

Dear Alderman Hess-Mahan:

We, Wolfgang and Dorothea Rudolf, property owners of 58 Winthrop Street, contact you to respectfully request re-examination of the decision by the Land Use Committee from 8/5/14, granting relief pertaining to the Special Permit Petition # 227-14 of 64 Perkins Street. We are the abutters of this property along the rear yard.

Technical /Newton Zoning Law Ordinance reasons of concern:

- The property is a linear, in most parts 3-story non-conforming structure with a steeply pitched roof, placed on the small corner lot of 64 Perkins Street parallel to our house.
- The proposed extension would add a third story to a presently 2-story high segment of the house, creating a wall in front of our first and second floor living quarters, thereby completely blocking the south and south-westerly sun during the swing seasons and the winter months, and casting the entire side of our house into permanent shadow.
- A previous variance had allowed reduction of the front yard set back from 25 feet to 20 feet. The rear set back, directly abutting the length of our house, varies between 10.3 feet and 13.0 feet and is in violation of the 15 feet required by the Newton Zoning Ordinance for lots established before 12/7/1953.
- The existing FAR of 0.53, also already in excess of the maximum allowed FAR of 0.44, will increase to 0.59 by the proposed new structure. - Currently, no lot on the street has an FAR of more than 0.43 and most properties have a ratio of square footage to lot size of less than 30%.
- The maximum permitted number of stories in the SAR-2 zone is 2 ½ stories, and the existing mass of the building as well as the proposed mass extending/intensifying the non-conforming structure in a non-conforming rear set back is in violation of the Newton Zoning Ordinance.
- The proposed terrace structure is within the currently non-conforming rear set back
- Besides undermining the provision of the Newton Zoning Ordinance assuring adequate light and air, the proposed extension of the massing will have a negative impact on the value of our property.

Procedural reasons of concern:

- During the work session (8/5/ 2014) one of the Aldermen declared that the FAR regulations incorporated in the legal framework of the Newton Zoning Ordinance are to be viewed as guidelines, an interpretation that might not correspond with the intent of the Ordinance. Decisions based on the assumption that FAR restrictions are just guidelines would deserve further legal examination / may render the decision invalid.
- While the public hearing was in session, the petitioner submitted new drawings changing the scope of the project, consequently not allowing due process regarding the modification of the Public Hearing Memorandum and the Zoning Review Memorandum. In fact, during the work session some of the documents were still not updated, and the discussions were based on obsolete information.
- During the work session the petitioner submitted a sun study that was incorporated into the documentation constituting the basis for the vote without any review for correctness or applicability. (In the Public Hearing the petitioner had previously misrepresented the impact of sunshine and light for our property by discussing the east/morning sun; also the trees carry no leaves in the fall/winter/early spring months)

- During the Public Hearing and the work session ample discussion room was given to the petitioners while participation of the party impacted the most by the decision was constantly curtailed and handled with impatience. Also, the party's arguments submitted in written and pictorial form, as well as the critical arguments of neighbors were not even considered in the decision process.
- Beside us, three neighbors, including the side yard abutter, expressed their opposition during the public hearing to the proposed extension, deeming the project detrimental to the urban fabric.

- While we understand that a Special Permit is discretionary, that discretion should not be used to increase a non-conforming use. Nor should it be used to allow a single-family use that is substantially denser than permitted under current zoning terms. (No houses in the entire Winthrop Street and Perkins Street district are in such close proximity to each other)

- It is incomprehensible that there was not even the attempt to have a dialogue with the abutter, while the petitioner seemed to have all the right to argue for their project.

Thank you for your consideration.

Sincerely,  
Wolfgang and Dorothea Rudolf

P.S. Attached please find one image depicting the situation seen from our living quarters 58 Winthrop Street.

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