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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 25, 2022
Land Use Action Date: January 10, 2022
City Council Action Date: January 16, 2023
90-Day Expiration Date: January 23, 2023

DATE: October 21, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner

SUBJECT: **Petition #455-22**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to enclose an existing screen porch, further exceeding nonconforming FAR at 168-170 Warren Street, Newton, Ward 6, on land known as Section 61 Block 40 Lot 04, containing approximately 5,742 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.2.3, 3.2.11, 7.8.2.C.2 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.



168-170 Warren Street

EXECUTIVE SUMMARY

The property at 168-170 Warren Street consists of a 5,742 square foot lot in the Multi Residence 1 (MR-1) zone in Newton Centre. The lot is improved with a two-family dwelling constructed circa 1880 and a detached garage.

The petitioner proposes to enclose an existing porch. The proposed renovation would further increase the parcel's nonconforming floor area ratio (FAR) from 0.70 to 0.72, where 0.56 is the maximum allowed by right, which requires a special permit.

Given the modest scale of these changes, limited visibility from public ways and nearby dwellings, and that the increase in FAR will be limited to the existing footprint of the building, the Planning Department is unconcerned with the proposed renovation.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed floor area ratio of 0.72 is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.2.3, §3.2.11 and §7.3.3)
- The proposed increased floor area ratio (FAR) is substantially more detrimental than the existing nonconforming FAR to the neighborhood. (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

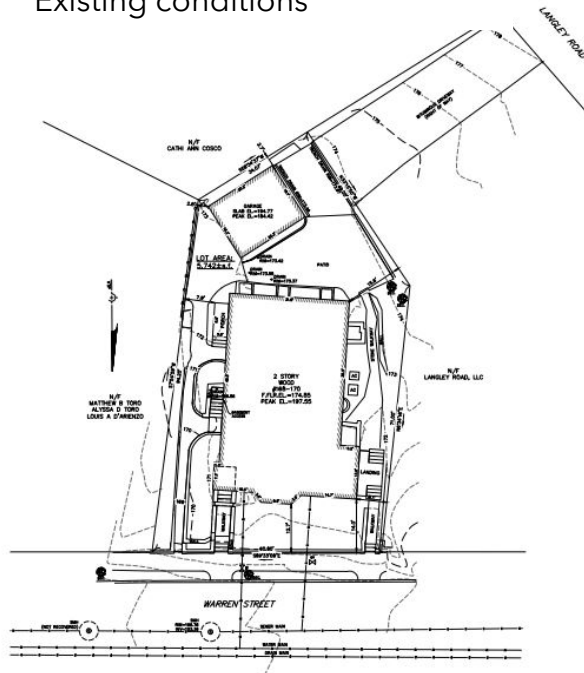
A. Neighborhood and Zoning

The subject property is located on Warren Street in the MR-1 zone in Newton Centre. The property abuts two-family dwellings to the east and west, and a single-family dwelling to the south. The surrounding area is entirely within the MR-1 zone (**ATTACHMENT A**). The uses in the area consist of single-family residential, multi-family residential and some commercial uses to the north (**ATTACHMENT B**).

B. Site

The property consists of a 5,742 square foot lot improved with a two-story two-family dwelling constructed circa 1880 and a detached garage. The building has a nonconforming front setback of 12.7 feet where 25 feet is required in MR-1.

Existing conditions



Vehicular access is provided via a curb cut along Langley Road that serves a detached garage at the rear of the dwelling. The site is relatively flat and features landscaping with several trees, shrubs, and grasses visible from the public way and a lot retaining wall along the front of the property on Warren Street.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a two-family dwelling should the petition be approved.

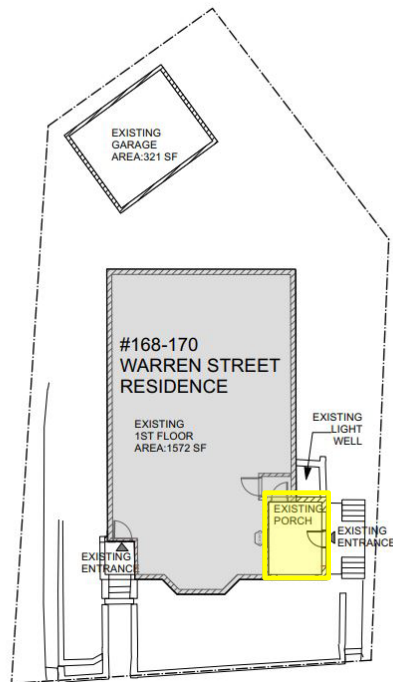
B. Building and Site Design

The petitioners propose to enclose a 108 square foot screened porch at the northwest corner of the building, along the front of the building. This would increase the nonconforming FAR on the site from .70 to .72 where .56 is the maximum allowed in the MR-1 zone, requiring a special permit. The total gross floor area would increase from 4,058 square feet to 4,188 square feet.

The plan also includes adding a 12.1-foot-wide awning that would extend three feet from the porch that would be enclosed, resulting in a 5.7-foot side setback where 7.5 feet is required. However, because roof overhangs are allowed to extend up to three

feet into the setback, no relief is required for that design.

