



Setti D. Warren
Mayor

City of Newton, Massachusetts
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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 10, 2016
Land Use Action Date: July 26, 2016
City Council Action Date: August 1, 2016
90-Day Expiration Date: August 8, 2016

DATE: May 6, 2016

TO: City Council

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Neil Cronin, Senior Planner for Current Planning

SUBJECT: **Petition #129-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single family dwelling with a floor area ratio of .64, where .44 is the maximum allowed by-right, at **23 Howe Road**, Ward 8, Newton Centre, on land known as SBL 81, 11A, 37 containing approximately 6,591 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9 and Sec. §7.3 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.



23 Howe Road

EXECUTIVE SUMMARY

The property located at 23 Howe Road consists of a 6,591 square foot vacant lot, having been the site of a 1929 colonial which was razed 2015. The property is located in the Single Residence 2 zoning district, in Newton Centre. The petitioner is proposing to construct a 2.5 story single-family dwelling of wood construction with an attached two-car garage. To construct the dwelling, the applicant is seeking a special permit to increase the floor area ratio (FAR) to 0.64, where 0.44 is the maximum allowed by-right. The petitioner was granted a special permit to construct the same single-family dwelling exceeding the FAR in 2009 (**Attachment A**), but the project stalled due to economic reasons. That special permit granted an FAR of .43 where .41 existed and an FAR of .30 was allowed by-right and although the design of the dwelling has not changed, the FAR is now .64 due to how FAR is now calculated.

The Planning Department is not concerned with the construction of the proposed single-family dwelling. The dwelling is located in a neighborhood of other similarly-scaled dwellings and complies with all dimensional regulations of the Single Residence 2 zoning district, except FAR. For these reasons, the Planning Department believes the construction of the dwelling with an FAR exceeding the maximum allowed by-right will not be in derogation of the size, scale, and design of other residential structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed FAR of 0.64, where .44 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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Howe Road in a Single Residence 2 District, in a neighborhood of other similarly-scaled dwellings. The site is surrounded by residential uses on all sides. The property is close to Public Use Districts which include several institutional uses such as schools, a Multi-Residence 1 District containing a condominium development, and an Open Space District containing a golf course. Lastly, the site is within a .5 mile to the Parker & Dedham Street stop on the 52 bus line (**Attachments B & C**).

B. Site

The site is a small corner lot with frontage on Howe and Jane Roads. The property consists of 6,591 square feet of vacant land, having been the site of a 1929 colonial which was razed in 2015. Overall, the site is consistent with other lot sizes in the immediate area.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to construct a 2.5 story single family dwelling of wood construction with an attached two-car garage. The proposed house is a colonial in keeping with the neighborhood which is a mix of colonial and tudor residences. To construct the dwelling, the applicant is seeking a special permit to increase the floor area ratio (FAR) to 0.64, where 0.44 is the maximum allowed by-right. The proposed dwelling otherwise meets all of the dimensional controls.

Landscape Screening

A landscaping plan is not required because the entire property will be enclosed with a stockade fence.

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 D**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.1.9 of Section 30, to increase the Floor Area Ratio (FAR) by more than is allowed by-right

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 for the proposed addition should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time..

ATTACHMENTS:

- Attachment A:** Approved Special Permit from 2009
- Attachment B:** Zoning Map
- Attachment C:** Land Use Map
- Attachment D:** Zoning Review Memorandum
- Attachment E:** DRAFT Order

CC
S

#247-09

ATTACHMENT A

CITY OF NEWTON

IN BOARD OF ALDERMEN

November 16, 2009

09 NOV 20 PM 12:31
CITY CLERK
NEWTON, MA 02459

DEC 13

ORDERED:

That the Board, 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 to construct a new single family dwelling in excess of allowed FAR and with retaining walls within the front setback as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman George E. Mansfield:

23 Howe Road, Newton

1. The proposed structure is nonconforming as to FAR because the site consists of a small corner lot with two frontages.
2. The proposed structure meets the required setbacks, improving an existing condition.
3. Increasing the FAR from .41 to .426 where an FAR of .30 is allowed by right is appropriate in this neighborhood context, as the house is consistent with and not in derogation of the size, scale and design of other structures in the surrounding neighborhood, and the structure complies with ratios for lot coverage and open space.
4. The proposed residence is not significantly larger than the existing residence and will not adversely affect the neighborhood.
5. The retaining wall exceeding four feet in height within the setback will minimize the visual impact of the garage from the street view.

