



Ruthanne Fuller
Mayor

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

#369-20
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 27, 2020
Land Use Action Date: January 13, 2020
City Council Action Date: January 18, 2020
90-Day Expiration Date: January 25, 2020

DATE: October 23, 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 #369-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions totaling 128 sq. ft. including an elevator shaft at the rear of the dwelling and a second story laundry room over an existing mudroom, creating an FAR of .55 where .53 exists and .48 is allowed at **18 Walter Street**, Ward 8, Newton Centre, on land known as Section 62 Block 24 Lot 17, containing approximately 4,950 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.3, 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.



18 Walter Street

EXECUTIVE SUMMARY

The property at 18 Walter Street consists of a 4,950 square foot lot in a Single Residence 3 (SR3) district improved with a two story, 2,395 square foot single-family dwelling constructed circa 1930 and 216 square foot detached garage.

The petitioners propose to construct an approximately 32 square foot two story addition on the rear of the dwelling that would house an elevator shaft connecting the first and second floors as well as an approximately 56 square foot second story laundry room above an existing mudroom on the left side of the dwelling.

The proposed construction would add a total of 120 square feet to the structure, further extending the property's nonconforming floor area ratio (FAR) from 0.53 to 0.55 where 0.48 is the maximum allowed per Sections 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO), requiring a special permit per Section 7.8.2.C.2.

The Planning Department is generally not concerned with the proposed additions given the modest proposed increase in floor area and that they would be located in the rear and a portion of the second floor, with both additions having limited if any visibility from adjoining public ways and properties.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed increase of the nonconforming FAR from 0.53 to 0.55 where 0.48 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.A.2);
- The proposed increase of the nonconforming FAR from 0.53 to 0.55 where 0.48 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on the south side of Woodward Street, between Parker and Jackson streets. The neighborhood is almost uniformly occupied by single-family dwellings, with the few exceptions including two two-family dwellings and some vacant parcels (**Attachment A**). This uniformity is reflected in the neighborhood's Single Residence 3 (SR3) zoning (**Attachment B**).

B. Site

The subject property consists of a 4,950 square foot lot improved with a two story, 2,395

square foot single-family dwelling and a 216 square foot detached garage located toward the rear left of the parcel. Vehicular access to the lot is provided via a curb cut and a driveway on the left side of the property that serves the garage.

The lot is generally level with a slight, approx. two feet downward grade from front to back. It features mature landscaping including mature trees, shrubbery and other vegetation, as well as lawn area and patio space.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence.

B. Building and Site Design

The petitioners propose to construct a 37 square foot addition to the rear of the dwelling that would allow the installation of an elevator that would connect the first and second floors. The petitioner also proposes to build a 54 square foot second story laundry room above an existing mudroom on the left side of the dwelling.

The proposed construction would add a total of 128 square feet to the dwelling, further increasing the property's already nonconforming floor area ratio (FAR) from 0.53 to 0.55 where 0.48 is the maximum allowed.

C. Parking and Circulation

No changes to the parking or circulation on the property are proposed.

D. Landscaping

A landscaping plan was not submitted with this petition.

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 increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)

B. Engineering Review

No engineering review is required at this time.

C. Newton Historical Commission

On June 19, 2020, Newton Historical Commission staff found the structure to be historically significant but approved the proposed project based upon submitted materials, subject to its final review of building permit plans.

