

# City Planning Department



## Memo

To: Cranston City Plan Commission  
From: Joshua Berry, AICP - Senior Planner / Administrative Officer  
Date: July 1, 2021  
Re: **Use & Dimensional Variance Application @ 142 Chestnut Hill Avenue**

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**Owner/App:** Nicholas J. Guadagno  
**Location:** 142 Chestnut Hill Avenue  
**Zone:** B-1 (Single-Family and Two-Family Dwellings)  
**FLU:** Single/Two-Family Residential Less Than 10.89 Units/Acre

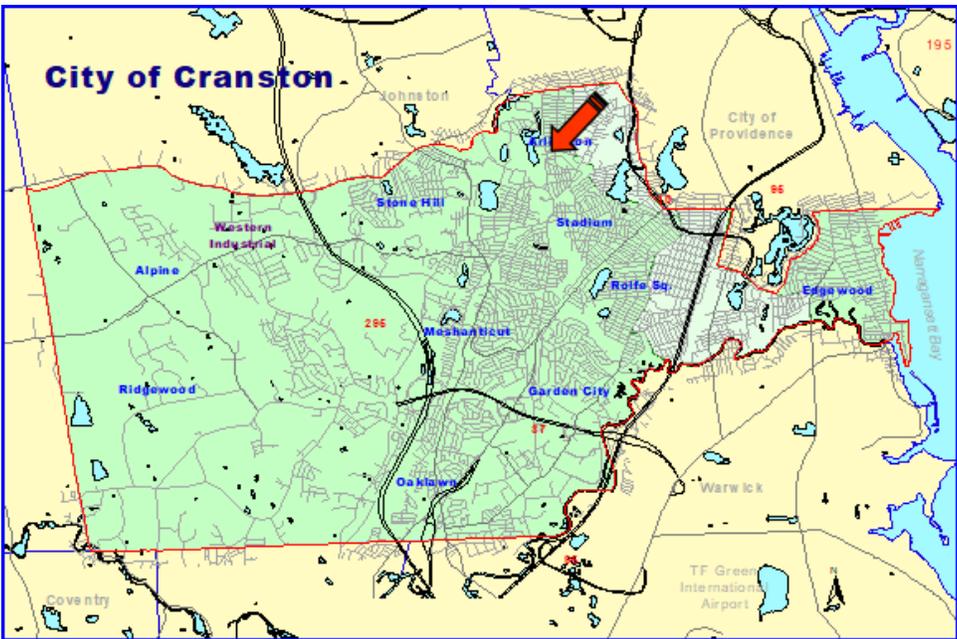
**USE VARIANCE REQUEST:**

- 1. To legalize an existing third residential unit converting a two-family to a three-family dwelling, a use not an allowed use in B-1 zoning. [Section 17.20.030– Schedule of Uses]

