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Mayor

**City of Newton, Massachusetts**  
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#263-21

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date:	August 24, 2021
Land Use Action Date:	November 9, 2021
City Council Action Date:	November 15, 2021
90-Day Expiration Date:	November 22, 2021

DATE: August 20, 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 #263-21**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming 3-story dwelling, where 2.5 stories is the maximum allowed by-right and to exceed the floor to area ratio from .31 to .42 where .37 is the maximum allowed by-right and to allow a retaining wall exceeding four feet within the setback, at **15 Beaumont Ave**, Ward 2, Newtonville, on land known as SBL 24, 28, 02 containing approximately 10, 685 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.3., §3.1.9, §1.5.4.B, §7.8.2.C.2, §7.4, §5.4.2.B, and §7.3.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**15 Beaumont Ave**

## **EXECUTIVE SUMMARY**

The subject property located at 15 Beaumont Avenue consists of a 10,685 square foot lot improved with a single-family residence constructed circa 1926. The property is in the Single Residence 2 (SR-2) zone in Newtonville. Due to the topography of the lot, the basement of is considered the first floor and the structure is considered a nonconforming three-story structure, where 2.5 is the maximum allowed as of right. The petitioners are seeking to construct a three-story addition to the rear of the dwelling, extending the nonconformity of the structure with respect to the number of stories, requiring a special permit. The proposed addition will also increase the floor area ratio (FAR) from .31 to .42, where .37 is the maximum FAR allowed by right. Therefore, the petitioners also require a special permit to exceed the FAR.

To accommodate a proposed driveway expansion, the petitioners are also proposing to construct a 4.4-foot tall retaining wall along the rear and side lot lines. Since this wall is proposed to be higher than four feet within the side and rear setbacks, a special permit is required.

The bulk and mass of the addition is to the rear of the structure with minimal visibility from the street. This placement preserves the appearance of a 2.5-story dwelling from the street and does not affect the traditional scale of the neighborhood. For these reasons, staff believes the proposed additions are not substantially more detrimental than the existing structure and the resulting dwelling will not be in derogation of the size, scale, and design of other structures in the neighborhood.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this request, the City Council should consider whether:

- The specific site in a Single Residence 2 (SR2) district is an appropriate location for the proposed addition that exceeds the FAR and the proposed retaining wall greater than four feet in height within the side and rear setbacks. (§7.3.3.C.1)
- The proposed addition that increases the FAR and the proposed retaining wall greater than four feet in height within the side and rear setbacks will adversely affect the neighborhood (§7.3.3.C.2)
- There will be 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 extension of the structure regarding the number of stories is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§1.5.4.B, §3.1.3, and §7.8.2.C.2)

- The increase in the floor area ratio (FAR) from .31 to .42, where .37 is 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, §3.1.9)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

