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#541-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: December 13, 2022
Land Use Action Date: February 28, 2023
City Council Action Date: March 6, 2023
90-Day Expiration Date: March 7, 2023

DATE: December 9, 2022

TO: City Council

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

SUBJECT: **Petition #541-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to the rear and the side of the dwelling and to construct dormers at **96 Waban Park**, Ward 1, Newton, on land known as Section 12 Block 05 Lot 02 containing approximately 5,445 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 3.2.3, 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 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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



96 Waban Park

EXECUTIVE SUMMARY

The subject property at 96 Waban Park (also known as 96 Waban Street) consists of a 5,445 square foot corner lot in a Multi Residential 1 (MR1) zoning district improved with a 1,796 square foot, 2 ½ story, single-family dwelling, with an attached garage, constructed in 1939. The property has frontage on both Waban Park and Walnut Park. The petitioner proposes to make additions to both fronts, the side, and the rear of the dwelling.

As designed, the construction would include enlarging the existing one-story sun porch in the lot's Walnut Park front setback, further reducing the existing nonconforming front setback from 17.5 to 14.8 feet where 25 feet is required. The addition would also have living space above, extending the front setback nonconformity vertically as well, requiring a special permit per Sec. 7.8.2.C.2 per Section 3.2.3 of the Newton Zoning Ordinance (NZO).

Also, the proposed additional floor space and enclosed front entry vestibule would more than double the floor area of the home, increasing it from 1,796 to 3,659 square feet and increasing the currently conforming floor area ratio (FAR) of 0.33 to 0.67 where 0.57 is the maximum allowed per Secs. 3.1.3 and 3.1.9, requiring a special permit.

Lastly, the proposed additions would result in the dwelling having 2.5 stories, more than the current two stories but similar in scale with other dwellings in the area.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- increasing the floor area ratio (FAR) from 0.33 to 0.67, where 0.57 is the maximum allowed by right (§3.1.3) would be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9)
- the proposed enlarged one-story sun porch with additions above that would result in the dwelling having 2.5 stories and further reduce the nonconforming front setback from 17.5 feet to 14.8 feet where 25 feet is the minimum required by right (§3.2.3) and extend that nonconformity vertically would be substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is a corner lot at the intersection of Waban Park and Walnut Park. The surrounding properties to the north, east and south are predominantly two- and multi-family dwellings with some single-family residences and vacant lots scattered throughout (**Attachment A**). The neighborhood, including the subject property, is in Multi Residence 1 (MR1) district, with the educational properties to the west zoned Public Use (PU) (**Attachment B**).

B. Site

The property consists of a level 5,445 square foot corner lot at the eastern corner of the intersection of Waban Street and Walnut Park improved with a 1,796 square foot, 2 story, single-family dwelling with an attached garage constructed in 1939.

Vehicular access is provided via a paved driveway and associated curb cut on the property's eastern property line. The remaining portions of the site include lawn with mature trees and shrubs.

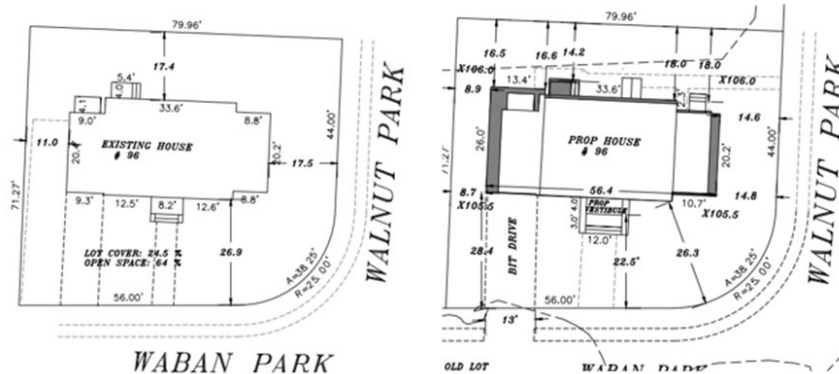
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would remain a single-family dwelling.

