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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	May 1, 2018
Land Use Action Date:	June 26, 2018
City Council Action Date:	July 9, 2018
90-Day Expiration Date:	July 30, 2018

DATE: April 27, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Valerie Birmingham, Planning Associate

SUBJECT: **Petition #211-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mudroom and half bath, connecting an attached garage, as well as a basement addition for improved exterior access, extending the nonconforming floor area ratio (FAR) from 0.45 to 0.48, where 0.39 is the maximum allowed by right at **48 Cotton Street** Ward 7, Newton, on land known as Section 73, Block 22, Lot 02, containing approximately 9,153 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 3.1.9, 7.3, 7.4, 7.8.2.C.2 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.



48 Cotton Street

EXECUTIVE SUMMARY

The property located at 48 Cotton Street consists of a 9,153 square foot lot in a Single Residence 2 (SR-2) zone. It is improved with a tudor style single-family dwelling constructed circa 1930. The petitioners are seeking to demolish the existing attached garage and rebuild a larger one-story addition in its place to include a single car garage, mudroom, and half bath. Furthermore, a small one-story addition is proposed in the rear of the dwelling to enlarge the existing kitchen area. The proposed modifications would add approximately 281 square feet of floor area to the home and would increase the property's FAR from 0.45 to 0.48, above the maximum 0.39 allowed by right per §3.1.9. A special permit pursuant to §3.1.9 and §7.8.2.C.2 is required to further increase the already nonconforming FAR.

The Planning Department recommends approval of the petition as the proposed addition is modestly scaled and would conform to other relevant dimensional requirements and will improve the functionality of the first floor of the dwelling.

SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The nonconforming FAR from 0.45 to 0.48, where 0.39 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 extension in the nonconforming FAR will be substantially more detrimental than the existing nonconforming FAR is to the neighborhood (§3.1.9 and §7.8.2.C.2).

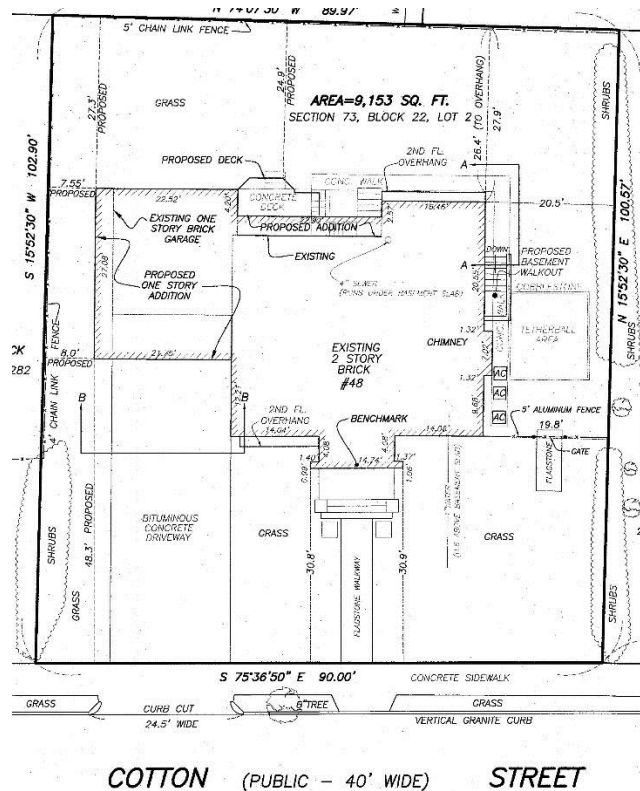
I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the south side of Cotton Street. The neighborhood is uniformly zoned SR-2 and is predominantly occupied by single-family dwellings **(Attachments A & B)**.

B. Site

The site is a 9,153 square foot lot improved with a single-family dwelling centrally located on the property. Access to the attached garage is provided by a paved driveway and curb cut on the left side of the lot. The site is predominantly flat and features lawn area and some vegetation, including shrubs. A four-foot chain link fence is located along the left side property line, and a five-foot chain link fence is located along the rear property line.



