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92-12 and (2)

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Candace Havens
Director

MEMORANDUM

Public Hearing Date: June 12, 2012
Land Use Action Date: June 19, 2012
Board of Aldermen Action Date: September 4, 2012
90-Day Expiration Date: September 4, 2012

DATE: June 8, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ^{ET}
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #92-12, PHILLIP E. KRET & PINAR KILICCI-KRET/WILLIAM S. ALBERT & MONICA MITRA for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION OF A NONCONFORMING USE and STRUCTURE to construct a rear addition partially within the side yard setback, increasing the Floor Area Ratio from .72 to .76; the lot coverage from 32.5% to 33.4%; decreasing the minimum open space from 49% to 48% on an existing two-family condominium at 111 PLEASANT STREET, Ward 6, Newton Centre, on land known as SBL 64, 30, 16, containing approximately 5,628 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-15, Table 1, 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

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.



EXECUTIVE SUMMARY

The petitioners' house is a two-family dwelling built in 1916. The dwelling is a condominium, with both owners acting as co-petitioners for this special permit. They are proposing an 8' by 15' addition on the rear of the structure. The purpose of the addition is to adapt the structure to meet the needs of today's families by adding an additional bedroom to each unit. The property is legally nonconforming in several ways as it is a two-family on a small parcel in a single-family zone. The proposed addition will increase the nonconformity with respect to required open space, lot coverage, floor area ratio (FAR), and side yard setback.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this petition, the Board should consider whether the following apply:

1. The increase of a nonconforming FAR from .72 to .76, where .45 is allowed by right will be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because many of the adjacent properties feature large, pre-existing two-family dwellings on small parcels.
2. The expansion of a nonconforming use, lot coverage, open space, and side setback will not be substantially more detrimental to the neighborhood for the following reasons:
 - a. While the existing nonconforming two-family use is in a single-family zone, it is surrounded by other two-family dwellings in the neighborhood.
 - b. The extension of nonconforming maximum lot coverage from 32.5% to 33.4% where 30% is allowed by right and minimum open space from 49% to 48% where 50% is allowed by right is appropriate since the petitioners' site is surrounded by a number of other pre-existing homes on small parcels.
 - c. The addition will be located on the rear of the structure and will not increase the bulk of the building when viewed from the street.
 - d. There is an existing fence along the property line on the north side that will screen the addition from immediate abutters.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD



117 Pleasant St.

95 Pleasant St.

106 Tyler Ter.

111 Pleasant St. (side view)

A. Neighborhood and Zoning

The site is located in Newton Centre between Homer Street and Centre Street in a residential neighborhood consisting mostly of single-family homes constructed in the early 20th Century. The petitioners' property is one of a cluster of legally nonconforming two-family houses on Pleasant Street and Tyler Terrace. They include 87, 95, 111, and 117 Pleasant Street and 106 Tyler Terrace. All of these two-family houses are also located on parcels which are significantly smaller than the neighborhood average.

B. Site

The site consists of 5,628 square feet of land in the Single Residence 2 zone. It is improved with a two-family dwelling and a bituminous concrete driveway.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain as a two-family residence.

B. Building and Site Design

The petitioner is proposing a two-story addition on the rear of the property that will be adjacent to an existing sunroom on the first floor. An existing bulkhead and shed will be removed from the east side of the dwelling. The bulkhead to the basement will be relocated to the north side of the building. A covered stair exists in the location of the proposed addition, but will be replaced to provide egress in a different location.

C. Parking and Circulation

The property is currently served by a bituminous driveway. This condition will not change as a result of this petition.

D. Landscape Screening

No additional landscaping is being proposed as part of this petition. An existing fence screens the proposed addition from the closest neighbor to the north. Due to the nominal additional bulk resulting from this proposal, no landscaping is required.

IV. TECHNICAL REVIEW

A. Technical Considerations

The petitioners' site is nonconforming with respect to lot size, frontage, front setback, side setback, FAR, maximum lot coverage, and minimum open space. The two-family use of the property is also nonconforming in the single residence zone. The petitioner is seeking a special permit to extend the nonconforming use and expand the structure, and expand the nonconformities with respect to open space, lot coverage, and side setbacks.

