

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: June 2, 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 #196-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a half-story addition, vertically extending a nonconforming side setback on an existing detached accessory structure at **231-233 Tremont Street**, Ward 1, Newton, on land known as Section 71 Block 38 Lot 15, containing approximately 6,400 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 3.4.3.A.1, 7.8.2.C.2 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.



231-233 Tremont Street

Project Description

Background

The subject property at 231-233 Tremont Street consists of a 6,400 square foot lot in a Multi Residence 2 (MR2) zoning district improved with a three-unit, 2,880 square foot multi-family dwelling constructed circa 1925 and a 342 square foot, single story detached garage in the rear left (west) corner of the parcel.

The garage has a nonconforming side setback of three feet along the left property line where five feet is required by the Newton Zoning Ordinance (NZO). The petitioner proposes to construct a 131 square foot half-story gable-roofed addition with two dormers atop the garage, extending its nonconforming left side setback upward approximately ten feet.

The immediately surrounding neighborhood and the subject property are zoned Multi Residence 2 (MR2). There are Single Residence 3 (SR3), Multi Residence 2 (MR2), and Single Residence 2 (SR2) zoning districts to the north, west, and south, respectively.

Need for Special Permit

The proposed upward vertical extension of the nonconforming three-foot left side setback where five feet is the minimum by requires a special permit per Sec. 7.8.2.C.2.

Analysis and Recommendations

The Planning Department is generally not concerned with the proposed addition. That said, Planning notes that the petitioner might reconsider the placement of the window on its left side considering its close proximity to the abutter's rear yard.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.3.A.1 §7.8.2.C.2	Request to vertically extend the nonconforming side setback of a detached accessory structure	S.P. per §7.3.3

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 detached accessory structure with a vertically extended nonconforming three-foot side setback would be not substantially more detrimental than the existing nonconforming structure to the neighborhood. (§7.8.2.C.2)

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property is a 6,400 square foot level lot improved with a three-unit multi-family dwelling and a 342 square foot detached garage in the rear left of the parcel. The site is accessed by a curb cut and paved driveway, the width of which increases as it extends from the back of the sidewalk to the front of the garage. The remainder of the lot features lawn area and fencing.

IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

The use would remain a three-family multi-family dwelling.

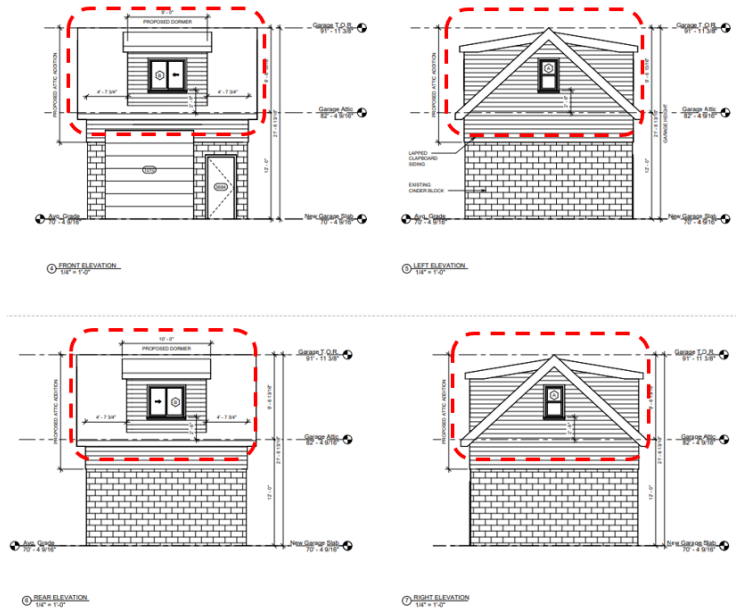
B. Site and Building Design

No changes to the existing dwelling structure are contemplated by this petition.

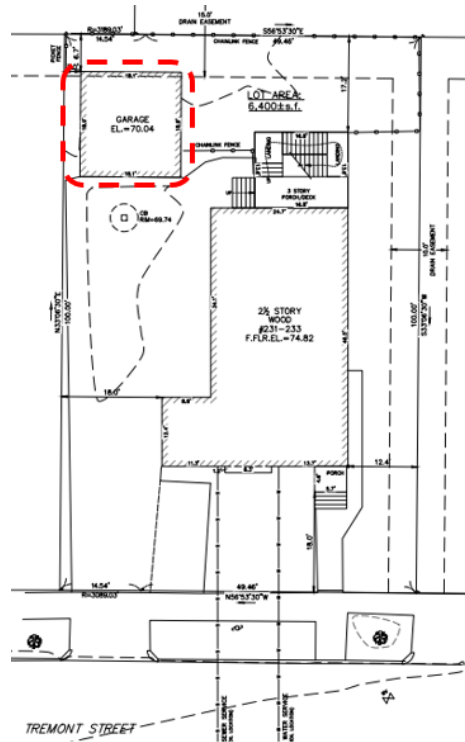
The accessory structure/garage in the rear left of the site has a nonconforming side setback of three feet along the left (west) property line, less than the five feet required. As the garage addition would remain within the structure's current footprint, no setbacks would be diminished horizontally. As designed, the proposed half story addition to the top of the garage would increase its height by approximately 10 feet, vertically extending the nonconforming side setback upward, resulting in it having a height of 21.95 feet at the ridgeline (slightly lower than the maximum 22 feet allowed for sloping roofs on detached accessory structures).

