



City of Newton, Massachusetts
Department of Planning and Development
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Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 9, 2018
Land Use Action Date: December 11, 2018
City Council Action Date: December 17, 2018
90-Day Expiration Date: January 7, 2018

DATE: October 5, 2018

TO: City Council

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

SUBJECT: **Petition #481-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #176-16, and to further increase the floor area ratio to .53 where .52 currently exists at **47 Lewis Street**, Ward 1, Newtonville, on land known as SBL 13, 02, 20 containing approximately 10,315 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: §3.2.11, §3.2.3, §7.8.2.C.2, and §7.4 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 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



47 Lewis Street

EXECUTIVE SUMMARY

The property located at 47 Lewis Street consists of a 10,315 square foot lot improved with a colonial-style two-family residence built in 1925. The property is located in the Multi- Residence 1 zone (MR-1) in Newtonville. The petitioner received a special permit in August of 2016 to further increase the nonconformity of the structure by installing dormers to the third story (**Attachment A**). The dormers were never constructed, and it was discovered that the square footage was miscalculated resulting in an incorrect existing Floor Area Ratio (FAR). The correct calculation indicated the structure is nonconforming with respect to FAR. The proposed dormers further increase the nonconforming FAR, requiring a special permit. Therefore, the petitioners require a special permit to amend Council Order #176-16 to further increase the nonconforming FAR.

The Planning Department is unconcerned with the request to amend the special permit and to increase the nonconforming FAR. Staff believes the dwelling is similarly scaled to other dwellings in the neighborhood. Dormers exist throughout the neighborhood and the increase in square footage is minimal as compared to from the previously approved petition.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in the nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.2.3, §3.2.11, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.2.11 and §3.2.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Lewis Street, in a MR-1 Zone in Newtonville. The neighborhood is comprised of single and multi-family residential uses. A public use district in the form of Cabot Park exists to the west. To the northeast is a single residence 2 zone (**Attachment B**). The area is comprised predominantly of single and multifamily uses (**Attachment C**). The adjacent property on Holland St has a front dormer, as does the next house down. There are dormers on houses throughout the neighborhood that are consistent with the rear dormer already on 47 Lewis.

B. Site

The site is a corner lot with frontages on Lewis and Holland Streets, consisting of 10,315 square feet of land. The lot is improved with a colonial-style single-family residence built in 1938. The site has a slight downward slope from Lewis to the rear of the lot and a moderate downward slope from Holland to the rear of the lot. Due to the slope of the property, the basement is considered the first floor, resulting in a 3.5 story structure, where 2.5 is the maximum allowed. The site has a curb cut from Holland Street providing access to a paved driveway. There is mature landscaping along the perimeter of the lot.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

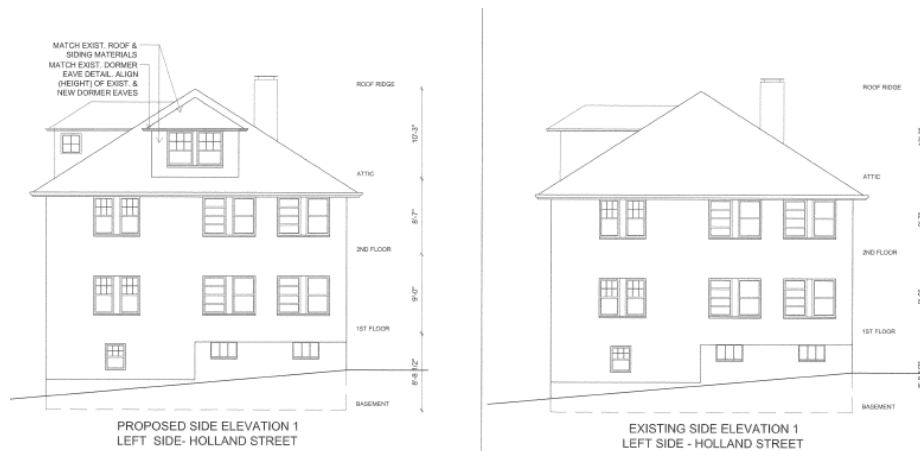
The principal use of the site is and will remain a two-family residence.

