



City of Newton, Massachusetts
Department of Planning and Development
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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 15, 2020
Land Use Action Date:	December 8, 2020
City Council Action Date:	December 14, 2020
90-Day Expiration Date:	December 14, 2020

DATE: September 11, 2020

TO: City Council

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

SUBJECT: **Petition #315-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers to create a bedroom, increasing the nonconforming FAR from .80 to .83 where .58 is the maximum allowed by right at 71-73 Withington Road, Ward 2, Newtonville, on land known as Section 22 Block 21 Lot 04, containing approximately 5,000 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 3.2.11, 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.



71-73 Withington Road

EXECUTIVE SUMMARY

The property located at 71 Withington Road contains 5,000 square feet in the Multi Residence 1 (MR-1) zone in Newtonville. The lot is improved with a two-family residence constructed circa 1920. The petitioners are seeking to construct dormers to the second floor to create additional living space, totaling 174 square feet. The additions will further increase the nonconforming floor area ratio from .80 to .83, where .58 is the maximum allowed by right, requiring a special permit. If approved, the dwelling will contain 4,186 square feet, where 2,900 square feet is the maximum allowed by right.

The proposed dormer additions are within the footprint of the structure, meeting all setback requirements, are not higher than the existing structure, and the enlarged structure would remain consistent with the size and scale of the neighboring homes. For these reasons, the Planning Department is unconcerned with the proposed additions that further 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 .80 to .83, where .58 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

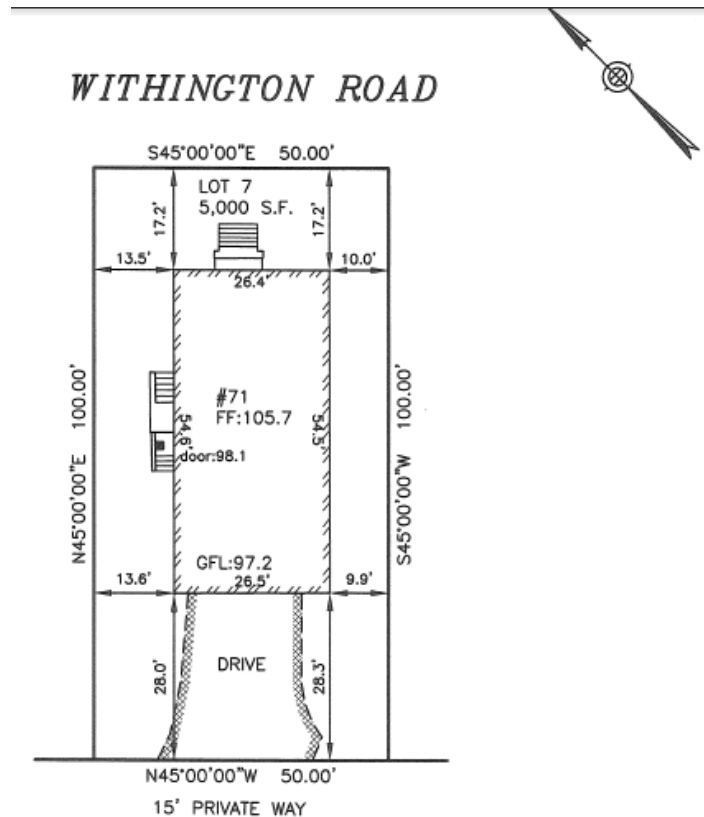
The subject property is located on the western side of Withington Road in the MR-1 zone in Newtonville. The MR-1 zone encompasses the surrounding properties on Withington Road and the neighborhoods nearby. There is a public use zone northeast of the site (**Attachment A**). Withington Road is comprised largely of multifamily residential uses, while the surrounding neighborhoods are a mix of multifamily residential and single-family residential uses (**Attachment B**).

B. Site

The site consists of 5,000 square feet of land and it is improved with a two-family residence constructed in 1920. The lot is served by one curb cut providing access to a driveway along the southern boundary. The height of the structure is 32 feet and 7

inches, below the 36 feet maximum allowed by right. The site is relatively flat.

Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

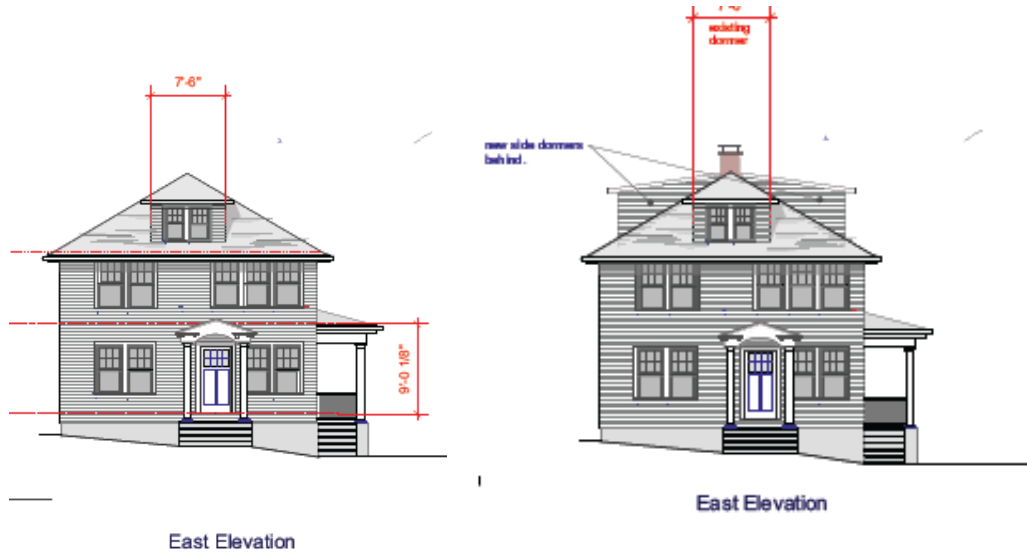
A. Land Use

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

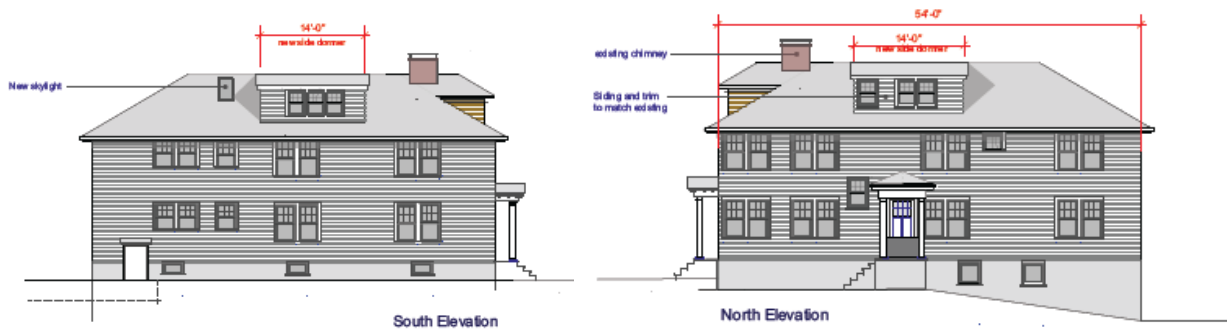
B. Building and Site Design

The petitioners are seeking to construct shed-style dormers to both the northern and southern facades of the attic to create an additional 174 square feet of living space. The proposed dormers will increase the nonconforming FAR from .80 to .83, where .58 is the maximum allowed by right. The resulting structure would contain 4,186 square feet, where 2,900 square feet is the maximum allowed by right. The dormers also comply with the dormer provisions of the Ordinance, measuring 14 feet in width, approximately 26% of the wall plane below.

Existing (L) and Proposed (R) Front Elevations



Proposed Side Elevations



The proposed additions are to the attic level, and do not extend beyond the footprint of the structure. The proposed additions to the structure are consistent with the size and scale of the neighborhood, and overall, with the additional 174 square feet to the structure the proposed dormers do not represent a large increase in FAR.

