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Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: August 13, 2013
Land Use Action Date: October 15, 2013
Board of Aldermen Action Date: October 21, 2013
90-Day Expiration Date: November 11, 2013

DATE: August 9, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #233-13**, David Sands, Trustee of 37 Baldpate Hill Road Nominee Trust for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming structure in order to expand an existing mudroom and to construct a rear addition to the first and second floors, increasing the Floor Area Ratio from .36 to .41 where .29 is allowed by right, at **37 Baldpate Hill Road**, Oak Hill, Ward 8, on land known as SBL 82, 25, 52, containing approx. 23,455 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table A, 30-15(u), of the City of Newton Rev Zoning Ord, 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



37 Baldpate Hill Road

EXECUTIVE SUMMARY

The property at 37 Baldpate Hill Road consists of a 23,455 square foot lot improved with a single-family 2½-story residence with an attached garage constructed in 2003. The existing nonconforming structure totals approximately 8,551 square feet. The petitioner is proposing to expand the existing mudroom on the first floor in the front of the house, and to replace the existing deck in the rear of the house with a two-story addition, which will add a breakfast and sitting area on the first floor, and a guest bedroom and computer room on the second floor. The existing house has a floor area ratio (FAR) of .36 where .29 is allowed. The proposed addition will contain approximately 1,012 square feet, increasing the FAR to .41.

The portion of the addition for the mudroom (approximately 26 square feet) is in the front of the house and will be visible from the public way. The addition to the rear of the existing structure, which will replace a portion of the existing deck, will not be visible from the public way, and will be screened from the property abutters to the northeast and southeast by existing vegetation. The addition to the rear will be visible from the rear of the abutting property to the west.

The size and mass of the subject property are similar to other properties on Baldpate Hill Road. The Planning Department believes that the proposed addition to the residence is not in derogation of the size, scale and design of other structures in the neighborhood and will not be substantially more detrimental than the existing structure.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The structure with regard to FAR is consistent with and not in derogation of size, scale and design of other structures in the neighborhood.
- The extension of the structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Baldpate Hill Road in a cul-de-sac accessed from the intersection of Dudley Road and Brookline Street. The neighborhood includes one-story and two-story residences of varying scales. On Baldpate Hill Road the lots tend to be larger, generally exceeding 20,000 square feet. Similarly, the

residences on Baldpate Hill Road are larger than in the surrounding neighborhood. The site and the surrounding area are zoned Single Residence 1.

B. Site

The site consists of 23,455 square feet of land and is improved with a 2½-story single-family house with an attached garage and a deck in the rear. The site has a paved circular driveway in the front of the house that accesses the attached garage. The site has a basketball court and a patio area in the rear of the lot. The site slopes down in the rear, dropping almost 30 feet from the front to rear property lines. Due to the grade of the site there are two retaining walls in the rear of the residence.

The Planning Department noted that the site received an administrative determination in 2012 modifying an earlier condition that would have precluded any further construction on the site. The condition was created because a basketball court was constructed on the site in violation. The modification of the condition created a “no build” line within 85 feet of the rear property line, or approximately the footprint of the existing structure and deck. The proposed addition is replacing the existing deck and will not violate the no-build line.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to replace a portion of the existing rear deck with a two-story addition, and to expand the existing mudroom in the front of the residence next to the garage. The addition in the rear of the house will add a breakfast and sitting area on the first floor, and a guest bedroom and computer room on the second floor.

The proposed additions will expand the existing structure by a total of 1,012 square feet under the FAR calculation. The addition to the front and rear of the residence will be approximately 26 square feet and 792 square feet, respectively. The addition to the rear will expand the first floor beyond the basement foundation wall, which will cause approximately 194 square feet of the existing basement to be included in the FAR calculation.

The portion of the addition for the mudroom is in the front of the house and will be visible from the public way. The addition to the rear of the existing structure

will not be visible from the public way. The addition to the rear will be screened from the property abutters to the northeast and southeast by existing vegetation, but visible from the rear of the abutting property to the west.

The Planning Department considered the impact of the proposed addition on the mass of the existing structure and on the surrounding neighborhood. The properties on Baldpate Hill Road are on a cul-de-sac and are somewhat secluded from the greater neighborhood. The size of the subject property's lot, and the size and mass of the residential structure are similar to other properties on Baldpate Hill Road. The Planning Department believes that while the proposed addition will add approximately 818 square feet of mass to the existing structure, it is not in derogation of the size, scale and design of other structures in the neighborhood and will not be substantially more detrimental than the existing structure.

C. Parking and Circulation

There will be no parking or circulation changes to the site.

D. Landscape Screening

There will be no landscaping changes to the site.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to exceed the maximum allowed floor area ratio.

