



Land Use Committee Report

City of Newton In City Council

Tuesday, July 14, 2020

Present: Councilors Lipof (Chair), Kelley, Greenberg, Auchincloss, Markiewicz, Downs, Bowman, Laredo

Also Present: Councilors Albright, Wright, Crossley, Krintzman

City Staff Present: Chief Planner Neil Cronin, Associate City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#621-18(3) Petition to amend 62-01(2) and #621-18 to extend FAR at 105 Temple Street
SCOTT AND URSULA STEELE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Orders #62-01(2) and #621-18 to allow for a new addition over an existing retaining wall to expand a mudroom and relocate a powder room, creating an FAR of .38 where .37 exists and .33 is allowed at 105 Temple Street, Ward 3, West Newton, on land known as Section 32 Block 12 Lot 8, containing approximately 14,861 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3., 7.4, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0 (Auchincloss not Voting); Public Hearing Closed 07/14/2020

Note: Architect Dana Vaiciulionis represented the petitioners Scott and Ursula Steele. Ms. Vaiciulionis presented the request to construct an 83 sq. ft. addition on the left side of the house, exceeding the allowable FAR at 105 Temple Street. The proposed project relocates an existing half bath from adjacent to the kitchen and bumps the wall out by 6'. Ms. Vaiciulionis stated that the proposed work is over an existing retaining wall and noted that there will be no changes to the footprint of the structure.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. The Public Hearing was Opened. No member of the public wished to speak.

Councilor Kelley motioned to close the public hearing which carried 7-0. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. The Committee expressed support for the petition and voted 7-0 in favor of approval.

#281-20 Petition to exceed FAR at 28 Brewster Road

MEGAN PETERSON AND DAMIAN NOWAK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the allowable FAR to construct a rear addition, creating a deck and additional living space in the basement and first story, creating an FAR of .51 where .45 is required and .37 exists at 28 Brewster Street, Ward 5, Newton Highlands, on land known as Section 54 Block 37 Lot 06, containing approximately 5,943 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0 (Auchincloss not Voting); Public Hearing Closed 07/14/2020**

Note: Architect Bee Howes represented the petitioners Megan Peterson and Damian Nowak. Ms. Howes presented the request to construct a 446 sq. ft. addition creating additional first floor and basement space as well as a deck. The rear yard has a significant slope and the basement counts toward FAR. The proposed addition exceeds the allowable FAR at the site and requires a special permit.

Planning Associate Katie Whewell reviewed the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Ms. Whewell noted that the addition will not be visible from the street.

The Public Hearing was opened. No member of the public wished to speak. Councilor Downs motioned to close the public hearing which carried 7-0. Councilor Downs motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown attached. The Committee expressed no concerns relative to the petition and voted 7-0 in favor of approval.

#26-20 Request to Rezone Approximately 4.4 acres to MU-3 to Create a Contiguous MU-3 Zone
MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for a change of zone to Mixed Use 3/Transit Oriented District for portions of land located at 355 Grove Street (currently zoned BU-2) and 399 Grove Street (currently zoned BU-5), also identified as Section 42, Block 11, Lots 3, 4, and 4A, abutting the existing MU-3 Zone.

Action: **Land Use Held 8-0; Public Hearing Continued**

#27-20 Petition to allow Mixed Use Transit Oriented Development at Riverside Station

MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use, transit-oriented development of residential units, office, retail, personal services, restaurant, hotel, and related commercial uses not to exceed 1,025,000 square feet of gross floor area, with residential uses comprising not less than 60% of the total gross floor area with a residential density of not less than 800 square feet per unit with not less than 560 units nor more than 620 units with special permit relief and/or waivers as follows: as to dimensional standards, a development of more than 20,000 square feet of gross floor area, building height of up to 170 feet, buildings up to 11 stories, Floor Area Ratio of up to 2.5, beneficial open space of not less than 15%, increase of height of certain buildings with the Grove Street Area Corridor (to the extent necessary), and reduction in setback from Grove Street for certain

buildings within the Grove Street Corridor Area (to the extent necessary); as to design standards, waiver of the sustainable development design standards and placement of a retaining wall greater than 4 feet in height located in a setback; as to uses, for-profit educational use, retail sales of over 5,000 square feet, restaurant with more than 5,000 square feet of gross floor area, personal service use of over 5,000 square feet, place of amusement, health club on ground floor, animal services, hotel, bank up to and over 5,000 square feet, theatre/hall, laboratory/research facility, parking facility, accessory, multi-level, parking facility, non-accessory, single level; as to parking, reduction of the residential parking requirement to 1.25 stalls per unit, reduction of the overall commercial parking requirement by 1/3, and waiver of parking stalls not to exceed 685 stalls, above and beyond the reductions specified above; as to parking facilities, waivers of the parking stall dimension requirements, the end stall maneuvering space requirements, the driveway entrance and exit requirements, the 5% interior landscaping requirements, the interior planting area requirements, the tree requirements, the bumper overhang requirements, the one-foot candle lighting requirement, the parking stall striping requirements (to the extent necessary), the curbing, wheel stop, guard rail, or bollard requirements, and the number of off-street loading facilities requirements; and as to signage, waiver of the number, size, type, location, and design requirements, all at 355 and 399 GROVE STREET on land known as Section 42, Block 11, Lots 3, 4 and 4A, containing approximately 13.05 acres of land in districts zoned Mixed Use 3 Transit Oriented (MU3), BU2 (a portion to be rezoned to MU3), BU5 (to be rezoned to MU3). Ref: Sec. 4.2.2.B.1, 4.2.2.B.3, 4.2.3, 4.2.4, 4.2.4.A.4, 4.2.4.B.3, 4.2.4.G.2, 4.4.1, 5.1.4, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.B.6, 5.1.8.D.1, 5.1.8.D.2, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10.A.1, 5.1.10.B.3, 5.1.10.B.5, 5.1.12, 5.1.12.B.4, 5.1.13, 5.2, 5.2.13, 5.4.2.B, 5.12, 6.4.29.C.5, 7.3.3, 7.3.5, 7.4 of the City of Newton Revised Zoning Ordinance, 2017. Additionally, as to infiltration and inflow mitigation, an abatement of the infiltration/inflow mitigation fee pursuant to Section 29-170 of the City of Newton Revised Zoning Ordinance, 2017.

Action: Land Use Held 8-0; Public Hearing Continued

Note: The Committee reviewed the attached draft Council Order dated July 10, 2020. The Committee commented on, modified and discussed conditions as detailed below.

GENERAL CONDITIONS

1. All buildings, parking areas, driveways, walkways, landscaping, and all other site features on the Development Parcel associated with this Special Permit/Site Plan Approval shall be located, constructed, and implemented consistent with the set of plans entitled " _____ " dated _____ (the "Special Permit Plan Set"), which are more particularly identified in Exhibit A and are hereby incorporated by reference. No changes to the Project are permitted unless they are consistent with the Special Permit Plan Set as set forth in Conditions #8 through 11.

Atty. Temple confirmed that the final Council Order will include a glossary of defined terms. The Committee questioned which plans are included in the plan set and whether documents can be found in a common place. It was noted that all of the documents referenced in the Council Order will be compiled

and posted on the City's website. The Committee requested that the Section 61 findings are included in the plan referencing condition. Atty. Temple confirmed he will review the condition.

2. All buildings, parking areas, driveways, walkways, landscaping, and all other site features on the Development Parcel associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the City of Newton Design Guidelines for the Riverside Station Development, dated _____ (the "Design Guidelines"), which are on file with the Department of Planning and Development, the Inspectional Services Department, and the City Clerk. No changes to the Project are permitted unless they are consistent with the Design Guidelines as set forth in Conditions #8 through 11.

It was noted that the Design Guidelines were last reviewed in May and the Committee did not take a straw vote on approval of the Design Guidelines. Atty. Buchbinder noted that while there were significant changes after the first iteration of the document, there were no significant changes resulting from the discussion after the second presentation. Chief Planner Neil Cronin explained that the MU3/TOD zone and the special permit will guide how the project will be built and that the Design Guidelines are intended to primarily influence architectural details. He confirmed that the Design Guidelines use façade hierarchies to identify where more visually prominent facades and durable materials should be. The Committee asked that the draft Order/Design Guidelines should include language that bars the project from turning its back on Grove Street.

4. Pursuant to Section 7.3.2.E and Section 7.4.5.D of the City of Newton Zoning Ordinance in effect at the time this Special Permit/Site Plan Approval was approved (hereinafter, "Zoning Ordinance"), the time for exercise of this Special Permit/Site Plan Approval is extended to a period of three years, which shall not include such time required to pursue or await the determination of an appeal pursuant M.G.L. c. 40A, § 17 or an appeal of any other local permits or approvals necessary to complete the project, without the necessity of a further public hearing. This Special Permit/Site Plan Approval shall be deemed to have been exercised upon the issuance of a building permit (other than a demolition permit) for all or any portion of the Project (including the parking structure).

