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Mayor

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Candace Havens  
Director

**MEMORANDUM**

Public Hearing Date: June 12, 2012  
Land Use Action Date: August 21, 2012  
Board of Aldermen Action Date: September 4, 2012  
90-Day Expiration Date: September 10, 2012

DATE: June 8, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning<sup>ET</sup>  
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #135-12 DINO ROSSI/MARY VISCO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE along the frontage, but not closer to the lot line, and increase the Floor Area Ratio from .31 to .57, where .48 is allowed by-right, at 258 NEVADA STREET, Ward 1, on land known as SBL 14, 8, 16, containing approximately 11,122 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b), 30-15(u) of the City of Newton Rev Zoning Ord, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**EXECUTIVE SUMMARY**

The site consists of 11,122 square feet of land improved with a two-family dwelling, built circa 1870 in a Multi-Residence 1 district. The proposal is to expand the historic structure in order to create two larger dwelling units. The expansion will increase the floor area ratio (FAR) from .31 to .57, where .48 is allowed by right. The living space will be reconfigured so that one of the units will occupy the historic structure and the newly constructed addition will house the second dwelling unit. The existing structure is nonconforming with respect to front setback on Linwood Avenue and the addition will be extended within the front setback, but will not project any closer to the street. The petitioner is proposing four curb cuts on two streets. The Planning Department recommends revising the site design to have a parking and circulation arrangement that minimizes the number of curb cuts. The petitioner is also encouraged to consider redesigning the Linwood Avenue elevation to break up the massing of this elevation so that it is more compatible with the smaller buildings on Linwood Avenue.

**I. SIGNIFICANT ISSUES FOR CONSIDERATION:**

When reviewing this petition, the Board should determine whether the following apply:

- 1) The extension of a structure, which is nonconforming with respect to front setback, will not be substantially more detrimental to the neighborhood because the proposed expansion will not project any closer to the street than the existing structure.
- 2) The increase in FAR from .31 to .57, where .48 is allowed by right will not be in derogation of the size, scale, or design of the neighborhood.



219-221 A Nevada St.

246-248 Nevada St.

262 Nevada St.

**II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD:****A. Neighborhood and Zoning**

The site is located on the corner of Nevada Street and Linwood Avenue in Nonantum within an area predominantly developed with multi-family housing. These multi-family homes are generally two-family structures built in the early to mid-twentieth century. Properties on the northern side of Linwood Avenue, just across from the site are improved with smaller single-family homes. At the

intersection of Linwood Avenue and Nevada Street, two of the four corner lots have been improved with by-right expanded multi-family dwellings. Most notable are 246-248 Nevada Street and 219-221A Nevada Street. The neighborhood is in transition and these two properties are indicative of the new context. The zoning is mostly Multi-Residence 1 with some Multi-Residence 2 in the vicinity.

B. Site

The site consists of 11,122 square feet of land improved with a colonial two-family home. A metal garage to the rear of the primary structure is serviced by a bituminous driveway off of Linwood Avenue. There is a retaining wall along the Nevada Street frontage.

### III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The proposal is to maintain the two-family residential use of the property, reconfiguring and expanding the units.

B. Building and Site Design

The existing dwelling will be converted from a two-unit building to a one-unit building. A second dwelling unit will be added to the rear in a footprint that is a mirror image of the existing house. The Nevada Street elevation will essentially remain as is and the building will be expanded, elongating the Linwood Avenue elevation. Garage-under parking will be provided for one vehicle per unit.

The petitioner has made an effort to mimic the architecture of the existing house in the addition. However the Newton Historical Commission recommended that the addition be stepped back from the historic façade. The Planning Department has acknowledged that this neighborhood is one in transition, but believes that the relief for FAR is significant. Further, the Linwood Avenue elevation would have less impact on the neighborhood if the overall massing were broken up. In addition, if this elevation is stepped back in accordance with this recommendation, two cars could fit tandem (one in the garage and one in the driveway in front), eliminating the need for four curb cuts.

C. Parking and Circulation

The site will be serviced by four driveways. Three driveways will be off of Linwood Avenue and one will be off of Nevada Street. Each unit will have a one-car garage off of Linwood Avenue with two additional parking stalls accessed by two additional curb cuts. As noted above, the petitioner should reconsider the access to the site and should reduce the curb cuts in the interest of public safety.

D. Landscaping

A landscape plan should be submitted prior to the working session. The petitioner is seeking relief for FAR and landscaping is often effective in mitigating the impact of a larger structure on the surrounding neighborhood.

IV. COMPREHENSIVE PLAN

The *Newton Comprehensive Plan* recommends encouraging the preservation of existing housing units that may be threatened with demolition. This proposal accomplishes this objective.

