



**City of Newton, Massachusetts**  
Department of Planning and Development  
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#65-18

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Ruthanne Fuller  
Mayor

Barney Heath  
Director

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## **PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	February 6, 2018
Land Use Action Date:	April 10, 2018
City Council Action Date:	April 16, 2018
90-Day Expiration Date:	May 7, 2018

DATE: February 2, 2018

TO: City Council

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

SUBJECT: **Petition #65-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #152-14 to amend the site plan at **1186 Chestnut Street/Indiana Court**, Ward 5, Upper Falls, on land known as Section 51, Block 40, Lot 23, containing approximately 5,383 sq. ft. of land in a district zoned Multi Residence 1. Ref: §7.3.3, and §7.4, of Chapter 30 of the Newton Revised Zoning Ordinance, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Public Hearing/Working Session.



**1186 Chestnut Street**

## **EXECUTIVE SUMMARY**

The property located at 1186 Chestnut Street consists of a 5,383 square foot lot improved with a single-family residence constructed circa 1910. The property is located in the Multi Residence 1 (MR-1) zone in Upper Falls. The property is a through lot with frontages on Chestnut Street and Indiana Court. In 2014, the petitioner received a special permit to enclose the then surface parking area, creating a two-car garage accessed from Chestnut Street. In May of 2017, the petitioner received a building permit to construct a driveway and a surface parking stall accessed from Indiana Court. Condition #1 of Board Order #152-14 requires that "All buildings parking areas, driveways, walkways, landscaping and other site features be consistent" with the approved plans. The driveway and parking stall accessed via Indiana Court were permitted without receiving such a determination and were later deemed to not be consistent with the approved plans. As a result, the building permit was issued in error. The petitioner seeks to rectify that error by amending the previously approved site plan.

Given the grade of the subject property, it is practical for the petitioner to install the driveway and surface parking stall along the Indiana Court frontage. The design also includes a turnaround for a vehicle to utilize before exiting the site onto Indiana Court. Staff suggests the petitioner consider constructing the turnaround out of pavers, which may serve as patio space when not in use.

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

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed driveway and surface parking stall (§7.3.3.C.1.).
- The proposed driveway and surface parking stall as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2.).
- There will be no 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.).

### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

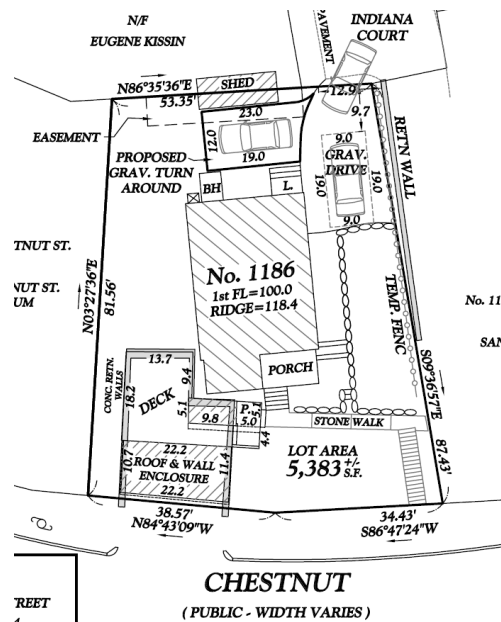
#### **A. Neighborhood and Zoning**

The subject property is a through lot with frontages on Chestnut Street and Indiana Court in the MR-1 zone in Upper Falls. The properties to the north of Chestnut Street are located in the MR-1 zone and contain single-family uses. The properties

to the south and south west are located in a variety of zones from Public Use, to Business 1 and 2, and Manufacturing. These parcels contain a number of different uses which comprise the Needham Street corridor **(Attachments A & B)**.

B. Site

The property consists of 5,383 square feet of land and is improved with a 1.5-story single-family residence. The front yard along Chestnut Street is located on a significant slope where the first-floor elevation of the dwelling is approximately 20 feet higher than the grade of Chestnut Street, while the front yard along Indiana Court is predominantly flat. As a result, the Chestnut Street frontage contains a system of retaining walls which allow for the parking area along Chestnut Street. This parking area was enclosed, creating a garage, via a special permit obtained by the petitioner in 2014. Part of that special permit request allowed the enlargement of a deck atop the garage.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a single-family residence.

B. Building and Site Design

The petitioner is not proposing major changes to either the structure or site. The petitioner received a building permit in May of 2017 to construct the driveway and surface parking stall at the rear of the lot which are accessed from Indiana Court.