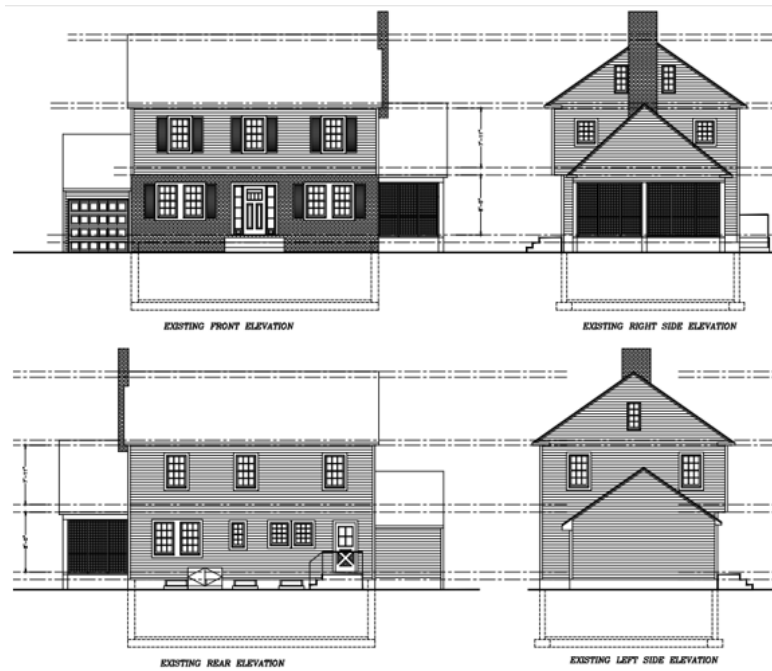
B. Building and Site Design

The petitioner proposes to make additions to both fronts, the side, and the rear of the dwelling. These additions include enlarging the existing one-story sun porch in the lot's Walnut Park side horizontally and vertically, adding to the rear and side of the home (including living space above the existing attached garage), and enclosing the front entry vestibule. These additions would more than double the floor area of the home, increasing it from 1,796 to 3,659 square feet, increasing the currently conforming floor area ratio (FAR) of 0.33 to 0.67 where 0.57 is the maximum allowed.

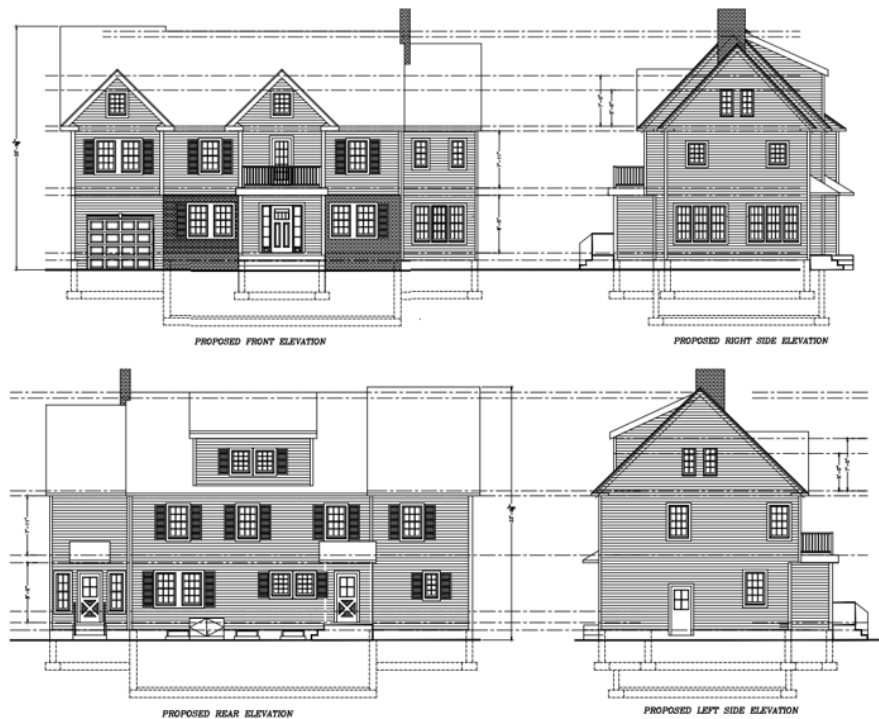


Existing and Proposed Site Plans (proposed additional area shaded)

