



City of Newton, Massachusetts

Department of Planning and Development
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#311-19

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Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 29, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	January 27, 2020

DATE: October 25, 2019

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 #311-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the floor area ratio at **25-27 Oak Street**, Ward 5, Upper Falls, on land known as SBL 51, 38, 24 containing approximately 9,420 sf of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §3.2.3, §3.2.11, §7.3.3 and §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.



25-27 Oak Street

EXECUTIVE SUMMARY

The subject property located at 25-27 Oak Street consists of a 9,420 square foot lot improved with a two-family dwelling constructed circa 1910. The property is located within the Multi Residence 1 (the "MR-1") zone in Upper Falls. The petitioner is seeking to construct a 2.5-story addition to the side of the dwelling to create additional living space. The addition increases the floor area ratio (the "FAR") beyond what is allowed as of right, requiring a special permit. Therefore, the petitioner requires a special permit to exceed the FAR from .40 to .53, where .49 is the maximum allowed as of right. If approved, the dwelling would contain 4,798 square feet, where 4,616 square feet is the maximum allowed, a difference of 182 square feet.

The addition is located to the side of the structure towards the largest portion of the lot where the addition exceeds the required setback distance. The addition will add 1,298 square feet to the structure, but only 182 square feet of which is above the as of right square footage. The Planning Department believes that given the amount of as of right FAR, the structure, with an additional 182 square feet, will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The proposed increase in FAR from .40 to .53, where .49 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.2.11 and §7.3.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

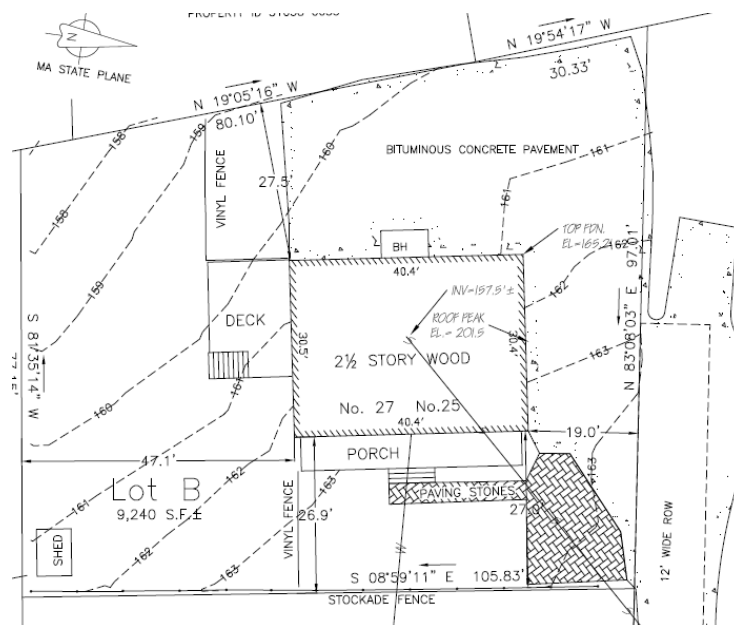
The subject property is located on Oak Street in the MR-1 zone in Upper Falls. The immediate area is located within the MR-1 zone, while a Manufacturing district is located to the east and a Public Use zone as well as a Multi Residence 2 zone exist to the west (**Attachment A**). The neighborhood consists predominantly of single and multi-family uses, except a nonprofit organization and some nonconforming commercial parcels (**Attachment B**).

B. Site

The site consists of 9,420 square feet of land and it is improved with a 2.5-story, two-family dwelling constructed circa 1910. The site is accessed from an approximately 12-foot-wide right of way shared with the properties to the north and south at 23 and

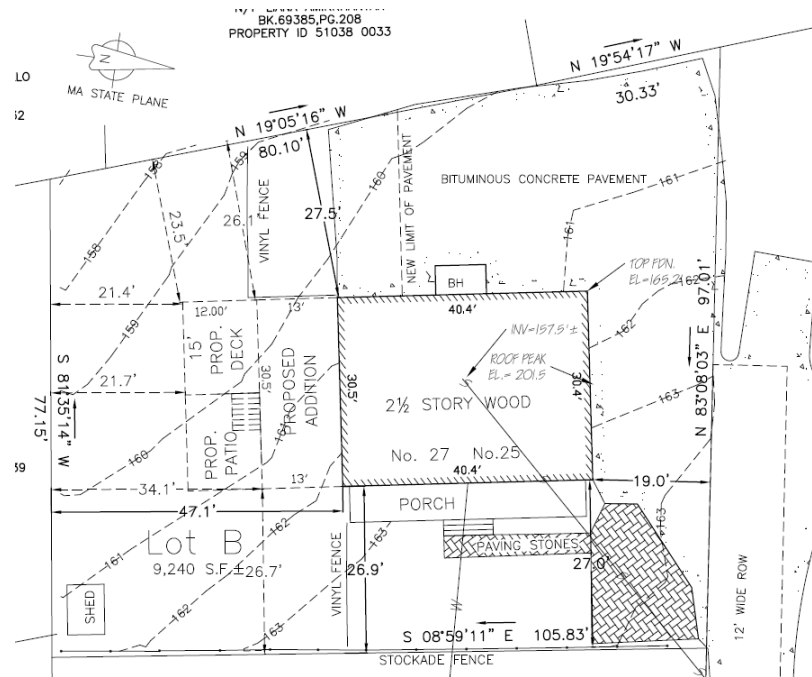
29 Oak Street, respectively. The western (rear) portion of the lot is paved to accommodate parking for the dwelling, while the southern and eastern portions are lawn areas. The grade of the lot slopes down to the rear property line such that enough of the basement is exposed for 50% of the basement square footage to counts towards FAR. Portions of the lot are enclosed with fencing of varying heights and the lot consists of mature trees at the rear (western) and side (southern) boundaries.

