

## City of Newton, Massachusetts

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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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### PUBLIC HEARING MEMORANDUM

**DATE:** December 1, 2023

**TO:** City Council

**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Alyssa Sandoval, Deputy Chief Planner for Current Planning

**SUBJECT:** **Petition #365-23** Request to further extend nonconforming FAR at 286 Highland Avenue, SPECIAL PERMIT/SITE PLAN APPROVAL to construct two shed dormers on the second story which will further extend the nonconforming FAR at 286 Highland Avenue, Ward 2, West Newton, on land known as Section 32 Block 02, Lot 08, containing approximately 15,890 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 3.1.3, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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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.



**286 Highland Avenue**

**Project Description**

The subject property consists of a 15,890 square foot lot. The property is improved with a single-family Victorian-style dwelling constructed circa 1880. The subject property is located in the Single Residence (SR-1) zone in West Newton. The immediate area and surrounding neighborhood is entirely residential which includes the Single Residence 1 and Single Residence 2 zones.

The proposed construction increases the nonconforming FAR from .36 to .37, where .30 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit per section 7.8.2.C.2.

The petitioner proposes to construct two shed dormers on the second story, which will further extend the nonconforming FAR, requiring a special permit. Planning is unconcerned with the extension of FAR, and believes the overall scale and design is appropriate for the location, and surrounding neighborhood. The FAR would only increase slightly from .36 to .37 where .30 is allowed by right in SR1 district. The additional square footage of approximately 150 square feet would be contained within the existing footprint of the dwelling and is not anticipated to be a noticeable change to the neighborhood or the street where there are existing large houses.

I. Zoning Relief Requested:

<b>Zoning Relief Required</b>		
<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**.

II. Criteria for Consideration per §3.1.3, and §7.8.2.C.2:

- The proposed increase in the nonconforming FAR from .36 to .37, where .30 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. (§3.1.3, 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. (§3.1.3 and §7.8.2.C.2)

### III. Project Proposal and Site Characteristics

#### A. Site

The site consists of a 15,890 square foot lot improved with a single-family dwelling constructed circa 1880. The site is currently accessed by one driveway entrance on Highland Avenue on the eastern edge of the property. The property has a nonconforming floor area ratio (FAR) of .36 where .30 is allowed as of right. The existing structure has a height of 31.7 feet, where 36 feet is the maximum allowed and a non-conforming front setback of 19.8 where 25 feet is allowed. All other dimensional requirements conform to the SR1 zoning requirements.

### IV. Project Description and Analysis

#### A. Land Use

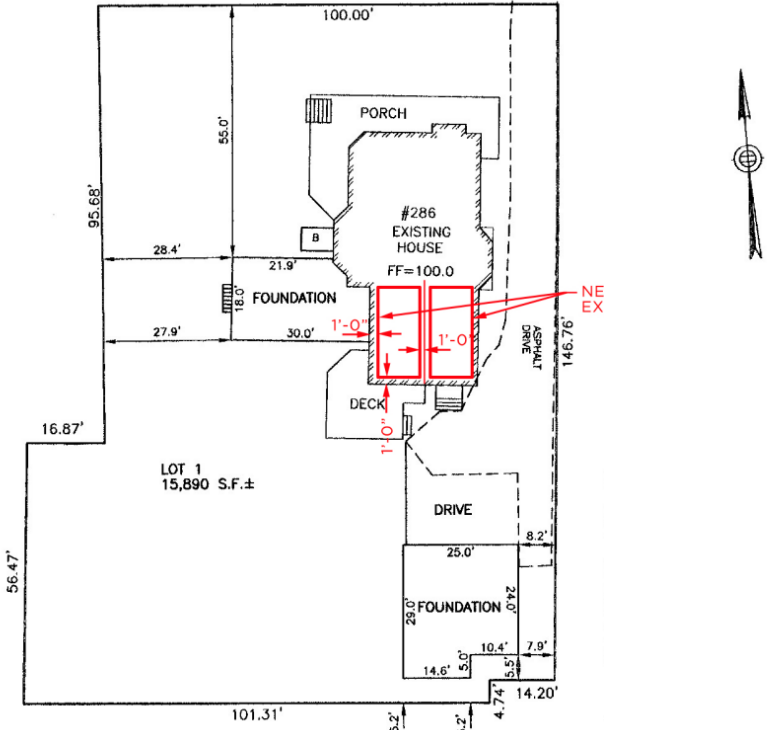
The current use of the site is residential. If approved, the use will remain a residential use.

#### B. Site Design

The petitioner proposes to construct two shed dormers on the second story, which will further extend the nonconforming FAR. The two dormers are proposed at the rear of the house facing south, the backyard, and a driveway/garage at the rear of the property. The new 16-foot by 6 foot-dormers would be placed within the roofline of the existing 2 ½ story house. The interior would be reconfigured to accommodate the new dormer space as well as a portion of the first floor but the overall footprint of the house would be unchanged. There is a slight increase of the FAR from .36 to .37 due to the addition of the dormers.

