



Setti D. Warren
Mayor

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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
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #227-14**, GAIL SILLMAN for a SPECIAL PERMIT/SITE PLAN APPROVAL to build out the third floor to the same floor area as the second floor, which will increase the nonconforming Floor area Ratio from .53 to .65, where .44 is the maximum allowed by right, and to add a second bay to an existing 398 sq. ft. garage to create a garage exceeding 700 square feet, at **64 Perkins Street**, Ward 3, West Newton, on land known as SBL 32, 12, 42, containing approx. 6,157 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u)(2), 30-21(b), and 30-8(b)(7) 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.



64 Perkins Street

EXECUTIVE SUMMARY

The property at 64 Perkins Street consists of a 6,157 square foot lot in a Single Residence 2 zoning district, improved with a single-family 2½-story residence with an attached single-bay garage constructed in approximately 1928. Due to the topography of the site, the basement/garage level is considered the first-story, and is counted towards the maximum Floor Area Ratio (FAR). The petitioner is proposing to add a 400 square foot addition to extend the third-story over the second floor above the garage, and to add a second 326 square foot garage bay. The petitioner is seeking a special permit to increase the FAR from .53 to .65, where .44 is the maximum allowed by right, to extend the nonconformity of the structure in regards to number of stories, and for a private garage exceeding 700 square feet, which includes the existing single bay and proposed second bay.

The petitioner is proposing to significantly increase the existing FAR, which greatly exceeds the maximum allowed under the Newton Zoning Ordinance (NZO). However, this site is fairly unique, as the entire basement is counted towards FAR, whereas only a portion is visible from the Perkins Street, and nearly all of it is hidden from Winthrop Street. In addition, the site is a corner lot with only one residential abutter for all practical purposes, which is located at a higher elevation. Based on information from the Assessor's database, the subject property is the smallest lot on the street, and the square footage of the proposed structure is smaller than the average for the area. Considering the amount of visible square footage on the subject property, and the size of the surrounding structures, it appears that the addition is consistent with and not in derogation of size, scale and design of other structures in the neighborhood.

The petitioner will be increasing the impervious surface on the site by more than 400 square feet, and is required to address drainage improvements. The petitioner should provide a drainage plan to the Associate City Engineer prior to being scheduled for a working session. The petitioner should also revise the site plan to show the existing vegetation on the site and any vegetation that will be removed as part of the project. The petitioner should replace vegetation proposed to be removed that is currently providing screening from the public view and abutting properties.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed structure with regard to FAR is consistent with and not in derogation of size, scale and design of other structures in the neighborhood. ((§30-15(u)(2)) (§30-15 Table A)
- The site is an appropriate location for the proposed addition, and for two garage bays that in total exceed 700 square feet. (§30-24(d)(1)), (§30-8(b)(3))

- The extension of the structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§30-21(b))
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(2))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is a corner lot located at the end of Perkins Street at the intersection with Winthrop Street. The site is approximately two blocks from the Washington Street overpass at West Newton. The land uses in the surrounding neighborhood are mostly single-family dwellings (**ATTACHMENT B**). The zoning district in the neighborhood is Single Residence 2 (**ATTACHMENT C**). There are significant changes in grade in the surrounding area, as shown in the contour map (**ATTACHMENT D**).

Based on information from the Assessors Database, the average lot size for properties on Perkins Street and the portion of Winthrop Street proximate to the site is approximately 15,361 square feet (**ATTACHMENT E**).

B. Site

The site is a corner lot consisting of approximately 6,157 square feet of land, and is improved with a single-family three-story residence and attached garage. Due to the slope of the site, the first story consists of the finished basement and garage area, and is counted towards the FAR. There is vegetation throughout site that provides excellent screening, and a patio area on the north side of the house.