Existing Condition Site Plan



change the existing dormer from a shed dormer to a gable dormer to match the proposed; the petitioner is also proposing a gable dormer to the rear façade.

Proposed Condition Site Plan



The addition will contain increased living space in the first and second floor as well as living space in the attic and in the basement. The as of right FAR for the lot is .49 which translates to approximately 4,616 square feet. The existing dwelling has a FAR of .40 which translates to 3,768 square feet. The addition would add 1,298 square feet to the FAR calculation, for a total of .53. The grade is lower in the southern portion of the lot, such that the building height will increase to 31 feet, where 36 feet is the maximum allowed. The petition included additional relief to allow a three-story structure and to allow a dormer within three feet of the vertical wall of the story next below, but the petitioner provided more detailed plans which indicate those reliefs are not required. As such, the petitioner should withdraw those requests.

Existing Front Elevation



Proposed Front Elevation



The addition is located to the side of the structure towards the largest portion of the lot and the addition exceeds the required setback distance. The addition will add 1,298 square feet to the structure, but only 182 square feet of which is above the as of right square footage. The Planning Department believes that given the amount of as of right FAR, the structure, with an additional 182 square feet, will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood.

C. Parking and Circulation

The petitioner is not proposing changes to either the parking or circulation on site.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.2.11 and §7.3.3 of Section 30, to exceed the FAR

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The petition will be reviewed for conformance with the City of Newton Engineering Design Standards prior to the issuance of a building permit, should this petition be approved.

C. Newton Historical Commission Review

The submitted plans were reviewed and approved by the Newton Historical Commission on October 6, 2017. The Chief Preservation Planner will review the plans again prior to the issuance of a building permit, should this petition be approved.

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:	DRAFT Order

Attachment A Zoning Map Oak St., 25-27

Legend

Multi-Residence 1

Multi-Residence 2

Business 1

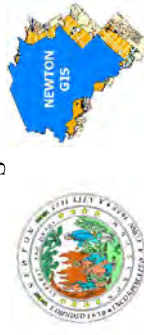
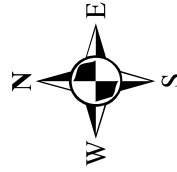
Manufacturing

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 - Ruthanne Fuller



Map Date: October 08, 2019



Attachment B Land Use Map Oak St., 25-27

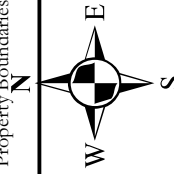
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Building Outlines
-  Surface Water
-  Property Boundaries



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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 25, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: J. Peter Vanko, Architect
Nina B. Levin, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to exceed FAR**

Applicant: Nina B. Levin	
Site: 25-27 Oak Street	SBL: 51038 0024
Zoning: MR1	Lot Area: 9,240 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 25-27 Oak Street consists of a 9,240 square foot lot improved with a two-family residence constructed circa 1910 accessed by a 12-foot wide right of way shared with two other properties. The petitioner proposes to construct an addition to one unit at the side of the existing structure, requiring 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 J. Peter Vanko, architect, dated 5/9/2019
- FAR Worksheet, submitted 5/9/2019
- Plot Plan, signed and stamped by Kenneth B. Anderson, surveyor, dated 10/2/2017, revised 3/27/2019
- Architectural plans and elevations, signed and stamped by J. Peter Vanko, architect, dated 4/11/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to construct a 2.5 story addition to the side of the existing two-family dwelling, adding living space to the unit at 27 Oak Street. The existing FAR is .40, where .49 is the maximum allowed. The proposed addition adds 1,298 square feet of living space to the dwelling structure, resulting in an FAR of .53. A special permit pursuant to Sections 3.2.3 and 3.2.11 is required to exceed FAR.
2. The petitioner intends to remove some bituminous concrete paving from the parking area, resulting in an increase in overall open space.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	9,240 square feet	No change
Frontage	70 feet	105 feet*	No change
Setbacks • Front • Side • Rear	25 feet 7.5 feet 15 feet	26.9 feet 19 feet 27.5 feet	26.7 feet No change 23.5 feet
Max Number of Stories	2.5	2.5	No change
Max Height	36 feet	31 feet	No change
FAR	.49	.40	.53
Max Lot Coverage	30%	17%	21%
Min. Open Space	50%	50.1%	50.3%

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

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 exceed the floor area ratio (the "FAR") from .40 to .53, where .49 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 FAR from .40 to .53, where .49 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the addition will be constructed to the side of the structure, in excess of new lot setbacks, and is 182 square feet beyond what is allowed as of right. (§3.2.11 and §7.3.3)

PETITION NUMBER: #311-19

PETITIONER: Nina Levin

LOCATION: 25-27 Oak Street, on land known as Section 51, Block 38,
Lot 24, containing approximately 9,240 square feet of land

OWNER: Nina Levin

ADDRESS OF OWNER: 25-27 Oak Street
Newton, MA 02464

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.2.11 and §7.3.3 to exceed the floor area ratio

ZONING:

Multi Residence 1 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. Plot Plan showing Existing and Proposed Conditions, prepared by Anderson Survey Inc., signed and stamped by Kenneth B. Anderson, Professional Land Surveyor, dated October 2, 2017, Revised March 27, 2019 and July 22, 2019.
 - b. Architectural Plans, prepared by Vanko Studio Architects, signed and stamped by J. Peter Vanko, Registered Architect, October 7, 2019, consisting of fifteen (15) sheets.
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 petitioner has:
 - a. Recorded a certified copy of this board 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 board 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.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or a land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional land surveyor.