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#439-20

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	December 1, 2020
Land Use Action Date:	February 22, 2020
City Council Action Date:	March 1, 2020
90-Day Expiration Date:	March 1, 2020

DATE: November 27, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #439-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct first and second floor additions on all sides, extending the nonconforming front setback and increase the habitable space in the half story, creating an FAR of .56 where .27 exists and .42 is allowed at **728 Walnut Street**, Ward 2, Newton Centre, on land known as Section 64 Block 08 Lot 01, containing approximately 7,815 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 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 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.



728 Walnut Street

EXECUTIVE SUMMARY

The property at 728 Walnut Street consists of a 7,815 square foot corner lot located in a Single Residence 2 (SR2) zoning district. It is improved with an approximately 2,110 square foot, 2 story single-family residence constructed in 1930.

The petitioners propose to construct first and second story additions to all sides of the dwelling and increase the habitable space on the attic level by changing the pitch of the roof and adding dormers. The proposed additions would increase the floor area ratio (FAR) from 0.27 to 0.56 where 0.42 is the maximum allowed, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.

Due to the construction of a now-legally nonconforming deck along Fenno Road more than ten years ago, the existing dwelling has a nonconforming front setback on that frontage of 21.7 feet where 25 feet is required per Section 3.1.3. The proposed additions would further decrease that nonconforming front setback to 15.58 feet, requiring a special permit per Section 7.8.2.C.2.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the increase in FAR from 0.27 to 0.56 where 0.42 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
- the proposed further reduction of the existing nonconforming front setback, from 21.7 feet to 15.58 where 25 feet is required, is substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the east side of Walnut Street at its northeast corner with Fenno Road. It and other parcels on that side of Walnut are occupied by single family dwellings, with exceptions being a vacant lot abutting to the northeast and a mixed-use parcel to the southeast across Fenno Road. City Hall and the public library are located directly to the west across Walnut (**Attachment A**). The site and surrounding area to the east of Walnut Street are in a Single Residence 2 (SR2) zoning district, while City Hall and its environs to the west are zoned Public Use (PU)(**Attachment B**).

B. Site

The property consists of a 7,815 square foot corner lot improved with an approximately 2,110 square foot, 2 story single-family residence built ca. 1930. The site is generally level with a very slight upward slope from to the northeast along

Fenno Road.

The lot is accessed via a paved driveway along its northeast side. The remaining portions of the site are occupied by deck space, lawn area and mature vegetation, and a combination of fencing along its frontages on Walnut Street and Fenno Road.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would remain a single-family dwelling.

B. Building and Site Design

The petitioners propose to remove the existing deck on the Fenno Road side of the property and construct first and second story additions to all sides of the dwelling and increase the habitable space on the attic level by changing the pitch of the roof and adding dormers. The first floor would increase by 689 square feet, the second by 761 and the attic by 810. The proposed additions would measure approx. 2,260 square feet in the aggregate, increasing the floor area ratio (FAR) from 0.27 to 0.56 where 0.42 is the maximum allowed by right. (The resulting structure would therefore contain approx. 1,100 square feet of floor area above what is allowed by right.)

The resulting height of the dwelling would be 34.9 feet, below the 36-foot maximum.

As detailed in the attached zoning review memorandum, due to the construction more than ten years ago of a now-legally nonconforming deck, the existing dwelling has a nonconforming 21.7 feet front setback along Fenno Road where 25 feet is required. Approximately 25 square feet of the footprint of a corner of the proposed two-story addition along Fenno would extend into that already nonconforming front setback, further decreasing that to 15.58 feet at its closest point. The rear setback of 11 feet would remain unchanged and the conforming front setback along Walnut Street and the side setback would be altered but remain above the respective required minimums of 25 and 7.5 feet.

C. Parking and Circulation

No changes to the parking or circulation on the property are proposed.

D. Landscape, Lighting and Signage

A landscape plan was not submitted with this petition. The Planning Department notes that it is unclear as to whether the existing fencing and/or any existing trees will be removed and/or replaced and suggests that the petitioner be prepared to discuss this issue in advance of, or at, the public hearing.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking as the following relief:

- Special Permit per §7.3.3 to:
 - exceed FAR (§3.1.3, §3.1.9)
 - further extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)

B. Engineering Review

Review by the Engineering Division is not required at this time.

C. Newton Historic Commission Review

On October 28, 2020 the Newton Historical Commission found the structure not preferably preferred and required no further review.

