



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 23, 2015
Land Use Action Date: July 14, 2015
Board of Aldermen Action Date: August 10, 2015
90-Day Expiration Date: September 8, 2015

DATE: June 19, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

SUBJECT: **Petition #61-15(2)**, DIOMID BASHKINOV, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a one-car attached garage on to an existing attached garage, which will increase the Floor Area Ratio from .37 to .38, where .35 is the maximum allowed by right at 228 WISWALL ROAD, Ward 8, on land known as SBL 84, 20, 12, containing approximately 12,556 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15 Table A, 30-15(u)(2), 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.



228 Wiswall Road

EXECUTIVE SUMMARY

The property at 228 Wiswall Road consists of 12,556 square feet of land, and is improved with a noncompliant 2½-story single-family residence with an attached two-car garage constructed in 2006. The residence is considered noncompliant because the home was constructed with a building permit obtained in 2005 that was issued in error. The building permit allowed the construction of a dwelling with a floor area ratio (FAR) of 0.40 where the maximum allowable FAR was 0.30 at the time. Under the current FAR controls, the dwelling has a FAR of 0.37 and the maximum allowable FAR is 0.35. In order to legalize the existing nonconformity, the petitioner is seeking a special permit. The petitioner is also proposing to expand the existing attached garage by adding an additional garage bay for one car, which will further increase the FAR of the building on-site. To expand the garage as proposed and legalize the existing noncompliant FAR, the petitioner is seeking a special permit to increase the FAR from 0.37 to 0.38.

The Planning Department is generally not concerned with the proposed garage expansion, as long as the garage space is not rented or used for commercial purposes. The Planning Department notes many of the immediate properties have recently or are being redeveloped, which has significantly transformed the character of the surrounding neighborhood. To minimize the visual impact of the garage expansion, the petitioner has set back the addition from the existing front façade of the building, and plans to match the materials and design of the existing structure. Based on the neighborhood's emerging character and the proposed design, the Planning Department believes the building is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. The Planning Department encourages the petitioner to consider installation of screening measures, consisting of plantings and/or fencing on the site to minimize the visual impact of the project.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed addition, which increases the existing FAR of 0.37 to 0.38, where the maximum allowable FAR is 0.35, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§30-15(u)(2) and §30-15 Table A)
- The site is an appropriate location for the structure and the proposed expansion. (§30-24(d)(1))
- The proposed structure, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located at the corner of Wiswall Road and L Roadway. The subject

property and the surrounding neighborhood consist of single-family residences (**ATTACHMENT A**). In close proximity to site, there are a number of other parcels containing nonprofit organizations and private educational (Mount Ida College) uses, and open space. The subject property and surrounding neighborhood are zoned Single Residence 2, but there are a number of properties proximate to the site that are zoned Single Residence 1 and Public Use (**ATTACHMENT B**).

B. Site

The site consists of a 12,556 square foot lot, and is improved with a noncompliant 2½-story single-family residence with an attached two-car garage constructed in 2006. The residence is considered noncompliant because the home, which replaced a ranch styled home, was constructed with a building permit that was issued in error, as the FAR exceed the by right maximum. The remaining portions of the property consist of lawn and are partially screened by a sight-obscuring fence. The property owner recently acquired a portion of land to the east of the dwelling in order to expand the property, which previously contained a mature stand of conifer and deciduous trees, but has been cleared.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to expand the existing garage by constructing an additional garage bay for one car totaling 252 square feet. As proposed, the garage addition will only be visible from L Roadway, as the placement of the addition is set back from the front façade of the existing dwelling. The petitioner also plans to clad the addition to match the materials and design of the existing dwelling (stucco and clapboard siding and asphalt shingles). As part of this request, the petitioner is also proposing to legalize the noncompliant FAR for the existing house, which exceeded the maximum allowable FAR by approximately 295 square feet. The sum of the existing home and the proposed garage addition will have an FAR of .38, which exceeds the maximum FAR allowed by right of .35. The resulting building lot coverage of 21.8% will be below the maximum 30% allowed, and the proposed open space of 68.5% will exceed the minimum requirement of 50%.

