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Mayor

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Department of Planning and Development
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#20-17

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 7, 2017
Land Use Action Date: May 9, 2017
City Council Action Date: May 15, 2017
90-Day Expiration Date: June 5, 2017

DATE: March 3, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #20-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to convert the existing two-family residence to a single dwelling unit and construct an 1,840 sq. ft. second dwelling addition with two car garage, extending the nonconforming two-family use and exceeding the maximum FAR at .43 where .41 is allowed and .19 exists at **85 Fuller Terrace**, Ward 3, West Newton, on land known as SBL 34016 0039, containing approximately 10,097 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.9, 3.1.9.A.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 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.



85 Fuller Terrace

EXECUTIVE SUMMARY

The property at 85 Fuller Terrace consists of a 10,097 square foot lot located in a Single Residence 3 (SR3) zoning district improved with a legally nonconforming 1,863 square foot two-family residence constructed circa 1890. The structure, which was originally built as a single family residence, received a building permit in 1962 to convert to a two-family dwelling. The applicants propose to reconfigure the existing structure to a single dwelling unit and construct a 2,743 square foot addition to the left (east) side that would include additional living space for said unit and the second dwelling unit, and two one-car garages (one for each of the two units).

The Planning Department notes that while its architecture complements the existing structure and the proposed addition would be compliant with other applicable dimensional regulations, including height and front, side and rear setbacks, the petition is requesting a rather significant increase in FAR from .19 to .43, where .41 is the maximum allowed per Section 3.1.9 resulting in an 4,336 square foot structure (the dwelling units would measure 2,383 and 1,953 square feet respectively, inclusive of their garages). To extend the nonconforming two-family use and exceed the maximum allowed FAR as proposed requires a special permit.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- the proposed modification of an existing nonconforming two family use in and Single Residence 3 (SR-3) zoning district would not be substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)
- the proposed increase in FAR from 0.19 to 0.43, where 0.41 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)
- the site is an appropriate location for such use, structure (§7.3.3.C.1)
- the use as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2)
- there will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property and the immediate surrounding area is uniformly zoned Single Residence 3 (SR3) and is predominated by single-family dwellings, with some two-family dwellings interspersed throughout the neighborhood to the north and west (**Attachments A & B**).

B. Site

The property at 85 Fuller Terrace consists of a 10,097 square foot lot located in a Single Residence 3 (SR3) zoning district and improved with a legal nonconforming 1,863 square foot two-family residence constructed circa 1890.

The site is relatively level, sloping slightly (approximately 4 feet) upgrade from the front to right rear of the property. Vehicular access is provided by an approximately thirty five foot wide, forty foot long driveway.

A stockade fence is located along most of the site's boundaries, an exception being the driveway area. The property includes little existing vegetation as construction work has been ongoing on the existing structure, with some shrubbery and trees located along the rear and sides, as well as a mature deciduous tree directly adjacent to the rear left corner of the existing dwelling.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a two-family dwelling.

B. Building and Site Design

The petitioner is proposing to construct a 2,743 square foot, two-story addition of similar architecture to the left (east) side of the existing structure that would include living, garage, and attic space for both units. The unit occupying the existing structure and part of the addition would measure 2,383 square feet; the second unit, which would be wholly contained within the addition, would measure 1,953 square feet. The living space in the addition would be built above a basement (as is the existing structure); the garages would be built on an on-grade slab.

The addition would be slightly lower in height than the existing structure. Located 25.2 feet from the front property line, it would be forward of the existing structure's front façade but more than the required 25 feet (and similar to that of dwellings in the immediate area). The addition would be set back 15.2 feet from the rear lot line, just more than the required 15 feet, and 15.9 feet from the left (east) side lot line, more than the required 7.5 feet.

The parcel's lot coverage would increase from 11.3% to 26%, but remain below the maximum 30% allowed. The open space on the parcel would correspondingly decrease, from 74.2% to 62%, but remain above the required 50%.

As designed, the addition would result in the dwelling containing a total of 4,336 square feet of "countable" floor area, increasing the floor area ratio (FAR) from 0.19 to 0.43 where 0.41 is the maximum allowed by-right. The Planning Department notes that the proposed expanded structure would be among the larger residential structures in the area as measured by first and second story floor area and garage

space.

The Planning Department believes that, as designed, the proposed expanded dwelling is somewhat inappropriate for the site given its scale and size in excess of the maximum allowed FAR by right. The Department therefore suggests that the petitioner consider modifying the proposed addition to reduce its scale, perhaps by lowering its roof line, and by reducing the size(s) of one or both of the units so as to not require relief from the allowed FAR for the site.

C. Parking and Circulation

Each unit would include a one car garage with space on the driveway in front of each to accommodate the two additional required parking spaces.