PETITION NUMBER: #247-09

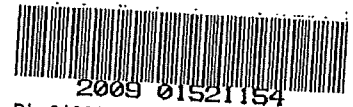
PETITIONER: Richard Severini *Lot 12*

LOCATION: 23 Howe Road, Section 81, Block 11A, Lot 37 containing approximately 6,591 sq. ft. of land

OWNER: Richard Severini ✓

ADDRESS OF OWNER: 7 Harvey Street
Cambridge MA 02144

TO BE USED FOR: Single Family Residence



Bk: 01291 Pg: 193 Cert#: 232286
Doc: DEOIS 12/18/2009 09:57 AM

RETURN TO: Terrence P. Morris, Esq.
57 Elm Road, Newton
MA 02460-2144

232286

A True Copy
Attest
[Signature]
City Clerk of Newton, Mass.

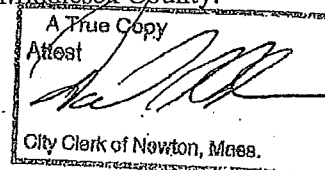
CONSTRUCTION: Wood frame, clapboard siding, divided-lite wood windows, architectural asphalt shingle roof

EXPLANATORY NOTES: §30-15(u)(4) to exceed allowable FAR; §30-5(b)(4), Ordinance Z-45 for a greater than 4' retaining wall within the setback.

ZONING: Single Residence 2 Zone 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 the plans entitled
 - o Plan titled "Severini Residence, 23 Howe Road, Proposed Design" Floor Plans and Elevations signed and stamped by David H. O'Sullivan, registered architect, and dated 9/25/09
 - o Plan set dated July 8, 2009 except as noted signed and stamped by Joseph T. Porter, Professional Land Surveyor and Stephen E. Poole, Registered Professional Engineer, consisting of the following:
 - Topographic Site Plan – Newton, Massachusetts Showing Existing Conditions at 23 Howe Road, dated February 2, 2005 and revised October 26, 2009
 - Topographic Site Plan – Newton, Massachusetts Showing Proposed Conditions at 23 Howe Road, revised October 28, 2009
 - Detailed Sheet – Newton, Massachusetts Showing Details at 23 Howe Road, revised October 28, 2009
 - Area Plan of Land in Newton, Massachusetts at 23 Howe Road
 - o Plan titled "Proposed Site and Landscape Plan," Severini Residence, 23 Howe Road, O'Sullivan Architects, dated 10/27/09
2. The garage door shall be designed to create the appearance of two smaller doors. Final design shall be subject to the approval of the Director of Planning and Development.
3. The petitioner shall replace existing asphalt sidewalks with concrete, improve curbs, and add a pedestrian ramp at the corner subject to the approval of the City Engineer.
4. The petitioner may, at his option, request permission from the Newton Historical Commission to change the design of the shed dormer over the garage doors to two (2) doghouse style dormers. If the Newton Historical Commission approves this dormer modification, the petitioner may modify the dormer over the garage doors to the design approved by the Commission without amending this special permit.
5. 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. The Planning Department shall review and approve building permit plans for consistency with Condition #1.
6. No 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 and site engineer certifying compliance with Condition #1.
 - b. submitted to the City Engineer final as-built, record site engineering, utilities, grading and drainage plans in both digital format and hard copy.
 - c. submitted to the Director of Planning and Development, final as-built plans in digital format.
 - d. completed all landscaping in compliance with Condition #1.
7. Notwithstanding the provisions of Condition #6.d. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of landscaping provided 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 improvements to ensure their completion.

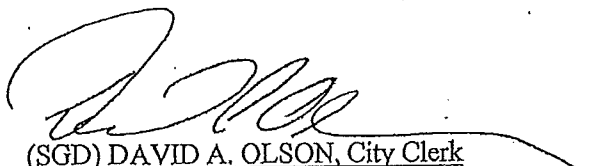
✓ Under Suspension of Rules

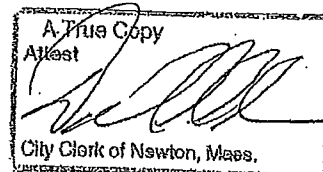
Readings Waived and Approved

21 yeas 0 nays 3 absent (Aldermen Albright, Ciccone, and Mansfield)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on November 20, 2009. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

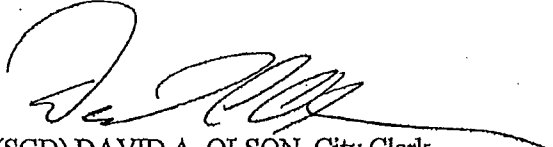
ATTEST:

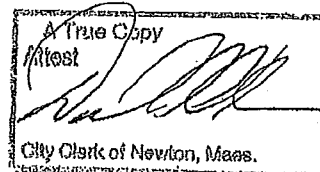

(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 11/30 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto. ✓

ATTEST:


(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



Vick
1352196
10/12/04
①

DOCUMENT 01521154

Southern Middlesex LAND COURT
REGISTRY DISTRICT

RECEIVED FOR REGISTRATION

On: Dec 18, 2009 at 09:57A

Document Fee: 75.00
Receipt Total: \$80.00

NOTED ON: CERT 232286 BK 01291 PG 133
ALSO NOTED ON:
















12/18/09
I HEREBY AFFIRM AND REPRESENT ON
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE AND
CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY.
EUGENE G. BRUNT
ASST RECORDER
LAND COURT
BY Eugene G. Brunt

TERENCE P. MACCIS (617) 212-9132
NAME 77 ELM ROAD TEL
STREET ADDRESS NEEDHAM, MA 02460-2144
CITY OR TOWN ZIP

Attachment B Zoning Map 23 Howe Rd.

*City of Newton,
Massachusetts*

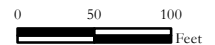
Legend

-  Single Residence 1
-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Limited Manufacturing
-  Manufacturing
-  Mixed Use 1
-  Mixed Use 2
-  Mixed Use 3
-  Mixed Use 4
-  Open Space/Recreation
-  Public Use
-  Building Outlines
-  Property Boundaries