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:

- §3.1.9 and §7.8.2.C.2 of Section 30, to further increase the nonconforming FAR.

B. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

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

71 Withington Road

*City of Newton,
Massachusetts*

Zoning

-  Multi-Residence 1
-  Public Use

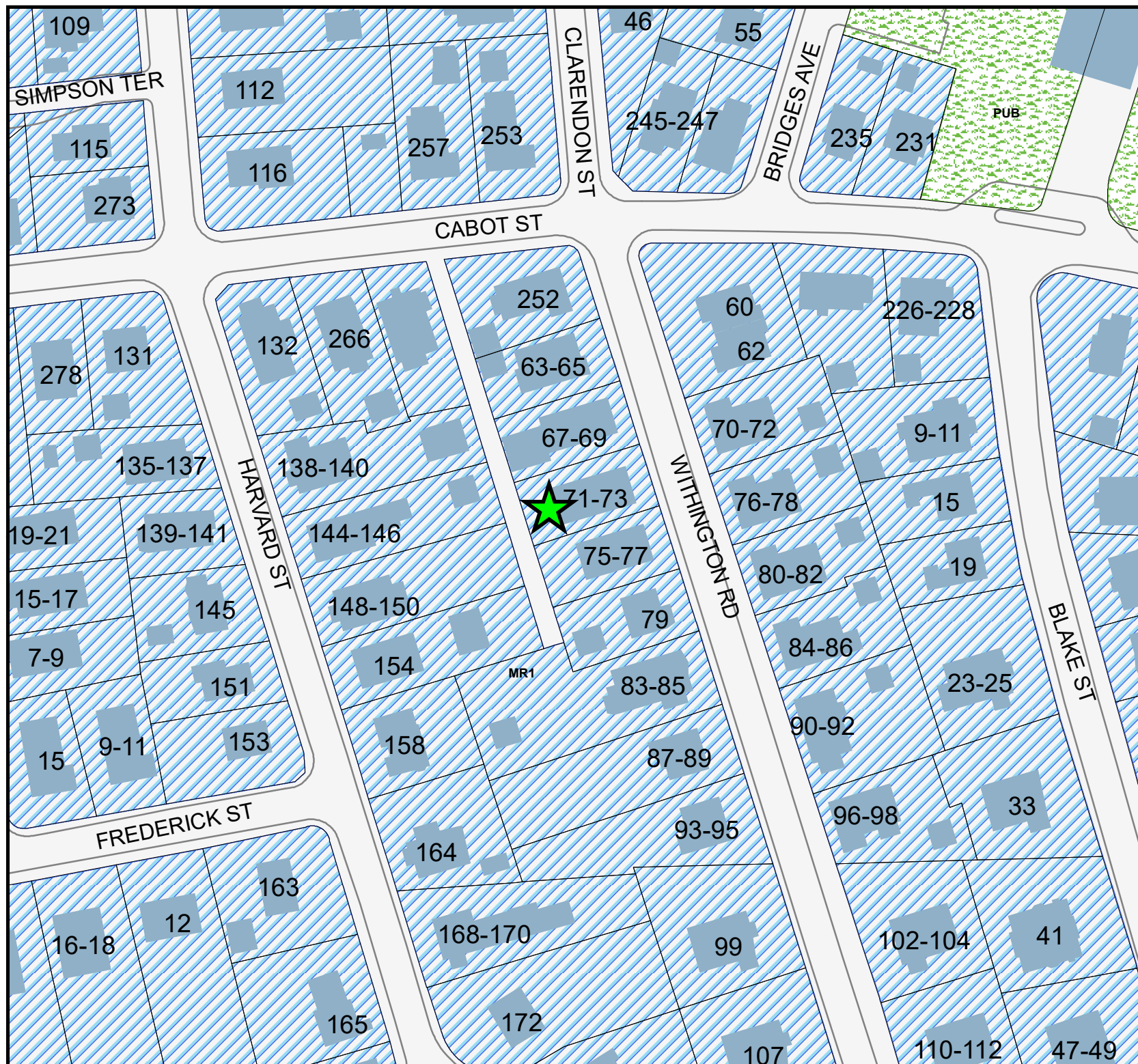


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve 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: August 25, 2020



