



#226-22

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath
Director

Ruthanne Fuller
Mayor

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 26, 2022
Land Use Action Date: July 5, 2022
City Council Action Date: July 18, 2022
90-Day Expiration Date: July 25, 2022

DATE: April 22, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Senior Planner

SUBJECT: **Petition #226-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the existing nonconforming FAR by constructing a single-story rear addition to the dwelling at 27 Village Circle, Ward 8, Newton, on land known as Section 81 Block 03 Lot 11, containing approximately 10,791 sq. ft. in a district zoned SINGLED RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



27 Village Circle

EXECUTIVE SUMMARY

The subject property located at 27 Village Circle consists of 10,791 square feet of land and is improved with a single-family dwelling constructed in 2004. The single-family dwelling was constructed as of right in 2004 and complied with the floor area ratio (“FAR”) standards for the SR-2 zoning district. However, the method for calculating FAR was amended in 2011, as such, the dwelling is considered nonconforming with respect to the FAR. Under current FAR rules and methodology, the single-family dwelling has a nonconforming FAR of .53, where .37 is the maximum allowed as of right. The petitioner is seeking relief to construct a single-story addition that further increases the nonconforming FAR from .53 to .56, where .37 is the maximum allowed as of right.

The Planning Department is unconcerned with the petition that increases the nonconforming FAR. The proposed addition consists of one story, will be minimally visible from the street and is focused to the rear of the existing dwelling.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed increase in the nonconforming FAR from .53 to .56 where .37 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 (§3.1.9, and §7.8.2.C.2).
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9, and §7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

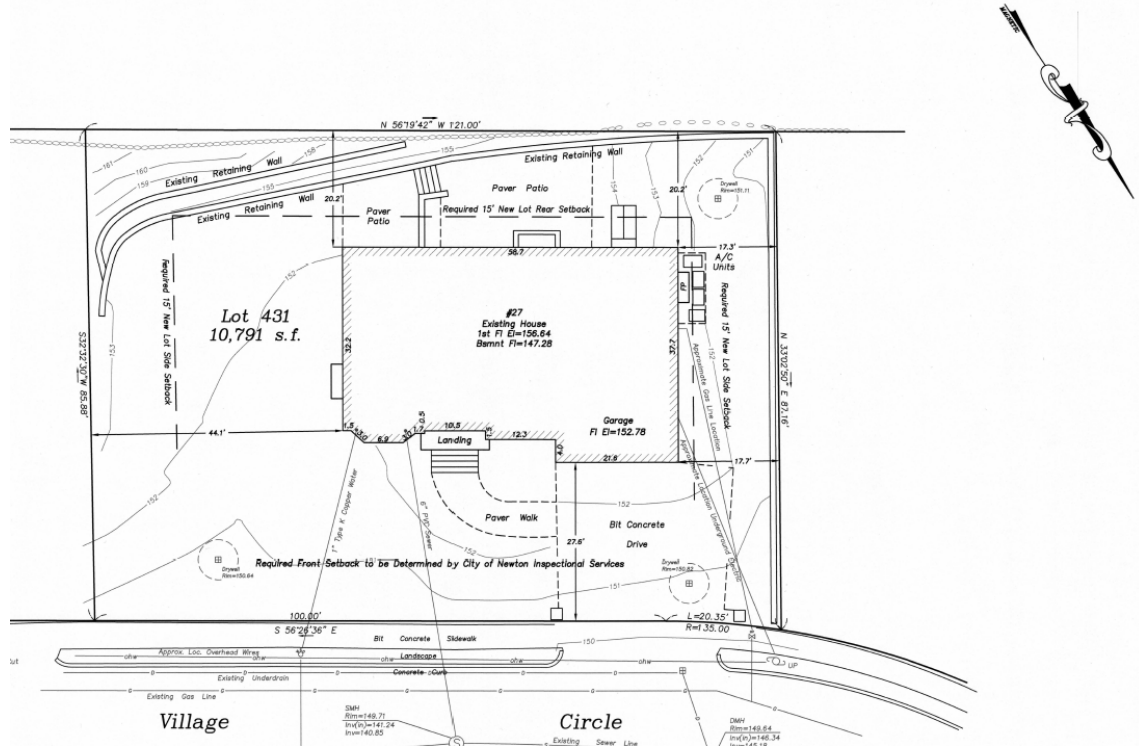
The subject property is located on Village Circle in the SR-2 zone in Oak Hill Park. The surrounding area is within the SR-2 zone (**ATTACHMENT A**). The uses in the area consist of single-family residential uses (**ATTACHMENT B**).

