



#10-20(2)

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## City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath  
Director

Ruthanne Fuller  
Mayor

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### PUBLIC HEARING MEMORANDUM

|                           |                   |
|---------------------------|-------------------|
| Public Hearing Date:      | October 13, 2020  |
| Land Use Action Date:     | December 22, 2020 |
| City Council Action Date: | January 4, 2021   |
| 90-Day Expiration Date:   | January 11, 2021  |

DATE: October 9, 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 #10-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #01-20 to allow an FAR of .66, where .53 exists and .55 is the maximum allowed by right and .65 was previously granted by constructing oversized dormers associated with an internal accessory apartment at 68 Manet Road, Ward 7, Chestnut Hill, on land known as Section 61 Block 12 Lot 10, containing approximately 6,300 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 3.2.11, 7.8.2.C.2, 3.4.3.A.1 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**68 Manet Road**

### **EXECUTIVE SUMMARY**

The subject property consists of a 6,300 square foot lot improved with a two-family dwelling constructed circa 1923. The property is located within the Multi Residence 1 (MR-1) zone in Chestnut Hill. The petitioner obtained Special Permit #10-20 which allowed an increase in the FAR and an extension of a nonconforming setback as it pertained to modifications to the detached garage. is seeking to construct dormers to the attic level of the existing two-family dwelling, one of which is oversized, requiring relief and an amendment to a prior special permit, granted in January 2020.

The attic space would be used as an accessory apartment and meets the requirements set forth of the accessory apartment rules and regulations. The addition of dormers to the attic level of the two-family dwelling 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 .53 to .66, where .55 is the maximum allowed as of right, and .65 was previously approved. Additional relief is also required for an oversized dormer that exceeds what the Ordinance allows by right.

The Planning Department is unconcerned with the request to amend Special Permit #10-20 to further exceed the floor area ratio. There are similarly sized lots in the neighborhood with similar size and scale of structures. The additional floor area will not expand the footprint of the structure and the proposed project meets all other dimensional standards. For these reasons, staff does not believe that the increase in FAR will be 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 .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. (§3.1.9 and §7.3.3)
- The site is an appropriate location for the proposed amendments to Council Order #10-20. (§4.4.1 and §7.3.3.C.1)
- The proposed amendments to Council Order #10-20 developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles



B. Building and Site Design

Special Permit #10-20 granted relief to construct dormers to the attic that increased the FAR to .65. The petitioner is proposing to construct shed style dormers to the attic level of the existing two-family dwelling. The dormers add approximately 830 square feet to the attic level of the structure, increasing the FAR from .53 to .66 where .55 is the maximum allowed by right. This is approximately 61 square feet more than what was previously approved in Special Permit #10-20. The allowable FAR as of right is 3,465 square feet, while the petitioner is proposing 4,120 square feet for the two-family structure with the proposed accessory apartment.

The Ordinance requires that dormers be no more than 50% of the wall plane below and no closer than three feet to the intersection of the roof and main building. The proposed dormer on the southern façade is 74% of the length of the wall below and closer than three feet to the intersection of the roof and main building. This requires a special permit for the oversized dormer and to allow a dormer within three feet of intersection of the roof and main structure.

The petitioner is proposing to establish an accessory apartment within the half story of the structure. The Ordinance allows internal accessory apartments as of right if they are no greater than 1000 square feet or 33% of the total habitable space of the principal dwelling, whichever is less. The proposed apartment contains 706 square feet of habitable space which is 32.5% of the total habitable space of the second-floor dwelling unit. As such, the petitioner can establish the accessory apartment as of right, provided that the special permit to exceed the FAR and allow the proposed oversized dormer is granted.

