



Land Use Committee Report

City of Newton In City Council

Tuesday, March 5, 2019

Present: Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo

City Staff Present: Associate City Solicitor Jonah Temple, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba, Planning Associate Katie Whewell

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#41-19 **Petition to amend Council Order #288-18 to allow adult use-sales at 24-26 Elliot St**
CYPRESS TREE MANAGEMENT, INC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #288-18 to allow retail marijuana sales in conjunction with as the approved RMD (Registered Medical Dispensary), to waive the 25% façade transparency requirement, to waive minimum stall dimensions, to waive minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements and to waive lighting requirements at 24-26 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 25 Lot 01, containing approximately 25,320 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec 7.3.3, 7.4, 6.10.3.D, 4.4.1, 6.10.3.E.15, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.10.A, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Note: This item was postponed to March 26, 2019 without discussion.

#39-19 **Special Permit Petition to allow detached garage at 32 Baldpate Hill Road**
MATTHEW AND DINA WOSK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow the construction of a detached single-car garage where an attached two car garage exists, to allow greater than 700 sq. ft. of garage space and to allow a retaining wall greater than four feet in height in the setback at 32 Baldpate Hill Road, Ward 8, Newton Centre, on land known as Section 82 Block 26 Lot 01, containing approximately 25,225 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.2.B.1, 3.4.3.A.4.a, 3.4.2.B.1, 3.4.3.A.4.c, 5.4.2 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed March 5, 2019

Note: Attorney Laurance Lee, Rosenberg, Freedman and Lee represented the petitioners, Matthew and Dina Wosk. Atty. Lee presented details of the proposed project as shown on the attached presentation. The petitioner is seeking relief to locate more than one garage, greater than 700 sq. ft. of garage space and relief for retaining walls greater than 4' in the setback. Atty. Lee noted that the house

is not visible from the street and is heavily landscaped. He stated that the petitioner will also be providing additional landscaping at the site. He noted that letters of support have been submitted from the abutting neighbors.

Senior Planner Michael Gleba reviewed the requested relief, criteria for consideration, location of the site, land use, zoning and the proposed site plan as shown on the attached presentation.

The public hearing was opened. Seeing no member of the public who wished to speak, Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members expressed no concerns relative to the petition and voted unanimously in favor of approval.

#70-19 Special Permit to allow Martial Arts Studio at 739 Beacon Street

SSDS Martial Arts Studio 4, LLC/EQUITY REALTY, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit school in the existing building at 739 Beacon Street, Ward 6, Newton Centre, on land known as Section 61 Block 27 Lot 17, containing approximately 10,498 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.3.14.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 8-0; Public Hearing Closed March 5, 2019

Note: Attorney Katherine Adams, Schlesinger and Buchbinder, offices at 1200 Walnut Street, represented the petitioner, SSDS Martial Arts Studio. Atty. Adams presented an overview of the petition to locate a martial arts studio in the existing building at 739 Beacon Street (previously Zoots). Because the martial arts studio is a for-profit school, it requires a Special Permit. Atty. Adams noted that the site of the proposed studio is shared by Cambridge Savings Bank. The petitioner proposes to operate from 12:00 pm – 8:00 pm Monday – Wednesday, 2:00 pm – 8:00 pm Thursday, 2:00 pm – 6:00 pm Friday and 9:00 am – 1:00 pm on Saturday. Each class is limited to 7-8 students at any given time and only one class will be held at a time. Atty. Adams noted that the petitioner proposes to have 15-minute intervals between classes to minimize overlap. She explained that the martial arts studio and bank require 11 parking stalls. The parking lot at the site contains 14 stalls, so no relief is necessary relative to parking. Atty. Adams stated that there is ample on-street parking and noted that the majority of classes will be after the bank has closed.

Senior Planner Michael Gleba reviewed the requested relief, criteria for consideration, location of the proposed martial arts studio, land use, zoning, photos, site and proposed floor plans as shown on the attached presentation.

The Public Hearing was Opened.

A Committee member questioned what the front of the studio will look like, noting that the City is encouraging engaging storefronts in village centers. Atty. Adams stated that the front of the studio will be glass and Chief Planner Jennifer Caira confirmed that the glass storefront will be consistent with the City's intent to create engaging facades in village centers. A Committee member questioned whether the

parking will be sufficient at the site, noting that some parents may park in the parking lot and visit other businesses in Newton Centre. Atty. Adams noted that the petitioner operates studios in three communities and has an understanding of the operations. She explained that parents do not usually stay at the studio during class time and noted that the 15-minute interval between classes will limit parking overlap. Atty. Adams noted that the parking lot has an area for drop-off as well as sufficient space to turn around. She confirmed that the petitioner will encourage drop-off at the rear of the studio and discourage double parking on Beacon Street.

Seeing no member of the public hearing who wished to speak, Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. The Committee asked that a condition be drafted requiring the petitioner to encourage drop-off in the rear and discourage double parking on Beacon Street. With that, Committee members voted unanimously in favor of approval.

#40-19 Special Permit Petition to increase non-conforming FAR at 46 Berwick Road

JONATHAN FLYNN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze an existing garage and replace it with a single-car attached garage, library space and a second story accessory apartment, increasing the non-conforming FAR to .65 where .44 is required and .50 exists at 46 Berwick Road, Ward 6, Newton Centre, on land known as Section 52 Block 16 Lot 14, containing approximately 6,437 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref. 7.3.3, 7.4, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed March 5, 2019**

Note: Architect Peter Sachs, 20 Hunter Street, represented the petitioner, Jonathan Flynn and presented the request to construct a single-car attached garage, connected by a mudroom with a second story accessory apartment at 46 Berwick Road. Mr. Sachs noted that the petitioner has received support from abutters and members of the neighborhood and provided an overview of the project as shown on the attached presentation. Mr. Sachs showed the proposed site plan. Mr. Sachs demonstrated the total square footages of other dwellings in the neighborhood, noting that the size of the petitioner's property is consistent with the size of other houses in the neighborhood. Mr. Sachs noted that there is a 950 sq. ft. common driveway, separating the petitioner's property from the abutter's property that cannot be built on, providing additional buffer space.

