



#105-21

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 4, 2021
Land Use Action Date: July 26, 2021
City Council Action Date: August 2, 2021
90- Day Expiration Date: August 2, 2021

DATE: April 30, 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 #105-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the allowable FAR and extend the non-conforming 3.5 story structure by constructing side and rear additions at 350 Woodward Street, Ward 5, Waban, on land known as Section 54 Block 08 Lot 23, containing approximately 7,576 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.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.



350 Woodward Street

EXECUTIVE SUMMARY

The property located at 350 Woodward Street consists of a 7,576 square foot lot in the Single Residence 2 (SR-2) zone in Waban. The lot is improved with a nonconforming 3.5-story, single-family residence constructed circa 1926. The petitioners are seeking to construct two additions: a rear 3.5 story addition and an addition to the third story on the eastern elevation above an existing sunroom. As proposed, the addition will exceed the by right Floor Area Ratio (“the FAR”) and will further extend the nonconforming 3.5 story structure, both requiring a special permit. If approved, the dwelling will total 5,247 square feet of floor area and have an FAR of .69 where .42 is the maximum allowed as of right and currently exists.

The addition which increases the footprint of the structure is to the rear of the nonconforming, 3.5 story dwelling and is not visible from the street. The side addition above an existing sunroom is within the footprint of the existing structure. The additions meet all other dimensional standards and maintain the existing front and side setbacks.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed additions that increase the FAR. (§7.3.3.C.1)
- The proposed additions that increase the FAR will not adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed additions that increase the FAR will not 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 the FAR from .42 to .69, where .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. (§3.1.3, and §7.8.2.C.2)
- The proposed extension of the nonconforming 3.5 story structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9, §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 the southern side of Woodward Street in Waban.

The SR-2 zone encompasses the entirety of the neighborhood with a Public Use zone north of the site (**Attachment A**). The surrounding land use of the neighborhood is single family residential (**Attachment B**).

B. Site

The site consists of 7,576 square feet of land and is improved with a nonconforming 3.5-story single-family dwelling. The lot is served by one curb cut providing access to an existing asphalt driveway along the western property line. The site has a downward slope from the front to the rear of the site with a grade change of approximately 12 feet.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain single-family.

B. Building and Site Design

The petitioners are seeking to construct additions to the side and the rear of the single-family dwelling. The additions require relief to exceed the FAR and extend the nonconforming 3.5 story structure. Per the Ordinance's definition of a story, the basement level is considered the first story due to the average grade, creating a nonconforming 3.5 story dwelling with a height of 34.4 feet where 36 feet and 2.5 stories is the maximum allowed by right.

The petitioner is proposing to construct a 3.5 story rear addition that will expand the structure's footprint approximately 32 feet towards the rear property line and adds approximately 600 square feet of living area to the footprint of the structure. The basement/first story attached garage addition will consist of an additional 622 square feet of floor area. The second story addition will consist of an additional 600 square feet of floor area, with a 379 square foot deck accessed by the family room addition and existing living room. 844 square feet of floor area is proposed for the third story which consists of the rear addition as well as the addition to the eastern elevation above an existing sunroom. A roof deck is proposed for the half story above the addition on the eastern elevation. The additions will add approximately 2,065 square feet of floor area to the structure across three and a half stories.

Proposed Site Plan



Existing Front Elevation



Proposed Front Elevation



Existing East Elevation



Proposed East Elevation



Existing West Elevation



Proposed West Elevation



Existing Rear Elevation



Proposed Rear Elevation



The additions exceed the FAR allowed by right, increasing the FAR from .42 to .69, where .42 is the maximum allowed by right, requiring a special permit. Should this special permit be approved, the structure would total 5,247 square feet of floor area, where 3,182 exists and is also allowed as of right. The proposed additions meet all other dimensional requirements, and are above the minimum open space, at 55.3%, where 50% is required and where 60.3% exists. The additions to the structure result in a lot coverage of 23.6% where 15.3% exists and where 30% is the maximum allowed. The additions maintain the existing front and side setbacks, only altering the rear setback to 16.9 feet from an existing rear setback of approximately 45 feet.

The Planning Department notes that the bulk of the addition is to the rear of the structure, will not be visible from the street and maintains the existing side setbacks. The proposed additions would also be consistent with the existing structure and design in terms of the roof and design.

C. Parking and Circulation

The petitioners are proposing a rear addition which consists of a two-car attached garage. The petitioners will be converting the existing one car attached garage to storage. The petitioners did not provide an existing conditions plan and should provide information on any modifications to the curb cut and driveway at the hearing.

