



#180-19

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

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

| | |
|---------------------------|--------------------|
| Public Hearing Date: | June 25, 2019 |
| Land Use Action Date: | September 9, 2019 |
| City Council Action Date: | September 16, 2019 |
| 90-Day Expiration Date: | September 23, 2019 |

DATE: June 21, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #180-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a one-story side addition and one-story rear addition, further increasing the non-conforming FAR of .49 where .41 is required and .55 is proposed at 67 Marlboro Street, Ward 1, Newton, on land known as Section 72 Block 20 Lot 07, containing approximately 7,987 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



67 Marlboro Street

EXECUTIVE SUMMARY

The property located at 67 Marlboro Street consists of a 7,987 square foot corner lot in the Single Residence 2 (SR-2) zone in Newton Corner. The lot is improved with a 2.5-story, single-family residence constructed circa 1900 that is an example of Colonial architecture. The petitioners are seeking to construct one story side and rear additions, over space that is currently a deck and covered terrace. The proposed addition adds 474 square feet, increasing the nonconforming floor area ratio (FAR) from .49 to .55, where .41 is allowed, requiring a special permit.

The Planning Department is unconcerned with the request to further increase nonconforming FAR. The proposed addition is replacing an existing covered terrace and existing deck and does not extend beyond the existing structures. The addition meets all setback requirements and is not higher than the existing structure. The addition is consistent with the size and scale of the homes in this neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The proposed increase in the nonconforming FAR from .49 to .55, where .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, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9 and §7.8.2.C.2)

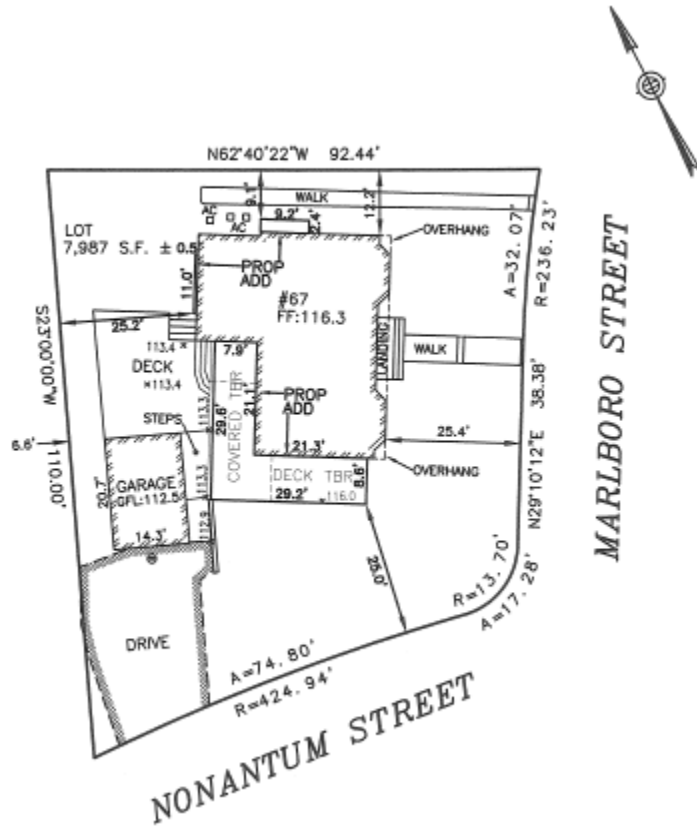
II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located at the corner of Marlboro and Nonantum Streets in the SR-2 zone in Newton Corner. The SR-2 zone encompasses much of the surrounding neighborhood and adjacent properties. There are also multi residence zones at Marlboro and Arlington Streets, north of the site (**Attachment A**). The surrounding land use of the neighborhood is mostly single family residential, however there are multifamily residential uses in the neighborhood on Arlington Street and at 66 Marlboro, across the street (**Attachment B**). Many of the homes on Marlboro and Nonantum streets have one story components to the side of the home, much like the addition proposed.

