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Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 11, 2014
Land Use Action Date: February 25, 2014
Board of Aldermen Action Date: March 3, 2014
90-Day Expiration Date: May 5, 2014

DATE: February 7, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #330-13(3)**, Donny and Raquel Santangelo for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE in order connect an existing two-family dwelling to an existing detached garage with living space above, which will increase the Floor Area Ratio from .47 to .62, where .48 is the maximum allowed by right, at **3-5 Milton Avenue**, West Newton, Ward 4, on land known as SBL 44, 14, 70, 71, containing approx. 6,962 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-21(a)(2)a) and (b), 30-15 Table A, and 30-15(u), 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.



3-5 Milton Avenue

EXECUTIVE SUMMARY

The property at 3-5 Milton Avenue consists of a 6,962 square foot corner lot improved with a two-family two-story residence and a detached garage constructed in approximately 1919. The use as a two-family dwelling is a legally nonconforming use in a single-family zoning district. The petitioner is proposing to construct a one-story addition connecting the existing residential structure to the garage, and to add a second story above the garage to be used for living space. The proposed addition will increase the total square footage of the residential structure by approximately 976 square feet, and increase the height of the garage to approximately 30 feet. The one-story addition, connecting the existing dwelling to the garage will expand the existing kitchen and living room, and the second-story addition above the garage will include two bedrooms and two bathrooms. The existing house has a floor area ratio (FAR) of .47 where .48 is the maximum allowed. The petitioner is requesting a special permit to extend a nonconforming use and to increase the FAR to .62.

The site is located on the corner of Milton Avenue, which is a dead end street, and Lexington Avenue. In terms of landscape screening, there is a large evergreen tree on the Lexington Street side of the property, and deciduous trees on the abutting property to the south. As such, the additional mass will be partially screened during portions of the year, and only minimally screened during the winter months. The Planning Department does not believe that additional landscape screening is required for the proposed project, and is not aware of any such requests from property abutters. The Planning Department also notes that the proposed addition will be constructed over existing impervious surfaces and that no green space or vegetation is being removed.

There are a variety of land uses in the surrounding neighborhood, which makes it difficult to identify consistency in the scale and design of existing structures. As a secondary means to analyze the proposed mass, the Planning Department calculated the FARs for properties on Milton Ave by using the Assessor's database. The results indicate that the proposed FAR was consistent with most of the other properties on the street. For these reasons, the Planning Department believes that the proposed addition is not in derogation of the size, scale and design of other structures in the neighborhood. The Planning Department also believes that increasing the nonconforming use by adding two new bedrooms and expanding the kitchen area will not be substantially more detrimental to the neighborhood than the existing use. Finally, the Planning Department notes that The *Newton Comprehensive Plan* adopted in 2007, encourages residential property owners to consider modest additions to older homes in order to preserve the existing structure, while allowing them to meet the needs of today's families.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed structure with regard to FAR is consistent with and not in derogation of size, scale and design of other structures in the neighborhood. ((§30-15(u)(2))
- The extension of the structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood. (§30-21(b))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located at the corner of Milton Avenue and Lexington Street in West Newton. Milton Avenue is a short dead end street and Lexington Street is a connector road between Commonwealth Avenue and Moody Street. There are seven other properties on Milton Avenue, including six two-family dwellings and one single-family dwelling. The site is within a block of the City's boundary with Waltham.

The land uses in the neighborhood are a mix of single- and two-family residences, multi-family residences, retail and service types of businesses, public space, and an office park, as shown in the attached Land Use map (**ATTACHMENT C**). The subject property and the properties east of Lexington Street are zoned as Single-Residence 3 and include a mix of single- and two-family residence land uses. To the west of Lexington Street, there is a mixture of residential and business zoning districts, which include a mix of residential and commercial land uses, as shown in the attached Zoning Map (**ATTACHMENT B**).

