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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 27, 2021
Land Use Action Date: July 13, 2021
City Council Action Date: July 19, 2021
90- Day Expiration Date: July 26, 2021

DATE: April 23, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #368-20 (2)**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #368-20 to allow an increase to the FAR calculation to reflect a prior miscalculation of atria space resulting in an FAR of .59, where .55 was previously approved and .48 is the maximum allowed as of right at 14 Hollis Street, Ward 1, Newton, on land known as Section 72 Block 06 Lot 21, containing approximately 9,811 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 7.8.2.C.2, 3.2.11 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.



14 Hollis Street

EXECUTIVE SUMMARY

The property located at 14 Hollis Street consists of a 9,811 square foot lot in the Multi Residence 1 (MR-1) zone in Newton Corner. The lot is improved with a two-family residence constructed circa 1908. The petitioners obtained a special permit which allowed a rear addition, and a new detached garage. The special permit granted a floor area ratio ("FAR") increase of .45 to .55 where .48 is the maximum allowed. At the building permit stage, it was discovered that the atria space, which consists of atria, open wells, and other vertical space was not counted correctly and thus, an amendment to the prior special is required which would allow an increase in FAR to .59.

The Planning Department is unconcerned with the request to further increase the FAR to .59 because increase is limited to the previously approved plans and represents a miscalculation of atria space in the FAR calculation. The design of the previously approved structure and approved additions have not changed. If approved, the two-family dwelling and garage will total 5,778 square feet, where 4,415 is allowed by right and where 5,422 square feet was previously approved.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed increase in FAR. (§7.3.3.C.1)
- The proposed increase in FAR will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed increase in FAR will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in FAR from .45 to .59, where .48 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. (§3.1.3, and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

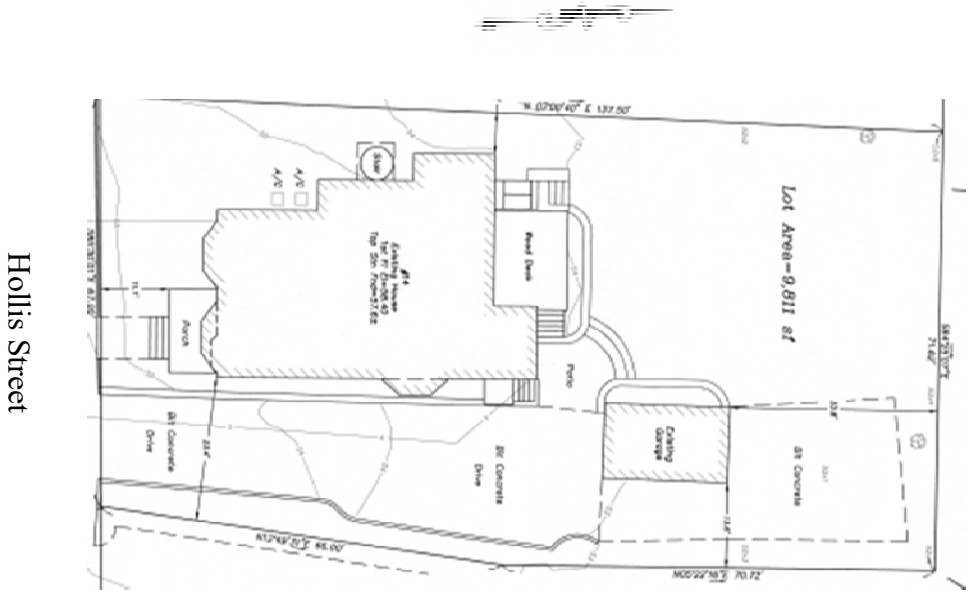
The subject property is located on Hollis Street in the MR-1 zone in Newton Corner. Most of Hollis Street, is zoned MR-1 however, there are two corner properties that intersect with Hollis and Centre Street which are zoned Multi-Residence 2. The

surrounding area consists of Multi Residential zoning districts along Centre Street and Church Street (**Attachment A**). There are a mix of both single and multifamily residential uses in the area (**Attachment B**).

B. Site

The site consists of 9,811 square feet of land and is improved with a 2.5-story two-family dwelling and detached garage. The lot is served by one curb cut providing access to an asphalt driveway and an existing detached garage. The single-family dwelling has a nonconforming height of 36.98 feet, where 36 is the maximum allowed by right.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a two family.

