



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: July 5, 2024

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 #277-24** for SPECIAL PERMIT/SITE PLAN APPROVAL establish an as of right accessory apartment within the carriage house and construct oversized dormers further extending the nonconforming FAR at 62 Lenox Street, Ward 2, West Newton, on land known as Section 32 Block 49 Lot 09, containing approximately 28,131 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 3.4.3.A.3, 7.8.2.C.2, 1.5.4.G.2.a, 1.5.4.G.2.b, 3.1.3, 3.1.9 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.



62 Lenox St.

I. Project Description

Use – single-family dwelling

Zone – Single Residence 1

Lot size – 28,131 square feet

Existing Nonconformities – Floor Area Ratio, principal building height in stories and feet, accessory building height in stories and feet

Proposal- The petitioner is seeking to construct additions to add living space as part of a conversion from a carriage house to an accessory apartment.

Analysis

The proposed additions totaling approximately 246 square feet of habitable space will preserve the existing carriage house and should have minimal visual impact on the surrounding neighborhood as the additions are minimal and largely visually shielded from the street and abutting properties. The proposal is for a single-story addition of approximately 152 square feet on the right side of the accessory building towards the principal building, a single-story addition of approximately 94 square feet to the front façade, extending the garage entrance, and the addition of an oversized dormer to the rear on the second floor. Given the existing nonconforming height and existing full second story of a detached accessory building and nonconforming Floor Area Ratio, no increase in the size of the existing carriage house is permitted by right. The increase in height of approximately 1.7 inches is created by a minor lowering of the grade due to the additions that expand the footprint and no increase to the peak of the roof is proposed. Therefore, the increase in height is largely technical due to the average grade surrounding the accessory building being lowered and overall, the building will not appear taller. As the proposed additions are minor in scale and limited to the oversized dormer and to the first floor, the proposed additions to the existing carriage house should not have a noticeable effect on the appearance of the site. The site will continue to match the style and scale of other neighboring dwellings, which feature many large historic homes.

II. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§3.4.3.A.3 §7.8.2.C.2	To further increase the nonconforming height of a detached accessory building	S.P. per §7.3.3
§3.4.3.A.3 §7.8.2.C.2	To further increase the nonconforming second story of a detached accessory building	S.P. per §7.3.3
§1.5.4.G.2.a §7.8.2.C.2	To allow a dormer creating an uninterrupted wall plane	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer exceeding 50% of the length of the wall below	S.P. per §7.3.3
§3.1.3 §3.1.9	To further extend nonconforming FAR	S.P. per §7.3.3

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

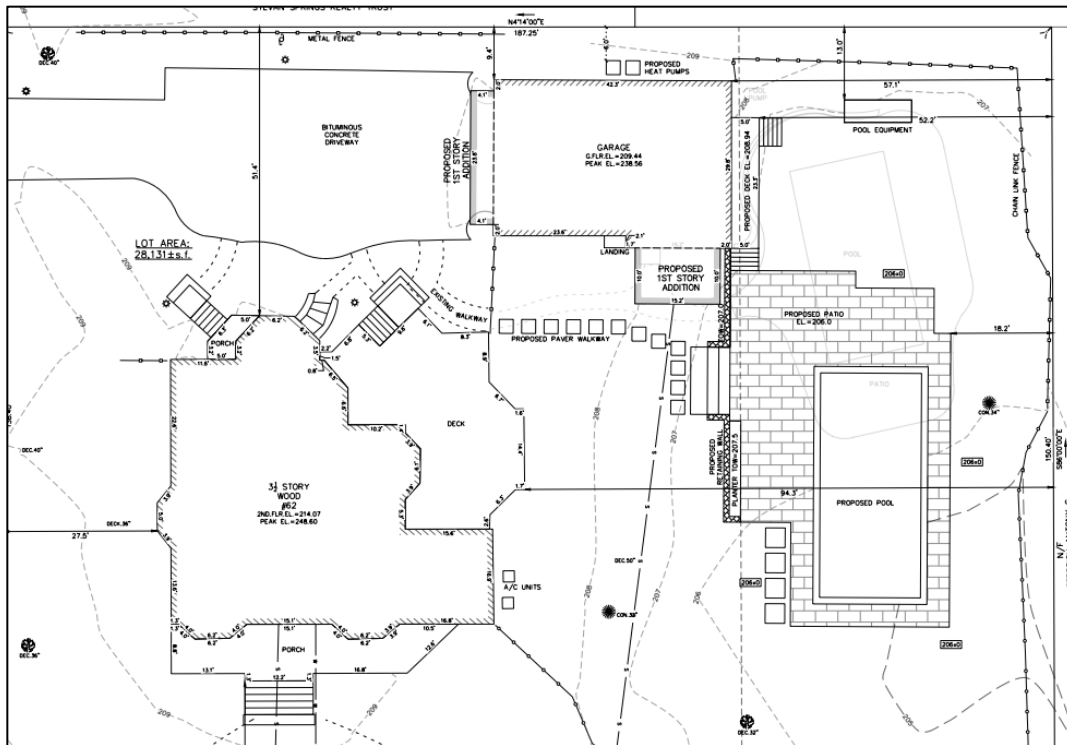
III. Criteria for Consideration per §7.8.2.C.2:

- The specific site is an appropriate location for a structure that will increase the nonconforming height and second story of a detached accessory building, increase Floor Area Ratio, and add a dormer exceeding 50% of the length of the wall below and an uninterrupted wall plane (§7.3.3.C.1, §3.4.3.A.3).
- The proposed nonconforming height and second story of a detached accessory building, increase in Floor Area Ratio, and addition a dormer exceeding 50% of the length of the wall below and uninterrupted wall plane as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2, §3.4.3.A.3).
- There will be no nuisance or serious hazard to vehicles or pedestrians created by the increase in the nonconforming height and second story of a detached accessory building, increase in Floor Area Ratio, and addition of a dormer exceeding 50% of the length of the wall below and an uninterrupted wall plane (§7.3.3.C.3, §3.4.3.A.3).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved with increase the nonconforming height and second story of a detached accessory building, increase Floor Area Ratio, and add a dormer exceeding 50% of the length of the wall below and an uninterrupted wall plane (§7.3.3.C.4, §3.4.3.A.3).
- The proposed increase in nonconforming height and FAR 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).

IV. Project Proposal and Site Characteristics

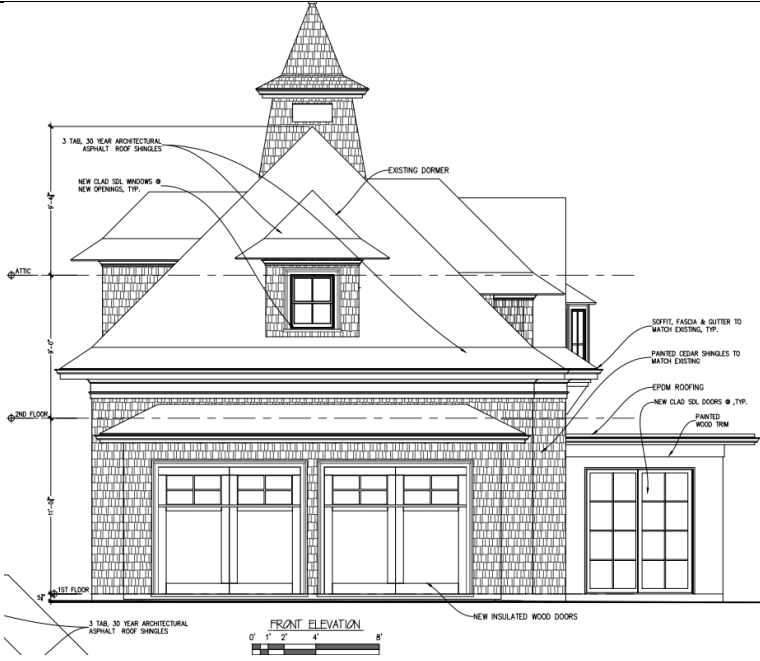
The site consists of a 3.5 story principal building constructed in 1897 and an existing carriage house. The proposed project consists of three additions to the carriage house requiring relief along with by-right hardscaping and reconstruction of a pool. No work is proposed for the principal dwelling and the site will continue to meet all required setbacks, open space, and lot coverage standards. The first addition requiring relief is to extend the façade of the garage out towards the street by an additional four feet. The second is to create an addition of approximately 152 square feet on the right side of the carriage house. The proposed 254 square feet of gross floor area for these additions trigger the need for relief to further increase the already nonconforming Floor Area Ratio. The last part of the proposed project is to construct an oversized dormer on the second story of the accessory building on the rear elevation. The oversized dormer exceeds 50% of the length of the wall below and creates an uninterrupted wall plane, requiring relief. The site work also includes some minor changes to the grade, which result in an increase to the existing nonconforming height of the accessory building from 30.4 feet to 30.54 feet. This is due to the additions to the accessory building lowering the site's average grade, this creating increased distance from the average grade to the peak of the roof.

