



#10-20

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 7, 2020
Land Use Action Date: March 24, 2020
City Council Action Date: April 6, 2020
90-Day Expiration Date: April 6, 2020

DATE: January 3, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #10-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers in the attic level to add 769 sq. ft. of habitable space for an accessory apartment creating an FAR of .65 where .55 is allowed and .53 exists, and to install a staircase to access the roof of an existing detached garage, extending the side and rear setbacks vertically at 68 Manet Road, Ward 7, Chestnut Hill, on land known as Section 61 Block 12 Lot 10, containing approximately 6,300 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 3.2.11, 7.8.2.C.2, 3.4.3.A.1 of Chapter 30 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



68 Manet Road

EXECUTIVE SUMMARY

The subject property consists of a 6,300 square foot lot improved with a two-family dwelling constructed circa 1923. The property is located within the Multi Residence 1 (MR-1) zone in Chestnut Hill. The petitioner is seeking to construct dormers at the attic level of the existing two-family dwelling. The attic space would then be used as an accessory apartment and meets the requirements set forth of the accessory apartment rules and regulations. Additionally, the petitioner would like to construct an external spiral staircase that would allow access to the roof of the detached garage along with railings along the edge of the roof. The detached garage has nonconforming side and rear setbacks, thus requiring a special permit.

The addition of dormers to the attic level of the two-family dwelling increases the floor area ratio (the "FAR") beyond what is allowed as of right, requiring a special permit. Therefore, the petitioner requires a special permit to exceed the FAR from .53 to .65, where .55 is the maximum allowed as of right.

The Planning Department is unconcerned with the request to exceed the floor area ratio and extend the nonconforming side and rear setbacks. There are similarly sized lots in the neighborhood with similar size and scale of structures. The dormers the petitioner is proposing are also prevalent on other homes in the neighborhood. The additional floor area will not expand the footprint of the structure and the proposed project meets all other dimensional standards. Due to this, staff does not believe that the increase in FAR will be in derogation of the size, scale, and design of other structures in the neighborhood. Additionally, the vertical extension of the side and rear setbacks of the garage due to the addition of railings will not be more detrimental than the existing nonconforming structure.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The proposed increase in FAR from .53 to .65, where .55 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.9 and §7.3.3)
- The vertical extension of the nonconforming side and rear setbacks in an accessory structure is not substantially more detrimental than the existing nonconforming setbacks. (§3.4.3.A.1, §7.8.2.C.2 and §7.3.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

