



#336-21

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: October 26, 2021
Land Use Action Date: January 11, 2022
City Council Action Date: January 17, 2022
90-Day Expiration Date: January 24, 2022

DATE: October 22, 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 #336-21**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition to the principal dwelling and to construct a detached carriage house with an accessory apartment, to allow over 700 square feet of garage ground floor area and to exceed the FAR at 12 Kingsbury Road, Ward 7, Chestnut Hill, on land known as Section 63 Block 26 Lot 07, containing approximately 21,731 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.1, 3.4.4.E.1, 3.1.3, 7.8.2.C.2, 3.1.9 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



12 Kingsbury Road

EXECUTIVE SUMMARY

The subject property consists of a 21,731 square foot lot improved with a single-family dwelling constructed in 1889. The property is located within the Single Residence 1 (“SR-1”) zone within the Chestnut Hill Local Historic District. The petitioner is seeking to construct an addition, demolish an existing detached garage to construct an accessory structure containing a one car garage and an accessory apartment. The addition and proposed carriage house exceed the maximum allowed floor area ratio (“FAR”) as of right, and exceeds the maximum garage ground floor area, where 700 square feet is the maximum allowed as of right. The petitioner requires special permit relief to allow the accessory apartment in a detached structure, to exceed the FAR, and to allow garage ground floor area over 700 square feet.

The Chestnut Hill Historic District Commission approved the changes and issued a certificate of appropriateness noting that the proposed carriage house is an improvement to the property with the removal of the existing garage. The increase in FAR is divided between the addition to the principal dwelling and accessory structure. Staff notes that the addition to the principal dwelling is subordinate to the dwelling and the massing is appropriate given the large site. For these reasons, the Planning Department is unconcerned with the special permit requests.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The specific site is an appropriate location for the proposed addition and accessory structure with over 700 square feet of garage ground floor area and detached accessory apartment which exceeds the FAR. (§7.3.3.C.1)
- The proposed addition and carriage house with over 700 square feet of garage area and detached accessory apartment which exceed the FAR will not 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 increase in the floor area ratio from .22 to .35, where .27 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)

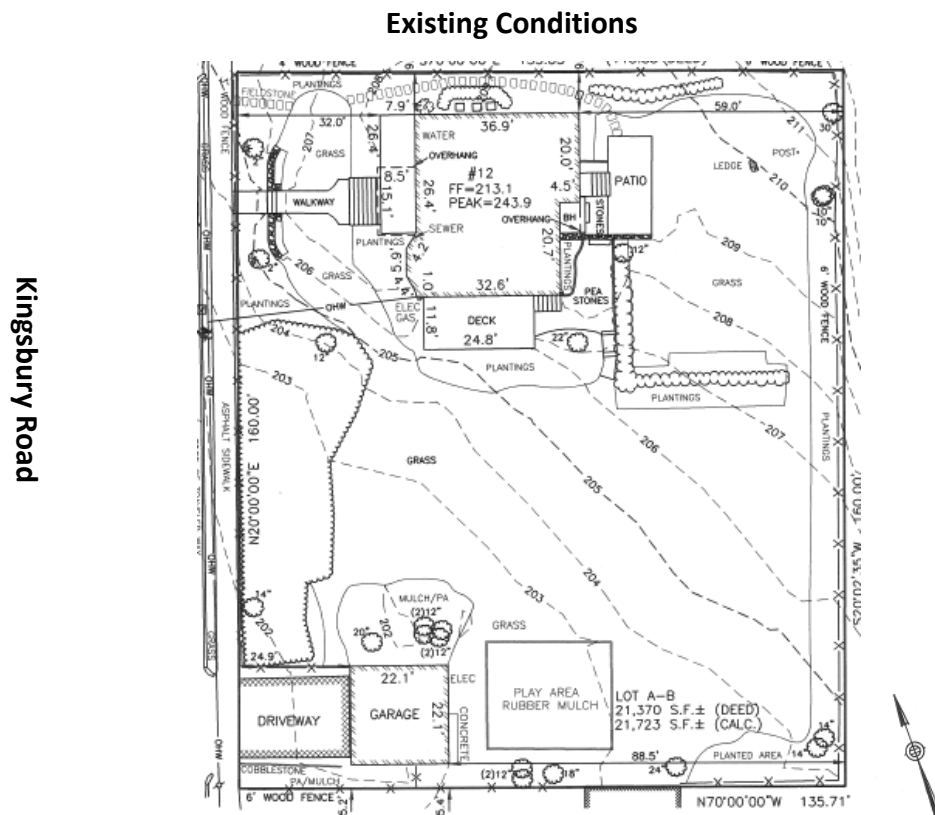
II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is on Kingsbury Road in the SR-1 zone in Chestnut Hill. The immediate area is within the SR-1 zone (**Attachment A**). Kingsbury Road consists of single family uses, with a religious use abutting the site to the east (**Attachment B**).

