



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: July 23, 2021
MEETING DATE: July 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 #123-21

9 Old Orchard St.

Petition #123-21, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the ceiling height in a single-story rear addition to create atria space and to enclose an existing breezeway, exceeding the allowable FAR of .28 at 9 Old Orchard Road, Ward 7, Chestnut Hill, on land known as Section 63 Block 16 Lot 21, containing approximately 7,650 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The Land Use Committee (the "Committee") held a public hearing on May 13, 2021 on this petition. This memo reflects additional information addressed to the Planning Department as of July 23, 2021.

Background

The property at 9 Old Orchard Road consists of a 26,637 square foot lot improved with a 7,497 square foot, 2 ½ story single-family dwelling (including a 632 square foot garage attached by a breezeway) constructed in 1714.

The petitioner obtained a building permit for the construction of a one-story rear addition and the modification of an existing breezeway to remove a wall enclosing it on one side. The petitioners

propose to extend the ceiling height of the addition constructed pursuant to the building permit to accommodate atria space and allow for the continued enclosure of one side of the breezeway.

As indicated in the original petition material, the proposed work, in the aggregate with additions to and removals from the structure pursuant to the current building permit, would result in an increase of the parcel's floor area ratio (FAR) from 0.28, the maximum allowed for the property (inclusive of the 0.02 FAR bonus for an old lot meeting post 1953 dimensions) and as allowed under the active building permit, to 0.30, requiring a special permit per Section 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO).

Update

At the time of the drafting of the Planning Department's May 7, 2021 public hearing memorandum it was noted that there was some lack of clarity among drawings between what previously existed, what was being done per approved by-right building plans, and what was being proposed pursuant to the special permit plans. The petitioner has addressed these issues with a recent submission (which has also been reviewed by Planning Department historic preservation staff for consistency with what was reviewed and approved by the Chestnut Hill Historic District Commission).

The Planning Department also notes that recently submitted plans indicate that the proposed floor area ratio (FAR) is 0.29, just above the 0.28 allowed under the current by-right building permit and slightly less than the 0.30 requested by the present special permit petition.

ATTACHMENTS

Attachment A Planning Department's Public Hearing Memorandum dated May 7, 2021
(includes DRAFT Order)



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ATTACHMENT A

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PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 13, 2021
Land Use Action Date: July 13, 2021
City Council Action Date: July 19, 2021
90-Day Expiration Date: August 5, 2021

DATE: May 7, 2021

TO: City Council

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

SUBJECT: **Petition #123-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the ceiling height in a single-story rear addition to create atria space and to enclose an existing breezeway, exceeding the allowable FAR of .28 at **9 Old Orchard Road**, Ward 7, Chestnut Hill, on land known as Section 63 Block 16 Lot 21, containing approximately 7,650 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 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.



9 Old Orchard Road

EXECUTIVE SUMMARY

The property at 9 Old Orchard Road consists of a 26,637 square foot lot improved with a 7,497 square foot, 2 ½ story single-family dwelling (including a 632 square foot garage attached by a breezeway) constructed in 1714.

The petitioner obtained a building permit for the construction of a one-story rear addition and the modification of an existing breezeway to remove a wall enclosing it on one side. The petitioners propose to extend the ceiling height of the addition constructed pursuant to the building permit to accommodate atria space and enclose both sides of the breezeway.

The proposed work, in the aggregate with additions to and removals from the structure pursuant to the current building permit, would result in an increase of the parcel's floor area ratio (FAR) from 0.28, the maximum allowed for the property (inclusive of the 0.02 FAR bonus for an old lot meeting post 1953 dimensions), to 0.30, requiring a special permit per Section 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO).

The Planning Department is generally not concerned with the proposed work as neither the footprint nor the height of the structure would be increased, and it would have limited visibility from adjacent properties and public ways.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the proposed structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9.A.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the north side of Old Orchard Road at its intersection with Hammond Street. The immediate neighborhood is developed with single-family dwellings and is ringed by large institutional properties (**Attachment A**). The site and surrounding area are located within a Single Residence 1 (SR1) district (**Attachment B**).

B. Site

The subject property consists of a triangular 26,637 square foot lot improved with a 7,497 square foot, 2 ½ story single-family dwelling (including a 632 square foot garage attached by a breezeway). It slopes upward approximately eight feet from its frontages to its west side.

Auto access is provided by a paved driveway located on the west (left) side of its Old Orchard Street frontage that leads to the garage in the northwest corner of the site near Beacon Street. The site also features lawn areas and mature trees and shrubbery, and a fence is located along its west side and Beacon and Hammond street frontages.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family dwelling.

