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#191-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 5, 2022
Land Use Action Date: June 14, 2022
City Council Action Date: June 20, 2022
90-Day Expiration Date: July 4, 2022

DATE: April 1, 2022

TO: City Council

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

SUBJECT: **Petition #191-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story rear addition and enclose below an existing porch, further extending nonconforming FAR at **52 Oldham Road**, Ward 3, Newton, on land known as Section 32 Block 24 Lot 43, containing approximately 11,639 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 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.



52 Oldham Road

EXECUTIVE SUMMARY

The subject property at 52 Oldham Road consists of an 11,639 square foot lot located in a Single Residence 2 (SR2) district improved with a three story, 32-foot-high single-family dwelling with an attached garage constructed in 1936. Given the downward sloping nature of the lot, the dwelling is considered to have three floors with the rear facing basement being the “first floor.” The dwelling presents as having two full stories from its Oldham Street frontage.

The petitioners propose to construct a two-story rear addition and enclose area below an existing rear porch adding floor area to the basement and the “first floor” above. The proposed construction would further increase the nonconforming FAR from 0.43 to 0.52 where 0.36 is the maximum allowed per Sections 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO). A special permit per Secs. 3.1.9 and 7.8.2.C.2 is required to further extend nonconforming FAR.

The Planning Department is generally not concerned with the proposed additions as they would be located in the rear of the property and have limited if any visibility from the adjacent properties and public way.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed expanded dwelling as designed with a floor area ratio of 0.52 where 0.36 is the maximum allowed by-right would be substantially more detrimental than the existing nonconforming FAR of 0.43 is to the neighborhood (§3.1.3§3.1.9, §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 Oldham Street at its intersection with Chesterfield Road which runs to the south. The site’s single-family use is consistent with the surrounding area, which is similarly developed with single family dwellings, with the sole exception being McGrath Park which abuts the property directly to the rear (**Attachment A**). The site and surrounding area are uniformly zoned SR2, with the Public Use (PU) zoned McGrath Park again being the only exception (**Attachment B**).

B. Site

The property consists of an 11,639 square foot lot improved with a three story, 32-foot-high single-family dwelling with an attached garage.

The lot slopes downward approximately 26 feet from front to back (generally southeast to northwest), with most of that down slope located behind the dwelling toward Cheesecake Brook which traverses the rear property line. Vehicular access is provided via a paved driveway that serves the front facing attached two-car garage located on the right side of the dwelling. The remaining portions of the site patio areas, pathways, and other landscaping including lawn areas and trees.

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

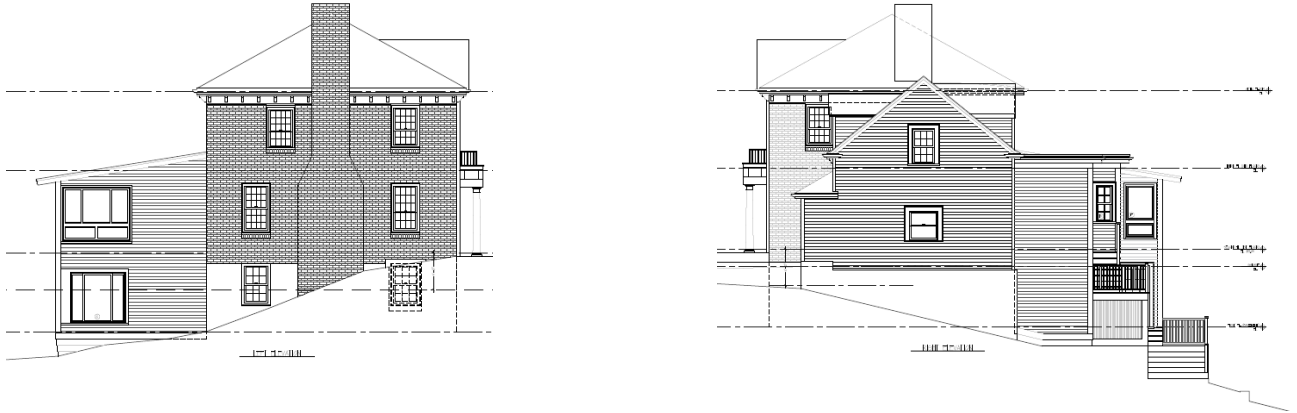
Given the downward sloping nature of the lot, the dwelling is considered to have three floors and the rear facing basement is considered the first floor. The dwelling presents as having two full stories from its Oldham Street frontage. The petitioners propose to construct a two-story rear addition and enclose area below an existing rear porch, adding floor area to the basement and the "first floor" above.

