



Ruthanne Fuller
Mayor

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

Petition: #356-24
Public Hearing: 10/1/24

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 26, 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 #356-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to increase the nonconforming FAR and to alter the nonconforming second story of a detached accessory building at 6 Lowell Avenue

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.



6 Lowell Avenue

I. Project Description

Current Use: Two-family dwelling

Zoning: Multi-Residence 1 (MR-1)

Lot size: 6,921 square feet

Existing nonconformities:

- Lot size of 6,921 square feet (7,000 square feet required)
- Frontage of 56 feet (70 feet required)
- Main building height of 3.5 stories (up to 2.5 allowed by right)
- Accessory building height of 2 stories (up to 1.5 allowed by right)
- Floor area ratio (FAR) of .66 (up to .58 allowed by right)

Proposal: The petitioner seeks to establish an accessory apartment as of right within an existing accessory structure, altering the roofline to create additional habitable space. This work will further extend the nonconforming FAR and number of stories, requiring a special permit. [The project materials can be found here.](#)

Analysis:

The Planning Department is not concerned with the petition which will further extend the nonconforming number of stories for a detached accessory building and further extend nonconforming FAR. The principal structure will remain the same as it exists today, and the accessory building is set far back from the street, mitigating the impact of the additional height and massing. Though the project will further extend the nonconforming FAR and number of stories, the work will be limited to the existing footprint of the accessory building, and the height will increase by only 1.7 feet.

II. Zoning Relief Requested:

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

Zoning Relief Required		
Ordinance		Action Required
§3.4.3.A.3 §7.8.2.C.2	To further extend the nonconforming second story of a detached accessory building	S.P. per §7.3.3
§3.1.3 §3.1.9	To further extend nonconforming FAR	S.P. per §7.3.3

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

- The proposed extension of the nonconforming second story of a detached accessory building is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)
- The proposed increase in the nonconforming FAR from .66 to .70, where .58 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, §7.8.2.C.2)

IV. Project Proposal and Site Characteristics

The property is located on a 6,921 square foot which is improved with a nonconforming three and a half story dwelling constructed circa 1875 and a detached accessory building at the rear of the lot. Vehicular access is provided via a curb cut and paved driveway on Lowell Avenue that runs along the right side of the property to the accessory building, which has two parking stalls. The site is relatively flat, with fencing around portions of the property and a patio at the rear. The site is located near the intersection of Crafts Street and Watertown Street. The zoning of this property and most of the surrounding neighborhood is MR-1, with several lots zoned for public use. The area is primarily residential.

The subject lot has several existing nonconformities, including an FAR of .66 where up to .58 is allowed by right. The principal structure, the house, is 3.5 stories where up to 2.5 stories are allowed by right, and the accessory structure, the barn, is 2 stories where up to 1.5 stories is allowed by right. The accessory building has a front setback from the street of over 100 feet, side setback of 3.7 feet, and rear setback of 2.1 feet.

The petitioner proposes to remove the hip roof of the detached building and reconstruct the second-story roof in order to create more habitable space and establish an accessory apartment on the top story. The zoning ordinance allows for accessory apartments by right in detached structures deemed historically significant, and they are exempt from certain regulations. However because the work proposed alters and extends the FAR and number of stories, relief is required for those elements of the design. Approximately 295 square feet of livable space will be added to the second story of the accessory building in this new configuration. The overall height of the building will increase from 20.3 feet to 22 feet, which needs no relief because the maximum allowed by right height of an accessory building is 22 feet. All work proposed will be within the existing footprint. The proposed work requires altering and extending the nonconforming second story of the building, which requires a special permit. The additional habitable space will also result in an increase in FAR from .66 to .70, where .58 is the maximum allowed.

V. Interdepartmental Review

Historic:

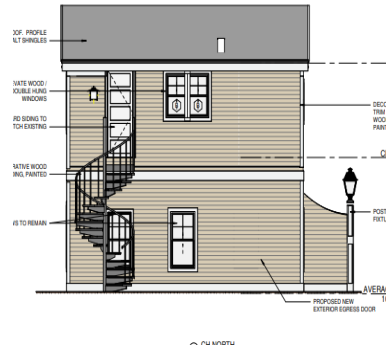
This plan was reviewed and approved administratively by the Chief Preservation Planner on November 21, 2022. Staff determined that the detached accessory building is historically significant as defined by the city's Demolition Delay ordinance. The demolition of the roof and partial demolitions of the wall of the accessory building were approved, therefore there is no demolition delay for the scope of the work proposed. Staff note that this determination was made in November 2022 and action must be taken to exercise that approval within two years of a determination.

No further interdepartmental review is required at this time.

