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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 9, 2018
Land Use Action Date: March 27, 2018
City Council Action Date: April 2, 2018
90-Day Expiration Date: April 9, 2018

DATE: January 5, 2018

TO: City Council

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

SUBJECT: **Petition #21-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a first floor kitchen and mudroom and second floor bedroom and bath after razing the existing first floor bump out, creating an FAR of .47 where .44 is allowed and .40 exists at **43 Fisher Avenue**, Ward 6, Newton Highlands, on land known as Section 52 Block 13 Lot 06, containing approximately 7,430 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9.A.2 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.



43 Fisher Avenue

EXECUTIVE SUMMARY

The property at 43 Fisher Avenue consists of a 7,484 square foot lot in a Single Residence-2 (SR2) zoning district that abuts the Sudbury Aqueduct to the rear. It is improved with a 3,009 square foot, 2 ½ story single-family dwelling constructed in 1899 and “half” of a detached garage that is shared with an abutting property.

The petitioner proposes to expand the dwelling by enlarging the first floor for additional kitchen and dining area as well as a new “mudroom” space generally on the right (north) side of the house, and adding additional second floor space for a new bedroom and master bathroom on the rear of the dwelling above already existing first floor living and deck space. The proposed modifications, which would necessitate the demolition of a small “bump-out” on the right side of the first floor and the reconstruction of existing dining area space on the rear of the dwelling, would add approximately 525 square feet of floor area to the home.

As proposed, the additional space would increase the property’s floor area ratio (FAR) from 0.40 to 0.47, above the maximum 0.44 allowed by right per Section 3.1.9 (0.42 plus the .02 bonus for meeting new lot setback requirements), requiring a special permit pursuant to Section 3.1.9.A.2.

The Planning Department is generally unconcerned with the petition. The proposed additions are modestly scaled and would conform to other relevant dimensional requirements and have limited visual impact on adjoining public ways and properties. Furthermore, the proposed additions will help preserve an existing structure while allowing it to meet the needs of today’s families.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in FAR from 0.40 to 0.47, where 0.44 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 (§3.1.9.A.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the west side of Fisher Avenue, opposite that street’s intersection with Lakewood Road. The neighborhood is, with the exception of the Sudbury Aqueduct corridor that abuts the property to the rear (west), residential and predominantly occupied by single-family dwellings (an exception being a two-family dwelling directly across Fisher Avenue). The site and surrounding area is almost uniformly zoned Single Residence-2 (SR2), with exceptions including the Public Use (PUB) zoned Sudbury Aqueduct and a Multi-

Residence 1 (MR1) district located approximately 350 feet to the north at the intersection of Walnut Street and Berwick Road (**Attachments A & B**).

B. Site

The property consists of a 7,484 square foot lot improved with a 3,009 square foot, 2 ½ story single-family dwelling near the center of the property. The site also includes “half” of a detached garage that straddles the right (north) property line and is apparently shared with the lot that shares that boundary. Access to the garage is provided by a paved driveway and curb cut that also straddles the line. A retaining wall is located to the left of the driveway, requiring use of a small set of stairs to reach the dwelling.

The site features lawn area and some mature vegetation, including trees and shrubs. It slopes downward, approximately six feet from front to rear (east to west), towards the Sudbury Aqueduct corridor which is significantly lower than the property and can be accessed from the site by a set of stairs in the rear left of the lot. There is retaining wall along the rear of the property, near the property line shared with the Aqueduct.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioner proposes to expand the dwelling by enlarging the first floor for additional kitchen and dining area as well as a new “mudroom” space generally on the right (north) side of the house, and adding additional second floor space for a new bedroom and master bathroom on the rear of the dwelling above already existing first floor living and deck space.

The front porch would also be extended to the right, directly in front of the first floor addition. The proposed modifications, which would necessitate the demolition of a small “bump-out” on the right side of the first floor, would add approximately 525 square feet of floor area to the dwelling (182 square feet on the first floor, 237 on the second, and 106 in the basement) and would increase the property’s floor area ratio (FAR) from 0.40 to 0.47, above the maximum 0.44 allowed by right.

The proposed modifications would not increase the dwelling’s height. At its closest point from the right (north) side lot line the dwelling would be set back 24.2 feet, slightly closer than the existing 26 feet on that side and more than the required 7.5 feet (the left (south) side setback would remain at 30 feet). The rear setback would be 15.6, slightly less than the existing 16.5 feet but more than the required 15 feet.

The parcel’s lot coverage would increase slightly, from 16.8% to 17.8%, but remain well below the maximum 30% allowed. The open space on the parcel would remain virtually unchanged, going

from 71.5% to 70.8% and would remain well above the required 50%.

C. Parking and Circulation

No changes related to parking or circulation are contemplated by this petition.

