



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 15, 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 #285-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to expand a detached garage toward the rear property line, further extending a nonconforming side setback at **75 Royce Road**, Ward 2, Newton Centre, on land known as Section 24 Block 41 Lot 19, containing approximately 22,995 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. 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.



75 Royce Road

Project Description

Background

The subject property at 75 Royce Road consists of a 22,995 square foot property located in a Single Residence 2 (SR2) zoning district. A through lot, its driveway access is located on its 40 foot frontage at the end of Royce Road; it also has a ten-foot wide strip of frontage on Bullough Park that does not provide practical access.

The parcel is improved with a single-family dwelling constructed circa 1905 and a one-story, 8.9 foot high, 401 square foot detached garage that was permitted and built in 1929 with a nonconforming one-foot side setback where five feet is required per Section 3.4.3.A.1 of the Newton Zoning Ordinance (NZO).

The petitioner seeks to add approx. 181 square feet to the rear of the garage, thus extending its nonconforming side setback by approx. nine feet toward the property's rear lot line. (The Planning Department notes that a by-right building permit has been issued for interior work and a two-story addition to the dwelling and work is currently underway.)

The neighborhood is almost uniformly occupied by single-family homes and zoned Single Residence 1 (SR1), with the exceptions being the Public Use (PU)-zoned Bullough's Pond parkland area and the City Hall grounds located to the west.

Need for Special Permit

A special permit per Sec. 7.8.2.C.2 of the NZO to further extend the nonconforming side setback is required. Aside from the extension of a nonconforming one-foot side setback, the project remains compliant with all other dimensional standards, including setbacks and FAR.

Analysis and Recommendations

Planning is generally not concerned with the proposed addition given the size of the parcel, its modest dimensions and consistency with the existing garage's design and height, and that it would have limited, if any visibility from nearby public ways and/or residences.

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 extend a nonconforming side setback of a detached garage	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.8.2.C.2:

When reviewing this request, the City Council should consider whether:

- The proposed horizontal extension of the existing nonconforming side setback would not be substantially more detrimental than the existing nonconforming side setback to the neighborhood (§7.8.2.C.2).

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS

A. Site - Existing Conditions

The subject property consists of a 22,995 square foot “through lot” with a driveway located on its 40 foot frontage at the end of Royce Road; it also has a ten-foot wide strip of frontage on Bullough Park that does not provide practical access. The parcel is improved with a single-family dwelling and a detached garage with a nonconforming one-foot side setback along the property’s southern property line.

The majority of the lot, including the locations of the dwelling and detached garage, is level and accessible from the end of Royce Road. The northwestern portion of the lot (i.e., “behind the house”), including the “panhandle” down to Bullough Park, has a significant downward slope of approximately 50 feet. The residence that most closely abuts the location of the garage is approximately 12 feet lower than that area.

IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

The site would remain as a single-family home.

B. Site and Building Design

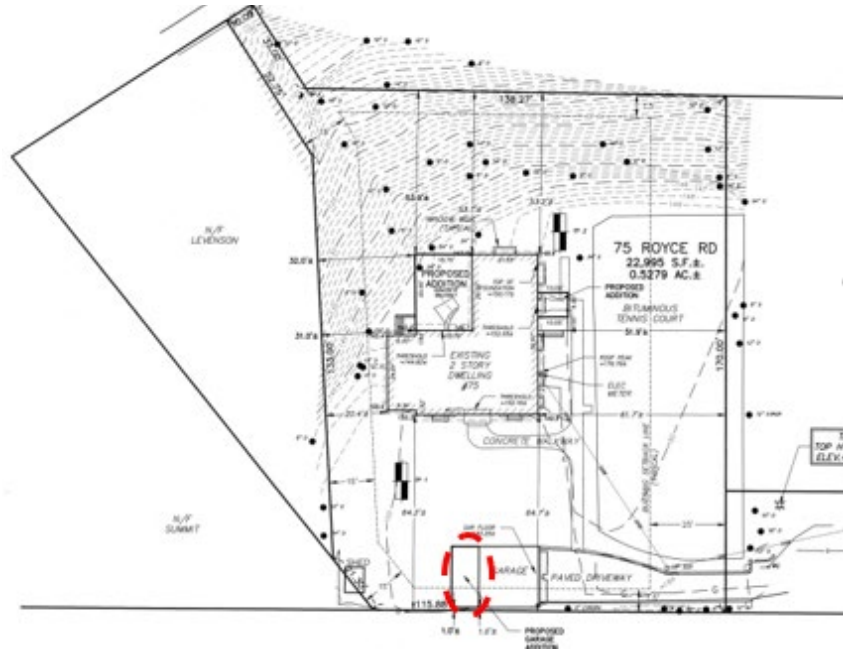
The petitioner seeks to construct add an approx. 181 square foot, one-story addition to the rear of the garage, thus extending its nonconforming side setback by just under nine feet toward the property’s rear lot line.

