

**TOWN OF WEST NEWBURY  
PLANNING BOARD  
Tuesday March 19<sup>th</sup>, 2024 7:00 p.m.  
AGENDA**

**HYBRID MEETING – Public Invited**

**Town Offices**

**First Floor Hearing Room**

**381 Main Street**

**West Newbury, MA 01985**

***For Remote Participation (see below)***

1. Public Hearing - Proposed Multi-Family Zoning Overlay District to Comply with the MBTA Communities Act
2. Continued Public Hearing – 125 River Road, Eagle Nest Subdivision
3. 114 Ash Street – ANR Application
4. Drakes Landing –Project Closeout
5. General Business:
  - Minutes – None.
  - Correspondence
  - Administrative Details
  - Placement of Items for Future Planning Board Agendas
  - Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting  
*The Planning Board reserves the right to take Agenda items out of order*

**Addendum to Meeting Notice Regarding Remote Participation**

Pursuant to Chapter 2 of the Acts of 2023 that includes extending certain COVID - 19 measures adopted during the state of emergency, this meeting of the West Newbury Planning Board will be conducted via remote participation to the greatest extent possible. Members of the public who wish to view and/or listen to the meeting may do so using Zoom, by calling the telephone number or using the VideoLink listed below:

**Zoom Meeting Instructions:**

Phone: 1+(646) 558-8656

VideoLink: <https://us06web.zoom.us/j/81548312301?pwd=jvjK9MohWk1dSISaaBrdnK8keUpPyS.1>

Meeting ID: 815 4831 2301

Passcode: 138073

## **SECTION 2. DEFINITIONS**

For the purposes of this by-law certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word “shall” is mandatory and not directory; the word “lot” includes the word “plot”; the word “land” includes the words “marsh” and “water”.

~~Accessory Building. A building not attached to any principal building, customarily incidental to and located on the same lot with the principal building.~~

~~Accessory Structure. A structure that is accessory to and incidental to that of dwelling(s) and that is located on the same lot~~

Accessory Use. A use subordinate and customarily incidental to the principal use and located on the same lot as the principal use. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

~~Addition. An extension or increase in floor area, number of stories or height of a building or structure.~~

Adult Use. Adult use shall mean any of the following adult uses as separate or combined entities or activities.

(1) Adult bookstore: an establishment having a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to “Sexual conduct” or “Sexual excitement” as defined by MGL Chapter 272, Section 31; (2)

Adult video store: an establishment having a substantial or significant portion of its stock in trade videos, movies, CD-ROM, DVD or similar technologies that provide images to be viewed on or off premises which are distinguished or characterized by their emphasis depicting, describing or relating to “Sexual excitement” or “Sexual conduct” as defined in MGL Chapter 272, Section 31; (3) Adult paraphernalia store: an

establishment having a substantial or significant portion of its stock, devices, objects, tools or toys which are distinguished or characterized by their association with sexual conduct or sexual excitement as defined by MGL Chapter 272, Section 31; (4) Adult motion picture theater: a building or structure used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL Chapter 272 Section 31; (5) Adult live entertainment establishment: any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL Chapter 272 Section 31.

Animal Hospital or Veterinary. Facilities for keeping animals to be treated, in treatment or recovering from treatment in accord with normal veterinary practice as established by the Massachusetts Board of Registration of Veterinary Medicine.

~~Apartment. A dwelling unit which occupies a part of a building, other parts of which may or may not be used as dwellings.~~

~~Apartment House. A building arranged, intended or designed to be occupied by two or more families living independently of each other.~~

Assisted Living Facility. A managed residential community, operating under provisions of MGL Chapter 19D and contained in one or more primary buildings consisting of private residential units with or without kitchens. Further, said facilities may provide assistance with activities of daily living, together with meal service, housekeeping services, social and recreational activities and personal care services, transportation services, in a group setting primarily limited to individuals 62 years and older or couples,

one of whom is at least 62 years of age, who require help or assistance with activities of daily living but do not require full time nursing care.

~~ATM/Automatic Teller Machine. A drive in or walk in banking facility which either stands as a single structure or is attached to another building.~~

~~Basement. The part of the building which is wholly or partly below ground level. A story that is not a story above grade plane (see “story above grade plane”)~~

Basement, Finished *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Bed and Breakfast. A house, or portion thereof, where up to four lodging rooms, with meals, are provided providing that the maximum duration of any tenant shall be less than 14 consecutive nights. The operator shall live on the premises, or in an adjacent premises immediately abutting the residence with the bed and breakfast facility. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

~~Boarding House. A building or premises, other than a hotel or bed & breakfast, for not more than four (4) persons, provided that the principal use is as a private residence, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to short term paying guests.~~

~~Building. A structure having a roof or cover for the shelter, housing, or permanent habitation for one (1) or more persons. Any structure used or intended for supporting or sheltering any use or occupancy.~~

Building Inspector/ Building Official. See Inspector of Buildings/Building Commissioner.

Building Lot or Lot. *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Cemetery. An area of land for the interment of human remains.

~~Child Care Center. A child care center or school-age child care program as defined in Massachusetts General Laws Chapter 15D, Section 1A.~~

Cluster Zoning. *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Condominium. A system of real estate ownership in which a person or persons, partnership or corporation own one or more units or parcels in a multi-unit structure or parcel of land plus an undivided interest in elements and/or components owned jointly by all of the unit or parcel owners, or as defined in Chapter 183A of the General Laws.

Congregate Housing. A group living arrangement for elderly persons and persons with disabilities who cannot easily maintain their own housing, financially or otherwise, but who do not need nursing home care. The persons living together may care for themselves or may have ~~some~~ support services. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

~~Cooperative. A system of ownership in which shares in a corporation are owned, entitling an owner or owners to occupancy of a portion of real estate owned by the corporation.~~

Contiguous and Buildable Area. See Section 6.A.2. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Corner Lot. A lot abutting two or more public or private ways at their intersection. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Cul-de-sac. A ~~dead-end~~ street with the closed end consisting of a turn around. Refer to the West Newbury Planning Board Rules and Regulations Governing the Subdivision of Land, as may be amended. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Dwelling. Any building, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

Dwelling Unit. ~~One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.~~ A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family. One (1) or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal arrangements.

Family Day Care. A day care facility for not more than six children located in a building in which the primary purpose is residential.

Farming. The use of land for agriculture as defined in Massachusetts General Laws Chapter 128, Section 1.A., as may be amended. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Floor Area. Floor area shall be the cumulative floor area, of all levels within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or features. In the case of a multi-unit building, the center of the common wall shall be included.

Frontage. The linear extent of a lot measured along a constructed street ~~right-of-~~ or way from the intersection of one side lot line to the intersection of the other side lot line of the same lot, which can be used for access to the lot but not including any portion thereof devoted to a right-of-way or a driveway serving more than one lot unless a special permit for a common driveway has been approved by the Planning Board.

Frontage at corner lot. ~~At a corner, frontage shall be measured to the point of intersection of the extension of the sideline of the rights-of-way. (see diagram in Appendix One~~ Frontage at a corner lot shall be measured on the side of the lot that will be used to access the property and the proposed construction will front on.

Frontage on Curved Streets and in Cul-De-Sacs. For lots fronting on curved streets and cul-de-sacs, the frontage distance shall be determined by measuring the cumulative linear distances along the curves and any tangent sections there between, where the lot fronts on the street. ~~See diagram in Appendix One.~~ *[Added by vote of the Annual Town Meeting of April 30, 2007, approved by the Attorney General on June 11, 2007 and posted according to law on June 25, 2007.]*

Garage, Private. Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls or for commercial repair of vehicles or commercial storage of vehicles.

Garage, Public. Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, or supplying of gasoline or oil to motor vehicles.

Gasoline Station. An establishment which provides for the refueling of and servicing of motor vehicles and operations incidental thereto, and may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

Hazardous Materials. A substance or solid material in a quantity or form that significantly contributes to serious illness or death, or that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed as hazardous by the Environmental Protection agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act or similar authority, the Department of Energy or the Commonwealth of Massachusetts pursuant to applicable General Laws.

Hotel. A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of ~~three (3) or more~~ short-term paying guests ~~who are lodged~~, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

Inspector of Buildings/ Building Commissioner. The administrative chief of the building department in a municipality who is charged with the enforcement of 780 CMR in accordance with M.G.L. c. 143 §§ 3 and 3A as well as the enforcement of the Zoning-By- Law.

Kennel. Facilities for keeping four (4) or more dogs three (3) months old or older on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are customarily kept for sale.

~~Kindergarten. A school or class of young children, usually from four (4) to six (6) years of age.~~

Loading Space, Off-Street. An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street or other appropriate means of ingress or egress.

**Lodging House.** A one-family dwelling where one or more occupants are primarily permanent in nature and rent is paid for guest rooms.

**Lot.** An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

**Lot Area.** ~~The area of a lot exclusive of any area in a street or way, public or private. *[Added by vote of the Annual Town Meeting of April 30, 2007, approved by the Attorney General on June 11, 2007 and posted according to law on June 25, 2007.]*~~ The area of the horizontal plane of a parcel of land bounded by the front, side and rear lot lines.

**Lot Width.** The shortest distance between the side lot lines of the lot measured at the minimum front set back line.

**Maximum Building Coverage.** The maximum permissible area that may be covered by the ground floor area of all buildings, portions or that building and appurtenances on a lot when viewed from above; to be measured as a percent of the required minimum lot area in the zoning district where the lot is located.

**Maximum Lot Coverage.** The maximum permissible area that may be covered by all impervious surfaces on a lot, such as but not limited to buildings, pools, paved tennis courts, paved driveways and walkways; to be measured as a percent of the required minimum lot area in the zoning district.

**Membership Club.** A private, non-profit organization, building or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

**Mobile Home.** Any vehicle or object, which is drawn by or used in connection with a motor vehicle and which is so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations. It shall include the type of vehicle or modular construction commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

**Municipal Buildings and Use.** Facilities owned by the Town of West Newbury, operated by the Town of West Newbury, or both, and the uses conducted therein.  
*[Added by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

**Non-Conforming Lot.** A non-conforming lot is an existing lawful lot, which does not conform to the regulations for the district in which it is located and which existed at the time of the publication of notice of the hearing before the Planning Board respecting the regulation to which it does not conform as described in M.G.L. 40A § 6.

**Non-Conforming Use.** A non-conforming use of land or building is an existing lawful use of land or building which does not conform to the regulations for the district in which such use of land or building exists and which existed at the time of publication of notice of the hearing before the Planning Board respecting the regulation to which it does not conform as described in M.G.L. 40A § 6.

~~Nursery School. A place for group pre-school training of children.~~

Open Space Preservation Development A residential development in conformance with the Section 6.B, in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and from other groups in the same development by intervening open land, and in which the minimum dimensional requirements of lots are reduced and the land gained thereby is preserved as open space. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Principal Building. A building in which the primary use of the lot on which the building is located is conducted.

Principal Use. The ~~main~~ primary use of land or structures on a lot, as determined by the Inspector of Buildings.

~~Screened Area. A section shielded from view from adjacent areas by fencing, hedges or trees.~~

Screening. The material used to shield an area from view.

Short-Term Paying Guest. A person who rents a room in a hotel or bed & breakfast for less than 14 consecutive nights. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

Sign. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

~~Stream, Bank of. Rising ground bordering a flowing body of water as defined in 310 CMR 10 of Massachusetts Regulations.~~

Street. A public way or a private way either shown on a plan approved in accordance with the subdivision control law, or otherwise qualifying a lot for frontage under the subdivision control law.

Street Line. The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

~~Structure. Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land including swimming pools two (2) feet or more deep or having a surface of seventy five (75) or more square feet and including all swimming pools permanently equipped with a water circulating system.~~ That which is built or constructed.

