



#298-21

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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: September 21, 2021
Land Use Action Date: December 10, 2019
City Council Action Date: December 16, 2019
90-Day Expiration Date: January 27, 2020

DATE: September 17, 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 #298-21**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing detached garage and replace it with an attached garage and second story addition, increasing the non-conforming FAR and nonconforming lot coverage at 158 Parmenter Road, Ward 3, West Newton, on land known as Section 34 Block 47 Lot 01, containing approximately 4,990 sq. ft. in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



158 Parmenter Road

EXECUTIVE SUMMARY

The subject property located at 158 Parmenter Road consists of a 4,990 square foot lot improved with a single-family dwelling constructed circa 1928. The property is located within the Single Residence 3 (the "SR-3") zone in West Newton. The petitioner is seeking to construct a two-story addition to the rear of the dwelling which would consist of a one car garage and space for a home office above. The addition increases the nonconforming floor area ratio (the "FAR"), requiring a special permit, and increases the nonconforming lot coverage, also requiring special permit. The addition also reduces the side and rear yard setbacks to less than 5.5 feet, where 15 feet is the minimum allowed, requiring a variance from the Zoning Board of Appeals. If approved, the dwelling would contain 3,226 square feet of floor area, where 2,559 square feet exists, a difference of 667 square feet.

The subject property is in a compact, walkable neighborhood containing one and two-story structures on uniformly sized lots. The addition is designed to complement the architecture of the principal structure and will be subordinate in height to the principal structure as well. The addition replaces an existing garage and increases the nonconforming lot coverage by approximately 300 square feet. Neighboring properties consist of similarly sized homes along Parmenter Road and Falmouth Road. For these reasons, staff does not believe that the increase in the nonconforming FAR and nonconforming lot coverage will be substantially more detrimental and does not believe the resulting structure will be in derogation of the size, scale, and design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The proposed addition which increases the nonconforming lot coverage will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).
- The proposed addition that increases the nonconforming FAR from .51 to .65, where .48 is the maximum allowed as of right will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).
- The proposed increase in the FAR from .51 to .65, 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. (§3.1.3, §3.1.9, and §7.3.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

