



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

PUBLIC HEARING MEMORANDUM

DATE: January 5, 2023

TO: City Council

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

SUBJECT: **Petition #11-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to all sides of the dwelling, as well as to raze and construct a detached garage which extends a nonconforming setback, and extends the nonconforming FAR at **887 Commonwealth Avenue**, Ward 2, Newton Centre, on land known as Section 24 Block 43 Lot 05, containing approximately 8,310 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 3.1.3, 3.1.9, 3.4.3.A.1, 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 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.



887 Commonwealth Ave.

Project Description

Background

The subject property at 887 Commonwealth Ave. consists of an 8,310 square foot lot improved with a single-family dwelling constructed in 1931. The property is zoned Single Residence 2 (SR2) and abutted on all sides by properties zoned SR2 with single-family dwellings.

Special Permit

887 Commonwealth Ave. currently has a 0.39 Floor Area Ratio (FAR) and proposes an increase to 0.48 where 0.41 is the maximum allowable FAR for SR2. Additionally, the proposed construction would further extend the nonconforming side setback for the existing principal dwelling and the nonconforming rear setback for the accessory dwelling. The proposal would also eliminate a nonconforming side setback for the accessory building.

Analysis

Planning is unconcerned with the proposed alterations to exceed FAR and utilize existing nonconforming setbacks for a new detached accessory building . The abutting properties and surrounding neighborhood consists of large single-family dwellings on similarly sized lots and some with nonconforming setbacks. The proposed additions will leave the dwelling below a total of 28’ in height and the accessory building below 22’, the vertical extensions of the accessory building in areas that do not conform with the setback requirements is partially mitigated by the increasing the nonconforming setbacks, making the property more conforming.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.4.3.A.1 §7.8.2.C.2	Request to alter and vertically extend a nonconforming rear setback in a detached accessory building	S.P. per §7.3.3

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

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site in the SR2 zone is an appropriate location for the additions to the dwelling and garage that exceed the FAR (§7.3.3.C.1).
- The proposed additions will not adversely affect the neighborhood (§7.3.3.C.2).
- The proposed addition will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).

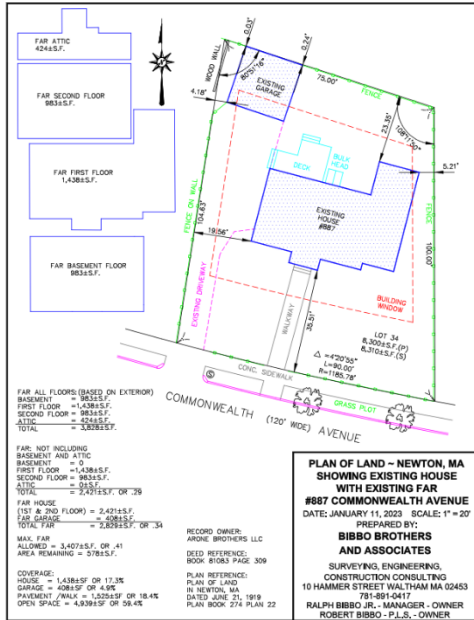
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).
- The proposed increase in the FAR from .39 to .48 where .41 is the maximum allowed by right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.3, §3.1.9).
- The proposed addition which will alter and extend the nonconforming side setback will be substantially more detrimental than the existing nonconforming detached structure is to the neighborhood (§7.8.2.C.2)
- The proposed detached structure which will alter and extend the nonconforming rear setback will be substantially more detrimental than the existing nonconforming detached structure is to the neighborhood (§7.8.2.C.2)

III. Project Proposal and Site Characteristics

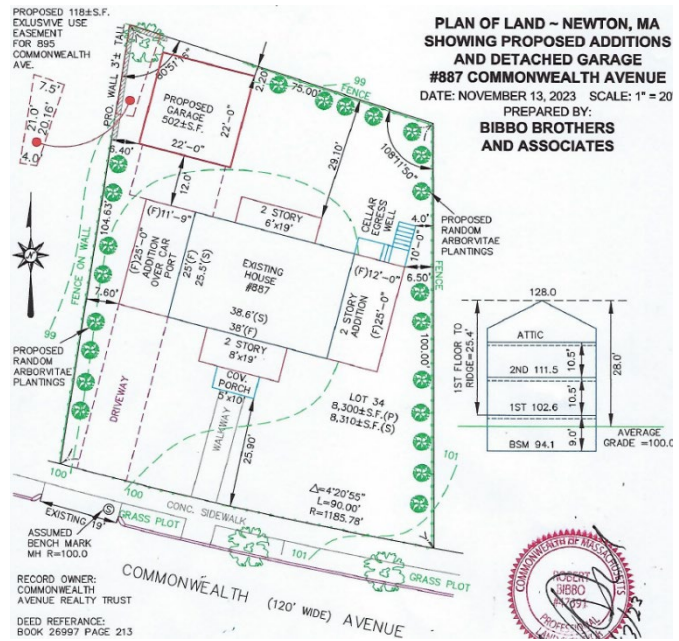
A. Site - Existing Conditions

The property at 887 Commonwealth Ave. consists of a single-family dwelling constructed circa 1931 on an 8,310 square foot lot in the SR2 zone. The principal building complies with all required setbacks, except the eastern side setback at 5.2 feet, where 7.5 feet is required. The detached accessory building, is also nonconforming with the required setbacks with 0.03 feet for the western side setback at the rear and 4.2 feet on the side, where both are required to be 5 feet.. Other than these two setbacks, the dwelling meets all required dimensional standards.

