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Mayor

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#282-17

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 24, 2017
Land Use Action Date:	January 2, 2018
City Council Action Date:	January 8, 2018
90-Day Expiration Date:	January 2, 2018

DATE: October 20, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #282-17**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the floor to area ratio from .21 to .37 where .33 is the maximum allowed by-right, at **45 Chester Street**, Ward 6, Newton Highlands, on land known as SBL 52, 03, 08 containing approximately 19,800 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9, and §7.3.3, 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.



45 Chester Street

EXECUTIVE SUMMARY

The property located at 45 Chester Street consists of a 19,800 square foot lot improved with a Colonial Revival single-family residence and detached garage circa 1896 and 1924, respectively. The property is located in the Single Residence 2 (SR-2) zone in Newton Highlands. The petitioners are seeking to raze the existing detached garage along with a portion of the western side of the dwelling in order to construct 2.5-story addition containing a two-car garage and additional living area. Also, the petitioners are seeking to demolish the rear of the dwelling to construct an attached indoor swimming pool. The proposed additions surpass the allowable floor area ratio (FAR); therefore, the petitioners require a special permit to exceed the FAR from .21 to .37, where .33 is the maximum allowed by-right. If approved, the additions would bring the total amount of square footage on site to 7,317 square feet; approximately 1,317 square feet above the allowable FAR.

The Planning Department notes subject property is one of the largest in the area within 300 feet. In addition, the dwelling is consistent in height and scale with other Victorian style homes in the neighborhood. Staff suggests the petitioner consider alternatives to mitigate the effect of the additional bulk and mass on the streetscape and design the additions to be in keeping with the architecture of the historic dwelling. Lastly, staff suggests the petitioner consider identifying which plantings may be removed and develop a plan to replace the existing vegetation.

SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in FAR from .21 to .37, where .33 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 §7.3.3).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

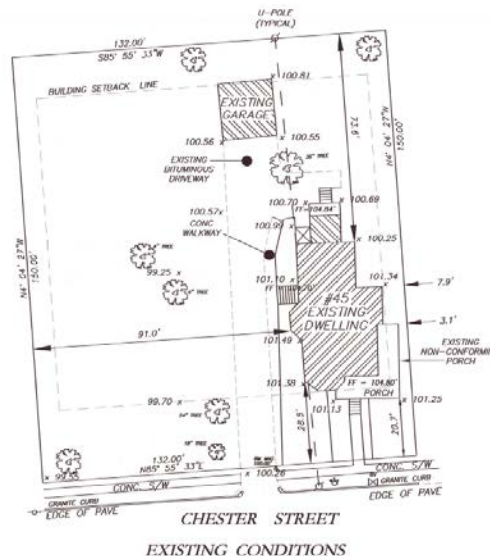
A. Neighborhood and Zoning

The subject property is located on Chester Street in the SR-2 zone in Newton Highlands. The SR-2 zone encompasses the immediate area, which contains predominantly single-family dwellings; however, the zone contains a few nonconforming multi-family uses. To the southeast is the Newton Highlands village center which contains parcels zoned Business 1 and the resulting underlying uses that comprise the village (**Attachments A & B**).

B. Site

The site consists of 19,800 square feet of land, and is improved with a 2.5-story single-family residence and detached two-car garage circa 1896 and 1924, respectively. The existing dwelling is an example of Colonial Revival architecture. The

site is served by an approximately 13 foot wide curb cut from Chester Street which provides access to a bituminous driveway and detached two-car garage. The site is predominantly flat, with scattered mature landscaping throughout the site as well as along the boundaries. The Planning Department notes that the lot is one of the largest lots in the neighborhood. Additionally, the dwelling is located in the southeast corner of the lot. Due to these two factors, the dwelling has legal nonconforming setbacks at the front of the dwelling of 20.7 feet and a side setback to the east of 3.1 feet, but a side setback to the west of 91 feet, and a rear setback of approximately 58 feet.