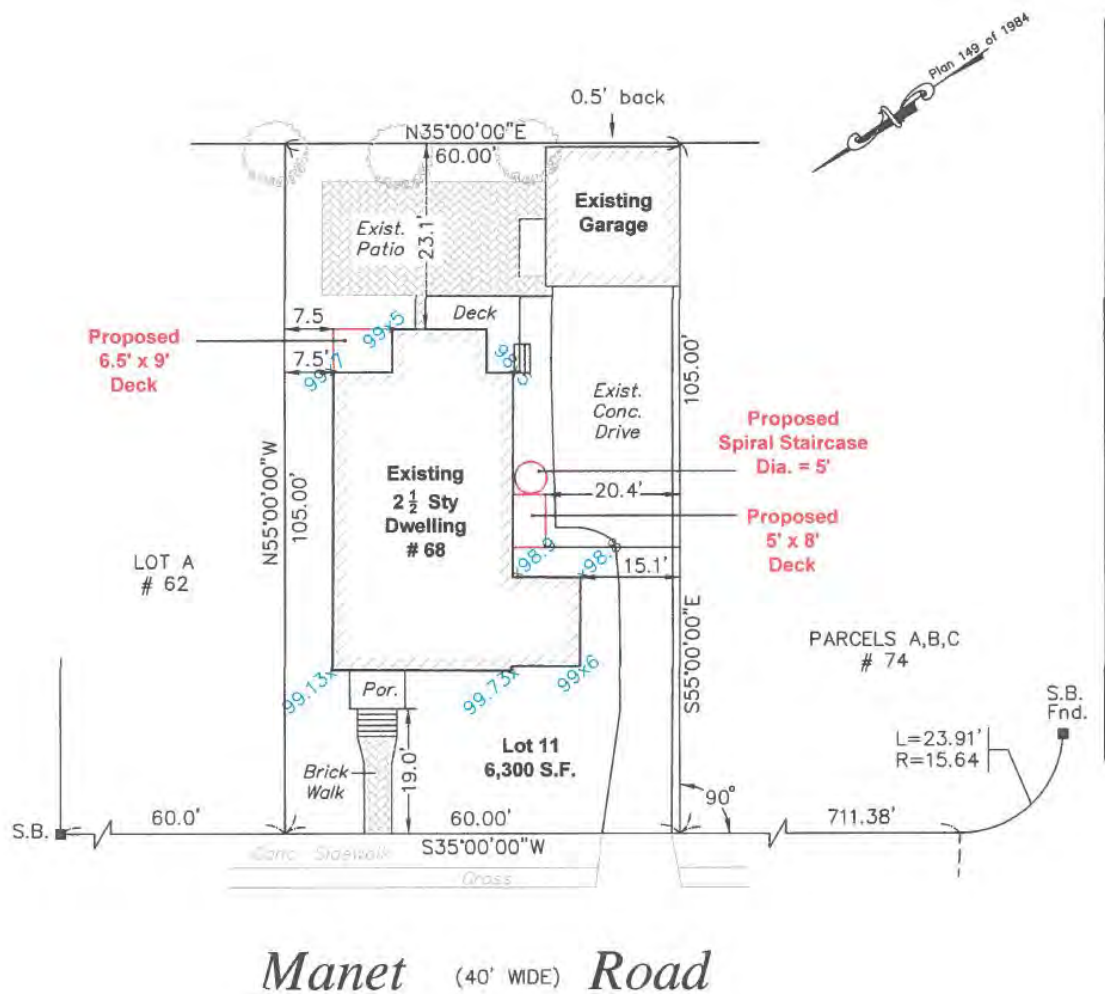
The subject property is on Manet Road in the MR-1 zone in Chestnut Hill. The immediate area and surrounding neighborhood are located entirely within the MR-1

zone (**Attachment A**). Manet Road consists of single and multi-family uses, and commercial uses at the corner of Manet Road and Commonwealth Ave. (**Attachment B**). There are several homes on Manet Road that also have dormers on each side of the house as well as similarly sized lots with the same scale of house.

B. Site

The site consists of 6,300 square feet of land and it is improved with a two-family residence constructed circa 1923. The site also contains a detached, two-car garage. The garage has a nonconforming rear setback of .5 feet, and a nonconforming side setback of 0 feet, where 5 feet is required. The site is accessed by a driveway from Manet Road leading to the two-car garage. The site is predominantly flat.

Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is a two-family residence. If approved, the petitioner will seek to establish an internal accessory apartment.

B. Building and Site Design

The petitioner is proposing to construct dormers to the attic level of the existing two-family dwelling. The dormers add approximately 769 square feet to the attic level of the structure, increasing the FAR from .53 to .65 where .55 is the maximum allowed by right. The increase in FAR requires a special permit. The allowable FAR as of right is 3,465 square feet, while the petitioner is proposing 4,120 square feet for the two-family structure with the proposed accessory apartment.

The petitioner is proposing to establish an accessory apartment within the half story of the structure. The Ordinance allows internal accessory apartments as of right if they are no greater than 1000 square feet or 33% of the total habitable space of the principal dwelling, whichever is less. The proposed apartment is 769 square feet which is 22% of the total habitable space of the principal dwelling. As such, the petitioner can establish the accessory apartment as of right, provided that a special permit to exceed the FAR is granted.

