



Land Use Committee Report

City of Newton In City Council

Tuesday, May 8, 2018

Present: Councilors Schwartz (Chair), Greenberg, Auchincloss, Kelley, Markiewicz, Laredo

Also Present: Councilor Downs

City Staff Present: Associate City Solicitor Bob Waddick, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba, Planning Associate Valerie Birmingham

All Special Permit Plans, Memos and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#180-18 Petition to amend Board Orders 43-10 and 307-12(2) at 199 Boylston Street

TIM FOX/SIMON MALLS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow non-accessory parking to lease 496 parking stalls to off-site, third party users, requiring amendments to Special Permit Board Orders #43-10 and #307-12, a waiver for 496 parking stalls and approval to allow non-accessory parking at 199 Boylston Street, Ward 7, Chestnut Hill, on land known as Section 65 Block 08 Lot 100, containing approximately 324,691 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: 7.3.3, 7.4, 4.4.1, 5.1.4, 5.1.1 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Held 6-0; Public Hearing Continued

Note: After reviewing the request to continue the public hearing to May 15, 2018, Committee members voted unanimously in favor of a motion to hold.

#137-18 Petition to allow 18-unit multi family dwelling at 189-193 Adams St/19 Quirk Ct

183-193 ADAMS STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a multi-family development in a business district with greater than 20,000 gross floor area, with a four-story structure 41' in height, containing an 18-unit dwelling with ground floor units, to allow an FAR of 1.31, to allow a density bonus to reduce the lot area per unit and increase the number of inclusionary units, to allow a reduction of the requirement for parking to 1.25 stalls per unit, to allow parking in the setback, to allow parking within 5' of a building containing dwelling units, to waive minimum stall dimension requirements, to allow a reduction in the minimum width of a entrance/exit drive, to allow a reduction in the minimum width of maneuvering aisles, to waive lighting requirements and to waive perimeter landscape screening requirements in Ward, 1, Newton, at 189-193 Adams Court, Section 14 Block 15 Lot 39, Section 14 Block 15 Lot 38 and 19 Quirk Court Section

14 Block 15 Lot 44, containing a combined lot area of approximately 19,349 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: 7.3.3, 7.4, 4.4.1, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 5.1.4, 5.1.13, 5.1.8.A.1, 5.1.8.A.1, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.8.D.1, 5.1.9.A, 5.1.10.A, 5.11.4, 5.11.15, 4.1.2 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Held 6-0; Public Hearing Continued

Note: After reviewing the request to continue the public hearing to May 15, 2018, Committee members voted unanimously in favor of a motion to hold. The Chair announced that a site visit would be held for all interested parties on Thursday, May 10, 2018 at 8:15 am.

#213-18 **Special Permit Petition to extend nonconforming front setback at 140 Windermere Rd**
JOHN AND DANIEL ARONE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER EXTEND NONCONFORMING SETBACK by constructing a second-floor deck above the existing sunporch, extending the existing nonconforming setback vertically at 140 Windermere Road, Ward 4, Auburndale, on land known as Section 43, Block 08, Lot 19, containing approximately 12,445 sq. ft. of land in a district zoned SNIGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 6-0; Public Hearing Closed 05/08/2018

Note: Petitioner John Arone, 140 Windermere Road, presented the request for a Special Permit to vertically extend the non-conforming front setback by constructing a second-floor deck over an existing porch at 140 Windermere Road. Senior Planner Michael Gleba reviewed the requested relief and criteria for consideration as shown on the attached presentation. Mr. Gleba demonstrated the location of the property on an aerial photo, noting that zoning at the site is single residence and land use is primarily residential. Mr. Gleba demonstrated the location and proposed elevations of the existing porch and the proposed deck along the frontage on Woodland Road. Mr. Gleba noted that from Woodland Road the setback is approximately 16.7' and the setback from Windermere Road is approximately 30'.

The Public hearing was Opened. With no member of the public wishing to speak, Councilor Markiewicz motioned to close the public hearing which carried unanimously. Councilor Markiewicz motioned to approve the petition. Committee members expressed no concerns relative to the proposed deck. One Committee member was pleased that the house will be renovated, not demolished. A Committee member noted that decks can engage the street and be beneficial to the neighborhood. It was also noted that across the street from the property is parking for Lasell College. Committee members reviewed the draft findings and conditions and made no changes. Committee members voted unanimously in favor of the motion to approve.

