



#230-17

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

Setti D. Warren  
Mayor

Barney Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: September 7, 2017  
Land Use Action Date: November 28, 2017  
City Council Action Date: December 4, 2017  
Expiration Date: December 6, 2017

DATE: September 1, 2017

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Neil Cronin, Senior Planner

SUBJECT: **Petition #230-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming side setback at **191 Grant Avenue**, Ward 6, Newton Centre, on land known as SBL 61, 29, 14, containing approximately 6,044 sq. ft. of land in a district zoned Single Residence 2. Ref. §3.1.3, and §7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis 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.



**191 Grant Avenue**

## EXECUTIVE SUMMARY

The property located at 191 Grant Avenue consists of a 6,044 square foot lot in the Single Residence 2 (SR-2) zone in Newton Centre. The lot is improved with a Colonial Revival single-family residence circa 1940. The structure has an existing side setback of 3.3 feet where, 7.5 is the minimum allowed by-right. The petitioner is seeking to construct a second-story addition totaling 120 square feet over an existing sunroom, which will extend the footprint of the second floor into the setback. Therefore, the petitioner is seeking a special permit to further extend the nonconforming side setback.

The Planning Department is not concerned with the proposed addition. The addition will not encroach any farther into the setback than the existing structure and will remain compliant with all other dimensional controls of an old lot in the SR-2 zone.

### 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).

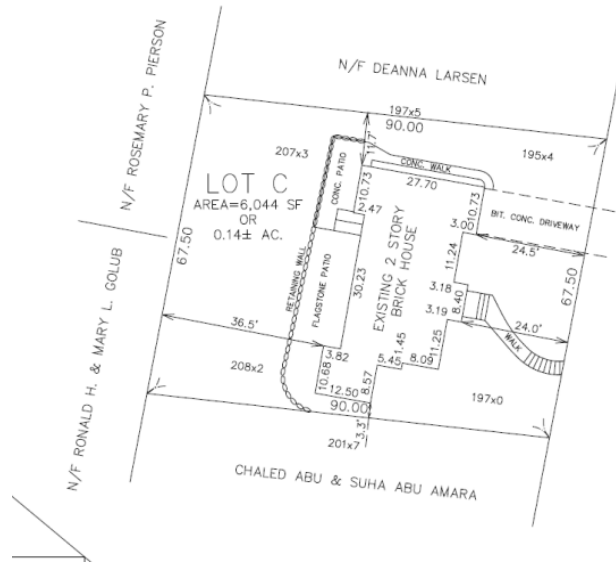
### I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on Grant Avenue in the SR-2 zone in Newton Centre. The immediate area is predominantly residential as the western side of Grant Avenue is located in the SR-2 zone, and the eastern portion is zoned SR-1. However, there are some nonconforming mixed use and commercial parcels in the area **(Attachments A & B)**.

#### B. Site

The site consists of 6,044 square feet of land, and is improved with a single-family residence circa 1940. The site lies on a slope above the right-of-way which increases towards the rear of the lot. There is a ten foot wide curb cut at the northeast corner of the site which provides access to a 24.5 foot long driveway and a one-car garage. Due to the slope of the backyard, there is an approximately 60 foot long, approximately 4 foot tall retaining wall parallel to rear of the structure which accommodates a flagstone patio. Lastly, the structure has an existing nonconforming front setback of 24.5 feet, where 25 feet is the minimum required.



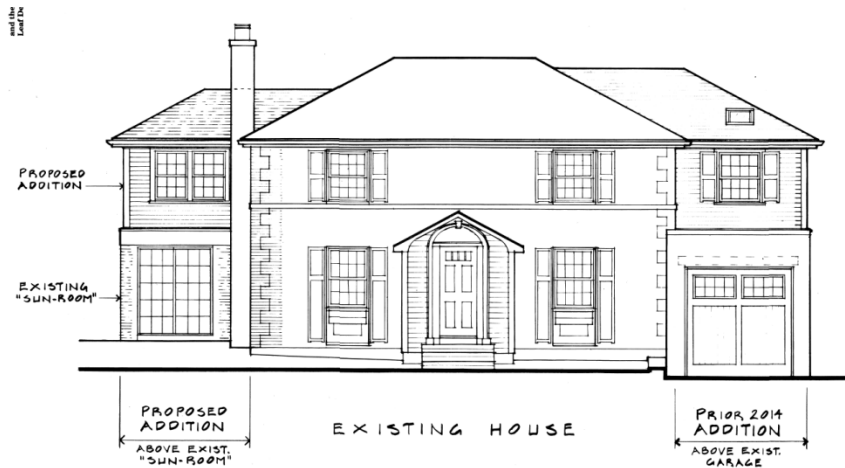
II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioner is proposing to construct a 120 square foot addition to the second floor of the southwestern corner of the structure. The addition will be built over an existing sunroom on the first floor and will increase the size of an existing bedroom. The first floor sunroom has an existing nonconforming setback of 3.3 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.



