



Setti D. Warren
Mayor

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Barney S. Heath
Director

M E M O R A N D U M

DATE: October 21, 2016
MEETING DATE: October 25, 2016
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
CC: Dori Zaleznick, Chief Administrative Officer
John Lojek, Commissioner of Inspectional Services

The Chairman of the Committee has requested a discussion of the special permit process

This discussion is continued from August 9, 2016 and September 20, 2016.

Folllow up from the August and September 2016 Meetings

1. It is agreed that there should only be one special permit/Council Order for any particular property. The Planning and Law Departments will continue to consolidate Orders as has been the practice since 2009.
2. Planning staff will continue to encourage applicants to talk with their neighbors before filing for a special permit. This message will be conveyed to all prospective applicants including to the professionals involved in projects on a regular basis and is noted in the Planning Department's Special Permit Brochure.
3. Planning staff will continue to advise applicants that they do not need to engage attorneys for relatively routine projects as noted in the Special Permit Brochure.
4. The current schedule of meetings on the first, third, and fourth Tuesday of each month will continue, with the first meeting typically devloted to larger/commercial projects and the second meeting being devoted to relatively routine projects. NB – the ZBA also meets the

fourth Tuesday of each month so the Clerk must be cognizant of scheduling conflicts for the Chamber and be prepared to book another room when necessary.

5. The Clerk will continue to provide estimated times for hearings on our agenda so applicants and abutters can plan accordingly.
6. Applicants should be required to identify any special permits associated with their property or certify that there are not any. The Planning Department's Zoning Review Application already does this. The Planning Department will assist any applicant that needs help with this.
7. **It has been agreed that most small projects will no longer be required to file their special permit application with Fire and Engineering unless requested to do so by the Planning Department. These filings add cost and time to projects that are generally not necessary until an applicant has been approved by the Council. The Planning Department will continue to work closely with the Engineering Division and Fire Department from project conception and if any issues or significant concerns are identified on a project they will be brought to the Councils attention. Engineering and Fire requirements are based on performance standards that must be met at the time of building permit.**
8. **The Planning Department has created an addendum to the Zoning Review Memorandum which includes next steps and notes what must be submitted at the time of the special permit filing. The intent is to clarify next steps and submittal requirements for the applicant and to minimize the filing of incomplete applications. The addendum will be added to all Zoning Review Memos beginning immediately. There is a short form for simple projects and a long form for more complicated projects (Attachment A & B).**
9. **In an attempt to continue to streamline the special permit process the Planning Department has revised a simple land use memo. We welcome feedback from the Committee on how this format may work for less complicated/smaller projects bearing in mind that these memos are read by the Council and the public (Attachment C).**
10. **The Chairman of Land Use asked staff what an administrative approval would look like if some projects no longer required a special permit (a potential result of zoning reform). The Planning Department notes that the majority of special permits fall into two categories of relief required – dimensional waivers and use waivers. In 2015 the Council approved 23 special permits to exceed FAR or to extend an existing nonconforming structure. The Planning Department has prepared a draft of what administrative review for these projects may look like if special permits were not required (Attachment D).**
11. **The Planning Department revised the format of a Council Order in order to make the next steps and ongoing conditions clearer to homeowners (Attachment E).**
12. **The Planning Department prepared a graphical timeline of the special permit process to help illustrate the process and time involved (Attachment F).**

Other Issues

For the August Meeting the Planning Department made the following recommendations to help improve the efficiency of the special permit process for customers.