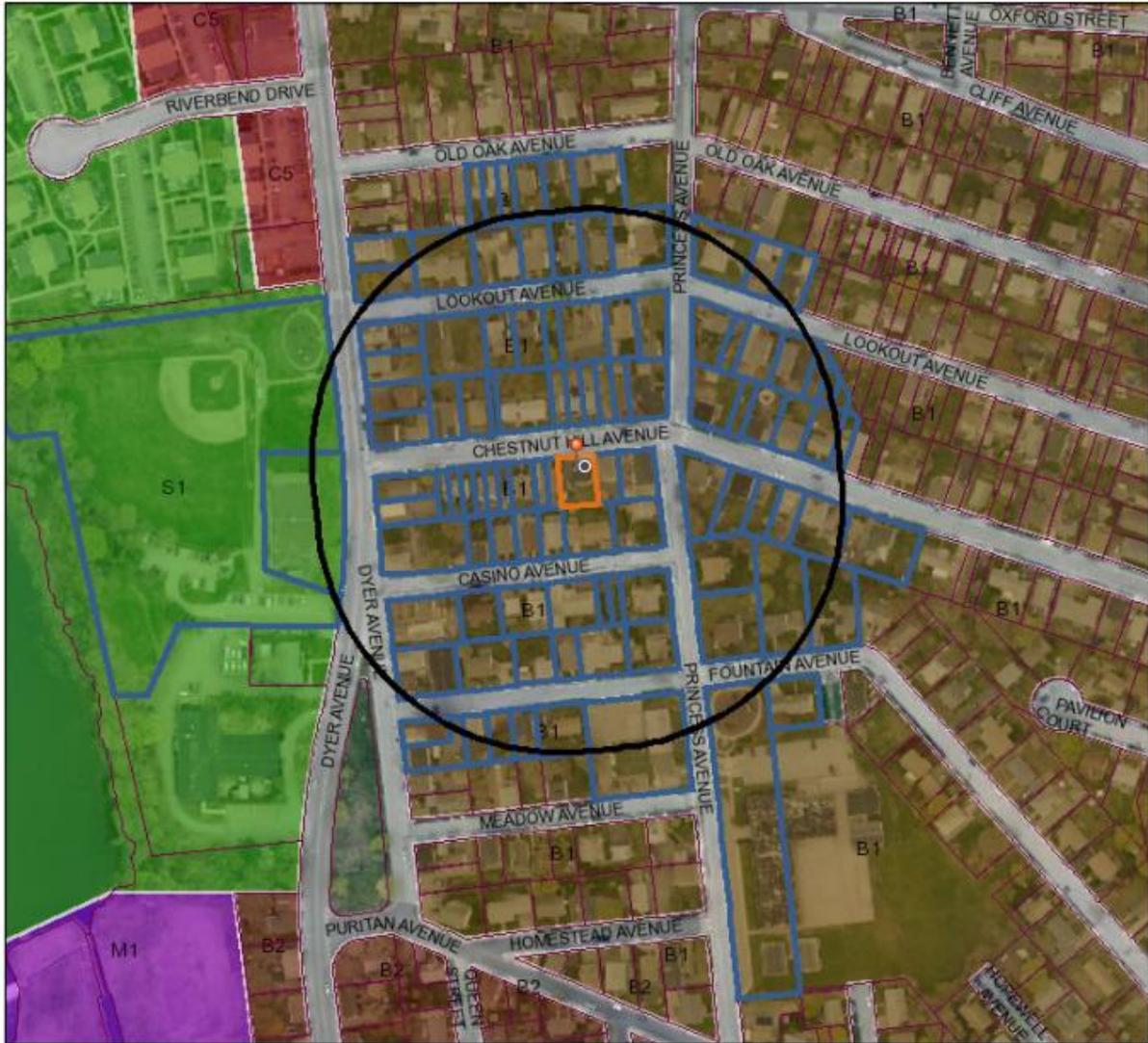
**DIMENSIONAL VARIANCE REQUEST:**

- 2. To legalize an existing third residential unit on an undersized lot. [17.20.090 Specific Requirements]

