



#183-17

**City of Newton, Massachusetts**  
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Setti D. Warren  
Mayor

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: July 11, 2017  
Land Use Action Date: September 26, 2017  
City Council Action Date: October 2, 2017  
90-Day Expiration Date: October 9, 2017

DATE: July 7, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Michael Gleba, Senior Planner

SUBJECT: **Petition #183-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story addition and porch to the rear and side of the house and rebuild the existing front porch, continuing the non-conforming front setback and increasing the FAR from .54 to .64 where .48 is allowed at **11 Fairview Street**, Ward 1, on land known as Section 71 Block 21 Lot 09, containing approximately 6,565 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.9, 7.8.2.C.2, 3.1.4 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 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.



**11 Fairview Street**

## EXECUTIVE SUMMARY

The subject property at 11 Fairview Street consists of a 6,565 square foot lot in a Single Residence 3 (SR3) district. Located on the west side of Fairview Street between Hunnewell Avenue and the Massachusetts Turnpike, it is improved with a 3,605 square foot, 2 ½ story single-family dwelling constructed circa 1900 and a detached two-car, 400 square foot garage. The applicant proposes to remove an existing rear deck, construct a two-story addition to the left side and rear of the existing dwelling, rebuild the existing covered front porch and add a connecting uncovered deck on the front and left side of the dwelling.

At 3,605 square feet, the existing structure exceeds the allowed floor area by 454 square feet. As designed, the proposed work would add an additional 668 square feet of floor area to the property, for a total of 4,273 square feet, further increasing its existing nonconforming floor area ratio (FAR) from 0.55 to 0.65 where 0.48 is the maximum allowed, requiring a special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 of the NZO. Further, the proposed uncovered deck on the front and left side of the dwelling would lengthen the nonconforming front setback 11 feet to the left and further decrease it slightly from 17.3 to 17.2 feet where 25 feet is required, requiring a special permit per Section 7.8.2.C.2.

The Planning Department is generally not concerned with the proposed additions given that they will conform with side and rear setback requirements, not be higher than the existing structure and help preserve an existing structure while allowing it 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 continuance of and slight decrease in the nonconforming front setback will be substantially more detrimental than the existing nonconforming front setback is to the neighborhood (§3.1.4 and §7.8.2.C.2).
- The proposed structure with a floor area ratio (FAR) of 0.65 where 0.48 is allowed by right consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9).
- The proposed increase of the nonconforming floor area ratio (FAR) to 0.65 where 0.48 is allowed by right will be substantially more detrimental than the existing nonconforming FAR of 0.55 is to the neighborhood (§7.8.2.C.2).

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on the west side of Fairview Street between

Hunnewell Avenue and the Massachusetts Turnpike (and its sound barrier) in a Single Residence 3 (SR3) district.

The immediate neighborhood is zoned SR3; a Multi-Residence 1 (MR1) district is located approximately 550 feet to the southwest and a Multi-Residence 2 (MR2) district located to the north across the Massachusetts Turnpike along Charlesbank Road. Reflecting its SR3 zoning, the immediate neighborhood is predominantly settled with single-family dwellings, and several two-family dwellings, including two abutting properties to the north. . **(Attachments A & B)**.

B. Site

The property consists of a 6,565 square foot lot improved with a 3,605 square foot, 2 ½ story single-family dwelling constructed in 1900 and an approximately 400 square foot detached garage located in the left rear of the lot and accessed via an approximately 15 foot wide, 60 foot long driveway off Fairview Street.

The property is generally level with a downward slope of approximately five feet from south to north and front to rear. In addition to the above-referenced driveway, the property features lawn area as well as mature trees and shrubbery along much of its periphery. The rear has an approximately 200 square foot paved patio, and there is extensive vegetative screening along the rear property boundary.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building Design

The petitioner proposes to construct a 668 square foot addition with two stories and an attic on the left side and one story along the rear of the dwelling. The addition, which would include living and circulation space on the first and second stories and mechanical/storage space on the attic level, would add 216, 201 and 76 square feet respectively to those levels; the basement would also be expanded by 130 square feet countable toward FAR. The resulting structure would contain 4,273 square feet, furthering increase its nonconforming FAR from 0.55 to 0.65 where 0.48 is allowed by-right.

The proposed addition would extend the left side of the dwelling approximately ten feet toward the driveway and be similar in design to that side's existing façade and maintain its height (which is slightly lower than the dwelling's peak's height of 33.5 feet). While the left side setback would be reduced from 35.7 to 25.3 feet, it would remain well above the required 7.5 feet. As the petitioner intends to remove an

existing deck off the rear of the first floor, the rear setback would be increased from 12.9 feet to approximately 16.2 feet, more than the required 15 feet.

