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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: August 11, 2015
Land Use Action Date: October 13, 2015
Board of Aldermen Action Date: October 19, 2015
90-Day Expiration Date: November 3, 2015

DATE: August 7, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner 

SUBJECT: **Petition #162-15**, DAVID BELCOURT & NAHMA NADICH, for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING STRUCTURE by removing an existing one-story rear addition and constructing a new two-story addition four feet wider and removing an existing front landing and constructing in its place a covered porch and stairs, which will increase the existing Floor Area Ratio from .47 to .59, where .46 is the maximum allowed by right, and to reduce the existing nonconforming open space, lot coverage, and side setback at 6 DENNS PLACE, Ward 2, Newton Centre, on land known as SBL 64, 3, 2, containing approximately 3,084 sf of land in a district zoned SINGLE RESIDENCE 2. Ref.: Sec. 30-24, 30-23, 30-21(b), 30-15 Table 1, 30-15(u)(2) of the City of Newton Rev. Zoning Ord., 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision-making process of the Board of Aldermen. 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 Board of Aldermen will want to consider in its discussion at a subsequent working session.



6 Dennis Place

EXECUTIVE SUMMARY

The property located at 6 Denms Place consists of a narrow 3,084 square foot lot. The property is improved with a nonconforming 2½-story single-family home constructed in 1890, and is also partially encumbered by Denms Place, a private driveway created by easement, and a utility easement, which run through the front of the property parallel to Denms Place. The dwelling is considered nonconforming since it currently encroaches 4.9 feet into the side setback (eastern side) and exceeds the maximum allowable floor area ratio by 0.01. Further, the existing level of open space available on the property is nonconforming, as it is 24.3% below the minimum 50% required. The petitioner is proposing to raze a one-story addition at the rear of the home, and construct a slightly larger two-story addition. The petitioner is also proposing to raze the front landing, and construct a covered porch and a small bathroom addition. In order to construct the additions, the petitioner is seeking a special permit to increase the already nonconforming floor area ratio (FAR) from 0.47 to 0.59, decrease the already nonconforming open space from 25.7% to 24.5%, and reduce the nonconforming side setback from 2.6 feet to 2.5 feet. Additionally, the petitioner must seek variances from the City's Zoning Board of Appeals to reduce the rear setback from 15 feet to 11.3 feet, where 15 feet is the minimum required, and to increase the existing lot coverage from 28.3% to 33.3%, where 30% is the maximum allowed.

According to the Zoning Review Memorandum (**ATTACHMENT A**), the petitioner was granted variances (VAR #45-95) in 1995 to reduce the rear setback and increase the lot coverage. This approval was never exercised and has now lapsed. In 2015, the City's Senior Preservation Planner reviewed the project for compliance with the City's Demolition Delay Ordinance, and determined that the dwelling was historic. The proposal was, however, administratively approved based upon the materials proposed and the scope of work (**ATTACHMENT B**).

The Planning Department is not concerned with this petition, as the front addition does not increase the visual impact of the dwelling's front façade in terms of mass and bulk. In addition, the proposed rear addition will be constructed virtually in the same footprint as the existing one-story addition. The Planning Department also notes that many of the properties in the immediate area are similarly sized and shaped, and the design of the expanded home conforms to the development patterns of surrounding parcels. Further, the Planning Department believes that the site's unique size and narrow shape, and its easement encumbrances, makes it an appropriate location for the proposed additions. The *Newton Comprehensive Plan*, adopted in 2007, encourages residential property owners to consider modest additions to older homes in order to preserve the existing structure, while allowing them to meet the needs of today's families. For these reasons, it appears that the proposed additions are consistent with and not in derogation of the size, scale and design of other structures in the neighborhood, and that the additions are not substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The expanded home, which exceed the maximum allowable FAR of 0.46 by 391 square feet (or 27%), is consistent with and not in derogation of the size, scale, and design of