The subject property was granted a variance in 1928 permitting a 15 foot setback from Perkins Street, but otherwise meets the dimensional requirements for side/rear setbacks, open space, and lot coverage. The existing structure is nonconforming as to the number of stories.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing a 400 square foot addition above the existing second floor over the garage, as well as an additional approximately 326 square foot garage bay, with a deck above. The proposed garage bay will extend the existing structure approximately 14 feet towards Winthrop Street, and will require the removal of

vegetation. The third-story addition will consist of a new master bedroom. The additions will match the materials on the existing house.

City staff analyzed data from the Assessors Database to estimate how the square footage of the proposed structure compares to other structures in the neighborhood (**ATTACHMENT E**). Basement areas are included in the total square footage because of the grading in the surrounding area. City staff acknowledges the limitation of the Assessors database, and notes that the data should be viewed as rough approximations. The following table summarizes the results:

	Average	Median	Proposed
Lot Size (s.f.)	15,361	13,742	6,157
Building Size (s.f.)	4,752	4,246	3,998
Floor Area Ratio	.35	.32	.65

As the data indicates, the proposed additions will create a structure that is modestly smaller than the average and median for the surrounding area in terms of square footage, and is significantly larger in terms of floor area ratio. The significant difference in FAR is mostly due to the size of the lot, which is approximately half of the size of the average for the surrounding properties.

The proposed additions substantially increase the size of an existing structure that already exceeds the allowed FAR. However, the portion of the existing mass that is actually visible from the street is significantly smaller due to the grading, and even with the proposed additions the structure appears to have less square footage than the average structure in the neighborhood. Furthermore, the impact on the entire street from the increased mass on this site is mitigated because the surrounding lots are so large. For these reasons, it appears that the proposed additions will create a structure that is consistent with and not in derogation of size, scale and design of other structures in the neighborhood.

The proposed garage bay and additional driveway area will cause the amount of impervious surface to increase by more than 400 square feet, which requires improvements to drainage on the site. The petitioner should provide a drainage plan to the Associate City Engineer for his review.

C. Landscape Screening

The site is well screened along the front, side, and rear property lines by existing vegetation. It appears that the proposed additions will require the removal of at least one tree and several bushes from the site, which provide screening along Perkins Street and from Winthrop Street. The Planning Department requests that the petitioner provide a site plan showing the existing and proposed vegetation

on the site prior to being scheduled for a working session. If vegetation that is currently providing screening is proposed to be removed, it should be replaced with similar screening materials.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to further exceed the maximum allowed floor area ratio, to increase the intensity of nonconforming three-story single-family dwelling, and for a private garage exceeding 700 square feet.

B. Engineering Review

The Engineering Division Memorandum, (**ATTACHMENT F**), provides an analysis of the proposal with regard to engineering issues. The petitioner is proposing to add more than 400 square feet of impervious surface to the site, which requires them to provide drainage improvements. The petitioner should provide a drainage plan to the Associate City Engineer prior to the issuance of a building permit.

C. Historic Review

The existing structure is more than 50 years old and the proposed addition will cover (i.e. demolish) more than 50% of a single façade, thus requiring the petitioner to file a demolition review application. The City's Senior Planner for the Newton Historical Commission reviewed and approved the proposed plans (**ATTACHMENT G**).

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-15 Table A, 30-15(u)(2), 30-21(b), to increase the nonconforming Floor Area Ratio (FAR).
- Section 30-15 Table 1, 30-21(b), to increase the intensity of a nonconforming three-story single-family dwelling.
- Section 30-8(b)(7), to allow for a private garage exceeding 700 square feet.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should submit a drainage plan to the Associate City Engineer, and a revised site plan showing existing and proposed vegetation to the Planning Department

prior to being scheduled for a working session.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** Land Use Map
- Attachment C:** Zoning Map
- Attachment D:** Contour Map
- Attachment E:** FAR Analysis
- Attachment F:** Engineering Memorandum
- Attachment G:** Historic Approval



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ATTACHMENT A

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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: Alan Schlesinger, Attorney
Gail Sillman, Applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to increase already nonconforming FAR, to extend a nonconforming structure with regard to the number of stories, and to allow a garage exceeding 700 square feet.