The petitioner is also constructing new decks on each level and an external spiral staircase to the side of the house visible from the south elevation. The staircase will span the height of the two-family, 2.5 story structure.

Proposed West Elevation



Proposed South Elevation



Proposed North Elevation



Proposed East Elevation



The petitioner is also proposing a spiral staircase to the roof of the detached garage for access to a roof deck on the garage and easier snow removal. The garage has nonconforming side setbacks of 0 feet from the right side and .5 feet from the rear. The proposed staircase will be located on the left side of the garage, and out of the setback, however the railings on the roof of the garage will vertically extend the nonconforming setbacks.

Proposed Garage Elevation



1 Side Elevation



2 Front Elevation

The property is located off Commonwealth Ave in a compact, walkable neighborhood.

There are similarly sized structures on similarly sized lots as well as mix of residential uses in the neighborhood and commercial use at the corner of Manet Road and Commonwealth Ave. Staff does not believe that the increase in FAR will be in derogation of the size, scale, and design of other structures in the neighborhood.

C. Parking and Circulation

There are not proposed changes to the parking or circulation of the site.

D. Landscaping and Screening

A landscape plan is not required with this petition.

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 the following relief:

- §3.1.9 and §7.3.3 of Section 30, to exceed the FAR
- §3.4.3.A.1 and §7.8.2.C.2 to vertically extend nonconforming side and rear setback in an accessory structure

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time.

C. Newton Historical Commission Review

Review from the Newton Historical Commission is not required at this time.

V. PETITIONER’S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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



