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Mayor

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Department of Planning and Development
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#389-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 13, 2022
Land Use Action Date:	November 22, 2022
City Council Action Date:	December 5, 2022
90-Day Expiration Date:	December 12, 2022

DATE: September 9, 2022

TO: City Council

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

SUBJECT: **Petition #389-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story rear addition, vertically extending the nonconforming rear setback at **6 Rotherwood Road**, Ward 6, Newton, on land known as Section 62 Block 16 Lot 50, containing approximately 8990 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.3, 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.



EXECUTIVE SUMMARY

The subject property at 6 Rotherwood Road consists of an 8,990 square foot lot located at the southeast corner of Rotherwood and Allerton roads located in a Single Residence 3 (SR3) district and improved with a single-family dwelling constructed in 1930 and a detached garage.

The petitioners seek to construct a two-story rear addition to the dwelling within the footprint of an existing first story-level deck.

The property has a nonconforming rear setback (along the property line perpendicular to Allerton Road) of 5.5 feet where 15 feet is required per Section 3.1.3 of the Newton Zoning Ordinance (NZO). Although the proposed addition reduces the nonconformity of the rear setback to 6.1 feet, it nevertheless extends the rear setback nonconformity vertically, requiring a special permit per Sec. 7.8.2.C.2 of the NZO.

The Planning Department notes that the property also has a nonconforming front setback along Allerton Road at the location of the deck of 22.2 feet where 25 feet is required. The proposed two-story addition would slightly improve the front setback nonconformity by increasing the setback to 22.4 feet. However, as the proposed addition would add only 56 square feet of area within the front setback, and per Sec. 7.8.2.B.2 of the NZO additions to the front of a structure of not more than 75 square feet in size that do not encroach any farther into the front setback are allowed by *de minimis*, no front setback relief is required for the proposed addition.

The Planning Department is generally not concerned with the proposed addition as, given its modest scale, the resulting expanded dwelling is unlikely to be substantially more detrimental than the existing nonconforming use is to the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed two-story addition that would vertically extend the nonconforming rear setback would be substantially more detrimental than the existing nonconforming rear setback to the neighborhood (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located in the southeast corner of Rotherwood Road and Allerton Road developed with a single-family home as is practically all of the other lots in the neighborhood (**Attachment A**). The site and the immediately surrounding area are zoned Single Residence 3 (SR3); a Single Residence 2 (SR2) district is located approximately 250 feet to the west across Centre Street while a Multi-Residence 3 (MR3) district is located approximately 200 feet to the east (**Attachment B**).

B. Site

The property consists of an 8,990 square foot lot that slopes approximately 12 feet upward

from north (the corner) to south that is improved with a single-family dwelling and a detached garage.

Vehicular access to the lot, and the garage in the rear corner of the lot, is provided via a paved driveway and associated curb cut off Rotherwood Road, along the property's southeastern property boundary. The remaining portions of the site feature walkways, lawn area, shrubs, and trees.

