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Department of Planning and Development
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#123-19

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	May 7, 2019
Land Use Action Date:	July 8, 2019
City Council Action Date:	July 13, 2019
90-Day Expiration Date:	August 5, 2019

DATE: May 3, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #123-19**, for a SPECIAL PERMIT/SITE PLAN to allow an accessory apartment in existing space in a dwelling constructed less than four years ago at 35 Cherry Street, Ward 3, West Newton, on land known as Section 34 Block 37 Lot 86, containing approximately 7,575 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 6.7.1.C.5 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



63 Cherry Street

EXECUTIVE SUMMARY

The subject property at 35 Cherry Street consists of a 7,575 square foot corner lot located in the Single Residence 3 zone in West Newton at Cherry and Russell Streets. The property is improved with a single-family dwelling with an attached two car garage constructed in 2018. The petitioners propose to convert 627 square feet of existing finished space over the attached garage into an internal accessory apartment. Due to the home being less than four years old, a special permit is required to allow an accessory apartment in a dwelling constructed less than four years ago.

There are several multifamily uses throughout the neighborhood and the proposed internal accessory apartment fits within the context of the neighborhood and would contribute to providing a diversity of housing options. The petitioner has identified a proposed deck on the plans, otherwise no physical changes would be made to the exterior of the existing dwelling, which is fully compliant with the dimensional standards of the SR-3 zone, including building height and floor area ratio. For these reasons, staff believes the proposed internal accessory apartment will not adversely affect the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed internal accessory apartment. (§7.3.3.C.1)
- The proposed internal accessory apartment will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed internal accessory apartment will 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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Cherry Street in the SR-3 zone in West Newton, near the Waltham City line. The entire neighborhood is located within the SR-3 zone, however the area contains many nonconforming multi-family uses because the area

was previously zoned for such use (**Attachments A & B**).

B. Site

The site consists of 7,575 square feet of land, is situated on a corner lot at Cherry and Russell Streets, and is improved with a single-family residence and attached garage constructed in 2018. The site is served by one 20-foot-wide curb cut off of Cherry St at the eastern property line providing access to a driveway and a two-car attached garage. The site is relatively flat with little to no landscaping.

III. PROJECT DESCRIPTION AND ANALYSIS

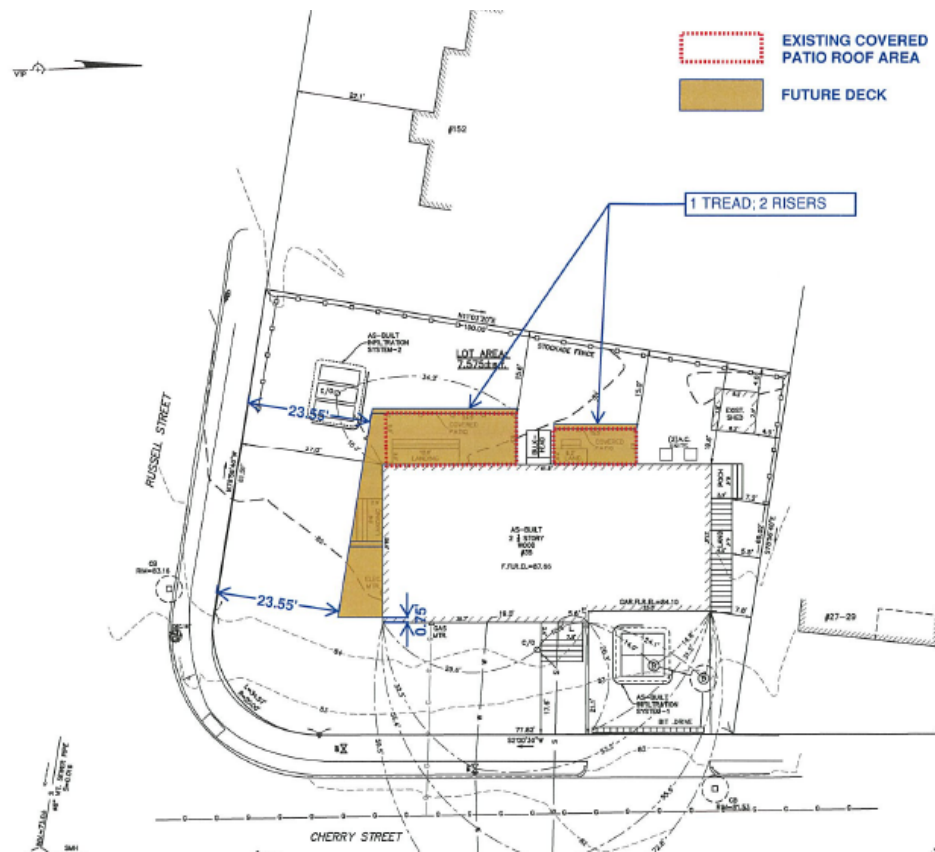
A. Land Use

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

B. Building & Site Design

The petitioners are proposing to convert 627 square feet of finished space above the existing attached two car garage into an accessory apartment. The petitioners are not proposing to construct any new interior living space. The petitioners included a proposed deck space on the submitted plans which alters the rear setback, lot coverage and open space.

