



Ruthanne Fuller
Mayor

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

Petition: #253-24
Public Hearing: 06/18/24

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: June 13, 2024

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 #253-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to alter and extend a nonconforming front setback and to exceed FAR

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.



3 Valley Spring Road

I. Project Description

Current Use: Single family residential

Zoning: SR-2

Lot size: 25,753 sq ft

Existing nonconformities:

- 7-foot front setback (25 feet required)
- Lot size of 8,980 square feet (10,000 square feet required)

Proposal: The petitioners propose to construct additions to dwelling which extend the nonconforming front setback and exceed the maximum floor area ratio (FAR), requiring a special permit

Analysis: The Planning Department has no concern with the petition that would extend the nonconforming front setback and grant relief to exceed the maximum FAR. Staff do note however that with a proposed FAR of .45 where up to .40 is allowed by right, if approved this project will have more massing than many structures on the street and exceed the maximum allowed FAR by approximately 492 square feet. The height will increase from 17.9 feet to 28.9 feet and because the structure is on a sloped site, it may appear taller due to the existing grading of the site.

II. Zoning Relief Requested:

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

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
§3.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming front setback	S.P. per §7.3.3

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

- The proposed increase in the FAR from .23 to .45 where .40 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 site is an appropriate location for the proposed additions that will further extend the nonconforming front setback (§7.3.3.C.1)
- The proposed additions that will further extend the nonconforming front setback will

not adversely affect the neighborhood (7.3.3.C.2)

- The proposed additions that will further extend the nonconforming front setback 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)

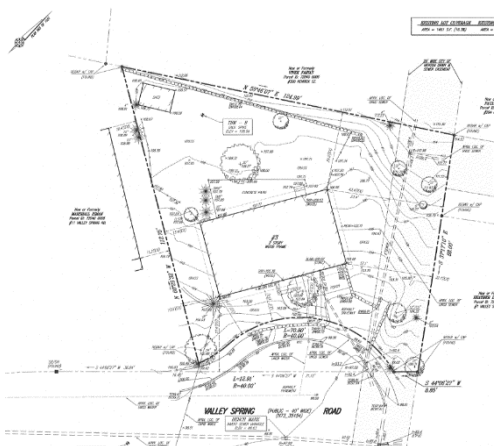
IV. Project Proposal and Site Characteristics

A. Site

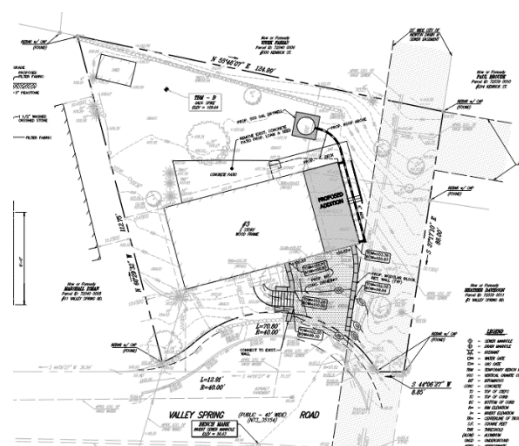
The petitioner proposes to remove the existing roof of the dwelling and add an additional story to the house. Also proposed is an addition on east side of structure. Added together the new second story and first story addition will result in a structure with a gross floor area of 4,084 square feet where 2,066 currently exists, increasing the FAR from .23 to .45, where up to .40 is allowed by right. The final structure will be two stories and 28.9 feet tall. According to the petitioner, there will be no changes to site grading or topography. The plans provided indicate that the retaining walls on either side of the existing driveway will be slightly shifted and reconfigured. The heights of both walls will remain the same as they are now and will not exceed four feet in height. An existing retaining wall that impedes into the sewer easement on the site will also be removed.

Because the lot is undersized at 8,980 square feet where a minimum of 10,00 square feet is required, a floor area ratio of .45 would make this building one of the larger ones in the neighborhood in terms of massing. However, no relief is required to meet the minimum requirements for minimum open space (currently 77.2%, proposed at 72.6%) and maximum lot coverage (currently 16.3%, proposed at 20.2%). The front setback which is currently nonconforming at seven feet will be increased to 13.5 feet but is still noncompliant as 25 feet is required by right.

