



#258-22

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath
Director

Ruthanne Fuller
Mayor

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	May 3, 2022
Land Use Action Date:	July 23, 2022
City Council Action Date:	August 1, 2022
90-Day Expiration Date:	August 1, 2022

DATE: April 29, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Senior Planner

SUBJECT: **Petition #258-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow construction of a one-story mudroom and breezeway, further exceeding nonconforming FAR at 109 Prince Street, Newton, Ward 2, on land known as Section 32 Block 30 Lot 10, containing approximately 15,000 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



109 Prince Street

EXECUTIVE SUMMARY

The subject property located at 109 Prince Street consists of 15,000 corner lot with frontage on both Prince Street and Berkeley Street. The site is improved with a single-family dwelling constructed circa 1890. The petitioner is seeking to construct a single-story addition to the rear of the dwelling as well as a covered breezeway. The petitioner is seeking relief to construct a single-story addition that further increases the nonconforming FAR from .34 to .35, where .31 is the maximum allowed as of right. The 89 square foot addition does not further encroach on the existing 3.4-foot nonconforming side setback (opposite Berkeley Street) and is proposed at 9.7 feet from the property line, where 12.5 feet is required. With regards to the nonconforming setback, the addition does not require relief to extend the nonconforming side setback, as it is allowed by de minimis due to the size of the addition, however de minimis does not provide an exception for FAR.

The Planning Department is unconcerned with the petition that increases the nonconforming FAR. The proposed addition consists of one story, will be minimally visible from the street and is focused to the rear of the existing dwelling. The addition is also allowed within the setback by de minimis, thus only requiring a special permit to increase the FAR for the additional 89 square feet of floor area.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed increase in the nonconforming FAR from .34 to .35 where .31 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9, and §7.8.2.C.2).
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9, and §7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

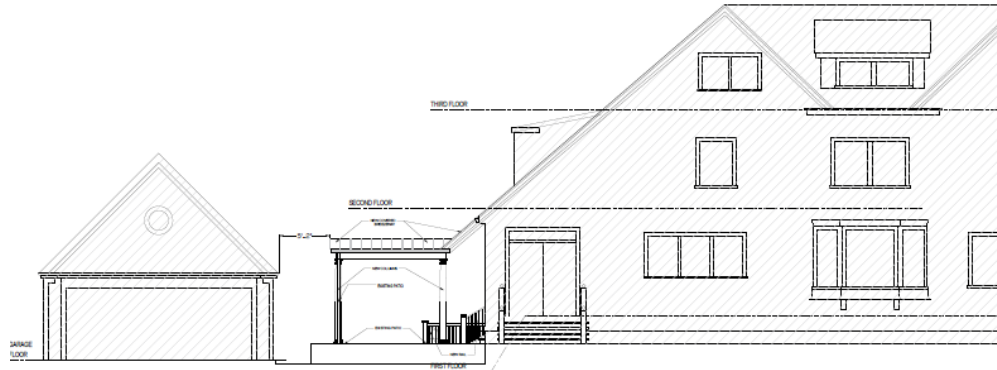
A. Neighborhood and Zoning

The subject property is located on Prince in the SR-1 zone in West Newton. The surrounding area is within the SR-1 zone (**ATTACHMENT A**). The uses in the area consist of single-family residential uses (**ATTACHMENT B**).

B. Site

The site consists of 15,000 square feet of land at the corner of Berkeley Street and Prince Street and is improved with a single-family dwelling constructed circa 1890.

Proposed Left Elevation



The Planning Department is unconcerned with the petition that increases the nonconforming FAR. The proposed addition consists of one story, will be minimally visible from the street and is focused to the rear of the existing dwelling.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

- §3.1.3, §3.1.9 §7.8.2.C.2 of Section 30, to further extend the nonconforming FAR

B. Engineering Review

Engineering Review is not required at this time.

