



City of Newton, Massachusetts
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Setti D. Warren
Mayor

Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 15, 2014
Land Use Action Date: July 29, 2014
Board of Aldermen Action Date: September 15, 2014
90-Day Expiration Date: October 6, 2014

DATE: July 11, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

SUBJECT: **Petition #224-14**, DEBORAH PIERCE & STEPHEN TISE, for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING USE to construct an attached two-story addition with a two-car garage with living space above onto an existing two-family dwelling, which will increase the Floor Area Ratio from .45 to .70, where .48 is the maximum allowed by right and to increase the maximum lot coverage from 31.3% to 39.1%, where 30% is the maximum required, at 126-128 Westland Avenue, Ward 3, West Newton, on land known as SBL 33, 34A, 10, containing approximately 5,000 sq. ft. of land in a district zoned Single Residence 3. Ref: 30-24, 30-23, 30--21(b), 30-15 Table 1, 30-15(u)(2) of the City of Newton Rev Zoning Ord., 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. 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 Board of Aldermen will want to consider in its discussion at a subsequent Public Hearing/Working Session.



126-128 Westland Avenue

EXECUTIVE SUMMARY

The property located at 126-128 Westland Avenue consists of 5,000 square feet of land improved with a legally nonconforming two-family 2½-story residence constructed in 1917. The petitioner is proposing to demolish the side porch, rear staircase, and detached garden shed, and construct a two-story addition on to the dwelling totaling approximately 1,243 square feet. The addition, located on the west side of the residence, will consist of a two-car garage at ground-level totaling approximately 589 square feet and additional living space on the second floor totaling approximately 654 square feet. To construct the proposed addition, the petitioner is seeking a special permit to increase the floor area ratio (FAR) from .45 to .70, where .48 is the maximum allowed by right, and to expand the legally nonconforming two-family dwelling use. If approved, the proposed addition totaling approximately 1,243 square feet will increase the gross floor area of the structure from 2,266 square feet to 3,509 square feet.

Due to the structure's age and scope of the proposed project, the City's Senior Planner for Historic Preservation reviewed the request to remove the side porch, rear staircase, and detached garden shed proposal, and determine the structures to be not preferably preserved (**ATTACHMENT A**). According to the *Newton Comprehensive Plan*, adopted 2007, residential property owners are encouraged to consider modest additions to older homes in order to preserve the existing structure, while allowing them to meet the needs of today's families.

The Planning Department has no particular concerns with the construction of an addition on this dwelling. The Department does, however, have reservations about the bulk and mass of the proposed addition, and its visual fit within the surrounding buildings and residential context. To reduce the mass and bulk of the proposed addition, the Department has encouraged the petitioner to reduce the size of the proposed addition or incorporate different architectural features to reduce the visual impact of the structure within the surrounding neighborhood. The Department also suggests the petitioner install a sight obscuring fence or plant native species with year around vegetation along the south property line as opposed to the proposed bamboo, which is considered an invasive species. The Planning Department believes that the project, with minor modifications, can be found not to be in derogation of the size, scale and design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed FAR of .70, where .48 is the maximum allowed by right and .45 is existing, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§30-15 Table A, §30-15(u)(2))
- The expansion of the legally nonconforming two-family use, by constructing the proposed addition, will not be substantially more detrimental than the existing nonconforming use is to the surrounding neighborhood. (§30-21(b))

- The site is an appropriate location for the proposed addition as the level of the existing nonconforming open space at 44%, where 50% is the minimum required, will not change due to the proposed project. (§30-24(d)(1))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on Westland Avenue, one residence in from the intersection of Westland Avenue at Cherry Street. The subject property and surrounding neighborhood are zoned Single Residence 3 (**ATTACHMENT B**). Structures in the surrounding neighborhood contain a mixture of single-family and multi-family residential land uses (**ATTACHMENT C**). The structures containing these uses range from one-story to three-story residences.

B. Site

The property consists of one lot with 5,000 square feet of land and is improved with a 2½-story structure, containing a legally nonconforming two-family use, constructed in 1917. To the west of the structure, a gravel driveway with parking for four vehicles provides access to the site. The subject property is sparsely planted with lawn and some screening vegetation.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a legally nonconforming two-family use. The petitioner is, however, looking to expand the second floor residence through the construction of the addition. The petitioner is not proposing to change the size of the first floor residence.

