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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 5, 2019
Land Use Action Date: April 9, 2019
City Council Action Date: April 15, 2019
90-Day Expiration Date: May 6, 2019

DATE: February 1, 2019

TO: City Council

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

SUBJECT: **Petition #623-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to convert a two-family dwelling into a three-unit multi-family dwelling by converting the existing attic space, allow parking within 5' of residential dwelling units, to waive the minimum aisle width requirements, to waive driveway width, and to waive lighting requirements at **20-22 Circuit Avenue**, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot 39, containing approximately 12,353 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3., 7.4, 3.4.1, 5.1.8.A.2, 5.1.13, 5.1.8.C.2, 5.1.8.C.2, 5.1.10.A, 5.1.8.D.1 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.



20-22 Circuit Avenue

EXECUTIVE SUMMARY

The subject property, 20-22 Circuit Avenue, consists of a 12,353 square foot lot improved with a three-story, two-family dwelling constructed circa 1900 located in the Multi-Residence 2 (MR2) zoning district. The petitioner proposes to convert existing attic space into a third unit, thus rendering the existing two-family dwelling a multi-family dwelling. An exterior egress stair is proposed for the rear of the property to create access to the proposed third unit. The stair would also serve the other two units.

A special permit per section 3.4.1 of the Newton Zoning Ordinance is required to allow a multi-family dwelling in the MR2 zoning district. As the petitioner is also proposing the addition of a sixth parking stall to satisfy the two-space per dwelling unit requirement, exceptions to certain requirements for parking areas with more than five spaces, e.g., to allow parking within five feet of a dwelling, allow a two-way aisle less than 24 feet in width, and to not provide lighting in the parking area, are sought as well.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling (§7.3.3.C.1).
- The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding 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 site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
- Literal compliance with the parking standards regarding parking within five feet of a dwelling, minimum aisle width, and minimum lighting levels is impractical due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that granting exceptions to such requirements 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 surrounding neighborhood, the topography of which rises steeply west of Circuit Avenue, consists almost entirely of single, two-, three- and multi-family dwellings, with exceptions including four lots comprising the Martin Conservation Area across Circuit Avenue. This mix of residential uses is largely reflected in the area's zoning, with the neighborhood south of Boylston Street (Route 9) to the east zoned Multi-Residence 2 (MR2), the area directly across Circuit Avenue and further west zoned either Single Residence 3 (SR3) or Multi-Residence 1 (MR1), with

exceptions being the Martin Conservation Area which is zoned for Public Use (PUB) (**Attachments A and B**).

B. Site

The subject property consists of an MR2 zoned 12,353 square foot lot located on the east side of Circuit Avenue just south of Boylston Street improved with a 3-story, two-family dwelling. The grade of the lot slopes down approximately nine feet from the front left to rear right (northwest to south east).

The site features mature trees, shrubbery as well as a large lawn area to the left (north) of the existing dwelling. Fencing exists along or near several portions of the site's boundaries, including the site's right (south) property line closest to the paved parking area. The property's left (north) side yard is screened from the street by a row of several evergreen trees.

The property is served by an approximately 23.7 feet wide curb cut on Circuit Avenue on the right (south) side of the property that currently provides access to a five-stall surface parking facility.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner proposes to convert existing attic space in the existing two-family dwelling into a residential unit, creating a three-unit multi-family dwelling.

B. Building and Site Design

To facilitate the use of the property as a three-unit multi-family dwelling, an exterior open stair system with associated deck and porch space would be constructed on the rear of the structure that would serve all three floors and the ground level. The stair system would be connected to the existing porch on the left (north) side of the dwelling. One rear window on each of the 1st, 2nd, and 3rd floors of the dwelling would be converted to a door to allow access via the exterior stairs.

The stair structure would not be enclosed or roofed. As it would be lower in height than the dwelling, the structure's existing height of 42.6 feet would remain unchanged, as would the number of stories (three).

As proposed, the lot area per unit of 4,118 square feet complies with the minimum 3,000 square feet per unit required. (Please note that the Newton Zoning Ordinance does not establish floor area ratio (FAR) requirements for multi-family dwellings in a Multi-Residence district.)