The various additions would result in the dwelling having 2.5 stories, more than the current two stories. Its measured height would be 35.6 feet, just below the maximum 36 feet allowed.



Existing Elevations



Proposed Elevations

Regarding setbacks, the nonconforming Walnut Park front setback would be further reduced from 17.5 to 14.6 feet where 25 feet is required and extended vertically as well. The other three setbacks would continue to be conforming, but reduced, i.e., the Waban Park frontage

would be reduced from 26.9 to 22.5 feet (per averaging of adjacent properties); the side setback (perpendicular to Waban Park) from 11 to 8.7 feet, and the rear setback (perpendicular to Walnut Park) from 17.4 to 16.5 feet where 22.5 feet, 87.7 feet, and 16.5 feet, respectively, are required.

The proposed changes would increase the lot coverage from 24.5% to 27.5%, remaining below the maximum 30% allowed by right. The property's open space would decrease from 64% to 61% but remain above the minimum 50% required.

C. Parking and Circulation

The existing one-car garage's width would be expanded slightly, as would the width of the existing driveway.

D. Landscaping

A landscaping plan was not submitted with this petition. The Planning Department suggests the petitioner consider providing some vegetive screening along the property's east boundary line.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit per §7.3.3 to:

- exceed FAR (§3.1.3, §3.1.9)
- further extend a nonconforming front setback (§3.2.3, §7.8.2.C.2)

B. Engineering Review

Review of this proposal by the Engineering Division is not required at this time.

C. Historic Review

On November 4, 2022, the Newton Historic Commission found the structure not historically significant and required no further review.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A






Land Use

96 Waban St.

*City of Newton,
Massachusetts*

Land Use

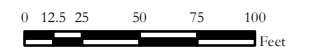
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space
-  Private Educational
-  Vacant Land