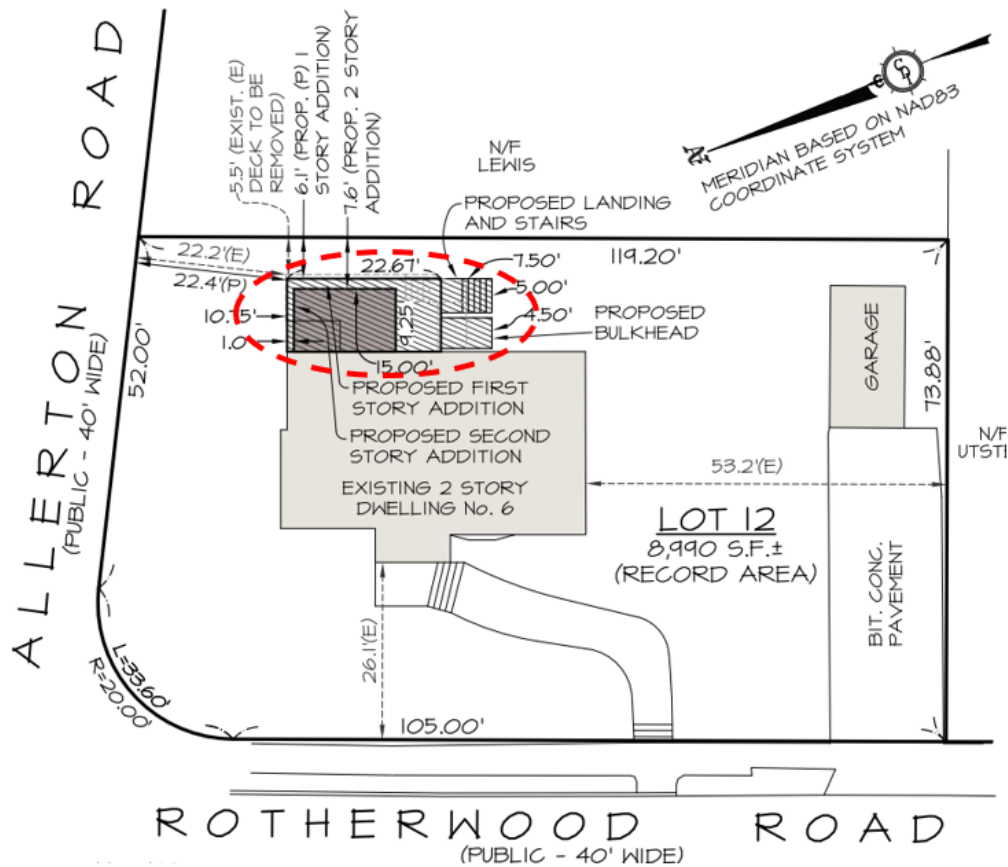
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioners are proposing to construct a two-story rear addition to the dwelling in an area currently occupied by a first story-level deck. As the subject property is a corner lot, the location is considered to be the rear of the property although it adjoins an abutting property's side yard.



Site plan- location of proposed addition (crosshatched) indicated

In the aggregate, the construction would increase the property's gross floor area by 354 square feet (215 on the first floor, 139 on the second), increasing its floor area ratio (FAR) from 0.32 to 0.36, remaining less than the maximum 0.43 allowed by right.

As the height of the addition would be lower than the structure's existing height, the dwelling's height of 31.6 feet and two and a half stories would both remain unchanged.



Existing and proposed rear elevations

As the addition would be constructed within the location of an existing deck, the front setback along Rotherwood Road (26.1 feet) and the side setback perpendicular to that street (53.2 feet) would remain unchanged.

The rear setback (perpendicular to Allerton Road) would increase slightly, from 5.5 to 6.1 feet, but remaining less than the required 15 feet. As a portion of the addition would be two stories, the rear setback would be extended vertically. It should be noted that the second floor portion of the addition would be setback approximately one and half feet from the location of the existing deck's edge, placing it approximately seven and a half feet from the rear property line. It is this aspect of the proposed work that requires a special permit.

The Planning Department notes that the property also has a nonconforming front setback along Allerton Road at the location of the deck of 22.2 feet where 25 feet is required. While construction of the proposed two-story addition would slightly improve that front setback nonconformity, increasing it from 22.4 feet to 22.4 feet, it would nevertheless remain less than the required 25 feet. However, as only 56 square feet of area would be added within that setback, and per Sec. 7.8.2.B.2 of the NZO additions to the front of a structure of not more than 75 square feet in size that do not encroach any farther into the front setback are allowed by *de minimis*, the proposed addition does not require front setback relief.

The proposed changes would increase the lot coverage from 16.6% to 19.3%, remaining below

the maximum 30% allowed by right. There would be no changes to the 71% open space, remaining well above the minimum 50% required.

C. Parking and Circulation

No changes to the existing garage and/or driveway are contemplated by the present petition.

D. Landscape, Lighting and Signage

A landscaping plan was not submitted with this petition. As noted above, the site features walkways, lawn area, shrubs, and trees. The Planning Department suggests that in the event the special permit is granted that the petitioner continue to have the area where the addition would be constructed adequately screened from adjacent properties and public ways.

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 vertically extend the nonconforming rear setback (§3.1.3, §7.8.2.C.2)

B. Engineering Review

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

C. Historic Review

Review by the Newton Historic Commission is not required at this time.