B. Site

The site consists of 21,731 square feet of land and it is improved with a single-family residence constructed in 1889 and a detached garage. The garage has a nonconforming front setback of 24.9 feet, a side setback of 5 feet along the eastern boundary. The site is accessed by a driveway from Kingsbury Road along the southern boundary. The site has a grade change of eight feet from the southwest corner of the site to the northeast corner.



III. PROJECT DESCRIPTION AND ANALYSIS

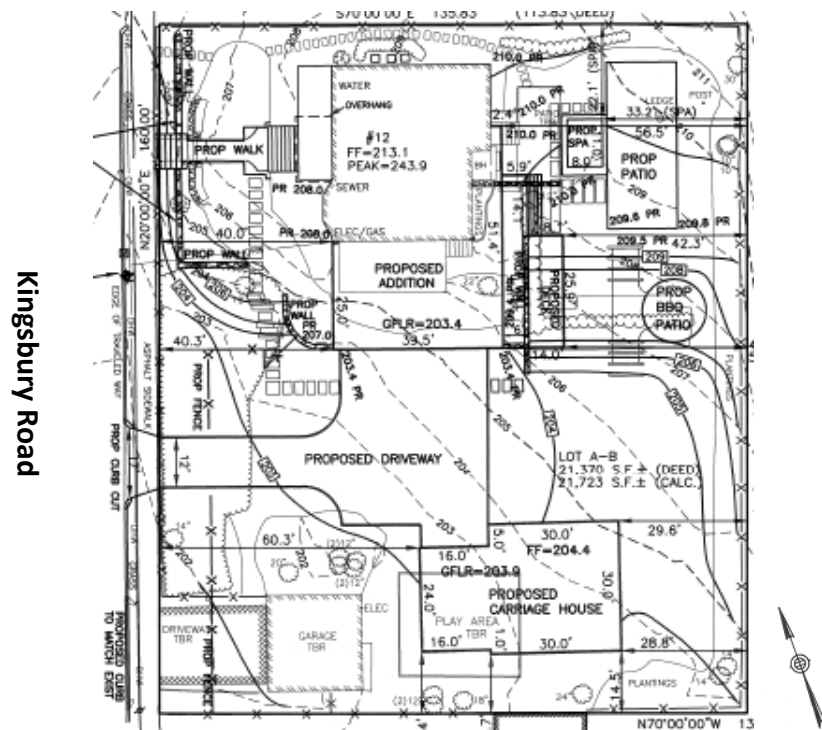
A. Land Use

The principal use of the site is a single-family residence. If approved, the use will remain but with the addition of an accessory apartment.

B. Building and Site Design

The petitioner is proposing to construct an attached garage addition and replace the existing garage with a larger accessory structure containing an accessory apartment and one car garage. The petitioner is also seeking to allow a detached accessory apartment within the. The petitioner requires special permits to exceed the FAR, allow a total garage ground floor area of over 700 square feet, and to allow an accessory apartment in a detached structure.

