



Ruthanne Fuller
Mayor

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

#118-22

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

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 1, 2022
Land Use Action Date: May 10, 2022
City Council Action Date: May 16, 2022
90-Day Expiration Date: May 30, 2022

DATE: February 25, 2022

TO: City Council

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

SUBJECT: **Petition #118-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #18-15 to construct a single story addition consisting of an internal accessory apartment, resulting in an increase of FAR from .34 to .45 where .50 was previously approved, and to construct a detached two-car garage at **17 Cushing Street**, Ward 6, Newton, on land known as Section 52, Block 27, Lot 10, containing approximately 8640 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 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.



17 Cushing Street

EXECUTIVE SUMMARY

The subject property at 17 Cushing Street consists of an 8,640 square foot lot improved with a 2½ story, 31.9 foot high, approximately 2,667 square foot single-family dwelling constructed circa 1910 and a detached 261 square foot one-car garage.

The property is subject to Special Permit #18-15 which allowed a two-story rear addition and a 675 square foot detached garage that would increase the floor area ratio (FAR) from 0.34 to 0.50 where 0.40 is the maximum allowed by right, and to extend an existing nonconforming front setback to construct a porch.

While the front porch was constructed, the rear addition and garage were not. The petitioners now propose to construct a one-story, approximately 750 square foot rear addition and replace the existing detached garage with a new detached 462 square foot two-car garage located closer to the street than the previously approved detached garage.

The proposed construction would increase the floor area ratio (FAR) by 951 square feet, resulting in the property having an FAR of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit.

The proposed construction requires an amendment to Special Permit #18-15 to revise the approved plans and modify the allowed FAR.

Also, the petitioners intend to create an internal accessory apartment within the expanded dwelling. As it would measure 667 square feet, which is 21% of the total habitable space of the 3,146 square foot dwelling. As it would be less than 33% of the total habitable space of the dwelling or 1,000 square feet, Per Sec. 6.7.1.D.2 the proposed internal accessory apartment does not require zoning relief.

The Planning Department notes that per Sec. 1.5.2.D.2, the lot coverage requirements of Sec. 3.1.3 do not apply to the construction of the proposed garage as it accessory to a single- or two-family dwelling built prior to December 27, 1922. As such the maximum lot coverage requirement of 30% does not apply to the proposed garage. With the garage not included, the proposed lot coverage would increase from 19.5% to 25.3% based only on the construction of the proposed addition.

The Planning Department is generally not concerned with the proposed changes to the previously Special Permit- approved plans given the reduced floor area ratio and height of the rear addition but does suggest, as discussed below, that vegetative screening be maintained in the vicinity of the proposed detached garage.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Single Residence 2 (SR2) district. is an appropriate location for the proposed project as designed with a one-story, approximately 750 square foot rear addition and new detached 462 square foot two-car garage, resulting in a FAR of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit (§7.3.3.C.1)
- The proposed project as designed with a one-story, approximately 750 square foot rear

addition and new detached 462 square foot two-car garage, resulting in a Floor Area Ratio (FAR) of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit, will adversely affect the neighborhood (§7.3.3.C.2)

- The proposed project as designed with a one-story, approximately 750 square foot rear addition and new detached 462 square foot two-car garage, resulting in a Floor Area Ratio (FAR) of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit, will 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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the southerly side of Cushing Street between Centre Street and Allerton Road. The site is developed with a single-family dwelling and a detached garage consistent with many of the surrounding properties; the vicinity also features some two- and multi- family dwellings as well (**Attachment A**). The site and surrounding area to the west of Centre Street are zoned SR2 while those to the east are zoned Single Residence 3 (SR3) (**Attachment B**).

B. Site

The site consists of an 8,640 square foot lot, improved with a 2½-story, 2,667 square foot single family dwelling and a 261 square foot detached single-car garage. Vehicular access is provided via driveway serving the existing garage in the rear of the lot. The site is relatively flat with a mixture of deciduous and evergreen plantings and lawn area in the remainder of the site.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence that will, if approved, contain an internal accessory apartment.

