



## City of Newton, Massachusetts

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

Ruthanne Fuller  
Mayor

Barney Heath  
Director

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### PUBLIC HEARING MEMORANDUM

**DATE:** August 24, 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 #296-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct oversized attic dormers and further extend the nonconforming FAR at 45 Bishopsgate Road, Ward 7, Newton Centre, on land known as Section 61 Block 22 Lot 09, containing approximately 11,298 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 1.5.4.G.2.b, 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.



**45 Bishopsgate Road**

I. Project Description

*Use* –single-family

*Zone* – Single-Residence 1

*Lot size* – 11,298 square feet

*Existing Nonconformities* – side and rear setbacks

*Proposal*- The petitioner is seeking to construct dormers that exceed 50% of the length of the wall below and increase nonconforming Floor Area Ratio (FAR).

*Analysis*

The proposed project consists of the addition of two dormers that are similar in nature to other common nonconforming architectural features and designs in the area and throughout the City of Newton. In addition to dormers exceeding 50% of the wall below, many dwellings in the neighborhood have features that extend the dwelling above the by-right space above the second story, including nonconforming full third stories, mansard roofs, and architectural features such as turrets, cupolas, or steeples. The addition of a 15.5 foot wide and a 22.2-foot-wide dormer will be consistent with those features. The dormers and an addition to the second story will increase the FAR from 0.50 to 0.53 where 0.34 is the maximum allowed FAR. Large single-family dwellings constructed prior to the Zoning Ordinance are common in the neighborhood and throughout the City of Newton, therefore an increase of 0.03 in FAR is unlikely to result in a building that appears out of place for the area.

II. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§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 §7.8.2.C.2	To further exceed 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 dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR (§7.3.3.C.1, §3.1.3, §3.1.9).
- The dormer exceeding 50% of the length of the wall below and the resulting increase in nonconforming Floor Area Ratio as developed and operated will not adversely affect the

neighborhood (§7.3.3.C.2, §3.1.3, §3.1.9).

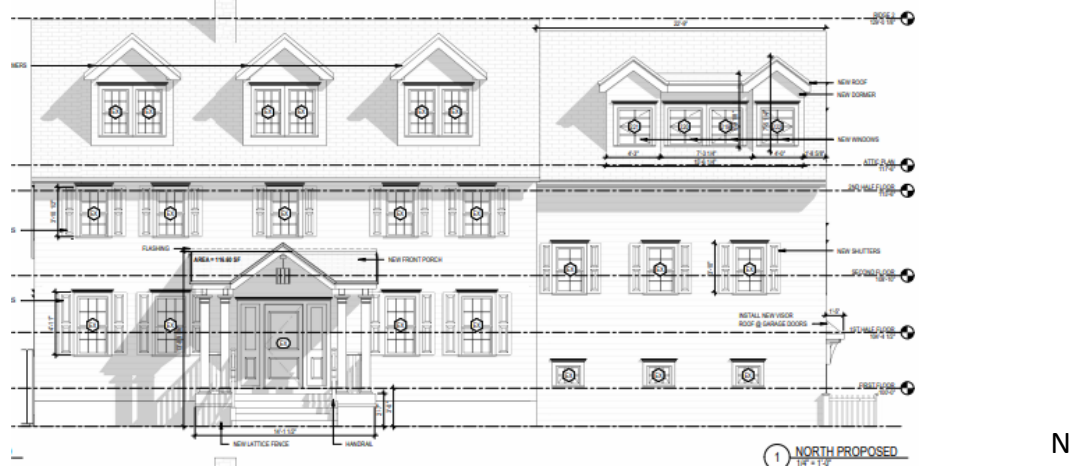
- There will be no nuisance or serious hazard to vehicles or pedestrians created by the dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR (§7.3.3.C.3, §3.1.3, §3.1.9).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved in the construction of a dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR (§7.3.3.C.4, §3.1.3, §3.1.9).
- The proposed increase in nonconforming 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

