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Department of Planning and Development
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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 14, 2020
Land Use Action Date: September 22, 2020
City Council Action Date: October 5, 2020
90- Day Expiration Date: October 12, 2020

DATE: July 10, 2020

TO: City Council

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

SUBJECT: **Petition #620-18(3)**, for SPECIAL PERMIT/SITE PLAN to amend Special Permit Council Orders #62-01(2) and #621-18 to allow for a new addition over an existing retaining wall to expand a mudroom and relocate a mudroom, creating an FAR of .38 where .37 exists and .33 is allowed 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. 7.3., 7.4, 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 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 subject property at 105 Temple Street consists of a 14,861 square foot lot located at the intersection of Temple Street and Sterling Street within a Single Residence 2 (SR2) district. The property is improved with a 3.5-story, single-family residence constructed circa 1890 and a detached garage (please note: per the Newton Zoning Ordinance's definition of a story, and due to the average grade and height of the basement level, the basement level is considered the first story and the dwelling a nonconforming 3.5 story structure).

A special permit was granted in 2001 (#62-01) to allow for a three-story rear addition. This special permit was amended in 2002 (#62-01(2)) to allow certain site improvements to the lot's drainage and rear yard. A second special permit was granted in 2018 (#621-18) to allow a 191 square foot expansion within the dwelling's existing footprint.

The property's current floor area ratio (FAR) is 0.37 (as allowed by Special Permit #621-18), where 0.33 is the maximum allowed by right.

The petitioners are currently seeking to amend Special Permits #62-01(2) and #621-18 and associated approved plans to allow a 93 square foot addition on the main floor (the dwelling's "second story") that would include an expanded mudroom and a relocated powder room.

As designed, the proposed addition would result in a FAR of 0.38, and a special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.

The Planning Department is generally not concerned with the proposed addition due to its modest size, limited visibility from adjacent properties and public ways and it is consistent with the size and scale of the neighboring dwellings.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed expanded single-family dwelling as designed (§7.3.3.C.1);
- The proposed expanded single-family dwelling as designed will not adversely affect the neighborhood (§7.3.3.C.2);
- There will be no nuisance or serious hazard to vehicles or pedestrian (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
- The proposed increase in the nonconforming FAR from 0.37 to 0.38, where 0.33 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
- 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 the north side of Temple Street at its intersection with Sterling Street. The surrounding neighborhood's land use is almost uniformly single-family dwellings, many of similar scale as the subject property; there is also some open space associated with Peirce Elementary School (**Attachment A**). The northern side of Temple Street is within a Single Residence 2 (SR2) district, while the area south of that street is within a Single Residence 1 (SR1) district (**Attachment B**).

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 and a detached garage. It has a slight downward slope and features mature landscaping and lawn area. The lot is served by one curb cut providing access to an existing asphalt driveway that leads up to a detached two-car garage.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a single-family dwelling with a detached garage.

B. Building and Site Design

The petitioners are seeking to construct a new one-story, 93 square foot addition above an existing ground level retaining wall on the left side of the parcel, adjacent to the existing driveway. As designed, the addition would contain an expanded mudroom and a relocated powder room. It would be located between two existing exterior staircases and have limited visibility from the street.

The resulting structure would have a further increased the nonconforming FAR of 0.38, higher than the existing 0.37 and the 0.33 allowed by right. The only other dimensional change would be that the left side setback would be reduced from approximately 25 feet to approximately 15 feet, remaining above the required 7.5 feet.

C. Parking and Circulation

The petitioners are not proposing any changes to either the 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 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(2) and #621-18
- Special Permit per §7.3.3 to further increase nonconforming floor area ratio (FAR) (§3.1.9, §7.8.2.C.2)

B. Engineering Review

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

C. Historic Preservation Review

On April 2, 2020, the Newton Historical Commission review approved the proposed project based on submitted materials, requiring only final review of construction plans before the issuance of a building permit.

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






Land Use

105 Temple St.

*City of Newton,
Massachusetts*

Legend

Land Use

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



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

0 12.5 25 50 75 100 125
Feet

Map Date: January 14, 2019



Ruthanne Fuller
Mayor

ATTACHMENT C

City of Newton, Massachusetts
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 21, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Scott and Ursula Steele, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: **Request to further increase nonconforming FAR, to further extend a nonconforming three-story structure and to amend Special Permit #62-01(2) and #621-18**

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 story 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. A second special permit was granted in 2018 to allow a bathroom expansion of 191 square feet over an existing family room within the existing footprint. The petitioners now seek to make a new addition cantilevered over an existing retaining wall containing an expanded mudroom and a relocated powder room. The proposed addition requires an amendment to the existing special permits, as well as relief to allow further expansion of the nonconforming FAR.

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

- Zoning Review Application, prepared Ursula Steele, dated 1/22/2020
- FAR Worksheet, submitted 1/22/2020
- Architectural plans and elevations, submitted 1/22/2020, revised 4/2/2020

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(2) and #621-18 and associated plans.
2. The petitioners' existing FAR is .37, which was allowed by special permit #621-18, where .33 is the maximum allowed by right. The proposed addition adds 93 square feet to the dwelling, resulting in an FAR of .38. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.

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 <ul style="list-style-type: none">• Front• Side• Rear	25 feet 7.5 feet 15 feet	±25feet ±25 feet 55.2 feet	No change ±15 feet No change
Max Number of Stories	2.5	3.5	No change
FAR	.33	.37	.38
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(2) and #621-18	
§3.1.9, §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

ATTACHMENT D

DRAFT- #620-18(3)
105 Temple St.

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 amend Special Permit Council Orders #62-01(2) and #621-18 to allow for a new addition over an existing retaining wall to expand a mudroom and relocate a mudroom, extending the nonconforming floor area ratio (FAR) from 0.37 to 0.38 where 0.33 is 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 specific site is an appropriate location for the proposed expanded single-family dwelling as designed as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, and be well screened by landscaping (§7.3.3.C.1)
- 2) The proposed expanded single-family dwelling as designed will not adversely affect the neighborhood as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, and be well screened by landscaping (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
- 5) The proposed increase in the nonconforming FAR from 0.37 to 0.38, where 0.33 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 as the resulting structure will be similar to other neighborhood dwellings in size and scale (§3.1.9)
- 6) The proposed extension of the structure's nonconforming floor area ratio (FAR) from 0.37 to 0.38, where 0.33 is the maximum allowed by right will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the addition will have limited visibility from adjacent properties and public ways, meet all setback requirements, is well screened by landscaping and is not higher than the existing structure. (§7.8.2.C.2)

PETITION NUMBER: #621-18

PETITIONER: Scott and Ursula Steele

ADDRESS OF PETITIONER: 105 Temple Street
Newton, MA 02465

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

EXPLANATORY NOTES: Special permits per §7.3.3:

- to amend Special Permits # 62-01(2) and #621-18
- to further increase nonconforming floor area ratio (FAR) (§3.1.9, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) district

The conditions set forth in prior special permits for this property, Special Permits # 62-01(2) and #621-18. remain in full force and effect except as modified herein.

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. A site plan entitled "105 Temple St, W. Newton- Proposed Work Shown in Red," signed and stamped by Dana Vaiciulionis, Architect
 - b. Architectural Plans, signed and stamped by Dana Vaiciulionis, Architect, dated April 2, 2002, consisting of the following sheets:
 - i. Existing Front Elevation
 - ii. Existing Side Elevation
 - iii. Partial New Front Elevation
 - iv. New Side Elevation

- v. First Floor Existing
- vi. First Floor New Bath Becomes Pantry

2. 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.
3. 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.