Proposed Site Plan



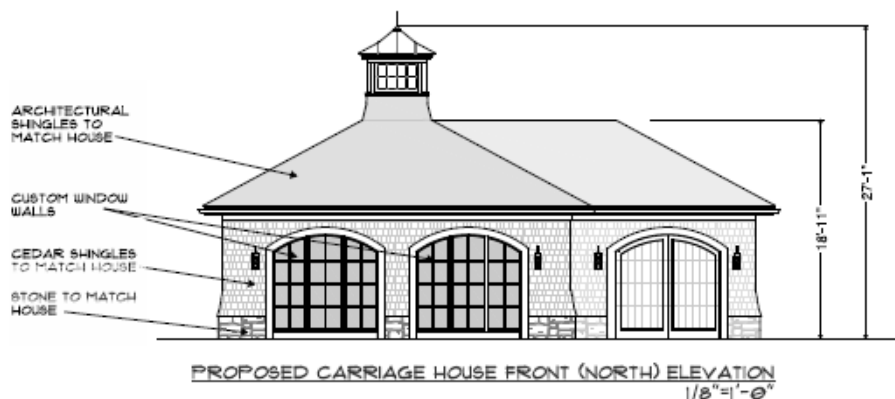
The proposed addition will consist of an attached two-car garage in the basement, as well as additions to the first and second floors. 825 square feet of floor area is proposed to the first story, while 547 square feet of floor area is proposed to the second story. No additional area is proposed to the attic. The proposed attached garage within the basement has a ground floor area of 600 square feet. The addition and carriage house maintain the existing front setback of 40 feet and the addition reduces the rear setback from 56.5 feet to 42.3 feet.

Proposed Front Elevation
Single Family Home



The petitioner is seeking to demolish the existing garage to construct a new detached accessory structure, further into the site. The accessory structure meets principal dwelling setbacks, measures approximately 19 feet tall and consists of 1.5 stories. The proposed cupola atop the carriage house is not included within the building height measurement but measures approximately eight feet tall.

Proposed Front Elevation
Accessory Structure



The petitioner is seeking to establish an accessory apartment in the detached accessory structure. The accessory structure will consist of approximately 1,300

square feet; however, the proposed accessory apartment will consist of 900 square feet. The proposed garage within the accessory structure has a garage ground floor area of 384 square feet. The additional garage ground floor area within the accessory structure brings the total garage ground floor area for the site to 984 square feet, requiring a special permit to allow over 700 square feet of garage ground floor area.

The addition to the principal dwelling and construction of a new accessory structure exceeds the allowable FAR as of right. The construction adds approximately 2,800 square feet of floor area between the two structures, with a proposed FAR of .35, where .22 exists and .27 is the maximum allowed as of right. As proposed, the principal dwelling will contain 6,368 square feet of FAR, while the carriage house will contain 1,300 square feet. Together, the dwelling and carriage house will contain 7,669 square feet, approximately 1,800 square feet above what is allowed as of right.

Staff does not believe that the increase in FAR will be in derogation of the size, scale, and design of other structures in the neighborhood because the additional floor area is broken up between two structures, the accessory structure complies with principal building setbacks and enhances the site in the context of its location within a local historic district.

C. Parking and Circulation

The petitioners are proposing to construct an attached two-car garage addition and demolish the existing detached garage to construct a detached accessory structure that contains an accessory apartment and one car garage. The petitioner is relocating the driveway entrance to be more central to the site, and the driveway will serve both the attached garage and accessory structure. The proposed driveway entrance is 12 feet wide.

D. 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 (the "Memorandum") provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.1	To allow detached accessory apartment	S.P. per §7.3.3
§3.4.4.E.1	To allow a 945 square feet of total garage area	S.P. per §7.3.3
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3

B.

Engineering Review

Should this petition be approved, it will be reviewed by the Engineering Division prior to the issuance of a building permit.

C.

Newton Historical Commission Review

This property is within the Chestnut Hill Local Historic District and was issued a certificate of appropriateness (**Attachment D**) for the proposed project. The Chestnut Hill Local Historic District Commission (the “Commission”) noted that the removal of the existing garage would be an improvement as it is not consistent with the historic character of the neighborhood. The Commission also noted that the proposed carriage house is appropriate because the site was originally comprised of two lots and intended for three siblings’ houses to be constructed. Only two of those houses were built and the Commission noted that the proposed carriage house is keeping with the original building plans and smaller than the originally proposed house to be built. Final review by the Historic Planner who staffs the local historic district commissions is required 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:** Chestnut Hill Local Historic District Certificate of Appropriateness
- Attachment E:** DRAFT Council Order