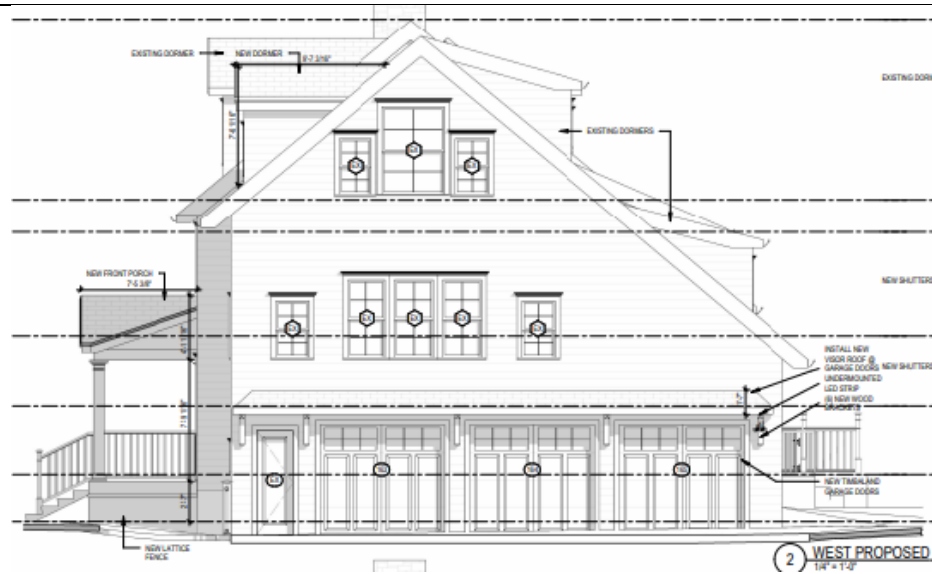
The site consists of a single-family dwelling constructed in 1930 on a 11,298 square foot corner lot. Additions permitted in 2004 brought the dwelling to 5,620 square feet in Gross Floor Area and a FAR of 0.50. The proposed project seeks to add 340 square feet of Gross Floor Area to the dwelling. This will be done by an addition to the rear right/east side of the dwelling and the addition of two dormers. The result will be a FAR of 0.53, requiring relief. The two dormers, one being 15.5 foot wide and 68% of the length of the wall below and the other being a 22.2-foot-wide dormer and 56% of the length of the wall below, will also require relief. While the resulting structure is significantly over the maximum FAR, the site is located in an area where historic properties with large dwellings exceeding FAR are common. Dormers of similar size are present in the area, although it is not immediately clear whether these other dormers exceed 50% of the wall below. No changes to grading are proposed.