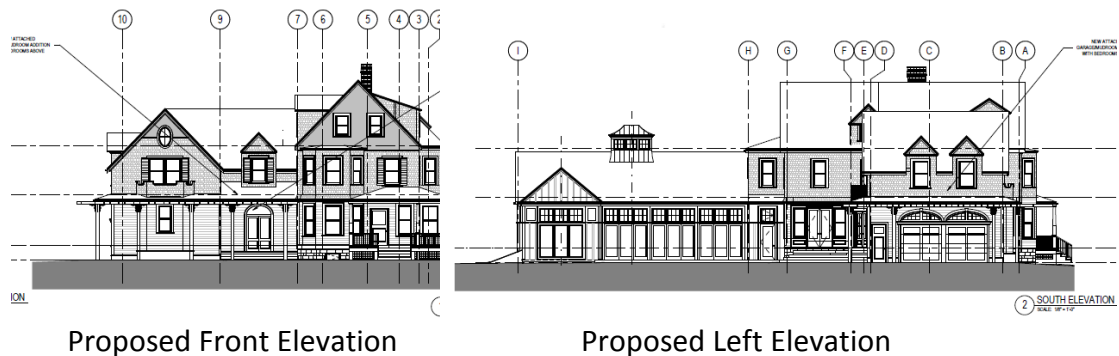
II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioners are proposing to raze the existing garage along with a portion of the western side of the dwelling to construct a 2.5-story addition. The addition will contain a sport court in the basement, a two-car garage with a mudroom and additional living area on the first floor, and additional bedrooms on the second floor. The Planning Department notes that the sport court in the basement does include habitable space, but is not counted towards the FAR calculation. The height of the addition scales to approximately 34 feet, from the average grade, which is just beneath the height limit of 36 feet per the Newton Zoning Ordinance (Ordinance). The proposed additions would reduce the western side setback from 91 feet to 52.1 feet, where 7.5 feet is required. Staff notes the additions are in keeping with the architecture of the historic dwelling.



At the rear of the structure, the petitioners are proposing to demolish portions of the structure at all three floors. Much of this square footage will be replaced at the second and third floors, while constructing an attached indoor pool to the first floor. The submitted drawings indicate the additions will reach the height of the principal ridgeline which is presently nonconforming due to its height of 38.4 feet. In order to match this height, the petitioners require a special permit to further extend the nonconforming height of the structure. This relief was not referenced in the Zoning Review Memorandum and thus, not advertised. The Planning Department has spoken with the petitioners as well the architect, and the petitioners are prepared to lower the height of the addition to 36 feet. Staff will present the Committee with an update at the public hearing.

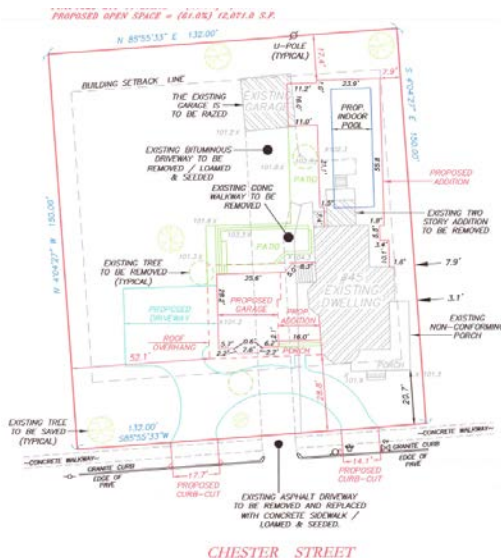
The attached in-door pool will extend approximately 41 feet towards the rear of the lot, thereby reducing the rear yard setback from 58 feet to 17.4 feet. The design, from the south gives the appearance of garage doors, while to the north mimics a clerestory design by locating windows at the eaves above eye level. This type of design provides light to the interior while also allowing privacy.

The Planning Department notes the neighborhood consists of Victorian style homes known for their height, and scale. This petition seeks to enlarge the existing dwelling by constructing the additional square footage laterally, thereby allowing the additional bulk and mass to have a greater effect on the streetscape. In addition, the proposed addition at the rear of the structure is contained to the first story, but creates the look of a continual wall plane not in keeping with the historic dwelling. Staff suggests the petitioner consider alternatives which may mitigate the mass and bulk of the proposed square footage and design the rear addition to be in keeping with architecture and massing of the principal structure

C. Parking and Circulation

Currently parking is accommodated within the detached two-car garage towards the rear of the site. The petitioners seek to raze this structure and construct a two-car garage on the first floor of the addition. Staff notes the garage doors will face west, and thereby will not be visible from the street. Additionally, the petitioners propose

two new curb cuts to either side of the existing curb cut and to construct a semi-circle driveway between the two. The plan indicates portions of the driveway south of the semi-circle and north of the proposed addition will be removed and will be replaced with loam and seed. Staff suggests the petitioners close the existing curb cut with granite curbing as well. Lastly, the design utilizes a “hammer head” to allow for a turnaround for vehicles exiting the garage before exiting the site onto Chester Street.



The Planning Department does not typically support more than one curb cut for single-family dwellings. Staff suggests the petitioner consider redesigning the driveway to utilize one curb cut for access and egress.

D. Landscaping and Screening

A landscape plan was not submitted with this petition. The Planning Department notes the proposed design will result in the loss of several mature trees on site. In addition, the rear and eastern side yard are screened with mature landscaping, which may have to be cleared in order for the rear addition. Staff suggests the petitioner identify which trees may be lost and consider developing a plan to replace the existing buffer.