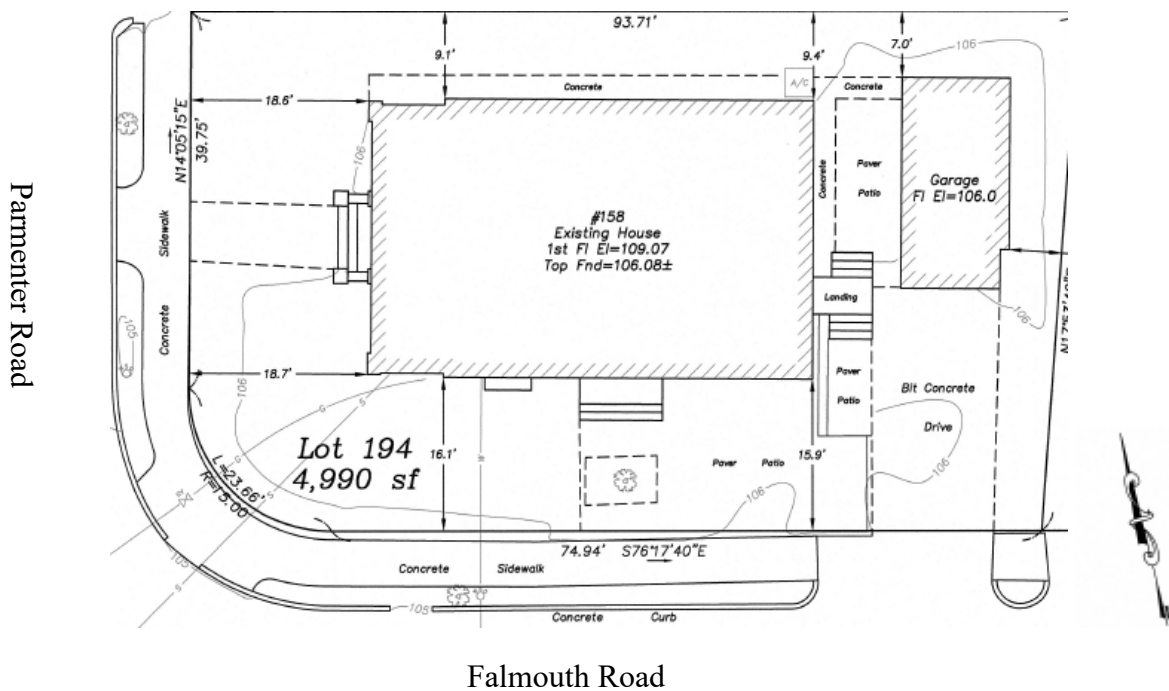
A. Neighborhood and Zoning

The subject property is a corner lot with frontages on Parmenter and Falmouth Roads in the SR-3 zone in West Newton. The immediate area and surrounding neighborhood are located entirely within the SR-3 zone (**Attachment A**). As such, the neighborhood consists of single-family uses, except a few nonconforming multi-family uses (**Attachment B**).

B. Site

The site consists of 4,990 square feet of land and it is improved with a single-family residence constructed circa 1928. The site is accessed by a driveway from Falmouth Road leading to the one-car detached garage. The site is predominantly flat. The single-family home has nonconforming front setbacks of 16 and 18 feet from Falmouth and Parmenter Roads, respectively. The detached garaged meets the 5-foot required setbacks for an accessory structure. The site has a nonconforming lot coverage of 32.4%, where 30% is the maximum allowed as of right.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

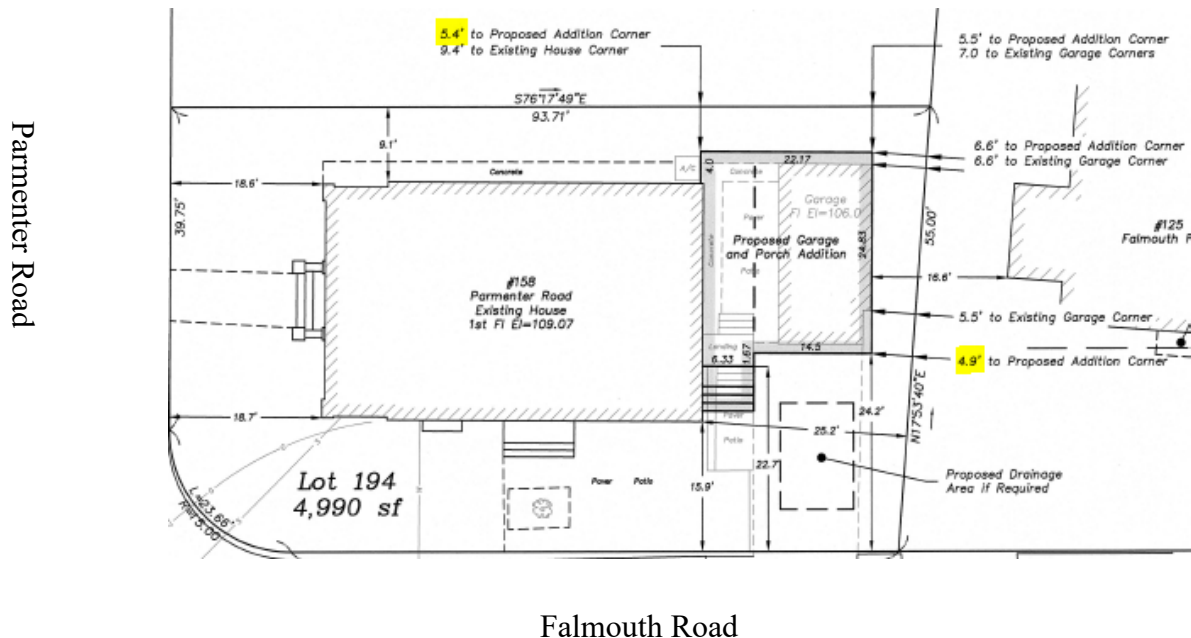
The principal use of the site is a single-family residence and will remain a single-family residence with a home office above the garage.

