



#265-20

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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: July 7, 2020
Land Use Action Date: September 22, 2020
City Council Action Date: October 5, 2020
90- Day Expiration Date: October 5, 2020

DATE: July 2, 2020

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #265-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze an existing detached garage and construct a 2.5 story addition with a three car garage to the existing dwelling, increasing the nonconforming height and creating an FAR of .42 where .33 is allowed and .32 exists at 351 Otis Street, Ward 3, West Newton, on land known as Section 32 Block 03 Lot 15, containing approximately 18,681 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 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.



351 Otis Street

EXECUTIVE SUMMARY

The property located at 351 Otis Street consists of an 18,681 square foot lot in the Single Residence 2 (SR-2) zone in West Newton. The lot is improved with a nonconforming 3.5-story, single-family residence constructed circa 1894. The petitioners are seeking to raze the existing detached garage to construct a 2.5-story side addition with garage space at the first floor and living space above. As designed, the proposed addition would increase the floor area ratio from .32 to .42, where .33 is the maximum allowed, requiring a special permit. If approved, the dwelling will total 7,887 square feet, which is 1,722 square feet over the maximum square footage allowed by right. The proposed addition will also further increase the nonconforming height, requiring a special permit.

The addition is subordinate to the existing structure; even though the petition requires relief for the height of the structure, the height is only changing due to the average grade of the property being altered by the proposed addition. Other structures in the neighborhood have similar attached garage additions with living space above. Due to this, the Planning Department is unconcerned with the proposed addition that exceeds the FAR and increases the nonconforming height.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed addition. (§7.3.3.C.1)
- The proposed addition will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed addition will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in FAR from .32 to .42, where .33 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, and §7.8.2.C.2)
- The proposed increase in nonconforming height is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9, §3.1.3 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

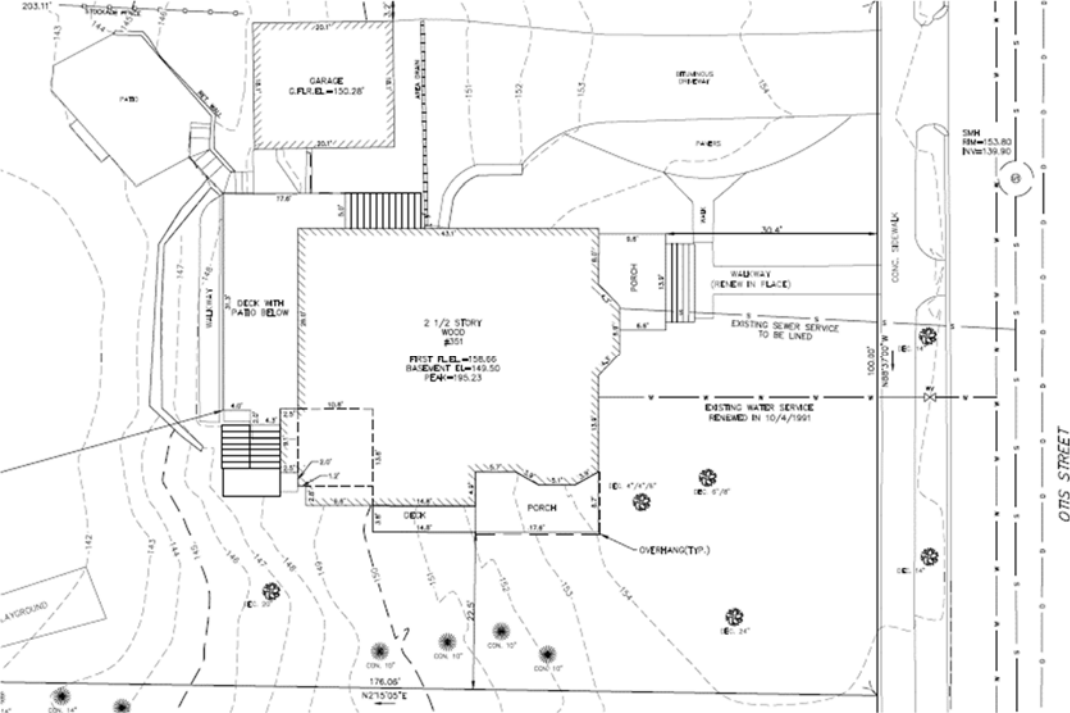
A. Neighborhood and Zoning

The subject property is located on Otis Street in the SR-2 zone in West Newton. The SR-2 zone is located on the northern side of Otis Street, while the SR-1 zone is located on the southern side of Otis Street (**Attachment A**). The surrounding land use of the neighborhood is single-family residential (**Attachment B**).

