



Ruthanne Fuller  
Mayor

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

**#318-20**

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	September 29, 2020
Land Use Action Date:	December 8, 2020
City Council Action Date:	December 21, 2020
90- Day Expiration Date:	December 28, 2020

DATE: September 25, 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 #318-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story rear addition with a basement accessory apartment, extending the nonconforming two-family use in the SR3 zone at **107-109 Grove Street**, Ward 4, Auburndale, on land known as Section 43 Block 31 Lot 14, containing approximately 12,437 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 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.



**107-109 Grove Street**

### EXECUTIVE SUMMARY

The subject property at 107-109 Grove Street consists of a 12,437 square foot lot in a Single Residence 3 (SR3) zoning district improved with a 3,953 square foot, 2 ½ story, two-family dwelling constructed circa 1925 and a detached 493 square foot garage. It is considered a nonconforming use as two-family dwellings are prohibited in SR3 districts per Section 3.4.1 of the Newton Zoning Ordinance (NZO).

The petitioners intend to rehabilitate the existing dwelling and construct a 1,058 square foot two-story rear addition that would include an internal accessory apartment to be located on the basement-level. The proposed addition requires a special permit pursuant to Sections 3.4.1 and 7.8.2.C.2 of the NZO to extend the existing nonconforming two-family use.

The Planning Department is generally not concerned with this petition as it believes the proposed addition would not be substantially more detrimental to the neighborhood than the existing nonconforming use as the resulting structure would comply with current floor area ratio (FAR) and other dimensional regulations, and, given its location to the rear of the structure, would have limited visibility.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider:

- Whether the proposed extension of an existing nonconforming two-family use in and Single Residence 3 (SR3) zoning district would not 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 located on the west side of Grove Street just south of Woodland Road. The neighborhood is a mix of residential (single- two- family dwellings) and institutional uses, with a religious institution, the Williams School, and Lasell University all in the immediate vicinity.

The site and surrounding area to the north west of the site is zoned Single Residence-3 (SR3) and a Single Residence 2 (SR2) district is located to the northeast. The Lasell University property across Grove Street (on its east side) is zoned Single Residence 1 (SR1), while the Williams School property to the south is zoned for Public Use (PU). **(Attachments A & B).**

B. Site

The subject property consists of a 12,437 square foot lot improved with a 3,953 square foot, 2 ½ story, two-family dwelling constructed circa 1925 and a detached 493 square foot garage located in the rear right of the property.

While the location of the proposed addition is generally level, the lot grades downward about eight feet from left to right (south to north). The parcel features paved parking and circulation area and mature vegetation, including trees, shrubbery and lawn area. Access to the property is provided by two concrete walkways to the two front doors and an asphalt driveway along the right (north) property line and an associated curb cut off Grove Street that provides access to the garage.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a two-family dwelling but with the addition of an accessory apartment to one of the two units.

B. Building and Site Design

The petitioner proposes to rehabilitate the existing dwelling and construct a two-story, 1,058 square foot rear addition. The addition would be in the general location of an existing roofed second floor porch, although it would extend further to the left and right of the property than the porch currently does. The portion of the addition on the right side of the parcel would contain mostly a stair system and have a steeply sloping roofline that reduces the perceived bulk of the addition. The structure would remain at 2 ½ stories; the ridgeline would remain unchanged, but the measured height would increase slightly, from 30.7 to 30.9 feet due to a small change to the average grade plane.

The proposed addition would add approximately 348 square feet of floor area to the first floor, 437 square feet to the second story, and 274 square feet to the basement level. With these changes, the dwelling's floor area ratio (FAR) would increase from 0.31 to 0.40, remaining below the maximum 0.42 allowed by right (including the 0.02 bonus).

The front setback on Grove Street of 28.8 feet would remain unchanged, as would the right (north) side's 10.6 setback. While the proposed addition would decrease the left (south) side setback from 17.3 to 11.5 feet, it would remain greater than the minimum 7.5 feet required. The rear set back would be approximately 70.5 feet, well above the minimum 15 feet required.

