



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

219-16
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 12, 2016
Land Use Action Date: September 26, 2016
City Council Action Date: October 3, 2016
90-Day Expiration Date: October 10, 2016

DATE: July 8, 2016

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #219-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to expand a nonconforming structure and further increase the already non-conforming floor to area ratio (FAR) from .42 to .46 where .38 is the maximum allowed by-right, at **21 Orient Avenue**, Ward 6, Newton Centre, on land known as SBL 64, 22, 01 containing approximately 10,018 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9, §7.8.2.C.2, §7.3.3, of Chapter 30 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.



21 Orient Avenue

EXECUTIVE SUMMARY

The property located at 21 Orient Avenue consists of a 10,018 square foot lot improved with a single-family residence built in 1910. The property is located in the Single Residence 2 zoning district in Newton Centre. The petitioner is proposing to demolish an existing sun porch and construct a 525 square foot attached garage in its place. To construct the garage, the applicant is seeking a special permit to further increase the existing non-conforming floor area ratio (FAR) from .42 to .46, where .38 is the maximum allowed by-right. If approved, the proposed addition will result in a net increase to the existing dwelling by 575 square feet (14%) for a total of 4, 653 square feet built on the lot.

The Planning Department is not concerned with the construction of the proposed addition on this single-family dwelling. The dwelling is located in a neighborhood of other similar largely-scaled dwellings and the addition will be keeping with the architectural detail of the residence. The proposed footprint addition is on the side of the structure, and will be set back from the street. For these reasons, the Planning Department believes the extension of a nonconforming structure with respect to an increase in FAR will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for the expanded residence (§7.3.3.C.1).
- The proposed increase in the nonconforming structure will not be significantly more detrimental than the existing nonconforming structure is to the neighborhood (7.8.2.C.2).
- The proposed increase in FAR from .42 to .46, where .38 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 and §7.3.3).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Orient Avenue, in a Single Residence 2 District. The neighborhood is comprised primarily of larger single-family residences, many of which are undergoing updates. The property is surrounded by residential uses on all sides, but is close to a Newton City Hall, Newton Public Library, and Newton Centre Playground. To the west, at the intersection of Homer and Walnut Streets is a stop for the 59 bus line with connections to Watertown Square and Needham Junction (**Attachments A & B**).

B. Site

The site consists of 9,988 square feet of land, and is improved with a 2.5 story single-family residence built in 1910. There is no garage on-site; vehicles are currently parked in the driveway with access from Oakwood Terrace. If approved, the current driveway will be filled and graded.

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 applicant is proposing to demolish an existing sun porch and construct a 525 square foot single-story attached two-car garage in its place. The garage will be served by a new driveway accessed from Orient Avenue. The existing driveway to the north of the structure will be filled in. The proposed additions will increase the existing dwelling by 575 square feet (14%) for a total of 4,653 square feet built on the lot.

C. Parking and Circulation

The petitioner is proposing a new two-car garage within the addition. The existing driveway to the north of the structure will be filled in.

D. Landscape Screening

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 with regard to zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.1.9 and §7.8.2.C.2 of Section 30, to exceed the maximum FAR;

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit should this project be approved.

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 A Zoning Map 21 Orient Ave.

*City of Newton,
Massachusetts*

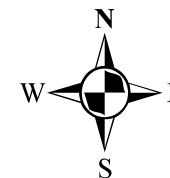
MORTON ST
COMMONWEALTH AVE

BOTHFELD RD

MANOR HOUSE RD

Legend

- Single Residence 2
- Building Outlines
- Surface Water
- Property Boundaries



OAKWOOD TER



IANEMET RD

ORIENT AVE

MORTON ST

KENWOOD AVE

ASHTON AVE



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 50 100
Feet

HOMER

Map Date: May 13, 2016

HOMER ST
ROLOTTE RD

Attachment B Land-Use Map 21 Orient Ave.