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 Board Order




Land Use

18 Walter St.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Vacant Land

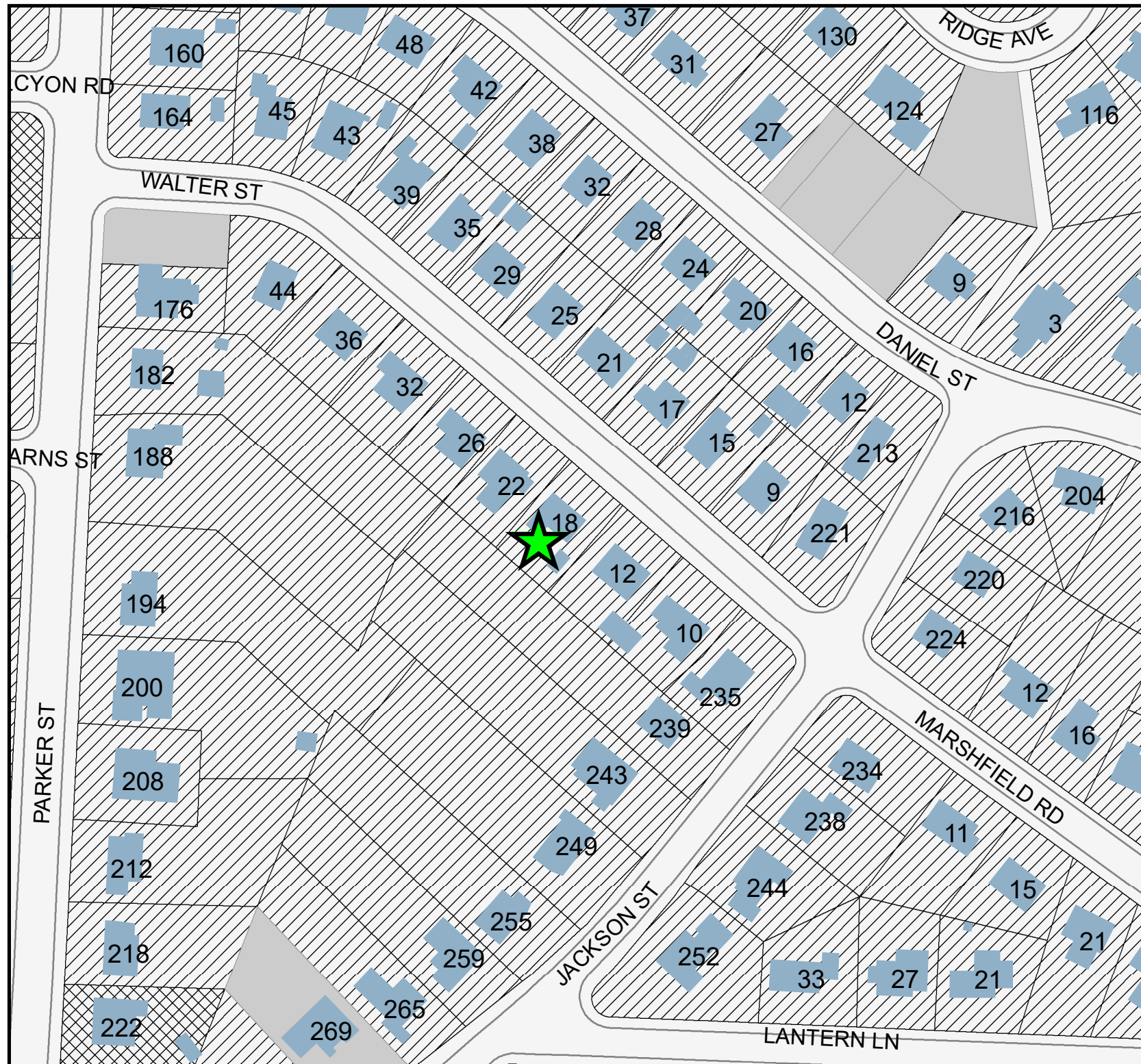


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

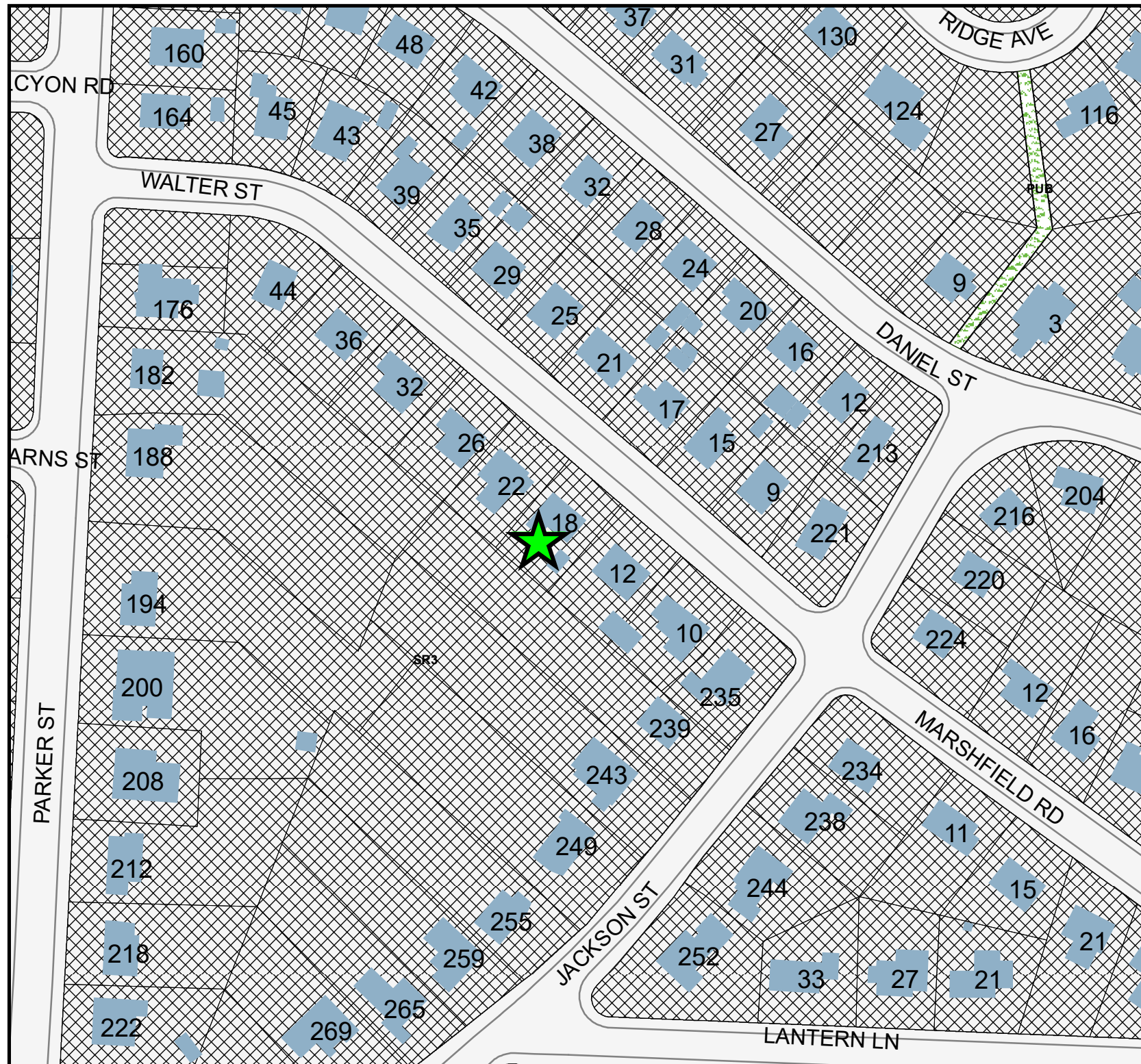
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Map Date: October 20, 2020



Zoning

18 Walter St.

*City of Newton,
Massachusetts*

-  Single Residence 3
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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0 12.5 25 50 75 100 125
Feet

Map Date: October 20, 2020



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Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 2, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Barry and Susan Bergman, Applicants
Feinmann Inc, Contractor
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further exceed nonconforming FAR