The parcel's Lot Coverage would increase from 17.7% to 20.3%, remaining below the maximum 30.0% allowed. The Open Space percentage would increase decrease from

57% to 61% above the required 50%. The impervious surface on the property would be reduced by 488 square feet as a result of the elimination of some current driveway area.

(The Planning Department notes that the proposed addition would include a 667 square foot basement-level internal accessory apartment which would be associated with the second-floor unit that contains 2,836 square feet of habitable space. As the proposed accessory apartment would be only 24% of the total habitable space of the associated unit and less than both 1,000 square feet and 33% of the total habitable space of the associated dwelling, no relief is required for the accessory apartment per Section 6.7.1.D.2)).

C. Parking and Circulation

As referenced above, the proposal calls for the elimination of some current driveway area that directly to left (south) of the existing garage. A new driveway would be installed generally in the area occupied by the current driveway, including a portion of which at the back of the sidewalk that the petitioner indicates is located within an easement on the property abutting to the right (north). The petitioner should be prepared to discuss the nature and extent of that easement at the public hearing.

The Planning Department notes that the submitted site plan indicates the general location of four un-delineated parking spaces in the space between the proposed addition and the existing garage. These would be in addition to those spaces that could be accommodated within the existing two-car garage.

D. Landscaping and Screening

No landscaping plan was submitted as part of the petition. The Planning Department suggests that the petitioner consider installing vegetative screening along the right side of the property, between the driveway and right (north) property line, especially from the location of the proposed addition back toward the garage.

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 the following relief:

- Special Permit per §7.3.3 to further alter and extend a nonconforming two-family dwelling in a SR3 district (§3.4.1; §7.8.2.C.2)

B. Engineering Review

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

C. Historical Commission

On April 21, 2020, Auburndale Historic District Commission granted a Certificate of Appropriateness for the project as submitted to that commission.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time. The petitioner should be prepared to address and all issues raised above at the public hearing.

**ATTACHMENTS:**

- |                      |                          |
|----------------------|--------------------------|
| <b>Attachment A:</b> | Land Use Map             |
| <b>Attachment B:</b> | Zoning Map               |
| <b>Attachment C:</b> | Zoning Review Memorandum |
| <b>Attachment D:</b> | DRAFT Board Order        |

# ATTACHMENT A






## Land Use

107-109 Grove St.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space
-  Private Educational
-  Nonprofit Organizations

