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#463-18

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 2, 2018
Land Use Action Date:	December 11, 2018
City Council Action Date:	December 17, 2018
90-Day Expiration Date:	December 31, 2018

DATE: September 28, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #463-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming 3.5-story dwelling, where 2.5 stories is the maximum allowed by-right and to exceed the floor to area ratio from .32 to .42 where .38 is the maximum allowed by-right, at **58 Rochester Road**, Ward 2, Newton Centre, on land known as SBL 13, 20, 44 containing approximately 16, 518 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.3., §3.1.9, §1.5.4.B, §1.5.4.C, §7.8.2.C.2 and §7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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 that the Land Use Committee of the City Council can consider at a subsequent working session.



58 Rochester Road

EXECUTIVE SUMMARY

The subject property located at 58 Rochester Road consists of a 16, 518 square foot lot improved with an altered Colonial Revival single-family residence constructed circa 1927. The property is located in the Single Residence (SR-3) zone in Newton Centre. Due to the topography of the lot, the basement is considered the first floor and the structure is considered legal nonconforming at 3.5 stories, where 2.5 is the maximum allowed as of right. The petitioners are seeking to construct a three-story addition to the rear of the dwelling thereby extending the nonconformity of the structure regarding the number of stories. The petitioners are proposing two smaller additions which, when combined with the three-story addition, will exceed the allowable floor area ratio (FAR) for the lot, requiring a special permit. Therefore, the petitioners require a special permit to further extend the nonconformity of the structure regarding the number of stories and to exceed the FAR from .32 to .42, where .38 is the maximum allowed as of right.

The additions represent 801 square feet above the as of right FAR, 310 square feet of which is proposed to the nonconforming third story. The bulk and mass of the additions are to the rear of the structure with minimal visibility from the street and are contained to the basement and first floor. This placement preserves the appearance of a 2.5-story dwelling from the street and does not affect the traditional scale of the neighborhood. For these reasons, staff believes the proposed additions are not substantially more detrimental than the existing structure and the resulting dwelling will not be in derogation of the size, scale, and design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The proposed extension of the structure regarding the number of stories is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§1.5.4.B, §1.5.4.C, §3.1.3, and §7.8.2.C.2)
- The proposed increase in FAR from .32 to .42, where .38 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. (§3.1.3, §3.1.3 §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

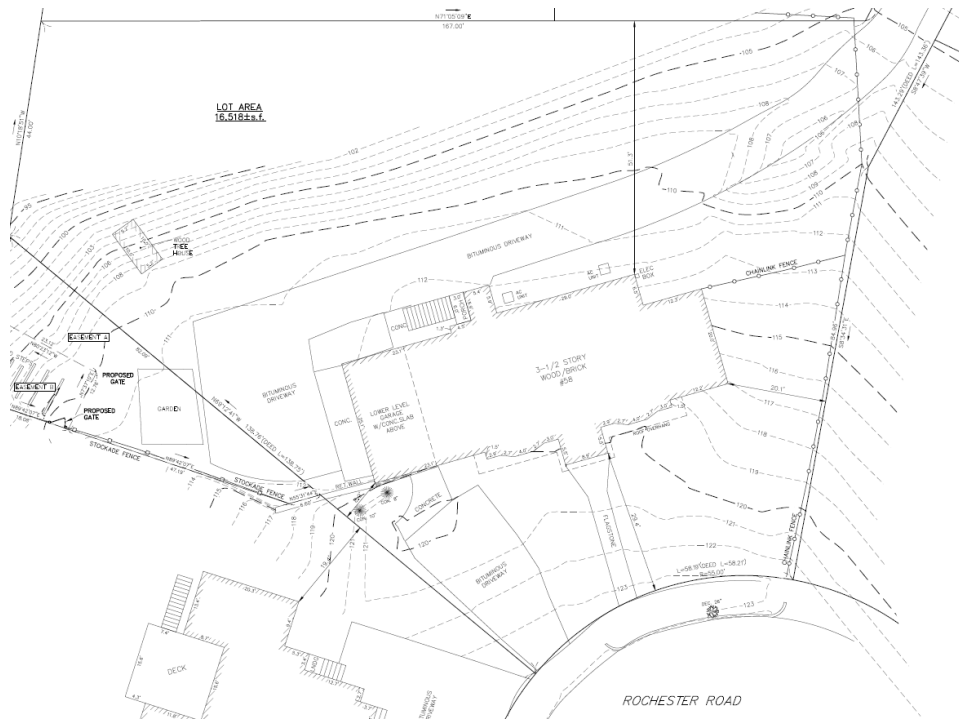
A. Neighborhood and Zoning

The subject property is located on Rochester Road in the SR-3 zone in Newton Centre. The western end of Rochester Road is located within the SR-3 zone, while the eastern