The front setback would remain unchanged at 14.1 feet. The relevant side setback

from the left (north) property line to the proposed stair structure would be 42.9 feet, significantly more than the required 7.5 feet. The setback from the rear property line would be 19.6 feet, greater than the minimum 15 feet.

The existing lot coverage of 15.7% would not increase, remaining well below the maximum 30% allowed; open space would decrease slightly, from 68.7% to 65.8%, but remain well above the required 50% minimum.

C. Parking and Circulation

There are five existing parking stalls located on the northeast side of the property directly adjacent to the existing dwelling. The petitioner intends to add an additional stall by expanding the parking area to the rear to accommodate one additional vehicle. The new stall, like the existing five, would be within five feet of the dwelling.

All six stalls would be accessed by the existing paved area which would be expanded to the rear for the additional stall and small maneuvering area. The width of the existing circulation aisle width would not be increased and the parking area would continue have a two-way, 17-foot-wide aisle, narrower than minimum 24 feet aisle width required for two-way traffic for 90 degree parking per section 5.1.8.C.1 and 2. Maintaining the existing width allows for an 8' wide landscaped area to be located along the right (south) property line.

The petitioner has not proposed any lighting for the outdoor parking areas as required by the NZO.

D. Landscaping

The petitioner has not submitted a landscape plan. That said, the submitted site plan, indicates the location of an "8' Wide Landscaping Area" along the right (south) side property line. The Planning Department notes, as discussed above, the property features fencing and mature trees and other vegetation along its boundaries, including along Circuit Avenue. To help ensure the preservation of these screening features, the Planning Department suggests that should this petition be approved, any resulting order include a condition requiring the petitioner to submit a final landscape plan showing the existing vegetation along the back of the Circuit Avenue sidewalk and additional detail about the vegetation within the "8' Wide Landscaping Area" referenced above to the Director of Planning and Development for review and approval prior to the issuance of a building permit.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**Attachment C**) provides an analysis of the

proposal with regard to zoning. The petitioner is seeking the following relief:

- S.P. per §7.3.3 to
 - allow a multi-family dwelling (§3.4.1)
 - allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13)
 - waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13)
 - waive lighting requirements (§5.1.10.A, §5.1.13)

B. Engineering Review

No review by the Engineering Division of Public Works is necessary at this time. Should this petition be approved, the Engineering Division will review the project prior to the issuance of a building permit.

C. Newton Historical Commission

The project does not meet the minimum criteria for Newton Historical Commission (NHC) review.

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: DRAFT Order

Land Use

20-22 Circuit Ave.

