



#179-18

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City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 10, 2018
Land Use Action Date: June 26, 2018
City Council Action Date: July 2, 2018
90- Day Expiration Date: July 9, 2018

DATE: April 6, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #179-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming side setback and to exceed the floor area ratio **at 110 Parker Avenue**, Ward 6, Newton Highlands, on land known as SBL 81, 26, 03, containing approximately 6,160 sq. ft. of land in a district zoned Single Residence 3. Ref. §3.1.3, §3.1.9, §7.4 and §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 which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



110 Parker Avenue

EXECUTIVE SUMMARY

The subject property at 110 Parker Avenue consists of a 6, 160 square foot lot located in the Single Residence 3 (SR-3) zone in Newton Highlands. The lot is improved with a Colonial single-family residence constructed circa 1929. The structure has an existing nonconforming side setback of 6.3 feet, where 7.5 is the minimum allowed. The petitioners are proposing to construct a 1.5-story addition totaling 755 square feet over the existing first-floor sunroom, extending the footprint of the second floor and attic level into the setback. Additionally, the proposed square footage exceeds the allowable floor area ratio (FAR) for the lot. Therefore, the petitioners are seeking special permits to further extend the existing nonconforming side setback and to exceed the FAR. If approved, the dwelling will total 3, 072 square feet of floor area, 115 square feet above the maximum allowed by right.

The Planning Department believes the addition is sensitively designed given its location within the setback. Additionally, the addition will balance out the front façade, improving the dwelling's appearance from the street without encroaching any farther into the setback than the existing sunroom. For these reasons, staff believes the request to further extend the existing nonconforming side setback will not be substantially more detrimental than the existing setback and will be consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed extension of the nonconforming side setback will be substantially more detrimental than the existing nonconforming side setback is to the neighborhood (§3.1.3 and §7.8.2.C.2).
- The increase in FAR from .38 to .50, where .48 is the maximum allowed is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9).

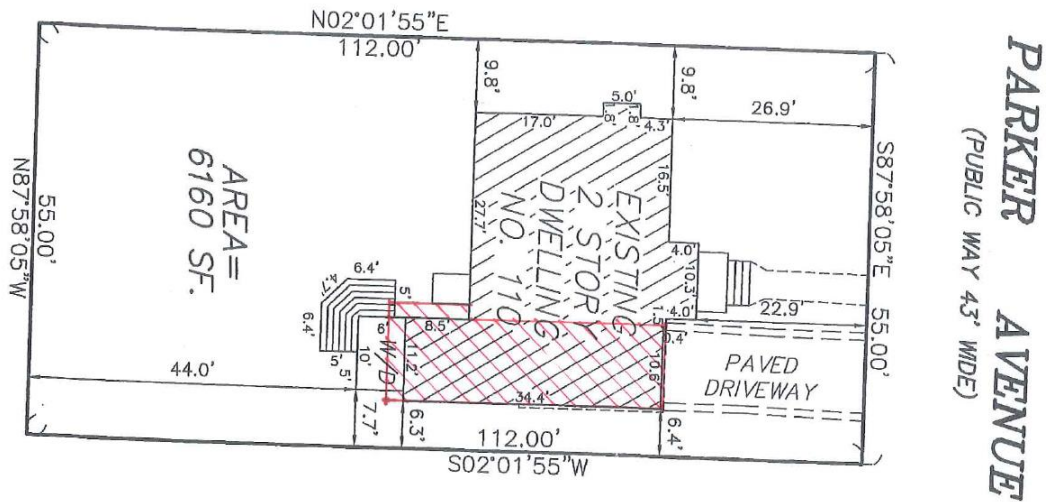
II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Parker Avenue in the SR-3 zone in Newton Highlands. The SR-3 zone encompasses the immediate area south of Boylston Street/Route 9. As such, the neighborhood is comprised predominantly of single-family residences with some mixed use and nonconforming commercial uses **(Attachments A & B)**.