Atty. Temple noted that under state law, pulling a building permit constitutes exercise of the special permit and confirmed that the City may not require the petitioner to begin construction. He stated that deadlines are typically not established for pulling of the building permits but noted that they can be. Atty. The Northland project was given 5 years from issuance of the first building permit to pull the remaining permits. It was noted that the City has recommended five years for Riverside, but the petitioner is seeking ten years. Atty. Buchbinder explained that the off-site improvements will take some time and five years will not allow the petitioner to pull all of the building permits. Damien Chaviano emphasized that five years is not a sufficient amount of time and suggested that eight years could be adequate. The Committee took a straw vote 6-2 in favor of allowing eight years to pull all of the building permits from issuance of

the first building permit. The Committee asked Atty. Temple to provide clarification on what constitutes exercise of the special permit.

6. All real and personal property that make up the Development Parcel and the Project, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage) owned and used by the MBTA for the provision of transportation that are deemed exempt by the Newton Assessors' Office, shall be subject to the assessment of local taxes in accordance with the provisions of M.G.L. c. 59. However, in the event that a final binding decision of the Appellate Tax Board or appellate court determines that any other part of the Development Parcel or the Project is exempt from the assessment of local taxes notwithstanding the first sentence of this Condition, the Petitioner agrees to and shall immediately execute a PILOT with the City of Newton Board of Assessors which will require the Petitioner to make quarterly payments in lieu of taxes based on the market value of the portions of the Project determined to be exempt as though the same were subject to the assessment of local taxes, excluding those portions of the project owned and used by the MBTA for the provision of transportation.

It was noted that the portion of the garage owned by the MBTA will be exempt from local taxes. The petitioner will make a payment in lieu of taxes (PILOT) on behalf of the non-taxable portion. Mr. Chaviano confirmed that the lease will not be executed until after approval of the special permit.

7. Prior to exercise of this Special Permit as defined in Condition #4 above, an organization of all owners of land and ground lessees within the Development Parcel, which may but is not required to include the MBTA and the owners of land subject to easements benefiting the Project, shall be formed (the "Organization of Owners") in accordance with the provisions of Section 4.2.4 of the Zoning Ordinance. The Organization of Owners shall serve as the liaison between the City and any owner, lessee, or licensee (other than the MBTA) within the Development Parcel governed by this Special Permit. Such Organization of Owners shall be the primary contact for the City in connection with any dispute regarding violations of this Special Permit/Site Plan Approval or the Zoning Ordinance and, in addition to any liability of individual owners or lessees (with regard to matters specifically related to the individual owners' or lessees' parcels and not those related to the overall Project or Development Parcel), shall have legal responsibility for compliance of the Project with the terms of this Special Permit/Site Plan Approval and the provisions of the Zoning Ordinance.

Atty. Temple stated that as drafted, the condition allows the MBTA the option to be included in the "Organization of Owners". The Committee asked that the Law Department review Condition 7.

8. Submission and Review of Schematic Plans

- a. At the schematic design stage, the Petitioner shall present individual building plans consisting of exterior renderings, preliminary building elevations, building footprints, and representative wall sections to the City of Newton's Urban Design Commission (UDC), the Director of Planning and Development, and its consultants at a public meeting of the UDC. The Petitioner shall provide notice of this meeting to the Liaison Committee and the UDC should make all efforts to take public comment.
- b. Within 30 days of such public meeting, the UDC and the Director of Planning and Development shall each notify the Petitioner in writing as to whether the UDC and the Director of Planning and Development believes the schematic design plans are consistent with the Zoning Ordinance, the Special Permit/Site Plan Approval, and the Design Guidelines.

The Committee questioned at what point the non-building aspects (i.e. stormwater, landscaping) will be reviewed. Mr. Cronin noted that the petitioner has produced a memo which overviews their plans. The stormwater portion of the project will be reviewed by the Engineering Department and landscaping elements will likely be reviewed during the building review. The Committee asked that the Planning and Law Departments work to draft the conditions to ensure that there is a review process for each element of the project.

9. Submission and Review of Design Development Plans

- a. Upon completion of the schematic plan process set forth in Condition #8, the Petitioner may proceed to the design development stage. At this stage, the Petitioner shall file the following with the Director of Planning and Development, ~~the Commissioner of Inspectional Services~~, the Director of Public Works, and the UDC:
 - i. a copy of plans showing consistency with the Special Permit Plan Set and the Design Guidelines for the portions of the Project necessary for the permit or determination being sought (the "Design Development Plans").
 - ii. a signed certificate from the Petitioner's architect and/or civil engineer certifying that the Design Development Plans are consistent and in full compliance with the Special Permit Plan Set;
 - iii. a completed Evaluation Template in accordance with and in the form required by the Design Guidelines.

- b. Within forty five (45) days of receipt of a complete submission of the materials set forth in Condition #9(a) the Director of Planning and Development will review and provide an opinion as to whether the Design Development Plans are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. If the Director of Planning and Development's review requires the input or assistance from a peer review consultant, the Petitioner shall pay the reasonable fees for such peer review. The Director of Planning and Development's opinion shall be submitted in writing to the Petitioner and the Commissioner of Inspectional Services. If it is the Director's opinion that the Design Development Plans are not compliant with the Special Permit Plan Set or inconsistent with the Design Guidelines, such inconsistencies shall be expressly identified.
 - c. Within forty five (45) of receipt of a complete submission of the materials set forth in Condition #9(a) (and concurrent with the review of the Director of Planning and Development), the UDC, after review of such submission at a public meeting, will provide an opinion as to whether the Design Development Plans are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. The Petitioner shall provide notice of the UDC public meeting to the Liaison Committee and the UDC should make all efforts to take public comment. The UDC's opinion shall be submitted in writing to the Petitioner and the Commissioner of Inspectional Services. If it is the UDC's opinion that the Design Development Plans are inconsistent with either the Special Permit Plan Set or the Design Guidelines, such inconsistencies shall be expressly identified.
 - d. Upon receipt of the written opinions referenced in Condition #9(b) and (c) above, the Petitioner may proceed to the Construction Documents phase.

10. Submission and Review of Construction Documents

- a. Upon completion of the design development process set forth in Condition #9, the Petitioner may proceed to the construction documents stage. At this stage, the Petitioner shall file the following with the Director of Planning and Development:
 - i. a copy of plans showing consistency with the Special Permit Plan Set and the Design Guidelines for the portions of the Project necessary for the permit or determination being sought (the "Construction Documents").
 - ii. a signed certificate from the Petitioner's architect and/or civil engineer certifying that the construction Documents are consistent and in full compliance with the Special Permit Plan Set;
 - iii. a completed Evaluation Template in accordance with and in the form required by the Design Guidelines.
- b. Within thirty (30) days of receipt of a complete submission of the materials set forth in Condition #10(a) the Director of Planning and Development will review and provide an opinion as to whether the Construction Documents are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. If the Director of Planning and Development's review requires the input or assistance from a peer review consultant, the Petitioner shall pay the reasonable fees for such peer review. The Director of Planning and Development's

The petitioner, Robert Korf noted that there are two steps to the review process, schematic (at one month) and design (three months later). He stated that after schematic design documents are drafted, the design changes to include structural details and noted that no aesthetic or material changes are being made. He questioned what the review is for at the Design Development stage and whether it is necessary. Mr. Cronin explained that the review process at Schematic review is intended to review compliance with the MU3/TOD zone and special permit. During Design Development, the petitioner is expected to have completed the evaluation template for review of the façade hierarchies and architectural features to evaluate compliance with the Design Guidelines. Mr. Korff noted that having these separate processes can impact by the review process by up to five months per building. He suggested that consolidating the review processes would be more efficient. The Committee asked that the Planning Department create a timeline to show how the project timeline might be impacted by having separate, sequential processes. It was noted that the language should be clear with regard to the presentation of plans to the liaison committee, Urban Design Committee (UDC) meetings, decisions made by City staff, notices to interested parties and how long the petitioner may have to remedy issues identified during the review process.

11. Formal Submission of Building Permit Application

- a. Upon receipt of a complete building permit application, the Commissioner of Inspectional Services shall make a final determination, with due consideration given to the written opinions of the Director of Planning and Development and the UDC on the Design Development Plans, as to whether the plans filed with such application are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines.
- b. The formal submission of the building permit application shall include a narrative setting forth the total gross square feet of development proposed in the building permit, the total gross square feet of commercial space proposed in the building permit, the total number of bicycle parking stalls proposed in the building permit, the total gross square feet of development on the Development Parcel for which building permits have already been issued, the total gross square feet of the commercial space for which building permits have already been issued, the total number of bicycle stalls for which building permits have already been issued the total number of residential units and Inclusionary Units proposed (if applicable), and the total number of residential units and Inclusionary Units on the Development Parcel for which building permits have already been issued.
- c. In making the final consistency determination, the Commissioner of Inspectional Services may elect to refer the matter to the Land Use Committee for the Committee's review and recommendation, provided however that referral to the Land Use Committee is required for the Committee's review and recommendation of any modifications or changes to the Special Permit Plan Set concerning the following: (i) increase in building height of two feet or greater where allowed under the Zoning Ordinance; (ii) building location changes greater than five feet without decreasing setbacks; (iii) increase in building dimensions or massing where such increase results in an increase in the total gross floor area of a building greater than five percent from what is shown on the Special Permit Plan Set; (iv) footprints of buildings where such changes alter the footprint area or an overall dimension by more than five percent; (v) material changes to the interior road network layout, including driveway locations; (vi) reduction in open space of more

than one percent and less than five percent; and (vii) significant changes to major design elements such as towers, vista terminations, entries, and façade treatments. Consistency determinations that are referred to the Land Use Committee for review and recommendation in accordance with this condition do not require the vote or approval of the Committee.