D. Landscaping and Screening

No landscape plan was submitted with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- Special permit per §7.3.3 of Section 30, to exceed the maximum floor area ratio (FAR) (§3.1.9.A.2)

B. Engineering Review:

Review of this proposal by the Engineering Division is not required at this time. In the event this petition is approved the Engineering Division will review the project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit.

C. Newton Historical Commission

On August 21, 2017 Newton Historical Commission staff reviewed and approved the project based on submitted materials, requiring only the review of final plans.

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 B

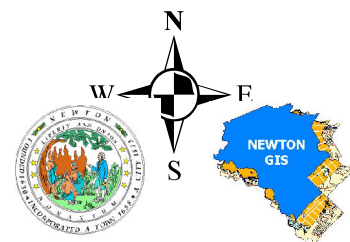
Zoning

43 Fisher Ave.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Public Use

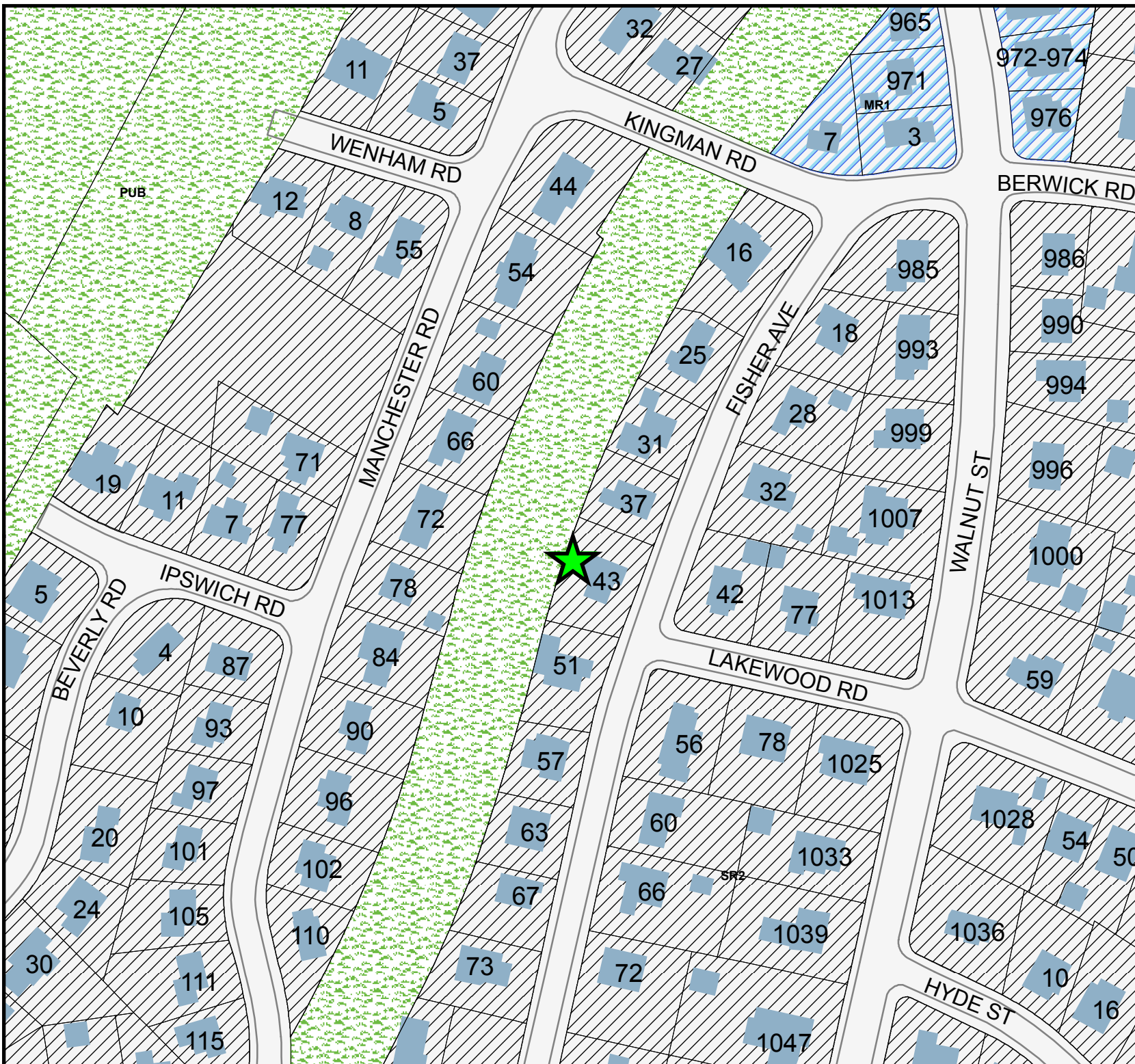


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

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

0 12.525 50 75 100 125 150 175
Feet

Map Date: December 22, 2017





Setti D. Warren
Mayor

ATTACHMENT C

City of Newton, Massachusetts
Department of Planning and Development

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 25, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Douglas Whitaker and Michelle de Montigny, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to exceed FAR**