Applicant: Gail Sillman	
Site: 64 Perkins Street	SBL: 32012 0042
Zoning: SR-2	Lot Area: 6,157 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 64 Perkins Street consists of a 6,157 square foot corner lot improved with a single-family residence constructed in 1928. A variance issued in July 1928 permitted a 15 foot setback from Perkins Street which allowed the dwelling to be built in its current configuration. The structure consists of two and a half stories and a basement with an attached over-sized one-stall garage. The topography is sloped so as to render the basement the first floor under the Ordinance, creating three full stories. The applicant proposes to build out the uppermost floor (third floor) to the same floor area as the lower (second) floor. The project also proposes to add a second 327 square foot garage bay with no living area above.

The maximum number of stories in an SR2 district is 2.5. The existing structure is three stories and therefore nonconforming. A special permit is required to increase the intensity of the nonconforming number of stories.

The proposed addition creates an FAR of .65 from an already nonconforming .53, which exceeds the maximum allowable FAR of .44. A special permit is required to increase the already nonconforming FAR.

The proposed garage bay adds 327 square feet of space to the existing 398 square foot garage, creating a 725 square foot garage. This exceeds the 700 square feet allowed by the Ordinance and requires a special permit.

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

- Zoning Review Application, prepared by Alan Schlesinger, submitted 5/9/2014
- Existing Site Plan, prepared by Everett M. Brooks, surveyor, dated 3/13/2014
- Proposed Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 3/22/2014
- Architectural Plans – Proposed Conditions, prepared by Spalding Tougias Architects, architect, dated 5/8/2014
- Building Permit #1488, dated 4/24/1928
- Board Order #60053, dated 7/23/1928

ADMINISTRATIVE DETERMINATIONS:

1. The maximum number of stories allowed in an SR2 district is 2.5 according to 30-15 Table 1. Due to the sloping topography, the existing structure has three-stories, as the ground level is considered the first floor according to the Ordinance. The applicant is proposing to build out the upper floor (third floor), which will further increase the nonconforming nature of the structure. Per section 30-21(b), a special permit is required to increase the nonconforming nature of the structure.
2. The applicant’s existing FAR is .53. The proposed addition will create an FAR of .65, which exceeds the .44 allowed by right. A special permit is required to exceed the maximum FAR per sections 30-15 Table A, 30-15(u)(2), and 30-21(b).
3. The applicant proposes to add a second garage bay to create a two-car garage. The existing garage space is 398 square feet, and the additional 327 square feet proposed will create a 725 square foot two-bay garage. Per section 30-8(b)(7), a special permit is required for a private garage exceeding 700 square feet.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	6,157 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front (Winthrop St)	25 feet	41.8 feet	27.8 feet
• Front (Perkins St)	15 feet	15 feet	No change
• Side	7.5 feet	7.5 feet	No change
• Rear	15 feet	10.1 feet	No change
FAR	.44	.53	.65
Max Lot Coverage	30%	20.8%	26.1%
Min. Open Space	50%	74%	64%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table A, 30-15(u)(2) 30-21(b)	Increase nonconforming Floor Area Ratio (FAR)	S.P. per §30-24
§30-15 Table 1 30-21(b)	Increase intensity of nonconforming 3-story single-family dwelling	S.P. per §30-24
§30-8(b)(7)	Private garage exceeding 700 square feet	S.P. per §30-24

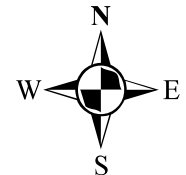
Land Use Map 64 Perkins Street

*City of Newton,
Massachusetts*

Legend

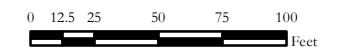
- Streets - Pavement Edge
- Building Outlines
- Land Use**
 - Single Family Residential
 - Multi-Family Residential
 - Mixed Use
 - Vacant Land