~~Swimming Pool. An artificial pool of water or a natural pool altered to have a depth of two (2) feet or more at any point or seventy five (75) or more square feet of surface and used for swimming or bathing, located indoors or outdoors, together with the equipment, and appurtenances used in connection with the pool.~~

~~Town House. A single family dwelling attached to another single family dwelling, in such a manner that each dwelling has a floor at ground level and front and rear access to the outside.~~

Trailer. Any vehicle or object which is drawn by a motor vehicle.

Veterinary. See Animal Hospital

Wetlands. Swamps, bogs and freshwater wetlands as defined by Chapter 131, Section 40 of the General Laws of the Commonwealth of Massachusetts. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Yard. An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure, except for fences.

Yard, Front. A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and the front lot line.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.

Yard, Side. A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.



**Proposed Multi-Family Zoning Section to Comply with the MBTA Communities Act  
Planning Board Public Hearing Draft, March 5, 2024**

8.4 MBTA Communities Multi-family Housing Overlay

8.4.1. Purpose

The purpose of the MBTA Communities Multi-family Overlay District (MCMOD) is to allow multi-family housing as-of-right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). The MCMOD provides for as-of-right multi-family housing to accomplish the following purposes:

- 8.4.1.1. To increase the supply of housing in West Newbury.
- 8.4.1.2. To increase the diversity of housing in West Newbury so that it better meets the needs of people across age groups, abilities, household compositions, and income levels.
- 8.4.1.3. To ensure that multi-family housing minimizes harm to environmental, historic, and cultural resources.
- 8.4.1.4. To ensure that the design of sites and buildings for multi-family housing supports a good quality of life for occupants and abutters through:
  - a. efficient and attractive site circulation that balances the needs of all modes of travel,
  - b. environmentally sustainable public and private open spaces that fulfill specific ecological, recreational, or scenic functions,
  - c. durable buildings whose massing, and placement shapes human-scaled streets and open spaces while reflecting local building vernacular,
  - d. and parking that is convenient but that does not dominate the experience of the site.
- 8.4.1.5. To allow new homes in locations with adequate public infrastructure including streets, sidewalks, and water infrastructure.
- 8.4.1.6. To increase the municipal tax base through private investment in new residential developments.

8.4.1.7. To support the vibrancy of West Newbury's village center by allowing new homes close to it.

8.4.2. Establishment and Applicability

8.4.2.1. The MCMOD is an overlay district with a land area of approximately \_\_\_\_ acres. It is superimposed over the underlying zoning district(s) and is shown on the Zoning Map.

8.4.2.2. Subdistricts. The MCMOD contains the following subdistricts which are shown on the Zoning Map:

a. Neighborhood

b. Mixed-Use

8.4.2.3. Applicability of MCMOD. An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Section 8.4.

8.4.2.4. The provisions of this section apply only to developments on land located within a MCMOD where the property owner has elected to comply with the requirements of the overlay district, rather than complying with those of the underlying zoning district.

8.4.2.5. Relationship to Underlying Zoning. Provisions of this section supersede those of the underlying zoning. If there is a conflict between the provisions of this section and provisions found elsewhere in the Zoning Bylaw, the provisions of this section shall apply. All other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except that no special permit shall be required for multi-family housing, or any accessory use typically associated with multi-family housing, in a MCMOD. Uses that are not identified in Section 8.4 are governed by the requirements of the underlying zoning district(s).

8.4.3. Definitions.

For purposes of this Section 8.4, the following definitions shall apply.

As-of-right. Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

Building. A structure having a roof or cover and intended for human occupancy.

Building Type, Apartment Building. A residential building containing dwelling units arranged around a central hallway. Apartment buildings typically have more than one story, but dwelling units do not typically span more than one story.

Building Type, Mixed-Use. A building containing both residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses.

Building Type, Stacked Flats. A residential building with two to twenty-four residential dwelling units. Dwelling units may have individual entrances or may share an entrance, stairway and/or short hallway. The building may have entrances on multiple sides to serve groups of dwelling units. Dwelling units are typically stacked on top of each other but may occupy more than one story.

Building Type, 3-5 Family. A small multi-family residential building with three to five residential dwelling units. Dwelling units may have individual entrances or may share an entrance, stairway and/or short hallway. The building may have entrances on multiple sides to serve groups of dwelling units. Dwelling units may be side-by-side, above-and-below, front-to-back, or in another arrangement. Units may occupy more than one story. This building type includes townhouses which have the following characteristics: units are arranged side-by-side separated by common walls, units typically have narrow massing facing a street and may have more than one story, entries are typically on the narrow side of the unit and typically face a street or courtyard.

Building Type, Two-Family. A residential building in which two residential dwelling units are contained within a single free-standing structure. Units may be arranged side-by-side, above-and-below, front-to-back, or in another arrangement.

Compliance Guidelines. Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act as further revised or amended from time to time.

Developable land. Land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

Developable public land. Any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan approved by EOHLIC; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if EOHLIC determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

Development Site. The land area encompassed in a development proposal regardless of the number or configuration of lots, land ownership, or municipal boundaries.

Development standards. Provisions of Section 8.4.7 General Development Standards made applicable to projects within the MCMOD.

EOHLIC. The Massachusetts Executive Office of Housing and Livable Communities, DHCD's successor agency.

Excluded land. Per the Compliance Guidelines, land areas on which it is not possible or practical to construct multi-family housing. For purposes of the Compliance Guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.

(iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).

(v) All public rights-of-way and private rights-of-way.

(vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.

(vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

Gross density. A units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

Height, Building. The vertical distance measured between the mean elevation (average grade) where the foundation of the building meets the soil and the mid-point between the eaves and the ridge of a peaked roof, or the top of the structure of the highest roof beams of a flat roof, or the deck of a mansard roof.

Infeasible. Not technologically possible, or not economically practicable and achievable in light of best industry practices.

Mixed-use development. Development containing a mix of residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses.

Multi-family housing. A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

Multi-family zoning district. A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as-of-right.

Open space. The space on a lot unoccupied by buildings or structures, not devoted to streets, driveways, off-street parking or loading spaces. Open space may include natural areas, fields used for agriculture or horticulture, facilities for low impact development stormwater management, wastewater leach fields, walkways and paths other than required sidewalks, off street bicycle paths, and facilities for outdoor use by the occupants of the lot such as swimming pools, tennis courts, patios, vegetable gardens, terraces and patios. When used in the context of Dimensional Standards, Open Space is expressed as a percentage of the total lot area.

Overlay District: A zoning district that is applied over one or more previously established zoning districts. An Overlay District may establish additional or alternative requirements for properties in the Overlay District that are different than the requirements in the underlying zoning district.

Residential Dwelling Unit: See "Dwelling Unit"

Section 3A. Section 3A of the Zoning Act.

Setback. The minimum required distance from a lot line to any part of a principal or accessory building nearest such lot line. A setback shall be measured perpendicular (at a right angle) to the lot line.

Setback, Front. Setback required from a front lot line or street line. Any edge of a lot fronting on a street shall be considered a front lot line.

Setback, Rear. Setback required from a rear lot line.

Setback, Side. Setback required from a side lot line.

Story. That portion of a building contained between any floor and the floor or roof next above it, but not including the lowest portion if more than 1/2 that portion is below the mean finished grade of the ground adjoining the building. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below it, the mezzanine shall be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

Story, Half. A partial story under a gable, gambrel, or hip roof, the wall plates of which do not rise more than four feet above the floor on any two sides of such partial story.

Surface parking. One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.

Sub-district. An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

#### 8.4.4. Permitted Uses

##### 8.4.4.1. Uses Permitted As-of-Right, Neighborhood Subdistrict

The following uses are permitted as-of-right within the MCMOD, in the Neighborhood Subdistrict:

- a. Multi-family housing.
- b. Exempt uses as defined in the Zoning Act (MGL C. 40 §3)
- a. Uses which are permitted in all districts per Section 4.2.
- b. Uses which are permitted in Residential A, B, and C Districts per Section 4.3.2, except for the uses described in paragraphs:
  - i. 4.3.2.c.v.(4) (School buses)
  - ii. 4.3.2.c.v.(5). (Commercial vehicles which are unregistered or abandoned)
  - iii. 4.3.2.d. (Bed and Breakfast)

##### 8.4.4.2. Uses Permitted As-of-Right, Mixed-Use Subdistrict

The following uses are permitted as-of-right within the MCMOD, in the Mixed-Use Subdistrict:

- a. All uses allowed in the Neighborhood Subdistrict
- b. Mixed-use development, including a mix of residential use and any of the following uses:

i. Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.

ii. Business or professional offices or banks, not including drive-in banks or standalone ATMs.

iii. Restaurants or other places for serving food within a structure, not including drive-in or fast food establishments.

iv. Parking areas or garages for use of employees, customers, or visitors.

8.4.4.3. Accessory Uses. The following uses are considered accessory to any of the permitted uses in Section 8.4 and are allowed as-of-right.

a. Surface parking as needed to support permitted uses on the lot.

b. Parking within a multi-family or mixed-use building at the ground floor level or below grade. Parking garages shall not have more than three (3) parking spaces per unit.

c. Solar panels installed above one or more parking spaces

d. Common buildings for accessory uses related to multi-family housing, including administration, maintenance facilities, shared storage, shared community spaces, and space for professional office or customary home occupation. The gross floor area of all common buildings may not exceed 40% of the gross floor area of multi-family housing in the development project.

e. Accessory buildings and uses associated with a mixed-use building provided that outdoor business-related storage shall be located behind or beside the mixed-use building and shall be screened from view of abutting residential dwellings with shrubs or a fence at least four (4) feet in height.



f. Signs in compliance with Section 6.4.

8.4.4.4. Uses permitted with a Special Permit

The following uses may be permitted by a special permit granted by the Planning Board subject to appropriate conditions where such are deemed necessary to protect the neighborhood or the Town in accordance with the provisions of Section 11.

a. A parking structure that is integrated into a mixed-use or multi-family building with more than one story of parking above the ground floor level of the building.

b. A standalone parking structure with more than one story of parking above grade.

c. The uses described in Section 4.3.3 may not be permitted as part of an application under the MCMOD.

d. Section 4.3.4 “Uses permitted in the Residence B and C Districts with a Special Permit” does not apply to Projects permitted under the MCMOD.

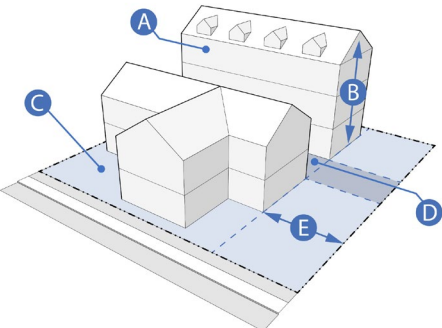
8.4.4.5. Land Division. The tract may be a subdivision or a division of land pursuant to G.L. c.41, s.81 P or may be permitted where intended as a condominium on land not so divided or subdivided.

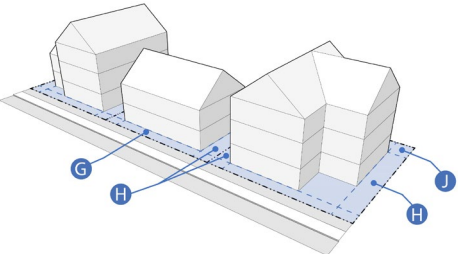
8.4.4.6. Multiple-Buildings-on-a-Lot. In the MCMOD, lots may have more than one principal building.

