



#37-17

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

Setti D. Warren
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 28, 2017
Land Use Action Date: June 13, 2017
City Council Action Date: June 19, 2017
Expiration Date: June 26, 2017

DATE: March 24, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Developm
Alexandra Ananth, Chief Planner for Current Plannin
Neil Cronin, Senior Planner

SUBJECT: **Petition #37-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further decrease a nonconforming front setback and further increase the nonconforming floor area ratio **at 8 Hazelwood Avenue**, Ward 3, West Newton, on land known as SBL 44, 03, 30 containing approximately 4,750 sq. ft. of land in a district zoned Single Residence 3. Ref. §3.1.9, §3.1.4, 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.



8 Hazelwood Road

EXECUTIVE SUMMARY

The property at 8 Hazelwood Avenue consists of a 4,750 square foot lot in the Single Residence 3 (SR-3) zone in West Newton. The lot is improved with a two-story altered “End-gable, Cape-style” single-family residence circa 1927. The structure has a nonconforming front setback of 16.5 feet, where 21.8 feet is the minimum required via averaging, and the structure’s floor area ratio (FAR) is nonconforming at .54, where .50 is the maximum allowed. However, the structure’s true front setback is approximately seven feet which is the distance from the edge of the stairs to the front property line. The stairs were permitted in June of 2014, but the permit was issued in error as the size of the stairs is greater than what is allowed for stairs located in a setback per the Newton Zoning Ordinance; therefore a special permit is required to legalize the setback of the stairs or the stairs need to be reduced in size.

The petitioners seek to demolish the existing structure down to the foundation and construct a 2.5 story structure, largely on the same footprint. The proposed design will extend the entryway eastward along the front of the structure to create a covered porch entry which will further reduce the nonconforming front setback of the dwelling from 16.5 feet to 16.1 feet. If the setback of seven feet is legalized via special permit, the redesigned entry-way does not require relief regarding the setback, but will still count towards FAR. In addition, the design will add approximately 347 square feet of gross floor area which will further increase the nonconforming FAR from .54 to .61. As a result, the petitioners are seeking special permits to legalize the existing nonconforming front setback of seven feet and further increase the nonconforming FAR.

The Planning Department notes the subject property is approximately 1,623 square feet smaller than the median lot size of the 50 properties within 300 feet. The petition will not significantly enlarge the existing footprint of the structure while preserving the setbacks at the rear and sides of the structure which are in excess of new lot setbacks. The design translates to a 14% increase of square footage built on site. Lastly, the structure and lot will remain complaint with all dimensional controls of an old lot in the SR-3 zone.

SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed 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 increase of the nonconforming FAR will be substantially more detrimental than the existing nonconforming rear setback is to the neighborhood (§3.1.9 and §7.8.2.C.2).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Hazelwood Avenue in the SR-3 zone in West Newton. The neighborhood is thickly settled with single-family structures as well as nonconforming multi-family uses (**Attachments A & B**). Staff notes detached accessory structures are common in this neighborhood which add to the density of the area.

B. Site

The site consists of 4,750 square feet of land, and is improved with a single-family residence circa 1927. The site is predominantly flat with the eastern and southern boundaries enclosed by vinyl fencing; staff notes the fence at the eastern boundary is the neighbor's. There is an existing approximately one-foot tall retaining wall at the front of the structure which does not require relief. At the northwest corner of the site, there is an approximately 18 foot wide curb cut providing access to the driveway and parking area as there is no garage on site. Lastly, there is an existing shed at the southeast corner of the site which sits directly on the shared property line with the neighbor at 175 Parmenter Avenue. Due to its size, the shed does not count towards the FAR calculation, but counts towards the lot coverage calculation. Per the Newton Zoning Ordinance, the shed must be at least five feet from the property line and should be relocated out of the setback. Additionally, staff notes the shed was included in the lot coverage calculation and the structures do not combine to exceed the 30% lot coverage threshold.