B. Building and Site Design

The proposed addition, consisting of a ground-level two-car garage and second floor living space, will be of wood framed construction. The exterior treatments will utilize complimentary materials and architectural features to distinguish the addition from the historic structure. If constructed, the proposed two-story addition, totaling approximately 1,243 square feet, will increase the gross floor area of the structure from 2,266 square feet to 3,509 square feet.

The subject property is dimensionally substandard in that the lot width is 100 feet and the depth is 50 feet. Per §30-15(j) of the Newton Zoning Ordinance, the rear setback may first be reduced to 7½-feet and, then, the front setback may be reduced to not less than 15 feet if the building envelope is reduced to less than 20 feet through the strict adherence to the dimensional controls. The petitioner is proposing to maintain

an eight foot rear setback and a front setback of 15 feet for the proposed addition. Although the lot coverage will be increased slightly from 31.3% to 39.1%, where a maximum of 30% is allowed, the lot coverage requirement does not apply to the development of a private garage in connection with a building which was in existence on December 27, 1922 per §30-15(i) of the Newton Zoning Ordinance.

The structures and lots in the surrounding neighborhood vary in size. If the addition is constructed as proposed, the subject structure will become one of the largest structures in the immediate neighborhood. As the table below indicates, the median house size (including garages and accessory structures) of other structures in the surrounding neighborhood is 1,941 square feet, where the project will increase the subject residence to 3,509 square feet. The mass, bulk, and visual fit of the structure is also compounded by the substandard lot size of the subject parcel, which is among the smallest lots of the abutting properties. Further, the median FAR of the surrounding residences is .29 and the proposed FAR is .70.

Parcel Comparison of Lots Surrounding 126-128 Westland Avenue

Parcel	Approx. Lot Size (s.f.)	Approx. Size of Buildings (s.f.)	Approx. Floor Area Ratio
126-128 Westland Ave. *	5,000 s.f.	2,266 s.f.	.45
279 Cherry St.	5,478 s.f.	1,929 s.f.	.35
283 Cherry St.	8,250 s.f.	2,309 s.f.	.28
15 Upham St.	6,713 s.f.	1,952 s.f.	.29
118-120 Westland Ave.	6,117 s.f.	3,523 s.f.	.58
4 Manhattan Rd.	5,622 s.f.	855 s.f.	.15
5 Manhattan Rd.	7,028 s.f.	1,724 s.f.	.25
115 Westland Ave.	7,065 s.f.	1,002 s.f.	.14
125 Westland Ave.	5,000 s.f.	920 s.f.	.18
271 Cherry Street St.	5,499 s.f.	2,574 s.f.	.47
Median	5,870 s.f.	1,941 s.f.	.29
126-128 Westland Ave. **	5,000 s.f.	3,509 s.f.	.70

The information presented in this table was obtained from the City of Newton’s Assessor’s Database, and was used to calculate the approximate floor area ratio for adjacent parcels.

* Existing conditions for 126-128 Westland Avenue

** Proposed conditions for 126-128 Westland Avenue

The Planning Department understands the needs of today’s families and the limitations of expanding an older home, especially on a dimensionally substandard lot.

However, the structure with the proposed addition appears out of context with the surrounding neighborhood. The Department has encouraged the petitioner to reduce the size of the proposed addition. If this is not possible or preferable, the Department recommends that the petitioner consider the incorporation of different architectural design features to reduce the mass and bulk of the structure. The Department believes that with minor modifications, the proposed structure can be found consistent with and not to be in derogation of the size, scale and design of other structures in the neighborhood.

C. Parking and Circulation

The project proposal will slightly alter the parking configuration for the property in that two vehicles will be parked within the new garage and two vehicles will be tandem parked along the west side of the garage. Presently, the four vehicles parked on the site are stored outside on the gravel driveway to the west of the structure. The Planning Department believes the new configuration will improve the visual appearance of the site and its relationship with the streetscape.