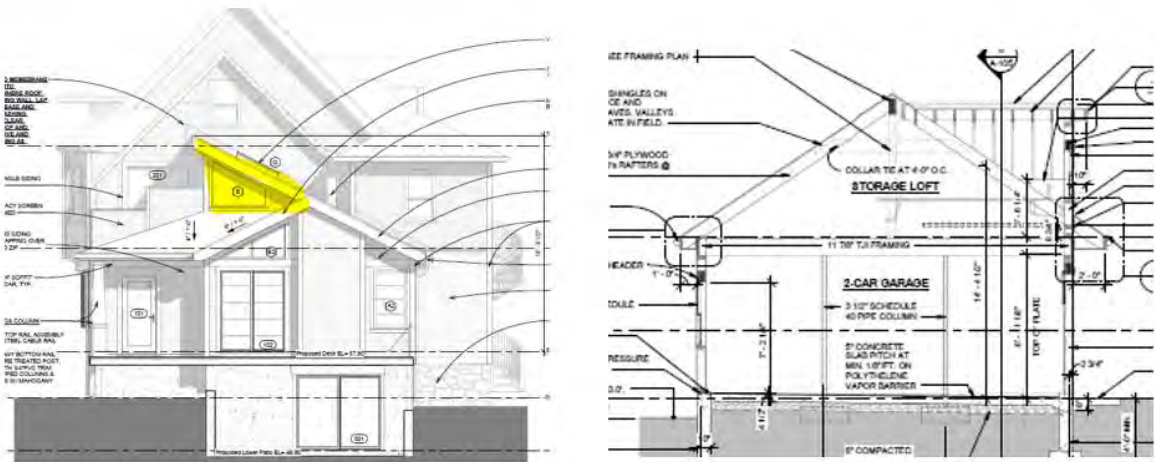
B. Building and Site Design

Special Permit #368-20 allowed the petitioners to raze the existing detached garage to construct a detached garage and construct a rear addition to the single-family home. The special permit granted an increase of the FAR and extension of the nonconforming

height.

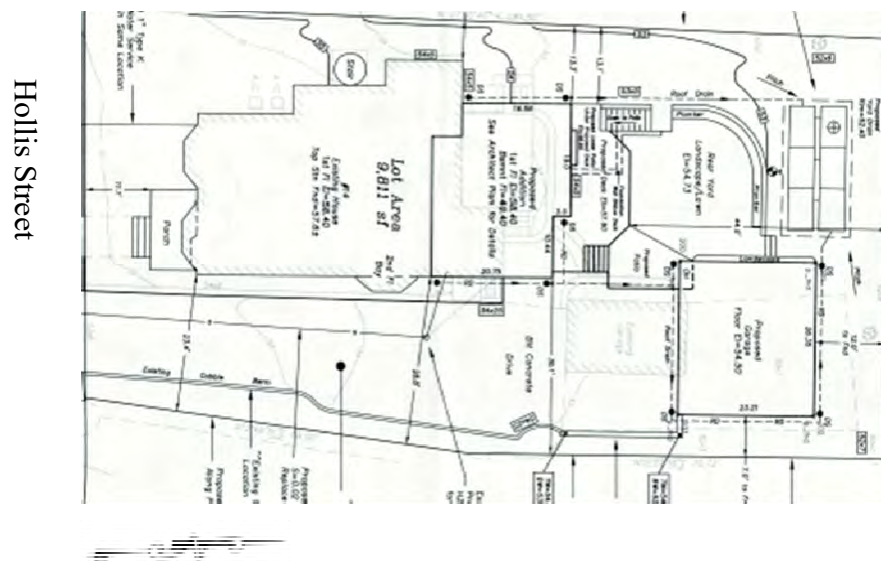
At the building permit stage, it was discovered that the atria space was included in the approved addition and detached garage, and thus, was not calculated correctly in the FAR calculations. The portion of the addition that counts towards the atria space is shown below highlighted in yellow, as well as the garage which does not show any separation between the space in the half story and first story below. The garage appears to show infrastructure for a lift, the petitioner should confirm whether or not there are plans for a lift. Per the Newton Zoning Ordinance, atria, open wells, and other vertical spaces are calculated by multiplying the floor level area of such space equal to the average height in feet divided by 10. The revised calculation results in a proposed FAR of .59 due to the revised atria space calculation. The previously approved addition and garage are not changing, only the FAR calculation is revised to reflect the space previously approved. The increase in the FAR represents an increase of approximately 356 square feet. If approved, the structure would contain 5,188 square feet of floor area and detached garage containing 590 square feet of floor area.

Areas with Atria Space
Rear elevation of house (L) and Garage (R)



When submitting for a building permit, the Planning Department found minor site alterations to be consistent with the approved special permit, such as a four-foot extension of the deck and reduced height of the retaining wall in the rear yard from three feet to 1.5' to accommodate the patio.

