



Setti D. Warren
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov


James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 14, 2015
Land Use Action Date: May 5, 2015
Board of Aldermen Action Date: May 18, 2015
90-Day Expiration Date: June 15, 2015

DATE: April 10, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner 

SUBJECT: **Petition #63-15, TOM TIMKO, COPPER BEECH DESIGN for JAYANT & MANJIRI BHAWALKAR** petition for SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE to allow an increase to a nonconforming three-story single-family dwelling which will increase the Floor Area Ratio from .32 to .52, where .43 is the maximum allowed by right at **15 Holman Street**, Ward 4, Auburndale, on land known as SBL 43, 43, 4A and 5, containing approx. 6,970 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 1, and 30-15(u)(2), of the City of Newton Rev Zoning Ord, 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. 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 Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



15 Holman Road

EXECUTIVE SUMMARY

The property at 15 Holman Road consists of 6,970 square feet of land, improved with a single-family dwelling constructed in 1935. The petitioner was issued a building permit in error in November of 2014 to construct a three-story addition, including an attached two-car garage on the ground floor (the "2014 addition"). The petitioner should have applied for a special permit prior to the issuance of the building permit because the addition extended a nonconforming three-story structure and exceeded the allowable Floor Area Ratio (FAR). The error related to the calculation of the average grade and the amount of square footage being counted in the basement. As such, the current structure is noncompliant. The petitioner is now seeking a special permit to finish the addition, which was mostly constructed before the error was discovered in the zoning review.

The existing structure appears as two stories from the front of the property and three stories from the side and rear due to the significant drop in the grade from the front to the rear of the structure. The site is also unique because the owner owns and uses the small parcel of land across from their house on Bertrand Road, which is separated by a right of way and footpath that is used by the petitioner as a driveway to access the rear of their house. This lot is not included in the 6,970 of lot area noted above because of the separation from the main parcel.

The 2014 addition, with the proposed modifications, results in an FAR of .52, where .32 existed and .43 is allowed, and exceeds the maximum allowable FAR by approximately 615 square feet. Based on data from the Assessors Database the structure will be one of the larger structures in the neighborhood in terms of floor area and will have one of the highest FARs. The 2014 addition is located in the rear of the existing structure and is partially screened along the eastern side and rear property lines by fencing and deciduous trees. However, due to the shape of the surrounding lots and the location of structures on such lots, the entire mass and bulk of the addition is visible from the western property line and Washington Street.

To mitigate the visual impact of the project, the Planning Department recommends that the petitioner remove the deck that is attached to the rear of the structure, and provide fencing and landscaping to the extent possible along the side property lines. The removal of the deck will not reduce the floor area of the structure, but will reduce the length by which the structure is being extended and will allow for a 31-foot setback from the rear property line. The addition of fencing and vegetation would help to soften the view of the addition, particularly from Washington Street, but is challenging due to the existing site layout and vegetation on the site.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed addition is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§30-15(u)(2))
- The proposed addition is not substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§30-21(b))
- The specific site is an appropriate location for the proposed addition. (§30-24(d)(1))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Holman Road at the intersection with Bertrand Road. The land uses in the surrounding neighborhood mostly consist of single-family dwellings (**ATTACHMENT A**). The zoning districts in the surrounding neighborhood consist of Single Residence 1 and Single Residence 3 districts (**ATTACHMENT B**).

B. Site

The site consists of 6,970 square feet of land, improved with a three-story, single-family dwelling constructed in 1935. There is a driveway that wraps around the side of the structure, and a small amount of open space in the rear of the structure. The existing structure includes an addition that was constructed in 2014 under a building permit that was issued in error. The 2014 addition is considered noncompliant since it is within the statute of limitations.

The petitioner also owns a parcel with an address of “Bertrand Road” which is separated from the main property by a footpath and right-of-way designated a “passageway” which is the driveway to the petitioner’s house. The size of the separate lot is 3,081 and consists of play equipment and a parking stall.

There is a significant grade change on the property from the front to the rear of the existing house, such that the house appears as two stories from the front and three stories from the rear and side (**ATTACHMENT C**). Due to the development patterns in the neighborhood and on the abutting property to the west, the west side of the property is fully visible from Washington Street, as there are no other structures obstructing the view of the site. There is deciduous vegetation at the rear of the house and on surrounding properties that provides significant screening during certain months, as well as fencing along the rear property line.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use will remain a single-family dwelling.

