



#621-18

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City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 29, 2019
Land Use Action Date: April 9, 2019
City Council Action Date: April 15, 2019
90-Day Expiration Date: April 30, 2019

DATE: January 25, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #620-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further increase the nonconforming floor area ratio (FAR) from .36 to .37, where .33 is the maximum allowed as of right, to further extend a nonconforming three story structure and to amend Special Permits #62-01 (1) and #62-01 (2) at **105 Temple Street**, Ward 3, West Newton on land known as Section 32, Block 12, Lot 8, containing approximately 14,861 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9, §3.1.3, and §7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

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.



105 Temple Street

EXECUTIVE SUMMARY

The property located at 105 Temple Street consists of a 14,861 square foot lot in the Single Residence 2 (SR-2) zone in West Newton. The lot is improved with a 3.5-story, single-family residence constructed circa 1890 that is an example of Victorian architecture. The petitioners are seeking to construct a rear addition adding 191 square feet to the nonconforming 3rd floor. Due to the average grade, the basement counts as the first story of the home, therefore the proposed addition will be referred to as on the 3rd floor for the purposes of this memo, while the plans note it as being on the second floor. The addition will further increase the nonconforming floor area ratio (FAR) for the lot, requiring a special permit. If approved, the dwelling will total 5,542 square feet.

As designed, the proposed addition would increase the floor area ratio from .36 to .37, where .33 is the maximum allowed. The proposed rear addition is within the footprint of the building, it will not be visible from the street, meets all setback requirements, and is not higher than the existing structure. The addition is consistent with the size and scale of the homes in this neighborhood and the new bulk will be focused towards the rear of the house and is well screened by landscaping. Due to this, the Planning Department is unconcerned with the proposed addition that further increases nonconforming FAR and extends the nonconforming 3.5 story structure.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the

Council should consider whether:

- The proposed increase in the nonconforming FAR from .36 to .37, where .33 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)
- The proposed extension of the structure regarding the number of stories is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3, and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located at the intersection of Temple Street and Sterling Street in the SR-2 zone in West Newton. The property is located about .5 miles from the West Newton MBTA commuter rail station at Washington St. The SR-2 zone encompasses the northern side of Temple Street, while the SR-1 zone consists of the southern side of Temple Street (**Attachment A**). The surrounding land use of the neighborhood is single family, with open space behind Peirce Elementary School at the corner of Berkeley and Temple Street (**Attachment B**). There is a mix of style of houses on Temple St, however there are many other Victorians that appear to be around 3.5 stories and with larger bulk at the rear of the structure. Structures get smaller in size and scale as the street continues towards Berkeley Street. 111 Temple Street and 95 Temple Street, on either side of 105 Temple Street, are similar in size and scale to 105 Temple Street.

B. Site

The site consists of 14,861 square feet of land and is improved with a nonconforming 3.5-story Victorian single-family dwelling. The lot is served by one curb cut providing access to an existing asphalt driveway that leads up to a two-car garage. The proposed construction is on the third floor and within the existing footprint of the house. There is a slight downward slope to the lot. There is mature landscaping along the northern property line as well as along the eastern property line.

