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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	November 17, 2015
Land Use Action Date:	November 17, 2015
Board of Aldermen Action Date:	December 21, 2015
90-Day Expiration Date:	February 15, 2016

DATE: November 13, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

SUBJECT: **Petition #289-15, SIMON & LEANNE TAYLOR**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE and USE in order to add dormers, one of which is 60% of the wall plane below, to the half story above the second floor, which will increase the existing nonconforming Floor Area Ratio from .62 to .71, where .45 is the maximum allowed, onto an existing 3½-story, two-family dwelling at 136 EASTBOURNE ROAD, Ward 7, Newton Centre, on land known as BL 73, 43, 5, containing approximately 5,952 square feet of land in a district zoned SINGLE RESIDENCE 2. Ref.: 30-24, 30-23, 30-21(b), 30-15 Table 1, 30-15 Table A, 30-15(u)(2), 30-15(t)(1), 30-8(a) 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 Working Session.



136-138 Eastbourne Road

EXECUTIVE SUMMARY

The property located at 136-138 Eastbourne Road consists of a 5,953 square foot lot, and is improved with a 3½-story structure constructed in 1925, and is used as a two-family residence. The structure is considered legally nonconforming since the existing topography of the site slopes down significantly from the western property line (front) to the eastern property line (rear) such that the basement is considered the first floor and makes the structure a 3½-story building, and counts towards the gross floor area of the building used to calculate floor area ratio. The two-family residence is considered legally nonconforming since it is located in a Single Residence 2 zoning district, which does not allow this type of use.

The petitioner is proposing to construct two dormers on the rear portion of the structure on the half story above the third story, which will be accessible from the second floor unit (136 Eastbourne Road). If constructed, the proposed dormers would enlarge the partially finished attic floor, but does not create a full fourth story. To construct the proposed dormers, the petitioner is seeking special permit relief to enlarge a nonconforming 3½-story structure, extend a nonconforming two-family use, allow a dormer exceeding 50 percent of the wall plane below, and to increase the nonconforming floor area ratio (FAR) from 0.62 to 0.71, where 0.45 is the maximum allowed by right. If approved, the proposed addition totaling approximately 524 square feet will increase the gross floor area of the second floor unit in the two-family structure from 3,708 square feet to 4,232 square feet.

Although the FAR ask seems high, the Planning Department has no concerns with this petition. The *Newton Comprehensive Plan*, adopted in 2007, encourages residential property owners to consider modest additions to older home in order to preserve the existing structure, while allowing them to meet the needs of today's families. The petitioner's proposed dormers accomplish this objective, without any increase to the footprint of the building or reduction in open space on the lot. The Planning Department further believes that the proposed dormers are appropriately designed to be subordinate to the rest of the structure, while maintaining the structure and residential character of the neighborhood surrounding. For these reasons, the Planning Department finds that the expanded structure and enlarge use will not be substantially more detrimental than the existing nonconforming structure and use are to the surrounding neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed dormers, which increase the nonconforming nature of an existing 3½-story structure by enlarging the attic level by approximately 524 square feet, will not be substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§3.1.3 and §7.8.2.C.2)
- The proposed FAR of 0.71, where 0.45 is the maximum allowed by right and 0.62 is existing, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood, and will not be substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§3.1.9 and

§7.8.2.C.2)

- The expansion of the legally nonconforming two-family use, by constructing the proposed dormer additions, will not be substantially more detrimental than the existing nonconforming use is to the surrounding neighborhood. (§3.4.1 and §7.8.2.C.2)
- The proposed dormer on the north side of the structure, which exceeds 50 percent of the wall plane below by approximately three feet, is appropriate and not in derogation with the surrounding residential neighborhood. (§1.5.4.G and §7.3.3.C.1)
- The proposed addition is appropriate for the existing structure and the surrounding residential neighborhood, as it is located at the rear of the dwelling. (§7.3.3.C.1)
- The proposed dormer located on the rear and side elevation of the house will not adversely affect the neighborhood, as it is not visible from the Street. (§7.3.3.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located along Eastbourne Road, near the intersection of Westbourne/Eastbourne roads. The subject property is developed with a two-family residence, and is surrounded by properties containing single- and multi-family residences, mixed-uses, and open space or vacant lands (**ATTACHMENT A**). The property is located in an area zoned Single Residence 2, and is proximate to a parcel zoned Public Use (**ATTACHMENT B**).

