



Ruthanne Fuller
Mayor

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

Petition: #77-25
Public Hearing:
4/08/25

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: April 3, 2025

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Deputy Chief Planner for Current Planning

SUBJECT: **Petition #77-25** for SPECIAL PERMIT/SITE PLAN APPROVAL to exceed FAR

APPLICATION RECORD: <https://newtonma.viewpointcloud.com/records/860197>

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.



71 Commonwealth Ave

Project Description

Background

The subject property consists of a 10,009 square foot lot in the multi-residence 1 (MR-1) zoning district. 71 Commonwealth Avenue and 15 Algonquin Road were previously combined into one large lot with special permit approval for a larger residential development. The owner opted not to exercise that special permit, and it is now inactive. The lot was then subsequently subdivided into three separate lots including 71 Commonwealth Avenue, 15 Algonquin Road, and the vacant subject parcel.

Special Permit

The petitioner proposes constructing a new two-family dwelling on the newly created lot. The proposed design requires relief to exceed the floor area ratio (FAR) allowed by right.

Analysis

The Planning Department notes no significant concerns with the request to exceed FAR. The project as designed meets all other by-right dimensional requirements including setbacks, height, and lot coverage. Staff note suggest the petitioner consider a reduction in FAR to come closer to the amount allowed by right given this project is new construction. Staff recommend utilizing permeable paving where possible.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11	Request to exceed FAR	S.P. per §7.3.3

For more details around the zoning analysis please refer to **ATTACHMENT A**.

II. Criteria for Consideration per §7.8.2.C.2:

- The proposed project that requires relief to exceed the allowed Floor Area Ratio is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.2.3, §3.2.11)

III. Project Proposal and Site Characteristics

Site

The subject property is located in Chestnut Hill in the MR-1 district. The neighborhood is

predominantly residential with a mix of single and multi-family uses, with a private educational use, Boston College, across Commonwealth Avenue. The properties north on Algonquin Street and east on Commonwealth Avenue are mostly in the MR-1 zone, with some Single Residence - 2 parcels to the west and Multi-Residence 2 east on Commonwealth Ave. There is Public Use east of the site, at the Boston College MBTA station. The property has an upwards slope of approximately 5% from the front to the rear, with a high point at the rear. The site features several existing concrete retaining walls at the rear and along the Commonwealth Avenue frontage. The site previously had concrete steps leading up from street and a pool that was associated with the abutting dwelling at 71 Commonwealth Avenue.

IV. Project Description and Analysis

Site Design

The petitioner proposes to construct a new two-family dwelling on the now vacant parcel. The project will conform to most of the relevant zoning dimensional requirements including lot size, frontage, setbacks, and lot area per unit. The height will be compliant at 34.5 feet where up to 36 feet is allowed and two stories tall where up to two and a half stories are allowed by right. Lot coverage is conforming at 27.8% where up to 30% is allowed. Open space is also conforming at 51.1% where a minimum of 50% applies, though staff note that it is close to the minimum required. Should this petition be approved, the petitioner should be mindful to avoid any changes that could impact open space as it could result in the need for a consistency ruling, amendment, or variance. The dwelling is proposed with a floor area of 5,211 square feet, resulting in a FAR of .52. Because up to .48 is the maximum allowed by right, special permit relief is required.

Both units will be located in the same building, which will have a main entrance facing Commonwealth Avenue and the massing arranged in roughly an "L" shape. The building has a modern design with a dedicated two car garage for each unit, which will be accessed via a new paved driveway off of Commonwealth Avenue that the units will share. The design includes several architectural features which project at least 12 inches from the façade of the building and extend above the second story. The Commissioner of Inspectional Services has determined these features are considered gables rather than dormers, and thus no relief is required for that element of the design.

Grading and landscaping

Based on the topographical contours and retaining wall elevations on the existing and proposed plan, portions of the site will be regraded. The existing grade will be lowered and evened out in some areas near the front of the property and much of the middle of the lot will be flattened to accommodate the new building. The existing retaining walls at the rear of the site will be removed. Several new retaining walls are proposed along the right side of the property, lining the driveway entrance, and along both a front and side entrance. None of these walls require

relief as the tallest section reaches a maximum height of three and a half feet. The retaining walls along the Commonwealth Avenue Frontage will remain, though a portion of the walls will be removed and reconfigured to accommodate the new driveway. The petitioner has provided a landscaping plan which includes several flowers, shrubs, and trees toward the front and rear of the site.

