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#80-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 8, 2022
Land Use Action Date: April 26, 2022
City Council Action Date: May 2, 2022
90-Day Expiration Date: May 9, 2022

DATE: February 4, 2022

TO: City Council

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

SUBJECT: **Petition #80-22** SPECIAL PERMIT/SITE PLAN APPROVAL to construct side and rear additions, increasing the nonconforming FAR and nonconforming lot coverage of **162 Middlesex**, Ward 7, Newton, on land known as Section 63 Block 33 Lot 10, containing approximately 15,308 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. 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.



162 Middlesex Road

EXECUTIVE SUMMARY

The subject property at 162 Middlesex Road consists of a 15,308 square foot lot and an unimproved 2,868 square foot parcel in a Single Residence 1 (SR1) zoning district improved with a three-story, 4,222 square foot, single-family dwelling constructed circa 1909 and a two-story, 3,164 square foot accessory structure. The property is a split lot, with the frontage in Brookline and the remaining three-quarters of the property in Newton.

The petitioners propose to construct a single-story, approximately 495 square foot side addition and two additions at the rear- a 75 square foot first floor entry area room and a 63 square foot extension of the second floor. As designed, the proposed additions would add 633 square feet of floor area, resulting in a total of 8,019 square feet of floor area (including the accessory structure) countable toward the property's floor area ratio (FAR), 2,384 square feet over the 5,634 square feet allowed by right. This would further increase the existing nonconforming FAR from 0.48 to 0.52 where 0.29 is the maximum allowed by right, requiring a special permit pursuant to Sections 3.1.3, 3.1.9 and 7.8.2.C.2 of the Newton Zoning Ordinance (NZO).

The proposed additions would further increase the nonconforming lot coverage by approximately 566 square feet, from 22.4% (3,430 square feet) to 26.1% (3,996 square feet) where 20% (3,062 square feet) is the maximum allowed , requiring a special permit per Secs. 3.1.3 and 7.8.2.C.2.

The Planning Department is not generally concerned with the proposed additions given their modest sizes and limited visual impacts on abutting properties and public ways.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed increased FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.3, §3.1.9)
- The proposed further increase of the nonconforming FAR would be substantially more detrimental than the existing nonconforming use to the neighborhood (§3.1.3, §3.1.9, §7.8.2.C.2)
- The proposed further increase of the existing nonconforming lot coverage would be substantially more detrimental than the existing nonconforming use to the neighborhood (§3.1.3, §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is a split lot located on the northwest side of Middlesex Road. The MBTA's Green Line right-of-way is located along its rear (northwest) property line. The residential properties in the vicinity straddling the MBTA corridor are occupied mostly by single-family homes, with an exception being the 19-unit condominium property that abuts directly to the southwest. The neighborhood is predominately zoned SR1, with exceptions including thin sliver parcels bordering either side of the corridor that are zoned Public Use

(PU) (**Attachments A & B**).

B. Site

The subject property consists of a 15,308 square foot lot and an unimproved 2,868 square foot. The property is a split lot with the frontage in Brookline and approximately three-quarters of its area located in Newton. It is improved with a three story, 4,222 square foot, single-family dwelling and a two-story, 3,164 square foot accessory structure. It is abutted by an MBTA rail line to its rear. The site is generally level and is accessed by a pervious paver driveway near the center of its frontage. The remaining portions of the site are occupied by lawn area with mature trees and shrubs, as well as patio, pool and play space, and there is fencing along its left and right property lines.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

