



#40-19

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

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 12, 2019
Land Use Action Date: April 23, 2019
City Council Action Date: May 6, 2019
90-Day Expiration Date: May 14, 2019

DATE: February 8, 2019

TO: City Council

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

SUBJECT: **Petition #40-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze an existing garage and replace it with a single-car attached garage and a second story accessory apartment, increasing the non-conforming FAR to .65 where .44 is required and .50 exists at **46 Berwick Road**, Ward 6, Newton Centre on land known as Section 52, Block 16, Lot 14, containing approximately 6,437 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §7.3.3, §7.4, §3.1.9, §7.8.2.C.2 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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



46 Berwick Road

EXECUTIVE SUMMARY

The property located at 46 Berwick Road consists of a 6,437 square foot lot in the Single Residence 2 (SR-2) zone in Newton Centre. The lot is improved with a 2.5-story, single-family colonial style residence. The petitioners are seeking to demolish an existing detached garage to build an attached structure that consists of a single-car garage and library space on the first floor, and an accessory apartment on the second floor. The new structure will add 935 square feet to the dwelling and will further increase the nonconforming floor area ratio (FAR) for the lot, requiring a special permit. If approved, the dwelling will total 4,184 square feet.

As designed, the proposed addition would increase the floor area ratio from .50 to .65 where .44 is the maximum allowed. This is a large addition, and the requested increase in FAR is on the higher end for the neighborhood. The bulk is concentrated towards the rear and has minimal impact from the street but creates a very long building along the side lot line with minimal landscaping or screening proposed. The Planning Department is supportive of the addition of an accessory apartment; however staff is concerned with the size of the addition and would recommend the petitioner explore options to reduce the size of the addition. If this were to be approved, staff recommends that the petitioner provide a landscape plan with screening along the rear and side lot lines.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the

Council should consider whether:

- The proposed increase in the nonconforming FAR from .50 to .65, where .44 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.1.9, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

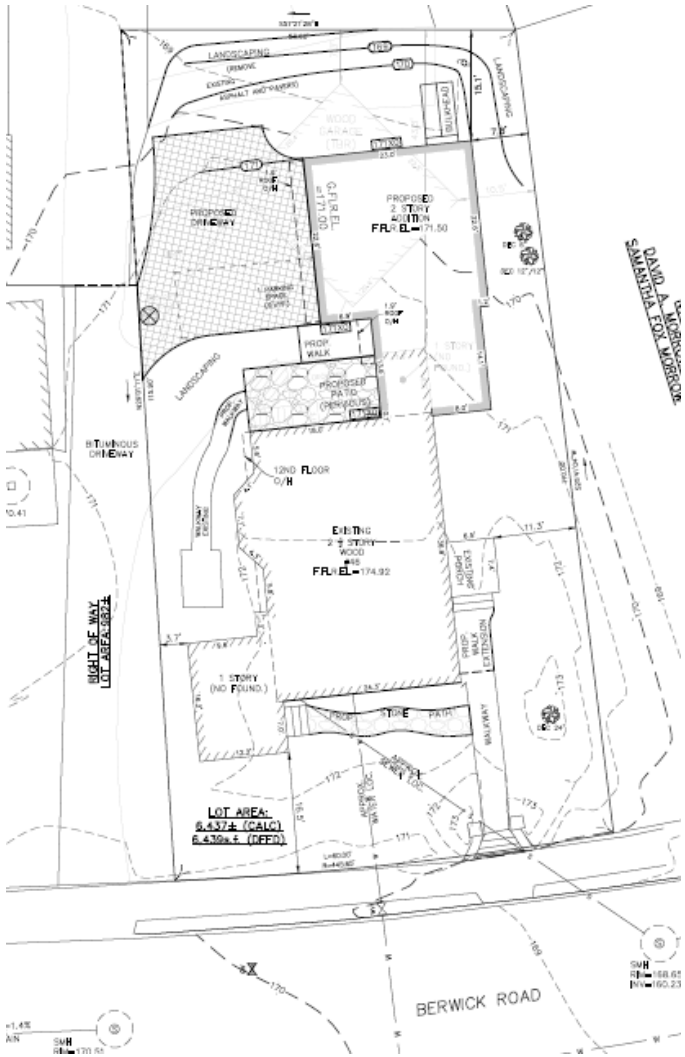
A. Neighborhood and Zoning

The subject property is located on Berwick Road, which is off Walnut Street in the SR-2 zone in Newton Centre. The SR-2 zone encompasses most of the surrounding area, with the exception of Multi-Residence 1 and Public Use (Sudbury Aqueduct) zones on Walnut Street (**Attachment A**). The surrounding land use of the neighborhood is

single family. There are commercial, multi-family residential, and non-profit land uses nearby on Walnut Street (**Attachment B**).