#214-18 **Special Permit Petition to exceed FAR and lot coverage at 458 Woodward Street**
STEFFI AND ERIC KARP petition for SPECIAL PERMIT/SITE PLAN APPROVAL to relocate stairs and enclose an existing porch, further increasing the existing nonconforming lot coverage and nonconforming FAR to .63 where .59 exists and .44 is allowed at 458 Woodward Street, Ward 5, Waban, on land known as Section 53, Block 26, Lot 16, containing

approximately 6,276 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 6-0; Public Hearing Closed 05/08/2018

Note: Petitioner Steffi Karp, 458 Woodward Street, presented the request to enclose a back porch to allow four season use at 458 Woodward Street. The proposed enclosure of the deck increases the FAR and lot coverage, requiring a special permit. Ms. Karp submitted the attached letters from abutters in favor of the proposed renovation. Senior Planner Michael Gleba reviewed the relief requested and criteria for consideration as shown on the attached presentation. Mr. Gleba demonstrated the location of the property, in a single residence zone, near several commercial sites. Mr. Gleba demonstrated the location of the porch to be enclosed, at the rear of the site and stated that the enclosure will not increase the building footprint. He noted that the renovation will include relocation of an existing staircase to access the porch. Mr. Gleba demonstrated existing and proposed elevations, noting that the porch will be enclosed with windows and glazing. A Committee member noted that of the abutting properties to the site, one property is residential, and the others are commercial.

The public hearing was opened. Seeing no member of the public who wished to speak, Councilor Kelley motioned to close the public hearing. Councilor Kelley commended the aesthetically pleasing design and motioned to approve the petition. Committee members reviewed the draft findings and conditions. While Committee members expressed no concerns relative to the petition, Councilors discussed how the enclosure of space does involve the creation of added bulk. It was noted that while enclosure of a very large deck might not increase the footprint of the house, it would create a significant change in massing. Committee members asked that the Planning Department add language so that the findings do not rely solely on the fact that the footprint will not be extended. Committee members also asked that the findings reflect that the site is abutted by several commercial entities as well as the percentage representing the increased size (1%) of the enclosure. Committee members voted unanimously in favor of Councilor Kelley's motion to approve.

#91-18 Petition to Amend Special Permits #273-14(2) & #40-07 on Elm Street

NICORE CONSTRUCTION CORP./ANTONIO BONADIO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #273-14(2) and #40-07 to allow for the location of a new driveway, requiring an amendment to the site plan at 5-7 Elm Street and 11-19 Elm Street, Ward 3, West Newton, on land known as Section 33 Block 23 Lot and Section 33 Block 23 Lot 16, containing approximately 26,320 sq. ft. of land in a district zoned MR2 and MR1. Ref: Sec. 7.3, 7.4, 6.2.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015

Action: Land Use Approved 6-0; Public Hearing Closed 03/06/2018

Note: Atty. Terry Morris, office at 57 Elm Street, represented the petitioner and presented an update to the petition. Atty. Morris noted that at the public hearing on March 6, 2018, Committee members raised concerns relative to the plans proposed. Councilor Kelley met with members of the

neighborhood and the petitioner to review the plans and work to reconfigure the site in a way that meets the needs of all parties involves. The plan proposed on March 6, 2018 included two separate curb cuts and driveways to access the separate properties at 5-7 Elm Street and 11-19 Elm Street. The petitioner has revised the plan to consolidate the curb cuts into a single shared curb cut to be accessed by property owners at 5-7 Elm Street and 11-19 Street. The driveway will extend 30' into the property before diving into two separate, parallel driveways that straddle the lot line. Atty. Morris noted that this is a significant improvement with consolidated access.

Senior Planner Neil Cronin reviewed the requested relief and criteria for consideration. He presented an aerial photo of the site along Elm Street/River Street, in the West Newton Village Center. Mr. Cronin demonstrated the proposed site plan and noted that the shared easement will need to be amended to allow for the shared curb cut and "Y" shaped driveway. Mr. Cronin noted that the Planning Department has requested that three trees be shifted further into the lot to prevent obstruction of sight lines.

Matt Harding, 13 Elm Street, noted that the revised plan is an improvement that is endorsed by the association owners and expressed gratitude to Councilor Kelley, Atty. Morris and Committee members for their patience and work.