end is located within the Single Residence 2 zone. Directly to the south is a Public Use district containing Edmands Park, and farther west is a Multi Residence 1 zone (**Attachment A**). Rochester Road consists entirely of single-family residences, while the Multi Residence 1 zone to the west consists of multi-family uses (**Attachment B**).

B. Site

The site consists of 16,518 square feet of land, and is improved with a 3.5-story single-family residence constructed circa 1927. The grade of the lot slopes down from the front to the rear (east to west), such that the front of the lot is approximately 20 feet higher than the rear. The site is served by two curb cuts: one curb cut is located at the north providing access from Westchester Road; the other is located at the east providing access from Rochester Road to a two-stall surface parking facility. Directly to the north of the driveway from Westchester Road is a large area of mature trees that screen the dwelling from the rear yards of the residences along Westchester Road.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a single-family residence.

Existing Front Facade

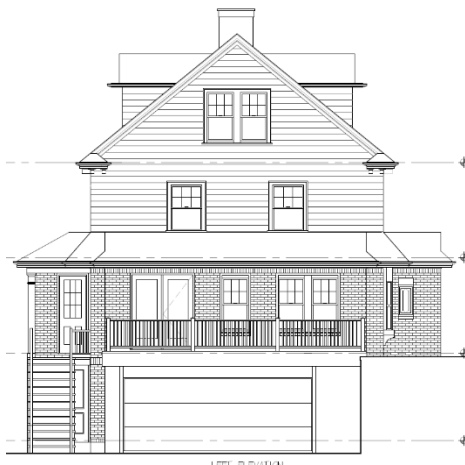


Proposed Front Facade



The petitioner is also proposing two smaller additions to the structure: the first is a 6.5-foot deep by 10 feet long bump out to the first floor at the northeastern corner of the dwelling; and the second is another one-story bump out above the existing garage at the northwestern corner of the structure. This addition will be constructed entirely over the existing garage and will also include a deck.

Existing Left Facade



Proposed Left Facade



The allowable FAR for the lot is .38 which translates to approximately 6,276 square feet. The existing dwelling contains 5,326 square feet and is proposed at 7,077 square feet. The additions represent 801 square feet over the as of right FAR, 310 square feet of which is proposed to the nonconforming third story. The properties along the southern (left) side of Rochester Road are generally larger than those on the northern (right) side which allows for more square footage as of right. The proposed bulk and mass of the additions are contained to the rear of the structure with minimal visibility from the street

and are contained to the basement and first floor. This placement retains the appearance of a 2.5 story dwelling from the street and maintains the existing scale of the neighborhood. For these reasons, staff believes the proposed additions are not substantially more detrimental than the existing structure and the resulting dwelling will not be in derogation of the size, scale, and design of other structures in the neighborhood.

D. Parking and Circulation

The existing garage at the southwest corner of the structure will be decommissioned to allow for living space. The petitioners are proposing to locate one parking stall within the footprint of the addition and a second stall will be located under the proposed deck. The petitioners are not proposing any changes to the two surface parking stalls accessed from Rochester Road.

E. Landscaping and Screening

A landscape plan is not required with this petition.

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 Memorandum, the petitioner is seeking the following relief:

- §1.5.4.B, §1.5.4.C, §3.1.3, and §7.8.2.C.2 of section 30, to further extend a nonconforming 3.5-story structure.
- §3.1.9 and §7.3.3 of Section 30, to exceed the maximum FAR.

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The size of the addition will require the petitioner to provide a drainage analysis to the Engineering Division for review and approval prior to the issuance of a building permit. Staff suggests incorporating the standard condition regarding the Operations and Maintenance (O & M) Plan of the stormwater management system prior to the issuance of a temporary certificate of occupancy, should this petition be approved.

