



#22-22

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

Ruthanne Fuller  
Mayor

Barney Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 11, 2022  
Land Use Action Date: March 29, 2022  
City Council Action Date: April 4, 2022  
90- Day Expiration Date: April 11, 2022

DATE: January 7, 2022

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Katie Whewell, Senior Planner

SUBJECT: **Petition #22-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a garage accommodating two garage stalls in the dwelling while maintaining the two stalls in the detached garage for a total of four stalls, resulting in over 700 square feet of total garage space at 265 Upland Avenue, Ward 8, Newton, on land known as Section 83 Block 27 Lot 28, containing approximately 25,000 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.4.E.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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



**265 Upland Avenue**

## EXECUTIVE SUMMARY

The property located at 265 Upland Avenue consists of a 25,000 square foot lot in the Single Residence 2 (“SR-2”) zone in Newton Highlands. The property is currently under construction for a single-family residence with an attached two-car garage. The lot also contains a separate two-car garage. The petitioners are seeking keep the detached garage which would result in more than 700 square feet of garage ground floor area, and parking for more than three vehicles, requiring special permit relief.

The Planning Department notes that the proposed attached garage meets the standards of the garage ordinance, and the detached garage is located to the rear of the site. The Newton Zoning Ordinance (the “Ordinance”) allows one detached and one attached garage as of right in section 3.4.4.E.1. The Planning Department notes that the garage space which requires special permit relief is in two different structures.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed garage ground floor area which exceeds 700 square feet and parking for more than three vehicles. (§7.3.3.C.1)
- The proposed garage ground floor area which exceeds 700 square feet and parking for more than three vehicles will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed garage ground floor area which exceeds 700 square feet and parking for more than three vehicles will create 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 involved. (§7.3.3.C.4)

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

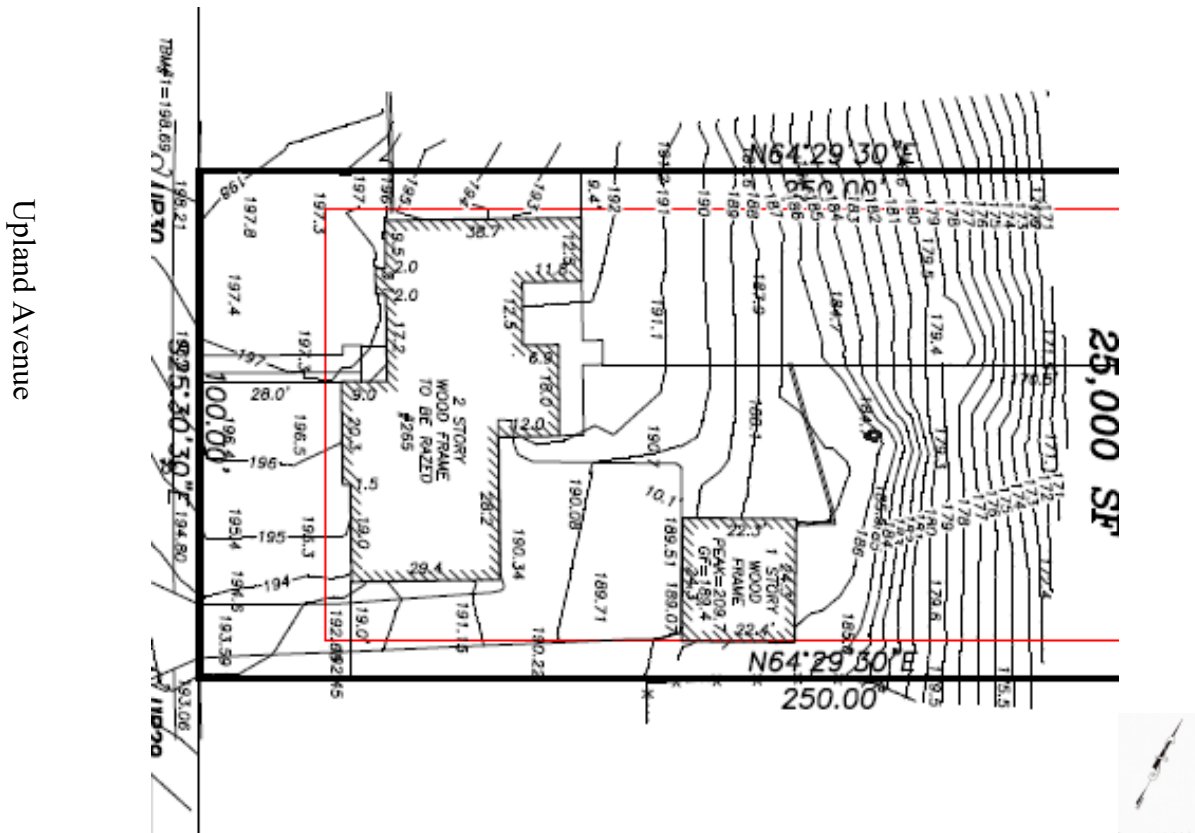
The subject property is located on Upland Avenue in the SR-2 zone. The entirety of Upland Avenue is within the SR-2 zone with a Single Residence 3 zone to the west on Winchester Street (**Attachment A**). The surrounding land use of the neighborhood consists of single-family residential with multi-family properties to the west on Winchester Street (**Attachment B**).

