



**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:** 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 #13-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to enclose a second level sunporch and construct a new basement access, further extending the nonconforming FAR at 140 Dickerman Road, Ward 5, Newton Highlands, on land known as Section 54 Block 38 Lot 12, containing approximately 6,600 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. 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 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.



**140 Dickerman Rd.**

**Project Description**

**Background**

The subject property at 140 Dickerman Rd. consists of a 6,600 square foot lot improved with a single-family dwelling constructed in 1898. The property is zoned Single Residence 2 (SR2) and abutted on all sides by properties zoned SR2 with single-family dwellings.

**Special Permit**

140 Dickerman Rd. currently has a nonconforming 0.48 Floor Area Ratio (FAR) and proposes an increase to 0.52 where 0.44 is the maximum allowable FAR for SR2. All changes proposed are within the footprint of the structure, as such, there would be no change to setbacks or any other dimensional or building standards regulated under the zoning ordinance.

**Analysis**

The Planning Department is not concerned with the proposed alteration of the nonconforming FAR. The enclosure of the sunporch and new basement access do not increase the footprint or height of the building. These proposed renovations require a special permit because of the conversion of the porch to habitable space, adding floor area, a change that will not be noticeable from the front of the dwelling and minimally noticeable to the neighborhood and abutting properties.

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 §7.3.3. and/or §7.8.2.C.2:

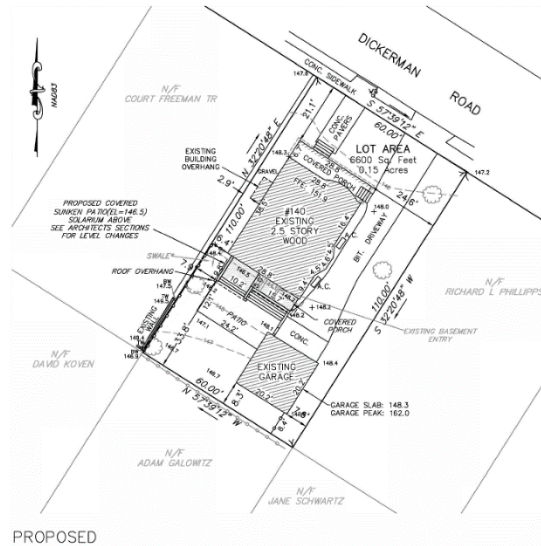
- The proposed increase in the FAR from .44 to .52 where .44 is the maximum allowed by right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.3, §3.1.9).
- The proposed increase in the FAR from .44 to .52 where .44 is the maximum allowed by right will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§7.8.2.C.2).

III. Project Proposal and Site Characteristics

A. Site - Existing Conditions

The property at 140 Dickerman Rd. consists of a single-family dwelling constructed in 1898 on an undersized 6,600 square foot lot, where 10,000 square feet is required for a single family home on an old lot in the SR2 zone. Currently the dwelling has a nonconforming FAR of 0.48 but remains in compliance with all other zoning requirements.

Proposed Conditions



PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

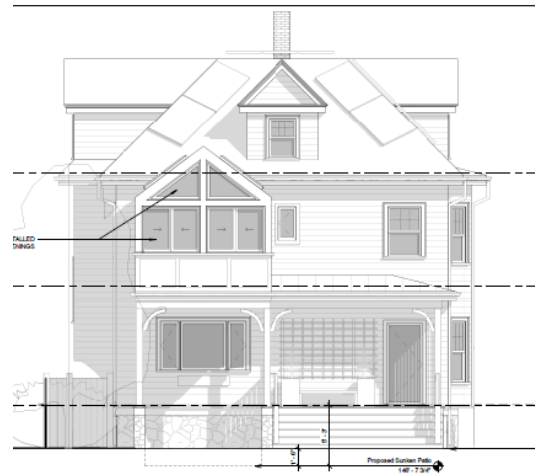
B. Site and Building Design

The petitioner proposes to add 199 square feet of gross floor area through the enclosure of the sun porch on the second floor with windows and lowering the grade of the patio which partially exposes the basement. These changes further increase the nonconforming FAR, requiring a special permit. As proposed, this work would be limited to the existing footprint of the dwelling, with 115 square feet added to the second story, and 84 square feet of floor area in the basement counting towards the FAR. The current setbacks, building height, lot coverage, open space, and the total number of stories will remain the same the existing conditions. The floor area ratio (FAR) would increase from 0.48 to 0.52, above the maximum allowed FAR of 0.44 for SR2.

Existing Rear Elevation



Proposed Rear Elevation



Proposed Front Elevation

Proposed Rear 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



**Ruthanne Fuller**  
Mayor

**City of Newton, Massachusetts**  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: December 6, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Lee Dearborn, Architect  
Martine Martell, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to further extend nonconforming FAR**

Applicant: Martine Martell	
Site: 140 Dickerman Road	SBL: 54038 0012
Zoning: SR2	Lot Area: 6,600 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 140 Dickerman Road consists of a 6,600 square foot lot improved with a single-family dwelling constructed circa 1898 and a detached garage constructed in the 1920s. The petitioner proposes to enclose a second level sunporch and construct a new basement access, further extending 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 by Lee Dearborn, Architect, submitted 11/14/2023
- Plot Plan, signed and stamped by Michael P. Clancy, surveyor, dated 10/28/2022
- Floor Plans and Elevations, prepared by Makers Guild, dated 11/14/2023
- FAR calculations, submitted 11/14/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner proposes to enclose a second story screen porch to create a conditioned solarium space. Additionally, the rear patio is to be lowered by 18 inches to achieve better basement access, thereby impacting the average grade. The proposed construction increases the nonconforming FAR from .48 to .52, where .44 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	<b>6,600 square feet</b>	No change
Frontage	80 feet	<b>60 feet</b>	No change
Setbacks - Principal			
• Front	25 feet	<b>21.1 feet</b>	No change
• Side	7.5 feet	<b>6.4 feet</b>	No change
• Side	7.5 feet	24.6 feet	No change
• Rear	15 feet	33.8 feet	No change
Setbacks - Accessory			
• Front	25 feet	± 81 feet	No change
• Side	5 feet	± 27 feet	No change
• Side	5 feet	7.6 feet	No change
• Rear	5 feet	8.3 feet	No change
Height	36 feet	35.9 feet	No change
Stories	2.5	2.5	No change
FAR	.44	<b>.48</b>	<b>.52*</b>
Max Lot Coverage	30%	28.9%	No change
Min. Open Space	50%	54.8%	No change

**BOLD** indicates a nonconformity

\*Relief required

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§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 nonconforming floor area ratio (FAR) as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed increase in the nonconforming FAR from .44 to .52 where .44 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 because the lot is undersized and the increase in floor area is within the footprint of the structure (§3.1.3, §3.1.9).
2. The proposed increase in the nonconforming FAR from .44 to .52 where .44 is the maximum allowed by right will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the lot is undersized and the increase in floor area is within the footprint of the structure (§7.8.2.C.2).

PETITION NUMBER: #13-24

PETITIONER: Martine Martell

LOCATION: 140 Dickerman Rd., on land known as Section 54 Block 38  
Lot 12, containing approximately 6,600 sq. ft. of land

OWNER: Martine Martell

ADDRESS OF OWNER: 140 Dickerman Rd.  
Newton, MA 02461

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  
increase nonconforming Floor Area Ratio (FAR)

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 Michael Clancy, professional land surveyor, dated November 14, 2023
  - b. A set of architectural drawings prepared by Makers' Guild, dated November 14, 2023:
    - i. Proposed South and East Elevations, A3.1
    - ii. Proposed West Elevation, A3.2
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.