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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 7, 2017
Land Use Action Date: May 9, 2017
City Council Action Date: May 15, 2017
90-Day Expiration Date: June 5, 2017

DATE: March 3, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #18-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition with enclosed mudroom and covered porch, further increasing the nonconforming FAR to .35 where .34 exists and .33 is allowed at **26 Sterling Street**, Ward 3, West Newton, on land known as SBL 32011 0016, containing approximately 10,663 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing that the Land Use Committee of the City Council can consider at a subsequent working session.



26 Sterling Street

EXECUTIVE SUMMARY

The property at 26 Sterling Street consists of a 10,663 square foot lot at the corner of Sterling and Sewall streets improved with a single-family, two and a half story dwelling constructed in 1895. The petitioner proposes to construct a one story, approximately 83 square foot rear addition, and a covered porch, resulting in a total dwelling size of 3,682 square feet. In order to construct the addition, the petitioner is seeking a special permit to increase the currently nonconforming floor area ratio (FAR) from 0.34 to 0.35 where 0.33 is the maximum allowed by right.

The Planning Department is not concerned about the proposed addition to this single-family dwelling. The one-story addition would be located at the rear of the home, within a fenced rear yard and be consistent with applicable required setbacks. It would be minimally visible from the street and has been designed to be sensitive to the existing structure's architecture and the area's residential context. The Planning Department believes the minimally expanded residence would be consistent with and not in derogation of the size, scale, and design of other residential structures in the neighborhood and would not be substantially more detrimental than the existing nonconforming use to the neighborhood. Furthermore, the Planning Department believes that the proposal is consistent with the 2007 Newton Comprehensive Plan's encouragement of residential property owners to consider modest additions to older homes to preserve existing structures while allowing them to meet the needs of today's families.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The proposed increase of FAR from 0.34 to 0.35, 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. (§3.1.3; §3.1.9)
- The proposed modification of the existing nonconforming structure in a Single Residence 1 (SR1) zoning district would not be substantially more detrimental than the existing nonconforming use to the neighborhood. ((§3.1.3; §7.8.2.C.2)
- The site is an appropriate location for the proposed additional living space which would enlarge floor area of the existing single family dwelling by approximately 83 square feet. (§7.3.3.C.1)
- The proposed additional living space will adversely affect the neighborhood. (§7.3.3.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The neighborhood is almost uniformly occupied by single-family dwellings, with exceptions including the Pierce School one block to the west and a few vacant parcels (**Attachment A**). The site and immediate surrounding area are zoned Single Residence 1; an SR2 district is located one block away, north of Temple Street (**Attachment B**).

B. Site

The subject property consists of a 10,663 square foot corner lot improved with a two and a half story, 3,599 square foot, single-family dwelling. The topography of the site slopes upward from the property's periphery toward its center. Vehicular access to the property is provided by a driveway off Sewall Street that serves a garage located in the basement of the dwelling.

The property is landscaped with lawn, shrubbery and trees, including tall, mature trees along the north and east property lines. It also includes and includes a fence that encloses and screens the rear yard.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence.

B. Building and Site Design

The applicant is proposing a one story addition and covered porch that would replace an existing covered rear entrance that measures approximately five feet wide and projects about four feet from the dwelling's rear façade. As designed, the proposed addition is of a similar height as the existing rear entryway and would measure approximately 8.8 feet wide and 8 feet deep and result in an increase of approximately 83 square feet of floor area for a total dwelling size of 3,682 square feet.

The Planning Department has no concerns with the proposed addition or the attendant increase in FAR as it, and the covered porch, would be modest in size and minimally visible from adjacent properties and public ways. Further, the design of the additional living space and porch are compatible with the existing dwelling's architecture and in keeping with the residential character of the surrounding neighborhood.

C. Landscape and Screening

As noted above, the property is landscaped with lawn, and vegetation, including tall,

mature trees, as well as a fencing, along the rear and north side property lines that encloses and screens the rear yard location of the proposed addition from adjacent properties and public ways.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 of Section 30, to further increase the dwelling's nonconforming Floor Area Ratio (FAR) (§3.1.9, §7.8.2.C.2).

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed work in the event this petition is approved.

