



#31-21

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City of Newton, Massachusetts

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 2, 2021
Land Use Action Date: April 6, 2021
City Council Action Date: April 19, 2021
90-Day Expiration Date: May 2, 2021

DATE: January 29, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #31-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to enclose a second story porch, increasing the nonconforming FAR from .92 to .94 where .48 is the maximum allowed by right and extending the nonconforming two-family use at 66-68 Warwick Road, Ward 3, West Newton, on land known as Section 31 Block 27 Lot 35 containing approximately 5,673 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.9, 3.1.9, 3.4.1, 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 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.



66-68 Warwick Road

EXECUTIVE SUMMARY

The subject property located at 66-68 Warwick Road consists of 5,673 square feet of land, improved with a two-family dwelling constructed circa 1880 in the Single Residence 3 zone (“the SR-3”) zone. Two-family dwellings are not allowed within the SR3 zone; as such, the use is legal nonconforming. The site has a sizable existing floor area ratio (“the FAR”) of .92, due to the size of the lot and the existing structure, where the entire basement counts towards the FAR calculation. The petitioner proposes to enclose the second-story porch which increases the nonconforming floor area ratio (“the FAR”) from .92 to .94, where .48 is the maximum allowed by right. The addition to the structure requires special permits to increase the nonconforming FAR and extend the nonconforming two-family use.

The Planning Department is unconcerned with the petition that increases the nonconforming FAR and extends the nonconforming two-family dwelling. The proposed addition is within the footprint of the structure and is only enclosing an existing porch that had permeable screens with windows, which triggers an increase in the FAR. The sizable increase in the nonconforming FAR is also due to the size of the lot at 5,637 square feet and the structure’s entire basement counting towards the FAR. For these reasons, the Planning Department is unconcerned with the petition that increases the nonconforming FAR.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed extension of the nonconforming two-family use will be substantially more detrimental than the existing nonconforming two-family use is to the neighborhood (§3.4.1, §7.8.2.C.2);
- The proposed increase in the nonconforming FAR from .92 to .94 where .48 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

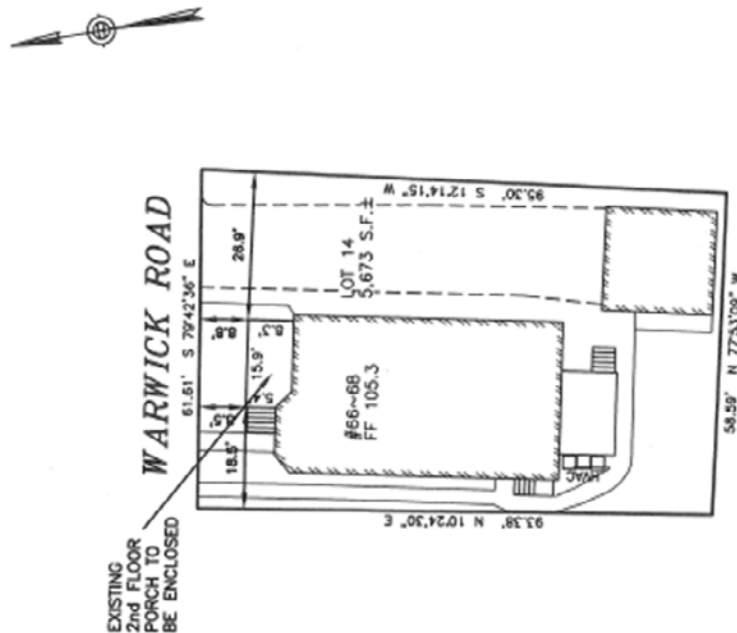
The subject property is located on Warwick Road in the SR-3 zone in West Newton. The surrounding area is entirely within the SR-3 zone (**ATTACHMENT A**). The uses in the area consist of single-family residential, multi-family residential and The Fessenden School, a private educational use abutting the site to the north

(ATTACHMENT B).

B. Site

The site consists of 5,637 square feet of land and is improved with a nonconforming two-family use constructed circa 1880. The site is accessed by one curb cut from Warwick Road which provides access to a detached garage in the southeast corner of the site via a driveway that runs along the eastern property line. Due to the site's lot area, and the size of the nonconforming structure with the entire basement counting towards the FAR, the site's existing FAR is .92.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