B. Building and Site Design

The 2014 addition is located at the rear of the existing structure, and has a footprint of approximately 528 square feet, a total floor area of 1,584, and a 264 square foot deck off of the second story. The 2014 addition, with minor modifications, increases the floor area of the structure from 2,223 square feet (.31) to 3,613 square feet (.52) where 2,998 square feet (.43) is allowed by right. The Planning Department notes that 727 square feet is located in the basement level which is counted as a story due to the grade around the perimeter of the house.

The proposed addition will consist of an attached garage on the ground floor with two cottage style doors, a new family room on the first floor, and a master suite on the second floor. The exterior of the addition and the existing house will have matching clapboard siding. The addition will include bay windows on the west and south facades and a dormer on the east elevation, as well as windows on all facades to be integrated with the style of the existing house. Overall, the Planning Department believes that the petitioner's architect has sufficiently integrated the architecture and materials of the original structure and the 2014 addition.

Based on data from the Assessors Database, the structure will be one of the larger structures in the immediate neighborhood (**ATTACHMENT D**). However, due to the slope on the subject lot and in the surrounding neighborhood, the impact of the bulk and mass is partially mitigated from certain elevations. The additional bulk and mass is mostly screened from the front of the property, and partially screened from the rear and east side by vegetation, fencing and the existing grade. The additional bulk and mass is most visible from the west elevation, which due to the configuration of the abutting property is visible from Washington Street. The view of the western side of the structure from Washington Street is shown below.



To mitigate the additional bulk and mass the Planning Department suggests that the petitioner remove the deck portion of the 2014 addition, and to the extent possible, construct fencing or vegetation along the western side property line. The Planning Department believes that the removal of the deck, while not reducing the floor area, will reduce the apparent length of the addition as a whole and will maintain a 31-foot setback to the rear property line. The construction of a fence or additional vegetation along the western side property line is challenging because the existing driveway already extends slightly over the property line, and there are several trees in the area. If the special permit is approved, the Planning Department recommends a condition in the Board Order that the petitioner will work with the Planning Department to determine the best path for a fence or vegetation.

Finally, the Planning Department believes that it is important to note that the petitioner owns and uses the small plot of land across from their house on Bertrand Road which is separated by a right of way and footpath that is used by the petitioner as a driveway. This second lot is too small to be developable land and therefore could not support an additional housing unit. While this parcel of land is not included in the 6,970 square feet of lot area it functions as part of their site. If the petitioner were to be given credit for this land it would add approximately 1,325 square feet of potential floor area, less the 615 square feet by which they currently exceed the maximum FAR.

C. Landscape Screening

The site is surrounded by large deciduous trees that provide significant screening during portions of the year, as well as fencing along the rear property line. As

discussed earlier, the Planning Department suggests constructing a site obscuring fence or evergreen screening along the western side property line to provide additional screening of the 2014 addition from Washington Street.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**ATTACHMENT E**) provides an analysis of the proposal with regard to zoning. Based on this review, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §30-15(u)(2), §30-15 Table A, to exceed the allowable FAR.
- §30-21(b), §30-15 Table 1, to extend a nonconforming three-story structure.

B. Engineering Review

No engineering review is necessary as the project was already reviewed during the building permit process.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should address the suggestions raised in this memorandum, including the removal of the deck and the construction of site obscuring fencing or evergreen screening along the western property line.

ATTACHMENTS:

| | |
|----------------------|---------------------------------|
| Attachment A: | Land Use Map |
| Attachment B: | Zoning Map |
| Attachment C: | Topographical Map |
| Attachment D: | Neighborhood Comparison and Map |
| Attachment E: | Zoning Review Memorandum |

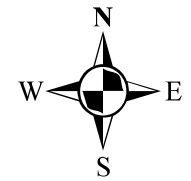
Land Use Map 15 Holman Rd

City of Newton,
Massachusetts

Legend

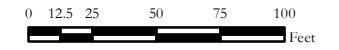
- Single Family Residential
- Multi-Family Residential
- Open Space

