



Ruthanne Fuller  
Mayor

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

**#400-20**  
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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	November 10, 2020
Land Use Action Date:	January 25, 2021
City Council Action Date:	February 1, 2021
90-Day Expiration Date:	February 8, 2021

DATE: November 6, 2020

TO: City Council

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

SUBJECT: **Petition #400-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to the third story, extending the nonconforming number of stories and creating an FAR of .50 where .45 exists and .35 is allowed at **727 Centre Street**, Ward 2, Newton, on land known as Section 13 Block 16 Lot 08, containing approximately 12,880 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 3.2.3, 1.5.4.G.2.b of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



**727 Centre Street**

### **EXECUTIVE SUMMARY**

The property at 727 Centre Street consists of a 12,880 square foot lot in a Single Residence 2 (SR2) district improved with a 5,451 square foot single-family residence (with an attached basement level garage) constructed in 1925. Due to the average grade of the property, the basement is considered to be the first story of the dwelling and the structure is therefore considered to be a nonconforming 3 ½ story structure where only 2 ½ stories are allowed per Section 3.1.3 of the Newton Zoning Ordinance (NZO).

The petitioners propose to construct two additions to the nonconforming third story. These additions, which would be above existing space below and within the existing footprint of the structure, would add 622 square feet in aggregate to the dwelling. As the additions would extend the nonconforming third story, they require a special permit per Section 7.8.2.C.2. As they would also increase the structure's nonconforming floor area ratio (FAR) from 0.45 to 0.50 where the maximum of 0.35 is allowed, a special permit to further extend the nonconforming FAR is also required per Section 7.8.2.C.2.

The petitioner is currently working with Newton Historic Commission staff to review the proposed additions. Planning Department staff expects to be able to report on this in advance of or at the public hearing.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this request, the Council should consider whether:

- The proposed increase of the nonconforming FAR from 0.45 to 0.50 where 0.35 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 0.45 to 0.50 where 0.35 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 extension of the nonconforming 3 ½ story dwelling will not be substantially more detrimental than the existing nonconforming structure to the neighborhood (§7.8.2.C.2)

#### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

##### **A. Neighborhood and Zoning**

The property is located on the southwest corner of Centre and Cabot streets. The neighborhood is a mix of single-family homes to the east, north and west, and educational institutions, including Newton Country Day School of the Sacred Heart and the Carroll Center for the Blind, to the south (**Attachment A**). The subject

property and the surrounding neighborhood is uniformly zoned Single Residence 2 (SR2), with a lone exception being a Public Use (PUB) zoned traffic island in the adjacent intersection (**Attachment B**).

B. Site

The subject property consists of 12,880 square foot corner lot in a Single Residence 2 (SR2) district improved with a 5,451 square foot, 3 ½ story single-family residence. The dwelling has an attached basement-level garage that is accessed via a curb cut and a driveway on Cabot Street-fronting side of the property. Both frontages of the lot are raised several feet above the adjoining public ways and have stone retaining walls along the back of the sidewalk.

The lot itself is generally at the grade of the top of the retaining walls, with lower sections at its north end associated with the driveway and basement level garage. The lot features landscaping including mature trees and shrubbery, as well as lawn area and deck space.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence.

B. Building and Site Design

The petitioner proposes to construct two flat-roofed additions on either side of the nonconforming third story. While the proposed changes would not increase the dwelling's measured 37.5-foot height or its nonconforming 3½ stories, they would further extend the nonconforming third story.

The two additions would together add approximately 622 square feet to the dwelling and increase the nonconforming FAR from 0.45 to 0.50, where a maximum of 0.35 is allowed. (The Planning Department notes that there is some discrepancy in the proposed FAR as shown on various materials submitted by the petitioner. The Department is working with the petitioner to clarify this issue and is currently guided by the proposed FAR of 0.50 that is contemplated by the attached zoning review and not the lower 0.47 indicated on the FAR Worksheet submitted with the present petition.)

As the additions would be within the existing footprint and lower than the dwelling's existing ridgeline, there would be no changes to the dwelling's other dimensions, including its setbacks, lot coverage and open space, all of which are currently conforming.

C. Parking and Circulation

No changes to the parking or circulation on the property are proposed.

D. Landscaping

A landscape plan was not submitted with this petition.

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 completed Zoning Review Memorandum, the petitioner is seeking a Special Permit per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further extend a nonconforming 3.5 story structure (§3.1.3, §7.8.2.C.2)

B. Engineering Review

No engineering review is required at this time.