Proposed conditions



The front awning is set back from the front façade but within the front setback required. According to the Ordinance, alterations and additions to the front of a structure totaling 75 square feet or less may be allowed by right as long as the addition does not encroach further into the front setback. The awning would be within the front setback as it would be affixed to the portion of the structure within the front setback, but due to the size of the awning, no relief is required.

The Planning Department is unconcerned with the proposed increase to the nonconforming FAR. Enclosing the porch would add 108 square feet of floor area and is limited to the existing footprint of the structure.

C. Parking and Circulation

No changes to the parking or circulation on the site are proposed in this petition.

D. Landscape, Lighting and Signage

No changes to the landscaping are proposed in 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 completed Zoning Review Memorandum, the petitioner is seeking the following relief:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11 §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3

B. Historic Preservation Review

The project does not require historic preservation review.

C. Engineering Review

Engineering Review is not required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

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




ATTACHMENT A

Zoning

168-170 Warren Street

*City of Newton,
Massachusetts*

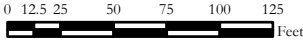
Zoning

-  Multi-Residence 1
-  Multi-Residence 2
-  Business 2



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: October 20, 2022



ATTACHMENT B





Land Use

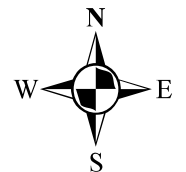
168-170 Warren Street

*City of Newton,
Massachusetts*

Land Use

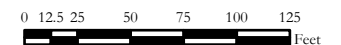
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Vacant Land



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CITY OF NEWTON, MASSACHUSETTS
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Director

ZONING REVIEW MEMORANDUM

Date: September 13, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Long Range Planning

Cc: Amy Surman, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to exceed FAR**

Applicant: Amy Surman	
Site: 168-170 Warren Street	SBL: 61040 0004
Zoning: MR1	Lot Area: 5,742 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 168-170 Warren Street consists of a 5,742 square foot lot improved with a two-family dwelling constructed circa 1880. The petitioner seeks to enclose an existing screen porch, 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 Amy Surman, applicant, submitted 8/3/2022
- Proposed Plot Plan, signed and stamped by Joseph R. Porter, surveyor, dated 6/7/2022
- FAR calculations, submitted 8/3/2022
- Floor plans and elevations, prepared by Elpida Peristeropoulou, designer, dated 7/27/2022

ADMINISTRATIVE DETERMINATIONS:

1. The deed on record indicates a lot area of 4,808 square feet and provides the metes and bounds of the parcel. The site survey indicates a lot area of 5,742 square feet. The earliest available deed dates to 1951 and reflects the same measurements as those of the most recent deed, so it is not believed that the lot has changed in size or configuration since that time. Based on the measurements of the metes and bounds as indicated in both the deed and the survey, it is believed that the lot area of 4,808 square feet provided by the deed is incorrect and that the lot area of 5,742 square feet provided by the site survey reflects the accurate total square footage of the parcel.
2. The petitioner proposes to enclose a 108 square foot screen porch, increasing the nonconforming FAR from .70 to .72 where .56 is the maximum allowed per sections 3.2.3 and 3.2.11, requiring a special permit per section 7.8.2.C.2.
3. The petitioner proposes to construct a 12.1-foot-wide awning extending three feet from the house, resulting in a 5.7 foot side setback where 7.5 feet is required per section 3.2.3. Per section 1.5.3.D.6, roof overhangs may extend up to three feet into the setback. No relief is required.

The building has an existing nonconforming front setback at the location of the awning of 14 feet where 25 feet is required per section 3.2.3. The awning is set back from the front façade but still within the required front setback. Per section 7.8.2.B.2.i, alterations and additions to the front of a structure of not more than 75 square feet may be allowed by right as long as the addition does not encroach any further into the front setback. The proposed awning is adds approximately 30 square feet within the front setback, requiring no relief.

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11 §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3

#455-22
168-170 Warren Street

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 nonconforming floor area ratio (FAR) from .70 to .72, where .56 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 .70 to .72 where .56 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 increase of the FAR is within the footprint of the structure (§3.2.3, §3.2.11 and §7.3.3)
2. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the enclosed porch will look very similar to the existing porch (§7.8.2.C.2).

PETITION NUMBER: #455-22

PETITIONER: Amy Surman

LOCATION: 168-170 Warren Street on land known as Section 61 Block 40 Lot 04, containing approximately 5,742 sq. ft. of land in a district zoned MULTI RESIDENCE 1

OWNER: Amy Surman

ADDRESS OF OWNER: 168-170 Warren Street
Newton, MA 02459

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.2.3, §3.2.11 and §7.8.2.C.2 to increase the nonconforming FAR

ZONING: Multi Residence 1

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. Architectural Floorplans, prepared by Elpida Peristeropoulou, unsigned and unstamped, dated July 27, 2022 consisting of the following two (2) sheets.
 - i. Gross Area Calculations, A-1.00
 - ii. 1st Floor Porch Floor Plans, A-1.01
 - b. Topographic Site Plan, signed and stamped by Joseph Porter, Professional Land Surveyor, dated June 7, 2022.
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 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 board 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.
4. 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 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 professional land surveyor.