



#122-21

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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: May 13, 2021
Land Use Action Date: July 27, 2021
City Council Action Date: August 2, 2021
90-Day Expiration Date: August 2, 2021

DATE: May 7, 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 #122-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers in the attic level, extending the nonconforming two-family use at 9-11 Noble Street, Ward 3, West Newton, on land known as Section 44 Block 4 Lot 19, containing approximately 6,258 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 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.



9-11 Noble Street

EXECUTIVE SUMMARY

The subject property located at 9-11 Noble Street consists of 6,258 square feet of land, improved with a two-family dwelling constructed circa 1926 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 petitioner proposes to construct attic level dormers to the front and rear of the two-family dwelling. Constructing the dormers extends the nonconforming use, requiring a special permit.

The Planning Department is unconcerned with the request to extends the nonconforming two-family use. Noble Street contains several nonconforming two-family uses featuring dormers on the front of the house at the attic level. The dormers meet all requirements of the Newton Zoning Ordinance (the “Ordinance”) and only add 84 square feet of floor area to the structure.

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);

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

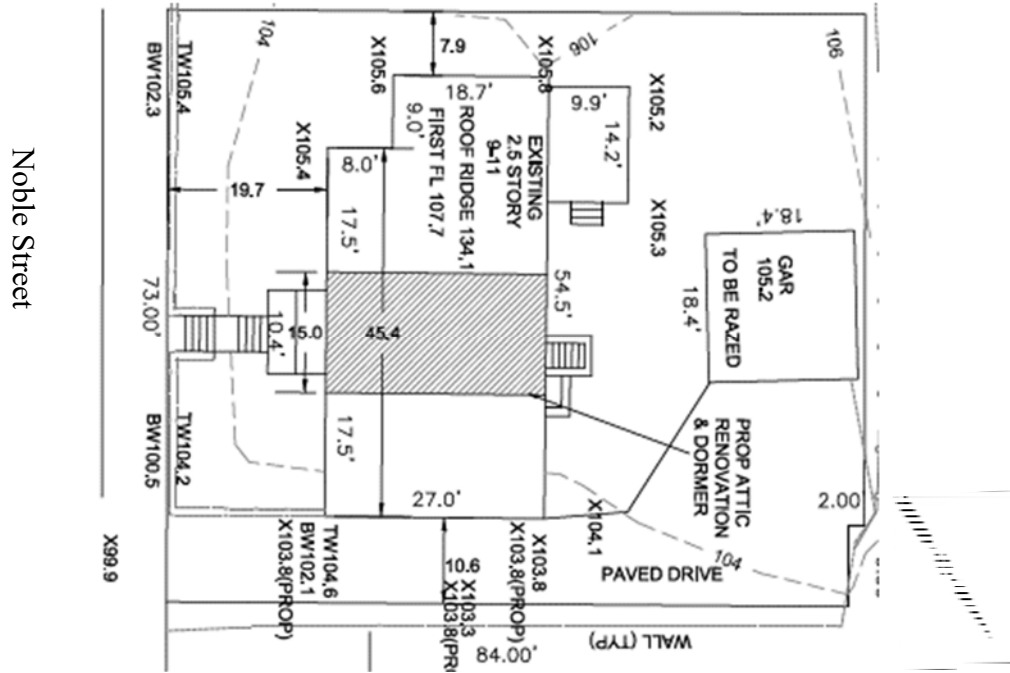
A. Neighborhood and Zoning

The subject property is located on Noble Street in the SR-3 zone in West Newton near the Newton/Waltham boundary. The surrounding area is entirely within the SR-3 zone (**ATTACHMENT A**). The majority of properties on Noble Street are nonconforming two-family uses (**ATTACHMENT B**).

B. Site

The site consists of 6,258 square feet of land and is improved with a nonconforming two-family use constructed circa 1926. The site is accessed by one curb cut from Noble Street which provides access to a detached garage at the western (rear) property line via a driveway that runs along the northern (side) property line.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