III. PROJECT DESCRIPTION AND ANALYSIS

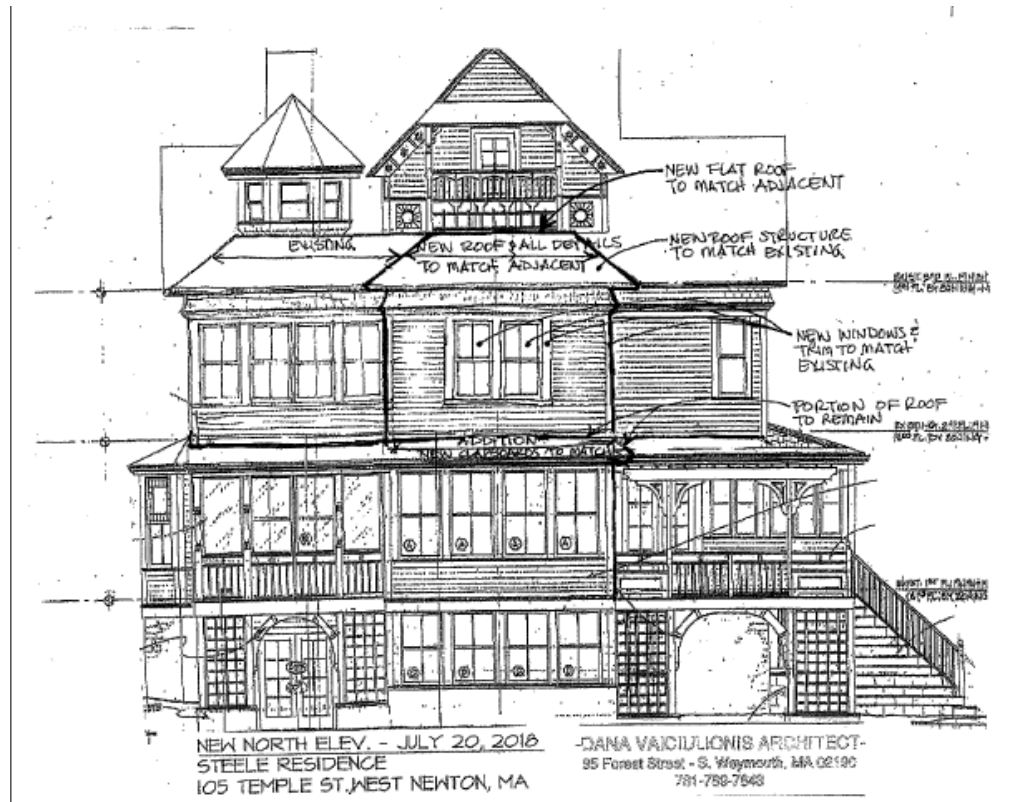
A. Land Use

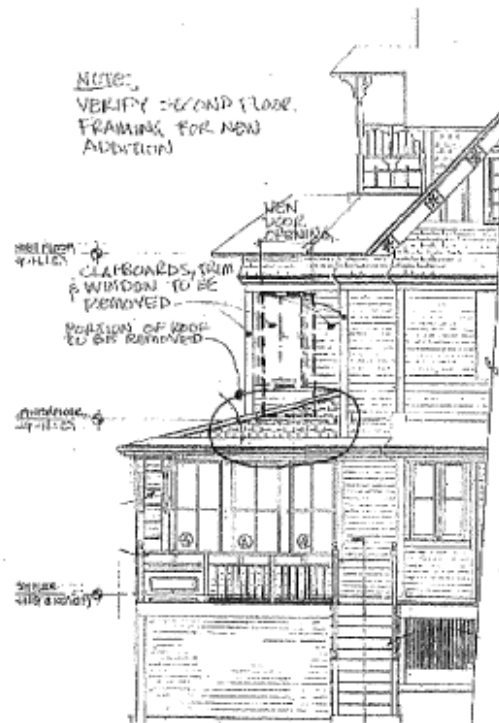
The principal use of the site is and will remain single-family.

B. Building Design

The petitioners are seeking to construct a bathroom expansion of 191 square feet over an existing family room within the existing footprint. The expansion requires an amendment to the prior special permits on the property that granted extension of a nonconforming structure. The resulting structure would contain 5,541 square feet, further increasing the nonconforming FAR from .36 to .37 where .33 is allowed by right. The Planning Department is unconcerned with the addition because it is to the rear of the dwelling, not visible from the street, is consistent with the size and scale of the neighboring homes, and is well screened with landscaping along the northern and eastern property lines. The proposed addition would also match the existing structure