City of Newton,
Massachusetts

Land Use

Land Use

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

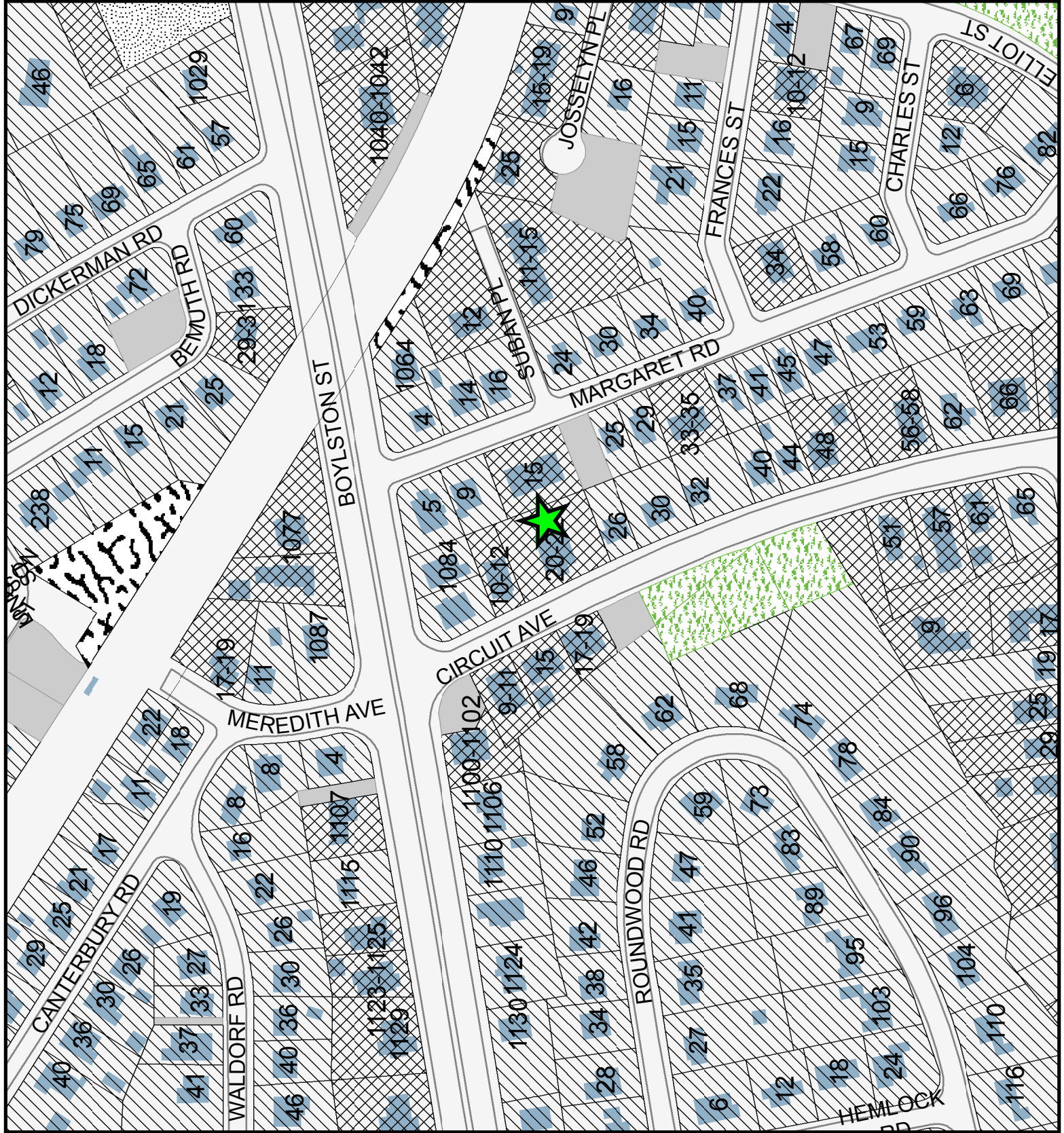


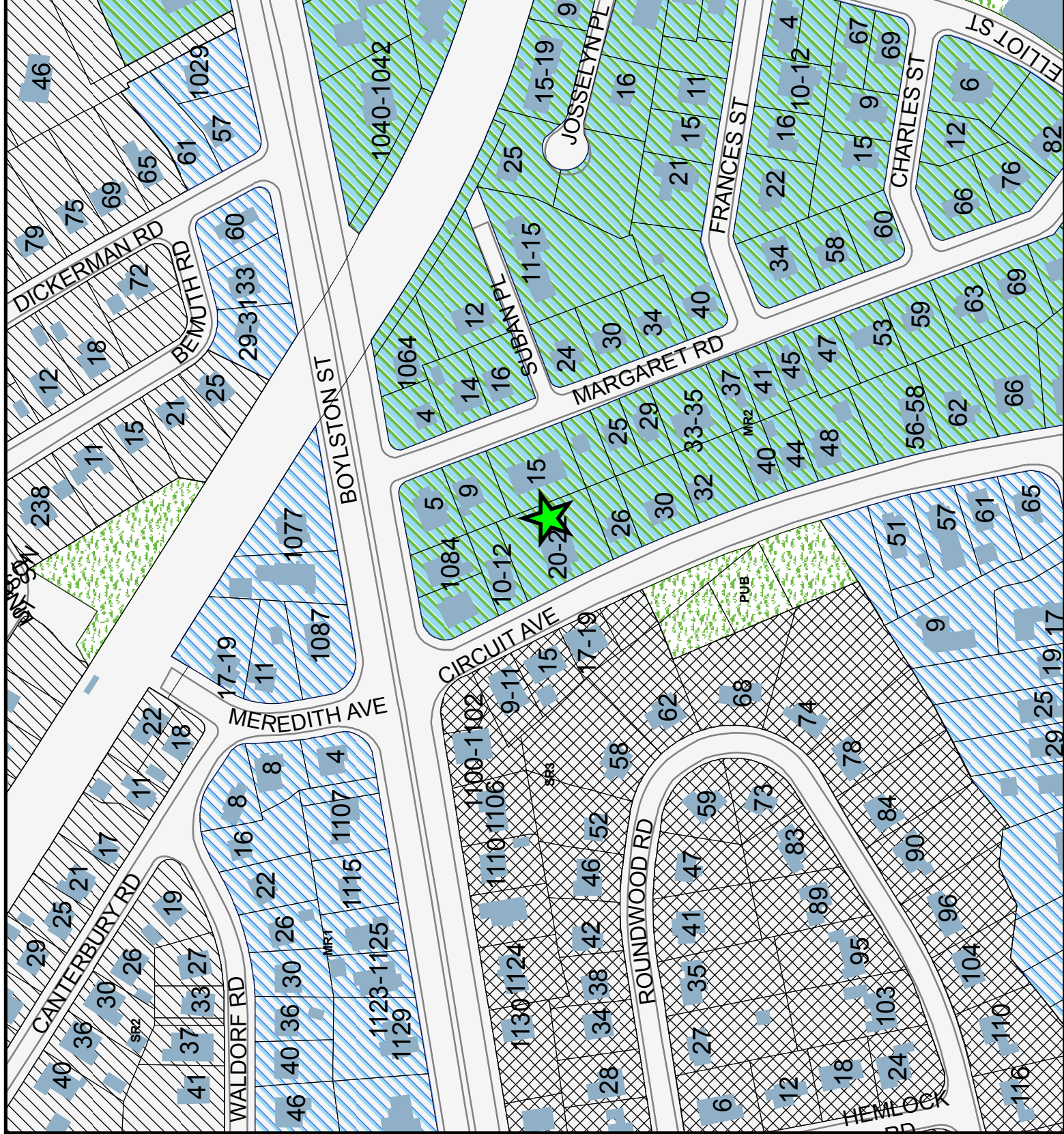
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 25 50 75 100 125 150 175 200 225 Feet

Map Date: January 25, 2019





ATTACHMENT C



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: December 5, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Arthur Kalotkin, Applicant
Terrence Morris, Attorney
Barney S. Heath, Director of Planning and Development
Alissa Giuliani, City Solicitor

RE: **Request to allow for the conversion of a two-family dwelling to a multi-family dwelling and associated parking waivers**

Applicant: Arthur Kalotkin	
Site: 20-22 Circuit Avenue	SBL: 51020 0039
Zoning: MR2	Lot Area: 12,353 square feet
Current use: two-family dwelling	Proposed use: 3-unit multi-family dwelling

BACKGROUND:

The property located at 20-22 Circuit Avenue consists of a 12,353 square foot lot improved with a two-family dwelling constructed circa 1900 located in the MR2 zoning district. The petitioner proposes to convert existing attic space into a third unit to create a multi-family dwelling. An exterior egress stair is proposed for the rear of the property for the benefit of the third unit. The project as proposed requires a special permit for the multi-family dwelling, as well as relief from various parking requirements.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 10/17/2018
- Site Plan, prepared by Everett M. Brooks, surveyor, dated 4/3/2018
- Special Permit #279-90

- Architectural Plans and Elevations, signed and stamped by Mark Sangiolo, dated 10/30/2016

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to convert existing attic space in the existing two-family dwelling into a residential unit, creating a three-unit multi-family dwelling. Per section 3.4.1, a special permit is required to allow a multi-family dwelling in the MR2 zoning district.

The property sought a special permit in 1990 for this same conversion. The special permit (#279-90) was granted and filed at the Registry of Deeds, but was never exercised.