The Planning Department notes that the driveway appears excessively wide toward the sidewalk. The Planning Department recommends that the petitioner consider narrowing the driveway toward the front of the site, consistent with providing sufficient access to the garages, so as to reduce the amount of pavement and increase opportunities for landscaping.

D. Landscaping

The landscaping shown on the proposed conditions plan submitted with the application is limited to one coniferous and five deciduous trees located near or along the property's rear and side property lines and the existing mature tree at the rear left corner of the existing dwelling referenced above.

Given the scale of the proposed addition, the Planning Department recommends that if this petition is approved, the petitioner be required install additional year-round vegetative plantings, such as evergreen trees, along the front, side and rear property lines, as well as in the area between the existing driveway and the addition, to provide improved screening from abutting properties and public ways. The Planning Department further suggests that the maintenance of such landscaping be made a condition of any special permit issued for 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 and §7.3.3 of Section 30, to exceed the maximum floor area ratio (FAR) (§3.1.9; §3.1.9.A.2);
- Special permit per and §7.3.3 of Section 30, to extend the existing nonconforming two-family use (§3.4.1; §7.8.2.C.2).

B. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum (**Attachment D**) providing an analysis of the project proposal with regard to engineering issues.

The memorandum indicates that separate water services and new sanitary sewer services are required for the project, as are a stormwater collection and infiltration system. The petitioner would also be required to update the existing damaged driveway apron and sidewalk.

C. Historic Review

In a decision dated February 8, 2017, Newton Historic Commission staff determined that the house on this property was historically significant for its context within the immediate neighborhood. This decision was made due to its massing, scale, and location of the historic house, with consideration made for alterations over time to its siding and windows, loss of historic architectural detail, and a change, circa 1950, in the orientation of the front entrance from Pleasant Street to Fuller Terrace. Staff review of the plans concluded that the massing, scale and location of the historic house was preserved in the new design, and approved the project administratively as a partial demolition.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A




Existing Land Use 85 Fuller Terrace

*City of Newton,
Massachusetts*

Legend

Land Use

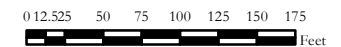
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Vacant Land