C. Historic Review

Given its scope and scale, the proposed addition does not require Newton Historic Commission staff review.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- | | |
|----------------------|--------------------------|
| Attachment A: | Land Use Map |
| Attachment B: | Zoning Map |
| Attachment C: | Zoning Review Memorandum |
| Attachment D: | Draft Order |

ATTACHMENT A





Existing Land Use 26 Sterling Street

*City of Newton,
Massachusetts*

Legend

Land Use

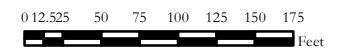
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space
-  Vacant Land

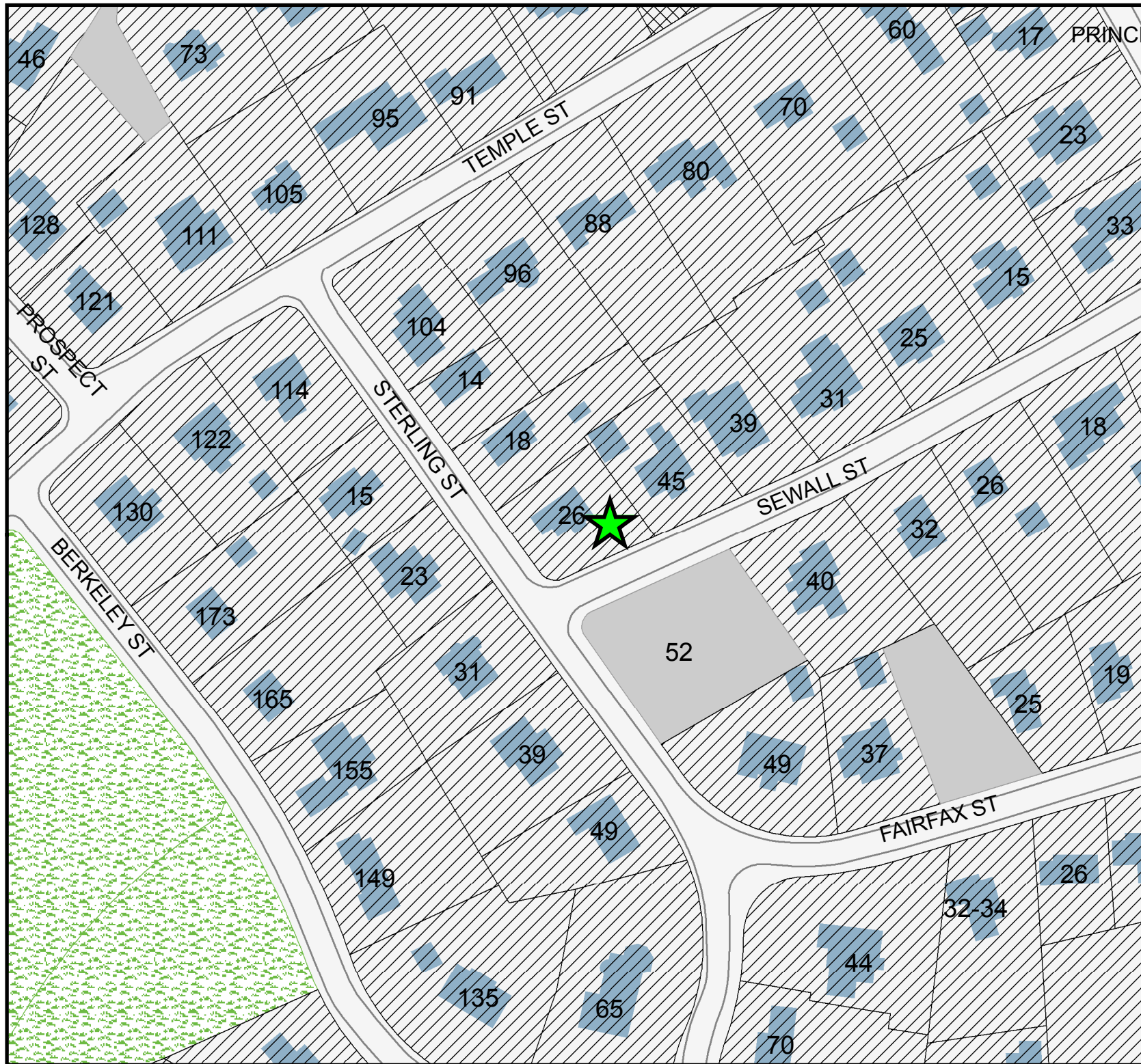


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: March 02, 2017






ATTACHMENT B

Zoning 26 Sterling Street

*City of Newton,
Massachusetts*

Legend

-  Single Residence 1
-  Single Residence 2
-  Public Use