V. PETITIONER’S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Land Use Map
Attachment C: Zoning Map
Attachment D: DRAFT Council Order

ATTACHMENT A





Land Use

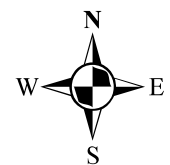
728 Walnut St.

*City of Newton,
Massachusetts*

Land Use

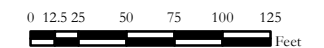
Land Use

-  Single Family Residential
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

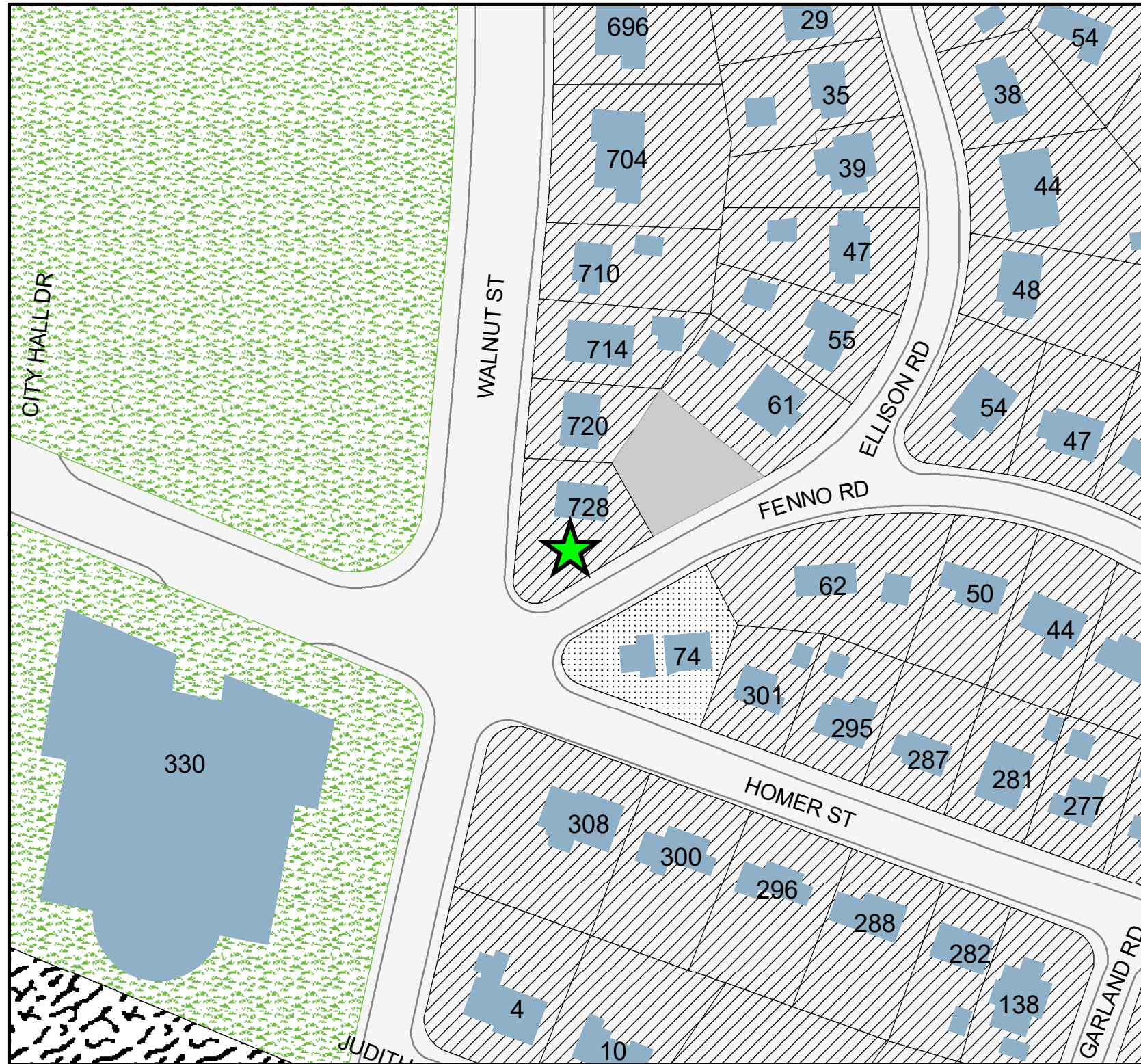


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: November 23, 2020






ATTACHMENT B

Zoning

728 Walnut St.

*City of Newton,
Massachusetts*

-  Single Residence 2
-  Open Space/Recreation
-  Public Use

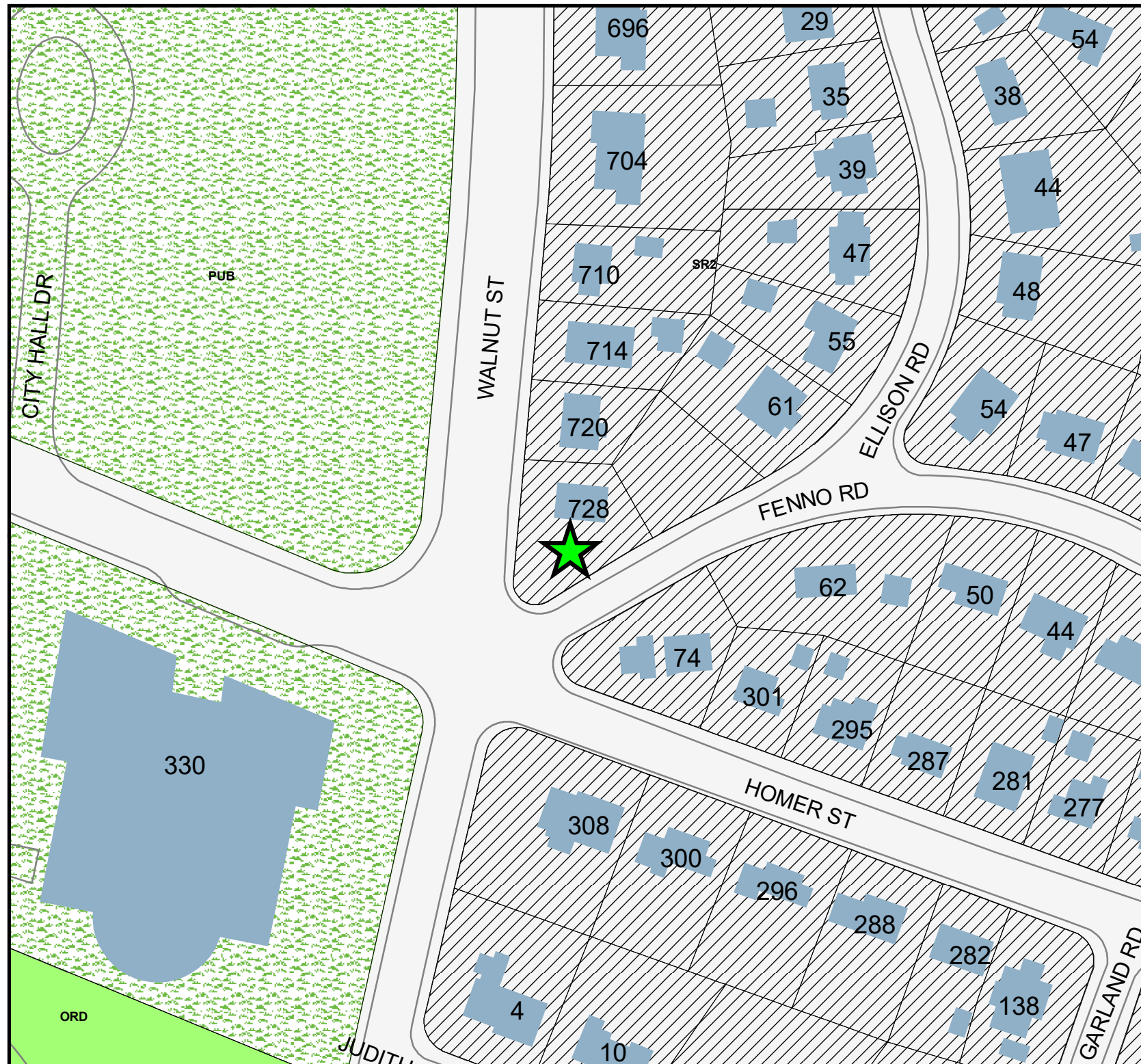


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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100 125
Feet

Map Date: November 23, 2020





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ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 14, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Mark and Kelly Anselmi, Applicants
Dan Quaille, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

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

Applicant: Mark & Kelly Anselmi	
Site: 728 Walnut Street	SBL: 64008 0001
Zoning: SR2	Lot Area: 7,815 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 728 Walnut Street consists of a 7,815 square foot lot improved with a single-family residence constructed in 1930. The petitioners propose to construct additions to all sides of the dwelling. The proposed additions will increase the FAR beyond the maximum allowed and further extend a nonconforming front setback, requiring a special permit.

