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Mayor

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James Freas  
Acting Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 10, 2016  
Land Use Action Date: July 26, 2016  
City Council Action Date: August 1, 2016  
90-Day Expiration Date: August 8, 2016

DATE: May 6, 2016

TO: City Council

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

SUBJECT: **Petition #132-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to further increase the non-conforming number of stories of a dwelling to 3 where 2.5 is the maximum allowed by-right, and to increase the floor area ratio (FAR) to .48, where .40 is the maximum allowed by-right at **45 Perkins Street**, Ward 3, West Newton, on land known as SBL 32, 12, 35 containing approximately 9,988 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §1.5.4.D, §3.1.3, §7.8.2.C.2, §7.3.3, §3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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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.



**45 Perkins Street**

## EXECUTIVE SUMMARY

The property located at 45 Perkins Street consists of a 9,988 square foot lot improved with a mansard-style single-family residence built in 1870. Due to the average grade of the property and architectural style of the structure, the structure has three stories, where 2.5 is the maximum allowed. The property is located in the Single Residence 2 zoning district in West Newton. The petitioner is proposing to construct an addition on the northerly side of the existing structure on all three floors. The first floor will contain a two car garage with 693 square feet, the second floor will have a kitchen and pantry totaling 468 square feet with a new deck improving access to the back yard, and the third floor will contain a master suite totaling 400 square feet. To construct the addition, the applicant is seeking a special permit to further increase the non-conforming number of stories to three where 2.5 is the maximum allowed by-right, and to increase the floor area ratio (FAR) to .48, where .40 is the maximum allowed by-right. If approved, the proposed additions will result in a net increase to the existing dwelling by 1,561 square feet (48%) for a total of 4,827 square feet built on the lot.

The Planning Department is not concerned with the construction of the proposed addition on this single-family dwelling. The dwelling is located in a neighborhood of other similarly-scaled dwellings and the addition will be keeping with the architectural detail of the residence. The proposed footprint addition is on the side of the structure, and will be set back from the street. Lastly, the addition will preserve the existing house and comply with new lot setbacks. For these reasons, the Planning Department believes the extension of a nonconforming structure with respect to the number of stories and an increase in FAR will not be in derogation of the size, scale, and design of other residential structures in the neighborhood, and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for the expanded residence. (§7.3.3.C.1)
- The proposed increase in FAR to 0.48, where .40 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.9 and §7.3.3)
- The proposed increase in the nonconforming number of stories is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§1.5.4.D, §3.1.3 and §7.8.2.C.2)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Perkins Street, in a Single Residence 2 District. The neighborhood is comprised primarily of larger single-family residences, many of which are undergoing updates. The property is surrounded by residential uses on all sides, but is close to a Multi-Residence 1 district with a number of institutional uses including various houses of worship and the Learning Prep School. Nearby is a stop for the 505 bus line and the West newton Commuter Rail station on the Framingham/Worcester line. **(Attachments A & B).**

### B. Site

The site consists of 9,988 square feet of land, and is improved with a three-story mansard-style single-family residence built in 1870. The lot slopes down from Perkins Street towards the southwest corner of the property. There are number of low retaining walls on the site.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

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

### B. Building and Site Design

The applicant is proposing to extend the existing residence at the northerly side of the house with a first floor two-car garage, a kitchen and pantry with a new deck at the rear of the house improving access to the back yard from the second floor, and the third floor will contain a master suite; all are in keeping with the architecture of the house. The proposed additions would enlarge the current house by 1,561 square feet (48%), but would be setback from the street. The proposed addition and dwelling otherwise meet all of the dimensional controls as stipulated in the NZO, including new lot setbacks, with the exception of FAR and number of stories due to the basement being considered a story.

### C. Parking and Circulation

The petitioner is proposing a new two-car garage within the addition. No other changes are proposed.

### D. Landscape Screening

The petitioner is adding a new low retaining wall which is not located in the setback; the height of the wall is six (6) feet. Otherwise, a landscape plan is not required as the existing screening appears to be sufficient.

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 Memorandum, the petitioner is seeking the following relief:

- §3.1.9 and §7.3.3 of Section 30, to exceed the maximum FAR;
- §1.5.4.D, §3.1.3, and §7.8.2.C.2 of Section 30, to further increase the nonconforming number of stories.

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 should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.
