ATTACHMENT A

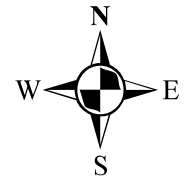
Zoning

12 Kingsbury Road

*City of Newton,
Massachusetts*

Zoning

 Single Residence 1

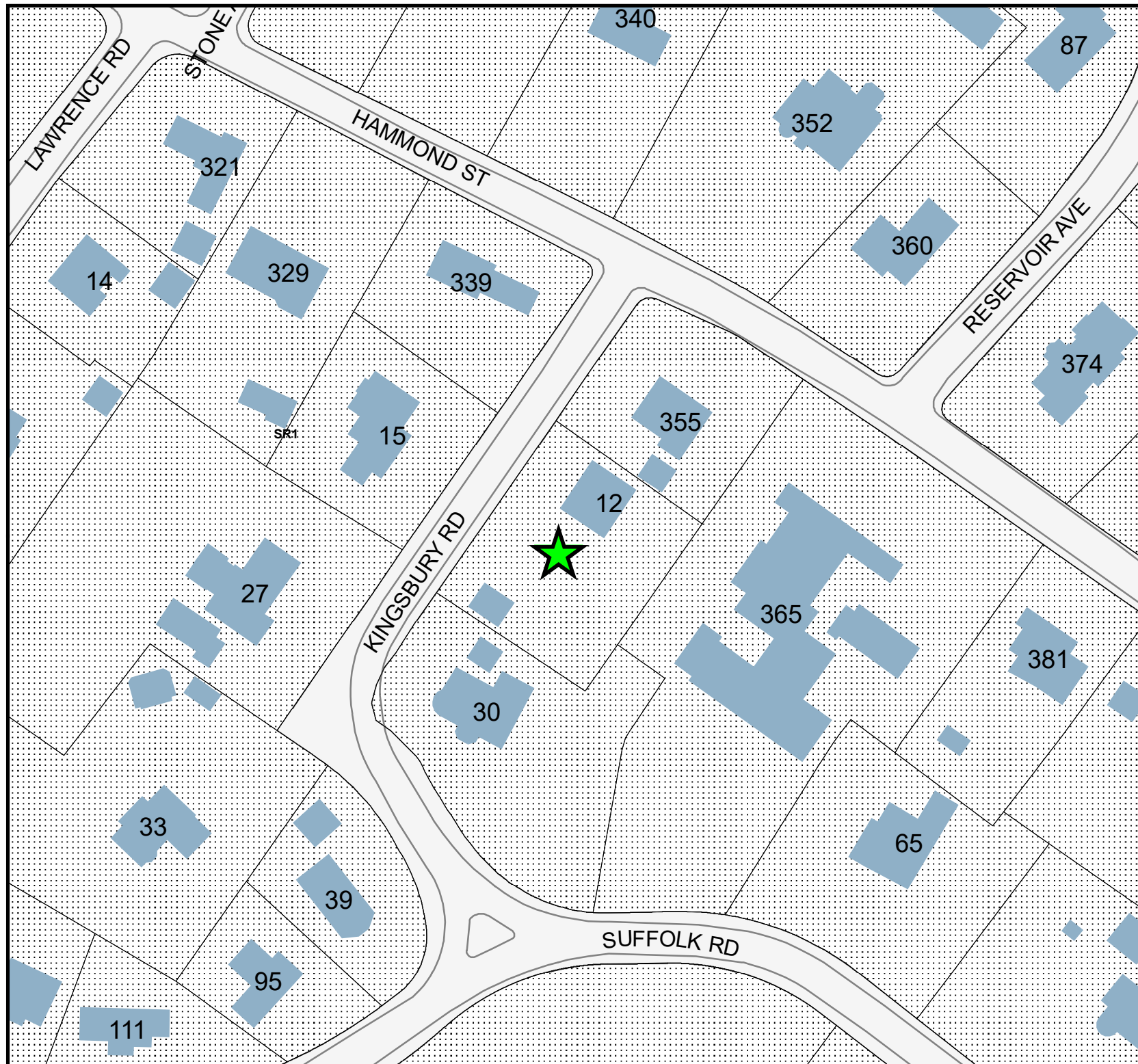


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 125
Feet

Map Date: October 08, 2021



ATTACHMENT B



Land Use