Approximately 740 square feet would be added to the basement level, increasing it to 2,029 square feet, and 348 square feet would be added to the level above, increasing it to 2,015 square feet. In aggregate, the area countable toward the FAR would increase by 1,089 square feet, from 5,018 to 6,107 square feet. As such, the proposed work would increase the nonconforming FAR from 0.43 to 0.52 where 0.36 is the maximum allowed.

The property's setbacks would remain unchanged. The number of stories would remain unchanged, as would the structure's height.

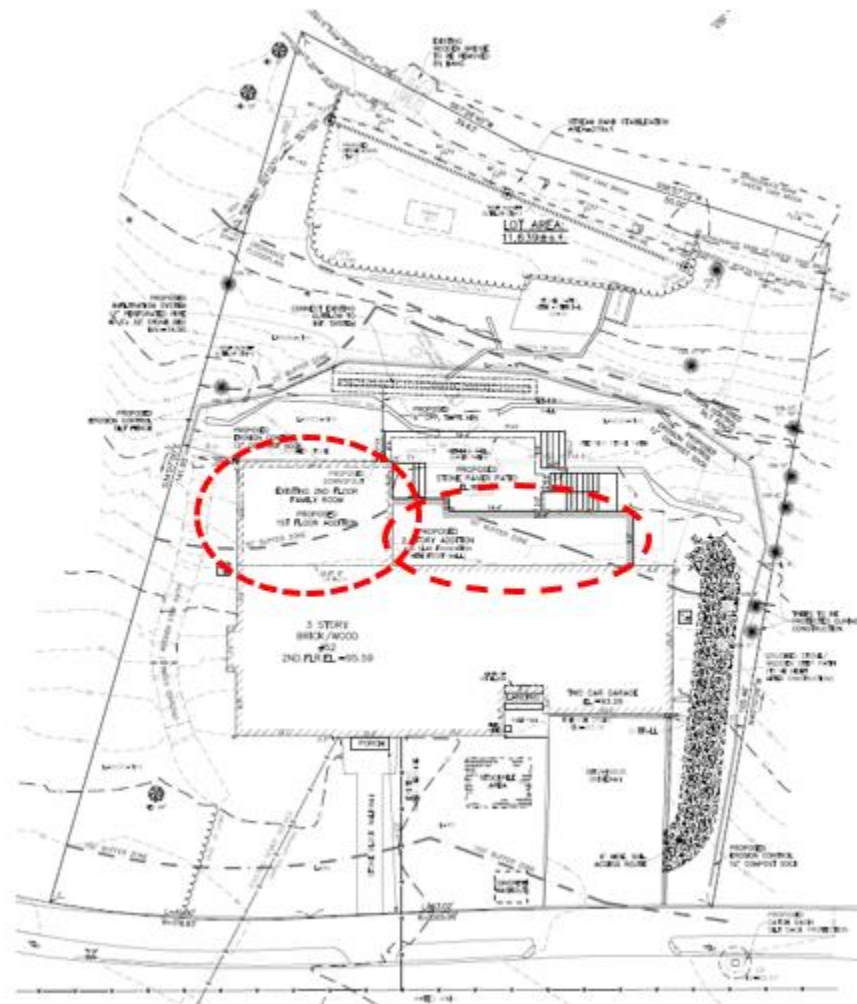


Proposed rear elevation



Proposed left and right elevations

The property's Lot Coverage would increase slightly, from 18.4% to 21.3% remaining below the maximum 30% allowed. Its Open Space would be decreased from 78.8% to 73.9% but remain well above the minimum 50% allowed.



Proposed site plan (addition locations indicated)

C. Parking and Circulation

No changes to the property's parking or circulation are proposed with this petition.