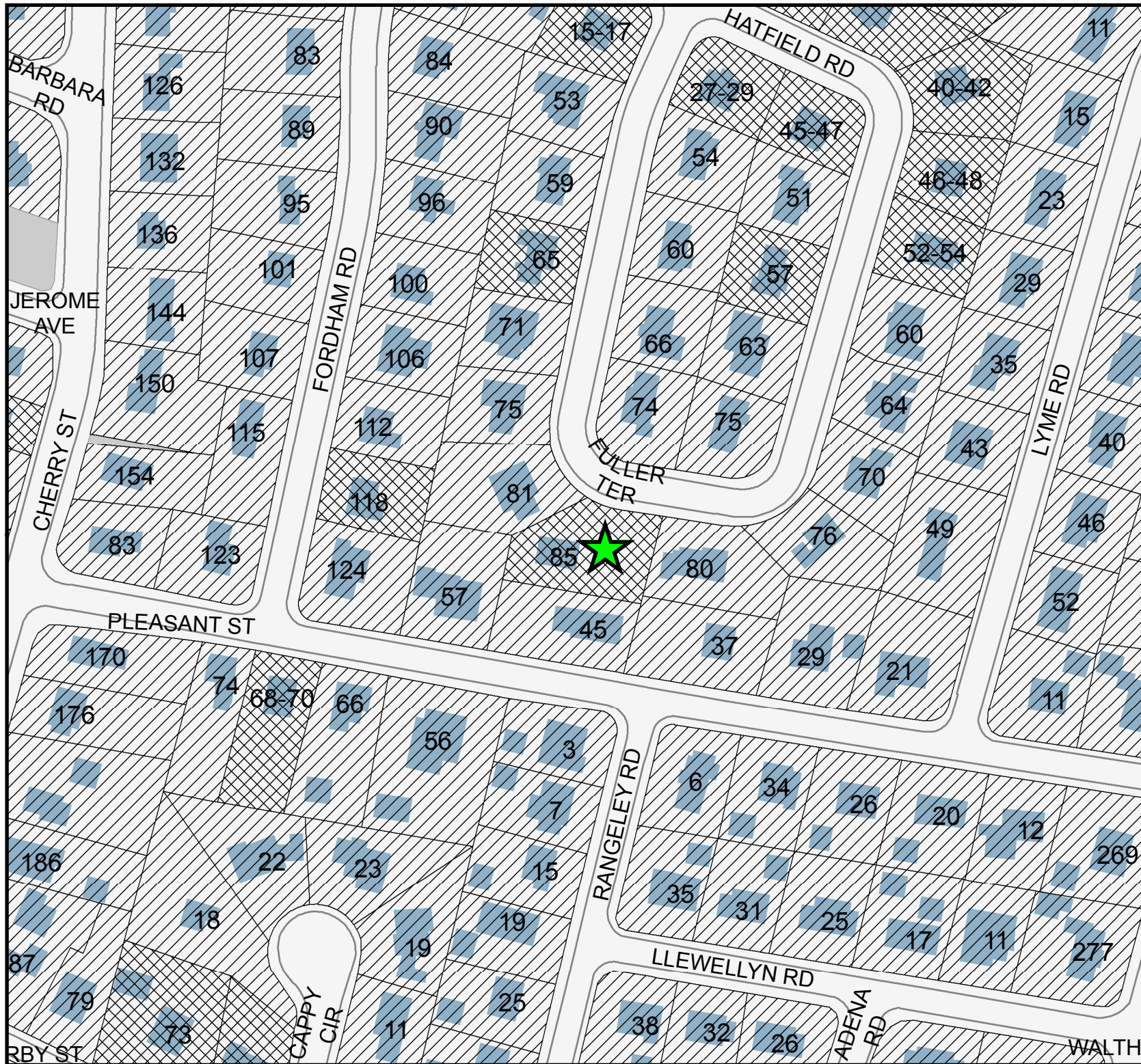


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: March 02, 2017



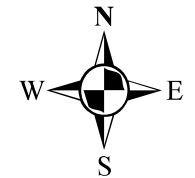
ATTACHMENT B

Zoning 85 Fuller Terrace

*City of Newton,
Massachusetts*


Legend

 Single Residence 3

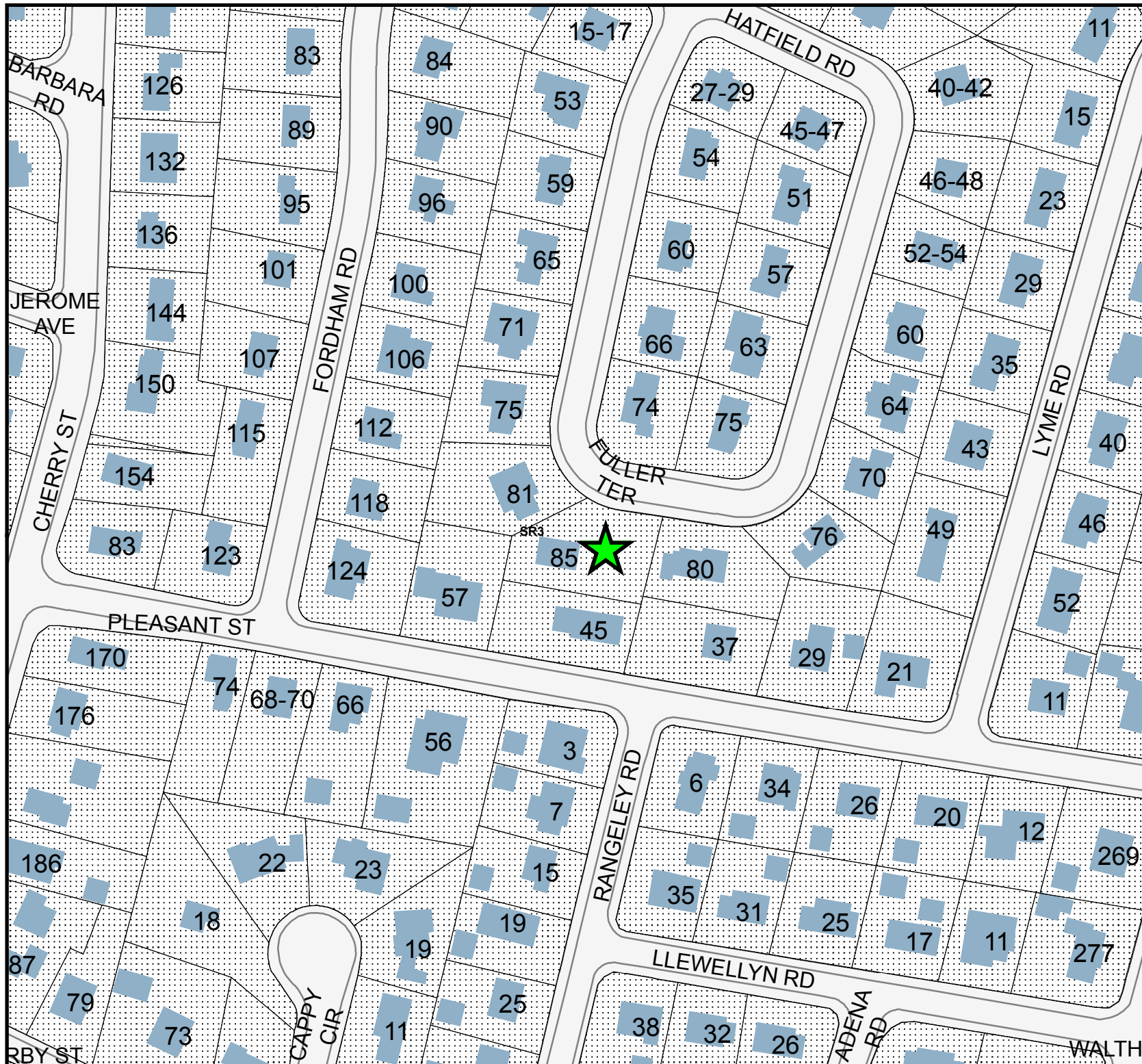


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CITY OF NEWTON, MASSACHUSETTS
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0 12.525 50 75 100 125 150 175
 Feet

Map Date: March 02, 2017





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 26, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: D&S Remodeling Inc, applicant
Terrence P. Morris, attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend an existing nonconforming two-family use and to exceed FAR

Applicant: D&S Remodeling Inc	
Site: 85 Fuller Terrace	SBL: 34016 0039
Zoning: SR-3	Lot Area: 10,097 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 85 Fuller Terrace consists of a 10,097 square foot lot improved with a nonconforming two-family residence constructed circa 1890. The structure was originally built as a single residence and received a building permit in 1962 to convert to a two-family. The applicants propose to convert the existing structure to a single dwelling unit and construct a 1,840 square foot addition of a second dwelling unit containing a two-car garage.

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

- Zoning Review Application, prepared by Terry Morris, attorney, submitted 12/13/2016
- Zoning Plan, prepared VTP Associates Inc, dated 11/21/2016, revised 11/29/2016
- Architectural plans and elevations, prepared by Sami E. Kassis, P.E., 12/5/2016
 - First floor plan
 - Second floor plan
 - Elevations

ADMINISTRATIVE DETERMINATIONS:

1. The 1890 structure is a legal nonconforming two-family dwelling in a Single Residence 3 zoning district per Section 3.4.1. The applicants propose to convert the existing structure into a single dwelling unit and construct an addition consisting of two garage bays and a second dwelling unit. To extend the structure requires a special permit pursuant to Section 7.8.2.C.2 to extend the nonconforming two-family use.
2. The existing FAR for the property is .19. The proposed addition totaling 2,233 square feet increases the FAR to .43, where .41 is the maximum allowed per Section 3.1.9. A special permit to exceed the maximum allowed FAR is required per Section 3.1.9.A.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	10,095 square feet	No change
Frontage	70 feet	75 feet	No change
Setbacks			
• Front	25 feet	42.2 feet	25.2 feet
• Side	7.5 feet	12.6 feet	No change
• Rear	15 feet	16.7 feet	15.2 feet
Building Height	36	30.59 feet	32.14 feet
Max Number of Stories	2.5	2.5	No change
FAR	.41	.19	.43