An FAR of .45 is allowed by right on a lot of this size in the Single Residence 2 zone. The existing structure has an FAR of .72, well above what is allowed by right and above the neighborhood average. This can be attributed to the petitioners' house being an older home located on an undersized lot and having 50% of the basement area count towards gross floor area. The additional living space proposed as part of this petition will increase the nonconforming FAR to .76, requiring relief for FAR.

B. Newton Historical Commission

The Senior Preservation Planner has reviewed the project and found that the rear of the structure has already been substantially altered and that the proposal is consistent with the original style of the house.

C. Engineering Review

The proposal involves a minor net increase in impervious coverage on the site. Therefore, review by the Engineering Division of the Department of Public Works is not required.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum ("ATTACHMENT C"), the petitioner is seeking the following reliefs:

- Section 30-21(b), to allow the extension of a nonconforming use
- Section 30-21(b), to allow an increase in the nonconforming lot coverage from 32.5% to 33.4%, where 30% is allowed by right
- Section 30-21(b), to allow a decrease of nonconforming open space from 49% to 48%, where 50% is required
- Section 30-21(b), to allow an increase in the nonconforming FAR from .72 to .76 where .45 is allowed by right
- Section 30-21(b), to allow an addition to a nonconforming structure which increases its degree of nonconformity with respect to side setback

VI. PETITIONERS' RESPONSIBILITIES

The petition should provide a signed and stamped copy of the proposed conditions plot plan prior to the issuance of a building permit.

ATTACHMENTS:

ATTACHMENT A: VICINITY LAND USE MAP

ATTACHMENT B: VICINITY ZONING MAP

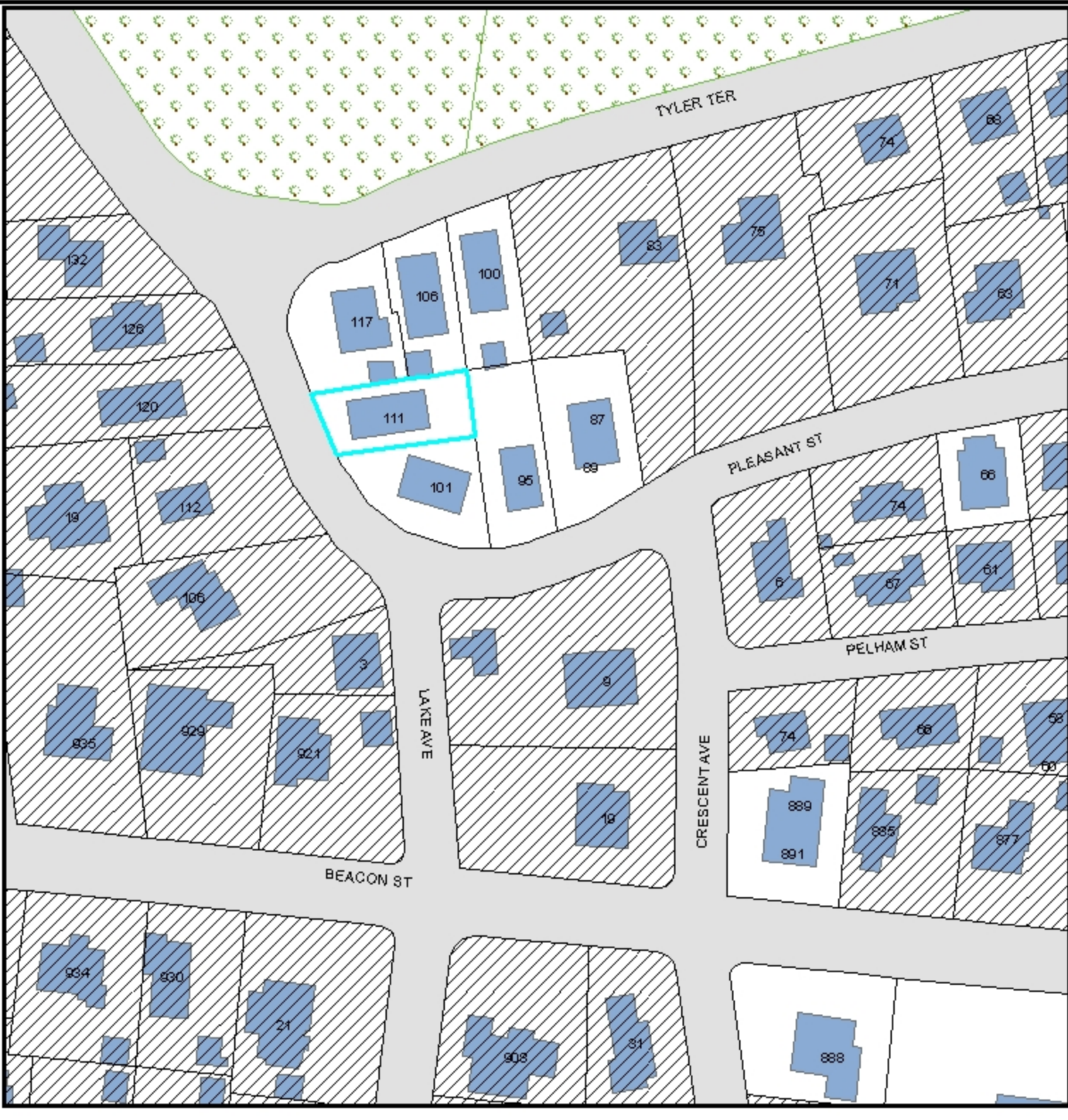
ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: DRAFT BOARD ORDER #92-12