C. Newton Historical Commission

Review from the Newton Historical Commission or Chief Preservation Planner is not required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Land Use Map
- ATTACHMENT B:** Zoning Map
- ATTACHMENT C:** Zoning Review Memorandum
- ATTACHMENT D:** DRAFT Council Order

ATTACHMENT A

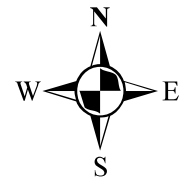
Zoning

109 Prince Street

*City of Newton,
Massachusetts*


Legend

 Single Residence 1

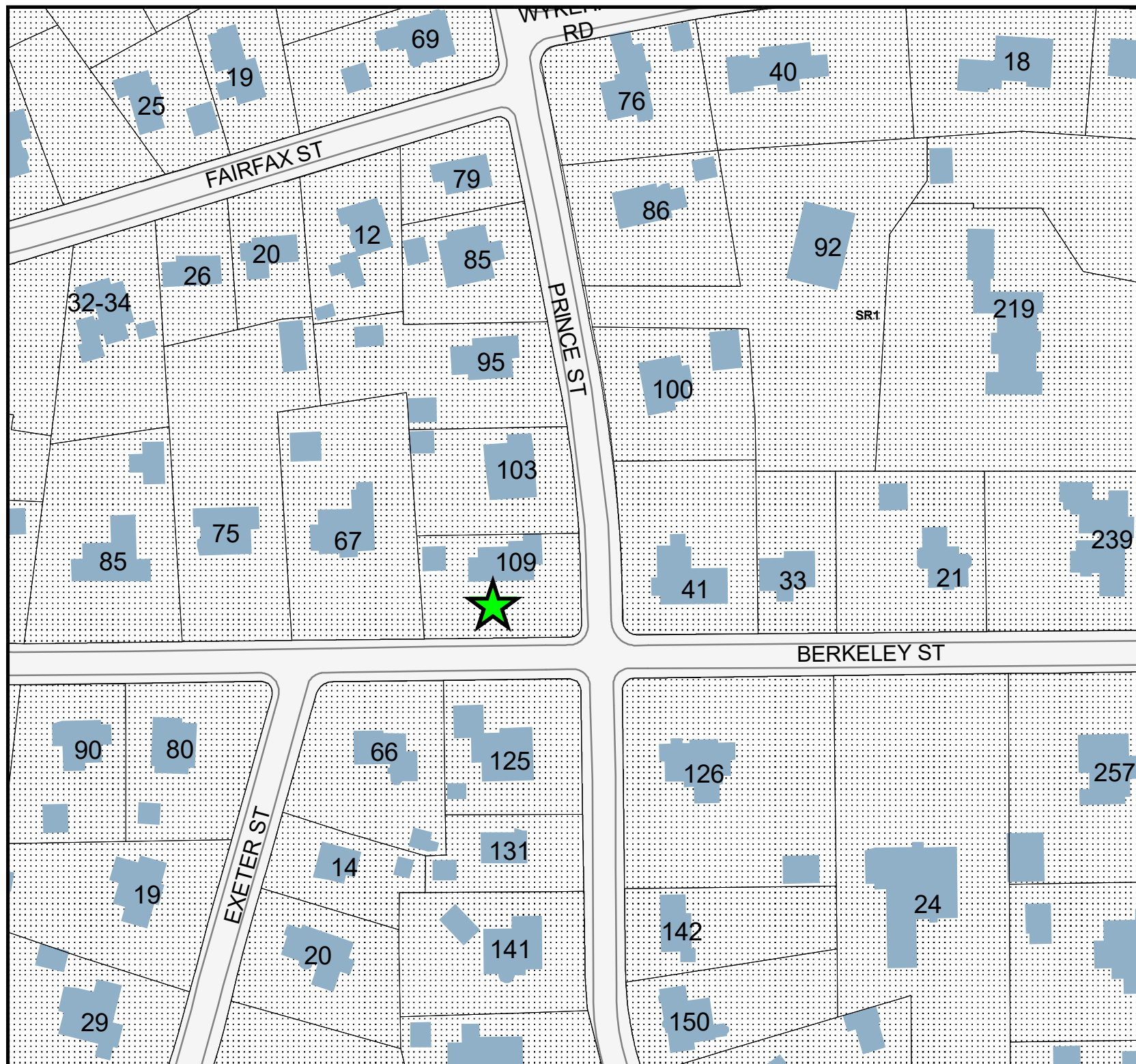


