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#55-21

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 2, 2021
Land Use Action Date: May 11, 2021
City Council Action Date: May 17, 2021
90- Day Expiration Date: May 31, 2021

DATE: February 26, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner
Michael Gleba, Senior Planner

SUBJECT: **Petition #55-21** to further extend the nonconforming FAR by constructing a second story addition within the existing footprint at **12 Cochituate Road**, Ward 6, Newton Highlands, on land known as Section 54 Block 31 Lot 02, containing approximately 7,650 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



12 Cochituate Road

EXECUTIVE SUMMARY

The property at 12 Cochituate Road consists of a 7,650 square foot lot in a Single Residence 2 (SR2) district improved with a single-family dwelling constructed in 1930.

The petitioner proposes to construct a second story addition within the existing footprint that would add 240 square feet of living space to that story. The submitted plans also indicate a rear dormer that would add 29 square feet of living space to the attic level. Taken together, these changes would add 269 square feet of living space countable toward the floor area ratio (FAR), further increasing the property's nonconforming FAR from 0.48 to 0.52, where 0.42 is the maximum allowed per sections 3.1.3 of the Newton Zoning Ordinance (NZO). A special permit per sections 3.1.9 and 7.8.2.C.2 is required to further increase the nonconforming FAR.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed structure with a floor area ratio of 0.52 where 0.48 exists and 0.42 is the maximum allowed would be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9)
- The extension of the dwelling's nonconforming floor area ratio of from 0.48 to 0.52 where 0.42 is the maximum allowed by right would be substantially more detrimental than the existing nonconforming floor area ratio to the neighborhood (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the north side of Cochituate Road at its intersection with Nantucket Road. The Cochituate Aqueduct abuts the property to the north, and the immediate neighborhood is, like the subject property, otherwise occupied by single family dwellings (**Attachment A**). The site and surrounding area are uniformly zoned Single Residence 2 (SR2), with an exception being the adjacent Cochituate Aqueduct which is zoned Public Use (PU) (**Attachment B**).

B. Site

The property consists of a 7,650 square foot lot improved with a single-family dwelling. While the front yard is generally level, the left (west) side of the lot (the location of a paved driveway and curb cut) and the rear of the lot slope downward front to back approximately seven feet. The remaining portions of the site features lawn areas and mature vegetation as well as a shed and an elevated deck.

II. 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 proposes to construct a 240 square foot second story addition above existing first floor space. A dormer would be also be added to the rear of the dwelling (facing the Cochituate Aqueduct) that would add 29 square feet of living space to the attic level. Taken together, these changes would add 269 square feet of living space countable toward the floor area ratio (FAR), further increasing the nonconforming FAR from 0.48 to 0.52, where 0.42 is the maximum allowed by right.

The proposed changes would be lower than the dwelling's existing ridgeline, they would not increase the dwelling's conforming 26.4-foot height or its 2½ stories. As both the addition and dormer would be within the existing footprint, there would be no changes to the dwelling's other dimensions, including its setbacks, lot coverage and open space, all of which are currently conforming.

C. Parking and Circulation

No changes to the property's parking or circulation are proposed.

D. Landscaping

A landscaping plan was not submitted with this petition.

III. 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 C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to further extend nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9, §7.8.2.2)

B. Engineering Review

Review by the Engineering Division is not required at this time.

C. Newton Historical Commission

Review by the Newton Historical Commission is not required.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Order

ATTACHMENT A





Land Use

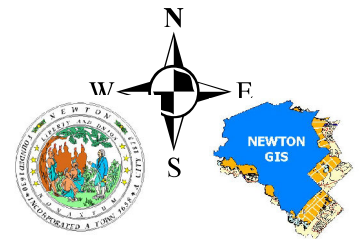
12 Cochituate Rd.