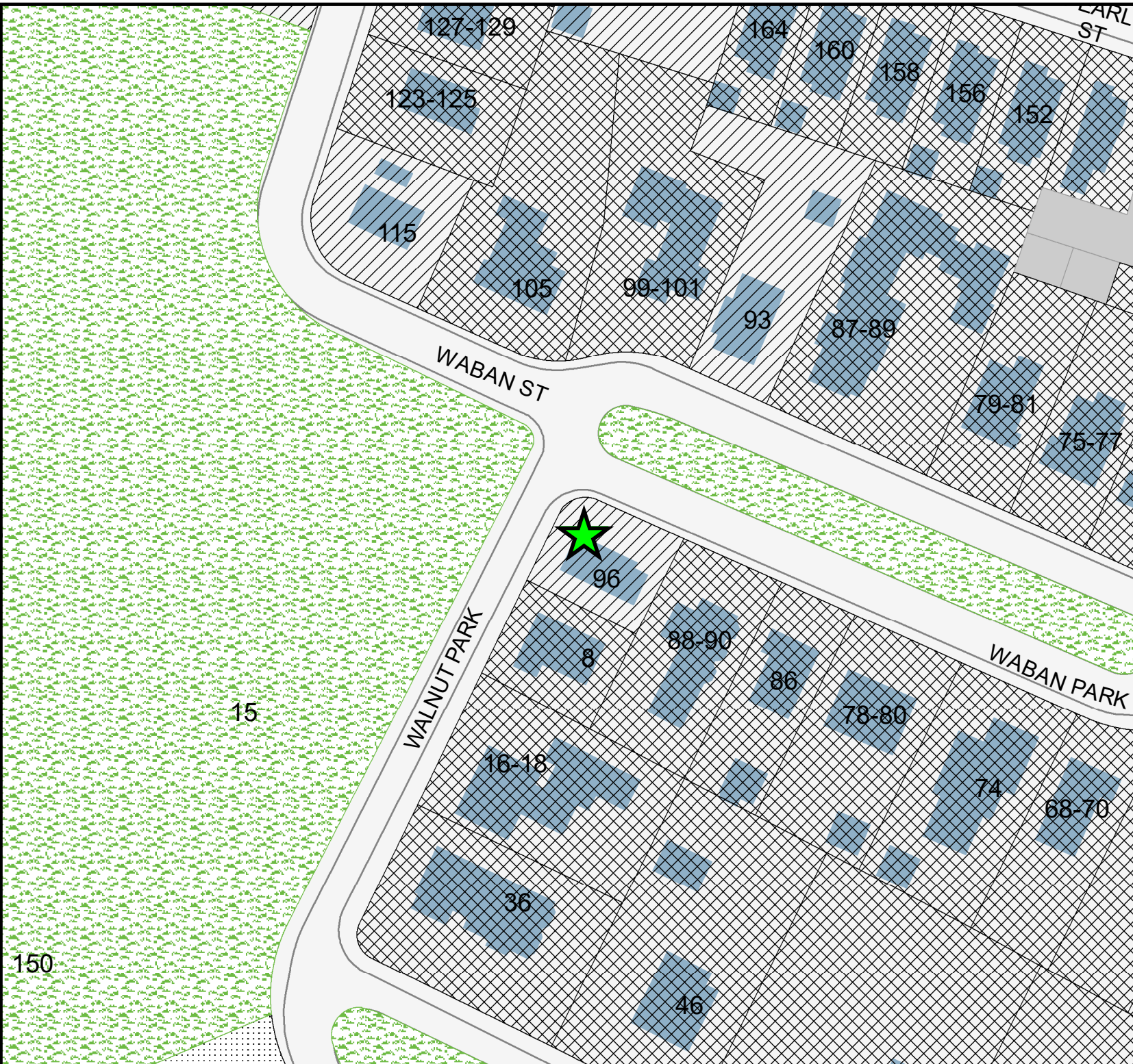


The information on this map is derived from the City of Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily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