### LOCATION MAP



# ZONING MAP

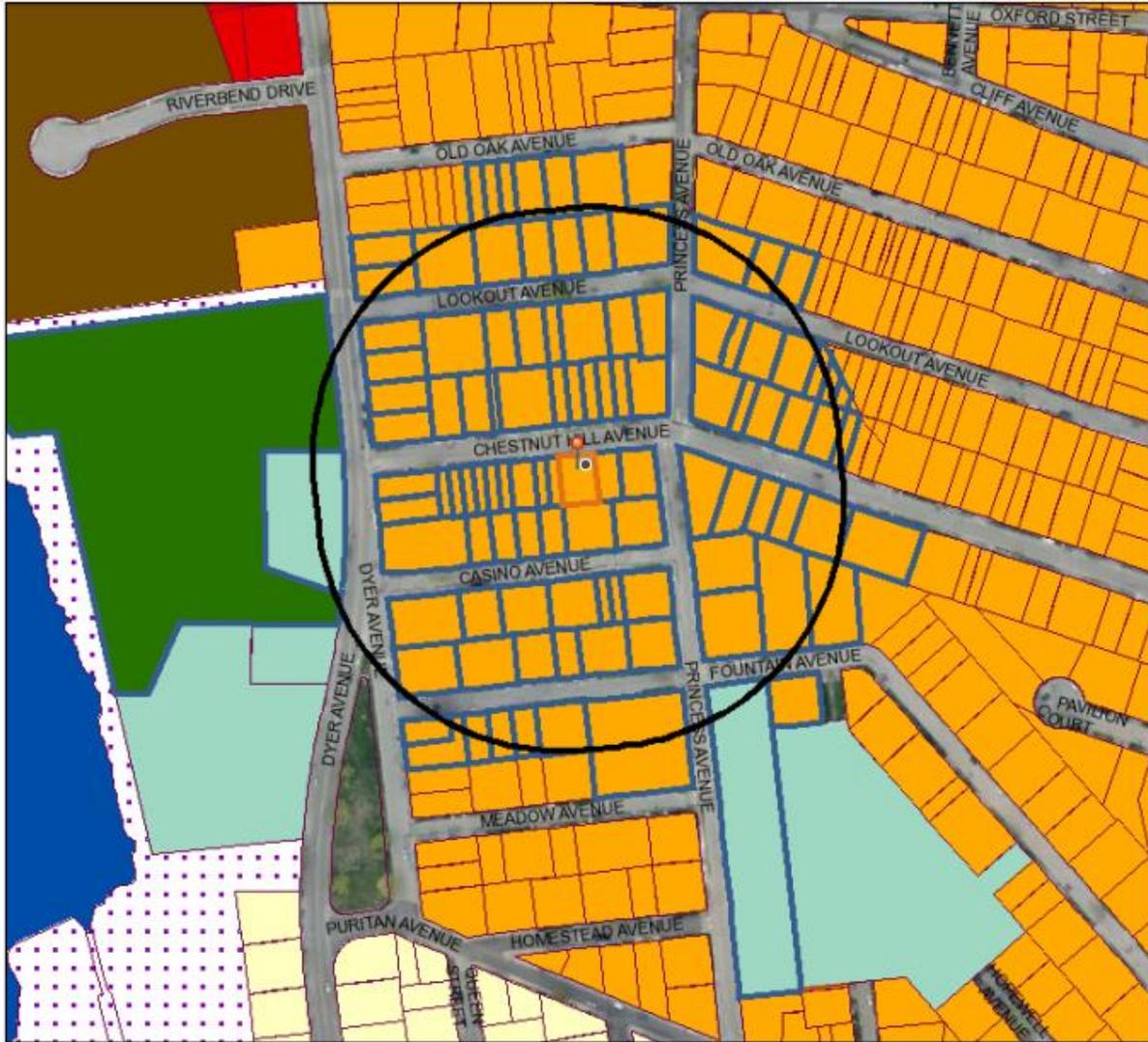


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# FUTURE LAND USE MAP



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## AERIAL VIEW

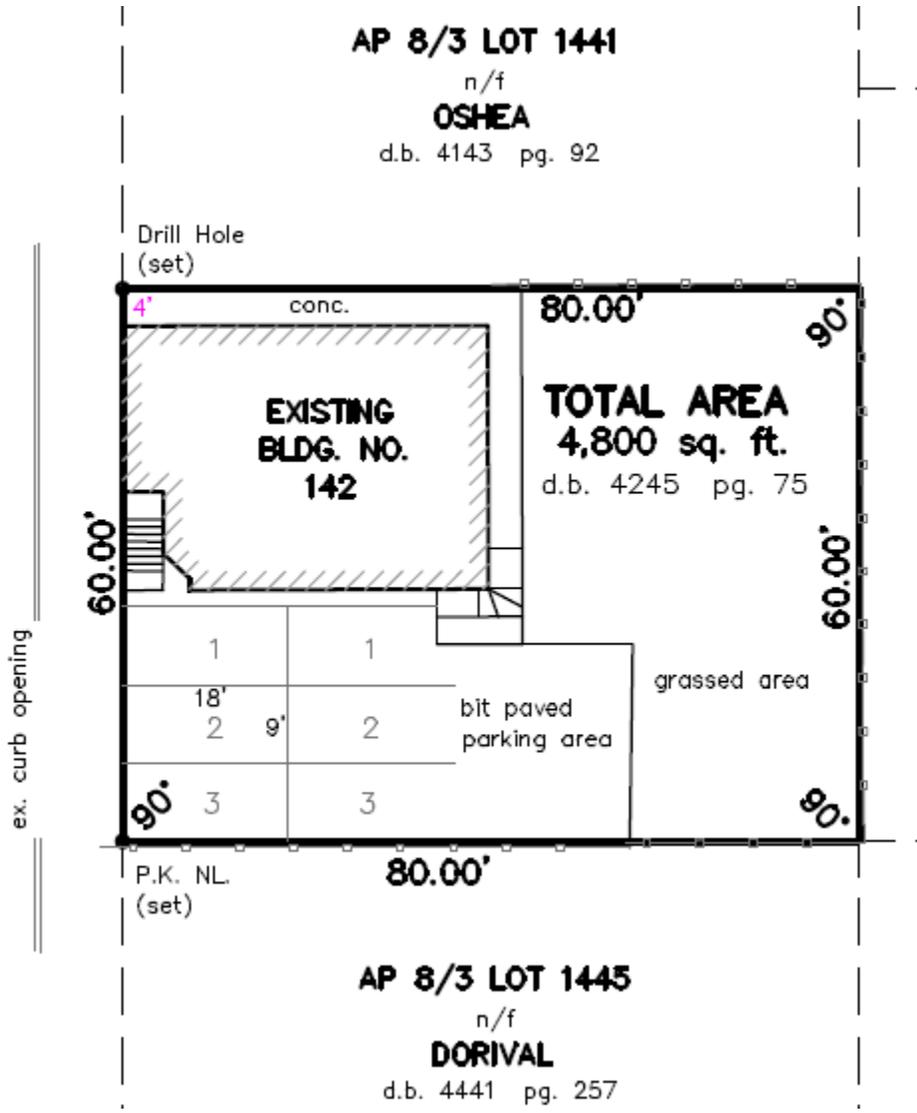


## STREET VIEW (Previous Condition)



# SITE PLAN

**CHESTNUT HILL AVENUE**  
 ( public 50' wide )



## FINDINGS OF FACT:

1. The subject property has an existing legal nonconforming two-family residence as confirmed by a Zoning Certificate issued by the City on 12/28/20. The City's records show that the property was appraised and taxed as a two-family in 1984, but then as a three-family in 2006. The owner/applicant, Nicholas J. Guadagno, purchased the property in 2010, well **after** the two-family was illegally converted into a three-family.
2. The subject property is 4,800 ft<sup>2</sup>. The Code requires a minimum lot area 8,000 ft<sup>2</sup> for two-family dwelling and, if three-family dwellings were an allowed use in B-1 zones, would require 14,000 ft<sup>2</sup> of lot area for the third dwelling unit.
3. The Survey Plan provided by the applicant demonstrates that there is sufficient existing off-street parking on-site, 6 spaces are required and 6 spaces are provided.
4. The Comprehensive Plan Future Land Use Map (FLUM) designates the property as Single/Two-Family Residential Less Than 10.89 Units/Acre. The proposed density is 27.28 units/acre. The proposed *use* and the proposed *density* are **inconsistent** with the FLUM.
5. The applicant provided a neighborhood analysis with an itemized breakdown of the number of land use within a 400' radius. Among the 106 lots, there are 37 single-family, 28 two-family, 7 three-family and two four-family lots. The analysis states that the average lot size within 400', (excluding the Arlington School and Calise Field) is 5,158 ft<sup>2</sup>. The average lot size for the 7 other three-family residences is 5,083 ft<sup>2</sup>.
6. The Cranston Comprehensive Plan's Housing Element supports the development of housing stock in Eastern Cranston. This proposal does not create sprawl, requires no environmental disturbance or extension of roadways or utilities.
7. The proposal is consistent with several policies in the Comprehensive Plan, including but not limited to HG-4, HP-4.1, HP-4.6 and other excerpts addressing the inconsistency between zoning and existing lots of record. Specifically, the Comprehensive Plan HA-5 on page 70 recommends the city "Enable existing nonconforming two and three-family unit dwellings to be modified, maintained and improved within the existing neighborhoods."
8. There are a variety of residential uses in the area, including single, two, three and four-family dwelling all on Chestnut Hill Ave. The legalization of a third dwelling unit would not be out of character with the surrounding area.
9. There is no reason to suggest that the third dwelling unit has been or would have a negative impact on the neighborhood.