The Planning Department notes many of the immediate properties have recently or are currently being redeveloped, which has significantly transformed the character of the surrounding neighborhood. Many of these recently redeveloped dwellings have replaced the one- and 1½-story dwellings with two and 2½-story dwellings, have larger footprints, and are maximizing out the FAR allowed by right. The Planning Department is not concerned with the garage expansion, as long as the

garage space is not rented or used for commercial purposes. Based on the neighborhood's emerging character and the proposed design, the Planning Department believes the building is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- §30-15 Table A and §30-15(u), to exceed the allowed FAR.

B. Engineering Review

The Engineering Division of Public Works has not reviewed the proposal with regard to engineering issues, as the proposed structure will not increase the lot coverage by 4% of the lot size, 400 square feet, or involve alterations to the landscape that negatively impact the drainage.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:







- ATTACHMENT A:** Land Use Map
ATTACHMENT B: Zoning Map
ATTACHMENT C: Zoning Review Memorandum, dated May 14, 2015

Land Use Map 228 Wiswall Road

*City of Newton,
Massachusetts*

ATTACHMENT A

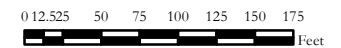
Legend

-  Property Boundaries
-  Building Outlines
- Land Use**
-  Single Family Residential
-  Open Space
-  Private Educational
-  Nonprofit Organizations

