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Candace Havens
Director

MEMORANDUM

Public Hearing Date: September 11, 2012
Land Use Action Date: November 13, 2012
Board of Aldermen Action Date: November 19, 2012
90-Day Expiration Date: December 4, 2012

DATE: September 7, 2012

TO: Board of Aldermen

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

SUBJECT: Petition 210-12, STEPHEN & LESLIE BERNSTEIN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE in order to replace an existing detached garage with a new attached garage and mudroom and to extend an existing rear deck, increasing the Floor Area Ratio from .48 to .57 at 97 HILLSIDE AVENUE, Ward 3, West Newton, on land known as SBL 32, 3, 12, containing approximately 12,551 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-24, 30-23, 30-21(b), 30-15(u) of the City of Newton Rev Zoning Ord, 2012.

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 subject site consists of 12,551 square feet of land and is improved with a Victorian home built in the 1880s. The petitioner is proposing the demolition of a small 1920's garage and a deck in the rear yard. A new garage and connector containing a mudroom will be constructed roughly in the same location as the existing garage, but will be larger.

The house has a steeply-pitched roof and is located on a slope such that both the attic level and the basement level are "floors" as defined by the Newton Zoning Ordinance and count in the calculation of floor area ratio (FAR). The current FAR is .48 and is nonconforming. The FAR will increase to .52, where .35 is allowed by right if this garage addition is approved.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board shall consider whether the following apply:

- 1) An FAR of .52 where .48 exists and .35 is allowed by right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood since this neighborhood is comprised of similar 19th century Victorian-style homes with a large percentage of mass above grade.
- 2) The *2007 Newton Comprehensive Plan* encourages the adaptation of historic homes to meet the needs of today's family. The replacement of a 1920s garage with one that will accommodate modern cars is consistent with this objective.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD



Existing Garage



Carriage House at Neighboring 333 Otis Street

A. Neighborhood and Zoning

The site is located on West Newton Hill, on Hillside Avenue between Otis Street and Highland Avenue. Hillside Avenue is characterized by Queen Anne Victorian-style homes on parcels of generally between 10,000 and 15,000 square feet. The east side of Hillside Avenue is zoned Single Residence 1 and the west side of the street is

zoned Single Residence 2. Historically, many of the homes on West Newton Hill included large carriage houses. The most immediate abutter at 333 Otis Street has an historic carriage house that is quite large (pictured above).

B. Site

The site consists of a 12,551 square-foot improved with the four-story Victorian-style home with a wrap-around front porch. A small 1920s garage is located on the south side of the lot. There is mature vegetation around the perimeter of the property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain as a single-family residence.

B. Building and Site Design

The garage will project at an angle from the south façade of the existing residence. It will have a steeply-pitched roof to mimic the rooflines of the main house. The architecture is consistent with the 19th century styling of the main house, with the addition of fanlight windows and a cupola. The garage will be oriented so that it is partially recessed behind the front porch to maintain the dominance of the historic structure when viewed from the street. In form it will be similar to many of the carriage houses in the neighborhood, including the aforementioned structure at 333 Otis Street.

C. Parking and Circulation

The existing surface parking configuration will not change, however the garage will now accommodate two cars.

D. Landscape Screening

There is a 6' stockade fence and dense evergreen plant material along the southern property line which provide effective screening between the site of the proposed garage and the nearest neighbor.

IV. COMPREHENSIVE PLAN

The *2007 Newton Comprehensive Plan* encourages the preservation of historic structures and the adaptation of these structures to meet the lifestyle needs of today's families. This proposal meets this objective without compromising the historic integrity of the main structure.

V. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum (ATTACHMENT C) provides a complete analysis with respect to zoning. Having been built prior to the adoption of zoning in the City, the existing structure is nonconforming with respect to building height, maximum number of stories, side setback, and FAR. The degree of nonconformity with respect to FAR will increase from .48 to .52, where .35 is allowed by right. This requires relief through Newton Zoning Ordinance Section 30-15(u) and Section 30-21(b).

B. Newton Historical Commission

The proposal does not require the alteration of 50% or more of any façade so it does not require historic review.

C. Engineering Review

The petitioner should comply with all requirements in the engineering memo dated August 30, 2012 (Attachment D).

