



Land Use Committee Report

City of Newton In City Council

Thursday, November 10, 2020

Present: Councilors Lipof (Chair), Kelley, Greenberg, Markiewicz, Downs, Bowman, Laredo and Wright

City Staff Present: Chief Planner Neil Cronin, Associate City Solicitor Jonah Temple, Senior Planner Katie Whewell, Director of Planning and Development Barney Heath

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#398-20 **Petition to exceed FAR and extend number of stories at 10-12 Sumner Street**
ANDREW SALZMAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers to the existing half story, further extending the nonconforming 3.5 story structure, to allow a dormer exceeding 50% of the length of the wall plane below it and to create an FAR of .76 where .67 exists and .54 is allowed at 10-12 Sumner Street, Ward 7, Newton Centre, on known as 73 Block 48 Lot 24, containing approximately 6,434 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 3.2.3, 1.5.4.G.2.b of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0; Public Hearing Closed 11/10/2020**

Note: Michael Huller, 1831 Washington Street, Project architect presented an overview of the request to exceed FAR and extend the number of stories at 1012 Sumner Street. The proposed expansion into the half story attic includes two bedrooms, a bathroom, usable closet space and a laundry area. Due to steep grading at the site, the basement level is exposed and is considered the first story, creating a nonconforming 3.5 story dwelling and contributing to the FAR. The proposed expansion represents 58% of the footprint below. Mr. Huller noted many other similar additions have been constructed in the neighborhood. The petitioner, Mr. Salzman noted that the larger space will help accommodate their growing family over time.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning, and proposed plans as shown on the attached presentation. The proposed plan includes additions on all of the elevations and total approximately 633 sq. ft., increasing the nonconforming FAR from .67 to .76 where .54 is the maximum allowed. Additionally, because the proposed dormers exceed 50% of the wall plane below, a special permit is required.

The Public Hearing was Opened. No member of the public wished to speak. Mr. Salzman confirmed that the proposed plans were communicated with neighbors on the side as well as any neighbors who inquired after seeing the public hearing sign. He noted that three letter of support are on file with the petition.

The Committee emphasized the importance of continuing to encourage petitioners to share their special permit plans with members of the community.

Seeing no member of the public who wished to speak Councilor Laredo motioned to close the public hearing which carried unanimously. Councilor Laredo motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown on the attached presentation. The Committee asked that a finding is included that reflects that the dramatic increase in FAR is due to the grade of the lot. With that the Committee voted unanimously in favor of approval.

#400-20 Petition to exceed FAR and extend number of stories at 727 Centre Street

ZAILI CHEN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to the third story, extending the nonconforming number of stories and creating an FAR of .50 where .45 exists and .35 is allowed at 727 Centre Street, Ward 2, Newton, on land known as Section 13 Block 16 Lot 08, containing approximately 12,880 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 3.2.3, 1.5.4.G.2.b of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 11/10/2020

Note: The petitioner Zaili Chen and his son Tong Chen presented the request to exceed FAR and extend the number of stories at 727 Centre Street. Mr. Chen explained that because the house is approximately 100 years old, there is insufficient insulation and an excess amount of fuel is required to heat the house. Because space within the house is too narrow, insulation cannot be added to the existing house. The petitioner proposed to build additions where there are existing balconies at the house. It was noted that the additions will create a barrier between the existing bedrooms and the outside. Additionally, Mr. Chen noted that the site is sloped and the basement contributes to the FAR calculations.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. He noted that the Historic Commission would sign off on the project as currently proposed without a hearing. The proposed additions, on either side of the building are above the existing structure and within the footprint. Each addition is approximately 310 sq. ft. The proposed elevations are shown below.



Front Elevations



South Elevation

The Public hearing was Opened.

Judith McMorrow, 16 Cabot Street, expressed no concerns relative to the project. She noted that there are large trees between the properties that will shield the house from view.

Richard Ryan, 16 Cabot Street, questioned what the time frame is for construction, but confirmed that he would speak with the petitioner regarding timing of the project.