B. Site

The site consists of 7,987 square feet of land and is improved with 2.5 story Colonial style home. The lot is served by two curb cuts, one on Nonantum Street that leads to a driveway and an attached garage consisting of 296 square feet. The garage is considered attached due to the deck that connects the garage to the house. The second curb cut is on the corner of Marlboro and Nonantum. There is a covered terrace referred to in the plans that is to the rear of the dwelling, and a deck to the side of the dwelling that is uncovered and fronts Nonantum Street. The side deck extends out from the dwelling eight feet seven inches, while the covered terrace to the rear extends out about seven feet and eleven inches. There is mature landscaping that screens some of the deck and covered terrace from Nonantum Street. There is a nonconforming rear setback of 6.6 feet due to prior owners constructing an attached garage and deck in 1981. The required rear setback from the SR-2 zone for single family homes is 15 feet.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioners are seeking to construct a single-story addition to the side and rear of the first story of the house. The proposed addition would be in place of an existing covered terrace and the open-air deck and will not extend past the existing deck or covered terrace. The proposed addition results in an additional 474 square feet of floor area, increasing the nonconforming FAR from .49 to .55. The proposed addition would not alter the rear setback of 6.6 feet. Since the lot is a corner lot, there are two frontages. The setback from Marlboro Street is 25.4 feet while the setback from Nonantum Street is 25 feet. From the average grade plane to the roof of the addition, it is approximately 12.6 feet. The Planning Department is unconcerned with the addition because it is consistent with the size and scale of the neighboring homes. Neighboring homes also have single story components that appear to be mudrooms or sunrooms to the side of the home. The proposed addition does not extend past the existing deck, is essentially enclosing what is existing and keeps the design to one story. The Planning Department is also unconcerned because the project meets all other dimensional requirements.

Front Elevation:



Side Elevation:



C. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

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

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

The structure was found to be historically significant, and the project was approved administratively with final review of construction plans as required.

V. 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 Council Order




ATTACHMENT A

Zoning

67 Marlboro St.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 1
-  Single Residence 2
-  Multi-Residence 1

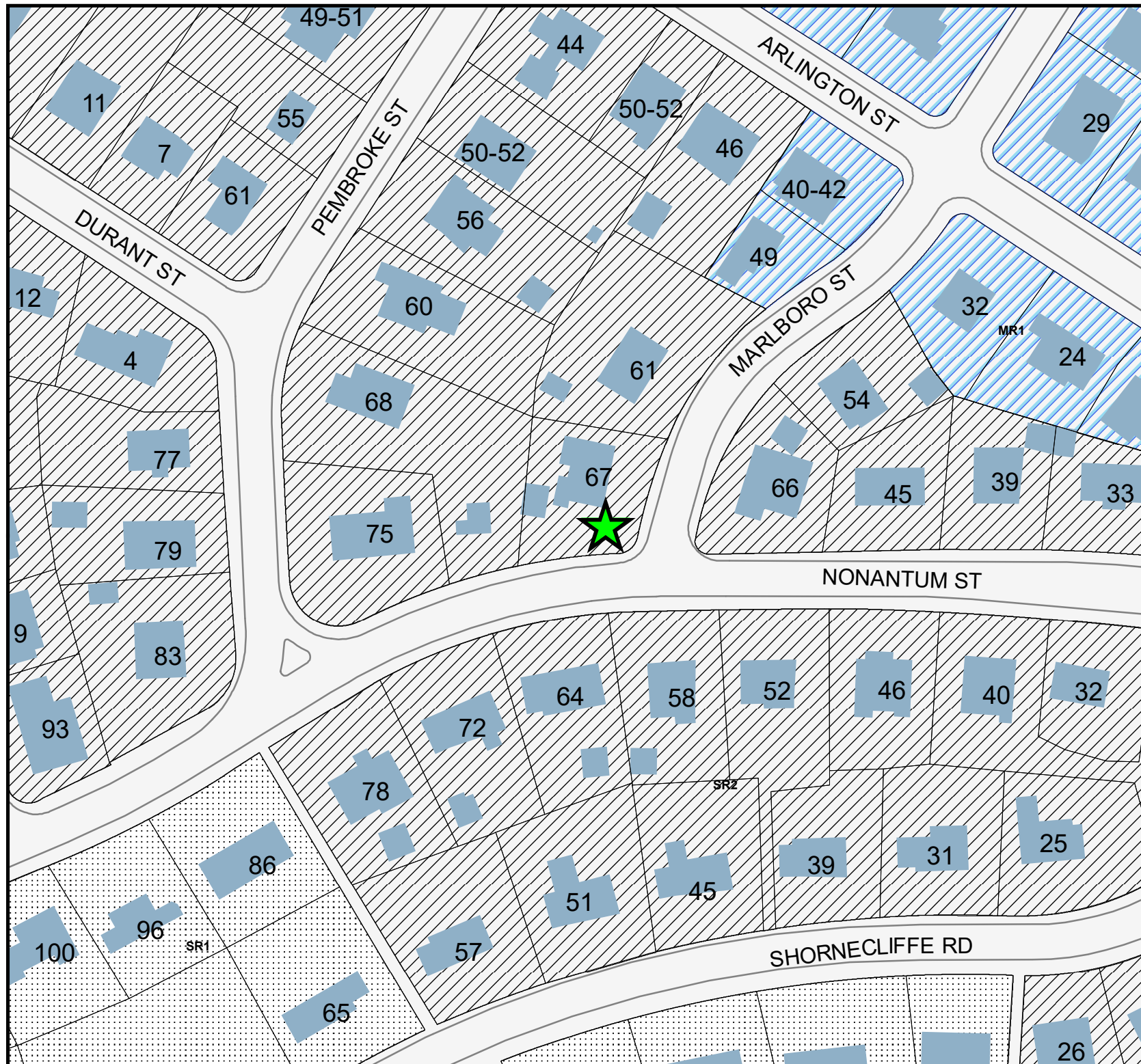


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 14, 2019





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 9, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Deb & Bryan Gilpin, Applicants
Andrew Reck, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Acting City Solicitor