ATTACHMENT B

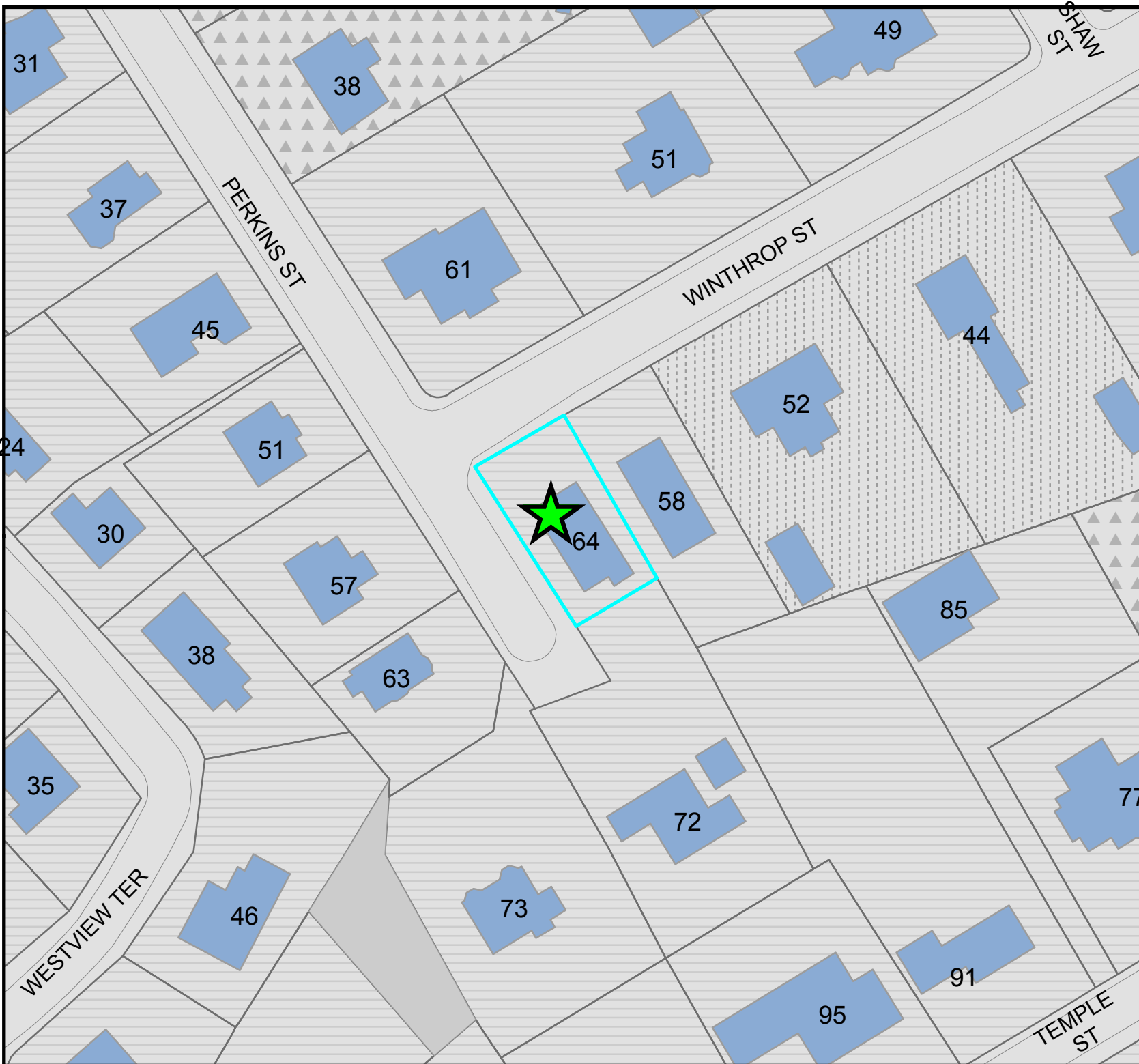


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: June 24, 2014



Zoning Map 64 Perkins Street

*City of Newton,
Massachusetts*

Legend

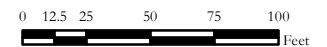
- Streets - Pavement Edge
- Single Residence 2
- Multi-Residence 1
- Building Outlines