The petitioner, Jonathan Flynn, 46 Berwick Road, explained that the proposed accessory apartment will allow him to provide an affordable solution to house family members who will help him raise his three children.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed elevations as shown on the attached presentation. A Committee member questioned why the Planning Department was not supportive of the project. Ms. Whewell noted that the Planning Department is supportive of the proposed accessory apartment but had concerns relative to the

site and placement of the addition in the context of the neighborhood. She noted that the staff recommends landscaping to provide screening along the rear lot line.

The Public Hearing was Opened.

Neil Benshimal, 990 Walnut Street, is supportive of the proposed work but has concerns about the impact on drainage and stormwater runoff on his site. He is not opposed to the proposed work and requested that water runoff impacts are addressed as part of the project.

Chief Planner Jennifer Caira stated that the impervious area at the site decreases as a result of the proposed work. As the threshold for an Engineering review is not being met, no Engineering analysis is required. Mr. Sachs stated that the proposed construction results in an increase of 36 sq. ft. of impervious surface area. He confirmed that the petitioner is willing to voluntarily install a 500-gallon tank to address water runoff concerns.

Chris Zimmel, 5 Pinecrest Road, is supportive of the proposed work and believes it fits in the neighborhood context. Mr. Zimmel noted that the addition of the garage will minimize cars on the road, creating safer conditions.

A Committee member questioned whether the proposed work would be permitted under the draft Zoning Ordinance. Ms. Whewell provided an overview of how the project would comply with dimensional standards under the draft Zoning Ordinance. Ms. Whewell noted that the proposed project would not be permissible under the proposed Zoning Ordinance due to the proposed lot coverage. Ms. Caira noted that the dimensional limits are regulated by the district, not the house type. She confirmed that under the draft Zoning Ordinance, the proposed project would require a variance. A Committee member encouraged the Planning Department to use the proposed project as an example of how the draft Zoning Ordinance may be applied.

Seeing no other member of the public who wished to speak, Councilor Kelley motioned to close the public hearing which carried unanimously. Committee members were appreciative of the petitioner's voluntary offer to install a stormwater retention system in response to the concern raised. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members agreed to include a condition requiring the petitioner to install a 500-gallon stormwater retention tank and/or use good faith efforts to mitigate stormwater runoff at the site. Mr. Sachs confirmed that the petitioner will submit a final landscaping plan that addresses screening concerns raised relative to the rear of the structure by the garage in addition to something that mitigates the massing of the proposed addition. Ms. Caira noted that the petitioner must submit also provide an updated site plan prior to the Council meeting. With that, Committee members voted unanimously in favor of approval.

#68-19 **Petition to increase non-conforming height and FAR at 45 Hyde Avenue**
CHRIS AND MELISSA KONTARIDIS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow construction of a rear addition to the basement, first-floor and second-floor, increasing the non-conforming height to 41.56 feet where 41.12' exists and 36' is allowed

and increasing the non-conforming FAR to .42 where .36 exists and .33 is allowed at 45 Hyde Avenue, Ward 7, Newton, on land known as Section 72 Block 24 Lot 07, containing approximately 19,603 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Sec. 7.3.3, 7.4, 3.1.9, 7.8.2.C.2, 3.1.3 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed March 5, 2019**

Note: Architect Peter Sachs, 20 Hunter Street, represented the petitioners, Chris and Melissa Kontaridis. He stated that the proposed addition is to the rear of the house with limited impact to abutters. Mr. Sachs noted that the petitioners have communicated their plans to neighbors who have expressed no concerns relative to the project. Mr. Sachs noted that the proposed work was approved administratively by Preservation Planner Katy Holmes.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, existing and proposed site plans and existing and proposed elevations as shown on the attached presentation. The Planning Department is unconcerned with the proposed addition and the increase in height.

The Public Hearing was Opened. No member of the public wished to speak.

Mr. Cronin confirmed that the proposed project would not be permissible under the proposed Zoning Ordinance as it exceeds 3,000 sq. ft. He noted that the existing structure is approximately 2,500 sq. ft and stated that under the draft Zoning Ordinance, any increase to the existing structure would require a Special Permit. Ms. Cairra noted that if a structure is considered legally non-conforming, it could be extended by Special permit. Committee members asked that the Planning Department use this petition as an example during the discussions relative to the draft Zoning Ordinance.

Committee members expressed no concerns relative to the petition. Councilor Laredo motioned to close the public hearing which carried unanimously. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members made no changes to the draft Order and voted unanimously in favor of a motion to approve from Councilor Laredo.