ATTACHMENT A

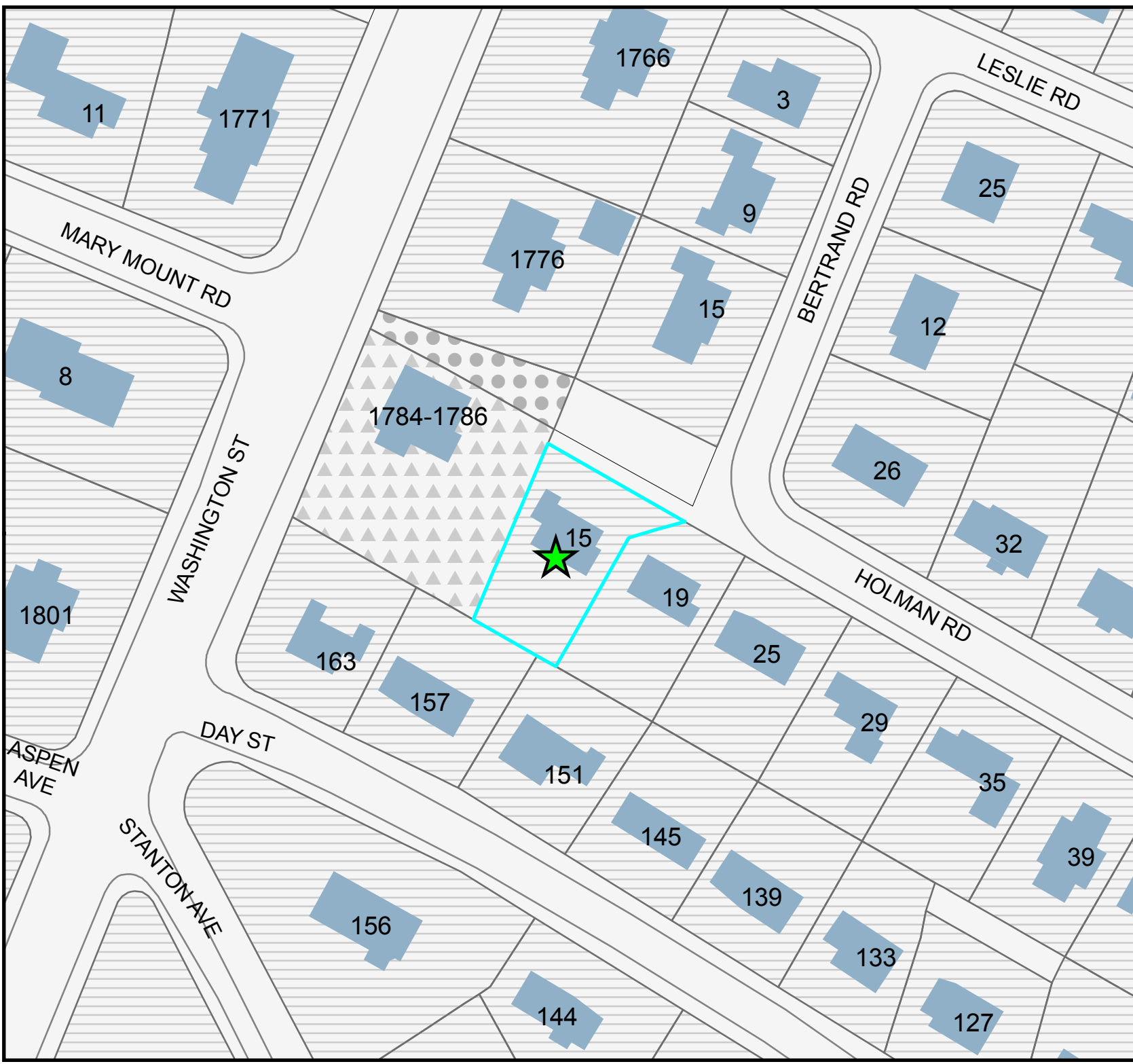


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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





Map Date: April 09, 2015



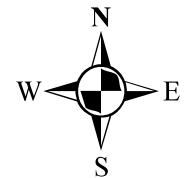
Zoning Map 15 Holman Rd

City of Newton,
Massachusetts

Legend

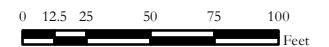
-  Single Residence 1
-  Single Residence 3