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

- Zoning Review Application, prepared by Dan Quaille, architect, dated 7/21/2020
- FAR Worksheet, submitted 7/21/2020, revised 8/2/2020
- Proposed Site Plan, signed and stamped by Bryan G. Parmenter, surveyor, dated 7/8/2020
- Architectural Plans, prepared by Lincoln Architects LLC, architect, dated 7/27/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners intend to construct first and second story additions to the outside of the existing dwelling on all sides, as well as increasing the habitable space in the half story. The existing FAR is .27, where .42 is the maximum allowed. The proposed additions result in a FAR of .56, exceeding the maximum allowed, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.
2. The existing dwelling has a nonconforming front setback from Fenno Road of 21.7 feet where 25 feet is required per section 3.1.3. The nonconforming front setback is due to a deck constructed more than ten years ago. At the time the deck was constructed, the building permit allowed for the front setback to be averaged with the dwelling at 61 Fenno Street. The Commissioner has since determined that the averaging provisions should not have been applied, as a vacant parcel separates the two lots, and that the required front setback for the district of 25 feet should be applied. The deck is now considered legally nonconforming. The proposed additions further decrease the nonconforming front setback to 15.58 feet, as well as adding to the structure within the required setback, requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,815 square feet	No change
Frontage	80 feet	92.48 feet	No change
Setbacks			
• Front (Walnut St)	25 feet	25.7 feet	26.02 feet
• Front (Fenno St)	25 feet	21.7 feet	15.58 feet
• Side	7.5 feet	11.3 feet	8.69 feet
• Rear	15 feet	11 feet	No change
Max Number of Stories	2.5	2	No change
Max Height	36 feet	NA	34.9 feet
FAR	.42	.27	.56
Max Lot Coverage	30%	14.3%	22.3%
Min. Open Space	50%	61.1%	55.8%

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 FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	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 exceed the allowed floor area ratio (FAR), increasing it from 0.27 to 0.56 where 0.42 is the maximum allowed by right, and further reduce the existing nonconforming front setback from 21.7 feet to 15.58 feet where 25 feet is required, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed increase of the dwelling's nonconforming FAR from 0.27 to 0.56 where 0.42 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, especially given its location proximate to large civic buildings and similarly scaled dwellings (§3.1.9.A.2);
2. The proposed further reduction of the dwelling's existing nonconforming front setback along Fenno Road, from 21.7 feet to 15.58 feet where 25 feet is required, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as only 25 square feet of the structure's footprint would be located within the affected front setback (§7.8.2.C.2)

PETITION NUMBER: #439-20

PETITIONER(S): Mark and Kelly Anselmi

LOCATION: 728 Walnut Street, on land known as Section 64, Block 8,
Lot 1, containing approximately 7,815 sq. ft. of land

OWNER(S): Mark and Kelly Anselmi

ADDRESS OF OWNER(S): 728 Walnut Street
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further increase nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) district

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 site plan entitled "Proposed Addition Plan of Land, 728 Walnut Street, Newton, MA," prepared by PFS Land Surveying, Inc., signed and stamped by Bryan G. Parmenter, Registered Professional Land Surveyor, dated July 8, 2020.
 - b. A set of plans entitled "728 Walnut Street, Newton, MA 02459," prepared by Lincoln Architects LLC. dated July 27, 2020, signed and stamped by Daniel R. Quaile, Registered Architect:
 - i. Existing Basement Floor Plan (EX1)
 - ii. Existing First Floor Plan (EX2)
 - iii. Existing Second Floor Plan (EX3)
 - iv. Proposed Basement Floor Plan (A1)
 - v. First Floor Plan (A2)
 - vi. Proposed Second Floor Plan (A3)
 - vii. Proposed Attic Plan (A4)
 - viii. Proposed South Elevation (A5)
 - ix. Proposed East Elevation (A6)
 - x. Proposed South (*sic*- North)Elevation (A7)
 - xi. Proposed West Elevation (A8)
 - xii. Attic Sections (A9)
 - c. A document entitled "Floor Area Ratio Worksheet, 728 Walnut Street," indicating a proposed "Total gross floor area" of 4,389 square feet and a proposed "FAR" (floor area ratio) of 0.561, signed and stamped by Daniel R. Quaile, Registered Architect .
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:

- a. Recorded a certified copy of this order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and certifying compliance with Condition #1, including the as built FAR.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.