Existing Conditions



Proposed Conditions



PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, the use will remain a single-family dwelling.

B. Site and Building Design

The petitioner proposes to add 791 square feet of gross floor area in total between the two buildings. This includes an additional 79 square feet and a carport to the first story, an additional 773 square feet of living space to the second story, and the new garage will have 76 additional square feet than the existing detached garage. These additions of gross floor area will increase the FAR from 0.39 to 0.48, exceeding the maximum FAR of 0.41 for the SR2 zone. The principal building's side setback would increase from 5.2 feet to 6.5 feet, closer to the required 7.5 feet. The accessory building existing nonconforming setbacks would increase from 0.03 feet to 2.2 feet in the rear, closer to the required 5 feet, and from 4.2 feet to 6.4 feet on the west side, bringing that setback into compliance.

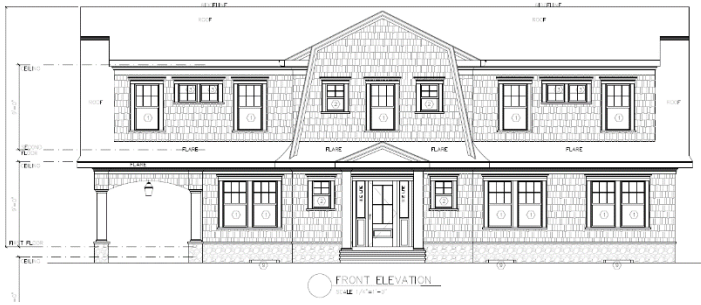
Existing Front Elevation



Existing Rear Elevation



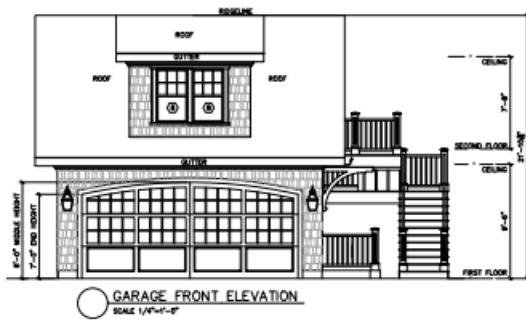
Proposed Front Elevation



Proposed Rear Elevation



Proposed Accessory Building Front Elevation



C. Parking and Circulation

No changes are proposed in this petition that will impact parking and circulation on the site.

IV. Interdepartmental Review:

No additional reviews are required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: DRAFT Council Order
Attachment C: Historic Commission Decision

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 allow the alteration and extension of the nonconforming two-family residential use as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The site in the SR2 zone is an appropriate location for the additions to the dwelling and garage that exceed the FAR (§7.3.3.C.1).
2. The proposed additions will not adversely affect the neighborhood (§7.3.3.C.2).
3. The proposed addition will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).
5. The proposed increase in the FAR from .39 to .48 where .41 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, §3.1.9).
6. The proposed addition which will alter and extend the nonconforming side setback will be substantially more detrimental than the existing nonconforming detached structure is to the neighborhood (§7.8.2.C.2).
7. The proposed detached structure which will alter and extend the nonconforming rear setback will be substantially more detrimental than the existing nonconforming detached structure is to the neighborhood (§7.8.2.C.2).

PETITION NUMBER: #11-24

PETITIONER: John Arone

LOCATION: 887 Commonwealth Ave., on land known as Section 24 Block 43 Lot 05, containing approximately 8,310 sq. ft. of land

OWNER: Arone Bros. LLC

ADDRESS OF OWNER: 887 Commonwealth Ave.
Newton, MA 02459

TO BE USED FOR: Single family dwelling

RELIEF GRANTED: Special Permit per §3.1.3 and §3.1.9 to exceed Floor Area Ratio (FAR) and §3.4.3.A.1 and §7.8.2.C.2 to alter and vertically extend a nonconforming rear setback in a detached accessory building

ZONING: Single Residence 2

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. Site Plan, signed and stamped by Robert Bibbo, professional land surveyor, dated November 13, 2023
 - b. A set of architectural drawings prepared by Costa Architects, signed and stamped by Albert Costa, registered architect, dated September 11, 2023:
 - i. Principal Building Front Façade Proposed
 - ii. Principal Building Side Façades Proposed
 - iii. Principal Building Rear Façade Proposed
 - iv. Accessory Building Front Façade Proposed
 - v. Accessory Building Side Façades Proposed
 - vi. Accessory Building Rear Façade Proposed
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.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: November 29, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Arone Bros LLC, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to exceed FAR