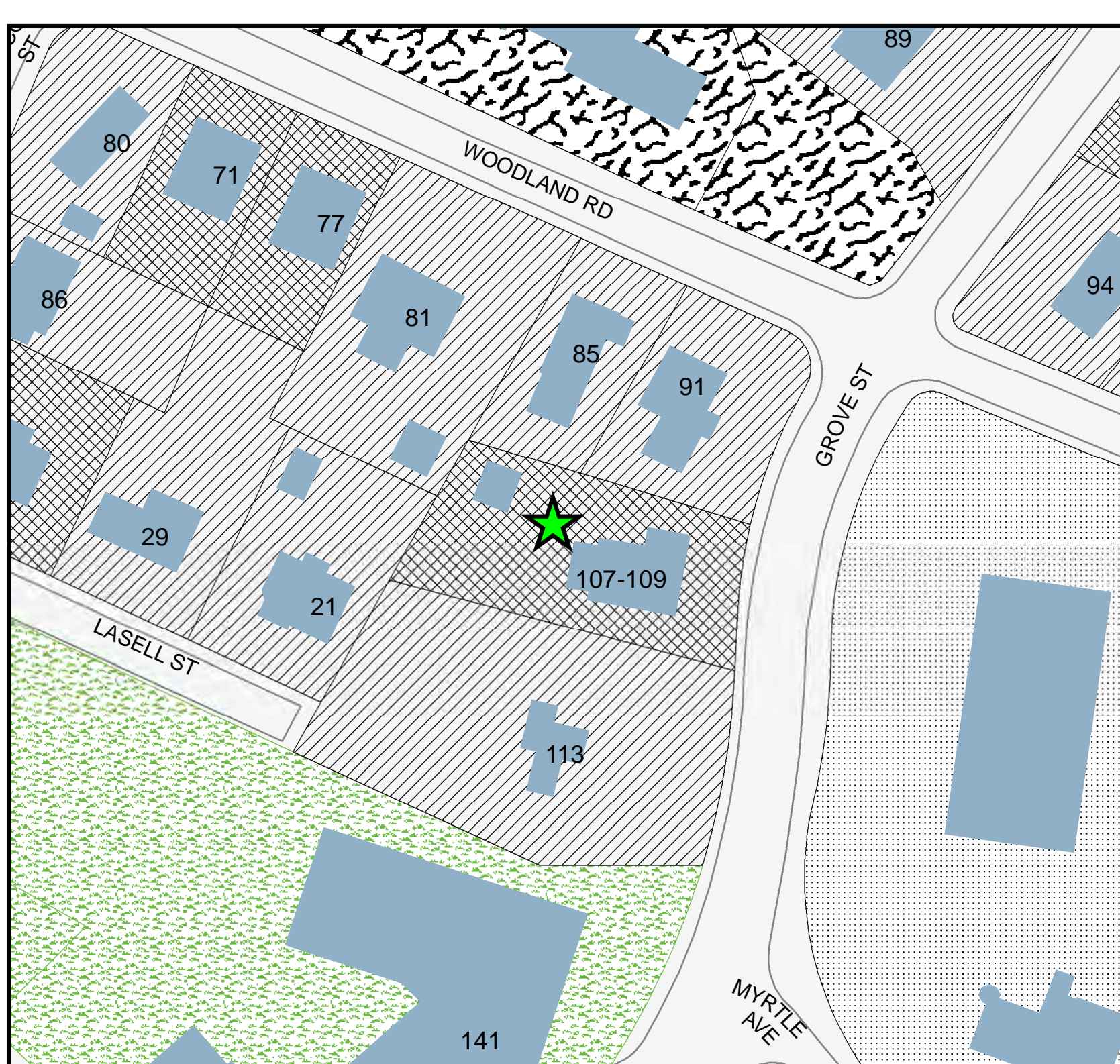


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: September 22, 2020





# ATTACHMENT B

## Zoning

**107-109 Grove St.**

*City of Newton,  
Massachusetts*

-  Single Residence 1
-  Single Residence 2
-  Single Residence 3
-  Public Use

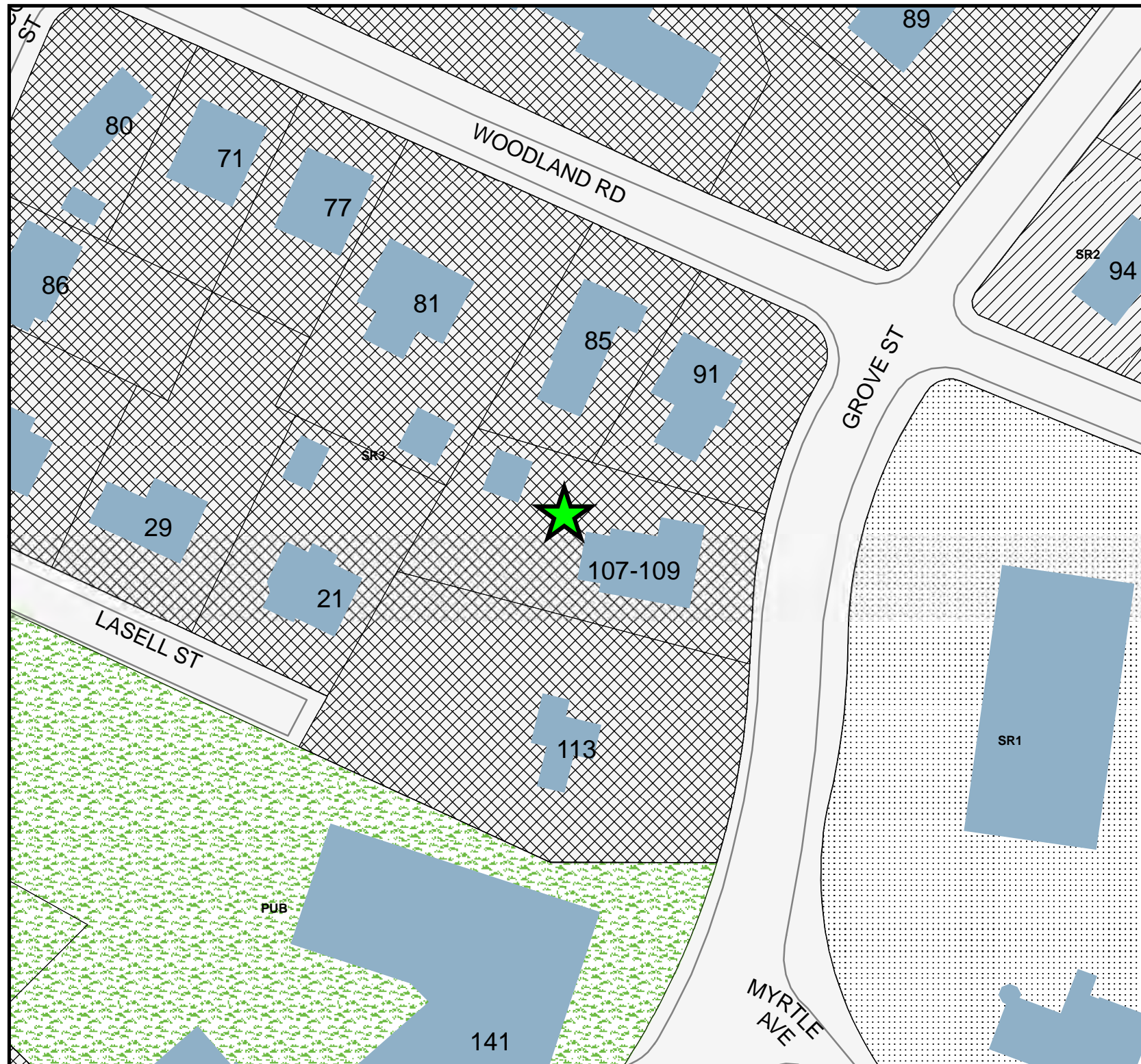


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75  
Feet

Map Date: September 22, 2020





**Ruthanne Fuller**  
Mayor

## ATTACHMENT C

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

### ZONING REVIEW MEMORANDUM

Date: August 11, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Judy Lai Yee, Applicant  
Jay Walter, Architect  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: **Request to extend a nonconforming two-family dwelling**

Applicant: Judy Lai Yee	
Site: 107-109 Grove Street	SBL: 43031 0014
Zoning: SR3	Lot Area: 12,437 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with an accessory apartment

#### BACKGROUND:

The property at 107-109 Grove Street consists of a 12,437 square foot lot improved with a two-family dwelling and detached garage constructed circa 1925. The petitioners intend to rehab the existing dwelling and construct a two-story rear addition to include a basement accessory apartment. The two-family dwelling is a nonconforming use in the Single Residence 3 zoning district and the proposed addition further extends the nonconformity, requiring a special permit.

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

- Zoning Review Application, prepared Jay Walter, architect, submitted 3/20/2020
- Existing Condition Plan of Land, prepared by EMB, surveyor, dated 2/7/2020
- Proposed Condition Plan of Land, prepared by Bruce Bradford, surveyor, dated 2/13/2020
- Architectural plans and elevations, prepared by Jay Walter, architect, dated 3/4/2020