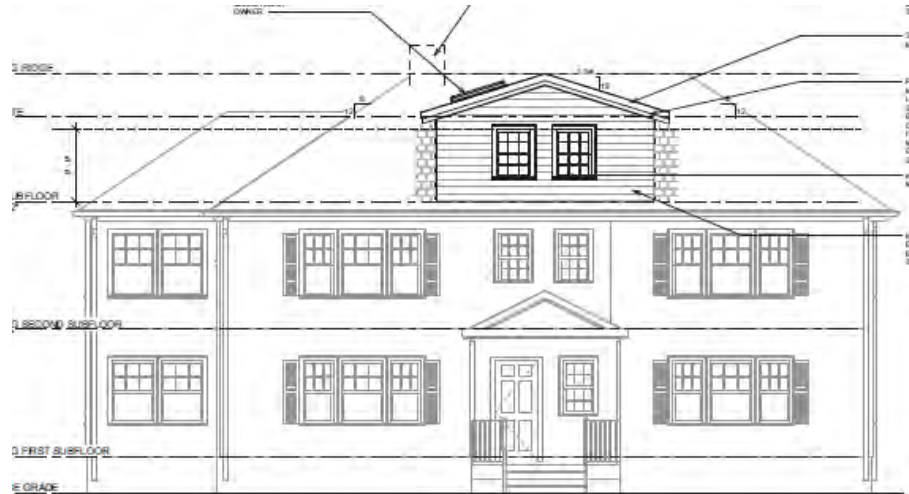
A. Land Use

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

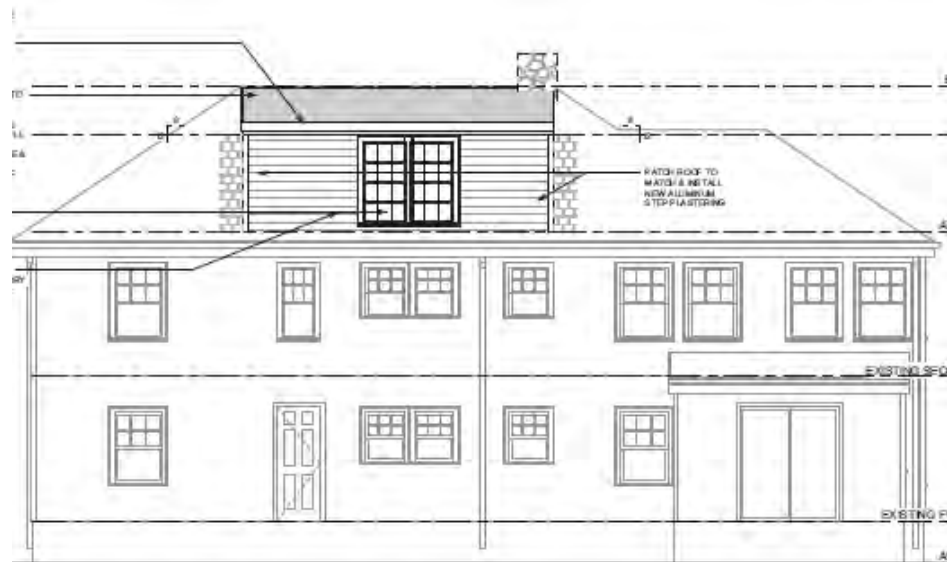
B. Site and Building Design

The petitioner is proposing to construct attic level dormers to the front and rear of the dwelling, requiring a special permit to extend the nonconforming two-family use in a Single Residence zone. The dormers will create additional space and will allow for a bedroom and a bathroom. Both dormers meet all the provisions of the Ordinance.

Proposed Front Elevation



Proposed Rear Elevation



Proposed Western Elevation



The petitioner is proposing to raze the detached garage at the western property line, which results in a decrease in the floor area ratio (the “FAR”) from .57 to .53, where .48 is the maximum allowed as of right. With the proposed dormer additions and removal of the garage, the site’s FAR decreases by approximately 240 square feet. Should this special permit be approved, the petitioner will need to provide a site plan showing the garage removed to obtain a building permit.

The Planning Department is unconcerned with that the proposed extension of the nonconforming two-family use. Many of the homes on Noble Street are nonconforming two-family uses, and the extension of the use is due to the attic level dormers which provide an additional 84 square feet of floor area. The dormers meet all other provisions of the Ordinance.

C. Parking and Circulation

The petitioner is seeking to raze a detached garage at the rear of the property.

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.