B. Site

The property consists of 5,953 square feet of land, and is improved with a legal nonconforming 3½-story structure constructed in 1925, and is used as a legal nonconforming two-family residence. The residential structure is considered legally nonconforming since the structure is considered a 3½-story building and the existing FAR exceeds the maximum allowed by right. The topography of the site slopes down from the western property line (front) to the eastern property line (rear), with an elevation change of approximately ≥ 6 feet (**ATTACHMENT C**). The dwelling is accessed by a bituminous driveway on the north side of the property. The property has a significant number of mature trees that partially screen the subject residence from surrounding properties.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

The Planning Department has no concerns with the proposed expansion of the existing nonconforming two-family use, as the surrounding neighborhood is comprised of a mix of single- and multi-family residences.

B. Building and Site Design

The petitioner is proposing to enlarge the partially finished attic level of the structure by constructing two shed dormers on the rear side of the building above the third floor. The proposed dormers will enlarge the gross floor area of the attic level by approximately 524 square feet, but does not create a full fourth story. The dormers as designed will be constructed using wood-framed construction and will utilize an exterior finish to match the existing structure. If approved, the proposed additions totaling approximately 524 square feet will increase the gross floor area of the structure from 3,708 square feet to 4,232 square feet. As proposed, the petitioner's modest additions will not increase the footprint of the existing structure, and adequate levels of open space and lot coverage in compliance with the Newton Zoning Ordinance. The additions will not be visible from Eastbourne Road.

The Planning Department has no concerns with this petition, and is supportive of this modest expansion to an existing structure with no increase to the building footprint. The Planning Department further believes that the proposed dormers are appropriately designed to be subordinate to the rest of the structure, while maintaining the structure and residential character of the surrounding neighborhood. For these reasons, the Planning Department finds that the expanded structure will not be substantially more detrimental than the existing nonconforming structure and use are to the surrounding neighborhood.

C. Parking and Circulation

There will be no change to the parking or circulation configuration on the site.

D. Landscape Screening

No landscape plan was required for this petition. Existing mature trees on the site and abutting parcels appear adequate to screen the proposed dormer extension.

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. Based on this review, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §3.1.3 and §7.8.2.C.2, to extend a nonconforming 3½-story structure;
- §3.1.9 and §7.8.2.C.2, to exceed the maximum allowable FAR;
- §3.4.1 and §7.8.2.C.2, to extend the nonconforming nature of a two-family use; and
- §1.5.4.G and §7.3.3.C.1, to allow the construction of a dormer exceeding 50 percent of the wall plane below.

B. Engineering Review

As the petition is not increasing the level of impervious surfaces on the lot by 4%, or 400 square feet, or altering the site in a way that results in the alteration of the surface water runoff to abutting properties or erosion of soil, no review by the Engineering Division of Public Works is required.

V. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:








- ATTACHMENT A:** Land Use Map
ATTACHMENT B: Zoning Map
ATTACHMENT C: Topography Map
ATTACHMENT D: Zoning Review Memorandum, dated October 13, 2015