12 Kingsbury Road

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Nonprofit Organizations

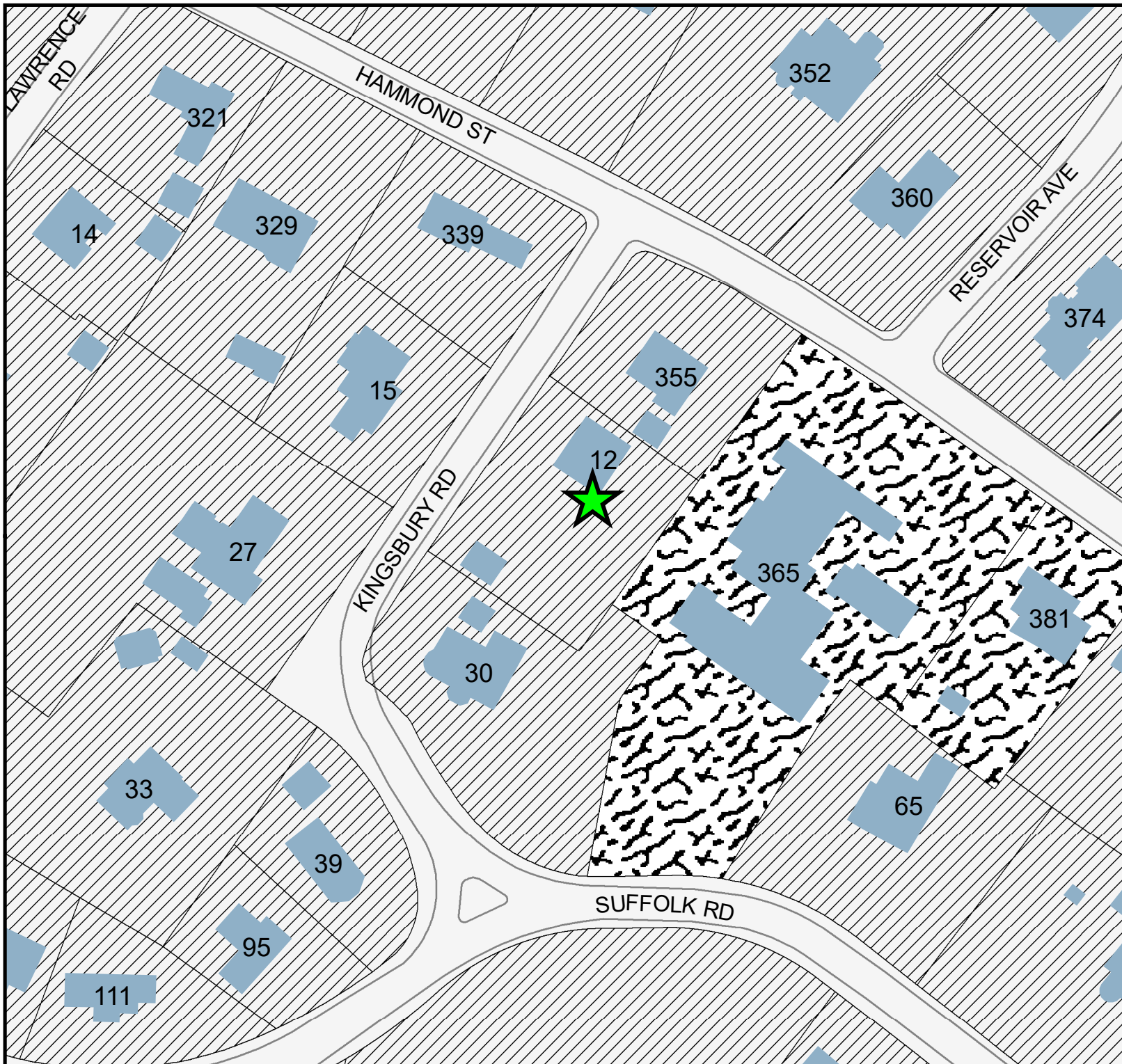


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Mayor - Ruthanne Fuller
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0 12.5 25 50 75 100 125
Feet

