



#378-22

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath
Director

Ruthanne Fuller
Mayor

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	August 9, 2022
Land Use Action Date:	October 25, 2022
City Council Action Date:	November 7, 2022
90-Day Expiration Date:	November 7, 2022

DATE: August 5, 2022

TO: City Council

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

SUBJECT: **Petition #378-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to partially enclose a porch and construct a two-story addition within the existing footprint, further increasing nonconforming FAR at 17 Jerome Avenue, Ward 3, Newton, on land known as Section 34 Block 39 Lot 13, containing approximately 2640 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 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.



17 Jerome Avenue

EXECUTIVE SUMMARY

The subject property located at 17 Jerome Avenue consists of 2,640 square feet of land improved with a single-family dwelling constructed circa 1894. The dwelling has a nonconforming floor area ratio (FAR) of .51, where .48 is the maximum allowed as of right. The petitioner is seeking to construct an addition above the second story and enclose a front porch, adding 150 square feet to the dwelling, increasing the nonconforming FAR from .51 to .57.

The Planning Department notes that the proposed additions are within the footprint of the dwelling, atop a two-story bump out to the side of the dwelling and encloses the front porch. The site has several nonconformities regarding setbacks, lot coverage, and the size of the lot. Planning Staff notes the design considers the limitations of the site and does not further reduce any of the nonconforming setbacks with the additional massing within the footprint of the structure. Due to the size of the lot the FAR presents as a moderate increase in floor area, when it is only 150 square feet. For these reasons, the Planning Department is unconcerned with the petition to increase the nonconforming FAR.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed increase in the nonconforming FAR from .51 to .57 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

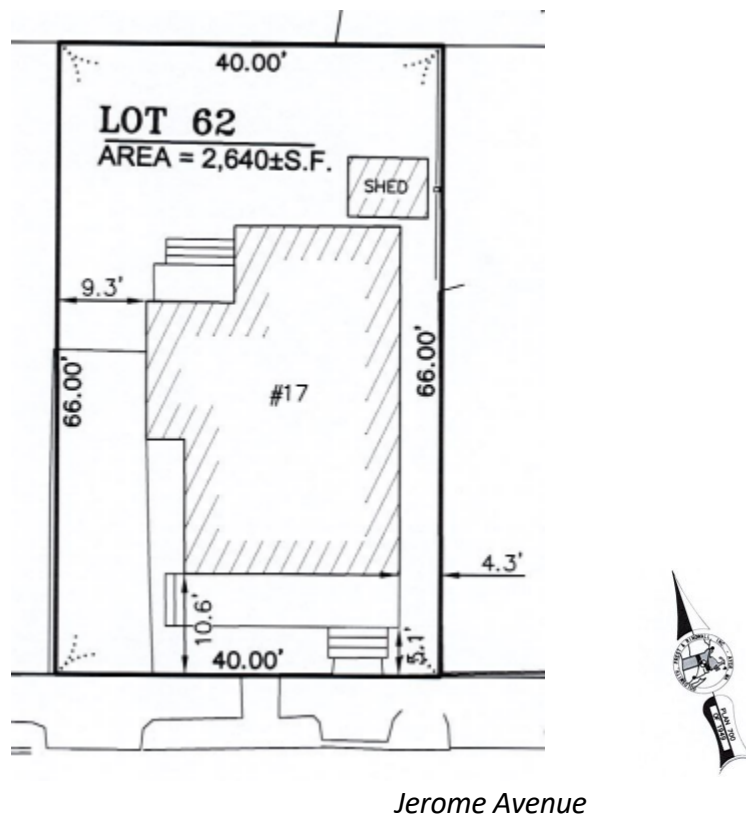
The subject property is located on Jerome Avenue in the Single Residence 3 (SR-3) zone in West Newton. The entirety of the area is within the SR-3 zone aside from Franklin Elementary School, which is within a public use zone (**ATTACHMENT A**). The uses in the area consist of mostly single-family residential uses, with a few two-family residential parcels and the school (**ATTACHMENT B**).