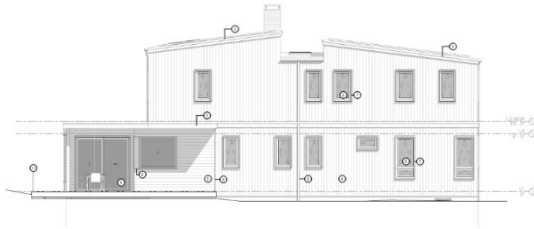
Existing site plan



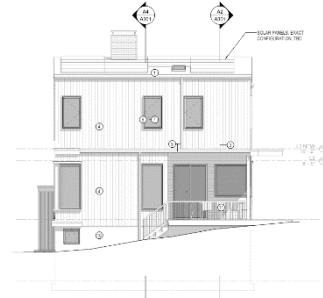
Proposed site plan



Proposed elevation-north



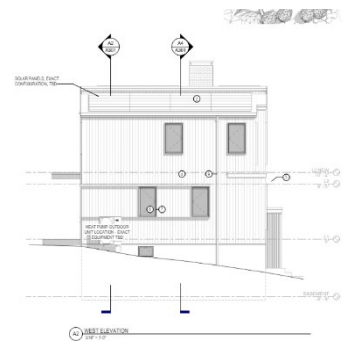
Proposed elevation-east



Proposed elevation-south



Proposed elevation-west



V. Interdepartmental Review

The existing dwelling on the site was constructed in 1953. At a Newton Historical Commission meeting held on April 25 2024, the NHC voted to find the building preferably preserved. They voted to waive the demolition delay for the partial demolition requested by the petitioner. Review from other departments is not required at this time.

VI. Petitioner's Responsibilities

The petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** DRAFT Council Order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 11, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Daniel Ruben, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to alter and extend a nonconforming front setback and to exceed FAR

Applicant: Daniel Rubin	
Site: 3 Valley Spring Road	SBL: 82014 0009
Zoning: SR2	Lot Area: 8,980 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 3 Valley Spring Road consists of an 8,980 square foot lot improved with a single-family dwelling constructed in 1953 in the SR2 zoning district. The petitioners propose to construct additions to dwelling which extend the nonconforming front setback and exceed the maximum 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 Daniel Ruben, applicant, submitted 12/14/2023
- Topographic Plan, signed and stamped by William E. Tirrell, surveyor, dated 3/14/2024
- Plan For Proposed Addition, signed and stamped by William E. Tirrell, surveyor, dated 3/14/2024, revised 5/6/2024, 5/15/2024, 5/31/2024, 6/5/2024
- Floor Plans and Elevations, signed and stamped by Bon W. Worthington, architect, dated 3/27/2024
- FAR calculations, signed and stamped by Bond W. Worthington, architect, dated 3/28/2024, revised 6/10/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct additions which extend the basement level garage, and add first floor living space as well as a full second story. The proposed additions increase the existing FAR from .23 to .45 where the maximum allowed per sections 3.1.3 and 3.1.9 is .40. A special permit is required to exceed the maximum FAR.
2. The dwelling has a front porch which has an existing nonconforming front setback of 7 feet where 25 feet is required per section 3.1.3. The porch will be removed during construction and the proposed construction alters and laterally extends the nonconforming front setback to 13.9 feet, requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	8,980 square feet	No change
Frontage	80 feet	110 feet	No change
Setbacks			
• Front	25 feet	7 feet	13.5 feet*
• Side	7.5 feet	13.4 feet	No change
• Side	7.5 feet	32.1 feet	21.1 feet
• Rear	15 feet	29 feet	16.3 feet
Height	36 feet	17.9 feet	28.9 feet
Stories	2.5	1	2
FAR	.40	.23	.45*
Max Lot Coverage	30%	16.3%	20.2%
Min. Open Space	50%	77.2%	72.6%

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
§3.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming front setback	S.P. per §7.3.3

#253-24
3 Valley Spring Road

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 .23 to .45 where .40 is the maximum allowed by right and the alter and extend the non-conforming front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The expanded structure that would result from the proposed increase in floor area ratio from .23 to .45 where .40 is the maximum allowed by right will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the majority of the work proposed lies within the existing footprint of the dwelling on the lot. (§3.1.3, §3.1.9)
2. The site is an appropriate location for the proposed addition which will further extend the nonconforming front setback because it conforms to other relevant dimensional requirements for the district including minimum open space and maximum lot coverage. (§7.3.3.C.1)
3. The proposed additions that will further extend the nonconforming front setback will not adversely affect the neighborhood because the work proposed will improve the front setback by increasing it from seven feet to 13.5 feet. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians because the driveway will be maintained in the same location and provide adequate sightlines. (§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: #253-24

PETITIONER: Daniel Rubin

LOCATION: 3 Valley Spring Road, Ward 7, Newton, on land known as

Section 82 Block 14 Lot 09, containing approximately 8,980 sq. ft. of land

OWNER: Daniel Rubin

ADDRESS OF OWNER: 3 Valley Spring Road
Newton, MA 02458

TO BE USED FOR: Single Family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to exceed the maximum floor area ratio (§3.1.3, §3.1.9) and to alter and extend a nonconforming front setback (§7.8.2.C.2)

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 entitled "Proposed site plan", signed and stamped by Richard A. Salvo, surveyor, professional engineer, dated 6/11/2024.
 - b. A set of architectural plans entitled "3 Valley Spring Road" prepared by Bond Worthington Architecture, signed and stamped by Bond W. Worthington, Registered Architect, dated 6/11/2024. consisting of seven sheets.
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.