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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	November 15, 2016
Land Use Action Date:	January 24, 2017
City Council Action Date:	February 6, 2017
90-Day Expiration Date:	February 13, 2017

DATE: November 11, 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 #339-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a non-conforming three-story single-family structure by constructing a three-story addition at **44 Oakmont Road**, Ward 6, Newton Centre, on land known as SBL 65, 19, 77 containing approximately 7,840 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. §1.5.4.D, §3.1.3, §7.8.2.C.2, 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.



44 Oakmont Road

EXECUTIVE SUMMARY

The property located at 44 Oakmont Road consists of a 7,840 square foot lot improved with a single-family residence circa 1947. Due to the average grade of the property, which slopes down towards the rear property line, the basement is classified as a story; therefore the structure contains three stories, where 2.5 is the maximum allowed. The petitioners are proposing to construct a rear addition to all three stories which will further increase the nonconforming number of stories, thereby requiring a special permit. If approved, the proposed addition will result in a net increase to the existing structure by 1,885 square feet (98%) for a total of 3,798 square feet built on the lot.

The Planning Department notes that the dwelling is located in a neighborhood that was constructed on a hillside; therefore the topography of the individual lots lends the basements of these structures to be classified as a story. In addition, three-story structures in this neighborhood, and others in the Single Residence 3 zone, were by-right until the early 2000s when the maximum number of stories allowed by-right was decreased to 2.5. As a result, many of the structures in the neighborhood have three stories and are legally nonconforming. The petition complies with all dimensional controls, including FAR and new lot setbacks. Finally the Planning Department notes that although the addition is large, the petitioners are preserving the existing structure and streetscape. For these reasons, the Planning Department believes the addition which further increases the nonconforming number of stories is not 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 proposed addition which further increases the nonconforming number of stories is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§1.5.4.D, §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 Oakmont Road, in a Single Residence 3 District in Newton Centre. Oakmont Road is comprised entirely of single-family residences. The property's rear lot line directly abuts the athletics field of the Bowen School **(Attachments A & B)**.

B. Site

The site consists of 7,840 square feet of land, which slopes down from the front of the lot towards the rear creating the appearance of a two story structure from the front, but a three story structure from the sides and rear. The property is located on a bend the in the road which, along with the existing vegetation, helps screen

the structure from the street. There is an existing curb-cut to the left of the structure leading to a small parking area and a one-car garage in the basement. The architecture of the structure can be described as American Foursquare.

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 petitioners are seeking to construct a rear addition to create more living space on all three stories. The basement addition will contain a playroom, office, bathroom and storage space, while the first floor will contain an enlarged kitchen and family room. The second floor will contain a master suite and laundry room.

To construct the addition, the existing deck at the rear of the structure will be demolished and the building footprint will be extended approximately 27.5 feet towards the rear lot line; this extension will decrease the rear setback from 33 feet to 18.5 feet. The Planning Department notes there is no neighbor to the rear, only the Bowen athletic fields which are screened by the existing mature vegetation on site.

When viewing the structure from the street, the addition will reach a height of 29.1 feet, which is approximately 2 feet taller than the existing structure; this difference in height creates the appearance of a colonial revival roofline. To avoid the look of a continual wall plane, the left and right sides of the structure will be "hipped" to break the structure up into three segments: the existing structure, the addition, and the rear of the addition, which will utilize columns for a proposed rear porch on the first floor and basement levels. The Planning Department notes the addition is taller than the existing structure, although it is not clear how apparent this will be from the street.



Proposed Front View

Proposed Right View

If the project is approved, addition would enlarge the existing house by 1,885 square feet (98%), for a total of 3,798 square feet built on the lot. The Planning Department notes the structure will be among the largest in the neighborhood. However, the property will remain compliant with all dimensional controls of the SR-3 zone, including FAR, new lot setbacks, lot coverage, and open space.

C. Parking and Circulation

There is an existing 10 foot curb cut leading to a driveway at the west side of the structure which will remain. The driveway will be widened and reoriented to allow for two vehicles to park side by side. Starting at approximately 12 feet from the street, the driveway be enlarged, reaching a maximum width of 20 feet, leading to the proposed parking area. The enlarged driveway will be supported with a retaining wall. The height of the wall is undetermined at this time, but will not be greater than 4 feet because of its location within the setback.

D. Landscape Screening

The existing driveway and parking area at the west side of the structure are screened by mature vegetation, however it is expected that some of this will be removed to accommodate the enlarged driveway. The Planning Department suggests the petitioner restore this buffer as a condition of approval.