ATTACHMENT A

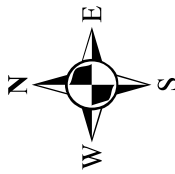
Zoning

68 Manet Road

City of Newton,
Massachusetts

Zoning

-  Single Residence 2
-  Multi-Residence 1
-  Public Use

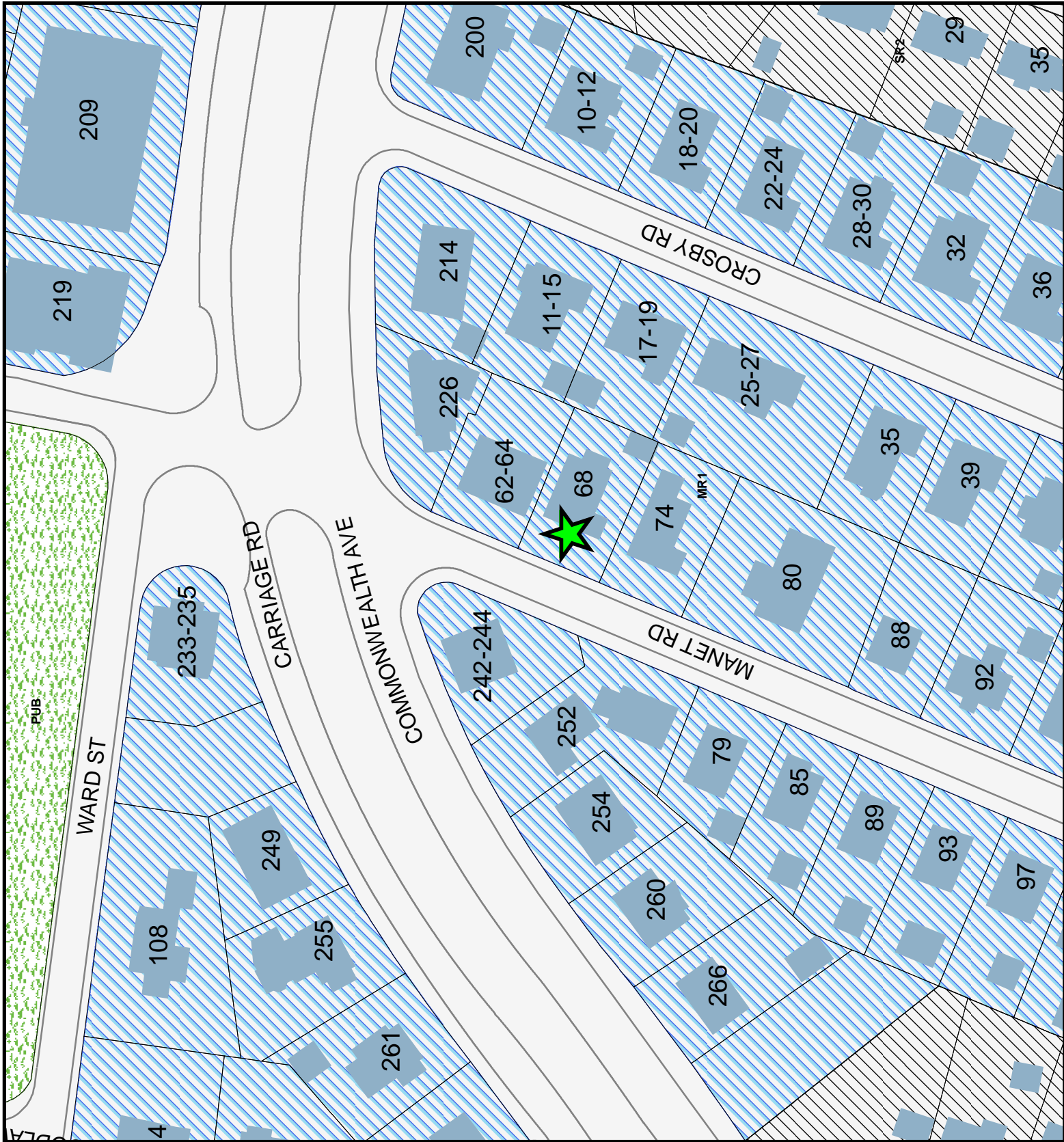


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: December 26, 2019



ATTACHMENT B

Land Use

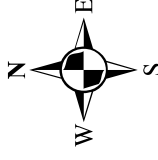
68 Manet Road

City of Newton,
Massachusetts

Land Use

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Vacant Land

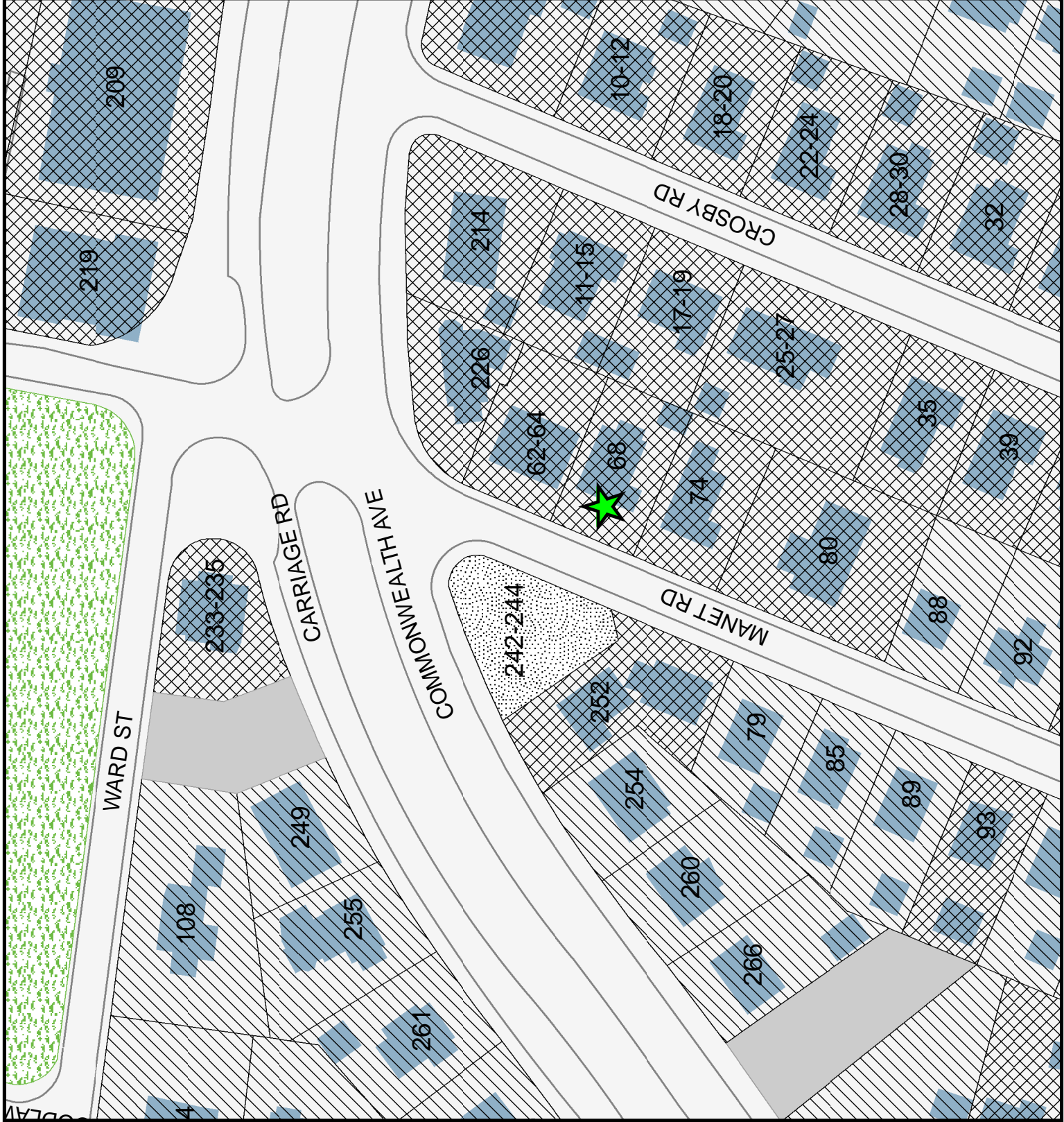


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 21, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Mohammed and Josephine Aref, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to exceed FAR and to vertically extend the nonconforming side and rear setbacks of a detached accessory structure

Applicant: Mohammed & Josephine Aref	
Site: 68 Manet Road	SBL: 61012 0010
Zoning: MR1	Lot Area: 6,300 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with an internal accessory apartment

BACKGROUND:

The property at 68 Manet Road consists of a 6,300 square foot lot improved with a two-family residence and a detached garage structure constructed in 1923. The petitioner proposes to construct dormers in the attic level to create an accessory apartment, as well as install a spiral stair to the roof of the detached garage to create a roof deck.

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

- Zoning Review Application, prepared Mohammed Aref, applicant, dated 9/12/2019
- FAR Worksheet, submitted 9/12/2019
- Plot Plan, signed and stamped by Patrick Roseingrave, surveyor, 7/11/2019
- Architectural plans and elevations, signed and stamped by Najim Azad, architect, dated 5/29/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to construct dormers at the attic level of the existing two-family dwelling, adding 769 square feet of habitable space to create an accessory apartment. The existing FAR is .53, where .55 is the maximum allowed. The proposed dormers result in an FAR of .65. A special permit pursuant to Sections 3.2.3 and 3.2.11 is required to exceed FAR.
2. The existing detached garage structure has legally nonconforming side and rear setbacks, with the original building permit allowing for the structure to be built on the lot lines. The rear setback is 0.5 feet and 0.0 feet on the side, where section 3.4.3.A.1 requires 5 feet. The petitioner would like to construct a spiral stair to allow access to the roof of the detached structure, to be used as a roof deck, and to allow for easier snow removal. The addition of railings further vertically extends the nonconformity of the side and rear setbacks requiring a special permit per section 3.4.3.A.1 and 7.8.2.C.2.
3. The petitioner intends to create an accessory apartment in the attic space. The proposed apartment meets the requirements of section 6.7.1 and does not require any additional relief.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,300 square feet	No change
Frontage	70 feet	60 feet	No change
Setbacks - Principal			
• Front	25 feet	19 feet	No change
• Side	7.5 feet	7.5 feet	No change
• Side	7.5 feet	15.1 feet	No change
• Rear	15 feet	23.1 feet	No change
Setbacks – Accessory			
• Front	25 feet	>75 feet	No change
• Side	5 feet	0 feet	No change
• Side	5 feet	>30 feet	No change
• Rear	5 feet	0.5 feet	No change
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	31 feet	No change
FAR	.55	.53	.65
Max Lot Coverage	30%	30%	No change
Min. Open Space	50%	52%	No change