D. Landscape Screening

The proposed addition will be visible from Westland Avenue and abutting properties, especially those to the north, south, and west. The subject property is currently sparsely planted with lawn and a handful of arborvitae. To screen the abutting properties to the west and south from the proposed addition, the petitioner is proposing to install a mix of plantings, consisting of evergreen shrubs, boxwood, or blue holly, creating a buffer of approximately 5 feet along these property lines. To maintain the neighborhood feel of the streetscape, the petitioner is also proposing a series of planting beds and shade-tolerant ground cover between the existing residence and the Westland Street.

The Planning Department believes the proposed landscape improvements will ensure adequate screening and privacy between the subject property and abutting parcels. The Department is, however, concerned with the proposed bamboo hedge along the south property line since bamboo is considered an invasive species by the Massachusetts Department of Agricultural Resources. Thus, the petitioner is encouraged to install a sight obscuring fence or plant native species along the rear property line.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT D**) provides an analysis of the proposal with regard to zoning. The petitioner is requesting a Special Permit/Site Plan Approval for the proposed addition that will increase the FAR above the

maximum allowed by the Newton Zoning Ordinance and to extend a nonconforming two-family use.

B. Newton Historical Commission

The City's Senior Planner for Historic Preservation reviewed the request to remove the side porch, rear staircase, and detached garden shed proposal, and determine the structures to be not preferably preserved (**Attachment A**).

C. Engineering Review

The Associate City Engineer, submitted an Engineering Review Memorandum (**ATTACHMENT E**), providing an analysis of the proposal with regard to engineering issues. The petitioner will be required to comply with all the recommendations put forth in the memorandum prior to issuance of a building permit.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §30-15 Table A and §30-15(u) to exceed the allowed FAR. The petitioner's proposed additions will increase the FAR from .45 to .70 where .48 is the maximum FAR allowed by right.
- §30-15 to extend a nonconforming two-family use in a Single Residence 3 zoning district.

VI. PETITIONERS' RESPONSIBILITIES

The petitioner should consider the Planning Department's recommendations to reduce the mass of the proposed addition.

ATTACHMENTS:

- Attachment A:** Newton Historical Commission Demolition Review Decision
Attachment B: Zoning Map
Attachment C: Land Use Map
Attachment D: Zoning Review Memorandum
Attachment E: Engineering Review Memorandum



Setti D. Warren
Mayor

E-mail
blever@newtonma.gov

Newton Historical Commission Demolition Review Decision

Date: 9-11-12

Zoning & Dev. Review Project# 12090006

Address of structure: 126-128 Westland Avenue

Type of building: 2-family house

If partial demolition, feature to be demolished is side porch

The building or structure:

- is is not in a National Register or local historic district not visible from a public way.
- is is not on the National Register or eligible for listing.
- is is not importantly associated with historic person(s), events, or architectural or social history
- is is not historically or architecturally important for period, style, architect, builder, or context.
- is is not located within 150 feet of a historic district and contextually similar.

NOT HISTORIC as defined by the Newton Demolition Delay Ordinance.
Demolition is not delayed and no further review is required

is HISTORIC as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

APPROVES the proposed project based upon materials submitted see below for conditions (if any).
Demolition is not delayed, further staff review may be required.

DOES NOT APPROVE and the project requires Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is NOT PREFERABLY PRESERVED
Demolition is not delayed and no further review is required.

is PREFERABLY PRESERVED - (SEE BELOW).

CITY OF NEWTON
HISTORICAL COMMISSION
1000 COMMONWEALTH AVENUE
NEWTON, MA 02459-1449

Delay of Demolition:

is in effect until _____

has been waived - see attached for conditions

Determination made by:

Patricia Males

*Kathy Williams 617-796-1143
9/11/12*






Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

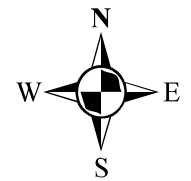
Zoning Map 126-128 Westland Avenue

City of Newton,
Massachusetts

ATTACHMENT B

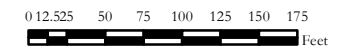
Legend

- Street Names
-  Single Residence 2
-  Single Residence 3
-  Public Use
-  Property Boundaries
-  Building Outlines