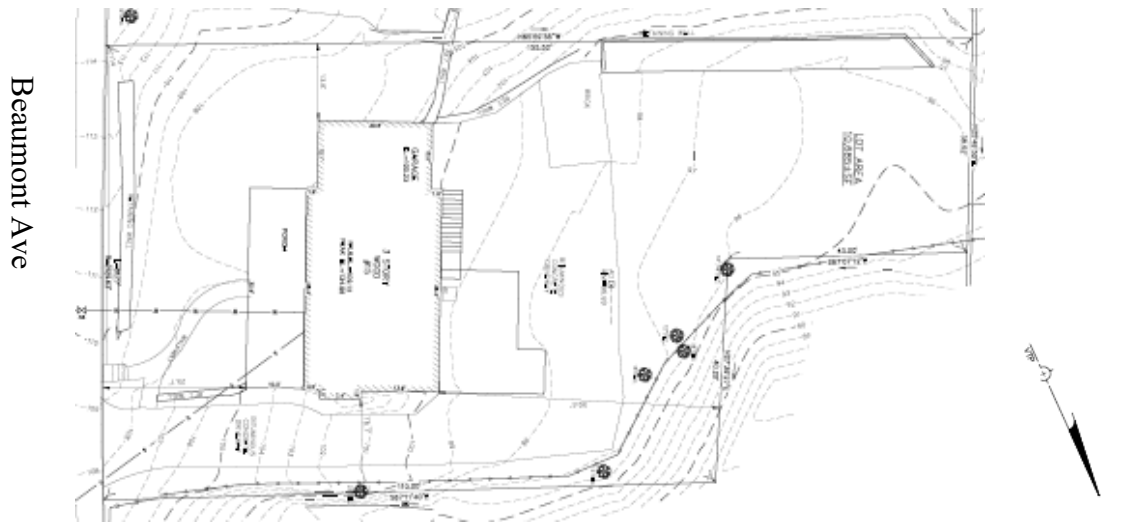
### A. Neighborhood and Zoning

The subject property is located on Beaumont Avenue in the SR-2 zone in Newtonville. To the rear of the lot, the houses fronting along Lowell Avenue are in the Multi Residence 1 (MR-1) zoning district. Newton North High School, in the Public Use zone, is located nearby to the north of the property. Directly to the south is a Public Use district containing Edmands Park, and to the west is a Multi Residence 1 zone (**Attachment A**). Beaumont Avenue consists primarily of single-family residences, while the Multi Residence 1 zone to the west (along Lowell Avenue consists of multi-family uses (**Attachment B**).

### B. Site

The site consists of 10,685 square feet and is improved with a three-story single-family residence constructed circa 1926. The grade of the lot slopes down from the front to the rear (east to west), such that the front of the lot is more than 15 feet higher than the rear.

### Existing Conditions



### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

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

#### B. Site Design

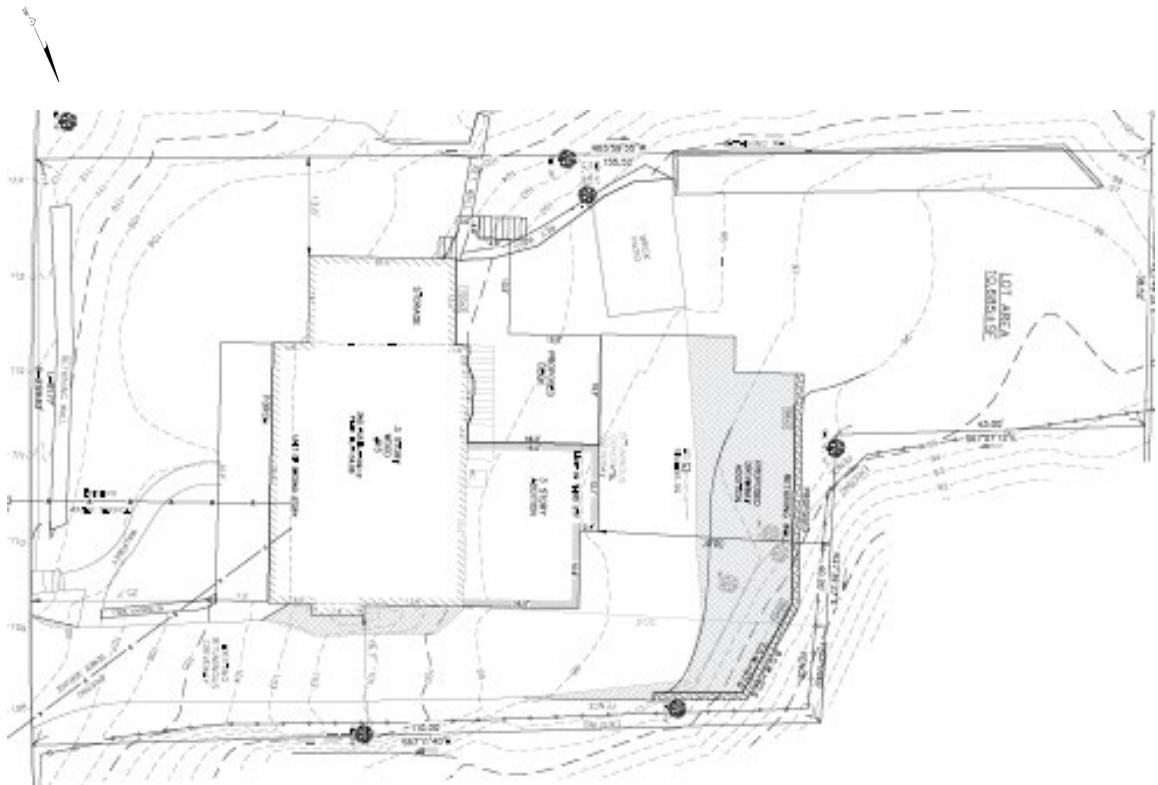
The petitioners are proposing demolish a portion of the structure to construct a three-story rear addition and driveway expansion. In order to expand the driveway and create a level parking area, a 4.4-foot-tall retaining wall is proposed within the side and rear setbacks, requiring a special permit. Three mature trees will be removed to make room for the driveway expansion.