Both the driveway and surface stall are constructed out of crushed stone and meet the dimensional standards of the Newton Zoning Ordinance. The design also includes an area for a vehicle to turnaround before exiting onto Indiana Court. Although, the turnaround will increase the amount of impervious surface on the lot, and consume much of the front yard, the turnaround is preferable than a vehicle reversing onto Indiana Court. Staff suggests the petitioner consider constructing the turnaround out of pavers, which may serve as patio space when not in use, instead of gravel as is indicated on the plan.

#### 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 Memorandum, the petitioner is seeking the following relief:

- Amend Board Order #152-14.

##### B. Engineering Review

The proposed driveway and surface parking stall do not meet the threshold for review from the Engineering Division of Public Works.

#### V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

#### **ATTACHMENTS:**

- |                      |  |
|----------------------|--|
| <b>Attachment A:</b> | Zoning Map                                       |
| <b>Attachment B:</b> | Land Use Map                                     |
| <b>Attachment C:</b> | Zoning Review Memorandum, dated December 5, 2017 |
| <b>Attachment D:</b> | DRAFT Council Order                              |

# Attachment A Zoning Map Chestnut St., 1186 *City of Newton, Massachusetts*

## Legend

-  Multi-Residence 1
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Manufacturing
-  Mixed Use 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