*City of Newton,
Massachusetts*

Land Use

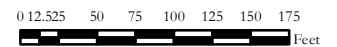
Land Use

-  Single Family Residential
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

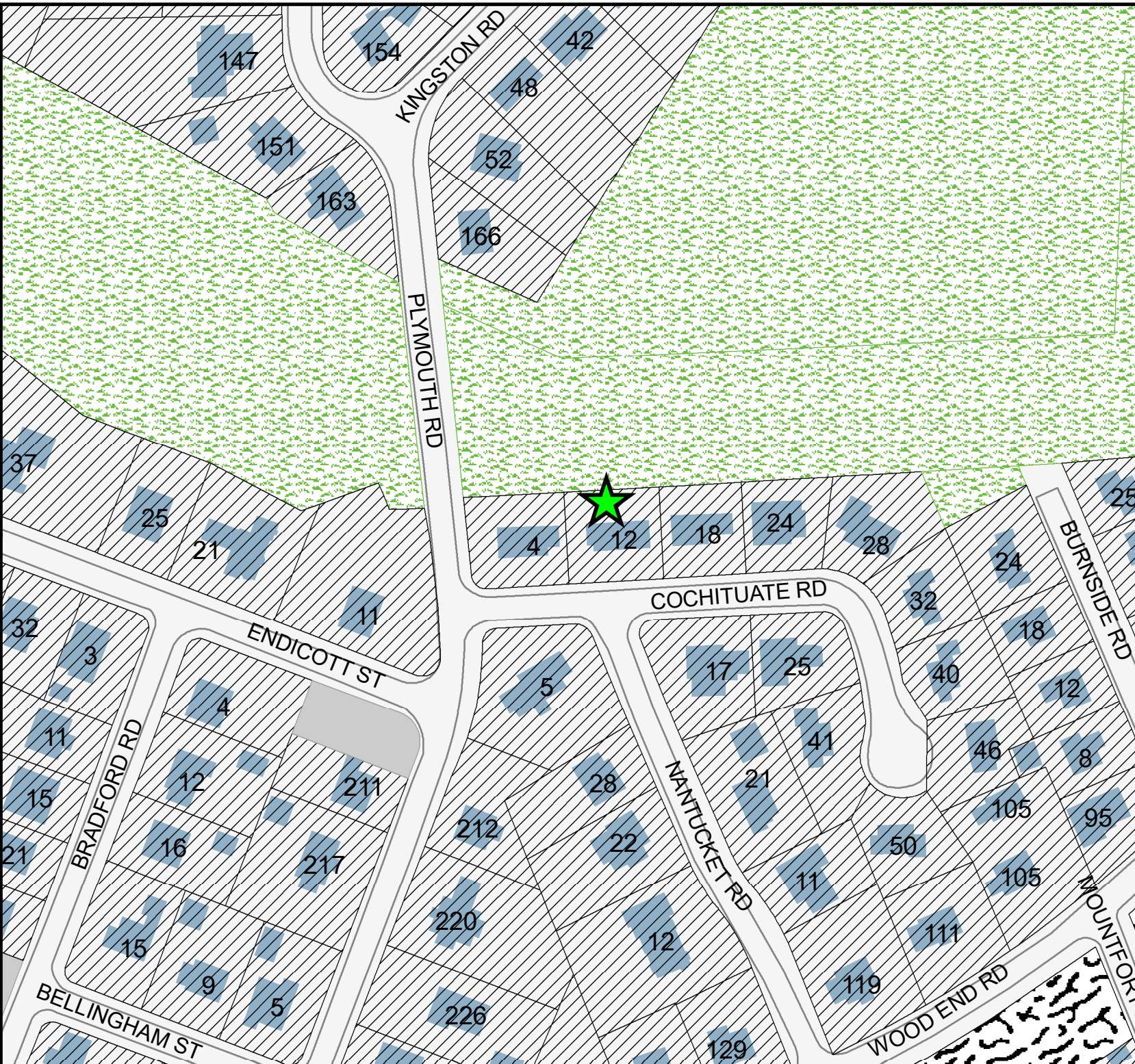


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: February 19, 2021





ATTACHMENT B

