Petition: **#142-23**
Public Hearing:
05/16/23

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
Telephone: 617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: May 12, 2023

TO: City Council

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

SUBJECT: **Petition #142-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to raze an existing detached garage and construct an attached two-car garage with living space above which increases the non- conforming FAR at **46 Valley Spring Road,** Ward 7, on land known as Section 72, Block 39, Lot 02, containing approximately 10,000 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 3.1.3, 3.1.9, 7.8.2.C.2of 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.

46 Valley Spring Road

Project Description

Background

The subject property at 46 Valley Spring Road consists of a 10,000 square foot lot in a Single Residence 2 (SR2) zoning district improved with a 4,393 square foot, three and a half story single-family dwelling constructed in 2002 and a 588 square foot detached garage in the rear left of the parcel.

The petitioner proposes to demolish the existing detached garage and rear deck and construct additions to the dwelling measuring 1,336 square foot in the aggregate. The additions include an attached 528 square foot two-car garage with living space above, and a rear screen porch and deck.

There is an eleven foot downward grade change from the highest point at the western front corner to the lowest point in the eastern rear corner of the lot. As the proposed two-story garage addition would be located towards the lower rear eastern corner, it would lower the average grade around the dwelling by 1.1 feet. While the existing ridgeline of the dwelling would be unchanged, the addition would result in an increase of the dwelling's measured height above the average grade from 35.3 feet to 36.4 feet, slightly above the maximum 36 feet allowed per Section 3.13 of the Newton Zoning Ordinance (NZO). On April 26, 2022, the Zoning Board of Appeals granted a variance per Section 7.6 of the NZO to allow the proposed nonconforming 36.4 foot height.

The subject property, and the residential neighborhood to the north, are within a Single Residence 2 (SR2) zoning district; a Single Residence 1 (SR1) is located further to the north and west. Directly to the south is the Public Use (PU)-zoned City-owned Newton Commonwealth Golf Course.

Need for Special Permit

The proposed construction would further increase the property's floor area by approx. 1,336 square feet, from 4,981 to 5,798 square feet, which would increase the nonconforming FAR from 0.49 to 0.57 where 0.38 is the maximum allowed by right, requiring a special permit to further increase the nonconforming FAR.

Analysis and Recommendations

Planning is generally not concerned with the proposed additions. Those along the rear of the structure would face the abutting golf course, and the proposed garage/living space addition on the left side would be located about 45 feet from the adjacent public right-of-way and several feet further from the left side property line than the existing detached garage. Also, as proposed the work would reduce the amount of impervious area on the lot by approx. 216 square feet, from 3,697 to 3,481 square feet.

I. ZONING RELIEF REQUESTED:

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	Request to allow 36.4 feet in height	Variance per §7.6

For more details regarding the zoning analysis please refer to **Attachment A.**

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

- The proposed expanded structure with an increased nonconforming floor area ratio (FAR) of 0.49 to 0.57 where 0.38 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)

- The proposed expanded structure with an increased nonconforming floor area ratio (FAR) of 0.54 where 0.38 exists and 0.36 is the maximum allowed by-right would be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§7.8.2.C.2)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property consists of a 10,000 square foot lot located at Spring Valley Road's intersection with Dorr Road. It is improved with a 4,393 square foot, three and a half story, and 35.3 foot high, single-family dwelling, and a 588 square foot detached garage. The lot has an 11-foot downward grade change from its highest point at the right (western) front corner to the lowest point in the left (eastern) rear corner of this lot, the latter being the location of the existing detached garage.

The site is accessed by a curb cut and driveway, the width of which increases as it extends from the back of the sidewalk to the front of the current garage.