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (ATTACHMENT C), the petitioner is seeking the following reliefs:

- Section 30-15(u) and 30-21(b), to allow an FAR of .52 where .48 exists and .35 is allowed by right

VII. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

ATTACHMENTS:

ATTACHMENT A: VICINITY LAND USE MAP

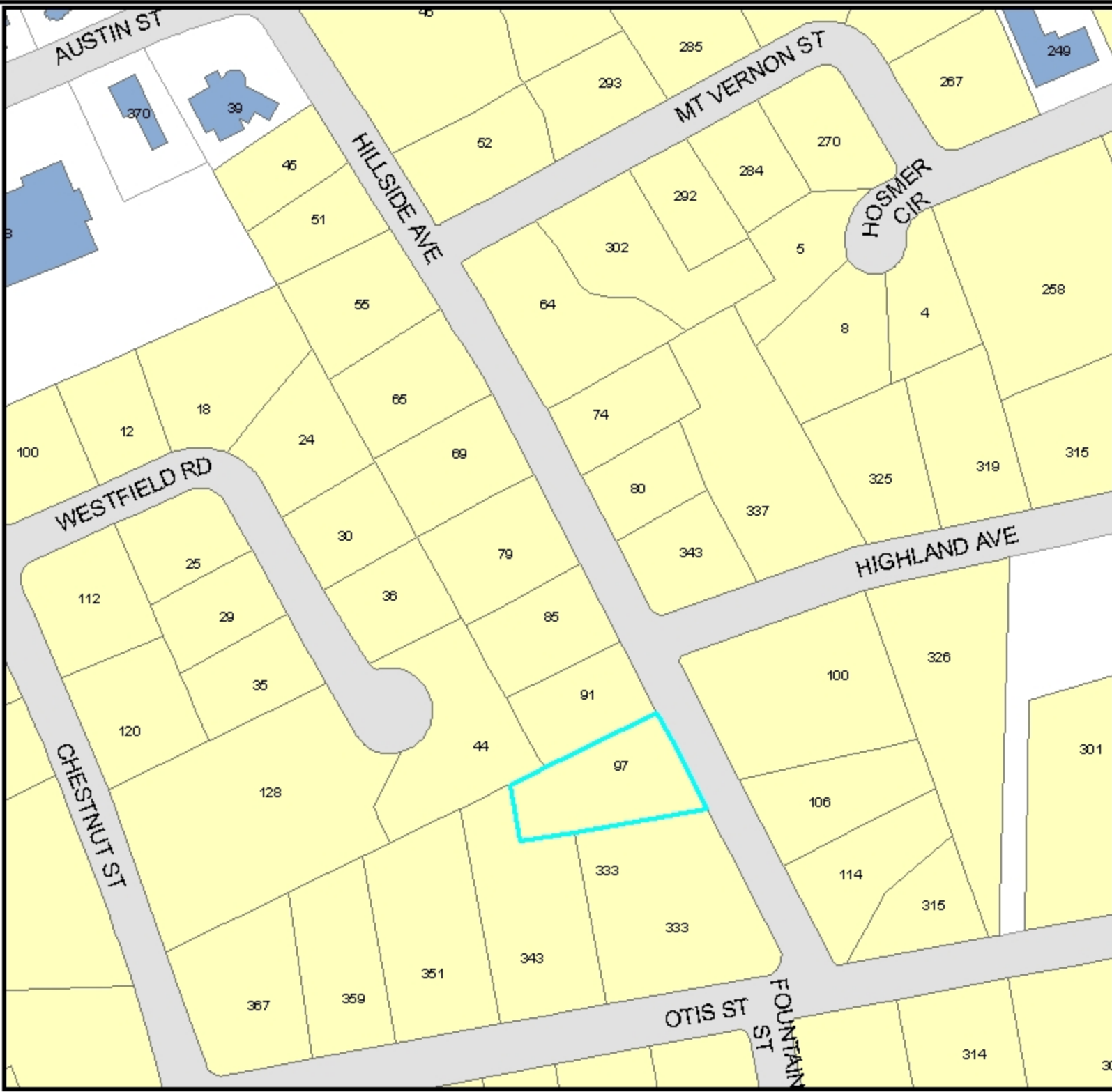
ATTACHMENT B: VICINITY ZONING MAP

ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: ENGINEERING DEPARTMENT MEMO

210-12 97 Hillside Ave. Land Use

*City of Newton,
Massachusetts*



Legend

Land Use

- Single Family Residential



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: August 21, 2012

Attachment A

210-12
97 Hillside Ave.

