



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#340-20**

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

|                           |                  |
|---------------------------|------------------|
| Public Hearing Date:      | October 27, 2020 |
| Land Use Action Date:     | January 13, 2020 |
| City Council Action Date: | January 18, 2020 |
| 90-Day Expiration Date:   | January 25, 2020 |

DATE: October 23, 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 #340-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow three single family attached dwelling units which consists of height greater than 36 feet, a driveway within 10 feet of the side lot line and retaining walls of four feet or more in height within the setback at 27 Winchester Road, Ward 1, Newton, on land known as Section 13 Block 05 Lot 07, containing approximately 15,833 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.4.2.B of Chapter 30 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 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.



**27 Winchester Road**

### **EXECUTIVE SUMMARY**

The property located at 27 Winchester Road consists of a 15,833 square foot lot in the Multi Residence 1 (MR-1) zone in Newton Corner. The lot is improved with a two and a half story, single-family Colonial Revival style dwelling constructed circa 1896 with a nonconforming height of 36.6 feet. The petitioner is seeking to relocate the dwelling on site and construct a rear addition consisting of two dwelling units, creating three Single Family Attached Dwellings. Due to the design of the site which incorporates the existing historic single family dwelling, the petitioner is seeking special permit relief for: single family attached dwellings, a structure with a height of more than 36 feet, a driveway within ten feet of the side lot line, and retaining walls of four feet or more in height within a setback.

While Planning Staff is unconcerned with the petition to allow three single family attached dwellings at 27 Winchester Road, the petitioner should provide information on the unit sizes inclusive of space that does not count towards FAR in the basement and attic levels. The proposed project preserves an existing historic home, with the addition subordinate to the existing structure and will not be visible from the street. The proposed addition containing two units incorporates features that reflect the architecture of the single-family home such as bay windows and hipped roof; the addition also meets the 25' setbacks required of Single Family Attached Dwellings. Winchester Road has predominately multifamily residential uses, thus the site is an appropriate location for the additional two units on site. Because of this, the Planning Department is unconcerned with the petition that requests to waive certain dimensional requirements.

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

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed three Single-Family Attached Dwellings. (§7.3.3.C.1)
- The proposed three Single-Family Attached Dwellings will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed three Single-Family Attached Dwellings 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)
- The specific site is an appropriate location for the proposed retaining wall greater than four feet in height within a setback. (§7.3.3.C.1)
- Literal compliance with the dimensional standards for the height and a driveway located within ten feet of the side lot line, is impractical due to the nature of the use, or the location, size, frontage, 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 (§3.2.4, §6.2.3.B.2 )