The petitioner also intends to add a deck to the front and left side of the dwelling. While the front of this proposed deck is generally aligned with the existing covered front porch (to be rebuilt) along its 11 foot length on Fairview Street, it nevertheless slightly decreases the already nonconforming front setback from 17.3 to 17.2 feet where 25 feet is required.

The parcel's lot coverage would increase from 22.6% to the maximum 30% allowed. The open space on the parcel would decrease, from 58% to 53%, but remain above the required 50%.

C. Parking and Circulation

The existing two-car garage and associated driveway along the left side of the property and the curb cut on Fairview Street would remain unchanged.

D. Landscape Screening

A landscape plan was not submitted with this petition. The Planning Department notes that while there is extensive screening along the lot's rear property line it is unclear whether the vegetation is on the subject lot or abutting property. Further, an existing mature tree located between the driveway and the dwelling would likely be lost with the construction of the proposed addition. As such, the Planning Department recommends that, if possible, some vegetation be installed to provide some year-round screening of the addition from abutting properties. Planning staff therefore suggests that should the requested special permit be granted, prior to the issuance of a building permit a landscape plan showing such be submitted for approval by the Planning Department and that this be made a condition of any special permit granted pursuant to 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:

Special permit per §7.3.3-

- to further increase nonconforming floor area ratio (FAR) (§3.1.9; §7.8.2.C.2);
- to further continue nonconforming front setback (§3.1.3; §7.8.2.C.2).

B. Engineering Review

The proposal was reviewed by the Engineering Division since it would result in a net increase of 481 square feet of impervious surface on the lot. As the Division's attached memorandum indicates (**Attachment D**), it is recommended that the petitioner address site drainage with rain barrels to collect roof water runoff for use for lawn and garden irrigation.

C. Newton Historical Commission

On June 21, 2017 Newton Historical Commission staff reviewed and approved the project, requiring only the review of final plans.

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:** Engineering Division Memorandum
- Attachment E:** DRAFT Order

## Land Use







22 Fairview St.

*City of Newton,  
Massachusetts*

### Legend

#### Land Use

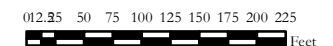
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