A similar addition to the northern side of the structure was completed in 2014, which created a master-suite above the one-car garage. This addition will balance out the façade and will be constructed of similar materials. The addition will raise the roofline of this side of the structure, but will remain subordinate to the principal ridgeline. Staff notes the addition will not create habitable space in the attic.

The petitioner is not proposing any other changes to the site or structure. Since the addition will be constructed over the existing sunroom on the first floor, the addition will also meet the existing rear setback of 36.5 feet. Otherwise, the proposed structure and lot will remain in compliance with the dimensional controls for an old lot in the SR-2 zone, except the nonconforming front and side setbacks.

C. Parking and Circulation

Currently, the site has a parking stall in the garage and one surface parking stall in the driveway and there are no proposed changes to the existing configuration.

D. Landscape Screening

A landscape plan is not required with this petition.

III. 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.

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this project be approved.

C. Newton Historical Commission

The petitioners are proposing to alter less than 50% of a side of a historic structure; therefore, this petition does not meet the minimum threshold for Newton Historical Commission review.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.







**ATTACHMENTS:**

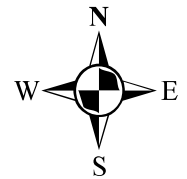
- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Order

# Attachment A Zoning Map Grant Ave., 191

*City of Newton,  
Massachusetts*

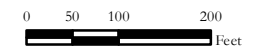
## Legend

-  Single Residence 1
-  Single Residence 2
-  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 - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: August 16, 2017





# Attachment B Land Use Map Grant Ave., 191

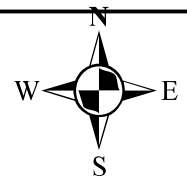
*City of Newton,  
Massachusetts*

## Legend

### Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Nonprofit Organizations
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries



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

0 50 100 200  
Feet

Map Date: August 16, 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: March 22, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Richard Leaf, architect  
David and Lauren Gansler, applicants  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to further extend a nonconforming side setback**

Applicant: David and Lauren Gansler	
Site: 191 Grant Ave	SBL: 61029 0014
Zoning: SR-2	Lot Area: 6,044 square feet
Current use: Single-family dwelling	Proposed use: No change

**BACKGROUND:**

The property at 191 Grant Ave consists of a 6,044 square foot lot improved with a single-family residence constructed in 1940. The applicant proposes a second story addition on the side of the house over an existing sun room within the existing footprint. The structure has an existing nonconforming side setback where the proposed addition is located, requiring a special permit.

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

- Zoning Review Application, prepared by Richard Leaf, architect, submitted 1/25/2017
- FAR Worksheet, submitted 1/25/2017
- Plot Plan, prepared by Applewood Survey LLC, surveyor, dated 5/9/2013
- Architectural Plans, prepared by Richard Leaf, architect, dated 12/22/2016
  - Existing floor plans
  - Proposed floor plans
  - Elevations



**ADMINISTRATIVE DETERMINATIONS:**

1. The existing structure has a nonconforming side setback of 3.3 feet, where 7.5 feet is required per Section 3.1.4. The applicant is proposing a second-story addition over an existing sunroom to increase the size of an existing bedroom. The proposed two-story addition will be setback to 3.6 feet, extending the nonconforming side setback vertically, which requires a special permit per Section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	<b>6,044 square feet</b>	<b>No change</b>
Frontage	80 feet	<b>67.5 feet</b>	<b>No change</b>
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 15 feet	<b>24 feet</b> <b>3.3 feet</b> 36.5 feet	<b>No change</b> <b>No change</b> No change
Building Height	36	19.2 feet	No change
Max Number of Stories	2.5	2.5	No change
FAR	.44	.34	.36

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.4, §7.8.2.C.2	Request to further increase nonconforming side setback	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

September 11, 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 extend a nonconforming side setback to 3.3 feet, where 7.5 feet is the minimum 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 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 the property will remain compliant with all other dimensional controls of an old lot in the Single Residence 2 district (§3.1.3 and §7.8.2.C.2).

PETITION NUMBER: #230-17

PETITIONER: Lauren Solotar

LOCATION: 191 Grant Avenue, on land known as Section 61, Block 29, Lot 14, containing approximately 6,044 square feet of land

OWNER: David Gansler and Lauren Solotar

ADDRESS OF OWNER: 191 Grant Avenue  
Newton, MA 02459

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

ZONING: Single Residence 2 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, prepared by Terrence M. Ryan, Registered Land Surveyor, unsigned and unstamped, dated May 9, 2013
  - b. Architectural Plans, entitled "Gansler Residence Addition", prepared by Leaf Design Associates Inc., unsigned and unstamped, dated December 22, 2016, consisting of the following five (5) sheets:
    - i. Sheet A-1 First Floor Plan
    - ii. Sheet A-2 Second Floor Plan
    - iii. Sheet A-3 Front Elevation
    - iv. Sheet A.4 Side Elevation
    - v. Sheet A.5 Rear Elevation
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.