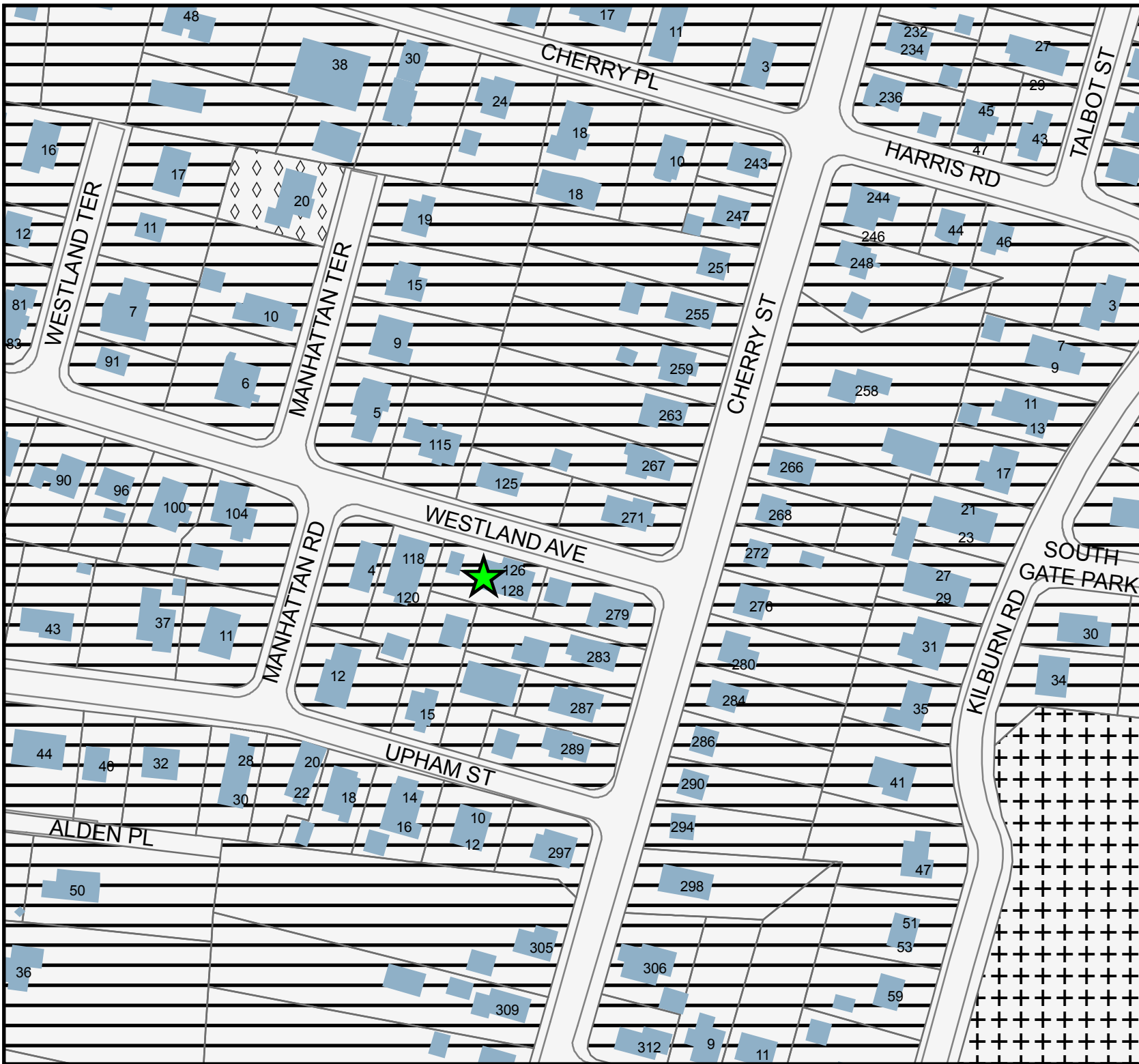


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: June 27, 2014



Land Use Map 126-128 Westland Avenue

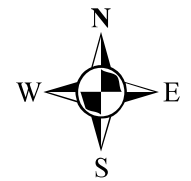
*City of Newton,
Massachusetts*

ATTACHMENT C

Legend

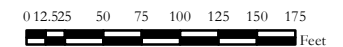
Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Vacant Land
- Property Boundaries
- Building Outlines