B. Site

The site consists of 10, 791 square feet of land and is improved with a single-family dwelling constructed in 2004. The site is accessed by one curb cut from Village Circle which provides access to a paved driveway and attached two car garage. The site has an upwards slope from the front to the rear of the lot. As the single-family dwelling was constructed as of right in 2004, it complied with the FAR standards for the SR-2 zoning district. However, the method for calculating FAR was amended in

2011, as such, the dwelling is considered nonconforming with respect to the FAR. Under current FAR methodology, the single-family dwelling has a nonconforming FAR of .53, where .37 is the maximum allowed as of right.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

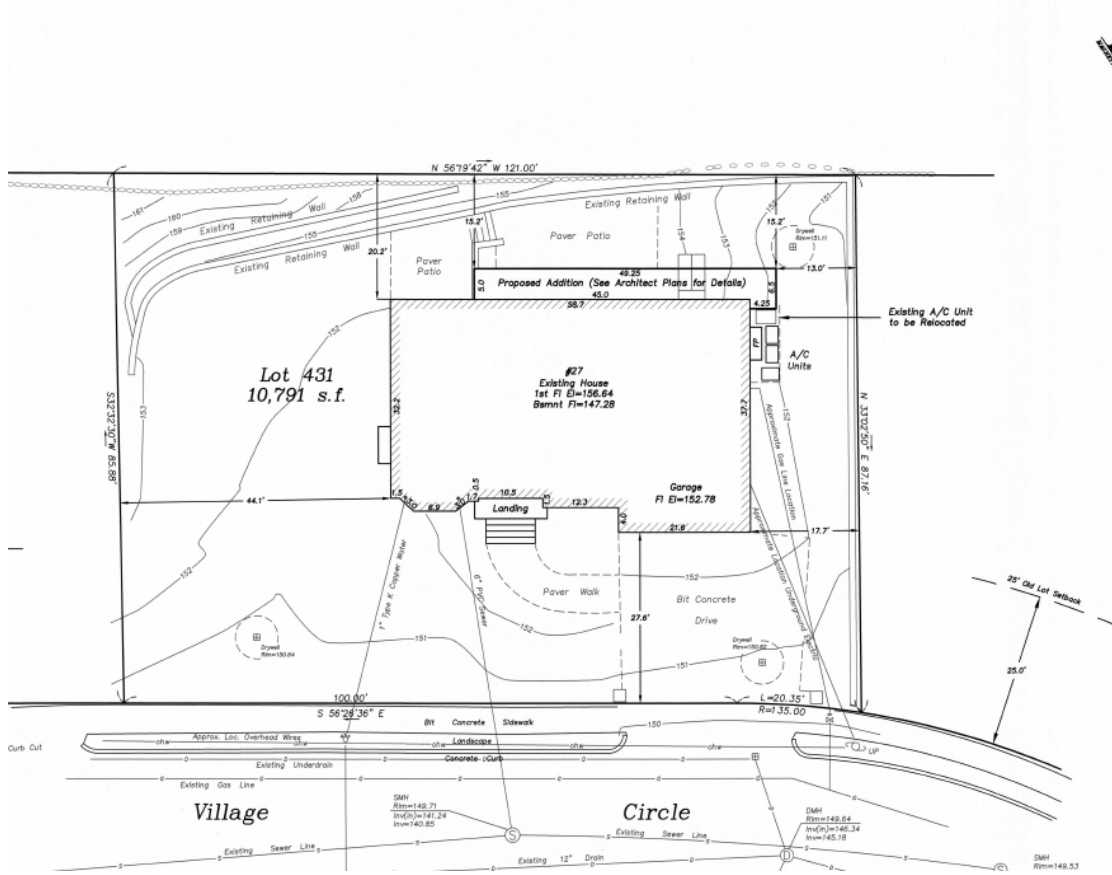
The use of the site will remain a single-family use.

B. Site and Building Design

The petitioner is proposing a single-story addition to the rear of the existing dwelling. The addition will add 225 square feet to the first story of the dwelling resulting in an increase in the nonconforming FAR from .53 to .56. The addition results in a structure consisting of 5,995 square feet, where 3,993 is the maximum allowed as of right. The addition alters the rear setback from 20 feet to 15.2 feet, where 15 feet is required. The addition also impacts the eastern side setback as it extends an additional 4.25 feet to the east. The proposed eastern side setback is 13 feet where 17 exists and 7.5 is required. The proposed addition requires a special permit to extend the

nonconforming FAR.

