



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: September 6, 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 #330-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct basement, first and second story additions, exceeding Floor Area Ratio (FAR) and reconstruct the roof of the detached garage and add a roof deck and extending the nonconforming front setback of both structures at 35 Hood Street, Ward 7, Newton, on land known as Section 72 Block 38 Lot 08, containing approximately 5,988 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, 3.4.3.A.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

APPLICATION RECORD: <https://newtonma.viewpointcloud.com/records/834884>

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.



35 Hood Street

I. Project Description

Use –single-family

Zone – Single-Residence 2

Lot size – 5,988 square feet, where 10,000 square feet is required

Existing Nonconformities – lot size, front and side setbacks for principal and accessory dwelling and Floor Area Ratio (FAR)

Proposal- The petitioner is seeking to reconstruct the garage and construct additions to the front and side of the dwelling, requiring relief for FAR and the vertical extension of nonconforming front setbacks for both the dwelling and the garage.

Analysis

The proposed project consists of reconstruction of a collapsed garage and the addition of 970 square feet of gross floor area to the front of the dwelling, which currently has a nonconforming front setback. These changes will add 0.23 to the existing FAR, totaling 0.56 in FAR and exceeding the by right maximum allowed of 0.45 for the lot. While an increase of 0.23 in FAR might be appear substantial at first glance, 400 square feet towards FAR is due to the reconstruction of the garage. Another factor to consider for the large increase in FAR is and the undersized, nonconforming lot size of 5,988 square feet. Further, options for expansion are limited due to the odd triangular shape of the lot and steep grade. As the principal dwelling only conforms with one of three required setback distances and the garage also does not conform with the front setback, additions along those facades would always require relief. The additions will only increase the height of the dwelling by 4.8 inches and due to the steep grade and small size of the lot, will not render the dwelling to appear larger or out of context compared to others in the vicinity.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	Request to exceed maximum FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to vertically extend a nonconforming front setback	S.P. per §7.3.3
§3.1.3 §3.4.3.A.2 §7.8.2.C.2	Request to vertically extend a nonconforming front setback of a detached garage	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 the additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage. (§7.3.3.C.1)
- The additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians created by the additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved in the additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage. (§7.3.3.C.4)
- The proposed increase in the FAR from .33 to .56 where .45 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 extension of two front setbacks for the principal dwelling and detached garage, is not substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2)

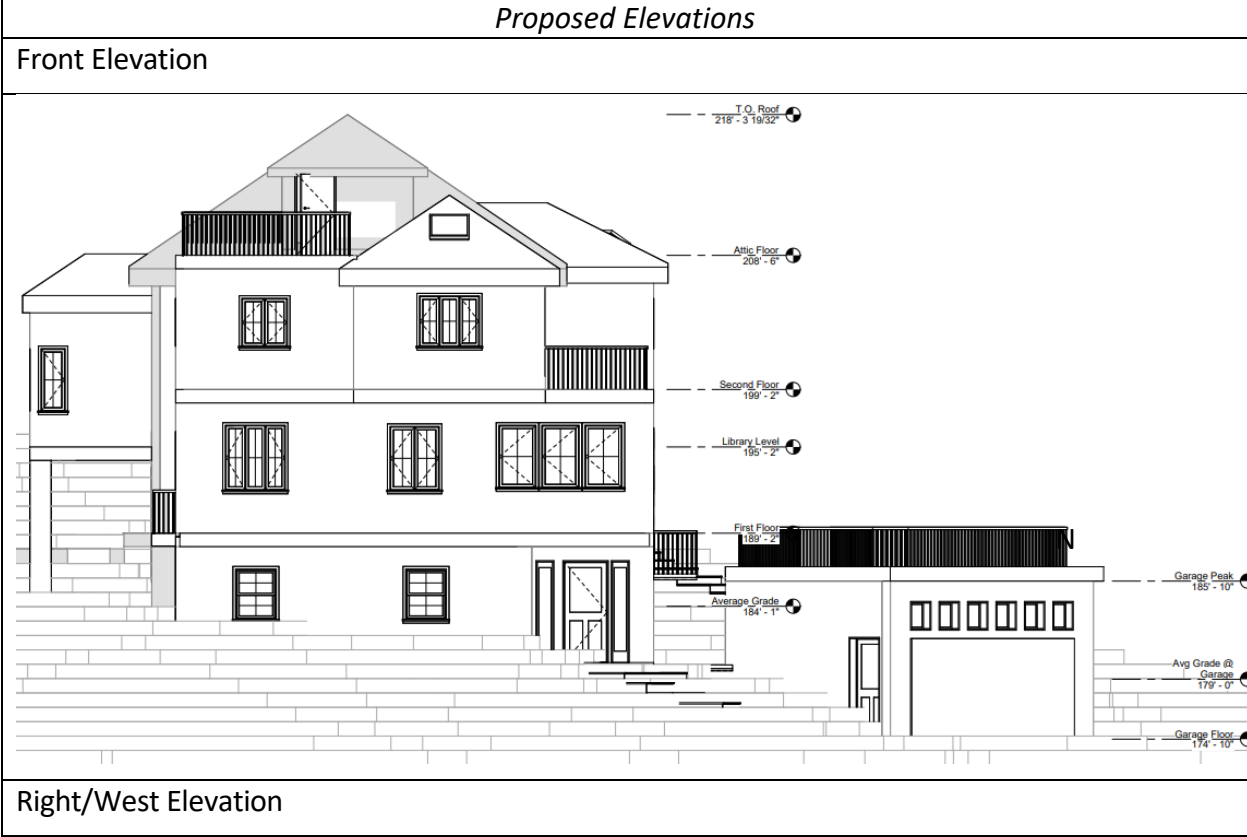
IV. Project Proposal and Site Characteristics