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 §7.8.2.C.2 of Section 30, to exceed the FAR.
- §3.1.3 and §7.8.2.C.2 of Section 30, to further extend the nonconforming 3.5 story structure

B. Engineering Review

The Engineering Division reviewed this petition on April 13, 2021 and issued a memorandum (**Attachment D**). Associate City Engineer John Daghljan noted several items to be corrected at the Building Permit stage, such as the drainage system, and an Operations and Maintenance plan ("O&M Plan"). The O&M plan will be incorporated as a condition within the final Council Order.

C. Historic Preservation Review

This project was found to be historically significant by the Chief Preservation Planner and Chair of the Newton Historical Commission on April 29, 2021. The Chief Preservation Planner and Chair approved the plans and final approval of plans is required prior to the issuance of the permit, should this project be approved.

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:** Engineering Memorandum
- Attachment E:** DRAFT Council Order



ATTACHMENT A

Zoning

350 Woodward Road

*City of Newton,
Massachusetts*

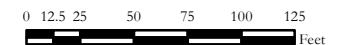
Zoning

-  Single Residence 2
-  Public Use

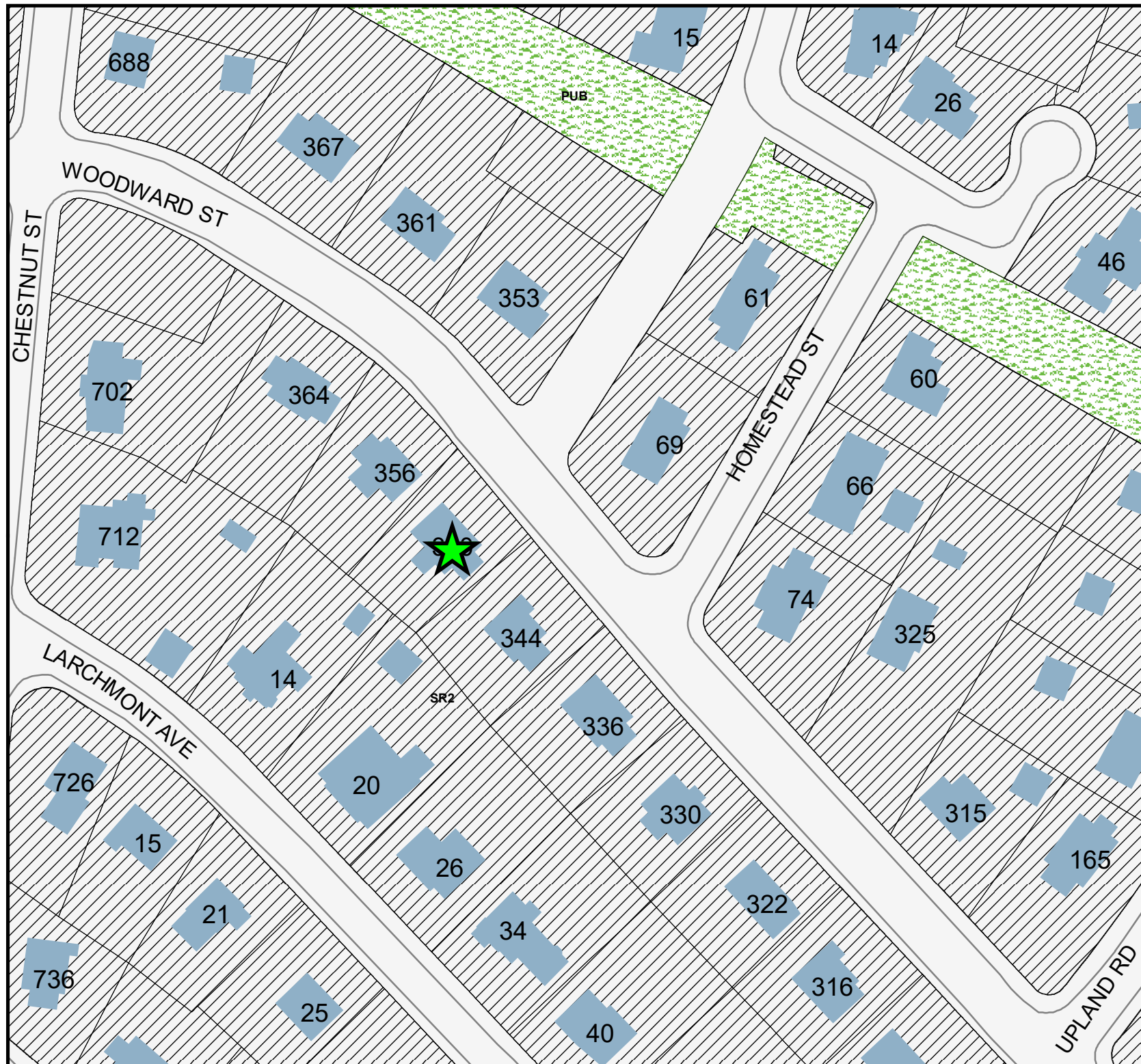