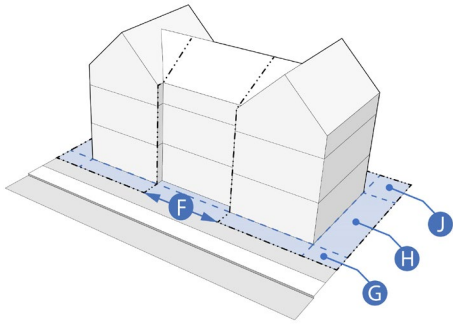
8.4.5. Dimensional Standards

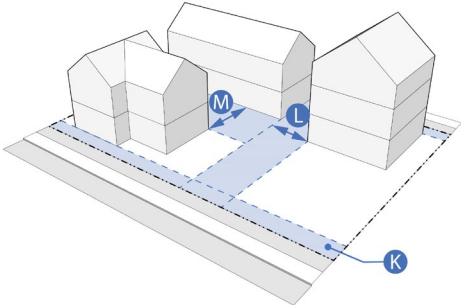
8.4.5.1. This Section 8.4.5 establishes Dimensional Standards for all uses in the MCMOD. It supersedes all provisions of Section 5. Dimensional Requirements, except as specified in paragraph 8.4.5.9 below.

8.4.5.2. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the MCMOD are as follows:

	Criteria	Dimension
	<b>Standards for all Developments</b>	
		
	Lot Size for New Lots Created under the MCMOD (Minimum)	No minimum
	Building Height	
A	Stories (Maximum)	3
B	Feet (Maximum)	40 ft
C	Open Space (Minimum)	30%
	Gross Density (Maximum)	15 units/acre of Developable Land
D	Minimum Distance between Buildings	15 ft
E	District Transitional Buffer	30 ft

	Criteria	Dimension
	<b>Additional Standards for Developments with One Building per Lot</b>	
	<i>Diagram for Detached Buildings:</i> 	

	<b>Criteria</b>	<b>Dimension</b>
	<p><i>Diagram for attached buildings (Townhouses):</i></p> 	
F	Frontage (Minimum)	20 ft
G	Front Setback (Minimum)	5 ft (See 8.4.5.5)
H	Side Setback (Minimum)	7.5 ft/0 ft if buildings are attached at the side lot line
J	Rear Setback (Minimum)	10 ft

	<b>Criteria</b>	<b>Dimension</b>
	<p><b>Additional Standards for Developments with Multiple-Buildings-On-A-Lot</b></p> 	
	Frontage (Minimum)	Each lot must have legally and practically adequate vehicular access to a public way

	<b>Criteria</b>	<b>Dimension</b>
		or a way approved under the subdivision regulations.
<b>K</b>	Minimum distance between a building and the back edge of a sidewalk, or the edge of a roadway that provides access to the building, whichever is greater.	5 ft (See 8.4.5.5)
<b>L</b>	Minimum distance between the side of any building and any other building	15' ft
<b>M</b>	Minimum distance between the rear of any building and any other building	20 ft

8.4.5.3. **Gross Density Calculation.** When calculating the allowed number of units based on maximum gross density, any fractional result shall be rounded up to the next whole number. For example, 15.1 units would be rounded up to 16 units. Gross density shall be calculated based on the entire development site, regardless of whether portions of the development site are in different MCMOD subdistricts.

8.4.5.4. **Setbacks, Applicability.** Requirements for front, side, and rear yard setbacks apply to the principal building and all accessory buildings and structures on a lot, except for stairs, unenclosed porches with no more than forty-eight (48) square feet of floor area, bay or other projecting windows that are less than four (4) feet deep, or accessory buildings that are less than ten (10) feet in height and less than one hundred twenty (120) square feet in total area.

8.4.5.5. **Front Setbacks for Buildings on Main Street.** Where a proposed building will front on Main Street, its front setback requirement shall be calculated by averaging the front setbacks of the four closest principal buildings to the development site on the same side of the street, plus or minus five feet.

8.4.5.6. **Building Height Exceptions.**

a. The building height limits required by this section do not apply to: chimneys; antennae with support structure for personal use; flagpoles; ventilators; elevator machine rooms; mechanical equipment; towers, silos, spires, or other architectural features of buildings not used for human occupancy, not exceeding ten feet in height, and whose area is less than 10% of the principal building footprint. Elements that exceed the building height limits required by this section must be screened from view or designed with the same level of detail and quality as the rest of the building.

b. Mixed-Use. The Planning Board may allow, by a waiver during Site Plan Review, up to five additional feet of building height for a mixed-use project when the applicant demonstrates that additional height is necessary to accommodate a ground floor commercial use, or due to unusual characteristics of the terrain surrounding the building.

c. Renewable Energy Installations. The Planning Board may waive the building height and setbacks in Section 8.4.5 Dimensional Standards to accommodate renewable energy installations, including but not limited to solar photovoltaic, solar thermal, living roofs, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

8.4.5.7. A District Transitional Buffer must be maintained where the boundary of a MCMOD abuts a lot that existed at the time of adoption of this Section and that is not in a MCMOD.

a. Buildings and parking are not allowed in a District Transitional Buffer.

b. Vegetation in the District Transitional Buffer shall not be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project.

c. New buildings, that are proposed within 150' of existing residential buildings outside of the MCMOD, shall be screened by dense tree growth and understory vegetation of sufficient height and depth in all directions to create an effective year-round visual buffer. The Planning Board may, by waiver during Site Plan Review, allow a fence or wall to be substituted for some or all of a vegetated screen, when doing so would advance the purposes of the MCMOD.

8.4.5.8. Lot Access Through Legal Frontage. Frontage must provide access to the lot from the right of way counted for frontage unless otherwise approved by the Planning Board on a Definitive Plan submitted in accord with Chapter 41, General Laws or approved by the Planning Board in the same manner as a Definitive Plan.

8.4.5.9. Uses Subject to the Dimensional Requirements of the Underlying Zoning. The following uses are allowed in a MCMOD and may be included in a common plan of development with multi-family housing or mixed-use development, but are subject to the dimensional standards of the underlying zoning district:

a. The use of land or structures for religious purposes or for education purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination or by a non-profit education corporation, except as provided in Section 3 of Chapter 40A of the General Laws as amended.

b. Municipal Buildings and Use

c. One (1) family dwelling

d. Family Day Care in single family residential structure if a secure and fenced yard/outdoor play area of at least 3,000 square feet is provided.

e. Boarding house.

#### 8.4.6. Off-Street Parking

The provisions of Section 6.3 apply to development under the MCMOD with the following exceptions:

8.4.6.1. Number of parking spaces.

a. Not more than one and a half (1 ½) off-street automobile parking spaces per Residential Dwelling Unit shall be required in the MCMOD. More than three (3) automobile parking spaces per Residential Dwelling Unit shall not be allowed in the MCMOD, except by waiver from the Planning Board during Site Plan Review. On-street parking may be counted toward the required number of parking spaces with a waiver by the Planning Board during Site Plan Review.

b. Parking for Mixed-Use. The required number of parking spaces for a mix of uses on a lot or development site shall be based on an evaluation, prepared by the applicant, of shared parking demand following the procedures of the Urban Land Institute (ULI) Shared Parking Manual (latest edition), the Institute of Transportation Engineers (ITE) Shared Parking Guidelines (latest addition), or other approved procedures determined by the Planning Board. A formal shared parking evaluation may be waived by the Planning Board during Site Plan Review where there is established experience with the land use mix and its impact is expected to be minimal.

c. A minimum of one-quarter (1/4) covered bicycle parking spaces shall be provided per each dwelling unit that is not provided with a dedicated garage parking space. These covered bicycle parking spaces shall be located no further from the building entrance than the off-street vehicle parking spaces intended for use by the building's occupants.

d. A minimum of one (1) bicycle parking space shall be provided per one thousand (1,000) square feet of commercial use. The bicycle parking spaces shall be located no further from the principal entrance to the commercial use than the closest vehicle parking space.

8.4.6.2. The provisions of the *Regulations of the Planning Board of the Town of West Newbury Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas*, March 22, 1982 shall in no way be construed as precluding development of multi-family housing as-of-right. The Planning Board shall waive any provision of the *Regulations* that is not objective or that renders multi-family housing infeasible.

8.4.7. Exceptions from Provisions of the Underlying Zoning

8.4.7.1. Section 5.8. Lots in Two Districts does not apply to the MCMOD. Where a MCMOD boundary line divides a lot in single ownership at the time of adoption of this Section 8.4, the provisions of this Section only apply to that portion of a lot that is included in the MCMOD. The portion of such a lot that is not included in the MCMOD is subject to the underlying zoning, except that it may be used for stormwater infrastructure, wastewater infrastructure, and open space uses associated with development in the MCMOD. Streets and/or driveways developed under the provisions of a MCMOD may not be used to access single-family houses on the portion of such a lot that is not included in the MCMOD.

8.4.7.2. Exceptions from Section 8.1. Floodplain Overlay District. As-of-right development in the MCMOD shall not require a Special Permit to comply with the requirements of Section 8.1. All other provisions of Section 8.1 shall apply. To that end, for as-of-right development on the MCMOD:

a. The first sentence of the Section 8.1.7 "Permit Required" shall be revised to strike the words "a Special Permit" and replace them with "Site Plan Review."

b. The first sentence of Section 8.1.8, "Application Procedure" shall not apply.

c. Section 8.1.20. "Planning Board Findings" shall be replaced with the following text: "An as-of-right use in the MCMOD that is subject to the Floodplain Overlay District, shall comply with the following additional Development Standards:



- i. Such proposals shall not increase potential damage caused by flood;
- ii. All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage;
- iii. Adequate drainage shall be provided to reduce exposure to flood hazards;
- iv. There shall be no volumetric loss of flood storage within the designated floodplain resulting in an increase in the BFE within the affected floodplain.”

8.4.7.3. Exceptions from Section 8.2 Groundwater Protection Overlay District (GPOD)

a. The last sentence of Section 8.2.2. “Applicability of GPOD Overlay,” which reads “Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District,” does not apply to uses specifically allowed by this Section 8.4.

b. Paragraph c. of Section 8.2.8. “Uses and Activities Requiring a Special Permit” does not apply to projects permitted under MCMOD. Any use that will render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater shall be subject to Site Plan Review to ensure the use meets the following performance standards:

- i. a system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

8.4.7.4. Exceptions from Section 9.8. Common Driveways

All of the provisions of Section 9.8 shall apply in the MCMOD, except as indicated below:

- a. A Common Driveway shall be allowed by Site Plan Review in the MCMOD provided it fulfills the Purpose and standards found in Section 9.8.
- b. The number of lots or dwelling units served by a common driveway shall not be limited.
- c. A common driveway shall meet the design and construction standards found in Sections 4, 5, and the Construction Details Index of the Rules and Regulations Governing the Subdivision of Land, West Newbury, MA. Selection of an appropriate Road Type shall be determined based on anticipated traffic volumes per the definitions of Road Types found in the Subdivision Regulations.

#### 8.4.8. General Development Standards

8.4.8.1. The following Development Standards are applicable to all multi-family development and all mixed-use developments within the MCMOD. These standards are components of the Site Plan Review process in Section 8.4.10 Site Plan Review.

#### 8.4.8.2. Site Design.

- a. When a project includes multiple buildings on a lot, the application for Site Plan Review must include the submittals typically required of a Definitive Subdivision and must comply with the design and construction standards listed in Sections 4-6 of the Rules and Regulations Governing the Subdivision of Land, West Newbury, MA. The Planning Board may waive submittal requirements and may modify design and construction standards by waiver via Site Plan Review, when the modifications would further the Purpose of the MCMOD.
- b. Site designs that arrange streets into loops are preferred over dead end streets with cul-de-sacs.
- c. Where possible, buildings should be clustered into groups that share common open space.

d. Pedestrian Connections. The project shall be served by a continuous network of sidewalks and pathways that provides direct connections between the public sidewalk (if applicable), building entrances, bicycle storage and parking, vehicle parking, and any open spaces intended for common use.

e. Parking and circulation on the site shall be organized to minimize the amount of impervious surface. Where possible, parking and loading areas shall be connected.

f. Vehicular access. Curb cuts shall be minimized and shared driveways are encouraged. More than one curb cut per building shall be permitted only when necessary to minimize traffic and safety impacts.

g. The design of any sidewalk (i.e. width, grade, cross-slope, materials) must be maintained across any driveway to indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the sidewalk and the pedestrian use is primary. The depth of the sidewalk materials must be capable of supporting the weight of a vehicle.

h. Site design shall maximize accessibility to building entrances and outdoor activity spaces for all users, by, for example, minimizing grade changes between a sidewalk and a building's ground floor elevation; or by providing walkways with a slope of 5% or less to address grade changes. Ramps, when necessary, should be fully integrated into the design of the site and building—not an afterthought.