**ATTACHMENTS:**

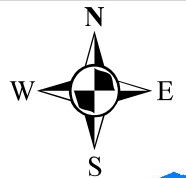
- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum  
**Attachment D:** DRAFT Order

# Attachment A Zoning Map 45 Perkins St.

*City of Newton,  
Massachusetts*

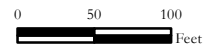
**Legend**

-  Single Residence 1
-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Limited Manufacturing
-  Manufacturing
-  Mixed Use 1
-  Mixed Use 2
-  Mixed Use 3
-  Mixed Use 4
-  Open Space/Recreation
-  Public Use
-  Building Outlines
-  Property Boundaries

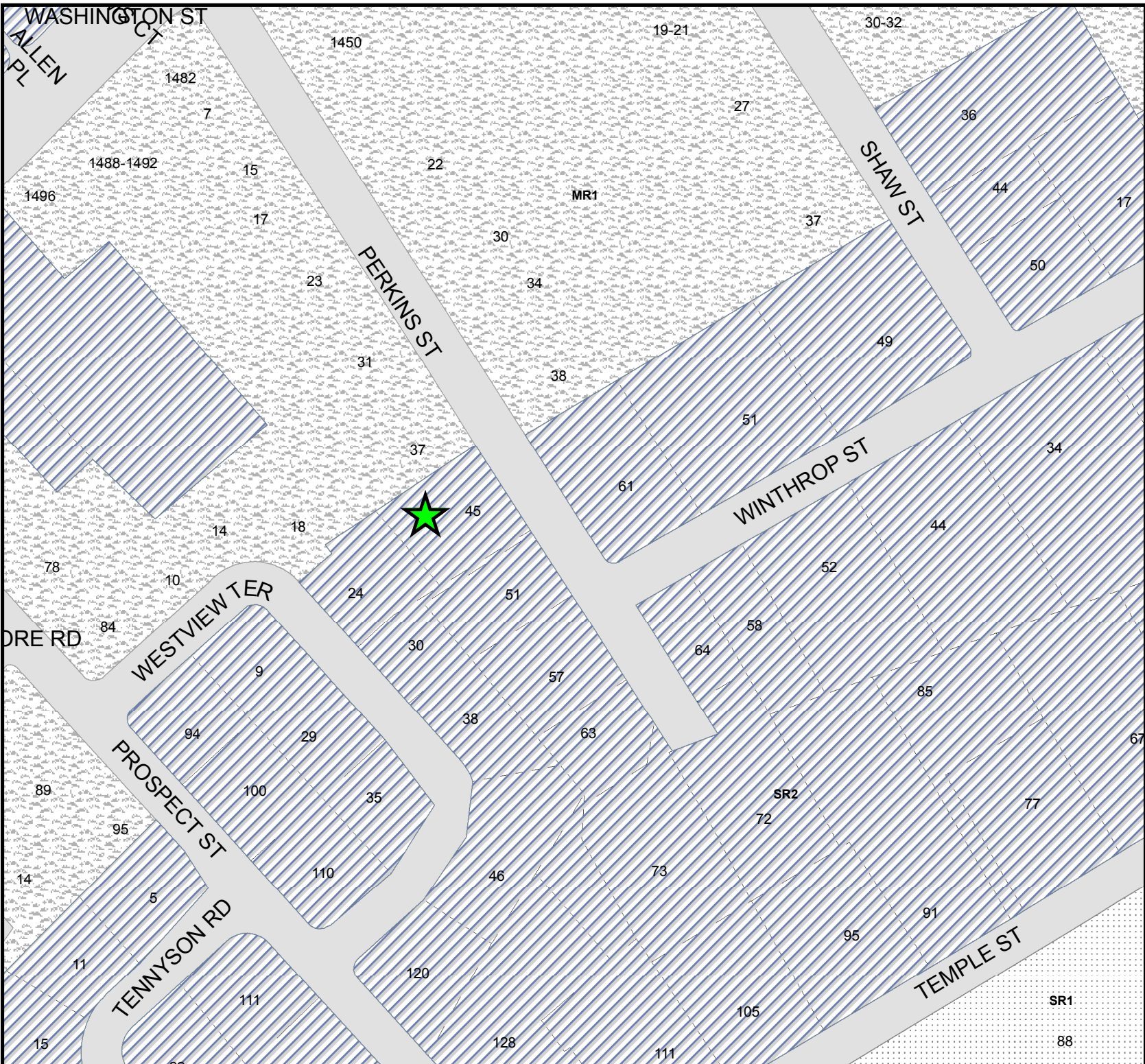


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 05, 2016



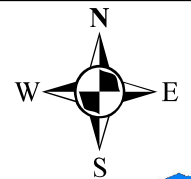
# Attachment B Land-Use Map 45 Perkins St.