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: April 29, 2021



ATTACHMENT B




Land Use

350 Woodward Street

*City of Newton,
Massachusetts*

Land Use

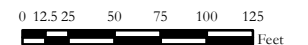
Land Use

-  Single Family Residential
-  Open Space
-  Vacant Land

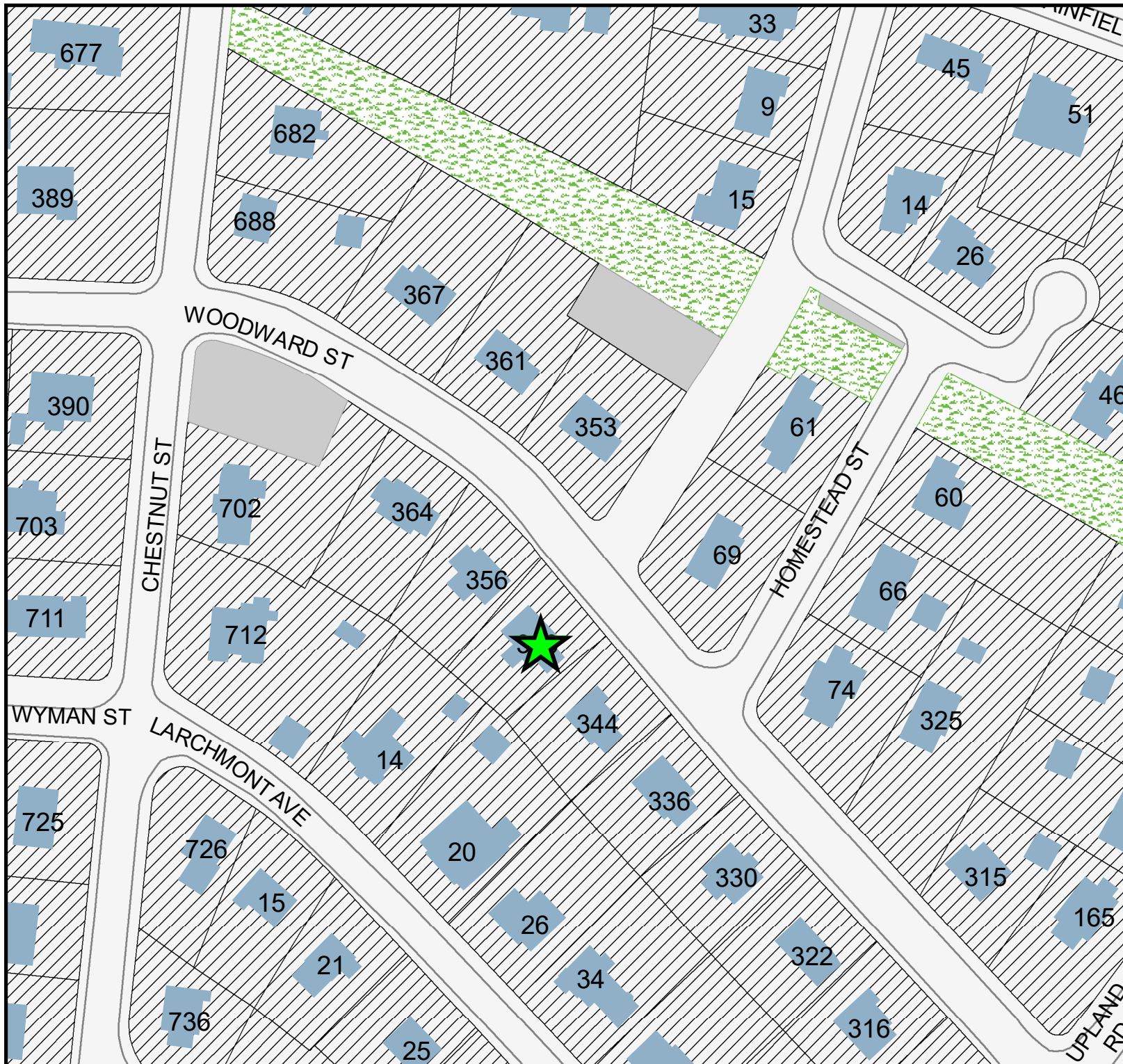


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Map Date: April 29, 2021





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 9, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Daniel Shanks, Applicant
Jane Grover, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to exceed FAR and to extend a nonconforming three-story structure

Applicant: Daniel Shanks

Site: 350 Woodward Street	SBL: 54008 0023
Zoning: SR2	Lot Area: 7,576 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 350 Woodward Street consists of a 7,576 square foot lot improved with a single-family dwelling constructed in 1926. The petitioners propose to construct a side addition of a second story within the footprint of an existing sunporch, as well as adding a rear addition of an attached garage with two and a half stories above. The proposed changes will increase the FAR beyond the maximum allowed and extend a nonconforming third story, requiring a special permit.