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

B. Engineering Review

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

C. Historic Review

On December 28, 2021, Newton Historical Commission staff approved the project, requiring only 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 Council Order

ATTACHMENT A




Land Use

52 Oldham St.

*City of Newton,
Massachusetts*

Land Use

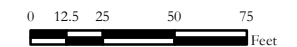
Land Use

-  Single Family Residential
-  Commercial
-  Open Space

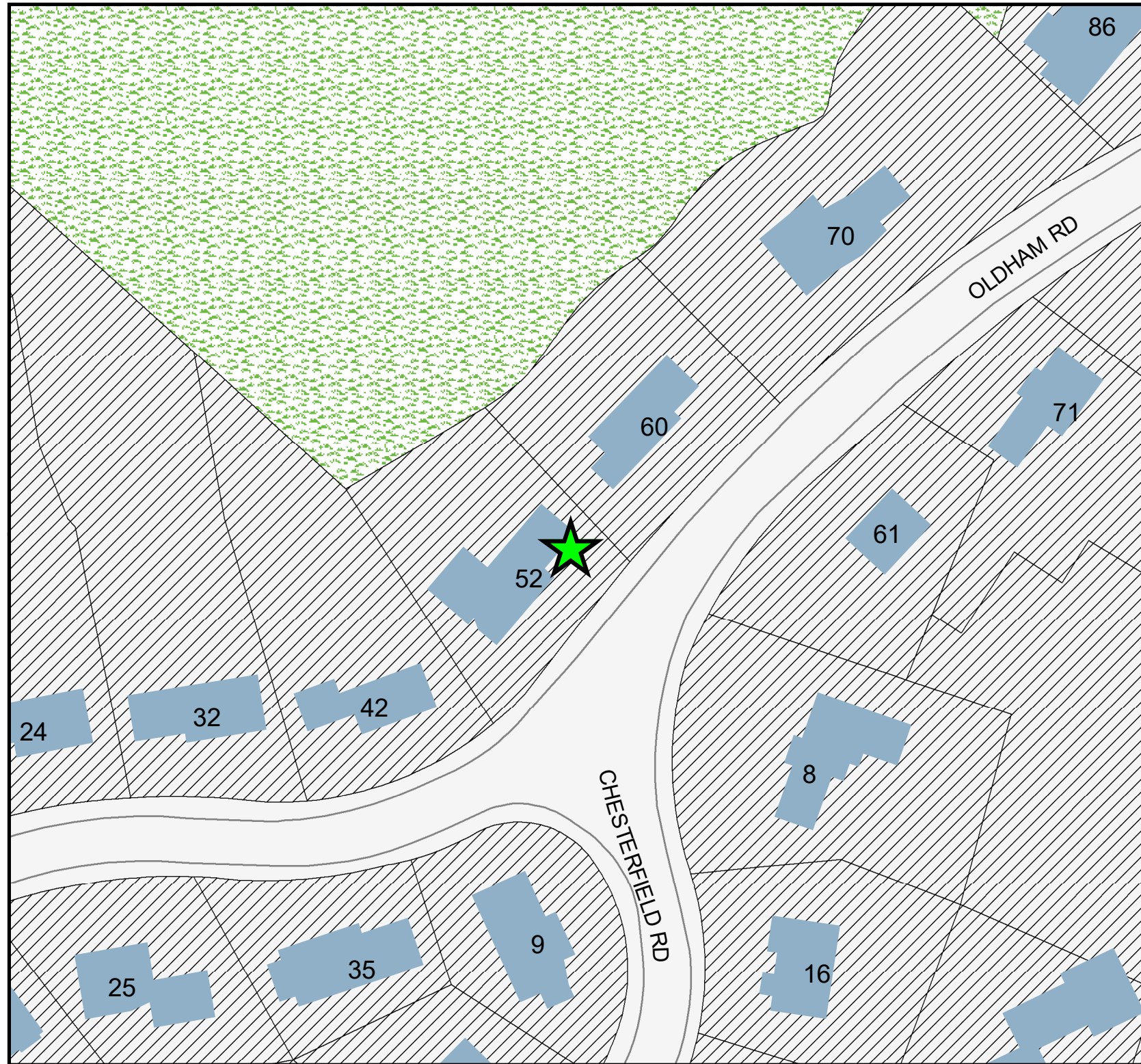


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: March 31, 2022





ATTACHMENT B

Zoning

52 Oldham St.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Public Use

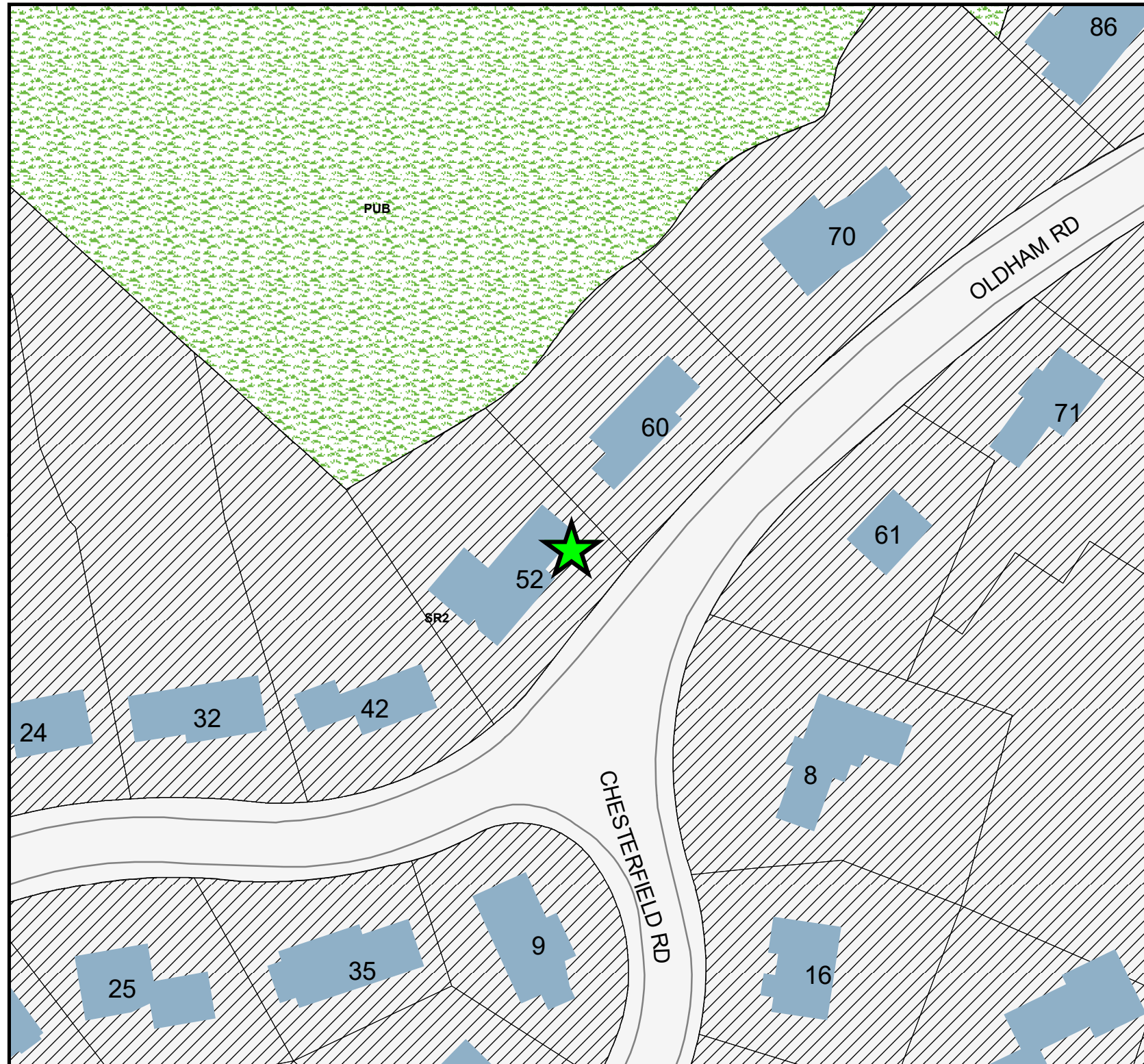


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 8, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Peter Sachs, Architect
Atish and Roli Choudhury Kumar, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further exceed nonconforming FAR

