



#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:	August 10, 2021
Land Use Action Date:	October 26, 2021
City Council Action Date:	November 1, 2021
90-Day Expiration Date:	November 8, 2021

DATE: August 6, 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 and extending the nonconforming FAR 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, 3.1.3, 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 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 and increases the nonconforming FAR (“the FAR”) from .57 to .58, where .48 is the maximum allowed as of right, requiring a special permit.

The Planning Department is unconcerned with the request to extend the nonconforming two-family use and increase the nonconforming FAR. 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 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);
- The proposed increase in the nonconforming FAR from .57 to .58 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 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

Proposed Front Elevation



Proposed Rear Elevation



The Planning Department is unconcerned with the proposed extension of the nonconforming two-family use and increase in FAR. Many of the homes on Noble

Street are nonconforming two-family uses, and 1 dormers provide an additional 84 square feet of floor area. The dormers meet all other provisions of the Ordinance.

C. Parking and Circulation

There are no changes proposed to the parking or circulation on site

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, §3.19 §7.8.2.C.2 of Section 30, to increase 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

9-11 Noble Street

*City of Newton,
Massachusetts*

Zoning

 Single Residence 3

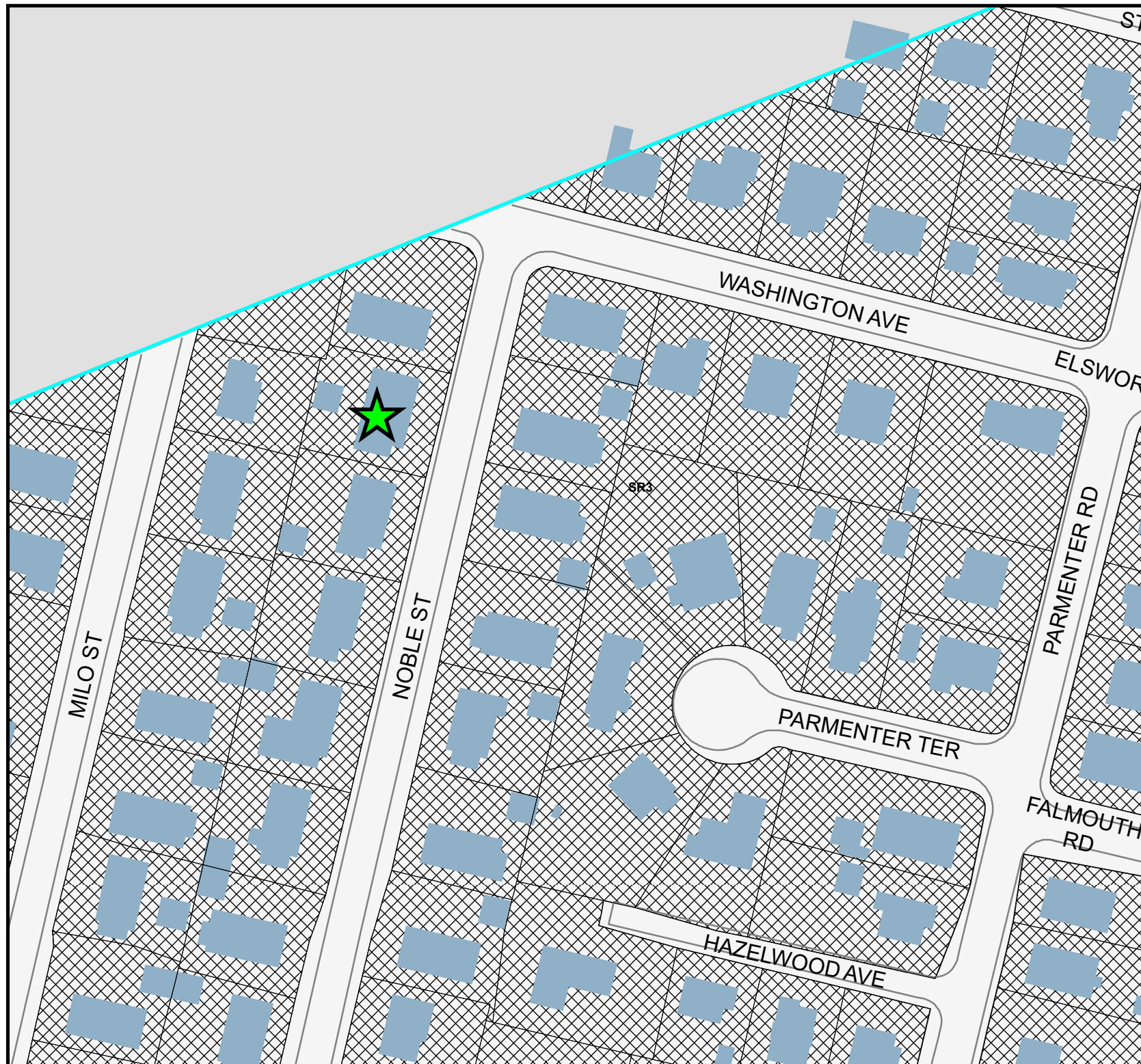


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 05, 2021



ATTACHMENT B




Land Use

9-11 Noble Street

*City of Newton,
Massachusetts*

Land Use

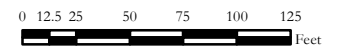