III. 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 Memorandum, the petitioner is seeking the following relief:

- §3.1.9 and §7.3.3 of Section 30, to exceed the maximum FAR;

B. Engineering Review

The addition will trigger the City's policy of requiring a drainage analysis when an increase of impervious area is greater than 4% of the lot area. If approved, a drainage analysis will need to be conducted for onsite collection and infiltration of stormwater runoff.

C. Historic Review

As the petition requires the total demolition of the detached garage and partial demolition of a structure greater than fifty years old, approval was required from the Newton Historical Commission (NHC). At the June 23, 2016 meeting of the NHC, both the dwelling and detached garage were found "Preferably Preserved". As a result, a one-year demolition delay was placed on both structures. As of June 23, 2017, the petitioners can demolish both structures without further NHC review.

IV. PETITIONER'S RESPONSIBILITIES


ATTACHMENTS:

Attachment A: Zoning Map
Attachment B: Land Use Map
Attachment C: Zoning Review Memorandum
Attachment D: DRAFT Order

Attachment A Zoning Map Chester St., 45

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 3
-  Business 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



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 - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 50 100 200
Feet

Map Date: October 05, 2017

Attachment B Land Use Map Chester St., 45

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries

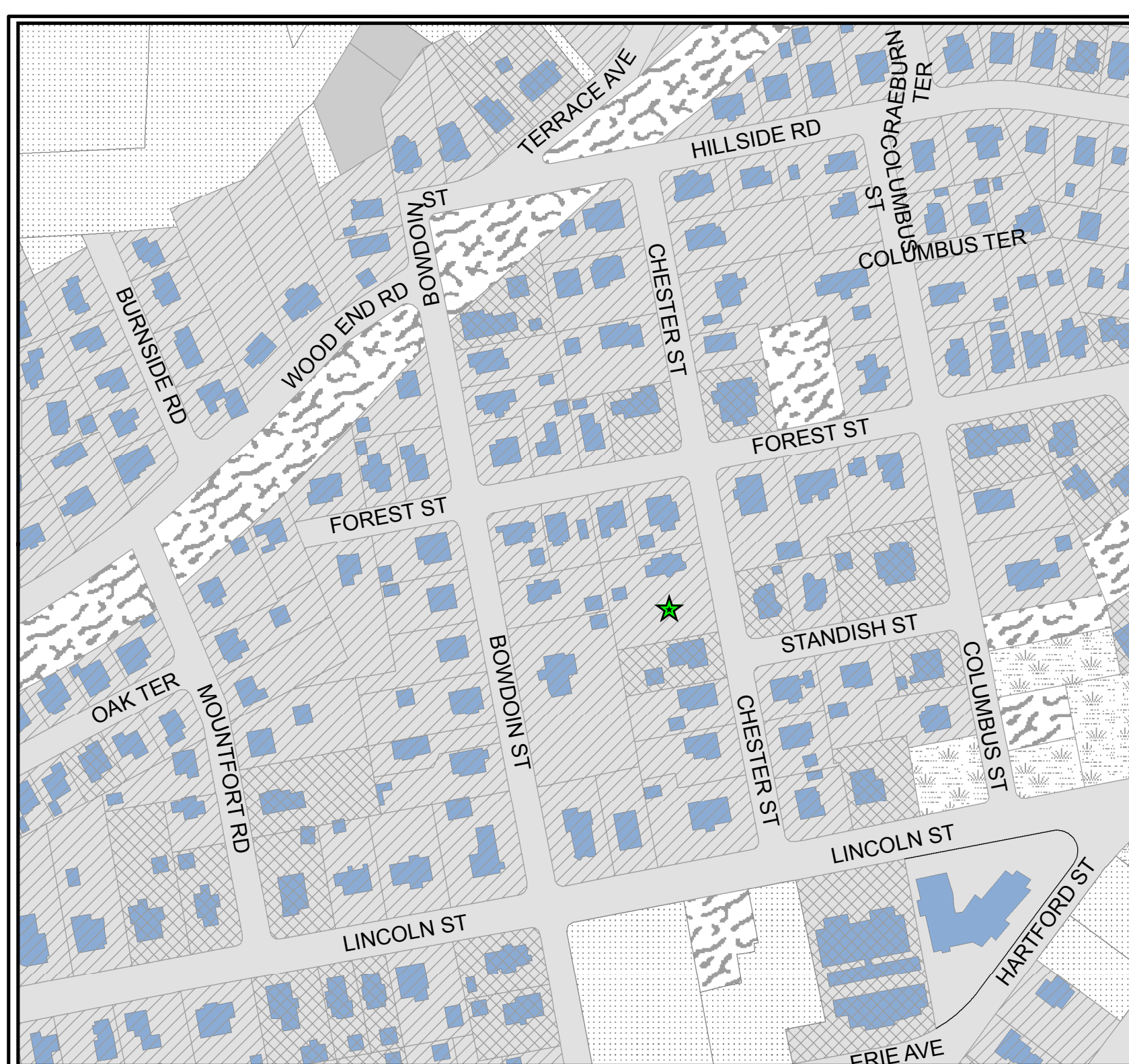


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CITY OF NEWTON, MASSACHUSETTS
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Map Date: October 05, 2017