#69-19 **Special Permit Petition to extend non-conforming side setback at 110 Greenlawn Ave**
PHOEBE BELSLEY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze an existing stair and landing at the rear of the structure and construct a new, larger deck and stairs, further extending the existing non-conforming side setback at 110 Greenlawn Avenue, Ward 6, Newton Centre, on land known as Section 64 Block 13 Lot 05, containing approximately 7,475 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Sec. 7.3.3, 7.4, 7.8.2.C.2, 3.1.3 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed March 5, 2019**

Note: Petitioner Phoebe Belsley presented an overview of the petition. Ms. Belsley explained that the current backdoor of the house has a concrete landing with brick steps that lead to a patio. The existing landing and steps are in poor condition and the petitioner hopes to replace the deck with a 100 sq. ft. deck and new steps as well as replace the patio. Because the back door is less than 5' from the lot line, the landing creates a non-conforming condition. The proposed landing will extend further back into

the yard, extending the non-conforming condition at 110 Greenlawn Avenue. The structure will not be closer to the lot line than the existing structure. Ms. Belsley noted that the proposed plans have been communicated to neighbors, who have expressed no concerns.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, land use, and the proposed site plan as shown on the attached presentation.

The Public Hearing was Opened. No member of the public wished to speak. Ms. Caira stated that under the proposed Zoning Ordinance, the proposed work could be granted a Section 6 finding by the Zoning Board of Appeals. Committee members expressed no concerns relative to the request. Councilor Crossley motioned to close the public hearing which carried unanimously. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted unanimously in favor of a motion to approve from Councilor Crossley.

#71-19 Special Permit to allow more than one garage at 106 Sumner Street

BARRY & ELENOR WHITE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-car garage, creating more than 700 sq. ft. of garage space and more than one garage at 106 Sumner Street, Ward 6, Newton Centre, on land known as Section 61 Block 02 Lot 08, containing approximately 21,670 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.2.B.1, 3.4.3.A.4.a, 3.4.2.B.1, 3.4.3.A.4.c of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 7-0 (Crossley Recused)

Note: Architect Jay Walter, 83 Pembroke Street, represented the petitioners, Barry and Elenor White. Mr. Walter explained that the petitioner's garage is located far from the petitioner's house and closer to an abutting neighbor. The petitioner proposes to locate a garage adjacent to the home. Mr. Walter noted that the garage is designed to be consistent with the design of the house. He noted that the impervious area will increase and confirmed that the petitioner will submit a drainage plan. The petitioner intends to negotiate an easement for the neighbors' use of the existing garage, as it appears to be on their property. Mr. Walter noted that the petitioner has communicated details of the plans to the neighbors, who have expressed support for the project.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed elevations as shown on the attached presentation. Ms. Whewell noted that the Planning Department has requested that the petitioner consider a reduction in the width of the proposed curb cut while maintaining vehicle and Fire Department access. Mr. Walter confirmed that the curb cut can be reduced to 18'.

The Public Hearing was Opened.

Mr. Walter confirmed that the petitioner is still evaluating details of the easement terms with the abutter but stated that the terms would be in perpetuity. Associate City Solicitor Jonah Temple confirmed that any agreement between the petitioner and the abutter would be a private matter and suggested that the Council should evaluate the proposed garage independently of any private agreement and as if it were a

second garage for the property owner at 106 Sumner Street. Committee members acknowledged that the existing garage is located closer to the abutter's house and expressed no concerns relative to the proposed second garage. Committee members questioned the addition of a second curb cut but noted that curb cuts can be added at a site as a matter of right provided there are no safety concerns. Mr. Walter confirmed that there are no issues with regard to sight lines.

Councilor Laredo motioned to close the public hearing which carried unanimously. Councilor Laredo motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members asked that the proposed finding be modified to indicate that the existing garage is located directly next to an adjacent property, presenting as if it belongs to that property. With that, Committee members voted unanimously in favor of approval.

The Committee adjourned at 9:05 pm.

Respectfully Submitted,

Greg Schwartz, Chair

32 BALDPATE HILL ROAD

Land Use Committee Public Hearing
March 5, 2019

1

REQUESTED RELIEF

- Retaining Walls greater than four feet within two small sections of the side setbacks; and
- Adding a detached garage; and
- Garage greater than 700 SF

2

UNIQUE SHAPE
AND SITE
LIMITATIONS



3

RETAINING
WALLS WITHIN
SETBACKS &
DETACHED
GARAGE



4



VIEW FROM STREET

Department of Planning and Development



PETITION #39-19

32 BALDPATE HILL ROAD

SPECIAL PERMIT/SITE PLAN APPROVAL TO ALLOW THE CONSTRUCTION OF A DETACHED SINGLE-CAR GARAGE WHERE AN ATTACHED TWO CAR GARAGE EXISTS, TO ALLOW GREATER THAN 700 SQ. FT. OF GARAGE SPACE AND TO ALLOW A RETAINING WALL GREATER THAN FOUR FEET IN HEIGHT IN THE SETBACK



MARCH 5, 2019

1

Requested Relief



Special permit per §7.3.3 to allow:

- more than one garage (§3.4.2.B.1, §3.4.3.A.4.a);
- garage space exceeding 700 square feet (§3.4.2.B.1 §3.4.3.A.4.c);
- a retaining wall exceeding four feet in height in a setback (§5.4.2).

2

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site is an appropriate location for the project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback in the Single Residence 1 (SR1) district. (§7.3.3.C.1);
- The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback will adversely affect the neighborhood (§7.3.3.C.2);
- The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback 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).

