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Director

ZONING REVIEW MEMORANDUM

Date: February 4, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Benjamin Moll, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to exceed FAR, to allow an oversized dormer, to extend a nonconforming side setback, and to further reduce nonconforming open space, to amend Variances #38-57 and #139-98 and a variance to exceed maximum lot coverage**

Applicant: Benjamin Moll	
Site: 266 Highland Avenue	SBL: 32002 0011
Zoning: SR1	Lot Area: 11,879 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 266 Highland Avenue consists of an 11,879 square foot lot improved with a single-family dwelling constructed circa 1900. The petitioner proposes to construct additions to the side and rear of the dwelling, to raze a detached garage and to construct a larger detached garage. The proposed construction will exceed the floor area ratio, include an oversized dormer and further extend a nonconforming setback, requiring a special permit. Additionally, portions of the site were approved via variances that require amending and a new variance is required to exceed lot coverage.

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

- Zoning Review Application, prepared Benjamin Moll, applicant, dated 12/16/2020
- Variances #38-57, #40-77 and #139-98
- Existing Conditions Site Plan, signed and stamped by Verne T. Porter, surveyor, dated 12/7/2020
- Proposed Conditions Site Plan, signed and stamped by Verne T. Porter, surveyor, dated 12/7/2020
- Architectural Plans and Elevations, prepared by Slocum Hall Design Group, architects, dated 12/16/2020

ADMINISTRATIVE DETERMINATIONS:

1. The property received a variance in 1957 to reduce the lot area and frontage when the then owner sold a portion of the property to an abutter, resulting in an 11,879 square foot lot with 131.11 feet of frontage. A second variance was granted in 1977 to allow for the construction of a deck at the rear of the dwelling resulting in a 13-foot rear setback where 25 feet is required in the SR1 district per section 3.1.3. A subsequent variance was granted in 1998 (#8-98), further reducing the rear setback for an addition and deck to 10.7 feet. According to the existing conditions survey, the deck was constructed 10.4 feet from the rear lot line, which is not in compliance with the conditions of the variance. However, the proposed addition and deck will have an 11-foot setback, in accordance with the variance. While the proposed additions will be in accordance with the permissions granted by the 1998 variance, the plan associated with the variance will change, requiring an amendment.
2. Per section 1.5.2.D.2, the lot coverage requirements shall not apply to the construction of a garage accessory to a building in existence on December 27, 1922. The petitioner's existing lot coverage is 13.43%. The proposed additions result in a lot coverage of 16.41%, excluding the enlarged garage. Per section 3.1.3, the maximum lot coverage allowed is 15%, requiring a variance.
3. Section 3.1.3 requires 70% open space for a new lot. The existing open space is nonconforming at 69.82%. The proposed addition further decreases the nonconforming open space to 67.38%, requiring a special permit per sections 3.1.3 and 7.8.2.C.2
4. The petitioners propose to construct additions to the side and rear of the dwelling, as well as to construct a new garage, adding 638 square feet of floor area to the site. The proposed construction increases the FAR from .31 to .37, where .32 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit.
5. The detached garage has a nonconforming side setback of 1 foot and a nonconforming rear setback of 0.1 feet, where 5 feet is required for both setbacks per section 3.4.3.A.1. The petitioner proposes to raze the garage and construct a larger garage which will reduce the rear nonconformity by increasing the setback to 1 foot but will further extend the nonconforming side setback towards the front of the property. A special permit to further extend a nonconforming side setback is required per sections 3.4.3.A.1 and 7.8.2.C.2.
6. There is a dormer on the rear of the dwelling which spans a portion of the wall plane of the second story through the attic-level half story. The petitioner proposes to demolish this dormer, extend the second level the entire length of the wall plane of the first story and construct a new dormer in the half story. Per section 1.5.4.G.2.b a dormer may be no wider than 50 percent of the length of the exterior wall of the story next below. The proposed dormer measures 27.3 feet wide to meet the gable roof of the rear ell, where the wall plane next below is only 18.8 feet wide, requiring a special permit.
7. Section 1.5.4.G.2.c requires that the vertical plane of the side wall of any dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. The proposed dormer is 1.0 foot from the end wall, requiring a special permit.

SR1 Zone	Required	Existing	Proposed
Lot Size	11,879 square feet*	11,879 square feet	No change
Frontage	131 feet*	131.89 feet	No change
Setbacks - Principal			
• Front	40 feet	29.4 feet	No change
• Side	20 feet	20.5 feet	No change
• Side	20 feet	68.3 feet	53.5 feet
• Rear	10.7 feet**	10.4 feet	11 feet
Setbacks - Accessory			
• Front	25 feet	>70.1 feet	70.1 feet
• Side	5 feet	1.0 feet	1.0 feet
• Side	5 feet	±108 feet	±107 feet
• Rear	5 feet	0.1 feet	1.0 feet
Height	36 feet	30.9 feet	No change
Stories	2.5	2.5	No change
FAR	.32	.31	.37
Max Lot Coverage	15%	13.43%	16.41%
Min. Open Space	70%	69.82%	67.38%

* Allowed by Variance #38-57

** Allowed by Variance #8-98

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §7.6	Amend Variance #8-98 to amend the site plan and allow for additions	§7.6
§1.5.2.D.2 §3.1.3 §7.6	Request to exceed maximum lot coverage requirement	§7.6
§3.1.3 §7.8.2..2	Request to further decrease nonconforming open space	S.P. per §7.3.3
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.4.3.A.1 §7.8.2.C.2	Request to further extend a nonconforming side setback in an accessory structure	S.P. per §7.3.3
§1.5.4.G.2.b	Request to allow a dormer exceeding 50% of the wall plane next below	S.P. per §7.3.3
§1.5.4.G.2.c	Request to allow a dormer within three feet of an end wall	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

8. Two (2) copies of the completed Special Permit Application (signed by property owner)
9. Filing Fee (see Special Permit Application)
10. Two (2) copies of the Zoning Review Memorandum
11. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
12. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
13. One (1) copy of any previous special permits or variances on the property (as applicable)
14. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
15. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N