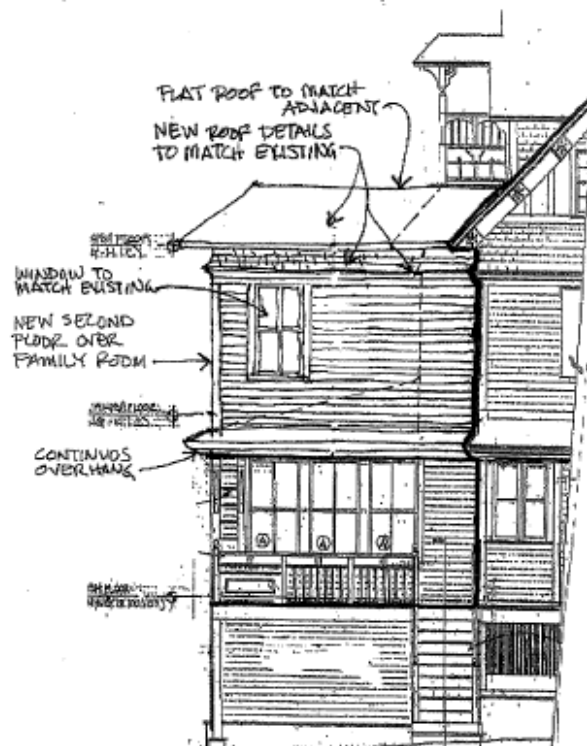
and design in terms of the roof and design.





WEST ELEV. DEMO - MAY 14, 2018
STEELE RESIDENCE
105 TEMPLE ST., WEST NEWTON, MA

DANA VAICIULIONIS ARCHITECT
95 Forest Street - S. Weymouth, MA 02190
781-789-7843



NEW WEST ELEV. - JULY 30, 2018
STEELE RESIDENCE
105 TEMPLE ST., WEST NEWTON, MA

DANA VAICIULIONIS ARCHITECT
95 Forest Street - S. Weymouth, MA 02190
781-789-7843

C. Site Design

Per the Ordinance's definition of a story, the basement level is considered the first floor due to the average grade, creating a nonconforming 3.5 story dwelling. The petitioners are proposing to expand the 3rd floor bathroom within the existing footprint of the home. The Planning Department is unconcerned with the addition because it will conform with all dimensional components and will be well screened.

D. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

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

- Amend Special Permits #62-01 and #62-01(2)
- §3.1.9 and §7.8.2.C.2 of Section 30, to further increase the nonconforming FAR.
- §3.1.3 and §7.8.2.C.2 of Section 30, to further extend the nonconforming 3.5 story structure

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

This petition does not meet the minimum threshold for Newton Historical Commission review.