B. Site

The site consists of 6,962 square feet of land and is improved with a two-family two-story residence with a detached garage constructed in approximately 1919. The two dwelling units are configured such that #3 Milton Avenue is on the first floor of the structure and #5 Milton Avenue is on the second floor. There is a paved driveway along the eastern property line, a play area in the rear, a paved area between the main residence and the garage, and open space between the garage and the sidewalk. There are two curb cuts on the site, one to access the garage, and one to access the driveway on the east side of the property. The site slopes down from the east to the west, with a grade change of approximately seven feet between the property lines.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a two-family residence.

B. Building and Site Design

The petitioner is proposing to construct a one-story addition connecting the existing residential structure to the detached garage, and to construct a second-story addition above the garage. There will be an interior set of stairs in the one-story addition leading to the second-story addition on the garage. The interior stairs are facilitated by a grade change between the first floor of the one-story addition and the first floor of the garage, and by exposed rafters/vaulted ceiling in the one-story addition.

The proposed additions will expand the existing kitchen and living area and create two new bedrooms and bathrooms for #3 Milton Avenue. The additions will add approximately 976 square feet of living space and will increase the FAR from .47 to .62. The proposed second-story addition to the garage will increase the height of the structure to approximately 30 feet. The proposed additions will have clapboard siding and asphalt shingles on the roof.

While the proposed additions will create one of the largest residential structures in the immediate neighborhood, the Planning Department does not believe that the additions are out of scale or character with the neighborhood, which has a mix of residential and commercial buildings. Furthermore, based on the Assessors database, the proposed FAR of .62 is within the range of FARs of five of the seven abutting residential structures on Milton Avenue (**ATTACHMENT E**).

C. Parking and Circulation

There are no substantial changes to parking or circulation on the site.

D. Landscape Screening

The site has an evergreen tree on the northeastern corner of the site that provides year round screening, and there are deciduous trees on the abutting property to the south that provide seasonal screening. The existing residential structure and detached garage will hide portions of the addition mass from abutters to the east and west (Lexington Street) of the site. The Planning Department does not believe that additional landscape screening is required for the proposed project, and is not aware of any such requests from property abutters.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to exceed the maximum allowed floor area ratio and to extend a nonconforming use.

B. Engineering Review

The Engineering Review Memorandum (**ATTACHMENT D**) indicates that because the petitioner is not increasing the impervious surfaces on the lot no drainage improvements are required. The Memorandum indicates that an Approval Not Required Plan will be required if the special permit is approved, in order to consolidate the two parcels on which the subject buildings are located.

The Memorandum also notes that removing asphalt in the rear of the site would improve open space and that repairing damaged concrete sidewalks in front of the house would be a public benefit and add value to the property.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-15 Table A, 30-15(u), to exceed allowed FAR of .47 with an FAR of .62.
- Section 30-21(), to extend a nonconforming use

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:F

- Attachment A:** Zoning Review Memorandum
Attachment B: Zoning Map
Attachment C: Land Use Map
Attachment D: Engineering Memo
Attachment E: FAR Analysis



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City of Newton, Massachusetts
Department of Planning and Development

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: January 14, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Walter Devine, Attorney representing the applicants
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to exceed FAR and to alter a nonconforming structure**

Applicant: Requel and Donny Santangelo	
Site: 3-5 Milton Ave	SBL: 44014 0071, 44014 0070
Zoning: SR-3	Lot Area: 6,962 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 3-5 Milton Ave consists of a 6,962 square foot lot improved with a two-family residence and detached garage constructed circa 1919. The structure consists of two and one-half stories with a total gross floor area of 2,052 square feet between the two units. The applicant proposes to connect the house to the existing garage and add living space above the garage increasing the floor area ratio above that allowed by right.