## PLANNING ANALYSIS:

The applicant seeks to legalize an existing nonconforming basement dwelling unit in conflict with the allowed use and density in B-1 zoning. The subject property is 4,800 ft<sup>2</sup>, well short of the 14,000 ft<sup>2</sup> that would be required if multifamily were an allowed use in B-1 zones. City records indicate that the owner/applicant did NOT illegally construct the unit, but that the conversion

occurred prior to the purchase of the property by the owner/applicant in 2010. Importantly, there are single, two, three and four-family uses found not only within 400', but on the same block of Chestnut Hill Ave between Princess Ave to the East and Dyer Ave to the west, so *the proposed three-family use is not inconsistent with the surrounding area*. The subject property is slightly under the 5,158 ft<sup>2</sup> average area of lots within a 400' radius as well as slightly under the 5,083 ft<sup>2</sup> average of the other 7 three-family lots in the radius.

Despite the undersize lot and nonconforming use, *staff does not find any reason to believe there would be a negative impact if relief were granted*. The unit has existed without any known issues for 15 years or longer. There is sufficient off-street parking on-site. Additionally, there would certainly be a negative impact to the owner and existing tenant if relief were denied. An existing unit would go unused in a time where housing stock is desperately needed, a seemingly wasteful outcome in the absence of any perceived down-side.

*Staff finds that relief would have a positive impact in the City*. Cranston has a significant housing shortage and this unit would be consistent with the Comprehensive Plan goals of creating housing choices in the city, specifically infill units in Eastern Cranston.

In contradiction with the above positive findings, the proposed *use* and the proposed *density* are **inconsistent** with the FLUM. The Comprehensive Plan Future Land Use Map (FLUM) designates the property as Single/Two-Family Residential Less Than 10.89 Units/Acre. The proposed density is 27.28 units/acre. However, HA-5 on page 70 of the Comprehensive Plan recommends the city "Enable existing nonconforming two and three-family unit dwellings to be modified, maintained and improved within the existing neighborhoods." It is unclear whether this language should be applied to units that were created illegally, but as this was not the fault of the applicant, staff interprets this section to be relevant in this instance. There are numerous other statements in the Comprehensive Plan that support the application, such as:

- HG-4 Promote housing opportunity for a wide range of household types and income levels;
- HP-4.1 Maintain a varied housing stock, with units of different age, size and type;
- HP-4.6 Promote the development of new housing that is affordable to average first-time buyers living in the City;
- A6, B1 and B2 Zoning Districts - Most properties in the A6, B1 and B2 zoning districts have less than the 6,000 square feet minimize lot size. In fact, about half (over 48 % and 55% of the A6 and B1 zones, respectively), are less than 5,000 square feet in area. This inconsistency between the lot sizes and zoning occurs typically in the older parts of the City, which limits development potential, and requires variances for changes to existing properties (p. 31); and
- Allowing 5,000 square foot lots within the A-6, B-1 and B-2 districts to become conforming would reduce a financial burden on the property owners when obtaining building permits in these districts. This could be an incentive to create more housing and improve existing housing. Although not required to be affordable, the new and improved units would help meet the current demand for housing. (p. 69)

In conclusion, staff feels that this specific request is reasonable, generally conforms to and would not negatively impact the neighborhood. However, inconsistency with the use and density prescribed by the Comprehensive Plan FLUM prevent staff from being able to make a positive recommendation to the Plan Commission.

**RECOMMENDATION:**

Due to the finding that the proposed density and land use are inconsistent with the Comprehensive Plan Future Land Use Map, but finding that the housing is consistent with Comprehensive Plan policies and relief would not have negative impact and is compatible with the surrounding area, staff recommends the Plan Commission forward **no specific recommendation** on this application to the Zoning Board of Review.