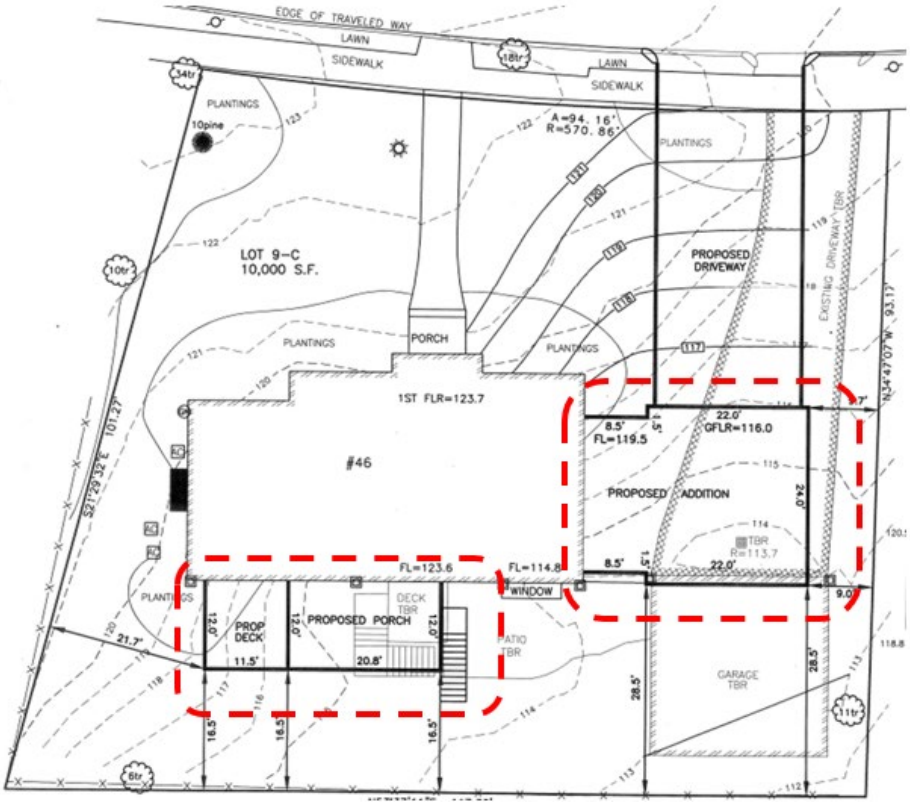
IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

If approved, the use will remain a single-family dwelling.

B. Site and Building Design

The petitioner proposes to demolish the existing detached garage and construct additions to the dwelling, including an attached 528 square foot two-car garage with living space above, and a rear screen porch and deck.



Proposed site plan with proposed additions indicated

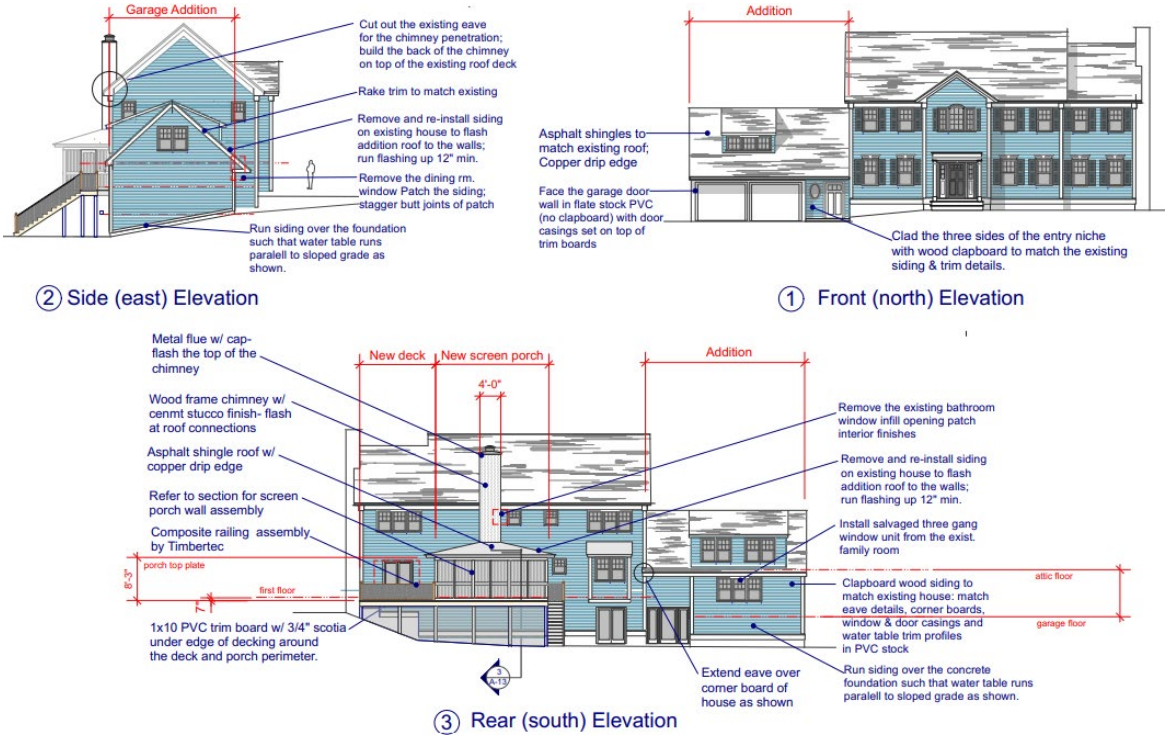
The proposed modifications would, in the aggregate, increase the property's floor area countable toward the calculated floor area ratio (FAR) by approx. 1,336 square feet, from 4,981 to 5,798 square feet. This would increase the already nonconforming FAR from 0.49 to 0.57 where 0.38 is the maximum allowed by right.

