

SECTION 9

**LIST OF EXCEPTIONS TO THE ZONING BYLAWS AND
OTHER LOCAL LAND USE REQUIREMENTS**

LIST OF RELIEF SOUGHT – 1521 BEACON STREET

The Applicant requests that the Zoning Board of Appeals grant a comprehensive permit in lieu of the following permits, licenses and approvals without which the Project could not be constructed as proposed, and the denial of which in many instances would render the Project uneconomic within the meaning of M.G.L. c. 40B, §20. References herein are to the Revised Ordinances of Newton 2014, as amended, of which Chapter 30 is the City of Newton Zoning Ordinance dated November 1, 2015 (the “Zoning Ordinance”).

ZONING ORDINANCE

1. Use

The Applicant seeks a comprehensive permit in lieu of a variance and/or special permit from the provisions of Sec. 3.4.1 to permit the premises to be used for thirty-six apartment units in one larger building and twelve townhouse units in three smaller buildings (3 units, 4 units and 5 units, respectively) with accessory parking and associated amenities in a Single Residence 2 District.

2. Affordable Housing

Sec. 5.11 of the Zoning Ordinance, provides requirements for participation in affordable housing programs for private developments granted by special permits involving increases in density. The Applicant’s program of affordability will provide that 20% of the dwelling units in the project will be available for rent to persons or families of low income as defined by the regulations of MassHousing from time to time. To the extent that Sec. 5.11 might be applicable to the project, a comprehensive permit is requested in lieu of a special permit under Sec. 5.11 in order to conform the affordability elements of the Applicant’s program to the requirements of the Zoning Ordinance.

3. Density and Dimensional Controls

The Applicant seeks a comprehensive permit in lieu of such variances or special permits as may be required from or under Sections 3.1.2 and 3.1.3 for construction of the project in a Single Residence 2 District including without limitation the following waivers from the dimensional requirements of Sections 3.1.2 and 3.1.3 for single dwelling units:

Zoning Category	Required	Proposed	Need Waiver (Y/N)
Minimum Lot Area	15,000 square feet	70,335 square feet	N
Lot Area Per Unit	15,000 square feet	1,465 square feet	Y (Sec. 3.1.3)
Frontage (Short St)	100 feet	273 feet	N
Frontage (Karen Rd)	100 feet	207.7 feet	N
Front Setback (Apartment Bldg)	30 feet	26.5 feet	Y (Sec. 3.1.3)
Front Setback (Townhouses)	30 feet	9.8 feet ¹	Y(Sec.3.1.3)
Side Setback	15 feet	10 feet ²	Y(Sec.3.1.3)

¹ 9.8 feet is the shortest setback of the Townhouses, and is at Townhouse Cluster #1.

² There is a 10 foot side setback from Townhouse Cluster #3.

(Townhouses)			
Side Setback (Apartment Bldg)	15 feet	9.8 feet	Y(Sec.3.1.3)
Rear Setback ³ (Short Street)	15 feet	N/A	N
Rear Setback ⁴ (Karen Road)	15 feet	39 feet	N
Floor Area Ratio	.33	1.19	Y(Sections 3.1.3 and 3.1.9)
Building Height (Apartment Bldg)	36	56.14 feet	Y(Sec.3.1.3)
Building Height (Townhouses)	36	32.42	N
Maximum Number of Stories	2.5	4	Y(Sec.3.1.3)
Maximum Building Lot Coverage	20%	35%	Y(Sec.3.1.3)
Minimum Open Space	65%	35%	Y(Sec.3.1.3)

4. Parking Requirements

The Applicant seeks a comprehensive permit in lieu of a special permit pursuant to Sec. 5.1.13 in order to permit a parking facility in accordance with the submitted plans and to deviate from *inter alia* the following requirements under Sec. 5.1:

- (a) To the extent Sec. 5.1.3.E prevents assignment of parking spaces to unit owners, a waiver is sought from that provision.
- (b) Requirement that two parking units be provided for each dwelling unit in an apartment house, garden apartment, or attached dwellings under Sec. 5.1.4.A.
- (c) Application for parking and loading facility permit under Sec. 5.1.5.
- (d) Requirement that parking stalls may not be located within the side setback from any building containing dwelling units under Sec. 5.1.8.A.
- (e) Requirement that outdoor parking shall not be located within 5 feet of a building or structure containing dwelling units if necessary.
- (f) Requirement that parking stall widths shall be at least nine feet under Sec. 5.1.8.B (waiver sought for townhouse parking stalls).
- (g) Requirement that end stalls restricted on one side by curbs, walls, fences or other obstructions shall have maneuvering space at the aisle end of at least five (5) feet in depth and nine (9) feet in width under Sec. 5.1.8.B.6.