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:

- §1.5.4D, §3.1.3, and §7.8.2.C.2 of Section 30, to further increase the nonconforming number of stories.

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.

C. Historic Review

Since the petitioners are seeking to demolish more than 50% of a side of the structure, which is more than 50 years old, the petition required review from the Senior Preservation Planner; the demolition was approved per the submitted plans.

V. PETITIONER'S RESPONSIBILITIES

If the project is approved, the petitioner shall submit a landscape plan showing the number and types of plantings to screen the enlarged driveway and parking area.










ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Order

Attachment A Zoning Map Oakmont Rd., 44

*City of Newton,
Massachusetts*

Legend

-  Single Residence 1
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

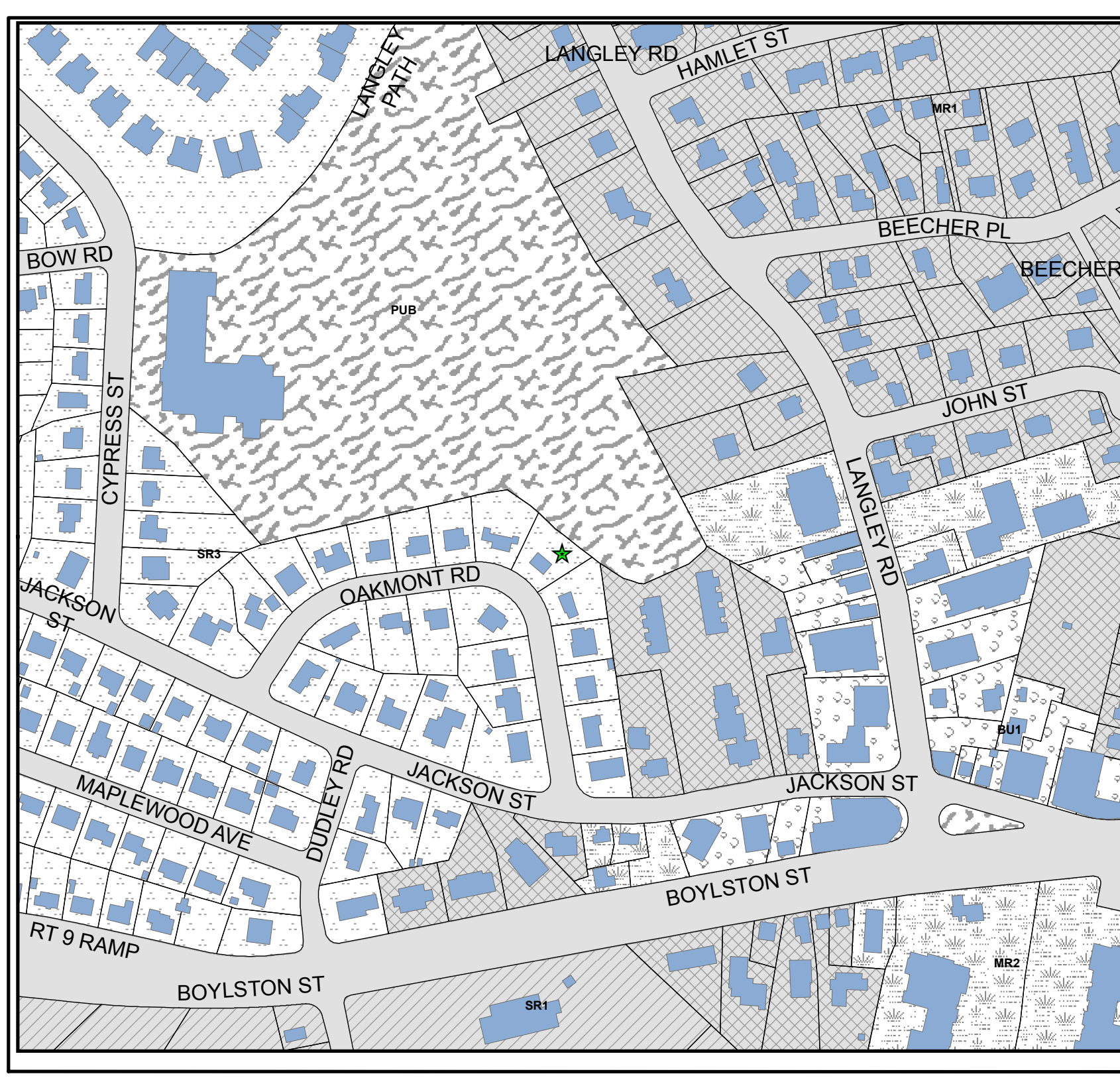


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

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Feet

Map Date: October 26, 2016











Attachment B Land-Use Map Oakmont Rd., 44

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

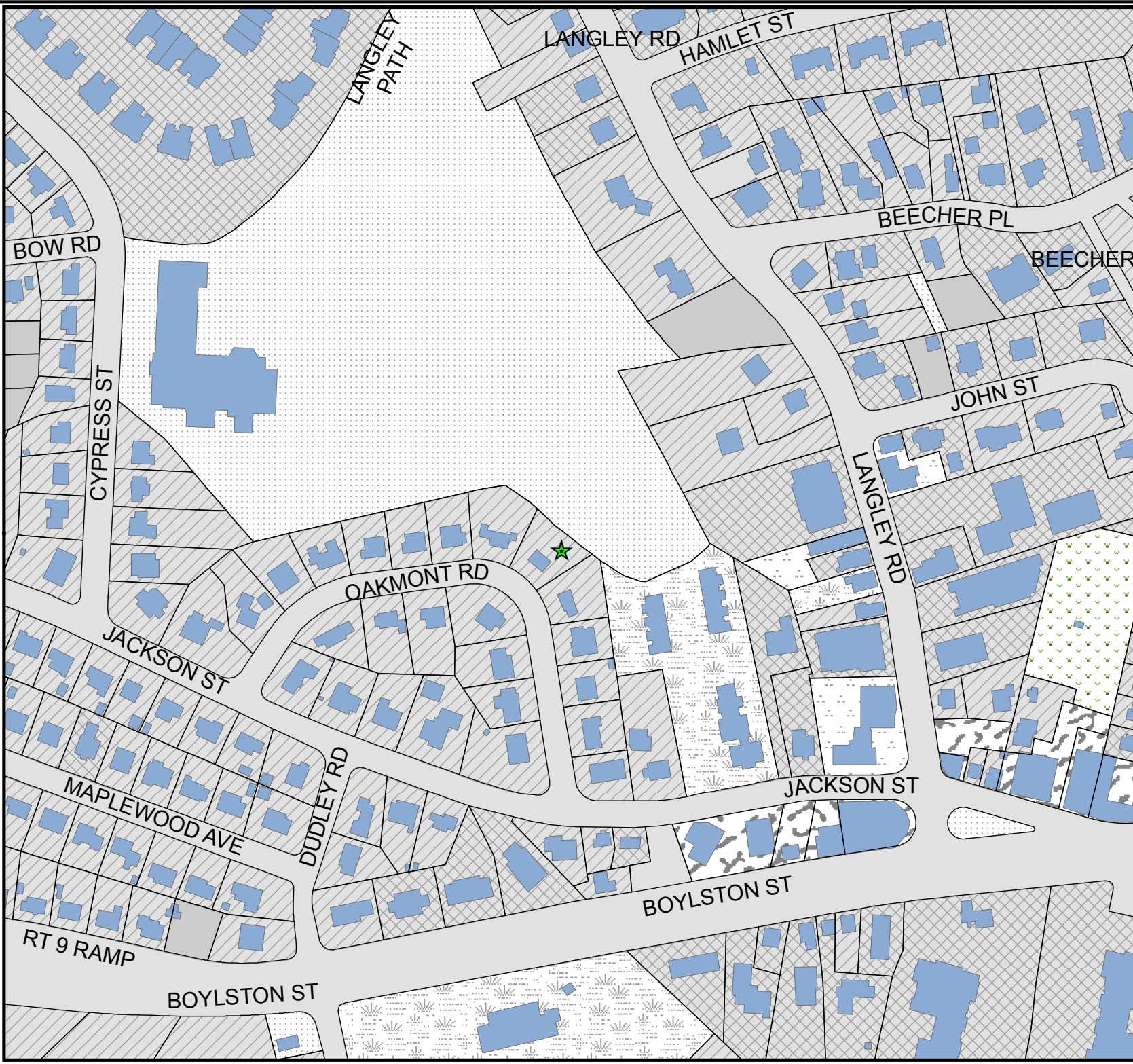


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Attachment C

City of Newton, Massachusetts

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 5, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Alan Mayer, architect
Ana and Matthew Vopi, applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend a nonconforming three-story single-family structure