The petitioners are proposing to construct a three-story addition to the rear of the dwelling. The petitioners are proposing to convert that the existing single car garage to storage and construct a new attached garage addition and expand the driveway toward the rear property line to accommodate the new garage entry. The addition will extend the footprint of the dwelling between 16 and 18 feet towards the rear (west) lot line. The addition will contain living area on all levels.

The proposed addition reduces the rear setback from 51 feet to 33 feet and maintains the existing side setbacks of 16.7 feet from the right (northern) property line, and 13.8 feet from the left (southern) property line. The addition increases the measurement of the height by just over one foot due to the distance between the average grade and the peak of the roof of the existing structure increasing. The addition is subordinate to the

existing structure.

### Proposed Site Plan



#### C. Building Design

The dwelling currently contains 3,271 square feet of floor area and the addition increases the floor area to 4,433 square feet. The maximum floor area allowed as of right allowed is .37 which translates to approximately 3,950 square feet. The floor area of the structure is increasing by approximately 1,162 square feet across three stories. The petitioner is seeking a special permit to exceed the floor area by increasing it from .31 to .42, where .37 is the maximum allowed as of right.

The proposed bulk and mass of the addition is contained to the rear of the structure with minimal visibility from the street. This placement retains the appearance of a 2.5 story dwelling from the street and maintains the existing scale of the neighborhood.

#### D. Parking and Circulation

The petitioners are maintaining the existing driveway entrance and driveway along

the right (northern property line). They are expanding the driveway towards the rear property line and propose to construct a retaining wall to accommodate the additional paved area.

E. Landscaping and Screening

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 Memorandum, the petitioner is seeking the following relief:

- §3.1.3, and §7.8.2.C.2 of section 30, to further extend a nonconforming three-story structure.
- §3.1.9 and §7.3.3 of Section 30, to exceed the maximum FAR.
- §5.4.2.B of Section 30, to allow a retaining wall exceeding four feet within the setback.

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The size of the addition will require the petitioner to provide a drainage analysis to the Engineering Division for review and approval prior to the issuance of a building permit. Staff suggests incorporating the standard condition regarding the Operations and Maintenance (O & M) Plan of the stormwater management system prior to the issuance of a temporary certificate of occupancy, should this petition be approved.

C. Newton Historical Commission Review

The submitted plans were reviewed and approved by the Chief Preservation Planner on May 12, 2021. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit, should this petition 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:** DRAFT Order