ATTACHMENT A

Land Use Map 136-138 Eastbourne Road

*City of Newton,
Massachusetts*

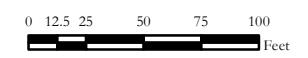
Legend

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

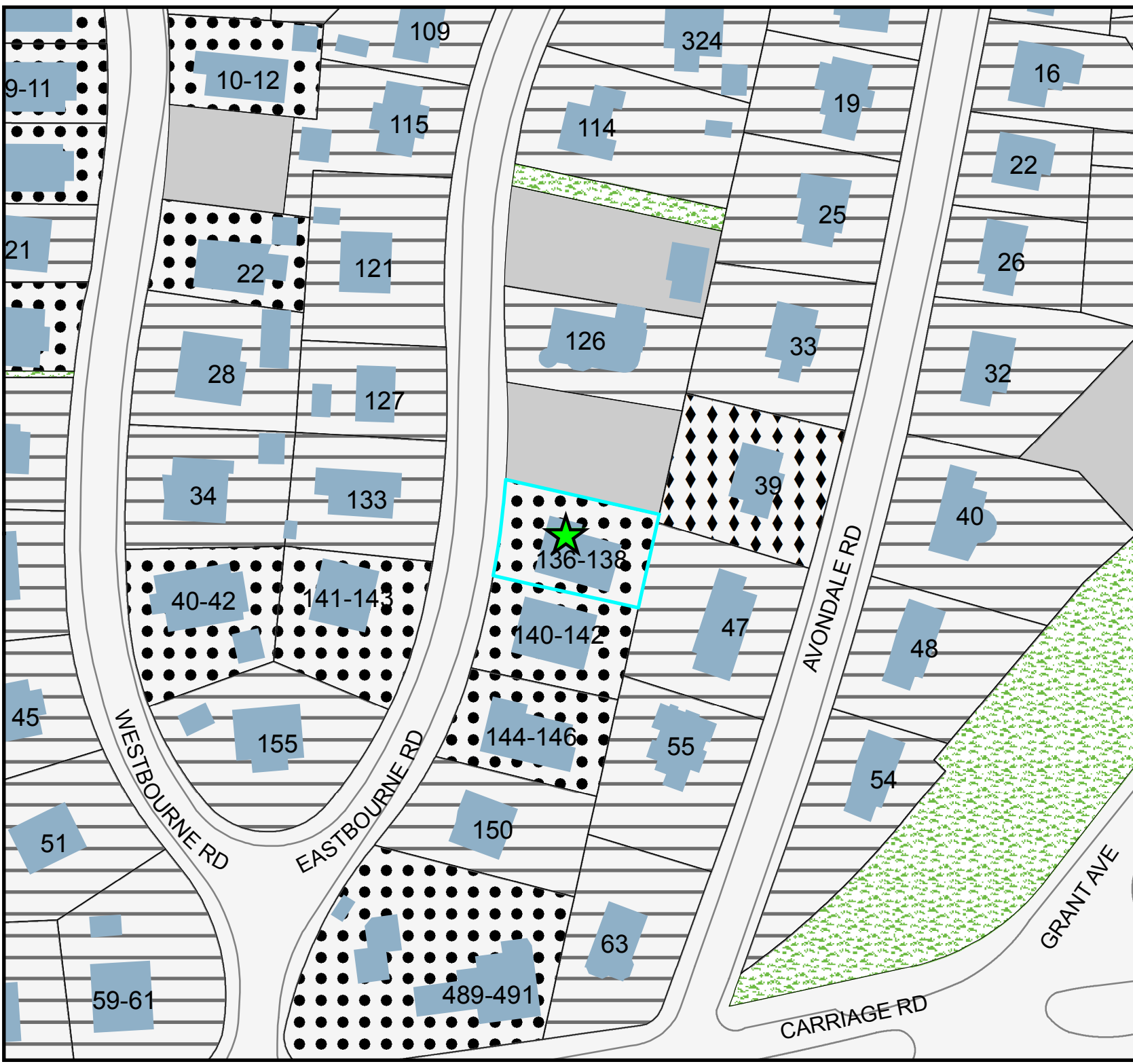


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: October 30, 2015



ATTACHMENT B

Zoning Map 136-138 Eastbourne Road

City of Newton,
Massachusetts

Legend

- Building Outlines
- Property Boundaries