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 Council Order

ATTACHMENT A

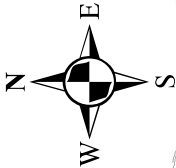
Zoning

105 Temple St.

*City of Newton,
Massachusetts*

Legend

- Single Residence 1
- Single Residence 2
- Public Use

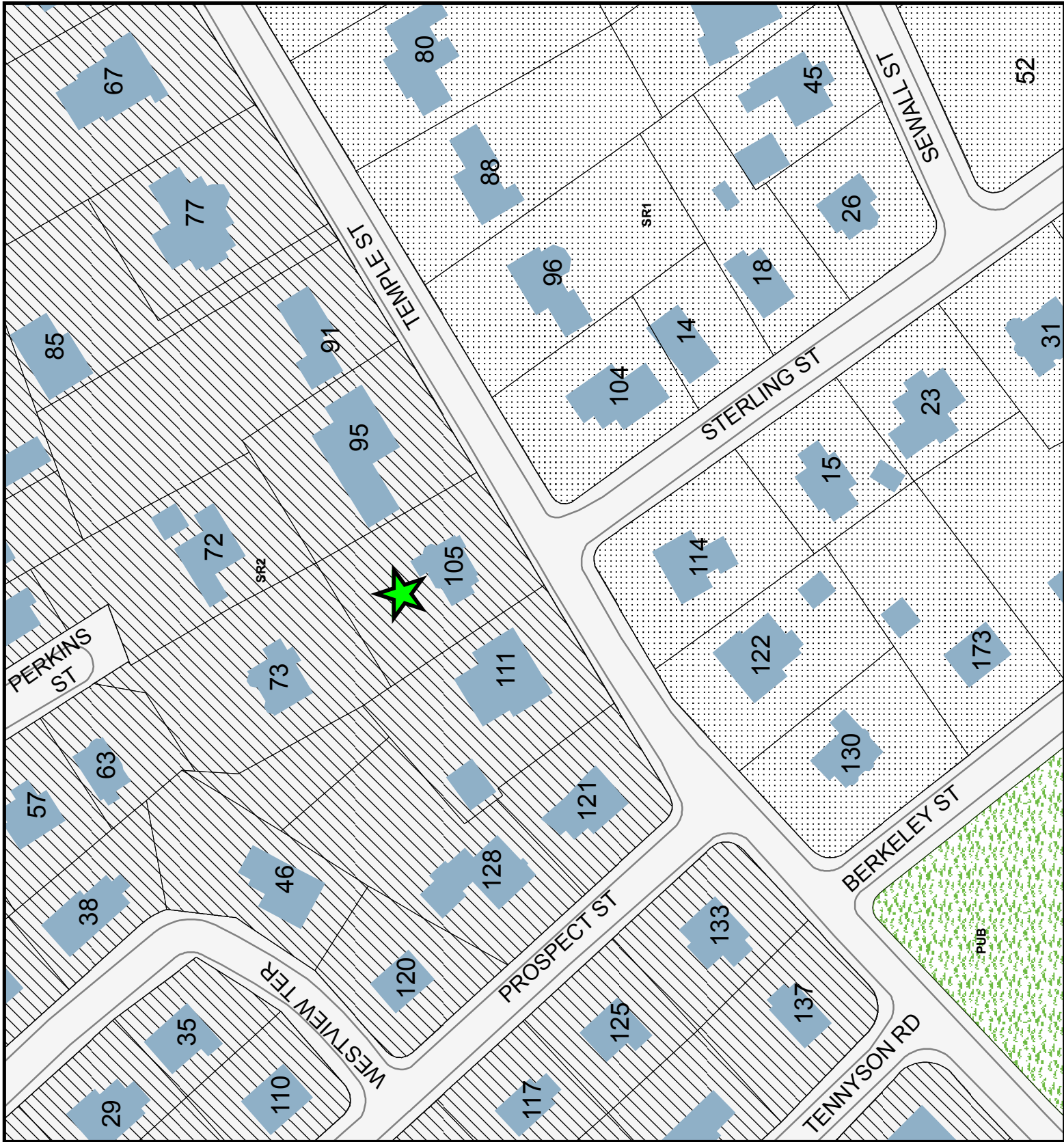


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: January 14, 2019



ATTACHMENT B

Land Use

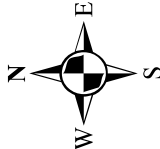
105 Temple St.