ATTACHMENT C

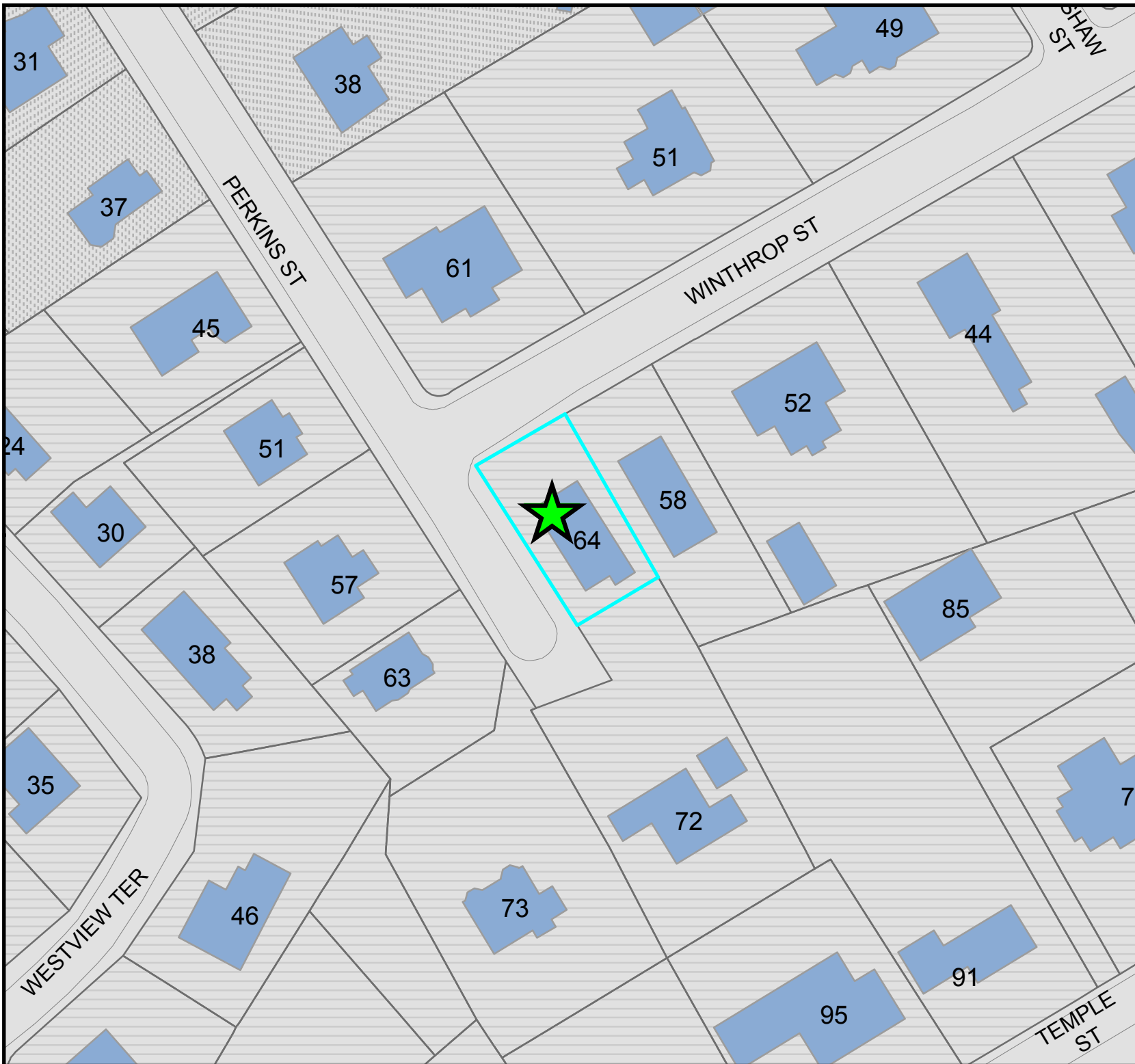


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: June 24, 2014



Contour Map 64 Perkins Street

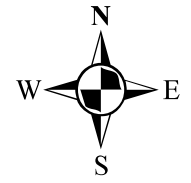
*City of Newton,
Massachusetts*

Legend

Contour Lines

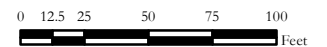
- Two Foot Contour
- Index (10 Foot) Contour
- Depression Contour
- Depression - Index Contour
- Bridge Abutment
- Culvert
- Wall