- Single Residence 2
- Public Use

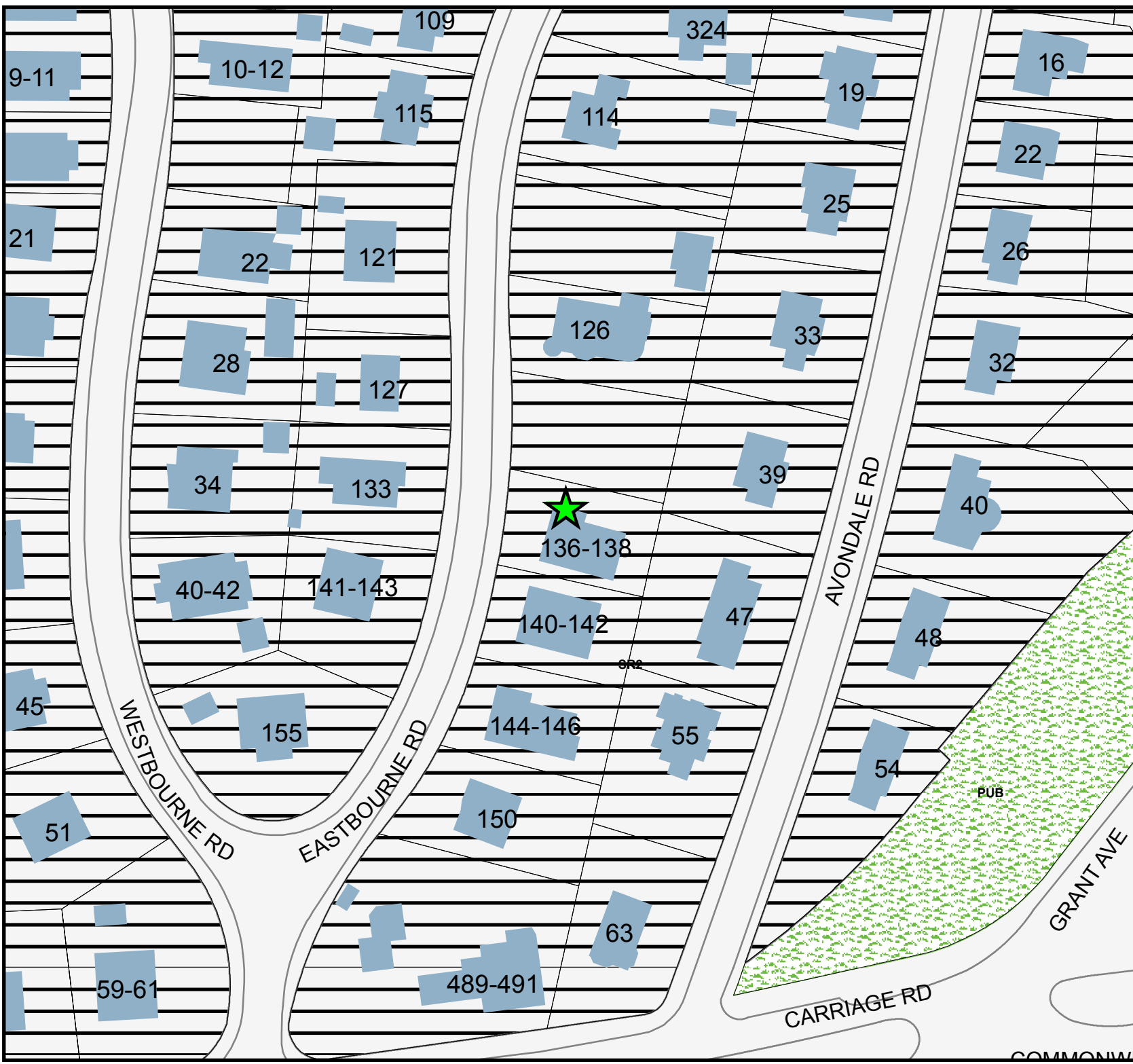


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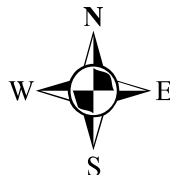
ATTACHMENT C

Topography Map 136-138 Eastbourne Road

*City of Newton,
Massachusetts*

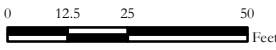
Legend

- Building Outlines
- Property Boundaries
- Two Foot Contour
- Two Foot Dep. Contour
- Index (10 Foot) Contour
- Wall