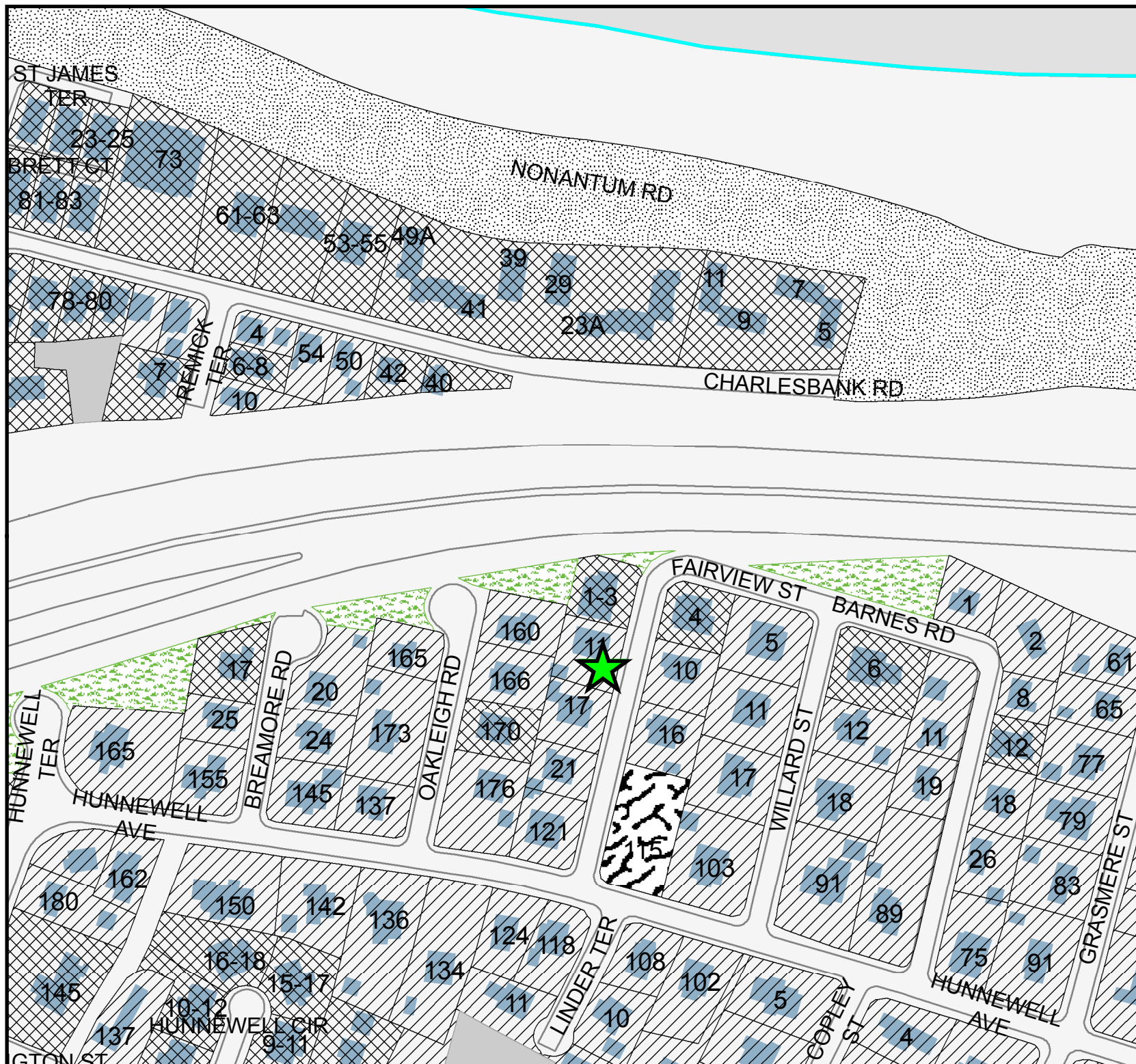


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: June 30, 2017







## Zoning

22 Fairview St.

*City of Newton,  
Massachusetts*

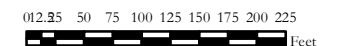
### Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Public Use