#### 8.4.8.3. Open Space

a. All open space shall serve a function, including preservation of natural features, provision of habitat, improving the scenic quality of a site, screening objectional features, stormwater management, recreation, or gathering.

b. Whether an open space is public or private shall be easily discernable through the use of fences, landscaping, and the physical relationship of open spaces to site circulation and nearby buildings.

c. Shared Outdoor Space. Where private open space is not provided for a dwelling unit, the residents of that dwelling unit shall be provided with access to usable common outdoor space. Usable common outdoor space can include, but is not limited to, building courtyards, rooftop open spaces, plazas, terraces, front yards if designed for use, parks, commons, and greens. Such outdoor space shall count towards the project's minimum Open Space requirement.

#### 8.4.8.4. Parking

a. Parking shall be located beside, behind, or within buildings. The Planning Board may issue a waiver to modify this requirement when site conditions make it infeasible to achieve.

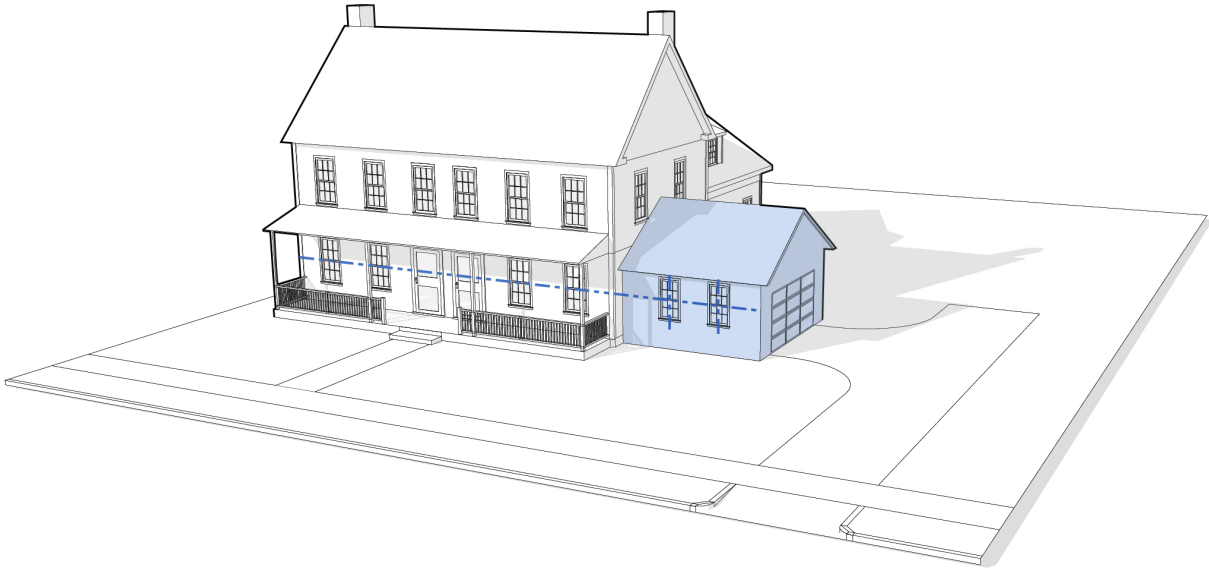
b. Screening for Parking. A surface parking area with more than four parking spaces that is adjacent to a public sidewalk or a shared outdoor space shall be substantially screened up to a height of at least four (4) feet by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than five (5) wide. The buffer may include a fence or wall of no more than four (4) feet in height.

c. Surface parking lots containing over twenty (20) spaces shall have at least one shade tree per ten (10) parking spaces. Such trees shall be located either in the parking area or within ten (10) feet of it. There shall not be more than (20) parking spaces in a row without an intervening tree. At least five percent (5%) of the interior of the parking area shall be maintained with landscaping, including trees.

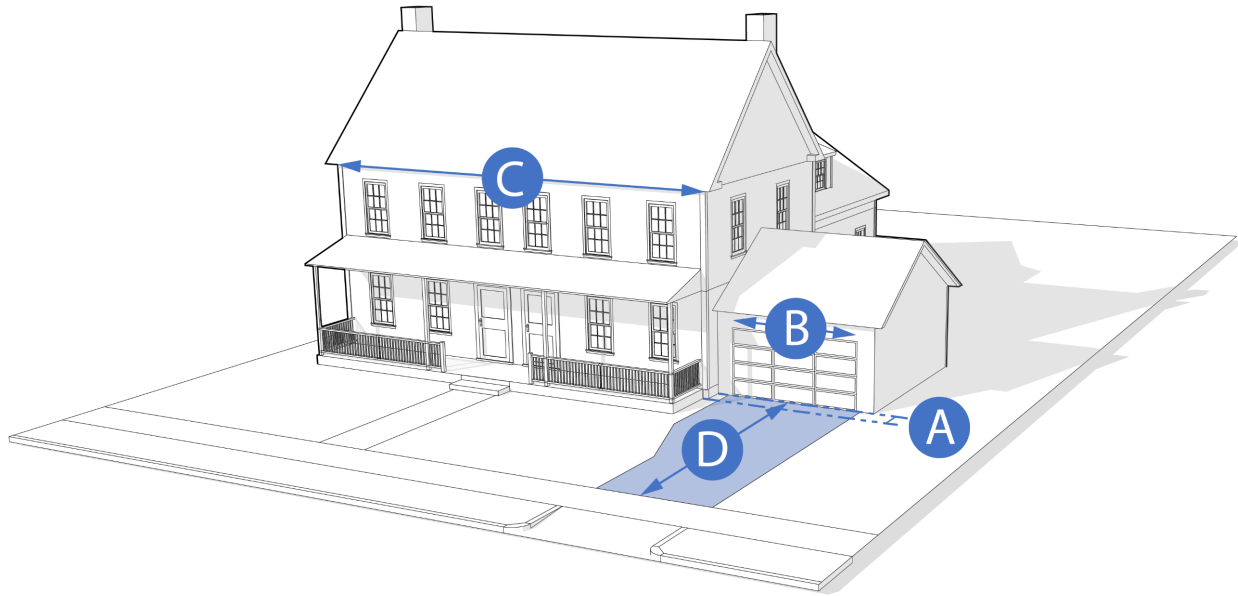
d. Parking Materials. The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.

e. Every garage shall have a door. Garage doors shall be located on the side or rear of a building. The Planning Board may issue a waiver for this requirement when site conditions make it infeasible to achieve.

i. If the sidewall of a garage faces a street or shared open space, it must include windows that are consistent in size and placement with windows in nearby living spaces.



ii. When located on the front façade of a building, a garage must be set back at least 2 feet from the front façade (A). A front-facing garage door may be no wider than 12 feet (B). Front-facing garage doors shall occupy no more than 1/3 of the front façade of a building (B/C). At least twenty (20) linear feet of backing space (D) must be provided between a garage and a sidewalk or street edge (whichever is less), unless the garage is accessed from an alley.



#### 8.4.8.5. Landscaping, Lighting, Mechanicals, Utilities, Dumpsters, Stormwater Management

- a. Plantings. Plantings shall be species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- b. Plants selected shall be suitable for the given site conditions (soil, moisture, pollution, light) to minimize the need for irrigation, fertilizer, and pesticides.
- c. Plantings must fulfill one or more of the following functions: supporting green stormwater management, providing habitat for wildlife or pollinators, providing food for residents, providing shade, or shaping outdoor spaces. The overall composition of plantings must also provide visual interest through harmony and variation of the size, shape, color and/or texture of plants and/or their leaves, flowers, seed heads, fruits, stems and bark.
- d. Tree Planting. New trees that are required to be planted by this bylaw or required as part of a site plan review, shall meet the following standards.

i. Each tree shall be surrounded by fifty (50) contiguous square feet of soil surface area that is free of impervious surfaces and capable of infiltrating stormwater. The soil surface area shall not be less than three feet wide at any point. Trees shall be provided with adequate soil volume to enable healthy growth to maturity. The following minimum soil volumes are recommended: 600 cubic feet for a small tree, 800 cubic feet for a medium tree, 1,000 cubic feet for a large tree.

ii. Where possible, adjacent tree planting areas shall be connected to provide larger connected soil volumes for tree roots.

e. Lighting. Light levels shall be the minimum necessary to provide even and adequate visibility for pedestrians and vehicles. Light levels shall meet the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and minimizing the amount of skyglow.

i. Light Poles shall not exceed fifteen feet in height nor be installed within fifteen feet of the exterior boundaries of a development site.

ii. The color temperature (CCT) of outdoor lighting should be between 2200 K and 2700 K and shall not exceed 3000 K.

iii. Only full cutoff luminaires shall be used for illuminating outdoor spaces and parking areas. The light source shall be directed downward and away from adjacent residential structures.

iv. Outdoor Luminaires shall not exceed the following BUG rating, which define backlight (B), uplight (U), and glare (G) values: B2/U2/G2.

v. Bollard lighting may be used to light walkways and other landscape features. Bollard lighting shall cast downward.

- vi. Internally illuminated fascia, wall, roof, awning, or other building parts are prohibited.
  - vii. All nonessential exterior lighting associated with non-residential uses shall be turned off within thirty (30) minutes after the close of business or when the non-residential use is not in use.
- f. Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened.
- g. Utilities. All electric, gas, telephone, and water distribution lines shall be placed underground except where bedrock, a high water table, or other unique conditions make this infeasible.
- h. Utility equipment like water meters, electric meters, gas meters, external heating or cooling units, or electrical transformers shall be set back at least five feet behind the front façade of adjacent buildings.
- i. Dumpsters. Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within buildings or behind them.
- j. Stormwater management. Design and construction plans for the proposed project must demonstrate compliance with the current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, Town of West Newbury Stormwater Management Bylaw, and the Town of West Newbury Planning Board Stormwater Management Regulations as amended June 6, 2023.

#### 8.4.8.6. Buildings

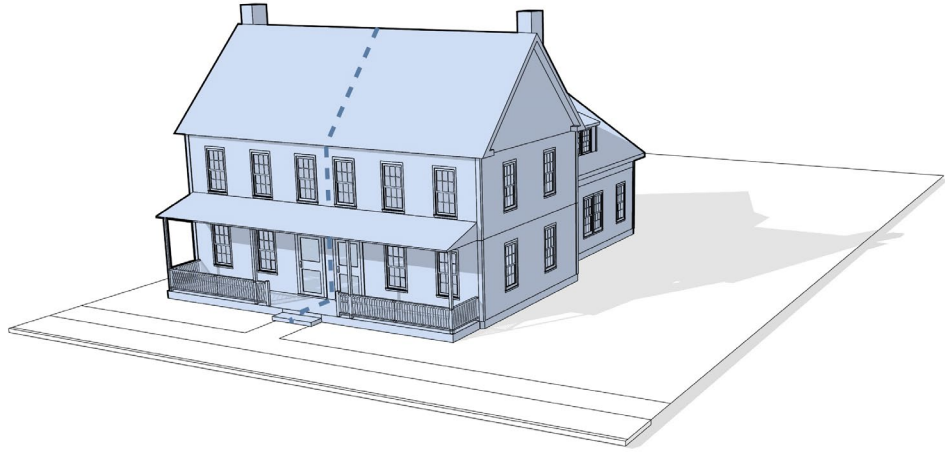
##### a. Building Types

The following building types are allowed within the MCMOD:



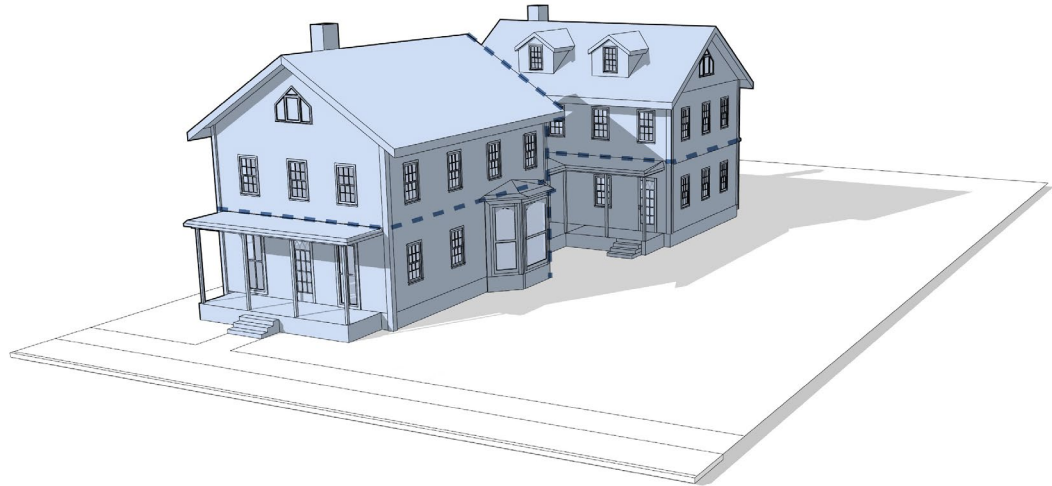
i. Two-family

(1) Illustration:

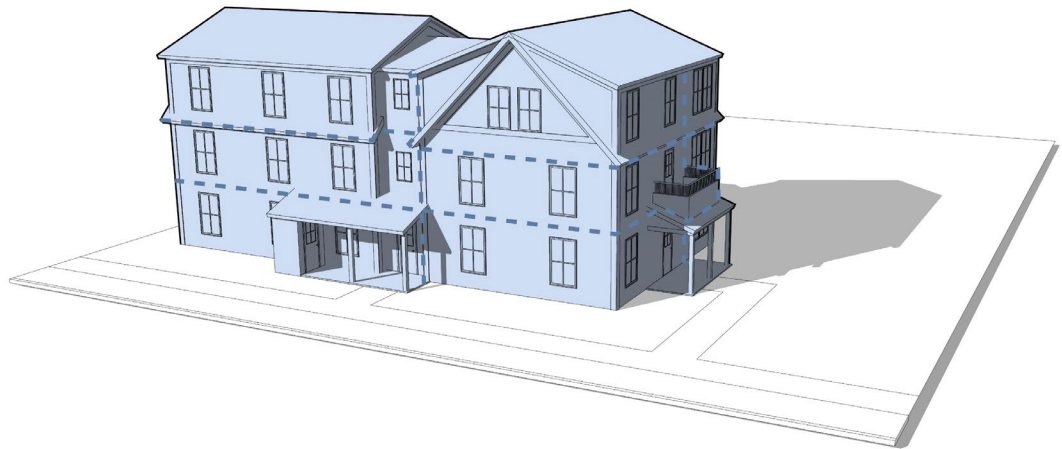


ii. 3-5 family with manor house or farmhouse massing

(1) Illustration:

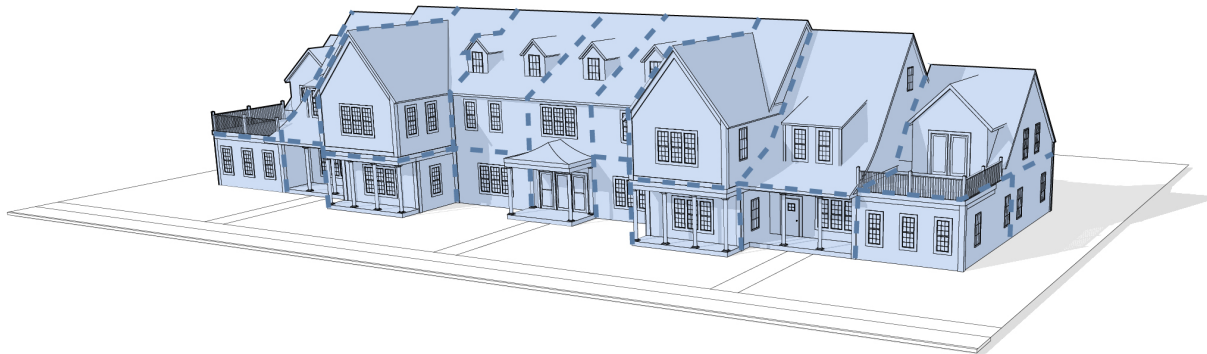


iii. Stacked flats (3-10 units)



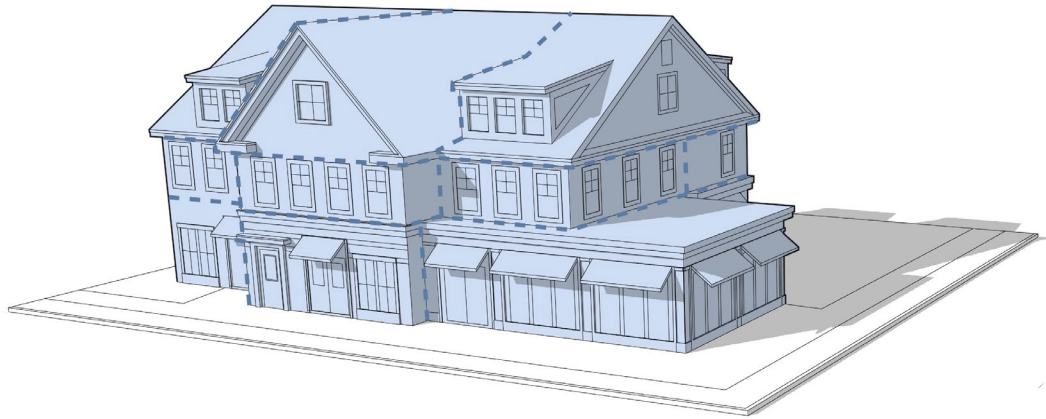
iv. Apartments (8-24 units)

(1) Illustration:



v. Mixed-use (up to 20 units)

(1) Illustration:



b. The principal façade of each building shall face a common driveway, street, or shared open space and shall include an operable pedestrian entrance (the front entry).

i. Front entries shall be easy to find on the front façade of a building. An entry shall have a prominent position and shall be indicated by a building element such as a porch, portico, stoop, recessed entry, or a noticeable door surround.

ii. Front entries shall be directly linked to a paved pedestrian network that includes the public sidewalk.

c. In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.

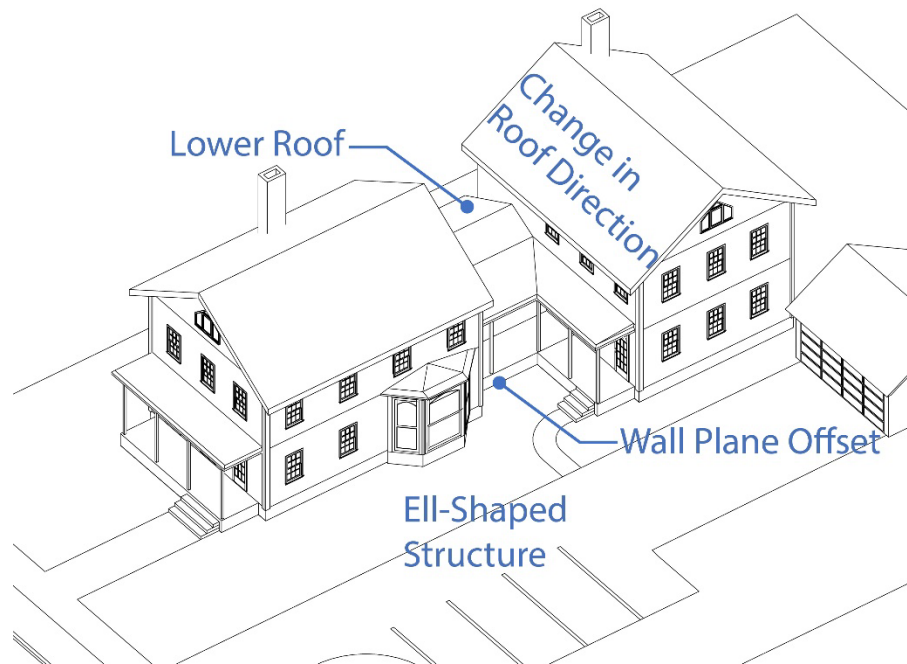
d. Building Massing. Buildings shall be broken down into masses that are similar in size to residential structures in the surrounding neighborhood. No mass should be longer than fifty feet in length. Buildings may be composed of multiple masses that are attached together. When a mass is attached another mass, the masses must meet the following design criteria:

i. Roofs: The roofs of adjacent masses must run in different directions or have at least a two (2) foot difference in height.

ii. Adjacent masses may be arranged in Ell or T shapes. The leg of the Ell or the arms of the T must extend at least four (4) feet beyond an intersecting wall.

iii. Where the walls of adjacent masses are in the same plane, the walls must be offset by at least two (2) feet.

e. Illustrative example of appropriate techniques for attaching masses:



f. Roofs:

i. Roofs longer than fifty (50) feet in length must incorporate one or more of the following roof variations: a change of roof height of at least one foot, a change of roof pitch of at least 2:12, a change of the direction of roof pitch, or a dormer.

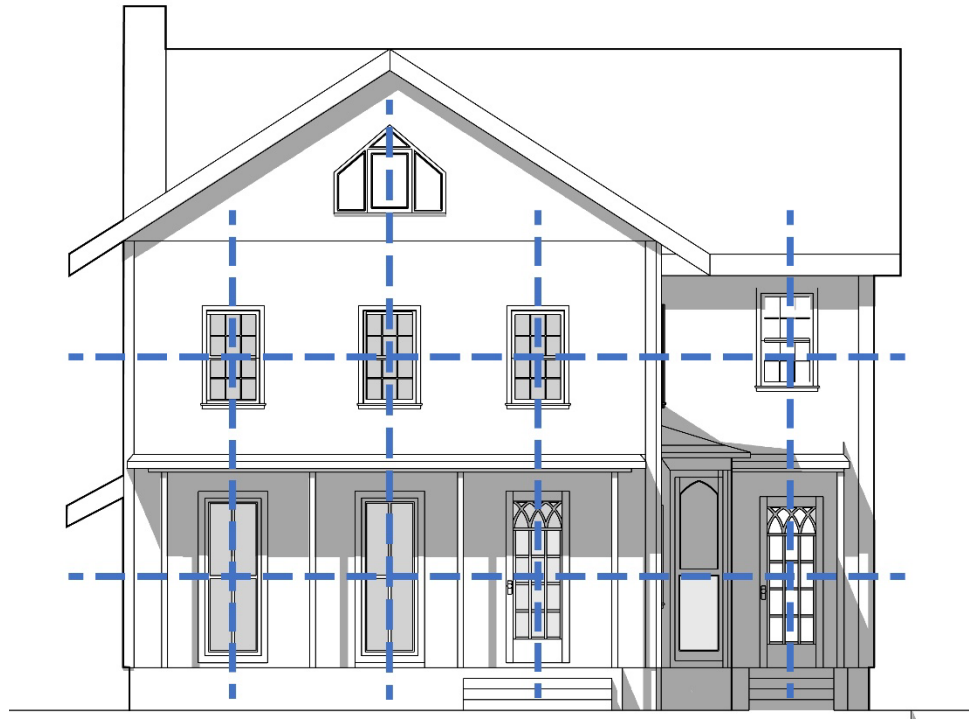
i. Roofs shall have a pitch and shape that is typical of historic building types in West Newbury, generally between 5:12 and 12:12.

ii. Low-slope roofs should be avoided, except for on secondary architectural features, such as roofs over entries, roof decks, cornices, parapets, and dormers, and only where a low slope roof is consistent with historic precedents of residential design in Essex County. Any roof with a pitch of 2:12 or less is considered a low-slope roof for the purposes of this paragraph.

iii. Roof dormers should cover no more than seventy-five percent (75%) of roof slope and shall be setback at least three feet from the bottom and sides of the roof.

g. Windows:

i. Windows and doors should generally align vertically within each bay and horizontally across each story of a building. Alternative alignments may be approved by the Planning Board in buildings that create new architectural character. Diagram:



ii. The variety of window and door sizes and proportions should be limited. No more than five different sizes or shapes of windows and doors should be used on a building façade.

iii. The majority of windows on the front façade of a building must be taller than they are wide.

iv. Generally, an upper story window should not be taller than windows below it.

h. Materials and Design Elements.

i. Materials chosen for exterior elements shall be consistent with the use of materials traditionally found in residential design in Essex County. Siding materials such as clapboard and shingle are preferred. The use of new materials that reduce maintenance but emulate the look and feel of traditional materials is allowed.

ii. The design of a building facade should have a recognizable system of proportions and symmetry.