B. Site

The site consists of 6,437 square feet of land that has a slight downward slope where the proposed addition would be. The site is improved with a 2.5 story Colonial single-family dwelling. There is a driveway easement over the abutting parcel at 9 Saxon Road.



III. PROJECT DESCRIPTION AND ANALYSIS

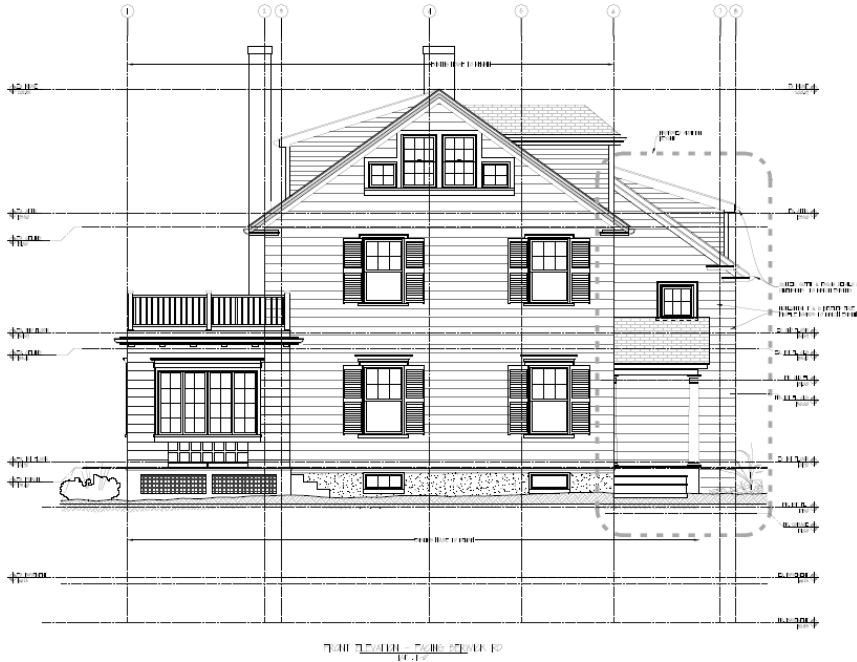
A. Land Use

The principal use of the site is and will remain single-family with the addition of an accessory apartment.

B. Building Design

The petitioner is seeking to demolish an existing detached two car garage and replace it with an attached single car garage, library space, and second floor accessory apartment. The new structure would add 935 square feet to the dwelling and the proposed second-floor accessory apartment would be 733 square feet. The resulting structure would contain 4,184 square feet, further increasing the nonconforming FAR from .50 to .65 where .44 is allowed by right. Due to the average grade, the proposed addition is the same height as the existing structure, but the ridge line of the roof is lower than the existing dwelling, making it appear lower. The structure as designed results in a long, continuous building extending from the front to the rear of the site with little landscaping or screening.

Proposed Front Elevation as presented from Berwick Road:



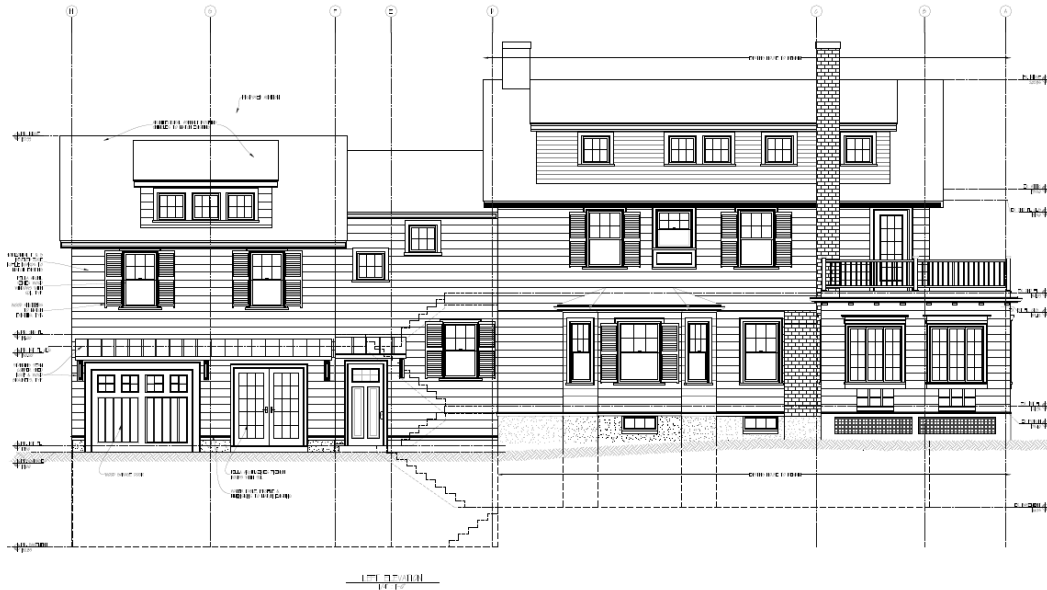
Proposed Right Elevation:



Proposed Rear Elevation:



Proposed Left Elevations:



C. Site Design

The petitioner is proposing to raze an existing detached garage and construct a new structure that increases the footprint of the structure and adds 935 square feet to the existing dwelling. The Planning Department is concerned with the size of the proposed addition and the lack of landscaping to screen the addition. The Planning Department would like the petitioner to explore options to reduce the size of the addition that would keep the proposed addition consistent with other homes on Berwick Road.

D. Parking and Circulation

The petitioner is reconfiguring the driveway to align with the proposed addition. The plans show an overall decrease in impervious area by 266.1 square feet. Additionally, the petitioner is demolishing a two-car garage and replacing it with a structure with storage for one car.

E. Landscaping

A landscape plan is not required with this petition. If the petition is approved, the Planning Department would like to see a landscape plan that provides screening along the rear and side lot lines.

IV. TECHNICAL REVIEW

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

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

- §3.1.9 and §7.8.2.C.2 of Section 30, to further increase the nonconforming FAR.

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

NHC approved the demolition of the rear addition on September 21, 2018.

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 Council Order

ATTACHMENT A

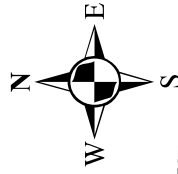
Zoning

46 Berwick Rd.

*City of Newton,
Massachusetts*

Legend

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

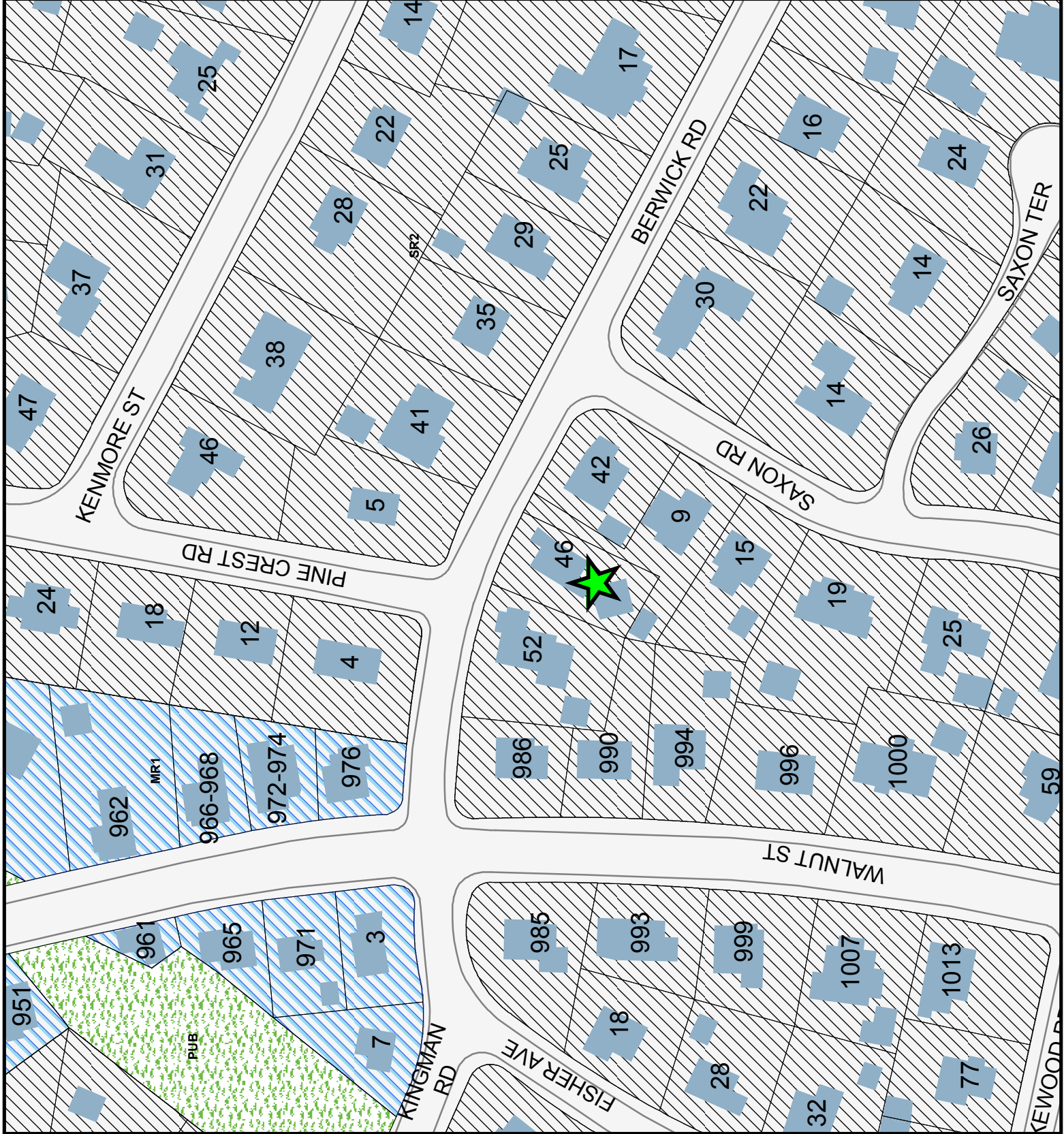


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: February 01, 2019



ATTACHMENT B

Land Use

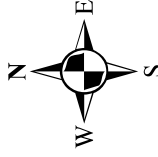
46 Berwick Rd.