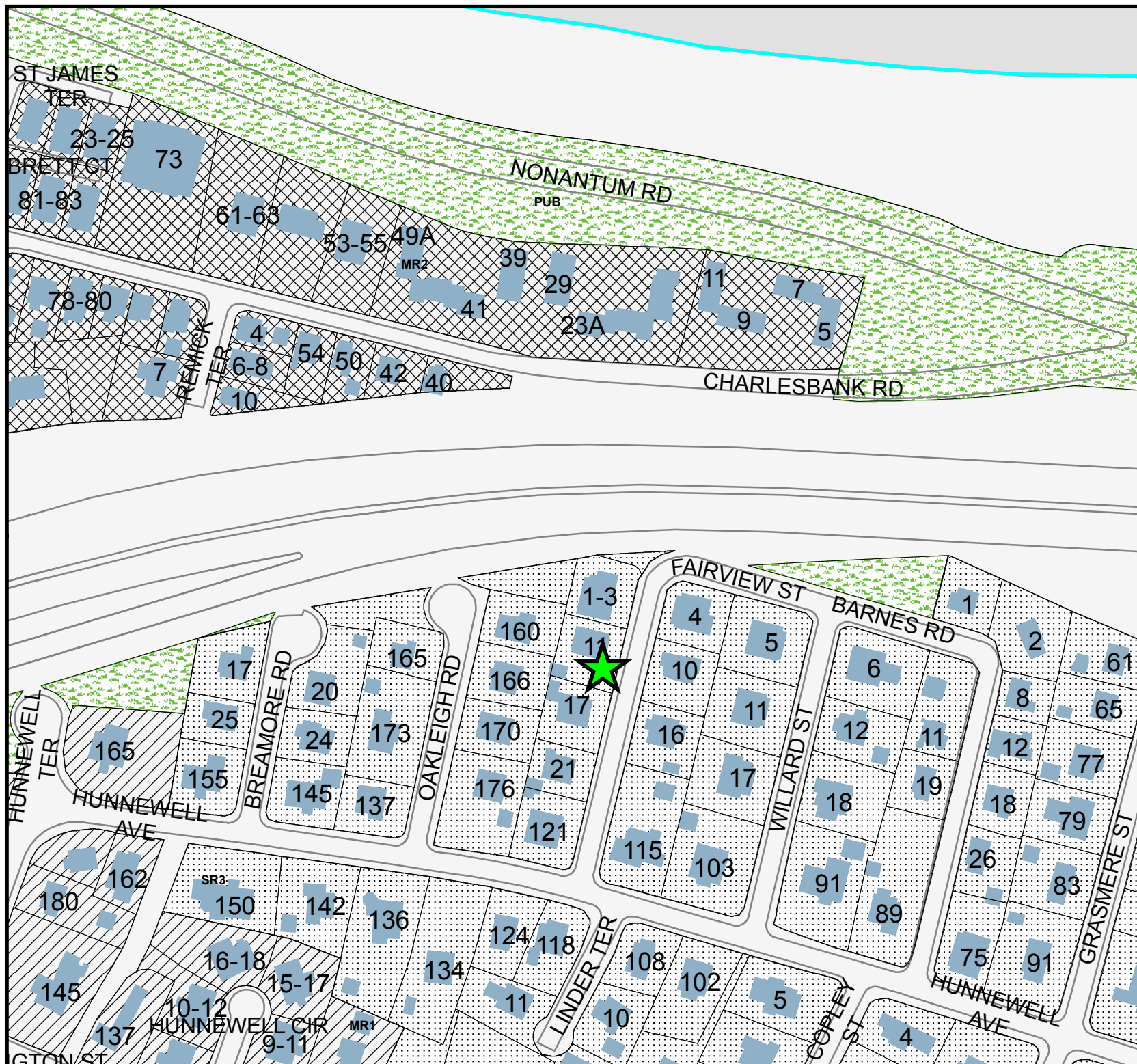


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: June 30, 2017





Setti D. Warren  
Mayor

# ATTACHMENT C

## City of Newton, Massachusetts Department of Planning and Development

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Barney S. Heath  
Director

### ZONING REVIEW MEMORANDUM

Date: May 4, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Alan Mayer, architect  
Elias & Sonya Tembelopoulos, applicants  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to further increase nonconforming FAR and to further extend an existing nonconforming front setback**

Applicant: Elias & Sonya Tembelopoulos	
Site: 11 Fairview Street	SBL: 71021 0009
Zoning: SR-3	Lot Area: 6,642 square feet
Current use: Single-family dwelling	Proposed use: No change

#### BACKGROUND:

The property at 11 Fairview Street consists of a 6,642 square foot lot improved with a single-family residence constructed in 1900. The applicant proposes to construct a two-story addition to the side and rear of the existing dwelling. The applicant also intends to rebuild the existing front porch and add a deck to the side of the dwelling, which further extends the nonconforming front setback. The proposed additions will further increase the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared Alan Mayer, architect, submitted 3/27/2017
- FAR Worksheet, submitted 3/27/2017
- Plan of Land, prepared by C S Kelley, surveyors, dated 6/22/2010
- Architectural Plans, prepared by Mayer and Associates, dated 3/17/2017



**ADMINISTRATIVE DETERMINATIONS:**

1. The applicants’ existing FAR is .54, where .48 is the maximum allowed. The proposed rear addition adds 668 square feet to the dwelling for a total of 4,273 square feet, resulting in an FAR of .64. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.
2. The dwelling has an existing covered front porch with a nonconforming front setback of 24.4 feet. The applicant proposes a deck at the front and side of the existing porch which will continue that nonconforming front setback, though not further extend it. To continue the nonconforming front setback further along the same plane requires a special permit per Section 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>6,642 square feet</b>	<b>No change</b>
Frontage	70 feet	82 feet	No change
Setbacks			
• Front	25 feet	<b>24.4</b>	<b>No change</b>
• Side	7.5 feet	10.4 feet	No change
• Rear	15 feet	15.2 feet	17.8 feet
Max Number of Stories	2.5	2.5	No change
FAR	.48	<b>.54</b>	<b>.64</b>
Max Lot Coverage	30%	NA	29.9%
Min. Open Space	50%	NA	56.1%

1. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9, §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3
§3.1.4 §7.8.2.C.2	Request to further continue nonconforming front setback	S.P. per §7.3.3

# ATTACHMENT D

## CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

### MEMORANDUM

To: Council Marc Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 11 Fairview Street

Date: July 3, 2017

CC: Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Michael Gleba, Sr. Planner

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

*Plan of Land in  
Newton, MA  
11 Fairview Street  
Prepared by: Everett M. Brooks Company  
Dated: June 8, 2017*

*Executive Summary:*

This application entails the particle demolition of a portion of an existing single-family dwelling and the construction of a two-story addition. If the dwelling is to be gutted or renovated more than 50%, then both water and sanitary sewer services shall be upgraded to current City Standards.

The plan indicates that a net increase of 481 square feet of impervious surfaces will be added, since this just triggers on site drainage, the DPW would encourage the use of rain barrels to capture the net runoff from the roof areas and to utilize the collected water for the lawn or garden areas.

This concludes my review, if you have any questions please contact me.

General:

1. 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 applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
4. 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.
5. All site work including trench restoration 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.