Approved Front Elevation, #10-20



Proposed Front Elevation



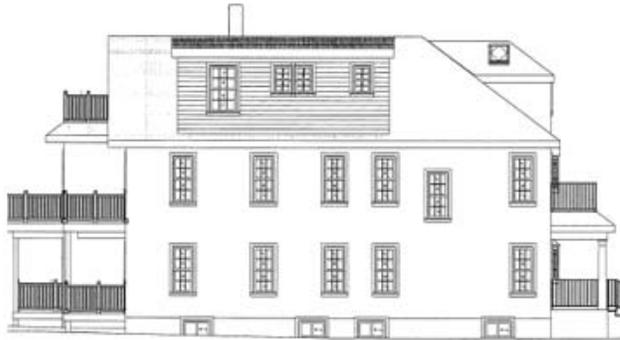
Approved South Elevation #10-20



Proposed South Elevation



Approved North Elevation #10-20



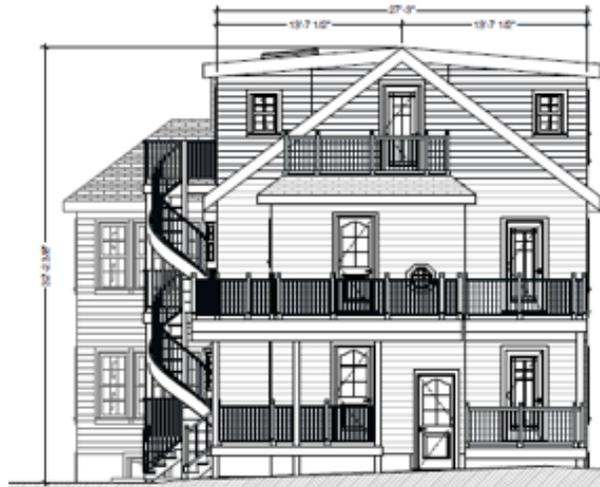
Proposed North Elevation



Approved Rear Elevation #10-20



Proposed Rear Elevation



The property is located in a compact, walkable neighborhood. There are similarly sized structures on similarly sized lots as well as mix of residential uses in the neighborhood and commercial use at the corner of Manet Road and Commonwealth Ave. Staff does not believe that the increase in FAR, due to the change in dormer styles, will be in derogation of the size, scale, and design of other structures in the neighborhood.

C. Parking and Circulation

There are not proposed changes to the parking or circulation of the 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:

- To amend Council Order #10-20;
- §3.1.9 and §7.3.3 of Section 30, to exceed the FAR;
- §1.5.4.G.1.b and §7.3.3 of Section 30, to allow a dormer exceeding 50% of the wall plane below; and
- §1.5.4.G.1.c and §7.3.3 of Section 30, to allow a dormer closer than three feet from the intersection of the roof and main building.

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time.

C. Newton Historical Commission Review

Review from the Newton Historical Commission is not required at this time.