B. Building and Site Design

The petitioners propose to add ceiling height to the first-floor addition recently permitted with a by-right building permit with the creation of a “cathedral ceiling” for a portion of the first floor that would be considered atria space per Sec. 1.5.5.B.a.d of the NZO (generally considered high-roofed space open to the floor below). They also intend to enclose the breezeway that connects the garage to the dwelling. The work would represent an additional 94 square feet of floor area countable toward FAR, increasing the parcel’s FAR from its currently conforming 0.28 (inclusive of the 0.02 FAR bonus) to 0.30.

There would be no change to the currently conforming number of stories, height (26 feet), lot coverage (17.5%) or open space (72%). There would also be no change to its conforming front setbacks or its slightly nonconforming 11.7-foot side setback where 12.5 is required.

The Planning Department notes that the proposed changes would have limited visibility, if any, from adjoining public rights of way given the lot’s topography and existing fencing.

C. Parking and Circulation

No changes to the property’s parking or circulation are contemplated by this petition.

D. Landscape, Lighting and Signage

No changes to the property’s landscaping are contemplated by 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 exceed floor area ratio (FAR) (§3.1.3; §3.1.9)

B. Engineering Review

Review of this project by the Engineering Division is not required at this time.

C. Historical Review

On January 26, 2021 the Newton Historical Commission (NHC) approved the partial demolition of portions of the structure, requiring final review of construction plans prior to the issuance of a building permit. On February 19, 2021, the Chestnut Hill Historic Commission granted a Certificate of Appropriateness for the application as submitted to that body inclusive of the “final rear addition design.”

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

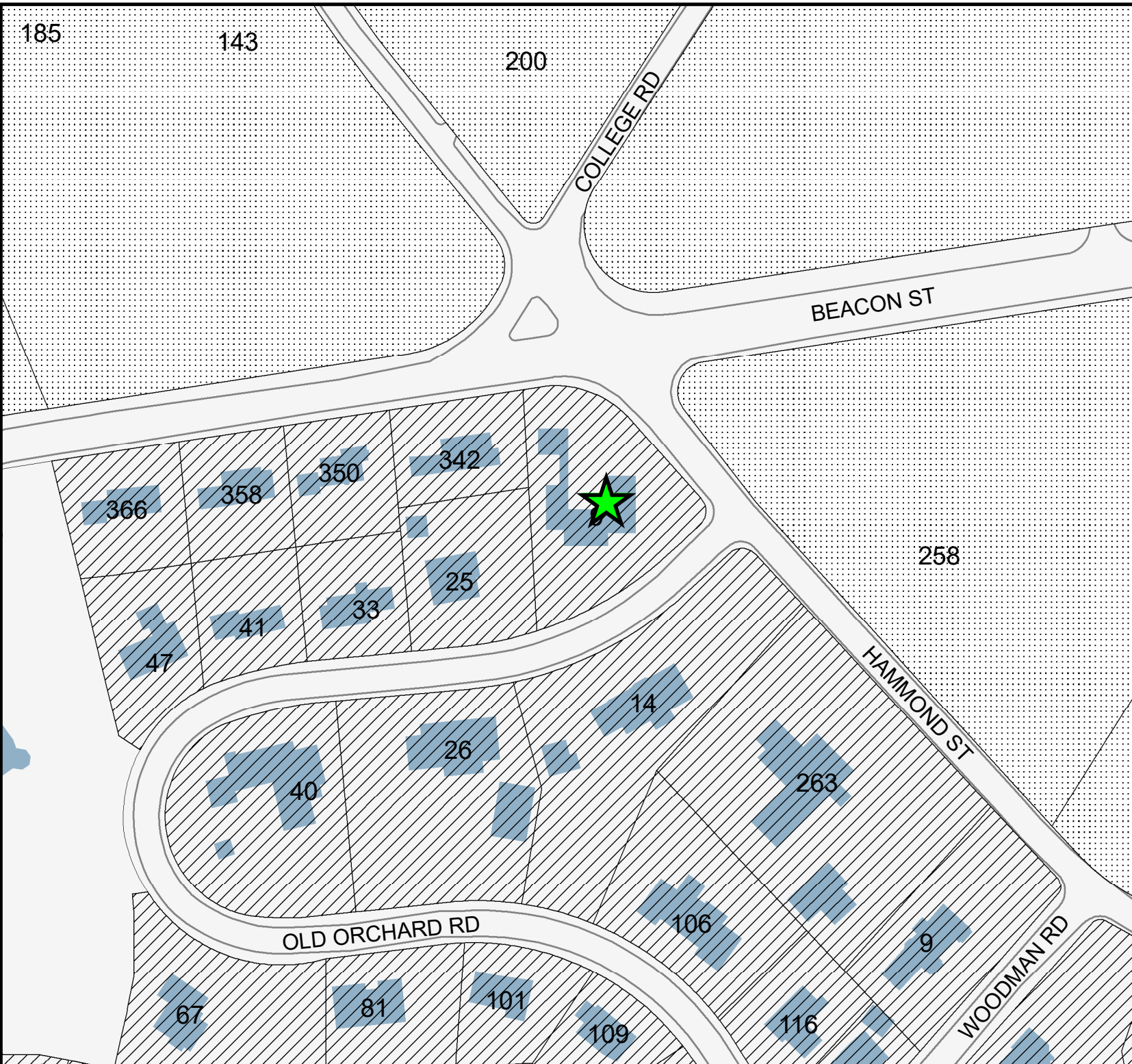
9 Old Orchard Rd.