Applicant: Arone Bros LLC	
Site: 887 Commonwealth Avenue	SBL: 24043 0005
Zoning: SR2	Lot Area: 8,310 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 887 Commonwealth Avenue consists of an 8,310 square foot lot improved with a single-family dwelling constructed circa 1931. The petitioner proposes to construct additions to all sides of the dwelling, as well as to raze and reconstruct a larger detached garage, all of 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 John Arone, applicant, submitted 10/30/2023
- Plan of Land showing existing conditions, prepared by Bibbo Brothers and Associates, surveyor, dated 1/11/2023
- Plan of Land showing proposed conditions, prepared by Bibbo Brothers and Associates, surveyor, dated 8/14/2023
- Floor Plans and Elevations, prepared by Costa Architects, dated 9/11/2023, revised 9/29/2023, 10/2/2023 and 10/5/2023
- 887 Comm Ave Garage, signed and stamped by Albert Costa, architect, dated 9/11/2023, revised 9/29/2023, 10/2/2023, 10/5/2023, 10/18/2023, 11/16/2023, 11/21/2023
- FAR calculations, submitted 10/30/2023, revised 11/28/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct two-story additions to both sides of the dwelling, as well as front and rear gambrel gables. Additionally, a 1.5 story detached garage is proposed to replace the existing one-story detached garage at the northwest corner of the site. The proposed construction increases the FAR from .39 to .48, where .41 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit per section 7.8.2.C.2.
2. The existing detached garage is nonconforming, with a 4.18-foot side setback and a 0.03-foot rear setback, where 5 feet is required for both per section 3.4.3.A.1. The petitioner proposes to raze the existing detached garage and construct a 1.5-story structure meeting the side setback requirement at 6.4 feet but altering the nonconforming rear setback to 2.2 feet. A special permit per section 7.8.2.C.2 is required to alter and vertically extend the nonconforming rear setback.
3. The dwelling has an existing nonconforming side setback of 5.2 feet where 7.5 feet is required per section 3.1.3. The petitioner proposes to alter and extend the nonconforming setback with a two-story addition, resulting in a setback of 6.5 feet. Section 7.8.2.B allows for by-right additions and alterations to legally nonconforming structures which are not considered to be substantially more detrimental to the neighborhood. The additions must be limited to the portion(s) of the building which are nonconforming; the resulting changes may be no closer than five feet to the side or rear property line; the resulting distance to the nearest residence on that portion may be no less than the sum of the required setbacks of the two lots; and the relief may not be used for FAR. Section 7.8.2.B.c allows for first floor additions in the side or rear setbacks which do not total more than 200 square feet in size and section 7.8.2.B.d allows for second floor additions which do not total more than 400 square feet. Per the *de minimis* provisions of section 7.8.2.B.c and d, the additions are allowed as of right, requiring no relief.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	8,310 square feet	No change
Frontage	80 feet	90 feet	No change
Setbacks - Principal			
• Front	25 feet	35.5 feet	25.9 feet
• Side	7.5 feet	19.6 feet	7.6 feet
• Side	7.5 feet	5.2 feet	6.5 feet
• Rear	15 feet	23.4 feet	29.1 feet
Setbacks - Accessory			
• Front	25 feet	± 80 feet	± 75 feet
• Side	5 feet	4.2 feet	6.4 feet
• Side	5 feet	± 45 feet	± 40 feet
• Rear	5 feet	0.03 feet	2.2 feet*
Height			
• Principal	36 feet	Not available	28 feet
• Accessory	22 feet	Not available	21.8 feet
Stories			
• Principal	2.5	2.5	2
• Accessory	1.5	1	1.5
FAR	.41	.39	.48*
Max Lot Coverage	30%	22.2%	30%
Min. Open Space	50%	59.4%	60.5%

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	Request to exceed FAR	S.P. per §7.3.3
§3.4.3.A.1 §7.8.2.C.2	Request to alter and vertically extend a nonconforming rear setback in a detached accessory building	S.P. per §7.3.3

Newton Historical Commission Demolition Review Decision

Date: August 28, 2023 **Application #** HRA-23-19

Address of structure: 887 COMMONWEALTH AVE

Type of building: Garage

If partial demolition, feature to be demolished is

The building or structure is:

- in a National Register historic district or in a historic district eligible for listing
- individually listed on the National Register or individually eligible for listing.
- importantly associated with historic person(s), events, or architectural or social history
- historically or architecturally important for period, style, architect, builder, or context.
- in a local historic district not visible from a public way

is **NOT HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

Determination made by:

[Handwritten signature]