1. Eliminate special permit submittals to Engineering and Fire (done as part of building permit process anyways)
2. Let applicants file for building permits (with Engineering, Fire and Inspectional Services) during the appeal period at their own risk. Permits would not be issued until the appeal period is over.
3. Ensure all conditions of the Council Order are legal and enforceable
4. Initiate onboard and annual training for Committee members
5. Initiate a transportation engineer “on call” rather than issuing RFPs for larger projects
6. City Clerk Special Permit webpage should include an easy to find status highlighted in color (date of next meeting, withdrawn, Council Order, Planner contact, etc.)
7. Review the Clerk’s Special Permit Application for clarity of instructions and requirements
8. Reduce the number of copies of paper plans needed to file a special permit (15)
9. Combine the special permit filing and signage fee and have Clerk issue signs
10. Eliminate ex parte communication
11. Consider delegating some special permits to staff as part of Zoning Reform
12. As part of Zoning Reform consider replacing the Land Use and Zoning and Planning Committees with an appointed board that takes on both roles

ATTACHMENTS:

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|----------------------|--|
| Attachment A: | Addendum to Zoning Review Memorandum |
| Attachment B: | Sample of Draft Simplified Special Permit Memo |
| Attachment C: | Sample of Draft Administrative Approval Memo for dimensional relief |
| Attachment D: | Sample of Revised Council Order |
| Attachment E: | Timeline of Special Permit Process |

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:

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. Plans (Twelve 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)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. 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

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.**

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6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. 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)

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application. Such information may include but shall not be limited to:

- Historic Review/Sign-off
- Conservation Review/Sign-off
- Engineering Plans including Utilities and Drainage Calculations
- Massing Model or 3D computer model
- Traffic Impact Assessment
- Parking Demand Study
- Parking and Screening Plan
- Transportation Demand Management Plan

- Loading/Trash Location and Screening Plan
- Schedule of Activities
- Hours of Operation
- Photometric Plan
- Inclusionary Housing Plan
- Comprehensive Sign Package
- Street Views
- Site Sections
- Turning Template
- Fire Department Review/sign-off
- Average height of abutting residential buildings
- Area Plan showing distances from proposed buildings
- Construction Management Plan
- Proposed Phasing Schedule
- Shadow Study
- Roof Plan
- Tree Removal Plan
- Sustainability Plan
- Fiscal Impacts Report

Has the proposed project been presented to and discussed with abutting property owners? Y/N



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Mayor

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Department of Planning and Development
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Attachment C

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James Freas
Acting Director

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PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 12, 2016
Land Use Action Date: June 14, 2016
City Council Action Date: June 20, 2016
90-Day Expiration Date: July 11, 2016

DATE: April 8, 2016

TO: City Council

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning

SUBJECT: **Petition #93-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to build additions to the rear and side of the existing structure on the basement and first floor levels, and enclose a porch to create living space, which will further increase the non-conforming floor area ratio from .47 to .50, where .31 is the maximum allowed by right, and to regrade the property, which will further increase the nonconforming height of the existing structure from 37.4' to 37.7', where 36' is the maximum allowed by right at 413 Hammond Street, Ward 7, Chestnut Hill, on land known as SBL 63, 26, 14 containing approximately 15,307 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 7.8.2.C.2, 3.1.9, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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.



413-Hammond-Street

EXECUTIVE SUMMARY

The property located at 413 Hammond Street consists of a 15,307 square foot lot, and is improved with a three-story single-family residence built in 1896 as well as a detached carriage house. The property is located in the Single Residence 1 zoning district, which has the most restrictive floor area ratio maximum threshold, and is also located within the Chestnut Hill Historic District.

The applicant is proposing to extend the existing residence at the rear of the house with a first floor and basement addition to create an extended pantry and dining area. A new deck will also be added to the rear of the house to improve access to the back yard. The existing screened porch will also be further enclosed with windows to create a library room. Finally, portions of the site will be regraded increasing the existing nonconforming height by 0.3 feet. The proposed additions and regrading are in keeping with the architecture of the house and have been reviewed and approved by the Chestnut Hill Historic District Commission. The proposed additions would enlarge the current house by 417 square feet but would be minimally visible to the street. The proposed additions and dwelling otherwise meet all of the dimensional controls as stipulated in the NZO including lot coverage and open space. The petitioners will be restoring the house as part of this renovation, helping to ensure the preservation of this structure. The Planning Department believes that existing vegetation is adequate, and does not believe additional screening is needed.