Proposed Site Plan

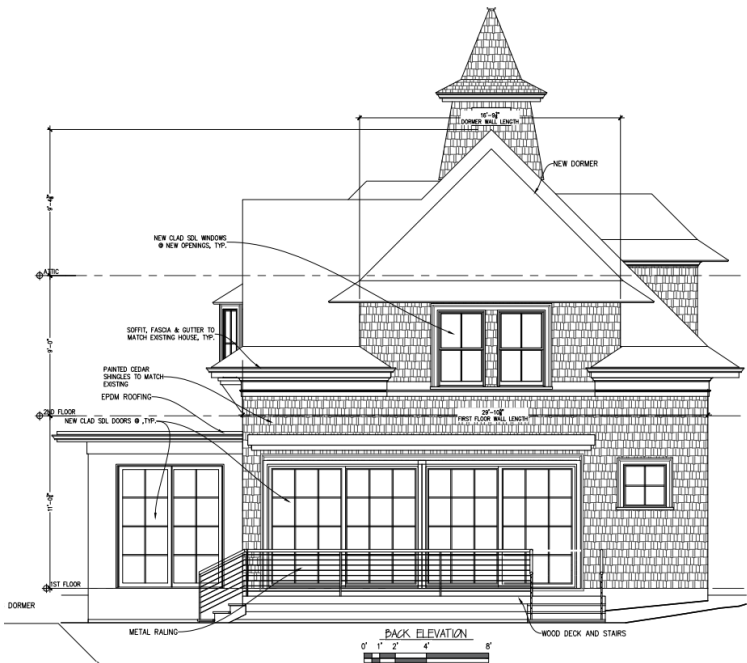


Proposed Elevations

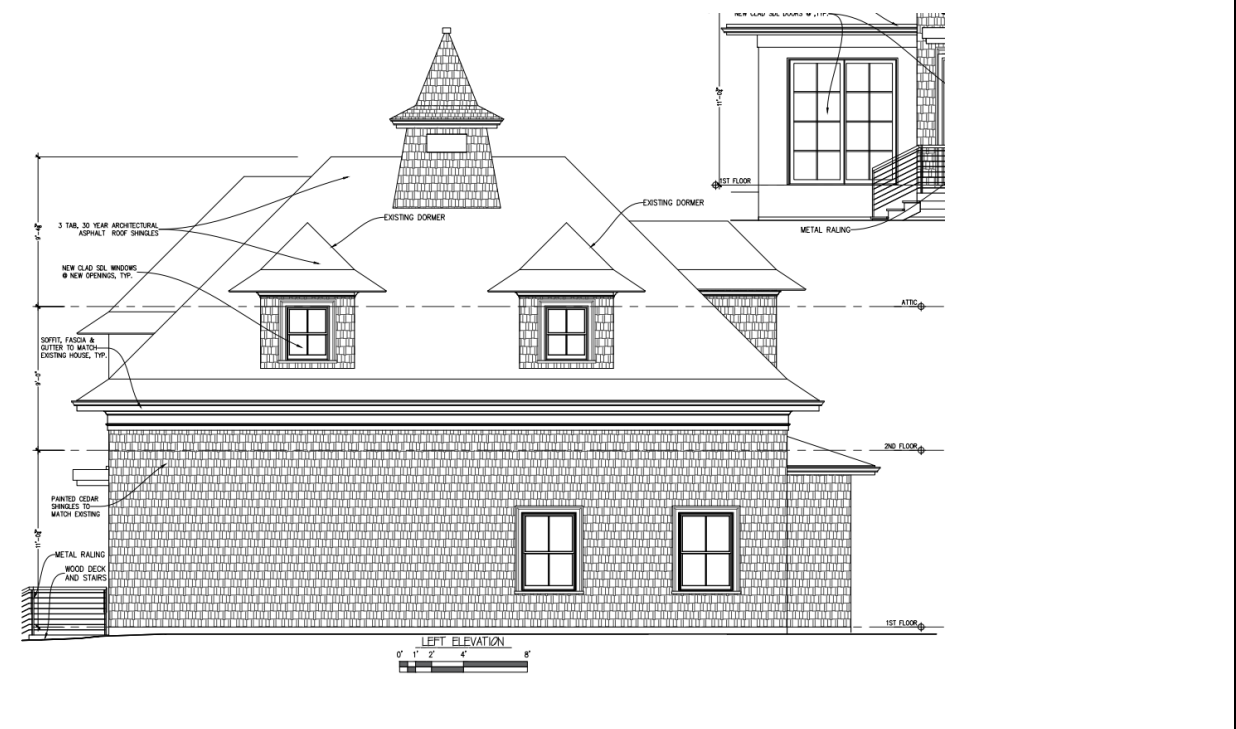
Front/North Elevation



