



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Petition: #316-23
Public Hearing:
10/17/23

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: October 13, 2023

TO: City Council

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

SUBJECT: **Petition #316-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a one-story addition to the right side and rear of the dwelling exceeding the maximum FAR

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



211 Dorset Road

I. Project Description

Use: Single family dwelling and attached garage constructed in 1935

Zoning: Single residence 2 (SR-2)

Lot size: 12,070 square feet

Existing Nonconformities:

- Frontage of 65 feet where 80 feet is required
- Front setback of 23 feet where 25 feet is required
- Side setback of 5.9 feet where 7.5 feet is required
- 3.5 stories tall where 2.5 stories is allowed
- FAR of .44 where up to .36 is allowed

Proposal: The petitioner proposes to construct a one-story addition which will further extend the nonconforming FAR, requiring a special permit.

Analysis: With a gross floor area of 5,323 square feet and nonconforming FAR of .44, the existing dwelling is one of the larger residences in this section of Dorset Road. However, the addition proposed is modest in size and will be located within the existing footprint of the building. Because the addition will be at the rear of the dwelling towards the Green Line MBTA tracks, the visual impact from the street will be minimal. Planning is unconcerned with the proposed extension of FAR for the addition to the existing dwelling.

II. Zoning Relief Requested:

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

For more details around the zoning analysis please refer to **ATTACHMENT A**.

III. Criteria for Consideration per §7.3.3.C and §7.8.2.C.2:

- The specific site is an appropriate location for the proposed addition that requires relief to further extend the nonconforming FAR (7.3.3.C.1)
- The proposed addition that requires relief to further extend the nonconforming FAR will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed addition that requires relief to further extend the nonconforming FAR will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)

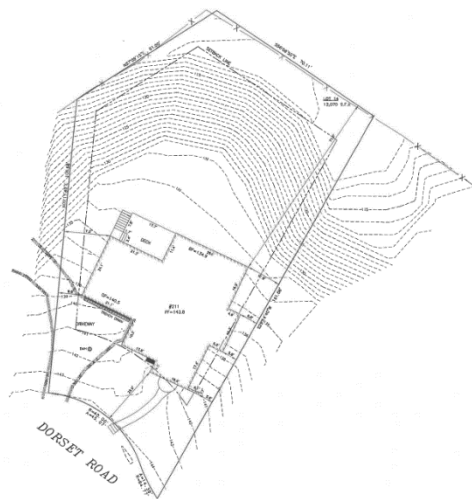
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in the nonconforming FAR from .44 to .46, where .36 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.1.9, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9 and §7.8.2.C.2)

IV. Project Proposal and Site Characteristics

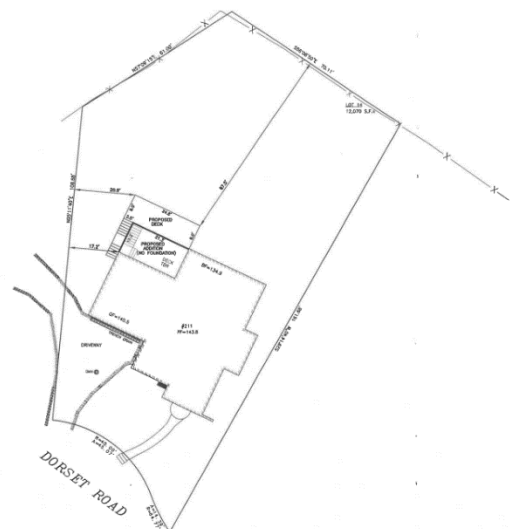
The petitioner is proposing to construct an addition to the rear of the existing dwelling, and to construct a new deck off of the rear addition. The addition will add 239 square feet of floor area, resulting in a structure consisting of 5,562 square feet, where 5,323 square feet exists. The addition will further increase the nonconforming FAR from .44 to .46 where .36 is the maximum allowed by right, and thus requires relief.

No changes are proposed to the existing front or side setbacks. The rear setback will decrease from 71.8 feet to 67.5 feet where a minimum of 15 feet is required. The lot coverage will increase from 16.6% to 18.6%, where a maximum of 30% is allowed by right. Open space will decrease from 76% to 74% where a minimum of 50% is required.