*City of Newton,  
Massachusetts*

**Legend**

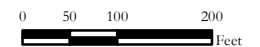
**Land Use**

- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Vacant Land
- Tax Exempt
- Building Outlines
- Property Boundaries

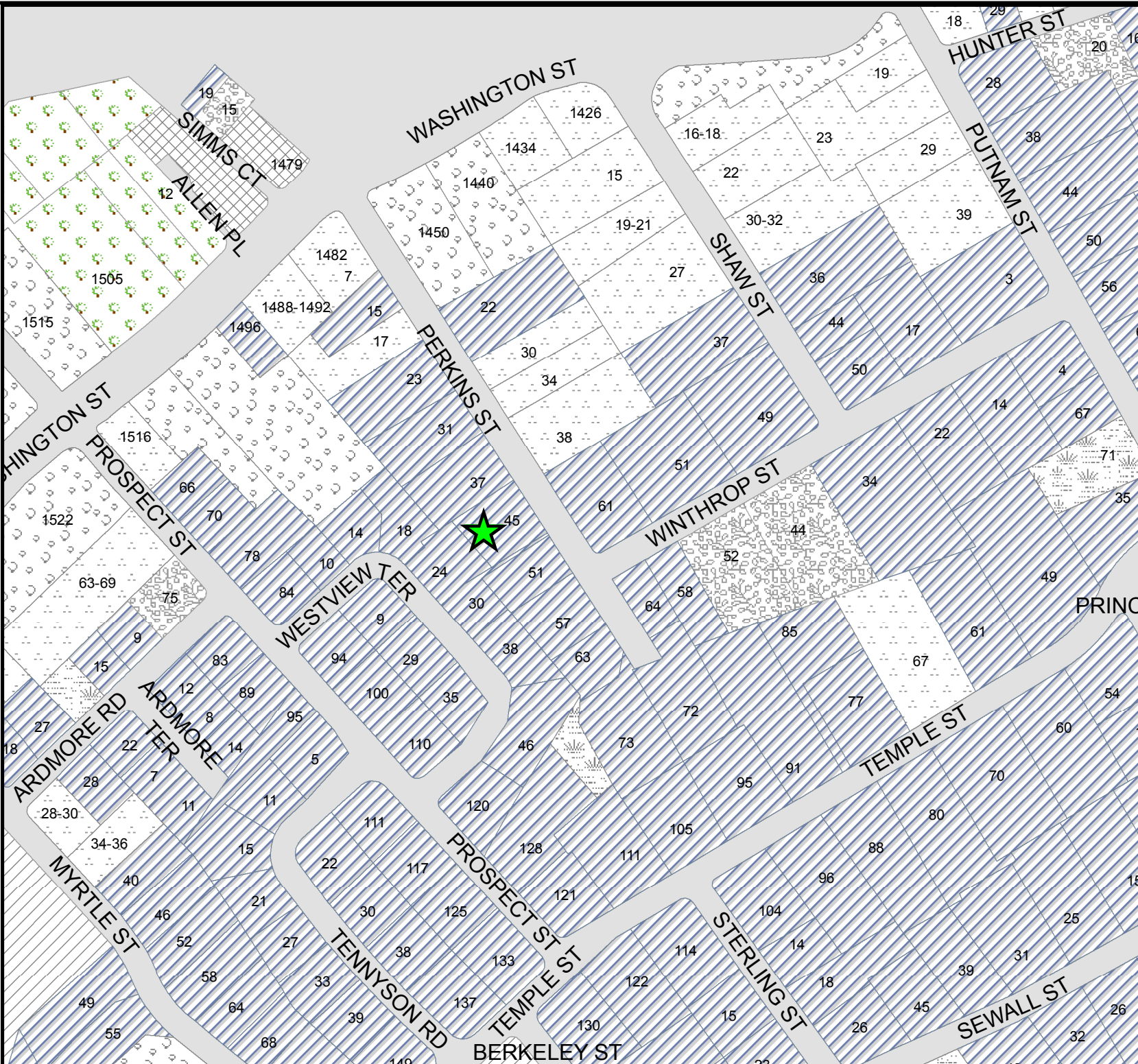


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CITY OF NEWTON, MASSACHUSETTS  
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Map Date: May 05, 2016





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James Freas  
Acting Director

**ATTACHMENT C**

**ZONING REVIEW MEMORANDUM**

Date: April 12, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Peter Sachs, architect  
Rich and Jan Tormey, applicants  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to extend a nonconforming three-story single-family structure and to exceed FAR

Applicant: Rich and Jan Tormey	
Site: 45 Perkins Street	SBL: 32012 0035
Zoning: SR2	Lot Area: 9,988 square feet
Current use: Single-family dwelling	Proposed use: No change

**BACKGROUND:**

The property at 45 Perkins Street consists of a 9,988 square foot lot improved with a single-family mansard-style dwelling constructed in 1870. Due to the average grade of the property and the architectural style of the structure, the structure has 3 stories, where 2.5 is the maximum allowed. The applicant proposes to construct an addition adding a two-car garage on the first level, a kitchen above the garage on the second level and to expand the existing third floor by adding a master suite, which will further increase the nonconforming third floor, requiring a special permit.