- d. If the Commissioner determines that the application plans are inconsistent with either the Special Permit Plan Set or the Design Guidelines, no building permit will be issued, and the Petitioner must either: (i) submit revised plans which the Commissioner deems to be consistent, or (ii) seek an amendment to this Special Permit/Site Plan Approval.
- e. The following modifications or changes shall not be eligible for a consistency determination and can only be done through amendment of this Special Permit/Site Plan Approval: (i) increase to the building stories shown on the Special Permit Plan Set; (ii) change in the total number of residential units in the Project; (iii) any increase in the total gross floor area of the Project above 1,025,000 square feet [which would also require an amendment to the Zoning Ordinance], (iv) any increase in the total gross floor area of any building greater than ten percent from what is shown on the Special Permit Plan Set, (v) any increase or decrease of more than one percent in the number of striped parking stalls on the Development Parcel from what is shown on the Special Permit Plan Set, or (vi) decrease of more than five percent to the amount of open space of the Project from what is shown on the Special Permit Plan Set.

The Committee questioned why bicycle parking stalls are specifically listed in 11b. Mr. Cronin noted that parking stalls were included because they will be subject to a Massachusetts state building permit and not subject to the City's review. The Committee noted that there should be language relative to the number of parking stalls as well as other quantifiable elements.

Relating to consistency rulings, the Committee noted that the documents submitted should be posted on the City's website. The Committee expressed support for flexibility within reason but noted that outside of reasonable changes (i.e. 2'± in height on a building) including changes to building sizes, gross floor area and/or building footprints; the petitioner should be required to seek an amendment to the special permit.

Mr. Korff noted that the petitioner is seeking flexibility relative to the breakdown of residential units. He requested flexibility in changing the number of units by 4% to accommodate changing market demands. He explained that this may result in the loss of studio/one-bedroom units in order to create more two- and three-bedroom units. The Committee expressed no concerns relative to this request.

It was noted that there is a 13,000 sq. ft. space within building 9 for retail. Mr. Korff noted that it is hoped that a small grocer can be located in that space. He requested flexibility with regard to working within the existing footprint of building 9 to increase the number of parking stalls (by up to 80, representing 4%) to accommodate a grocery tenant. He explained that the additional stalls within the footprint could be gained by restriping the existing spaces within the facility. The Committee was supportive of allowing the flexibility to allow a grocery use, noting that having an on-site grocery could significantly reduce the number of off-site trips. The Committee took a straw vote 8-0 in favor of allowing up to 80 additional parking stalls, to accommodate a grocer, within the footprint of building 9.

12. The Petitioner shall design and construct, at no cost to the City, the Route 128/Interstate-95 Interchange improvements as shown on the conceptually approved plan (Figure 19) contained in the Transportation Impact and Access Study, dated December 2019 and as further described in the TIA Study in more detail (hereinafter, the "Interchange Improvements").
- a. Prior to the issuance of any Building Permits for any of the buildings, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage), the following must occur in connection with the Interchange Improvements:
 - i. The Massachusetts Department of Transportation (MassDOT) must issue a Section 61 Finding (Mitigation Commitment Document required as part of the Massachusetts Environmental Policy Act (MEPA) process).
 - ii. The Petitioner must complete the 25% Design Submission phase of the application process for receiving a Highway Access Permit from MassDOT and receive MassDOT's comments in response to the submission.
 - iii. The mitigation obligations in the Section 61 Finding and the MassDOT, comments on the 25% Design review must support approval of the Interchange Improvements.
 - b. The Petitioner shall submit all state and federal submissions in connection with the Interchange Improvements, including engineered plans, to the Commissioner of Public Works for review simultaneous with submission to MassDOT and/or FHWA. The Petitioner shall also provide copies of all comments and responses it receives from any federal or state entity to the Director of Planning and Development and the Commissioner of Public Works in a timely manner.
 - c. Any material modifications to the final design of the Interchange Improvements by either MassDOT or FHWA will be considered consistent with the conceptually approved plan if, in the opinion of the Commissioner of Public Works, the modified design achieves the same performance objectives as the conceptually approved design.
 - d. Prior to the issuance of a Certificate of Occupancy for any of the buildings, except for a partial, temporary and permanent Certificate of Occupancy for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage), construction of the Interchange Improvements must be substantially complete (i.e. a final inspection has been completed by MassDOT), but final punch list items, including but not limited to landscaping, may be scheduled for completion after the issuance of temporary Certificate of Occupancy provided the Petitioner posts a bond or other security as determined by the Commissioner of Inspectional Services (after consultation with the Director of Planning and Development and the Commissioner of Public Works) to be sufficient to complete such outstanding work.

Randy Hart noted that the section 61 finding, which identifies the mitigation requirements for the project (roundabout, ramp, traffic signals) will be issued prior to beginning design. He noted that concept design requires approval from MassDOT and Federal Highway. Mr. Hart noted that waiting for responses from MassDOT on the 25% design may significantly impact the petitioner's timeline in pulling a building permit. Mr. Cronin noted that the ramp is an integral component of the project and stated that comments from MassDOT at 25% design was a milestone that was decided. The Committee expressed concern relative to allowing the issuance of building permits prior to commentary from MassDOT at 25%, understanding the importance of the ramp as part of the project. Mr. Korff noted that no Certificates of Occupancy may be issued until the highway access is built according to MassDOT's satisfaction. He noted that there is already support for the planned roadway modifications. The Committee remained concerned relative to failure of the project if the buildings are constructed and MassDOT does not ultimately approve the plans. It was noted that there is also an opportunity for members of the public to weigh in at 25% design. Mr. Korff reiterated that waiting for comments on 25% design could impact the project by up to 18 months. He noted that it would be helpful to move issuance of the building permit to when the 25% design documents are submitted, rather than when comments are issued. Director of Planning and Development Barney Heath confirmed that the City's peer reviewer can evaluate the timing and design to identify opportunities for improvement.

13. The Petitioner shall design and construct, at its sole cost, the roadway improvements and mitigation along Grove Street as shown and described on the conceptually approved plan (Figure 19) contained in the Transportation Impact and Access Study, dated December 2019 (TIAS) and as shown on the approved Special Permit Plan Set (plan No. ____), dated April 28, 2020 (hereinafter, the "Grove Street Improvements"). *[To be modified as necessary based on resolution of the potential bike lane on the eastern side of Grove Street]*

a. The Grove Street Improvements shall consist of the following:

- i. A new traffic signal at the Grove Street entrance. Such signal shall use adaptive technology and shall be connected to the traffic signals at the proposed Grove Street and Recreation Road Extension intersection/NB Ramp and the Grove Street at Grove Street extension intersections.. The signal and lane striping shall not encourage left hand turns into the Project.
- ii. A ten-foot wide multi-use bicycle and pedestrian path constructed along the Project frontage.
- iii. A pedestrian walkway, no less than six feet in width throughout its length along the Project frontage.
- iv. A tree way no less than five feet in width throughout its length along the Project frontage.
- v. Light poles separating the multi-use path track from the pedestrian walkway. This buffer shall be at least 2.5 feet wide. All details of the light poles including but not limited to type, height, fixtures, and level of illumination shall be reviewed and approved by the Commissioner of Public Works or his/her designee.

