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**Barney S. Heath**  
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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** August 4 2017  
**MEETING DATE:** August 8, 2017  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Michael Gleba, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing and working session.

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**PETITION #183-17**

**11 Fairview Street; SPECIAL PERMIT/SITE PLAN APPROVAL** to construct a two-story addition and porch to the rear and side of the house and rebuild the existing front porch, continuing the non-conforming front setback and increasing the FAR from .54 to .64 where .48 is allowed

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The Land Use Committee (the "Committee") held a public hearing on July 11, 2017 on this petition. This memo reflects revised plans and additional information submitted by the petitioner as of August 3, 2017, as addressed to the Planning Department.

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**Updates:**

At the July 11 public hearing Planning Department staff was asked to communicate with the Engineering Division regarding its recommendation that the installation of rain barrels to collect roof water runoff would be sufficient to address site drainage issues. In a follow-up conversation, Engineering Division staff confirmed the recommendation, citing the scale of the addition and attendant modest increase in the amount of impervious surfaces on the lot.

Questions have also been raised regarding the existing and proposed grade of the site. In response the petitioner has provided additional drawings indicating that the parcel's grade will not be altered

with the proposed construction. Also, in response to concerns raised by abutting property owners, the petitioner has indicated that any removal and replacement of pavers on the patio in the rear of the property done will be done by hand. Submitted drawings now also indicate the limits to the area that will be disturbed in the course of construction of the addition by the proposed construction.

Lastly, the petitioner has provided a shadow study showing the shadows that indicates only marginally increased shadowing of adjoining properties during the examined times of the year.

**ATTACHMENT**

**Attachment A:** DRAFT Order

# ATTACHMENT A

DRAFT-- #183-17  
11 Fairview Street

CITY OF NEWTON  
IN CITY COUNCIL

August [REDACTED], 2017

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 continue the nonconforming front setback for eleven feet and extend it from 17.3 feet to 17.2 feet where 25 feet is the minimum allowed by right, and

further increase the nonconforming floor area ratio (FAR) from 0.55 to 0.65 where 0.48 is the maximum allowed by right,

as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed further continuance of the nonconforming setback for eleven feet and its reduction from 17.3 feet to 17.2 feet is not substantially more detrimental than the existing nonconforming setback is to the neighborhood given that the continuance is for an uncovered deck and the reduction is only approximately one inch (§3.1.3 and §7.8.2.C.2).
2. The proposed expanded structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be similar in regard to those characteristics of other dwellings in the surrounding area (§3.1.9).
3. The proposed increase in the structure's nonconforming floor area ratio (FAR) from 0.55 to 0.65 where 0.48 is the maximum allowed by right is not substantially more detrimental than its existing FAR is to the neighborhood as the proposed addition will conform with side and rear setback requirements and not be higher than the existing structure (§7.8.2.C.2).

PETITION NUMBER: #183-17

PETITIONER: Elias and Sonya Tembelopoulos

LOCATION: 11 Fairview Street, on land known as Section 71, Block 21, Lot 9, containing approximately 6,565 square feet of land

OWNER: Elias and Sonya Tembelopoulos

ADDRESS OF OWNER: 11 Fairview Street  
Newton, MA 02458

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3 and §7.8.2.C.2 to further extend a nonconforming front setback and §3.1.9 and §7.8.2.C.2 to further increase the nonconforming floor area ratio

ZONING: Single Residence 3 (SR3) 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. A site plan entitled "Plan of Land in Newton, MA, 11 Fairview Street, Existing Conditions," prepared by Everett M. Brooks Co., dated May 18, 2017;
  - b. A site plan entitled "Plan of Land in Newton, MA, 11 Fairview Street, Proposed Addition," prepared by Everett M. Brooks Co., dated June 8, 2017, signed and stamped by Bruce Bradford, Professional Land Surveyor, June 8, 2017;
  - c. Floor area ratio worksheets signed and stamped by Alan J. Mayer, Registered Architect:
    - i. 11 Fairview Stree (*sic*) (Tembelopoulos Residence)- Existing;
    - ii. 11 Fairview Street (Tembelopoulos Residence)- Proposed.
  - d. A set of architectural plans entitled "Tembelopoulos Residence, 11 Fairview Street, Newton, MA 02458", prepared by Mayer + Associates Architects, consisting of the following sheets:
    - i. Proposed Additions (A0-1), dated August 3, 2017;
    - ii. Existing Conditions- Basement Plan (A1-0), dated June 9, 2017;
    - iii. Existing Conditions- First Floor Plan (A1-1), dated June 9, 2017;
    - iv. Existing Conditions- Second Floor Plan (A1-2), dated June 9, 2017;
    - v. Existing Conditions- Third Floor Plan (A1-3), dated June 9, 2017;
    - vi. Existing Conditions- Exterior Elevations- Front Elevation (A2-1), dated June 9, 2017;

- vii. Existing Conditions- Exterior Elevations- Side Elevation (A2-2), dated June 9, 2017;
  - viii. Existing Conditions- Exterior Elevations- Side Elevation (A2-3), dated June 9, 2017;
  - ix. Existing Conditions- Exterior Elevations- Side Elevation (A2-4), dated June 9, 2017;
  - x. Proposed Alterations- Basement Plan (A3-0), dated June 9, 2017;
  - xi. Proposed Alterations- First Floor Plan (A3-1), dated June 9, 2017;
  - xii. Proposed Alterations- Second Floor Plan (A3-2), dated June 9, 2017;
  - xiii. Proposed Alterations- Third Floor Plan (A3-3), dated June 29, 2017;
  - xiv. Proposed Additions- Exterior Elevations- Front Elevation (A4-1), dated June 9, 2017;
  - xv. Proposed Additions- Exterior Elevations- Side Elevation (A4-2), dated June 9, 2017;
  - xvi. Proposed Additions- Exterior Elevations- Side Elevation (A4-3), dated June 9, 2017;
  - xvii. Proposed Additions- Exterior Elevations- Side Elevation (A4-4), dated June 9, 2017.
  - xviii. Sun Path Diagrams- March/September 21
    - xix. Sun Path Diagrams- June 21
    - xx. Sun Path Diagrams- December 21
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 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
  - e. Submitted a Final Landscape Plan to the Director of Planning and Development for review and approval.
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 and land surveyor 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 an architect and licensed land surveyor including the as built floor area ratio of the structure.
- c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features consistent with the approved Final Landscape Plan.