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11	Request to exceed FAR	S.P. per §7.3.3

§3.4.3.A.1	Request to vertically extend a nonconforming side setback in an accessory structure	S.P. per §7.3.3
§7.8.2.C.2		

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

*- obtain copy of special permit Application
- appointment*

Attachment D

#10-20
68 Manet Road

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 floor area ratio (the "FAR") from .53 to .65, where .55 is the maximum allowed by-right, and to vertically extend nonconforming side and rear setbacks in an accessory structure, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

- The proposed increase in FAR from .53 to .65, where .55 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as there are similarly sized structures in the neighborhood on similarly sized lots and meets all other dimensional standards. (§3.1.9 and §7.3.3)
- The vertical extension of the nonconforming side and rear setbacks in an accessory structure is not substantially more detrimental than the existing nonconforming setbacks as the only modification to the garage is an external stairwell and railings which do not alter the setback. (§3.4.3.A.1, §7.8.2.C.2 and §7.3.3)

PETITION NUMBER: #10-20

PETITIONER: Mohammed Aref

LOCATION: 68 Manet Road, on land known as Section 61, Block 12, Lot 10, containing approximately 6,300 square feet of land

OWNER: Mohammed Aref

ADDRESS OF OWNER: 68 Manet Road
Newton, MA 02465

TO BE USED FOR:	Multi-Family Dwelling with an Internal Accessory Apartment
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.1.9 and §7.3.3 to exceed the floor area ratio; and §3.4.A.1 and §7.8.2.C.2 to vertically extend side and rear setbacks in an accessory structure
ZONING:	Multi Residence 1 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. Proposed Deck and Spiral Stairs, signed and stamped by Patrick Roseingrave, Professional Land Surveyor, dated July 11, 2019
 - b. Architectural Plans, prepared by Azad Architects, signed and stamped by Najim Azad-zoi, consisting of thirteen (13) sheets:
 - i. Proposed First Floor Plan, A7, dated May 29, 2019
 - ii. Proposed Second Floor Plan, A8, dated May 29, 2019
 - iii. Proposed Attic Plan, A9, dated June 16, 2019
 - iv. Proposed Half Story calculation, A10, dated May 29, 2019
 - v. Proposed Roof Plan, A11, dated May 29, 2019
 - vi. Proposed Floor Framing Plan, A12, dated May 29, 2019
 - vii. Proposed Roof Framing Plan, A13, dated May 29, 2019
 - viii. Proposed Building Section, A14, dated May 29, 2019
 - ix. Proposed South Elevation, A15, dated May 29, 2019
 - x. Proposed West Elevation, A16, dated May 29, 2019
 - xi. Proposed North Elevation, A17, dated May 29, 2019
 - xii. Proposed East Elevation, A18, dated May 29, 2019
 - xiii. Proposed Garage Elevation, A21, dated December 27, 2019
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this board 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 board 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.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio of the structure.
 - 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 professional land surveyor.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.