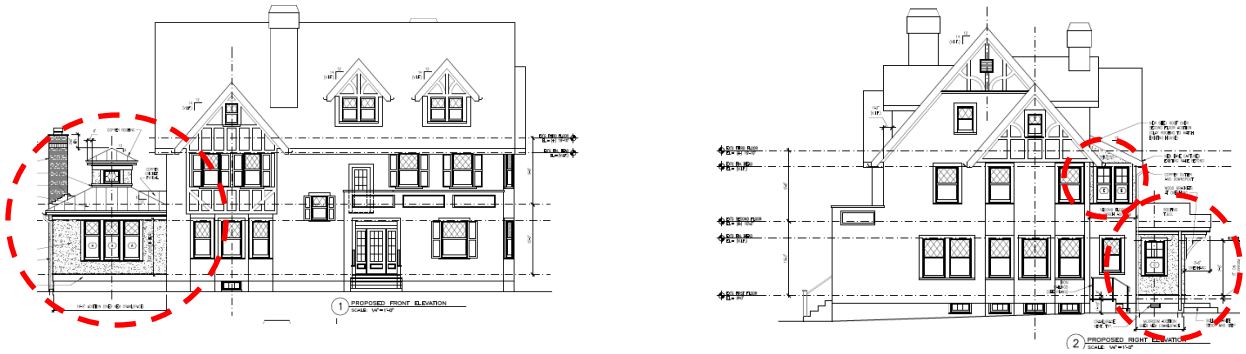
B. Building and Site Design

The petitioners propose to construct a single-story approximately 495 square foot left side addition and two additions at the rear- a 75 square foot first floor entry area room and a 63 square foot extension of the second floor of the principal structure. No changes to the accessory structure are proposed.

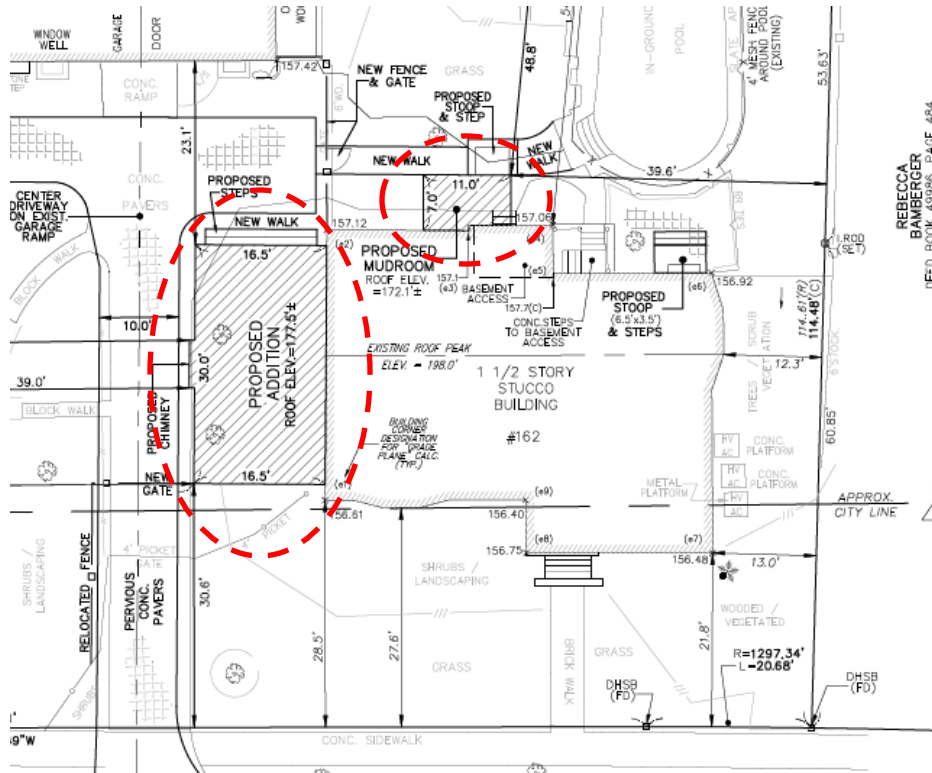
As designed, the proposed additions would add 633 square feet of floor area, with approximately 570 of those on the first floor and 63 on the second, resulting in a total of 8,019 square feet of floor area on the property (including the accessory structure). This would further increase the existing nonconforming FAR from 0.48 to 0.52 where 0.29 is the maximum allowed by right.

