



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#163-19
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	June 11, 2019
Land Use Action Date:	August 27, 2019
City Council Action Date:	September 3, 2019
90-Day Expiration Date:	September 9, 2019

DATE: June 7, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner
Michael Gleba, Senior Planner

SUBJECT: **Petition #163-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story rear addition, creating an FAR of .67 where .48 is allowed and .47 exists at **18 Upham Street**, Ward 3, West Newton, on land known as Section 33 Block 34 Lot 67, containing approximately 4,884 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref. 7.3.3, 7.4, 3.1.9, 3.1.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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.



18 Upham Street

EXECUTIVE SUMMARY

The property at 18 Upham Street consists of a 4,884 square foot lot located in a Single Residence 3 (SR3) district improved with a two-story, 2,292 square foot single-family dwelling constructed in 1910 and a detached garage. The petitioners propose to construct a two-story rear addition to the rear of the house that would add 993 square feet of floor space to the structure. The proposed addition requires a special permit to exceed the property's floor area ratio (FAR) from 0.47 to 0.67, above the maximum 0.48 allowed by right.

The Planning Department notes that the resulting structure would conform to other relevant dimensional requirements and the addition would have relatively limited visibility from the street given that it would be located to the rear of, and not be higher than, the existing dwelling. Furthermore, the proposed addition will help preserve an existing structure while allowing it to meet the needs of today's families.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in FAR from 0.47 to 0.67, where 0.48 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).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The surrounding neighborhood is predominantly occupied by single-family dwellings, with exceptions including several two-family dwellings to either side of the subject property along the south side of Upham Street and several others interspersed around the area. The subject property and the surrounding neighborhood are located within a Single Residence 3 (SR3) District (**Attachments A & B**).

B. Site

The property consists of a 4,884 square foot lot on the south side of Upham Street between Cherry Street and Manhattan Road improved with a single-family dwelling. The parcel also has a detached 259 square foot garage structure located in the rear right of the property which is accessed by a curb cut off Upham Street and a seven-foot wide paved right of way located on the lot that adjoins the subject property to the west.

The lot slopes slightly downward, from front to rear (north to south) and left to right (east to west). The property is attractively landscaped with lawn and planting areas

in the front, left (east) side and rear. The rear yard, the proposed location of the addition, is currently bounded by a combination of trees and other vegetation, fencing, and the existing garage structure.

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 petitioner is proposing to construct an addition to the rear of the existing single-family dwelling that would include living space on the first and second floors and storage/crawl space on the basement level (which would only be accessible from the house's exterior). The addition would be in the general location of an existing screened porch and associated staircase, but with a considerably larger footprint. By adding 993 square feet of floor space to the dwelling, the addition would increase the property's currently conforming floor area ratio (FAR) of 0.47 to 0.67, above the maximum 0.48 allowed by right.

While the height of the addition would be the same as the existing structure, the structure's resulting height would increase slightly from 22.5 to 22.7 feet (well below the maximum 36 feet allowed) due to a slight reduction of the average grade plane.

As the proposed addition would be located on the rear of the structure, the front setback of 13.8 feet would be unchanged. The rear setback (as measured from a proposed first-floor level deck that would be on the back of addition), would be reduced by 10 feet from 25 to the minimum 15 feet required. The left (east) side setback would be reduced from 18.5 to 9.7 feet, more than the required 7.5 feet; the right (west) side setback would remain unchanged at 3.9 feet.

The parcel's lot coverage would increase from 24.0% to the maximum 30% allowed. The open space on the parcel would decrease, from 65% to 57%, but remain above the required 50%.

The dwelling and the small group of houses it is set within along the south side of Upham Street between Cherry Street and Manhattan Road are similar in scale with most the homes in the immediate area although their lots are generally smaller than most others in the vicinity, the dwellings tend to cover higher percentages of their lots, and they have relatively shallow front setbacks. There are especially noticeable differences with the group of lots immediately to the south of the subject property, including the one that abuts directly to the rear, some of which are over 30,000 square feet in size. As such, the Planning Department notes that the subject property occupies somewhat of a border area between the denser areas to the north (and, more distantly, to the east and

- west) and those rather anomalously large lots.
- C. Parking and Circulation
- No changes related to parking or circulation are contemplated by this petition.
- D. Landscape Screening
- No landscape plan was submitted with this petition. The addition would largely be screened at grade level on the side property lines by a combination of fencing, vegetation, and the garage structure.
- The Planning Department recommends that the petitioner, in consultation with abutting neighbors, consider maintaining the existing vegetation along the left property line as well as installing and maintaining fencing and/or vegetation where feasible along the rear of the property to provide appropriate screening of the proposed addition to the south.