B. Building and Site Design

Council Order #176-16 allowed the petitioners to further increase the nonconformity of the structure by installing dormers to the third story; no other changes were proposed to the site or structure. The dormers were never constructed because an error in the FAR calculation indicated the structure was nonconforming with respect to FAR. The dormers will add 145 square feet to the structure, resulting in an increased FAR of .53 where .50 is the maximum allowed by right and .52 is existing.

The Planning Department believes the increase in square footage is minimal compared to the previous petition. Dormers similar to the proposed dormers exist throughout the neighborhood especially on Holland Street and staff believes the dwelling is similarly-scaled to other dwellings in the area. For these reasons, the Planning Department believes the extension of the nonconforming FAR will not be substantially more detrimental than the existing nonconforming structure and will not be in derogation of the size, scale and design of other structures in the neighborhood.

The images on the next page show the proposed dormers on the left side, which mirrors the proposed dormers on the right side of the building. They match the existing dormer on the rear of the building.



C. Parking and Circulation

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

D. Landscape Screening

A landscape plan is not required for this petition.

IV. 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:

- to amend Council Order #176-16
- §3.2.3, §3.2.11, and §7.8.2.C.2, of Section 30, and further increase the floor area ratio.

B. Engineering Review

This petition does not meet the minimum threshold for review from the engineering division.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Council Order #176-16
- Attachment B:** Zoning Map
- Attachment C:** Land Use Map
- Attachment D:** Zoning Review Memorandum
- Attachment E:** DRAFT Order



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Attachment A

#176-16
47 Lewis St.

CITY OF NEWTON
IN CITY COUNCIL

June 20, 2016

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 nonconformity of a structure with 3.5 stories, where 2.5 is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

RECEIVED
Newton, MA
2016 JUN 22 11:08 AM
David A. [unclear]
Newton, MA

1. The proposed addition of dormers which will increase the nonconformity of a structure with 3.5 stories, where 2.5 is the maximum allowed by-right, will not be substantially more detrimental than the existing non-conforming structure is to the surrounding neighborhood (§1.5.4.D, §3.1.3 and §7.8.2.C.2) because:
 - a. The proposed addition will neither add significant square footage, nor alter the foot print of the structure; and
 - b. The structure will still be in compliance with all other dimensional regulations, including setbacks, floor area ratio (FAR), lot coverage, and open space.

PETITION NUMBER: #176-16

PETITIONER: Katherine Grenzeback & Ronan Wolfsdorf

LOCATION: 47 Lewis Street, on land known as Section 13, Block 02, Lot 20, containing approximately 10,315 square feet of land

OWNER: Katherine Grenzeback & Ronan Wolfsdorf

ADDRESS OF OWNER: 47 Lewis Street
Newton, MA 02465

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

MARGINAL REFERENCE REQUESTED
59106 258

A True Copy
Attest
David A. [unclear]
City Clerk of Newton, Mass.

EXPLANATORY NOTES: §1.5.4.D, §1.5.4.E, §1.5.4.F, §3.2.3 and §7.8.2.C.2, to further increase the non-conforming number of stories

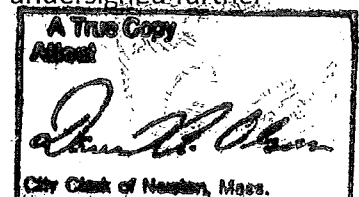
ZONING: Multi-Residence 1 district

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. Plot Plan of Land, signed and stamped by Paul J. Finocchio, surveyor dated October 30, 2013
 - b. Architectural Plans and Elevations, signed and stamped by Ingrid Nunez, Architect, consisting of three (3) sheets A-1, A-2, and A-3 dated June 1, 2015
 - c. Attic Structural Plans, signed and stamped by Ingrid Nunez, Architect, sheet S-1 dated May 27, 2015
2. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. 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 a registered 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.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Councilor Lipof)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on 06/22/16. The undersigned further



certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

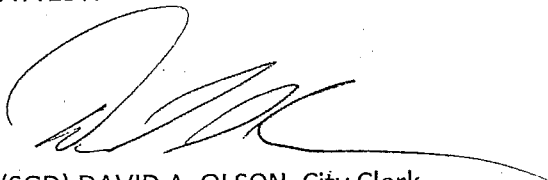
ATTEST:



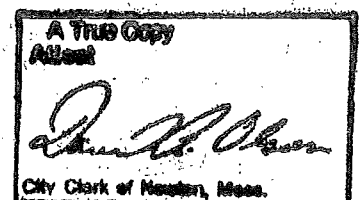
(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 6/22 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council

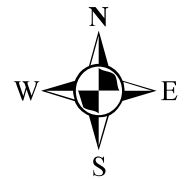


Attachment B Zoning Map 47 Lewis St.