Applicant: Atish & Roli Choudhury Kumar

Site: 52 Oldham Road	SBL: 32024 0043
Zoning: SR2	Lot Area: 11,639 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 52 Oldham Road consists of an 11,639 square foot corner lot improved with a single-family dwelling constructed in 1936. The petitioner proposes to construct a two-story addition at the rear the dwelling as well as filling in below an existing porch. 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 Peter Sachs, architect, dated 2/3/2022
- Topographic Site Plan-Existing Conditions, prepared by VTP, surveyor, dated 7/1/2021
- Topographic Site Plan-Proposed Conditions, signed and stamped by Joseph R. Porter, surveyor, dated 2/1/2022
- Floor Plans and Elevations, signed and stamped by Peter Sachs, architect, dated 8/27/2021, revised 1/11/2022
- FAR calculations, submitted 2/3/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct a two-story rear addition, as well as enclosing below a rear porch. The proposed construction increases the nonconforming FAR from .43 to .52, where .36 is the maximum allowed per sections 3.1.3 and 3.1.9. A special permit per sections 3.1.9 and 7.8.2.C.2 is required to further extend nonconforming FAR.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	11,639 square feet	No change
Frontage	80 feet	104 feet	No change
Setbacks			
• Front	25 feet	25.8 feet	No change
• Side	7.5 feet	9.1 feet	No change
• Side	7.5 feet	11.5 feet	No change
• Rear	15 feet	55.4 feet	No change
Height	36 feet	31.89 feet	31.93 feet
Stories	2.5	3	No change
FAR	.36	.43	.52*
Max Lot Coverage	30%	18.4%	21.3%
Min. Open Space	50%	78.8%	73.9%

Figures in **BOLD** are nonconforming

*Requires relief

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.C.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 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 floor area ratio (FAR) (§3.1.3, §3.1.9, §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 expanded dwelling as designed with a floor area ratio of 0.52 where 0.36 is the maximum allowed by-right would not be substantially more detrimental than the existing nonconforming FAR of 0.43 is to the neighborhood given the downward sloped topography of the site and since the proposed additions would be located to the rear of the dwelling they would have limited if any visibility from the adjacent public ways and properties (§3.1.3§3.1.9, §7.8.2.C.2)

PETITION NUMBER: #191-22

PETITIONER: Atish and Roli Choudhury Kumar

LOCATION: 52 Oldham Road, Section 320, Block 24, Lot 43, containing approximately 11639 square feet of land

OWNER: Atish and Roli Choudhury Kumar

ADDRESS OF OWNER: 52 Oldham Road
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3§3.1.9, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2)

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 "Topographical Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #52 Oldham Road (Sheet 1 of 1), dated February 10, 2022, prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor
 - b. a set of architectural drawings entitled "Kumar-Choudhury Residence, 52 Oldham Rd, Newton, MA," prepared by Peter Sachs, Architect, dated March 9, 2022, signed and stamped by Peter Sachs, Registered Architect, consisting of the following sheets:
 - i. Title Sheet (A-1)
 - ii. Proposed 1st Flr (Basement) Plan (A-2)
 - iii. Proposed 2nd Flr (1st Flr) Plan (A-3)
 - iv. Proposed 3rd Flr (2nd Flr) Plan (A-4)
 - v. Proposed Attic Floor Plan (A-5)
 - vi. Proposed Front Elevation (A-6)
 - vii. Proposed Left Elevation (A-7)
 - viii. Proposed Back Elevation (A-8)
 - ix. Proposed Left (note: right) Elevation (A-9)
 - c. A document entitled "Floor Area Worksheet- 52 Oldham Road" indicating a proposed total gross floor area of 6,107 square feet and a proposed FAR of 0.52
2. 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. Provided a Final Site Plan for review and approval by the Department of Planning and Development and the Engineering Division of Public Works
 - 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 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 certifying compliance with Condition #1.
 - 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.