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#210-21

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	June 22, 2021
Land Use Action Date:	September 14, 2021
City Council Action Date:	September 20, 2021
90-Day Expiration Date:	September 20, 2021

DATE: June 17, 2021

TO: City Council

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

SUBJECT: **Petition #210-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct single-story rear additions, increasing the nonconforming FAR at **290 Hartman Road**, Ward 8, Newton Centre, on land known as Section 2 Block 25 Lot 17, containing approximately 16,906 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.2 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.



290 Hartman Road

EXECUTIVE SUMMARY

The subject property at 290 Hartman Road consists of a 16,906 square foot lot in a Single Residence 1 (SR1) zoning district improved with a 5,472 square foot, 2 ½ story single-family dwelling with a basement level two-car garage constructed in 2005.

The petitioner proposes to construct two single-story additions to the rear of the dwelling, measuring 650 square feet of space in the aggregate; 42 feet square would also be added to the basement level. The proposed construction would further increase the property's nonconforming floor area ratio (FAR) from 0.32 to 0.36, where 0.30 is the maximum allowed per Sections 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO), requiring a special permit per Section 7.8.2.C.2.

The Planning Department is generally not concerned with the creation of the additions given the topography of the parcel and the area; that as the proposed additions would each have only one story the height of the structure would not be increased; and the additions would have limited visibility from adjacent properties and public ways. Also, as the expanded structure would be in compliance with other relevant dimensional requirements it would not be expected to adversely affect the surrounding neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the proposed expanded structure as designed is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9.2)
- the proposed expanded structure as designed is substantially more detrimental than the existing nonconforming use 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 Hartman Street west of Clifton Road. Consistent with the surrounding neighborhood, the site is developed with a single-family dwelling (**Attachment A**). The site and other properties along Hartman Road and to the north are in a Single Residence 1 (SR1) zoning district; a Single Residence 2 (SR2) district is located to the south/southwest (**Attachment B**).

B. Site

The subject property consists of a 16,906 square foot lot improved with a 5,472 square foot, 2 ½ story single-family dwelling with a basement level two-car garage. The lot, like others in the area, has a slope, in its case an upward grade of approximately twenty feet from the front to back property lines (south to north). Vehicular access to the lot is provided via a paved driveway (with retaining walls on either side) located on the right side of the dwelling. The site also features patio space and lawn area and other vegetation.

III. 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 two single-story additions to the rear of the dwelling, measuring 650 square feet of space in the aggregate; an additional 42 square feet would be added to the basement level. This would increase the size of the structure from 5,472 to 6,164 square feet, further increasing the property's nonconforming floor area ratio (FAR) from 0.32 to 0.36, where 0.30 is the maximum allowed by right.

As the additions would each have only one story, the dwelling would remain at 2 ½ stories, the maximum allowed by right; there would be no change to the structure's measured height of 34.6 feet (slightly lower than the maximum 36 feet allowed).

No changes would be made to the currently conforming front setback. The existing left side setback would be reduced slightly from 12.9 to 12.7 feet, remaining above the 12.5 feet required. The rear setback would be reduced from approximately 120 feet to 90.7, well above the required minimum 25 feet.

C. Parking and Circulation

No changes are proposed to the existing driveway or the basement-level two-car garage.

D. Landscaping

A landscaping plan was not submitted with this petition.

IV. 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 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. Historic Commission Review

As the dwelling was constructed in 2005, the proposed construction is not subject to Newton Historic Commission (NHC) review.