Applicant: Barry and Susan Bergman	
Site: 18 Walter Street	SBL: 62024 0017
Zoning: SR3	Lot Area: 4,950 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 18 Walter Street consists of a 4,950 square foot lot improved with a single-family dwelling constructed in 1930 and detached garage. The petitioners propose to construct a 37 square foot elevator shaft between the first and second floors as well as a 54 square foot laundry room over the existing mudroom. The proposed construction will further extend the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared Feinmann Inc, contractor, dated 7/15/2020
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 5/29/2020
- Architectural Plans and Elevations, prepared by Feinmann Inc, contractor, dated 6/30/2020
- FAR worksheet, submitted 7/15/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct an elevator shaft at the rear of the dwelling connecting the first and second floors, as well as a second story laundry room over an existing mudroom, adding a total of 128 square feet. The existing FAR is nonconforming at .53, where .48 is the maximum allowed per sections 3.1.3 and 3.1.9. The proposed additions increase the nonconforming FAR from .53 to .55. A special permit per section 7.8.2.C.2 is required to further increase the nonconforming FAR.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	4,950 square feet	No change
Frontage	70 feet	55 feet	No change
Setbacks - Principal <ul style="list-style-type: none">• Front• Side• Rear	25 feet 7.5 feet 15 feet	30 feet 10.1 feet NA	No change No change 17.7 feet
Height	36 feet	27.1 feet	No change
Stories	2.5	2	No change
FAR	.48	.53	.55
Max Lot Coverage	30%	29.1%	29.8%
Min. Open Space	50%	62%	61%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2..2	Request to further extend 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

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 nonconforming floor area ratio (FAR) from 0.53 to 0.55 where 0.48 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 of the nonconforming FAR from 0.53 to 0.55 where 0.48 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 given the proposed 120 square foot increase in floor area and the proposed additions' locations in the rear and above existing living space of the dwelling (§3.1.9.A.2);
2. The proposed increase of the nonconforming FAR from 0.53 to 0.55 where 0.48 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as the dwelling's footprint would be increased only in the rear of the dwelling and the additional bulk would be located in the rear and a portion of the second floor, with both additions having limited if any visibility from adjoining public ways and properties (§7.8.2.C.2)

PETITION NUMBER: #369-20

PETITIONER(S): Barry and Susan Bergman

LOCATION: 18 Walter Street , on land known as Section 62, Block 24,
Lot 17, containing approximately 4,950 sq. ft. of land

OWNER(S): Barry and Susan Bergman

ADDRESS OF OWNER(S): 458 Woodward Street
Newton, MA 02459

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to further increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2))

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 site plan entitled "Plan of Land in Newton, MA, 18 Walter Street, Proposed Elevator," prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, Registered Land Surveyor, dated June 29, 2020.
 - b. A set of plans entitled "BERGMAN RESIDENCE, 18 WALTER STREET, NEWTON, Massachusetts 02159," prepared by Feinmann, Inc. dated September 10, 2020:
 - i. A0.0- Cover Page
 - ii. A0.1- First Floor Plan = Exist. & Demo
 - iii. A0.2- Second Floor Plan - Exist. & Demo
 - iv. A1.0- First Floor Plan - Proposed
 - v. A1.1- Second Floor Plan - Proposed
 - vi. A1.2- Door Schedule
 - vii. A1.3- Window Schedule
 - viii. A2.0- Exterior Elevations
 - ix. A2.1- Exterior Elevations
 - x. A2.2- Exterior Elevations
 - xi. A2.3- Studio Framing Plans & Section
 - xii. A3.0- Interior Elevations
 - xiii. E1.0- Studio (2nd) Floor Plan - Electrical
 - xiv. S1.0- Structural Notes
 - xv. S1.1- Foundation Plan & Framing Section
 - xvi. S1.2- Roof Framing Plan, Building Section
 - c. A document entitled "Floor Area Ratio Worksheet, 18 Walter St.," indicating a proposed "Total gross floor area" of 2,731 square feet and a proposed "FAR" (floor area ratio) of 0.552.
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 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.
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 a registered architect and certifying compliance with Condition #1, including the as built FAR.
 - 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 land surveyor.