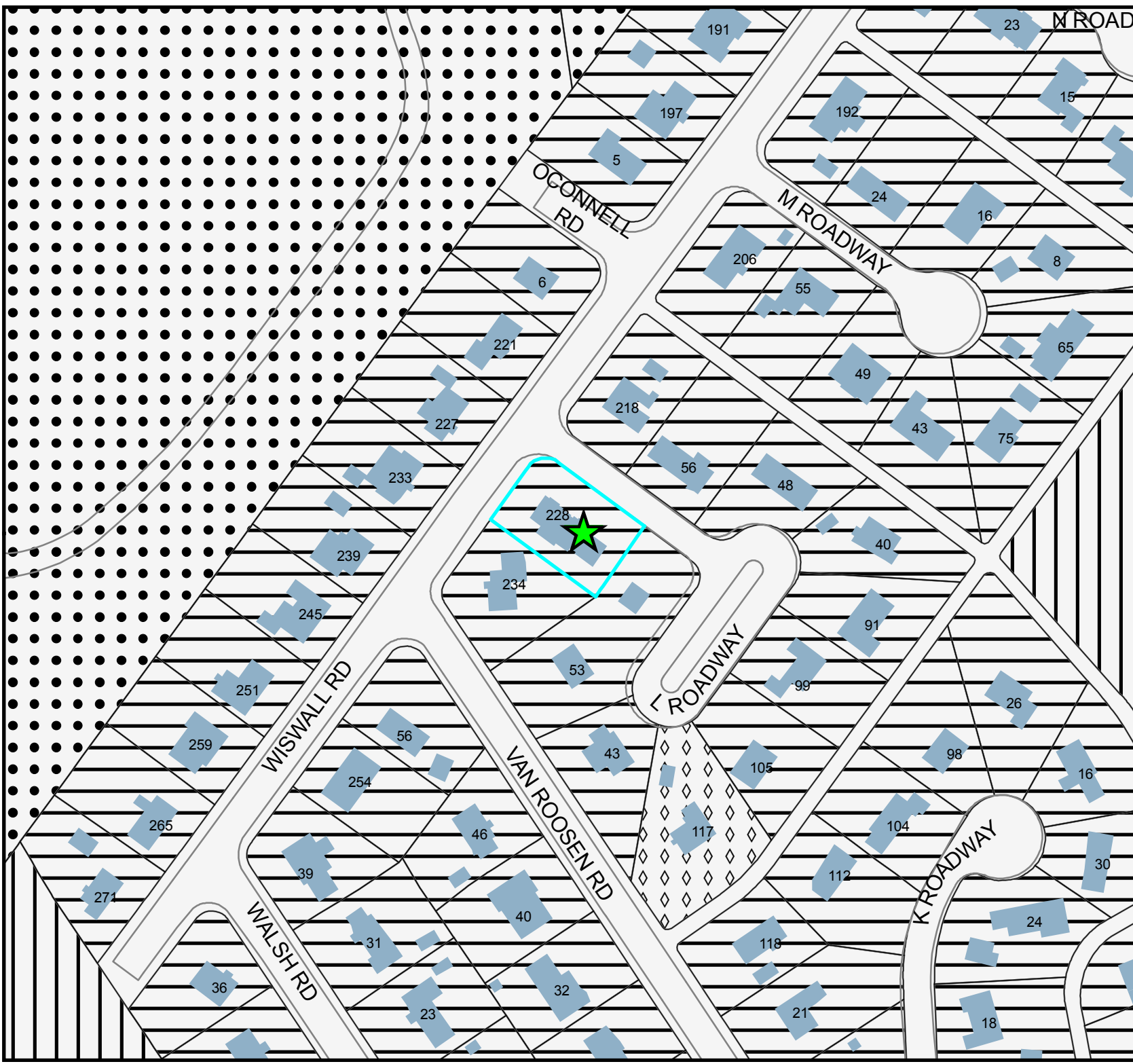


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: June 17, 2015








Zoning Map 228 Wiswall Road

*City of Newton,
Massachusetts*

ATTACHMENT B

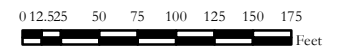
Legend

-  Building Outlines
-  Property Boundaries
-  Single Residence 1
-  Single Residence 2
-  Public Use