*City of Newton,
Massachusetts*

Legend

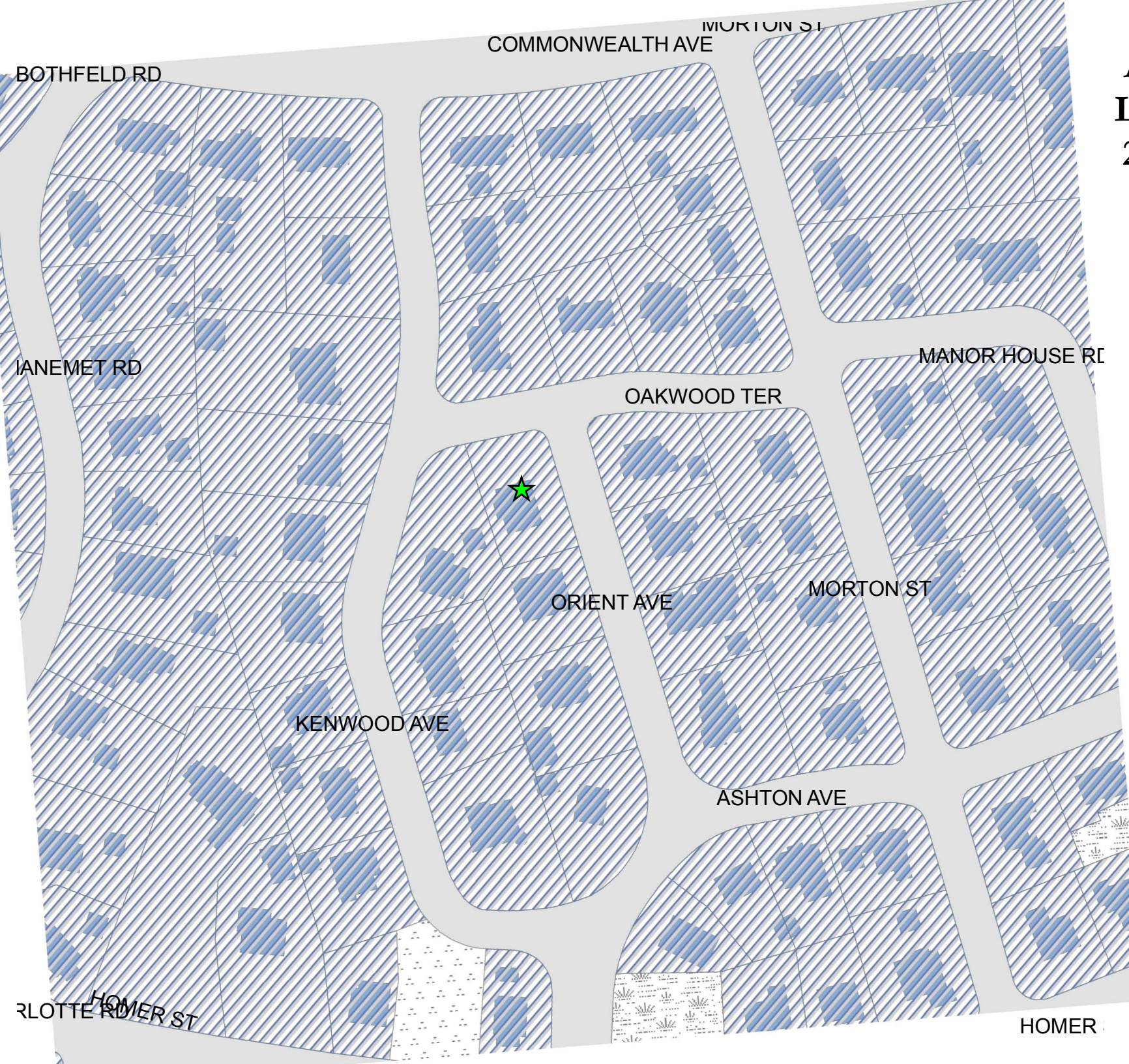
- Land Use**
- Land Use**
- Single Family Residential
- Mixed Use
- Vacant Land
- Building Outlines
- Surface Water
- Property Boundaries



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 50 100
Feet





Setti D. Warren
Mayor

ATTACHMENT C

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

219-16
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: May 11, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Louisa and Ryan Sylvia, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Louisa and Ryan Sylvia	
Site: 21 Orient Ave	SBL: 64022 0001
Zoning: SR-2	Lot Area: 10,018 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 21 Orient Ave consists of a 10,018 square foot lot at the corner of Orient Ave and Oakwood Terrace. The site is improved with a single-family residence constructed in 1910. The applicant proposes to remove an existing sun porch and construct a 575 square foot single-story garage and mudroom addition accessed off Oakwood Terrace, as well as a portico over the existing front porch. The garage addition will further increase the nonconforming 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 Louisa and Ryan Sylvia, applicants, submitted 4/5/2016
- FAR Worksheet, submitted 4/5/2016
- Plot Plan, signed and stamped by Bruce Bradford, dated 4/5/2016
- Architectural Plans, dated 3/30/2016
 - Existing floor plans
 - Proposed floor plans
 - Elevations