Atty. Morris confirmed that the petitioner will shift the trees into the site. Councilor Kelley motioned to approve the item. Committee members reviewed the draft findings and conditions. City Solicitor Ouida Young confirmed that she will review the draft Council Orders. Committee members voted unanimously in favor of the motion to approve.

#253-18 Request for an extension of time for Special Permit at Elm Street
AGREEMENT TO AN EXTENSION OF TIME in which to ACT on petition #91-18 to amend Special Permits #273-14(2) and #40-07 to allow for the location of a new driveway, requiring an amendment to the site plan at 5-7 Elm Street and 11-19 Elm Street, Ward 3, West Newton; said extension will run to June 30, 2018.

Action: Land Use Approved 6-0

Note: Because the public hearing was closed on March 6, 2018, the petitioner has requested an extension of time for the City Council to act until June 30, 2018. Committee members voted unanimously in favor of approving the extension of time.

#178-18 Petition to amend Board Order #257-13(4) at 145 Wells Ave
ANDRIAN SHAPIRO/WELLS AVENUE BUSINESS CENTER, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the hours of operation and increase the number of customers at one time, requiring an amendment to Special Permit Board Order #257-13(4) at 145 Wells Avenue, Ward 8, Newton Centre, on land known as Section 84 Block 34 Lot 2G, containing approximately 86,256 sq. ft. of land in a district zoned LIMITED MANUFACTURING. Ref: 7.3.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Held 6-0; Public Hearing Continued**

Note: The Public Hearing was Opened. Committee members reviewed the request to continue the public hearing. Committee members voted unanimously in favor of holding the item.

The Committee adjourned at 9:15 pm.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



PETITION #213-18
140 WINDERMERE ROAD

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
SECOND FLOOR DECK ABOVE AN
EXISTING SUNPORCH, FURTHER
EXTENDING THE NON-
CONFORMING FRONT SETBACK OF
16.76' WHERE 25' IS REQUIRED



MAY 8, 2018

Requested Relief



Special permit per §7.3.3:

- to further continue the nonconforming front setback (§7.8.2.C.2).

Criteria to Consider



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

- The proposed extension of the nonconforming front setback will be substantially more detrimental than the existing nonconforming front setback is to the neighborhood (§7.8.2.C.2).