Max Lot Coverage	30%	11.3%	26%
Min. Open Space	50%	74.2%	62%

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to extend the existing nonconforming two-family use	S.P. per §7.3.3
§3.1.9 §3.1.9.A.2	Request to exceed maximum FAR	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Mark Laredo, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 85 Fuller Terrace

Date: February 14, 2017

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

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

*Topographic Site Plan
Newton, MA
Showing Existing Conditions at
#85 Fuller Terrace
Prepared by: VTP Associates Inc.
Dated: September 27, 2016*

Executive Summary:

This application entails the conversion of the existing 2-family structure into a single family unit and adding a second dwelling unit attached via garages. The site is relatively flat having a high point at elevation of 70-feet near the northeast corner of the lot and gradually slopes down to a low point of approximately 66-feet at back of the existing sidewalk along Fuller Terrace. In accordance of the Utilities Division water & sewer policy; separate water services and new sanitary sewer services are required. The project also needs a stormwater collection and infiltration system in accordance to the DPW policy. Finally, in concert with all the utility work that is required, the applicant will be

required to update the existing damaged driveway apron and sidewalk along the entire frontage of the property, (see photo below) to City standards.



Existing driveway apron



House under renovation

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 8.78 -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 25-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).

Environmental:

1. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer man need to match.
2. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
3. Use City of Newton Details in lieu of the details submitted they are in PDF format on the City's website.
4. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
5. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
6. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be

accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
2. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval. *This note shall be incorporated onto the plans*

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 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 water services, sewer service, and 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, and Utilities Connecting 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, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***

7. 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.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.