³ As to the apartment building, Townhouse #1 and Townhouse #2, there are no rear setbacks as the property runs from Short Street to Karen Road, and there are no other properties abutting the rear of those three buildings. As to Townhouse #3, the rear setback meets the requirements of the Zoning Ordinances.

⁴ See footnote 3, above.

- (h) Requirement under Sections 5.1.8.C.1 and 2 that 90 degree parking stalls in a two-way traffic aisle shall have minimum maneuvering width of 24 feet.
- (i) Requirement under Sec. 5.1.8.D.1 that entrance and exit driveways shall be a minimum of twenty feet wide for two-way use.
- (j) Requirement under Sec. 5.1.9.A as to perimeter screening requirements for outdoor parking facilities of more than five stalls if necessary.
- (k) Requirement under Sec. 5.1.9.B as to interior landscaping requirements for outdoor parking facilities of 20 stalls or more if necessary.
- (l) Lighting requirements under Sec. 5.1.10.A as appropriate.
- (m) To the extent necessary, a waiver from the off-street loading requirements contained in Sec. 5.1.12.
- (n) Under Sec. 5.1.10.B.1 a waiver is sought in lieu of any consent of the City Engineer as to drainage of the parking facility.
- (o) Any other relief which may be necessary or appropriate and may be granted by the Board of Aldermen under Sec. 5.1.13 in order to conform the waivers sought to the plan submitted.

5. Site Plan Approval

The Applicant requests a comprehensive permit in lieu of site plan approval required under Sec. 7.5 in connection with special permits granted under Sec. 7.3.

NON-ZONING ORDINANCES

1. Tree Ordinance – Revised Ordinances §21-80 et seq.

Revised Ordinances §21-80 et seq. provide a requirement for a permit and the payment of fees for removal of trees from the property under certain circumstances. To the extent that any permit or fee payment would otherwise be required under Revised Ordinances §21-80 et seq., the Applicant requests a waiver of such permit and fees.

2. Demolition Delay – Revised Ordinances §22-50

Revised Ordinances §22-50 provide for a review by the Newton Historic Commission and the possible imposition of a demolition delay of historically significant buildings. To the extent the existing building may be deemed to fall within the jurisdiction of the Newton Historic Commission under revised Ordinance §22-50, a comprehensive permit is sought in lieu of a determination of the Newton Historic Commission that such structures or features are not preferably preserved.

3. Light Ordinance

Revised Ordinances §20-23 – 20-28 provide limitations on installation of light sources which do not conform to the criteria stated. §20-26 provides for waivers to be granted by the Planning and Development Board. To the extent that any light source may not conform to the requirements of §20-24 or that the requirements of that section may be

inconsistent with Sec. 5.1.10.A of the Zoning Ordinance, the Applicant seeks a comprehensive permit in lieu of any waiver requested under §20-26.

4. Consent of the Planning Board

To the extent any consent or review of the Planning Board is required under Planning Board rules, a comprehensive permit in lieu of such approval is sought.

5. Curb Cut Permit

The applicant requests a comprehensive permit in lieu of any sidewalk crossing permits or consent of the Commissioner of Public Works to the extent necessary to comply with the requirements of Revised Ordinances §26-65.

6. Utility Connection Permits

The applicant seeks a comprehensive permit in lieu of such local approvals as are required to (i) open streets, (ii) make utility connections for water, sewer, gas, electric, cable or other utilities from time to time.

7. Additional Relief

The Applicant seeks a comprehensive permit in lieu of all other permits, licenses or approvals as may be issued by the City of Newton as necessary to conform the relief sought to the plans filed with this Application as the same may be amended from time to time. Included within the relief sought are all ancillary, subsidiary, usual, customary or necessary local permits, approvals or licenses in lieu of which the Board may grant a comprehensive permit to the extent necessary to conform the relief granted to the plans submitted herewith as amended from time to time.