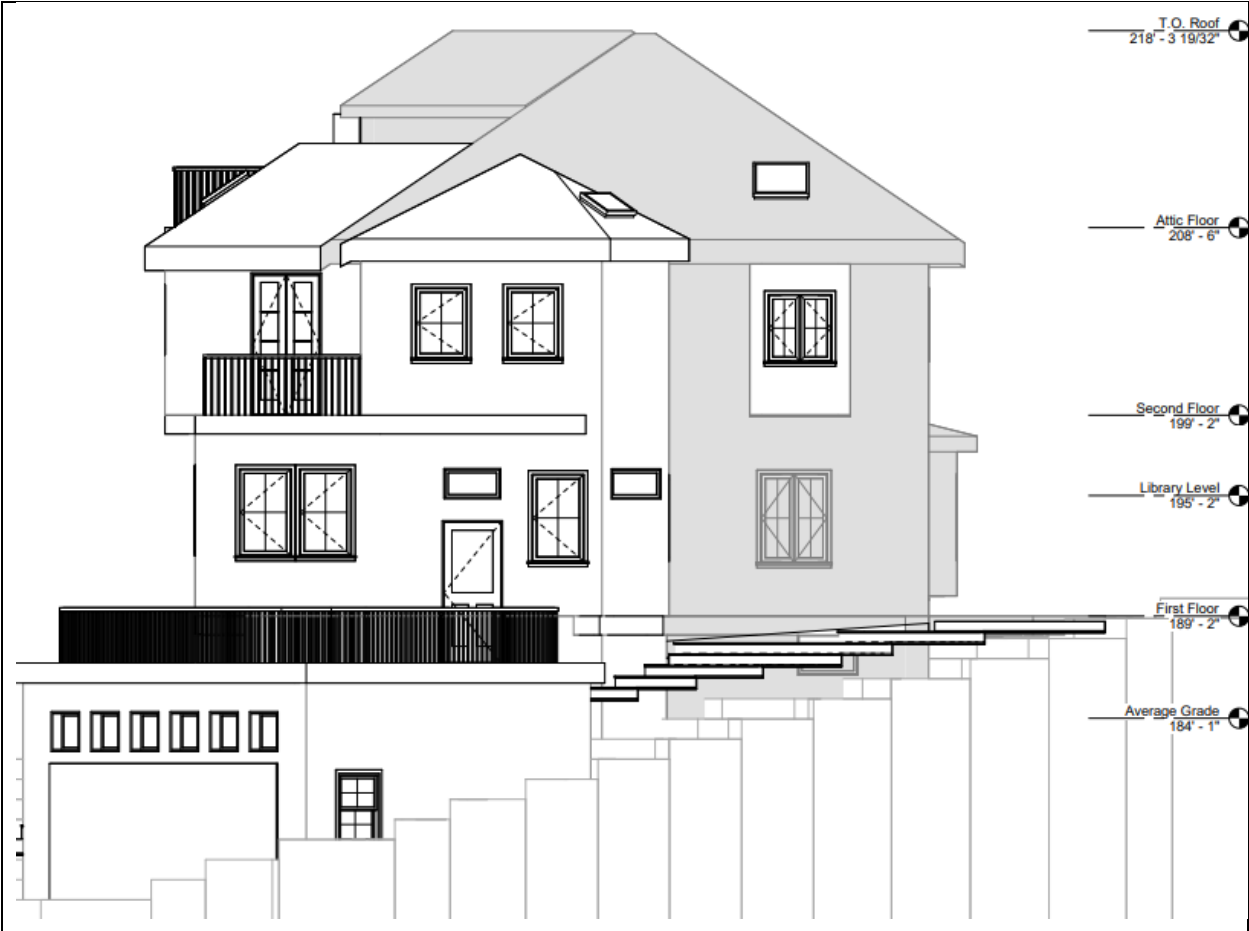
The site consists of a single-family dwelling constructed in 1930 with a detached two-car garage on a steeply graded triangle-shaped lot. The lot is undersized at 5,987 square feet. The grade slopes upward approximately 25 feet over about 157 feet on the longer lot line to the west of the property moving away from Hood Street and about seventeen feet over approximately 100 feet on the shorter east lot line moving away from Hood Street to where the two lines intersect. The triangular shape of the lot and steep grade create challenges to building on the lot as any expansion to the front, right/west, or rear facades would require relief for nonconforming setbacks. Further, the topography of the site means that a significant portion of the basement will be exposed and count towards FAR. While the dwelling currently conforms with FAR given a 0.45 maximum allowed by right and 0.33 existing FAR, much of the basement is exposed due to the steep grade of the site and the FAR has decreased by 0.07 because the garage has collapsed and no has the height to count towards FAR.