#### B. Site

The site consists of 25,000 square feet of land and it is improved with a single-family

dwelling currently under construction and a detached garage. The lot is served by one curb cut providing access to an existing asphalt driveway and to the detached garage. The site has a downwards slope of approximately eight feet from the front of the property to the rear. A building permit was issued in July 2021 to allow for the construction of a new single-family home with an attached garage.

### Existing Conditions



### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

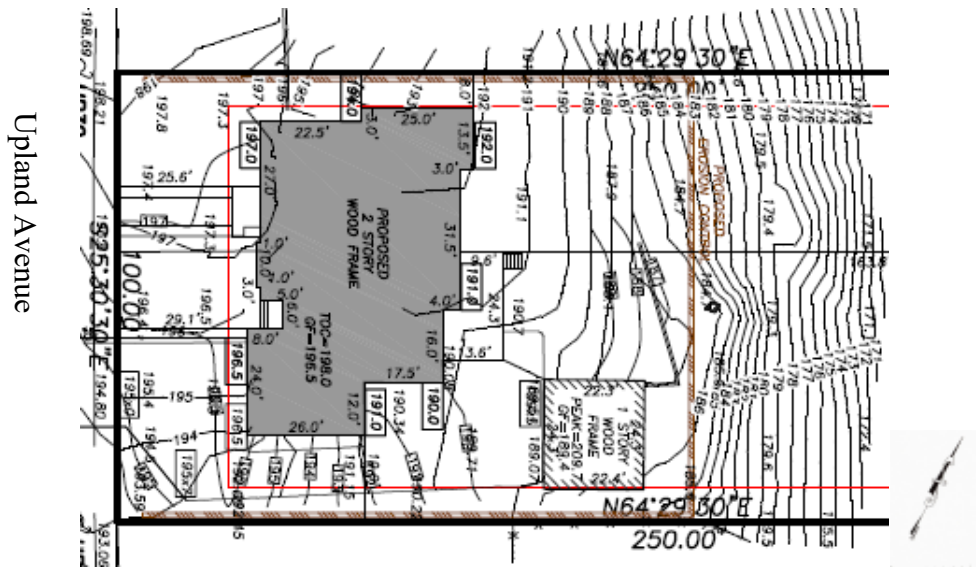
The principal use of the site is and will remain single-family.

#### B. Building and Site Design

The petitioners are constructing a single-family home with a 624 square foot attached garage.

The detached garage consists of 542 square feet, which brings the total garage ground floor area for the site to 1,166 square feet. The total garage area between the two structures exceeds 700 square feet, requiring a special permit. The proposed and existing garages will accommodate parking for four vehicles which also requires a special permit.

Proposed Site Plan



The proposed attached front-facing garage will have two bays. As designed, the proposed front facing attached garage meets the standards for front facing garages such as door width and placement of not more than ten feet in front of the front elevation.

C. Parking and Circulation

The petitioners are proposing to construct a new attached garage with parking for two vehicles. They are expanding paving to the front of the house to allow for access to the attached garage while maintaining the driveway along the southern property line to allow for access to the existing detached garage.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding

zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

Zoning Relief Required		
Ordinance		Action Required
§3.4.4.E.1	To allow more than 700 square feet of total garage area on a lot and for more than three garage stalls	S.P. per §7.3.3

B. Engineering Review

Review from Engineering is not required at this time.