The number of stories would remain at three and the measured height of the structure would not be increased by the proposed additions.

The principal structure's rear setback would be reduced from 54.6 to 48.8 feet at the location of the proposed rear entry, remaining well in excess of the required 25 feet. Its left side setback would be reduced from 55.9 feet, remaining well more than the required 12.5 feet. Its front and right side setbacks would remain unchanged.



Proposed front and right elevations (proposed additions indicated)



Proposed site plan (detail; proposed additions indicated)

The proposed additions' combined footprints of approximately 570 square feet would further increase the nonconforming lot coverage from 22.4% (3,430 square feet) to 26.1% (3,996 square feet) where 20% (3,062 square feet) is the maximum allowed.

C. Parking and Circulation

No changes to the property's parking or circulation are contemplated by this petition.

D. Landscaping

A landscape plan was not submitted as part of 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)
- further increase nonconforming lot coverage (§3.1.3, §7.8.2.C.2)

B. Engineering Review

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

C. Historic Review

On August 19, 2021, Newton Historical Commission staff approved the project based upon submitted materials, requiring final review of construction plans prior to the issuance of a building permit.

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 Order

ATTACHMENT A




Land Use

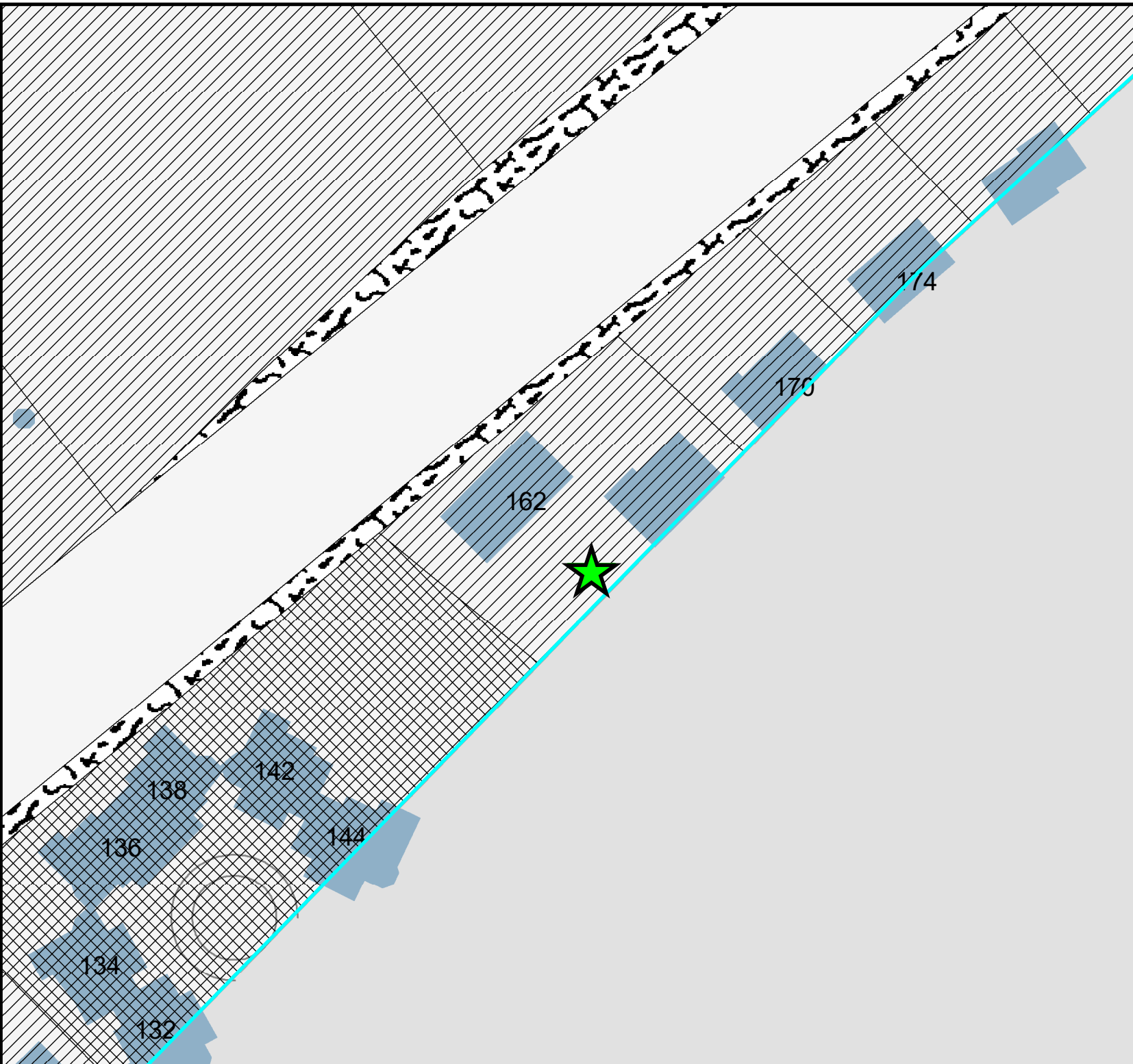
162 Middlesex Road

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Nonprofit Organizations



The information on this map is
Geographic Information System (GIS). The City of
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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