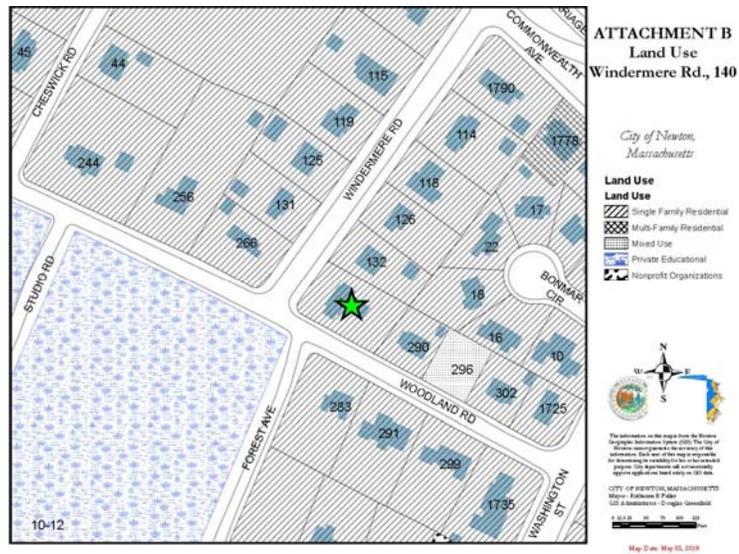
AERIAL/GIS MAP

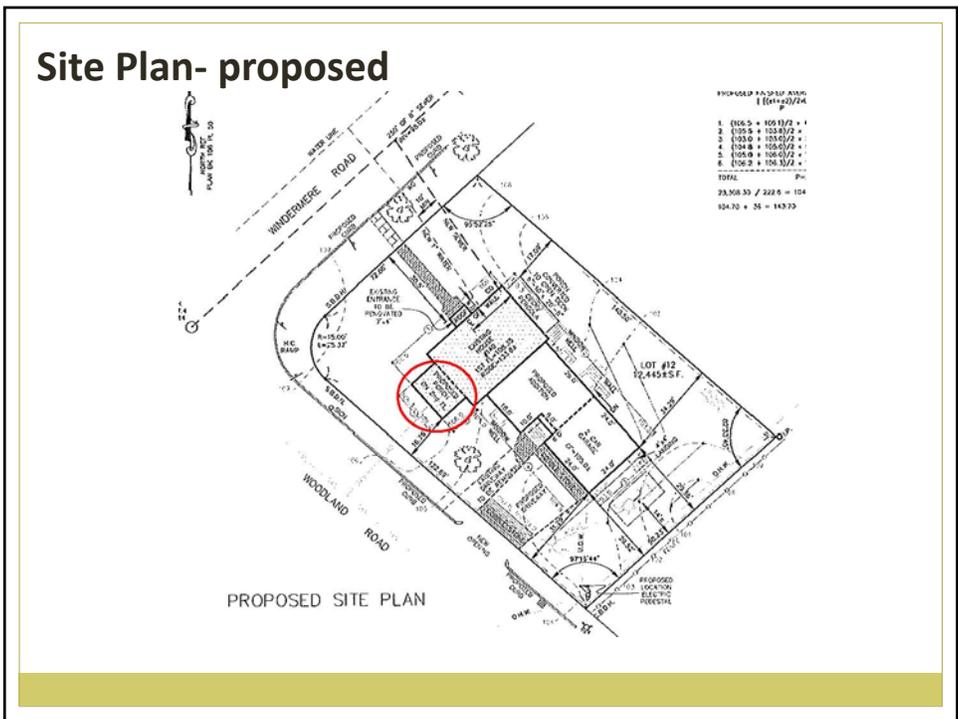
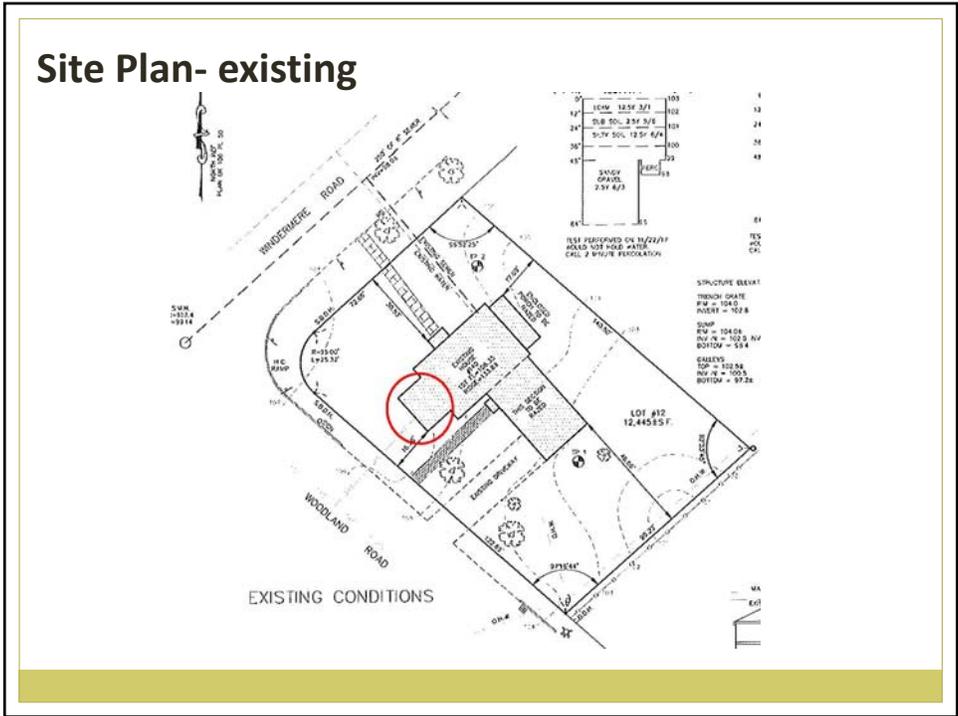