*City of Newton,
Massachusetts*

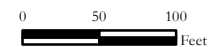
Legend

- Single Residence 2
- Single Residence 3
- Multi-Residence 1
- Public Use
- Building Outlines
- Property Boundaries

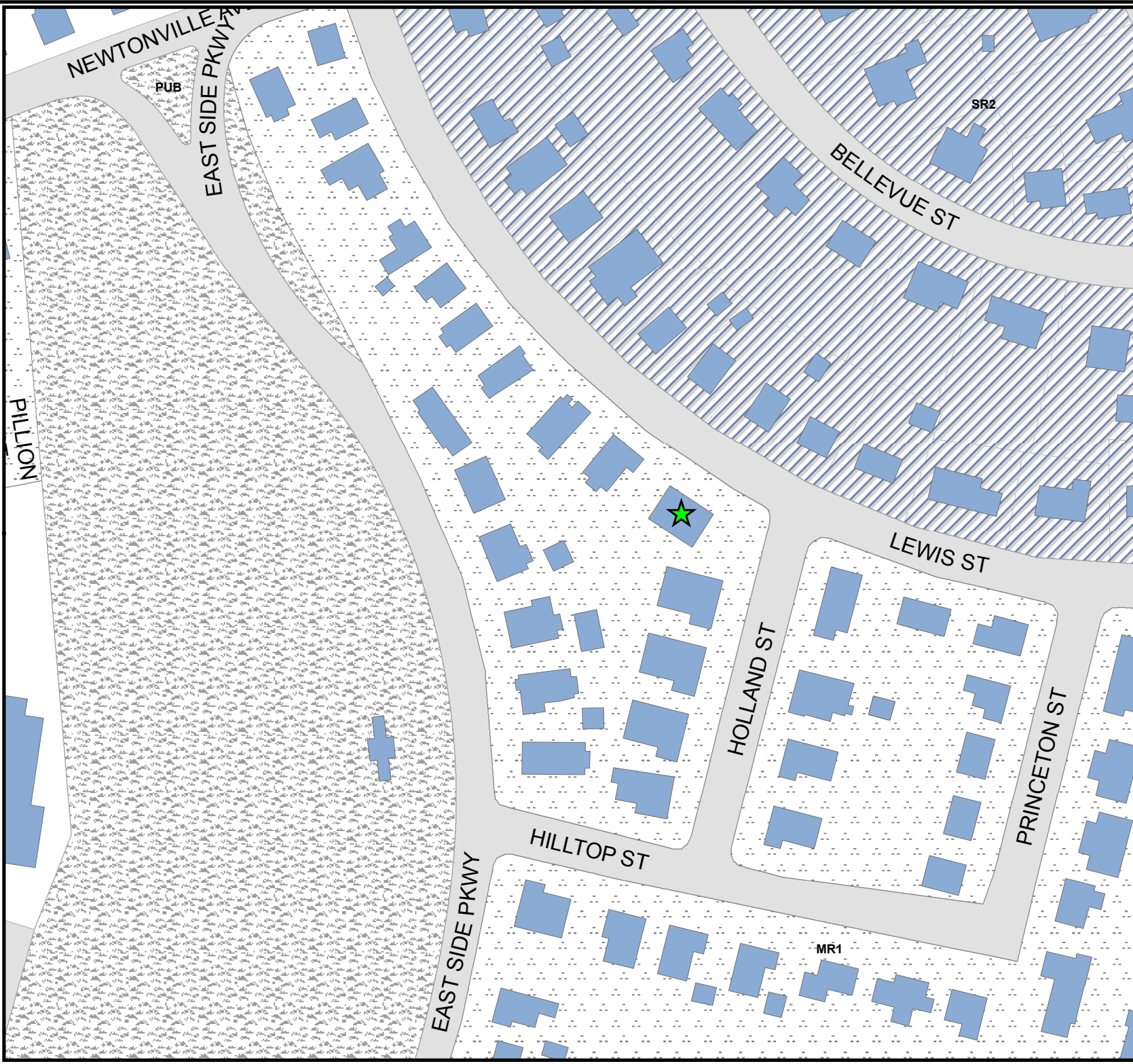


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: October 04, 2018










Attachment C Land-Use Map 47 Lewis St.