ADMINISTRATIVE DETERMINATIONS:

1. The applicants' existing FAR is .42, where .38 is the maximum allowed. The proposed addition adds 575 square feet to the dwelling, resulting in an FAR of .46. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.
2. The existing structure has a nonconforming rear setback of 8.8 feet, where 15 feet is required per Section 3.1.4. The applicant is proposing a single-story garage and mudroom addition consisting of 575 square feet, which extends the nonconforming rear setback. The proposed addition extends into the setback with approximately 188 square feet, which is less than the 200 square feet allowed in Section 7.8.2.D.2.c by de minimus, and therefore does not require relief for extension of the nonconforming rear setback.
3. The existing structure has a nonconforming front setback of 22.9 feet, where 24.8 feet is required per the averaging provision of Section 1.5.3.B. The applicant is proposing to construct a portico over the existing front porch within the existing footprint. The proposed addition does not further increase the nonconforming front setback, and is less than 75 square feet within the front setback. Pursuant to de minimus Section 7.8.2.D.2.h and i, no relief is required to construct the portico as proposed.
4. The abutting property at 20 Oakwood Terrace is situated 21.9 feet from the front lot line. Utilizing the front lot setback averaging provision of Section 1.5.3.B, the required front setback from Oakwood Terrace is 23.5 feet. The applicants propose a front setback for the new garage construction of 23.8 feet, which meets the front setback requirement and does not require relief.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,018 square feet	No change
Frontage	80 feet	109 feet	No change
Setbacks			
• Front (Orient Ave)	24.8 feet	22.9 feet	No change
• Front (Oakwood Tr)	23.5 feet	>30 feet	23.8 feet
• Side	7.5 feet	30 feet	No change
• Rear	15 feet	8.8 feet	7.3 feet
Building Height	36	32.9 feet	No change
Max Number of Stories	2.5	2.5	No change
FAR	.38	.42	.46
Max Lot Coverage	30%	16.9%	22.2%
Min. Open Space	50%	76%	67%

1. See "Zoning Relief Summary" below:

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

ATTACHMENT D
#219-16
21 Orient Avenue

CITY OF NEWTON
IN CITY COUNCIL

August 8, 2016

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 FAR from .42 to .46, where .38 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 site is an appropriate location for the proposed addition. (§7.3.3.C.1)
2. The proposed increase in FAR from .42 to 0.46, where .38 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 and §7.8.2.C.2) because
 - a. The proposed addition will provide shelter and remove the vehicles from view; and
 - b. The proposed addition will be in keeping with the architectural style of the existing dwelling.
3. The proposed increase in the nonconforming structure will not be significantly more detrimental than the existing nonconforming structure is to the neighborhood because the garage will replace an existing sun porch and comply with dimensional regulations, with the exceptions of FAR and rear yard setback (§7.8.2.C.2).

PETITION NUMBER: #132-16

PETITIONER: Louisa Sylvia

LOCATION: 21 Orient Avenue, on land known as Section 64, Block 22, Lot 01, containing approximately 10,018 square feet of land

OWNER: Louisa Sylvia

ADDRESS OF OWNER: 21 Orient Avenue
Newton, MA 02465

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.8.2.C.2 to increase a nonconforming structure and further increase the non-conforming FAR

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 Plan, 21 Orient Avenue, signed and stamped by Michael S. Kosmo, Civil Engineer and Bruce Bradford, Professional Land Surveyor, dated 6/1/2016
 - b. Architectural Plans and Elevations, consisting of five (5) sheets:
 - i. Garage and Mudroom Addition Plan, dated 5/19/2016
 - ii. Additional Roof Plan, dated 5/19/2016
 - iii. Front Elevation, dated 5/19/2016
 - iv. Garage Side Elevation, dated 5/19/2016
 - v. Portico Elevations, dated 5/19/2016
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 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.
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 or

- land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
- b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.