II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building Design

The petitioners are proposing to demolish the existing structure down to the foundation and construct a 2.5 story "end-gable" dwelling largely on the existing footprint. At the front of the structure, the petitioners propose to construct a covered porch which will extend the footprint of the existing entryway approximately 19 feet easterly along the front of the structure. This extension will decrease the front setback on this side of the structure from 16.5 feet to 16.1 feet. At the rear of the structure, the petitioners propose to "fill-in" the existing covered porch to create more living area.

The stairs shown in the below front elevations are greater than what is allowed for stairs in a setback, which results in the stairs being classified as an “architectural feature” which count towards the setback; akin to a deck. Therefore, the front setback is seven feet (scaled). The stairs were permitted in June of 2014, but the building permit was issued in error. As a result, the petitioners require a special permit to rectify the error. Staff has reached out to the surveyor of record to confirm the approximate setback of the stairs.

The design of the new structure incorporates “dormered window-boxes” which are on the left and right sides of the structure, but can also be seen from the front and rear facades. These are architectural elements which help prevent the look of a continual wall plane as well as add some visual interest to the facades. Dimensionally, the boxes protrude one foot from the side of the structure and are twelve feet long. Also, the peaks of the boxes extend approximately five feet above the eaves.



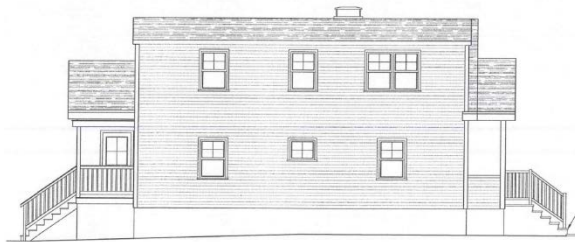
Front Elevation
 SCALE: 1/8"=1'-0"(11"x17")
 1/4"=1'-0"(22"x34")

Existing



Front Elevation
 SCALE: 1/8"=1'-0"(11"x17")
 1/4"=1'-0"(22"x34")

Proposed



Right Elevation
 SCALE: 1/8"=1'-0"(11"x17")
 1/4"=1'-0"(22"x34")

Existing



Right Elevation
 SCALE: 1/8"=1'-0"(11"x17")
 1/4"=1'-0"(22"x34")

Proposed

Structurally, the height of the structure will increase from 22.4 feet to 30.4 feet and will increase the total gross floor area by 347 square feet. Staff notes the addition will create some attic space that is not considerable habitable space per building code.

C. Site Design

The petitioners aren't proposing any major changes to the site design. The Planning Department notes the foundation walls have a height of 4 feet or greater from the average grade which results in 50% of the mass below first story (basement) to be included in the FAR calculation. The Planning Department notes the design preserves the existing setbacks which are in excess of new lot setbacks, as the structure is to be constructed on the existing footprint. Other than the FAR and front setback, the structure and lot are in compliance with the dimensional regulations of an old lot in the SR-3 zone.



D. Parking and Circulation

There are no proposed changes to the parking or circulation.

E. Landscape Screening

A landscape plan was not required with this petition, but the Planning Department encourages the petitioner to install some landscaping in the front yard to help minimize the scale of the proposed structure. Staff suggests a landscape plan be submitted prior to the issuance of a building permit, should this project be

approved. The Planning Department notes the subject property's rear yard abuts the rear yard of the neighbor at 181 Parmenter Road who has installed a row of evergreen trees along this shared property line.

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:

- §3.1.4, and §7.8.2.C.2 of Section 30, to further decrease the nonconforming front setback.
- §3.1.9, and §7.8.2.C.2 of Section 30, to further increase the nonconforming FAR.

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 demolish a structure greater than 50 years old which requires review from the Newton Historical Commission (NHC). At the February 10, 2017 meeting of the NHC, the structure was found "Not preferably preserved" and the NHC did not impose a demolition delay.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.