*City of Newton,
Massachusetts*

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations

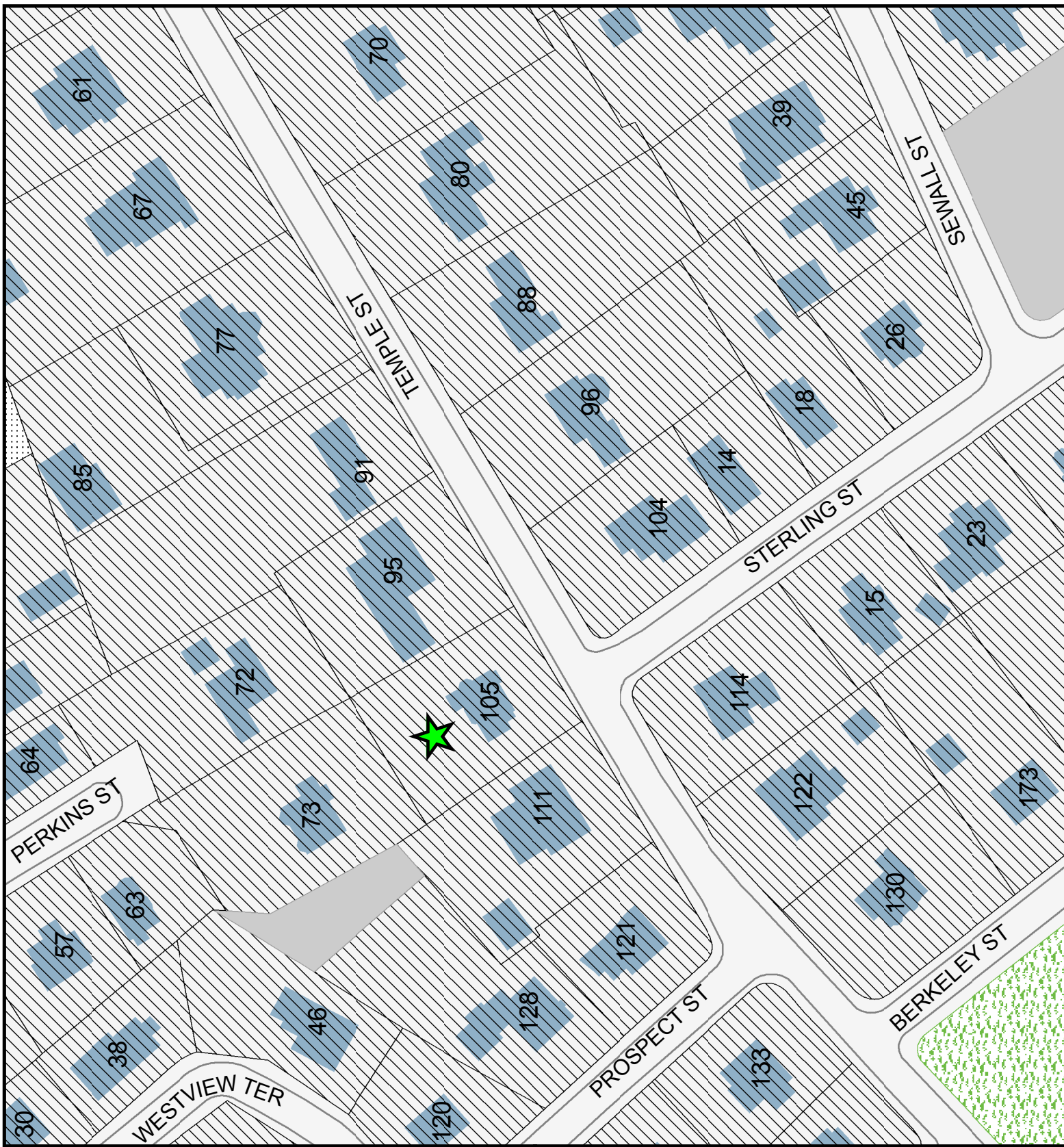


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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100 125 Feet

Map Date: January 14, 2019





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 2, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Scott and Ursula Steele, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: **Request to further increase nonconforming FAR, to further extend a nonconforming three-story structure and to amend Special Permit #62-01 and #62-01(2)**

Applicant: Scott and Ursula Steele	
Site: 105 Temple Street	SBL: 32012 0008
Zoning: SR2	Lot Area: 14,861 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 105 Temple Street consists of a 14,861 square foot lot improved with a single-family residence constructed circa 1890 and a detached garage structure. Per the Ordinance's definition of a story, the basement level is considered the first floor due to the average grade, creating a nonconforming 3.5 story dwelling. The petitioners were granted a special permit in 2001 to allow for a three-story rear addition. The petitioners now propose a bathroom expansion of 191 square feet over an existing family room within the existing footprint. The proposed addition requires an amendment to the existing special permits, as well as relief to allow further expansion of the nonconforming third level and nonconforming FAR.