Building Permit Site Plan



The Planning Department is unconcerned with the request to further exceed the FAR because increase is limited to the previously approved plans and represents a miscalculation of atria space in the FAR calculation.

C. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the

petitioner is seeking the following relief:

- §3.1.9 and §7.3.3 of Section 30, to increase the FAR.

B. Engineering Review

The previously approved petition noted the impervious area increasing by approximately 1,000 square feet and was approved by the Engineering Division at the building permit stage with the proposed drainage system. Since the building permit phase, the Engineering Division approved an O&M Plan which is to be recorded by the petitioner.

C. Historic Preservation Review

This existing house was found to be historically significant by the Chief Preservation Planner on May 13, 2020 and approved the full demolition of the garage and partial demolition of the existing house based on the plans submitted. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit and final approval of plans is required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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



ATTACHMENT A

Zoning

14 Hollis Street

*City of Newton,
Massachusetts*

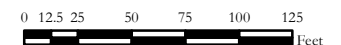
Zoning

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Public Use

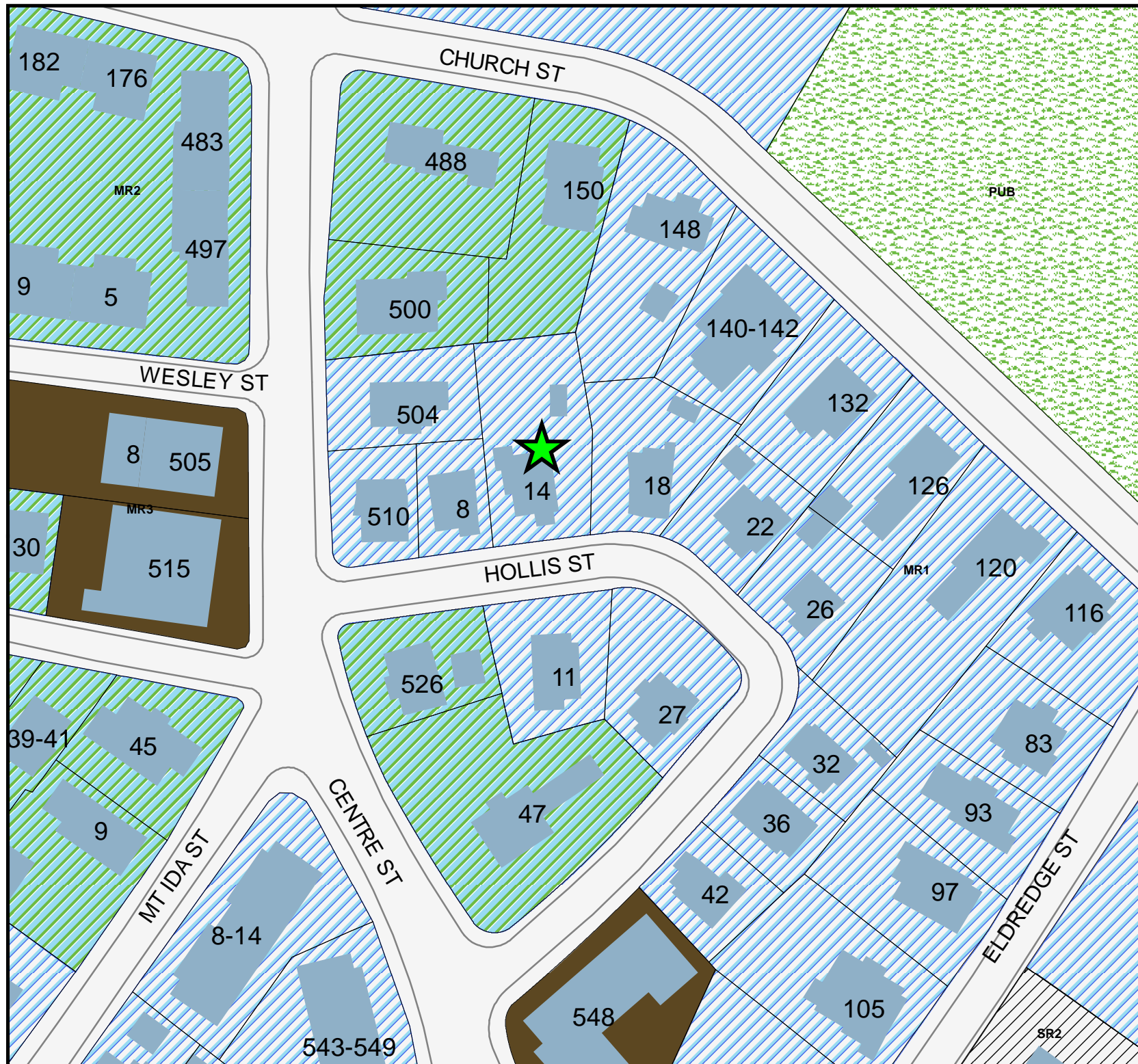


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: October 20, 2020



ATTACHMENT B





Land Use

14 Hollis Street

*City of Newton,
Massachusetts*

Land Use

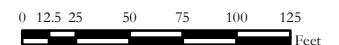
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space
-  Nonprofit Organizations

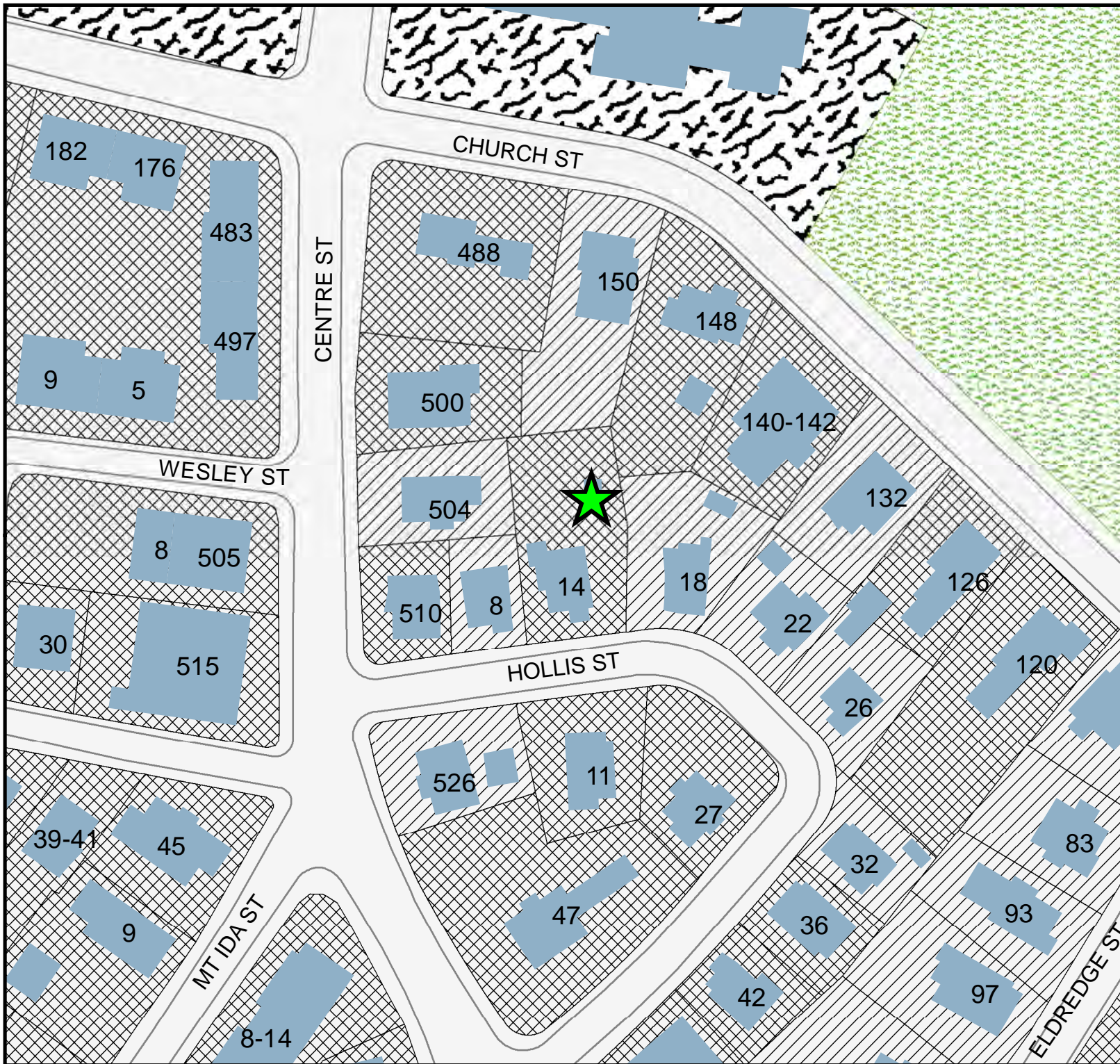


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Director

ZONING REVIEW MEMORANDUM

Date: March 8, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Hollis Realty LLC, Applicant
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Special Permit #368-20 relative to FAR

Applicant: Hollis Realty LLC	
Site: 14 Hollis Street	SBL: 72006 0021
Zoning: MR1	Lot Area: 9,811 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 14 Hollis Street consists of a 9,811 square foot lot improved with a two-family dwelling and detached garage constructed in 1908. The petitioners received Special Permit #368-20 to exceed the maximum allowable FAR and alter the nonconforming height in 2020. Upon filing for the building permit, it was determined that the FAR calculation did not include atria space. The petitioner seeks to amend the special permit to allow for greater FAR than was permitted.