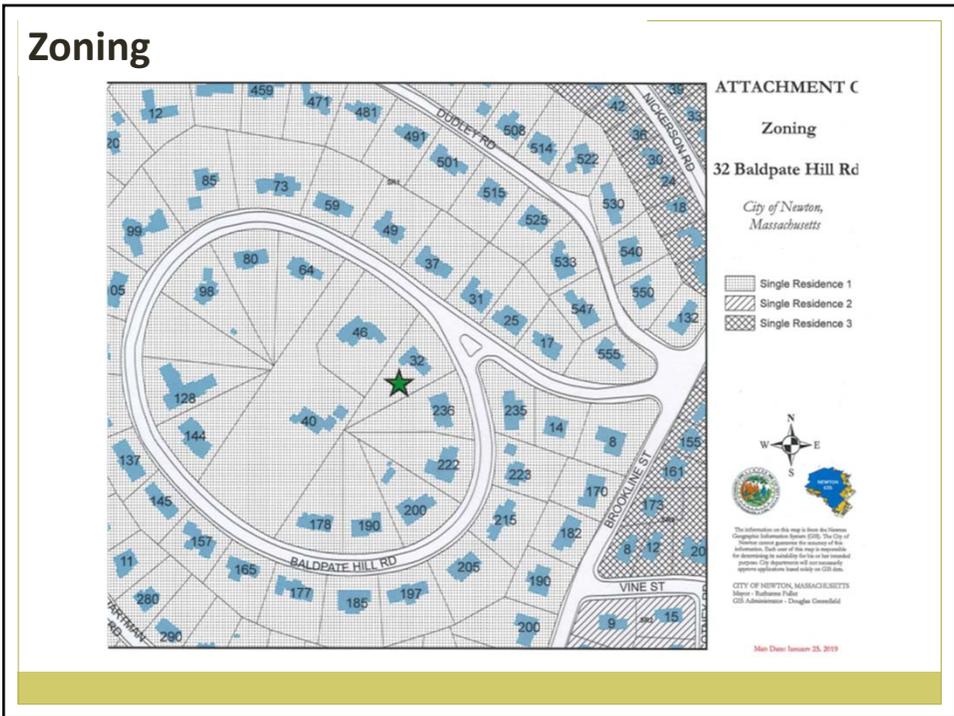
3

AERIAL/GIS MAP



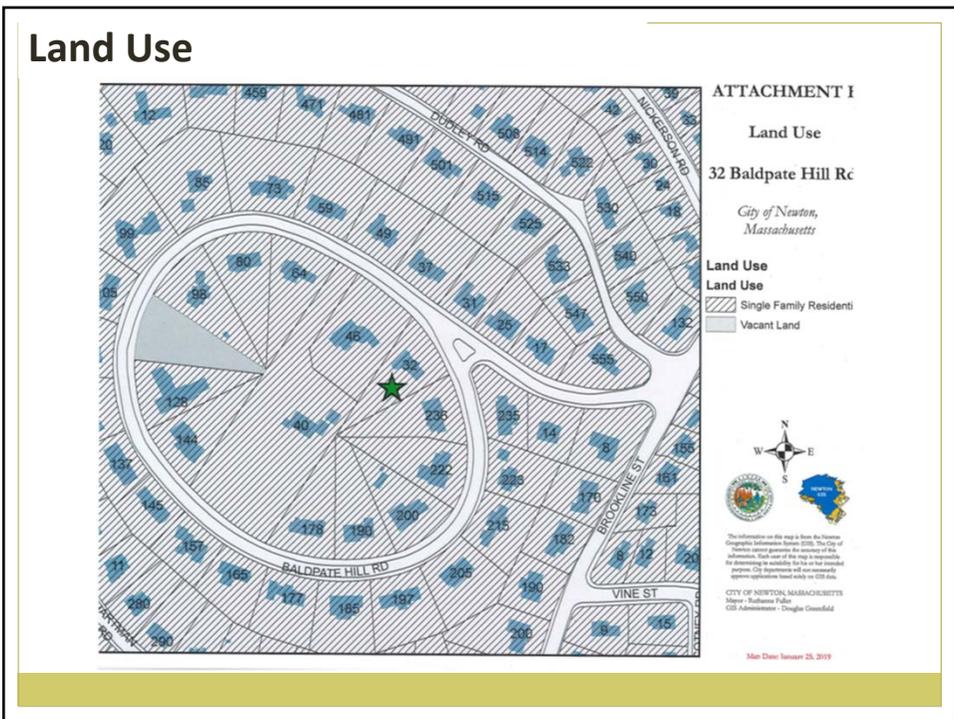
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Zoning



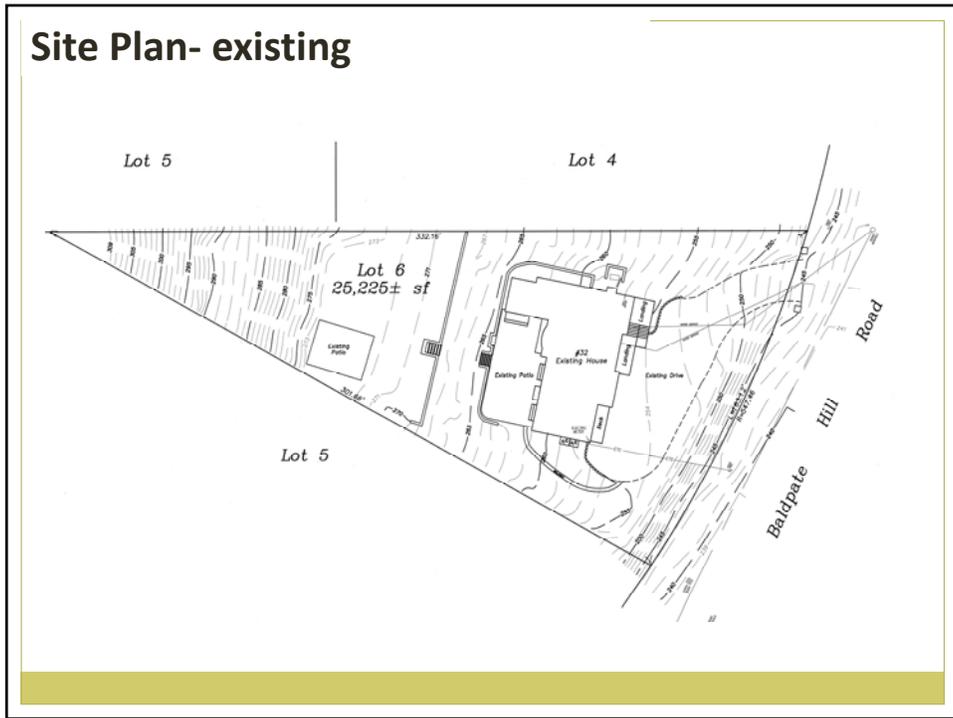
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Land Use