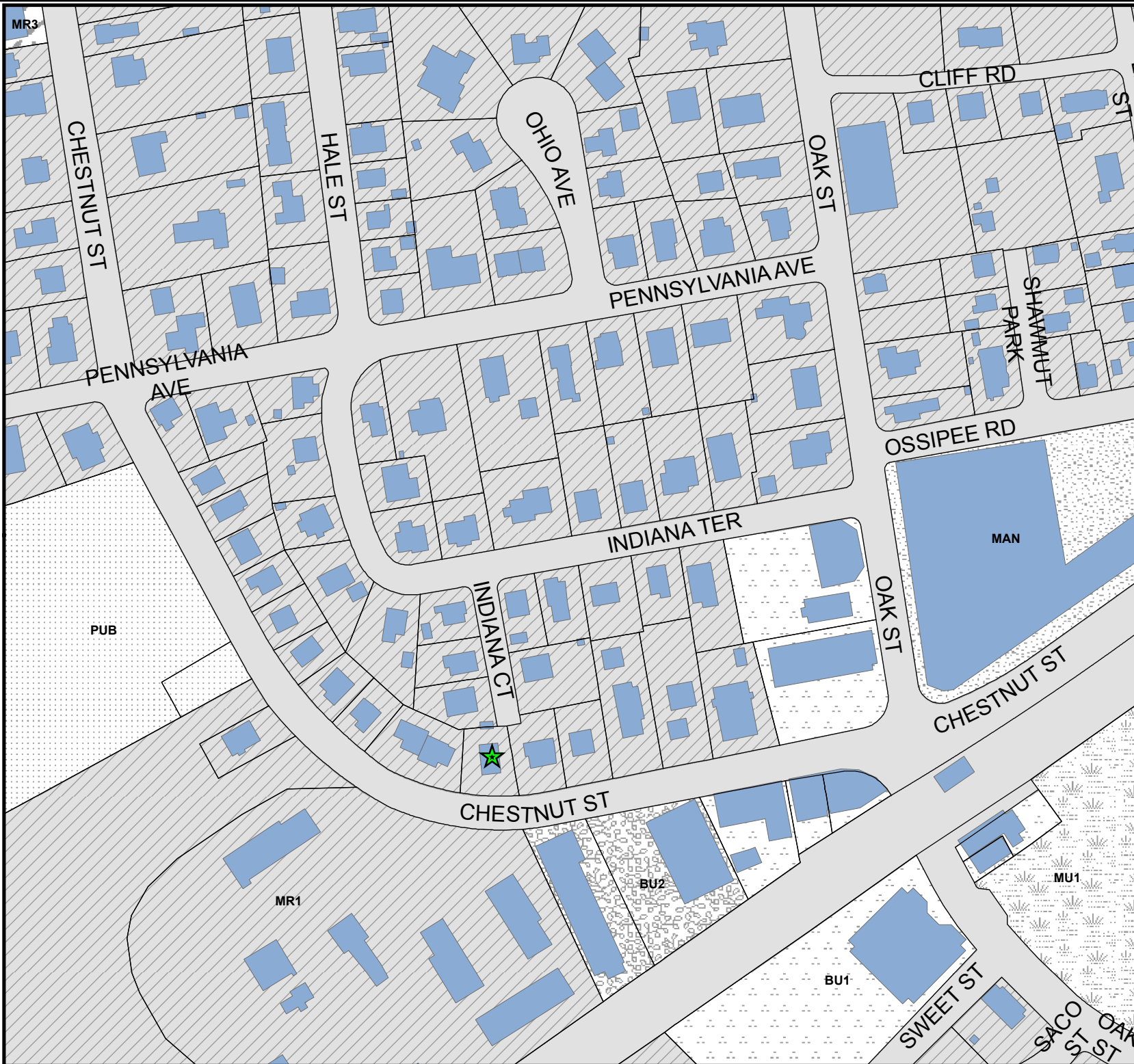


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller

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Feet

Map Date: January 30, 2018





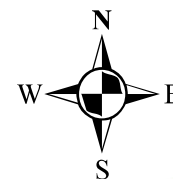
# Attachment B Land Use Map Chestnut St., 1186 *City of Newton, Massachusetts*