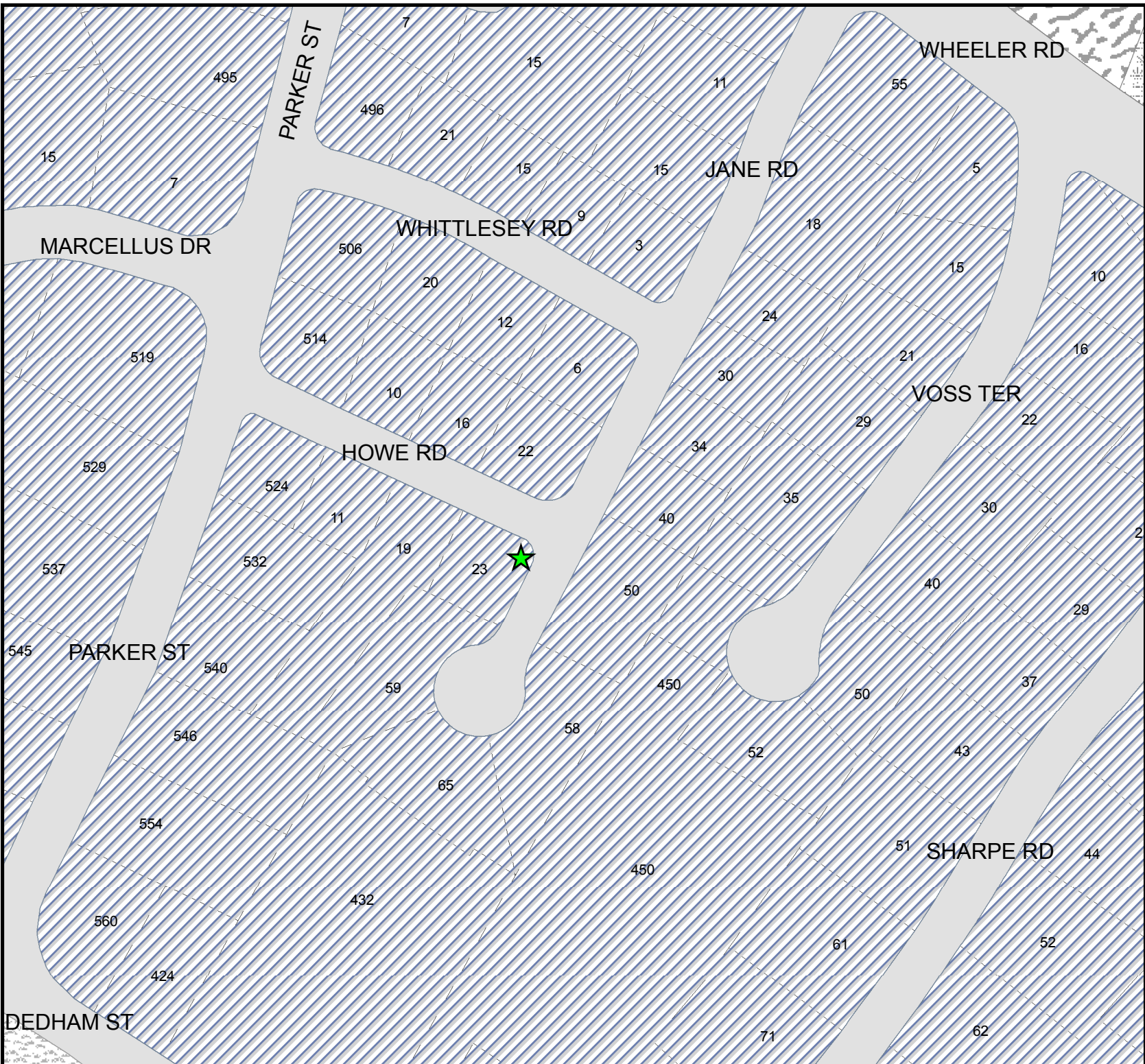


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 05, 2016

















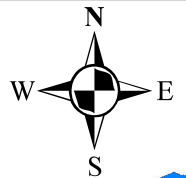
Attachment C Zoning Map 23 Howe Rd.

*City of Newton,
Massachusetts*

Legend

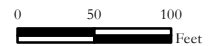
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Golf Course
-  Open Space
-  Private Educational
-  Nonprofit Organizations
-  Public Housing
-  Vacant Land
-  Tax Exempt
-  Building Outlines
-  Property Boundaries