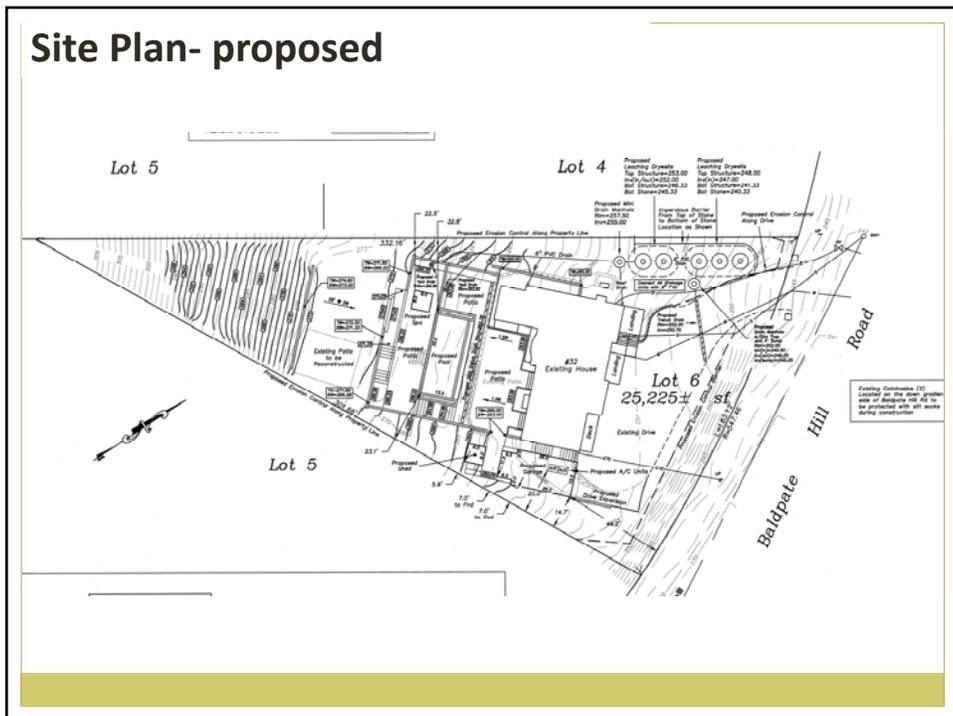
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Site Plan- existing