B. Engineering Review

The petitioner provided the Engineering Department with a signed letter by the Engineer of record stating that no additional impervious surface is being added to the site.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-15 Table A, 30-21 (b), to extend a nonconforming structure with regard to Floor Area Ratio (FAR).

- Section 30-15 Table A, 30-15(u), to exceed allowed FAR of .29 with an FAR of .41.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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



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Attachment A

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

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

2013 Zoning Map 37 Baldpate Hill Rd.

*City of Newton,
Massachusetts*

Legend

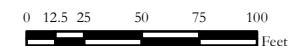
- Streets - Pavement Edge
- Building Outlines
- Single Residence 1

ATTACHMENT B

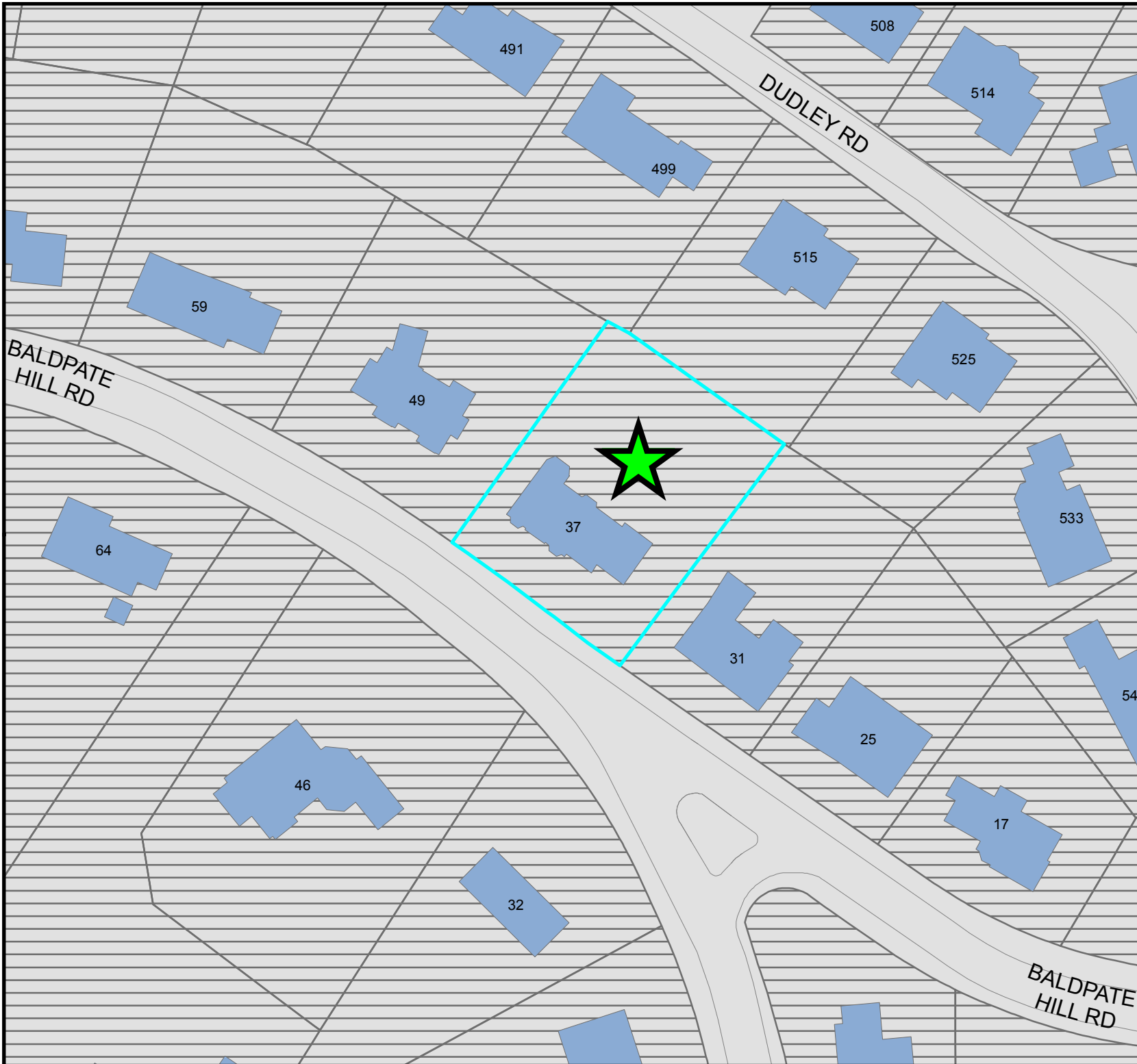


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: July 09, 2013



Land Use Map 37 Baldpate Hill Rd.

*City of Newton,
Massachusetts*

Legend

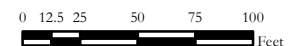
- Streets - Pavement Edge
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ATTACHMENT C



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