C. Historic Preservation Review

Review from Historic 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 Council Order






# ATTACHMENT A

## Zoning

### 265 Upland Avenue

*City of Newton,  
Massachusetts*

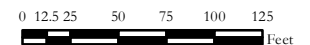
### Legend

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1



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 28, 2021





# ATTACHMENT B

## Land Use

### 265 Upland Ave

City of Newton,  
Massachusetts

### Legend

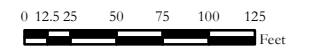
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations

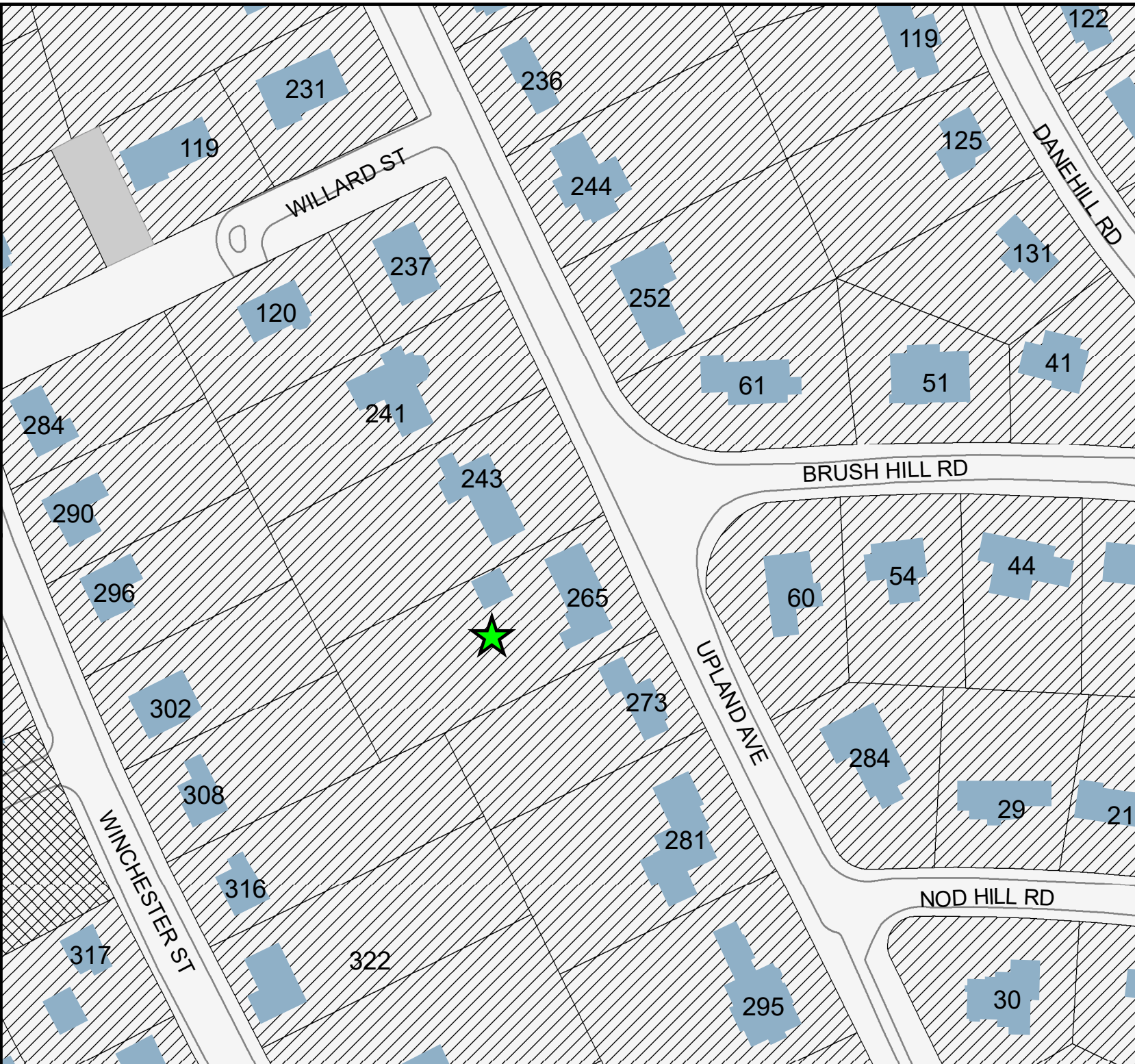


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: December 28, 2021





Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: January 7, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Marco Rotondo, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to allow more than 700 square feet of total garage area on a lot and for more than three garage stalls**