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Map Date: October 30, 2015





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ATTACHMENT D

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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: October 13, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Christopher Brown, Architect
Simon and Leanne Taylor, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to increase nonconforming FAR, to allow a dormer greater than 50% of the wall plane below, and to extend a nonconforming structure and use**

Applicant: Simon and Leanne Taylor	
Site: 136-138 Eastbourne Road	SBL: 73043 0005
Zoning: SR-2	Lot Area: 5,952 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 136-138 Eastbourne Road consists of a 5,952 square foot lot improved with a two-family residence constructed in 1925. The structure consists of two and a half stories and a basement, with two garage stalls located in the basement level. Due to the sloping topography of the site, the average grade plane renders the basement as the first floor, creating a three and one-half story structure for the purposes of zoning.

The applicants are proposing to add dormers to the half story above the second floor unit (known as 136 Eastbourne Road) to create a master suite, with some undormered attic space used to create another bedroom. The addition of the dormers increases the nonconforming structure (though does not create a full story) and use, and the existing nonconforming FAR.

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

- Zoning Review Application, prepared by Christopher Brown, architect, submitted 9/11/2015
- FAR Worksheet, prepared by Christopher Brown, architect, submitted 9/11/2015

- Photos, submitted by Christopher Brown, architect, dated 9/11/2015
- Existing Elevations, prepared by Christopher Brown, architect, dated 9/11/2015
- Existing Plans, prepared by Christopher Brown, architect, dated 9/11/2015
- Existing Section, prepared by Christopher Brown, architect, dated 9/11/2015
- Proposed Perspective Views, prepared by Christopher Brown, architect, dated 9/11/2015
- Proposed Plans, prepared by Christopher Brown, architect, dated 9/11/2015

ADMINISTRATIVE DETERMINATIONS:

1. The maximum number of stories allowed in an SR2 district is 2.5 according to 30-15 Table 1. Because of the average grade plane, the slope creates a 3.5-story structure. The existing 3.5 story structure is nonconforming and requires a special permit to extend per Section 30-21(b). The addition of the dormers does not create a full fourth story, as the proposed square footage of space with at least 7 feet of ceiling height is less than two-thirds of the story below.
2. The existing two-family structure was built in 1925, and is located in the Single Residence 2 zoning district. A two-family dwelling was not prohibited at the time the structure was built, however two-family uses are not allowed in this district by right presently. The two-family structure is a legal nonconforming use and requires a special permit per Section 30-21(b) to extend.
3. The applicant’s existing FAR is .62, where .45 is the maximum allowed. The FAR is greatly increase because of the exposed basement level. The proposed dormers increase the nonconforming FAR to .71. A special permit is required to further increase the nonconforming FAR per sections 30-15 Table A, 30-15(u)(2), and 30-21(b).
4. The proposed dormer on the north side of the structure is 18 feet long. The wall plane of the story below is 30.1 feet long, thus the dormer is 60% of the wall plane below. Per Section 30-15(t)(1), a dormer wider than 50% of the length of the exterior wall of the story below requires a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	5,949 square feet	No change
Frontage	80 feet	61.5 feet	No change
Setbacks			
• Front	25 feet	26.3 feet	26.5 feet
• Side	7.5 feet	9.6 feet	No change
• Rear	15 feet	20.5 feet	No change
Building Height	36	28 feet	No change
Max Number of Stories	2.5	3.5	No change
FAR	.45	.62	.71
Max Lot Coverage	30%	24.9%	No change
Min. Open Space	50%	50.3%	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table 1 30-21(b)	To extend a nonconforming 3.5-story structure	S.P. per §30-24
§30-8(a), §30-21(b)	To extend a nonconforming two-family use	S.P. per §30-24
§30-15(t)(1)	To allow a dormer exceeding 50% of the wall plane below	S.P. per §30-24
§30-15 Table A, 30-15(u)(2)	Exceed Floor Area Ratio (FAR)	S.P. per §30-24