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 and §7.3.3 of Section 30, to exceed the maximum floor area ratio (FAR) (§3.1.9.A.2)
- B. Engineering Review:
- The proposal was reviewed by the Engineering Division (**Attachment D**). It noted that as construction of the project would require the placement of equipment and excavation near a city drain easement in the rear of the lot, closed circuit television (CCTV) inspections of the conduit will be required. The memo also notes that the engineer of record will be required to submit impervious surface calculations to indicate whether the project will trigger on-site drainage requirements.
- The Engineering Division will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposal should this petition be approved.
- C. Newton Historical Commission
- On February 12, 2019, Newton Historical Commission staff reviewed the project and found the structure to be historically significant but approved the project based on submitted materials, requiring only the review of final plans.

V. 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:	Engineering Division Memorandum
Attachment E:	DRAFT Order

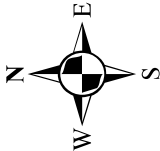
Land Use

18 Upham Street

City of Newton,
Massachusetts

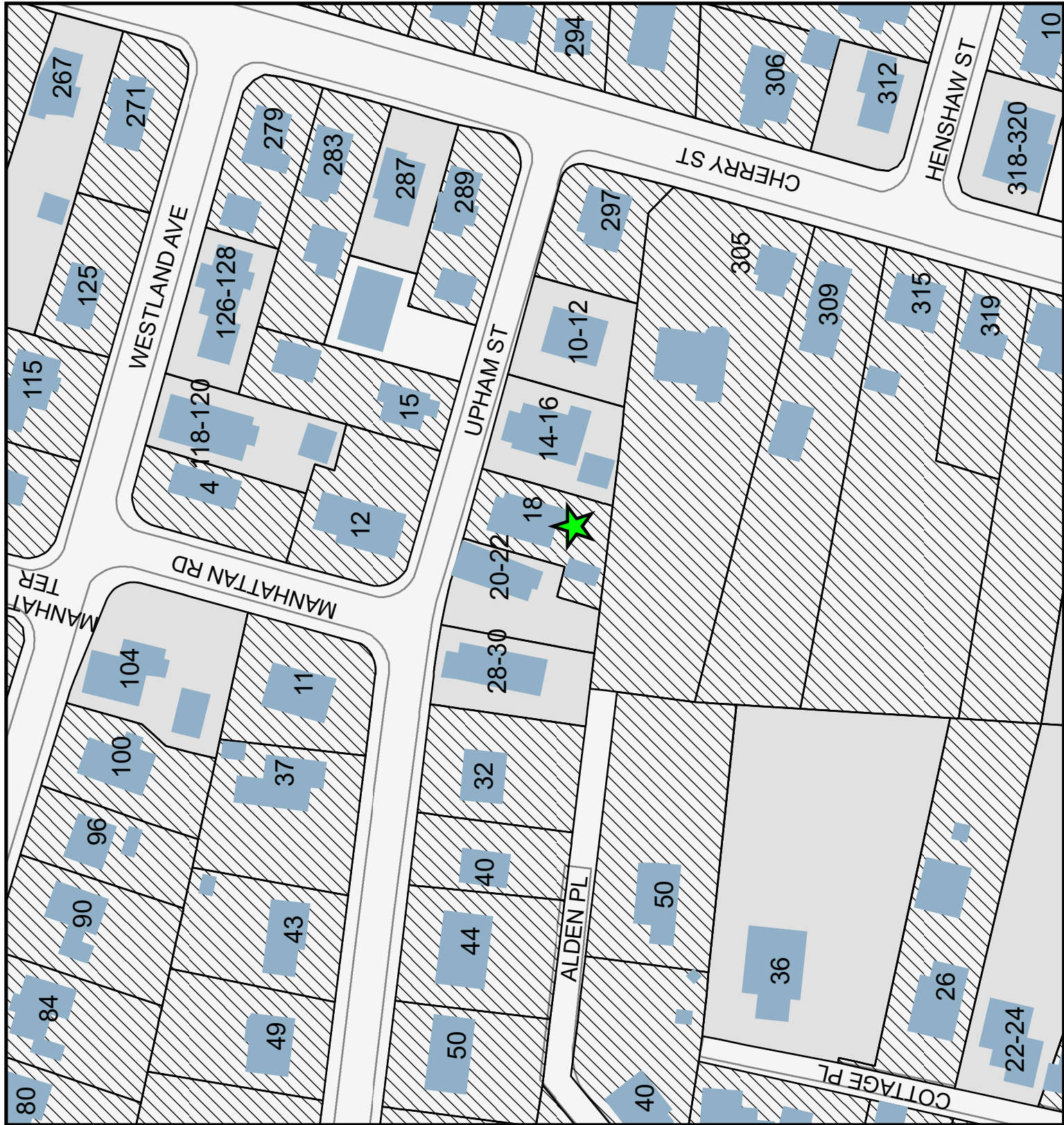
Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Mixed Use
- Nonprofit Organizations
- 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 - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

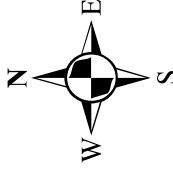


Zoning

18 Upham Street

*City of Newton,
Massachusetts*

Legend

 Single Residence 3

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 Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 03, 2019



Ruthanne Fuller
Mayor

ATTACHMENT C

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 1, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Ben and Siobhan Crosby, Applicants
Stephen Reilly, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to exceed FAR

Applicant: Ben and Siobhan Crosby	
Site: 18 Upham Street	SBL: 33034 0067
Zoning: SR3	Lot Area: 4,884 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 18 Upham Street consists of a 4,884 square foot lot improved with a single-family residence constructed in 1910 and a detached single-car garage. The petitioners propose to construct a two-story rear addition. The proposed addition requires a special permit to exceed the allowable FAR.