Applicant: Marco Rotondo	
Site: 265 Upland Avenue	SBL: 83027 0028
Zoning: SR2	Lot Area: 25,000 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 265 Upland Road consists of a 25,000 square foot lot improved with a single-family dwelling under construction and an existing detached garage. The petitioners intend to construct two garage stalls in the dwelling while maintaining the two stalls in the detached garage for a total of four, requiring a special permit.

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

- Zoning Review Application, prepared by Marco Rotondo, applicant, submitted 10/12/2021
- Plans and elevations, signed and stamped by Michael McKay, architect, dated 4/19/2021
- Site Plan, signed and stamped by Bradley Simonelli, surveyor, dated 4/5/2021
- FAR worksheet, signed and stamped by Michael McKay, architect



**ADMINISTRATIVE DETERMINATIONS:**

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1. Per section 3.4.4.E.1 there may be no more than 700 square feet in total garage area on a lot for a residential building with one dwelling unit, accommodating up to three vehicles. The petitioners have an existing 528 square foot detached garage. They received a building permit in 2021 to construct a new single-family dwelling with an attached two car garage with a notation on the permit requiring modifications to the detached garage to prohibit its use for vehicles. The petitioners seek to maintain the detached garage for vehicular use, which results in four garage stalls and approximately 1,152 square feet of total garage area. Per section 3.4.4.H.1 a special permit is required to exceed 700 square feet of garage area and to provide for more than three vehicles.

SR2 Zone	Required	Permitted/Existing
Lot Size	10,000 square feet	25,000 square feet
Frontage	100 feet	100 feet
Setbacks - Principal <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 7.5 feet 15 feet	25.6 feet 8 feet 19 feet 170.3
Setbacks - Accessory <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 5 feet 5 feet	96 feet ±7 feet 131 feet
Max Number of Stories <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	2.5 1.5	2.5 1.5
Height <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	36 feet 22 feet	33.10 NA
FAR	.33	.27
Max Lot Coverage	30%	15.5%
Min. Open Space	50%	75%

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.4.E.1	To allow more than 700 square feet of total garage area on a lot and for more than three garage stalls	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 allow a garage with more than 700 square feet of ground floor area and parking for more than three vehicles, 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 garage ground floor area which exceeds 700 square feet and parking for more than three vehicles proposed attached garage meets the standards of the garage ordinance, and the detached garage is located to the rear of the site. (§7.3.3.C.1)
2. The proposed garage ground floor area which exceeds 700 square feet and parking for more than three vehicles will not adversely affect the neighborhood because the garage area is divided between two structures. (§7.3.3.C.2)
3. The proposed garage ground floor area which exceeds 700 square feet and parking for more than three vehicles will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained at the southern corner of the 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)

PETITION NUMBER: #22-22

PETITIONER: Marc Rotondo and Jennifer Behr

LOCATION: 265 Upland Avenue, on land known as Section 83, Block 27, Lot 28, containing approximately 25,000 square feet of land

OWNER: Marc Rotondo and Jennifer Behr

ADDRESS OF OWNER: 265 Upland Avenue  
Newton, MA 02461

TO BE USED FOR: Single Family Dwelling with attached garage; and existing detached garage

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To allow a garage with ground floor area of more than 700 square feet and parking for more than three vehicles (§3.4.4.E.1, §3.4.4.H and §7.3.3)

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:
  - a. Site Plan showing proposed conditions at 265 Upland Avenue, signed and stamped by Thomas Ryder, Professional Engineer, dated June 2, 2021
  - b. Architectural Plans, "Behr/Rotondo Residence", prepared by McKay Architects, signed and stamped by Michael McKay, Registered Architect, dated March 23, 2021 consisting of four (4 sheets:
    - i. Front Elevation A-2.1
    - ii. Right Side Elevation, A-2.2
    - iii. Rear Elevation, A-2.3
    - iv. Left Side Elevation, A-2.4
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 board 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. 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.
  - 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.

DRAFT