



#317-20

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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

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 15, 2020
Land Use Action Date:	December 8, 2020
City Council Action Date:	December 14, 2020
90-Day Expiration Date:	December 14, 2020

DATE: September 11, 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 #317-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming multi-family residential use by adding one unit to the existing dwelling and two units within a proposed carriage house structure, to further increase the nonconforming height, extend the nonconforming stories, extend the nonconforming side setback, and to allow 1.25 parking stalls per unit at 68 Chestnut Street, Ward 3, West Newton, Section 31 Block 04 Lot 07, containing approximately 10,419 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2, 4.1.3, 4.1.2.B.3, 5.1.4, of the City of Newton Rev Zoning Ord, 2017.

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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 Working Session.



68 Chestnut Street

## **EXECUTIVE SUMMARY**

The subject property located at 68 Chestnut Street consists of 10,420 square feet of land, improved with a three-unit multifamily dwelling constructed in 1900. The property is located within the Business 1 (the “BU-1”) zone in West Newton. Multifamily dwellings are not allowed within the BU-1 zone; as such, the use is legal nonconforming. The petitioner proposes to construct a rear addition as well as a detached structure in the form of a carriage house to add three dwelling units, for a total of six on site. In addition to the nonconforming use, the structure features nonconformities that will be extended, also requiring special permits.

The Planning Department believes the subject property is an appropriate location for the proposed multifamily development given its proximity to West Newton Square. Staff is also supportive of the mix of unit types and sizes which will add to the City’s diversity of housing stock. However, staff requests additional information regarding circulation within the site and how the parking stalls will be managed and/or allocated. Additionally, the petition requires additional relief for retaining walls that exceed four feet within setback distances.

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

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for proposed multifamily use (§7.3.3.C.1, §3.1.2.A.3).
- The proposed multifamily use will adversely affect the neighborhood (§7.3.3.C.2, §3.1.2.A.3).
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3, §3.1.2.A.3).
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §3.1.2.A.3).
- The proposed extension of the nonconforming residential use will be substantially more detrimental than the existing nonconforming use is to the neighborhood (§7.8.2.C.2).
- Literal compliance with the parking requirements of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, 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. (§5.1.13)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Chestnut Street in the BU-1 zone in West Newton. The surrounding area is comprised of a mix of zones from a Multi-Residence 3 zone to the south, and a Multi-Residence 2 zone to the west. Further north, across the Massachusetts Turnpike, is the continuation of the BU-1 zone (**ATTACHMENT A**). In addition to the mix of zones, there are also a mix of uses in the area ranging from multifamily residential uses, to open space, single-family residential, and to nonprofit uses (**ATTACHMENT B**). The site is located close to Washington Street, where express buses serve downtown Boston and surrounding communities, as well as the West Newton commuter rail station.

### B. Site

The site consists of 10,419 square feet of land and is improved with a three-unit multi-family dwelling constructed circa 1900. The site is accessed by one curb cut from Chestnut Street which leads to an extensive driveway with a considerable amount of paving along the southern boundary. The structure has a nonconforming side setback of 12.6 feet along the northern boundary, where 19.99 feet is required. The height of the structure is also nonconforming at 39.99 feet, where 24 feet is the maximum allowed. The site has a slight downward slope from the front to the rear with mature landscaping along the southern boundary.