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

9-11 Noble Street

*City of Newton,
Massachusetts*

Zoning

 Single Residence 3

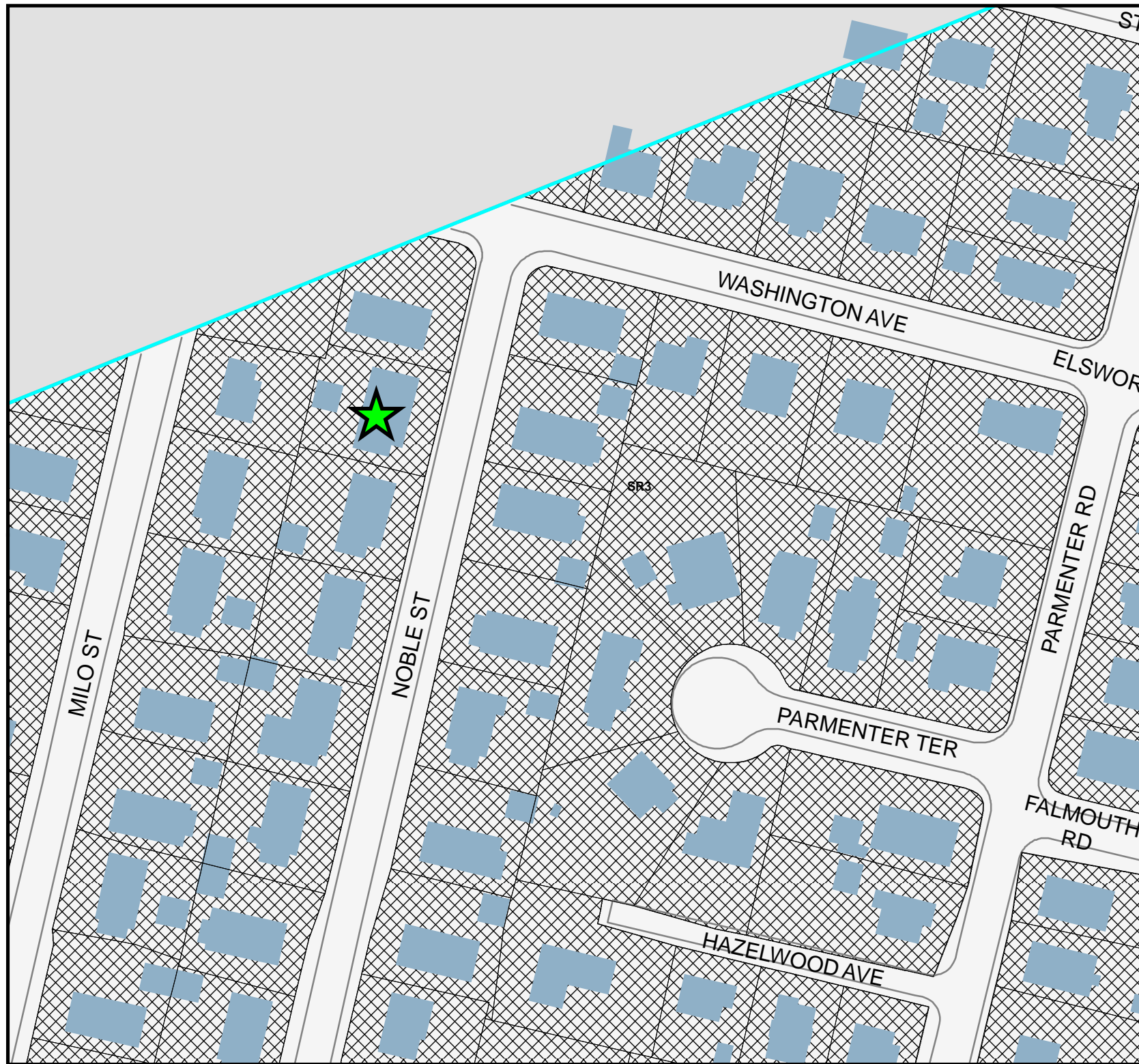


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: May 05, 2021



ATTACHMENT B




Land Use

9-11 Noble Street

*City of Newton,
Massachusetts*

Land Use

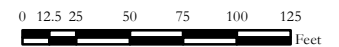
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Vacant Land