- v. Light poles separating the multi-use path track from the pedestrian walkway. This buffer shall be at least 2.5 feet wide. All details of the light poles including but not limited to type, height, fixtures, and level of illumination shall be reviewed and approved by the Commissioner of Public Works or his/her designee.
 - vi. A crosswalk with a Rapid Reflectorized Flashing Beacon (the "RRFB") adjacent to the transit plaza between Buildings 6 and 7. The Petitioner shall also design and construct a sidewalk on the eastern side of Grove Street from the RRFB to the existing sidewalk north of the Project. The final location of these improvements shall be reviewed and approved by the Commissioner of Public Works or his/her designee.
 - vii. General grading and drainage improvements as shown on the approved plans.
 - viii. Signage.
 - ix. Extension of the multi-use path, as shown on the conceptual plans in the TIAS and at least ten feet in width, from the proposed roundabout adjacent to Ashville Road to Pine Grove Avenue.
- b. Prior to the issuance of any Building Permits for any of the buildings, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage), the Petitioner shall submit final engineered plans for the Grove Street Improvements for review and approval by the Public Facilities Committee and MassDOT.
- c. Prior to the issuance of a Certificate of Occupancy (temporary or final) for any of the buildings, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage), the Petitioner shall, at its own expense, offer a permanent easement in favor of the City, in a form approved by the Law Department, to allow the City to maintain and the public to access and use the portion of the sidewalk (including paths intended for bicycle travel, buffer, and tree way) along the west side of Grove Street that is located within the Development Parcel. Such easement shall be executed and recorded upon substantial completion of the Grove Street Improvements.
- d. Prior to the issuance of any Certificate of Occupancy (temporary or final) for any part of buildings 5 and 6, construction of the Grove Street Improvements must be substantially complete (i.e. fully operational from a traffic management perspective), but final punch list items, including but not limited to landscaping, may be scheduled for completion after the issuance of a temporary Certificate of Occupancy provided the Petitioner posts a bond or other security as determined by the Commissioner of Inspectional Services to be sufficient to complete such outstanding work.
- e. Prior to operation of the new traffic signal at the Grove Street entrance, as well as prior to any subsequent adjustments or modifications to the timing of the signal, Petitioner must consult with the Commissioner of the Department of Public Works regarding the timing of the signal in order to establish the most beneficial traffic flow. Any future changes to the timing must be reviewed and approved by the Commissioner of Public Works.

The Committee noted that the flow of traffic on Grove Street is a major component of the project. The Committee agreed that there should be no left turns at the site and questioned whether the language prohibiting the left turn can be made stronger. Noting that prohibiting the left turn is at the discretion of Traffic Council, the Committee agreed to include a condition that the petitioner is required to request prohibition of the left turn maneuver and use good faith efforts to obtain approval.

In response to questions from the Committee, Mr. Cronin stated that there is a portion of the multi-use sidewalks on the development parcel that the City needs an easement for. The "sidewalk" encompasses the bike lane, tree-way and pedestrian walkway. Atty. Temple confirmed that the language will be clarified throughout the Council Order and that no easement is necessary for ensuring access to the public roadways and bike trails within the site. The Committee asked that a condition be drafted requiring the roadways to remain open to the public. It was noted that the City will be responsible for snow removal and maintenance of the "sidewalk" at the site. The Committee questioned whether the snow ordinance requires the petitioner to remove the snow and whether the petitioner can be required to maintain the sidewalk and landscaping. Mr. Cronin confirmed that responses will be prepared for the July 28 meeting.

With that, the Committee voted 8-0 in favor of a motion to hold items #26-20 and #27-20 from Councilor Markiewicz. The Committee adjourned at 11:00 pm.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



**PETITION #621-18(3)
105 TEMPLE STREET**

SPECIAL PERMIT/SITE PLAN APPROVAL
TO AMEND SPECIAL PERMIT COUNCIL
ORDERS #62-01(2) AND #621-18 TO
ALLOW FOR A NEW ADDITION OVER
AN EXISTING RETAINING WALL TO
EXPAND A MUDROOM AND RELOCATE
A MUDROOM, CREATING AN FAR OF
.38 WHERE .37 EXISTS AND .33 IS
ALLOWED

JULY 14, 2020



Requested Relief



Special Permit per §7.3.3 of the NZO to:

- Amend Special Permits # 62-01(2) and #621-18
- Special Permit per §7.3.3 to further increase nonconforming floor area ratio (FAR) (§3.1.9, §7.8.2.C.2)

Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed expanded single-family dwelling as designed (§7.3.3.C.1);
- The proposed expanded single-family dwelling as designed will not adversely affect the neighborhood (§7.3.3.C.2);
- There will be no nuisance or serious hazard to vehicles or pedestrian (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
- The proposed increase in the nonconforming FAR from 0.37 to 0.38, where 0.33 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
- 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).