The proposed addition would increase the property's floor area countable toward its FAR by approx. 131 square feet, from 2,880 to 3,011 square feet, increasing currently conforming FAR from 0.45 to 0.47, but remaining below the maximum 0.55 allowed by right.

There would be no changes to the parcel's lot coverage or open space.



Proposed elevations (clockwise from upper left: front, left, rear, right)- with addition *indicated*



Site plan- location of garage *indicated*

C. Parking and Circulation

As the garage would be only expanded upward within the existing footprint, there would be no changes to the parking and circulation on-site.

D. Landscaping

A landscape plan was not provided with this petition.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time. The Planning Department notes that the site plan indicated the garage footprint is located slightly within a drainage easement that runs across the back portion of the portion and the petitioner should coordinate any construction with the Engineering Division.
- **Newton Historical Commission:** The petitioner should ensure compliance with Newton Historical Commission requirements for the project's review.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 18, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Arto and Victoria Dermovesian, Applicants
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to expand a nonconforming detached garage

Applicant: Arto and Victoria Dermovesian

Site: 231-233 Tremont Street	SBL: 71038 0015
Zoning: MR1	Lot Area: 6,400 square feet
Current use: Three-unit multi-family dwelling	Proposed use: No change

BACKGROUND:

The property at 231-233 Tremont Street consists of a 6,400 square foot lot improved with a three-unit multi-family dwelling constructed circa 1925. The petitioner proposes to construct a half-story addition on an existing nonconforming detached accessory structure, requiring a special permit.

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

- Zoning Review Application, prepared Terrence P. Morris, attorney, submitted 3/23/2023
- Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/1/2023
- Floor Plans and Elevations, prepared by Ronald F. Jarek, architect, dated 2/9/2023, revised 3/28/2023
- FAR calculations, submitted 3/23/2023

ADMINISTRATIVE DETERMINATIONS:

- 1. The existing detached garage has a nonconforming side setback of 3 feet along the western property line where 5 feet is required per section 3.4.3.A.1. The petitioner proposes to construct a half story addition, vertically extending the nonconforming side setback, requiring a special permit per section 7.8.2.C.2.

- 2. The height of the detached accessory structure will measure 21.95 feet, where 22 feet is the maximum allowed. As such, half story addition complies with the height standards set forth for detached accessory structures.

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.3.A.1 §7.8.2.C.2	Request to vertically extend the nonconforming side setback of a detached accessory structure	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 vertically extend the nonconforming side setback of a detached accessory structure as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed expanded detached accessory structure with a vertically extended nonconforming three-foot side setback would be not substantially more detrimental than the existing nonconforming structure to the neighborhood given that the proposed addition would have limited or no visibility from nearby public rights of way. (§7.8.2.C.2)

PETITION NUMBER: #196-23

PETITIONER: Arto and Victoria Dermovesian

LOCATION: 231-233 Tremont Street, Ward 1, Newton, on land known as Section 71 Block 38 Lot 15, containing approximately 6,400 sq. ft. of land

OWNER: Arto and Victoria Dermovesian

ADDRESS OF OWNER: 231-233 Tremont Street
Newton, MA 02465

TO BE USED FOR: Three-unit multi-family dwelling

RELIEF GRANTED: Special permit per §7.3.3 to vertically extend the nonconforming side setback of a detached accessory structure (§3.4.3.A.1, §7.8.2.C.2)

ZONING: Multi Residence 2 (MR2)

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 "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions at #231-233 Tremont Street," dated February 1, 2023, prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor,
 - b. Architectural drawings entitled "Tremont St Garage Addition, 231-233 Tremont St, Newton MA," prepared by Ronald F. Jarek, Architect, in collaboration with Mengting Torosian, Designer, dated March 28, 2023, consisting of the following sheets:
 - i. Cover Page (A1.0)
 - ii. Proposed Plans and Elevations (A1.1)
 - iii. Proposed Sections and Details (A2.1)
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 and the petitioner has:
 - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a 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.