ATTACHMENT D

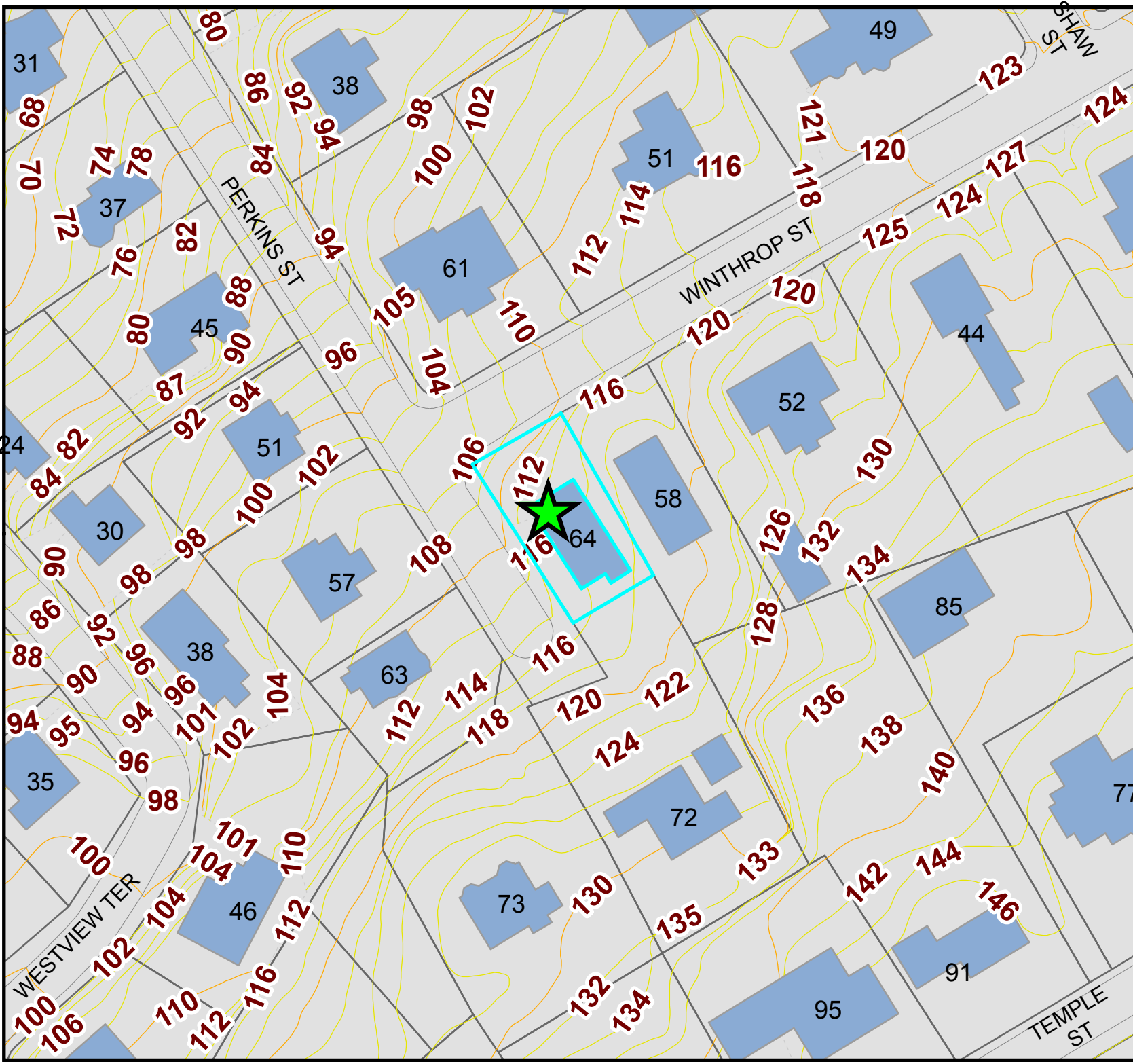


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CITY OF NEWTON, MASSACHUSETTS
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Map Date: June 30, 2014



FAR ANALYSIS

	House Size	Basement	Attic	Detached Garage	Total	Lot Size	FAR
72 Perkins Ave	4,162	2,040			6,202	17,385	0.36
73 Perkins Ave	4,094	1,543		399	6,036	18,477	0.33
63 Perkins Ave	2,653	1,005		440	4,098	6,890	0.59
57 Perkins Ave	2,478	1,199	600		4,277	9,970	0.43
51 Perkins Ave	2,634	1,176			3,810	8,900	0.43
45 Perkins Ave	2,305	1,086			3,391	10,000	0.34
37 Perkins Ave	2,786	720			3,506	12,702	0.28
31 Perkins Ave	2,720	449			3,169	12,996	0.24
23 Perkins Ave	2,028	998	300		3,326	14,487	0.23
17 Perkins Ave	2,597	1,305			3,902	12,278	0.32
15 Perkins Ave	2,120	530			2,650	7,974	0.33
22 Perkins Street	3,648	1,140			4,788	19,975	0.24
30 Perkins Street	3,850	1,793		400	6,043	10,000	0.60
34 Perkins Street	4,840	1,969		400	7,209	9,836	0.73
38 Perkins Street	3,324	475	415		4,214	20,114	0.21
61 Perkins Street	4,651	2,259			6,910	15,000	0.46
49 Winthrop Street	2,060	1,125			3,185	22,272	0.14
34 Winthrop Street	4,069	2,060	160		6,289	33,367	0.19
44 Winthrop Street	4,345	1,352	300		5,997	23,383	0.26
51 Winthrop Street	3,847	680		1,612	6,139	22,450	0.27
52 Winthrop Street	4,122	1,860			5,982	20,220	0.30
58 Winthrop Street	2,472	750	200		3,422	9,255	0.37
Average	3,264	1,251			4,752	15,361	0.35
Median	3,055	1,158			4,246	13,742	0.32
64 Perkins Street	2,068	1,203			3,271	6,157	0.53
64 Perkins Street (with additions)	2,468	1,530			3,998	6,157	0.65

**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 – 64 Perkins Street

Date: July 7, 2014

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

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

*Plan of Land in
Newton, MA
64 Perkins Street
Prepared by: Everett M. Brooks Company
Dated: March 22, 2014*

Executive Summary:

The owners of this single-family dwelling are proposing an addition of a single car garage and driveway expansion. The proposed driveway expansion is to 29' width of the apron, which exceeds the City standard of 22-feet; this will be acceptable if on site drainage improvements are made, as that net increase is greater than 400 square feet of additional impervious surface.

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 on-site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the drainage study. The locations of these tests need to be shown on the site plan and must be performed within 20-feet of a proposed system.
3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be 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.
4. 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. As of January 1, 2009, 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 in 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, 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. All site work must be completed before a Certificate of Occupancy is issued. *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.



Setti D. Warren
Mayor

ATTACHMENT G

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Candace Havens
Director

Newton Historical Commission Demolition Review Decision

Date: 7/2/2014 Zoning & Dev. Review Project# 14070006

Address of structure: 64 Perkins Street

Type of building : House

If partial demolition, feature to be demolished is third floor and attached garage

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.

is **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).

Final review of plans required _____ _____ _____

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).**

Delay of Demolition:

is in effect until _____

has been waived - see attached for conditions

Determination made by:

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.