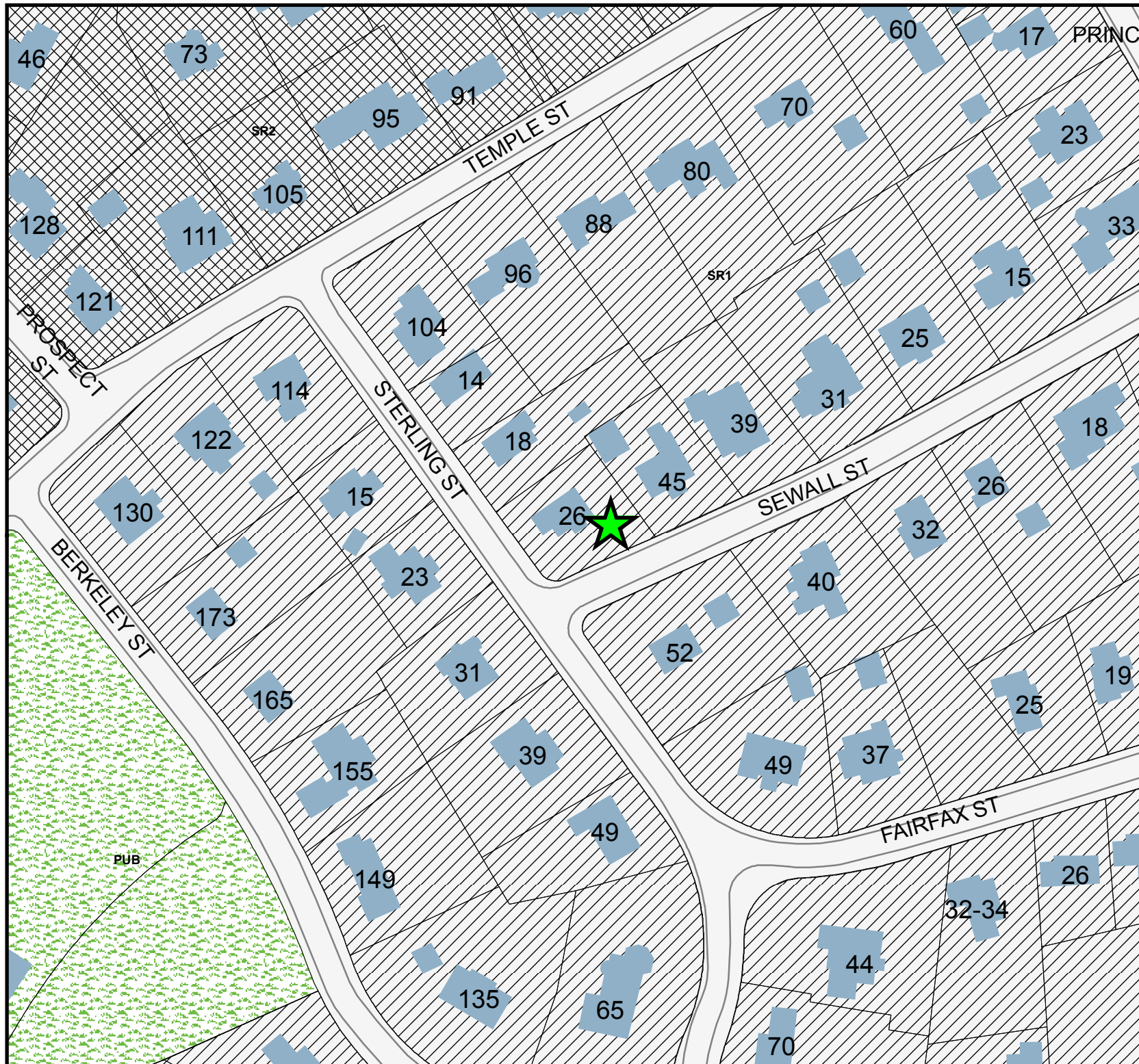


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175
Feet

Map Date: March 02, 2017





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ATTACHMENT C
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 10, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Richard Levey, Architect
Christopher Duval, applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Christopher Duval	
Site: 26 Sterling Street	SBL: 32011 0016
Zoning: SR-1	Lot Area: 10,663 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 26 Sterling Street consists of a 10,663 square foot corner lot improved with a single-family residence constructed in 1895. The applicant is proposing a rear addition of an enclosed mudroom and covered porch. The addition will further increase the already nonconforming FAR from the existing .34 to .35, where .33 is the maximum allowed.