Dylan Ross, 11 Richmond Road, expressed concern and noted that at his property, they were able to have the home insulated. He noted that the proposed materials, window line and roof line are inconsistent with the existing historic home.

The Committee noted that the proposed design is inconsistent with the existing house. Committee members noted that because the design of the additions is not consistent with the design of the existing structure, it accentuates the mass. The Committee encouraged the petitioner to consider using different materials that are more cohesive with the design of the existing house. It was reiterated that the Historic Commission is supportive of administrative approval of the proposed plans.

Seeing no other member of the public who wished to speak, Councilor Laredo motioned to close the public hearing which carried 7-0. Councilor Laredo motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown on the attached presentation. The Committee expressed support for language in the Council Order allowing the petitioner some flexibility in changing the elevations, provided that the relief does not change. With that the Committee voted unanimously in favor of approval.

#317-20 Petition to extend nonconforming multi-family and height at 68 Chestnut Street
BRADEN HOUSTON petition for SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming multi-family residential use in the BU1 district by adding one unit to the existing dwelling and two units within the existing carriage house structure, to further increase the nonconforming height, to further extend the nonconforming stories, to further extend the nonconforming side setback, to allow a retaining wall exceeding 4' in a setback, and to allow 1.25 parking stalls per unit at 68 Chestnut Street, Ward 3, West Newton, Section 31 Block 04 Lot 07, containing approximately 10,419 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2, 4.1.3, 4.1.2.B.3, 5.1.4, and 5.4.2 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 11/10/2020

Note: Architect Ron Jarek represented the petitioner Braden Houston. Mr. Jarek noted that there have been several public hearings to discuss the request for a special permit to extend the nonconforming multi-family use and height at 68 Chestnut Street. He noted that the last outstanding item was relative to the turning radius of cars in the driveway space. It was noted that the Engineering Department has analyzed the submission of the turning radius and has expressed no concerns.

Senior Planner Katie Whewell confirmed that they received an updated landscape plan. She stated that the Engineering Department has confirmed that the turning radii is sufficient but recommends inclusion of a condition requiring the installation of a convex mirror.

Seeing no member of the public who wished to speak, Councilor Kelley motioned to close the public hearing which carried unanimously. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted 7-0 in favor of approval.

The Committee adjourned at 9:00 pm.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



**PETITION #398-20
10-12 SUMNER STREET**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO INCREASE THE
NONCONFORMING FLOOR AREA
RATIO, ALLOW OVERSIZED
DORMERS AND FURTHER EXTEND
THE NONCONFORMING TWO
FAMILY, THREE AND A HALF STORY
STRUCTURE



NOVEMBER 10, 2020

Requested Relief



Special Permits per §7.3.3, 7.8.2.C.2 of the Newton Zoning Ordinance to:

- Further extend a nonconforming 3.5 story structure (§3.1.3, §7.8.2.C.2);
- To increase the nonconforming FAR (§3.1.3, §3.1.9 §7.8.2.C.2) and
- To allow dormers exceeding 50% of the length of the wall plane below (§1.5.4.G.2.b)