92-12 and (2) 111 Pleasant Street

Land Use

City of Newton,
Massachusetts



Legend

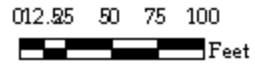
Land Use

- Single Family Residential
- Multi-Family Residential
- Open Space



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



Attachment A

92-12 and (2) 111 Pleasant Street

Zoning

City of Newton,
Massachusetts



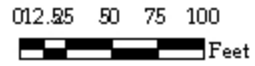
Legend

- Single Residence 2
- Public Use



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



Attachment B



Setti D. Warren
Mayor

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ZONING REVIEW MEMORANDUM

Date: March 27, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning

Cc: Philip Kret and William Albert, property owners
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow an addition to a nonconforming two-family structure which expands nonconformities with regard to use, floor area ratio, lot coverage, open space, and side setbacks

Applicant: Philip Kret and William Albert	
Site: 111 Pleasant Street	SBL: 64030 0016 and 64030 0016A
Zoning: SR2	Lot Area: 5,628 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling

Background:

The property at 111 Pleasant Street consists of a 5,628 square foot lot occupied by a two-family dwelling built in 1916. The dwelling is owned in condominium and both owners are co-applicants. The applicants propose to add on to the rear of the dwelling to create additional living space on the first and second floors.

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

- Site plan, showing proposed addition, signed and stamped by Wesley T. Guillaume, Surveyor, dated 2/13/12
- Average grade plane calculation, signed by Wesley T. Guillaume, Surveyor, undated
- Architectural plans, by Peter Wright, Architect, dated 2/7/12
 - Existing basement plan
 - Proposed addition at basement
 - Existing first floor
 - Proposed first floor plan
 - Existing second floor plan
 - Proposed second floor plan

- Existing driveway side elevation
- Proposed driveway side elevation
- Existing side elevation
- Proposed side elevation
- Existing rear elevation
- Proposed rear elevation

ADMINISTRATIVE DETERMINATIONS:

1. The existing use, a two-family dwelling, is a legally nonconforming use in the SR2 zone. The applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b) to expand a nonconforming use.
2. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	5,628 square feet	No change
Frontage	80 feet	46.69 feet	No change
Setbacks			
• Front	25 feet	17 feet*	No change
• Side	7.5 feet	7.2 feet	No change
• Rear	15 feet	24.7 feet	No change
FAR	0.45	0.72**	0.76**
Building Height	36 feet	30.1	No change
Maximum Stories	2.5	2.5	2.5
Max. Lot Coverage	30%	32.5%	33.4%
Min. Open Space	50%	49%	48%

* Scaled from site plan

** 50% of the basement area counts toward gross floor area because it is more than four feet between grade and the top of the subfloor of the first story.