- other structures in the neighborhood, and is not substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§30-15(u)(2), §30-15(u) Table A, and §30-21(b))
- The reduction of available open space on the site, which is already nonconforming, is not substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§30-15 Table 1 and §30-21(b))
 - The reduction of the already nonconforming eastern side setback is not substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§30-15 Table 1 and §30-21(b))
 - This site, which is unique to its small size and is encumbered by Denms Place and a utility easement, is an appropriate location for the proposed additions. (§30-24(d)(1))
 - The proposed additions to the single-family dwelling will not adversely affect the neighborhood. (§30-24(d)(2))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located off of a shared private driveway called Denms Place, which is accessed off of Cummings Road. The surrounding neighborhood contains a mixture of land uses consisting of single- and multi-family residences, commercial, industrial, mixed-use, open space (Newton City Hall and Newton Free Library), nonprofit organizations, and vacant properties (**ATTACHMENT C**). The subject property contains a single-family dwelling. The project site and much of the surrounding neighborhood are zoned Single Residence 2, but there are parcels also zoned Open Space/Recreation and Public Use in the immediate area (**ATTACHMENT D**).

B. Site

The property consists of 3,084 square feet of land and is improved with a nonconforming 2½-story single-family dwelling. The property is partially encumbered by Denms Place, a private driveway created by easement, and a utility easement, which run through the front of the property parallel to the shared driveway. The dwelling is considered nonconforming since it encroaches 4.9 feet into the eastern side setback and 0.9 feet into the western side setback, and exceeds the maximum allowable floor area ratio by 0.01. Further, the existing level of open space available on the property is nonconforming, as it is 24.3% below the minimum 50% required. There is vehicular access on the west side of the site via a bituminous driveway. The remaining portions of the site consist of lawn (front) and a patio (rear).

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to raze a one-story addition at the rear of the home to construct a slightly larger two-story addition, and to raze the front landing so a covered porch and a small bathroom addition may be constructed. The additions will result in a net increase of approximately 391 square feet of gross floor area, for a total dwelling size of approximately 1,840 square feet. Most of the floor area increase will occur at the rear of the dwelling, which will not be visible from Denms Place or adjacent streets. As a result of the proposed the additions, the already nonconforming FAR will be increased from 0.47 to 0.59, the already nonconforming open space will be decreased from 25.7% to 24.5%, and the nonconforming eastern side setback will be reduced from 2.6 feet to 2.5 feet. In addition, the proposed rear addition will reduce the rear setback from 15 feet to 11.3 feet, where 15 feet is the minimum required, and increase the existing lot coverage from 28.3% to 33.3%, where 30% is the maximum allowed. The petitioner is seeking variances from the City's Zoning Board of Appeals to reduce the minimum rear setback and exceed the maximum allowable lot coverage.

The Planning Department initially had reservations about the size of the addition, and how the bulk and mass of the building will impact the character of the surrounding neighborhood. However, after evaluating the subject property and the development patterns of properties in the immediate area, the Planning Department finds the subject property to be unusually small and uniquely narrow, and is constrained by Denms Place and a utility easement, which encumber the front portion of the lot. Further, the Planning Department observed that many of the surrounding properties are similarly developed with dwellings of comparable size, scale, and design. For the above reasons, the Planning Department believes the proposed additions are consistent with and not in derogation of the size, scale and design of other structures in the neighborhood, and that the additions are not substantially more detrimental that the existing nonconforming structure is to the surrounding neighborhood.

C. Parking and Circulation

There will be no changes to the parking or circulation of the site.

D. Landscape Screening

No landscape plan was required for this petition. The Planning Department notes that the parcel is uniquely sized, which limits the potential for adding screening measures in certain areas. Further, the Planning Department notes that a significant portion of the proposed additions will occur at the rear of the dwelling, which will not be visible from adjacent streets. The Planning Department does not recommend additional screening measures.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT A**) provides an analysis of the proposal with regard to zoning. Based on this review, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §30-15(u)(2), §30-15(u) Table A, and §30-21(b) to exceed the maximum allowable FAR;
- §30-15 Table 1 and §30-21(b) to decrease the nonconforming side setback (eastern side); and
- §30-15 Table 1 and §30-21(b) to decrease the already nonconforming level of open space.