The present petition does not contemplate any modifications requiring a special permit to the principal structure. (The Planning Department notes that a by-right building permit has been issued for interior work and two-story addition to that dwelling.)

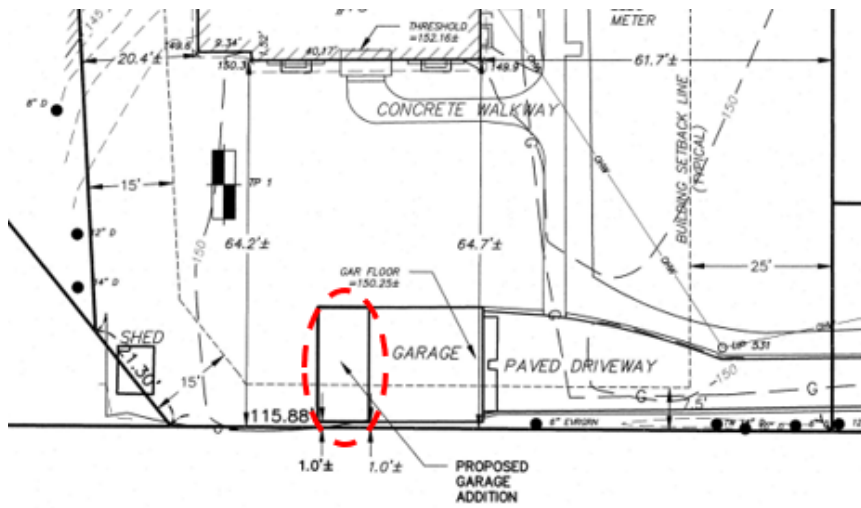
As designed, the proposed 181 square foot addition would add increase the garage’s square footage from 401 to 582 square feet, increasing the property’s floor area

ratio (FAR) by 0.007, from 0.26 (inclusive of the by-right work to the dwelling) to 0.27 where 0.33 is the maximum allowed by right.

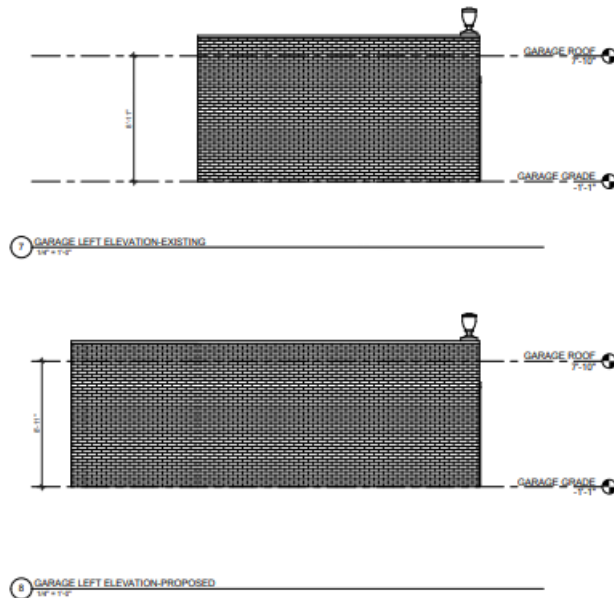
The property's lot coverage would increase slightly, from 12.8% to 13.6%, remaining well below the required 30% maximum. Its open space calculation would decrease slightly, from 83.1% to 82.3%, remaining well above the 50% maximum.



Proposed Site Plan-(garage addition indicated)



Proposed Site Plan- detail (garage addition indicated)



Existing and Proposed left (south) side Elevations

V. INTERDEPARTMENTAL REVIEW

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** The petitioner should ensure compliance with the Newton Historic Commission's review requirements.