3. The applicants' plans show the proposed addition extending the nonconforming north side setback. The proposed expansion to the structure's floor plan would also decrease the nonconforming percentage of required open space and increase the nonconforming maximum percentage of lot coverage. To construct the addition as proposed, the applicants must obtain a special permit from the Board of Aldermen, per Section 30-21(b).
4. The applicants' plans show a bulkhead extending into a required side setback. Per Section 30-15(e), bulkheads may project into required setbacks. No additional zoning relief is required.
5. Per Section 30-15(u), two-family dwellings on lots in the SR2 zone of 5,628 square feet are limited to a floor area ratio of .45. The applicants' plans and calculations show that the existing structure has an FAR of .72. The proposed addition will increase the FAR to .76. To construct the addition as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b).
6. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-21(b)	Allow the extension of a nonconforming use	S.P. per §30-24
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-21(b)	Allow an increase of nonconforming lot coverage from 32.5% to 33.4%, where 30% is allowed by right	S.P. per §30-24
§30-21(b)	Allow a decrease of nonconforming open space from 49% to 48%, where 50% is required	S.P. per §30-24
<i>Ordinance</i>	<i>Structure</i>	<i>Action Required</i>
§30-21(b)	Allow an increase in nonconforming FAR from .72 to .76 where .45, is allowed by right	S.P. per §30-24
§30-21(b)	Allow an addition to a nonconforming structure which increases its degree of nonconformity with regard to the side setback	S.P. per §30-24

CITY OF NEWTON
IN BOARD OF ALDERMEN
May 15, 2012

ORDERED:

That the Board, 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 request for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION OF A NONCONFORMING USE and STRUCTURE to construct a rear addition partially within the side setback, increasing the floor area ratio from .72 to .76; the lot coverage from 32.5% to 33.4%; decreasing the minimum open space from 49% to 48% on an existing two-family condominium at 111 PLEASANT STREET, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The increase of a nonconforming FAR from .72 to .76, where .45 is allowed by right will be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because all adjacent properties feature large, pre-existing multi-family homes on small parcels.
2. The expansion of a nonconforming use, lot coverage, open space and side setback will not be substantially more detrimental to the neighborhood for the following reasons:
 - a. The existing nonconforming two-family use is in a single-family zone, but is surrounded by other two-family homes.
 - b. The extension of nonconforming lot coverage from 32.5% to 33.4% where 30% is allowed by right and open space from 49% to 48% is appropriate since the petitioners' site is surrounded by a number of other pre-existing homes on small parcels.
 - c. The addition will be located on the rear of the structure and will not increase the bulk of the building when viewed from the street.
 - d. There is an existing fence along the property line on the north side that will screen the addition from immediate abutters.

PETITION NUMBER: #92-12

PETITIONER: Phillip Kret & Pinar Kilicci-Kret/ William Albert & Monica Mitra

LOCATION: 111 Pleasant Street, Section 64, Block 30, Lot 16 containing approximately 5,628 sq. ft. of land

OWNER: Phillip Kret & Pinar Kilicci-Kret/ William Albert & Monica Mitra

ADDRESS OF OWNER: 111 Pleasant Street

TO BE USED FOR: Two-family dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Section 30-21(b) to allow the extension of a nonconforming use, to allow an addition to a nonconforming structure which increases its degree of nonconformity with respect to side setback, to allow a decrease of nonconforming open space from 49% to 48%, to allow an increase in the nonconforming FAR from .72 to .76, and to allow an increase in the nonconforming lot coverage from 32.5% to 33.4%

ZONING: Single Residence 2

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. "Plot Plan of Land Prepared for Pinar Kilicci-Kret" dated February 13, 2012, by GRE Surveying LLC, not signed nor stamped.

- b. Architectural drawings as follows “Renovations to 111 Pleasant Street, Newton, MA” all drawn by Peter Wright Studio, Architects, dated February 7, 2012, including the following sheets:
 - i. “Proposed Rear Elevation”
 - ii. “Proposed Side Elevation”
 - iii. “Proposed Driveway Side Elevation”
 - iv. “A 4-1, Exterior Elevation”
 - v. “A 4-2, Exterior Elevation”
 - vi. “A 4-1, Exterior Elevation”
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Provided a plot plan of proposed conditions that is signed and stamped by a licensed civil engineer or land surveyor.
 - b. 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.
 - c. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 3. No 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 a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.