



Setti D. Warren
Mayor

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

131-16
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: April 11, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Joyce Zakim, Applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a special permit to exceed nonconforming FAR and variances from side and front setbacks and lot coverage requirements

Applicant: Joyce Zakim	
Site: 37 Westbourne Road	SBL: 73045 0009
Zoning: SR2	Lot Area: 8,090 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 37 Westbourne Road consists of an 8,090 square foot lot improved with a single-family residence constructed in 1896 and a detached garage constructed in 1929. The lot has two frontages; 82 feet on Westbourne Street to the front, and approximately 90 feet on Francis Street to the rear. The existing detached garage is located 4.8 feet from the front setback on Francis Street and approximately 2.5 feet from the side setback. The applicant proposes to demolish the existing detached garage to construct a new wider attached garage which is connected to the principle structure by an interior stairway with a chair lift. The proposed modifications to the garage, house and site are necessary to make the home accessible to the applicant's adult daughter who uses a wheelchair. A new curb cut from Francis Street is proposed to connect with the proposed garage.

The proposed modifications will increase the already nonconforming FAR from .52 to .59, where .41 is the maximum allowed by right. A special permit will be required to increase the nonconforming FAR.

The proposed modification demolishes the detached garage and creates an attached situation. Because of this change, the setback requirements for a principle structure must be met. The proposed

garage and carport have a side setback of 2.1 feet and will be located 5.4 feet from the front setback on Francis Street. Variances will be required to reduce the side and front setback.

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

- Zoning Review Application, prepared by Joyce Zakim, applicant, submitted 1/13/2014
- Plan of Land, Existing Conditions, signed and stamped by Bruce Bradford, surveyor, dated 2/18/2014
- Site Plan, proposed conditions, signed and stamped by Bruce Bradford, surveyor, dated 2/18/2014
- Architectural drawings, prepared by IHCDstudio, dated 5/29/2013

ADMINISTRATIVE DETERMINATIONS:

1. The existing FAR for the structure is .52, which exceeds .41, the maximum FAR allowed for the property. The applicant proposes to attach the single-car garage and enlarge it by 179 square feet, and to add 170 square feet of interior living space. In addition, the applicant is proposing an approximately 200 square foot carport attached to the house and garage. Because the carport is open on only two sides (where the Ordinance defines a carport as being open on three sides), it counts toward FAR, creating an FAR of .59. A special permit is required to exceed the allowable FAR, and to increase the existing nonconforming FAR.
2. By attaching the garage to the dwelling, the structure must meet the setback requirements for the principle dwelling of 25 feet from the front property line and 7.5 feet from the side lot line, and may not take advantage of the detached garage's protected nonconforming setbacks. The proposed work creates a side setback of 2.1 feet and a front setback of 5.4 feet from Francis Street, decreasing the existing nonconforming setback of 4.8 feet. The applicant is proposing the modifications to the site to accommodate a daughter who uses a wheelchair. There currently exists a ramp on the property, which is exempt from meeting any zoning requirements per MGL Chapter 40A section 3. While the proposed modifications are to accommodate the daughter's access, they are not exempt under any state or federal requirements because she is not a resident of the dwelling. Variances from the front and side setbacks are required to build the project as proposed.
3. The existing lot coverage for the site is 23.4%. The proposed modifications to the site will create a lot coverage of 33.6%, which exceeds the maximum of 30%. However, section 1.5.2.D.2 states that lot coverage requirements shall not apply to the construction of a private garage in connection with a residence in existence on December 27, 1922. The dwelling was built in 1896, and therefore not subject to the lot coverage requirements for the erection of the garage. With the square footage of the proposed garage removed from the equation, the lot coverage is 25.5%.

SR3 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	8,090 square feet	No change
Frontage	80 feet	82 feet	No change
Setbacks for existing structure			
• Front	25 feet	4.8 feet	5.4 feet
• Side	7.5 feet	+/- 2.5 feet	2.1 feet
Max. Lot Coverage	30%	23.4%	25.5%
Min. Open Space	50%	57%	58%
FAR	.41	.52	.59

Zoning Relief Required

<i>Ordinance</i>		<i>Action Required</i>
§3.1.9 §7.8.2.C.2	To exceed existing nonconforming FAR	S.P. per §7.3
§3.1.3	For a front lot setback of 5.4 feet	Variance
§3.1.3	For a side lot setback of 1.1 feet	Variance