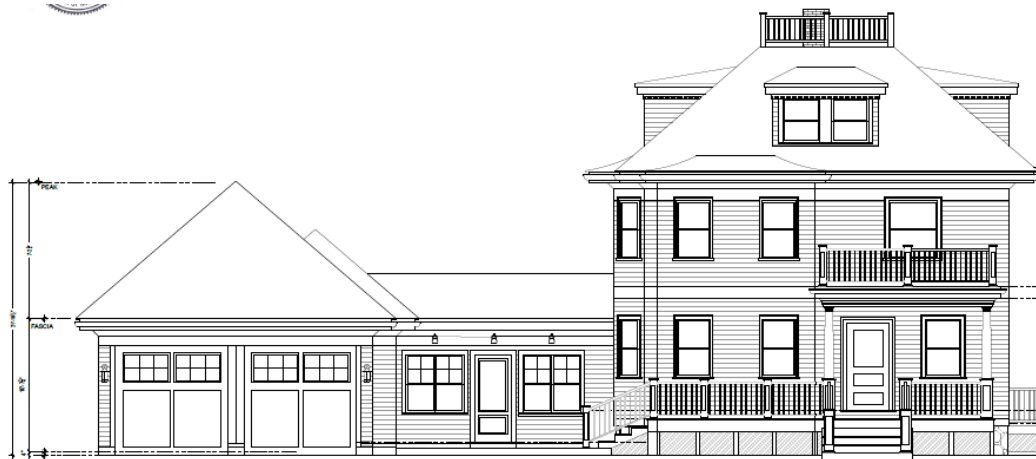
B. Building and Site Design

The petitioners propose to construct a one-story rear addition and a detached two-car garage. The differences between this plan and that authorized by the previously granted special permit include that the rear addition would have one story rather than two and a different footprint, and the proposed location of the garage would be moved forward on the lot toward Cushing Street with, as a result, a shorter driveway.

The petitioners intend to create an internal accessory apartment within the expanded

dwelling. As the accessory apartment would measure only 667 square feet and 21% of the total habitable space of the 3,146 square foot dwelling, it does not require zoning relief.

The proposed construction would result in the property having an FAR of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit.

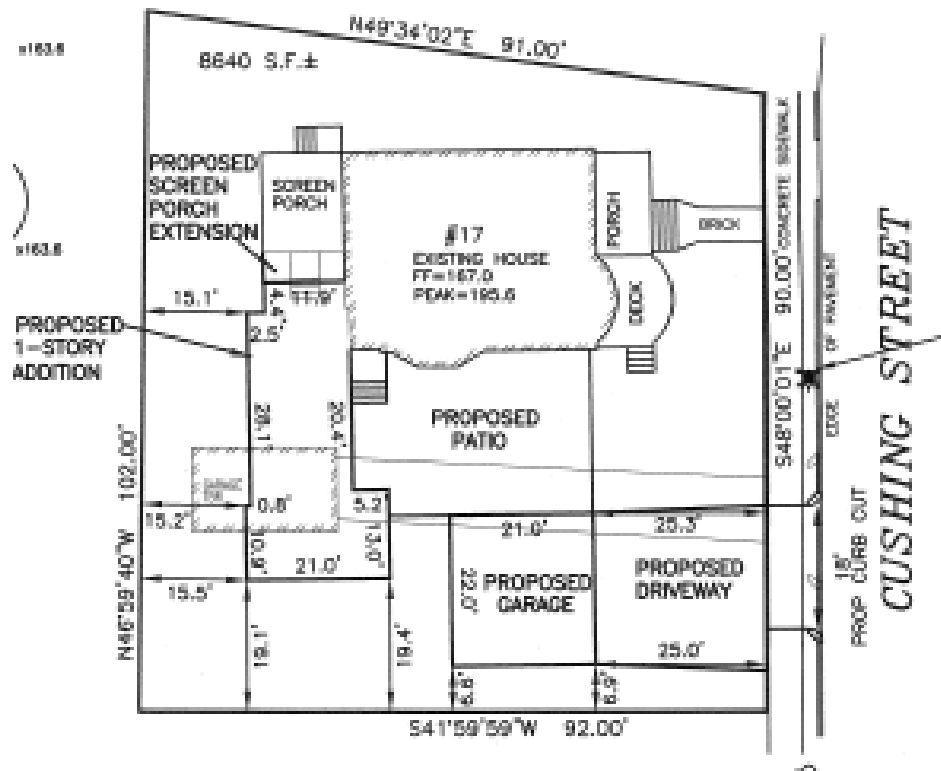


Proposed front elevation

With the proposed changes to the grade, the measured height of the dwelling would increase slightly from 31.9 feet to 32.4 feet (less than the 36 feet allowed). At 21.9 feet the height of the proposed garage would be below the 22 foot maximum.