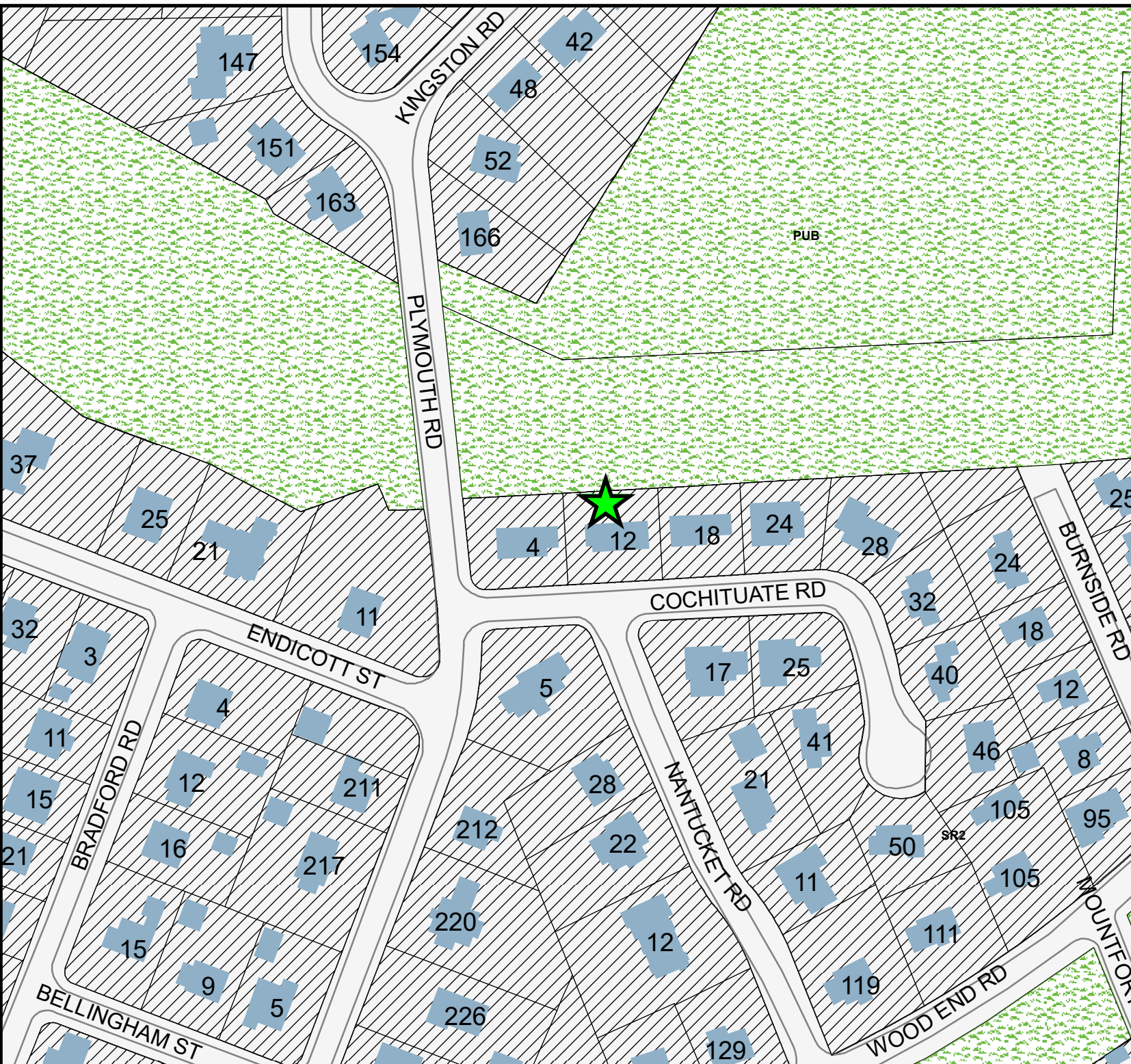
Zoning

12 Cochituate Rd.

City of Newton,
Massachusetts

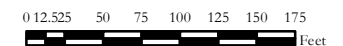
Legend

-  Single Residence 2
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
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ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 11, 2021