Aerial/GIS Map






ATTACHMENT A

Zoning

105 Temple St.

*City of Newton,
Massachusetts*

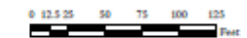
Legend

-  Single Residence 1
-  Single Residence 2
-  Public Use

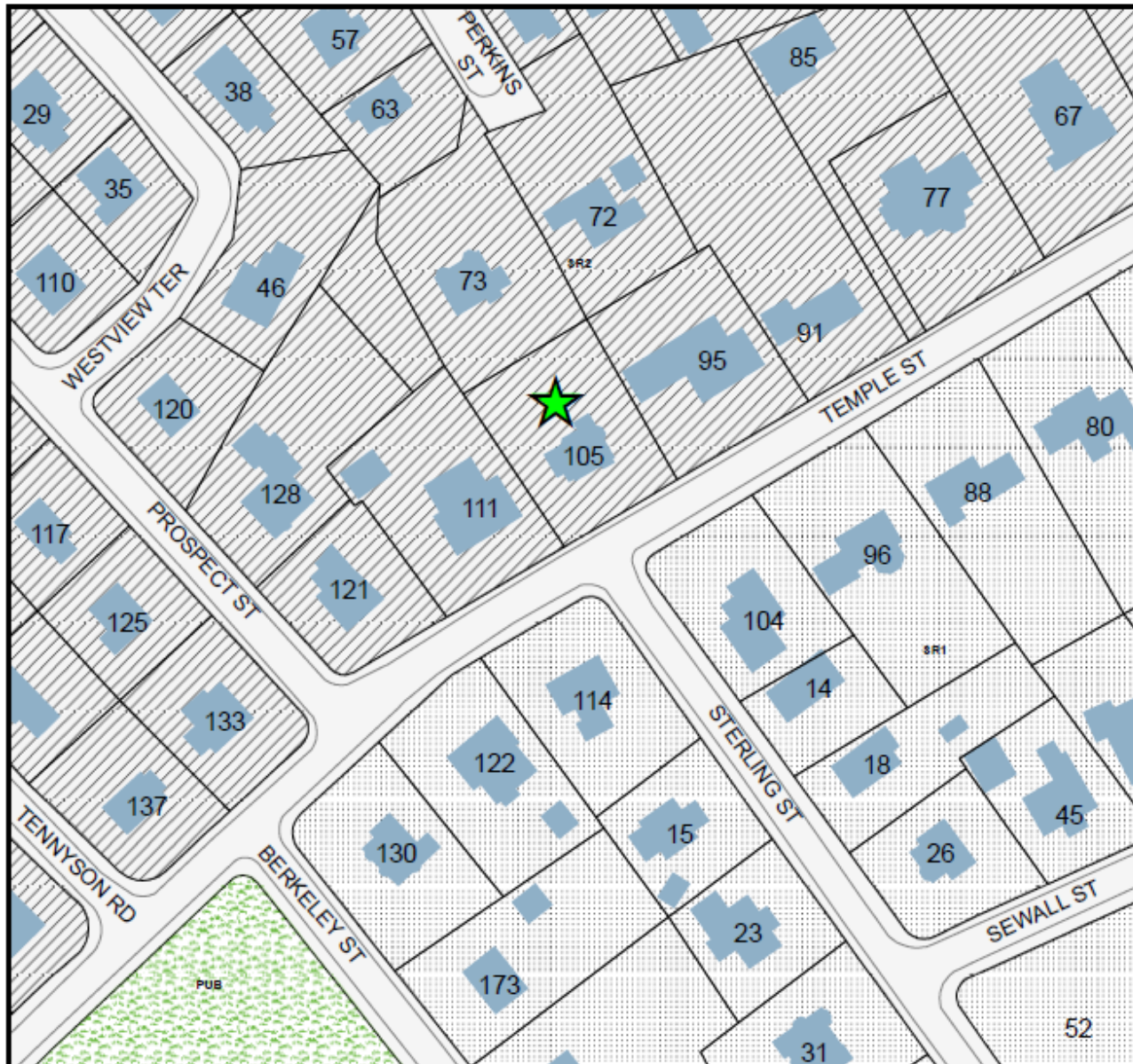


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: January 14, 2019



ATTACHMENT B

Land Use

105 Temple St.

*City of Newton,
Massachusetts*

Legend

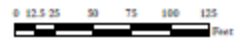
Land Use

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

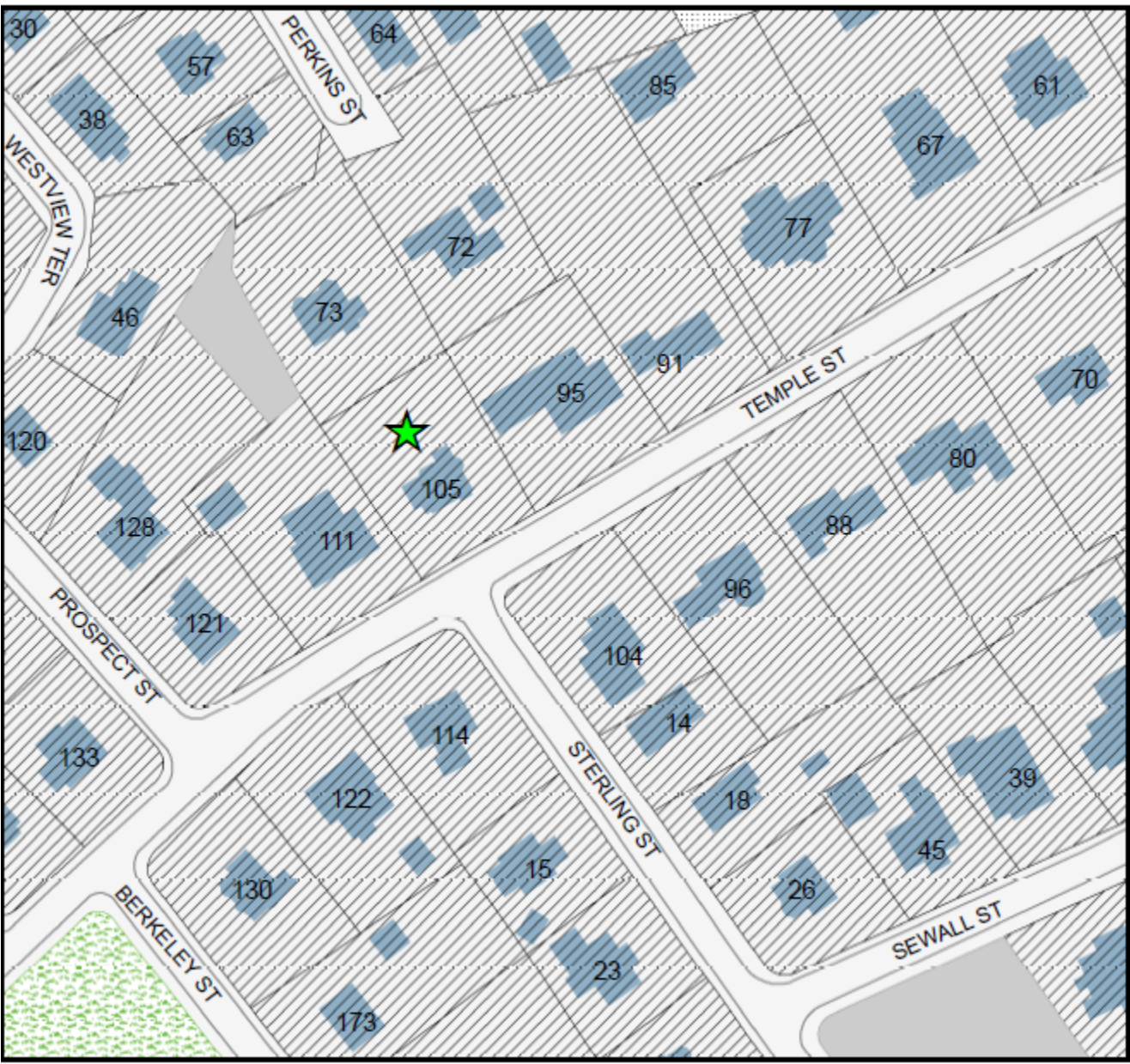


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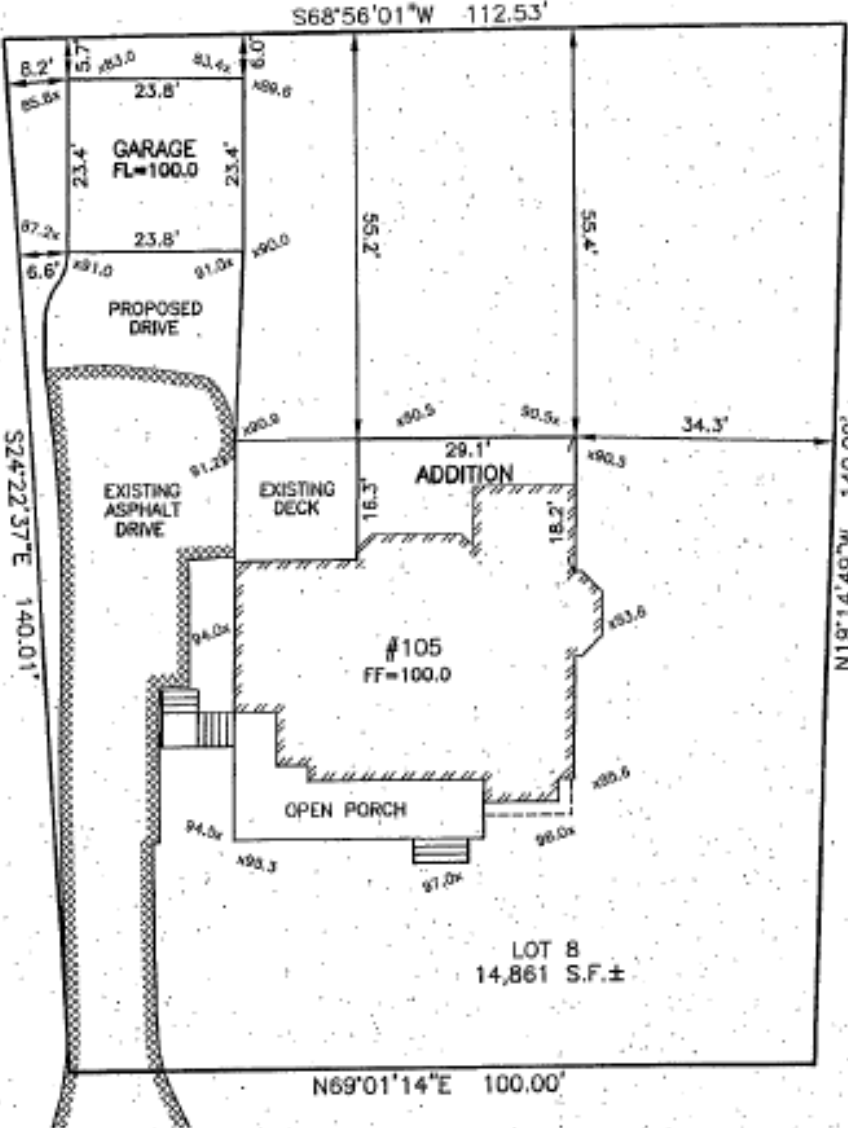
CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: January 14, 2019