*City of Newton,
Massachusetts*

Land Use

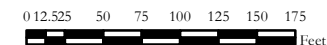
Land Use

-  Single Family Residential
-  Private Educational



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: May 05, 2021

Zoning

9 Old Orchard Rd.


*City of Newton,
Massachusetts*

 Single Residence 1

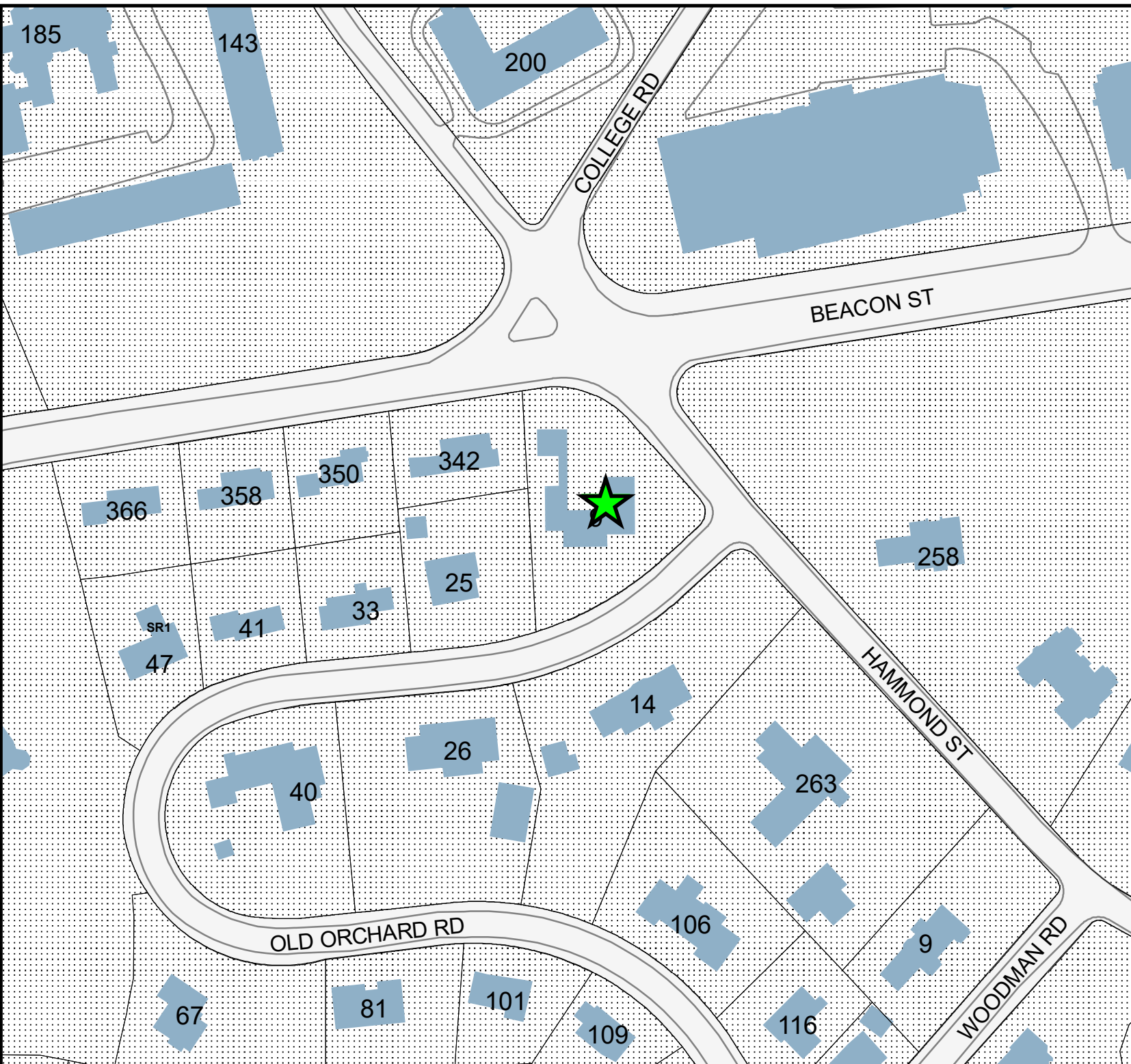


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175
 Feet

Map Date: May 05, 2021





Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 3, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: 9 Old Orchard Rd LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to exceed FAR**

Applicant: 9 Old Orchard Rd LLC	
Site: 9 Old Orchard Rd	SBL: 63016 0021
Zoning: SR1	Lot Area: 7,650 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 9 Old Orchard Road consists of a 26,637 square foot lot improved with a single-family dwelling constructed in 1714. The petitioner received a building permit to construct a single-story addition at the rear of the dwelling. The petitioner would like to extend the ceiling height of the proposed addition with atria space, as well as enclose an existing breezeway. The proposed construction will exceed the allowable FAR, requiring a special permit.

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

- Zoning Review Application, prepared Vahe Ohannessian, architect, dated 1/18/2021
- Architectural Plans and Elevations, signed and stamped by Vahe Ohannessian, architect, dated 1/12/2021
- FAR calculations, submitted 1/18/2021
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 10/16/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to add extended ceiling height to a first-floor addition recently permitted with a by-right building permit. The extended height adds to the FAR calculation. Additionally, they intend to enclose an existing breezeway. Per section 3.1.9.A.1, construction on an old lot meeting post 1953 dimensions may be allowed an additional increase in FAR of 0.02. The maximum allowed FAR for the property is 0.28, inclusive of the 0.02 FAR bonus, per section 3.1.3 and 3.1.9. The proposed construction increases the FAR from .28 to .30, requiring a special permit per sections 3.1.3 and 3.1.9.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	26,637 square feet	No change