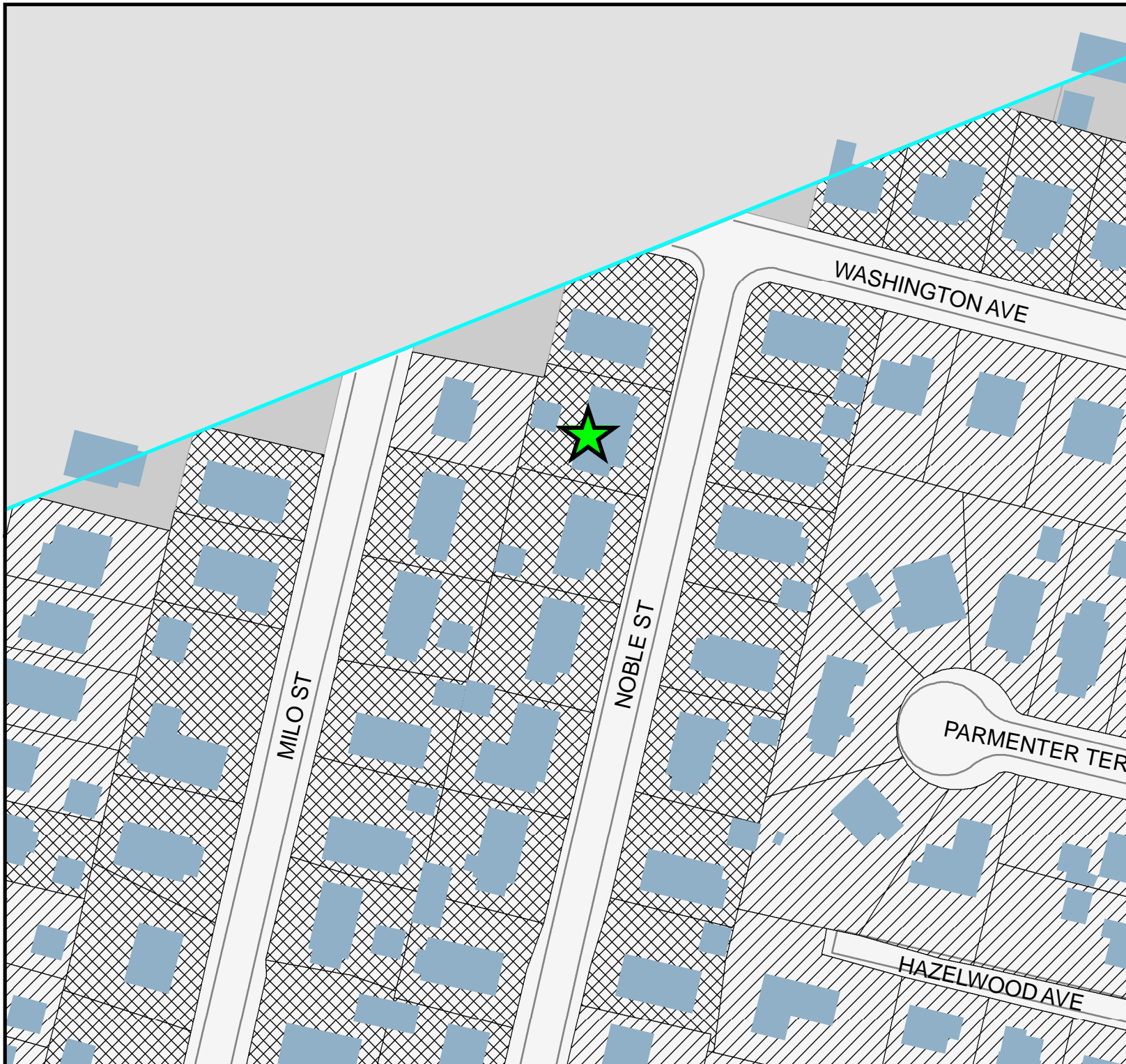


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CITY OF NEWTON, MASSACHUSETTS
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Map Date: May 05, 2021





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 6, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: John Caruso, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to extend a nonconforming two-family use

Applicant: John Caruso	
Site: 9-11 Noble Street	SBL: 44004 0019
Zoning: SR3	Lot Area: 6,258 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 9-11 Noble Street consists of a 5,673 square foot lot improved with a two-family dwelling constructed in 1928 and a detached garage in the Single Residence 3 zoning district. The petitioner intends to construct dormers in the attic level 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 Terrence P. Morris, attorney, submitted 2/22/2021
- Plan of Land, signed and stamped by Frank Iebba, surveyor, dated 5/28/2018, revised 10/2/2020, 11/24/2020, 12/23/2020
- FAR worksheet, signed and stamped by Joseph F. Fournier Jr, architect, submitted 2/22/2021
- Floor Plan and Elevations, signed and stamped by Joseph F. Fournier Jr, architect, dated 2/19/2021

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 construct dormers in the front and rear of the dwelling, increasing the attic floor area by 84 square feet. 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 3.1.9 the allowable FAR for the parcel is .48. The petitioner intends to raze an existing 324 square foot detached garage to accommodate the dormer expansion, resulting in a net decrease in the nonconforming FAR from .57 to .53, requiring no relief.

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

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 by constructing dormers to the attic level 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 many of the homes on Noble Street are nonconforming two family uses with attic level dormers (§3.4.1, §7.8.2.C.2).

PETITION NUMBER: #122- 21

PETITIONER: John Caruso

LOCATION: 9-11 Noble Street on land known as Section 44, Block 4, Lot 19, containing approximately 6,258 square feet of land

OWNER: John Caruso

ADDRESS OF OWNER: 9-11 Noble Street
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

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 Frank Iebba, Professional Land Surveyor, most recently dated December 23, 2020.
 - b. Architectural Floorplans, prepared by JFF Design, signed and stamped by Joseph F. Fournier, dated June 22, 2020, revised February 19, 2021 consisting of the following two (2) sheets.
 - i. Attic Floor/Roof Plan, A1.01
 - ii. Elevations, A2.01
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. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan showing the removal of the detached garage.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - 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.