C. Newton Historical Commission

The petitioner is currently working with Newton Historic Commission staff to review the proposed additions. Planning Department staff expects to be able to report on this in advance of or at the public hearing.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- |                      |                          |
|----------------------|--------------------------|
| <b>Attachment A:</b> | Land Use Map             |
| <b>Attachment B:</b> | Zoning Map               |
| <b>Attachment C:</b> | Zoning Review Memorandum |
| <b>Attachment D:</b> | DRAFT Board Order        |







## Land Use

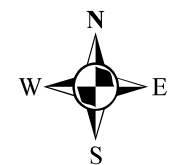
727 Centre St.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Private Educational
-  Nonprofit Organizations

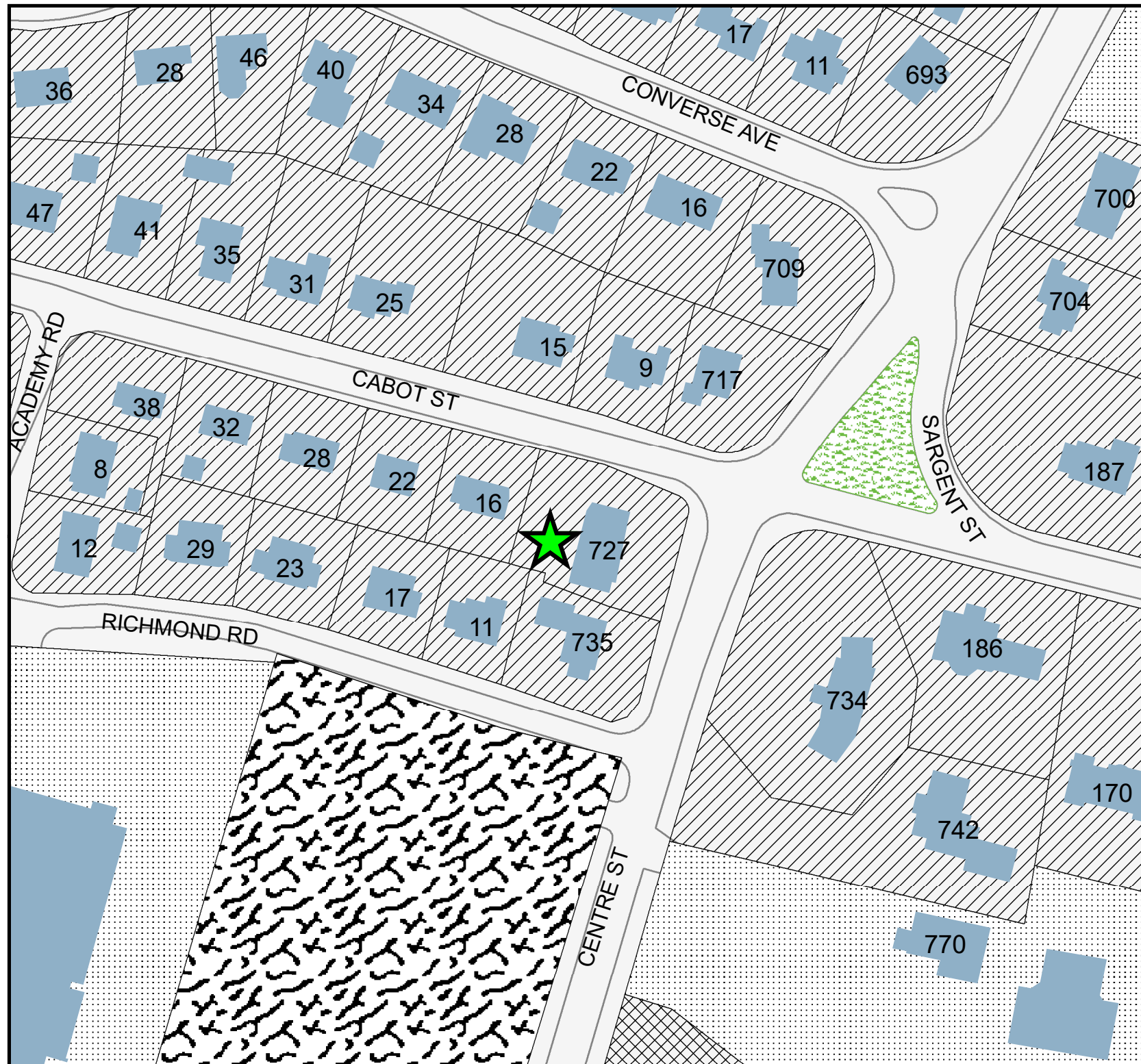


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: October 30, 2020





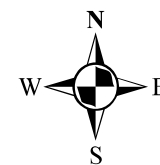


## Zoning

**727 Centre St.**

*City of Newton,  
Massachusetts*

-  Single Residence 2
-  Public Use

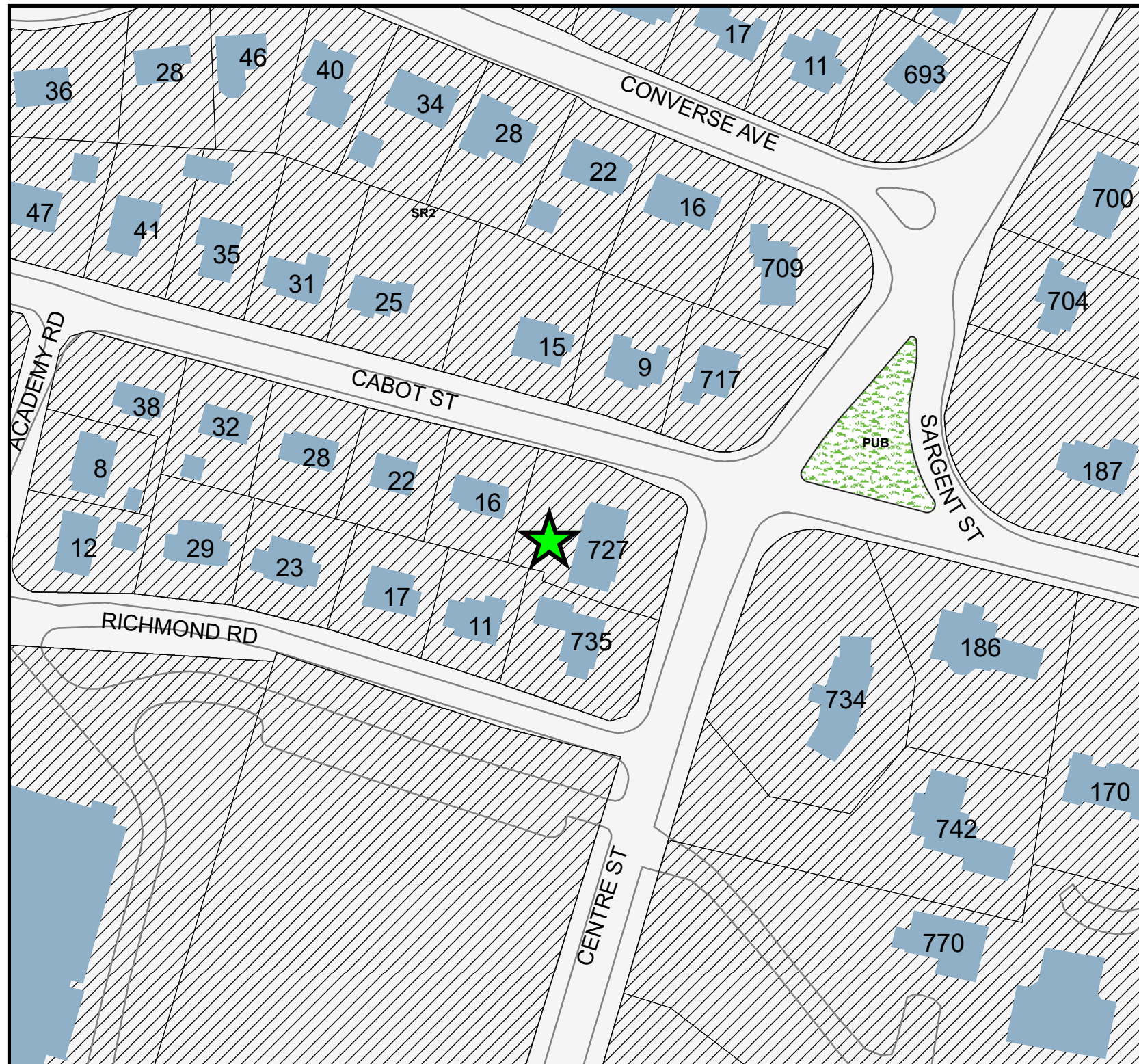


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CITY OF NEWTON, MASSACHUSETTS  
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0 12.5 25 50 75 100 125 Feet

Map Date: October 30, 2020





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Mayor

## ATTACHMENT C

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Barney S. Heath  
Director

### ZONING REVIEW MEMORANDUM

Date: September 2, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: Zaili Chen, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to further extend a nonconforming 3.5 story dwelling and to further extend nonconforming FAR

Applicant: Zaili Chen	
Site: 727 Centre Street	SBL: 13016 0008
Zoning: SR2	Lot Area: 12,880 square feet
Current use: Single-family dwelling	Proposed use: No change

#### BACKGROUND:

The property at 727 Centre Street consists of a 12,880 square foot lot improved with a single-family residence constructed in 1925. Due to the average grade, the structure is nonconforming with 3.5 stories. The petitioners propose to construct additions to the nonconforming third story within the footprint of the structure. The proposed additions require a special permit to further extend the nonconforming third story and to exceed allowable FAR<sub>[NC1]</sub>.