The dwelling's existing nonconforming front setback of 13.4 feet would not change, nor would its 11.2-foot right side setback. The proposed rear addition would reduce the dwelling's rear and left setbacks from 16.6 and 50.2 feet to 15.1 and 19.1 feet, respectively, remain in excess of the relevant requirements. The setbacks for the proposed garage would be more significantly changed as it would be moved considerably forward and leftward on the lot. Its closest measurement to a property line would be on the left side of the parcel, with that being reduced from 26.3 feet to 6.6 feet but remaining nonetheless greater than the 5 foot minimum required.

As discussed in the attached zoning review memorandum, the proposed garage is not included in the Lot Coverage calculation of 25.3%, below the 30% maximum allowed.



Proposed site plan

C. Parking and Circulation

As referenced above, the petitioners propose to construct a detached two-car garage to replace the existing garage. Where the existing garage is located in the rear portion of the property, set back more than 50 feet from the street, the proposed garage would be located in the front left of the property set back approximately 25 feet from the street and 6.6 feet from the left side property line. This proposed location would result in a shorter driveway of approximately 25 feet in length.

D. Landscape, Lighting and Signage

A landscaping plan was not submitted with this petition. The Planning Department suggests the petitioner maintain vegetative screening for the proposed garage along the left side of the parcel.

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 amend Special Permit #18-15

B. Engineering Review

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

C. Historic Review

On January 25, 2022, Newton Historical Commission staff approved the proposed project based upon submitted materials, requiring only final review of construction plans prior to issuance of building permit.

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 Order

ATTACHMENT A





Land Use

17 Cushing St.

City of Newton,
Massachusetts

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use



The information on this map is derived from the City of Newton's 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