To: John Lojek, Commissioner of Inspectional Services

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

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

RE: **Request to further exceed nonconforming FAR**

Applicant: Alan Taylor	
Site: 12 Cochituate Road	SBL: 54031 0002
Zoning: SR2	Lot Area: 7,650 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 12 Cochituate Road consists of a 7,650 square foot lot improved with a single-family dwelling constructed in 1930. The petitioner proposes to construct a second story addition within the existing footprint, adding living space. The proposed construction will further increase the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared Alan Taylor, architect, dated 11/18/2020
- Certified Plot Plan, signed and stamped by Ronald J. Natoli, surveyor, dated 11/27/2018
- Architectural Plans and Elevations, signed and stamped by Alan E. Taylor, architect, dated 11/11/2020
- FAR calculations, submitted 11/18/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to add 240 square feet of living space to the second story. The proposed construction increases the nonconforming FAR from .48 to .52, where .42 is the maximum allowed per sections 3.1.3 and 3.1.9. A special permit per section 7.8.2.C.2 is required to further increase the nonconforming FAR.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,650 square feet	No change
Frontage	80 feet	79 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 0 feet*	29.9 feet 15 feet 10.4 feet	No change No change No change
Height	36 feet	26.42 feet	No change
Stories	2.5	2.5	No change
FAR	.42	.48	.52
Max Lot Coverage	20%	21.2%	No change
Min. Open Space	65%	53.8%	No change

*The property abuts the Cochituate Aqueduct, which requires no setback per section 1.5.2.A

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.2	Request to further extend nonconforming FAR	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:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. 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)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. 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

CITY OF NEWTON

IN CITY COUNCIL

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 further extend the nonconforming floor area ratio (FAR) from 0.48 to 0.52 where 0.42 is the maximum allowed by right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed structure with a floor area ratio of 0.52 where 0.48 exists and 0.42 is the maximum allowed would be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood given the locations of the additional floor area above existing living space and on the rear of the attic level and because the height of the dwelling would not be increased (§3.1.9)
2. The extension of the dwelling's nonconforming floor area ratio of from 0.48 to 0.52 where 0.42 is the maximum allowed by right would be substantially more detrimental than the existing nonconforming floor area ratio to the neighborhood given the locations of the additional floor area above existing living space and on the rear of the attic level (§7.8.2.C.2)

PETITION NUMBER: #55-21

PETITIONER(S): Alan E. Taylor

LOCATION: 12 Cochituate Road, Ward 6, Newton, on land known as Section 54 Block 31 Lot 2, containing approximately 7,650 sq. ft. of land

OWNER(S): Alan E. Taylor

ADDRESS OF OWNER(S): 12 Cochituate Road

Newton, MA 02461

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) 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. A site plan entitled "12 Cochituate Road, Newton, MA, Certified Plot Plan," prepared by Ron Natoli, P.L.S., signed and stamped by Ronald J. Natoli, Professional Land Surveyor, dated January 24, 2008, as revised through September 4, 2020.
 - b. A set of plans entitled "Proposed Add'n & Revovat'ns, 12 Cochituate Road, Newton Highlands, MA, prepared by Alan E. Taylor Associates, signed and stamped by Alan E. Taylor, Registered Architect, dated November 11, 2020:
 - i. Basement & Roof Plans (A1)
 - ii. 1st & 2nd Floor Plans (A2)
 - iii. Elevations (A3)
 - iv. Elevations (A4)
 - v. Sections (A5)
 - c. A document entitled "Floor Area Ratio Worksheet, 12 Cochituate Road, Newton Highlands indicating a proposed "Total gross floor area" of 3,698 square feet (*please note*: this number is incorrect- it should read 3,968 square feet) and a proposed "FAR" (floor area ratio) of 0.52, signed and stamped by Alan E. Taylor, Registered Architect.
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 and certifying compliance with Condition #1, including the as built FAR.
 - 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.