## III. PROJECT DESCRIPTION AND ANALYSIS

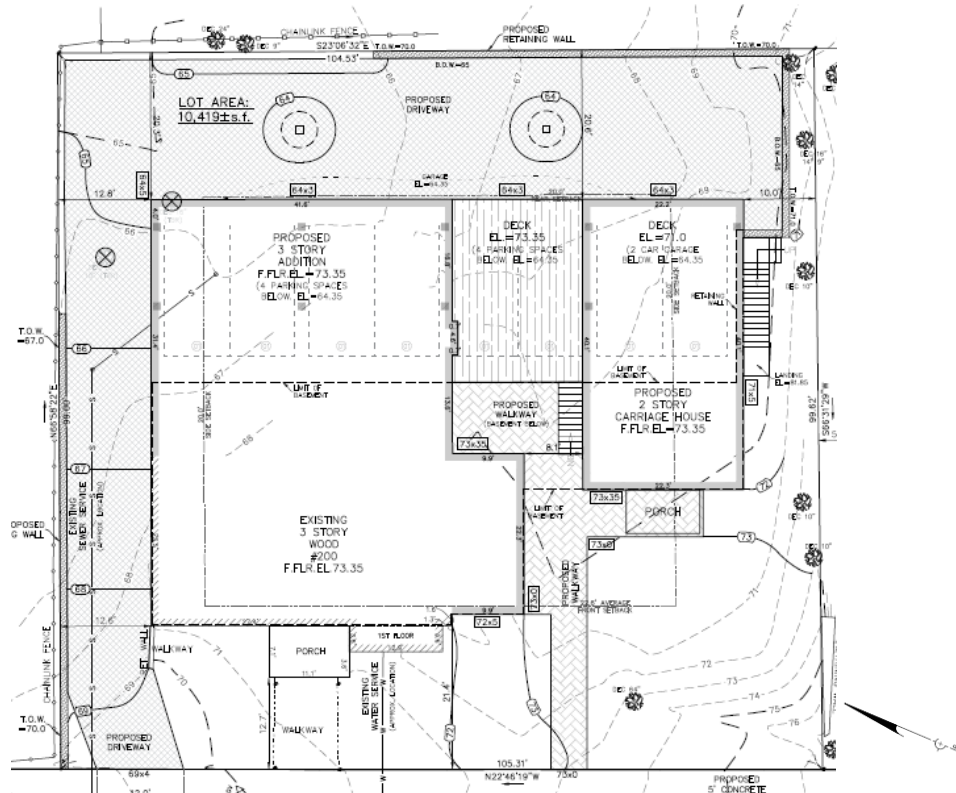
### A. Land Use

If approved, the use of the site will remain multi-family, but with six units rather than three.

### B. Site Design

The petitioner is proposing a three-story addition to the rear of the structure as well as a two-story detached structure. The addition will further extend the nonconforming side setback on the northern boundary. Due to the slope of the lot, the nonconforming building height is increasing from 39.99 feet to 40.36 feet, but the principal roofline is not changing. The principal structure, as well as the proposed carriage house, will be 20 feet from the rear lot line, the maximum allowed. The two structures contain 9,350 square feet, resulting in a floor area ratio of .9, where 1.5 is the maximum allowed for a three-story structure in the BU-1 zoning district.

### Proposed Site Plan



### Chestnut Street

The proposed two-story carriage house will be set farther back from the principal structure but will be connected via a deck. The carriage house is 25 feet tall and is set back ten feet from the southern property line. The petitioners are proposing retaining walls along the northern, eastern and southern, property lines. The proposed retaining wall within the rear setback measures five feet in height, requiring a special permit and the retaining wall proposed along the southern boundary within the side setback measures six feet in height, also requiring a special permit. This relief was not included in the special permit application, as such, the petition needs to be docketed, noticed, and advertised again to include this relief.

#### C. Building Design

The existing multifamily dwelling consisting of three units resulting in a lot area per unit of 3,473 square feet, where 1,200 square feet per unit is required for residential uses in the BU-1 zone. The petition would reduce the lot area per unit to 1,737 square feet per unit. The table below provides the unit type and sizes of the six units.

**Table 1: Unit Mix**

Unit Number	Unit Type	Square Feet
1	Two Bedroom	1,293
2	Two Bedroom	1,296
3	Three Bedroom	2,174
4	Three Bedroom	2,597
5*	Two Bedroom	877
6*	Two Bedroom	877

\*Units 5 and 6 are located within the carriage house

**Proposed Front Elevation**



**D. Parking and Circulation**

The petitioner is proposing to relocate the driveway from the southern portion of the lot to the northern boundary with a new 12-foot-wide curb cut. The driveway will run along the northern property line and take the shape of an “L” as it extends to the rear of the proposed carriage house. Much of the area along the rear property line is proposed to be paving resulting in 2,122 square feet of paving along the eastern boundary. The Planning Department suggests the petitioner consider reducing the proposed hardscaped surfaces, especially along the rear property line.

