



#262-20

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	July 7, 2020
Land Use Action Date:	September 22, 2020
City Council Action Date:	October 5, 2020
90-Day Expiration Date:	October 5, 2020

DATE: July 2, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #262-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an oversized accessory apartment in a detached structure that does not meet principal building setbacks, to allow a neighborhood clubhouse, and to allow the expansion of a nonconforming accessory structure with a footprint of over 700 square feet at **25 Paul Street**, Ward 6, Newton Centre, on land known as Section 62 Block 13 Lot 06, containing approximately 15,000 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.1, 3.4.1, 6.7.1.E.2, 3.2.3, 6.7.1.E.6, 3.4.3.A.3, 7.8.2.C.2 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.



25 Paul Street

EXECUTIVE SUMMARY

The subject property consists of a 15,000 square foot lot improved with a two-family dwelling constructed circa 1900 and a nonconforming detached single-story accessory structure consisting of 2,090 square feet. The property is located within the Multi Residence 2 (MR-2) zoning district in Newton Centre. The petitioner is seeking to establish an accessory apartment, and a neighborhood clubhouse within the footprint of an existing detached accessory structure, and to construct a garage addition to the existing detached structure. The petitioner requires a special permit for an accessory apartment in a detached structure, an accessory apartment in a detached structure that does not meet principal building setbacks, an oversized detached accessory apartment, to allow a neighborhood clubhouse use, and to further enlarge a nonconforming detached structure with a ground floor area larger than 700 square feet.

The Planning Department is unconcerned with the requests relating to the size and placement of the accessory apartment and the neighborhood clubhouse use for this site. The proposed accessory apartment and neighborhood clubhouse are proposed within the footprint of the existing detached accessory structure. The proposed garage addition that enlarges the existing nonconforming footprint will be minimally visible from the street and meets side and rear setback requirements. The site is an appropriate location for the neighborhood clubhouse due to its proximity to public parking and public transportation. The proposed site modifications meet dimensional standards for the site such as FAR, lot coverage and open space.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The site is an appropriate location for the proposed neighborhood clubhouse use and oversized detached accessory apartment in a structure that does not meet principal setbacks. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.1)
- The proposed neighborhood clubhouse use and proposed oversized detached accessory apartment in a structure that does not meet principal setbacks will adversely affect the neighborhood. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.2)
- There will be a nuisance or serious hazard to vehicles or pedestrians. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.4)
- The proposed enlargement of the nonconforming detached structure with a footprint of over 700 square feet is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§7.8.2.C.2, §3.4.3.A.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

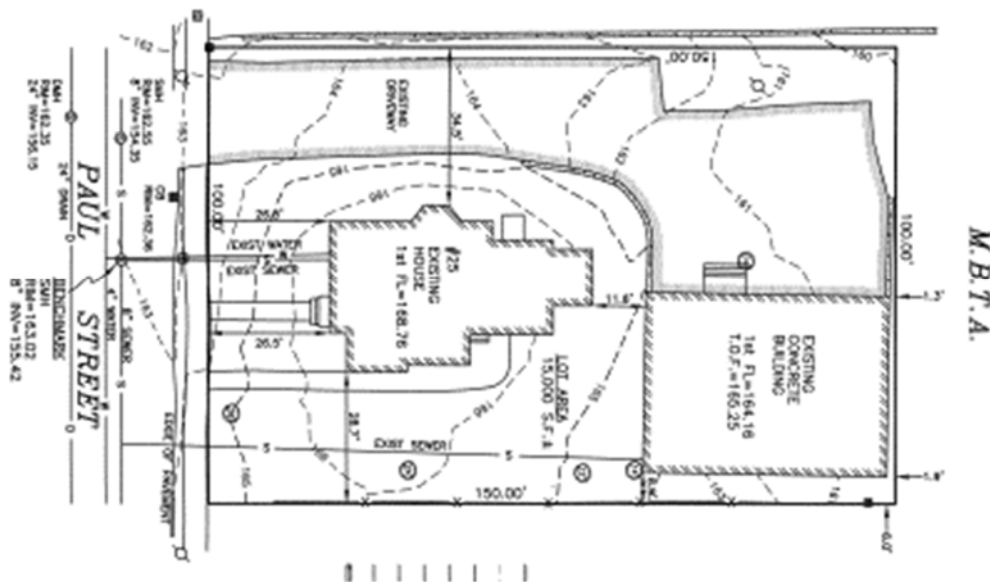
A. Neighborhood and Zoning

The subject property is located on Paul Street in the MR-2 zone in Newton Centre. There are a mix of zones in the surrounding area including business use zones, residential zones, and public use (**Attachment A**). The surrounding neighborhoods on Paul and Oxford Streets are a mix of single and multi-family residential uses. Uses north of the site on Centre Street consists of commercial and nonprofit uses (**Attachment B**).