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

- Zoning Review Application, prepared Stephen Reilly, architect, dated 2/7/2019
- FAR Worksheet, submitted 2/11/2019
- Plan of Land Existing Conditions, signed and stamped by Bruce Bradford, surveyor, dated 1/3/2018, revised 1/24/2019
- Plan of Land Proposed Conditions, signed and stamped by Bruce Bradford, surveyor, dated 1/16/2019, revised 1/24/2019
- Architectural plans and elevations, signed and stamped by Stephen Reilly, architect, dated 12/18/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a two-story rear addition consisting of a living and dining room on the first floor, and master suite above. The addition adds 993 square feet to the existing 2,292, for a total of 3,285 square feet. The proposed addition increases the FAR from .47 to .67, which exceeds the maximum of .48 allowed by sections 3.1.3 and 3.1.9, requiring a special permit.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	4,884 square feet	No change
Frontage	70 feet	47 feet	No change
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	25 feet 7.5 feet 15 feet	13.8 feet 3.9 feet 25 feet	No change No change 15 feet
Max Number of Stories	2.5	2	No change
Max Height	36 feet	22.5 feet	22.7 feet
FAR	.48	.47	.67
Max Lot Coverage	30%	18.2%	26.9%
Min. Open Space	50%	71%	63%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3

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:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen 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)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. 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

ATTACHMENT D

CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 18 Upham Street

Date: June 4, 2019

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Michael Gelba, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Renovations & Addition to the Crosby Residence
Prepared by: Everett M. Brooks Company
Dated: January 3, 2018*

Executive Summary:

This permit entails a proposed addition to the single-family home at the rear of the dwelling. A City Drain easement traverses the rear portion of the lot, and since there will be equipment and excavation near the easement, *Pre & Post* Closed Circuit Television (CCTV) Inspection will be required prior to the issuance of a Building Permit. The CCTV inspection must be witnessed by the Engineering Division and 48 hours prior notification shall be required.

The plan does not indicate any stormwater improvements and no calculations were provided that would indicate if the new impervious surfaces being added triggers this requirement; the engineer of record shall submit calculation to demonstrate the exemption from stormwater improvements.

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. Any tree removal shall comply with the City's Tree Ordinance.
3. The applicant will have to apply for Sidewalk Crossing permit with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
4. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
6. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
7. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

ATTACHMENT E

DRAFT- #163-19

18 Upham Street

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 increase the Floor Area Ratio (FAR) from 0.47 to 0.67 where 0.48 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 expanded structure that would result from the proposed increase in floor area ratio (FAR) from 0.47 to 0.67, where 0.48 is the maximum allowed by-right, will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be similar in regard to those characteristics of other structures in the surrounding area and conform to other relevant dimensional requirements; further, the addition will have limited visibility from the street given that it will be located to the rear of, and not be higher than, the existing dwelling (§3.1.9).

PETITION NUMBER: #163-19

PETITIONER: Ben and Siobhan Crosby

LOCATION: 18 Upham Street, on land known as Section 33, Block 34, Lot 67, containing approximately 4,884 square feet of land

OWNER: Ben and Siobhan Crosby

ADDRESS OF OWNER: 18 Upham Street
Newton, MA

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9.A.2 and §7.3, to exceed the maximum floor area ratio (FAR) allowed by-right

ZONING: Single Residence 3 (SR3) 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 plan entitled "Plan of Land in Newton, MA, 18 Upham Street, Proposed Addition," prepared by Everett M. Brooks Co., dated January 16, 2019, as revised through January 24, 2019, stamped and signed by Bruce Bradford, Professional Land Surveyor, on January 24, 2019.
 - b. A set of architectural plans entitled "Renovations and Additions to the Crosby Residence, 18 Upham Street, Newton, MA- Design Development Dated 12.18.2018," prepared by SLR Architecture, stamped and signed by Stephen L. Reilly, Registered Architect:
 - i. Dwg List, Symbols, Gen. Notes & Code Information (A0.1);
 - ii. Schedules (A0.2);
 - iii. Demo Bsmt First and Second Floor (D1.0);
 - iv. Construction Front and Second Plan (A1.0);
 - v. Reflected Ceiling First and Second Plan (A2.0);
 - vi. Exterior Elevations (A4.0);
 - vii. Exterior Perspectives (A4.1).
 - c. A document entitled "Floor Area Ratio Worksheet, 18 Upham Street, Newton MA," signed and stamped by Stephen L. Reilly, Registered Architect.
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, a statement from the Engineering Division approving the final site plan.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Newton Historical Commission approving the final plans.
 - e. 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.
 - 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.