C. Newton Historical Commission Review

The submitted plans were reviewed and approved by the Chief Preservation Planner on April 10, 2018. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit, should this petition be approved.

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 Order

Attachment A Zoning Map Rochester Rd., 58

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



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

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Feet

Map Date: September 24, 2018











Attachment B Land Use Map Rochester Rd., 58 *City of Newton, Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Private Educational
-  Building Outlines
-  Surface Water
-  Property Boundaries

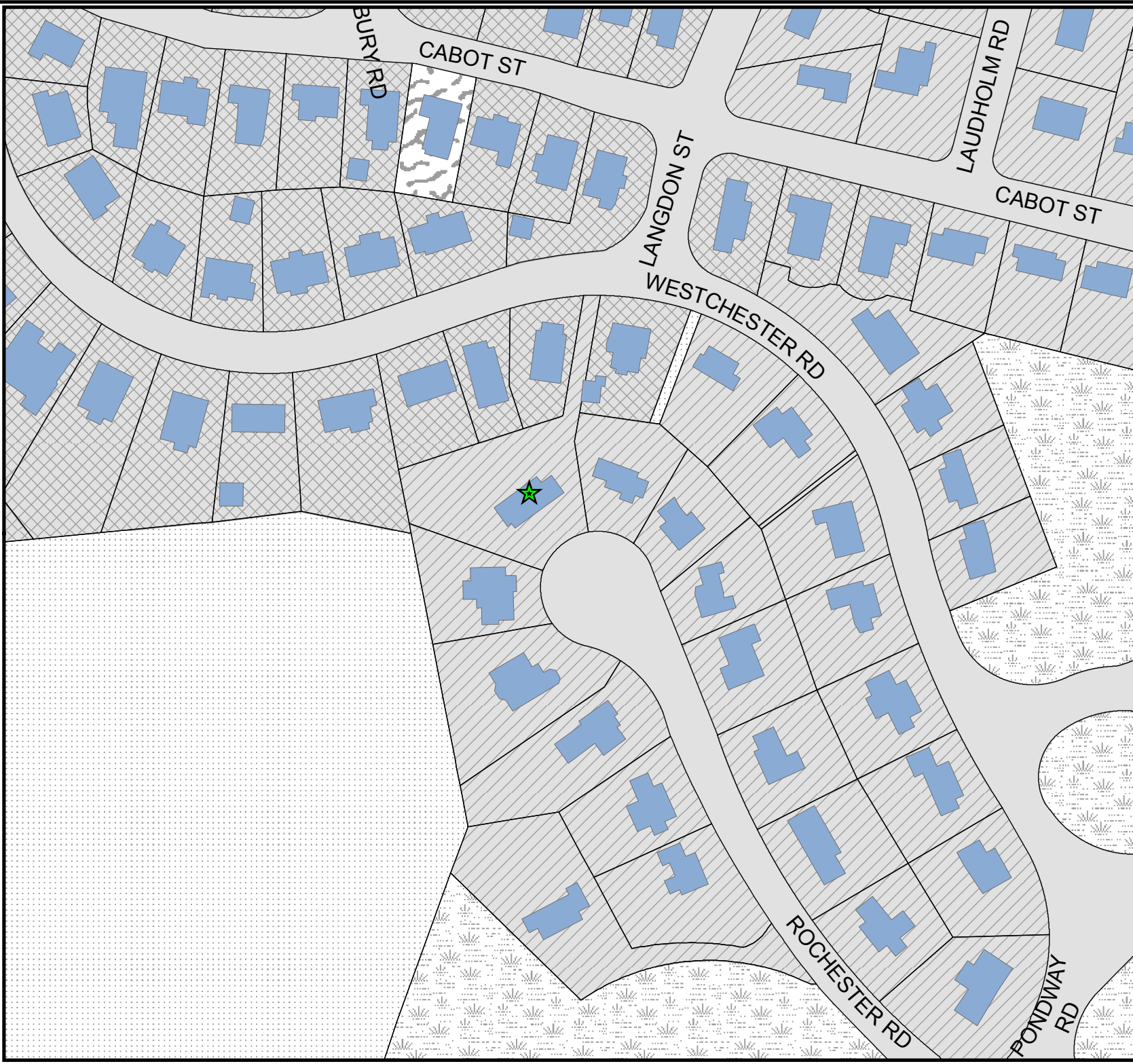


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 13, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Philip Chase and Susan Vaughn, Applicants
Peter Sachs, Architect
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to extend a nonconforming three-story structure and to exceed FAR