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

- Zoning Review Application, prepared by Peter Sachs, architect, dated 3/23/2016
- FAR Worksheet, submitted 3/23/2016
- Topographic Site Plan, existing conditions, signed and stamped by Joseph R. Porter, surveyor, dated 3/1/2016
- Topographic Site Plan, proposed conditions, signed and stamped by Joseph R. Porter, surveyor, dated 3/1/2016
- Architectural Plans, prepared by Peter Sachs, architect, dated 2/25/2016
  - First Floor – Lot coverage

- Basement Floor
- First Floor
- Second Floor
- Third Floor
- Front and Right Elevations
- Back and left elevations
- Perspectives

**ADMINISTRATIVE DETERMINATIONS:**

1. The architectural style and average grade plane surrounding the structure creates 3 stories per Section 1.5.4.D through F. Section 3.1.3 allows a maximum of 2.5 stories in the SR2 zoning district. To add third floor space further increases the nonconformity of the number of stories. A special permit pursuant to Sections 3.1.3 and 7.8.2.C.2 is required to further increase the already nonconforming number of stories.
2. The applicants propose to add additions totaling 1,561 square feet. The applicants' existing FAR is .33, where .38 is allowed. Because the proposed additions meet the setback requirements for "new lots", the applicants are allowed a .02 bonus, creating an allowable FAR of .40, per Section 3.1.9.A.1. The proposed additions create an FAR of .48, which exceeds the .40 allowed, requiring a special permit per Section 3.1.9.A.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	9,988 square feet	No change
Frontage	80 feet	95.83 feet	No change
Setbacks			
• Front	25 feet	13.3 feet	No change
• Side	7.5 feet	18.4 feet	15.7 feet
• Rear	15 feet	29 feet	26.2
Building Height	36	27.64 feet	26.30 feet
Max Number of Stories	2.5	3	No change
FAR	.40 (.38 + .02 bonus)	.33	.48
Max Lot Coverage	30%	17%	19.3%
Min Open Space	50%	76.9%	70.9%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§1.5.4.D §3.1.3, §7.8.2.C.2	Request to further increase nonconforming number of stories	S.P. per §7.3.3
§3.1.9	Request to exceed maximum FAR	S.P. per §7.3.3



## ATTACHMENT D

### CITY OF NEWTON IN CITY COUNCIL

May 16, 2016

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 further increase the nonconforming Floor Area Ratio (FAR) from .47 to .51, where .31 is the maximum allowed by right, and to regrade the property, which will further increase the nonconforming height of the existing structure from 37.4' to 37.7', where 36' 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 site is an appropriate location for the proposed addition. (§7.3.3.C.1)
2. The proposed increase in FAR to 0.48, where .40 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 for the following reasons (§3.1.9 and §7.8.2.C.2):
  - a. The proposed addition will preserve the existing dwelling and meet new lot setbacks.
  - b. The proposed addition is to the side of the existing dwelling which will mitigate its visual impact on the street and abutting properties.
  - c. The proposed addition will be in keeping with the architectural style of the existing dwelling.
3. The proposed increase in the nonconforming number of stories, where 2.5 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, and will not be substantially more detrimental than the existing non-conforming structure is to the surrounding neighborhood (§1.5.4.D, §3.1.3 and §7.8.2.C.2)
  - a. The topography of the lot is such that the basement is counted as a story.
  - b. The proposed addition will allow for a two-car garage thereby removing the view of vehicles from the street and abutting properties.

PETITION NUMBER: #132-16

PETITIONER: Peter Sachs

LOCATION: 45 Perkins Street, on land known as Section 32, Block 12, Lot 35, containing approximately 9,988 square feet of land

OWNER: Richard W. and Janet M. Tormey Trust

ADDRESS OF OWNER: 45 Perkins Street  
Newton, MA 02465

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §1.5.4.D, §3.1.3 and §7.8.2.C.2, to further increase non-conforming number of stories; §3.1.9 to exceed the maximum FAR;

ZONING: Single Residence 1 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. Topographic Site Plan, Existing Conditions, signed and stamped by Joseph R. Porter, surveyor, dated 3/1/2016
  - b. Topographic Site Plan, Proposed Conditions, signed and stamped by Joseph R. Porter, surveyor, dated 3/1/2016
  - c. Architectural Plans and Elevations, signed and stamped by Peter Sachs, Architect, consisting of eighteen (18) sheets:
    - i. Sheets A-O, A-Lot, A-2, A-3, A-5, and A-6 dated 2/25/2016
    - ii. Sheets A.1, A.2, A.3, and A.4, dated 2/26/2016
    - iii. Sheets A-1, A-2, A-3, A-4, A-5, A-6, and A-7 dated 11/17/2015
2. 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 board 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 board 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.
3. 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 or land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
  - 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 Board Order have been constructed to the standards of the City of Newton Engineering Department.
  - 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.