

**DEPARTMENT OF PLANNING AND DEVELOPMENT**

**CITY OF NEWTON  
Massachusetts**

**INTER-OFFICE CORRESPONDENCE**

**DATE:** April 3, 2019

**TO:** All Members, City Council

**FROM:** Barney S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning

**SUBJECT:** #142-20: Wells Avenue Deed Restriction Amendment  
125 Wells Avenue

---

The subject property is located on Wells Avenue in the Limited Manufacturing (the "LMD") district in Ward 8. The property is improved with a two-story structure, containing a private, non-profit educational use in the form of the Solomon Schechter Day School. The petitioner is seeking to construct an interior addition which will increase the floor area ratio (the "FAR") from .268 to .277. Therefore, the petitioner requires an amendment to the Wells Avenue Deed Restriction (the "Restriction").

The Restriction governs all properties within the LMD district and prohibits any building or structure from being erected without the approval of the City Council. Additionally, the Restriction places dimensional controls, such as FAR, on all properties within the LMD district. Any increase beyond what is allowed also requires approval from the City Council in the form of an amendment to the Restriction.

The structure was originally built as an ice hockey rink; as such, the structure contains space with a greater floor to ceiling height. The petitioner is seeking to construct an addition that will convert this space from one floor to two floors thereby creating an additional 3,200 square feet of FAR. Because the Restriction governs the FAR, the petitioner requires an amendment to the Restriction to increase the FAR from .268 to .277. The Planning Department is unconcerned with the request to amend the Restriction because the addition is internal, and the footprint of the building is not increasing.

Please do not hesitate to contact me if you have any questions regarding this subject.

**Attachment A:** DRAFT Council Order #142-20

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the proposed construction can be made without substantially derogating from the purpose for which the City of Newton was granted certain restrictions in a deed from the Trustees of the “Newton at 128 Realty Trust” to the City of Newton dated May 22, 1969 and recorded with the Middlesex South Registry of Deeds in Book 11669, Page 535, and as amended, the Council hereby agrees to approve the proposed construction, as follows:

PETITION NUMBER:	#142-20
PETITIONER:	Solomon Schechter Day School
LOCATION:	125 Wells Avenue, Ward 8, on land known as Section 84, Block 34, Lot 2R, containing approximately 7.54 acres of land
OWNER:	Solomon Schechter Day School
ADDRESS OF OWNER:	125 Wells Avenue Newton, MA 02461
TO BE USED FOR:	Increase in Floor Area Ratio to .277

The Council approves the proposed addition referenced in the plans cited in Condition #1.a with respect to the floor area ratio, pursuant to paragraph 2 of the restrictions adopted by Board Order #276-68(3) as conveyed to the City of Newton by a Deed recorded with Middlesex South District Registry of Deeds in Book 11699, Page 535 as amended by Board Order nos. 570-71(2), 189-72, 734-72, 591-76, 541-89(2), 282-91, 293-93(2), 469-93, 428-01(B), 38-03(2), 324-06(2), 325-06(2), 231-07(2), 56-12, and 257-13(3).

Her Honor the Mayor be and hereby is authorized to execute on behalf of the City such recordable documents as may be usual, customary or necessary to give effect to this Order of the Council.

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 in accordance with:
  - a. A set of plans prepared by Drummey Rosane Anderson, Inc., dated February 14, 2020 unless otherwise noted, consisting of the following twelve (12) sheets:

- i. Cover Sheet
  - ii. Existing Conditions Plan, prepared by Feldman Land Surveyors, signed and stamped by Paul R. Foley, Professional Land Surveyor, dated June 16, 2017
  - iii. Erosion and Sedimentation Control Plan, signed and stamped by Timothy J. Power, Professional Civil Engineer
  - iv. Drainage and Utility Plan, signed and stamped by Timothy J. Power, Professional Civil Engineer
  - v. Details, signed and stamped by Timothy J. Power, Professional Civil Engineer
  - vi. Site Preparation Plan, signed and stamped by David J. Warner, Registered Landscape Architect
  - vii. Layout, Materials, Grading, and Planting Plan, signed and stamped by David J. Warner, Registered Landscape Architect
  - viii. Details Plan, signed and stamped by David J. Warner, Registered Landscape Architect
  - ix. Details Plan, signed and stamped by David J. Warner, Registered Landscape Architect
  - x. Overall First Floor Plan, unsigned and unstamped
  - xi. Overall Second Floor Plan, unsigned and unstamped  
Exterior Elevations, unsigned and unstamped
2. No Building Permit shall be issued pursuant to this decision until the petitioner has:
  - a. Recorded a certified copy of this decision with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded decision with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. 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 construction covered by this Special Permit/Site Plan Approval shall be issued until the petitioners has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development, a statement by a professional engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development, a final as-built survey plan in paper and digital format signed and stamped by a professional land surveyor.

Under Suspension of Rules  
Readings Waived and Adopted

[     ] Yeas                      [     ] Nays

Executive Department  
[Date]

---

City Clerk

---

Mayor