B. Site

The site consists of 15,000 square feet of land and it is improved with a two-family residence constructed circa 1900 and a nonconforming detached accessory structure. The existing accessory structure has a rear setback of 1.3 feet, and a side setback of 6 feet along the eastern boundary. The site is accessed by a driveway from Paul Street along the southern boundary leading to the accessory structure and surface parking area. The site is relatively flat and abuts MBTA green line tracks at the rear of the property.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

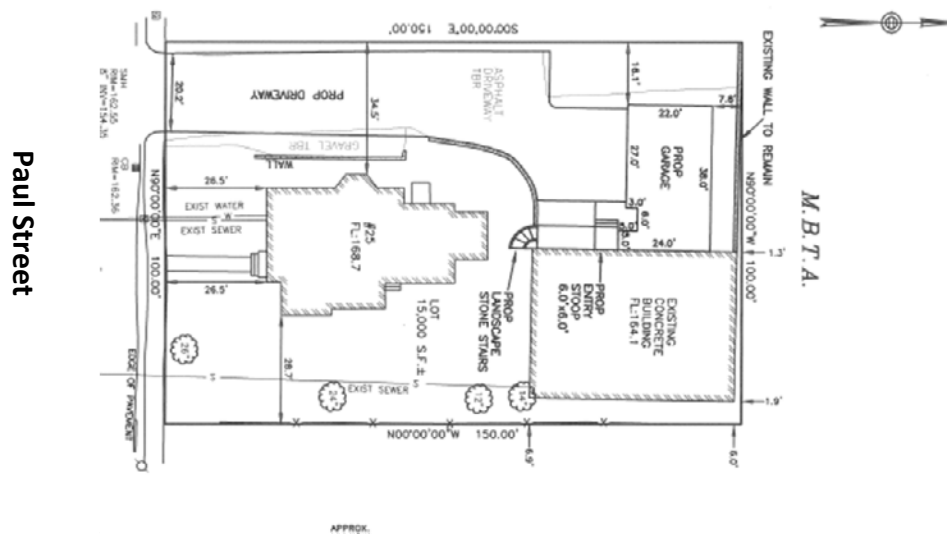
The principal use of the site is a two-family residence. If approved, the use will remain the same but with the addition of an accessory apartment and neighborhood clubhouse use.

B. Building and Site Design

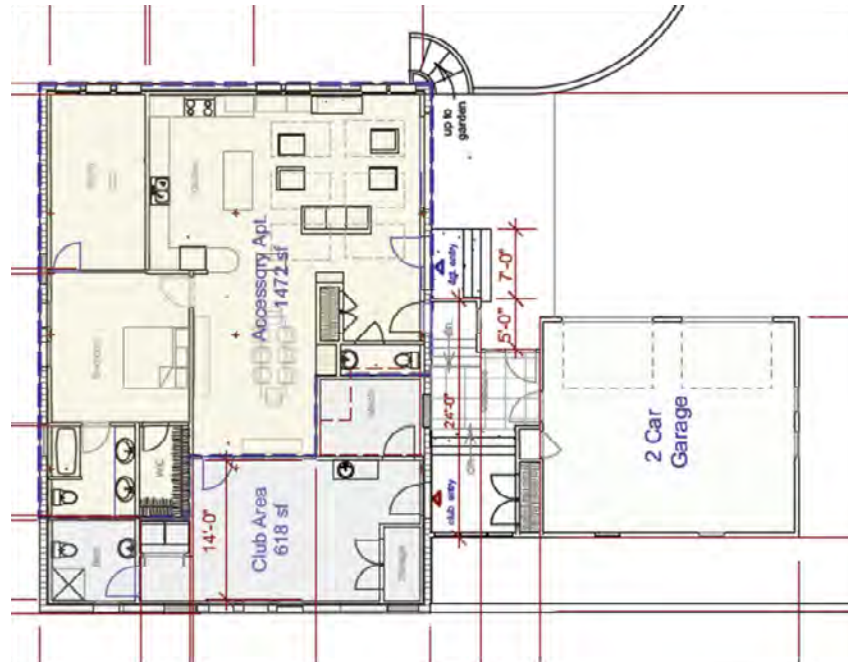
The petitioner is proposing to establish a 1,472 square foot accessory apartment within the existing detached structure. The existing detached structure has a footprint of 2,090 square feet. The Newton Zoning Ordinance states that detached accessory apartments shall be a maximum of 1,200 square feet or 40% of the principal dwelling, whichever is less; the City Council may grant a special permit for a detached accessory apartment up to 1,500 square feet. The square footage of the existing dwelling unit to which the accessory apartment will be associated with is 2,260 square feet, making the proposed accessory apartment 65% of the principal dwelling unit. As the proposed accessory apartment is greater than 1,200 square feet and 40% of the principal dwelling unit, a special permit is required.