The project will maintain the existing garage but with a reconstructed roof. Above the garage will be new patio area and pervious steps leading to the dwelling from the left and rear sides of the garage. The dwelling will have additions to the front and right/west. The addition to the front will

replace the existing porch with living space, including additional basement area, additional area for the first two floors, and area above the second story. The additional area along the right/west façade will add living space to the front half of the façade, meeting the expansion to the front façade. The additions will not extend vertically to the roofline but will instead add an additional ridge below the top roofline projecting out. There is a 50 square foot addition to the left/south façade that will overhang above the ground, this addition will be on its own level, starting four feet below the bottom of the second floor and ending below the roof of the second floor.

The area between the terraced steps from the rear of the garage to the rear of the dwelling will be regraded to slope upwards to provide access to the dwelling's basement. Other alterations to the grade will occur around the other set of steps at the front of the garage to the front of the dwelling. The plans show fill increasing the elevation about four feet in between the dwelling and the garage roof deck, creating a mostly level area in between the east corner of the garage and the rear steps from the garage. The petitioners also proposed a 3.9 foot retaining wall at the west or front right corner of the garage surrounding the garage and will be approximately five feet in length. The proposed retaining wall is allowed as of right. The resulting proposed grade changes are largely away from the foundation and will likely not significantly impact the apparent height and massing of the dwelling. As the site already has significant changes to the grade, overall the alterations to the site's grading are to accommodate steps to access the dwelling as well as the proposed additions that expand the footprint.





Rear Elevation



Left/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

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: July 10, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Peter Danis, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

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

Applicant: Peter Danis	
Site: 35 Hood Street	SBL: 72038 0008
Zoning: SR2	Lot Area: 5,988 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 35 Hood Street consists of a 5,988 square foot triangular-shaped lot improved with a single-family dwelling constructed circa 1916. There is a significant upward slope on the lot, with a 25-foot grade change from the front of the lot to the rear. The petitioner proposes to construct basement, first and second story additions as well as to repair the detached garage and add a roof deck. The additions will exceed FAR and extend the nonconforming front setback of both structures, requiring a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared Terrence P. Morris, attorney, submitted 4/17/2024
- Existing Conditions Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 5/6/2014
- Proposed Conditions Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 5/28/2024
- Floor Plans and Elevations, signed and stamped by Ronald F. Jarek, architect, dated 5/8/2024
- FAR calculations, signed and stamped by Ronald F. Jarek, architect, submitted 6/5/2024

ADMINISTRATIVE DETERMINATIONS:

1. There is a 25-foot upward grade change from the street level to the rear of the property. The petitioner seeks to make additions to the basement, first and second stories of the dwelling as well as an expansion of the existing detached garage. The proposed construction increases the FAR from .33 to .56 where .45 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit.
2. The existing single-family dwelling has a nonconforming front setback of 13.6 feet where 25 feet is required per section 3.1.3. The petitioner proposes to enclose the existing front porch and make additions above within the footprint, vertically extending the nonconforming front setback and requiring a special permit per section 7.8.2.C.2.
3. The existing detached garage has a nonconforming front setback of 7 feet where 25 feet is required per sections 3.1.3 and 3.4.3.A.1. The petitioner proposes to reconstruct the roof with a roof deck on top of the garage. A special permit per section 7.8.2.C.2 is required to vertically extend the nonconforming front setback with usable space of the garage roof.
4. The petitioner proposes to construct an addition to the side of the dwelling facing the detached garage structure. Per section 3.4.3.A.2, five feet of separation are required between the principal dwelling and the accessory building. To achieve the required separation, the petitioner is removing a portion of the garage which is above grade by cutting off the corner, allowing for a separation from the principal dwelling of 5.5 feet. The garage space below grade will remain as is and available for parking.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	5,988 square feet	No change
Frontage	80 feet	120 feet	No change
Setbacks - Principal			
• Front	25 feet	13.6 feet	No change*
• Side	7.5 feet	10 feet	No change
• Side	17.5 feet	15.6 feet	No change
Setbacks - Accessory			
• Front	25 feet	7 feet	No change*
• Side	5 feet	6.3 feet	No change
• Side	5 feet	± 54 feet	± 57 feet
Height			
• Principal	36 feet	33.8 feet	34.2 feet
• Accessory	18 feet	9.9 feet	6.8 feet
Stories	2.5	2	No change
FAR	.45	.33	.56*
Max Lot Coverage	30%	16.3%	26.9%
Min. Open Space	50%	75%	63%

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 maximum FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to vertically extend a nonconforming front setback	S.P. per §7.3.3
§3.1.3 §3.4.3.A.2 §7.8.2.C.2	Request to vertically extend a nonconforming front setback of a detached garage	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 additions that will further increase nonconforming Floor Area Ratio and further extend two nonconforming front setbacks for both the principal and accessory buildings for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for the additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage as the undersized and steeply sloped lot mean that there are few options for structures that fully comply with Floor Area Ratio and setback requirements given the lot is undersized and has a triangular shape. (§7.3.3.C.1)
2. The additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage as developed and operated will not adversely affect the neighborhood as the additions are relatively minor in scale and will not decrease the two nonconforming front setbacks. (§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 additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage as no changes to site circulation or parking are proposed (§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 additions that will further extend the nonconforming Floor Area Ratio and nonconforming front setbacks of the principal dwelling and the garage as no changes to site circulation or parking are proposed (§7.3.3.C.4, §3.1.3, §3.1.9).
5. The proposed increase in the FAR from .33 to .56 where .45 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 as the resulting structure will be of comparable or smaller size to most dwellings in the neighborhood. (§3.1.3, §3.1.9)
6. The proposed project, which will render the FAR nonconforming and vertically extend the nonconforming front setbacks for the principal dwelling and detached garage, is not substantially more detrimental than the existing nonconforming use to the

neighborhood as the additions are relatively minor in scale and few alternatives to seeking relief are available given the small size and irregular shape of the lot.
(§7.8.2.C.2)

PETITION NUMBER: #330-24

PETITIONER: Peter Danis

LOCATION: 35 Hood Street

OWNER: Peter Danis

ADDRESS OF OWNER: 35 Hood Street
Newton, MA 02458

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §3.1.3, §3.1.9, §3.4.3.A.2, §7.3.3, and §7.8.2.C.2 to construct additions

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. Plot Plan signed and stamped by Bruce Bradford, Registered Land Surveyor, as revised July 2, 2024.
 - b. Architectural plans prepared by Ronald Jarek dated May 8, 2024 consisting of the following sheets:
 - i. Proposed elevations (showing front/north), A2.0
 - ii. Proposed elevations (showing right/west), A2.1
 - iii. Proposed elevations (showing left/east), A2.2
 - iv. Proposed elevations (showing rear/south), A2.3
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.