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

- Zoning Review Application, prepared by Zaili Chen, Applicant dated 2/4/2020
- FAR Worksheet, signed and stamped by Bryan Parmenter, surveyor, submitted 2/4/2020, revised 8/20/2020
- Plot Plan of Land, signed and stamped by Bryan Parmenter, surveyor, dated 1/15/2020, revised 8/20/2020
- Architectural plans and elevations, prepared by Up Design & Build, LLC, dated 1/22/2020

## ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct additions to the nonconforming third story, adding 622 square feet to the dwelling. The proposed additions increase the nonconforming FAR from .45 to .50, where the maximum of .35 is allowed by sections 3.1.3 and 3.1.9. A special permit to further extend the nonconforming FAR is required per sections 3.1.3, 3.1.9 and 7.8.2.C.2.
2. Due to the average grade of the property, the basement is considered the first story. As such, the dwelling is nonconforming with 3.5 stories, where 2.5 is the maximum allowed per section 3.1.3. The additions are proposed to the third story, thereby increasing the nonconforming third story, requiring a special permit per section 7.8.2.C.2[NC2].

SR3 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,880 square feet	No change
Frontage	80 feet	75 feet	No change
Setbacks <ul style="list-style-type: none"><li>• Front (Centre St)</li><li>• Front (Cabot St)</li><li>• Side</li><li>• Rear</li></ul>	25 feet 25 feet 7.5 feet 15 feet	44.7 feet 26.7 feet 8.4 feet 47.6 feet	No change No change No change No change
Max Number of Stories	2.5	<b>3.5</b>	<b>No change</b>
Max Height	36 feet	<b>37.5 feet</b>	<b>No change</b>
FAR	.35	<b>.45</b>	<b>.50</b>
Max Lot Coverage	30%	17%	17%
Min. Open Space	50%	66%	66%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend a nonconforming 3.5 story structure	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

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 further increase nonconforming floor area ratio (FAR) from 0.45 to 0.50 where 0.35 is the maximum allowed by right, and further extend the nonconforming 3.5 story structure as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed increase of the nonconforming floor area ratio (FAR) from 0.45 to 0.50 where 0.35 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 given the locations of the additional 622 square foot increase in floor area above existing living space in two additions on either side of the dwelling and because the height of the dwelling would not be increased (§3.1.9.A.2);
2. The proposed increase of the nonconforming floor area ratio (FAR) from 0.45 to 0.50 where 0.35 is the maximum allowed by right, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the dwelling's footprint would be unchanged and the bulk of the additional 622 square feet in floor area would be located above existing living space on either side of the dwelling and not increase the height of the dwelling (§7.8.2.C.2)
3. The proposed extension of the nonconforming 3 ½ story dwelling will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as the dwelling's footprint would be unchanged and the bulk of the additional 622 square feet in floor area would be located above existing living space on either side of the dwelling and not increase the height of the dwelling (§7.8.2.C.2)

PETITIONER(S): Zaili Chen

LOCATION: 727 Centre Street, Ward 2, Newton, on land known as Section 13 Block 16 Lot 8, containing approximately 12,880 sq. ft. of land

OWNER(S): Like Tonggu and Zaili Chen

ADDRESS OF OWNER(S): 727 Centre Street  
Newton, MA 02458

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further extend a nonconforming 3.5 story structure (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) 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 site plan entitled "Proposed Addition, Plan of Land, 727 Centre Street, Newton, MA," prepared by PFS Land Surveying, Inc., signed and stamped by Bryan G. Parmenter, , Registered Land Surveyor, dated July 8, 2020, as revised through August 20, 2020.
  - b. A set of plans entitled "727 Center St, Newton MA, prepared by Up Design & Build, LLC, signed and stamped by Kui Xue, Registered Architect, dated September 10, 2020:
    - i. Project Cover Sheet (X00)
    - ii. 2nd Floor Existing (Demo Plan) (D03)
    - iii. Second Floor Proposed (A3)
    - iv. Front Elevation Proposed (A8a)
    - v. Front Elevation Existing (A8a-ex)

- vi. Left Elevation Proposed (A8b)
  - vii. Left Elevation Existing (A8b-ex)
  - viii. Rear Elevation Proposed (A8c)
  - ix. Rear Elevation Existing (A8c-ex)
  - x. Right Elevation Proposed (A8d)
  - xi. Right Elevation Existing (A8d-ex)
  - xii. 3d View- Proposed (A9)
  - xiii. 3d View - Existing (A9-ex)
  - xiv. Section (A10)
  - xv. Details (A11)
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 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. 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 and certifying compliance with Condition #1, including the as built FAR.
  - 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.