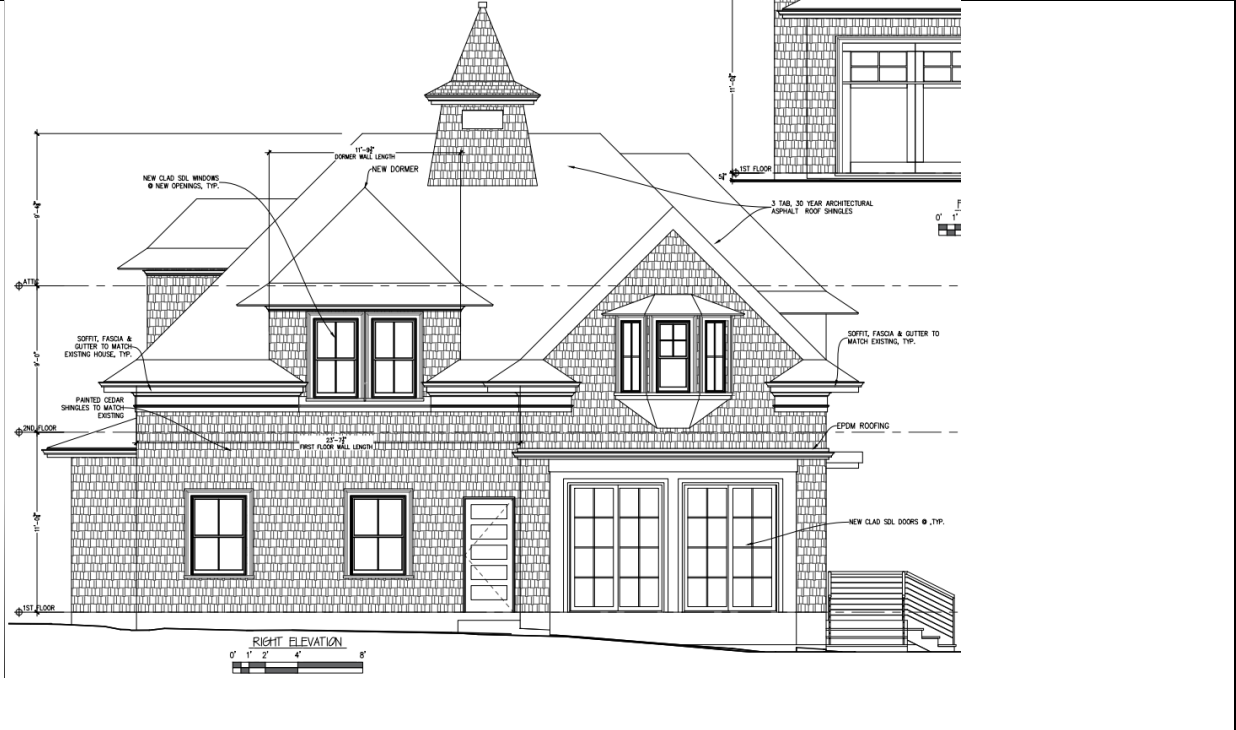
Left/East Elevation



South/Rear Elevation



West/Right Elevation



I. Interdepartmental Review

No departmental review is required.

II. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum

ATTACHMENT B: Newton Historical Commission Demolition Review Decision

ATTACHMENT C: DRAFT Council Order



Ruthanne Fuller
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 25, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Peter Sachs, Architect
Heather Egan, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to increase the nonconforming FAR, to further extend the nonconforming height of a detached accessory building, to allow a dormer exceeding 50% and to allow a dormer with an uninterrupted wall plane

Applicant: Heather Egan	
Site: 62 Lenox Street	SBL: 32049 0009
Zoning: SR1	Lot Area: 28,131 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a detached accessory apartment

BACKGROUND:

The property at 62 Lenox Street consists of a 28,131 square foot lot in the Single Residence 1 zoning district improved with a single-family dwelling constructed in 1897 and a detached carriage house. The petitioner seeks to establish an accessory apartment as of right within the carriage house and construct oversized dormers to allow for additional habitable space 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 Peter Sachs, architect, submitted 2/27/2024
- FAR Worksheet, submitted 2/27/2024
- Habitable space diagram, submitted 4/1/2024
- Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/20/2024
- Floor plans and elevations, signed and stamped by Peter Sachs, architect, dated 2/24/2024
- Newton Historical Commission decision, dated 9/29/2023

ADMINISTRATIVE DETERMINATIONS:

1. The detached accessory building was deemed historic by the Newton Historical Commission in September 2023 and is currently used as a two-car garage and storage area. The petitioner intends to construct an addition to the garage parking area as well as convert the storage space into habitable space to be used as an accessory apartment. A first story addition is proposed on the interior side of the building as well as a rear dormer addition in the second story to increase habitable space. The additions result in a 634 square foot garage and a 1,757 square foot accessory apartment, divided between 764 square feet on the first story and 993 square feet in the second story. Per section 6.7.1.E.7, accessory apartments within detached structures deemed historically significant are allowed by right and not subject to the size limitations imposed on non-historic structures.

2. Per section 3.4.3.A.3, a detached accessory building may have a maximum height of 22 feet. The proposed additions to the footprint alter the average grade, increasing the nonconforming height of the building from 30.4 feet to 30.54 feet, requiring a special permit per section 7.8.2.C.2.

Per that same section 3.4.3.A.3, an accessory building may have no more than 1.5 stories. The existing building is nonconforming with two stories and petitioners propose to construct a dormer addition at the rear of the second story. The proposed dormer further extends the nonconforming full second story building, requiring a special permit per section 7.8.2.C.2.

3. Section 1.5.4.G.2.a requires that a roof line overhang must be continued between the dormer and the story next below so as to avoid the appearance of an uninterrupted wall plane. The proposed rear dormer breaks the roof line overhang, requiring a special permit.

The existing left dormer on the right side of the building extends between the first and second stories, resulting in a nonconforming dormer with the appearance of an uninterrupted wall plane. The petitioner proposes to expand that dormer, requiring a special permit per sections 1.5.4.G.2.a and 7.8.2.C.2.

4. Per section 1.5.4.G.2.b, a dormer may be no wider than 50% of the length of the exterior wall next below. The building has an overall width of 29.83 feet. The dormer proposed for the rear of the building is 15.75 feet wide, or 53% of the length of the exterior wall next below, requiring a special permit.