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

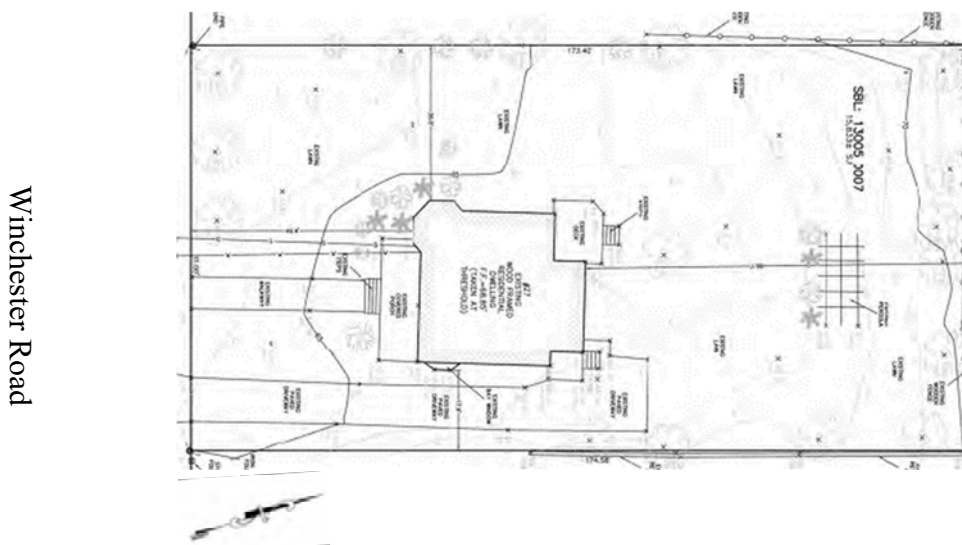
### A. Neighborhood and Zoning

The subject property is located on Winchester Road in the MR-1 zone. The surrounding neighborhood is also zoned MR- 1 (**Attachment A**). The site is surrounded by multi-family residential uses on Winchester Road, Salisbury Road, Langdon Road and East Side Parkway (**Attachment B**).

### B. Site

The site consists of 15,833 square feet of land and is improved with a single-family dwelling in the Colonial Revival style which was constructed circa 1896. There is one curb cut along Winchester Road which leads to a paved driveway that runs along the eastern property line. There is an approximately two-foot-high retaining wall that runs along the eastern property line starting at approximately the midpoint of the site. The existing setbacks are 17.9 feet between the eastern property line and existing building, and a rear setback of 86.1 feet. The site is relatively flat and there is mature landscaping at the rear of the site and along the side property lines.

Existing Conditions



### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The principal use of the site will change from a single-family use to a multi-family use in the form of three single family attached dwellings.

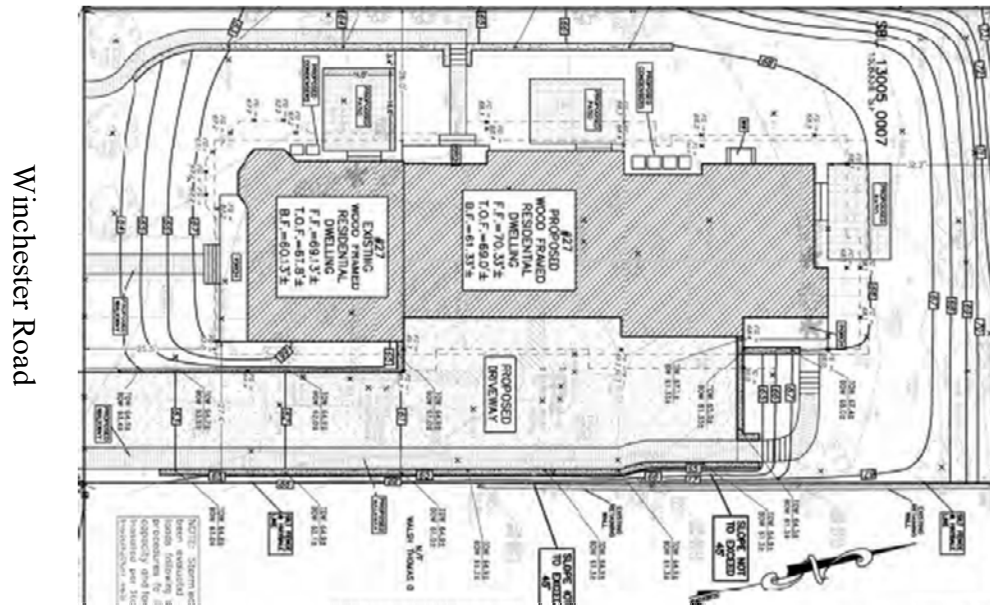
#### B. Site Design

The petitioner is proposing to construct an additional two units of housing, resulting in three Single Family Attached Dwellings. They are proposing to locate the existing historic house approximately 25 feet towards the front property line and construct a rear addition consisting of two units. The relocation of the existing house and addition creates a front setback of 25.5 feet where 49.4 feet exists, the side and rear setbacks proposed all greater than 25 feet, meeting the dimensional standards for Single Family Attached Dwellings. The addition expands the footprint and results in 23.8% lot coverage, where 25% is the maximum allowed for the single family attached dwellings building type by special permit. The proposed open space is 61.4%, where 50% is the minimum allowed, and 83% exists.