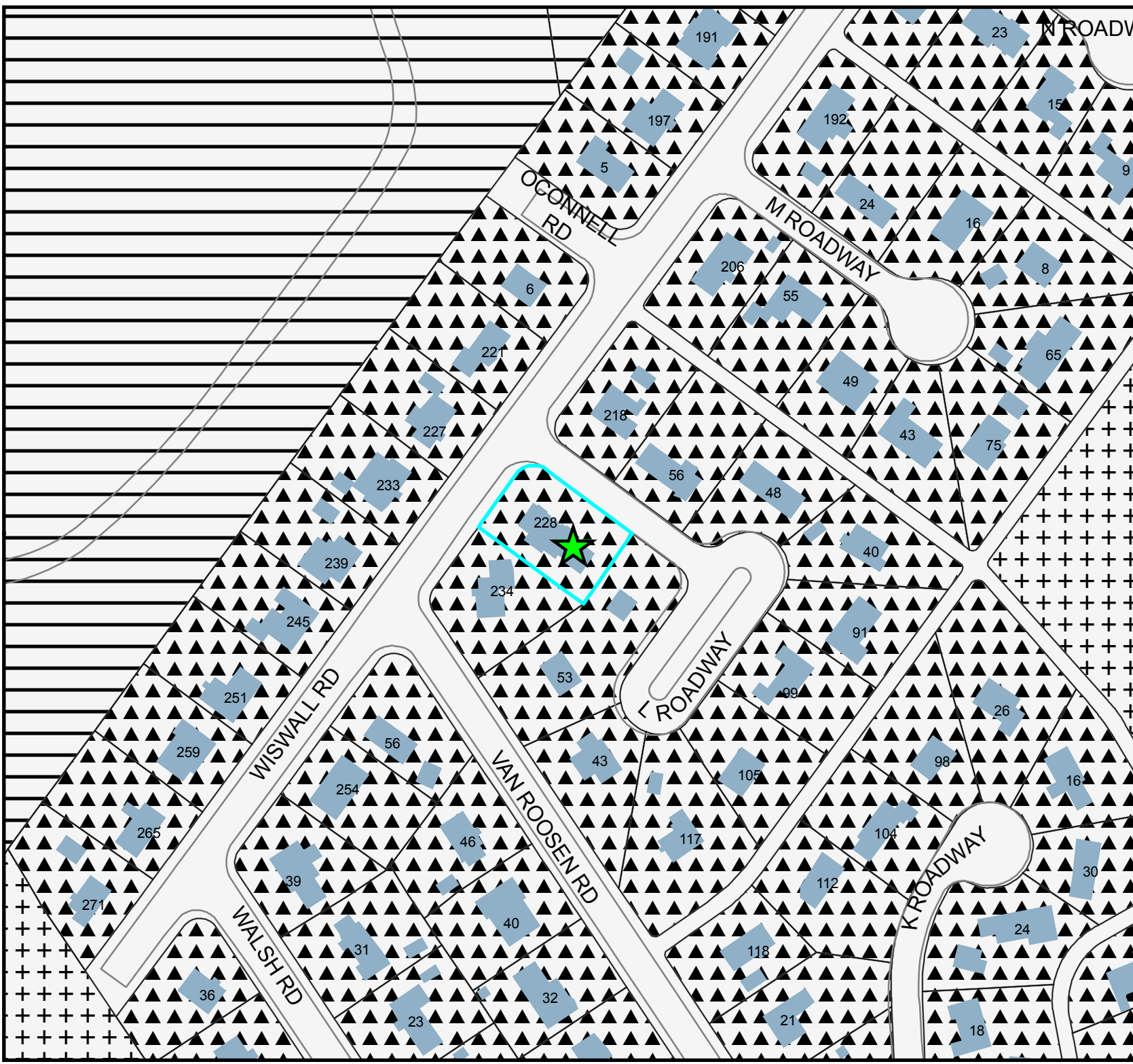


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ATTACHMENT C

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James Freas
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ZONING REVIEW MEMORANDUM

Date: May 14, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Diomid Bashkinov, applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to exceed maximum allowed FAR

Applicant: Diomid Bashkinov	
Site: 228 Wiswall Road	SBL: 84020 0012
Zoning: SR-2	Lot Area: 12,556 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 228 Wiswall Road consists of a 12,556 square foot lot at the corner of Wiswall Road and L Roadway improved with a single-family residence constructed in 2006, replacing a ranch –style home built in 1948. The structure consists of two and a half stories with an attached garage.

The lot was created prior to construction of the original structure in or before 1948, at 10,039 square feet. The applicant recently purchased 2,517 square feet of land from the adjacent parcel at 53 Van Roosen Road, creating a 12,556 square foot lot. The lot retains its “old lot” status pursuant to the provisions of Section 30-26.

The applicant is proposing to build a single-car attached garage on the same side as the existing attached garage. The additional square footage of the garage exceeds allowable FAR and requires a special permit.

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

- Zoning Review Application, prepared by Diomid Bashkinov, applicant, submitted 1/22/2015, revised 4/25/2015

- FAR Worksheet, prepared by Diomid Bashkinov, applicant, dated 1/22/2015, revised 4/25/2015
- Site Plan, signed and stamped by Peter J. Nolan, surveyor, dated 9/6/2014, revised 4/25/2015
- Garage plan and elevations, signed and stamped by Richard A. Volkin, engineer, dated 1/15/2014, revised 4/25/2015

ADMINISTRATIVE DETERMINATIONS:

1. Prior to the purchase of 2,517 square feet of land from the adjacent parcel at 53 Van Roosen Road, the applicant’s lot was 10,039 square feet. The current dwelling was built with the benefit of a building permit in 2005. At that time, FAR calculations did not include basement and attic space. It appears that in 2005 the dwelling had an FAR of .40, where .30 was the maximum allowed, and that the permit was issued in error. At the time the building permit was issued, a .5 bonus was available to new construction which met “new lot” setbacks. It appears that bonus was incorrectly applied, and also that the FAR for the dwelling was not calculated correctly.

The 12,556 square foot lot has a maximum allowable FAR of .35, and an existing FAR of .37. While the additional land puts it more into conformance, it is still over the allowable FAR.

The addition of a 252 square foot attached garage structure increases the property’s FAR to .38.

The dwelling was built with a valid building permit which was issued in error. A special permit is required to legitimize the existing conditions, and to further increase the FAR with the addition of the additional garage.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,556 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks			
• Front	25 feet	27.8 feet 30.3 feet	No change No change
• Side	7.5 feet	14.5 feet	No change
• Rear	15 feet	+/-44 feet	No change
FAR	.35	.37	.38
Max Lot Coverage	30%	13.7%	21.8%
Min. Open Space	50%	72.7%	68.5%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-15 Table A, 30-15(u)(2)	Exceed Floor Area Ratio (FAR)	S.P. per §30-24