The petitioner is proposing eight parking stalls beneath a cantilevered portion of the proposed addition and the rear of the proposed carriage house. With eight parking stalls proposed, the petitioner is requesting a special permit to reduce the parking requirement from two stalls per unit to 1.25 stalls per unit. The Planning Department is supportive of the request given the proximity to West Newton Square. However,

the petitioner should provide a narrative explaining parking will be allocated and/or be managed.

E. Landscaping

The petitioner should provide a landscape plan detailing the net increase or decrease of caliper inches on site in accordance with the City's Tree Preservation and Protection Ordinance.

IV. TECHNICAL REVIEW

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

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

- §4.4.1, §7.8.2.C.2 of Section 30, to extend a nonconforming residential use.
- §4.1.3, §7.8.2.C.2 of Section 30, to further increase nonconforming height, and extend the nonconforming side setback.
- §4.1.2.B.3, §7.8.2.C.2 of Section 30, to further extend the nonconformity of structure containing three stories.
- §5.1.4 of Section 30 to allow 1.25 parking stalls per unit.

B. Engineering Review

Associate City Engineer John Daghljan reviewed this petition for conformance with the City's Engineering Design Standards (**ATTACHMENT D**). Mr. Daghljan states that the petitioner should provide turning templates for vehicles maneuvering at the rear of the site as well as an operations and maintenance plan for the proposed stormwater management system. The petitioner should provide these materials prior to the continued public hearing.

C. Newton Historical Commission

The Newton Historical Commission found the existing structure "Historically Significant" at its June 17, 2020 meeting. The Chief Preservation Planner will review the plans at the building permit stage for compliance with the NHC approval.

V. 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, dated July 20, 2020
- ATTACHMENT D:** Engineering Division Memorandum, dated September 8, 2020