The structure will remain compliant with the dimensional standards of the SR-3 zone, including building height and floor area ratio. The accessory apartment will contribute to a diversity of housing options by providing a small, accessory unit within an existing single-family home. The accessory unit will utilize existing space within the home, which meets all dimensional requirements regarding building size and height. For these reasons, staff does not believe the proposed internal accessory apartment will adversely affect the neighborhood.



C. Parking and Circulation

The petitioner is not proposing any changes to the parking or circulation.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §6.7.1.C.5 of Section 30, to allow an accessory building in a dwelling constructed less than four years ago.

B. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering

Division.

C. Historic Review

This petition does not meet the threshold for Historic review.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

Attachment A:	Zoning Map
Attachment B:	Land Use Map
Attachment C:	Zoning Review Memorandum
Attachment D:	DRAFT Council Order

Attachment A Zoning Map 35 Cherry St.

City of Newton,
Massachusetts

Legend

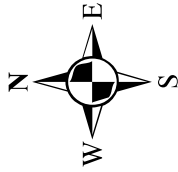
Single Residence 3

Business 1

Building Outlines

Surface Water

Property Boundaries

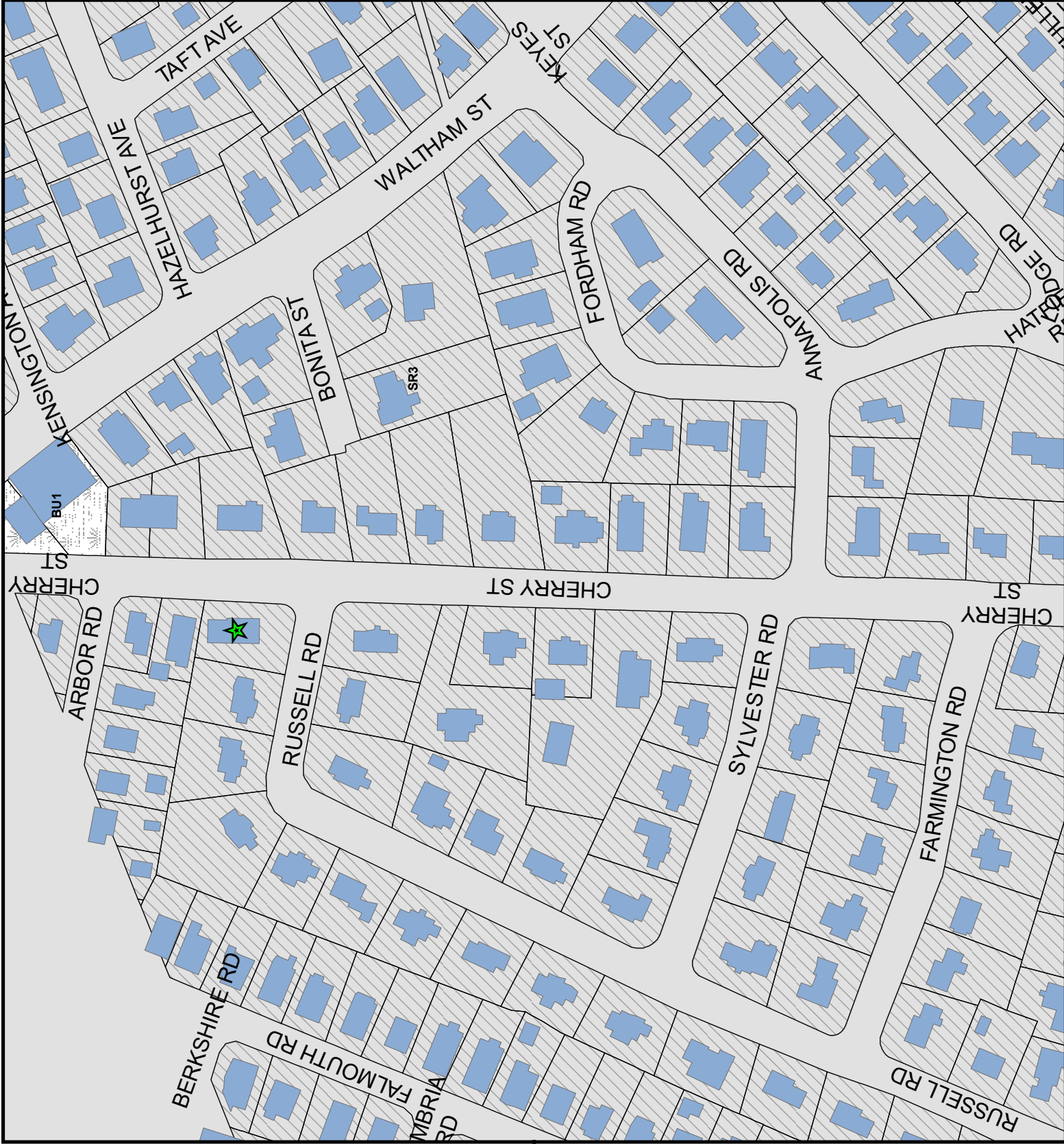


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: April 11, 2019



Attachment B Land Use Map 35 Cherry St.

City of Newton,
Massachusetts

Legend

Land Use

Land Use

Single Family Residential

Multi-Family Residential

Commercial

Mixed Use

Vacant Land

Building Outlines

Surface Water

Property Boundaries

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CITY OF NEWTON, MASSACHUSETTS
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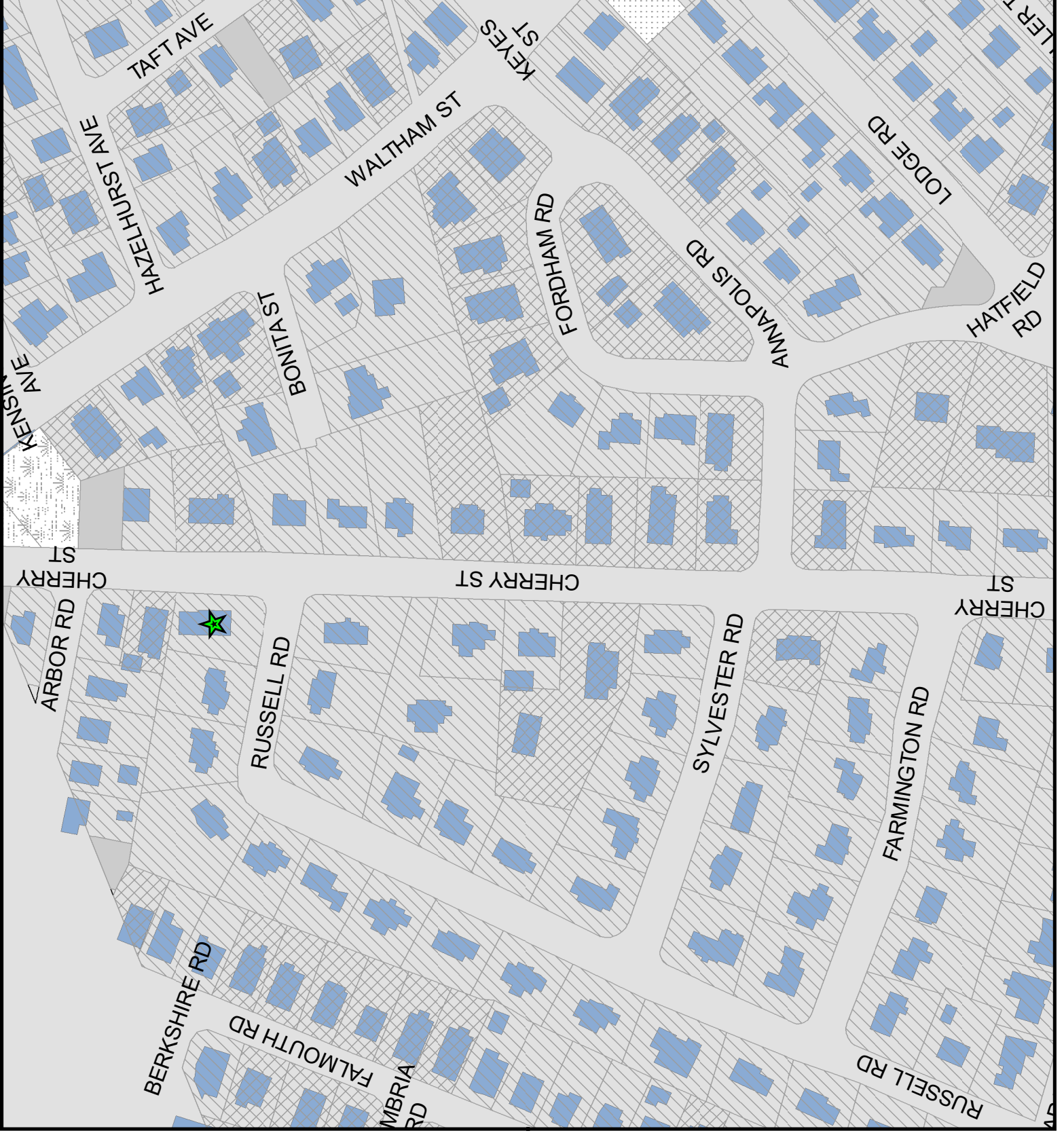
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50