*Proposed Elevations*

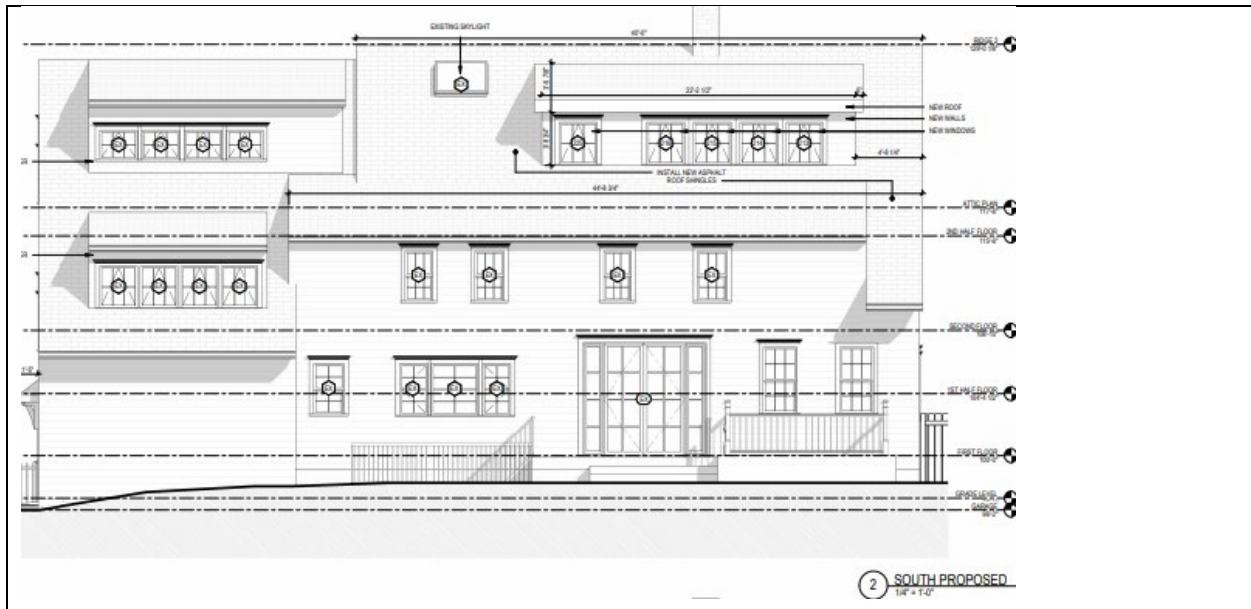
Front Elevation



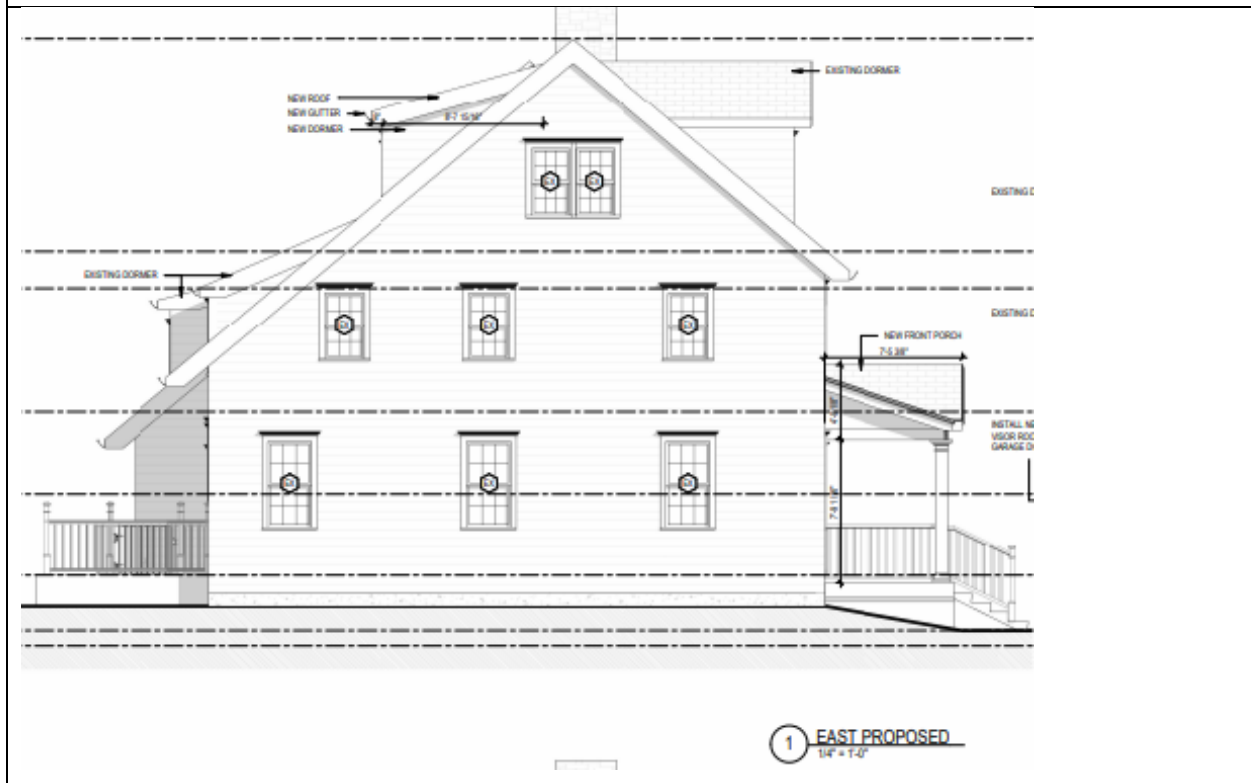
Left/West Elevation



Rear Elevation



Right/East 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:** DRAFT Council Order



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: June 17, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Laurance Lee, Attorney  
Ryan and Jaime Kim, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to allow oversized dormers and to further extend nonconforming FAR**