Zoning

*City of Newton,
Massachusetts*

Legend

-  Single Residence 1
-  Single Residence 2



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Seth D. Warren
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Map Date: August 21, 2012

Attachment B





Setti D. Warren
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City of Newton, Massachusetts
Department of Planning and Development
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ATTACHMENT C
210-12

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: June 27, 2012

To: John Lojek, Commissioner of Inspectional Services

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

ET

Cc: Andrew Reck, architect representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to allow an increase in FAR**

Applicant: Stephen and Leslie Bernstein	
Site: 97 Hillside Avenue	SBL: 32003 0012
Zoning: SR2	Lot Area: 12,551 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

BACKGROUND:

The property at 97 Hillside Ave consists of a 12,551-square foot lot located in the Single-Residence 2 District and improved with a Victorian-style, single-family dwelling built in the 1880's. The applicant proposes to demolish an existing detached garage and rear deck and construct a new attached garage and rear deck.

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

- Architectural plans, unsigned and unstamped by Oak Hill Architects, dated 5/4/12
 - A100: Basement Floor Plan
 - A101: First Floor Plan
 - A301: Rear Elevation
 - A301: Garage Front & Side Elevation
- Site plan, unsigned and unstamped by Everett M. Brooks, Surveyor, dated 5/7/12
- Revised site plan, unsigned and unstamped by Everett M. Brooks, Surveyor, dated 5/30/12
- FAR calculations, prepared by Oak Hill Architects, dated 5/21/12

ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1, for a pre-1953 lot (see chart below).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	12,551 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front	25 feet	25.5 feet	No change
• Side	7.5 feet	7.3 feet	No change
• Rear	15 feet	50 feet	48.8 feet
FAR	.35	.48	.52
Building Height	36 feet	41.7 feet	No change
Maximum Stories	2.5	4	No change
Max. Lot Coverage	30%	18.8%	25.2%
Min. Open Space	50%	70%	54%

2. According to the revised site plan, the existing basement level counts as a full story because of the downward sloping grade to the rear of the structure. Also, the submitted FAR calculation shows that the square footage of the top floor is more than 2/3 the area of the floor next below. Therefore, it qualifies as a full story as well. As a result, the building is a nonconforming with respect to height (41.7 feet versus 36 feet allowed by right) and number of stories (four stories versus 2.5 allowed by right). Since the proposed project does not increase these nonconformities, no further relief is required. However, the entire floor area of the basement level counts toward the calculation of FAR.
3. Per Section 30-15(u), single-family dwellings on lots in the SR2 zone of 12,551 square feet are limited to a floor area ratio of .35. The applicant's plans and calculations show that the existing structure has an FAR of .48 and is therefore nonconforming. The applicant's calculations show that the proposed structure will have an FAR of .52. To extend a nonconforming structure as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b).
4. See "Zoning Relief Summary" below:

Zoning Relief Summary		
<i>Ordinance</i>	<i>Density</i>	<i>Action Required</i>
§30-15(u), §30-21(b)	Allow an FAR of .52 where .48 exists and .35 is allowed by right	S.P. per §30-24

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 97 Hillside Avenue

Date: August 30, 2012

CC: Lou Taverna, PE City Engineer (via email)
Linda Finucane, Associate City Clerk (via email)
Eve Tapper, Chief Planner (via email)
Derek Valentine, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*97 Hillside Avenue
Site Plan of Land
Newton, MA
Prepared by: Everett M. Brooks Co.
Dated: May 23, 2012*

Executive Summary:

An attached two stall garage and expanded driveway are proposed for this single-family dwelling. The runoff from the increase in impervious surfaces will be mitigated on site to the maximum extent, however, due to a relatively shallow depth to groundwater the on-site infiltration system will have an over flow connection as well a sump pump from the existing dwelling. Maintenance of the drainage system is imperative for proper functionality and performance. See additional comments on drainage below.

Drainage:

1. When a connection to the City's drainage system is proposed, prior to approval of the Building Permit a Closed Circuit Television (CCTV) inspection shall be performed and witnessed by the Engineering Division, the applicant shall retain a

- contractor that specializes in CCTV inspection. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore, upon completion of the connection to the drainage system a Post – Construction video inspection shall also take place and witnessed as described above.
2. A hydraulic capacity of the downstream drainage system needs to be evaluated and submitted to the Engineering Division to determine any impact to the municipal drainage system.
 3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
 4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.
 5. All utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E; detail is available in the city of Newton Construction Standards Detail Book.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*

3. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
4. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
6. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.