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

### 68 Manet Road

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



Map Date: December 26, 2019



# ATTACHMENT B

## Land Use

### 68 Manet Road

*City of Newton,  
Massachusetts*

#### Land Use

#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Vacant Land

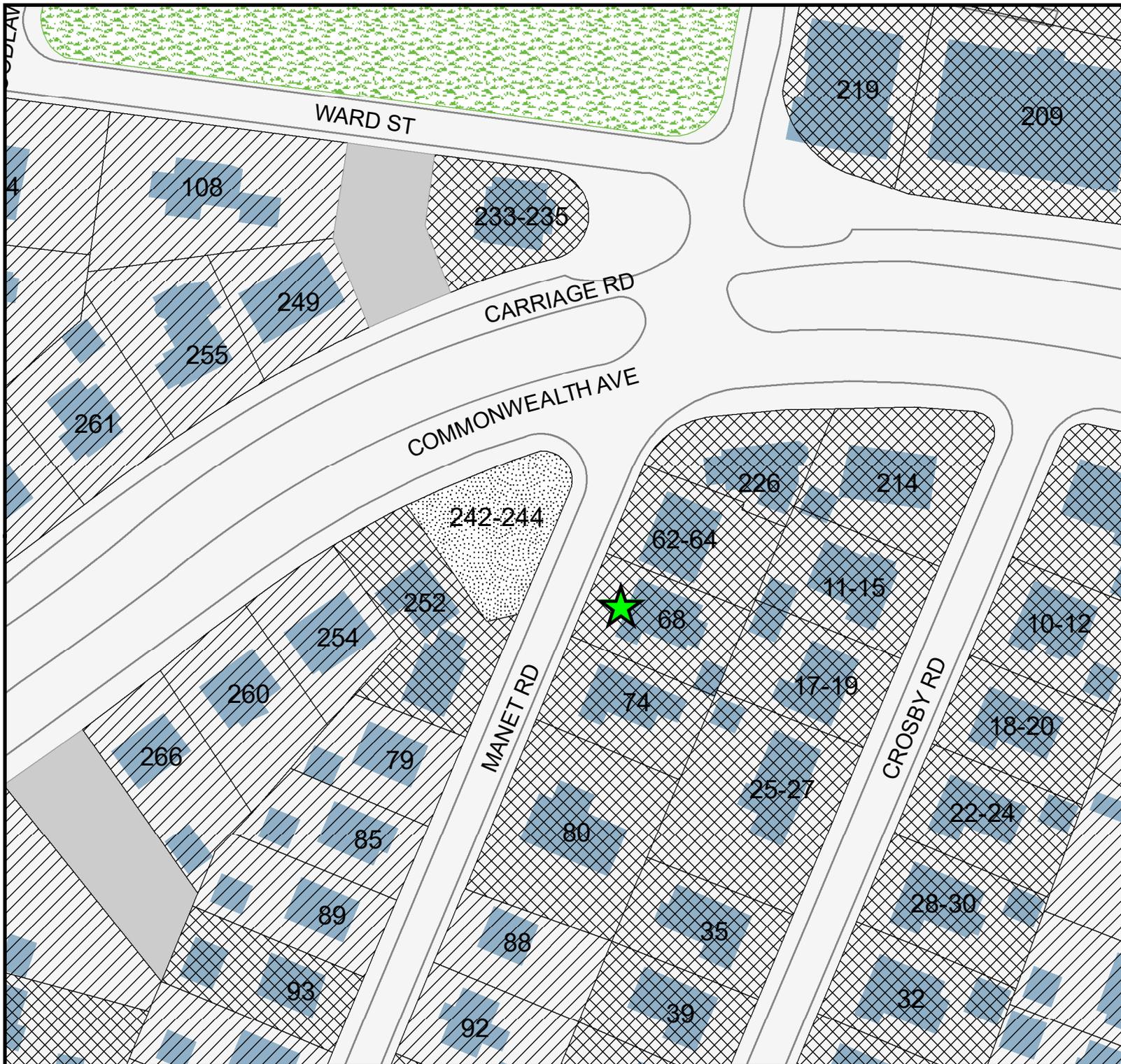


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: December 26, 2019





**Ruthanne Fuller**  
Mayor

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: August 12, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mohammed and Josephine Aref, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: **Request to amend Special Permit #10-20 to further exceed FAR and to allow an oversized dormer**

| Applicant: Mohammed & Josephine Aref |  |
|--------------------------------------|--|
| Site: 68 Manet Road                  | SBL: 61012 0010  |
| Zoning: MR1                          | Lot Area: 6,300 square feet  |
| Current use: Two-family dwelling     | Proposed use: Two-family dwelling with an internal accessory apartment |

### BACKGROUND:

The property at 68 Manet Road consists of a 6,300 square foot lot improved with a two-family residence and a detached garage structure constructed in 1923. The petitioner was granted a special permit to exceed the FAR with gable-dormers to the attic. The petitioner seeks to amend the special permit to construct shed-roof dormers in the attic increasing the FAR beyond that which was permitted by the special permit.

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

- Zoning Review Application, prepared Mohammed Aref, applicant, dated 6/25/2020
- FAR Worksheet, 6/25/2020
- Architectural plans and elevations, signed and stamped by Najim Azad, architect, dated 6/16/2020
- Proposed half story calculation, signed and stamped by Najim Azad, architect, dated 6/24/2020

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner was granted Special Permit #10-20 to exceed FAR with the addition of two gable-roof dormers. The petitioner seeks to amend the special permit to construct shed-roof dormers at the attic level, adding 830 square feet, where the original special permit approved 769 square feet. The existing FAR is .53, where .55 is the maximum allowed per section 3.2.3. The original special permit granted an FAR of .65. The proposed modifications increase the FAR to .66, requiring an amendment to the special permit pursuant to Sections 3.2.3 and 3.2.11.
2. The proposed shed dormer on the southern façade measures 22.5 feet, which is 74% of the 30.5 foot wall plane below it. Per section 1.5.4.G.1.b a dormer wider than 50% of the length of the exterior wall of the story next below requires a special permit.
3. Section 1.5.4.G.1.c requires that the vertical plane of the side wall of any dormer cannot be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. The proposed south-facing dormer is 2.56 feet from the intersection of the roof and main building, requiring a special permit.
4. The petitioner intends to create an accessory apartment in the attic. Per section 6.7.1.D.2 an internal accessory apartment may be up to 1,000 square feet or 33% of the habitable space of the principal dwelling unit, whichever is less. After the proposed dormer additions, the second floor dwelling unit will have a total of 2,171 square feet, allowing for an 716 square foot apartment. The proposed apartment has 706 square feet of habitable space, requiring no relief.

| <b>MR1 Zone</b>       | <b>Required</b>   | <b>Existing</b>          | <b>Proposed</b>  |
|-----------------------|-------------------|--------------------------|------------------|
| Lot Size              | 7,000 square feet | <b>6,300 square feet</b> | <b>No change</b> |
| Frontage              | 70 feet           | <b>60 feet</b>           | <b>No change</b> |
| Setbacks - Principal  |                   |                          |                  |
| • Front               | 25 feet           | <b>19 feet</b>           | <b>No change</b> |
| • Side                | 7.5 feet          | 7.5 feet                 | No change        |
| • Side                | 7.5 feet          | 15.1 feet                | No change        |
| • Rear                | 15 feet           | 23.1 feet                | No change        |
| Max Number of Stories | 2.5               | 2.5                      | No change        |
| Max Height            | 36 feet           | 31 feet                  | No change        |
| FAR                   | .55               | .53 (.65 approved)       | <b>.66</b>       |
| Max Lot Coverage      | 30%               | 30%                      | No change        |
| Min. Open Space       | 50%               | 52%                      | No change        |

1. See "Zoning Relief Summary" below:

| <b>Zoning Relief Required</b> |  |                        |
|-------------------------------|--|------------------------|
| <i>Ordinance</i>              |  | <i>Action Required</i> |
|                               | Amend Special Permit #10-20  | S.P. per §7.3.3        |
| §3.2.3<br>§3.2.11             | Request to exceed FAR  | S.P. per §7.3.3        |
| §1.5.4.G.1.b                  | Request to allow a dormer exceeding 50% of the story next below                                      | S.P. per §7.3.3        |
| §1.5.4.G.1.c                  | Request to allow a dormer closer than three feet from the intersection of the roof and main building | 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 amend council Order, exceed the floor area ratio (the "FAR") from .53 to .65, 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 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

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.