Applicant: Ryan and Jaime Kim	
Site: 45 Bishopsgate Road	SBL: 61022 0009
Zoning: SR1	Lot Area: 11,298 square feet,
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 45 Bishopsgate Road consists of an 11,298 square foot triangular lot in the Single Residence 1 zoning district improved with a single-family dwelling constructed in 1930 with a multi-story addition built in 2005. The petitioners seek to construct oversized attic dormers and 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 by Laurance Lee, attorney, submitted 2/20/2024
- FAR Worksheet, signed and stamped by Timothy Burke, architect, submitted 2/20/2024
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 3/4/2024, revised 3/8/2024, 4/17/2024
- Floor plans and elevations, signed and stamped by Timothy Burke, architect, submitted 2/20/2024, revised 4/17/2024

**ADMINISTRATIVE DETERMINATIONS:**

1. 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 petitioners propose to construct dormers on the front and rear of the existing half story. The dormer proposed for the front of the dwelling is 15.5 feet wide, or 68% where exterior wall next below is 22.75 feet. The dormer proposed at the rear is 22.2 feet wide, or 56% where the exterior wall next below is measured at 40 feet. The proposed dormers require a special permit.
2. The petitioners have an existing nonconforming FAR of .50 where .32 is the maximum allowed per sections 3.1.3 and 3.1.9. The proposed additions increase the FAR to .53, requiring a special permit to further increase the nonconformity per section 7.8.2.C.2.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	<b>11,298 square feet</b>	<b>No change</b>
Frontage	100 feet	100 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 12.5 feet 25 feet	feet <b>11.5 feet</b> <b>10.7 feet</b>	33.9 feet <b>No change</b> <b>10.1 feet**</b>
Stories	2.5	2.5	No change
Height	36 feet	33.2 feet	No change
FAR	.32	<b>.50</b>	<b>.53*</b>
Max Lot Coverage	20%	19.9%	19.6%
Min. Open Space	65%	70%	69%

**BOLD** indicates nonconformity

\*Requires relief

\*\*The Commissioner of Inspectional Services has determined that the proposed roof overhang does not increase the rear setback nonconformity

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§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 §7.8.2.C.2	To further exceed 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 allow for the construction of dormers exceeding 50% of the wall plane below and increasing nonconforming Floor Area Ratio (FAR) for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for a dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR as architectural designs and features such as oversized dormers are common in the area and increase in FAR is limited to 0.03. (§7.3.3.C.1, §3.1.3, §3.1.9)
2. The dormer exceeding 50% of the length of the wall below and the resulting increase in nonconforming FAR as developed and operated will not adversely affect the neighborhood as dwellings of a similar size and character are common in the neighborhood. (§7.3.3.C.2, §3.1.3, §3.1.9)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR as the proposal does not affect traffic or circulation to and from the site. (§7.3.3.C.3, §3.1.3, §3.1.9)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in the construction of a dormer exceeding 50% of the length of the wall below and the increase in nonconforming FAR as the proposed alterations do not affect traffic or circulation to and from the site. (§7.3.3.C.4, §3.1.3, §3.1.9)
5. The proposed increase in nonconforming FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood given other dwellings of similar size, scale, and design are common in the neighborhood. (§3.1.3, §3.1.9)

PETITION NUMBER: #296-24

PETITIONER: Jaime and Ryan Kim

LOCATION: 45 Bishopsgate Road, Ward 7, Newton Centre, on land known as Section 61 Block 22 Lot 09, containing approximately 11,298 sq. ft. of land

OWNER: Jaime and Ryan Kim

ADDRESS OF OWNER: 45 Bishopsgate Road  
Newton, MA 02459

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §1.5.4.G.2.b, §3.1.3, §3.1.9, §7.3.3, and §7.8.2.C.2 to allow oversized dormers and further extend nonconforming Floor Area Ratio

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 signed and stamped by Bruce Bradford, Registered Land Surveyor, as revised April 17, 2024.
  - b. Architectural plans signed and stamped by Timothy Burke, Registered Architect, dated April 17, 2024 consisting of the following sheets:
    - i. Proposed elevations (showing front and right/west), A1.3
    - ii. Proposed elevations (showing rear and left/east), A1.4
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.