The remaining 600 square feet of the existing accessory structure is to be used for a neighborhood clubhouse. The neighborhood clubhouse use in the MR-2 zoning district requires a special permit.

Proposed Site Plan

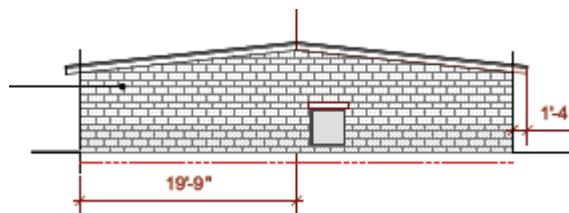


Proposed Layout of the Detached Accessory Structure

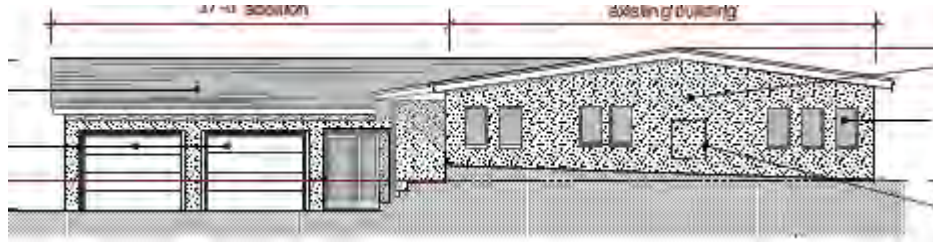


The applicant is proposing a two-car garage addition to the existing detached structure. The addition will be over existing impervious area and will add an additional 854 square feet proposed to the footprint. 594 square feet will be used for a two-car garage, and 260 square feet will be allocated to a shared entry mudroom. A special permit is required for the expansion of the nonconforming footprint in an accessory structure. The proposed garage addition will have a height of 13 feet and six inches, while the existing detached structure has a height of 15 feet and 10 inches. The garage addition of the structure has a proposed rear setback of 7.5 feet and does not increase the existing 1.3-foot rear setback.

Existing Front Elevation



Proposed Front Elevation



The Planning Department is unconcerned with the oversized accessory apartment in a detached structure that does not meet principal building setbacks because the use is more aligned with the MR-2 zone. The proposed addition meets all other dimensional requirements including lot coverage, open space, and floor area ratio for the MR-2 zoning district.

C. Neighborhood Clubhouse Use

The petitioner is requesting relief to allow a neighborhood clubhouse in a portion of the existing detached structure. The neighborhood clubhouse will occupy approximately 600 square feet. The Newton Chinese Social Club will use the space for members to congregate and participate in activities such as group exercise, calligraphy, and play cards. The petitioner stated that visitors to the clubhouse will park in the proposed driveway space, as well as the municipal parking facility on Cypress Street, which is .1 miles away.