B. Site

The site consists of 18,681 square feet of land and is improved with a 3.5-story single-family dwelling. The lot is served by one curb cut providing access to an asphalt driveway and the detached garage. The detached garage has a nonconforming setback of 3.2 feet from the eastern property line, where five feet is the minimum allowed.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

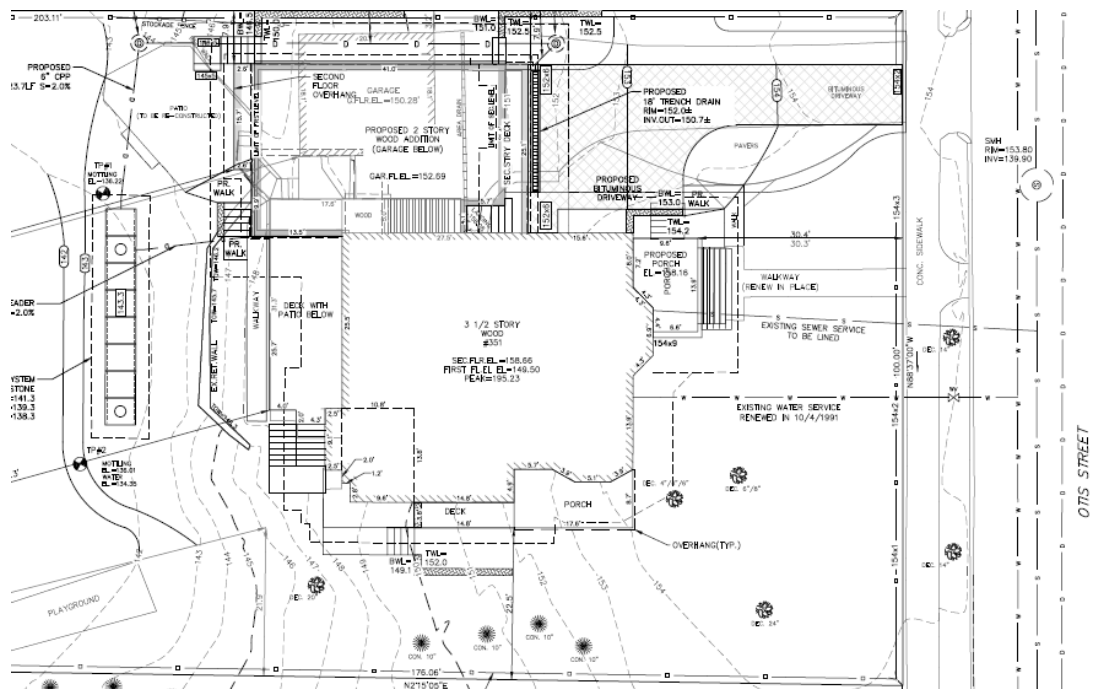
A. Land Use

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

B. Building and Site Design

The petitioners are seeking to raze the existing detached garage to construct a 2.5-story addition in approximately the same location as the existing garage. The 2.5-story addition will have room for three cars, two of which will be parking tandem style, on the first floor and living space on the second floor with a bedroom and office. The proposed addition adds approximately 1,841 square feet, resulting in a structure that would contain 7,887 square feet.

Proposed Site Plan



Due to the grade of the lot, the basement level is considered the first floor thereby classifying the dwelling as a nonconforming 3.5 story dwelling. Additionally, the building height is nonconforming at 43.68 feet where 36 feet is the maximum allowed. The proposed addition alters the average grade of the structure thus resulting in a technical increase in height. If approved, the height of the single-family home would change from 43.68 feet to 44.44 feet.

The addition exceeds the FAR allowed by right, increasing it from .32 to .42, where .33 is the maximum allowed by right, requiring a special permit. The proposed addition meets all other dimensional requirements.

Front Elevations



The Planning Department is unconcerned with the addition because it is subordinate to the existing structure, is consistent with the size and scale of the neighboring homes and eliminates the existing nonconforming side setback of 3.2 feet. There are similar attached garage additions with living space above in the neighborhood.

C. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

D. Landscaping

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 completed Zoning Review Memorandum, the petitioner is seeking the following relief:

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

B. Engineering Review

The impervious area is increasing by 604 square feet and will be reviewed by Engineering at the building permit stage.

C. Historic Preservation Review

This project was found to be historically significant by the Newton Historical Commission

on January 13, 2020. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit. and final approval of plans is required.

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

351 Otis Street

*City of Newton,
Massachusetts*

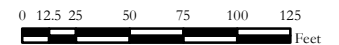
Zoning

-  Single Residence 1
-  Single Residence 2



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 - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 25, 2020



ATTACHMENT B

Land Use

351 Otis Street

*City of Newton,
Massachusetts*

Land Use

Land Use

 Single Family Residential

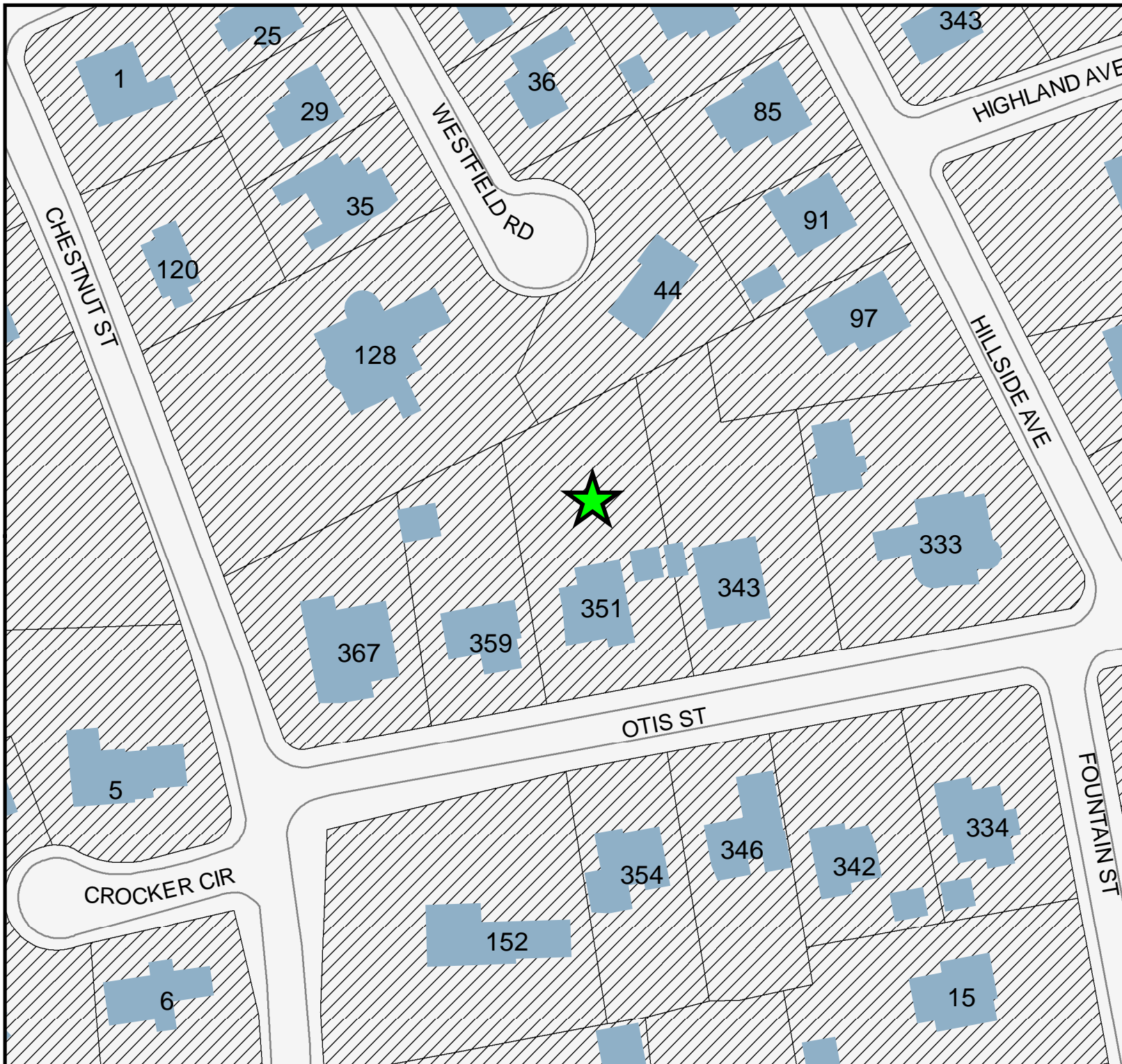


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: June 25, 2020





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 27, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Massimiliano Menozzi, Applicant
Peter Sachs, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to exceed FAR and to further increase nonconforming height

Applicant: Massimiliano Menozzi	
Site: 351 Otis Street	SBL: 32003 0015
Zoning: SR2	Lot Area: 18,681 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 351 Otis Street consists of an 18,681 square foot lot improved with a single-family residence constructed in 1894 and a detached garage. The petitioners propose to raze the detached garage and construct a 1,841 square foot two and one-half story addition to the existing dwelling. The proposed changes will increase the FAR beyond the maximum allowed and increase the nonconforming height, 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 3/11/2020
- FAR Worksheet, submitted 3/11/2020
- Existing Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/16/2019
- Proposed Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 3/9/2020
- Architectural Plans, signed and stamped by Peter Sachs, architect, dated 10/21/2019, revised 2/26/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to raze the 363 square foot detached garage and construct a 2.5-story addition of a three car garage with living space above, totaling 1,841 square feet. The addition results in a total square footage of 7,887 square feet. The existing FAR is .32, where .33 is the maximum allowed. The proposed addition results in an FAR of .42, exceeding the maximum allowed requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.