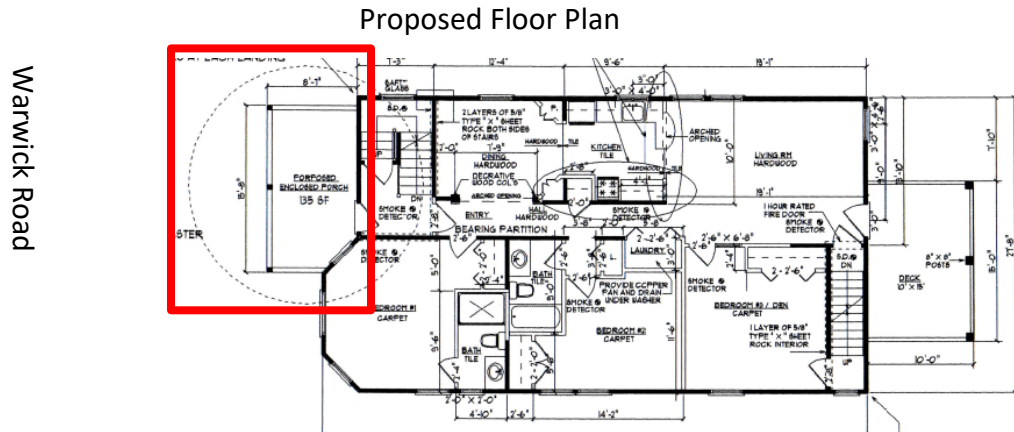
A. Land Use

The use of the site will remain a nonconforming two-family use.

B. Site and Building Design

The petitioner is not proposing any changes to the site. The petitioner is proposing to enclose a second-story porch on the front facade. The enclosure of the screen porch with windows results adds 135 square feet to the structure, increasing the FAR from

.92 to .94, where .48 is the maximum allowed.



The Planning Department is unconcerned with increases to the nonconforming FAR and the extension the nonconforming two-family use. The proposed addition is only adding 135 square feet of floor area within the footprint of the structure.

C. Parking and Circulation

There are no changes to parking or circulation proposed.

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 (**ATTACHMENT C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

- §3.4.1, §7.8.2.C.2 of Section 30, to extend a nonconforming two-family use.
- §3.1.3, §3.1.9 §7.8.2.C.2 of Section 30, to further extend the nonconforming FAR

B. Engineering Review

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

C. Newton Historical Commission

This petition does not meet the minimum threshold for Newton Historical Commission review.

V. PETITIONER'S RESPONSIBILITIES

The petition is complete.

ATTACHMENTS:

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

ATTACHMENT A

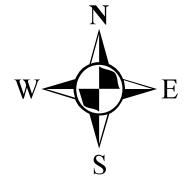
Zoning

66-68 Warwick Road

*City of Newton,
Massachusetts*

Zoning

 Single Residence 3

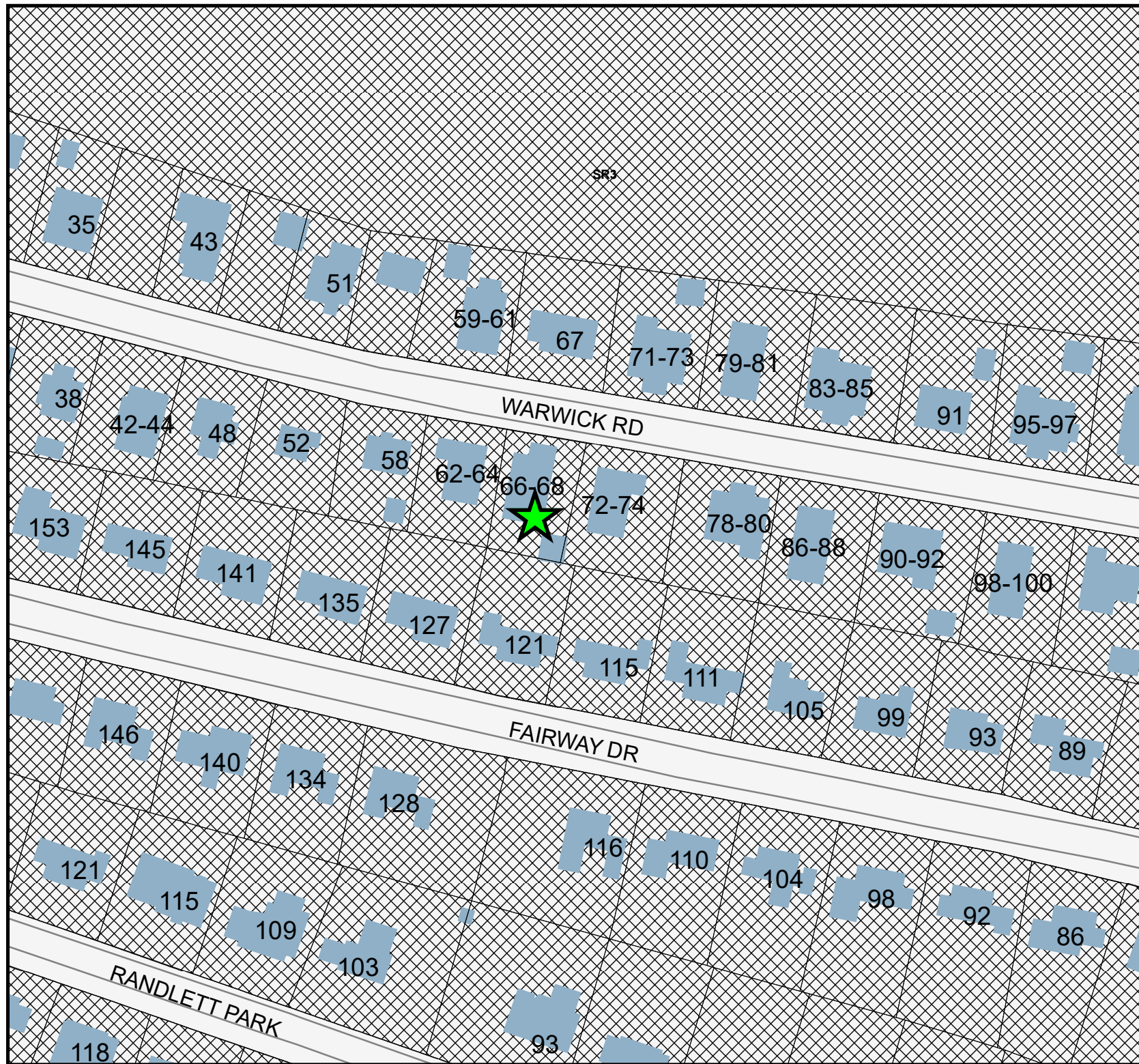


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 125 Feet

Map Date: January 21, 2021



ATTACHMENT B





Land Use

66-68 Warwick Road

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Private Educational
-  Vacant Land