ATTACHMENT B

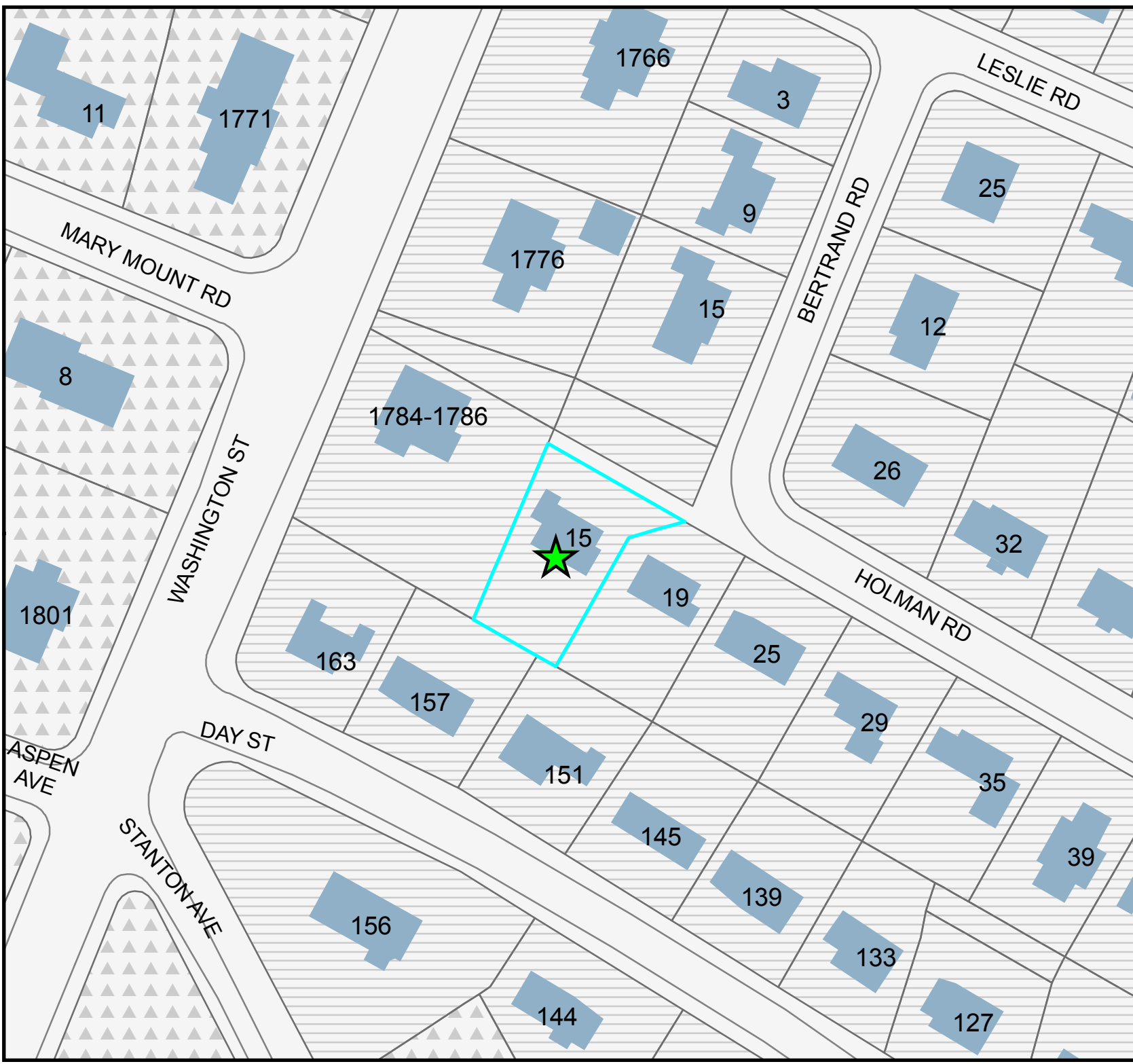


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: April 09, 2015



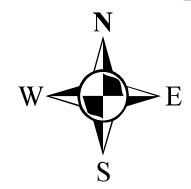
Contour Map 15 Holman Rd

*City of Newton,
Massachusetts*

Legend

- Two Foot Contour
- Index (10 Foot) Contour

ATTACHMENT C

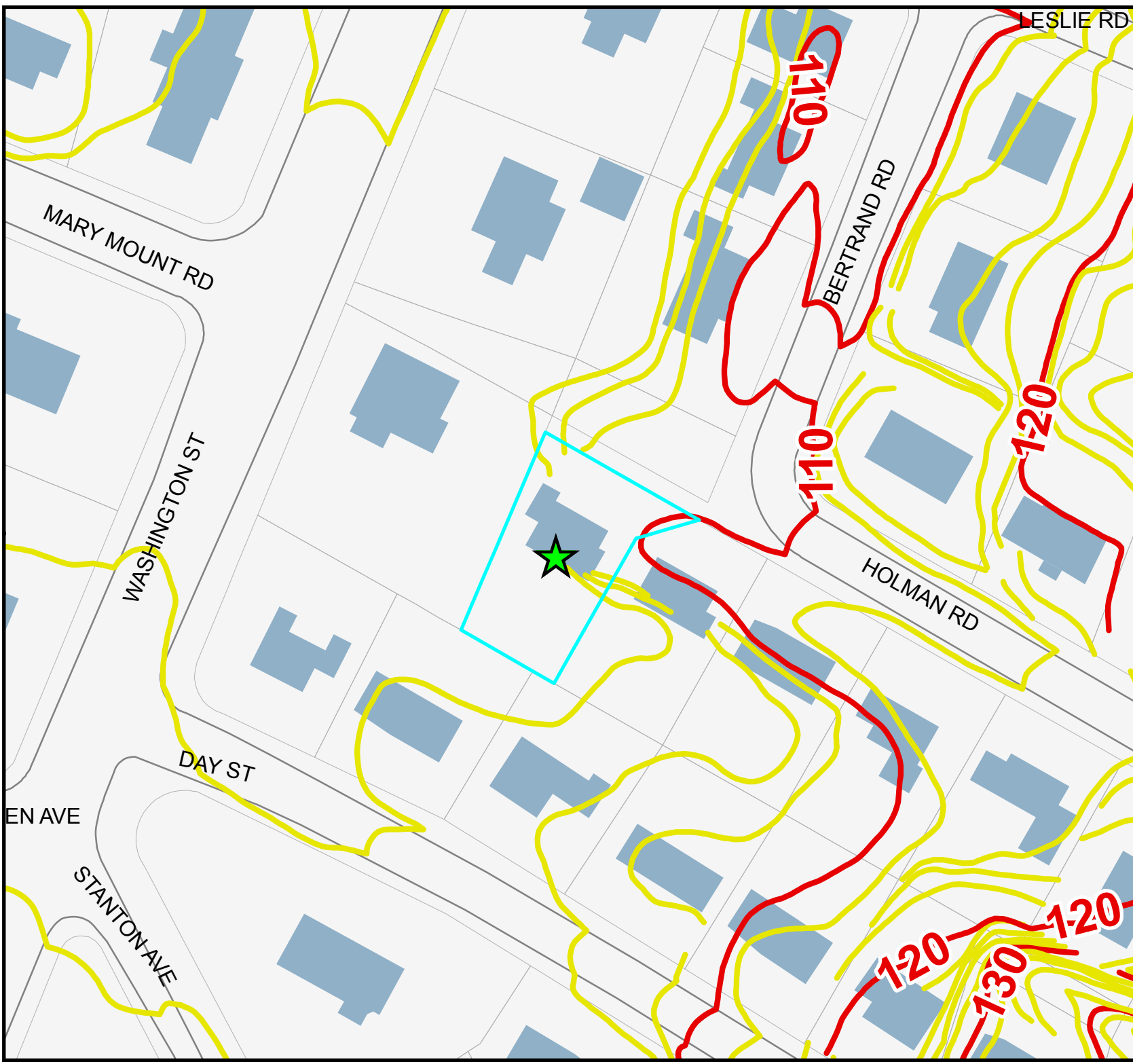


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: April 09, 2015



ATTACHMENT D

NEIGHBORHOOD COMPARISON

| | Lot | Basement | House* |
|-----------------------------|--------------|-----------------|---------------|
| 19 Holman Rd | 6,850 | 748 | 1,650 |
| 25 Holman Rd | 7,700 | 1,240 | 2,584 |
| 26 Holman Rd | 9,063 | 1,096 | 2,032 |
| 15 Holman Rd | 6,970 | 727 | 2,887 |
| 32 Holman Rd | 9,054 | 971 | 1,858 |
| 38 Holman Rd | 9,020 | 1,140 | 2,040 |