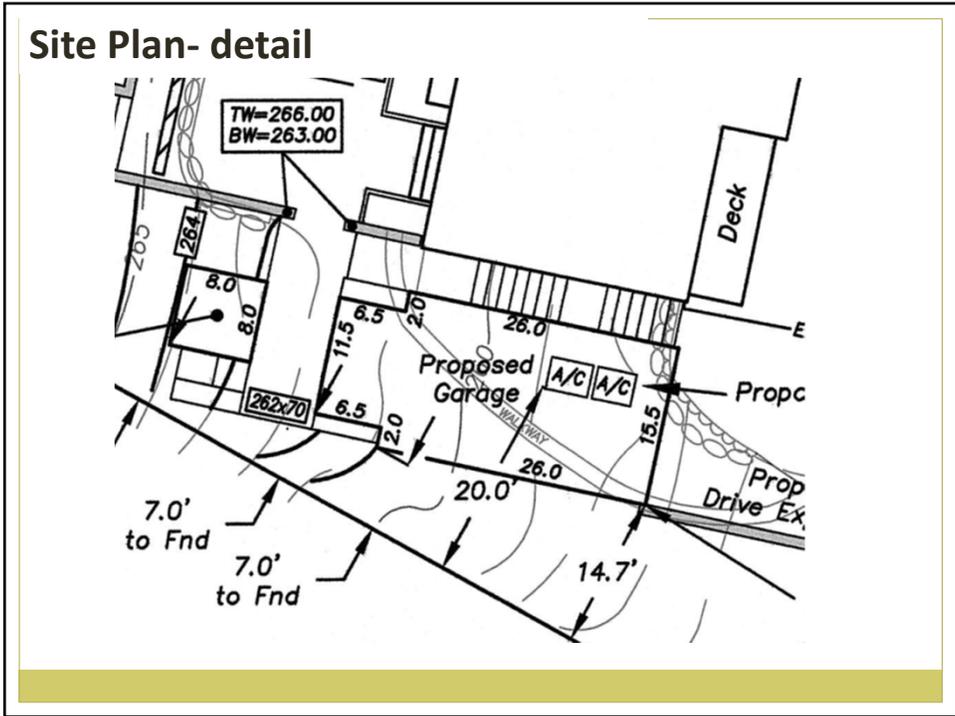


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Site Plan- proposed



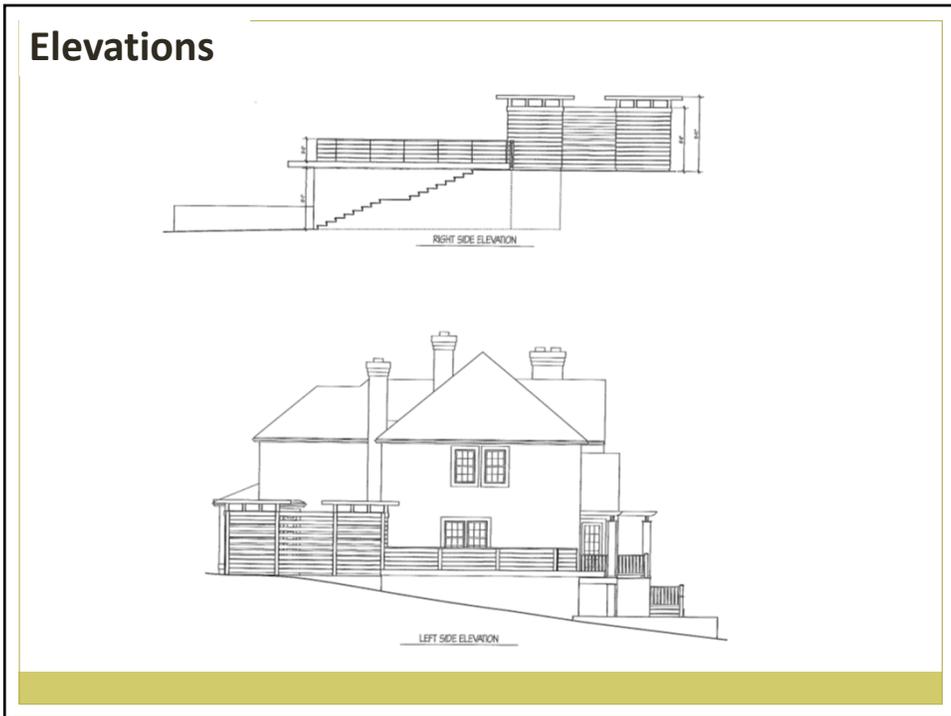
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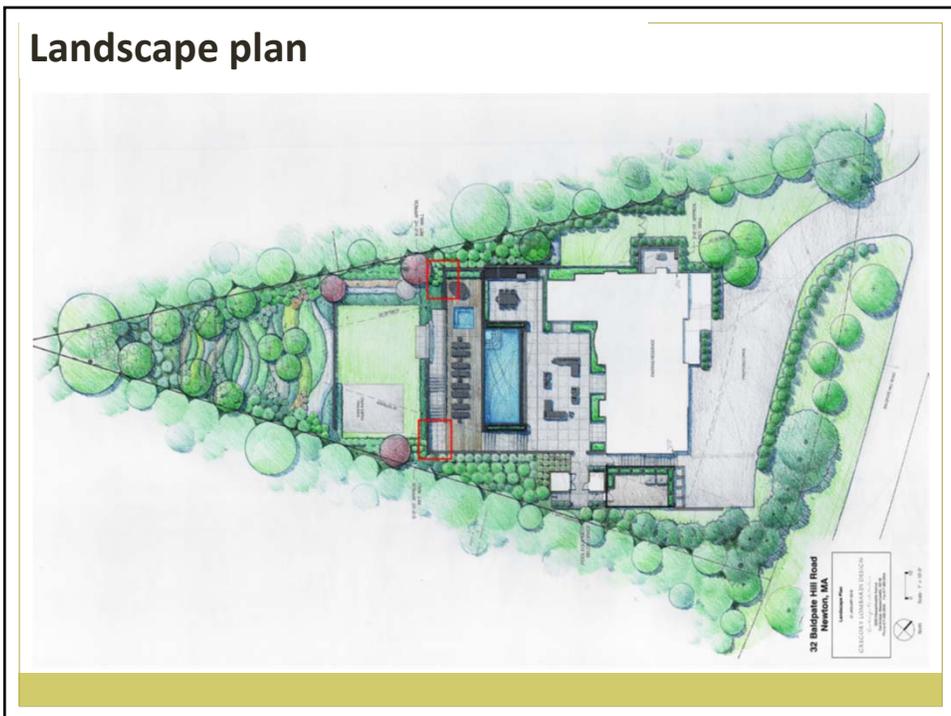
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11



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Photos



13

Photos



14

Photos



15

Photos



16

Photos



17

Photos



18

Photos



19

Proposed Findings

1. The site is an appropriate location for the project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback in the Single Residence 1 (SR1) district. (§7.3.3.C.1);
2. The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback will not adversely affect the neighborhood as the topography and shape of the site is such that there will be limited if any visibility of the garage from adjacent public ways and properties (§7.3.3.C.2);
3. The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback will not create a nuisance or serious hazard to vehicles or pedestrians (§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).

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Proposed Conditions

1. Plan Referencing Condition
2. Standard Building Permit Condition
 - Submit a final Landscape Plan to the Director of Planning and Development for review and approval.
3. Standard Final Inspection/Certificate of Occupancy Condition.

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New Zoning Analysis, 32 Baldpate Hill Rd.