Map Date: October 08, 2021





Ruthanne Fuller
Mayor

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Attachment C
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 20, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurance Lee, Attorney
David and Lauren Thill, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow more than 700 square feet of total garage area on a lot, to exceed FAR, and to allow a detached accessory apartment

Applicant: David and Lauren Thill	
Site: 12 Kingsbury Road	SBL: 63026 0007
Zoning: SR1	Lot Area: 21,731 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a detached accessory apartment

BACKGROUND:

The property at 12 Kingsbury Road consists of a 21,731 square foot lot improved with a single-family dwelling constructed in 1889 and a detached garage. The petitioner proposes to raze the garage and construct a larger detached structure to be used as an accessory apartment as well as construct an addition to the principal dwelling.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, submitted 6/25/2021
- Architectural plans and elevations, signed and stamped by David Michael Collins, architect, submitted 6/25/2021
- Site Plan, Existing Conditions, signed and stamped by Bruce Bradford, surveyor, dated 5/13/2021
- Site Plan, Proposed Conditions, signed and stamped by Bruce Bradford, surveyor, dated 5/14/2021
- Proposed Additions, signed and stamped by Bruce Bradford, surveyor, dated 6/25/2021
- FAR worksheet, signed and stamped by David Michael Collins, architect, dated 6/10/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to demolish the detached garage and construct an accessory building to be used as an accessory apartment with a one-car garage. Per section 6.7.1.E.1, a special permit is required to allow a detached accessory apartment.
2. Per section 6.7.1.E.2, a detached accessory apartment may be a maximum of 40% of the habitable area of the principal dwelling or 1,200 square feet, or up to 1,500 square feet with additional relief. The petitioners propose a 900 square foot accessory apartment, less than both the 40% and 1,200 square feet allowed, requiring no relief.
3. Per section 3.4.4.E.1 there may be no more than 700 square feet in total garage area on a lot for a residential building with one unit. The petitioners propose to construct a 600 square foot attached two-car garage and a 345 square foot detached garage, resulting in 945 square feet of total garage area on the lot, requiring a special permit.
4. The existing single-family dwelling is nonconforming with three stories, where 2.5 stories are the maximum allowed per section 3.1.3. The petitioners propose to construct additions to the basement, first and second stories. The proposed addition increases the floor area of the second story, rendering the attic a half story, eliminating the nonconformity.
5. The proposed additions to the principal dwelling and the construction of the accessory structure results in a total of 7,669 square feet, increasing the FAR from .22 to .35, where .27 is the maximum allowed per section 3.1.9. A special permit per sections 3.1.3 and 3.1.9 is required to exceed the maximum allowable FAR.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	21,723 square feet	No change
Frontage	100 feet	160 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 12.5 feet 12.5 feet 25 feet	40 feet 9.2 feet ± 100 feet ± 35 feet	No change No change ± 85 feet No change
Setbacks - Accessory <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 12.5 feet 12.5 feet 25 feet	NA NA NA NA	60.3 feet 13.7 feet ± 35 feet ± 115 feet
Max Number of Stories <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	3 NA	2.5 1.5
Height <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	35.4 feet NA	36 feet 18.5 feet
FAR	.22	.27	.35
Max Lot Coverage	30%	9.6%	18.4%
Min. Open Space	50%	86%	73.3%

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.1	To allow detached accessory apartment	S.P. per §7.3.3
§3.4.4.E.1	To allow a 945 square feet of total garage area	S.P. per §7.3.3
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3



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RECORD OF ACTION:

DATE: February 22, 2021

SUBJECT: 12 Kingsbury Road – Certificate of Appropriateness

At a scheduled meeting and public hearing on February 18, 2021 the Chestnut Hill Historic District Commission, by roll call vote of 7-0,

RESOLVED to **grant** a Certificate of Appropriateness for the design concept as submitted at 12 Kingsbury Road to build an addition and attached garage on the main house, to demolish the existing garage, to build a separate unit with an attached garage, and to reconfigure the driveway to connect to the new attached garages **subject to final approval upon the submission of the final construction documents for Commission review and approval**. The Commission determined that the project is consistent with the requirements of the Chestnut Hill Historic District Commission. The metal two-car garage is not in keeping with the historic character of the property; removal would be an improvement to the district. The submitted materials established that the original property was comprised of two lots which, with the lot to the left of 12 Kingsbury Road, were to contain houses for each of three siblings; however, only two of the houses were built. The proposed accessory apartment is in keeping with the original building plans and is smaller than the house that was originally proposed to be built on the lot. This project is supported by the Chestnut Hill Historic District Commission with the recommendation that the application be approved by the City of Newton.