~~The petitioner is proposing to construct an addition to the rear and side of the existing structure on the basement and first floor levels, as well as to enclose an existing porch to create living space.~~

To construct the addition, the applicant is seeking a special permit to increase the nonconforming floor area ratio (FAR) from 0.47 to 0.50, where 0.31 is the maximum allowed by right. If approved, the proposed additions will result in a net increase to the existing dwelling by 417 square feet for a total of 7,658 square feet built on the lot including the 1,300 square foot carriage house. The petitioner is also proposing to regrade the property slightly, changing the average grade sufficiently to increase the nonconforming height of the existing structure from 37.4 feet to 37.7 feet, for which they need a special permit. The principal use of the site is and will remain a single-family residence.

The Planning Department is not concerned with the construction of the proposed additions on this single-family dwelling. The dwelling is located in a neighborhood of other similarly-scaled dwellings and the petitioner will be restoring the existing house in keeping with the architectural detail of the residence. The proposed footprint addition is to the rear and the enclosure of the existing screen porch will not visually add additional mass to the structure. Furthermore, the addition has been reviewed and approved by the Chestnut Hill Historic District ~~(Attachment A)~~. For these reasons, the Planning Department believes the extension of a nonconforming structure with respect to FAR and height will not be in derogation of the size, scale, and design of other

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residential structures in the neighborhood, and will not be substantially more detrimental than the existing structure is to the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for the proposed additions. (§7.3.3.C.1)
- The proposed increase in FAR from 0.47 to 0.51, where .31 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 height of 0.3 feet is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

~~II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD~~

~~A. Neighborhood and Zoning~~

~~The subject property is located on Hammond Street, not far from the MBTA Green Line Chestnut Hill Train Station. The neighborhood is comprised primarily of larger single-family residences, and a number of institutional uses including various houses of worship and the Chestnut Hill School. The site and surrounding area are zoned Single Residence 1 (Attachments B & C).~~

~~B. Site~~

~~The property consists of 15,307 square feet of land, and is improved with a three-story single family residence built in 1896 and a detached carriage house. The site slopes down from the street towards the rear such that much of the basement counts towards the FAR.~~

~~III. PROJECT DESCRIPTION AND ANALYSIS~~

~~A. Land Use~~

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

~~B. Building and Site Design~~

~~The applicant is proposing to extend the existing residence at the rear of the house with a first floor and basement addition to create an extended pantry and dining area. A new deck will also be added to the rear of the house to improve access to the back yard. The existing screened porch will also be further enclosed with windows to create a library room. Finally, portions of the site will be regraded increasing the existing nonconforming height by 0.3 feet. The proposed additions and regrading are in keeping with the architecture of the house and have been reviewed and approved by the Chestnut Hill Historic District Commission. The proposed additions would enlarge the current house by 417 square feet but would be minimally visible to the street. The proposed additions and dwelling otherwise meet all of the dimensional controls as stipulated in the NZO including lot coverage and open space. The petitioners will be restoring the house as part of this renovation, helping to ensure the preservation of this structure.~~

~~Landscape Screening~~

~~The Planning Department believes that existing vegetation is adequate, and does not believe additional screening is needed.~~

~~IV. II. TECHNICAL REVIEW~~

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

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The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment DA**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.1.9 of Section 30, to increase nonconforming Floor Area Ratio (FAR)
- §3.1.3 of Section 30, to increase the nonconforming height.

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed addition should this project be approved.

V. III. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

Attachment A: ~~Chestnut Hill Historic District Record of Action~~ Zoning Review
Memorandum
Attachment B: Zoning Map
Attachment C: Land Use Map
Attachment D: Zoning Review Memorandum
Attachment E: DRAFT Order

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**DEPARTMENT OF PLANNING AND DEVELOPMENT
CITY OF NEWTON
Massachusetts**

INTER-OFFICE MEMORANDUM

DATE: October, 2016

TO: John Lojek, Commissioner of Inspectional Services

FROM: Alexandra Ananth, Chief Planner

SUBJECT: Administrative Review for Dimensional Relief
Example - 413 Hammond Street – Extend a nonconforming structure

In accordance with Section X of the City of Newton Zoning Ordinance, the following has been submitted to the Planning Department in both paper and digital format on X date:

- A site plan signed and stamped by a professional engineer/land surveyor showing existing and proposed conditions.
- Architectural plans showing existing and proposed conditions.
- A landscape plan (as applicable).