Applicant: Douglas Whitaker and Michelle de Montigny	
Site: 43 Fisher Avenue	SBL: 52013 0006
Zoning: SR2	Lot Area: 7,484 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 43 Fisher Avenue consists of a 7,484 square foot corner improved with a single-family dwelling constructed in 1899 abutting the Sudbury Aqueduct to the west. The applicant proposes to raze an existing first floor half bath bump out, and construct a first floor kitchen and mudroom expansion, as well as a master bath and bedroom on the second floor. The proposed construction exceeds the maximum allowable FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Douglas Whitaker, applicant, submitted 8/17/2017
- Proposed Plot Plan, prepared by Joseph March, surveyor, dated 7/21/2017
- FAR worksheet, submitted 8/17/2017, revised 9/xx/2017
- Architectural Plans, prepared by Jacob Lilley, Architects, date d7/24/2017

ADMINISTRATIVE DETERMINATIONS:

- The applicant proposes to construct a first floor addition consisting of an enlargement to the kitchen and dining room, as well as a mudroom at the front of the house. A second floor addition of a new bedroom and a master bathroom is proposed at the rear. The proposed construction adds approximately 525 square feet of living space. The existing FAR for the property is .40, which is less than the allowable FAR of .44 per Section 3.1.9 (.42 plus the .02 bonus for meeting new lot setback requirements). The proposed additions create an FAR of .47, exceeding the maximum allowable FAR, requiring a special permit pursuant to Section 3.1.9.A.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,484 square feet	No change
Frontage	80 feet	95 feet	No change
Setbacks			
• Front	14.65 feet*	16.4 feet	No change
• Side	7.5 feet	26 feet	24.2 feet
• Rear	15 feet	16.5 feet	15.6 feet
Building Height	36	36 feet	No change
Max Number of Stories	2.5	2.5	2.5
Open Space Minimum	50%	71.5%	70.8%
Lot Coverage Maximum	30%	16.8%	17.8%
FAR	.44	.40	.47

*the front setback is determined by averaging the front setbacks of the two abutting properties, per section 1.5.3.B

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9.A.2	Request to exceed maximum FAR	S.P. per §7.3.3

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 increase the Floor Area Ratio (FAR) from 0.40 to 0.47 where 0.44 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 expanded structure that would result from the proposed increase in floor area ratio (FAR) from 0.40 to 0.47, where 0.44 is the maximum allowed by-right, will be 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 structures in the surrounding area and conform to other relevant dimensional requirements (§3.1.9).

PETITION NUMBER: #21-18

PETITIONER: Douglas Whitaker and Michelle de Montigny

LOCATION: 43 Fisher Avenue, on land known as Section 52, Block 13, Lot 6, containing approximately 7,484 square feet of land

OWNER: Douglas Whitaker and Michelle de Montigny

ADDRESS OF OWNER: 43 Fisher Avenue
Newton, MA

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3, to exceed the maximum floor area ratio (FAR) allowed by-right

ZONING: Single Residence 2 (SR2) 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 plan showing #43 Fisher Avenue entitled "Proposed Plot Plan in Newton Massachusetts," prepared by Stamski and McNary, Inc., dated July 21, 2017, stamped and signed by Joseph March, Professional Land Surveyor, on July 28, 2017.
 - b. A set of architectural plans entitled "Whitaker Residence, 43 Fisher Avenue, Newton, MA," prepared by Jacob Lilley Architects, dated July 24, 2017:
 - i. Existing Basement Plan (EX1.0)
 - ii. Existing First Floor Plan (EX1.1);
 - iii. Existing Second Floor Plan (EX1.2);
 - iv. Existing Attic Plan (EX1.3);
 - v. Existing Roof Plan (EX1.4);
 - vi. Existing East Facing Elevation (EX3.1);
 - vii. Existing South Facing Elevation (EX3.2);
 - viii. Existing West Facing Elevation (EX3.3);
 - ix. Existing North Facing Elevation (EX3.4);
 - x. Basement Plan (A1.0);
 - xi. First Floor Plan (A1.1);
 - xii. Second Floor Plan (A1.2);
 - xiii. Attic Plan (A1.3);
 - xiv. Roof Plan (A1.4);
 - xv. East Facing Elevation (A3.1);
 - xvi. South Facing Elevation (A3.2);
 - xvii. West Facing Elevation (A3.3);
 - xviii. North Facing Elevation (A3.4).
 - c. A document entitled "Floor Area Ratio Worksheet, 43 Fisher Ave." dated September 30, , signed and stamped by Jacob J. Lilley.
2. 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 Approval 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. 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Newton Historical Commission approving the final plans.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. 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 a registered architect certifying compliance with Condition #1, including the floor area ratio (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. 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.