As a result of the dormer additions, there would be a slight increase in floor area of approximately 153 square feet on the second floor only. The total gross floor area of the property would increase from 5,729 square feet to 5,882 square feet according to the FAR worksheet provided (673 square feet of this area is located in a detached garage at the rear of the property). Highland Avenue also contains a variety of houses including large homes that appear comparable in size to the property at 286 Highland Avenue.

### Proposed Site Plan



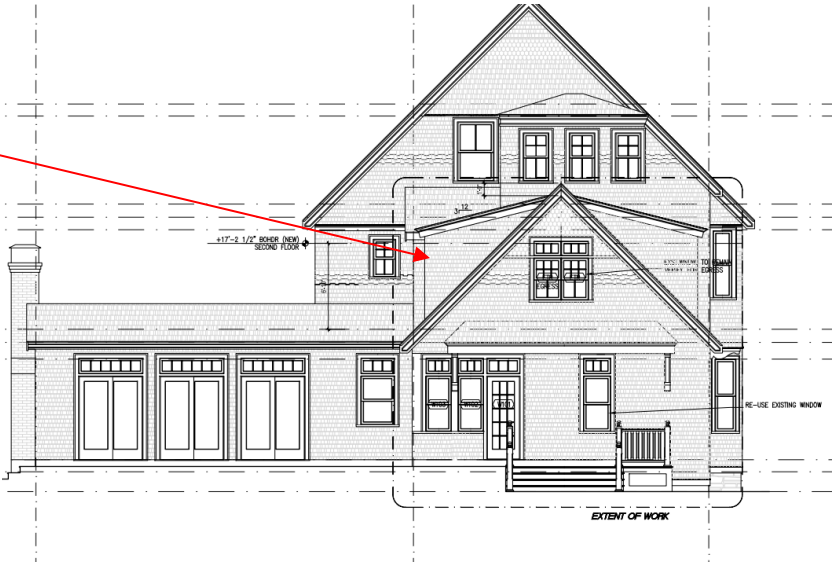
### Side Elevation

**Proposed  
Dormer**



**Rear Elevation**

**Proposed  
Dormers**



**Side Elevation**

**Proposed  
Dormer**



Planning is not generally concerned with the extension of the nonconforming FAR, and believes the design is appropriate for the location, and surrounding neighborhood. The addition of the dormers will be to the rear of the property and will not impact the view from Highland Street. The dormer additions appear to be well-integrated into the architecture of the existing home.

V. PETITIONER'S RESPONSIBILITIES

This 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: November 1, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Seth and Julia Burr, Applicants  
Jonathan Chase, Architect  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to further extend nonconforming FAR

Applicant: Seth and Julia Burr	
Site: 286 Highland Avenue	SBL: 32002 0008
Zoning: SR1	Lot Area: 15,890 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 286 Highland Avenue consists of a 15,890 square foot lot improved with a single-family dwelling constructed circa 1880. The petitioner proposes to construct two shed dormers on the second story 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 Jonathan Chase, architect, submitted 10/13/2023
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 9/9/2004
- Floor Plans and Elevations, prepared by Chase Architecture, architect, dated 9/27/2023
- FAR calculations, submitted 10/13/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner proposes to construct two shed dormers on the second story within the footprint of the existing structure. The proposed construction increases the nonconforming FAR from .36 to .37, where .30 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit per section 7.8.2.C.2.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	15,890 square feet	No change
Frontage	100 feet	100 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 12.5 feet 12.5 feet 25 feet	<b>19.8 feet</b> 27.9 feet 12.7 feet ± 57 feet	<b>No change</b> No change No change No change
Height	36 feet	31.7 feet	No change
Stories	2.5	2.5	No change
FAR	.30	<b>.36</b>	<b>.37*</b>
Max Lot Coverage	20%	17%	No change
Min. Open Space	65%	66%	No change

**BOLD** indicates a nonconformity

\*Relief required

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



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 extend the nonconforming floor area ratio (FAR), 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 FAR from .36 to .37, where .30 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. The additional square footage created by the two dormers is within the existing footprint of the house and does not add significantly to the overall scale of the existing structure. (§3.1.3, and §7.8.2.C.2)
2. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the proposed additions are unobtrusive, not visible from the street, and complement the architecture of the existing structure. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #365-23

PETITIONER: Seth and Julia Burr

LOCATION: 286 Highland Avenue, on land known as Section 32 Block 02, Lot 08, containing approximately 15,890 square feet of land

OWNER: Seth and Julia Burr

ADDRESS OF OWNER: 286 Highland Avenue  
Newton, MA 02465

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: §3.1.3 and §7.8.2.C.2, to further extend the nonconforming FAR

ZONING: Single Residence 1

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
  - a. Existing Condition, 296 Highland Avenue, prepared by Everett M. Brooks, Co., signed and stamped by Bruce Bradford, Professional Land Surveyor, dated September 9, 2004.
  - b. Architectural Plans and Elevations, prepared by Chace Architecture, dated September 27, 2023, consisting of fourteen (14) sheets, including:
    - i. Elevation, Rear (page A200)
    - ii. Elevation, Side (page A201)
    - iii. Elevation, Side (page A202)
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 council 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. 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 petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect certifying compliance with Condition #1.