*City of Newton,
Massachusetts*

Legend

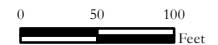
Land Use

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

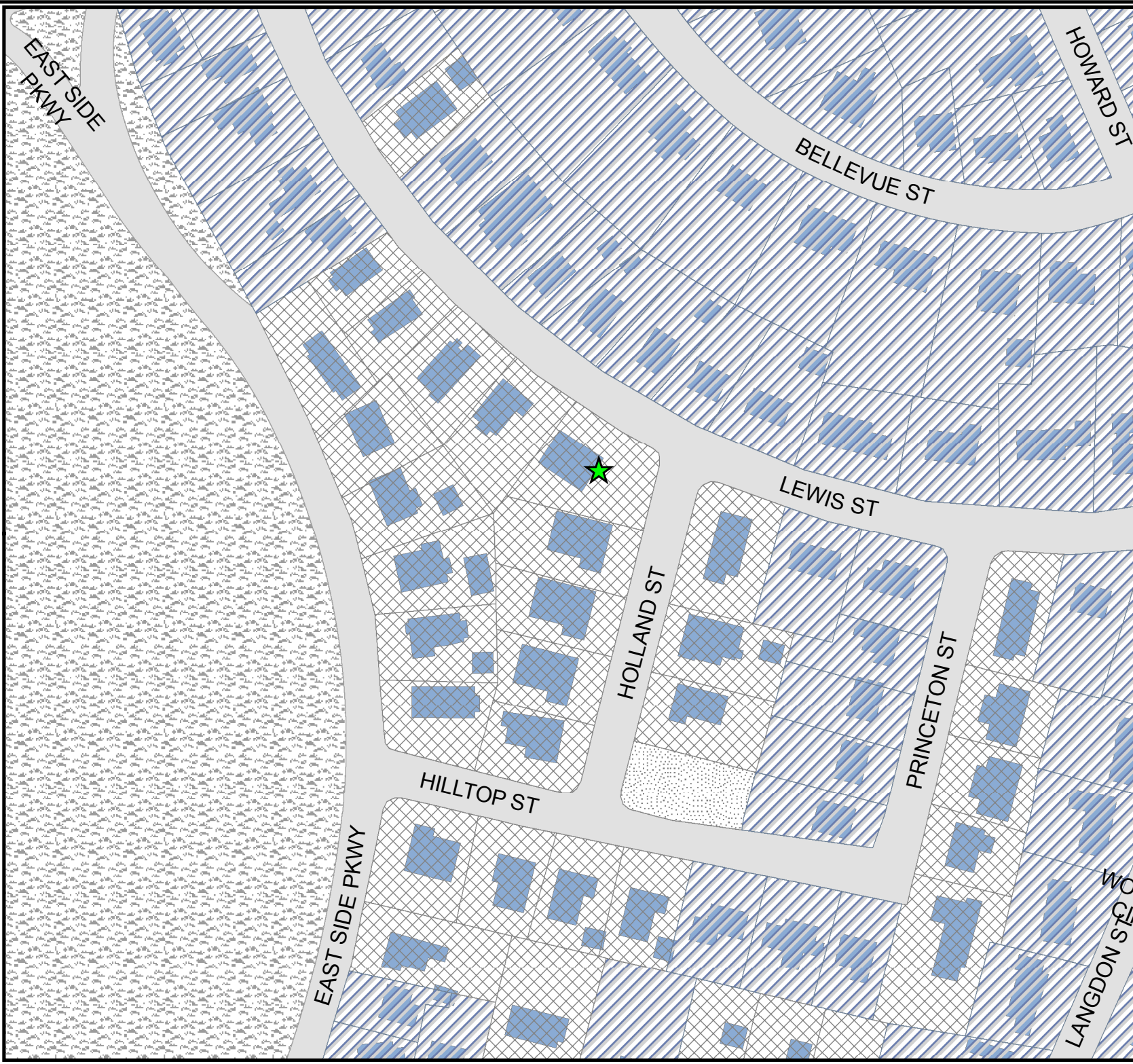


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: October 04, 2018





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 25, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Ronan Wolfsdorf and Katherine Grenzeback, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to amend Special Permit #176-16 and to further extend the nonconforming FAR