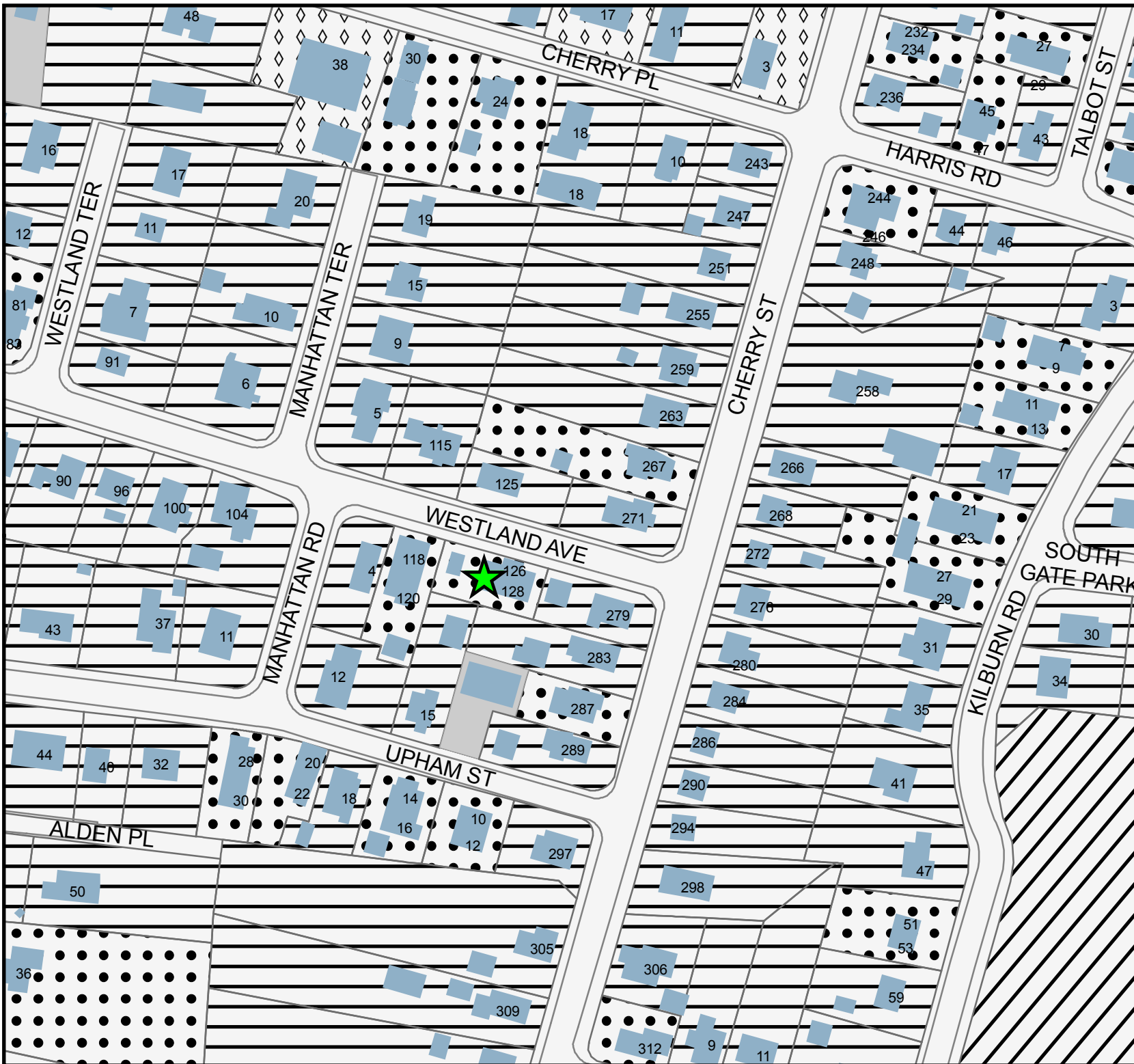


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: June 27, 2014





Setti D. Warren
Mayor

Attachment D

City of Newton, Massachusetts

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: June 2, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Deborah Pierce, Architect/owner
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to exceed allowable FAR, to extend an existing nonconforming use and to increase already nonconforming lot coverage

Applicant: Deborah Pierce	
Site: 126-128 Westland Ave	SBL: 33034A0010
Zoning: SR-3	Lot Area: 5,000 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 126-128 Westland Ave consists of a 5,000 square foot lot improved with a legally nonconforming two-family residence constructed in 1917. The lot is 100 feet wide and 50 feet deep and the structure consists of two and a half stories and a basement. The applicant proposes to construct a two-story addition of a two-car garage with living space above on one side of the dwelling.