As designed, the location of the dwelling's existing conforming ridgeline height of 35.3 feet would not be altered. The two-story garage addition is proposed at the lower rear eastern corner of the lot, thus lowering the average grade around the dwelling

by 1.1 feet. This results in an increase in the dwelling's measured height from 35.3 feet to 36.4 feet, slightly higher than the maximum 36 feet, necessitating a variance which was recently granted by the Zoning Board of Appeals.

Regarding setbacks, there would be no changes to the property's front and right side setbacks. The dwelling's left side setback would be reduced by the attached garage to nine feet, remaining in excess of the required 7.5 feet. The rear setback would be reduced from approx. 28.5 to 16.5 feet, remaining in excess of the required 15 feet. The Planning Department the notes that the proposed attached garage would be set back from the left and rear property lines by two feet and 21 feet, respectively, than the existing detached garage.

As designed, the parcel's lot coverage would be increased from 21.4% to 25.1%, remaining below the maximum 30% allowed by right. The property's open space would be decreased from 67% to 65%, remaining above the minimum 50% required. Also, as the site of the existing garage would be converted to lawn area, and the proposed attached garage would be located on what is now paved driveway area, the amount of impervious area on the parcel would be reduced by approx. 216 square feet.



Proposed left, front and rear elevations

C. Parking and Circulation

The petitioner is seeking to eliminate the existing 588 square foot single car detached garage in the rear left of the property and construct a new attached, street-facing, 528 square foot two-car garage (with living space above) on the same side of the parcel and essentially directly in front of the location of the existing garage.

The proposed garage would be located approx. 45 feet from the street (about 23 feet closer than the existing garage). The location of the property's single curb cut would be shifted to the right and widened by several feet. The petitioner should confirm the proposed driveway width and try to minimize paving, where possible.

D. Landscaping

A landscape plan was not provided with this petition.

The Planning Department suggests that the petitioner consider installing some vegetative screening along the left property line in the general location of the proposed garage addition.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** As the dwelling was constructed in 2002, review by the Newton historic Commission is not required.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum
Attachment B: DRAFT Council Order

Ruthanne Fuller
Mayor

ATTACHMENT A

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 10, 2023

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Akinobu and Naoko Itoh, Applicants
Jay Walter, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request for a special permit to further extend nonconforming FAR and a variance to exceed 36 feet in height

Applicant: Akinobu & Naoko Itoh	
Site: 46 Valley Spring Road	**SBL:** 72039 0002
Zoning: SR2	**Lot Area:** 10,000 square feet
Current use: Single-family dwelling	**Proposed use:** No change

BACKGROUND:

The property at 46 Valley Spring Road consists of a 10,000 square foot lot improved with a single-family dwelling constructed in 2002. The petitioner proposes to construct additions to the dwelling which will further extend the nonconforming FAR, requiring a special permit and will result in a height exceeding 36 feet, requiring a variance.