# ATTACHMENT A

## Zoning

### 68 Chestnut Street

*City of Newton,  
Massachusetts*

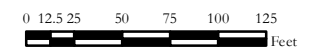
## Zoning

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Public Use

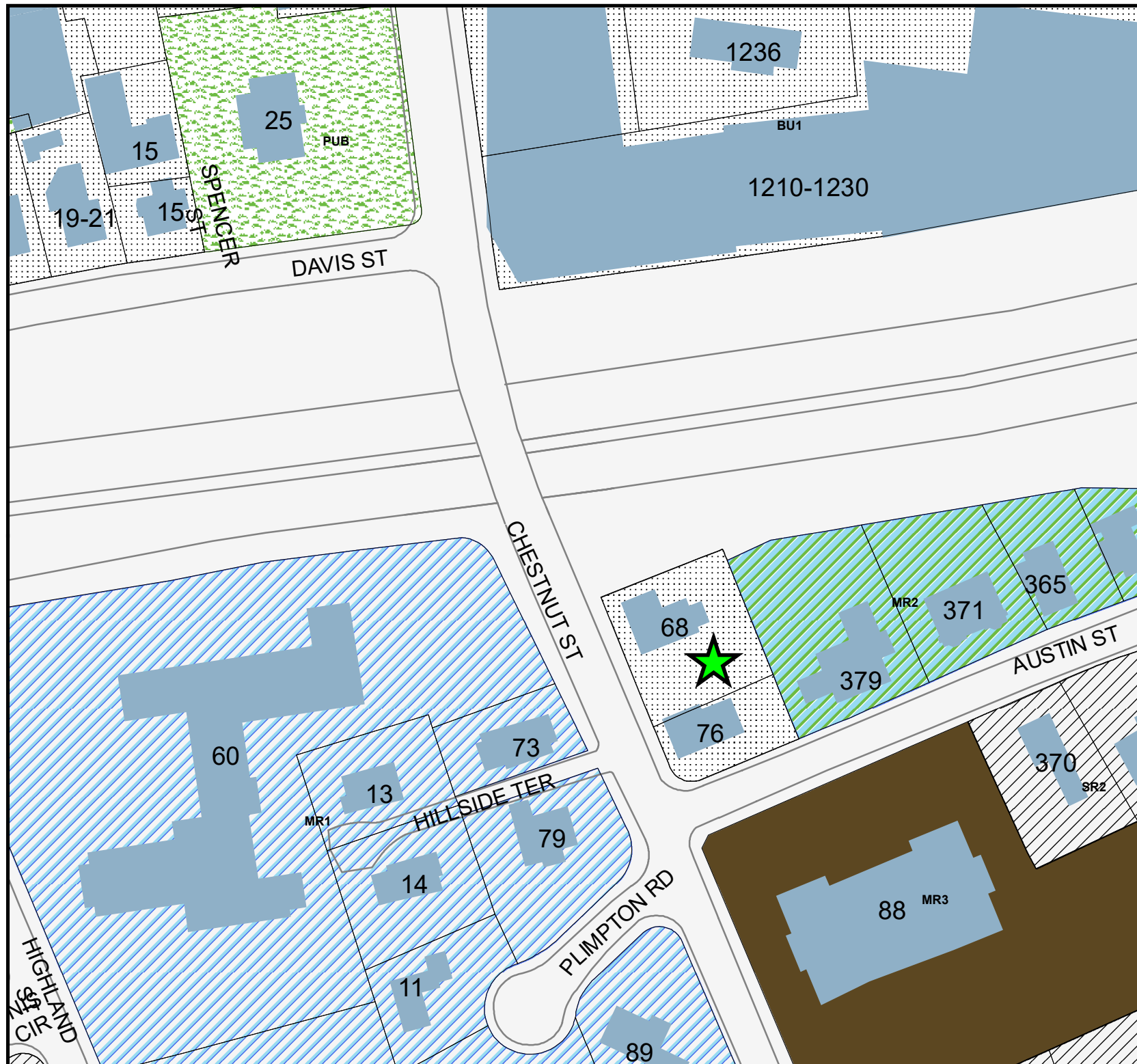


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: August 26, 2020





# ATTACHMENT B







## Land Use

### 68 Chestnut Street

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

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

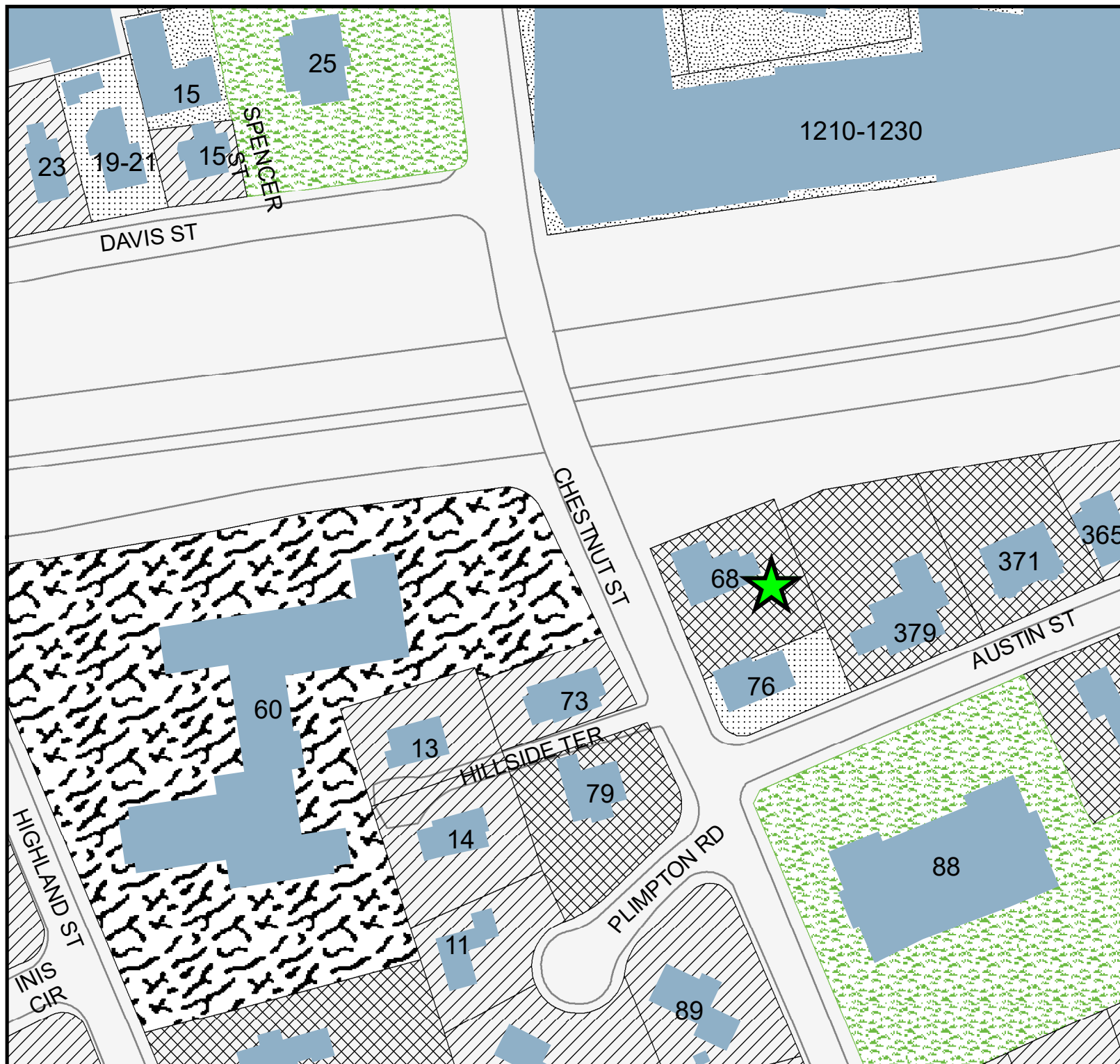


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125  
Feet

Map Date: August 26, 2020





**Ruthanne Fuller**  
Mayor

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: July 20, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Braden Houston, Applicant  
Terrence Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Associate City Solicitor

**RE: Request to extend a nonconforming multi-family dwelling, extend nonconforming height and to reduce parking to 1.25 stalls per unit.**

Applicant: Braden Houston	
<b>Site:</b> 68 Chestnut Street	<b>SBL:</b> 31004 0007
<b>Zoning:</b> BU1	<b>Lot Area:</b> 10,419 square feet
<b>Current use:</b> Three-unit multi-family dwelling	<b>Proposed use:</b> 6-unit multi-family dwelling

### BACKGROUND:

The property located at 68 Chestnut Street consists of a 10,419 square foot lot improved with a three-unit multi-family dwelling originally constructed as a single-family dwelling circa 1900 and converted to a two-family in 1924. The property currently has three units, with Inspectional Services records indicating multiple units on the property dating back to the 1970s. The parcel is located in the BU1 zoning district adjacent to the Mass Pike. The petitioner seeks to extend the existing dwelling to accommodate four units, and two additional units within carriage house style structure attached by a deck, for a total of six units on site

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 5/29/2020
- Existing Conditions Site Plan, prepared by VTP Associates, surveyor, dated 3/13/2020
- Proposed Conditions Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 5/27/2020
- Architectural Plans and Elevations, signed and stamped by Ronald Jarek, dated 5/13/2020