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

- Zoning Review Application, prepared Laurance Lee, architect, submitted 3/3/2021
- Existing Condition Plan of Land, signed and stamped by Verne T. Porter, surveyor, dated 5/26/2020
- Proposed Condition Plan of Land, signed and stamped by Verne T. Porter, surveyor, dated 5/26/2020
- FAR worksheet, signed and stamped by John Winslow, architect, submitted 3/1/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner was granted a special permit to allow an FAR of .55, where .48 is the maximum allowed. It was subsequently determined that the FAR calculation did not include atria space, adding 356 square feet and increasing the FAR to .59. The petitioner seeks to amend Special Permit #368-20 to allow for an FAR of .59

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	9,811 square feet	No change
Frontage	70 feet	67 feet	No change
Setbacks - Principal			
• Front	11.5 feet	11 feet	No change
• Side	7.5 feet	6.6 feet	No change
• Side	7.5 feet	23.5 feet	No change
• Rear	15 feet	60.5 feet	45.3 feet
Setbacks – Accessory			
• Front	11.5 feet	81.8 feet	101 feet
• Side	5 feet	±15 feet	7 feet
• Rear	5 feet	34 feet	11.9 feet
Height			
• Principal	36 feet	36.98 feet	No change
• Accessory	22 feet	NA	18.98 feet
Stories	2.5	2.5	No change
FAR	.48	.45	.59
Max Lot Coverage	30%	16.35%	27.56%
Min. Open Space	50%	68.65%	50.14%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #368-20 to allow an FAR of .59	

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 amend Special Permit 368-20 to exceed the floor area ratio (the "FAR") from .45 to .59, where .48 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 increase in FAR from .45 to .59, where .48 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 because the increase in FAR is due to a atria space and the previously addition and garage are not being altered. (§3.1.3, and §7.8.2.C.2)
2. The specific site is an appropriate location for the proposed increase in FAR because the previously approved addition and detached garage are not being altered. (§7.3.3.C.1)
3. The proposed increase in FAR will not adversely affect the neighborhood because the addition is subordinate to the existing structure and is similar in scale with structures on similarly sized and smaller lots in the neighborhood. (§7.3.3.C.2)
4. The proposed addition and detached garage which exceed the FAR will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #368-20 (2)

PETITIONER: Hollis Realty LLC

LOCATION: 14 Hollis Street, on land known as Section 72, Block 60, Lot 21, containing approximately 9,811 square feet of land

OWNER: Hollis Realty

ADDRESS OF OWNER: 504 Centre Street
Newton, MA 02458

TO BE USED FOR: Two Family Dwelling with rear addition and detached garage

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, §3.1.9 and §7.3.3 to exceed the floor area ratio; and §3.1.9 and §7.8.2.C.2 to further increase the nonconforming building height

ZONING: Multi Residence 1 district

The prior special permit for this property is Special Permit #386-20 which approved the addition and detached garage. This special permit supersedes and replaces Special Permit #386-20. Any conditions in prior special permits not set forth in this Special- Permit #386-20 (2) are null and void. This special permit consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permits not set forth in this special permit are null and void.

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. Topographic Site Plans showing proposed conditions at 14 Hollis Street, signed and stamped by Verne Porter, Professional Land Surveyor, dated November 25, 2020
 - b. Architectural Plans, prepared by Winslow Architects, signed and stamped by John A. Winslow, Registered Architect, most recently revised May 4, 2020, consisting of nine (9) sheets:
 - i. Site Plan, C101
 - ii. Existing and Selective Removal Plans, AD-101
 - iii. Basement and First Floor Plan, A-101
 - iv. Second and Third Floor Plan, A-102
 - v. Roof Plan, A-103
 - vi. Garage Floor Plans and Elevations, A-104

- vii. Elevations, A-201, showing north, east, and south elevations
 - viii. Elevations, A-202
- 2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
- 3. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
- 4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Council 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 Council 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.
- 5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional 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.