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ZONING REVIEW MEMORANDUM

Date: September 13, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Justin and Lorena Buck, Applicants
Steven Meyers, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to extend a nonconforming two-family dwelling use, a nonconforming third story, to increase nonconforming height, to further reduce nonconforming open space, to allow an oversized dormer, to exceed FAR and to allow a retaining wall of four feet or more in a setback

Applicant: Justin and Lorena Buck	
Site: 71-73 West Pine Street	SBL: 41031 0035
Zoning: SR3	Lot Area: 8,997 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 71-73 West Pine Street consists of 8,997 square foot lot in the Single Residence 3 zoning district improved with a nonconforming two-family dwelling constructed in 1886. The petitioner proposes to construct an attached garage addition, dormer to the front elevation, and to reconfigure the roofline of the rear ell, requiring a special permit.

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

- Zoning Review Application, prepared by Steven Meyers, architect, submitted 7/18/2022
- Floor plans and elevations, Steven Meyers, architect, dated 5/25/2022
- Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/18/2021
- FAR worksheet, submitted 7/18/2022

ADMINISTRATIVE DETERMINATIONS:

1. The property is located in the Single Residence 3 zoning district and is improved with a legal nonconforming two-family dwelling. The petitioner proposes to construct an attached garage addition as well as reconfiguring the roofline in the rear ell, requiring a special permit per sections 3.4.1 and 7.8.2.C.2 to extend a nonconforming two-family dwelling use in an SR3 district.
2. The proposed 624 square foot garage increases the FAR from .38 to .49 where .43 is the maximum allowed per sections 3.1.3 and 3.1.9 for an 8,997 square foot lot in the SR3 district. The additional height in the rear ell does not increase the FAR as the space already counts toward FAR and is not being expanded. Per section 3.1.9.A.2 a special permit is required to exceed FAR.
3. Per section 1.5.4.B, the attic level of the dwelling is considered the third story as the area in the attic exceeds 2/3 of the floor next below. To be considered a half story the area of the attic with seven feet in height would need to consist of 828 square feet or less. The area in the attic with seven feet in height is 881 square feet, which is 71% of the area of the floor next below. The petitioners propose to increase the height of the rear of the dwelling and to enlarge the existing front dormer, further extending the nonconforming third story of the structure, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.
4. The dwelling has a nonconforming height of 37.7 feet, where 36 feet is the maximum allowed per section 3.1.3. The proposed construction reduces the average grade, thus increasing the height of the structure to 38.42 feet, requiring a special permit per section 7.8.2.C.2. No construction is proposed above the existing ridgeline and the increase in height is solely due to the change in the average grade.
5. The petitioners propose to reconfigure and enlarge an existing front dormer. Per section 1.5.4.G.2.b a dormer may be no wider than 50% of the length of the exterior wall next below. The proposed front dormer is 29 feet wide, where the exterior wall below is 40.5 feet. The proposed dormer is 72% of the wall next below, requiring a special permit per section 1.5.4.G.2.b.
6. Per section 3.1.3, the minimum required open space is 50%. The proposed addition further decreases the property's nonconforming open space from 43.8% to 40.7%, requiring a special permit per section 7.8.2.C.2.
7. The petitioner proposes to construct a retaining wall in the front setback from the frontage to the front corner of the dwelling along the driveway reaching a maximum height of 4.1 feet. Per section 5.4.2.B a special permit is required for a retaining wall with four feet or more in height within a setback.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	8,997 square feet	No change
Frontage	70 feet	89 feet	No change
Setbacks			
• Front	25 feet	17.2 feet	No change
• Side	7.5 feet	31.5 feet	7.8 feet
• Side	7.5 feet	17.7 feet	No change
• Rear	15 feet	23.5 feet	No change
Height	36 feet	37.7 feet	38.42*
Max Number of Stories	2.5	3	No change*
FAR	.43	.38	.49*
Max Lot Coverage	30%	21.4%	28.2%
Min. Open Space	50%	43.8%	40.7%*

*Requires relief

BOLD indicates nonconformity

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to extend a nonconforming two-family dwelling use	S.P. per §7.3.3
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend the nonconforming third story	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to extend nonconforming height	S.P. per §7.3.3
§1.5.4.G.2.b	Request to allow a dormer exceeding 50% of the wall next below	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further reduce nonconforming open space	S.P. per §7.3.3
§5.4.2.B	Request to allow a retaining wall exceeding four feet within the front setback	S.P. per §7.3.3