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

- Zoning Review Application, prepared by David Borankay, submitted 1/5/2021
- Plan of Land, prepared by Essex Engineering and Survey, surveyors, dated 11/20/2020, updated 3/8/2021
- Architectural plans and elevations, prepared by Slocum Hall Design Group, architect, dated 11/18/2020
- FAR calculation, submitted 3/2/2021

ADMINISTRATIVE DETERMINATIONS:

1. Due to the topography, the structure is 3.5 stories, where 2.5 is the maximum allowed per section 3.1.3. The petitioners propose a rear addition with 3.5 stories as well as an addition atop a sunroom extending the third story, further extending the nonconformity requiring a special permit per sections 3.1.3 and 7.8.2.C.2.
2. The petitioners intend to construct additions to the side and rear of the dwelling increasing the FAR from 3,182 to 5,249 square feet. The existing FAR is .42, where .42 is the maximum allowed. The proposed addition results in a FAR of .69, exceeding the maximum allowed, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,576 square feet	No change
Frontage	100 feet	80 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 7.5 feet 7.5 feet 15 feet	25.7 feet 10.5 feet 14 feet >15 feet	No change No change No change 16.9 feet
Max Number of Stories	2.5	3.5	No change
Max Height	36 feet	27 feet	36 feet
FAR	.42	.42	.69
Max Lot Coverage	30%	15.7%	23.6%
Min. Open Space	50%	60.3%	55.3%

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 extend a nonconforming 3.5-story structure	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 350 Woodward Street

Date: April 13, 2021

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Neil Cronin, Chief Planner
Michael Gleba, Sr. Planner
Katie Whewell, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

Proposed Addition
350 Woodward Street
Newton, MA

Prepared by: Essex Engineering & Survey

Dated: March 28, 2021

Executive Summary:

This application entails the complete gutting of the existing dwelling and adding an addition at the rear of the home which would include a garage under for two stalls and living space above. The engineer of record needs to add a trench drain in front of the garage under with a gas trap outlet as required by City Ordinance that can be connected to the proposed drywell.

Municipal utility services are to be updated to current City Standards. The sidewalk and driveway apron shall be updated upon completion of the utility installation as required by Ordinance.



Drainage:

1. The drainage system design calculation has minor math errors that need to be corrected prior to Building Permit application.
2. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly

backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.

2. All new sewer service(s) shall be pressure tested in accordance to the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
4. All water services shall be chlorinated, and pressure tested in accordance to the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
5. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*

3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
9. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.

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 3.5 story structure and to and to increase the floor area ratio (FAR) from .42 to .69, where .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 specific site is an appropriate location for the proposed additions that increase the FAR because the bulk of the larger addition is to the rear of the structure and will not be visible from the street. (§7.3.3.C.1)
2. The proposed additions that increase the FAR will not adversely affect the neighborhood because the bulk of the larger addition is to the rear of the structure and will not be visible from the street. (§7.3.3.C.2)
3. The proposed additions that increase the FAR 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 increase in the FAR from .42 to .69, where .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 because the bulk of the addition is to the rear of the structure and will not be visible from the street. (§3.1.3, and §7.8.2.C.2)
6. The proposed extension of the nonconforming 3.5 story structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the bulk of the addition is to the rear of the structure and will not be visible from the street. (§3.1.9, §3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #105-21

PETITIONER: Daniel Shanks

LOCATION: 350 Woodward Street, on land known as Section 54, Block 8, Lot 23, containing approximately 7,576 square feet of land

OWNER: Daniel Shanks

ADDRESS OF OWNER: 158 Auburn Street
Newton, MA 02466

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.4.1, and §7.8.2.C.2, to further extend the nonconforming 3.5 story structure use and §3.1.9, §3.1.3 and §7.3.3 to exceed the FAR

ZONING: Single Residence 2

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. Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated November 17, 2020, Revised March 8, 2021.
 - b. Architectural Floorplans, prepared by C.D. Calhoun, unsigned and unstamped, dated June 22, 2020, dated April 26, 2021 consisting of the following eight (8) sheets.
 - i. Proposed FAR, A003
 - ii. Proposed Basement and First Floor Plan, A100
 - iii. Proposed 2nd Floor and Attic Plan, A101
 - iv. Proposed Exterior Elevations, A200
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 Inspectional Services, Engineering Division of Public Works, Fire Department, and the Department of Planning and Development.
3. 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 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

- c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. The petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, 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.
5. 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 statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR 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 licensed 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.