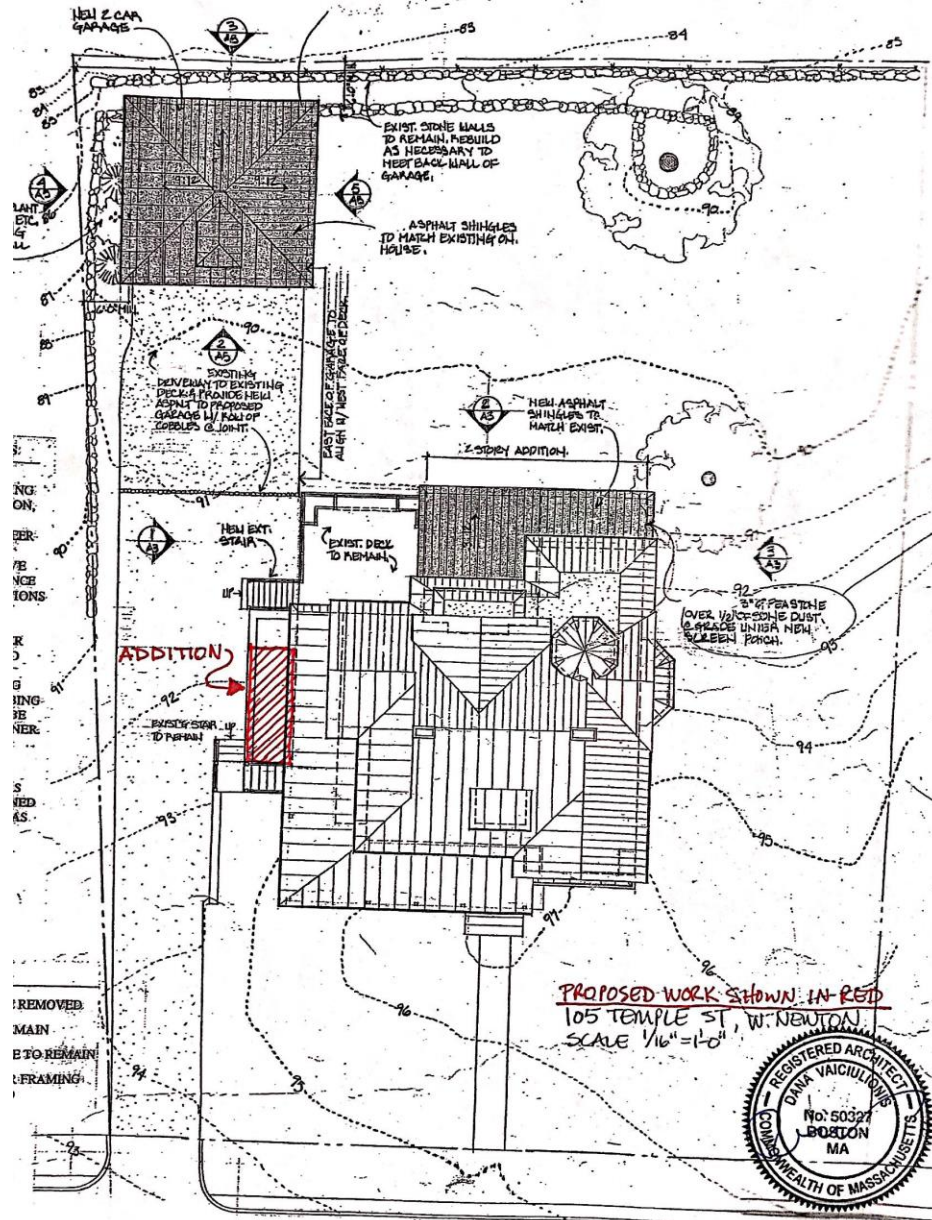


Site Plan

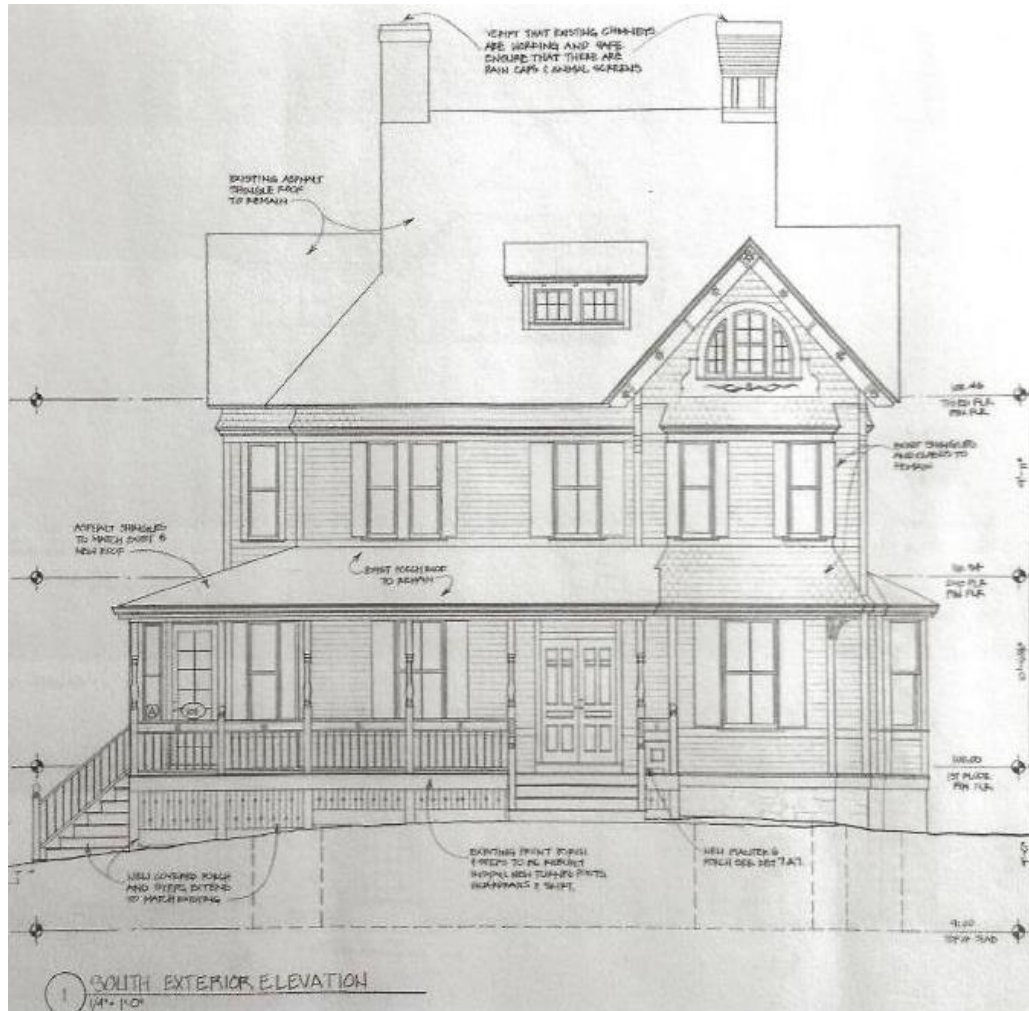


TEMPLE STREET

Site Plan



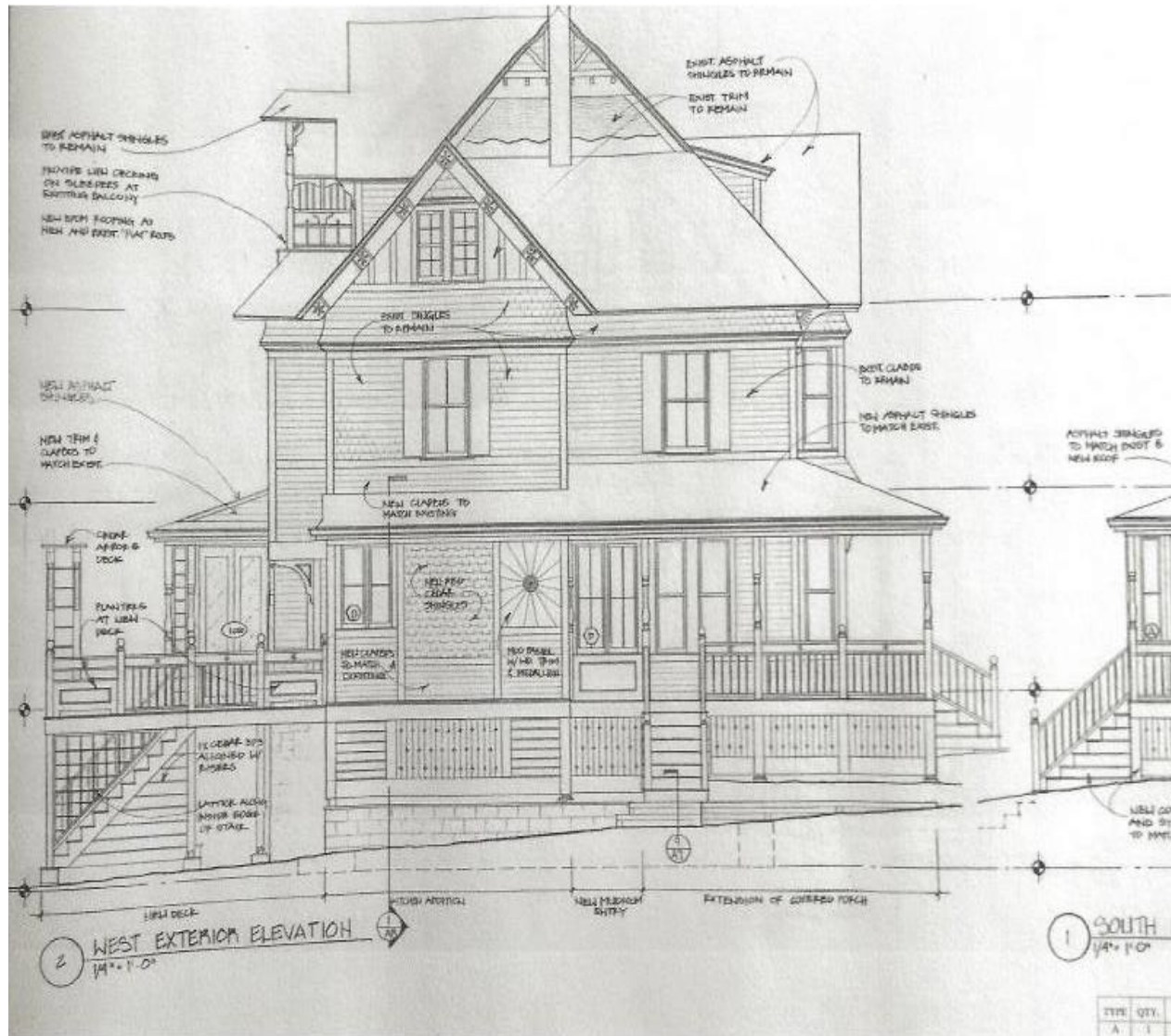
Elevations- Front (Existing)