In order to construct the proposed additions, the petitioner is also seeking Variances from the City's Zoning Board of Appeals for the following provisions of the Newton Zoning Ordinance:

- §30-15 Table 1 to reduce the minimum required rear setback; and
- §30-15 Table 1 to exceed the maximum allowable lot coverage.

B. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum (**ATTACHMENT E**), which provides an analysis of the proposal with regards to engineering issues. According to the memorandum, the Engineering Division has some not particularly concerned with drainage on the site, as the proposed additions will be constructed over existing impervious surface. Based on the Engineering Division's record, the domestic utilities to the site are very old. The petitioner is encouraged to update these services, especially the water service which dates back to 1935, to current standards.

V. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time. The Planning Department recommends approval with conditions.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum, dated June 22, 2015
ATTACHMENT B: Newton Historical Commission Demolition Review Decision, dated April 1, 2015
ATTACHMENT C: Land Use Map
ATTACHMENT D: Zoning Map
ATTACHMENT E: Engineering Review Memorandum, July 24, 2015



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Mayor

ATTACHMENT A

City of Newton, Massachusetts
Department of Planning and Development

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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: June 22, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: David Belcourt and Nahma Nahich, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a variances from the rear setback and lot coverage requirements, and for a special permit to further extend nonconforming FAR, side setback and open space

Applicant: David Belcourt and Nahma Nahich	
Site: 6 Dennis Place	SBL: 64003 0052
Zoning: SR2	Lot Area: 3,084 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 6 Dennis Place consists of a 3,084 square foot narrow lot improved with a single-family residence built in 1890. Dennis Place is a private way serving the subject property, as well as 8 Dennis Place and the garage of 24 Cummings Road. A utility easement runs through the front of the property, parallel with Dennis Place. The applicants wish to remove a one-story rear addition, and construct a two-story addition four feet wider than existing. Further, the applicants propose to remove an existing front landing and construct in its place a covered porch and stairs. An adjacent 5 foot by 5 foot space will be enclosed to create a bathroom. A variance for changes proposed by this application was approved in 1995, but was never exercised and lapsed.

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

- Variance Application, prepared by David Belcourt, applicant, dated 3/12/2015
- Plot Plan, signed and stamped by Stephen P. Desroche, surveyor, dated 3/17/2015
- FAR worksheet, submitted 3/17/2015
- Architectural plans, prepared by Architectural Design Group, undated
 - Proposed exterior elevations
 - Proposed floor plans

ADMINISTRATIVE DETERMINATIONS:

1. Section 30-15, Table 1 requires a rear setback of 15 feet in the Single Residence 2 district. The existing dwelling meets the rear setback requirement. The applicants propose to remove the existing single-story rear addition, and rebuild it with two stories extending it to a setback of 11.3 feet, encroaching 3.7 feet into the rear setback. A variance is required for a rear setback of 11.3 feet.
2. There is an existing side setback of 2.6 feet on the eastern side lot line, where 7.5 feet is required per Section 30-15, Table 1. The applicants propose to make a two-story rear addition which will create a side setback of 2.5 feet, which further increases the nonconforming setback. A special permit per Section 30-21(b) is required to further extend the nonconforming side setback.
3. The property has an existing lot coverage of 28.3%, where the maximum allowed per Section 30-15, Table 1 is 30%. The proposed additions to the property create a lot coverage of 33.3%, which exceeds the maximum allowed by 3.3%, or approximately 100 square feet. To exceed maximum lot coverage requires a variance.
4. The existing open space is 25.7% of the property, where the minimum required by Section 30-15, Table 1 is 50%. The proposed additions will further reduce the nonconforming open space to 24.5%, which requires a special permit per Section 30-21(b) to further extend the nonconforming open space.
5. The property has a nonconforming FAR of .47, where .46 is the maximum allowed per Section 30-15(u). The proposed additions create an FAR of .59, further increasing the nonconforming FAR. A special permit is required to increase the nonconforming FAR per Sections 30-15(u)(2) and 30-21(b).