RE: Request to further increase nonconforming FAR

| Applicant: Deb & Bryan Gilpin | |
|-------------------------------------|-----------------------------|
| Site: 67 Marlboro Street | SBL: 72020 0007 |
| Zoning: SR2 | Lot Area: 7,987 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 67 Marlboro Street consists of a 7,987 square foot corner lot improved with a single-family residence constructed in 1900 and a detached garage. The petitioners propose to construct one-story side and rear additions, both over space currently occupied by a deck. The proposed changes 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 by Andrew Reck, architect, submitted 4/25/2019
- FAR Worksheet, submitted 4/25/2019
- Existing Plan of Land, prepared by Everett M. Brooks Co., surveyor, dated 11/9/2017
- Proposed Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 10/11/2018
- Architectural Plans and Elevations, signed and stamped by Andrew J. Reck, architect, dated 3/6/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to construct one-story side and rear additions, adding to the living room and creating a mudroom, both over the footprint of existing deck space. The existing FAR is .49, where .41 is the maximum allowed. The proposed addition adds 474 square feet to the dwelling, resulting in an FAR of .55. 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 property is a corner lot, at the intersection of Marlboro and Nonantum streets. Per section 1.5.3.A, the rear lot line is that which is opposite the front door, which is on Marlboro Street in this case. A building permit was issued in 1981 for construction of a detached garage structure at the rear of the house facing Nonantum Street at 6.6 feet from the rear lot line, where 5 feet is required. While it was not shown on the permit, according to a neighbor, a deck was constructed at the same time which connected the garage to the house. The owners have lived in the house for 11 years and state that the deck existed at the time they purchased the house in 2008. As the deck connects the house to the garage, the garage is now considered attached and must meet the setback requirements of the principal structure, which are 25 feet from Nonantum Street and 15 feet from the rear lot line. The deck and the garage are in violation of the rear lot setback requirement at 6.6 feet, where 15 feet is required. Per MGL Chapter 40A section 7, as the deck and the connection have existed for more than ten years and no action has been taken as to the violation, the structure is considered legally nonconforming. No alteration or extension of the nonconformity is proposed by the requested special permit, and no relief is required.

| SR2 Zone | Required | Existing | Proposed |
|-----------------------|--------------------|--------------------------|------------------|
| Lot Size | 10,000 square feet | 7,987 square feet | No change |
| Frontage | 80 feet | 80 feet | No change |
| Setbacks | | | |
| • Front | 25 feet | 25 feet | No change |
| • Side | 7.5 feet | 9.1 feet | No change |
| • Rear | 15 feet | 6.6 feet | No change |
| Max Number of Stories | 2.5 | 2.5 | No change |
| FAR | .41 | .49 | .55 |
| Max Lot Coverage | 30% | 21.5% | 24.3% |
| Min. Open Space | 50% | 60% | No change |

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 |

CITY OF NEWTON
IN CITY COUNCIL

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 increase the nonconforming Floor Area Ratio (FAR) from .49 to .55, where .41 is the maximum allowed by-right, and to further increase the nonconforming building height, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming FAR from .49 to .55, where .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 because the proposed addition of one story to the side of the home is similar to other structures in the neighborhood. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR from .49 to .55 where .41 is the maximum allowed by-right is not substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the addition meets all other dimensional standards and is not higher than the existing structure. (§3.1.9 and §7.8.2.C.2)

PETITION NUMBER: #180-19

PETITIONER: Bryan and Deb Gilpin

LOCATION: 67 Marlboro Street, on land known as Section 72, Block 20, Lot 07, containing approximately 7,987 square feet of land

OWNER: Bryan and Deb Gilpin

ADDRESS OF OWNER: 67 Marlboro Street
Newton, MA 02458

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.8.2.C.2 to further increase the nonconforming FAR

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. "Plan of Land in Newton, MA 67 Marlboro Street", signed and stamped by Bruce Bradford, Professional Land Surveyor, dated October 11, 2018.
 - b. Architectural Plans and Elevations, signed and stamped by Andrew J. Reck, Registered Architect, dated October 3, 2018, issued March 6, 2019 consisting of twenty-three (23) sheets.
2. Prior to the issuance of any Building Permit, the petitioners 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 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. 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 statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - 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.
 - c. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.
 - d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer

certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.