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

- Zoning Review Application, prepared by Walter Devine, Attorney, submitted 7/22/13
- Existing Conditions Plan, prepared by VTP Associates, surveyor, dated 12/11/13
- Proposed Conditions Plan, prepared by VTP Associates, surveyor, dated 7/18/13, revised 8/7/13
- Existing and Proposed FAR Calculations, prepared by Walter Devine, Attorney, dated 7/22/13

ADMINISTRATIVE DETERMINATIONS:

1. The proposed additions increase the structure’s FAR from .47, to .62, which exceeds the .48 maximum permitted by the Ordinance per Section 30-15, Table A. To construct the additions as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-15(u)(2).
2. The property is located in a Single Residence 3 district, which does not allow two-family dwellings by right. The existing structure has been permitted and used as a two-family dwelling since 1919. To make the proposed alterations to a nonconforming structure, a special permit is required per sections 30-21(a)(2)(a) and 30-21(b) of the Ordinance.

SR-2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,931 square feet	No change
Frontage	70 feet	162.38 feet	No change
Setbacks for existing structure			
• Front	25 feet	8.6 feet	No change
• Side	7.5 feet	13.7 feet	No change
• Rear	15 feet	12.0 feet/15.3 feet	No change
FAR	.48	.47	.62
Max. Lot Coverage	30%	26.6%	29.8%
Min. Open Space	50%	54.9%	51.1%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table A, §30-15(u),	Exceed Floor Area Ratio (FAR)	S.P. per §30-24
§30-21(a)(2)(a), §30-21(b)	Alteration of a nonconforming structure	S.P. per §30-24