## Legend

### Land Use

### Land Use

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

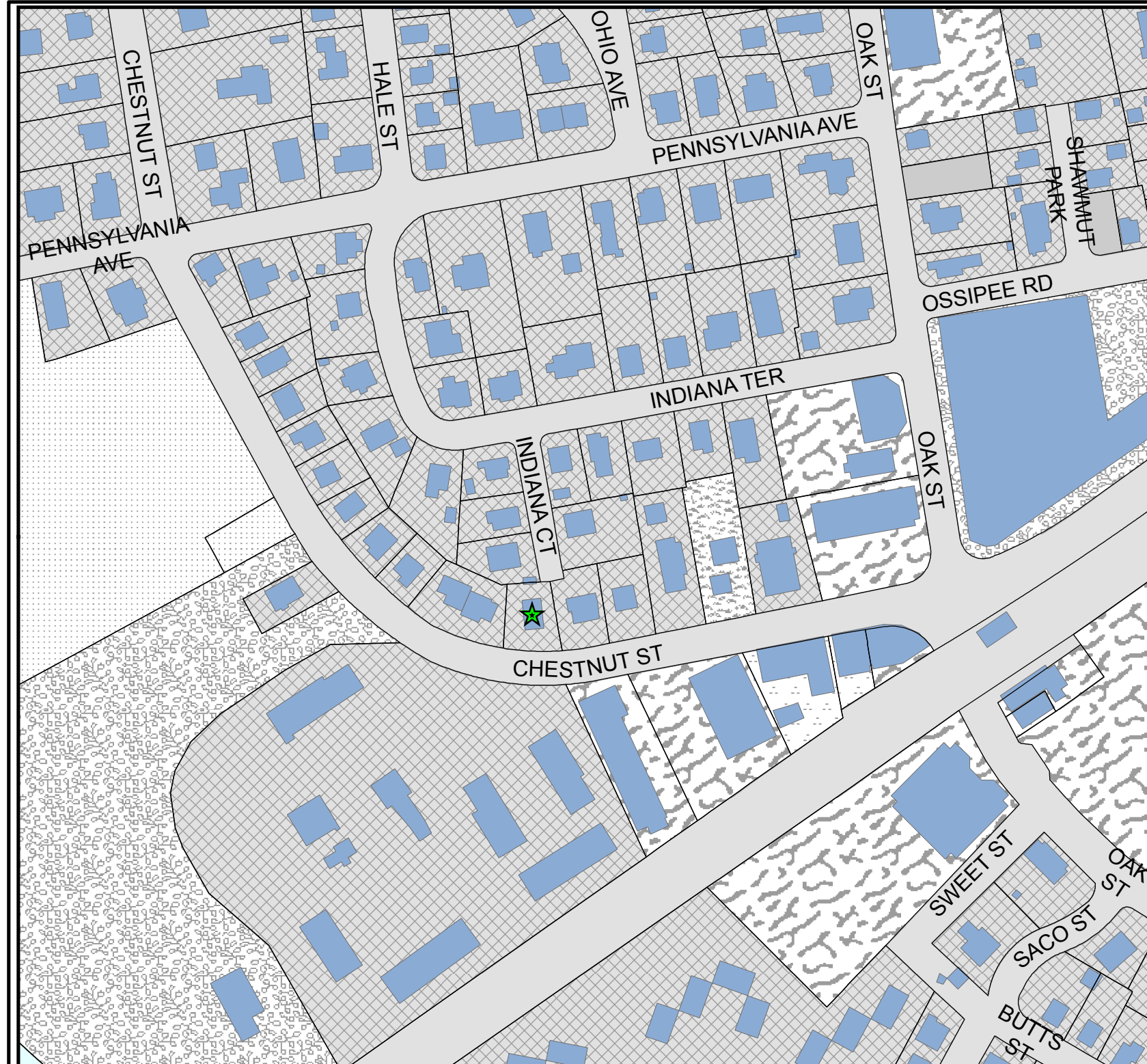


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller

0 50 100 200  
Feet

Map Date: January 30, 2018





Setti D. Warren  
Mayor

Attachment C

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Barney S. Heath  
Director

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## ZONING REVIEW MEMORANDUM

Date: December 5, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: Irene Del Bono, Attorney  
Seyed Zekavat, Petitioner  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to amend Special Permit #152-14 to allow a second driveway

Applicant: Seyed Zekavat	
Site: 1186 Chestnut Street	SBL: 51040 0023
Zoning: MR1	Lot Area: 5,383 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 1186 Chestnut Street consists of a 5,412 square foot lot improved with a single-family residence constructed in 1910. The residence sits atop a steep slope and can be accessed from the front from Chestnut Street, and at the higher elevation at the rear from Indiana Court. The petitioner received a special permit in 2014 to allow for the extension of existing nonconforming retaining walls around the Chestnut Street driveway to be extended vertically, and a roof constructed to create an enclosed parking area. The petitioner now proposes to construct a paved driveway off of Indiana Court, requiring an amendment to the existing special permit site plan.

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

- Zoning Review Application, prepared by Irene Del Bono, attorney, dated 10/16/2017
- As-Built Plan of Land, signed and stamped by Christopher C. Charlton, surveyor, dated 9/1/2017
- Plan of Land, signed and stamped by Ralph Bibbo, surveyor, dated 3/24/2008

## ADMINISTRATIVE DETERMINATIONS:

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1. The petitioners proposed to construct and pave a 19 foot long by 9 to 12.9 foot wide parking area at the rear of the property accessed off of Indiana Court. Special Permit #152-14 was approved in 2014 permitting the enclosure of an existing paved driveway off of Chestnut Street. While the proposed driveway does not impact the construction permitted by Special Permit #152-14, Condition 1 requires that all buildings, parking areas, driveways, walkways and other site features be consistent with plans approved with the special permit. The special permit must be amended to include updated plans showing the proposed driveway off Indiana Court.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>5,383 square feet</b>	<b>No change</b>
Frontage	70 feet	75 feet	No change
Setbacks for existing structure <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 7.5 feet 15 feet	<b>0 feet</b> <b>6.1 feet</b> 22 feet	<b>0 feet</b> <b>No change</b> No change
FAR	.57	.33	.33
Max. Lot Coverage	30%	<b>31.4%</b>	<b>No change</b>
Min. Open Space	50%	67.1%	58.8%

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #152-14	



### **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:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. 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)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. 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

CITY OF NEWTON  
IN CITY COUNCIL

ORDERED:

That the 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 amend the previously approved site plan, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed driveway and surface parking stall because the driveway and surface parking stall provide an at-grade access to the dwelling. (§7.3.3.C.1)
2. The proposed driveway and surface parking stall as developed and operated will not adversely affect the surrounding neighborhood because the driveway and parking stall will only accommodate one vehicle thereby limiting vehicular access. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the design incorporates a turnaround which will allow vehicles to utilize before exiting the site. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #65-18

PETITIONER: Seyed A. Zekavat

LOCATION: 1186 Chestnut Street, Ward 1, on land known as Section 71, Block 16, Lot 01, containing approx. 12,320 sq. ft. of land

OWNER: Seyed A. Zekavat

ADDRESS OF OWNER: 368 Boylston Street, Unit B  
Newton, MA 02459

TO BE USED FOR: Driveway and surface parking stall

EXPLANATORY NOTES: §7.3.3 to Board Order #152-14 to amend the site plan

ZONING: Multi-Residence 1 (MR-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:
  - i. Site Plan entitled "Gravel Drive As-Built Plan Located at 1186 Chestnut Street" signed and stamped by Christopher Charlton, Professional Land Surveyor, dated 2/1/18
2. No Final Inspection/Occupancy 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. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a professional land surveyor certifying compliance with Condition #1.
  - d. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.