II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

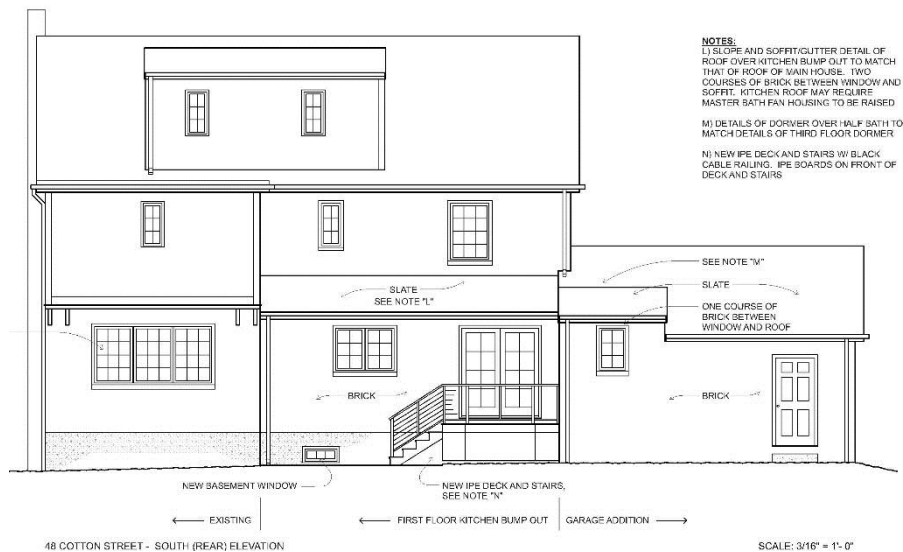
B. Building and Site Design

The petitioners propose to demolish the existing attached garage and replace it with a larger one-story addition. The addition will consist of a one car garage, mudroom, and half bath. As the attached garage exists today there is no way to enter the dwelling without having to go back outside. The proposed modifications will allow the residents to enter the first floor of the house through the interior of the proposed garage, improving the functionality of the space.

In addition, the proposed plans include the removal of the rear patio to permit for an enlargement of the kitchen footprint with access to a new rear deck. Furthermore, a portion of the interior of the first floor is proposed to be reconfigured and remodeled. Lastly, the petitioners are proposing to remodel the basement and construct a new basement walkout to allow for improved egress. The proposed front and rear elevation (next page) show the proposed alterations.



Proposed Front Façade



Proposed Rear Façade

The proposed modifications would add approximately 281 square feet of floor area to the dwelling and would increase the FAR from 0.45 to 0.48, above the maximum 0.39 allowed by right. At its closest point from the left side lot line the dwelling would be set back 7.55 feet, closer than the existing 10 feet on that side but more than the required 7.5 feet. The rear setback would be 24.9 feet, slightly less than the existing 27 feet but more than the required 15 feet.

The parcel's lot coverage would increase from 20% to 23% but remain below the maximum 30% allowed. The open space on the parcel would decrease from 69% to 66% and would remain well above the required 50%.

The Planning Department is unconcerned with the proposed modifications as it meets all other dimensional standards and requirements apart from FAR. Furthermore, the proposed modifications will help preserve a historic structure.

C. Parking and Circulation

The petitioners are not proposing any changes to parking or circulation.

D. Landscaping and Screening

A landscape plan is not required with this petition.

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 §7.8.2.C.2 of Section 30, to further increase the nonconforming FAR.

B. Newton Historical Commission

The petitioner is proposing to alter more than 50% of a side of a historic structure which requires review from the Newton Historical Commission. The project, as proposed, was approved by the Newton Historical Commission per the submitted plans on February 7, 2018 (**Attachment D**).

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.





ATTACHMENTS:

Attachment A:	Zoning Map
Attachment B:	Land Use Map
Attachment C:	Zoning Review Memorandum
Attachment D:	Newton Historical Commission Demolition Review Decision
Attachment E:	DRAFT Order

Attachment A Zoning Map Cotton St., 48

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  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 - Ruthanne B Fuller
GIS Administrator - Douglas Greenfield

0 50 100
Feet

Map Date: April 26, 2018



ATTACHMENT B

Land Use Cotton St., 48

*City of Newton,
Massachusetts*

Land Use

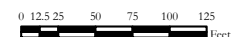
Land Use

-  Single Family Residential
-  Vacant Land



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne B Fuller
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Map Date: April 26, 2018





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 19, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Philip and Roberta Levy; Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to further increase nonconforming FAR