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	3,084 square feet	No change
Frontage	80 feet	42.5 feet	No change
Setbacks			
• Front	25 feet	29.2 feet	27.2 feet
• Side	7.5 feet	2.6 feet	2.5 feet
• Rear	15 feet	15 feet	11.3 feet
Max Lot Coverage	30%	28.3%	33.3%
Min Open Space	50%	25.7%	24.5%
FAR	.46	.47	.59

Zoning Relief Required

<i>Ordinance</i>		<i>Action Required</i>
§30-15, Table 1	To encroach into rear setback	Variance
§30-15, Table 1 §30-21(b)	To further decrease a nonconforming side setback	S.P. per §30-24
§30-15, Table 1	To exceed lot coverage	Variance
§30-15, Table 1, §30-21(b)	To further decrease minimum open space	S.P. per §30-24
§30-15(u)(2), §30-21(b)	To further increase nonconforming FAR	S.P. per §30-24



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ATTACHMENT B

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Candace Havens
Director

Newton Historical Commission Demolition Review Decision

Date: 4/1/2015 Zoning & Dev. Review Project# 15030078

Address of structure: 6 Denny's Place

Type of building : House

If partial demolition, feature to be demolished is portion rear facade

The building or structure:

- is _____ is not x in a National Register or local historic district not visible from a public way.
- is _____ is not x on the National Register or eligible for listing.
- is _____ is not x importantly associated with historic person(s), events, or architectural or social history
- is x is not _____ historically or architecturally important for period, style, architect, builder, or context.
- is _____ is not x located within 150 feet of a historic district and contextually similar.

is _____ **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.
Demolition is not delayed and no further review is required.

is x **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

x **APPROVES** the proposed project based upon materials submitted see below for conditions (if any).
Demolition is not delayed, further staff review may be required.

_____ **DOES NOT APPROVE** and the project requires
Newton Historical Commission review (See below).

Final review of plans required

The Newton Historical Commission finds the building or structure:

is _____ **NOT PREFERABLY PRESERVED**
Demolition is not delayed and no further review is required.

is _____ **PREFERABLY PRESERVED - (SEE BELOW).**

Delay of Demolition:

_____ is in effect until _____

_____ has been waived - see attached for conditions **

Determination made by:

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

Land Use Map

6 Denny's Place

City of Newton,
Massachusetts

ATTACHMENT C

Legend

-  Property Boundaries
-  Building Outlines
- Land Use**
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