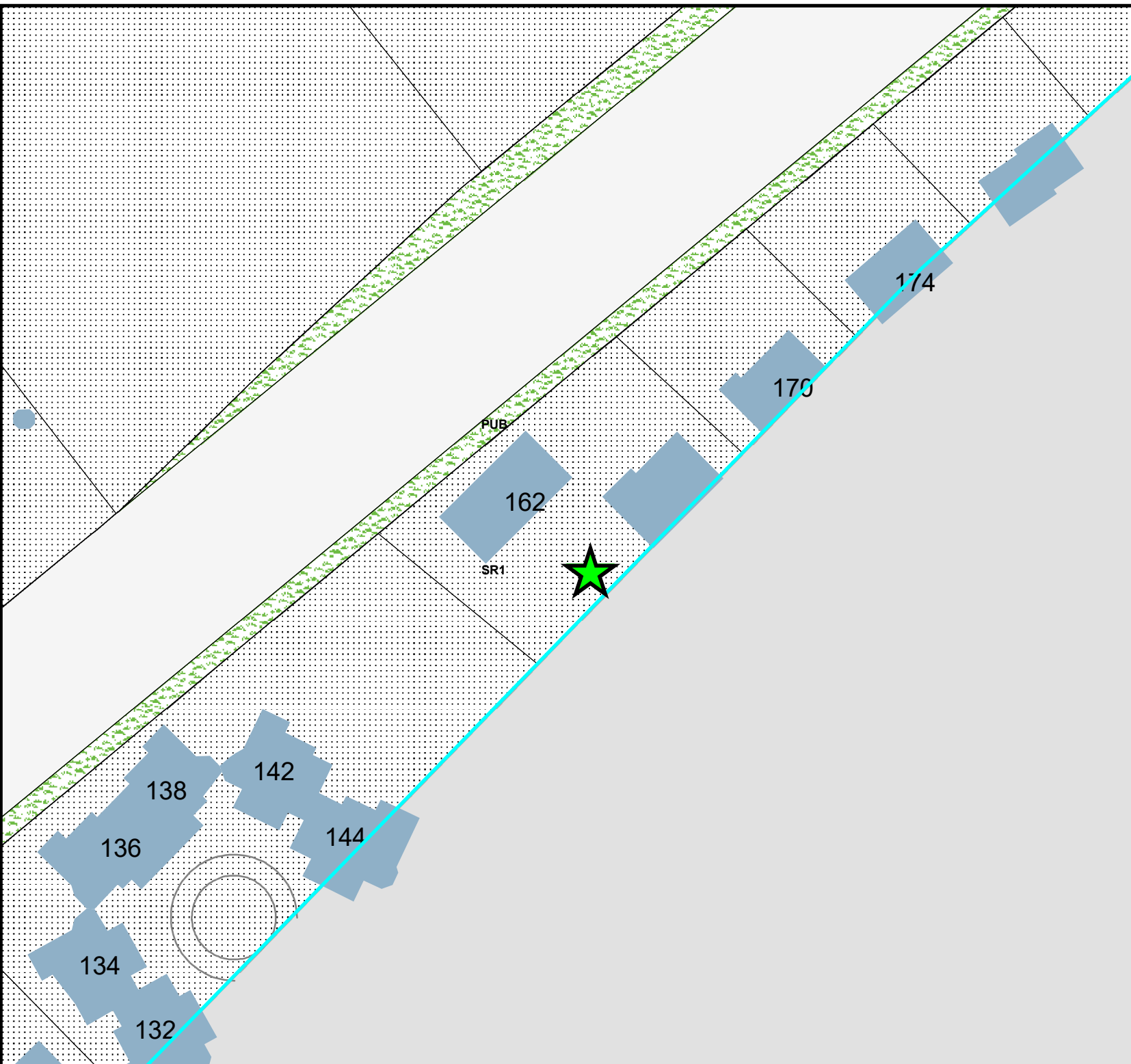




ATTACHMENT B

Zoning

162 Middlesex Road

*City of Newton,
Massachusetts*



-  Single Residence 1
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Director

ZONING REVIEW MEMORANDUM

Date: December 14, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Alan Flint and Christine Greco, Applicants
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to further increase nonconforming FAR and lot coverage

| Applicant: Alan Flint & Christine Greco | |
|--|---|
| Site: 162 Middlesex Road | SBL: 63033 0010 |
| Zoning: SR1 | Lot Area: 15,308 square feet (and 2,868 square feet) |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 162 Middlesex Road consists of a 15,308 square foot lot improved with a single-family dwelling constructed circa 1909 and an accessory structure as well as an additional unimproved 2,868 square foot parcel. The property is a split lot, with the frontage in Brookline and the remaining three-quarters of the property in Newton. The petitioners propose to construct side and rear additions. The proposed additions will further increase the nonconforming FAR and lot coverage, requiring a special permit.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, submitted 7/26/2021
- Plan of Land, prepared by Henry F. Bryant and Son, Engineer, dated 6/12/1940
- Proposed Plot Plan, signed and stamped by Joseph M. Small, surveyor, dated 7/16/2021
- FAR worksheet, signed and stamped by Kenton L Duckham, Architect, dated 7/26/2021
- Floor plans and elevations, signed and stamped by Kenton L Duckham, architect, dated 7/21/2021
- Zoning Legend, prepared by Duckham Architecture & Interiors, submitted 11/8/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners intend to construct a single-story side addition and a two-story rear addition. The additions add 633 square feet resulting in a total of 8,019 square feet, inclusive of the 3,164 square feet in the accessory structure. The existing nonconforming FAR is .48, where .29 is the maximum allowed per section 3.1.9. The proposed additions further increase the nonconforming FAR to .52, requiring a special permit pursuant to Sections 3.1.3, 3.1.9 and 7.8.2.C.2.
2. The lot has an existing nonconforming lot coverage of 22.4% where 20% is the maximum allowed per section 3.1.3. The proposed additions further increase the nonconforming lot coverage to 26.1%, requiring a special permit per section 7.8.2.C.2.