The project as proposed will widen the existing cub cut from 11.4 feet to 18 feet and driveway is being widened to provide access to three garages, which will provide two parking stalls per dwelling unit. The proposed driveway along the eastern property line is within ten feet of the side lot line, requiring a special permit.

The proposed retaining wall along the eastern property line reaches a height of four feet, 11 inches, requiring a special permit for a retaining wall greater than four feet in height within a setback. The retaining wall will allow for a driveway that slopes downwards to accommodate access to the garages in the basement level. There is a retaining wall proposed at the western property line but does not exceed four feet in height.

### Proposed Site Plan



#### C. Building Design

The petitioner is proposing a total of three dwelling units in one structure. The existing single-family dwelling was deemed preferably preserved and will be incorporated into the design of the single family attached dwellings and moved toward the front property line. The petitioner provided unit sizes only as they contribute to the floor area ratio. The Planning Department requests that the petitioner provide unit sizes inclusive of the areas that do not count towards FAR in the basement and attic. Based on the information provided by the petitioner, each unit will consist of over 2,500 square feet and Unit 1 will have five bedrooms, while Units 2 and 3 will have four bedrooms each. Unit 1 will have two bedrooms in the attic, Units 2 and 3 will have storage space in the attic. While FAR is not a dimensional standard set forth for single family attached dwellings in the MR -1 zoning district, for reference, the proposed FAR is .52, while a by-right two-family dwelling would be allowed an FAR of .47.

There is a technical decrease in height due to the distance between the average grade and the peak of the roof decreasing. The existing single-family home has a height of 36.6 feet, and the proposed height is 36.5 feet, which is more than 36 feet, requiring a special permit.

Proposed Front Elevation



Proposed Left Elevation



### Proposed Right Elevation



The Planning Department is unconcerned with the request to allow three Single Family Attached Dwellings which require relief for the building type, height, driveway location, and proposed retaining walls. The project is preserving the existing Colonial Revival single-family home and the additional two units as proposed are subordinate to the existing house. The addition is stepped down, not taller than existing structure and incorporates features such as bays and a hipped roof that reflect the existing structure. Due to the immediate abutting multi-family residences, and Winchester Street being largely multi-family residential uses, the Planning Department is unconcerned with the two additional units proposed for the site.

D. Parking and Circulation

As designed, the lower level parking facility designates space for two cars per unit. An existing driveway is being extended and widened to provide access to the parking facility. The location of the proposed driveway is within ten feet of the side property line, requiring a special permit.

E. Landscaping

The petitioner provided a landscape plan that shows landscaping and compliance with the Newton Tree Ordinance with the caliper inch replacement analysis. Each unit features dedicated outdoor space with a patio. This landscape plan will be incorporated as a condition in the final Council Order.

#### 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. Based on the Zoning Review Memorandum, the petitioner is seeking the following relief:

- §3.4.1 and §7.3.3 of Section 30, to allow attached single-family dwellings.
- §3.2.4 and §7.3.3 of Section 30, to allow a structure with a height greater than 36 feet
- §6.2.3.B.2 and §7.3.3 to allow a driveway within 10 feet of the side lot line
- §5.4.2.B and §7.3.3 of Section 30, to allow retaining walls of four feet or more in height within a setback.

B. Engineering Review

Associate City Engineer, John Daghljan, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment D**). Mr. Daghljan states that pre and post construction drainage analysis is necessary for this project and that stormwater will be contained on site per Massachusetts Department of Environmental Protection Standards and City of Newton Policy. Mr. Daghljan stated that the proposed O&M plan is acceptable for long term maintenance, however bi-annual sweeping of the driveway needs to be included for final approval. Mr. Daghljan notes that due to the utility work, the sidewalks will need to be replaced to City of Newton standards.

C. Historic Preservation Review

At the October 24, 2019 meeting of the Newton Historical Commission (NHC), NHC waived the demolition delay based on the submitted plans and requires final review of construction plans. The NHC noted the Colonial Revival architecture, and the petitioner's commitment to retaining the diamond windows and cedar siding of the home.