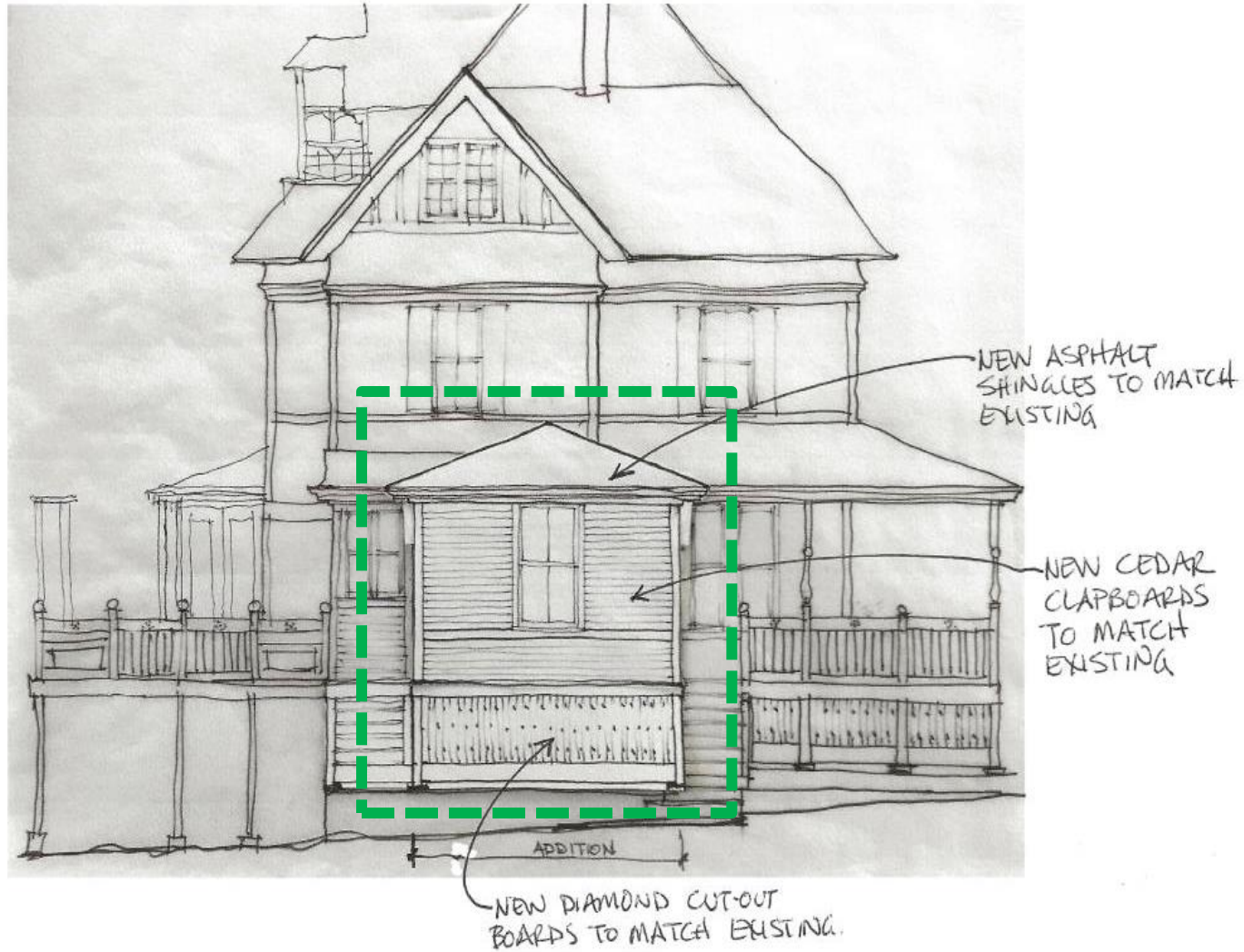
Elevations- Front (Proposed)



Elevations- Side (Existing)



Elevations- Side (Proposed)



Photos



Photos



Photos



Proposed Findings



1. The specific site is an appropriate location for the proposed expanded single-family dwelling as designed as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, and be well screened by landscaping (§7.3.3.C.1)
2. The proposed expanded single-family dwelling as designed will not adversely affect the neighborhood as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, and be well screened by landscaping (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

Proposed Findings (cont.)



5. The proposed increase in the nonconforming FAR from 0.37 to 0.38, where 0.33 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 as the resulting structure will be similar to other neighborhood dwellings in size and scale (§3.1.9)
6. The proposed extension of the structure's nonconforming floor area ratio (FAR) from 0.37 to 0.38, where 0.33 is the maximum allowed by right will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, is well screened by landscaping and is not higher than the existing structure. (§7.8.2.C.2)

Proposed Conditions



1. Amend previous special permits
2. Plan Referencing Condition.
3. Standard Building Permit Condition.
4. Standard Final Inspection/Certificate of Occupancy Condition.

Department of Planning and Development



PETITION #281-20
28 BREWSTER RD.

SPECIAL PERMIT/SITE PLAN
APPROVAL TO EXCEED THE FLOOR
AREA RATIO

JULY 14, 2020



Requested Relief



Special Permits per §7.3.3, 7.8.2.C.2 of the Newton Zoning Ordinance to:

- Exceed the Floor Area Ratio (§3.1.3 and §3.1.9).

Criteria to Consider



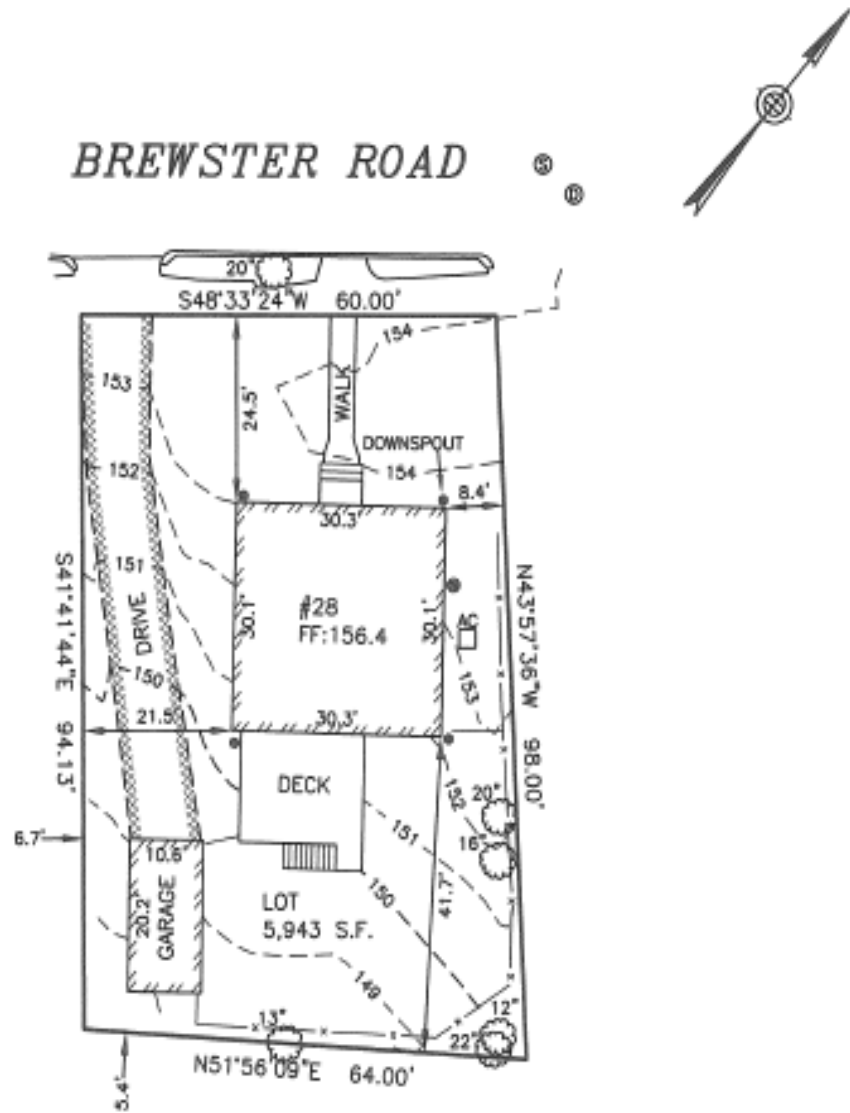
When reviewing this request, the Council should consider whether:

- The proposed increase in FAR from .37 to .51, where .45 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. (§3.1.3, and §7.8.2.C.2)