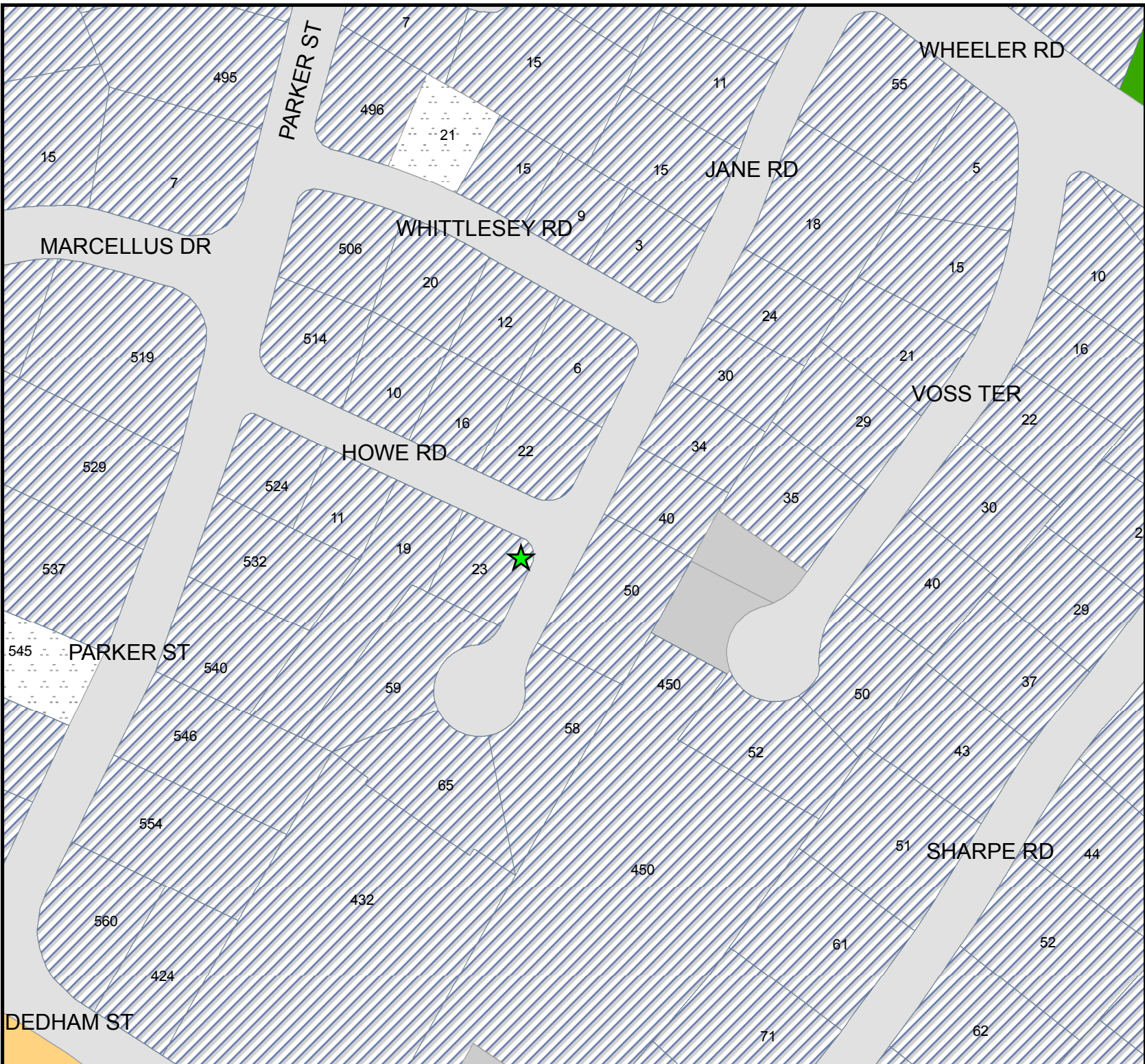


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Map Date: May 05, 2016





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Mayor

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James Freas
Acting Director

ATTACHMENT D

ZONING REVIEW MEMORANDUM

Date: April 7, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: James Severini, applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to exceed FAR

Applicant: James Severini	
Site: 23 Howe Street	SBL: 81011A0037
Zoning: SR2	Lot Area: 6,591 square feet
Current use: Vacant	Proposed use: Single-family dwelling

BACKGROUND:

The property at 23 Howe Street consists of a 6,591 square foot lot which is currently vacant, having been the site of a 1929 colonial that was razed. The property received a special permit in 2009 to build a single-family dwelling exceeding the allowable FAR of .30. The special permit granted an FAR of .43, but was never exercised for economic reasons and has since expired. The Zoning Ordinance provisions regulating FAR have since been amended. The proposed design has not changed, but now results in an FAR of .64, which exceeds the maximum of .46 allowed, and requires a newspecial permit.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 4/6/2016
- FAR Worksheet, submitted 4/6/2016
- Site Plan, prepared by VTP Associates, surveyor dated 7/8/2009, revised 8/25/2009, 10/28/2009
- Architectural Plans, prepared by O'Sullivan Architects, architect, dated 9/25/2009

ADMINISTRATIVE DETERMINATIONS:

- The applicant's proposed single-family dwelling was granted a special permit for an FAR of .43 in 2009, which exceeded the allowable maximum FAR of .30 at the time. Changes to the FAR regulations now allow for an FAR of .44. However, the provisions for FAR calculation have also changed, and the proposed FAR for the original approved design now comes to .64, as more building volume is now included in the calculation. Per Section 3.1.9, a special permit is required to allow for an FAR of .64, where .44 is the maximum allowed.

SR2 Zone	Required	Existing**	Proposed
Lot Size	10,000 square feet	6,591 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks			
• Front	25 feet	20.2 feet	25.5
• Side	7.5 feet	1.6 feet	8.2 feet
• Rear	15 feet	13.1 feet	15.9 feet
Building Height	36	21 feet	28.72 feet
Max Number of Stories	2.5	2.5	No change
FAR	.44	.41	.64
Max Lot Coverage	30%	21.4%	24.6%
Min. Open Space	50%	73%	66.1%

**Prior to demolition

- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9	Request to exceed FAR	S.P. per §7.3

CITY OF NEWTON
IN CITY COUNCIL

May 16, 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 Floor Area Ratio (FAR) to .64, where .44 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 FAR of 0.64, where .44 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) for the following reasons:
 - a. The site is a small corner lot with two frontages and the proposed structure meets the required setbacks, open space, and dimensional regulations.
 - b. The two-car garage will remove the view of vehicles from the street and abutting properties.

PETITION NUMBER: #129-16

PETITIONER: Richard Severini

LOCATION: 23 Howe Road, on land known as Section 81, Block 11A, Lot 37, containing approximately 6,591 square feet of land

OWNER: Richard Severini

ADDRESS OF OWNER: 7 Harvey Street
Cambridge, MA 02140

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3, to construct a single family dwelling with an FAR exceeding the maximum allowed by-right

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. Proposed Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/8/2009, Revised 8/25/2009 AND 8/26/2015 consisting of two sheets:
 - i. Topographic Site Plans
 - ii. Detail Sheet
 - b. Architectural Plans and Elevations, signed and stamped by Joseph J. Walsh, Architect, dated 9/25/2009 Revised 4/7/2006
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 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 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 certifying compliance with Condition #1, including the as FAR of the structure.
 - b. 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.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.