



Ruthanne Fuller
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Barney S. Heath
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PUBLIC HEARING / WORKING SESSION II MEMORANDUM

DATE: April 23, 2021
MEETING DATE: April 27, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner
CC: Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

PETITION #439-20

728 Walnut St.

Petition #24-20, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct first and second floor additions on all sides, extending the nonconforming front and rear setbacks and increasing the habitable space in the half story, creating an FAR of .56 where .27 exists and .42 is allowed at 728 Walnut Street, Ward 2, Newton Centre, on land known as Section 64 Block 08 Lot 01, containing approximately 7,815 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 of the City of Newton Rev Zoning Ord, 2017.

The Land Use Committee (the "Committee") held a public hearing on December 1, 2020 and December 15 on this petition. This memo reflects additional information addressed to the Planning Department as of December 11, 2020.

Background

The property at 728 Walnut Street consists of a 7,815 square foot corner lot located in a Single Residence 2 (SR2) zoning district. It is improved with an approximately 2,110 square foot, 2 story single-family residence constructed in 1930.

As originally presented the project involved the construction of first and second story additions to all sides of the dwelling, and an increase the habitable space on the attic level by changing the pitch of the roof and adding dormers.

As was discussed at the December 1, 2020 public hearing, the project was reconceived as a complete demolition of the existing structure. The Planning Department noted at that time that the Newton Historical Commission (NHC) found the current structure not preferably preferred and required no further review.

Update

The petitioners submitted plans In March largely unchanged from what was shown at the previous public hearings. Changes include that the size of the house was reduced slightly, and the front façade has been modified so that the entry portico no longer projects into the front setback area along Walnut Street. A small additional change was the inclusion of a low “dormer” above a second floor window on the rear of the dwelling.

As so submitted, the proposed structure would increase the property’s floor area ratio (FAR) from 0.27 to 0.56 where 0.42 is the maximum allowed (previous plans had an FAR of 0.57). Also, review of the recent plans identified that as currently and previously proposed, additional relief is required, per section 7.8.2.C.2, to allow the new construction to have the proposed rear setback of 11.73 feet, and extend it vertically, where 11 feet exists and 15 feet is required per section 3.1.3 of the Newton Zoning Ordinance.

The Planning Department notes that the petitioner has submitted information regarding the proposed landscaping. A drawing included in the architectural plans for the site indicate that two trees on either side of the front walk from Walnut Street and the existing fencing would be removed and hedges installed along the property’s Walnut Street and Fenno Road frontages. .

ATTACHMENTS

Attachment A	Revised Zoning Review Memorandum, dated March 24, 2021
Attachment B	DRAFT Order



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ATTACHMENT A

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Director

ZONING REVIEW MEMORANDUM

Date: March 24, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mark and Kelly Anselmi, Applicants
Dan Quaille, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: **Request to exceed FAR and to further extend a nonconforming front setback**

Applicant: Mark & Kelly Anselmi	
Site: 728 Walnut Street	SBL: 64008 0001
Zoning: SR2	Lot Area: 7,815 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 728 Walnut Street consists of a 7,815 square foot lot improved with a single-family residence constructed in 1930. The petitioners propose to raze the existing dwelling and reconstruct a new single-family dwelling. The proposed construction results in an FAR beyond the maximum allowed and further extends a nonconforming front setback, requiring a special permit.