| SR1 Zone | Required | Existing | Proposed |
|-----------------------|--------------------|--------------------|------------------|
| Lot Size | 15,000 square feet | 15,308 square feet | No change |
| Frontage | 100 feet | 128 feet | No change |
| Setbacks - Principal | | | |
| • Front | 25 feet | 21.8 feet | No change |
| • Side | 12.5 feet | 12.3 feet | No change |
| • Side | 12.5 feet | 55.9 feet | 39 feet |
| • Rear | 25 feet | 54.6 feet | 48.8 feet |
| Setbacks - Accessory | | | |
| • Front | 25 feet | >25 feet | No change |
| • Side | 5 feet | 69.5 feet | No change |
| • Side | 5 feet | 8.9 feet | No change |
| • Rear | 5 feet | 7.3 feet | No change |
| Max Number of Stories | 2.5 | 3 | No change |
| Max Height | 36 feet | 41.2 feet | No change |
| FAR | .29 | .48 | .52* |
| Max Lot Coverage | 20% | 22.4% | 26.1%* |
| Min. Open Space | 65% | 68.1% | 66% |

Nonconformities are indicated in **bold**

*Indicates relief is required

1. See “Zoning Relief Summary” below:

| Zoning Relief Required | | |
|---------------------------------|--|-----------------|
| Ordinance | | Action Required |
| §3.1.3, §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 increase nonconforming lot coverage | 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 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 increase nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9, §7.8.2.C.2) and increase nonconforming lot coverage (§3.1.3, §7.8.2.C.2) as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed increased in FAR is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as the neighborhood features similarly sized as well as larger residential structures. (§3.1.3, §3.1.9)
2. The proposed further increase of the nonconforming FAR would not be substantially more detrimental than the existing nonconforming use to the neighborhood given the proposed additions' small sizes and limited visual impact on adjoining properties and public ways. (§3.1.3, §3.1.9, §7.8.2.C.2)
3. The proposed further increase of the existing nonconforming lot coverage would not be substantially more detrimental than the existing nonconforming use to the neighborhood given the increase of approximately 570 square feet on the 15,308 square foot lot (§3.1.3, §7.8.2.C.2)

PETITION NUMBER: #80-22

PETITIONER: Alan Flint and Christine Greco

LOCATION: 162 Middlesex Road, Section 63, Block 33, Lot 10, containing approximately 15,308 square feet of land

OWNER: Alan Flint and Christine Greco

ADDRESS OF OWNER: 162 Middlesex Road
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- further increase nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9, §7.8.2.C.2)
- further increase nonconforming lot coverage (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 1 (SR1)

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 the following plans:
 - a. a site plan entitled “162 Middlesex Road, Proposed Plot Plan of Land in Chestnut Hill, MA (Brookline/Newton) (PP-1), dated July 16, 2021, as revised through December 8, 2021, prepared by Hancock Associates, signed and stamped by Joseph M. Small
 - b. a set of architectural drawings entitled “Greco Residence, 162 Middlesex Road, Chestnut Hill, Massachusetts, Zoning Petition Set- July 21, 2021,” prepared by Duckham Architecture & Interiors, dated July 21, 2021, signed and stamped by Kenton L. Duckham, Registered Architect, consisting of the following sheets:
 - i. Cover Sheet
 - ii. FAR Calculations and Diagrams (A001)
 - iii. Demo Surface Area Calculations (indicating a proposed total floor area of 8,019 square feet) (A002)
 - iv. Foundation Plan (S100)
 - v. Existing Basement / Proposed Crawlspace Plan (A100)
 - vi. Proposed First Floor Plan (A101)
 - vii. Proposed Second Floor Plan (A102)
 - viii. Proposed Third Floor Level/Roof Plan (A103)
 - ix. Proposed Elevations & Building (A201)
 - x. Proposed Elevations (A202)
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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. 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.
 - e. 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 and/or Occupancy Permit for the buildings 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 certifying compliance with Condition #1, including the as built FAR.
 - b. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works 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.