B. Site Design

The petitioner is proposing to raze the detached garage and construct an attached garage addition with living space above. The change in type of garage from detached to attached alters the setback requirements. Attached garages must meet principal building setbacks, in this case 7.5 feet from the sides and 15 feet from the rear, whereas detached garages are allowed within five feet of the side and rear property lines. The addition will extend the footprint of the dwelling approximately 22 feet to the east, reducing the rear yard setback from approximately 20 feet to 4.9 feet. The addition also reduces the side setback from 9.4 feet to 5.4 feet. These reductions require a variance from the Zoning Board of Appeals.

The attached garage addition requires special permit relief to increase the nonconforming lot coverage from 32.4% to 38%, where 30% is the maximum allowed as of right. This translates to 300 square feet.

Proposed Site Plan



C. Building Design

The two-story attached garage addition will contain a one-car garage and a mudroom at the first story. An additional 370 square feet of living space to be used as a home office is on the second story. The home office will be accessed via an internal stairway within the garage. There is no second story connection from the principal dwelling to the home office space.

The addition adds approximately 667 square feet of floor area to the structure and requires special permit relief to increase the nonconforming FAR. The proposed addition will measure approximately 18 feet tall, while the existing structure measures 23 feet tall. The existing nonconforming FAR for the lot is .51 which translates to approximately 2,559 square feet. The proposed dwelling would total 3,226 square feet of floor area, 667 square feet above the existing FAR on the 4,990 square foot lot.

Existing Falmouth Road Elevation



Proposed Falmouth Road Elevation



The subject property is in a compact, walkable neighborhood containing one and two-story structures on uniformly sized lots. The addition is designed to complement the architecture of the principal structure and will be subordinate in height to the principal structure as well. For these reasons, staff does not believe that the increase in FAR will be in derogation of the size, scale, and design of other structures in the neighborhood.

The addition requires a variance to reduce the side and rear setbacks. If approved, a condition will be incorporated into the Council Order that requires the petitioner to obtain the necessary variances to encroach into the side and rear setbacks.

D. Parking and Circulation

The addition will contain a one-car garage within the first floor. The proposed attached garage maintains the existing driveway location and configuration.

E. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

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

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3	Request to allow a 5.5-foot side setback	Variance per §7.6
§3.1.3	Request to allow a 4.9-foot rear setback	Variance per §7.6
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further increase nonconforming lot coverage	S.P. per §7.3.3

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The petition will be reviewed for conformance with the City of Newton Engineering Design Standards prior to the issuance of a building permit, should this petition be approved.

C. Newton Historical Commission Review

The Newton Historical Commission found the existing structure “Not Historically Significant” in July 2021. As such, a demolition delay was not implemented, and further review is not 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 Order