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

- Zoning Review Application, prepared by Dan Quaille, architect, dated 7/21/2020
- FAR Worksheet, submitted 7/21/2020, revised 8/2/2020, revised 12/14/2020, 3/19/2021
- Proposed Site Plan, signed and stamped by Bryan G. Parmenter, surveyor, dated 7/8/2020
- Architectural Plans, signed and stamped by Daniel Quail, architect, dated 7/27/2020, revised 3/11/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners intend to raze the existing two-story single-family dwelling and construct a new 2.5 story dwelling. The existing FAR is .27, where .42 is the maximum allowed. The proposed construction results in an FAR of .56, exceeding the maximum allowed, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.
2. The existing dwelling has a nonconforming front setback from Fenno Road of 21.7 feet where 25 feet is required per section 3.1.3. The nonconforming front setback is due to a deck constructed more than ten years ago. At the time the deck was constructed, the building permit allowed for the front setback to be averaged with the dwelling at 61 Fenno Street. The Commissioner has since determined that the averaging provisions should not have been applied, as a vacant parcel separates the two lots, and that the required front setback for the district of 25 feet should be applied. The deck is now considered legally nonconforming. The proposed construction further decreases the nonconforming front setback to 16.89 feet, as well as adding to the structure within the required setback, requiring a special permit per section 7.8.2.C.2.
3. The existing dwelling has a nonconforming rear setback of 11 feet, where 15 feet is required per section 3.1.3. The proposed construction results in a rear setback of 11.73 feet, utilizing the existing nonconformity and extending it vertically. A special permit per section 7.8.2.C.2 is required to utilize the existing nonconforming rear setback for the new construction.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,815 square feet	No change
Frontage	80 feet	92.48 feet	No change
Setbacks			
• Front (Walnut St)	25 feet	25.7 feet	No change
• Front (Fenno St)	25 feet	21.7 feet	16.89 feet
• Side	7.5 feet	11.3 feet	7.75 feet
• Rear	15 feet	11 feet	11.73 feet
Max Number of Stories	2.5	2	2.5
Max Height	36 feet	NA	34.9 feet
FAR	.42	.27	.56
Max Lot Coverage	30%	14.3%	22.3%
Min. Open Space	50%	61.1%	55.8%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3, §3.1.9	Request to exceed FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming rear setback	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 exceed the allowed floor area ratio (FAR), increasing it from 0.27 to 0.56 where 0.42 is the maximum allowed by right, and further reduce the existing nonconforming front setback from 21.7 feet to 15.58 feet where 25 feet is required, and modify the dwelling's existing nonconforming rear setback, increasing it from 11 feet to 11.73 feet where 15 feet is required and extending it vertically, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed increase of the dwelling's nonconforming FAR from 0.27 to 0.56 where 0.42 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, especially given its location proximate to large civic buildings and similarly scaled dwellings (§3.1.9.A.2);
2. The proposed further reduction of the dwelling's existing nonconforming front setback along Fenno Road, from 21.7 feet to 16.89 feet where 25 feet is required, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as only approximately 25 square feet of the structure's footprint would be located within the affected front setback (§7.8.2.C.2)
3. The proposed modification of the dwelling's existing nonconforming rear setback, increasing it from 11 feet to 11.73 feet where 15 feet is required, and extending it vertically, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood given its limited visibility from adjacent properties and public ways (§7.8.2.C.2)

PETITION NUMBER: #439-20

PETITIONER(S): Mark and Kelly Anselmi

LOCATION: 728 Walnut Street, on land known as Section 64, Block 8, Lot 1, containing approximately 7,815 sq. ft. of land

OWNER(S): Mark and Kelly Anselmi

ADDRESS OF OWNER(S): 728 Walnut Street
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further increase nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)
- extend a nonconforming rear setback (§3.1.3; §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 “Proposed Addition Plan of Land, 728 Walnut Street, Newton, MA,” prepared by PFS Land Surveying, Inc., signed and stamped by Bryan G. Parmenter, Registered Professional Land Surveyor, dated July 8, 2020, as revised through February 4, 2021.
 - b. A set of plans entitled “Anselmi Residence, 728 Walnut Street, Newton, MA 02459-1418,” prepared by Lincoln Architects LLC. dated March 11, 2021, signed and stamped by Daniel R. Quaile, Registered Architect:
 - i. Basement Floor Plan (A1)(dated March 11, 2020)
 - ii. First Floor Plan (A2)
 - iii. Second Floor Plan (A3)
 - iv. Attic Plan (A4)(as revised through March 11, 2021)
 - v. Exterior Elevations (A6)
 - vi. Attic Sections (A7)
 - vii. Site Lighting Plan (L2)(note: also indicates proposed landscaping)

- c. A document entitled "Floor Area Ratio Worksheet, 728 Walnut Street," indicating a proposed "Total gross floor area" of 4,400 square feet and a proposed "FAR" (floor area ratio) of 0.560, signed and stamped by Daniel R. Quaille, 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.