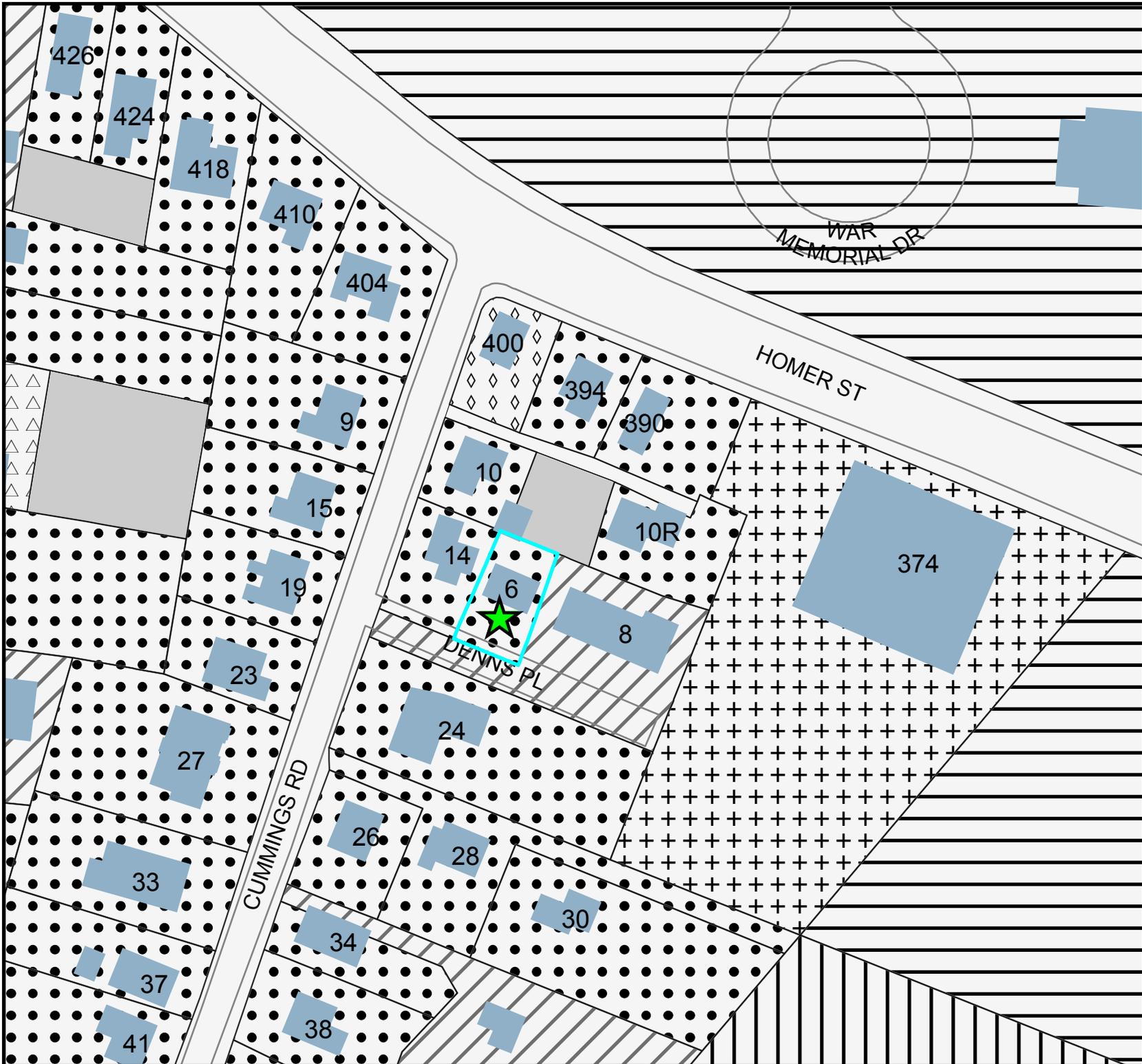


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: July 27, 2015



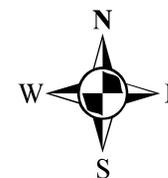
ZoningMap 6 Denny's Place

City of Newton,
Massachusetts

ATTACHMENT D

Legend

- Property Boundaries
- Building Outlines
- Single Residence 2
- Open Space/Recreation
- Public Use