Applicant: Ana and Matthew Vopi	
Site: 44 Oakmont Road	SBL: 65019 0077
Zoning: SR3	Lot Area: 7,840 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 44 Oakmont Road consists of a 7,840 square foot lot improved with a single-family dwelling constructed in 1947. Due to the average grade of the property, the basement counts as the first story, creating a three-story structure, where 2.5 is the maximum allowed. The applicant proposes to construct a rear addition adding to the basement, first floor and second floor levels, which will further increase the nonconforming third story, 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 3/23/2016
- FAR Worksheet, submitted 8/19/2016, revised 10/5/2016
- Site Plan, existing conditions, prepared by Everett M. Brooks, surveyor, dated 6/15/2016
- Site Plan, proposed conditions, signed and stamped by Bruce Bradford, surveyor, dated 6/15/2016
- Architectural Plans, existing and proposed, prepared by Mayer & Associates, architect, dated 8/18/2016
 - Basement Floor
 - First Floor
 - Second Floor
 - Elevations

ADMINISTRATIVE DETERMINATIONS:

1. The average grade plane surrounding the structure creates 3 stories per Section 1.5.4.D through F. Section 3.1.3 allows a maximum of 2.5 stories in the SR3 zoning district by right. To add third floor space further increases the nonconformity of the number of stories. A special permit pursuant to Sections 3.1.3 and 7.8.2.C.2 is required to further increase the already nonconforming number of stories.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	7,840 square feet	No change
Frontage	70 feet	59 feet	No change
Setbacks			
• Front	25 feet	21.9 feet	No change
• Side	7.5 feet	17.3 feet	No change
• Rear	15 feet	33.3 feet	18.5 feet
Building Height	36	27.2 feet	29.1 feet
Max Number of Stories	2.5	3	No change
FAR	.48 (.46 + .02 bonus)	.24	.48
Max Lot Coverage	30%	8.2%	17.1%
Min Open Space	50%	78%	70%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§1.5.4.D §3.1.3, §7.8.2.C.2	Request to further increase nonconforming number of stories	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

November 21, 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 further increase the nonconforming number of stories to three, where 2.5 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 addition which further increases the nonconforming number of stories will not be substantially more detrimental than the existing non-conforming structure is to the surrounding neighborhood because:
 - a. The neighborhood contains many three story structures due to the topography of the area.
 - b. The proposed addition is to the rear of the existing structure which will preserve the existing streetscape; and
 - c. The property will remain compliant with all dimensional controls of the Single Residence 3 zone, including FAR, new lots setbacks, and building height.
(§1.5.4.D, §3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #339-16

PETITIONER: Matthew and Ana Volpi

LOCATION: 44 Oakmont Road, on land known as Section 65, Block 19,
Lot 77, containing approximately 7,840 square feet of land

OWNERS: Matthew and Ana Volpi

ADDRESS OF OWNER: 44 Oakmont Road
Newton, MA 02459

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §1.5.4.D, §3.1.3 and §7.8.2.C.2, to further increase the nonconforming number of stories

ZONING: Single Residence 3 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. Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 6/15/2016, revised 9/29/2016, 10/3/2016, and 10/4/2016
 - b. Architectural Plans and Elevations, unsigned and unstamped by Mayer + Associates, Architects, consisting of fourteen (14) sheets:
 - i. Existing Conditions, Basement Plan, A1-0, dated 10/3/2016
 - ii. Existing Conditions, First Floor Plan, A1-1, dated 10/3/2016
 - iii. Existing Conditions, Second Floor Plan, A1-2, dated 10/3/2016
 - iv. Existing Exterior Elevations, Front Elevation, A2-1, dated 10/3/2016
 - v. Existing Exterior Elevations, Side Elevation, A2-2, dated 10/3/2016
 - vi. Existing Exterior Elevations, Rear Elevation, A2-3, dated 10/3/2016
 - vii. Existing Exterior Elevations, Side Elevation, A2-4, dated 10/3/2016
 - viii. Proposed Additions, Basement Plan, A3-0, dated 10/3/2016
 - ix. Proposed Additions, First Floor Plan, A3-1, dated 10/3/2016
 - x. Proposed Additions, Second Floor Plan, A3-2, dated 10/3/2016
 - xi. Proposed Additions, Front Elevation, A4-1, dated 10/3/2016
 - xii. Proposed Additions, Side Elevation, A4-2, dated 10/3/2016
 - xiii. Proposed Additions, Rear Elevation, A4-3, dated 10/3/2016
 - xiv. Proposed Additions, Side Elevation, A4-4, dated 10/3/2016
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.
 - e. Provided a landscape plan to the Director of Planning and Development detailing the number and types of plantings to restore the buffer along the western boundary.
 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.
 - d. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials and features.
 4. Notwithstanding the provisions of #4c above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to the installation of final landscaping provided that the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping.