



#398-20

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

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
Katie Whewell, Senior Planner

SUBJECT: **Petition #398-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the nonconforming 3.5 story structure, to allow dormers on the rear and left elevations that exceed 50% of the length of the wall plane below, and to increase the nonconforming FAR from .67 to .76 where .54 is allowed at 10-12 Sumner Street, Ward 7, Newton Centre, on known as 73 Block 48 Lot 24, containing approximately 6,434 sq. ft. in a district zoned MULTI RESIDENCE 1. 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.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



10-12 Sumner Street

EXECUTIVE SUMMARY

The subject property located at 10-12 Sumner Street consists of 6,434 square feet of land in Newton Centre. The site is improved with a nonconforming three and a half story, two-family dwelling constructed circa 1920 in the Multi Residence 1 (“MR-1”) zone. The petitioner proposes to increase the height of the structure by increasing the principal roofline and constructing dormers to all elevations at the attic level. The improvements increase the nonconforming FAR from .67 to .76, where .54 is the maximum allowed by right. The modifications to the structure and alter the nonconforming three and a half story structure. Lastly, two of the dormers proposed exceed 50% of the length the wall below it, requiring a special permit.

The Planning Department is unconcerned with the petition that increases the nonconforming FAR, and extends the nonconforming three and half story structure. The proposed dormers and additional floor area are keeping with the scale and design of other structures on Sumner Street and Ward Street. The increase in height is below the 36 feet maximum allowed and the additional floor area is within the footprint of the existing structure and does not negatively impact dimensional standards such as setbacks, lot coverage or open space.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed oversized dormers which increase the nonconforming FAR, and extend the nonconforming three and a half story structure (§7.3.3.C.1 and §3.4.1);
- The proposed oversized dormers that increase the nonconforming FAR will adversely affect the neighborhood (§7.3.3.C.2 and §3.4.1);
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);
- The proposed extension of the nonconforming three and a half story structure will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.3 and §7.8.2.C.2);
- The proposed increase in the nonconforming FAR from .67 to .76 where .54 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 and §7.8.2.C.2); and
- The proposed increase in nonconforming FAR is not substantially more

detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9 and §7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

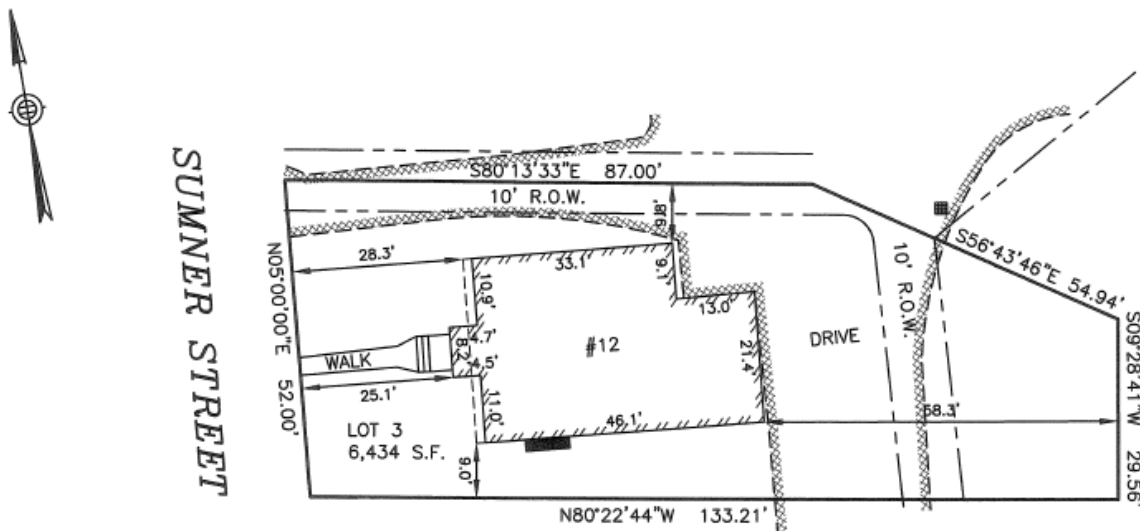
A. Neighborhood and Zoning

The subject property is located on the eastern side of Sumner Street in the MR-1 zone in Newton Centre. The west side of Sumner Street is within the Single Residence 2 zoning district as are neighborhoods to the north and west of the site (**ATTACHMENT A**). The uses in the area consist of single-family residential, multi-family residential and a nonprofit organization use at the corner of Loring and Ward Streets, northwest of the site (**ATTACHMENT B**).

B. Site

The site consists of 6,434 square feet of land and is improved with a nonconforming three and a half story, two-family dwelling constructed circa 1940. The site is accessed by one curb cut from Sumner Street which provides access to a driveway which leads to the basement garage in the rear. There is a right of way that extends east to abutting properties and south around the rear of the two-family dwelling to adjacent properties on Sumner Street. The site has a steep downward slope from the front to the rear of the lot and features landscaping in the front yard. Due to the average grade of the site, the basement is considered the first story, resulting in a nonconforming three and a half story structure with a height of 31.4 feet.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

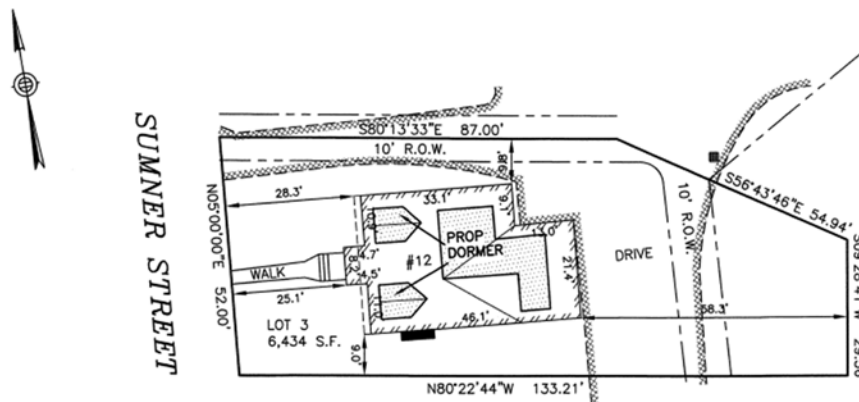
The use of the site will remain a two-family use.

B. Site and Building Design

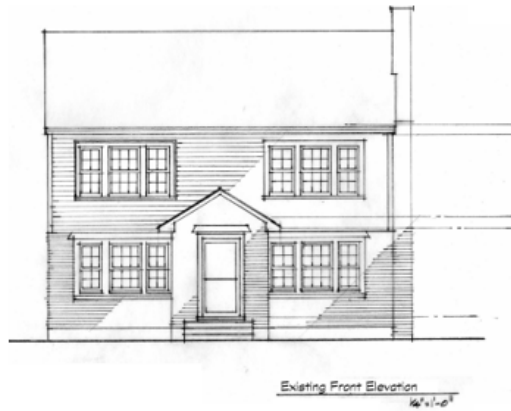
The petitioner is proposing to increase the principal ridgeline and construct both shed and gable style dormers to the attic level on all elevations. The modifications will add 633 square feet of FAR to the half story, increasing the nonconforming FAR from .67 to .76, where .54 is the maximum allowed by right. The modifications result in a structure consisting of 4,929 square feet, where 3,474 is the maximum allowed as of right. This represents a difference of 1,455 square feet between the proposed and maximum allowed as of right.

The proposed increase in the principal ridgeline increases the building height, and affects the nonconforming third story, while the proposed dormers create living space which increases the nonconforming FAR. The petitioner is proposing to increase the building height from 31.4 feet to 35.5 feet, where 36 feet is the maximum allowed. The proposed dormers on the rear and left elevations exceed the 50% length of the wall plane below, requiring a special permit. The proposed length of the shed dormer on the left elevation exceeds the wall below by approximately 72% and the rear exceeding by approximately 77%.

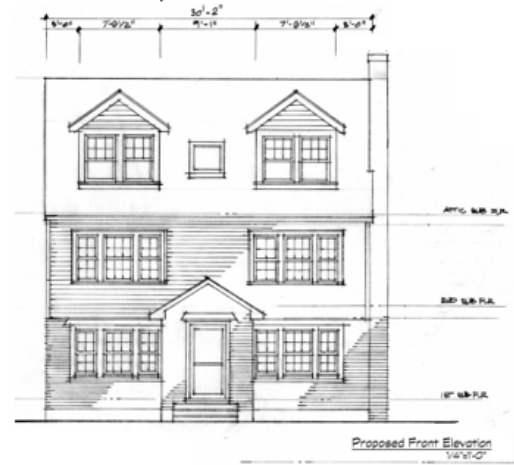
Proposed Site Plan



Existing Front Elevation



Proposed Front Elevation

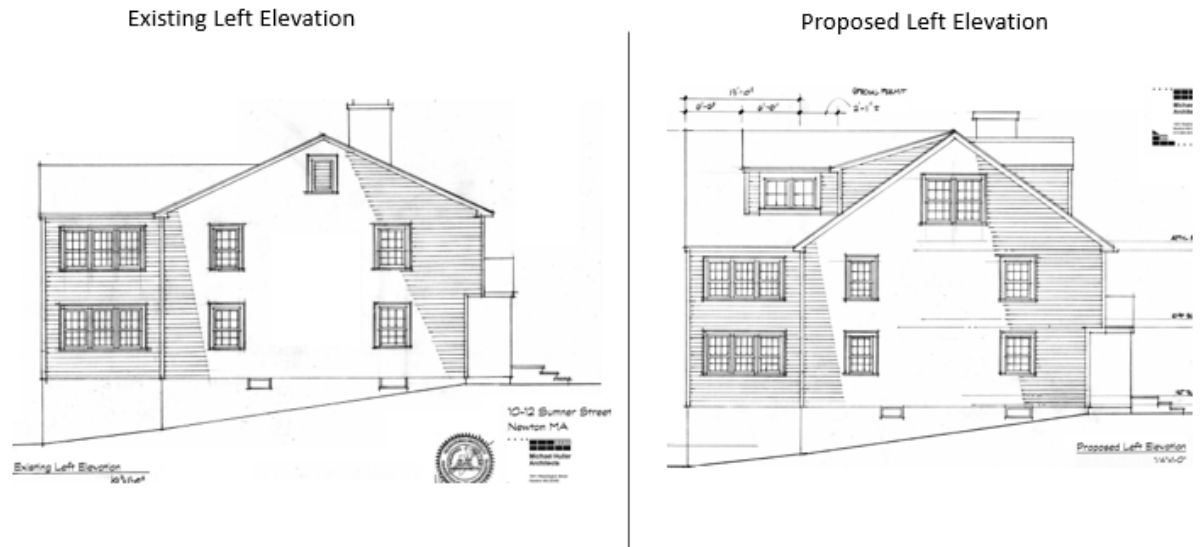


Existing Rear Elevation



Proposed Rear Elevation





There appear to be similarly sized lots in the neighborhood with structures of the same scale that feature both gable and shed dormers. The bulk of the oversized dormers requiring relief will not be visible from the front elevation and the project that alters all facades and is within the footprint of the existing structure. The project that alters all facades was approved administratively by the Chief Preservation Planner. For these reasons, the Planning Department is unconcerned with the petition that increases the nonconforming FAR and alters the nonconforming three and half story structure.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

D. Landscaping

A landscaping plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

- §3.1.3, §7.8.2.C.2 of Section 30, to further extend a nonconforming 3.5-story structure;

- §3.1.3, §3.1.9 §7.8.2.C.2 of Section 30, to further extend the nonconforming FAR;
- §1.5.4.G.2.b of Section 30, to allow dormers exceeding 50% of the length of the wall plane below.

B. Engineering Review

This petition does not meet the minimum threshold for review by the Engineering Division.

C. Newton Historical Commission

The existing two-family dwelling was deemed historically significant and the proposed plans were approved by the Chief Preservation Planner on July 15, 2020. The plans will be reviewed by the Chief Preservation Planner again prior to the issuance of a building permit.

V. PETITIONER'S RESPONSIBILITIES

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Land Use Map
ATTACHMENT B: Zoning Map
ATTACHMENT C: Zoning Review Memorandum, dated September 2, 2020
ATTACHMENT D: DRAFT Council Order




ATTACHMENT A

Zoning

10-12 Sumner Street

*City of Newton,
Massachusetts*

Zoning

-  Single Residence 2
-  Multi-Residence 1
-  Public Use



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: November 04, 2020



ATTACHMENT B





Land Use

10-12 Sumner Street

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Nonprofit Organizations

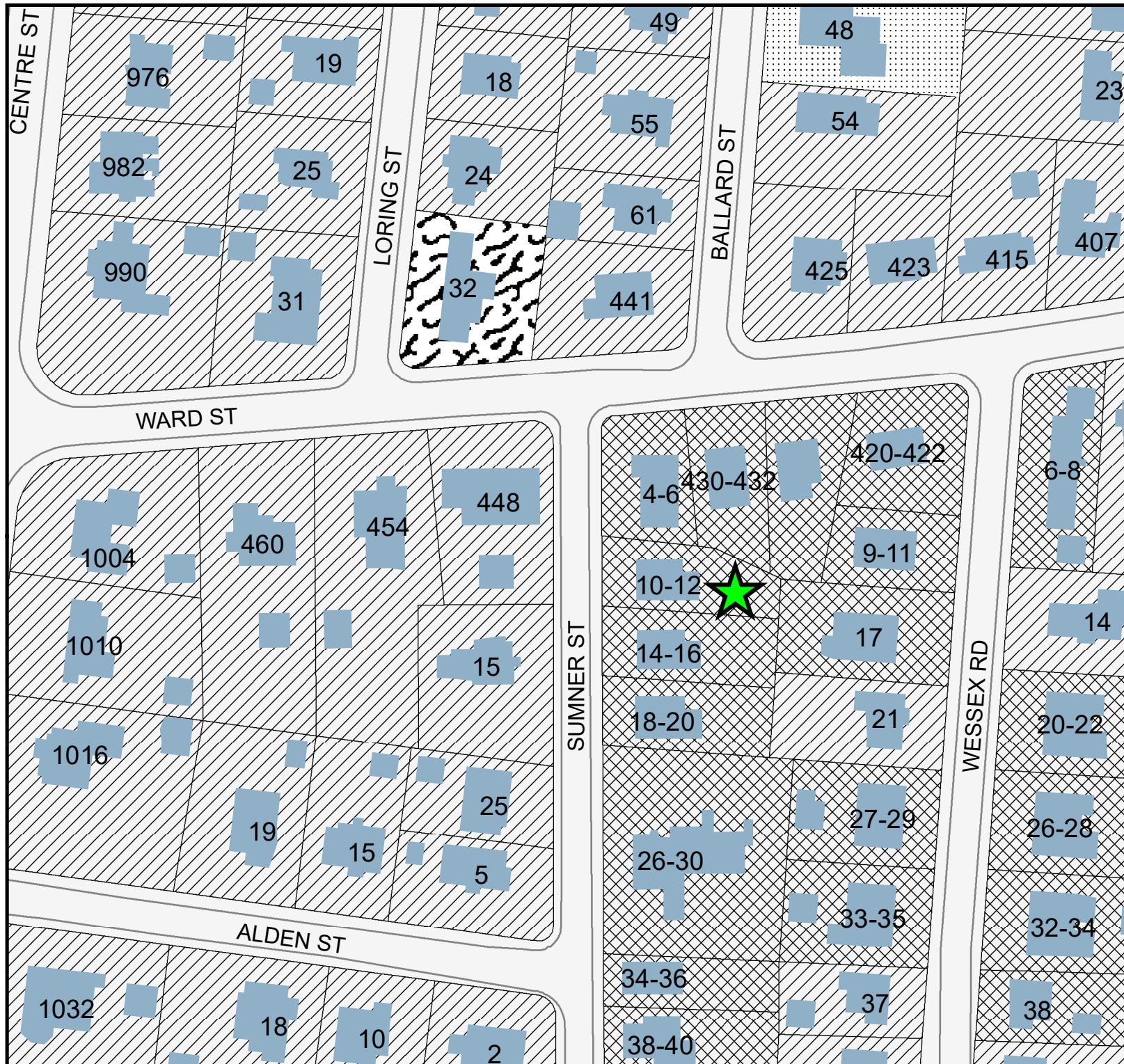


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: November 04, 2020





Ruthanne Fuller
Mayor

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

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: Andrew Salzman and Yuan Salzman Xiujua, Applicants
Michael Huller, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to further increase the nonconformity of a structure regarding the number of stories, to exceed nonconforming FAR, and to allow an oversized dormer

Applicant: Andrew Salzman and Yuan Salzman Xiujua	
Site: 10-12 Sumner Street	SBL: 73048 0024
Zoning: MR1	Lot Area: 6,434 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 10-12 Sumner Street consists of a 6,434 square foot lot improved with a 3.5-story, two-family dwelling constructed in 1940. The petitioners propose to construct dormers to the half story adding living space. The proposed construction will further extend the nonconforming 3.5-story structure and FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Michael Huller, architect, dated 7/14/2020
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 4/3/2020
- Architectural Plans and Elevations, prepared by Michael Huller, architect, submitted 7/14/2020
- FAR worksheet, submitted 7/14/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to increase the height of the structure by raising the roof, and to construct dormers in the half story adding two bedrooms, a bath and laundry, totaling 633 square feet. The proposed additions increase the nonconforming FAR from .67 to .76, where .54 is the maximum allowed per sections 3.2.3 and 3.2.11. A special permit per section 7.8.2.C.2 is required to further increase the nonconforming FAR.
2. Due to the average grade of the property, the basement of the dwelling is considered the first floor, resulting in a 3.5-story structure, where section 3.2.3 allows a maximum of 2.5 stories by right and three by special permit. The proposed dormers further extend the nonconforming half-story above the third story, requiring a special permit per section 7.8.2.C.2.
3. Section 1.5.4.G.2.b requires that a dormer may be no wider than 50 percent of the length of the exterior wall of the story next below. To accommodate the roof configuration at the rear, the petitioners intend to connect the two dormers at a corner. The proposed dormers exceed 50% of length of the exterior wall below, requiring a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,434 square feet	No change
Frontage	70 feet	52 feet	No change
Setbacks			
• Front	25 feet	25.1 feet	No change
• Side	7.5 feet	9 feet	No change
• Side	7.5 feet	9.8 feet	No change
• Rear	15 feet	58.3 feet	No change
Height	36 feet	31.4 feet	35.5 feet
Stories	2.5	3.5	No change
FAR	.54	.67	.76
Max Lot Coverage	30%	20.9%	No change
Min. Open Space	50%	47%	No change

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9 §7.8.2..2	Request to further extend nonconforming FAR	S.P. per §7.3.3
§3.2.3 §7.8.2.C.2	Request to extend a nonconforming 3.5 story structure	S.P. per §7.3.3
§1.5.4.G.2.b	Request to allow a dormer exceeding 50% of the length of the wall plane below it	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 further extend the nonconforming three and a half story structure, to allow dormers that exceed 50% of the wall plane below, and to increase the nonconforming FAR from .67 to .76, where .54 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 proposed oversized dormers that increase the nonconforming FAR, and extend the nonconforming three and a half story structure because the additional floor area is within the footprint of the existing two family structure (§7.3.3.C.1, §3.4.1);
2. The proposed oversized dormers that increase the nonconforming FAR and extend the nonconforming three and a half story structure will not adversely affect the neighborhood because there are structures in with neighborhood with similar scale and style of dormers in the neighborhood. (§7.3.3.C.2, §3.4.1);
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner is not proposing any changes to the parking or circulation (§7.3.3.C.3);
4. Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);
5. The proposed extension of the nonconforming three and a half story structure will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because there are similar style of dormers in the neighborhood and the increase in building height is under the maximum allowed by right. (§3.1.3, §7.8.2.C.2);
6. The proposed increase in the nonconforming FAR from .67 to .76 where .54 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 because there are similar style of dormers in the neighborhood and the increase in building height is under the maximum allowed by right (§3.1.9, and §7.8.2.C.2).
7. The proposed increase in nonconforming FAR is not substantially more detrimental than

the existing nonconforming structure is to the neighborhood because the increase in floor area is within the footprint of the existing structure and does not negatively impact setbacks, lot coverage nor open space. (§3.1.9, and §7.8.2.C.2).

PETITION NUMBER: #398-20

PETITIONER: Andrew P. Salzman

LOCATION: 10-12 Sumner Street, on land known as Section 73, Block 48, Lot 24, containing approximately 6,434 square feet of land

OWNER: Andrew P. Salzman

ADDRESS OF OWNER: 12 Sumner Street
Newton, MA 02459

TO BE USED FOR: Two-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, and §7.8.2.C.2 to extend the nonconforming three and a half story dwelling, §3.1.9, §3.1.3 and §7.8.2.C.2 to increase the nonconforming FAR and §1.5.4.G.2.b and §7.3.3 to allow dormers that exceed more than 50% of the length of the wall below

ZONING: Multi Residence 1

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. Existing Conditions Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated April 3, 2020
 - b. Proposed Dormers, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated September 15, 2020
 - c. Architectural Plans and Elevations, prepared by Michael Huller Architects, signed and stamped by Michael J. Huller, Registered Architect, dated September 14, 2020 consisting of the following six (6) sheets.
 - i. Second Floor Plan
 - ii. Attic Floor Plan

- iii. Proposed Front Elevation
 - iv. Proposed Right Elevation
 - v. Proposed Rear Elevation
 - vi. Proposed Left Elevation
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 and Fire Department.
 3. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 5. 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 statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built 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.