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

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 31, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Dan Han, Applicant
Liu Xiao Hu, Owner
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to extend a nonconforming side setback for a detached garage

Applicant: Dan Han	
Site: 75 Royce Road	SBL: 24041 0019
Zoning: SR2	Lot Area: 22,995 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 75 Royce Road consists of a 22,995 square foot lot improved with a single-family dwelling constructed circa 1905 and a detached garage. The property has 40 feet of frontage at the dead end of Royce Road from which it gains driveway access, as well as a ten-foot wide strip of frontage along Bullough Park providing no practical access. A by-right building permit has been issued for interior work and two-story addition, however a special permit is required to extend a detached garage with an existing nonconforming side setback, requiring a special permit.

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

- Zoning Review Application, prepared by Dan Han, applicant, dated 6/20/2023
- Proposed Plot Plan, signed and stamped by Joseph March, surveyor, dated 3/8/2023
- Proposed Plot Plan (showing garage addition), signed and stamped by Joseph March, surveyor, dated 3/8/2023, revised 5/4/2023
- Floor plans and elevations, signed and stamped by Xioaying Chen, dated 4/28/2023
- FAR calculation, submitted 6/20/2023

ADMINISTRATIVE DETERMINATIONS:

1. The existing detached garage was permitted in 1929 and built with a nonconforming 1-foot side setback where 5 feet is required per section 3.4.3.A.1. The petitioner seeks to extend the rear of the garage by eight feet, further extending the existing nonconforming side setback towards the rear of the property. A special permit is required per section 7.8.2.C.2 to further extend the nonconforming side setback.

SR2 Zone	Required	Existing*	Proposed
Lot Size	10,000 square feet	22,995 square feet	No change
Frontage	80 feet	40 feet	No change
Setbacks - Principal			
• Side (east)	7.5 feet	51.9 feet	No change
• Side (west)	7.5 feet	20.4 feet	No change
• Side (south)	7.5 feet	64.2 feet	No change
• Rear (north)	15 feet	53.2 feet	No change
Setbacks - Accessory			
• Front (east)	25 feet	>50 feet	No change
• Side (south)	5 feet	1.0 feet	No change**
• Side (west)	5 feet	6.8 feet	5 feet
Max Number of Stories (Accessory)	1.5	1	No change
Max Height (Accessory)	22 feet	8.9 feet	No change
FAR	.33	.26	.27
Max Lot Coverage	30%	12.8%	13.6%
Min. Open Space	50%	83.1%	82.3%

Nonconformities are indicated in **BOLD**

*Includes by-right work

*Requires relief

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.3.A.1 §7.8.2.C.2	Request to extend a nonconforming side setback of a detached garage	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 further extend an existing nonconforming side setback horizontally, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed horizontal extension of an existing nonconforming one-foot side setback where five feet is the minimum allowed by-right of will not be substantially more detrimental than the existing nonconforming side setback to the neighborhood given that the proposed garage rear addition would have limited or no visibility from nearby dwellings and public rights of way (§7.8.2.C.2).

PETITION NUMBER: #285-23

PETITIONER: Dan Han

LOCATION: 75 Royce Road, Ward 2, Newton Centre, on land known as Section 24 Block 41 Lot 19, containing approximately 22,995 sq. ft. of land

OWNER: Liu Xiao Hu

ADDRESS OF OWNER: 75 Royce Road
Newton, MA 02459

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special permit to further extend nonconforming side setback (§7.8.2.C.2)

ZONING: Single Residence 2 (SR2) 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 "Proposed Plot Plan in Newton, Massachusetts (Middlesex County) For: Liu" (depicting 75 Royce Rd. and indicating location of the "Proposed Garage Addition"), prepared by Stamski and McNary, Inc., dated March 8, 2023, as revised through May 4, 2023, signed and stamped by Jonathan D. Bollen, Professional Land Surveyor on May 5, 2023.
 - b. Architectural plans entitled "75 Royce Rd- Garage Addition," prepared by CLDA Architects, dated February 15, 2023, signed and stamped by Xiaoying Chen, Registered Architect, consisting of the following sheets:
 - i. Cover Sheet (A000)
 - ii. General Notes (A001)
 - iii. Garage Plans (A003)
 - iv. Garage Elevations (A004)
 - v. Building Section & Structural Plan (A005)
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.
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, professional land surveyor, or professional engineer, certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.