B. Site

The site consists of 6,160 square feet of land, and is improved with a single-family residence circa 1929. There is an approximately 12-foot wide curb cut at the northeast corner of the site which provides access to a 27-foot long driveway and a one-car garage below grade. The lot slopes up from the rear of the house to the rear property line where a retaining wall allows for a level backyard. Portions of the sides and rear yards contain mature vegetation.



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 petitioners are proposing to construct a 1.5-story 755 square foot addition to the second floor and attic level of the eastern side of the dwelling. The addition will be built over an existing sunroom which has an existing nonconforming setback of 6.3 feet, where 7.5 feet is the minimum required. The addition will be constructed to meet the exterior wall of the sunroom, thereby vertically extending the nonconforming side setback. The petitioners are also proposing a dormer at the attic level to the rear of the dwelling to create some habitable space. The dormer complies with the requirements of the Newton Zoning Ordinance and therefore does not require relief.



Proposed Front Elevation



Proposed Left Elevation

The addition appears to be sensitively designed by incorporating three transom style windows at the eave creating a clerestory design which will allow for privacy for the petitioners, but also for the abutter to the east at 106 Parker Avenue. The addition creates a symmetrical front façade by installing a window and by constructing the addition to meet the principal roof line. Lastly, the addition will not encroach any farther into the setback than the existing structure. For these reasons, the Planning Department believes the extension of the nonconforming side setback will not be substantially more detrimental than the existing setback is to the neighborhood and will be consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood.

C. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation on site.

D. Landscape Screening

A landscape plan is not required with this petition.

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:

- §3.1.3 and §7.8.2.C.2 of Section 30, to further extend the nonconforming side setback.

➤ §3.1.9 and §7.3.3 of Section 30, to exceed the FAR

B. Engineering Review

Engineering review is not 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 petition be approved.

C. Newton Historical Commission

The Chief Preservation Planner approved the proposed addition on January 29, 2018.

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 Parker Ave., 110

*City of Newton,
Massachusetts*

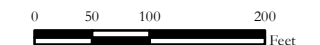
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Building Outlines
-  Surface Water
-  Property Boundaries