Frontage	100 feet	200 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Old Orchard Rd) • Front (Hammond St) • Side 	25 feet 25 feet 12.5 feet	34 feet 37.2 feet 11.7 feet	No change No change No change
Height	36 feet	26 feet	No change
Stories	2.5	2.5	No change
FAR	.28 (.26 + 0.02)	.28	.30
Max Lot Coverage	20%	17.5%	No change
Min. Open Space	65%	72%	No change

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

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

ATTACHMENT D

DRAFT

Petition #123-21
9 Old Orchard Road

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 increase the floor area ratio (FAR) of the existing single-family dwelling to 0.30 where 0.28 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 0.30 where 0.28 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 its location proximate to large institutional buildings, that neither the footprint nor the height of the structure would be increased, and it would have limited visibility from adjacent properties and public ways (§3.1.9)

PETITION NUMBER: #123-21

PETITIONER(S): 9 Old Orchard Rd LLC

LOCATION: 9 Old Orchard Road, on land known as Section 63, Block 16, Lot 21, containing approximately 7,650 sq. ft. of land

OWNER(S): 9 Old Orchard Rd LLC

ADDRESS OF OWNER(S): 586 Pleasant Street, Suite 6
Watertown, MA 02472

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- exceed floor area ratio (FAR) (§3.1.3; §3.1.9)

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 "Plan of Land in Newton, MA, 9 Old Orchard Road, Proposed Addition," prepared by Everett M. Brooks Co., dated October 16, 2020, as revised through October 10, 2020, signed and stamped by Bruce Bradford, Professional Land Surveyor, on October 27, 2020.
 - b. A set of architectural plans entitled "9 Old Orchard Road, Chestnut Hill, MA 02467, Whole House Renovation & Addition," prepared by Boston Architects and Builders, Inc., dated October 27, 2020, signed and stamped by Vahe Ohannessian, Registered Architect:
 - i. Title Sheet (includes "FAR Plans and Calculations")(A0))
 - ii. Perspective Views (A0.1)
 - iii. Existing/Demolition Plans (A1)
 - iv. New Work Plans (A2)
 - v. Proposed Plans (A3)
 - vi. Proposed Elevations (A4)
 - vii. Structural Plans and Details (S1)
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. 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.