The application includes two additions on the side and rear of the existing residence which will further increase the nonconforming FAR from .47 to .50 where .31 is the maximum allowed by right. Minor regrading will increase the effective height of the structure from 37.4' to 37.7', where 36' is the maximum allowed by right.

In accordance with the Ordinance the Planning Department has completed the following:

- Prepared a Zoning Review Memorandum identifying the required dimensional relief;
- Mailed written notice to all immediate abutters of the property upon which the project is located and posted plans for public viewing on the Planning Department's website.

No comments from abutters were received. The application was also filed with the Chestnut Hill Historic District Commission and the project was approved as proposed (note any other reviews including NHC, Con. Com., etc.)

The Planning Department has considered the application under the site plan review criteria listed in Section 7.4.5 of the City's Zoning Ordinance and notes the following:

- No changes are proposed to vehicular or pedestrian movement within the site.
- The project will be reviewed by the Engineering Division of Public Works prior to the issuance of a building permit.

- The Planning Department believes that existing vegetation is adequate, and does not believe additional screening is needed (or the PD may require some landscaping, or review and comment on a submitted landscape plan).
- Topographical changes proposed are minor and should not negatively impact abutters in any way.
- The proposed additions are in keeping with the existing structure, have been reviewed and approved by the local historic district commission, and are compliant with all setback requirements.

Requirements

The Planning Department has no objection to the issuance of a building permit based on submitted plans (or the PD may require a change to the project or additional landscaping based on best planning principles and feedback from abutters).

cc: Planning Department Files
Inspectional Service Files

CITY OF NEWTON
IN CITY COUNCIL

April 19, 2016

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 increase the nonconforming Floor Area Ratio (FAR) from .47 to .51, where .31 is the maximum allowed by right, and to regrade the property, which will further increase the nonconforming height of the existing structure from 37.4' to 37.7', where 36' is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The site is an appropriate location for the proposed additions. (§7.3.3.C.1)
2. The proposed increase in FAR from 0.47 to 0.51, where .31 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)
3. The proposed increase in height of 0.3 feet from 37.4' to 37.7', where 36' is the maximum allowed by right, is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #93-16

PETITIONER: Diana M. Bailey

LOCATION: 413 Hammond Street, on land known as Section 63, Block 26, Lot 14, containing approximately 15,307 square feet of land

OWNER: Elisabeth M. Battinelli

ADDRESS OF OWNER: 22 Hudson St.
Sommerville, MA

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.8.2.C.2, to extend a nonconforming structure with respect to FAR; §3.1.3 and §7.8.2.C.2, to further increase nonconforming height

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. Proposed Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 1/28/2016
 - b. Architectural Plans and Elevations, signed and stamped by Diana Bailey, Architect, dated 2/8/2016 consisting of three sheets:
 - i. A1.0 Proposed Basement Plans
 - ii. A1.1 Proposed First Floor Plans
 - iii. A3.0 Proposed Elevations

CONDITIONS PRECEDENT TO THE ISSUANCE OF ANY BUILDING PERMITS

2. 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 board 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.

CONDITIONS PRECEDENT TO THE ISSUANCE OF ANY OCCUPANCY PERMITS

3. 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 a statement by a registered architect certifying compliance with Condition #1.
 - 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. Received a final sign off on the structure as built from the Chestnut Hill Historic District Commission.

ONGOING CONDITIONS

4. The landscaping shown on the approved plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.
5. Any other project specific conditions as necessary.

Special Permit Timeline

Attachment F