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



Map Date: December 02, 2022

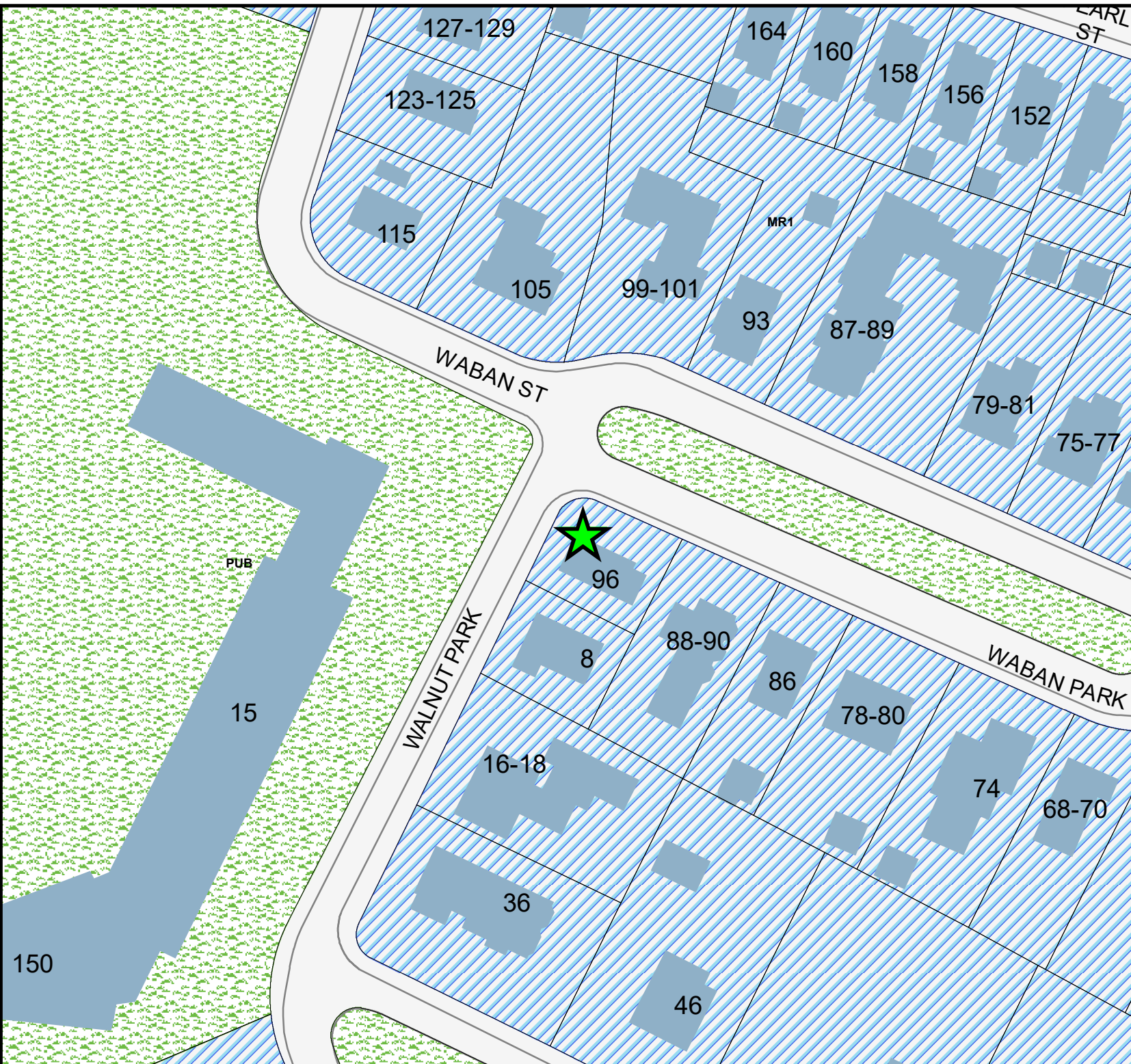




ATTACHMENT B

Zoning

96 Waban St.

*City of Newton,
Massachusetts*

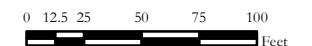


-  Multi-Residence 1
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 6, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Michael and Inna Zaretsky, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request for a special permit to exceed FAR and to further extend a nonconforming front setback

Applicant: Michael and Inna Zaretsky	
Site: 96 Waban Park	SBL: 12005 0002
Zoning: MR1	Lot Area: 5,445 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 96 Waban Park consists of a 5,445 square foot corner lot improved with a single-family dwelling constructed in 1939. The petitioners seek to raise the roof and make additions to both fronts, the side and the rear. The proposed additions require a special permit to exceed FAR and to extend a nonconforming front setback.

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

- Zoning Review Application, prepared Michael Zaretsky, applicant, submitted 3/29/2022
- Plot Plan of Existing House, signed and stamped by Frank Iebba, surveyor, dated 7/14/2005, revised 3/22/2022
- Proposed Addition, signed and stamped by Frank Iebba, surveyor, dated 1/14/2022, revised 2/28/2022, 3/22/2022, 7/30/2022, 8/10/2022, 9/15/2022
- Floor Plans and Elevations, prepared by RAV & Associates, dated 9/7/2021, revised 2/11/2022, 6/10/2022, 9/18/2022
- FAR worksheet, signed and stamped by Richard A. Volkin, engineer, submitted 3/29/2022, revised 10/5/2022

ADMINISTRATIVE DETERMINATIONS:

1. The dwelling has an existing nonconforming front setback of 17.5 feet from Walnut Park where 25 feet is required per section 3.2.3. The petitioners propose to enlarge an existing one-story sun porch in the front setback and construct additions above resulting 2.5 stories. The proposed addition further reduces the nonconforming front setback to 14.8 feet, and extends the nonconformity vertically, requiring a special permit per section 7.8.2.C.2.
2. The petitioner proposes to raise the roof and add dormers to the half story, as well as construct 2.5-story additions to rear and side of the dwelling, and an enclosed front entry vestibule. The proposed construction increases the FAR from .33 to .67, where .57 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	5,445 square feet	No change
Frontage	70 feet	65 feet	No change
Setbacks			
• Front (Waban Park)	22.5 feet	26.9 feet	22.5 feet
• Front (Walnut Park)	25 feet	17.5 feet	14.6 feet*
• Side	7.5 feet	11 feet	8.7 feet
• Rear	15 feet	17.4 feet	16.5 feet
Height	22 feet	NA	35.6 feet
Stories	2.5	2	2.5
FAR	.57	.33	.67*
Max Lot Coverage	30%	24.5%	27.5%
Min. Open Space	50%	64%	61%

BOLD indicates a nonconformity

*Special permit required

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.2.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed allowed floor area ratio (FAR) (§3.1.3, §3.1.9) and further extend the nonconforming front setback (§3.2.3, §7.8.2.C.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. increasing the floor area ratio (FAR) from 0.33 to 0.67, where 0.57 is the maximum allowed by right (§3.1.3) would be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood, especially given its location proximate to similarly scaled dwellings and large institutional buildings (§3.1.9)
2. the proposed enlarged one-story sun porch with additions above that would result in the dwelling having 2.5 stories and further reduce the nonconforming front setback from 17.5 feet to 14.8 feet where 25 feet is the minimum required by right, and extend that nonconformity vertically (§3.2.3), would not be substantially more detrimental than the existing nonconforming structure to the neighborhood, especially given its location proximate to similarly scaled dwellings and large institutional buildings (§7.8.2.C.2)

PETITION NUMBER: #541-22

PETITIONER: Michael and Inna Zaretsky

LOCATION: 96 Waban Park, on land known as Section 12 Block 05 Lot 02 containing approximately 5,445 sq. ft. of land

OWNER: Michael and Inna Zaretsky

ADDRESS OF OWNER: 96 Waban Park
Newton, MA 02446

TO BE USED FOR: Single Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- exceed allowed floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend the nonconforming front setback (§3.2.3, §7.8.2.C.2)

ZONING: Multi Residence 1 (MR1)

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 the following plans:
 - a. a site plan entitled "Proposed Addition, 96 Waban Park, Newton, MA.," dated January 14, 2022, as revised through August 10, 2022, prepared by Essex Eng. & Survey, stamped and signed by Frank Iebba, Professional Land Surveyor
 - b. a set of plans entitled "96 Waban Park, Newton, Massachusetts," prepared by RAV & Assoc., Inc., comprised of the following sheets:
 - i. Proposed Plans (showing proposed basement, second floor, first floor, and attic floor plans) dated September 7, 2021, as revised through September 16, 2022, stamped and signed by Richard A. Volkin, Registered Professional Engineer, (A3)
 - ii. Proposed Elevations (showing proposed front and right side elevations, dated September 7, 2021 (A4)
 - iii. Proposed Elevations (showing proposed rear and left side elevations, dated September 7, 2021 (A5)
 - c. a document entitled "Floor Area Worksheet- 96 Waban Park," indicating a proposed total gross floor area of 3,658.81 square feet and a proposed FAR (floor area ratio) of 0.672, signed and stamped by Richard A. Volkin, Registered Professional Engineer
2. 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 Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Provided a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:

- a. Filed with the building permit record statements by a registered architect, professional land surveyor, and/or professional engineer, certifying compliance with Condition #1, including the as-built FAR.
- b. Submitted final as-built survey plans signed and stamped by a licensed land surveyor in digital format.