B. Site

The site consists of 2,640 square feet of land and is improved with a single-family dwelling constructed circa 1894. The site has one curb cut from Jerome Avenue that provides access to an asphalt driveway to the left of the dwelling. There are many

nonconforming aspects to the site, including FAR, setbacks, lot size, and lot coverage. The dwelling has a nonconforming FAR of .51, where .48 is the maximum allowed as of right. There are nonconforming front and side setbacks of 3.1 feet from the front property line to the front porch, and 4.3 feet from the dwelling to the right property line. The site also has a nonconforming lot coverage of 37%. Most of nonconformities can be attributed to the size of the lot with less than 3,000 square feet of area.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use of the site will remain a single-family use.

B. Site and Building Design

The petitioner is proposing to construct additions to the left and front of the dwelling. The project will create an additional 150 square feet of floor area, resulting in an increase in the nonconforming FAR from .51 to .57, where .48 is the maximum allowed

as of right. The project results in a structure consisting of 1,506 square feet, where 1,267 square feet is the maximum allowed as of right and 1,350 square feet exists. The increase in nonconforming FAR requires a special permit.

Existing Front Elevation



Proposed Front Elevation



Existing Left Elevation



Proposed Left Elevation



The Planning Department notes that the proposed additions are within the footprint of the dwelling, atop a two-story bump out to the side of the dwelling and encloses the front porch. The site has several nonconformities regarding setbacks, lot coverage, and the size of the lot. Planning Staff notes the design considers the limitations of the site and does not further reduce any of the nonconforming setbacks with the additional massing within the footprint of the structure. Due to the size of the lot the FAR presents as a moderate increase in floor area, when it is only 150 square feet.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

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:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3

B. Engineering Review

Engineering Review is not required at this time.

C. Newton Historical Commission

Review from the Newton Historical Commission or Chief Preservation Planner is not required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is complete.

ATTACHMENTS:

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



ATTACHMENT A

Zoning

17 Jerome Avenue

*City of Newton,
Massachusetts*

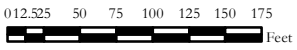
Zoning

-  Single Residence 3
-  Public Use

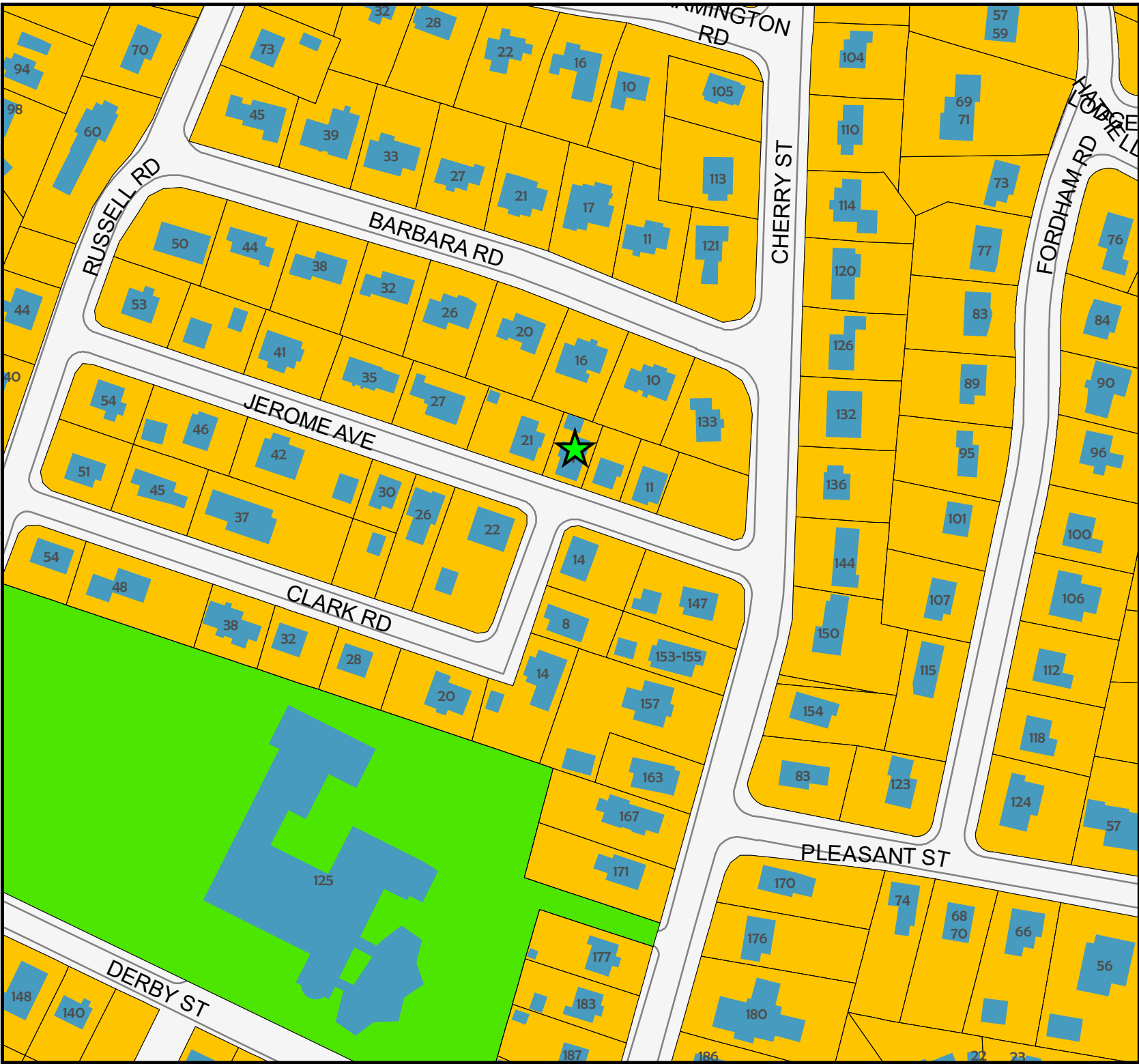


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: July 25, 2022



ATTACHMENT B

Land Use

17 Jerome Avenue

*City of Newton,
Massachusetts*

Land Use

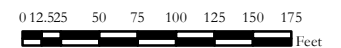
Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Vacant Land