2. There are five existing parking stalls located on the northeast side of the property directly adjacent to the existing dwelling. The petitioner intends to increase the parking to accommodate six vehicles. Per section 5.1.8.A.2, outdoor parking within five feet of a structure containing dwelling units requires a special permit.
3. The minimum aisle width required for two-way traffic for 90 degree parking is 24 feet per section 5.1.8.C.1 and 2. The petitioner proposes a 17 foot-wide aisle accommodating two-way traffic, requiring a special permit.
4. Section 5.1.10.A sets out lighting requirements for parking facilities with more than five stalls. No lighting is proposed for the outdoor parking areas. To the extent that the parking does not meet the requirements of section 5.1.10.A, a special permit is required.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,353 square feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	14.1 feet 42.9 feet 19.6 feet	No change No change No change
Building Height	36 feet	42.6 feet	No change
Stories	3	3 stories	No change
Lot Area Per Unit	3,000 square feet	6,177 square feet	4,118 square feet
Max Lot Coverage	30%	15.7%	No change
Min Open Space	50%	68.7%	65.8%
Parking	2 per unit	5	6

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1	Request to allow a multi-family dwelling	S.P. per §7.3.3
§5.1.8.A.2 §5.1.13	To allow parking within five feet of a structure with residential dwelling units	S.P. per §7.3.3
§5.1.8.C.1 §5.1.8.C.2 §5.1.13	To waive the minimum aisle width requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	To waive lighting requirements	S.P. per §7.3.3

ATTACHMENT D

DRAFT #23-18
20-22 Circuit Avenue

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 allow a three-unit multifamily dwelling, and to allow exceptions to certain parking requirements related to the location of parking stalls within five feet of a dwelling, minimum aisle width and minimum lighting, 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 three-unit, multi-family dwelling given the presence of other multi-family structures in the neighborhood (§7.3.3.C.1);
2. The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood given the presence of other multi-family structures in the neighborhood and because all required parking is accommodated on site (§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 the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
5. The requested exceptions to literal compliance with the parking standards, including allowing parking within five feet of a structure with residential dwelling units and waiving the minimum aisle width and lighting requirements, are in the public interest because they will allow the preservation of landscaped open space on the lot and be consistent with the residential nature of the neighborhood (§5.1.13).

PETITION NUMBER: #623-18

PETITIONER: Arthur Kalotkin

LOCATION: 20-22 Circuit Avenue, Ward 5, on land known as Section 51, Block 20, Lot 39, containing approx. 12,353 sq. ft. of land

OWNER: Arthur Kalotkin

ADDRESS OF OWNER: 32 Claflin Rd.
Brookline, MA 02445

TO BE USED FOR: Three unit, multi-family dwelling

EXPLANATORY NOTES: Special Permit per §7.3 to allow a multi-family residential use in an Multi-Residence 2 (MR2) zoning district(§3.4.1);allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13); waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13), and waive lighting requirements (§5.1.10.A, §5.1.13).

ZONING: Multi-Residence 2 (MR-2) 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 plan entitled "Site Plan for 20-22 Circuit Avenue in Newton, Mass.," prepared by Neponset Valley Survey Assoc., Inc., signed and stamped on December 10, 2018 by Stephen P. Desroche, Professional Land Surveyor.
 - b. Architectural drawings entitled "Exterior Stair Addition to 20 & 22 Circuit Ave, Newton, MA," prepared by Sangiolo Associates, signed and stamped by Mark Sangiolo, Registered Architect, dated October 30, 2016, consisting of the following:
 - i. EX1 (showing existing floor plans of the third floor, second floor, first floor and basement and rear elevation;
 - ii. A4 (showing proposed rear elevation and side elevation of stair).
2. Prior to the issuance of any building permit for the Project, 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.
3. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan which shall include existing and/or proposed vegetation along the back of the Circuit Avenue sidewalk and additional detail about the vegetation within the "8' Wide Landscaping Area" shown in the plan cited in Condition 1(a), for review and approval to the Director of Planning and Development.

4. 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. 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.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
 - e. Submitted a Final Landscape Plan to the Director of Planning and Development for review and approval.
9. No Final Inspection/Occupancy Permit 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 a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. 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.
 - 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, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
10. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.
11. Notwithstanding the provisions of Condition #9d 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 provide 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.