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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: August 15, 2025

TO: City Council

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

SUBJECT: **Petition #226-25** Request to further increase nonconforming height at 163 Lincoln Street, SPECIAL PERMIT/SITE PLAN APPROVAL by constructing a two-story rear addition which further increases the nonconforming height at 163 Lincoln Street Ward 5, Newton Highlands, on land known as Section 52 Block 01, Lot 21, containing approximately 24,185 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 3.1.3 and 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Application Materials: <https://newtonma.portal.opengov.com/records/884550>

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.



163 Lincoln Street

Project Description

Use: Single family residence
Zoning: Single Residence 2 (SR-2)
Lot Size: 24,185 square feet
Nonconformities:

- Existing nonconforming height of 38.7 feet where 36 feet is the maximum allowed

Existing Site and Neighborhood

The subject property consists of a 24,185 square foot lot. The property is improved with a single-family dwelling constructed circa 1885 and a detached garage constructed in 1962. The subject property is located in the Single Residence (SR-2) zone in Newton Highlands. The property is also registered within a Historic District. The immediate area and surrounding neighborhood includes mixed districts and including Single Residence 2, Multi-Residence 1 and 3, Multi-Residence Transit, Village Center 2, Business 1 and Public Use zones.

While a topographic site plan was not submitted with this petition, the site and abutting properties appear to be relatively level.

Proposal

The petitioner proposes to construct a 1,142 square foot rear, two-story addition abutting the existing single-family dwelling. The proposed rear addition increases the existing nonconforming height from 38.7 feet to 38.9 feet where 36 feet is the maximum allowed per §3.1.3 requiring a special permit to increase the nonconforming height per §7.8.2.C.2. While the proposed addition does not increase beyond the existing ridgeline, a slight downward slope at the rear of the dwelling lowers the average grade and results in a slight increase in the nonconforming height by approximately 2.4 inches resulting in 38.9 feet in height.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to further increase nonconforming height	S.P. per §7.3.3

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

II. Criteria for Consideration per §3.1.3, and §7.8.2.C.2:

- The proposed increase in nonconforming height is not substantially more detrimental

than the existing nonconforming height is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

III. Analysis

A. Land Use

If approved, the land use of this site will remain single family residential.

B. Site Design

Planning believes the design is appropriate for the location, and surrounding neighborhood. The addition will be at the rear of the property and will not impact the view from Lincoln Street. The design appears to be well-integrated into the layout of the existing home. Furthermore, abutting properties of similar sizes are present along Lincoln Street.

Planning notes there will be no changes to the number of stories (2.5), frontage, front and side setbacks. The rear setback will change from 101.7 feet to 76.7 feet, where 15 feet is the minimum required. The proposed work will increase the FAR from .24 to .31 where .33 is the maximum allowed by right. Lot coverage will increase from the existing 11.6% to 15.1% where 30% is the maximum allowed. Open space will be reduced slightly from 78.8% to 75.4% where a minimum of 50% is required.

The proposed addition received an internal review by the city's Historical Department staff, and was issued a de minimis determination that did not require further review and approval from the Newton Historical Commission.

IV. PETITIONER'S RESPONSIBILITIES

This petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: DRAFT Council Order



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ZONING REVIEW MEMORANDUM

Date: July 17, 2025

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Jonathan Weinstein, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to extend nonconforming height

Applicant: Jonathan Weinstein	
Site: 163 Lincoln Street	SBL: 52001 0021
Zoning: SR2	Lot Area: 24,185 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 163 Lincoln Street consists of a 24,185 square foot lot improved with a single-family dwelling constructed circa 1885 and a detached garage constructed in 1962. The petitioners propose to construct a two-story rear addition which increases the nonconforming height, requiring a special permit.

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

- Zoning Review Application, prepared by Jonathan Weinstein, applicant, submitted 6/16/2025
- Existing Conditions Plan of Land, signed and stamped by Bradley J. Simonelli, surveyor, dated 3/26/2025, revised 4/14/2025, 6/4/2025
- Proposed Conditions Site Plan, signed and stamped by Bradley J. Simonelli, surveyor, dated 2/202/2025, revised 4/1/2025, 6/4/2025
- Floor Plans and Elevations, signed and stamped by John M. Rufo, architect, dated 3/19/2025
- FAR calculations, submitted 6/16/2025

ADMINISTRATIVE DETERMINATIONS:

- The petitioner proposes to construct a two-story rear addition. The dwelling has an existing nonconforming height of 38.7 feet, where 36 feet is the maximum allowed per section 3.1.3. While the proposed addition does not extend beyond the existing ridgeline, a slight downward slope at the rear of the dwelling lowers the average grade and results in an increase in the nonconforming height by approximately 2.4 inches to 38.9 feet. The proposed construction further increases the nonconforming height, requiring a special permit per section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	24,185 square feet	No change
Frontage	100 feet	116.5 feet	No change
Setbacks			
• Front	25 feet	28.4 feet	No change
• Side	7.5 feet	40.6 feet	No change
• Side	7.5 feet	29.8 feet	No change
• Rear	15 feet	101.7 feet	76.7 feet
Height	36 feet	38.7 feet	38.9 feet*
Stories	2.5	2.5	No change
FAR	.33	.24	.31
Max Lot Coverage	30%	11.6%	15.1%
Min. Open Space	50%	78.8%	75.4%

BOLD indicates a nonconformity

*Relief required

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to further increase nonconforming height	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 construct a two-story rear addition further increasing the nonconforming height for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed increase in nonconforming height is not substantially more detrimental than the existing nonconforming height is to the neighborhood as the two-story addition meets all other dimensional standards and is designed to complement the existing nonconforming single-family dwelling. (§7.8.2.C.2)

PETITION NUMBER: #226-25

PETITIONER: Jonathan Weinstein

LOCATION: 163 Lincoln Street, Ward 5, Newton, on land known as Section 52 Block 01 Lot 21, containing approximately 24,185 sq. ft. of land in a district zoned SINGLE RESIDENCE 2

OWNER: Jonathan Weinstein

ADDRESS OF OWNER: 163 Lincoln Street
Newton, MA 02461

TO BE USED FOR: Single-Family Dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to allow for construction of a two-story rear addition increasing the existing nonconforming height from 38.7 feet to 38.9 feet where 36 feet is the maximum allowed (§3.1.3 and §7.8.2.C.2)

ZONING: Single Residence 2

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 titled "Proposed Conditions Plan" signed and stamped by Bradley Simonelli, Professional Land Surveyor, dated 2/20/2025 and revised 4/1/2025 and 6/4/2025.
 - b. Architectural Plans titled, "Addition to Petti Residence" signed and stamped by John M. Rufo, Registered Architect, dated 3/19/2025, consisting of the following sheets:
 - i. Pg. A-3.01 showing proposed elevations
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 City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by professional land surveyor and registered architect certifying compliance with Condition #1, including FAR calculations.
 - 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.