# ATTACHMENT E

DRAFT-- #126-17  
208 Homer Street

## CITY OF NEWTON IN CITY COUNCIL

July [REDACTED], 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

further continue the nonconforming front setback for eleven feet and extend it from 17.3 feet to 17.2 feet where 25 feet is the minimum allowed by right, and

further increase the nonconforming floor area ratio (FAR) from 0.55 to 0.65 where 0.48 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 further continuance of the nonconforming setback for eleven feet and its reduction from 17.3 feet to 17.2 feet is not substantially more detrimental than the existing nonconforming setback is to the neighborhood given that the continuance is for an uncovered deck and the reduction is only approximately one inch (§3.1.3 and §7.8.2.C.2).
2. The proposed expanded structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be similar in regard to those characteristics of other dwellings in the surrounding area (§3.1.9).
3. The proposed increase in the structure's nonconforming floor area ratio (FAR) from 0.55 to 0.65 where 0.48 is the maximum allowed by right is not substantially more detrimental than its existing FAR is to the neighborhood as the proposed addition will conform with side and rear setback requirements and not be higher than the existing structure (§7.8.2.C.2).

PETITION NUMBER: #183-17

PETITIONER: Elias and Sonya Tembelopoulos

LOCATION: 11 Fairview Street, on land known as Section 71, Block 21, Lot 9, containing approximately 6,565 square feet of land

OWNER: Elias and Sonya Tembelopoulos

ADDRESS OF OWNER: 11 Fairview Street  
Newton, MA 02458

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 front setback and §3.1.9 and §7.8.2.C.2 to further increase the nonconforming floor area ratio

ZONING: Single Residence 3 (SR3) 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 site plan entitled "Plan of Land in Newton, MA, 11 Fairview Street, Existing Conditions," prepared by Everett M. Brooks Co., dated May 18, 2017;
  - b. A site plan entitled "Plan of Land in Newton, MA, 11 Fairview Street, Proposed Addition," prepared by Everett M. Brooks Co., dated June 8, 2017, signed and stamped by Bruce Bradford, Professional Land Surveyor, June 8, 2017;
  - c. Floor area ratio worksheets signed and stamped by Alan J. Mayer, Registered Architect:
    - i. 11 Fairview Street (*sic*) (Tembelopoulos Residence)- Existing;
    - ii. 11 Fairview Street (Tembelopoulos Residence)- Proposed.
  - d. A set of architectural plans entitled "Tembelopoulos Residence, 11 Fairview Street, Newton, MA 02458", prepared by Mayer + Associates Architects, consisting of the following sheets:
    - i. Proposed Additions (A0-1), dated June 29, 2017;
    - ii. Existing Conditions- Basement Plan (A1-0), dated June 9, 2017;
    - iii. Existing Conditions- First Floor Plan (A1-1), dated June 9, 2017;
    - iv. Existing Conditions- Second Floor Plan (A1-2), dated June 9, 2017;
    - v. Existing Conditions- Third Floor Plan (A1-3), dated June 9, 2017;
    - vi. Existing Conditions- Exterior Elevations- Front Elevation (A2-1), dated June 9, 2017;

- vii. Existing Conditions- Exterior Elevations- Side Elevation (A2-2), dated June 9, 2017;
  - viii. Existing Conditions- Exterior Elevations- Side Elevation (A2-3), dated June 9, 2017;
  - ix. Existing Conditions- Exterior Elevations- Side Elevation (A2-4), dated June 9, 2017;
  - x. Proposed Alterations- Basement Plan (A3-0), dated June 9, 2017;
  - xi. Proposed Alterations- First Floor Plan (A3-1), dated June 9, 2017;
  - xii. Proposed Alterations- Second Floor Plan (A3-2), dated June 9, 2017;
  - xiii. Proposed Alterations- Third Floor Plan (A3-3), dated June 29, 2017;
  - xiv. Proposed Additions- Exterior Elevations- Front Elevation (A4-1), dated June 9, 2017;
  - xv. Proposed Additions- Exterior Elevations- Side Elevation (A4-2), dated June 9, 2017;
  - xvi. Proposed Additions- Exterior Elevations- Side Elevation (A4-3), dated June 9, 2017;
  - xvii. Proposed Additions- Exterior Elevations- Side Elevation (A4-4), dated June 9, 2017.
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 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.
    - e. Submitted a Final Landscape Plan to the Director of Planning and Development for review and approval.
  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 and 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 an architect and licensed land surveyor including the as built floor area ratio of the structure.
    - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering

Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.

- d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features consistent with the approved Final Landscape Plan.