# ATTACHMENT A

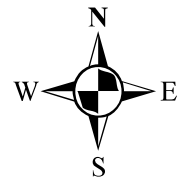
## Zoning

### 15 Beaumont Ave

*City of Newton,  
Massachusetts*

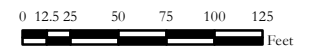
### Legend

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

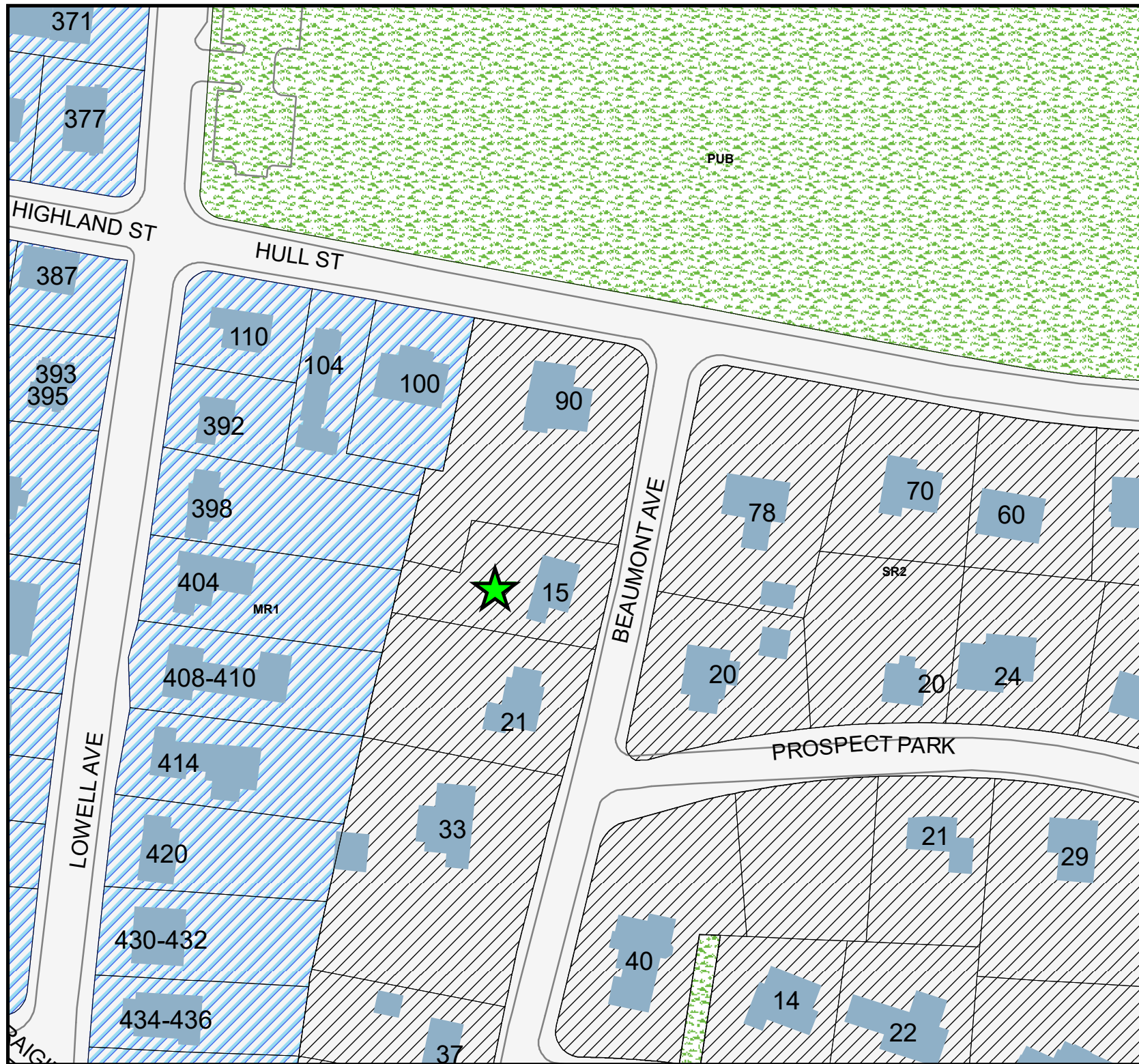


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: August 20, 2021





# ATTACHMENT B

## Land Use

### 15 Beaumont Ave

*City of Newton,  
Massachusetts*

### Legend

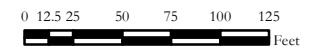
#### Land Use

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

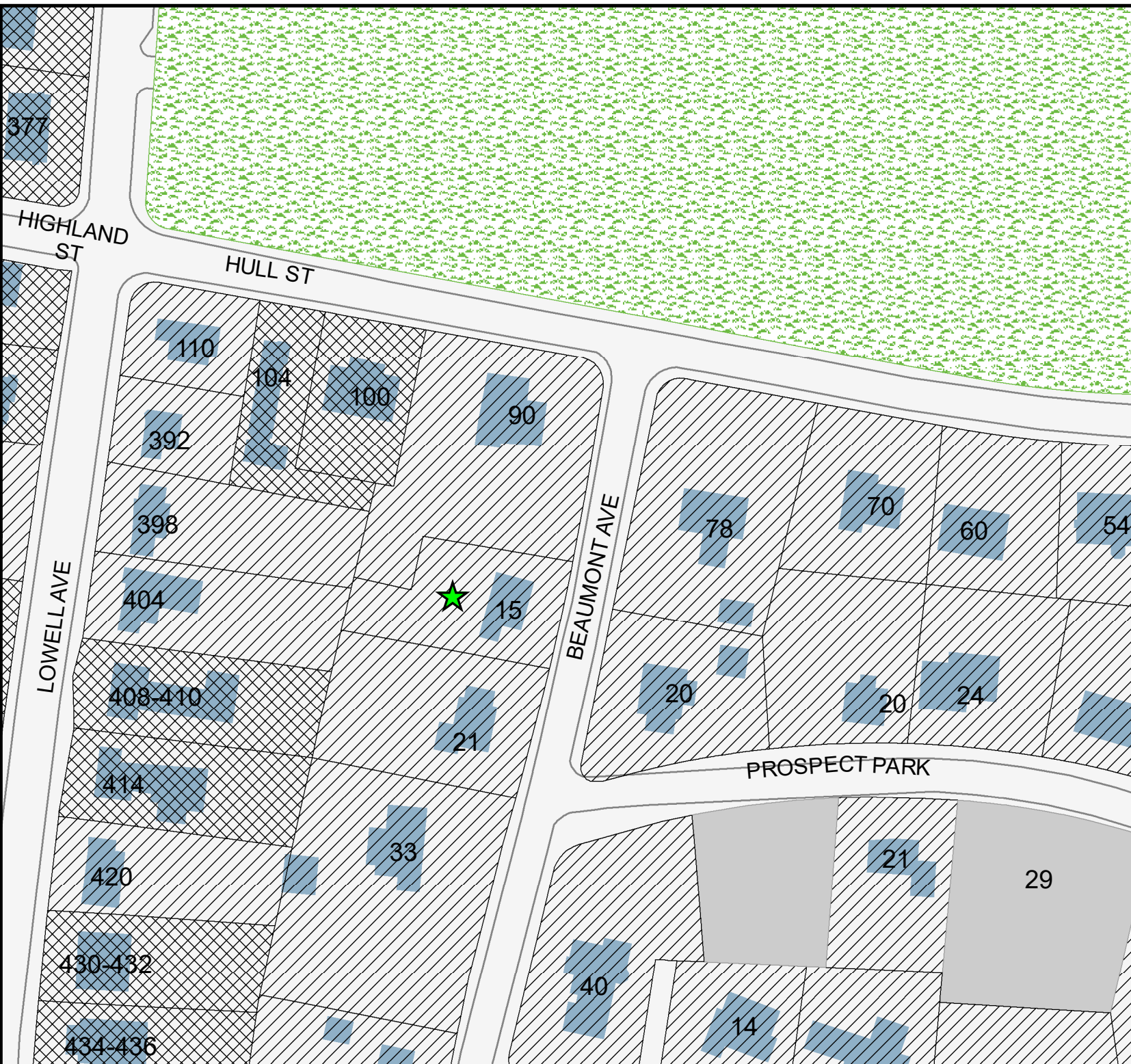


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CITY OF NEWTON, MASSACHUSETTS  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: June 23, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Jacques and Nicole Goupil, Applicants  
Peter Sachs, 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 and to allow a retaining wall exceeding four feet within a setback**

Applicant: Jacques and Nicole Goupil	
Site: 15 Beaumont Avenue	SBL: 24028 0002
Zoning: SR2	Lot Area: 10,685 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 15 Beaumont Avenue consists of a 10,685 square foot lot improved with a single-family dwelling constructed in 1924. The petitioners propose to construct a three-story rear addition. 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 Peter Sachs, submitted 5/7/2021
- Existing Conditions Plan, prepared by VTP, surveyors, dated 12/15/2020
- Proposed Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 5/6/2021
- Architectural plans and elevations, prepared by Peter Sachs, architect, dated 5/7/2021
- FAR calculation, submitted 5/7/2021