ATTACHMENT B






Land Use

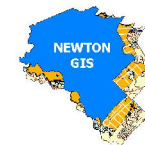
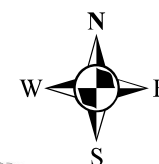
71 Withington Road

*City of Newton,
Massachusetts*

Land Use

Land Use

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

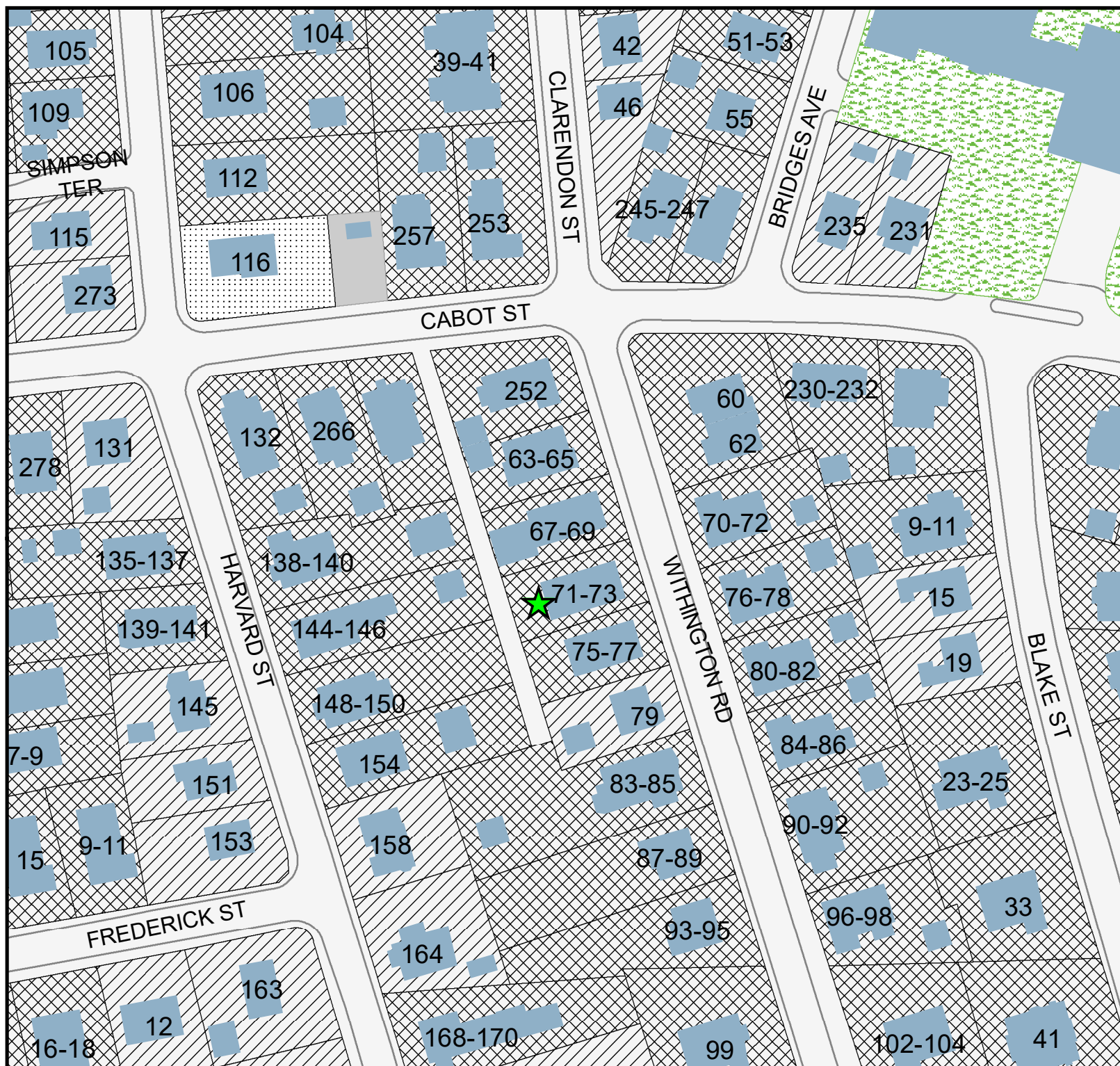


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 6, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Matthew and Jennifer Katz, Applicants
Jay Walter, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: **Request to further increase nonconforming FAR**

Applicant: Matthew and Jennifer Katz	
Site: 71-73 Withington Road	SBL: 22021 0004
Zoning: MR1	Lot Area: 5,000 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 71-73 Withington Road consists of a 5,000 square foot lot improved with a two-family residence constructed in 1920. Each unit is separately held. The petitioners own the second floor unit and propose to finish the attic and construct dormers on either side to create a master bedroom. The proposed changes will further increase the nonconforming floor area ratio, requiring a special permit.

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

- Zoning Review Application, prepared by Jay Walter, architect, dated 5/18/2020
- FAR Worksheet, submitted 5/18/2020
- Existing Conditions Plan of Land, prepared by Everett M. Brooks, surveyor, dated 2/26/2019
- Architectural Plans, prepared by Jay Walter, architect, dated 5/16/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners intend to construct attic dormers to create a master bedroom within the existing footprint. The addition adds 174 square feet of living space resulting in a total of 4,186 square feet between the two units. The existing FAR is nonconforming at .80, where .58 is the maximum allowed. The proposed addition results in a FAR of .83, further increasing the nonconforming FAR, requiring a special permit pursuant to Sections 3.2.3, 3.1.11 and 7.8.2.C.2.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	5,000 square feet	No change
Frontage	70 feet	50 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Withington Rd) • Front (paper street) • Side • Side 	25 feet 25 feet 7.5 feet 7.5 feet	17.2 feet 28 feet 13.5 feet 9.9 feet	No change No change No change No change