Table 1.0 Neighborhood Clubhouse Use Activities

Club Activity	Frequency	Time	Number of Participants
Exercise	-Twice a week -1 hour	Mornings	8-12 people
Card Playing	-Once a week	Saturdays	4-10 people
Calligraphy	-Twice per month -45 minutes	<i>Not given</i>	6-8 people

The Planning Department is unconcerned with the proposed neighborhood clubhouse use. The clubhouse activities appear to be limited to certain days and times, and there is public parking for visitors nearby. Based on the information provided by the petitioner, the schedule of activities of the clubhouse are spread out with no overlap. The petitioner stated that parking will be contained to the site and the nearby public parking lot on Cypress Street. The Planning Department suggests that contact information for the club be made available at the physical clubhouse or on the club's website.

D. Parking and Circulation

The petitioner is proposing to locate the proposed garage on existing driveway space.

E. 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 (the "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.E.1, §6.7.1.E.2, §6.7.1.E.5, §3.2.3, and §7.3.3, to allow an oversized accessory apartment in a detached structure that does not meet the principal dwelling setback requirements;
- §3.4.1 and §7.3.3, to allow a neighborhood clubhouse; and
- §3.4.3.A.3 and §7.8.2.C.2, to further enlarge a nonconforming detached structure with a ground floor area larger than 700 square feet.

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The proposed addition and driveway alignments result in a decrease in impervious area of approximately 576 square feet.

C. Newton Historical Commission Review

If more than 50% of the façade of the detached garage is being altered, this petition is subject to review from the Newton Historical Commission. The petitioner should confirm the percentage of the façade being altered of the detached accessory structure.

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 Order

ATTACHMENT A

Zoning

25 Paul Street

*City of Newton,
Massachusetts*

Zoning

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  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 - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: June 30, 2020