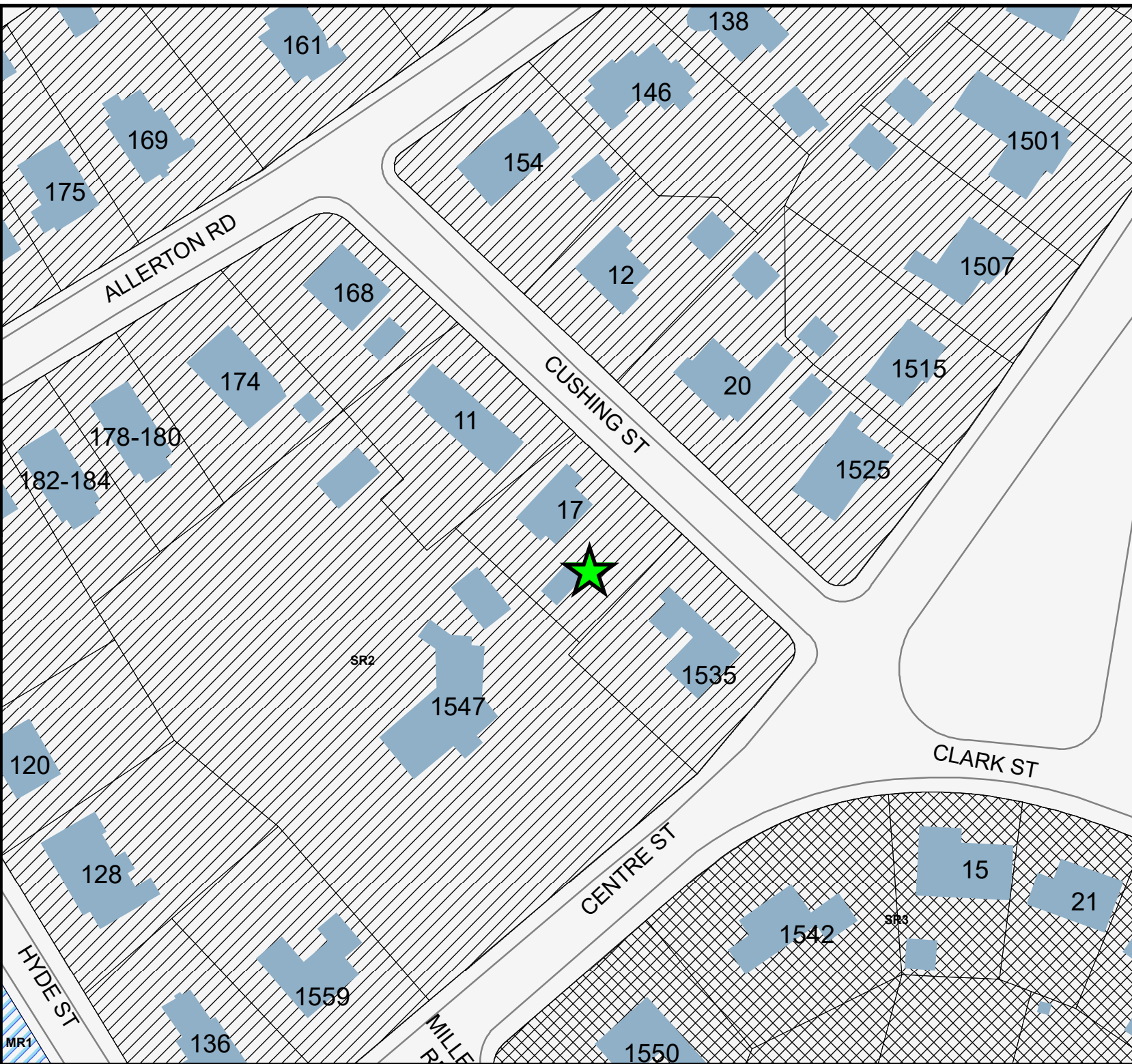
Map Date: February 15, 2022




ATTACHMENT B

Zoning

17 Cushing St.

*City of Newton,
Massachusetts*

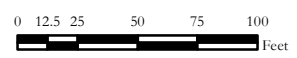


-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1



The information on this map is a 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





Ruthanne Fuller
Mayor

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: December 20, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Lee Silverstone, Architect
Beth Silverberg Marx and Daniel Marx, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Special Permit #18-15

Applicant: Beth Silverberg Marx and Daniel Marx	
Site: 17 Cushing Street	SBL: 52027 0010
Zoning: SR2	Lot Area: 8,640 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 17 Cushing Street consists of an 8,640 square foot lot improved with a single-family dwelling constructed circa 1910 and a detached one-car garage. The property is subject to Special Permit #18-15 which granted relief from FAR for a two-story rear addition and to extend the nonconforming front setback to construct a porch. The front porch was constructed, however the rear addition was never built. The petitioners now propose to construct a single-story addition an internal accessory apartment as well as a detached two-car garage. The proposed construction will not exceed the .50 FAR granted by the special permit, but will require an amendment to Special Permit #18-15 for the new design.

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

- Zoning Review Application, prepared Lee Silverstone, architect, dated 11/18/2021
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 12/8/2021, revised 12/13/2021
- Floor Plans and Elevations, prepared by SB Architects, dated 11/16/2020
- FAR calculations, dated 11/15/2021

ADMINISTRATIVE DETERMINATIONS:

1. The property was granted Special Permit 18-15 in 2015 to allow a two-story rear addition with an FAR of .50 and to extend an existing nonconforming front setback to construct a porch. The front porch was constructed, however the rear addition was not. The proposed construction requires an amendment to Special Permit #18-15 to revise the approved plans and FAR.
2. The petitioners propose to construct a one-story addition of an internal accessory apartment. Per section 6.7.1.D.2, an internal accessory apartment may be no larger than 33% of the total habitable space of the dwelling or 1,000 square feet, whichever is less. The proposed apartment is 667 square feet, which is 21% of the total habitable space of the 3,146 square foot dwelling, requiring no relief.
3. The 2015 special permit granted relief for FAR up to .50 for a two-story rear addition, which was never constructed. The current proposed addition increases the FAR from .34 to .45. An amendment to Special Permit #18-15 is required to reflect the changes to the proposed plan and maximum FAR.
4. Per section 1.5.2.D.2, the lot coverage requirements of section 3.1.3 shall not apply to the construction of a garage accessory to a single- or two-family dwelling built prior to December 27, 1922. The subject dwelling was constructed circa 1910. As such the maximum lot coverage requirement of 30% does not apply to the proposed garage. With the garage removed from the figure, the proposed lot coverage increases from 19.5% to 25.3% with the construction of the addition.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	8,640 square feet	No change
Frontage	80 feet	90 feet	No change
Setbacks - Principal			
• Front	25 feet	13.4 feet	No change
• Side	7.5 feet	50.2 feet	19.1 feet
• Side	7.5 feet	11.2 feet	No change
• Rear	15 feet	16.8 feet	15.1 feet
Setbacks - Accessory			
• Front	25 feet	>50 feet	25 feet
• Side	5 feet	26.3 feet	6.6 feet
• Side	5 feet	>50 feet	±60 feet
• Rear	5 feet	7.3 feet	46 feet
Height			
• Principal	36 feet	31.9 feet	32.4 feet
• Accessory	22 feet		21.9 feet
Stories			
• Principal	2.5	2.5	No change
• Accessory	1.5	1	1.5
FAR	.40 (.50 by SP #18-15)	.34	.45*
Max Lot Coverage	30%	19.5%	25.3%
Min. Open Space	50%	73%	61%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #18-15	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 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #18-15, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Single Residence 2 (SR2) district. is an appropriate location for the proposed project as designed with a one-story, approximately 750 square foot rear addition and new detached 462 square foot two-car garage, resulting in a FAR of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit (§7.3.3.C.1)
2. The proposed project as designed with a one-story, approximately 750 square foot rear addition and new detached 462 square foot two-car garage, resulting in a Floor Area Ratio (FAR) of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit, will not adversely affect the neighborhood (§7.3.3.C.2)
3. The proposed project as designed with a one-story, approximately 750 square foot rear addition and new detached 462 square foot two-car garage, resulting in a Floor Area Ratio (FAR) of 0.45, more than the 0.40 allowed by right, but less than the 0.50 allowed by the already-granted existing special permit, 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)

PETITION NUMBER: #33-22

PETITIONER: Dan Marx and Beth Silverberg

LOCATION: 17 Cushing Street, Section 52, Block 27 Lot 10, containing approximately 8,640 square feet of land

OWNER: Joanne Ren

ADDRESS OF OWNER: 17 Cushing Street
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:
• amend Special Permit #18-15

ZONING: Single Residence 2 (SR2)

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 the following plans:
 - a. a site plan entitled "Plan of Land in Newton, MA, 17 Cushing Street, Proposed Additions," dated December 8, 2021, as revised through December 13, 2021, prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, Professional Land Surveyor December 13, 2021
 - b. a set of architectural drawings entitled "Marx Residence (Daniel & Beth), 17 Cushing St, Newton Highlands, MA 02461," prepared by SB Architects, dated January 5, 2022, signed and stamped by Phillip H. Bakalohuk, Registered Architect, consisting of the following sheets:
 - i. Cover Page (A0.0)
 - ii. Proposed Site Plan (A1.1)
 - iii. Plan of Garage Area and Casita (A1.1A)
 - iv. Proposed Front Elevation at Cottage (A2.1)
 - v. Proposed Front Elevation at Garage (A2.1A)
 - vi. Proposed Left Elevation (A2.2)
 - vii. Proposed Rear Elevation (A2.3)
 - viii. Right Side Elevation (A2.4)
 - c. A document entitled "Floor Area Worksheet," indicating a proposed total gross floor area of 3,979square feet and a proposed FAR of 0.45, signed and stamped by Phillip H. Bakalohuk, 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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. 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 and/or Occupancy Permit for the buildings 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 certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.