City of Newton,
Massachusetts

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Nonprofit Organizations

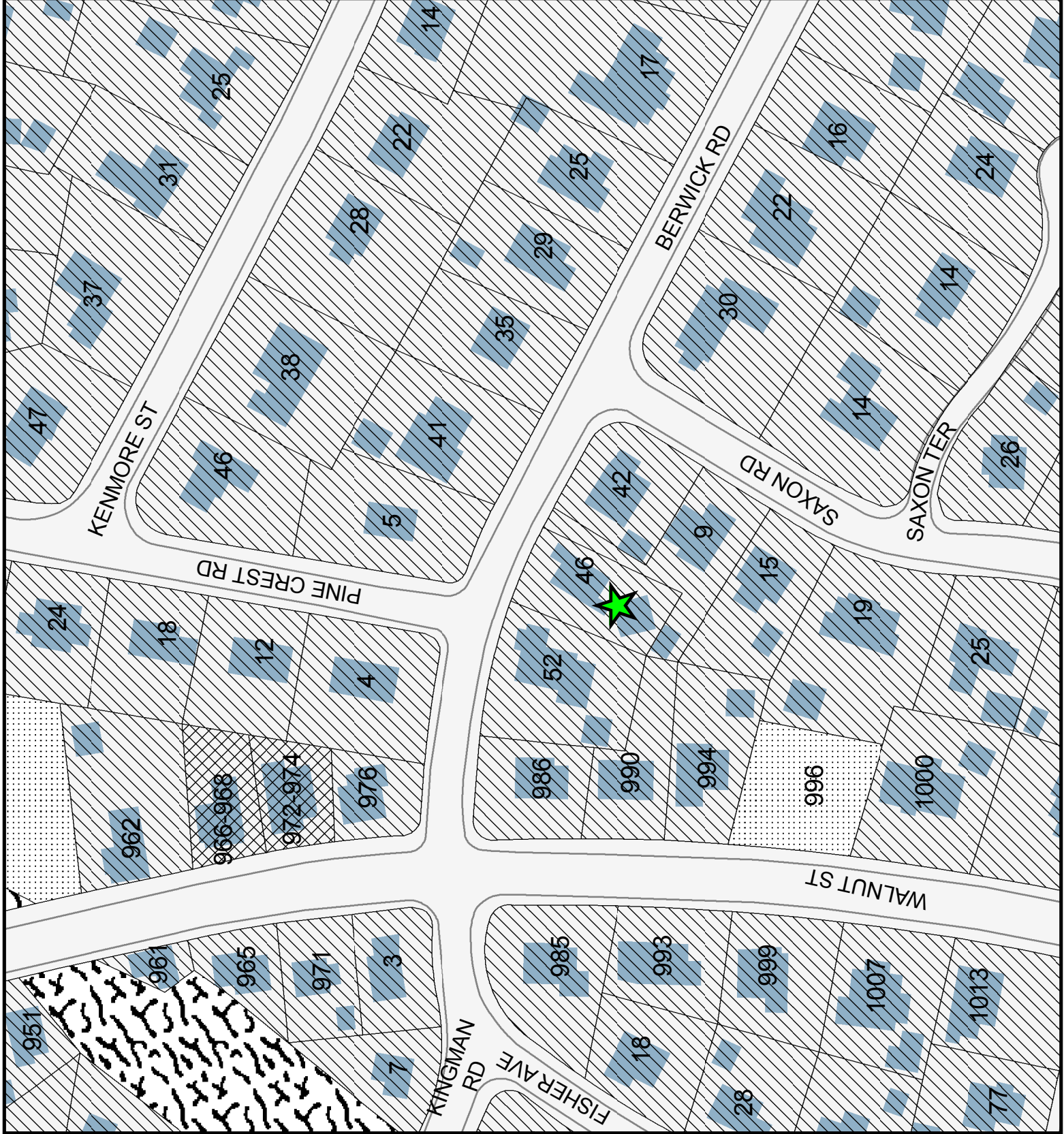


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 14, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Jonathan Flynn, Applicant
Peter Sachs, Architect
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Jonathan Flynn	
Site: 46 Berwick Road	SBL: 52016 0014
Zoning: SR2	Lot Area: 6,437 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 46 Berwick Road consists of a 6,437 square foot lot improved with a single-family residence constructed in 1913 and a detached garage. The property has a driveway easement over the abutting parcel at 9 Saxon Road. The petitioners propose to raze the existing detached garage and construct a new single-car attached garage and library space with an accessory apartment above. The proposed changes will further increase the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Peter Sachs, architect, dated 12/10/2018
- FAR Worksheet, submitted 12/10/2018
- Existing Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/25/2018
- Proposed Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/25/2018
- Architectural Plans, signed and stamped by Peter Sachs, architect, dated 10/1/2018

ADMINISTRATIVE DETERMINATIONS:

- The petitioner intends to raze a 460 square foot detached garage and reconstruct an attached single-car garage and library space on the first level with an accessory apartment above. The existing FAR (prior to demolition) is .50, where .44 is the maximum allowed. The proposed addition adds 935 square feet to the dwelling, resulting in an FAR of .65. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	6,437 square feet	No change
Frontage	80 feet	60 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	16.5 feet 3.7 feet 43.3 feet	No change No change 15.1 feet
Max Number of Stories	2.5	2.5	No change
FAR	.44	.50	.65
Max Lot Coverage	30%	26.7%	29.9%
Min. Open Space	50%	54.5%	58.6%
Max Accessory Apartment	Lesser of 1,000 square feet or 33% (922 square feet)		733 square feet

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9, §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3

#40-19