V. Interdepartmental Review

Engineering Review

Because the project includes retaining walls, a new drainage system, and an increase in impervious surface that exceeds 400 square feet, the Engineering Department will review and approve the plan before a building permit can be issued.

Review from other departments is not required at this time.

VI. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

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



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 20, 2025

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Brian Connaughton, 0 Comm Ave LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: **Request to exceed FAR**

Applicant: 0 Comm Ave LLC	
Site: 71 Commonwealth Avenue	SBL: 63001 0013
Zoning: MR1	Lot Area: 10,009 square feet
Current use: Vacant	Proposed use: Two-family dwelling

BACKGROUND:

The subject property is a newly created lot, having been part of a subdivision that combined 71 Commonwealth Avenue and 15 Algonquin Road and then subdivided the two parcels into three separate lots. The petitioner proposes to construct a new two-family dwelling exceeding FAR and with over-sized dormers on the newly created vacant parcel, requiring a special permit.

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

- Zoning Review Application, prepared Brian Connaughton, applicant, dated 11/20/2024
- Existing Site Plan, signed and stamped by Peter J. Nolan, surveyor, dated 1/8/2024
- Proposed Zoning Plan, prepared by Spruhan Engineering, dated 1/27/2025
- Civil Plan, prepared by Spruhan Engineering, dated 1/27/2025
- FAR worksheet, submitted 2/3/2025

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a two-family dwelling on the now vacant parcel. The dwelling is proposed with 5,211 square feet, resulting in an FAR of .52 where .48 is the maximum allowed per sections 3.2.3 and 3.2.11. A special permit is required to exceed the maximum FAR.
2. The Commissioner of Inspectional Services has determined that architectural features which project at least 12 inches from the façade of a building and extending above the second story or roof are considered gables rather than dormers. As such, the features on each side of the building are gables and require no relief.

MR1 Zone	Required	Proposed
Lot Size	10,000 square feet	10,015 square feet
Frontage	80 feet	90 feet
Setbacks		
• Front	30 feet	32.3 feet
• Side	10 feet	10.3 feet
• Rear	15 feet	15.5 feet
FAR	.48	.52*
Height	36 feet	34.5 feet
Stories	2.5	2
Lot Area Per Unit	5,000 square feet	5,007 square feet
Max Lot Coverage	30%	27.8%
Min. Open Space	50%	51.1%

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §3.2.11	Request to exceed FAR	S.P. per §7.3.3

#77-25
71 Commonwealth Ave

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 allow a floor area ratio (FAR) of .52 as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

FINDINGS:

1. The specific site is an appropriate location for the two-family dwelling that will exceed the maximum FAR because the project meets other dimensional requirements including height, lot size, open space, and lot area per unit. (§7.3.3.C.1)
2. The project that will exceed maximum FAR will not adversely affect the neighborhood because the project meets required setbacks and breaks up the bulk of the structure through variations in the massing which mitigate the impact when viewed from the street. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the project that will exceed maximum FAR because adequate parking will be provided on site. (§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 project that requires relief to exceed the allowed FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because other structures in proximity are built to a similar size and scale. (§3.2.3, §3.2.11)

PETITION NUMBER: #77-25

PETITIONER: 0 Comm Ave LLC

LOCATION: 71 Commonwealth Avenue, Ward 7, Chestnut Hill, on land known as Section 63 Block 01 Lot 13, containing approximately 10,009 sq. ft. of land

OWNER: 0 Comm Ave LLC

ADDRESS OF OWNER: 73R Morse Street
Watertown, MA 02472

TO BE USED FOR: Two family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to exceed the FAR (§3.1.3, §3.1.9)

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. Site plan signed and stamped by Peter J. Nolan, Professional Land Surveyor, and Edmond Spruhan, Professional Engineer, dated 2/26/2025
 - b. Architectural plans prepared by Tise Home Design dated 3/13/25 consisting of the following sheets:
 - i. Sheet A.07 (showing front and right exterior elevations)
 - ii. Sheet A.08 (showing rear and left exterior elevations)
 - c. Landscaping plan prepared by Tise Home Design dated 3/6/2025 consisting of one sheet
2. 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. 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.
3. 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 for the portion of the project for which occupancy is requested, and the Petitioner has:
 - a. Filed with the building permit record statements by a professional land surveyor (or professional engineer) and registered architect 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.
4. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.