ATTACHMENTS:

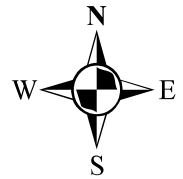
- Attachment A:** Zoning Map
Attachment B: Land Use Map
Attachment C: Zoning Review Memorandum
Attachment D: DRAFT Order

Attachment A Zoning Map Hazelwood Ave., 8

*City of Newton,
Massachusetts*

Legend

-  Single Residence 3
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

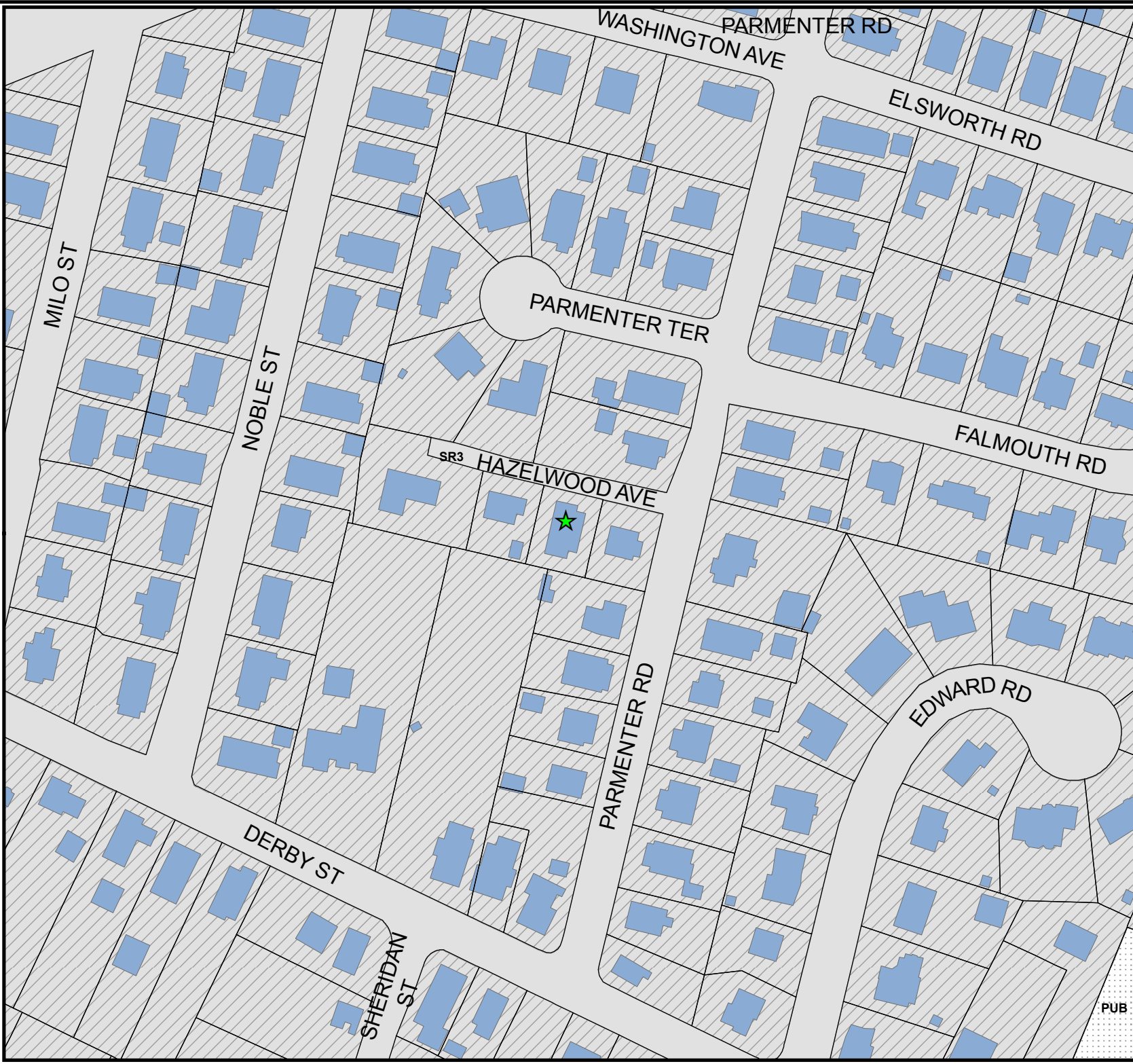