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

6 Rotherwood Rd.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Open Space
-  Vacant Land

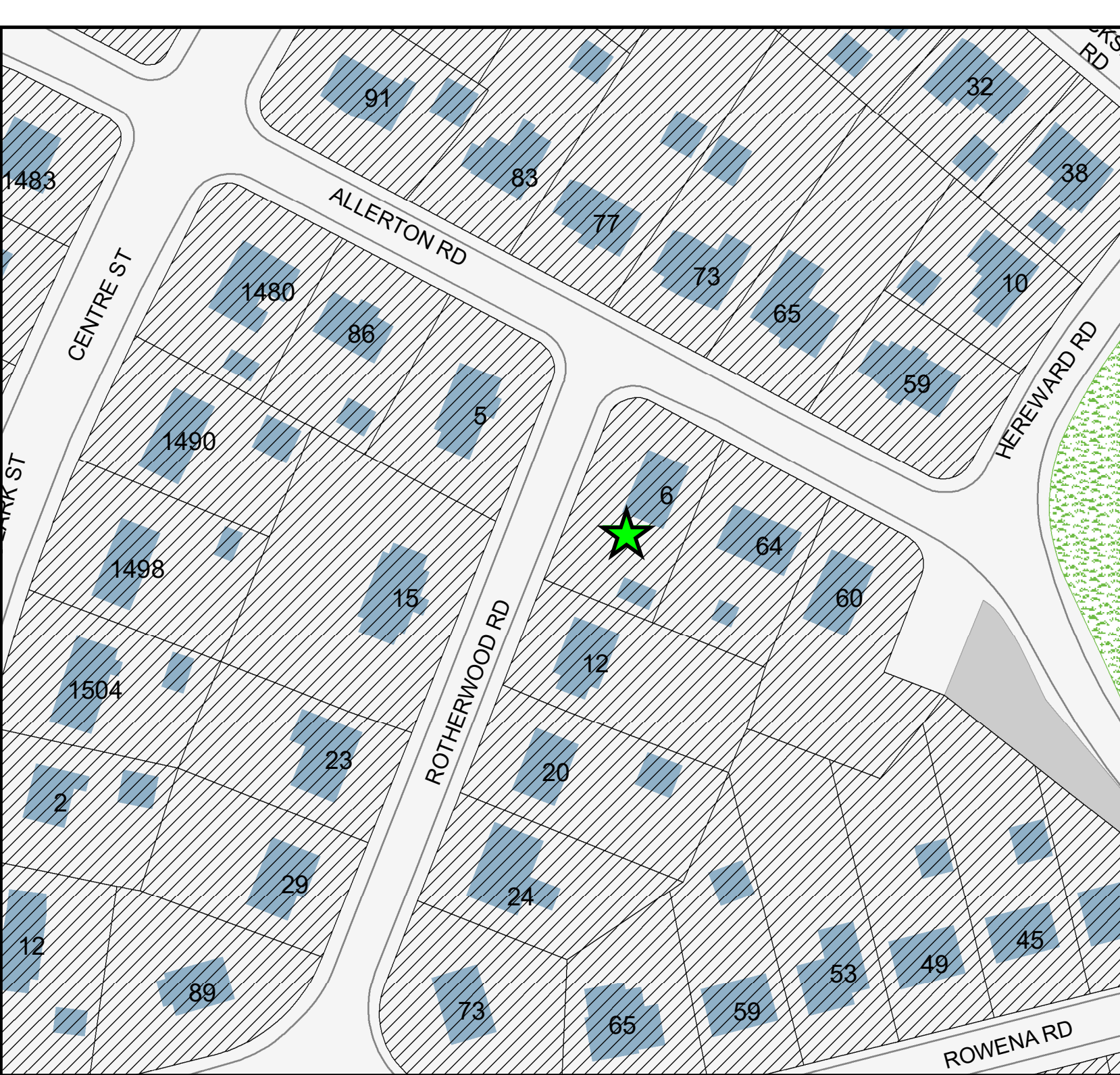


The information on this map is derived from a Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100
Feet

Map Date: September 06, 2022






ATTACHMENT B

Zoning

6 Rotherwood Rd.

*City of Newton,
Massachusetts*

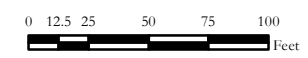


-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 3



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CITY OF NEWTON, MASSACHUSETTS
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ATTACHMENT C



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 18, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: John Butts and Lisa Weinman, Applicant
John Vining, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: **Request to alter and vertically extend a nonconforming front and rear setback**

Applicant: John Butts and Lisa Weinman

Site: 6 Rotherwood Road	SBL: 62016 0050
Zoning: SR3	Lot Area: 8,990 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 6 Rotherwood Road consists of an 8,990 square foot corner lot improved with a single-family dwelling constructed in 1930. The petitioners seek to construct a two-story rear addition, requiring a special permit to alter and vertically extend the nonconforming rear setback.

