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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: July 1, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Jason Rosenberg, Attorney representing the applicants
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to exceed pre-existing nonconforming FAR**

RECEIVED
 NEWTON CITY CLERK
 2013 JUL -2 PM 2:02
 David A. Olson, CMC
 Newton, MA 02459

Applicant: David Sands	
Site: 37 Baldpate Hill Road	SBL: 82 025 0052
Zoning: SR-1	Lot Area: 23,455 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 37 Baldpate Hill Road consists of a 23,455 square foot lot improved with a single-family residence constructed in 2003, after the previously existing structure was demolished. According to Land Court records, the same subdivision was created on September 7, 1934, and is shown on a Registered Land Plan dated November 8, 1954. Because of the initial filing in 1934, the lot is held to the pre-1953 standards.

The structure consists of two and a half stories, with a gross floor area of 8,551 square feet. The applicant proposes to expand an existing mudroom, add a breakfast and sitting area on the first floor, and a guest bedroom and computer room on the second floor. These additions will add 1,012 gross square feet, thereby increasing the nonconforming floor area ratio from .36 to .41, which requires a special permit from the Board of Aldermen.

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

- Zoning Review Application, prepared by Jason Rosenberg, submitted 5/17/13
- Subdivision Plan of Land in Newton dated 11/6/1954 Okan 14143-17
- Certificate of Title 14594 of Michael and Emily Lipof dated 4/1/1975 Document 1242460

- Newton Zoning Board of Appeals Decision #7-09 – Variance
- Newton Zoning Board of Appeals Decision #3-12 – Variance Modification
- Building Permit # 09100681 issued 10/28/09, final sign-off 2/22/10
- Photos, undated
- Topographic Plan, signed and stamped by William Doucet, Surveyor, dated 3/20/09
- Area Plans, signed and stamped by Verne T. Porter
 - Area Plan, dated 1/15/13, revised 2/25/13, 5/15/13
 - Existing Plot Plan, dated 1/15/13, revised 2/25/13, 5/15/13
 - Proposed Addition Plot Plan, dated 1/15/13, revised 2/25/13, 5/15/13
 - Landscape Plan, dated 1/15/13, revised 2/25/13, 5/15/13
- Architectural plans, signed and stamped by Nazeih Hammourri, Engineer, CMD Design Inc, dated 4/12/13
 - Proposed First Floor
 - Proposed Second Floor
 - Proposed Front and Right Side Elevations
 - Proposed Rear and Left Side Elevations
 - Existing First Floor Plan
 - Existing Second Floor Plan

ADMINISTRATIVE DETERMINATIONS:

1. In 2007, the current owners (Applicant Sands) constructed a half-basketball court at the rear of their lot. Acting upon the advice of their civil engineer, who represented that the basketball court was not a structure and did not require a permit, the court was built within the setback. After the court was constructed, Inspectional Services notified the Sands that the court was in fact a structure and was in violation of the side and rear setback requirements. The Sands applied for, and were granted a variance legalizing the basketball court (#7-09). A condition was placed on the variance stating that *“there be no future buildings or structures constructed on the property except as approved by the Zoning Board of Appeals”*. Commissioner Lojek determined that a literal compliance with the condition would preclude *any* building projects on the property. In Decision #3-12, the Board of Appeals modified the condition so it applied only to the portion of land within 85 feet of the rear lot line.
2. The proposed additions increase the structure’s pre-existing nonconforming FAR from .36 to .41, which exceeds the .29 permitted by the Ordinance per Section 30-15, Table A. To construct the additions as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b).

SR-1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	23,455 square feet	No change
Frontage	100 feet	112.5 feet	No change
Setbacks for existing structure			
• Front	25 feet	31.8 feet	No change
• Side	12.5 feet	17.6 feet on right 28.8 feet on left	No change
• Rear	25 feet	91.4 feet	87.0 feet
FAR	.29	.36	.41
Max. Lot Coverage	20%	14.14%	16.09%
Min. Open Space	65%	71.65%	71.43%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table A, §30-21(b)	Extend a nonconforming structure with regard to Floor Area Ratio (FAR)	S.P. per §30-24
§30-15 Table A, §30-15(u)	Exceed allowed FAR of .29 with an FAR of .41	S.P. per §30-24