5. The property has an existing nonconforming FAR of .35 where .26 is the maximum allowed per section 3.1.9. The proposed additions to the detached accessory building further increase the FAR to .35, requiring a special permit per section 7.8.2.C.2.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	28,131 square feet	No change
Frontage	100 feet	213 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front (Lenox St) • Front (Highland Ave) • Side • Rear 	25 feet 25 feet 12.5 feet 25 feet	33.9 feet 27.5 feet 94.3 feet 51.4 feet	No change No change No change No change
Setbacks – Accessory Apartment <ul style="list-style-type: none"> • Front • Side • Rear 	NA NA NA	± 87 feet 57.1 feet 9.4 feet	± 83 feet 52.2 feet No change
Stories <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	3.5 2	No change No change
Height <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	39.81 feet 30.4 feet	No change 30.54 feet
FAR	.26	.34	.35
Max Lot Coverage	20%	14%	14.8%
Min. Open Space	65%	75.3%	74.4%

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.3.A.3 §7.8.2.C.2	To further increase the nonconforming height of a detached accessory building	S.P. per §7.3.3
§3.4.3.A.3 §7.8.2.C.2	To further increase the nonconforming second story of a detached accessory building	S.P. per §7.3.3
§1.5.4.G.2.a §7.8.2.C.2	To allow a dormer creating an uninterrupted wall plane	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer exceeding 50% of the length of the wall below	S.P. per §7.3.3
§3.1.3 §3.1.9	To further extend nonconforming FAR	S.P. per §7.3.3



Ruthanne Fuller
Mayor

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, MA 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

Newton Historical Commission Demolition Review Decision

Date: September 29, 2023

Application # HRA-23-167

Address of structure: 62 LENOX ST

Type of building: Garage

If partial demolition, feature to be demolished is dormers and partial side and back walls

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.

is **HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

APPROVES the proposed project based upon materials submitted see below for conditions (if any).
Demolition is not delayed, further staff review may be required.

Owner of Record:
Heather Egan

Conditions:

Determination made by:

Mollie Hutchings, Chief Preservation Planner

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 establish an as of right accessory apartment within the carriage house and construct oversized dormers further extending the nonconforming FAR at 62 Lenox Street as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the addition that will increase the nonconforming height and second story of a detached accessory building and increase Floor Area Ratio as the building was constructed prior to the Zoning Ordinance and now exceeds zoning standards are common in the neighborhood. The site is appropriate for the addition of a dormer exceeding 50% of the length of the wall below and an uninterrupted wall plane as this addition will occur towards the interior of the lot and be minimally visible to the public (§7.3.3.C.1, §3.4.3.A.3).
2. The use as developed and operated will not adversely affect the neighborhood as the proposed addition of a nonconforming dormer will be to the rear of the accessory structure and minimally visible from the street while the addition to the accessory structure will be a single-story and built towards the principal dwelling rather than towards the setback (§7.3.3.C.2, §3.4.3.A.3).
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by increase in the nonconforming height and second story of a detached accessory building, increase in Floor Area Ratio, and addition of a dormer exceeding 50% of the length of the wall below and an uninterrupted wall plane as the proposed addition exceeds all required setbacks for buildings and parking and will provide parking in the accessory structure (§7.3.3.C.3, §3.4.3.A.3).
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in the increase the nonconforming height and second story of a detached accessory building, increase Floor Area Ratio, and add a dormer exceeding 50% of the

length of the wall below and an uninterrupted wall plane as there will remain adequate parking and parking setbacks (§7.3.3.C.4, §3.4.3.A.3).

5. The proposed increase in nonconforming height and FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as the proposed additions are minor in scale and the surrounding neighborhood features many historic homes that predate and do not conform with the Zoning Ordinance (§3.1.3, §3.1.9).

PETITION NUMBER: #277-24

PETITIONER: Heather Egan

LOCATION: 62 Lenox Street, Ward 2, West Newton, on land known as Section 32 Block 49 Lot 09, containing approximately 28,131 sq. ft. of land.

OWNER: Heather Egan

ADDRESS OF OWNER: 62 Lenox Street
Newton, MA 02465

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to allow further increases to nonconforming detached accessory building height and stories, increases to nonconforming Floor Area Ratio, and construction of a dormer that exceeds 50% of the length of the wall below and an uninterrupted wall plane (§3.1.3, §3.1.9).

ZONING: Single Residence 1

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. Plot Plan prepared by VTK Associates, dated February 20, 2024 and revised May 28, 2024.
 - b. Architectural plans stamped and signed by Peter Sachs, Registered Architect, dated April 30, 2024 consisting of the following sheets:
 - i. Proposed elevations (showing front and right), A-5
 - ii. Proposed elevations (showing rear and left), A-6
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.