Land Use

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

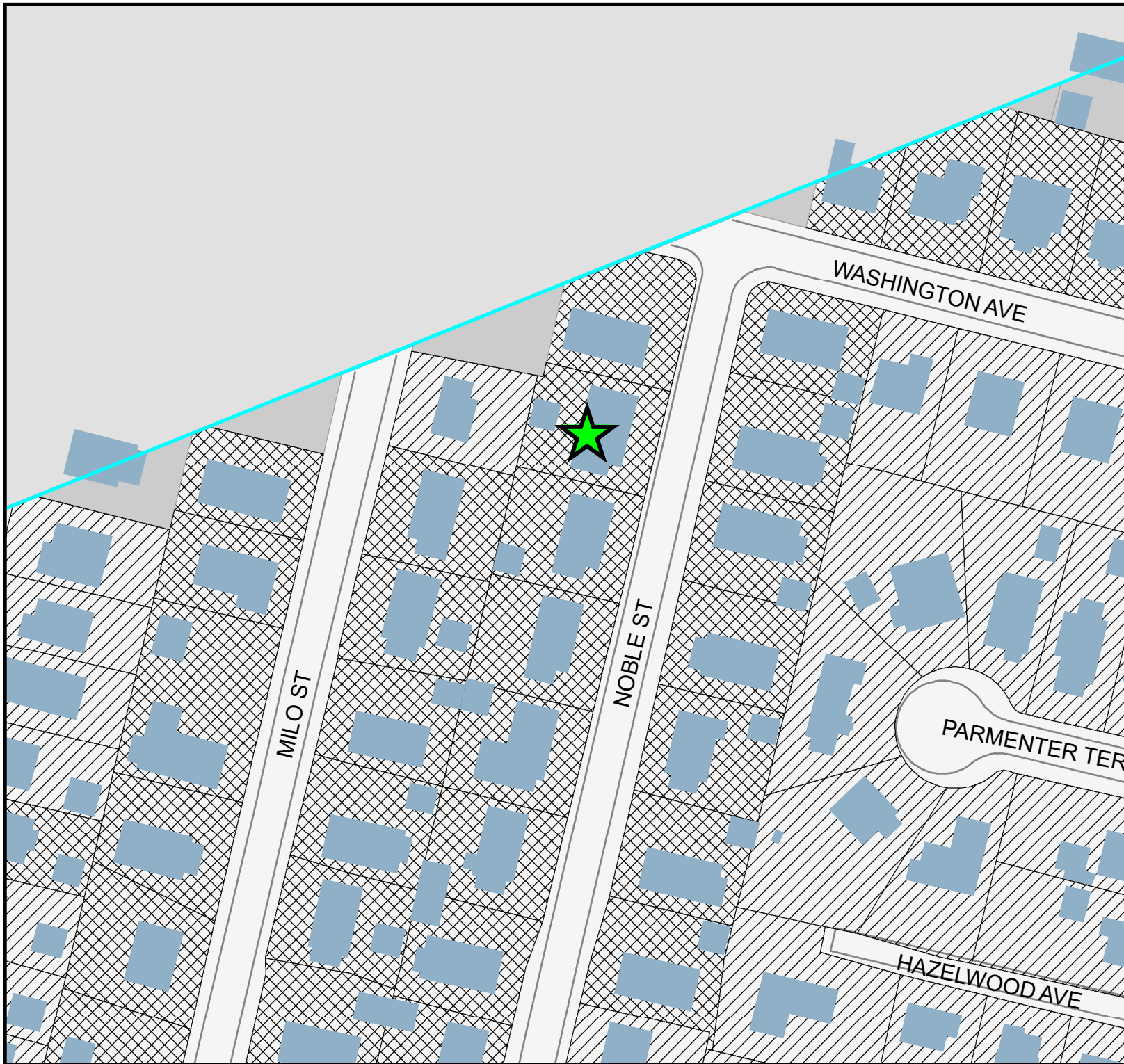


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 8, 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 and to further increase nonconforming FAR

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 and the already nonconforming FAR.

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, 6/8/2021
- FAR worksheet, signed and stamped by Joseph F. Fournier Jr, architect, submitted 2/22/2021, 6/8/2021
- Floor Plan and Elevations, signed and stamped by Joseph F. Fournier Jr, architect, dated 2/19/2021
- Attic Floor/Roof Plan, signed and stamped by Joseph F. Fournier, architect, dated 6/8/2021

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. The petitioner intends to add 84 square feet to the dwelling, increasing the already nonconforming FAR from .57 to .58 where the maximum allowable FAR for the parcel is .48 per sections 3.1.3 and 3.1.9. A special permit per section 7.8.2.C.2 is required to further increase the nonconforming FAR.

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 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 extend the nonconforming two-family use and increase the nonconforming FAR 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).
2. The proposed increase in the nonconforming FAR from .57 to .58 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 many of the homes on Noble Street (§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 FAR is increasing by 84 square feet (§3.1.9, and §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: §3.1.9, §3.4.1, and §7.8.2.C.2, to further extend the nonconforming two-family use and 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 Frank Iebba, Professional Land Surveyor, most recently revised June 8, 2021.
 - 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. 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.