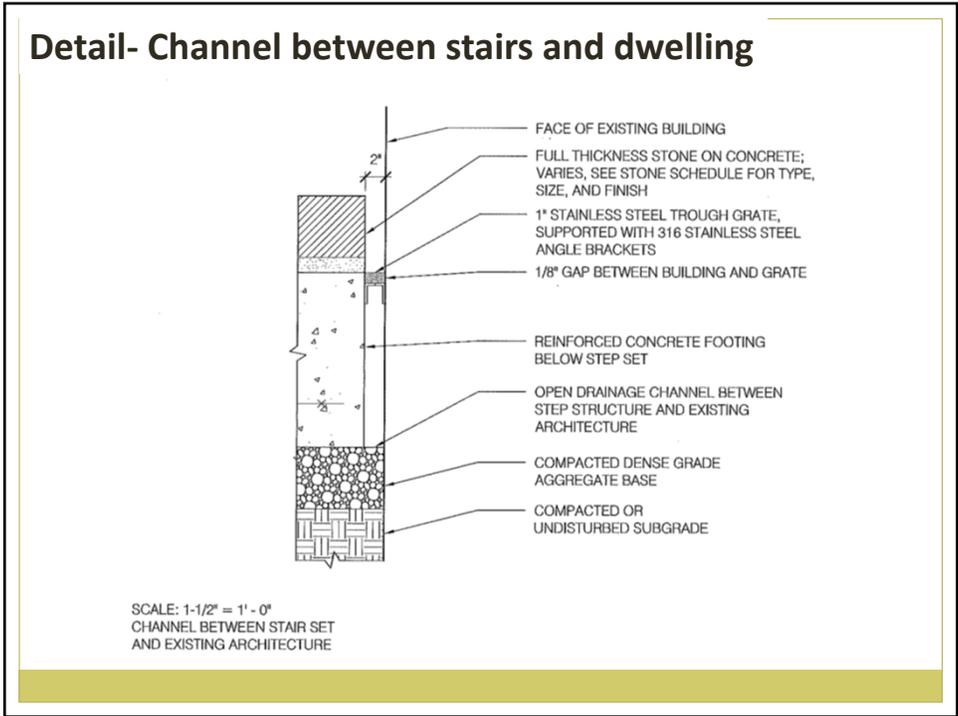
R1 Residential 1 Zoning District

The proposed project would **not be allowed by right** due to exceeding what is allowed under the following dimensional standards:

Standard	Required/Allowed	Proposed
Minimum accessory building separation*	6 ft. minimum	≤ 2 inches
Garage Space (sf)	700 sf maximum	Approx. 975 sf
Retaining wall height**	4 ft. maximum	Approx. 5 feet

* Proposed new regulation in draft ordinance
 ** Would apply to all retaining walls (not just those in a setback)

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23

New Zoning Analysis, 106 Sumner St.

R2 Residential 2 Zoning District

Lot Standards	Required	Existing
Lot Coverage	35% SP 45%	Approx. 50%
Garage Standards (3.4.2)	Required/Allowed	Proposed
Garage Space (sf)	700 sf maximum	1,0001 sf
Accessory building height	18 ft	16.6 ft
May be no closer to the primary front lot line than the front elevation of the building	-	-

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CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow more than one garage on the property, garage space exceeding 700 square feet, and retaining walls exceeding four feet in height in a setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback in the Single Residence 1 (SR1) district. (§7.3.3.C.1)
2. The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback will not adversely affect the neighborhood as the topography and shape of the site is such that there will be limited if any visibility of the garage from adjacent public ways and properties. (§7.3.3.C.2)
3. The project as designed, with an additional garage, garage space in excess of 700 square feet, and retaining walls exceeding four feet in height within a setback will not create a nuisance or serious hazard to vehicles or pedestrians (§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: #39-19

PETITIONER: Matthew Wosk and Dina Wosk

LOCATION: 32 Baldpate Hill Road, Section 82, Block 26, Lot 1, containing approximately 25,225 square feet of land

OWNER: Matthew Wosk and Dina Wosk

ADDRESS OF OWNER: 32 Baldpate Hill Road
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to allow:

- more than one garage (§3.4.2.B.1, §3.4.3.A.4.a);
- garage space exceeding 700 square feet (§3.4.2.B.1 §3.4.3.A.4.c);
- a retaining wall exceeding four feet in height in a setback (§5.4.2).

ZONING: Single Residence 1 (SR1) 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. an engineering plan entitled “32 Baldpate Hill Road, Newton, MA, Proposed Conditions Plan,” dated January 10, 2019, prepared by Verne T. Porter Jr., PLS, signed and stamped by Verne T. Porter, Registered Professional Land Surveyor
 - b. a plan entitled “32 Baldpate Hill Road, Newton, MA, Landscape Plan,” dated January 11, 2019;
 - c. a set of landscape plans entitled “32 Baldpate Hill Road, Newton, Massachusetts,” prepared by Gregory Lombardi Design, Inc., dated October 23, 2018, consisting of the following sheets:
 - i. Planting Plan- Front Trees and Shrubs (L3.01),
 - ii. Planting Plan- Front Perennials (L3.02),
 - iii. Planting Plan- Pool Terrace Trees and Shrubs (L3.03),
 - iv. Planting Plan- Pool Terrace Perennials (L3.04),
 - v. Planting Plan- Slope Trees and Shrubs (L3.05),
 - vi. Planting Plan- Slope Perennials (L3.06),
 - d. a set of architectural plans entitled Wosk Residence, 232 Bald Pate Hill Rd., Newton, MA, prepared by Babbitt Design, CMD Design, Inc., and Gregory Lombardi Design, dated November 12, 2018, consisting of the following sheets:
 - i. Proposed Front Elevation (A-3),
 - ii. Proposed Left & Right Side Elevations (A-4).
2. 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 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Submitted a final Landscape Plan to the Director of Planning and Development for review and approval.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the buildings 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 a registered architect or engineer certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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 licensed land surveyor.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
4. Notwithstanding the provisions of Condition #3 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Department of Planning and Development



PETITION #70-19
739 BEACON STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW A
FOR-PROFIT SCHOOL IN THE
EXISTING BUILDING

MARCH 5, 2019



1

Requested Relief



- Special Permit per §7.3.3 to allow a for-profit educational use (§4.4.1, §6.3.14.B.2)

2

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site located a Business 2 (BU2) zoning district is an appropriate location for the proposed for-profit school (§7.3.3.C.1);
- The proposed for-profit school will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed for-profit school 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.