Criteria to Consider



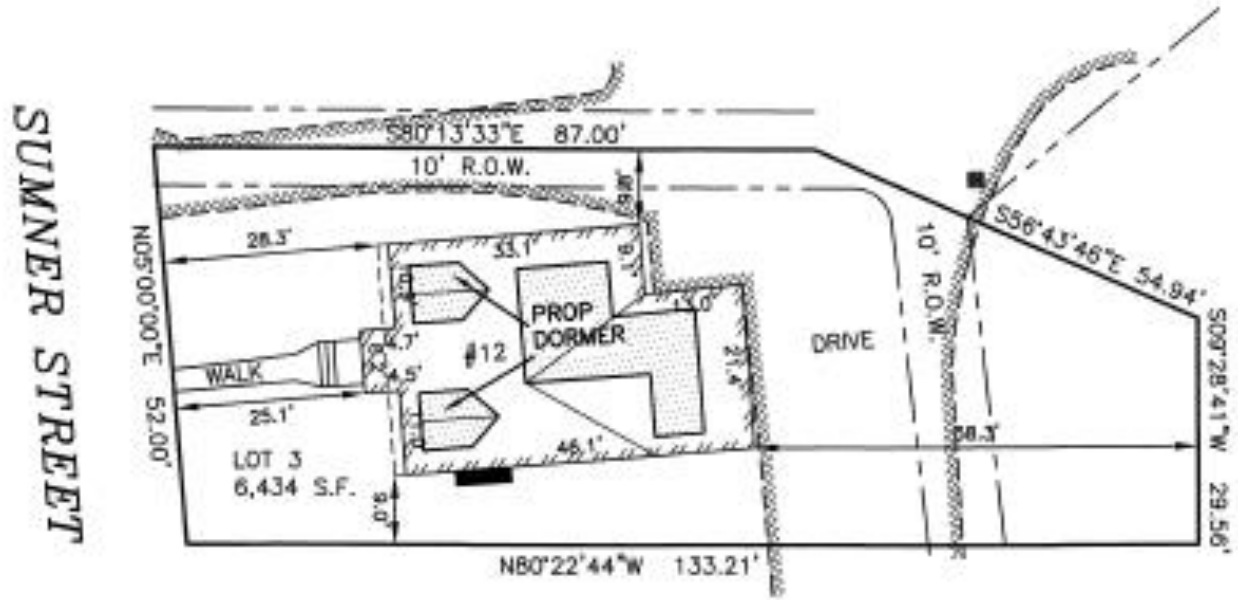
When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed oversized dormers which increase the nonconforming FAR and extend the nonconforming three and a half story structure (§7.3.3.C.1 and §3.4.1);
- The proposed oversized dormers that increase the nonconforming FAR will adversely affect the neighborhood (§7.3.3.C.2 and §3.4.1);
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);
- The proposed extension of the nonconforming three and a half story structure will be 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 .67 to .76 where .54 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 (§3.1.9 and §7.8.2.C.2); and
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9 and §7.8.2.C.2).

Aerial/GIS Map



Proposed Site Plan



Existing Front Elevation



Existing Front Elevation

1/4" = 1'-0"

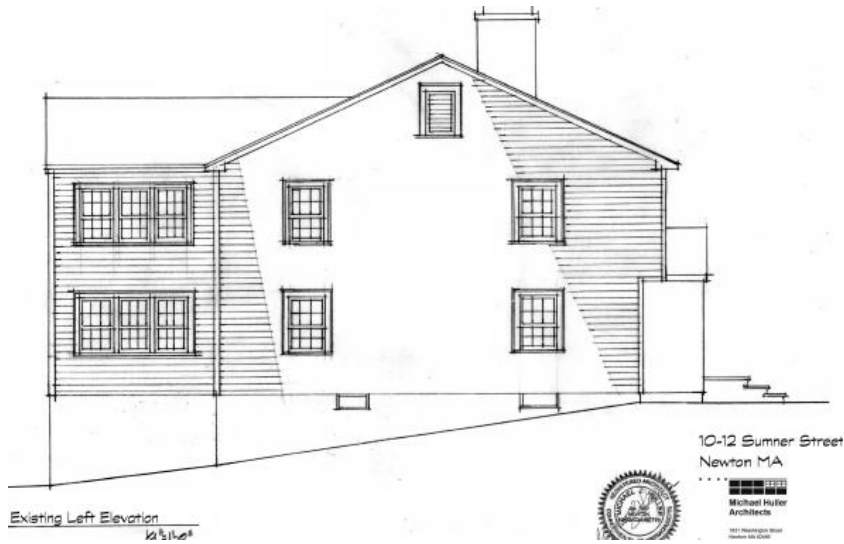
Proposed Front Elevation



Proposed Front Elevation

1/4" = 1'-0"

Existing Left Elevation



Proposed Left Elevation



Existing Rear Elevation



Existing Rear Elevation
1/4" = 1'-0"

Proposed Rear Elevation



11'0" CLS. HIG.