ATTACHMENT A

Zoning

158 Parmenter Road

*City of Newton,
Massachusetts*

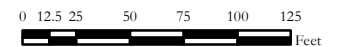
Zoning

 Single Residence 3

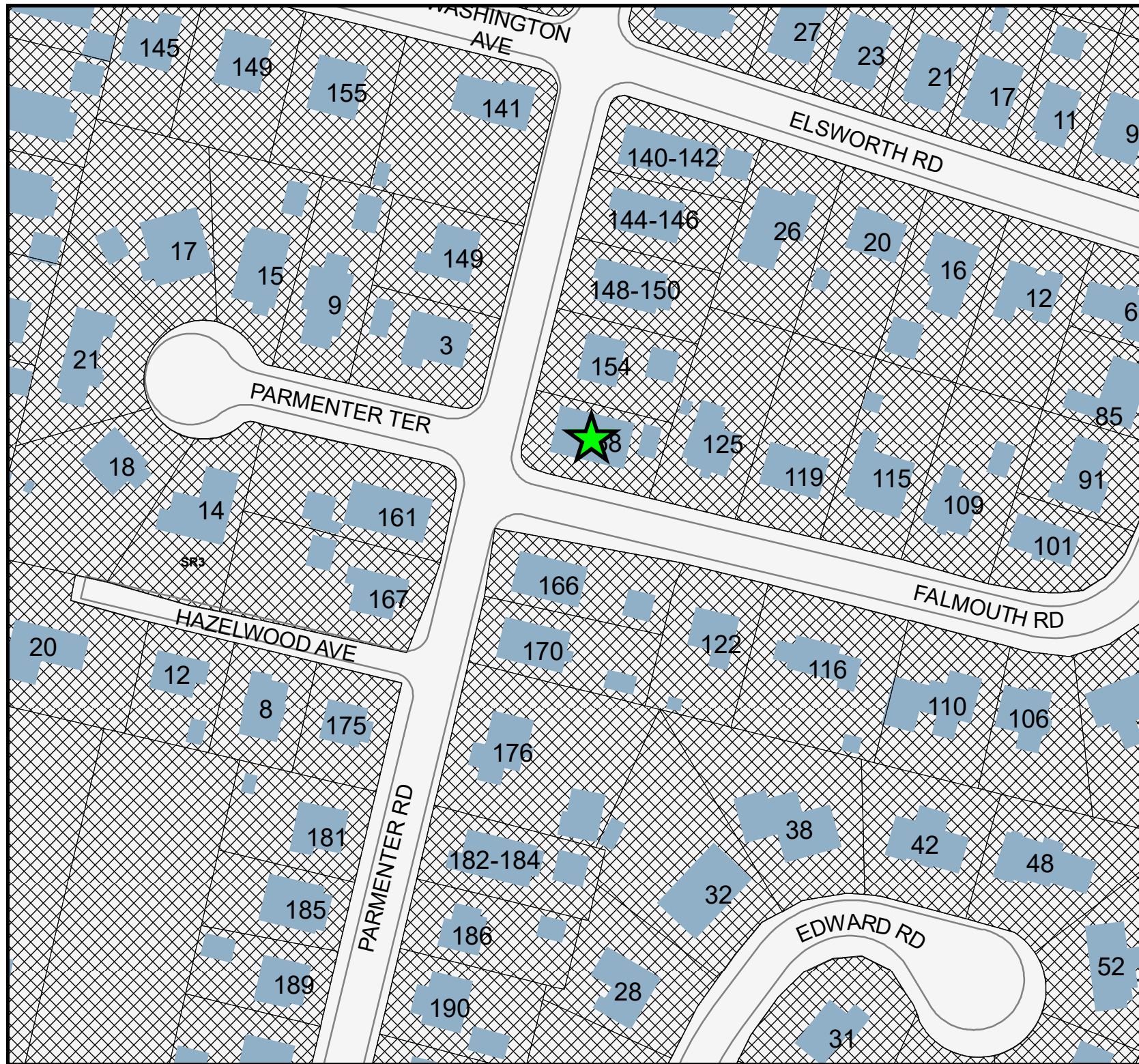


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: September 09, 2021



ATTACHMENT B



Land Use

158 Parmenter Road

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential

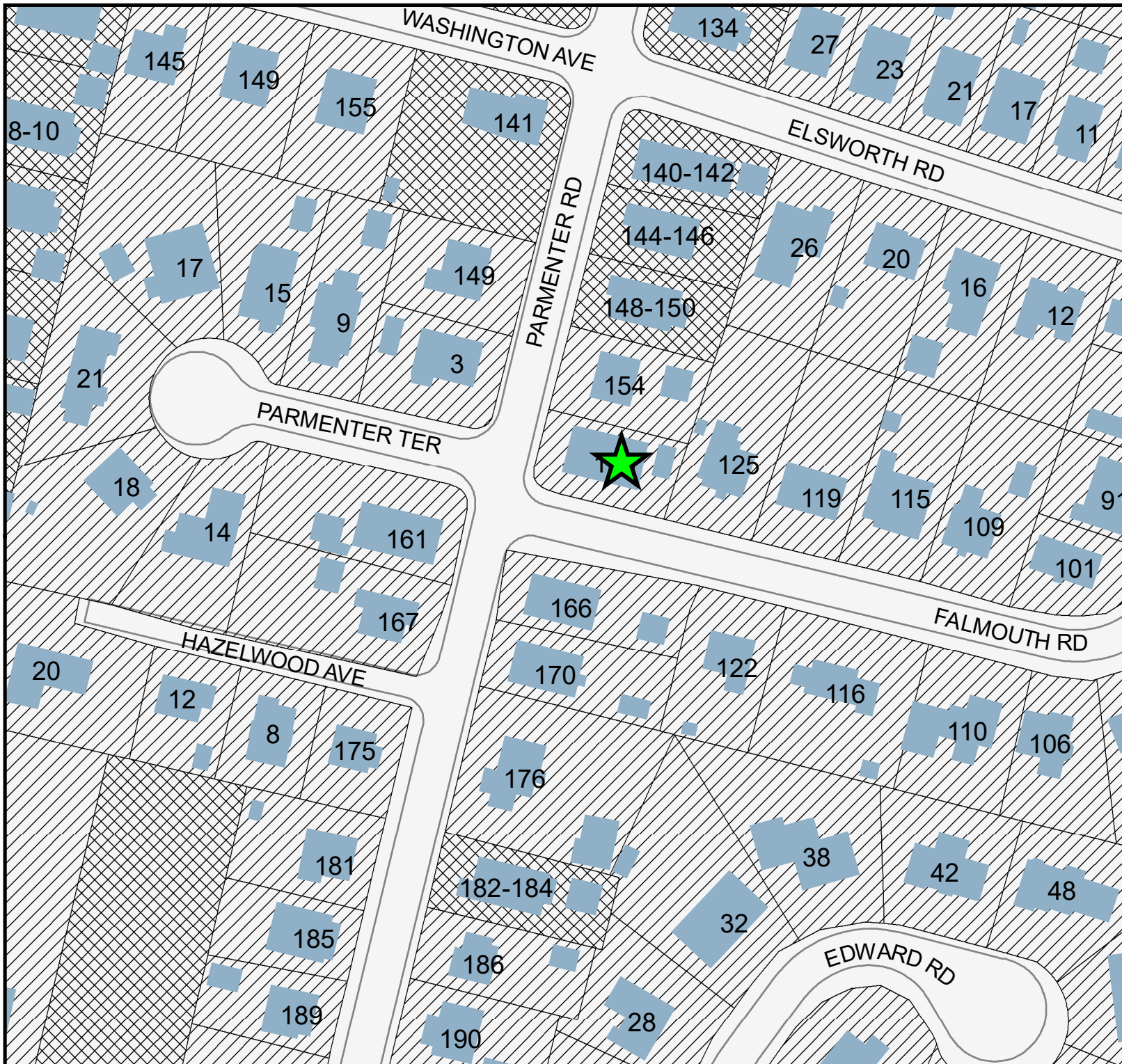


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: September 09, 2021





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 16, 2021

To: John Lojek, Commissioner of Inspectional Services

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

CC: Rachel and Marko Rosenfeldt, Applicants
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request for a special permit to further extend nonconforming FAR and lot coverage and variances from the side and rear setback requirements