46 Berwick 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 further increase the nonconforming floor area ratio (FAR) from .50 to .65, where .44 is the maximum allowed as of right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming floor area ratio from .50 to .65, where .44 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition will have minimal visibility from the street, meets all setback requirements, and is not higher than the existing structure (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #40-19

PETITIONER: Jonathan Flynn

LOCATION: 46 Berwick Rd., on land known as Section 52, Block 16, Lot 14, containing approximately 6,437 square feet of land

OWNER: Jonathan Flynn

ADDRESS OF OWNER: 46 Berwick Road
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9, §7.8.2.C.2, to further increase the nonconforming FAR to construct a rear addition with an accessory apartment

ZONING: Single Residence 2 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. Topographic Site Plan, signed and stamped by Joseph A. Porter, Professional Land Surveyor, dated August 21, 2018; Revised: November 7, 2018, November 19, 2018.
 - b. Architectural Plans, signed and stamped by Peter Sachs, Registered Architect, consisting of the following nine (9) sheets:
 - i. Proposed Title Sheet, A-1
 - ii. Proposed Basement Floor Plan, A-2
 - iii. Proposed First Floor Plan, A-3
 - iv. Proposed Second Floor, A-4
 - v. Proposed Third Floor, A-5
 - vi. Proposed Front Elevation, A-6
 - vii. Proposed Right Elevation, A-7
 - viii. Proposed Rear Elevation, A-8
 - ix. Proposed Left Elevations, A-9
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 petitioners have:
 - 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. 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 petitioners have:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect certifying compliance with Condition #1.
 - 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 licensed architect.
5. Prior to the issuance of any building permit for the Project, the petitioner shall provide a landscape plan for review and approval by the Director of Planning and Development.
6. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
7. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.