V. TECHNICAL REVIEW

A. Technical Considerations

Since the property is a corner lot, it has two front setbacks along both Nevada Street and Linwood Avenue. The current structure is nonconforming with respect to the front setback from Linwood Avenue and the addition will increase this nonconformity. The petitioner is proposing to increase the FAR from .31 to .57, where .48 is allowed by right. The two interior parking stalls are located within the extended nonconforming structure and do not require additional relief.

B. Engineering Review

The Planning Department has not received the Engineering review but expects to have it prior to the working session.

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum ("ATTACHMENT C"), the petitioners are seeking the following reliefs:

- Section 30-21(b) to extend a structure which is nonconforming with respect to front setback
- Section 30-15(u) and 30-15(u)(2) to allow an FAR of .57 where .48 is allowed by right

**VII. PETITIONERS' RESPONSIBILITIES**

- The petitioner should submit a landscape plan for review prior to the working session

**ATTACHMENTS:**

**ATTACHMENT A: VICINITY LAND USE MAP**

**ATTACHMENT B: VICINITY ZONING MAP**

**ATTACHMENT C: ZONING REVIEW MEMO**

135-12  
**258 Nevada Street**

# Land Use

*City of Newton,  
Massachusetts*



**Legend**

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space



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 - Seth D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: June 06, 2012

Attachment A

135-12  
**258 Nevada Street**  
**Zoning**

*City of Newton,  
 Massachusetts*



**Legend**

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2



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



Map Date: June 06, 2012

Attachment B



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**ZONING REVIEW MEMORANDUM**

Date: April 25, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning *ET*

Cc: Terrence P. Morris, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to extend a nonconforming structure and exceed allowed FAR**

Applicant: Dino Rossi	
Site: 258 Nevada Street	SBL: 14008 0016
Zoning: MR1	Lot Area: 11,122 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling

**BACKGROUND:**

The property at 258 Nevada Street consists of an 11,122 square foot lot currently improved with a two-family dwelling. The applicant proposes to construct an addition to the rear of the existing structure and reconfigure and enlarge the dwelling units.

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

- Architectural plans, signed and stamped by Steven J. Petitpas, dated 3/14/12
  - SK12 – Floor Plans
  - SK13 – Elevations
- Existing site plan, unsigned and unstamped by VTP Associates, Surveyors, dated 2/8/12
- Proposed site plan, unsigned and unstamped by VTP Associates, Surveyors, revised 3/15/12
- A letter, signed by Commissioner John Lojek clarifying the interpretation of setbacks for the property, dated 4/20/12

**ADMINISTRATIVE DETERMINATIONS:**

1. The applicant proposes to reconfigure the existing two-family use so that one unit will occupy the existing structure and a second unit will occupy the proposed addition. The Commissioner of Inspectional Services has determined that the proposed structure meets the definition of a two-family dwelling. Therefore the proposed use is allowed by right.



2. The property is in the MR1 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a post-1953 lot (see chart below). The Commissioner of Inspectional Services has determined that the existing side and rear lot lines will continue to apply to the new addition.

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	11,122 square feet	No change
Lot Area Per Unit	5,000 square feet	5,561 square feet	No change
Frontage	80 feet	150 feet	No change
Setbacks			
• Front	30 feet	<b>16.5 feet</b>	<b>No change</b>
• Side	10 feet	16.8 feet	12.1 feet
• Rear	15 feet	75.1 feet	35.3 feet
FAR	.48	.31	<b>.57</b>
Building Height	36 feet	34.15 feet	33.1 feet
Maximum Stories	2.5	2.5	No change
Max. Lot Coverage	30%	14.0%	26.6%
Min. Open Space	50%	71.9%	55.7%

3. The existing structure is nonconforming with regard to the front setback from Linwood Avenue. The applicant's plans show that the proposed structure would be extended along the Linwood Avenue frontage within the required setback distance but no closer to the lot line. This represents an extension of a nonconforming structure. Therefore, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b) to extend a nonconforming structure.
4. Per Section 30-15(u), an 11,122 square foot lot located in the MR1 district is allowed a Floor Area Ratio (FAR) of up to .48 by right. The applicant's plans show that the existing structure has an FAR of .31 and that the proposed structure has an FAR of .57. To construct the addition as proposed, the applicant must obtain a special permit from the Board of Aldermen waiving the FAR limit per Section 30-15(u)(2).
5. The applicant's plan shows that each dwelling unit has two parking stalls, one located in an enclosed garage and the other located outside. Both outside surface stalls are located in the front setback; one is also located in the side setback and the other in the rear setback. Per Section 30-19(g)(1), in a two-family dwelling, one parking stall per dwelling may be located in the required front and side setbacks. The two interior parking stalls, though located within the front setback, are enclosed within the extended nonconforming structure and therefore do not require any additional zoning relief.

6. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Structure</i>	<i>Action Required</i>
§30-21(b)	Extend a nonconforming structure with regard to the front setback	S.P. per §30-24
§30-15(u), §30-15(u)(2)	Allow an FAR of .57 where .48 is allowed by right	S.P. per §30-24