

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 increasing the property's floor area ratio (FAR) from 0.31 to 0.37, where 0.32 is the maximum allowed by right (§3.1.3, §3.1.9); further decrease its nonconforming open space to 67.38% (§3.1.3, §7.8.2.C.2); further extend an accessory structure's nonconforming side setback (§3.4.3.A.1, §7.8.2.C.2); and allow a dormer that has a width exceeding 50% of the wall plane next below (§1.5.4.G.2.b) and is located within three feet of an end wall (§1.5.4.G.2.c), as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site in the Single Residence 1 (SR1) district is an appropriate location for the proposed attic level dormer on the rear of the dwelling, which is wider than 50 percent of the width of the exterior wall of the story next below and less than the required three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer, as it is located at the rear of the structure and has limited visibility from adjacent public ways and properties. (§7.3.3.C.1)
2. The proposed attic level dormer on the rear of the dwelling will not adversely affect the neighborhood as it is located at the rear of the structure and has limited visibility from adjacent public ways and properties. (§7.3.3.C.2)
3. The proposed attic level dormer on the rear of the dwelling will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed structures with a floor area ratio of 0.37, where 0.31 exists and 0.32 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)
6. The further decrease of the property's nonconforming open space would not be substantially more detrimental than the existing nonconforming open space to the neighborhood given the location of the proposed addition at the rear of the structure and

facing the property's large eastern side yard. (§7.8.2.C.2)

7. The extension of the accessory structure's nonconforming side setback would not be substantially more detrimental than the existing nonconforming side setback to the neighborhood given its modest length of approximately one foot. (§7.8.2.C.2)

PETITION NUMBER: #56-21

PETITIONER(S): 266 Highland Avenue Nominee Trust, Benjamin S. Moll, Trustee

LOCATION: 266 Highland Avenue , Ward 2, Newton, on land known as Section 32 Block 2 Lot 11, containing approximately 11,879 sq. ft. of land

OWNER(S): 266 Highland Avenue Nominee Trust, Benjamin S. Moll, Trustee

ADDRESS OF OWNER(S): 266 Highland Avenue, Newton, MA 02465

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further decrease nonconforming open space (§3.1.3, §7.8.2.C.2)
- exceed floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend a nonconforming side setback in an accessory structure (§3.4.3.A.1, §7.8.2.C.2)
- allow a dormer exceeding 50% of the wall plane next below (§1.5.4.G.2.b)
- allow a dormer within three feet of an end wall (§1.5.4.G.2.c)

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 "266 Highland Avenue, Newton, Massachusetts, Proposed Garage and Addition Locations," prepared by Verne T. Porter Jr., PLS, signed and stamped by Verne T. Porter Jr., , Professional Land Surveyor, dated December 7, 2020, as revised through February 3, 2021.
 - b. A set of plans entitled "Renovation – Addition, 266 Highland Ave, Newton, MA 02465," prepared by Slocum Hall Design Group, Inc., dated December 16, 2020:
 - i. Cover Sheet (A000)
 - ii. 2nd Floor Existing (Demo Plan) (D03)
 - iii. Existing FAR (A001)
 - iv. Proposed FAR (A002)
 - v. Existing Conditions 1st Floor & Bsmt Plans (AEX100)
 - vi. Existing Conditions 2nd Floor & Attic Plans (AEX101)
 - vii. Existing Conditions Exterior Elevations (AEX200)
 - viii. Existing Conditions Exterior Elevations (AEX201)
 - ix. Proposed First Floor Plan (A100)
 - x. Proposed 2nd Floor & Attic Plans (A101)
 - xi. Proposed Foundation Plan (A102)
 - xii. Proposed Exterior Elevations (A200)
 - xiii. Proposed Exterior Elevations (A201)
 - c. A document entitled "Floor Area Ratio Worksheet, 266 Highland Ave," indicating a proposed "Total gross floor area" of 4,374 square feet and a proposed "FAR" (floor area ratio) of 0.369, signed and stamped by Jane E. Grover, 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 Newton Historic Commission approving the final plans.
 - 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 floor area ratio (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.