requirement is 2,574

square feet.

B. Single-Family Attached Dwellings

Single-Family Attached Dwellings are an allowed use in the MR-1 zone, with unique dimensional standards which are waivable via special permit. The criteria for granting such waivers is that “literal compliance with the dimensional standards of single-family attached dwellings 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.”

While reviewing single-family attached dwellings, staff found that earlier versions of the Ordinance defined single-family attached dwellings as structures that contained four or more dwelling units. However, that definition was changed in 1989 to the current definition due in part to the lack of lots available in the City which could accommodate such a development. However, while the definition changed, the dimensional standards remained constant. As a result, the dimensional standards intended to govern a development of four units, are being applied to projects with as little as two units.

C. Discussion

The petition raises a policy question of whether new development should fit the existing development patterns of neighborhoods or comply with the current Ordinance. The City is currently working to design an ordinance which aims to consider the neighborhood context when creating zoning districts and regulations, but that process is not complete and therefore not applicable here. In an effort to guide the discussion relative to this petition, staff considered neighborhood context and design as the two primary factors. After reviewing the petition, staff found the petition to fit the neighborhood context with respect to use and density. Additionally, the design of the proposed unit is in keeping with existing historic dwelling.

V. 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:

- §3.2.4 and §7.3.3 to allow attached single-family dwellings in an MR1 zoning district.

- §3.2.4 and §7.3.3 to reduce the lot area requirement.
- §3.2.4 and §7.3.3 to reduce the lot area per unit requirement.
- §3.2.4 and §7.3.3 to reduce the side setback requirement.
- §3.2.4 and §7.3.3 to reduce the lot coverage requirement.
- §6.2.3.B.2, §3.2.4, §7.3.3 to allow parking within twenty feet of a side lot line.
- §6.2.3.B.2, §3.2.4, §7.3.3 to allow a driveway within ten feet of a side lot line.

B. Engineering Review

Review from the Engineering Division is not required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this project be approved.

C. Historic Preservation Review

As the petition requires the partial demolition of a structure greater than fifty years old, approval was required from NHC. At its April 27, 2017 meeting, NHC found the structure “Preferably Preserved” due to the structure’s architectural integrity and historical context. At its May 25, 2017 meeting, NHC waived the demolition delay based on the submitted plans with a recommendation to the Land Use Committee to ask the owner and architect to explore changing the dormer to shed-style to create more definition as a dormer and less as a third story. The submitted plans for review by the Committee incorporate this recommendation.

VI. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

**ATTACHMENTS:**

- Attachment A:** Land Use Map  
**Attachment B:** Zoning Map  
**Attachment C:** Zoning Review Memorandum







# Attachment A

## Zoning Map

### Dale St., 20

*City of Newton,  
Massachusetts*

#### Legend

-  Single Residence 2
-  Multi-Residence 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



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

0 50 100  
Feet

Map Date: December 18, 2017



# Attachment B Land Use Map Dale St., 20

*City of Newton,  
Massachusetts*

## Legend

### Land Use

#### Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Vacant Land
- Building Outlines
- Surface Water
- Property Boundaries



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0 50 100  
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Map Date: December 18, 2017





Setti D. Warren  
Mayor

Attachment C

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Barney S. Heath  
Director

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## ZONING REVIEW MEMORANDUM

Date: September 18, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Scott Ross, applicant  
Peter Sachs, architect  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request for a special permit to allow two attached dwellings, to waive certain dimensional requirements and to allow parking and a driveway within a setback**

Applicant: Scott Ross	
Site: 20 Dale Street (aka 19 Simpson Terrace)	SBL: 22014 0003
Zoning: MR1	Lot Area: 5,968 square feet
Current use: Single family dwelling	Proposed use: Two attached dwellings

### BACKGROUND:

The property at 20 Dale Street consists of 5,968 square feet and is improved with a single family residence constructed in 1920 in the MR1 zoning district. The lot has two fronts, with the front door located on Dale Street and the rear of the house facing Simpson Terrace. The applicant proposes to construct an addition to the existing dwelling consisting of a second dwelling unit, creating two attached dwellings. To construct the additional unit as proposed, the applicant requires relief from several of the dimensional and parking requirements for attached dwellings.

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

- Zoning Review Application, prepared by Peter Sachs, architect, dated 8/9/2017
- Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 8/1/2017 revised 8/28/2017
- Architectural Plans, prepared by Peter Sachs, architect, dated 8/9/2017

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The applicant proposes to construct a second dwelling unit attached to the existing single-family residence to create two attached dwellings, as defined in Section 1.5.1.C.2. Per Section 3.4.1, a special permit is required to construct single-family attached dwellings in the MR1 zoning district.
2. Section 3.2.4 of the Zoning Ordinance sets forth the dimensional requirements for Single Family Attached Dwellings in the MR1 zoning district. There is a provision in this section that enables the City Council to grant exceptions to the dimensional standards if it is found that literal compliance 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 the protection of environmental features. The applicant requires several exceptions utilizing this provision.
3. The existing lot has 5,968 square feet of lot area, where Section 3.2.4 requires 15,000 square feet of lot area to construct attached dwellings in the MR1 zoning district. The applicant requires an exception to the required lot area of 15,000 square feet.
4. Utilizing the averaging provision for front setbacks per Section 1.5.3.B, the required front setback for the property is 10.5 feet. The applicant's existing dwelling has an existing nonconforming front setback of 10 feet. The applicant proposes to extend the dwelling along the existing nonconforming front setback by 20.6 feet to create the new unit. The De Minimis Relief provisions of Section 7.8.2.B.2.i provide that an addition to the front of the structure which does not extend farther into the front setback and is less than 75 square feet within the setback may be allowed by right. The proposed addition further extends the existing nonconforming front setback along the same setback line with 10.3 square feet, which is allowed by right per Section 7.8.2.B.2.i.
5. Section 3.2.4 requires 4,000 square feet of lot area per unit for attached dwellings in the MR1 zoning district. With the addition of a second unit on site, creating two attached dwellings, the applicant will have 2,984 square feet of lot area per unit. The applicant requires an exception to the lot area per unit requirement of 4,000 square feet.
6. The side setback of the existing single-family dwelling is 9.3 feet per Section 3.2.4. While the second unit is being added to the opposite side, the addition changes the use of the structure from single-family dwelling to an attached dwelling, which requires a 25 foot side setback. The applicant requires an exception to the side setback regulation of 25 feet.
7. Per Section 3.2.4 the maximum lot coverage allowed in an attached dwelling project is 25%. The proposed lot coverage after construction of the second unit is 29.8%, which exceeds the maximum allowed. The applicant requires an exception to the maximum lot coverage of 25%.
8. Section 6.2.3.B.2 prohibits a parking space within 20 feet of a boundary line and to locate a driveway within 10 feet of a side or rear lot line. All three of the proposed parking stalls are located within 20 feet of the side lot lines, and the three proposed driveways appear to be within 10 feet of the side lot lines. This section also allows the Council to waive these requirements if a literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape,

or grade of the lot, or that such exception would be in the public interest. A special permit is required to waive this provision.

<b>MR1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	15,000 square feet	<b>5,968 square feet</b>	<b>No change</b>
Frontage	80 feet	83.31 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front (Simpson Terrace)</li> <li>• Front (Dale Street)</li> <li>• Side</li> </ul>	10.5 feet* 14.5 feet* 25 feet	<b>10 feet</b> 23.2 feet <b>9.3 feet</b>	<b>10 feet</b> 23.1 feet <b>No change</b>
Building Height	36 feet	30.7 feet	Unit A: 33.41 feet Unit B: 33.44 feet
Max Number of Stories	2.5	2.5	2.5
Lot Coverage	25%	23%	<b>29.8%</b>
Open Space	50%	69%	52.9%
Lot Area Per Unit	4,000 square feet	5,968 square feet	<b>2,984 square feet</b>

\*Per Section 1.5.3.B, no structure need be set back more than the average of the structures on either side of it.

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.4	To allow attached single-family dwellings in an MR1 zoning district	S.P. per §7.3.3
§3.2.4	To reduce the lot area requirement	S.P. per §7.3.3
§3.2.4	To reduce the side setback requirement	S.P. per §7.3.3
§3.2.4	To reduce the lot area per unit requirement	S.P. per §7.3.3
§3.2.4	To reduce the lot coverage requirement	S.P. per §7.3.3
§6.2.3.B.2 §3.2.4	To allow parking within 20 feet of a side lot line	S.P. per §7.3.3
§6.2.3.B.2 §3.2.4	To allow a driveway within 10 feet of a side lot line	S.P. per §7.3.3

### **Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

### **The following must be included when filing a Special Permit Application:**

9. Two (2) copies of the completed Special Permit Application (signed by property owner)
10. Filing Fee (see Special Permit Application)
11. Two (2) copies of the Zoning Review Memorandum
12. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
13. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
14. One (1) copy of any previous special permits or variances on the property (as applicable)
15. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
16. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

### **Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N