## ADMINISTRATIVE DETERMINATIONS:

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1. The existing structure was constructed circa 1900 as a single-family dwelling. A building permit was issued in 1924 to convert the structure into a two-family dwelling. Historical Inspectional Services records indicate that the dwelling has had multiple units since at least the 1970s. Per section 4.4.1, a multi-family residential use on the ground level requires a special permit. The petitioner proposes to expand the existing ground floor residential use by constructing three additional units by expanding the existing dwelling to accommodate four units and by constructing a new two-unit dwelling, requiring a special permit per sections 4.4.1 and 7.8.2.C.2.
2. The existing structure has a nonconforming height of 39.99 feet, where 24 feet is the maximum allowed per section 4.1.3. The proposed additions increase the nonconforming height of the structure to 40.36 feet, requiring a special permit per sections 4.1.3 and 7.8.2.C.2.
3. Per section 4.1.2.B.3 a special permit is required for a three-story structure. The proposed additions to the existing dwelling increase the overall height, thereby extending the nonconforming three-story dwelling, requiring a special permit per sections 4.1.2.B.3 and 7.8.2.C.2.
4. Per section 4.1.3, the required side setback is half the building height or equal to the abutting side yard setback. The property abuts the Pike to the west, therefore a setback of half the building height is required on that side. The structure has an existing nonconforming side setback of 12.6 feet where 20 feet (half the existing height of 39.99 feet) is required. The petitioner proposes to increase the height of the structure to 40.36 feet, resulting in a required setback of 20.2 feet. The proposed additions further extend the nonconforming side setback of 12.6 feet to the rear of the property, requiring a special permit per sections 4.1.3 and 7.8.2.C.2.
5. The petitioner proposes to construct eight parking stalls for the six dwelling units.. Section 5.1.4.A requires two parking stalls per dwelling unit, but Section 5.1.13 allows a reduction to 1.25 stalls per unit by special permit.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	10,419 square feet	No change
Setbacks-			
• Front	10 feet	12.7 feet	<b>No change</b>
• Side	5.8 feet (equal to abutter)	40.6 feet	10 feet
• Side	20.2 feet (½ building height)	<b>12.6 feet</b>	<b>No change</b>
• Rear	0 feet	22.3 feet	20.3 feet
Building Height	24 feet	<b>39.99 feet</b>	<b>40.36 feet</b>
Max Number of Stories	2	<b>3</b>	<b>No change</b>
Lot Area Per Unit	1,200 square feet	3,473 square feet	1,737 square feet

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1 §7.8.2.C.2	Request to extend a nonconforming residential use	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to further increase nonconforming height	S.P. per §7.3.3
§4.1.2.B.3 §7.8.2.C.2	Request to further extend nonconforming stories	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to extend the nonconforming side setback	S.P. per §7.3.3
§5.1.4	Request to allow 1.25 parking stalls per unit	S.P. per §7.3.3

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 68 Chestnut Street

Date: September 8, 2020

CC: Barney Heath, Director of Planning  
Jennifer Caira, Deputy Director  
Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Neil Cronin, Chief Planner  
Michael Gleba, Sr. Planner

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In reference to the above site, I have the following comments for a plan entitled:

Topographic Site Plan  
Showing Proposed Conditions at 68 Chestnut Street  
Prepared by: VTP associates, Inc.  
Dated: August 21, 2020

Executive Summary:

This petition request is to further extend the non-conforming residential use to add three additional dwelling units to the site. The existing 3-story dwelling is sited on 10,419 square feet [0.239 acre] lot having 105-feet of frontage along Chestnut Street; residential homes along its southern & eastern property lines, and the Mass-Turnpike along the northern property line.

New domestic & fire suppression water and sanitary services are proposed, and the engineer of record has designed a stormwater collection and infiltration system for the 100-year storm event. The proposed infiltration gallies need an impervious barrier along the side near the abutting property as they are less than 10-feet from the property line.

An Operation and Maintenance plan is needed for the proposed stormwater collection system to ensure long-term performance. The existing driveway apron near #76 Chestnut Street will be closed and a new driveway will be constructed along the Turnpike side of the property that will extend towards the rear of the lot. To facilitate this portion of the driveway, a retaining wall is proposed. The retaining wall's height is 6 feet at its highest point, details of its construction is needed.

Due to the configuration and sharp angle of the driveway at the rear of the proposed expanded dwelling, a turning template for automobiles is needed to ensure safe maneuvering of cars making this 90-degree turn. Additionally, a convex mirror will be needed for the residents so that they can see cars turning the corner & exiting as other residents are entering the driveway.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the

drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. The proposed sewer connection should be made at the existing sewer manhole rather than what is proposed.
2. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
3. All new sewer service(s) shall be pressure tested in accordance to the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
4. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
5. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".



6. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies given to the Engineering Division.
7. For water quality issues a fire hydrant will be required at the end of the proposed water main/service. This hydrant will be utilized for flushing out the main as required.
8. All water services shall be chlorinated, and pressure tested in accordance to the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
9. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

General:

1. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
4. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
5. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities

and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the as built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*

6. All site work including trench restoration, sidewalk, curb ,apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
7. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
8. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
9. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

*I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.*

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Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.