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175
 Feet

Map Date: April 25, 2022



ATTACHMENT B






Land Use

109 Prince Street

*City of Newton,
Massachusetts*

Legend

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations

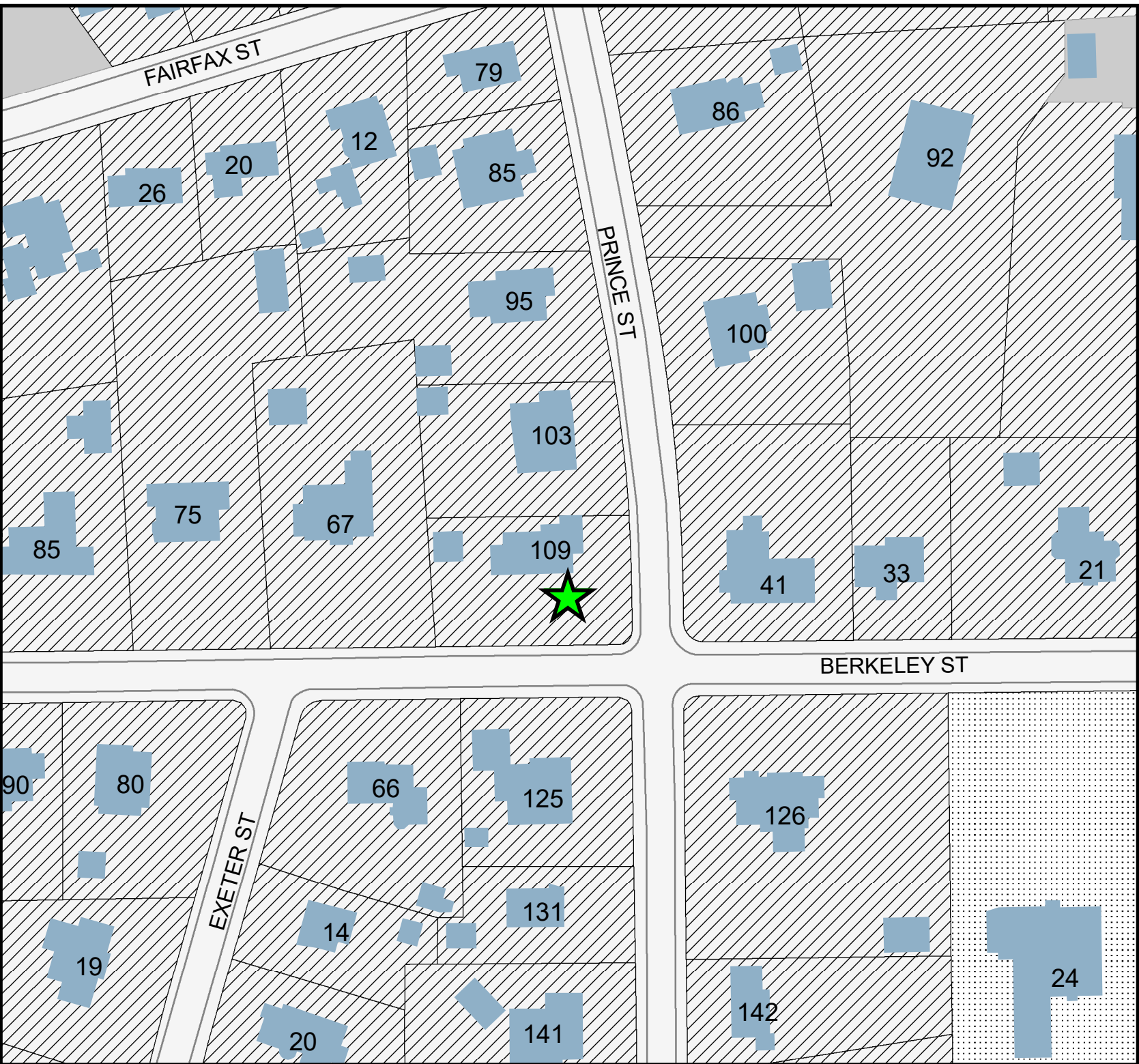


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 29, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Eyal Lieb, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further exceed nonconforming FAR