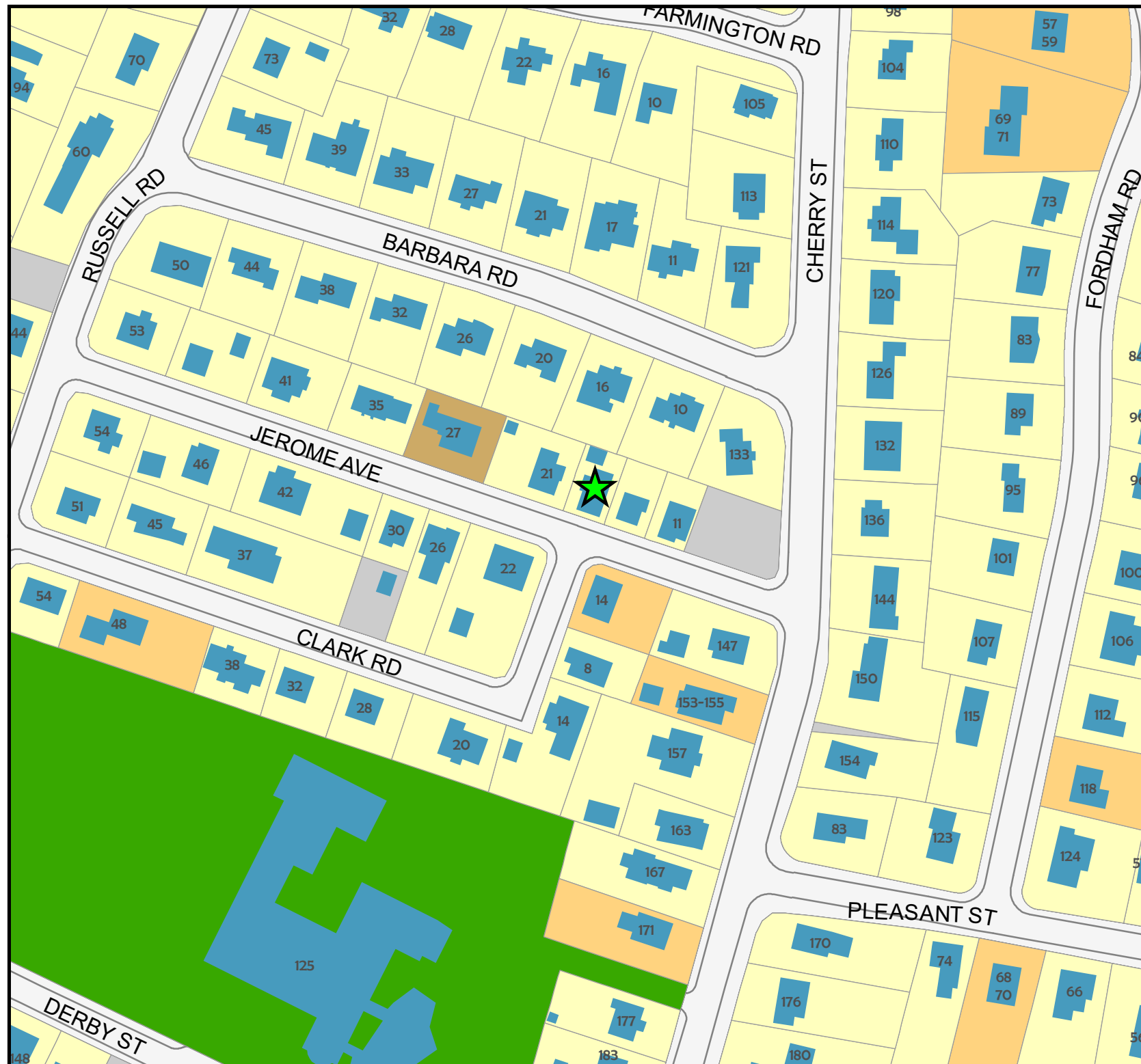


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 28, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Dan and Jules Myung, Applicants
Philip Glenn, Rebel Builders
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to further extend nonconforming FAR

Applicant: Dan & Jules Myung	
Site: 17 Jerome Avenue	SBL: 34039 0013
Zoning: SR3	Lot Area: 2,640 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 17 Jerome Avenue consists of a 2,640 square foot lot improved with a single-family dwelling constructed circa 1894. The petitioners propose to enclose a portion of the front farmer's porch and make a two-story addition within the existing footprint. The proposed additions further increase the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Philip Glenn, Rebel Builders, submitted 3/14/2022
- Plot Plan, signed and stamped by David J. DeBay, surveyor, dated 10/6/2021
- Plans and elevations, prepared by Rebel Builders, dated 2/22/2022
- FAR calculation, prepared by Rebel Builders, submitted 3/14/2022

ADMINISTRATIVE DETERMINATIONS:

1. The proposed to construct a two-story addition over existing first story space as well as to enclose space within the existing front porch. The existing nonconforming FAR is .51 where .48 is the maximum allowed per sections 3.1.3 and 3.1.9. The proposed additions result in a FAR of .57, further increasing the nonconforming FAR, requiring a special permit pursuant to Section 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	2,640 square feet	No change
Frontage	70 feet	40 feet	No change
Setbacks			
• Front	25 feet	3.1 feet	No change
• Side	7.5 feet	9.3 feet	No change
• Side	7.5 feet	4.3 feet	No change
• Rear	15 feet	19.4 feet	No change
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	32.5 feet	32.5 feet
FAR	.48	.51	.57*
Max Lot Coverage	30%	37%	No change
Min. Open Space	50%	67%	No change

*Requires relief

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§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 construct additions to the dwelling and enclose the front porch, increasing the nonconforming FAR from .51 to .57, 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 increase in the nonconforming FAR from .51 to .57, 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 additional floor area is within the footprint of the dwelling (§3.1.3, §3.1.9, and §7.8.2.C.2).
2. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the additions are within the footprint of the dwelling (§3.1.3, and §7.8.2.C.2).

PETITION NUMBER: #378-22

PETITIONER: Jules and Daniel Myung

LOCATION: 17 Jerome Avenue, on land known as Section 34, Block 39, Lot 13, containing approximately 2,640 square feet of land

OWNER: Jules and Daniel Myung

ADDRESS OF OWNER: 17 Jerome Avenue,
Newton, MA 02465

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9, 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. Plot Plan at 17 Jerome Avenue (West) Newton, Mass., signed and stamped by David J DeBay, Professional Land Surveyor, dated October 6, 2021
 - b. Site Plan of 73-75 Ripley Street Condominium, signed and stamped by Bruce Bradford, dated December 17, 2001
 - c. Architectural Plans and Elevations, "Ingerman/Baykal Residence" prepared by Rebel Builders, unsigned and unstamped, dated February 22, 2022 consisting of the following sheet:
 - i. Proposed Exterior Elevations, A200
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 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 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 and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.