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feet





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 5, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Suneeth and Swaati Joseph, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow an accessory apartment in a dwelling constructed less than four years ago

Applicant: Suneeth and Swaati Joseph	
Site: 35 Cherry Street	SBL: 34037 0086
Zoning: SR3	Lot Area: 7,575 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 35 Cherry Street consists of a 7,575 square foot corner lot improved with a single-family residence constructed in 2018 with a by right building permit. The petitioners propose to convert existing finished space over the attached garage into an accessory apartment.

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

- Zoning Review Application, prepared by Suneeth and Swaati Joseph, applicants, dated 1/17/2019
- Architectural Plans, prepared by Dreamline Modular Homes, dated 10/16/2017
- Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/9/2018, revised 7/12/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners received an occupancy permit for the newly constructed single-family dwelling in 2018. They now seek to convert 627 square feet of finished space above the attached two-car garage into an accessory apartment. Per section 6.7.1.C.5, a special permit is required for an accessory apartment in a dwelling less than four years old.
2. The petitioners do not intend to construct any new interior living space for the accessory apartment, however outdoor deck space is proposed, which does not require any relief but accounts for changes in the setbacks as described in the following table.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	7,575 square feet	No change
Frontage	70 feet	99 feet	No change
Setbacks			
• Front	20.7 feet	25.8 feet	No change
• Front	23.55	24.7 feet	No change
• Side	7.5 feet	7.8 feet	No change
• Rear	15 feet	19.6 feet	15 feet
Max Lot Coverage	30%	15.3%	28.9%
Min. Open Space	50%	73.7%	63.1%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§6.7.1.C.5	Request to allow an accessory apartment in a dwelling constructed less than four years ago	S.P. per §7.3.3

#123-19
35 Cherry St.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an internal accessory apartment in existing space in a dwelling constructed less than four years ago at 35 Cherry St., as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the proposed internal accessory apartment within a single-family dwelling in a Single Residence 3 (SR-3) district because the neighborhood is comprised of a mix of single family residential and multi-family residential uses and will contribute to a diversity of housing options. (§7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within a single-family dwelling and meets all dimensional standards of the SR-3 zone. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians, as the property's driveway on Cherry Street is able to accommodate the parking demand of the principal dwelling and accessory apartment. (§7.3.3.C.3)
4. Access to the site is appropriate for the number of vehicles related to the residential use of the site. (§7.3.3.C.4)

PETITION NUMBER: #123-19

PETITIONER: Swaathi Joseph and Suneeth John

LOCATION: 35 Cherry St., on land known as Section 55, Block 48, Lot 17, containing approximately 7,575 square feet of land

OWNERS: Swaathi Joseph and Suneeth John

ADDRESS OF OWNER: 35 Cherry Street
Newton, MA 02465

TO BE USED FOR: Accessory apartment in a single-family dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §6.7.1.C.5 To allow an accessory apartment in a dwelling constructed less than four years ago;

ZONING: Single Residence 3 (SR-3) 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 "35 Cherry Street," dated July 9, 2018, revised July 12, 2018, prepared by VTP Associates stamped and signed by Joseph Porter, Registered Land Surveyor; and Suneeth P. John, Registered Landscape Architect
 - b. A floor plan entitled "Second Floor Floor Plan," dated October 16, 2017, prepared by Excel Homes, approved by PFS Corporation, Northeast region.
2. The accessory apartment must be held in common ownership with the principal dwelling unit.
3. The owner of the dwelling shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. When ownership of the property changes the new owner shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
5. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
6. No Final Inspection and/or Occupancy Permit for the buildings 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 land surveyor 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 and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final site plan.