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:** Engineering Review Memorandum
- Attachment E:** Draft Council Order




# ATTACHMENT A

## Zoning

### 27 Winchester Road

*City of Newton,  
Massachusetts*

## Zoning

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

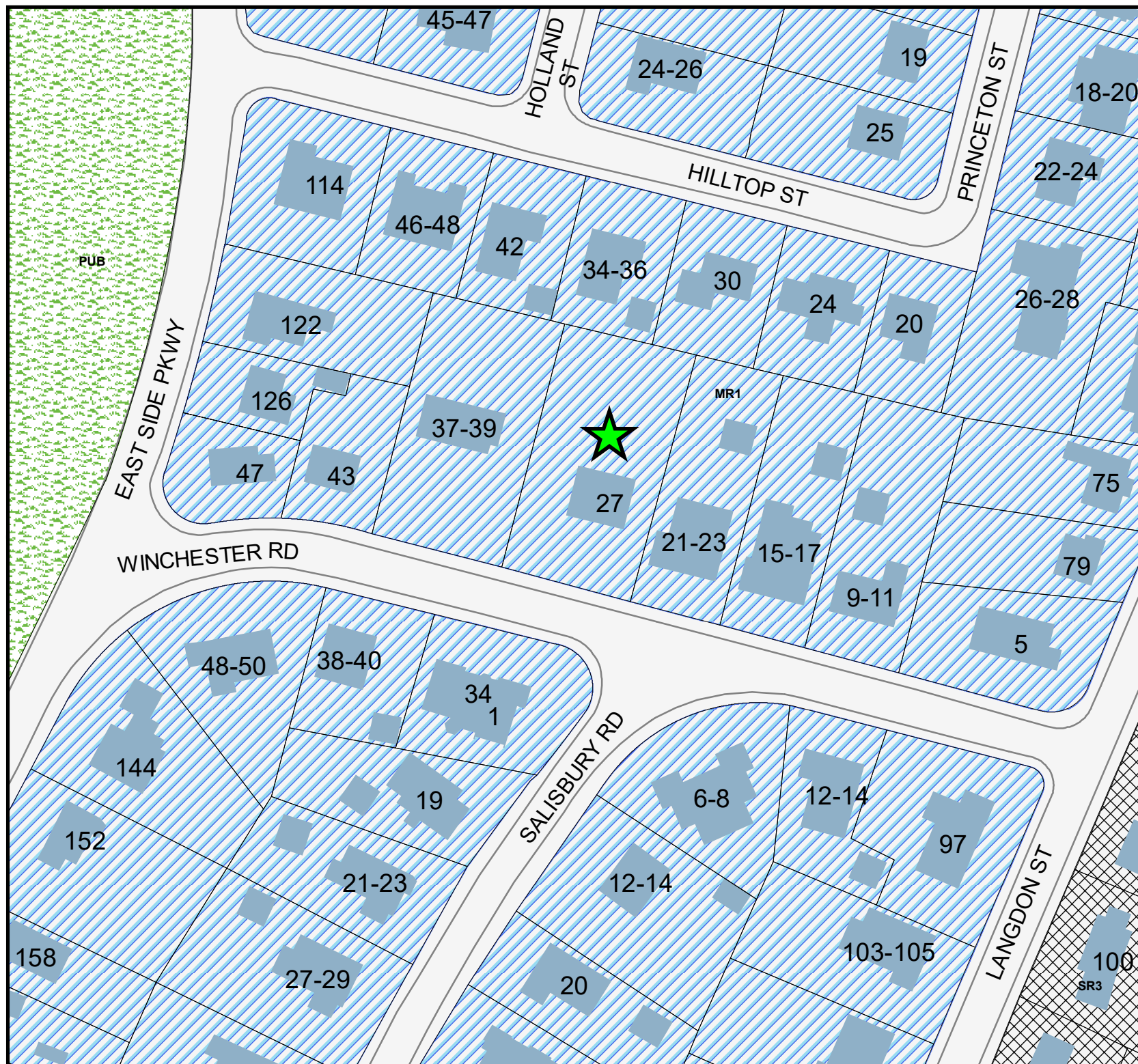


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve 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: October 16, 2020





