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Barney 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 Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #210-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #129-16 to amend the site plan approved in 2016 to allow for the removal of dormers, redistribution of living space and enclosing a portion of a patio, resulting in a reduced FAR of .59 where .62 was approved and .44 is allowed at 23 Howe Road, Ward 8, Newton Centre, on land known as Section 81, Block 11A, Lot 37, containing approximately 6,591 sq. ft. of land in a district zoned SINGLE RESIDENCE 2 . Ref: 7.3, 7.4, 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.



23 Howe Road

EXECUTIVE SUMMARY

The property at 23 Howe Road consists of a 6,591 square foot lot located in the Single Residence 2 zoning district currently under redevelopment with a new 2.5 story single-family dwelling with an attached basement level two-car garage. The property received a special permit in 2009 for a single-family dwelling with a floor area ratio (FAR), as it was defined at that time of 0.43, exceeding the then-allowed 0.30. That special permit was never exercised and lapsed. The Zoning Ordinance's definition of FAR was subsequently modified and a second special permit (#129-16) was granted for the same design, but with an FAR of 0.62 under the new calculations, which exceeded the maximum of 0.44 allowed.

The petitioner is seeking an amendment to Special Permit #129-16 to allow for modifications to the dwelling's design, which include eliminating proposed attic dormers, enlarging the first and second floors and enclosing portions of a patio for a sunroom, that would reduce the dwelling's FAR to 0.59, 0.03 lower than the previously approved FAR.

The Planning Department is not concerned with the proposed design changes as it reduces the dwelling's FAR and reallocates some bulk from the attic level (where it would contribute to a taller appearance for the dwelling), to lower floors while not significantly affecting its footprint.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed FAR of 0.59, where 0.62 was previously approved by special permit and 0.44 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).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Howe Road in a Single Residence 2 District, in a neighborhood of other similarly-scaled dwellings. The site is surrounded by residential uses on all sides. The property is close to Public Use Districts which include several institutional uses such as schools, a Multi-Residence 1 District containing a condominium development, and an Open Space District containing a golf course. **(Attachments A & B).**

B. Site

The site is a 6,591 square foot corner lot with frontage on Howe and Jane roads with an upward grade from north to south. The property is being redeveloped and a new concrete foundation is currently in place. There is presently little vegetation except for some mature trees, and there is a combination of screening and construction

fencing along its perimeter.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioner is requesting an amendment to the existing Special Permit #129-16 to allow for changes in the design which would result in a reduction of the approved floor area ratio (FAR) from 0.62 to 0.59. The proposed changes, which include increasing the size of the kitchen and creating an adjacent sunroom and adding second floor living space above would result in the floor area of the first floor increasing by 239 square feet from 1,371 to 1,610 square feet and that of the second floor by 328 square feet from 1,153 to 1,481 square feet.

These increases would be offset by the reduction of floor area previously countable toward FAR in (a) the attic (221 square feet) by eliminating previously approved dormers, and (b) and an enclosed porch (533 square feet).

The Planning Department notes that the site plan submitted with the petition seems to reflect the previously approved design, with the patio generally in the location of the now-proposed first-floor sunroom. Planning staff has notified the petitioner so as to receive an appropriate site plan. Please note that this difference would have only a very small, if any, impact on the property's lot coverage and/or open space measurements and would not affect its setbacks.

C. Landscape Screening

No landscape plan was required with this petition. The previously approved site plan indicates stockade fencing located along much of the property's boundary lines shared with abutting properties.

IV. 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:

- Special permit per §7.3.3 to amend Special Permit #129-16

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. PETITIONER'S RESPONSIBILITIES

As referenced above, the petitioner needs to submit an updated site plan that reflects the currently proposed dwelling.

ATTACHMENTS:

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

ATTACHMENT A




Land Use

23 Howe Rd.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Mixed Use
-  Vacant Land

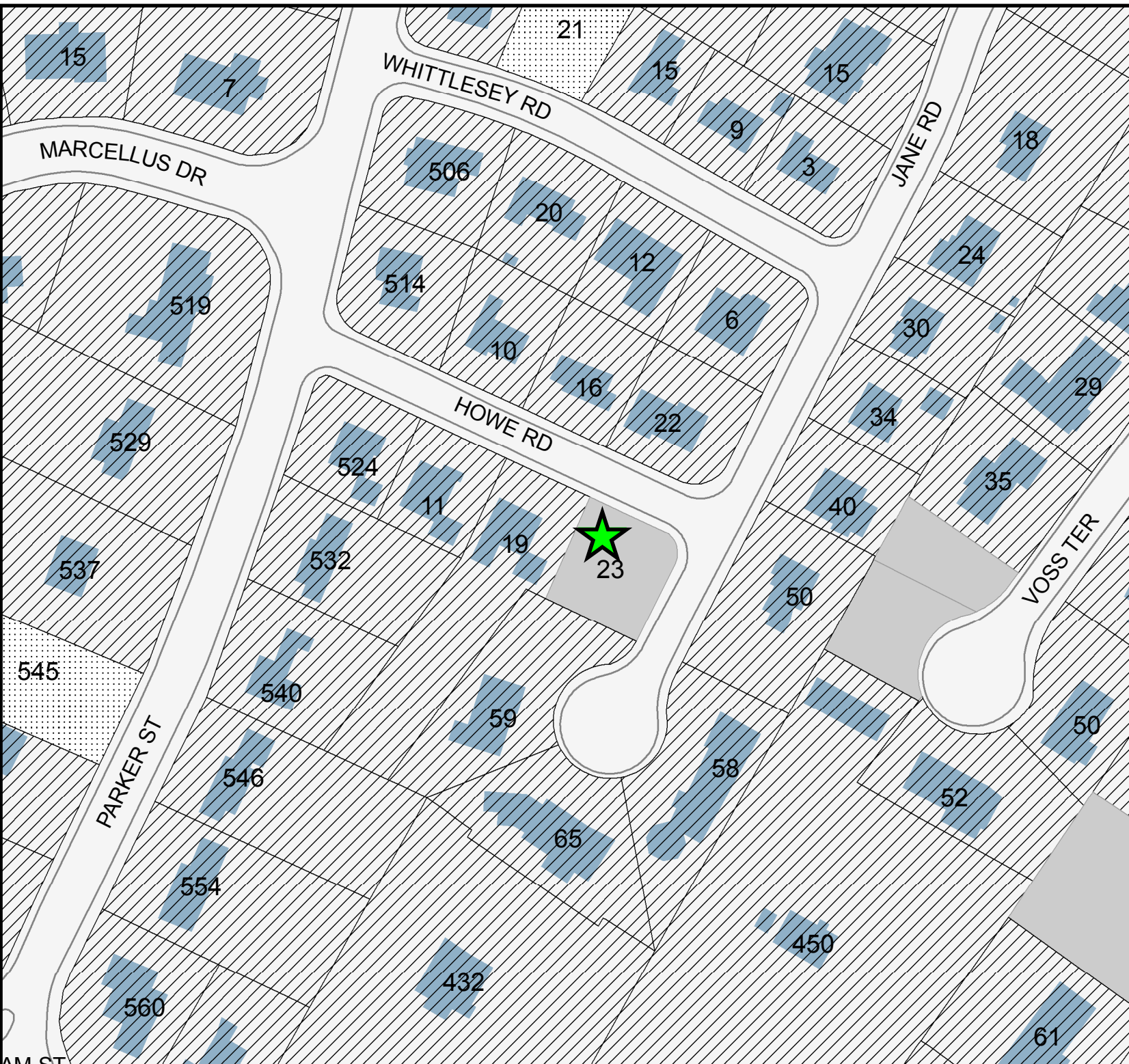


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125
Feet

Map Date: April 19, 2018



ATTACHMENT B

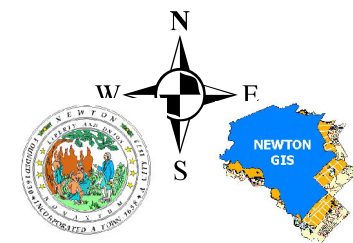
Zoning

23 Howe Rd.

*City of Newton,
Massachusetts*

Legend

 Single Residence 2

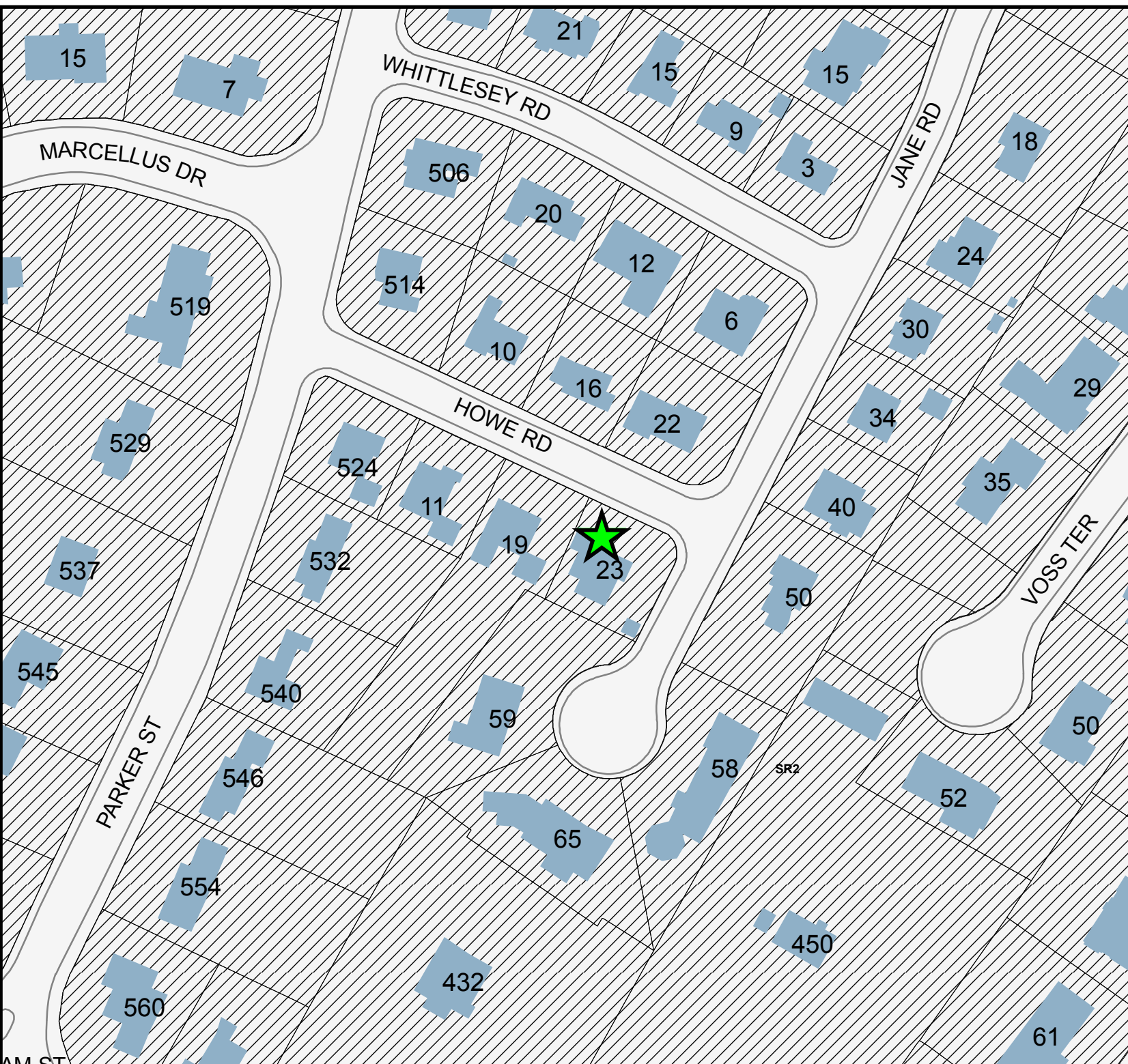


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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100 125
Feet

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ATTACHMENT C



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 27, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: David O'Sullivan, Architect
Maria Santos, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to amend Special Permit #129-16

Applicant: Maria Santos	
Site: 23 Howe Street	SBL: 81011A0037
Zoning: SR2	Lot Area: 6,591 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 23 Howe Road consists of a 6,591 square foot lot which is currently under reconstruction, having been the site of a 1929 colonial razed in 2009. The property received a special permit in 2009 to build a single-family dwelling exceeding the allowable FAR of .30. The special permit granted an FAR of .43 but was never exercised for economic reasons and expired. The Zoning Ordinance provisions regulating FAR were amended, and a second special permit was granted for the same proposed design, but a new FAR of .64, which exceeded the maximum of .46 allowed. The property has since changed hands and the new owner seeks to revise the plans. The new design will result in an FAR of .59, which while lower than the originally approved FAR, was deemed to be altered enough to require further review by the Council.