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

- Zoning Review Application, prepared by John Vining, architect, submitted 5/5/2022
- Plot Plan, signed and stamped by Scott M. L'Italien, surveyor, dated 5/4/2022
- FAR worksheet, submitted 5/5/2022
- Floor plans and elevations, Feinmann Design Build, architect, dated 3/24/2022
- Average grade calculation, prepared by Cypress Design, surveyors, dated 7/9/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners seek to construct a two-story addition at the rear of the dwelling within the footprint of an existing deck. The deck has a nonconforming rear setback of 5.5 feet where 15 feet is required per section 3.1.3. While the proposed addition reduces the nonconformity of the setback to 6.1 feet, it extends the setback vertically, requiring a special permit per section 7.8.2.C.2.
2. The deck also has a nonconforming front setback from Allerton Road of 22.2 feet where 25 feet is required. The proposed two-story addition results in a front setback of 22.4 feet. Per section 7.8.2.B.2, alterations and additions to the front of a structure of not more than 75 square feet in size that do not encroach any farther into the front setback are allowed by de minimis. The proposed addition adds only 56 square feet within the front setback and is set back one foot from the existing footprint. No relief is required for the proposed addition within the front setback.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	8,990 square feet	No change
Frontage	80 feet	105 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Rotherwood Rd) • Front (Allerton Rd) • Side • Rear 	25 feet 25 feet 6.1 feet 15 feet	26.1 feet 22.2 feet 53.2 feet 5.5 feet	No change 22.4 feet No change 6.1 feet*
Height	36 feet	31.6 feet	No change
Max Number of Stories	2.5	2.5	No change
FAR	.43	.32	.36
Max Lot Coverage	30%	16.6%	19.3%
Min. Open Space	50%	71%	No change

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to vertically extend the nonconforming rear setback	S.P. per §7.3.3

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 vertically extend the nonconforming rear setback (§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 two-story addition that would vertically extend the nonconforming rear setback would not be substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)*

PETITION NUMBER: #389-22

PETITIONER: John Butts

LOCATION: 6 Rotherwood Road, Section 62, Block 16 Lot 50, containing approximately 8,990 square feet of land

OWNER: John Butts

ADDRESS OF OWNER: 6 Rotherwood Road
Newton, MA 02459

TO BE USED FOR: Single Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- vertically extend the nonconforming rear setback (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 3 (SR3)

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 "Plot Plan, 6 Rotherwood Road, Newton Massachusetts," dated March 31, 2022, as revised through May 4, 2022, prepared by Cypress Design Inc., stamped and signed by Scott M. L'Italien, Professional Land Surveyor
 - b. a document entitled "Average Grade Calculation, 6 Rotherwood Road, Newton Massachusetts," dated July 9, 2022, prepared by Cypress Design Inc.
 - c. a set of drawings entitled "Weinman Butts Residence, 6 Rotherwood Rd., Newton, Ma," "1198 Chestnut Street, Newton, MA 02464," prepared Feinmann Inc., dated June 13, 2022, consisting of the following sheets:
 - i. Existing Floor Plan (A0.1)
 - ii. Proposed First Floor Plan
 - iii. Proposed Second Floor Plan
 - iv. Existing Right Side Elevation and Proposed Right Side Elevation
 - v. Existing Rear Elevation and Proposed Rear Elevation
 - vi. Existing Left Side Elevation and Proposed Left Side Elevation
 - vii. Proposed Addition (perspective)
 - viii. Proposed Addition (perspective)
 - d. a document entitled "Floor Area Worksheet- 6 Rotherwood Rd., Newton, MA," indicating a proposed total gross floor area of 3,195 square feet and a proposed FAR (floor area ratio) of 0.36
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, Engineering Division of Public Works and Fire Department.
 - 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 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. 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.