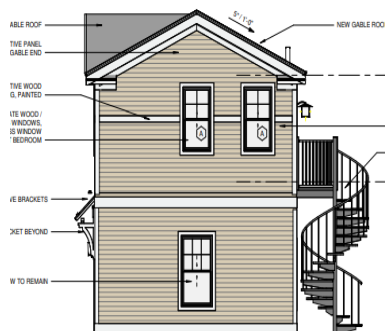
Proposed front elevation



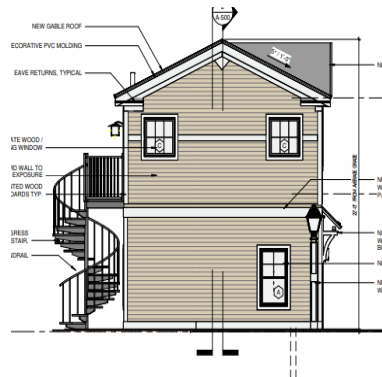
Proposed rear elevation



Proposed east elevation



Proposed west elevation



VI. Petitioner's Responsibilities

The petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: Historic determination

Attachment C: DRAFT Council Order



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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 23, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Gregg Spalding, Architect
Lisa Donfrancesco, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: **Request to increase the nonconforming FAR and to alter the nonconforming second story of a detached accessory building**

Applicant: Lisa Donfrancesco	
Site: 6 Lowell Avenue	SBL: 23012 0011
Zoning: MR1	Lot Area: 6,921 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with a detached accessory apartment

BACKGROUND:

The property at 6 Lowell Avenue consists of a 6,921 square foot lot in the Multi-Residence 1 zoning district improved with a two-family dwelling constructed circa 1875 and a detached historic barn structure. The petitioner seeks to establish an accessory apartment as of right within the barn by altering the roofline for additional habitable space further extending the nonconforming FAR and stories, requiring a special permit.

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

- Zoning Review Application, prepared by Gregg Spalding, architect, submitted 8/20/2024
- FAR Worksheet, submitted 8/20/2024
- Plot Plan, signed and stamped by Edward J. Farrell, surveyor, dated 6/6/2024, revised 8/22/2024
- Floor plans and elevations, signed and stamped by Gregg Spalding, architect, dated 7/8/2024, revised 8/22/2024
- Newton Historical Commission decision, dated 11/21/2022

ADMINISTRATIVE DETERMINATIONS:

1. The detached accessory building was deemed historic by the Newton Historical Commission in November 2022 as a two-car garage with space above. The petitioner intends to raze the roof of the building, allowing for use of the second story as habitable space for an accessory apartment. 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 no more than 1.5 stories. The existing detached accessory building is nonconforming with two stories and petitioners propose to raze the hip roof and reconstruct the second story roof configuration to increase the habitable space within the footprint. The proposed gable configuration alters and extends the nonconforming full second story of the building, requiring a special permit per section 7.8.2.C.2.
3. The property has an existing nonconforming FAR of .66 where .58 is the maximum allowed per section 3.1.9. The proposed alteration to the detached accessory building further increases the nonconforming FAR to .70, requiring a special permit per section 7.8.2.C.2.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,921 square feet	No change
Frontage	70 feet	56 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • 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 	Not applicable Not applicable Not applicable	± 100 feet 3.7 feet 2.1 feet	No change No change 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 20.3 feet	No change 22 feet
FAR	.58	.66	.70
Max Lot Coverage	30%	Not available	No change
Min. Open Space	50%	Not available	No change

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
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§3.1.3 §3.1.9	To further extend nonconforming FAR	S.P. per §7.3.3



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1000 Commonwealth Avenue Newton, MA 02459

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Newton Historical Commission Demolition Review Decision

Date: November 21, 2022 Application # HRA-22-411

Address of structure: 6 LOWELL AVE

Type of building: Other - Carriage House w/ garage
If partial demolition, feature to be demolished is Roof and partial 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:
Lisa DonFrancesco

Conditions: [Empty box]

Determination made by:

Mollie Hutchings, Chief Preservation Planner

#356-24
6 Lowell Avenue

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 further extend the nonconforming second story of a detached accessory building and to further extend 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 extension of the nonconforming second story of a detached accessory building is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the front setback of the building is greater than the required front setback, mitigating the impact to the surrounding neighborhood, and the height will increase by less than two feet. (§3.1.3 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR from .66 to .70, where .58 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 additional FAR will be located within the existing footprint of the building and as designed the project will not add any impervious coverage. (§3.1.3, §3.1.9, §7.8.2.C.2)

PETITION NUMBER: #356-24

PETITIONER: Lisa Donfrancesco

LOCATION: 6 Lowell Avenue, Ward 2, Newtonville, on land known as Section 23 Block 12 Lot 11, containing approximately 6,921 sq. ft. of land

OWNER: Lisa Donfrancesco

ADDRESS OF OWNER: 224 Adams Avenue

West Newton, Massachusetts 02465

TO BE USED FOR: Two-family dwelling with a detached accessory apartment

RELIEF GRANTED: Special Permit

- To further extend the nonconforming second story of a detached accessory building (§3.4.3.A.3 §7.8.2.C.2)
- To further extend nonconforming FAR (§3.1.3 §3.1.9)

ZONING: Multi-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. A plot plan signed by Edward J. Farrell, professional land surveyor, dated 8/22/2024
 - b. A set of architectural plans, signed and stamped by Gregg Spaulding, registered architect, dated 7/8/2024
 - i. Proposed elevations "Sheet A-201" (showing front, rear, and sides of accessory building)
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 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.