ATTACHMENT B

Land Use

25 Paul Street

*City of Newton,
Massachusetts*

Land Use

Land Use

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

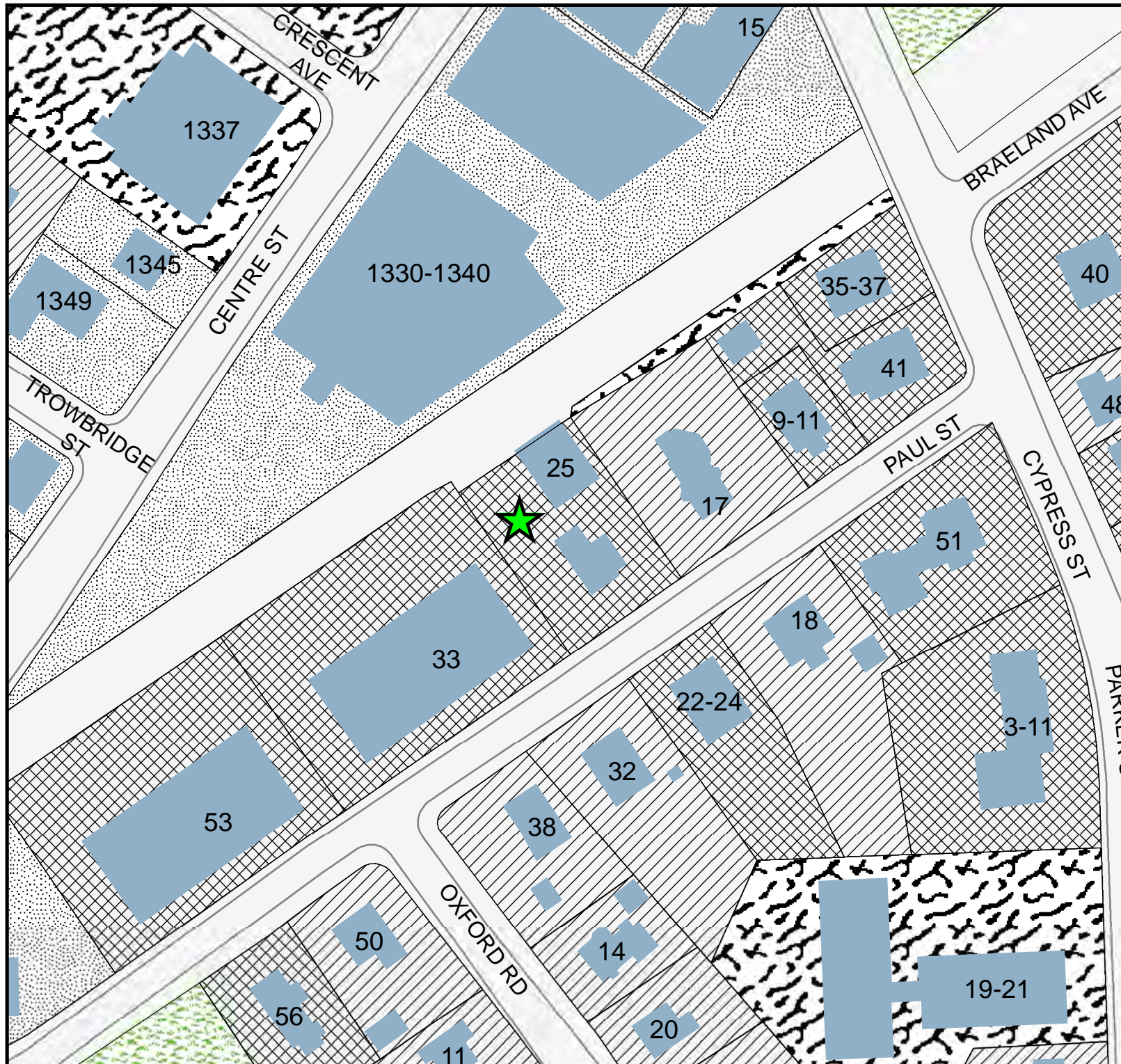


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: June 23, 2020





Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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ATTACHMENT C
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 1, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Jay Walter, Architect
25 Paul Street LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow an accessory apartment in a detached structure, to allow an accessory apartment larger than 1,200 square feet, to further extend a nonconforming accessory building greater than 700 square feet, and to allow a neighborhood clubhouse

Applicant: 25 Paul Street LLC	
Site: 25 Paul Street	SBL: 62013 0006
Zoning: MR2	Lot Area: 15,000 square feet
Current use: Two-family dwelling and a commercial building	Proposed use: Two-family dwelling with a detached accessory apartment and neighborhood clubhouse

BACKGROUND:

The property at 25 Paul Street consists of a 15,000 square foot lot improved with a single-family dwelling constructed circa 1900 and a nonconforming detached commercial building. The Petitioner proposes to convert the existing detached accessory structure into an accessory apartment and a neighborhood clubhouse and construct a two-car garage attached to the accessory building.

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

- Zoning Review Application, prepared by Jay Walter, architect, submitted 4/4/2019, revised 7/30/2019, revised 2/25/2020
- Existing Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 3/12/2019,
- Proposed Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 4/3/2019, revised 12/4/2019, revised 2/5/2020
- Floor Plans and Elevations, signed and stamped by Jay Walter, architect, dated 12/18/2018, revised 12/4/2019, revised 2/24/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to convert an existing nonconforming building with an existing legally nonconforming commercial use into an accessory apartment and a neighborhood clubhouse. Per sections 6.7.1.E.1, an accessory apartment in a detached accessory building requires a special permit.
2. The petitioner intends to divide the space within the detached building into two, with 1,472 square feet of the space dedicated to the accessory apartment and the remaining to be used as a neighborhood clubhouse and shared entry. Per section 3.4.1, a special permit is required for a clubhouse in the MR2 zoning district.
3. Per section 6.7.1.E.2, a detached accessory apartment may not be less than 250 square feet, or more than 1,200 square feet, or 40% of the total habitable space of the principal dwelling, whichever is less, or up to 1,500 square feet by special permit. Forty percent of the total habitable space is approximately 1,152 square feet. The proposed accessory apartment is 1,472 square feet, requiring a special permit.
4. Per section 6.7.1.E.5, a detached accessory apartment must be at least 6 feet from the principal dwelling. The proposed detached accessory apartment structure is approximately 11.6 feet from the principal dwelling structure.
5. The proposed detached accessory apartment must meet the setback requirements for the principal structure, as required by section 6.7.1.E.6. The proposed apartment in the existing detached structure is located 1.3 feet from the rear lot line where 15 feet is required. The proposed garage addition would otherwise meet the required rear setback for a detached accessory structure, however the proposed accessory apartment use requires that the addition also meet the principal setbacks. A special permit per section 6.7.1.E.6 and 3.2.3 is required to waive the minimum setbacks.
6. The ground floor area of a detached accessory building may not exceed 700 square feet per section 3.4.3.A.3. The existing accessory building has a footprint of 2,090 square feet, which the petitioner intends to expand with the addition of a 594 square foot attached garage and a 260 square foot shared entry mudroom, for a total of 2,944 square feet. To expand the nonconforming footprint of the accessory building requires a special permit per sections 3.4.3.A.3 and 7.8.2.C.2.