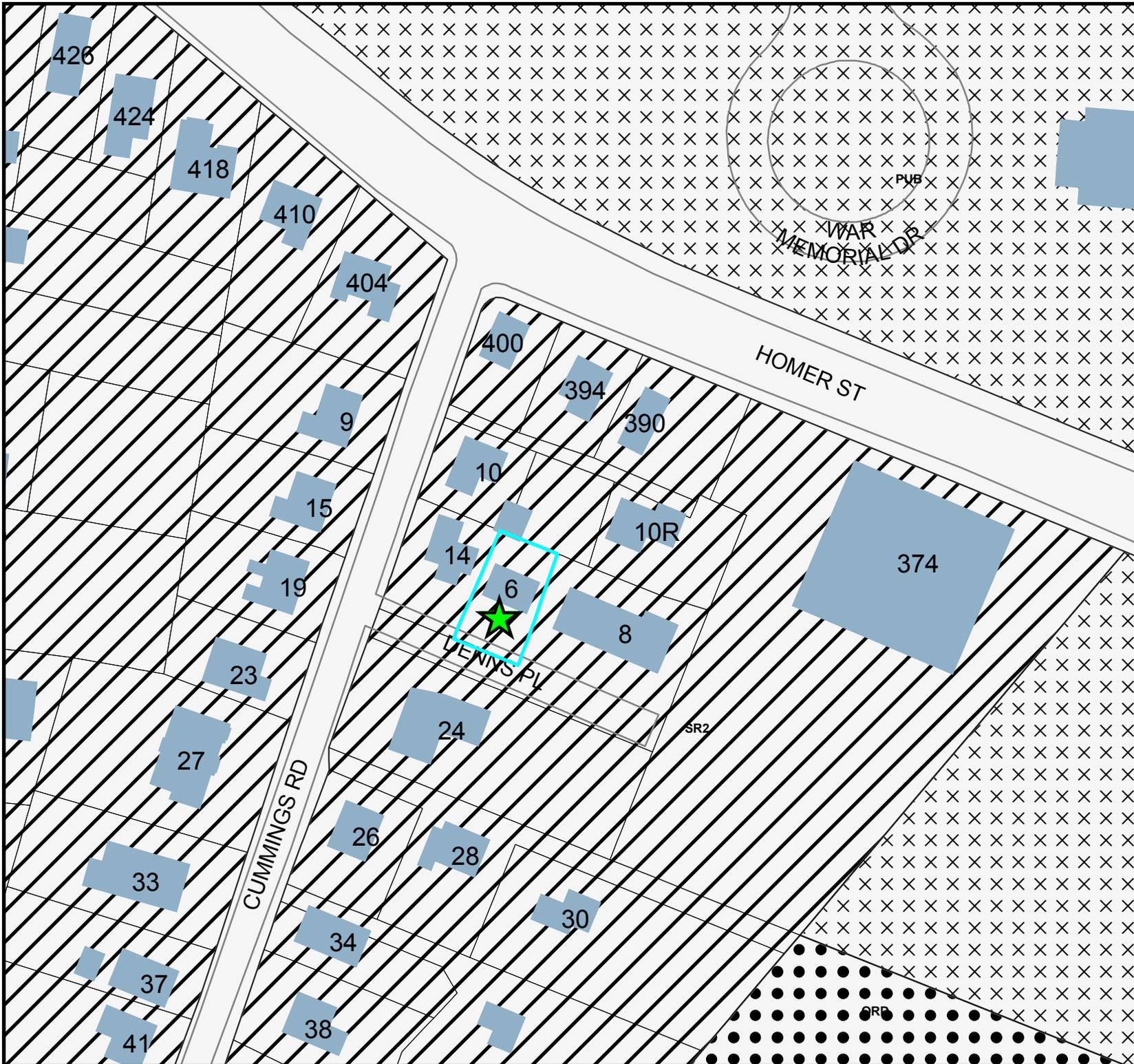


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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100
Feet

Map Date: July 27, 2015



CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 6 Denms Place

Date: July 24, 2015

CC: Lou Taverna, PE City Engineer
Linda Finucane, Associate City Clerk
Alexandria Ananth, Chief Planner
Dan Sexton, Sr. Planner

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

*Plot plan
6 Denms Place
Newton, MA
Prepared by: Framingham Survey Consultants
Dated: Oct. 4, 2014*

Executive Summary:

The existing single family dwelling has a proposed addition that would be placed over existing impervious surface (asphalt), since there is no increase of impervious surface no drainage improvements are needed. If the house is gutted more than 50% then both the domestic water & sanitary sewer services shall be updated. Based on our records the water service dates back to 1935, it is highly recommend that the water service be update to current standards.

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. The contractor 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 service, 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's Inspector has given their approval. *This note should be incorporated onto the plans*
3. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
4. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
6. If a Certificate of Occupancy is requested prior to all site work being completed. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, 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 @ 617-796-1023.