| 42 Holman Rd | 9,330 | 1,030 | 2,208 |
| 39 Holman Rd | 7,150 | 1,006 | 2,477 |
| 35 Holman Rd | 7,700 | 1,097 | 1,991 |
| 29 Holman Rd | 7,700 | 1,623 | 3,076 |
| 12 Bertrand Rd | 8,000 | 1,136 | 2,386 |
| 25 Bertrand Rd | 8,782 | 810 | 2,744 |
| 3 Bertrand Rd | 6,282 | 880 | 1,648 |
| 9 Bertrand Rd | 6,300 | 816 | 1,584 |
| 15 Bertrand Road | 9,381 | 1,174 | 2,335 |
| 151 Day St | 6,590 | 588 | 1,885 |
| 157 Day St | 7,021 | 588 | 1,173 |
| 163 Day St | 7,820 | 660 | 1,380 |
| 145 Day St | 6,696 | 588 | 1,446 |
| 139 Day St | 6,890 | 610 | 1,224 |
| 133 Day St | 5,971 | 868 | 1,719 |
| 127 Day St | 7,109 | 837 | 1,142 |
| 1776 Washington St | 12,383 | 1,200 | 2,666 |
| 1784-1786 Washington Street | 14,286 | 1,574 | 3,148 |
| 1766 Washington St | 17,384 | 1,162 | 2,368 |