V. 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 Council Order

ATTACHMENT A




Land Use

290 Hartman Rd.

City of Newton,
Massachusetts

Land Use

Land Use

-  Single Family Residential
-  Open Space
-  Vacant Land

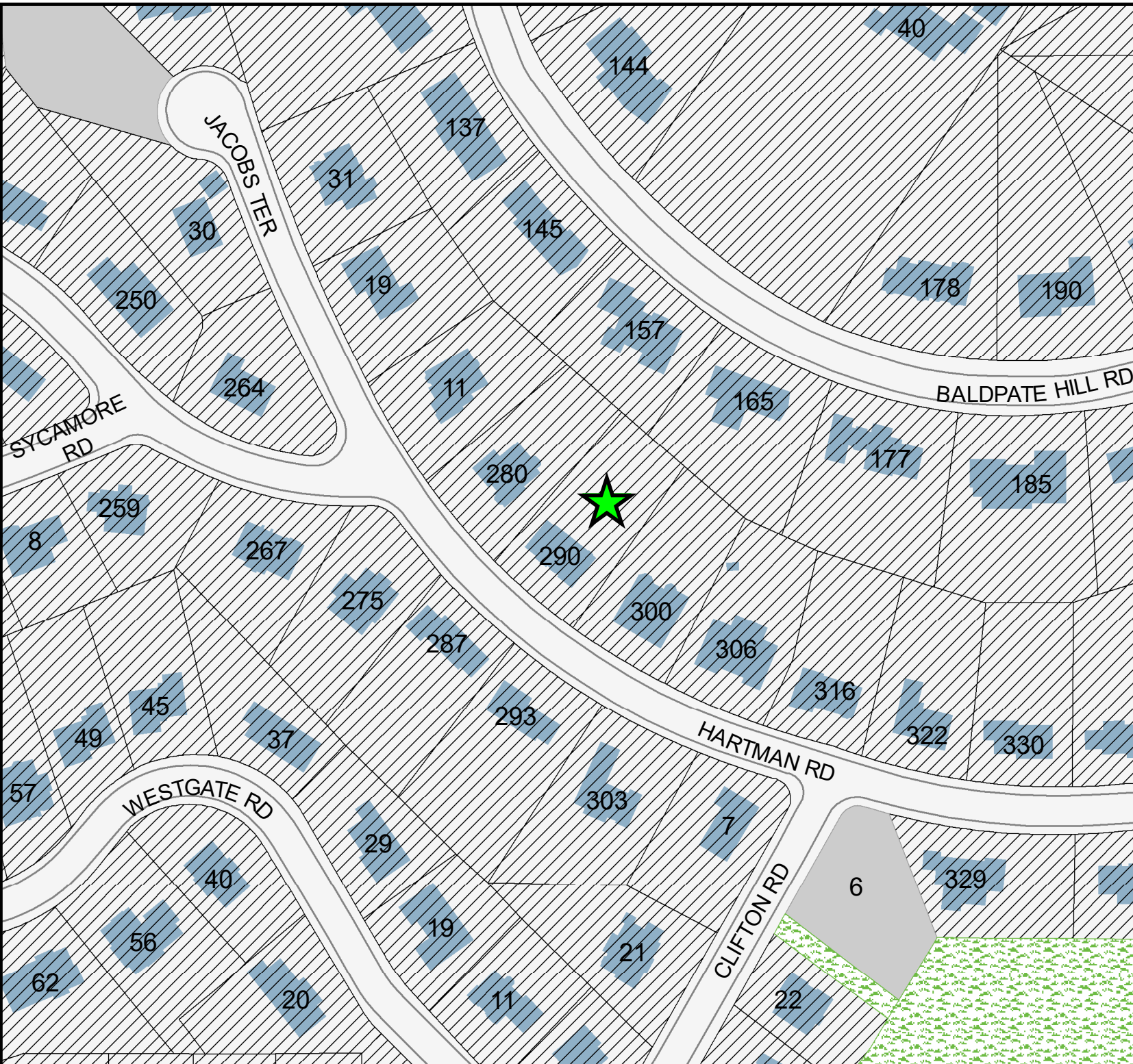


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.525 50 75 100 125 150 175 Feet