Applicant: Philip and Roberta Levy	
Site: 48 Cotton Street	SBL: 73022 0002
Zoning: SR2	Lot Area: 9,153 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 48 Cotton Street consists of a 9,153 square foot lot improved with a single-family residence constructed in 1935. The petitioners propose to construct a mudroom and half bath to connect an attached garage to the living space of the dwelling, as well as a basement addition to create better exterior access. The proposed changes will further increase 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 Roberta Levy, applicant, dated 1/31/2018
- FAR Worksheet, submitted 1/31/2018
- Plot Plan, signed and stamped by Karl McCarthy, surveyor, dated 1/29/2018
- Architectural Plans, prepared by Robin Levy, architect, dated 1/10/2018

ADMINISTRATIVE DETERMINATIONS:

1. The applicants' existing FAR is .45, where .39 is the maximum allowed. The proposed addition adds 281 square feet to the dwelling, resulting in an FAR of .48. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	9,153 square feet	No change
Frontage	80 feet	90 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	~25 feet ~10 feet ~27 feet	No change 7.55 feet 24.9 feet
Max Number of Stories	2.5	2.5	No change
FAR	.39	.45	.48
Max Lot Coverage	30%	20%	23%
Min. Open Space	50%	69%	66%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9, §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3



Setti D. Warren
Mayor

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Newton Historical Commission Demolition Review Decision

Date: 2/7/18 Zoning & Dev. Review Project# 18020007

Address of structure: 48 Cotton Street

Type of building : House

If partial demolition, feature to be demolished is portion side, rear

The building or structure:

is is not x in a National Register or local historic district not visible from a public way.
is is not x on the National Register or eligible for listing.
is is not x importantly associated with historic person(s), events, or architectural or social history
is X is not historically or architecturally important for period, style, architect, builder, or context.
is is not x located within 150 feet of a historic district and contextually similar.

is **NOT HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance.
Demolition is not delayed and no further review is required.

is X **HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

X **APPROVES** the proposed project based upon materials submitted see below for conditions (if any).
Demolition is not delayed, further staff review may be required.

 DOES NOT APPROVE and the project requires
Newton Historical Commission review (See below).

Review of final plans required

The Newton Historical Commission finds the building or structure:

is **NOT PREFERABLY PRESERVED**
Demolition is not delayed and no further review is required.

is **PREFERABLY PRESERVED – (SEE BELOW).**

Owner of Record:

Delay of Demolition:

 is in effect until

 has been waived - see attached for conditions **

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

Determination made by:

Kathy Fox Galea, NHC

Preserving the Past  Planning for the Future

CITY OF NEWTONIN 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 further increase the nonconforming Floor Area Ratio (FAR) from 0.45 to 0.48 where 0.39 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming FAR will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the addition conforms with all other dimensional requirements and replicates the design of the existing structure. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR will not be substantially more detrimental than the existing nonconforming FAR is to the neighborhood as it will be adding 281 square feet to the structure. (§3.1.9 and §7.8.2.C.2)

PETITION NUMBER: #211-18

PETITIONER: Roberta and Philip Levy

LOCATION: 48 Cotton Street, on land known as Section 73, Block 22, Lot 02, containing approximately 9,153 sq. ft. of land

OWNER: Roberta and Philip Levy

ADDRESS OF OWNER: 48 Cotton Street
Newton, MA

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood-Frame

EXPLANATORY NOTES: §3.1.9, §7.4, §7.3.3, and §7.8.2.C.2, to further increase the nonconforming FAR

ZONING: Single Residence 2 (SR2) 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. A site plan showing #48 Cotton Street, prepared by Feldman Land Surveyors, dated December 14, 2017, stamped and signed by Karl A McCarthy, Professional Land Surveyor.
 - b. A set of plans entitled "Levy Residence, 48 Cotton Street, Newton, MA," dated January 10, 2018, signed and stamped by Roberta Ellen Levy, Professional Architect:
 - i. Basement Demolition Plan (1);
 - ii. First Floor Demolition Plan (2);
 - iii. Basement Floor Plan (3);
 - iv. First Floor Plan (4);
 - v. Front (North) Elevation (5);
 - vi. Side (East) Elevation (6);
 - vii. Rear (South) Elevation – Ex'g (7);
 - viii. Rear (South) Elevation – Prop (8);
 - ix. Section Through Addition (9)
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 order for the approved Special Permit/Site Plan Approval 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, as statement from the Newton Historical Commission approving the final plans.
 - d. 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/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, including the floor area ratio (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.