Applicant: Rachel and Marko Rosenfeldt	
Site: 158 Parmenter Road	SBL: 34047 0001
Zoning: SR3	Lot Area: 4,990 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 158 Parmenter Road consists of a 4,990 square foot lot improved with a single-family dwelling constructed in 1928 and a detached garage in the Single Residence 3 zoning district. The petitioner intends to demolish the existing detached garage and replace it with an attached garage with a home office above.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, submitted 2/23/2021
- Existing Condition Plan, signed and stamped by Verne T. Porter Jr, surveyor, dated 6/16/2020
- Proposed Condition Plan, signed and stamped by Verne T. Porter Jr, surveyor, dated 6/16/2020
- FAR worksheet, signed and stamped by Elizabeth D. Marcoulier, architect, submitted 2/23/2021
- Floor Plan and Elevations, prepared by Elizabeth D. Marcoulier, architect, dated 2/12/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze the existing detached garage and replace it with an attached single-car garage with a home office above. The existing detached garage meets the required five-foot setbacks from the side and rear lot lines, per section 3.4.3.A.2 for detached accessory buildings. The proposed garage is similarly situated but is attached and therefore required to meet the setbacks for the principal structure. The petitioner proposes a 5.4-foot side setback where 7.5 feet is required per section 3.1.3. A variance per section 7.6 to allow for two feet of relief from the side setback is required.
 2. The proposed attached garage has a 4.9-foot rear setback, where 15 is required per section 3.1.3. A variance is required per section 7.6 to allow for 10.1 feet of relief from the rear setback requirement.
 3. Per section 3.1.9 the allowable FAR for the parcel is .48. The proposed 667 square foot two-story attached garage addition results in a total of 3,226 square feet, further increasing the nonconforming FAR from .51 to .65. A special permit per sections 3.1.3, 3.1.9 and 7.8.2.C.2 is required to further increase the nonconforming FAR.
 4. Per section 3.1.3, the maximum allowable lot coverage is 30%. The proposed addition increases the nonconforming lot coverage from 32.4% to 38.01%, requiring a special permit per sections 3.1.3 and 7.8.2.C.2
1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3	Request to allow a 5.4-foot side setback	Variance per §7.6
§3.1.3	Request to allow a 4.9-foot rear setback	Variance per §7.6
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further increase nonconforming lot coverage	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 increase the nonconforming floor area ratio (FAR) and to increase the nonconforming lot coverage, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed addition which increases the nonconforming lot coverage will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because proposed addition is increasing the lot coverage by 300 square feet and lots in the neighborhood are uniformly sized (§4.1.3, §4.4.1, §7.8.2.C.2).
2. The proposed addition which increases the nonconforming FAR from .51 to .65, where .48 is the maximum allowed as of right is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition is designed to be subordinate to the existing house (§4.1.3, §4.4.1, §7.8.2.C.2).
3. The proposed increase in the FAR from .51 to .65, 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 neighborhood consists of similar two-story structures on uniformly sized lots. (§3.1.3, §3.1.9, and §7.3.3)

PETITION NUMBER: #298-21

PETITIONER: Rachel and Marko Rosenfeldt

LOCATION: 158 Parmenter Road, on land known as Section 34, Block 47, Lot 01, containing approximately 4,990 square feet of land

OWNER: Rachel and Marko Rosenfeldt

ADDRESS OF OWNER: 158 Parmenter Road
Newton, MA 02465

TO BE USED FOR: Single-Family Dwelling with attached garage

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to increase the nonconforming floor area ratio and increase the nonconforming lot coverage (§3.1.3, §3.1.9, §7.8.2.C.2)

ZONING: Single Residence 3 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. Proposed Addition Plan, signed and stamped by Verne T. Porter, Professional Land Surveyor, dated June 15, 2020
 - b. Architectural Plans, signed and stamped by Elizabeth Marcoulier, consisting of three (3) sheets:
 - i. Proposed Elevation, Falmouth Road, A-1
 - ii. Proposed Right and Left Elevations, A-3
 - iii. Proposed Rear Elevation, A-4
2. Prior to the issuance of any building permit, the petitioner shall obtain a variance from the Zoning Board of Appeals to reduce the side and rear yard setbacks.
3. Prior to the issuance of any building permit, the petitioner 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.
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 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.

- d. Provided a copy of the recorded variance from the Zoning Board of Appeals to the Commissioner of Inspectional Services and Director of Planning and Development in accordance with Condition #2 above.
 - e. 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 petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional land surveyor.
 - c. 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.