# ATTACHMENT B





## Land Use

## 27 Winchester Road

*City of Newton,  
Massachusetts*

### Land Use

#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space



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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: October 19, 2020





Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: August 6, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurance Lee, Attorney  
27 Winchester LLC, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to allow three single-family attached dwellings**

| Applicant: 27 Winchester LLC               |   |
|--|---|
| <b>Site:</b> 27 Winchester Road            | <b>SBL:</b> 13005 0007                                      |
| <b>Zoning:</b> MR1                         | <b>Lot Area:</b> 15,833 square feet                         |
| <b>Current use:</b> Single-family dwelling | <b>Proposed use:</b> Three single-family attached dwellings |

### BACKGROUND:

The property at 27 Winchester Road consists of 15,833 square feet and is improved with a single-family dwelling built in 1896 in the MR1 zoning district. The petitioners propose to relocate the existing dwelling on the lot and to construct two additional units to the rear with private garages for each unit.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 6/1/2020
- FAR worksheet, signed and stamped by Ronald F. Jarek, architect, submitted 6/1/2020
- Elevations and sections, signed and stamped by Ronald Jarek, architect, dated 5/15/2020
- Existing Survey Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 5/6/2019
- Civil Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 2/11/2020

## ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct three single-family attached dwellings in a single structure in the Multi Residence 1 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. The petitioners intend to preserve the existing single-family dwelling by moving it to a more central location at the front of the lot and construct a rear addition of two additional units. The existing structure has a height of 36.61 feet. The proposed new location and additions reduce the overall height to 36.54 feet. The petitioner requires a special permit per section 3.2.4 to waive the maximum height of 36 feet for attached dwellings.
3. The petitioners propose to construct a driveway along the eastern property line to serve all three units. Per section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line. The driveway runs along a proposed walkway located directly on the side lot line, requiring a waiver.
4. Retaining walls are proposed on each side of the property. Per section 5.4.2.B, a retaining wall four feet or more in height in the setback requires a special permit. The retaining wall along the easterly border reaches a maximum height of 4.9 feet and is located within the required 25-foot setback, requiring a special permit.

| MR1 Zone  | Required                                 | Existing                                       | Proposed                                     |
|---|--|--|--|
| Lot Size  | 15,000 square feet                       | 15,833 square feet                             | No change                                    |
| Frontage  | 80 feet                                  | 91 feet  | No change                                    |
| Setbacks <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Side</li><li>• Rear</li></ul> | 25 feet<br>25 feet<br>25 feet<br>25 feet | 49.4 feet<br>17.9 feet<br>35 feet<br>86.1 feet | 25.5 feet<br>26 feet<br>26 feet<br>32.2 feet |
| Building Height   | 36 feet                                  | <b>36.6 feet</b>                               | <b>36.5 feet</b>                             |
| Max Number of Stories   | 2.5 (3 by special permit)                | 2.5  | 2.5  |
| Lot Coverage  | 25%                                      | 9.1%   | 23.8%  |
| Open Space  | 50%                                      | 82.9%  | 61.4%  |
| Lot Area Per Unit   | 4,000 square feet                        | 15,833 square feet                             | 5,278 square feet                            |

See “Zoning Relief Summary” below:

| Zoning Relief Required |  |                        |
|------------------------|--|------------------------|
| <i>Ordinance</i>       | <i>Site</i>  | <i>Action Required</i> |
| §3.4.1                 | To allow attached single-family dwellings                                | S.P. per §7.3.3        |
| §3.2.4                 | To allow greater than 36 feet in height                                  | S.P. per §7.3.3        |
| §6.2.3.B.2             | To allow a driveway within 10 feet of the side lot line                  | S.P. per §7.3.3        |
| §5.4.2.B               | To allow retaining walls of four feet or more in height within a setback | 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 – 27 Winchester Road

Date: September 4, 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:

27 Winchester Road  
Newton, MA  
Prepared by: Spruhan Engineering PC  
Dated: 2/11/'20

Executive Summary:

This application entails the addition of two units onto the existing single-family dwelling. The lot is 15,833 square feet (0.36 acres); the site is relatively flat having a high point at elevation 72-feet near the northern (rear property line) and gently slopes towards the front of the lot at elevation 64 feet. There is 90 feet of frontage along Winchester Road which has concrete sidewalks and granite curbing; upon the installation and abandonment of various utilities the concrete sidewalks shall be replaced. The existing driveway will be expanded to accommodate the access for the two additional units towards the rear of the existing dwelling, a retaining wall along the eastern property line will be constructed to allow for the two new garages at the basement level. A retaining a wall is proposed parallel to the western property line and offset approximately 10-feet this will allow for patio areas for the units.

The engineer of record has designed a stormwater collection system for the entire development that will capture and infiltrate all roof and driveway runoff which also includes proposed sump pumps for each unit, the system ultimately has an overflow connection to the City drainage system. At the time of this review however a drainage report was not provided.

New water, sanitary sewer and gas services are proposed, and the old services shall be abandoned to City Standards.

Construction Management:

1. A Stabilized driveway construction entrance(s) will be provided for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
2. 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. A Pre & Post Construction drainage analysis is required. All stormwater runoff from the site shall be captured on-site and infiltrated in accordance with the Massachusetts Department of Environmental Protection standards and the City of Newton Department of Public Works policy. This policy states that stormwater runoff shall be retained from the 100-year storm event of 8.78-inches over a 24-hour period and shall be infiltrated to the maximum practicable extent. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins. On-site soil evaluation is required to determine the seasonal high groundwater elevation, soil types and to identify any and all unsuitable soils (such as ledge, clay, peat, fill and others). On site soil testing that will include test pit(s) within 25 -feet of each proposed system and percolation test(s) must be schedule and witnessed by a representative of the Engineering Division. Soil logs shall be submitted on the site plan or drainage report and shall be certified by a Massachusetts Licensed Soil Evaluator and/or Professional Civil Engineer.
2. The proposed Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities is acceptable, however it needs to



include bi-annual sweeping of the driveway, once this is update it will be approved. 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.

3. 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).
4. Prior to final approval of the overflow connection, the engineer of record needs to submit hydraulic calculation to ensure that there is adequate capacity in the City's drainpipe in Winchester Road from the point of connection to the next downstream manhole. Additionally, a Closed-Circuit Television (CCTV) inspection will be required for Pre & Post Construction and must be witnessed by the Engineering Division, video copies shall be provided for review.

*Sanitary Sewer & Domestic Water Service(s):*

1. 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.
2. 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.
3. 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.

4. 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".
5. 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 give to the Engineering Division.
6. 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.
7. 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.

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 three single-family attached dwellings and grant exceptions to dimensional requirements to allow a structure with a height in excess of 36 feet, retaining walls within four feet or more in height within a setback, and to allow a driveway within ten feet of the side lot line, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed three single-family attached dwellings due to the surrounding multifamily residential uses and the project meets the dimensional standards for single family attached dwellings in the MR-1 zone in regards to setbacks, lot coverage, and open space. (§3.4.1, §7.3.3.C.1)
2. The specific site is an appropriate location for the proposed retaining wall greater than four feet in height within a setback because such walls allow for the utilization of the location of the existing driveway and for the driveway to slope into the site to accommodate parking for the proposed units. (§5.4.2.B, §7.3.3.C.1)
3. The proposed three single-family attached dwellings will not adversely affect the neighborhood as there are only two additional units being proposed in a largely multi-family residential neighborhood. (§3.4.1, §7.3.3.C.2)
4. The proposed single-family attached dwelling will not create a nuisance or serious hazard to vehicles or pedestrians because all parking will be contained on site. (§3.4.1, §7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. Literal compliance with the dimensional standards for the height and driveway located within ten feet of the side lot line, is in the public interest due to the proposed project incorporating and existing historically significant structure, and accommodating parking for the proposed three units on site while utilizing the existing driveway. (§3.2.4, §6.2.3.B.2 )