- iii. Building facades shall have depth and shadow lines through the use of façade elements such as trim, recessed windows, or projecting or recessing portions of the building volume.
- iv. The use of trim materials to provide detail at the corners, eaves, gables, pediments, lintels, sills, and between floors on larger buildings is encouraged.
- v. The color palette chosen for any building should be consistent with colors traditionally found in residential and mixed-use design in Essex County.
- vi. Columns, posts, pilasters, and other traditional structural support elements should be situated where they could logically carry structural support, even if they are merely decorative. For example, ground floor columns should be located between upper story windows, not directly below a window opening.
- i. Buildings shall be oriented and arranged to shape the space along streets into a pedestrian scale environment and/or to shape shared open spaces.
- j. All building façade(s) visible from a public right-of-way or a shared outdoor space shall be treated with the same care and attention and shall have a consistent design in terms of proportions, entries, fenestration, and materials.
- k. Corner Lots. A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
- l. Exterior fire stairs shall not be located on the front façade of a building.

8.4.8.7. Waivers. Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this Section 8.4.8 General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

8.4.9. Affordability Requirements.

8.4.9.1. Section 6.1 Inclusionary Housing Requirements applies to all residential development in the MCMOD.

8.4.9.2. Notwithstanding, Section 6.1.6. “Fractional Affordable Housing Units and Housing Contribution Payments”, when calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number.

8.4.9.3. Affordable Units shall be:

a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots.

b. Dispersed throughout the development.

c. Located such that the units have equal access to shared amenities, including light, air, utilities including any bicycle storage and Electric Vehicle charging stations within the development.

d. Located such that the units have equal avoidance of any potential nuisances as compared to market-rate units in the development.

e. Distributed proportionately amongst the project’s unit sizes and types.

f. Distributed proportionately across each phase of a phased development.



8.4.9.4. The Planning Board may waive some or all of the inclusionary housing provisions of Section 6.1 when the applicant demonstrates that such requirements are financially infeasible.

#### 8.4.10. Site Plan Review

8.4.10.1. Applicability. Site Plan Review is required for all development proposed under the MCMOD.

8.4.10.2. The provisions of Section 11.3 apply to all development under the MCMOD with the following modifications:

a. Notwithstanding the first sentence of 11.3.4.2. “Pre-Application Conference” an Applicant is encouraged, but not required to file a request with the Planning Board for a Pre-Application Conference.

b. For applications under the MCMOD, Section 11.3.7.1 is replaced with the following:

The Planning Board may make a Decision as follows:

i. Approval as Submitted: Approval based on a determination that the Application complies with the criteria and design performance standards set forth in this Bylaw and Section 8.4.8 General Development Standards.

ii. Approval with Conditions: Approval of the Application subject to reasonable conditions, modifications, and restrictions the Planning Board may deem necessary to ensure the health, safety, and general welfare of the community. The Planning Board may not impose any condition, modification or restriction that would make it infeasible to develop multi-family housing that meets the standards of this Bylaw. Conditions must be consistent with the parameters established by EOHLC’s *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act*, as amended.

iii. Rejection of the Site Plan: The Planning Board may reject the Application because:

(1) the Application is incomplete, in that the submittal fails to furnish adequate information required for approval;

(2) the submittal, although proper in form, includes or creates an intractable problem so intrusive on the interests of the public in one regulated aspect or another that, despite best efforts, no form of reasonable conditions could be devised to satisfy the problem with the plan.

c. Notwithstanding the first paragraph (unnumbered) of Section 11.3.6. "Site Plan Review Guidelines," an application under the MCMOD need not comply with:

i. "Section C, Development Guidelines and Standards" of "Section IV. Regulations Governing Site Plan Review" found in the West Newbury Planning Board Regulations Governing the Conduct of Planning Board Functions, Meetings, and Hearings Special Permits, Site Plan Review, Scenic Road Application Guidelines, as amended. Or,

ii. Sections 11.3.6.1. through 11.3.6.6. of this Bylaw.

8.4.10.3. Project Phasing. An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 8.4.9 Affordability Requirements.

8.4.10.4. Adoption of Regulations. The Planning Board may adopt and amend, by simple majority vote, Design Standards or Design Guidelines, to augment the General Development Standards, Site Plan Review Submission Requirements, or Site Plan Review Criteria or guide interpretation of these. Such regulations must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. The regulations may contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable. The regulations shall be consistent with the purposes of this section and EOHLC's *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act*, as amended.

8.4.11. Severability.

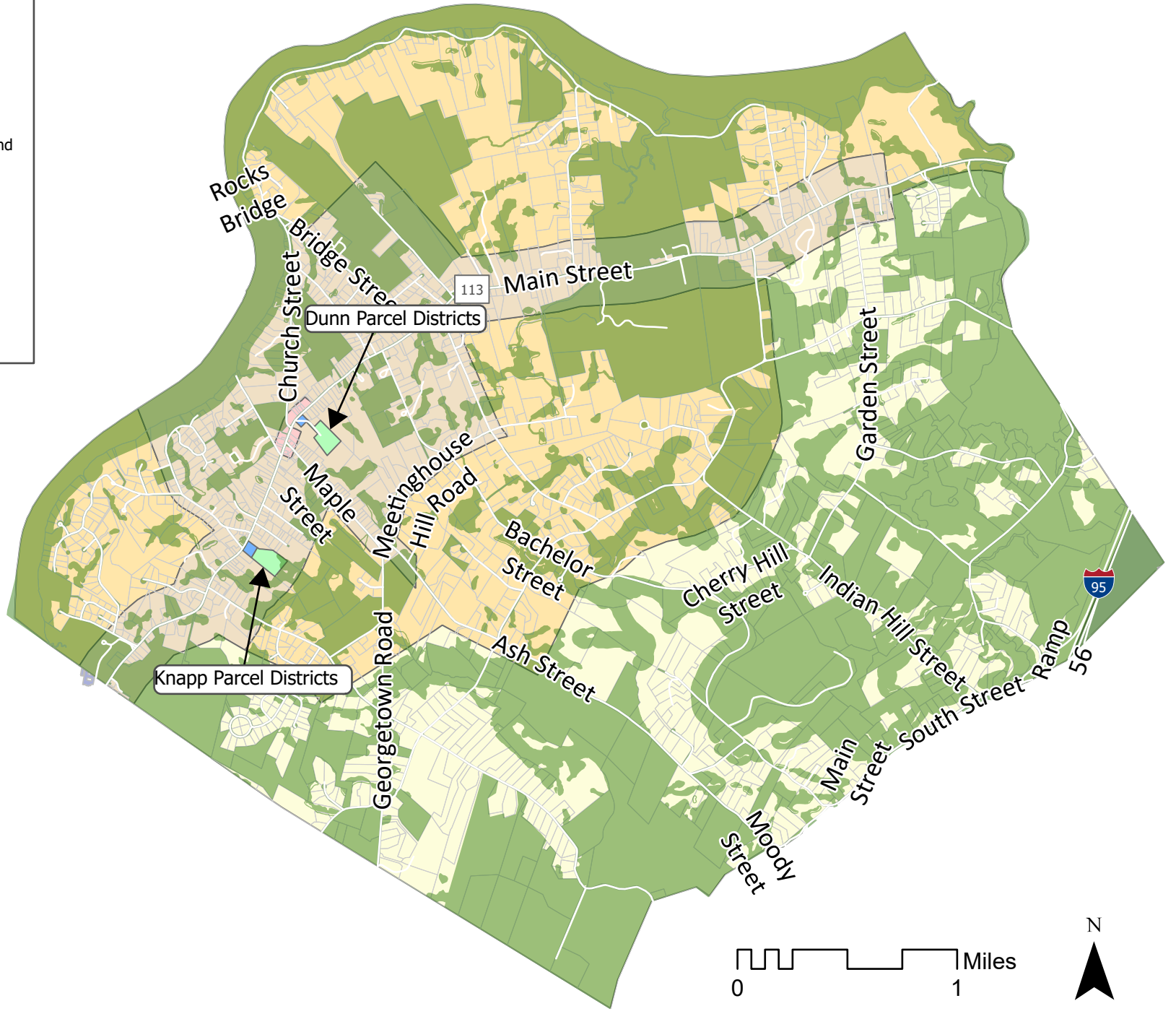
If any provision of this Section 8.4 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.4 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 8.4 shall not affect the validity of the remainder of the Town of West Newbury Zoning.