* Does not include attics

** Properties generally do not have detached garages in this neighborhood





Setti D. Warren
Mayor

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

ATTACHMENT E

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: March 10, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Tom Timko, architect
Mansiri and Jay Bhawalkar, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend a nonconforming three-story dwelling and to exceed FAR

| Applicant: Mansiri and Jay Bhawalkar | |
|---|--|
| Site: 15 Holman Road | SBL: 43043 0005 and 43043 0004A |
| Zoning: SR-3 | Lot Area: 6,970 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 15 Holman Road consists of a 6,970 square foot lot improved with a single-family residence constructed in 1935. The applicants also own a parcel with an address of "Betrand Road", which is separated from the main property by a footpath and right-of-way designated a "passageway", which is the driveway to 15 Holman Rd. The property has a significant downward slope from the street, creating a three-story structure. The applicants were issued a building permit in November 2014 for a rear addition consisting of a two-car garage on the first level, a family room on the second and a bedroom suite on the third level. The building permit was issued in error, as the project was an increase to a nonconforming three-story house (where 2.5 is the maximum allowed), as well as exceeding the maximum FAR. The applicant is proposing modifications to the plans associated with the building permit, which will require legitimizing the existing noncompliant situations, as well as allowing a further increase to the noncompliant FAR.

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

- Zoning Review Application, prepared by Tom Timko, Copper Beech Design, submitted 2/4/2015
- FAR Worksheet, prepared by Tom Timko, Copper Beech Design, submitted 2/4/2015
- Project Information, dated 1/20/2015
- Topographic Site Plan, signed and stamped by Michael P. Clancy, surveyor, dated 2/21/2013
- Architectural Plans, prepared by Tom Timko, Copper Beech Design, submitted 2/4/2015
 - Site and context
 - Proposed lower level
 - Proposed first floor
 - Proposed second floor
 - Proposed right elevation
 - Proposed rear elevation
 - Proposed left elevation

ADMINISTRATIVE DETERMINATIONS:

1. There is a significant downward slope from the street to the rear of the property, rendering the dwelling three stories. Section 30-15 Table 1 allows a maximum of 2.5 stories by right. A building permit was issued for a three-story rear addition, which extends the nonconforming number of stories. A special permit is required for the addition, pursuant to Section 30-21(b).

2. Because most of the basement level has a height equal to or greater than four feet from the existing or proposed grade, 50% of the floor area for the level is counted toward FAR. The original calculation for the building permit was incorrect and included only 298 square feet, where 709 should have been included. The maximum allowable FAR for the property is .43. The existing house’s FAR, without the addition, is .32. The addition creates an FAR of .51, and the additions proposed by this application increase the FAR to .52. A special permit is required to exceed FAR per Section 30-15(u).

| SR3 Zone | Required | Existing | Proposed |
|-----------------------|-------------------|--------------------------|------------------|
| Lot Size | 7,000 square feet | 6,970 square feet | No change |
| Frontage | 80 feet | 91 feet | No change |
| Setbacks | | | |
| • Front | 25 feet | 25.4 feet | No change |
| • Side | 7.5 feet | 8.0 feet | 8.8 feet |
| • Rear | 15 feet | 54 feet | 18.7 feet |
| Building Height | 36 | 35 feet | No change |
| Max Number of Stories | 2.5 | 3 | No change |
| FAR | .43 | .32 | .52 |
| Max Lot Coverage | 30% | 15.9% | 26.9% |
| Min. Open Space | 50% | 55.6% | 53.4% |

1. See "Zoning Relief Summary" below:

| Zoning Relief Required | | |
|-------------------------------|--|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| 30-15, Table 1, §30-21(b) | To allow an increase to a nonconforming three-story single-family dwelling | S.P. per §30-24 |
| §30-15(u)(2) | To exceed FAR | S.P. per §30-24 |