Zoning



Land Use

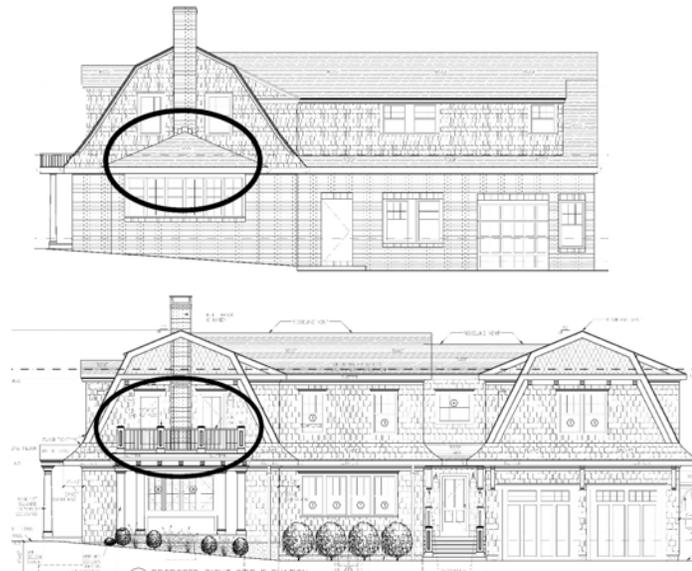




Windermere Road Elevation- Existing & Proposed



Woodland Road Elevations- Existing & Proposed



Photos



Photos



Photos



Photos



Proposed Findings

1. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing nonconforming front setback is to the neighborhood given that the proposed second floor deck would be subordinate in scale to the existing dwelling and would not increase the existing front setback nonconformity (§3.1.3 and §7.8.2.C.2).

Proposed Conditions

1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Final Plans to be Reviewed and Approved by the Auburndale Local Historic District Commission
4. Standard Final Inspection/Certificate of Occupancy Condition.

Department of Planning and Development



PETITION #214-18
458 WOODWARD STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO RELOCATE STAIRS
AND ENCLOSE AN EXISTING PORCH,
FURTHER INCREASING THE
EXISTING NONCONFORMING LOT
COVERAGE AND NONCONFORMING
FAR TO .63 WHERE .59 EXISTS AND
.44 IS ALLOWED

MAY 8, 2018



Requested Relief



Special permit per §7.3.3 to:

- further increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further increase nonconforming lot coverage (§3.1.3, §7.8.2.C.2)

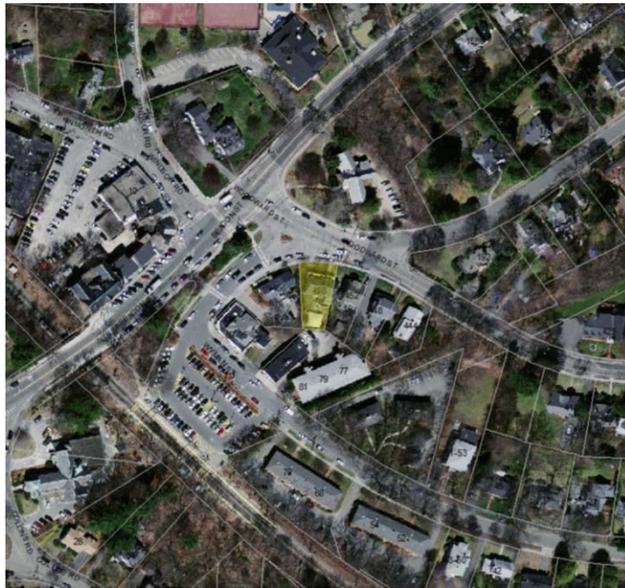
Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The proposed increase of the nonconforming *FAR* from 0.59 to 0.63 where 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.A.2);
- The proposed increase of the nonconforming *FAR* from 0.59 to 0.63 where 0.44 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2);
- The proposed increase of the nonconforming lot coverage from 39% to 40%, where 30% is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2).