Zoning Map 3-5 Milton Ave

*City of Newton,
Massachusetts*

Legend

- Streets - Pavement Edge
- Building Outlines

Zoning

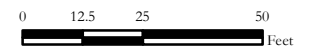
- Single Residence 3
- Public Use

ATTACHMENT B

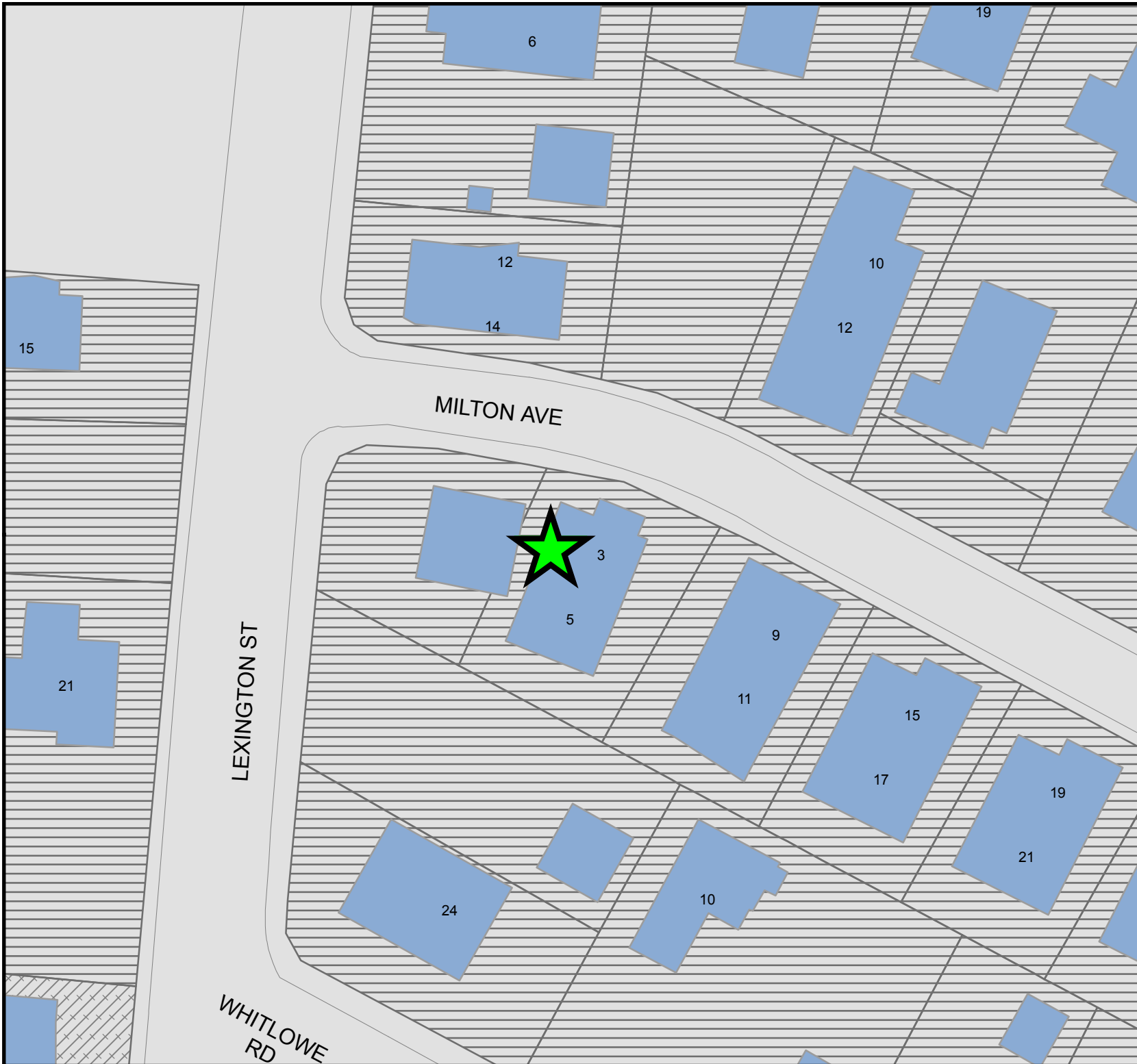


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: October 24, 2013



Land Use Map 3-5 Milton Ave.

*City of Newton,
Massachusetts*

Legend

- Streets - Pavement Edge
- Building Outlines

Land Use

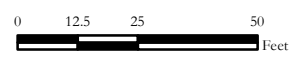
- ▨ Single Family Residential
- ▤ Multi-Family Residential
- ▧ Commercial
- ▩ Vacant Land

ATTACHMENT C



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CITY OF NEWTON, MASSACHUSETTS
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Map Date: October 24, 2013



**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 3-5 Milton Avenue

Date: October 29, 2013

CC: Lou Taverna, PE City Engineer
Linda Finucane, Associate City Clerk
Alexandria Ananth, Chief Planner
Stephen Pantalone, Sr. Planner

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

*Topographic Site Plan
#3 -#5 Milton Avenue
Newton, MA
Prepared by: VTP Associates Inc.
Dated: August 7, 2013*

Executive Summary:

The proposed project entails an addition onto an existing two-family unit and detached garage, which are on two separate lots. If the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot.

Since the new impervious surface of the roof is to cover an existing bituminous concrete driveway no new impervious is being added thus drainage improvements are not required; however, most of the lot is paved with asphalt in the rear of the property it would be a benefit for open space if some of this asphalt could be removed.

As a public benefit and to add value to the property, the damaged concrete sidewalks along the frontage should be repaired to current standards.

General:

1. As of January 1, 2009, 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. The applicant will have to apply for Sidewalk Crossing permit with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
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. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
5. If a Certificate of Occupancy is requested prior to all site work being completed. *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.

FAR ANALYSIS

Address	Floor Area	Lot Size	FAR
12-14 Lexington Ave	1,752	3,390	0.52
10-12 Milton Ave	1,592	4,134	0.39
9-11 Milton Ave	2,360	3,750	0.63
15-17 Milton Ave	2,184	3,750	0.58
19-21 Milton Ave	2,244	3,750	0.60
25-27 Milton Ave	2,835	4,981	0.57
20 Milton Ave	1,292	7,380	0.18
3-5 Milton Ave	4,294	6,962	0.62