

Tim Adler
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To: Land Use Committee of the Board of Aldermen

From: Tim Adler

May 22nd, 2012

Re: Petition #93-12 Comment on the Planning Department Memo dated May 18, 2012

We respectfully offer some comments on the Planning Department memo dated May 18, 2012.

1. The memo restates the Planning Department's position that if approved "it will be the first new house allowed to exceed the new maximum FAR requirements". We remain unsure why this fact should negatively reflect upon the merits of our application. Both the new and old FAR rules contain provisions for a special permit process that, should the Aldermen approve, allows for waivers from FAR and other requirements for applications of merit. It seems unreasonable, and in fact extremely unfair, to penalize our application only because we happened to apply soon after the FAR rules were revised.
2. The memo also states that variations from FAR requirements have historically been granted for additions to existing houses. We completely understand and support the preference for maintaining and where appropriate expanding existing housing, especially that with historical significance. We note that this preference is clearly embedded in the new FAR rules through the .05 bonus given for additions to existing structures. However, we strongly disagree with the Planning Department's inference that this preference for expanding existing housing stock should extend to an automatic negative determination for special permit requests for appropriate new construction with extenuating circumstances.
3. In the final paragraph, the memo states that neighborhood structures that no longer meet current zoning standards should be excluded from any sample to determine what is reasonable and appropriate for the same neighborhood. The department's position seems inconsistent with the special permit criteria defined in the revised ordinance "*An increased FAR may be allowed by special permit if the proposed structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood*". This language does not appear to restrict the neighborhood sample to only those structures meeting current zoning standards. Further, we are not suggesting that our design is similar in visible massing as those we presented at the public hearing. Our structure presents significantly smaller massing than those examples, and we included those examples *only* to establish that our structure is *clearly not* "in derogation in size, scale and design in the neighborhood".
4. The memo states that "Floor area ratio is used to measure the intensity and amount of construction on a lot". However, this is not the only metric the zoning ordinance uses to limit the size of construction. As our zoning review reveals, our proposed design meets the seven other dimensional controls including all setbacks, the building height, the maximum stories, the maximum coverage and the minimum open space. Additionally, the Zoning Ordinance recognizes that a technical formula such as the FAR, cannot necessarily account for all the nuances of specific designs and specific lot characteristics, and allows the Aldermen discretion to override these when deemed appropriate.

5. The memo states the planning department's view that "there do not appear to be any extenuating circumstances" at this lot, yet the memo later states that the lot is an "environmentally sensitive site". The first statement appears to contradict the second statement. Moreover, the first statement also appears to contradict the Planning Department's own online document "Special Permits Step-by-Step" where the first unusual site feature listed that might justify a special permit is "environmental constraints"ⁱ. Sensitivity to the environment, in combination with our relatively narrow lot, *has* significantly shaped our design and contributed to the need for a special permit. Without these extenuating circumstances it is likely that we could have:
- Expanded the current house (gaining a FAR bonus), or,
 - Built a new house that conformed to the new setbacks (gaining a FAR bonus), or,
 - Possibly redistributed the house closer to the lake with a more conventional design and avoided the need for a special permit
6. We agree with the memo's statement that ours is an "environmentally sensitive site". We have been sensitive to environmental considerations throughout this process and in fact were in touch with the Senior Conservation Planner prior to even submitting an offer to purchase (June 2011). Arguably, our proposed structure is more sensitive to the lake than the current structure. As noted on the site drainage plans developed in consultation with Conservation, and available for review at the Working Session, the proposed structure will entirely capture all run-off from the house and decks and redirect it to dry-wells. The current structure does not do this. Other environmental considerations include:
- As mentioned at the public hearing, we intend to only use organic lawn care products (as we do now at our house in Medford) and avoid the environmentally harmful ice/snow melt products (as we also do now) that might damage the lake.
 - We intend to significantly reduce the amount of fossil fuels burned at site through a closed-loop Geothermal heating and cooling systemⁱⁱ. These systems are highly efficient and emit no pollutants.
 - We have consulted with an arborist experienced in working around Crystal Lake and will retain him to address some residual issues and ensure the future health of the trees on the property.

Thank you for your time and consideration.

Sincerely,



Timothy Adler

ⁱ <http://www.newtonma.gov/civica/filebank/blobdload.asp?BlobID=32194>

"They'll consider by-right alternatives and whether unusual site features limit the ability to build a by-right project on the site; these could include environmental constraints (such as wetlands), significant vegetation, unusual topography or lot shape ..."

ⁱⁱ While we have had detailed discussions with several providers, this is still subject to final site evaluation and permitting approval.