8'0" CLS. HIG.

6'0" CLS. HIG.

Proposed Findings

1 of 2



1. The specific site is an appropriate location for proposed oversized dormers that increase the nonconforming FAR, and extend the nonconforming three and a half story **structure because the additional floor area is within the footprint of the existing two family structure** (§7.3.3.C.1, §3.4.1);
2. The proposed oversized dormers that increase the nonconforming FAR and extend the nonconforming three and a half story structure will not adversely affect the neighborhood **because there are structures in with neighborhood with similar scale and style of dormers in the neighborhood.** (§7.3.3.C.2, §3.4.1);
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner **is not proposing any changes to the parking or circulation** (§7.3.3.C.3);
4. Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);

Proposed Findings

2 of 2



1. The proposed extension of the nonconforming three and a half story structure will not be substantially more detrimental than the existing nonconforming structure is to the **neighborhood because there are similar style of dormers in the neighborhood and the increase in building height is under the maximum allowed by right.** (§3.1.3, §7.8.2.C.2);
2. The proposed increase in the nonconforming FAR from .67 to .76 where .54 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 there are similar style of dormers in the neighborhood and the increase in building height is under the maximum allowed by right** (§3.1.9, and §7.8.2.C.2).
3. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood **because the increase in floor area is within the footprint of the existing structure and does not negatively impact setbacks, lot coverage nor open space** (§3.1.9, and §7.8.2.C.2).

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

Department of Planning and Development



PETITION #400-20

727 CENTRE STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT
ADDITIONS TO THE THIRD
STORY, EXTENDING THE
NONCONFORMING NUMBER OF
STORIES AND CREATING AN FAR
OF .50 WHERE .45 EXISTS AND
.35 IS ALLOWED

NOVEMBER 10, 2020



Requested Relief



Special permit per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further extend a nonconforming 3.5 story structure (§3.1.3, §7.8.2.C.2)

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The proposed increase of the nonconforming FAR from 0.45 to 0.50 where 0.35 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. (§3.1.9.A.2)
- The proposed increase of the nonconforming FAR from 0.45 to 0.50 where 0.35 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2)
- The proposed extension of the nonconforming 3 ½ story dwelling will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2)

AERIAL/GIS MAP





Zoning

ATTACHMENT B

Zoning

727 Centre St.

City of Newton,
Massachusetts

-  Single Residence 2
-  Public Use



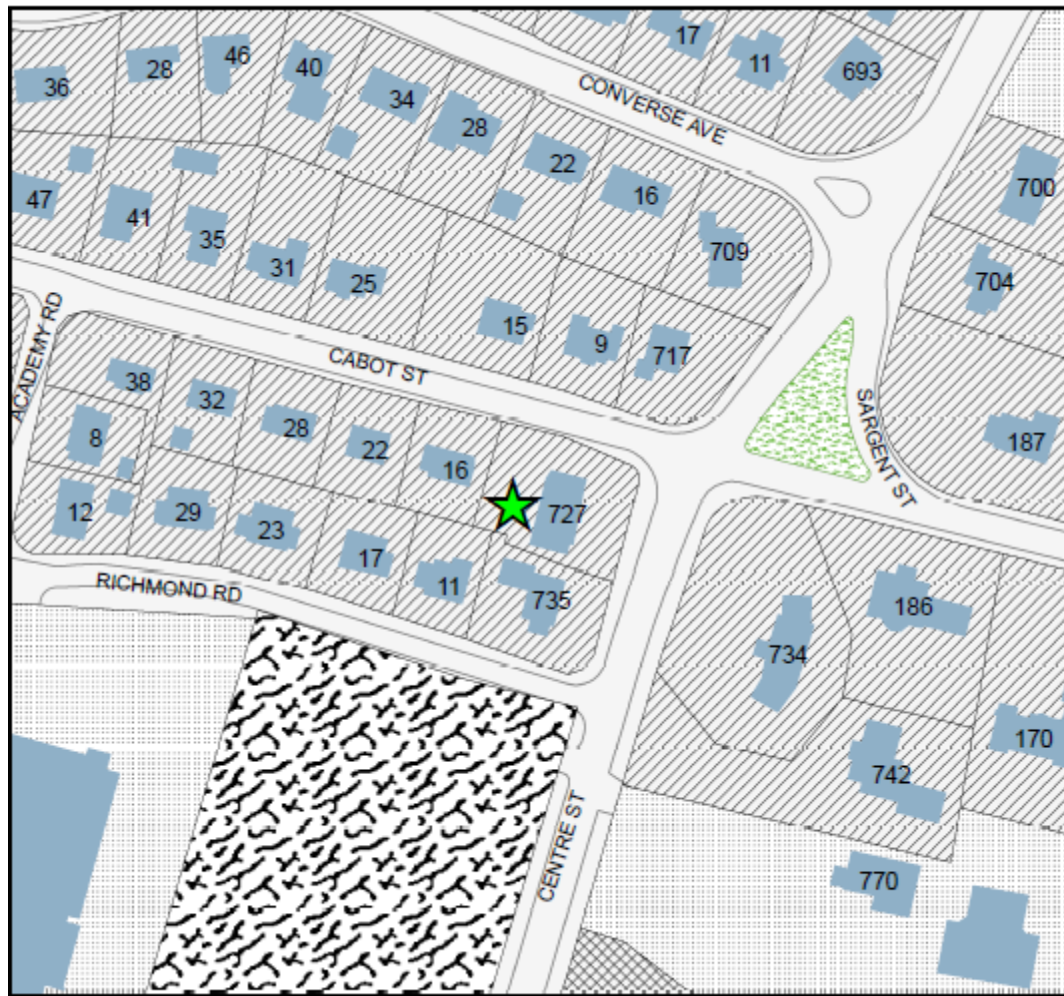
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: October 30, 2020

Land Use



ATTACHMENT A

Land Use

727 Centre St.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Private Educational
-  Nonprofit Organizations



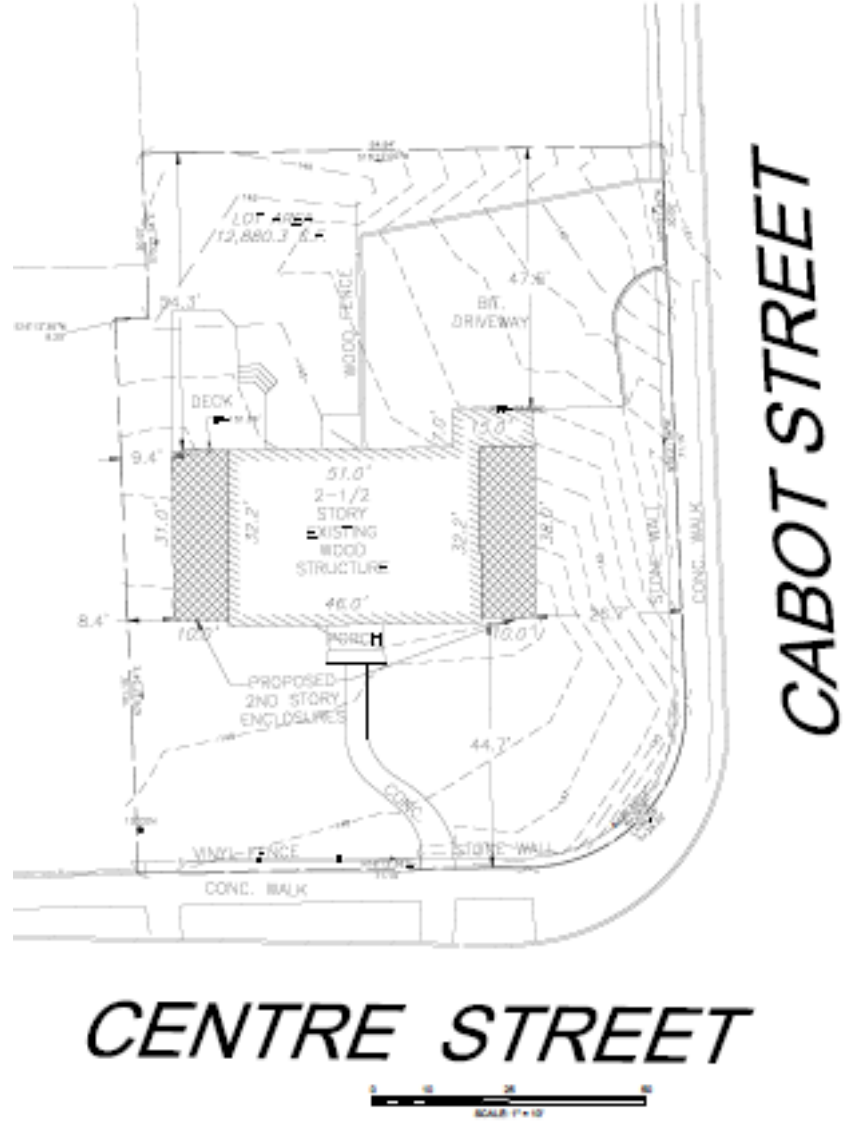
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CITY OF NEWTON, MASSACHUSETTS
 Mayor - Robbison Fuller
 GIS Administrator - Douglas Greenfield



Map Date: October 30, 2020

Site Plan (zoning review)



Historic



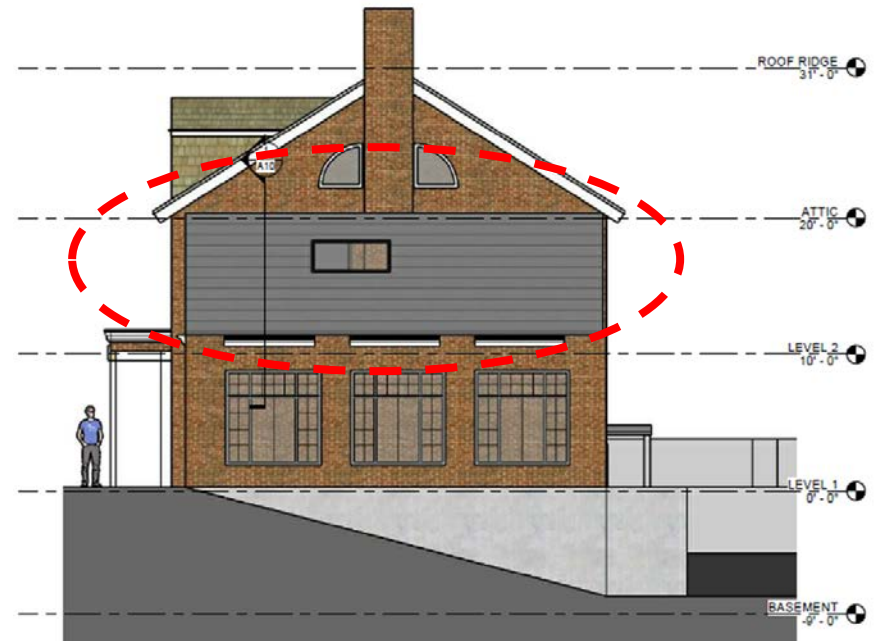
Historic staff conferred with NHC Chair

- No hearing needed
- NHC would sign off

Elevations- Existing and Proposed: Front



Elevations- Existing and Proposed: Cabot St.



Elevations- Existing and Proposed: Rear



Elevations- south side



Perspectives



Perspectives



Photos



Photos



Photos



Photos



Photos



Photos



Proposed Findings



1. The proposed increase of the nonconforming floor area ratio (FAR) from 0.45 to 0.50 where 0.35 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 given the locations of the additional 622 square foot increase in floor area above existing living space in two additions on either side of the dwelling, and because the height of the dwelling would not be increased (§3.1.9.A.2);
2. The proposed increase of the nonconforming floor area ratio (FAR) from 0.45 to 0.50 where 0.35 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the dwelling's footprint would be unchanged, and the bulk of the additional 622 square feet in floor area would be located above existing living space on either side of the dwelling and not increase the height of the dwelling (§7.8.2.C.2)
3. The proposed extension of the nonconforming 3 ½ story dwelling will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as the dwelling's footprint would be unchanged, and the bulk of the additional 622 square feet in floor area would be located above existing living space on either side of the dwelling and not increase the height of the dwelling (§7.8.2.C.2)

Proposed Conditions



1. *Plan Referencing Condition*

- *Note:*

- *August 20, 2020 site plan*
- *November 9, 2020 Floor Area Ratio (FAR) Worksheet*

1. *Standard Building Permit Condition.*

2. *Standard Final Inspection/Certificate of Occupancy Condition.*

Updates as of 11/10



1. Landscape plan received 11/9 and incorporated into Order.
2. Engineering reviewed the turning templates for all spaces, trash truck, and vector truck. Based on the templates submitted, Engineering believes that the movements will work for all the vehicles.
3. Engineering recommends condition incorporating convex mirror. Condition incorporated into Council Order.

Proposed Findings

(1 of 2)



1. The specific site is an appropriate location for proposed multifamily use with retaining walls over four feet in height **due to its proximity to amenities on Washington Street, the Massachusetts Turnpike and transit** (§7.3.3.C.1, §4.4.1, §4.1.3, §4.1.2.B.3, §5.1.4, and §5.4.2).
2. The proposed multifamily use with retaining walls over four feet in height will not adversely affect the neighborhood **because there are a mix of uses nearby, including multifamily residential uses and the retaining wall will not be visible to abutters** (§7.3.3.C.2, §4.4.1, §4.1.3, §4.1.2.B.3, §5.1.4, and §5.4.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians because **parking will be contained on-site, and the site is located in close proximity to transit options** (§7.3.3.C.3, §4.4.1, §4.1.3, §4.1.2.B.3, §5.1.4, and §5.4.2).
4. Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §4.4.1, §4.1.3, §4.1.2.B.3, §5.1.4, and §5.4.2).
5. The proposed extension of the nonconforming residential use will not be substantially more detrimental than the existing nonconforming use is to the neighborhood **because there are a mix of uses in the neighborhood, including multifamily residential uses** (§7.8.2.C.2).

Proposed Findings

(2 of 2)



6. The proposed extension of the nonconforming side setback will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood **because the impact of the nonconforming side setback is lessened due to its location abutting the Massachusetts Turnpike** (§7.8.2.C.2).

7. The proposed extension of the nonconforming height will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood **because the principal roofline is not changing.** (§7.8.2.C.2).

8. The proposed extension of the nonconforming three-story structure will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood **because the impact of the nonconforming three-story structure is lessened due the downward slope of the site where the structure presents as a two and a half story structure from the front elevation.** (§7.8.2.C.2).

9. Literal compliance with the parking requirements of the Newton Zoning Ordinance is in the public interest because the **site is located in close proximity to transit options and Washington Square.** (§5.1.13)

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
 - c. O&M Plan
3. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Ordinance.
4. The petitioner shall comply with the Tree Preservation Ordinance.
5. All lighting fixtures shall be residential in scale.
6. The Petitioner shall install and maintain a convex mirror to the City of Newton's Engineering standards at the northeast corner of the site, as shown on the Site Plan referenced in Condition 1.
7. Construction Management Plan
8. Standard Final Inspection/Certificate of Occupancy Condition.