PETITION NUMBER: #340-20

PETITIONER: 27 Winchester Road LLC

LOCATION: 27 Winchester Road, Ward 1, on land known as Section 13, Block 5, Lot 7, containing approximately 15,833 sq. ft. of land

OWNER: 27 Winchester Road LLC

ADDRESS OF OWNER: 173 Cabot Street  
Newton, MA 02458

TO BE USED FOR: Three single-family attached dwellings

EXPLANATORY NOTES: Special permit as per §7.3.3 to:

- allow three attached single-family dwellings in an Multi-Residence 1 (MR1) zoning district (§3.4.1)
- allow a structure in excess of 36 feet in height (§3.2.4)
- allow a driveway within ten feet of the side lot line (§6.2.3.B.2)
- allow retaining walls of four feet or more in height within a setback (§5.4.2.B)

ZONING: Multi-Residence 1 (MR1) 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 set of plans prepared by Spruhan Engineering:
    - i. "Existing Survey Plan, Newton, Massachusetts, 27 Winchester Road," dated May 6, 2019, signed and stamped by Christopher C. Charlton, Professional Land Surveyor
    - ii. "Proposed Civil Plan, Newton, Massachusetts, 27 Winchester Road," dated February 11, 2020, signed and stamped by Christopher C. Charlton Professional Land Surveyor, and Edmond Spruhan, Professional Engineer
    - iii. "Detail, 3" dated February 11, 2020, signed and stamped by Edmond Spruhan, Professional Engineer
    - iv. "Detail, 4" dated February 11, 2020, signed and stamped by Edmond Spruhan,

- b. Architectural plans entitled “Winchester Street Residences” prepared by MGD+ LLC , dated May 15, 2019, revised July 31, 2020, signed and stamped by Ronald Jarek, Registered Architect:
- i. Existing Condition Plan, SD.03,
  - ii. Proposed Conditions, SD.04
  - iii. Landscape Plan, SD.05
  - iv. Landscape Vegetation and Materials, SD.06
  - v. Basement Floor Plan, SD.07
  - vi. First Floor Plan, SD.08
  - vii. Front Elevaton, SD.09
  - viii. Left Elevation, SD.10
  - ix. Right Elevation, SD.11
  - x. Rear Elevation, SD.12
  - xi. Second Floor Plan, SD.16
  - xii. Attic Plan, SD.17
2. The petitioner shall preserve the existing proportions, substrate (underlying shell) and architectural details that contribute to the historic significance of the portions of the existing house structure to be preserved, including but not limited to all exterior walls, roof structure, and window openings. Any unforeseen changes to the existing proportions or substrate and architectural details that contribute to the historic significance of the portions of the existing house structure to be preserved shall not be made without approval by the Newton Historical Commission.
3. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, Department of Engineering, and Department of Inspectional Services.
4. The petitioner shall comply with the Tree Preservation Ordinance.
5. All lighting fixtures shall be residential in scale.
6. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.

- d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
  - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
  - f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. A plan for rodent control prior to demolition, during demolition, and during construction.
  - i. The CMP shall also address the following:
    - safety precautions;
    - anticipated dewatering during construction;
    - site safety and stability;
    - impacts on abutting properties.
7. 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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - d. 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.
  - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
  - f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, and recorded at the Registry

of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.

- g. Conduct a pre-construction a closed-circuit television inspection of the City's drainpipe in Winchester Road and provide an electronic copy of such inspection to the Commissioner of Public Works
  - h. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
  - i. Filed with the City Clerk, Inspectional Services, and the Planning Department a statement from the Newton Historical Commission approving the final plans.
8. No 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 Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
  - e. Conduct a post-construction closed-circuit television inspection of the City's drainpipe in Winchester Road and provide an electronic copy of such inspection to the Commissioner of Public Works
9. Notwithstanding the provisions of Condition #8 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development 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 site work to secure installation of such landscaping, fencing, signage and parking areas.