## ADMINISTRATIVE DETERMINATIONS:

1. The existing two-family dwelling is nonconforming, as it is located in the Single Residence 3 zoning district, which prohibits two-family dwellings per section 3.4.1. The petitioners intend to rehab the existing dwelling and construct a two-story rear addition, which includes an internal accessory apartment. To further extend the nonconforming two-family dwelling use requires a special permit per sections 3.4.1 and 7.8.2.C.2.
2. The proposed accessory apartment is to be associated with the second-floor unit, which has 2,836 square feet of habitable space. Per section 6.7.1.D.2 an internal accessory apartment may be the lesser of 1,000 square feet or 33% of the total habitable space of the dwelling. The proposed accessory apartment is 667 square feet carved from the second floor unit, which is 24% of the total habitable space, requiring no relief.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	12,437 square feet	No change
Frontage	70 feet	72 feet	No change
Setbacks - <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Side</li><li>• Rear</li></ul>	25 feet 7.5 feet 7.5 feet 15 feet	28.8 feet 10.6 feet 17.3 feet >85 feet	No change No change 11.5 feet 85.5 feet
Height	36 feet	30.7 feet	30.9 feet
Stories	2.5	2.5	No change
FAR	.42 (.40 + .02 bonus)	.31	.40
Max Lot Coverage	30%	17.7%	20.3%
Min. Open Space	50%	57%	61%*

\*The removal of paving at the rear of the property results in increased open space

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to further alter and extend a nonconforming two-family dwelling in a SR3 district	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

Attachment D  
#318-20  
107-109 Grove Street

## 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 further extend the nonconforming two-family dwelling, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed extension of the existing nonconforming two-family dwelling will not be substantially more detrimental than the existing nonconforming two-family dwelling is to the neighborhood as the expanded structure will be in conformance with relevant dimensional requirements, including floor area ratio (FAR), height, setbacks, open space and lot coverage regulations; further, the proposed addition will have limited visibility from adjoining public ways (§3.4.1 and 7.8.2.C.2).

PETITION NUMBER: #318-20

PETITIONER: Judy Lai Yee

LOCATION: 107-109 Grove Street, on land known as Section 43, Block 31, Lot 14, containing approximately 12,437 square feet of land

OWNERS: Judy Lai Yee

ADDRESS OF OWNER: 109 Grove Street  
Newton, MA 02446

TO BE USED FOR: Two-Family Dwelling with an accessory apartment

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.4.1 and §7.8.2.C.2, to extend the existing nonconforming two-family dwelling.

ZONING: Single Residence 3 (SR3) 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. A plan entitled "Plan of Land in Newton, MA, 109 Grove Street Proposed Addition," prepared by Everett M. Brooks Co., dated February 13, 2020, stamped and dated by Bruce Bradford, Professional Land Surveyor.
  - b. A set of architectural plans entitled "Yong Residence 109 Grove Street Newton, Ma.," prepared by ENTASIS PC, Jay Walter AIA, consisting of the following sheets:
    - i) Plot Plan & General Notes (A-1)
    - ii) Existing Plans w/ Demo. Notes (A-2)
    - iii) Existing Exterior Eleva. w/ Demo Notes (A-2a)
    - iv) Basement Plan (A-3a)
    - v) First Floor Plan (A-3b)
    - vi) Second Floor Plan (A-3c)
    - vii) Attic Plan/ Roof Plan (A-3d)
    - viii) Kitchen Part-plan A-4-
    - ix) Bath Part-plan (A-4b)
    - x) FAR Area plans (A-5)
    - xi) First Floor Reflcted (*sic*) Ceiling Plan (A-6a)
    - xii) Second Floor Reflected Ceiling Plan (A-6b)
    - xiii) Basement & Attic Reflected Ceiling Plan (A-6c)
    - xiv) Stair Section & Part Plans (A-7a)
    - xv) Wall Section (A-7b)
    - xvi) Front & Driveway Exterior Elevations (A-8a)
    - xvii) Rear & Side Exterior Elevations (A-8b)
  - c. A document entitled "Floor Area Ratio Worksheet, 107-109 Grove Street," indicating a proposed "Total gross floor area" of 5,011 square feet and a proposed "FAR" (floor area ratio) of .40, signed and stamped by Jay C. Walter, Registered Architect
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 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. 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 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 City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
  - c. 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 land surveyor.