Applicant: Eyal Lieb	
Site: 109 Prince Street	SBL: 32030 0010
Zoning: SR1	Lot Area: 15,000 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 109 Prince Street consists of a 15,000 square foot corner lot improved with a single-family dwelling constructed circa 1890. The petitioner proposes to construct a one-story rear addition of a mudroom and breezeway. The proposed construction will further extend the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared Eyal Lieb, submitted 2/9/2022
- Site Plan-Existing Conditions, prepared by Spruhan Engineering, dated 10/27/2021
- Site Plan-Proposed Conditions, signed and stamped by Christopher C. Charlton, surveyor, dated 11/22/2022
- Floor Plans and Elevations, prepared by I.S. Henedez Services, dated 1/4/2022, revised 1/18/2022, 1/19/2022
- FAR calculations, submitted 2/9/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a one-story rear addition of a mudroom and covered breezeway. The proposed construction increases the nonconforming FAR from .34 to .35, where .31 is the maximum allowed per sections 3.1.3 and 3.1.9. A special permit per sections 3.1.9 and 7.8.2.C.2 is required to further extend nonconforming FAR.
2. The dwelling has an existing nonconforming side setback of 3.4 feet, where 12.5 feet is required per section 3.1.3. The additions have a proposed setback of 9.7 feet. Per section 7.8.2.B.2.c, first floor additions of no more than 200 square feet in the side and rear setbacks of a dwelling with an existing nonconforming setback are allowed by de minimis. The proposed additions are allowed by de minimis and require no relief.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	15,000 square feet	No change
Frontage	100 feet	105 feet	No change
Setbacks			
• Front (Prince St)	25 feet	32.5 feet	No change
• Front (Berkeley St)	25 feet	54.8 feet	No change
• Side	7.5 feet	3.4 feet	No change
• Rear	15 feet	51.6 feet	36.1 feet
Height	36 feet	36.8 feet	No change
Stories	2.5	2.5	No change
FAR	.31	.34	.35*
Max Lot Coverage	30%	NA	19.8%
Min. Open Space	65%	NA	71.6%

Figures in **BOLD** are nonconforming

*Requires relief

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3

#258-22
109 Prince Street

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single story addition, increasing the nonconforming FAR from .53 to .56, where .37 is the maximum allowed by right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed increase in the nonconforming FAR from .34 to .35 where .31 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the addition only adds 89 square feet to the dwelling (§3.1.9, and §7.8.2.C.2).
2. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition does not further encroach on a nonconforming 3.4 foot side setback (§3.1.9, and §7.8.2.C.2).

PETITION NUMBER: #258-22

PETITIONER: Eyal Leib

LOCATION: 109 Prince Street, on land known as Section 32, Block 30, Lot 10, containing approximately 15,000 square feet of land

OWNER: Eyal Leib

ADDRESS OF OWNER: 109 Prince Street
Newton, MA 02465

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9, §3.1.3 and §7.8.2.C.2 to increase the nonconforming FAR

ZONING:

Single Residence 1

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Proposed Plot Plan, signed and stamped by Christopher C. Charlton, Professional Land Surveyor, dated November 22, 2021, revised February 3, 2022
 - b. Architectural Plans and Elevations, prepared by I.S. Hernandez Design Services, Inc., unsigned and unstamped, most recently revised January 29, 2022 consisting of the following three (3) sheets
 - i. Cover Sheet A-1
 - ii. Existing Demo Plans A2
 - iii. Existing Left and Rear Elevations A3
 - iv. Basement and First Floor Plan A4
 - v. Proposed Left and Right Elevations A5
 - vi. Proposed Rear Elevations A6
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.