2. The existing single-family dwelling is nonconforming at 43.68 feet tall, where 36 feet in height is the maximum allowed in section 3.1.3. While the proposed additions do not extend above the existing roof, the proposed additions change the average grade around the structure, which further increases the nonconforming height to 44.44 feet, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	18,681 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front	25 feet	30.4 feet	No change
• Side	7.5 feet	22.5 feet	7.9 feet
• Rear	15 feet	89.3 feet	No change
Max Number of Stories	2.5	3.5	No change
Max Height	36 feet	43.68 feet	44.44 feet
FAR	.33	.32	.42
Max Lot Coverage	30%	12.4%	16.2%
Min. Open Space	50%	79.5%	77.3%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3, §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further increase nonconforming height	S.P. per §7.3.3

#265-20
351 Otis Street

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 exceed the floor area ratio (the "FAR") from .32 to .42, where .33 is the maximum allowed by-right, and to further increase the nonconforming height, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed increase in the FAR from .32 to .42, where .33 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 there are similar structures with garage additions and living space above in the neighborhood. (§3.1.3, and §7.8.2.C.2)
2. The proposed increase in nonconforming building height is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the principal roof line is not increasing. (§3.1.9, §3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #265-20

PETITIONER: Massimiliano Menozzi

LOCATION: 351 Otis Street, on land known as Section 32, Block 3, Lot 15, containing approximately 18,681 square feet of land

OWNER: Massimiliano Menozzi

ADDRESS OF OWNER: 351 Otis Street
Newton, MA 02465

TO BE USED FOR: Single Family Dwelling with side addition

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9 and §7.3.3 to exceed the floor area ratio; and §3.1.9 and §7.8.2.C.2 to further increase the nonconforming building height

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 Plans showing proposed conditions at 351 Otis Street, signed and stamped by Joseph Porter, Professional Land Surveyor, dated March 9, 2020
 - b. Architectural Plans, prepared by Peter Sachs, signed and stamped by Peter Sachs, Registered Architect, dated October 21, 2019, revised February 26, 2020 consisting of nine (8) sheets:
 - i. Proposed Basement Floor Plan, A2
 - ii. Proposed First Floor Plan, A3
 - iii. Proposed Second Floor Plan, A4
 - iv. Proposed Roof Plan, mistitled as Second Floor Plan, A5
 - v. Proposed Front Elevation, A6
 - vi. Proposed Right Elevation, A7
 - vii. Proposed Back Elevation, A8
 - viii. Proposed Section, A9
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 petitioner has:
 - 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. 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.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional land surveyor.
- c. 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.