Voting in the Affirmative:

Peter Vieira, Chair
Susana Lannik, Member
John Wyman, Member

Brett Catlin, Member
Matthew Montgomery, Member
Rick Wetmore, Member

Robert Imperato, Member

B Kurze

Barbara Kurze, Commission Staff

DATE TRACKING

Date Notice Sent: 2-4-21

Date of Hearing: 2-18-21

Date of Decision: 2-18-21

ACTION TAKEN

Accepted: X

Denied:

Reason for action: Appropriate.

TYPE OF CERTIFICATION ISSUED



Appropriateness



Non-Applicability



Hardship

B Kurze

Chairman or Secretary

2-22-2021

Date

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 floor area ratio (the "FAR") from .22 to .35, where .27 is the maximum allowed by-right, to allow a detached accessory apartment and to allow over 700 square feet of garage ground floor area 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 addition and accessory structure with over 700 square feet of combined garage ground floor area and detached accessory apartment which exceed the FAR because the additions and accessory structure were approved by the Chestnut Hill Local Historic District Commission and the additional floor area is broken up between two buildings. (§7.3.3.C.1)
2. The proposed addition and accessory structure with over 700 square feet of garage area and detached accessory apartment which exceed the FAR will not adversely affect the neighborhood because the addition is subordinate to the dwelling, and the carriage house replaces a garage that is out of context with the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because one driveway will serve the site. (§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 floor area ratio from .22 to .35, where .27 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 addition is subordinate to the house, the additional floor area is broken up between two buildings, and proposed carriage house is keeping with the original building plans as well as the historic character of the property. (§3.1.3, §3.1.9)

PETITION NUMBER: #336-21

PETITIONER: David and Lauren Thill

LOCATION: 12 Kingsbury Road, on land known as Section 63, Block 26, Lot 7, containing approximately 21,731 square feet of land

OWNER: David and Lauren Thill

ADDRESS OF OWNER: 12 Kingsbury Road
Newton, MA 02467

TO BE USED FOR: Single Family Home with a Detached Accessory Apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To allow an accessory apartment in a detached structure; to exceed the floor area ratio, and to allow over 700 square feet of garage ground floor area (§6.7.1.E.1, §3.4.4.E.1, §3.1.3, §3.1.9, §7.3.3)

ZONING: Single Residence 1 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. "12 Kingsbury Road Proposed Conditions" signed and stamped by Bruce Bradford, Professional Land Surveyor, dated June 25, 2021
 - b. Architectural Plans, prepared by D. Michael Collins Architects, signed and stamped by David Michael Collins, not dated, consisting of ten (10) sheets:
 - i. Proposed Front Elevation, A2.0
 - ii. Proposed Right Elevation, A2.1
 - iii. Proposed Rear Elevation, A2.2
 - iv. Proposed Floor Plans, FAR
 - v. Proposed Basement Plan A1.0
 - vi. Proposed First Floor Plans, A1.1
 - vii. Proposed Second Floor Plans, A1.2

- viii. Proposed Attic Floor Plan, A1.3
 - ix. Proposed Carriage House Elevations, Front and West, A2.4
 - x. Proposed Carriage House Plan, A2.3
 - c. Materials Plan prepared by Robert Hanss Inc., dated June 14, 2021, L-1
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 Planning and Development, the Engineering Division of Public Works, and the Fire Department.
 3. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
 4. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
 5. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
 6. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the petitioner shall hire a licensed pest control operator (the "Operator") to assess the property for pest and rodent activity and develop and implement a pest remediation action plan (the "Plan") to eliminate the activity and prevent off-site migration. The Plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Plan shall be submitted to the Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copy of such approvals shall be provided to the Department of Planning and Development.
 - c. The Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of the certificate of occupancy, the Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment.
 7. 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 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 council 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.
8. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or a professional land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional 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.