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 50 100
Feet

Map Date: March 06, 2017











Attachment B Land Use Map Hazelwood Ave., 8

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries

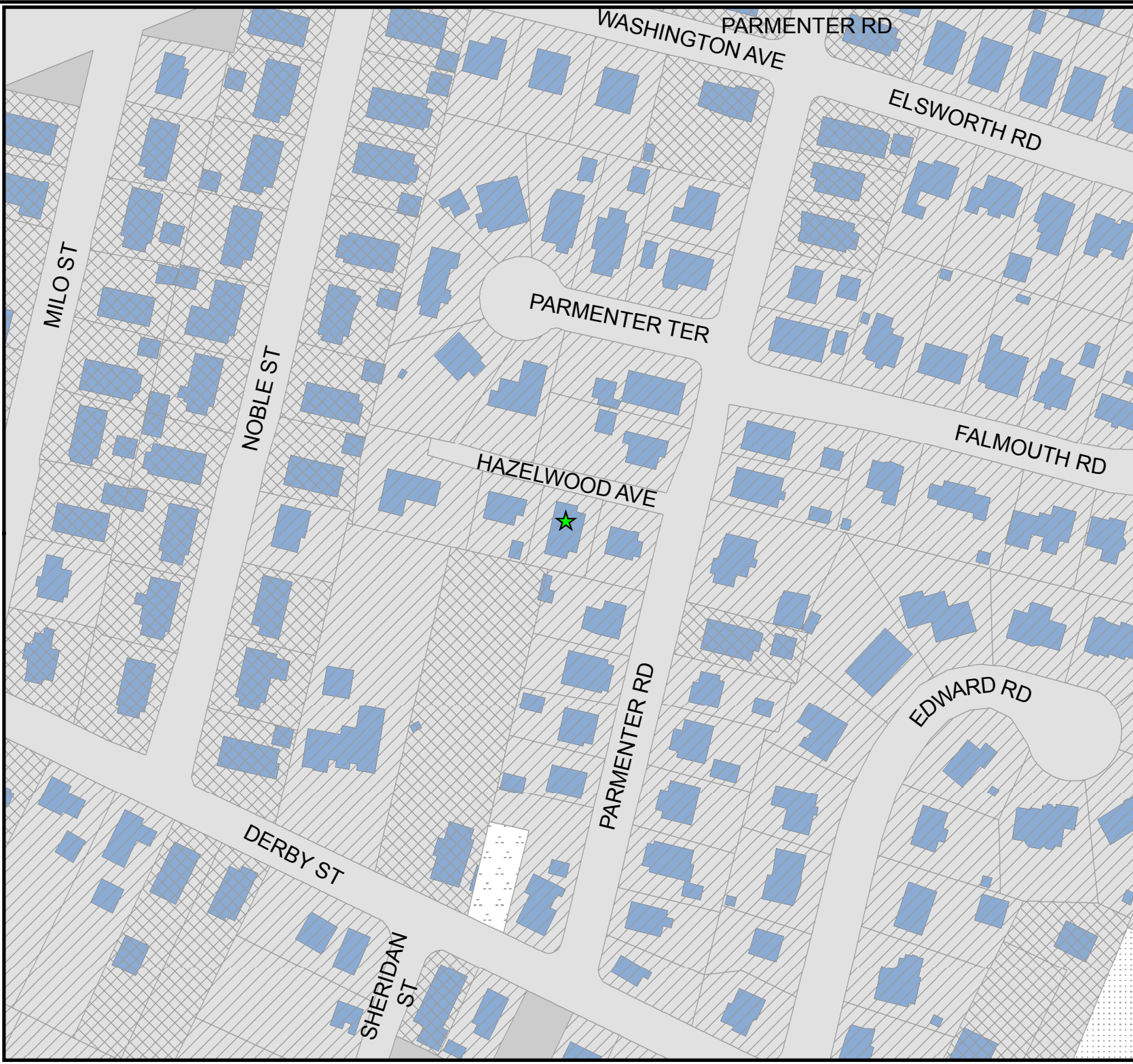


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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0 50 100
Feet