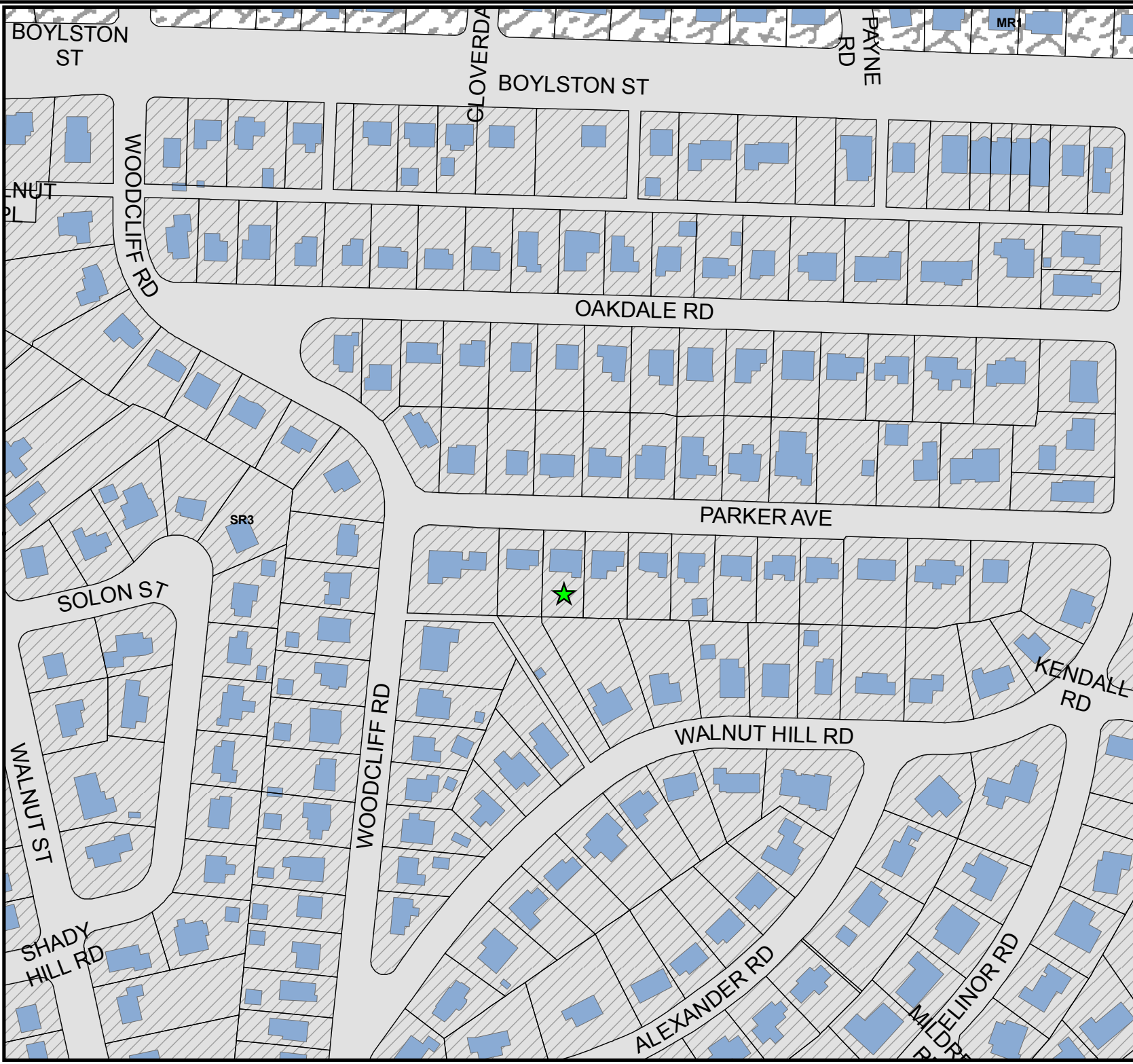


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: April 02, 2018



Attachment B Land Use Map Parker Ave., 110

*City of Newton,
Massachusetts*

Legend

Land Use

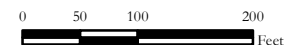
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Tax Exempt
-  Building Outlines
-  Surface Water
-  Property Boundaries