Map Date: June 16, 2021






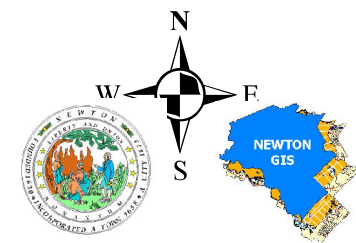
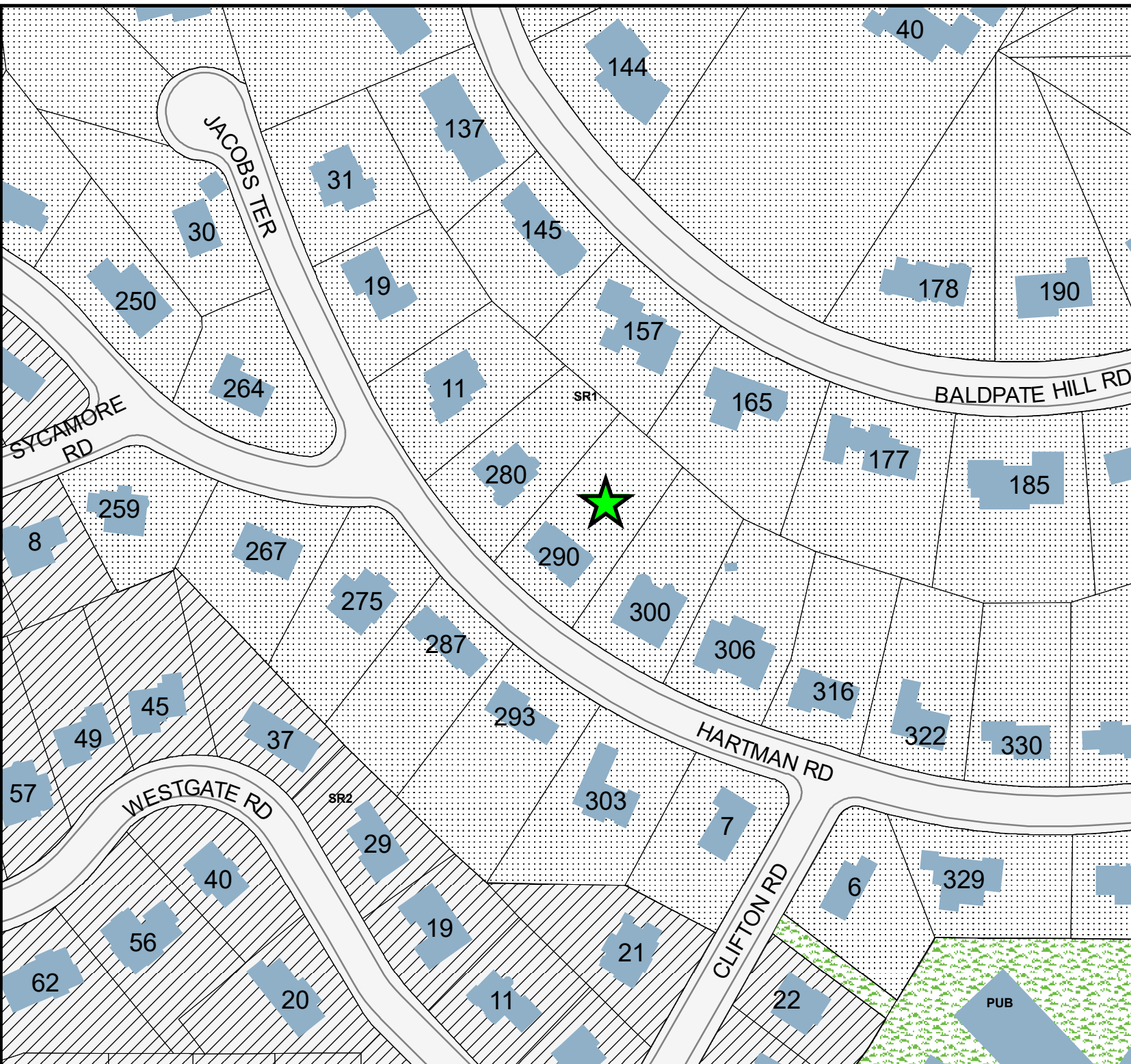
ATTACHMENT B