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

- Zoning Review Application, prepared by Richard Levey, architect, submitted 11/28/2016
- FAR Worksheet, prepared by Richard Levey, architect, submitted 11/28/2016
- Site Plan, signed and stamped by Peter J. Nolan, surveyor, dated 11/10/2016
- Architectural Plans and Elevations, prepared by Richard Levey, Architect, dated 11/21/2016

ADMINISTRATIVE DETERMINATIONS:

- The applicants' existing nonconforming FAR is .34, where .33 is the maximum allowed per Section 3.1.9. The proposed addition adds 83 square feet to the existing dwelling, resulting in an FAR of .35. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	10,663 square feet	No change
Frontage	100 feet	114 feet	No change
Setbacks			
• Front (Sterling St)	25 feet	26 feet	No change
• Front (Sewall St)	25 feet	31.1 feet	No change
• Side	12.5 feet	22.7 feet	No change
• Rear	25 feet	+/- 30 feet	25.2 feet
Building Height	36	35.68 feet	No change
Max Number of Stories	2.5	2.5	No change
FAR	.33	.34	.35
Max Lot Coverage	20%	NA	17.4%
Min. Open Space	50%	NA	74.4%

- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9, §7.8.2.C.2	Request to increase nonconforming FAR	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

March , 2017

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 approximately 83 square feet of additional space which will further increase the non-conforming Floor Area Ratio (FAR) from 0.34 to 0.35, where 0.33 is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed alteration and extension of the existing nonconforming structure with additional dwelling space will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the addition will add only approximately 83 square feet to the dwelling, is only one story in height and will be minimally visible from any adjacent properties or public ways (§3.1.3; §7.8.2.C.2.);
2. The proposed increase of FAR from 0.34 to 0.35, 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 (§3.1.3; §3.1.9);
3. The site is an appropriate location for the proposed additional dwelling space as it is consistent with the residential use of the property and surrounding neighborhood (§7.3.3.C.1.);
4. The proposed additional dwelling space will not adversely affect the neighborhood as the addition will add only 83 square feet to the dwelling, is only one story in height and will be minimally visible from any public way (§7.3.3.C.2.);
5. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3.);
6. Access to the site over streets is appropriate for the types and numbers of vehicles (§7.3.3.C.4.).

PETITION NUMBER: #20-17

PETITIONER: Richard Levey

LOCATION: 26 Sterling Street on land known as Section 32, Block 11, Lot 16, containing approximately 10,663 square feet of land

OWNER(S): Christopher Duval

ADDRESS OF OWNER(S): 26 Sterling Street
Newton, MA 02465

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9. and §7.8.2.C.2., to further increase a nonconforming structure with respect to floor area ratio (FAR).

ZONING: SR1 district

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. A plan entitled "26 Sterling Street, Newton, Massachusetts, Proposed Site Plan," prepared by Peter Nolan & Associates LLC, dated November 10, 2016, stamped and signed by Peter J. Nolan, Registered Professional Land Surveyor.
 - b. A set of architectural plans entitled "Duval/Lyons Residence, 26 Sterling St., Newton, MA," prepared by Richard B. Levey Architects, dated January 5, 2017, signed and stamped by Richard B. Levey, Registered Architect:
 - i) Existing Floor Plans with Demo Notes (A1);
 - ii) Existing Elevations with Demo Notes (A2);
 - iii) Proposed Floor Plans (Proposed First Floor Plan) (A3);
 - iv) Proposed Elevations with Demo Notes (A4)
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, Engineering Division of Public Works and Fire Department.
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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the Final Site Plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. 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 a statement by a registered architect and certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department (as necessary).
 - c. 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.