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

- Zoning Review Application, prepared Jay Walter, architect, dated 2/17/2023
- Plan of Land, prepared by Everett M. Brooks, surveyor, dated 1/17/2023
- Floor Plans and Elevations, prepared by Jay Walter, architect, dated 2/15/2023
- FAR calculations, submitted 2/17/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to raze an existing detached garage and construct an attached two-car garage with living space above, as well as a rear screen porch and deck. The proposed construction increases the nonconforming FAR from .49 to 57, where .38 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit per section 7.8.2.C.2.

2. There is an 11-foot grade change from the highest point at the western front corner to the lowest point in the eastern rear corner of this lot. The dwelling has an existing conforming height of 35.3 feet, where 36 feet is the maximum allowed per section 3.13. The two-story garage addition is proposed towards the rear eastern corner in the lower portion of the lot. As such, the addition lowers the average grade around the dwelling by 1.1 feet, resulting in an increase in building height from 35.3 feet to 36.4 feet. The existing ridgeline of the dwelling is unchanged. A variance per section 7.6 is required to allow 36.4 feet in height.

SR2 Zone	**Required**	**Existing**	**Proposed**
Lot Size	10,000 square feet	10,000 square feet	No change
Frontage	80 feet	94 feet	No change
Setbacks • Front • Side • Side • Rear	 25 feet 7.5 feet 7.5 feet 15 feet	 NA feet feet feet	 No change No change 9 feet 16.5 feet
Height	36 feet	35.3 feet	**36.4 feet***
Stories	2.5	**3.5**	**No change**
FAR	.38	**.49**	**.57***
Max Lot Coverage	30%	21.4%	25.1%
Min. Open Space	50%	67%	65%

BOLD indicates a nonconformity
*Relief required

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	Request to allow 36.4 feet in height	Variance per §7.6

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 floor area ratio (FAR), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed expanded structure with an increased nonconforming FAR of 0.57 where 0.49 exists and 0.38 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 neighborhood features similarly scaled dwellings, many of which have living space located above attached garages. (§3.1.9)
2. The proposed expanded structure with an increased nonconforming FAR of 0.57 where 0.49 exists and 0.38 is the maximum allowed by-right would not be substantially more detrimental than the existing nonconforming structure is to the neighborhood given the proposed additions would have limited or no visibility from nearby dwellings and public rights of way. (§7.8.2.C.2)

PETITION NUMBER:	#142-23
PETITIONER:	Akinobu and Naoko Itoh
LOCATION:	46 Valley Spring Road, Ward 7, on land known as Section 72, Block 39, Lot 02, containing approximately 10,000 sq. ft. of land
OWNER:	Akinobu and Naoko Itoh
ADDRESS OF OWNER:	46 Valley Spring Road Newton, MA 02459
TO BE USED FOR:	Single-family dwelling

RELIEF NEEDED: Special permit as per §7.3.3 tofurther extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)

ZONING: Single Residence 2 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 the following plans:
   a. A site plan entitled "Plan of Land in Newton, MA, 46 Valley Spring Road, Proposed Additions," prepared by Everett M. Brooks Co., dated January 17, 2023, signed and stamped by Bruce Bradford, Professional Land Surveyor
   b. A set of architectural plans entitled "Itoh/ Ono Residence. 46 Valley Spring Rd. Newton, MA," prepared by Entasis PC, Jay C. Walter, AIA, dated February 25, 2023, consisting of the following sheets:
      i. A-1 Plot Plan & General Notes
      ii. A-2 Existing floor Plan w/ Demo. Notes
      iii. A-3 First Floor Plan
      iv. A-4 Second Floor Plan
      v. A-5 Bsmt. & Roof Plans/ Door & Window Schedule
      vi. A-6 Kitchen Part-plan
      vii. A-7 Entry Part-plans
      viii. A-8 Porch Part-plan
      ix. A-9 Reflected Ceiling Plans & Lighting Schedule
      x. A-10 FAR Plans
      xi. A-11 Exterior Elevations
      xii. A-12 Framing Plans
      xiii. A-13 Wall & Building Sections
2. The Petitioner shall do the following to remediate pest and rodent activity:
   a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
   b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to

issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.

c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.

3. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
   a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
   b. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
   c. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
4. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the petitioner has:
   a. Filed with the building permit record statements by a registered architect, professional land surveyor, or professional engineer, certifying compliance with Condition #1, including the as built FAR.
   b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.