Zoning

290 Hartman Rd.

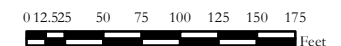
*City of Newton,
Massachusetts*

-  Single Residence 1
-  Single Residence 2
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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ATTACHMENT C

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Director

ZONING REVIEW MEMORANDUM

Date: May 18, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Richard Levey, Architect
Vyacheslav Fos, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Vyacheslav Fos	
Site: 290 Hartman Rd	SBL: 82025 0017
Zoning: SR1	Lot Area: 16,906 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 290 Hartman Road consists of a 16,906 square foot lot improved with a single-family dwelling constructed in 2005. The petitioner proposes to construct single-story additions to the rear. 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 Richard Levey, architect, dated 3/29/2021
- Certified Plot Plan, signed and stamped by Frank Iebba, surveyor, dated 2/22/2021, revised 2/27/2021, 3/25/2021
- Architectural Plans and Elevations, signed and stamped by Richard Levey, architect, dated 3/25/2021
- FAR calculations, submitted 3/29/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to add 650 square feet of living space to the first story within two rear additions. The proposed construction increases the nonconforming FAR from .32 to .36, where .30 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.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	16,906 square feet	No change
Frontage	100 feet	100 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 12.5 feet 25 feet	25.3 feet 12.9 feet ± 120 feet	No change 12.7 feet 90.7 feet
Height	36 feet	34.6 feet	No change
Stories	2.5	2.5	No change
FAR	.30	.32	.36
Max Lot Coverage	20%	13%	16.5%
Min. Open Space	65%	79.8%	76.3%

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 increase the nonconforming floor area ratio (FAR) from 0.32 to 0.36 where 0.30 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 0.32 where 0.36 exists and 0.30 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 given the topography of both the parcel and the area, and as other nearby dwellings are similarly scaled and sited on sloping parcels (§3.1.9.2)
2. the proposed expanded structure as designed will not be substantially more detrimental than the existing nonconforming use is to the neighborhood since as the proposed additions would each have only one story the height of the dwelling would not be increased, and as the additions would be located at the rear of the structure they would have limited visibility from adjacent properties and public ways (§7.8.2.C.2)

PETITION NUMBER: #210-21

PETITIONER(S): Vyacheslav Fos

LOCATION: 290 Hartman Road, on land known as Section 2, Block 25, Lot 17, containing approximately 16,906 sq. ft. of land

OWNER(S): Vyacheslav Fos

ADDRESS OF OWNER(S): 290 Hartman Road
Newton, MA 02459

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, §7.8.2.2)

•
ZONING: Single Residence 1 (SR1) 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, 290 Hartman Road, Newton, MA," prepared by Essex Eng. & Survey, dated February 22, 2021 and February 27, 2021, signed and stamped by Frank Iebba, Professional Land Surveyor, and Frank Iebba, Registered Professional Engineer.
 - b. A set of architectural plans entitled "Fos Residence, 290 Hartman Rd, Newton, MA," prepared by Richard B. Levey Architects, dated March 25, 2021, signed and stamped by Richard B. Levey, Registered Architect, consisting of the following sheets:
 - i. Proposed First Floor Plan (A5)
 - ii. Proposed Second Floor and Partial Basement Plan (A6)
 - iii. Proposed Elevations (Left Side and Front) (A7)
 - iv. Proposed Elevations (Right Side and Rear) (A8)
 - c. A document entitled "Floor Area Ratio Worksheet, 290 Hartman Rd. ," indicating a proposed "Total gross floor area" of 6,164 square feet and a proposed "FAR" (floor area ratio) of 0.36 signed and stamped by Richard B. Levey, Registered Architect.
2. 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 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.
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.