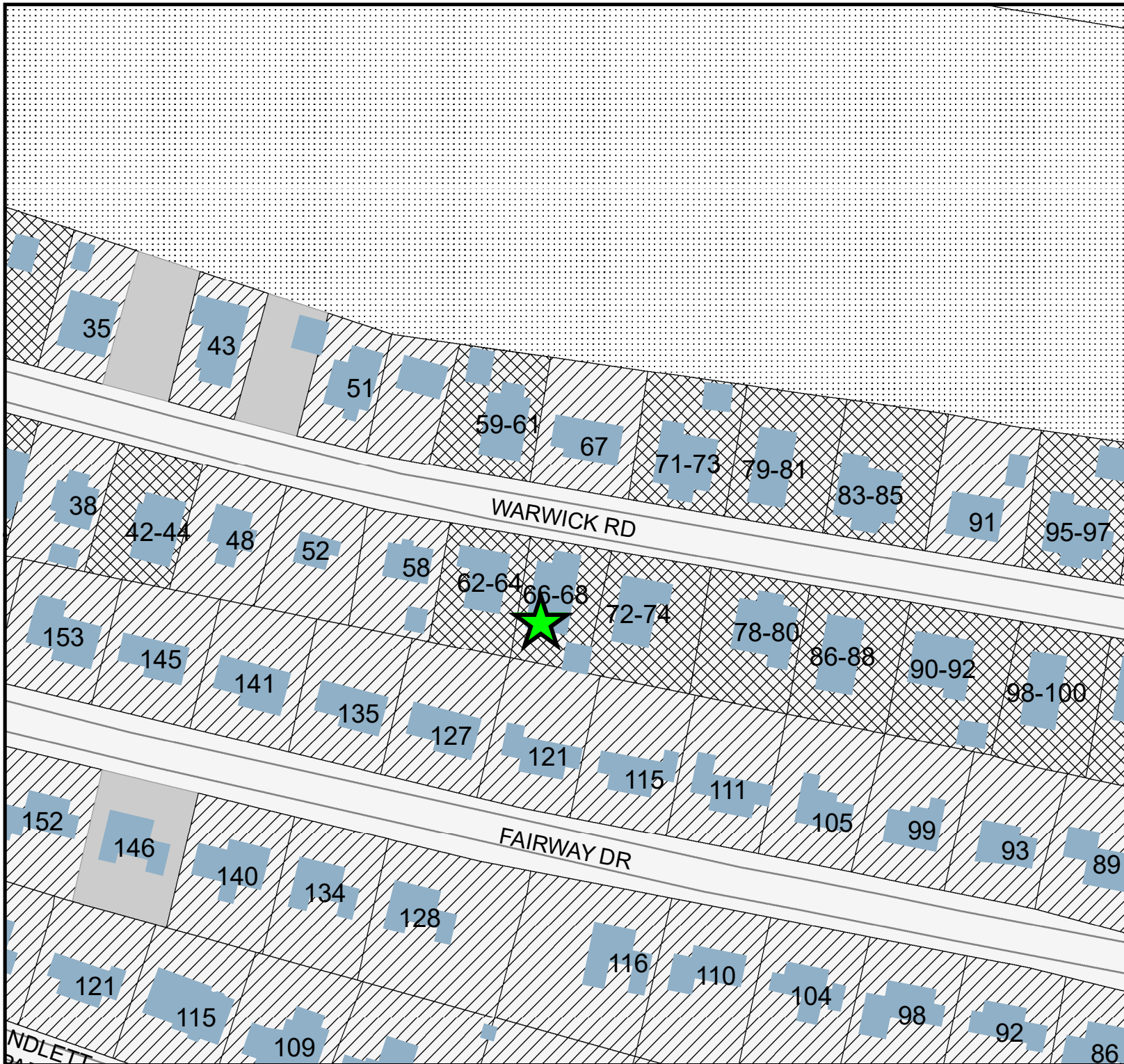


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: January 22, 2021





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 4, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Lena Gagliardi, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to extend a nonconforming two-family use and to further exceed nonconforming FAR

Applicant: Lena Gagliardi	
Site: 66-68 Warwick Road	SBL: 31027 0035
Zoning: SR3	Lot Area: 5,673 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 66-68 Warwick Road consists of a 5,673 square foot lot improved with a two-family dwelling constructed in 1880 in the Single Residence 3 zoning district. The petitioner intends to enclose the second floor screen porch, further extending the nonconforming FAR and extending the nonconforming two-family use.

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

- Zoning Review Application, prepared by Lena Gagliardi, applicant, submitted 11/18/2020
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 4/23/2020
- FAR worksheet, signed and stamped by Charles Calhoun, architect, dated 11/2/2020

ADMINISTRATIVE DETERMINATIONS:

1. The existing two-family dwelling use is nonconforming, as two-family dwellings are prohibited in the Single Residence 3 zoning district per section 3.4.1. The petitioner intends to convert the existing screen porch, altering the nonconforming two-family dwelling use. A special permit is required to alter and extend the nonconforming two-family dwelling use per sections 3.4.1 and 7.8.2.C.2.
2. Per section 1.5.5.B.1.b, unenclosed porches do not count toward FAR. The petitioner intends to enclose an existing second story screen porch with windows. Enclosing the 135 square foot porch increases the FAR from .92 to .94 where .48 is the maximum allowed. A special permit is required to further exceed the maximum FAR per sections 3.1.3, 3.1.9 and 7.8.2.C.2.

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to extend a nonconforming two-family use	S.P. per §7.3.3
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further extend 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 extend the nonconforming two-family use, and to increase the nonconforming floor area ratio (FAR) from .92 to .94, where .48 is the maximum allowed by right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed extension of the nonconforming two-family dwelling will not be substantially more detrimental than the existing nonconforming two-family dwelling is to the neighborhood because the increase of the FAR is within the footprint of the structure (§3.4.1, §7.8.2.C.2);
2. The proposed increase in the nonconforming FAR from .92 to .94 where .48 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 increase of the FAR is within the footprint of the structure (§3.1.9, and §7.8.2.C.2).
3. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the front façade, where the porch is located remains the same visually (§3.1.9, and §7.8.2.C.2).

PETITION NUMBER: #31-21

PETITIONER: Francisco Gagliardi

LOCATION: 66-68 Warwick Road, on land known as Section 31, Block 27, Lot 35, containing approximately 5,673 square feet of land

OWNER: Francisco Gagliardi

ADDRESS OF OWNER: 66-68 Warwick Road
Newton, MA 02465

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.4.1, and §7.8.2.C.2, to further extend the nonconforming two-family use and §3.1.9, §3.1.3 and §7.8.2.C.2 to increase the nonconforming FAR

ZONING: Single Residence 3

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 Bruce Bradford, Professional Land Surveyor, dated April 23, 2020.
 - b. Architectural Floorplans, prepared by C.D. Calhoun, unsigned and unstamped, dated June 22, 2020, revised November 9, 2020 consisting of the following two (2) sheets.
 - i. Second Floor Plan, A-5
 - ii. New Attic Floor Plan, A-6
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 Inspectional Services and the Department of Planning and Development.
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 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 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

certifying compliance with Condition #1, including the as built FAR of the structure.

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