Existing Site Plan



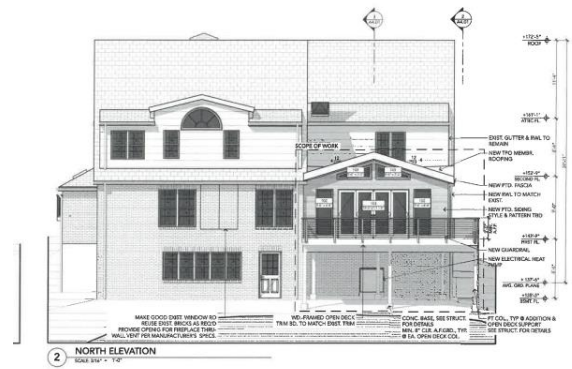
Proposed Site Plan



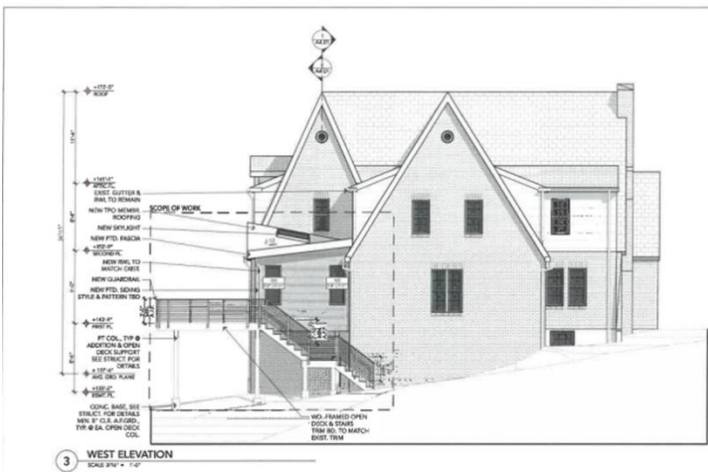
Proposed Front Elevation



Proposed Rear Elevation



Proposed West Elevation



Proposed East Elevation



I. Interdepartmental Review

Review from other departments is not required at this time.

II. Petitioner's Responsibilities

The petition is considered complete.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum

ATTACHMENT B: DRAFT Council Order



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 9, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Scott Prushik and Keren Ladin, Applicants
Franklin Schwarzer, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to further extend nonconforming FAR

Applicant: Scott Prushik & Keren Ladin	
Site: 211 Dorset Road	SBL: 55010 0024
Zoning: SR2	Lot Area: 12,070 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 211 Dorset Road consists of a 12,070 square foot corner lot improved with a single-family dwelling constructed circa 1935. The petitioner proposes to construct a one-story addition in the footprint of a rear deck which 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 Franklin Schwarzer, attorney, submitted 7/18/2023
- Plan of Land existing, signed and stamped by Bruce Bradford, surveyor, dated 11/21/2022
- Plan of Land proposed, signed and stamped by Bruce Bradford, surveyor, dated 1/17/2023
- Floor Plans and Elevations, signed and stamped by Florin Luca, architect, dated 7/15/2023
- FAR calculations, signed and stamped by Florin Luca, architect, dated 7/18/2023

ADMINISTRATIVE DETERMINATIONS:

- The petitioner proposes to construct an addition in the footprint of the existing rear deck, as well construct a new deck off the addition. The proposed construction increases the nonconforming FAR from .44 to .46, where .36 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,070 square feet	No change
Frontage	80 feet	65 feet	No change
Setbacks			
• Front	25 feet	23 feet	No change
• Side	7.5 feet	8.8 feet	No change
• Side	7.5 feet	5.9 feet	No change
• Rear	15 feet	71.8 feet	67.5 feet
Height	36 feet	34.9 feet	No change
Stories	2.5	3.5	No change
FAR	.36	.44	.46*
Max Lot Coverage	30%	16.6%	18.6%
Min. Open Space	50%	76%	74%

BOLD indicates a nonconformity

*Relief required

- 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

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 increase the floor area ratio (FAR) from .44 to .46 where .36 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 in the nonconforming floor area ratio from .44 to .46 where .36 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition meets all setback requirements and is not higher than the existing structure. (§3.1.9 and §7.8.2.C.2).
2. The site is an appropriate location for the proposed addition which increases the FAR from .44 to .46 where .36 is the maximum allowed by right because the addition will be unobtrusive and minimally visible from the street. (§7.3.3.C.1)
3. The addition which increases the FAR from .44 to .46 where .36 is the maximum allowed by right will not adversely affect the neighborhood because it is subordinate to the principal roofline of the dwelling. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians because the curb cut and driveway will be maintained in their current state. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #316-23

PETITIONER: Scott Prushik & Keren Ladin

LOCATION: 211 Dorset Road, Ward 5, Waban, on land known as Section 55 Block 10 Lot 24, containing approximately

12,070 sq. ft. of land

OWNER: Scott Prushik & Keren Ladin

ADDRESS OF OWNER: 211 Dorset Road
Waban, MA 02468

TO BE USED FOR: Single Family dwelling

RELIEF GRANTED: Special Permit per §3.1.3, §3.1.9, and §7.8.2.C.2 to further extend the maximum floor area ratio

ZONING: Single Residence 2 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 prepared by Everett M. Brooks Co. entitled "211 Dorset Road, Proposed Addition" signed and stamped by Bruce Bradford, Professional Land Surveyor, dated January 17, 2023
 - b. A set of architectural plans entitled "211 Dorset Road: Residence Renovation," prepared by Florin Luca Architect, signed and stamped by Florin Luca, Registered Architect, dated July 15, 2023:
 - i. Proposed elevations (Sheet A3.01)
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested and the Petitioner has:

- a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1, including the as built FAR.
- b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.