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	30.2 feet	No change
FAR	.58	.80	.83
Max Lot Coverage	30%	29.2%	No change
Min. Open Space	50%	58%	No change

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3, §3.2.11 §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 increase the nonconforming floor area ratio (the "FAR") from .80 to .83, where .58 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 .80 to .83, where .58 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 proposed dormers result in an increase of only 174 square feet to the attic level of the existing structure. (§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 proposed dormers result in an increase of only 174 square feet to the attic level of the existing structure. (§3.1.9 and §7.8.2.C.2)

PETITION NUMBER: #315-20

PETITIONER: Matthew and Jennifer Katz

LOCATION: 71 Withington Road, on land known as Section 22, Block 21,
Lot 4, containing approximately 5,000 square feet of land

OWNER: Matthew and Jennifer Katz, John Martin

ADDRESS OF OWNER: 71-73 Withington Road
Newton, MA 02460

TO BE USED FOR: Two Family Dwelling with dormer addition to the attic level

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9 and §7.8.C.2.C to exceed the floor area ratio

ZONING: Multi Residence 1 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. Plan of Land showing existing conditions at 71 Withington Road, prepared by by Everett M. Brooks Co., unsigned and unstamped, dated February 26, 2020
 - b. Architectural Plans, "Kratz Residence", prepared by Entasis PC, Jay C. Walter, unsigned and unstamped, dated July 23, 2020 consisting of five (5) sheets:
 - i. Existing Second Unit Floor Plan, SK-8
 - ii. Existing Unfinished Attic, SK-9
 - iii. Existing Exterior Elevations, SK-10
 - iv. Proposed Attic Plan with Shed Dormers, SK-11
 - v. Exterior Elevations with Shed Dormers SK-12
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 petitioner has:
 - a. Recorded a certified copy of this council 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 council 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 petitioner has:
 - 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 as well as the as-built floor area ratio of the structure.