Applicant: Ronan Wolfsdorf and Katherine Grenzeback

Site: 47 Lewis Street	SBL: 13002 0020
Zoning: MR1	Lot Area: 10,315 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 47 Lewis Street consists of a 10,315 square foot lot improved with a two-family dwelling constructed in 1925. Due to the average grade of the property, the structure has 3.5 stories, where 2.5 is the maximum allowed. The applicant received a special permit in 2016 to add dormers to the attic level. The square footage of the attic space was miscalculated in the original special permit plans, resulting in a lower FAR than actually exists, and is therefore proposed. Since the granting of the special permit, the plans have been revised and the FAR has been recalculated, requiring an amendment to the existing special permit, and a request to exceed FAR.

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

- Zoning Review Application, prepared by Ronan Wolfsdorf and Katherine Grenzeback, Applicants, dated 6/18/2018
- FAR Worksheet, submitted 7/24/2018
- Special Permit #176-16, dated 6/20/2016
- Plot Plan, signed and stamped by Paul J. Finocchio, surveyor, dated 10/30/2013
- Architectural Plans, prepared by Ingrid Nunez, architect, dated 6/5/2018

ADMINISTRATIVE DETERMINATIONS:

- The petitioners received a special permit in 2016 to allow for the addition of dormers to the attic level, where the average grade plane surrounding the structure creates 3.5 stories. The special permit allowed for the extension of the nonconforming number of stories, where 2.5 is the maximum allowed.
- The petitioners' have an existing nonconforming FAR of .52, where .50 (.48 + .02 bonus) is the maximum allowed per sections 3.2.3 and 3.1.11. The proposed dormer additions add 145 square feet to the dwelling, resulting in an FAR of .53. A special permit pursuant to Sections 3.1.3, 3.1.9 and 7.8.2.C.2 is required to further extend the already nonconforming FAR.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	10,315 square feet	No change
Frontage	70 feet	91 feet	No change
Setbacks			
• Front (Lewis St)	25 feet	32.9 feet	No change
• Front (Holland St)	25 feet	56.2 feet	No change
• Side	7.5 feet	8.0 feet	No change
• Rear	15 feet	17.5 feet	No change
Building Height	36	36.9 feet	No change
Max Number of Stories	2.5	3.5	No change
FAR	.50 (.48 + .02 bonus)	.52	.53

- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3
	Amend Special Permit #176-16	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 amend Council Order #176-16 to further increase the nonconforming FAR, from .52 to .53, where .50 is the maximum allowed by right, 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 is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the increase in square footage is de minimis from the previously approved plan. (§3.2.3, §3.2.11, and §7.8.2.C.2)
2. The proposed increase in nonconforming FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the proposed dormers are in keeping with the character of the neighborhood. (§3.2.11 and §3.2.3)

PETITION NUMBER: #478-18

PETITIONER: Katherine Grenzeback & Ronan Wolfsdorf

LOCATION: 47 Lewis Street, on land known as Section 13, Block 02, Lot 20, containing approximately 10,315 square feet of land

OWNER: Katherine Grenzeback & Ronan Wolfsdorf

ADDRESS OF OWNER: 47 Lewis Street
Newton, MA 02465

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To amend #176-16, which increased the nonconformity of the structure regarding the number of stories; §3.2.3, §3.2.11, and §7.8.2.C.2 to further increase the nonconforming FAR

ZONING: Multi-Residence 1 district

Approved subject to the following conditions:

This special permit #481-18 supersedes, consolidates, and restates provisions of special permit #176-16 to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #481-18 are null and void.

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. Plot Plan of Land, signed and stamped by Paul J. Finocchio, surveyor dated October 30, 2013
 - b. Architectural Plans and Elevations, signed and stamped by Ingrid Nunez, Architect, consisting of six (6) sheets dated June 5, 2018
 - c. Attic Structural Plans, signed and stamped by Ingrid Nunez, Architect, sheet S-1 dated May 27, 2015
2. 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 council 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. 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 a design professional 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 elevations in paper and digital format prepared by a design professional.