Proposed Site Plan



Proposed Rear Elevation



The Planning Department is unconcerned with the petition that increases the nonconforming FAR. The proposed addition consists of one story, will be minimally visible from the street and is focused to the rear of the existing dwelling.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

➤ §3.1.3, §3.1.9 §7.8.2.C.2 of Section 30, to further extend the nonconforming FAR

B. Engineering Review

Engineering Review is not required at this time.

C. Newton Historical Commission

Review from the Newton Historical Commission or Chief Preservation Planner is not

required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Land Use Map
- ATTACHMENT B:** Zoning Map
- ATTACHMENT C:** Zoning Review Memorandum
- ATTACHMENT D:** DRAFT Council Order



ATTACHMENT A

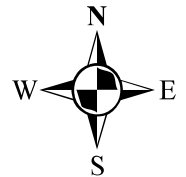
Zoning

27 Village Circle

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Public Use



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: April 21, 2022



ATTACHMENT B

Land Use

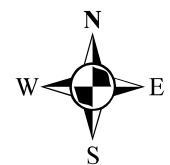
27 Village Circle

*City of Newton,
Massachusetts*

Legend

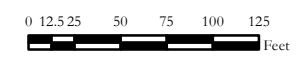
Land Use

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



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



Map Date: April 21, 2022





Ruthanne Fuller
Mayor

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Attachment C
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 28, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Terrence P. Morris, Attorney
Gennady and Emma Baskin
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Gennady & Emma Baskin	
Site: 27 Village Circle	SBL: 81003 0011
Zoning: SR2	Lot Area: 10,791 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 27 Village Circle consists of a 10,791 square foot in the Single Residence 2 zoning district. The property is currently improved with a single-family dwelling constructed in 2004. The petitioner intends to construct a 256 square foot single-story addition to the rear of the dwelling increasing further increasing the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 2/9/2022
- FAR worksheet, signed and stamped by David H. Sullivan, architect, submitted 2/9/2022
- Plan of Land, signed and stamped by Verne T. Porter, surveyor, dated 11/9/2021
- Floor plans and elevations, signed and stamped by David H. Sullivan, architect, dated 7/28/2021

ADMINISTRATIVE DETERMINATIONS:

1. The existing single-family dwelling was constructed in 2004 in compliance with the FAR requirements in place at the time. At construction, the FAR was calculated at .35 where .37 was the maximum allowed. The method for calculating FAR was amended in 2011. Utilizing the current requirements for calculation, the FAR is .53. The petitioners propose to construct a single-story 256 square foot single-story rear addition. The additions increase the nonconforming FAR from .53 to .56, where .37 is the maximum allowed per section 3.1.9 requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,791 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks			
• Front	25 feet	27.6 feet	No change
• Side	7.5 feet	44.1 feet	No change
• Side	7.5 feet	17.7 feet	13 feet
• Rear	15 feet	20.2 feet	15.2 feet
Building Height	36 feet	34.6 feet	No change
Max Number of Stories	2.5	2.5	No change
Lot Coverage	30%	19.5%	21.5%
Open Space	50%	72.8%	70.8%
FAR	.37	.53	.56

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further increase nonconforming FAR	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 construct a single story addition, increasing the nonconforming FAR from .53 to .56, where .37 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 increase in the nonconforming FAR from .53 to .56 where .37 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 because the addition consists of a single story and is focused to the rear of the dwelling (§3.1.3, 3.1.9, and §7.8.2.C.2).
2. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition is focused to the rear of the dwelling and will be minimally visible from the street (§3.1.3, 3.1.9, and §7.8.2.C.2).

PETITION NUMBER: #226-22

PETITIONER: Gennady Baskin

LOCATION: 27 Village Circle, on land known as Section 81, Block 3, Lot 11, containing approximately 10,791 square feet of land

OWNER: Gennady Baskin

ADDRESS OF OWNER: 27 Village Circle
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9, §3.1.3 and §7.8.2.C.2 to increase the nonconforming FAR

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. Proposed Conditions Site Plan, signed and stamped by Verne T. Porter, Professional Land Surveyor, dated March 24, 2022
 - b. Architectural Plans and Elevations, prepared by O’Sullivan Architects, signed and stamped by David O’Sullivan, dated July 28, 2021 consisting of the following three (3) sheets
 - i. Basement Plan
 - ii. First Floor Plan
 - iii. Right and Rear Elevations
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.
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 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.
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.