# Proposed MBTA Zoning Districts

- Mixed-Use Subdistrict
- Neighborhood Subdistrict
- MBTACA Excluded Land

# Current Zoning

- Business
- Industrial
- Residence A
- Residence B
- Residence C
- Tax Parcels

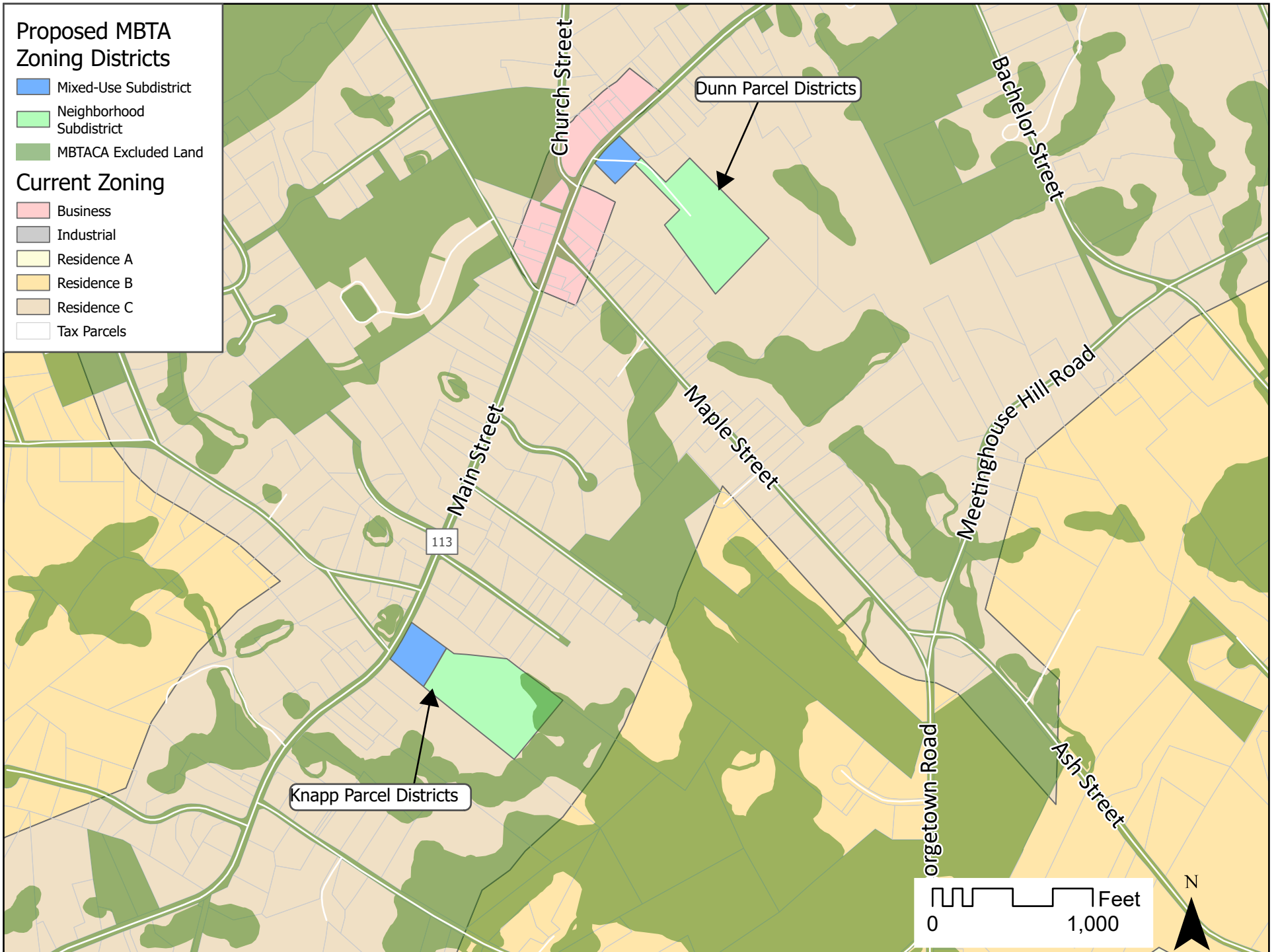


# Proposed MBTA Zoning Districts

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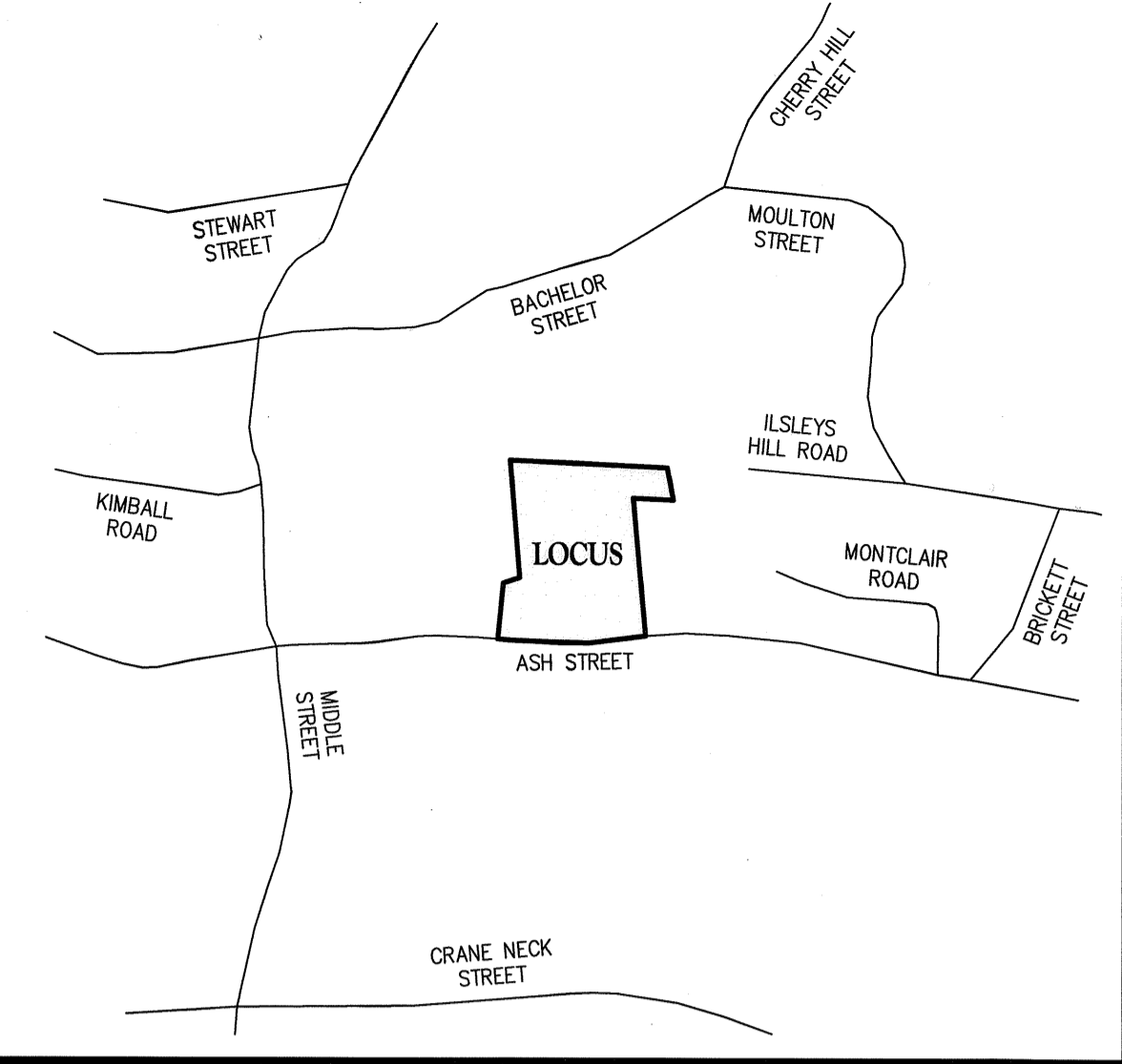
APPROVAL UNDER THE SUBDIVISION  
CONTROL LAW NOT REQUIRED  
M.G.L. CHAPT. 41 SEC. 81P  
TOWN OF MERRIMAC PLANNING BOARD

DATE: \_\_\_\_\_

THE PLANNING BOARD'S ENDORSEMENT OF THE PLAN AS NOT REQUIRING APPROVAL UNDER THE SUBDIVISION CONTROL LAW DOES NOT GIVE LOTS OR PARCELS ANY STANDING UNDER THE ZONING BY-LAW OF THE TOWN OF WEST NEWBURY.

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS.

*Andrew W. MacLaren* 3/5/2024  
ANDREW W. MACLAREN DATE



LOCUS MAP  
NOT TO SCALE

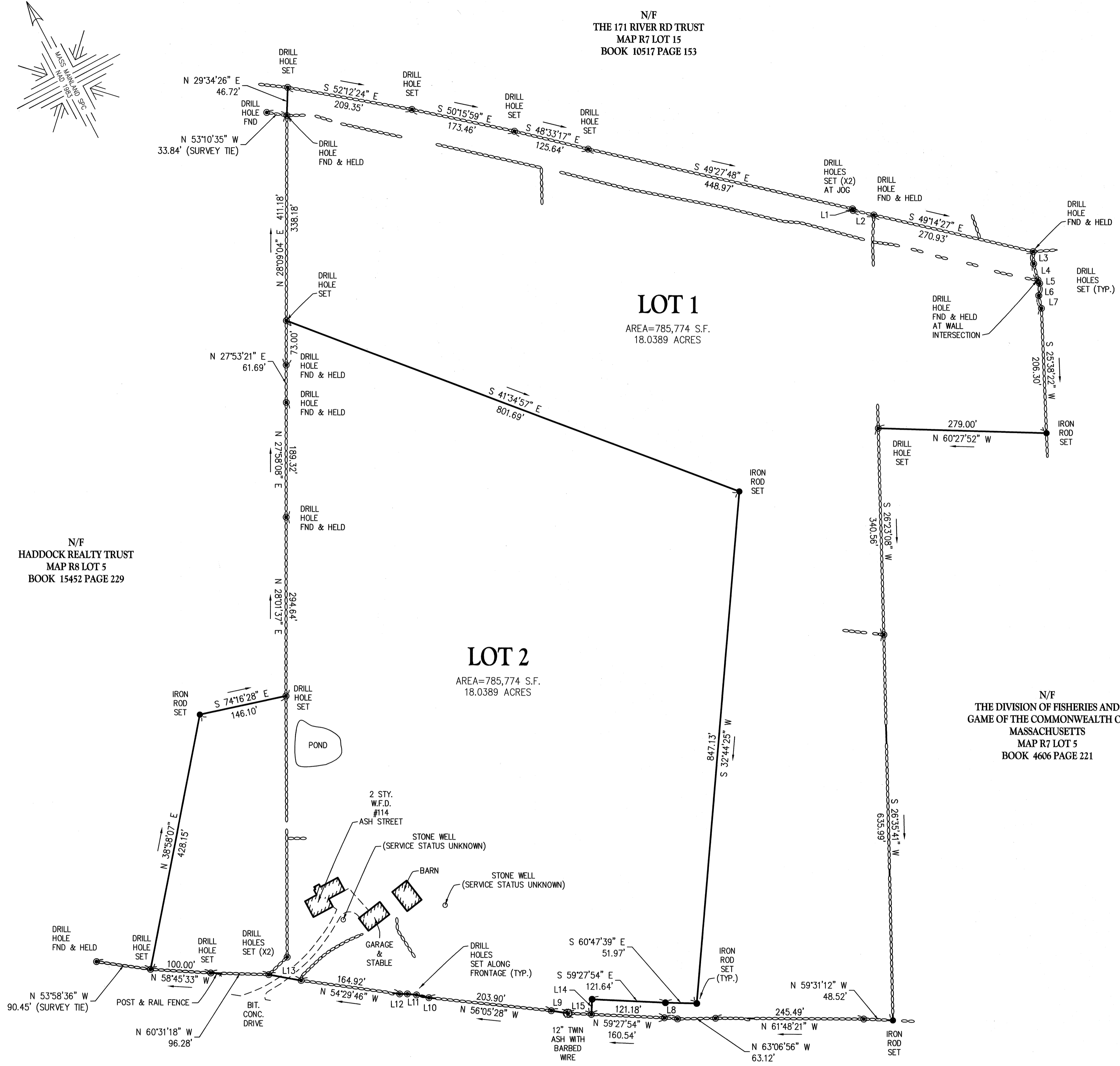
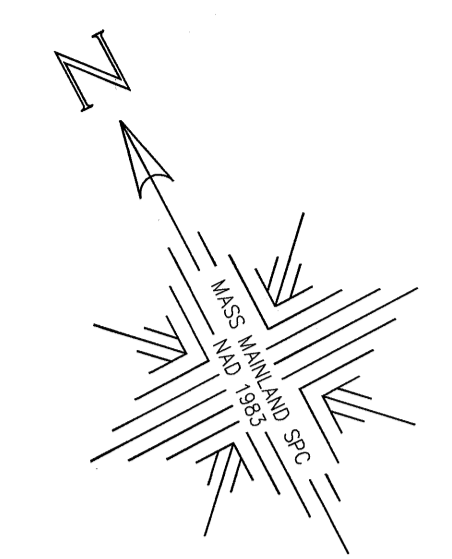
ASSESSOR REFERENCE  
MAP R7 LOT 4

ZONING DISTRICT RES. A  
MINIMUM LOT AREA= 80,000 S.F.  
MINIMUM FRONTAGE= 200'  
MINIMUM FRONT YARD SETBACK=40'  
MINIMUM SIDE YARD SETBACK=20'  
MINIMUM REAR YARD SETBACK=20'

NOTES

- ORIENTATION IS TO MASS MAINLAND SPC NAD83.
- THIS SURVEY IS NOT A CERTIFICATION TO OWNERSHIP OR TITLE OF LANDS SHOWN. OWNERSHIP AND ENCUMBRANCES ARE MATTERS OF TITLE EXAMINATION NOT OF A BOUNDARY SURVEY. THE INTENT OF THIS PLAN IS TO ESTABLISH THE BOUNDARY LINES OF DEEDS REFERENCED HEREON. OWNERSHIP OF ADJOINING PROPERTIES IS ACCORDING TO ASSESSOR'S RECORDS. THIS PLAN MAY OR MAY NOT INDICATE ALL ENCUMBRANCES WHETHER EXPRESSED, IMPLIED OR PRESCRIPTIVE.