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

- Zoning Review Application, prepared by Deborah Pierce, architect, submitted 4/15/2014
- Historic Newton, National Register Criteria Statement, dated 8/1985
- Newton Historical Demolition Review, project # 12090006, dated 9/11/2012
- Letter to Seth Zeren, Chief Zoning Code Official, dated 10/1/2012
- Plan of Land – Existing Conditions, signed and stamped by Bruce Bradford, dated 4/16/2014
- Plan of Land – Proposed Conditions, signed and stamped by Bruce Bradford, dated 4/16/2014
- Parking compliance statement, signed and stamped by Deborah Pierce, dated 4/18/2014
- Existing floor plans, signed and stamped by Deborah Pierce, dated 11/16/2012
- Proposed floor plans, signed and stamped by Deborah Pierce, dated 4/11/2014
- Existing and proposed elevations, prepared by Pierce Lamb Architects, dated 4/11/2014

- FAR Worksheet, prepared by Deborah Pierce, architect, dated 3/27/2014

ADMINISTRATIVE DETERMINATIONS:

1. The lot at 126-128 is wide and shallow at 100 feet by 50 feet deep. Because of the shallow depth of the lot, the dimensional controls create a building envelope of just 10 feet by 85 feet employing the 25 foot front setback and 15 foot rear setback requirements. Section 30-15(j) states that whenever the strict adherence of the dimensional controls found in the ordinance reduces the buildable area of a lot to less than 20 feet in its shortest dimension, the requirements may be modified, first from the rear lot line, to 7.5 feet, and second if necessary from the street, but to not less than 15 feet. The applicant is proposing to construct a two-car garage with living space above. Utilizing the relief found in section 30-15(j), the applicant is proposing a rear setback of 8 feet and a front setback of 15 feet for the proposed addition.
2. The proposed addition will increase the existing FAR from .45 to .70, where .48 is the max allowed by the Ordinance. To exceed the maximum FAR requires a special permit per section 30-15(u).
3. The existing lot coverage is nonconforming. Section 30-15(i) states that the lot coverage requirements of 30-15, Table 1 shall not apply to the construction of a private garage accessory to a single or two-family residence in existence on December 27, 1922. Therefore, no relief is required to further increase the lot coverage.
4. The existing open space is nonconforming at 44%, where 50% is the minimum required. Because the portion of the lot proposed for development is already paved, the open space will not decrease or increase with the proposed construction.
5. The property is located in an SR3 district. The two-family dwelling use is legally nonconforming. To expand this use by constructing the proposed addition requires a special permit per section 30-21(b) or the zoning ordinance.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	5,000 square feet	No change
Frontage	100 feet	105 feet	No change
Setbacks as required by Section 30-15(j)			
• Front	15 feet	3 feet	No change
• Side	7.5 feet	8 feet	No change
• Rear	7.5 feet	11 feet	8 feet
FAR	.48	.45	.70
Max Lot Coverage	30%	31.3%	39.1%
Min. Open Space	50%	44%	44%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table 1, 30-15(u)(2)	Exceed Floor Area Ratio (FAR)	S.P. per §30-24
§30-21(b)	To extend a nonconforming two-family use in an SR3 district	S.P. per §30-24

**CITY OF NEWTON
DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit: #126-128 Westland Avenue

Date: July 9, 2014

CC: Lou Taverna, PE City Engineer
Linda Finucane, Associate City Clerk
Alexandria Ananth, Chief Planner
Dan Sexton, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Site Plan of Land
In
Newton, MA
126-128 Westland Avenue
Prepared by: Everett M. Brooks Company
Dated: June 5, 2014*

Executive Summary:

An attached 2-stall car garage is proposed over an existing parking lot that is constructed of gravel. The design includes improvements with an on-site drainage collection system; however, no design calculations were submitted for verification. The calculation will be needed prior to the Building Permit if the Special Permit is approved.

If the interior of the house is gutted or renovated, then the water and sewer service will have to be updated.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the project. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
2. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, and Sidewalk Crossing permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*

5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.