Applicant: Philip Chase and Susan Vaughn	
Site: 58 Rochester Road	SBL: 13020 0044
Zoning: SR3	Lot Area: 16,518 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 58 Rochester Road consists of a 16,518 square foot lot improved with a single-family dwelling constructed in 1927. Due to the average grade of the property, the basement is considered the first floor, resulting in the structure having 3.5 stories, where 2.5 is the maximum allowed. The petitioner is proposing additions to the sides and rear of the property to create an attached garage, accessory apartment and additional living space. The proposed additions require a special permit to extend the nonconforming 3.5 story structure, as well as to exceed FAR.

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

- Zoning Review Application, prepared by Peter Sachs, architect, dated 6/21/2018
- FAR Worksheet, submitted 6/21/2018
- Topographic Site Plan, signed and stamped by Joseph. R. Porter, surveyor, dated 6/17/2018
- Architectural Plans, signed and stamped by Peter Sachs, architect, dated 11/16/2015, revised 4/4/2018, 5/31/2018, 7/16/2018

ADMINISTRATIVE DETERMINATIONS:

- Per section 3.1.3, a single-family dwelling is limited to 2.5 stories by right, or three by special permit. Due to the existing grade surrounding the single-family dwelling, the basement level is considered the first floor, rendering the structure 3.5 stories per section 1.5.4.B and C. To allow additions to the first three levels requires a special permit to extend the nonconforming number of stories, per section 7.8.2.C.2.
- The petitioners’ existing FAR is .32, where .38 is the maximum allowed per sections 3.1.3 and 3.1.11. The proposed additions add 1,751 square feet to the dwelling, resulting in an FAR of .42. A special permit pursuant to Sections 3.1.3 and 3.1.9 is required to exceed FAR.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	16,518 square feet	No change
Frontage	70 feet	58.19 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	29.4 feet 9.1 feet 51.3 feet	No change No change 30.5 feet
Building Height	36	35.63 feet	35.72 feet
Max Number of Stories	2.5	3.5	No change
FAR	.38	.32	.42

- See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§1.5.4.B §1.5.4.C §3.1.3 §7.8.2.C.2	Request to further extend a nonconforming 3.5 story single-family dwelling	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

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 nonconformity of a structure with 3.5 stories, where 2.5 stories is the maximum allowed by-right and to exceed the Floor Area Ratio (FAR) from .32 to .42, where .38 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed addition which increases the nonconformity of the structure with 3.5-stories is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the mass and bulk of the additions are contained to the basement and first floor. (§1.5.4.B, §1.5.4.C, §3.1.3, and §7.8.2.C.2)
2. The proposed increase in FAR from .32 to .42, where .38 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 because the additions are to the rear of the structure, minimally visible from the street. (§3.1.3, §3.1.9 and §7.3.3)

PETITION NUMBER: #463-18

PETITIONER: Phil Chase and Susan Vaughn

LOCATION: 58 Rochester Road, on land known as Section 13, Block 20, Lot 44, containing approximately 16, 518 square feet of land

OWNER: Phil Chase and Susan Vaughn

ADDRESS OF OWNER: 58 Rochester Road
Newton, MA 02458

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9, and §7.3.3, to exceed the FAR; and §1.5.4.B, §1.5.4.C, §3.1.3, and §7.8.2.C.2 to increase the nonconformity of a structure with 3.5 stories

ZONING: Single Residence 3 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 R. Porter, Professional Land Surveyor, dated June 17, 2018.
 - b. Architectural Plans and Elevations, signed and stamped by Peter Sachs, Registered Architect, dated May 31, 2018 revised July 16, 2018 and September 19, 2018 consisting of ten (10) sheets.
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. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
4. 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 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 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.
5. 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 statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - 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 land surveyor.

- c. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.
- d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.