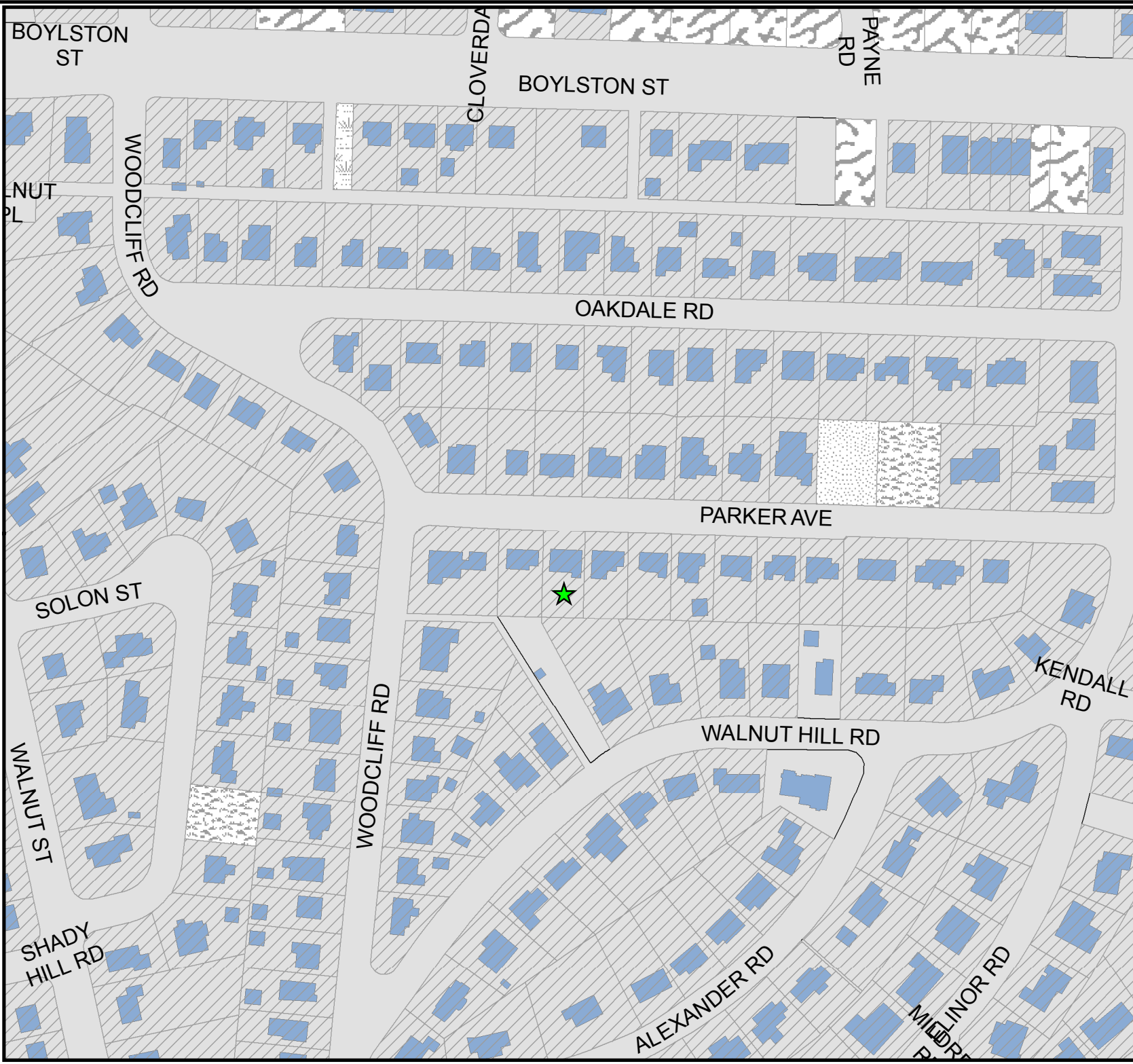


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: April 02, 2018





Ruthanne Fuller
Mayor

Attachment C

City of Newton, Massachusetts
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 6, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Charles Navratil, Architect
Seth DeAvila and Talya Salant, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to exceed FAR and to extend an existing nonconforming side setback

| Applicant: Seth DeAvila and Talya Salant | |
|--|-----------------------------|
| Site: 110 Parker Avenue | SBL: 81026 0003 |
| Zoning: SR3 | Lot Area: 6,160 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 110 Parker Avenue consists of a 6,160 square foot lot improved with a single-family residence constructed in 1929. The existing single-family dwelling has a sub-grade single car garage with living space above with an existing nonconforming side setback. The petitioners propose to add a second story addition with some attic space above it over the existing living space, which will further increase the nonconforming setback and exceed the allowable FAR, requiring a special permit.

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

- Zoning Review Application, prepared Charles Navratil, Architect, dated 1/22/2018
- FAR Worksheet, submitted 1/22/2018
- Certified Plot Plan, signed and stamped by John W. Abagis, surveyor, dated 10/24/2012
- Architectural Plans, prepared by Charles Navratil, architect, dated 10/11/2017, revised 10/22/2017

ADMINISTRATIVE DETERMINATIONS:

1. The existing single-family dwelling has a nonconforming side setback of 6.3 feet, where 7.5 feet is required per section 3.1.3. The applicants propose to add a second story addition over the existing single-level living space, with some attic space above. The proposed addition further extends the existing nonconforming side setback, requiring a special permit per section 7.8.2.C.2.
2. The petitioners' existing FAR is .38, where .48 is the maximum allowed per sections 3.1.3 and 3.1.9. The proposed addition adds 755 square feet to the dwelling, resulting in an FAR of .50. A special permit pursuant to Sections 3.1.3 and 3.1.9 is required to exceed FAR.
3. The petitioners propose to construct an attic dormer measuring 12 feet wide. Section 1.5.4.G.2.b requires that no dormer be wider than 50 percent of the wall plane below it. The wall plane below the proposed dormer is 27.7 feet wide. The proposed 12-foot dormer is 43 percent of the width of the existing wall plane and does not required relief.

| SR3 Zone | Required | Existing | Proposed |
|-----------------------|-------------------|-------------------|-----------|
| Lot Size | 7,000 square feet | 6,160 square feet | No change |
| Frontage | 70 feet | 55 feet | No change |
| Setbacks | | | |
| • Front | 25 feet | 22.9 feet | No change |
| • Side | 7.5 feet | 6.3 feet | No change |
| • Rear | 15 feet | 44 feet | No change |
| Max Number of Stories | 2.5 | 2.5 | No change |
| FAR | .48 | .38 | .50 |
| Max Lot Coverage | 30% | N/A | 21% |
| Min. Open Space | 50% | N/A | 74% |

1. See "Zoning Relief Summary" below:

| Zoning Relief Required | | |
|------------------------|--|-----------------|
| Ordinance | | Action Required |
| §3.1.3, §7.8.2.C.2 | Request to further extend a nonconforming side setback | S.P. per §7.3.3 |
| §3.1.3 §3.1.9 | Request to exceed FAR | S.P. per §7.3.3 |

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON
IN CITY COUNCIL

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 extend a nonconforming side setback to 6.3 feet, where 7.5 feet is the minimum allowed by right, and to exceed the floor area ratio from .38 to .50, where .48 is the maximum by right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed extension of the nonconforming side setback is not substantially more detrimental than the existing setback is to the neighborhood because the addition will not encroach any farther into the setback than the existing structure and is sensitively designed to allow for privacy (§3.1.3 and §7.8.2.C.2).
2. The proposed increase in floor area ratio from .38 to .50, where .48 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood because the addition will balance out the front façade improving the structure's appearance from the street (§3.1.9 and §7.3.3).

PETITION NUMBER: #179-18

PETITIONER: Seth DeAvila and Talya Salant

LOCATION: 110 Parker Avenue, on land known as Section 81, Block 26, Lot 03, containing approximately 6, 160 square feet of land

OWNER: Seth DeAvila and Talya Salant

ADDRESS OF OWNER: 110 Parker Avenue
Newton, MA 02461

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3 and §7.8.2.C.2 to further extend a nonconforming side setback; §3.1.9 and §7.3.3 to exceed the floor area ratio

ZONING: Single Residence 3 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. Site Plan, signed and stamped by John Abagis, Professional Land Surveyor, dated October 24, 2012
 - b. Architectural Plans, prepared by Architects 2., unsigned and unstamped, consisting of the following ten (10) sheets:
 - i. Proposed Second Floor Plan, dated October 22, 2017
 - ii. Proposed Attic Plan, dated October 11, 2017 revised October 22, 2017
 - iii. Proposed Front Elevation, dated October 11, 2017 revised October 22, 2017
 - iv. Proposed Left Elevation, dated October 11, 2017 revised October 22, 2017, and October 31, 2017
 - v. Proposed Rear Elevation, dated October 11, 2017 revised October 22, 2017
 - vi. Proposed Right Elevation, dated October 11, 2017 revised October 22, 2017
 - vii. Existing Basement
 - viii. Existing First Floor
 - ix. Existing Second Floor
 - x. Existing Attic
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 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.
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 an architect or land surveyor certifying compliance with Condition #1.
 - b. 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.