Map Date: March 06, 2017





Setti D. Warren
Mayor

Attachment C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 23, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Josh Bishop, Crossroads Contracting & Co.
Joel and Margherita Robbins, applicant
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: Joel and Margherita Robbins	
Site: 8 Hazelwood Avenue	SBL: 44003 0030
Zoning: SR-3	Lot Area: 4,750 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 8 Hazelwood Avenue consists of a 4,750 square foot lot improved with a single-family residence constructed in 1927. The applicant proposes to raze the existing dwelling to the foundation and reconstruct a new single-family dwelling in a slightly larger footprint. The applicant intends to build a deck in the front, extending an existing nonconforming front setback. The 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 Josh Bishop, contractor, submitted 10/27/2016, revised 3/2017
- FAR Worksheet, submitted 10/27/2016
- Plot Plan, signed and stamped by Richard Mede Jr, surveyor, dated 10/4/2016, revised 3/16/2017
- Floor Plans, submitted 10/27/2016

ADMINISTRATIVE DETERMINATIONS:

1. The applicants’ existing FAR is .54, where .50 (.48 plus .02 bonus for meeting new lot setback for the rear addition) is the maximum allowed. The proposed addition adds 347 square feet to the dwelling, resulting in an FAR of .61. 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 applicant’s existing front setback to the structure is 16.5 feet, where 25 feet is required per Section 3.1.4. A building permit to construct new front stairs extending further into the front setback was issued in 2014 in error, as the stairs provide more than the minimum required by the Building Code and are considered an architectural feature. The stairs are located seven feet (scaled) from the front lot line. The applicant intends to maintain the front setback of the stairs with new stairs accessing the reconstructed dwelling. A special permit is required to legitimize the setback of the stairs, as one should have been required when the stairs were constructed in 2014 as an extension of the existing 16.5 foot setback of the structure. The legitimization of the stairs as the furthest extension of the nonconforming front setback eliminates the need for relief for the vertical extension of the dwelling, as it is set further back from the front lot line.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	4,750 square feet	No change
Frontage	70 feet	59.38 feet	No change
Setbacks			
• Front	25 feet	16.5 feet (structure)	7 feet (stairs)
• Side	7.5 feet	14 feet	No change
• Rear	15 feet	18.1 feet	No change
Max Number of Stories	2.5	2	No change
FAR	.50 (.48+.02)	.54	.61
Max Lot Coverage	30%	27.2%	29.2%
Min. Open Space	50%	53.8%	52.6%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<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 decrease nonconforming front setback	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

April 3, 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 decrease a nonconforming front setback to seven feet, where 21.8 feet is the minimum allowed by right, and further increase the nonconforming floor area ratio from .54 to .61, where .50 is the maximum allowed as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed reduction in the nonconforming front setback is not substantially more detrimental than the existing setback is to the neighborhood because the stairs only serve as ingress and egress of the dwelling (§3.1.4 and §7.8.2.C.2).
2. The proposed increase in the nonconforming floor area ratio is not substantially more detrimental than the existing floor area ratio is to the neighborhood because the addition will only add 347 square feet of habitable space to the dwelling (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #37-17

PETITIONER: Joel and Margherita Robbins

LOCATION: 8 Hazelwood Road, on land known as Section 44, Block 03,
Lot 30, containing approximately 4,750 square feet of land

OWNER: Joel and Margherita Robbins

ADDRESS OF OWNER: 8 Hazelwood Road
Newton, MA 02465

TO BE USED FOR:	Single-Family Dwelling
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.1.4 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 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 Richard J. Meade Jr., Professional Land Surveyor, dated March 16, 2017
 - b. Architectural Plans, entitled "The Robbins Residence at 8 Hazelwood Road, Newton, MA", consisting of five sheets:
 - i. Sheet A1 Proposed Elevations
 - ii. Sheet A2 Proposed Floor Plans
 - iii. Sheet A3 Typical Section & Details
 - iv. Sheet A4 Existing Elevations
 - v. Sheet A5 Height Calculations
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.
 - e. Submitted to the Director of Planning and Development a landscape plan showing plantings in the front yard to reduce the scale of the new structure.

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 including the as built floor area ratio of the structure.
5. Notwithstanding the provisions of Condition #4 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioners shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.