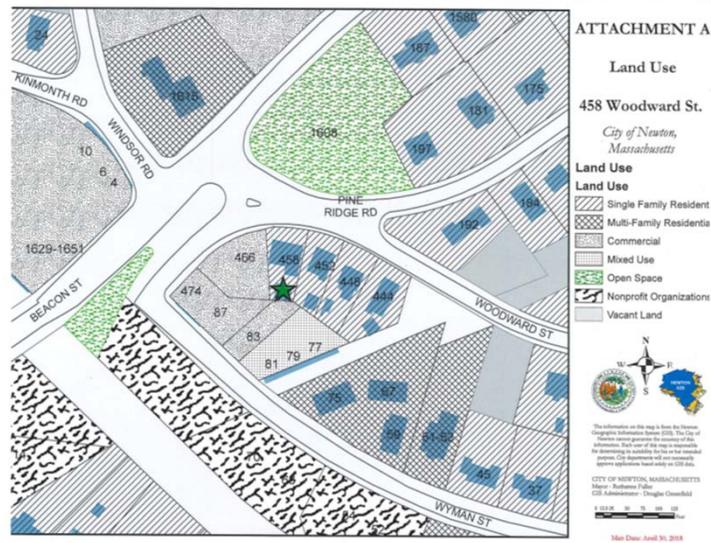
AERIAL/GIS MAP



Zoning

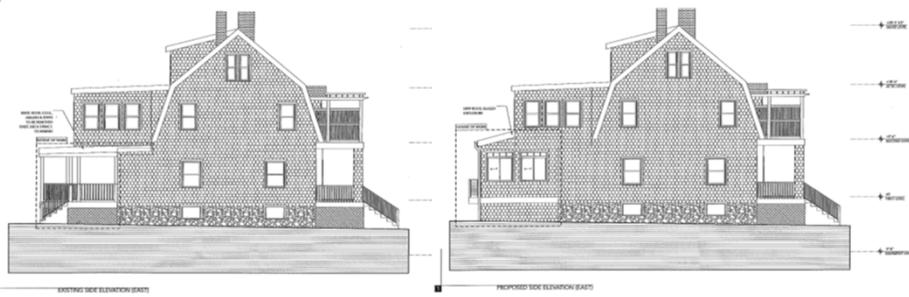


Land Use

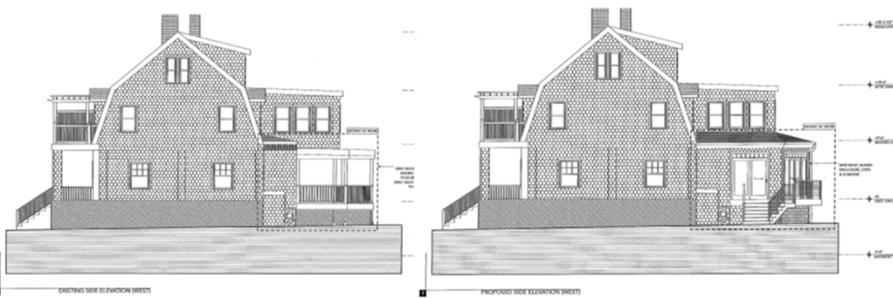




Elevation- Left Side (Existing & Proposed)



Elevation- Right Side (Existing & Proposed)



Perspective



Photos



Photos



Photos



Proposed Findings



1. The proposed increase of the nonconforming FAR from 0.59 to 0.63 where 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 as it will result from the enclosure of an existing rear porch and not increase the footprint of the dwelling (§3.1.9.A.2);
2. The proposed increase of the nonconforming FAR from 0.59 to 0.63 where 0.44 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as it will result from the enclosure of an existing rear porch and not increase the footprint of the dwelling (§7.8.2.C.2);
3. The proposed increase of the nonconforming lot coverage from 39% to 40%, where 30% is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood given it is the result of the addition of an unenclosed stairway in the rear of the property (§7.8.2.C.2).

Proposed Conditions



1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

Photo



Department of Planning and Development



PETITION # 91-18
5-11 ELM AND 11-19 ELM STREET

**SPECIAL PERMIT TO AMEND BOARD
ORDERS #273-14(2) AND #40-07(3)**



MAY 8, 2018

Requested Relief



- To amend Board Orders #273-14(2) and #40-07(3) to amend the previously approved site plans

Criteria to Consider

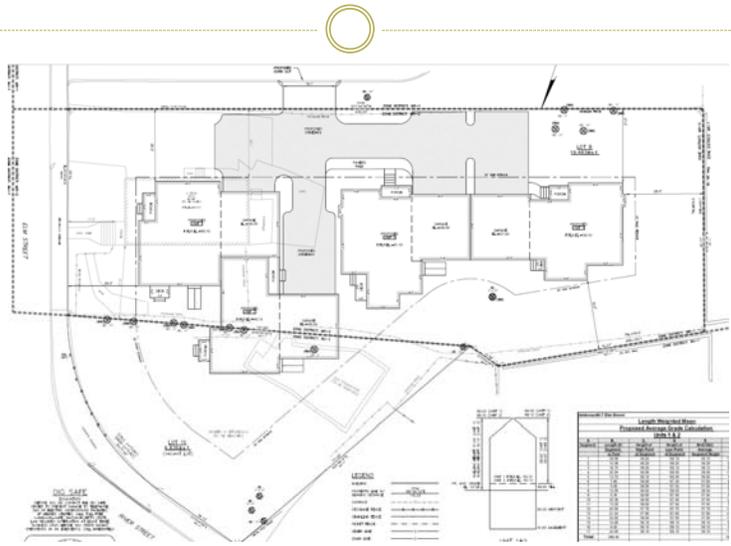
When reviewing this request, the Council should consider:

- The specific site is an appropriate location for amendments to Board Orders #273-14(2) and #40-07(3). (§7.3.3.C.1)
- The site, due to the amendments to Board Orders #273-14(2) and #40-07(3), as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians because of the amendments to Board Orders #273-14(2) and #40-07(3). (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

Aerial Photograph

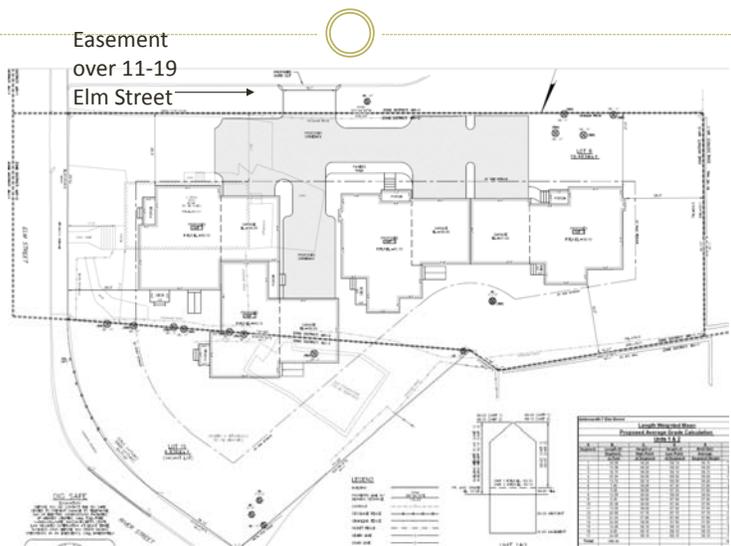


Previously Approved Site Plan



Previously Approved Site Plan

Easement
over 11-19
Elm Street



Findings Regarding #273-14(2)



1. The specific site is an appropriate location for the amendments to Board Order #273-14(2) because direct access will be provided to the four Single-Family Attached Dwellings. (§7.3.3.C.1)
2. The site, due to the amendments to Board Order #273-14(2) as developed and operated will not adversely affect the neighborhood because the proposed shared driveway consolidates the access points onto Elm Street. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the amendments to Board Order #273-14(2) because adequate sight distances will be provided. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

Findings Regarding #40-07(3)



1. The specific site is an appropriate location for the amendment to Board Order #40-07(3) because a planned connecting driveway between the two sites will be abandoned, thereby minimizing future pedestrian-vehicle conflict. (§7.3.3.C.1)
2. The site, due to the amendment to Board Order #40-07(3) as developed and operated, will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the amendment to Board Order #40-07(3). (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

Conditions

- This petition consolidates prior special permits.
 1. Plan reference condition
 2. Prior to the issuance of a building permit, the petitioner shall submit to the City Clerk, Law Department, Department of Inspectional Services and the Department of Planning and Development, a recorded easement document from the property owners at 11-19 and 5-7 Elm Street outlining ownership, maintenance, and further responsibilities of the shared driveway.

Conditions Continued

3. Prior to the issuance of a building permit, the petitioner shall submit to the City Clerk, Law Department, Department of Inspectional Services and the Department of Planning and Development, a recorded abandonment of easement document for the easement referenced in Board Order #273-14(2).
4. Prior to the issuance of a building permit, the petitioner shall submit signed and stamped engineering drawings of the shared curb cut and "Y" driveway for review and approval. The removal of the existing curb cuts and proposed sidewalk shall also be reviewed and approved by the City Engineer. Said plan shall also show the removal of the existing driveway at 11-19 Elm Street.
5. All conditions of Board Orders #273-14(2) and #40-07(3) remain in effect.
6. Standard Certificate of Occupancy Condition.