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Attachment C

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Barney S. Heath
Acting Director

ZONING REVIEW MEMORANDUM

Date: September 11, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Treff LeFleche, architect
Jeff and Justine Cohen, applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to exceed FAR**

Applicant: Jeff and Justine Cohen	
Site: 45 Chester Street	SBL: 52003 0008
Zoning: SR2	Lot Area: 19,800 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 45 Chester Street consists of a 19,800 square foot lot improved with a single-family dwelling constructed circa 1896, and a detached garage constructed in 1924, in the Single Residence 2 zoning district. The applicants propose to demolish the existing detached garage structure as well as a rear section of the main dwelling. A two-car attached garage, mudroom and living space with bedrooms above is proposed for the western portion of the existing dwelling. A second addition is proposed at the rear consisting of an indoor pool. The proposed additions exceed the maximum allowable 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 Treff LaFleche, architect, submitted 8/3/2017
- FAR Worksheet, submitted 8/3/2017
- Existing and Proposed Conditions, signed and stamped by Dennis O'Brien, surveyor dated 8/3/2017
- Proposed Site Plan, signed and stamped by Michael D. Waters, architect, dated 8/3/2017
- Architectural Plans, signed and stamped by Michael D. Waters, architect, dated 8/3/2017

ADMINISTRATIVE DETERMINATIONS:

1. The applicants propose to demolish an existing detached garage, and then construct an attached garage and living space on the first floor, with two bedrooms above on the western section of the house. Additionally, the applicants propose to demolish a small portion of the rear section of the dwelling and construct an addition to the rear of the house of an enlarged family room with a bath above, and a one-story indoor pool area measuring approximately 56 feet long by 24 feet wide. The additions to the dwelling total 3,175 square feet creating a total of 7,317 square feet, increasing the FAR from .21 to .37, where the maximum allowed is .33. Per Section 3.1.9, a special permit is required to allow an FAR of .37, where .33 is the maximum allowed.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	19,800 square feet	No change
Frontage	80 feet	132 feet	No change
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	25 feet 7.5 feet 15 feet	20.7 feet 3.1 feet >75 feet	No change No change 17.4 feet
Building Height	36	38.4 feet	No change
Max Number of Stories	2.5	2.5	No change
FAR	.33	.21	.37
Max Lot Coverage	30%	10.9%	23.3%
Min. Open Space	50%	65.8%	61%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9	Request to exceed FAR	S.P. per §7.3

CITY OF NEWTON
IN CITY COUNCIL

June 19, 2017

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 Floor Area Ratio (FAR) from .21 to .37, where .33 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 proposed increase of FAR from .21 to .37, where .33 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 as the additions are in keeping with the architecture of the historic dwelling and the property will remain compliant with the dimensional controls of an old lot in the Single Residence 2 zone, with the exception of the existing conditions and FAR (§3.1.9 and §7.3.3).

PETITION NUMBER: #282-17

PETITIONER: Jeffrey and Justine Cohen

LOCATION: 45 Chester Street, on land known as Section 52, Block 03, Lot 08, containing approximately 19,800 square feet of land

OWNER: Jeffrey and Justine Cohen

ADDRESS OF OWNER: 45 Chester Street
Newton, MA 02461

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9. and §7.3.3, to construct additions with a FAR exceeding the maximum allowed by-right

ZONING: Single Residence 2 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 Dennis O'Brien, Professional Land Surveyor, dated 8/3/17.
 - b. Architectural Plans and Elevations, signed and stamped by Treffle LaFleche, Registered Architect, dated September 11, consisting of ten (10) sheets:
 - i. G100 Index Sheet
 - ii. D101 First and Second Floors Demo Plan
 - iii. D102 Third Floor and Roof Demo Plan
 - iv. D200 Demo Elevations
 - v. A00 Landscape Plan
 - vi. A100 Sport Court and Basement Plan
 - vii. A101 First and Second Floor Plan
 - viii. D102 Attic and Roof Plan
 - ix. A200 Proposed 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, Engineering Division of Public Works and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - c. 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.
 - d. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - e. 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.
 - f. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
2. 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.
- 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.