MR2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	15,000 square feet	No change
Frontage	70 feet	100 feet	No change
Setbacks for principal structure <ul style="list-style-type: none"> • Front • Side • Rear Setbacks for accessory structure <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 7.5 feet 15 feet 25 feet 7.5 feet 7.5 feet 15 feet	26.5 feet 28.7 feet >60 feet 90 feet 6 feet 54 feet 1.3 feet	No change No change No change No change No change 16.1 feet No change
FAR	.43	.33	.39
Max. Lot Coverage	30%	24.1%	29.8%
Min. Open Space	50%	47%	51%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.1	To allow an accessory apartment in a detached accessory structure	S.P. per §7.3.3
§3.4.1	To allow a neighborhood clubhouse	S.P. per §7.3.3
§6.7.1.E.2	To allow an accessory apartment greater than 40% of the of the total habitable space of the principal unit	S.P. per §7.3.3
§3.2.3 §6.7.1.E.6	To allow an accessory apartment in a detached structure that does not meet principal setbacks	S.P. per §7.3.3
§3.4.3.A.3 §7.8.2.C.2	To further enlarge a nonconforming detached structure with a ground floor area larger than 700 square feet	S.P. per §7.3.3

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow an oversized accessory apartment in a detached structure, an accessory apartment in a detached structure that does not meet principal building setbacks, to allow a neighborhood clubhouse use, and to further enlarge a nonconforming detached structure with a ground floor area larger than 700 square feet, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed neighborhood clubhouse use and oversized detached accessory apartment in a structure that does not meet principal setbacks due to its location within the footprint of an existing detached structure, and due to the proposed neighborhood clubhouse's proximity to public parking. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.1)
2. The proposed neighborhood clubhouse use and proposed oversized detached accessory apartment in a structure that does not meet principal setbacks and will not adversely affect the neighborhood due to its location in an existing detached structure. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§3.2.3, §3.4.1, §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.6, §7.3.3.C.4)
5. The proposed enlargement of the nonconforming detached structure with a footprint of over 700 square feet is not substantially more detrimental than the existing nonconforming structure because the addition does not increase the existing nonconforming setback of the existing detached accessory structure. (§7.8.2.C.2, §3.4.3.A.3)

PETITION NUMBER: #262-20

PETITIONER: 25 Paul Street, LLC

LOCATION: 25 Paul Street, on land known as Section 62, Block 13, Lot 6, containing approximately 15,000 square feet of land

OWNER: 25 Paul Street, LLC

ADDRESS OF OWNER: 19 Laura Road
Newton, MA 02468

TO BE USED FOR: Multi-Family Dwelling with a Detached Accessory Apartment and Neighborhood Clubhouse Use

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §6.7.1.E.1, §6.7.1.E.2, §6.7.1.E.5, §3.2.3, and §7.3.3, to allow an oversized accessory apartment in a detached structure that does not meet the principal dwelling setback requirements; §3.4.1 and §7.3.3, to allow a neighborhood clubhouse; and §3.4.3.A.3 and §7.8.2.C.2, to further enlarge a nonconforming detached structure with a ground floor area larger than 700 square feet.

ZONING: Multi Residence 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. Plan of Land 25 Paul Street, Proposed Addition, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated February 5, 2020
 - b. Architectural Plans, prepared by Jay C. Walter, signed and stamped by Jay Walter, Registered Architect, dated May 27, 2020 consisting of five (5) sheets:
 - i. Existing Floor Plan, SK-30
 - ii. Existing Exterior Elevations, SK-31
 - iii. Proposed Site Plan with Parking, SK-32
 - iv. Floor Plan, SK-33
 - v. Proposed Exterior Elevations, SK-34

2. Prior to the issuance of any building permit, 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. The neighborhood clubhouse use shall only be authorized of the Newton Chinese Social Club. Any other neighborhood clubhouse use requires an amendment to this Council Order.
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 council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded council 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.
5. 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 an architect or land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.