

DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON

Massachusetts

INTER-OFFICE CORRESPONDENCE

DATE: **October 16, 2020**

TO: **All Members, City Council**

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

SUBJECT: **#10-20 (2), 68 Manet Road**
 Zoning Code Enforcement

The petitioner obtained Special Permit #10-20, to exceed the allowable floor area ratio as of right from .53 to .65 and to extend the nonconforming side setback of a detached structure. The petitioner now seeks an amendment to Special Permit #10-20 to change the approved gable dormers to shed dormers which increases the FAR by 61 square feet.

City Staff first learned of a connection from the principal structure to the detached garage and the deck atop the detached garage in 2019. In a DRT on April 10, 2019 staff explained to the petitioner that the connection would require a variance from the Zoning Board of Appeals because the connection rendered the detached garage, attached, requiring compliance with principal structure setbacks. However, if the garage were to remain detached, and the connection were removed, the deck could be legalized via a special permit. At this time, the dormers were also discussed, and staff explained the special permit and variance processes.

The petitioner applied for special permit in November 2019 to exceed the allowable FAR as of right and relief to vertically extend a nonconforming side setback in an accessory structure. Staff observed the bridge on January 2, 2020 and after a conversation with Inspectional Services, it was understood by Planning and Inspectional Services that the bridge was not shown on the proposed site plan and would come down prior to closing out the permit. As such, City Staff did not issue a zoning code violation. The special permit was granted on January 21, 2020.

On October 13, 2020, the Land Use Committee reviewed the amendment to Special Permit #10-20 and noted the bridge. Staff was unaware the bridge was still up as City Staff communicated with the applicant that the bridge be removed.

Discussions between Planning and Inspectional Services following the October 13th hearing consisted of both Inspectional Services and Planning understanding that the bridge was supposed to have been taken down. Inspectional Services had a conversation with the petitioner on October 14th, in which the petitioner committed to taking the bridge down within two weeks. Inspectional Services relayed to the petitioner that a building permit would not be issued for any work on the existing two-family structure until the bridge is taken down. If not taken down within the two weeks, Inspectional Services stated they will begin to fine the applicant and issue zoning code violation notices.

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

ATTACHMENT A: Council Order #10-20 (2)

#10-20 (2)
68 Manet 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 council Order, exceed the floor area ratio (the "FAR") from .53 to .66, where .55 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed oversized dormer and increase in the FAR because there are homes of similar scale on similarly sized lots in the neighborhood. (§4.4.1 and §7.3.3.C.1)
2. The site as developed and operated will not adversely affect the neighborhood because there are homes of similar scale on similarly sized lots in the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because there are no site changes proposed that impact the parking or circulation. (§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)
5. The proposed increase in FAR from .53 to .66, where .55 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 there are homes of similar scale on similarly sized lots in the neighborhood. (§3.1.9 and §7.3.3)

PETITION NUMBER: #10-20 (2)

PETITIONER: Mohammed Aref

LOCATION: 68 Manet Road, on land known as Section 61, Block 12, Lot 10, containing approximately 6,300 square feet of land

OWNER: Mohammed Aref

ADDRESS OF OWNER: 68 Manet Road
Newton, MA 02465

TO BE USED FOR: Multi-Family Dwelling with an Internal Accessory Apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3.3 to exceed the floor area ratio; §1.5.4.G.1.b and §1.5.4.G.1.c to allow an oversized dormer and a dormer within three feet of the intersection of the main structure

ZONING: Multi Residence 1 district

Prior special permits for this property is as follows: Council Order #10-20 granted Special Permit/Site Plan Approval to exceed the FAR and to vertically extend the nonconforming side and rear setbacks in an accessory structure.

This special permit supersedes all prior special permits and consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permits not set forth in this special permit are null and void.

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. Proposed Deck and Spiral Stairs, signed and stamped by Patrick Roseingrave, Professional Land Surveyor, dated July 11, 2019
 - b. Architectural Plans, prepared by Azad Architects, signed and stamped by Najim Azad-zoi, consisting of ten (10) sheets:
 - i. Proposed Attic Plan, A1, dated June 24, 2020
 - ii. Proposed Half Story Calculation, A2, dated June 24, 2020
 - iii. Proposed Roof Plan, A3, dated June 24, 2020
 - iv. Proposed South Elevation, A4, dated June 24, 2020
 - v. Proposed West Elevation, A5, dated June 24, 2020

- vi. Proposed North Elevation, A6, dated June 24, 2020
 - vii. Proposed East Elevation, A7, dated June 24, 2020
 - viii. Proposed Garage Elevation, A21, dated December 27, 2019
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 council 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.
 - 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 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.