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

- Zoning Review Application, prepared Ursula Steele, dated 9/23/2018
- FAR Worksheet, submitted 9/23/2018
- Plot Plan, signed and stamped by Bruce Bradford, surveyor, dated 4/9/2008
- Architectural Plans, prepared by Dana Vaiciulionis, architect, dated 7/30/2018

ADMINISTRATIVE DETERMINATIONS:

1. Due to the average grade and height of the basement level, the dwelling is nonconforming with 3.5 stories. The petitioners were granted a special permit in 2001 to allow for a three-story rear addition. The special permit was amended in 2002 to allow for grade changes for site improvements to enhance the functionality of the rear yard as well as drainage. The proposed addition requires an amendment to Special Permits #62-01 and #62-01(2) and associated plans.
2. The petitioners' existing FAR is .36, where .33 is the maximum allowed. The proposed addition adds 191 square feet to the dwelling, resulting in an FAR of .37. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.
3. The petitioners' proposed addition is located over an existing family room within the existing footprint. Due to the average grade, the basement level is the first floor per section 1.5.4.D.2, creating a 3.5 story dwelling. Per section 3.1.3, a single-family detached structure may have a max of 2.5 stories by right, and three by special permit. The proposed addition will further extend the nonconforming third floor, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	14,861 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front	25 feet	~30 feet	No change
• Side	7.5 feet	~25 feet	No change
• Rear	15 feet	55.2 feet	No change
Max Number of Stories	2.5	3.5	No change
FAR	.33	.36	.37
Max Lot Coverage	30%	16%	No change
Min. Open Space	50%	66%	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #62-01 and 62-01(2)	
§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 extend a nonconforming three-story single-family dwelling	S.P. per §7.3.3

#621-18
105 Temple Street

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 increase the nonconforming floor area ratio (FAR) from .36 to .37, where .33 is the maximum allowed as of right, to further extend a nonconforming three story structure and to amend Special Permits #62-01 (1) and #62-01 (2) as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming floor area ratio from .36 to .37, where .33 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition will not be visible from the street, meets all setback requirements, is well screened by landscaping and is not higher than the existing structure (§3.1.9 and §7.8.2.C.2).
2. The proposed extension of the nonconforming 3.5 story structure is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the nonconforming 3.5 story structure is similar to other homes on the street in size and scale.

PETITION NUMBER: #621-18

PETITIONER: Scott and Ursula Steele

LOCATION: 105 Temple St., on land known as Section 32, Block 12, Lot 8, containing approximately 14,861 square feet of land

OWNER: Scott and Ursula Steele

ADDRESS OF OWNER: 105 Temple Street

Newton, MA 02465

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.8.2.C.2 to further increase the nonconforming FAR to construct a rear addition, §3.1.9 and §7.8.2.C.2 to further extend a nonconforming 3.5 story structure

ZONING: Single Residence 2 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. Certified Plot Plan, signed and stamped by Bruce Bradford, Land Surveyor, dated April 9, 2008.
 - b. Architectural Plans, prepared by Dana Vaiciulionis, Architect, unstamped, consisting of the following four (4) sheets:
 - i. Second Floor Demolition Plan dated May 14, 2018 /Second Floor Plan dated August 13, 2018
 - ii. East Elevation Demo dated May 14, 2018/ New East Elevation dated July 30, 2018
 - iii. North Elevation Demo dated May 14, 2018/ New North Elevation dated July 20, 2018
 - iv. West Elevation Demo dated May 14, 2018/New West Elevation dated July 30, 2018
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, Engineering Division of Public Works, and Fire Department.
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 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

4. 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 a statement by an architect certifying compliance with Condition #1.
 - 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 licensed architect.