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

- Zoning Review Application, prepared by David O'Sullivan, architect, submitted 2/21/2018
- FAR Worksheet, submitted 2/21/2018
- Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 7/8/2009, revised 8/25/2009, 10/28/2009, 9/24/2015, 12/9/2015, 5/26/2016, 9/27/2016, 11/16, 2016, 3/9/2017

- Architectural Plans, signed and stamped by David O'Sullivan, architect, dated 8/15/2016, revised 4/7/2016, 8/12/2016, 1/12/2017, 3/20/2017, 11/13/2017

ADMINISTRATIVE DETERMINATIONS:

1. The applicant's proposed single-family dwelling was granted a special permit in 2016 for an FAR of .62, where .44 was the maximum allowed. The petitioner is requesting an amendment to the existing Special Permit #129-16 to allow for changes in the design which result in a reduced FAR of .59. The proposed changes include removing proposed attic dormers, revising kitchen ceiling to redistribute the living area to larger second floor, and to enclose part of a patio for a sunroom.

SR2 Zone	Required	Existing*	Proposed
Lot Size	10,000 square feet	6,591 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Howe Rd) • Front (Jane Rd) • Side • Rear 	25 feet 25 feet 7.5 feet 15 feet	20.2 feet 1.6 feet 13.1 feet	25.1 feet 25.5 feet 10.1 feet 15.9 feet
Building Height	36	21 feet	34.3 feet
Max Number of Stories	2.5	2.5	No change
FAR	.44	.62	.59
Max Lot Coverage	30%	21.4%	23.7%
Min. Open Space	50%	73%	67.3%

*Prior to demolition in 2009

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
	Request to amend Special Permit #129-16	S.P. per §7.3.3

ATTACHMENT D

DRAFT- #210-18
23 Howe Road

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 amend Special Permit #129-16 to modify the design of the approved single-family dwelling as per the below referenced site and architectural plans and reduce its the Floor Area Ratio (FAR) to 0.59, from the 0.62 previously allowed by Special Permit #129-16 where 0.44 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 FAR of 0.59, where 0.62 was previously approved by Special Permit #129-16 and 0.44 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) for the following reasons:
 - a. The site is a small corner lot with two frontages and the proposed structure meets the required setbacks, open space, and dimensional regulations.
 - b. The two-car garage will remove the view of vehicles from the street and abutting properties.
2. The proposed design changes reduce the dwelling's FAR and reallocates some bulk from the attic level (where it would contribute to a taller appearance for the dwelling), to lower floors while not significantly affecting its footprint.

PETITION NUMBER:	#210-18
PETITIONER:	Maria Santos
LOCATION:	23 Howe Road, on land known as Section 81, Block 11A, Lot 37, containing approximately 6,591 square feet of land
OWNER:	Maria Santos
ADDRESS OF OWNER:	7 Harvey Street Cambridge, MA 02140

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3, to construct a single-family dwelling with an FAR exceeding the maximum allowed by-right

ZONING: Single Residence 2 district

Approved subject to the following conditions:

1. All conditions set forth in Special Permit #129-16 shall remain in full force and effect with the exception that the following plans are substituted for the site plan referenced in said Special Permit and the buildings, parking areas, driveways, walkways, landscaping and other site features associated with Special Permit #129-16 shall be located and constructed consistent with the plans as originally identified in Condition 1 and as amended by the following plans:
 - a. Proposed site plan, signed and stamped by Joseph R. Porter, surveyor, dated July 8, 2009, as revised through March 9, 2017:
 - i. Topographic Site Plans
 - ii. Detail Sheet
 - b. architectural plans entitled "Santos Residence, 23 Howe Rd, Newton, Ma," prepared by O'Sullivan Architects, Inc., signed and stamped by David H. O'Sullivan, Registered Architect, dated February 12, 2018:
 - i. Foundation Plans (1 of 4);
 - ii. First Floor Plans (2 of 4);
 - iii. Second Floor Plans (3 of 4);
 - iv. Attic Floor Plans (4 of 4);
 - v. Elevations (Front) (1 of 4);
 - vi. Elevations (Left) (2 of 4);
 - vii. Elevations (Right) (3 of 4);
 - viii. Elevations (Rear) (4 of 4).

NOTE: *The drawings labeled "Proposed" on each of the preceding sheets are the architectural plans approved pursuant to this special permit.*
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 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, a statement from the Engineering Division approving the final site plan.
 - 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 as 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.