**ADMINISTRATIVE DETERMINATIONS:**

1. Due to the topography the basement is the first story resulting in a three-story structure where 2.5 is the maximum allowed per section 3.1.3. The petitioners propose a three-story rear addition, further extending the nonconforming third story requiring a special permit per sections 3.1.3 and 7.8.2.C.2.
2. The proposed addition adds 1,162 square feet to 3,271 square foot dwelling. The existing FAR is .31, where .37 is the maximum allowed. The proposed addition results in a FAR of .42, exceeding the maximum allowed, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.
1. A retaining wall is proposed along the rear and side lot lines at the rear right corner of the lot. The proposed wall has a maximum height of 4.4 feet within the rear and side setbacks. Per section 5.4.2.B retaining walls in excess of four feet within a setback require a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,685 square feet	No change
Frontage	100 feet	81.77 feet	No change
Setbacks			
• Front	25 feet	25.7 feet	No change
• Side	7.5 feet	13.8 feet	No change
• Side	7.5 feet	16.7 feet	No change
• Rear	15 feet	50.6 feet	32.6 feet
Max Number of Stories	2.5	<b>3.5</b>	<b>No change</b>
Max Height	36 feet	31.3 feet	32.5 feet
FAR	.37	.31	<b>.42</b>
Max Lot Coverage	30%	14.2%	18%
Min. Open Space	50%	62.5%	60.8%

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 extend a nonconforming 3-story structure	S.P. per §7.3.3
§5.4.2.B	Request to allow a retaining wall exceeding four feet within the setback	S.P. per §7.3.3//

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 three story structure to exceed the floor area ratio (FAR) from .31 to .42, where .37 is the maximum allowed by right, and to allow a retaining wall exceeding four feet in height within the setbacks as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site in a Single Residence 2 (SR2) district is an appropriate location for the proposed addition that exceeds the FAR and the proposed retaining wall greater than four feet in height within the side and rear setbacks because the addition meets all other dimensional standards for the zone, and neither the wall nor the addition alter the front elevation as viewed from Beaumont Avenue. (§7.3.3.C.1)
2. The proposed addition that exceeds the FAR and the proposed retaining wall greater than four feet in height within the side and rear setbacks will not adversely affect the neighborhood because the proposed addition and wall are to the rear of the structure and will not be visible from the street (§7.3.3.C.2)
3. There will be no 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 extension of the three-story structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the house will still present as a 2.5 story structure from the street. (§1.5.4.B, §3.1.3, and §7.8.2.C.2)
6. The increase in the floor area ratio (FAR) from .31 to .42, where .37 is 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 and massing of the addition is to the rear of the structure and not visible from the street. (§3.1.3, §3.1.9)

PETITION NUMBER: #263-21

PETITIONER: Jacques and Nicole Goupil

LOCATION: 15 Beaumont Ave, on land known as Section 24, Block 28, Lot 0002, containing approximately 10,685 square feet of land

OWNER: Jacques and Nicole Goupil

ADDRESS OF OWNER: 15 Beaumont Ave  
Newton, MA 02460

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: to further extend the nonconforming three-story structure (§3.1.3, and §7.8.2.C.2), to exceed the FAR (§3.1.9, §3.1.3 and §7.3.3) and to allow a retaining wall exceeding four feet in height with the setbacks (§5.4.2.B, §7.3.3)

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, prepared by VTP Associates, signed and stamped by Joseph R. Porter Professional Land Surveyor, dated May 6, 2021.
  - b. Architectural Floorplans, prepared by Peter Sachs, unsigned and unstamped, dated June 23, 2021, consisting of the following six (6) sheets.
    - i. Proposed First Floorplan, A-2
    - ii. Proposed Second Floorplan, A-3
    - iii. Proposed Third Floorplan, A-4
    - iv. Proposed Roof Plan, A-5
    - v. Proposed Front Elevation, A-6
    - vi. Proposed Right Elevation, A-7
    - vii. Proposed Rear Elevation, mislabeled as proposed right elevation, A-8
    - viii. Proposed Left Elevation, A-9
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.