LINE #	DIRECTION	LENGTH
L1	S 08°29'03" W	3.02'
L2	S 49°51'31" E	34.94'
L3	S 26°03'29" W	20.08'
L4	S 12°53'51" W	27.50'
L5	S 02°15'39" W	6.48'
L6	S 32°22'58" W	20.08'
L7	S 16°04'50" W	21.65'
L8	N 57°21'21" W	21.77'
L9	N 53°15'41" W	27.57'
L10	N 49°24'12" W	20.97'
L11	N 55°48'41" W	15.25'
L12	N 62°17'54" W	12.95'
L13	N 51°48'07" W	54.35'
L14	N 30°32'06" E	25.00'
L15	N 59°27'54" W	39.36'



ASH STREET  
PUBLIC ~ WIDTH VARIES

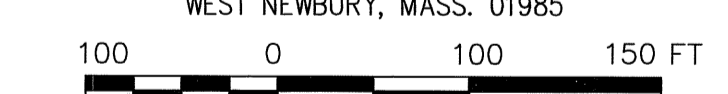
N/F  
S. HELENA DION TRUST  
MAP R7 LOT 11  
BOOK 41514 PAGE 518

N/F  
THE DIVISION OF FISHERIES AND  
GAME OF THE COMMONWEALTH OF  
MASSACHUSETTS  
MAP R7 LOT 5  
BOOK 4606 PAGE 221

KEY REFERENCE DEEDS & PLANS

- DEED FROM ROBERT R. LOVEJOY AND BARBARA A. LOVEJOY TO ROBERT R. LOVEJOY AND BARBARA A. LOVEJOY AS TRUSTEES OF THE EVERGREEN FARM TRUST U/D/T DATED JANUARY 28, 1997, RECORDED 5/19/1998 AT THE SOUTH ESSEX REGISTRY OF DEEDS BOOK 14815 PAGE 406.
- "PLAN OF LAND LOCATED IN WEST NEWBURY, MASS TO BE CONVEYED BY SMITH TO HOOPES" DRAWN BY CHAS H. MORSE & SON ENGRS, DATED 9/19/1960 AND RECORDED AT THE SOUTH ESSEX REGISTRY OF DEEDS PLAN 599 OF 1960.
- "PLAN OF LAND IN WEST NEWBURY, PROPERTY OF THOMAS W. & MARY S. COOK" DRAWN BY ESSEX SURVEY SERVICE INC. DATED 9/4/1973 AND RECORDED AT THE SOUTH ESSEX REGISTRY OF DEEDS PLAN BOOK 127 PLAN 53.
- "PLAN OF LAND IN WEST NEWBURY, MASS" DRAWN BY CHARLES W. ROY, DATED OCTOBER, 1963 AND RECORDED AT THE SOUTH ESSEX REGISTRY OF DEEDS PLAN BOOK 105 PLAN 9.
- COMPILATION MAP BY THE UNITED STATES DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE. SHEET 5 OF 5 TITLED "PARKER RIVER NATIONAL WILDLIFE REFUGE. CRANE POND DIVISION. ESSEX COUNTY, MASSACHUSETTS" RECEIVED BY THE SOUTH ESSEX REGISTRY OF DEEDS OCTOBER 20, 1958 AND RECORDED THEREWITH AS PLAN 623 OF 1958.

PLAN OF LAND  
LOCATED IN  
WEST NEWBURY, MASS.  
RECORD OWNERS AND APPLICANTS  
EVERGREEN FARM TRUST  
114 ASH STREET  
WEST NEWBURY, MASS. 01985

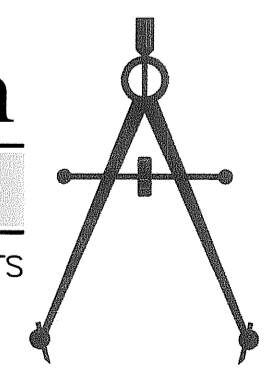


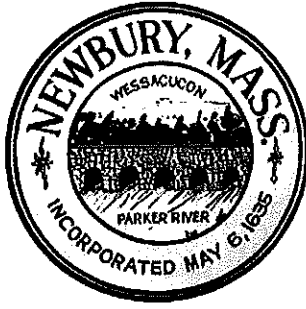
DATE: MARCH 5, 2024 SCALE: 1"=100'



The  
**Morin-Cameron**  
GROUP, INC.

CIVIL ENGINEERS | ENVIRONMENTAL CONSULTANTS  
LAND SURVEYORS | LAND USE PLANNERS  
25 KENZO AVE., HAVERHILL, MASSACHUSETTS 01830  
P: 978-373-0310, F: 978-372-3960, W: WWW.MORINCAMERON.COM





## Town Of Newbury

Office of  
THE PLANNING BOARD  
12 Kent Way  
Byfield, MA 01922  
978-465-0862, ext. 312

RECEIVED

24 MAR -6 AM 11:41

NEWBURY TOWN CLERK

### Town of Newbury Planning Board Public Hearing Notice

Residents of the Town of Newbury and other interested persons, please note that on **Wednesday, March 20, 2024, at 7:15 p.m.**, the **Newbury Planning Board** will hold a **public hearing remotely via Zoom** pursuant to M.G.L. c. 40A, §5 to consider **proposed amendments as further revised and additions to the Code of the Town of Newbury, Chapter 97, Zoning**, as follows:

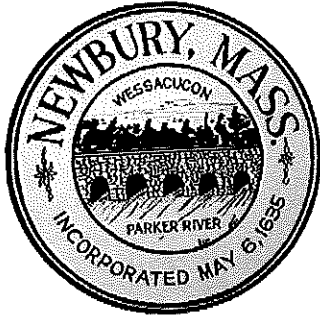
- **Amendment to ARTICLE IV – REGULATIONS OF OVERLAY DISTRICTS to add a new by-law, § 97-4.G. MBTA Communities Multi-Family Overlay District (MCMOD) to allow multi-family housing as of right in this Overlay District in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A); and related Amendment to Attachment 1 – Zoning Overlay and Resource Districts Map to show the proposed MBTA Communities Multi-Family Overlay District (MCMOD)**

The text and maps of these proposed amendments are on file with the Town Clerk and in the Planning Office, 12 Kent Way, Suite 101, Byfield, MA, and may be viewed on the Planning Board section of the Town's website at <https://www.townofnewbury.org/planning-board/pages/proposed-zoning-and-regulation-amendments>. For more information or to obtain a digital or hard copy of the proposed amendments, contact the Planning Office by phone at 978-465-0862, ext. 312, or by email at [planningboard@townofnewbury.org](mailto:planningboard@townofnewbury.org).

In accordance with Chapter 2 of the Acts of 2023, which extends the Governor's March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A § 20," until March 31, 2025, the hearing is being conducted remotely. All persons interested or wishing to be heard relative to the proposed zoning amendments are invited to participate in the hearing remotely at the designated time from their computer, tablet, or smartphone at <https://us02web.zoom.us/j/83271413056>, passcode 108790, or by telephone by calling +1 929 205 6099 US and using meeting ID 832 7141 3056, or may watch the meeting live on local access cable Channel 9 or at [www.tnctv.org](http://www.tnctv.org).

Lawrence Murphy, Chair  
Newbury Planning Board

BY-LAW REVISED  
HEARING RENOTICED



## Town Of Newbury

Office of  
THE PLANNING BOARD  
12 Kent Way  
Byfield, MA 01922  
978-465-0862, ext. 312

Date: March 6, 2024

Re: **Findings and Decision on the  
Application of the Estate of Lewis Bulgaris  
For a Common Driveway Special Permit  
To Serve Two Lots (Lots 3 & 4) at the  
Proposed Residential Subdivision  
"Fields Way"  
170 Orchard Street, Newbury (Byfield), MA**

**Assessors' Map R20, Lot 43A**

**Owner of Record: The Estate of Lewis Bulgaris  
c/o Dianne Yurkavich  
2 Lavallee Lane  
Newburyport, MA**

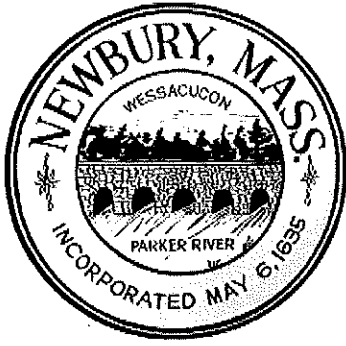
On Wednesday, February 21, 2024, the Newbury Planning Board, as Special Permit Granting Authority, voted in favor (four in favor and none against) to approve the Common Driveway Special Permit Application of the Estate of Lewis Bulgaris for a Common Driveway to serve two lots (Lots 3 & 4) in the proposed four-lot residential subdivision to be known as "Fields Way," located at 170 Orchard Street, Newbury (Byfield), MA. The Common Driveway Special Permit was granted with Conditions pursuant to § 97-1, § 97-5.D., and § 97-11.C. of Newbury's Zoning By-Law.

The complete text of the Findings and Decision is available at the Town Clerk's Office, 12 Kent Way, Byfield, MA, during regular office hours.

Appeals of this decision shall be made in accordance with MGL Chapter 40A, Section 17, and shall be filed within twenty (20) days of the date of filing of this decision with the Newbury Town Clerk.

**Date of filing with the Town Clerk: February 28, 2024.**





**Town Of Newbury  
ZONING BOARD OF APPEALS  
12 Kent Way, Suite 101  
Byfield, MA 01922**

**ABUTTER NOTIFICATION**

Notice is hereby given that the Newbury Zoning Board of Appeals will hold a public hearing on Thursday, March 14, 2024, at 7:30 p.m. in the Hearing Room, 2<sup>nd</sup> Floor, Newbury Municipal Offices, 12 Kent Way, Byfield, MA 01922, on the application of **40 Northern Boulevard, LLC, submitted by Daniel Twomey, Owner of 40 Northern Boulevard, Plum Island, Newbury, MA 01951.**

The Applicant is requesting a **SPECIAL PERMIT/FINDING** for relief from Section 97-4D(5)(c)02 (upward extension) of the Newbury Zoning Bylaws, and any other permit relief as may be required under the Town of Newbury's Zoning By-Laws to allow the proposed use/project. The existing dwelling will be razed, and a new single-family dwelling will be constructed and will be located more centered on the lot, on the property located at 40 Northern Boulevard, Plum Island, Newbury, MA 01951 (Assessor's Map U03, Lot 194).

To submit comments or questions, or to obtain an electronic or hard copy of the submittal, please contact the Newbury Zoning Board of Appeals office at 978/465-0862 x304 between the hours of 8am-4pm Monday-Thursday, or email the department at [zba@townofnewbury.org](mailto:zba@townofnewbury.org).



**Town Of Newbury  
ZONING BOARD OF APPEALS  
12 Kent Way, Suite 101  
Byfield, MA 01922**

**ABUTTERS NOTIFICATION**

Notice is hereby given that the Newbury Zoning Board of Appeals will hold a public hearing on Thursday, March 14, 2024, at 7:30 p.m. in the Hearing Room, 2<sup>nd</sup> Floor, Newbury Municipal Offices, 12 Kent Way, Byfield, MA 01922, on the application of **Michael Etzel and Caitlin Monahan of 24 Everett Street, Boston, MA, Owners of 36 Northern Boulevard, Plum Island, Newbury, MA 01951.**

The Applicants are requesting a **SPECIAL PERMIT/FINDING** for relief from Section 97-4D(5)(c)02 (upward extension) of the Newbury Zoning Bylaws, and any other permit relief as may be required under the Town of Newbury's Zoning By-Laws to allow the proposed use/project. The existing dwelling will be razed, and a new single-family dwelling will be constructed and will be centered on the lot, on the property located at 36 Northern Boulevard, Plum Island, Newbury, MA 01951 (Assessor's Map U03, Lot 195).

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