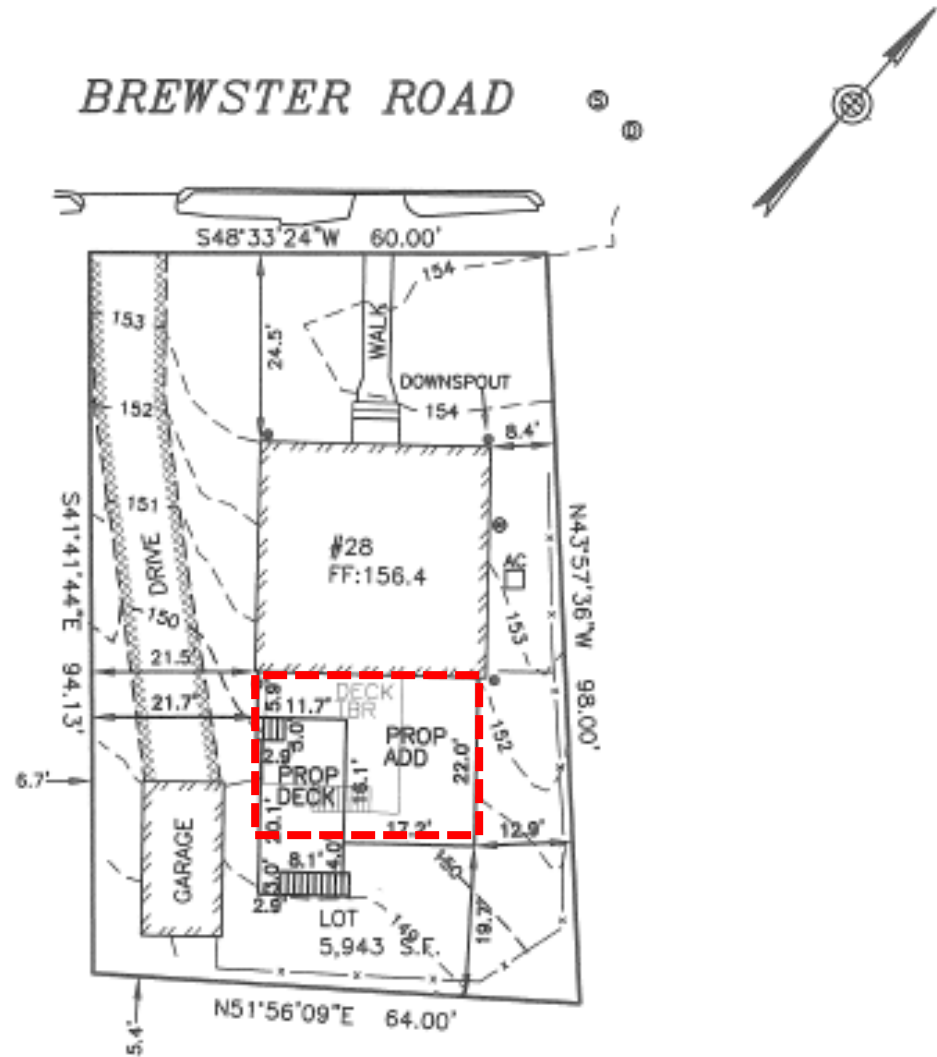
Aerial/GIS Map



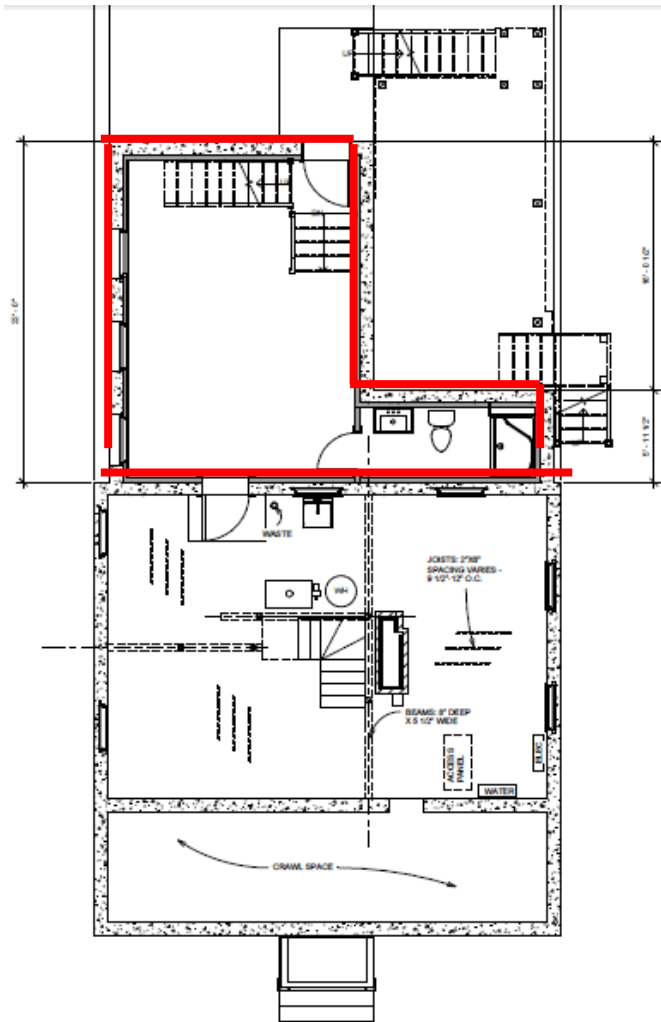
Existing Conditions



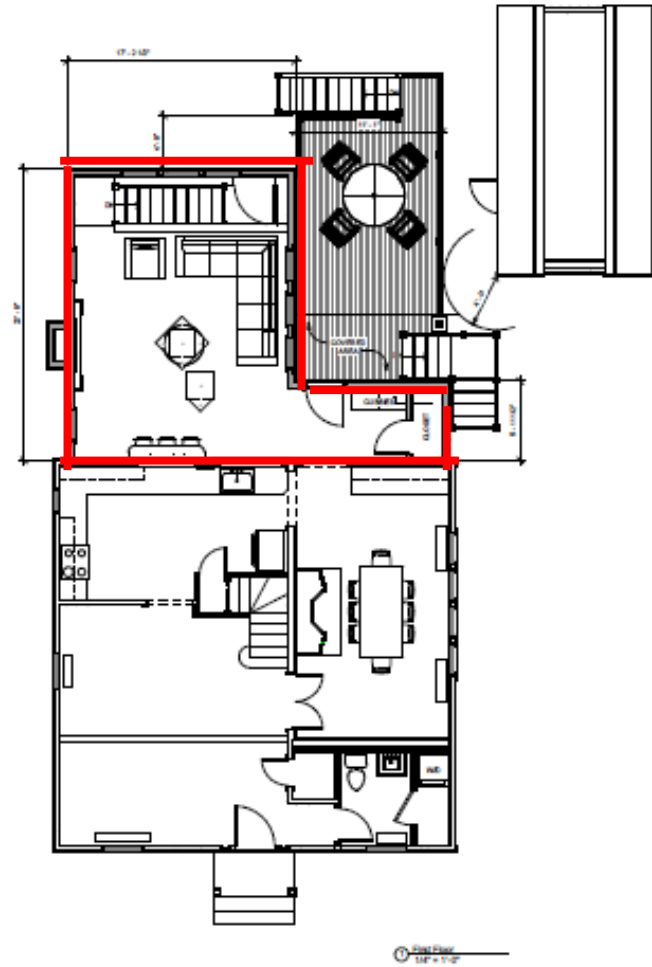
Proposed Site Plan



Floor Plans



Basement



First Floor

Front Elevations



Existing

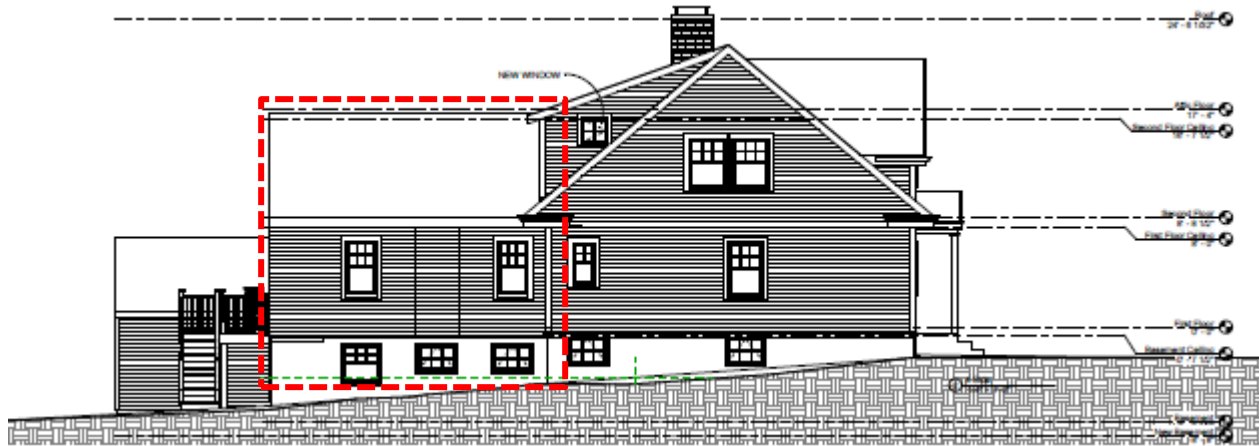


Proposed

East Elevations



Existing



Proposed

Proposed Findings



1. The proposed increase in the FAR from .37 to .51, where .45 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 is subordinate to the existing structure and is not visible from the street. (§3.1.3, §3.1.9, and §7.3.3)

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. O&M Plan Condition
4. Standard Final Inspection/Certificate of Occupancy Condition.