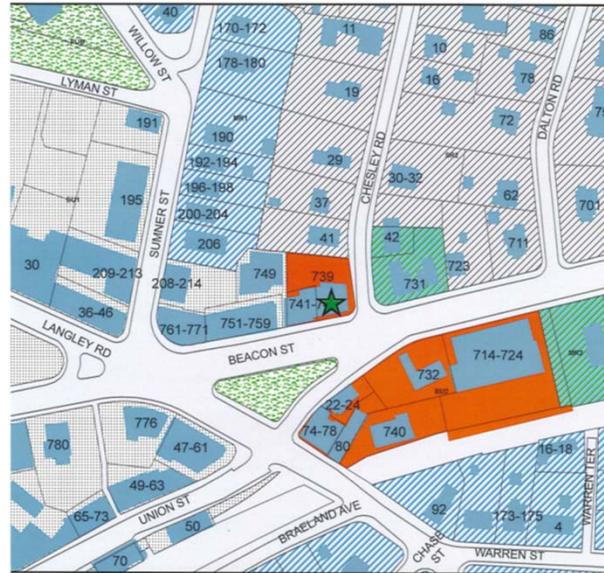
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AERIAL/GIS MAP



4

Zoning



ATTACHMENT I

Zoning

739 Beacon St.
City of Newton,
Massachusetts

- Single Residence 2
- Multi-Residence 1
- Multi-Residence 2
- Business 1
- Business 2
- Public Use



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her intended purpose. GIS Department will not accept any liability for errors or omissions based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Kathleen Fuller
GIS Administrator - Douglas Greenfield

11200 10 75 100 125 150 175 200 Feet

Map Date: February 26, 2019

5

Land Use



ATTACHMENT I

Land Use

739 Beacon St.
City of Newton,
Massachusetts

- Single Family Resident
- Multi-Family Residential
- Commercial
- Mixed Use
- Open Space
- Nonprofit Organization
- Vacant Land
- Tax Exempt



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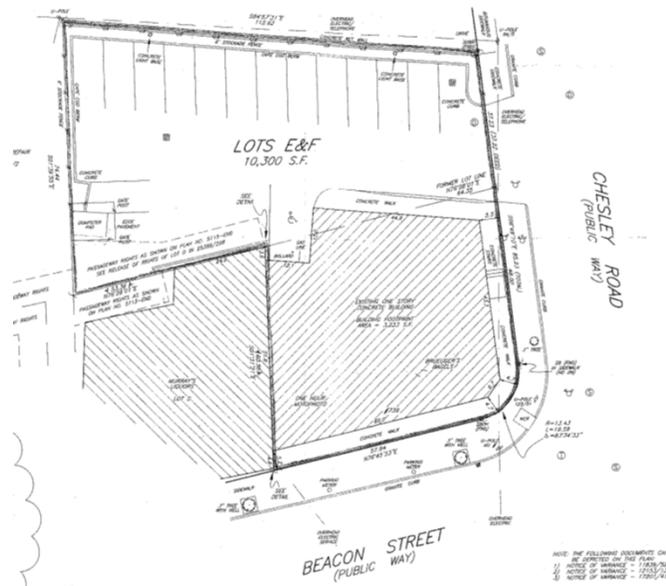
CITY OF NEWTON, MASSACHUSETTS
Mayor - Kathleen Fuller
GIS Administrator - Douglas Greenfield

11200 10 75 100 125 150 175 200 Feet

Map Date: February 26, 2019

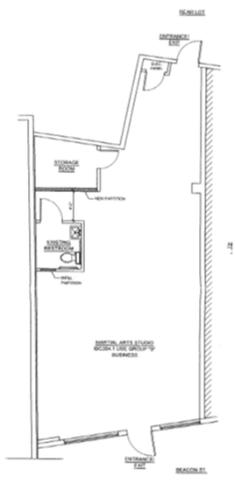
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Site Plan

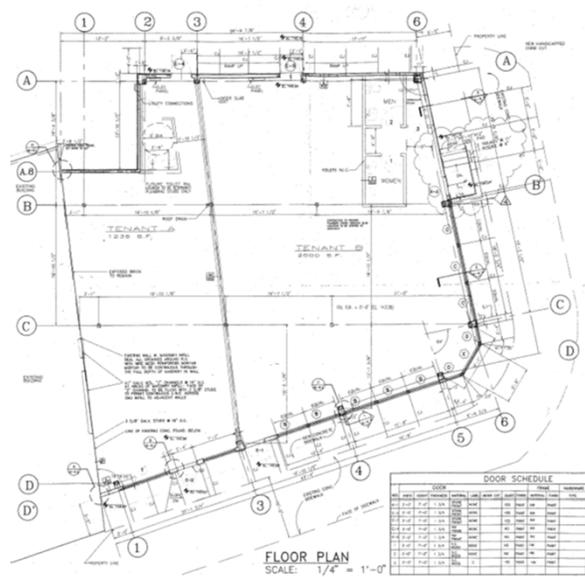


7

Floor Plans



Proposed Floor Plan- 1038.88 S.F.
SCALE: 1/4" = 1'-0"



FLOOR PLAN
SCALE: 1/4" = 1'-0"

8

Photos



9

Photos



10

Photos



11

Proposed Findings

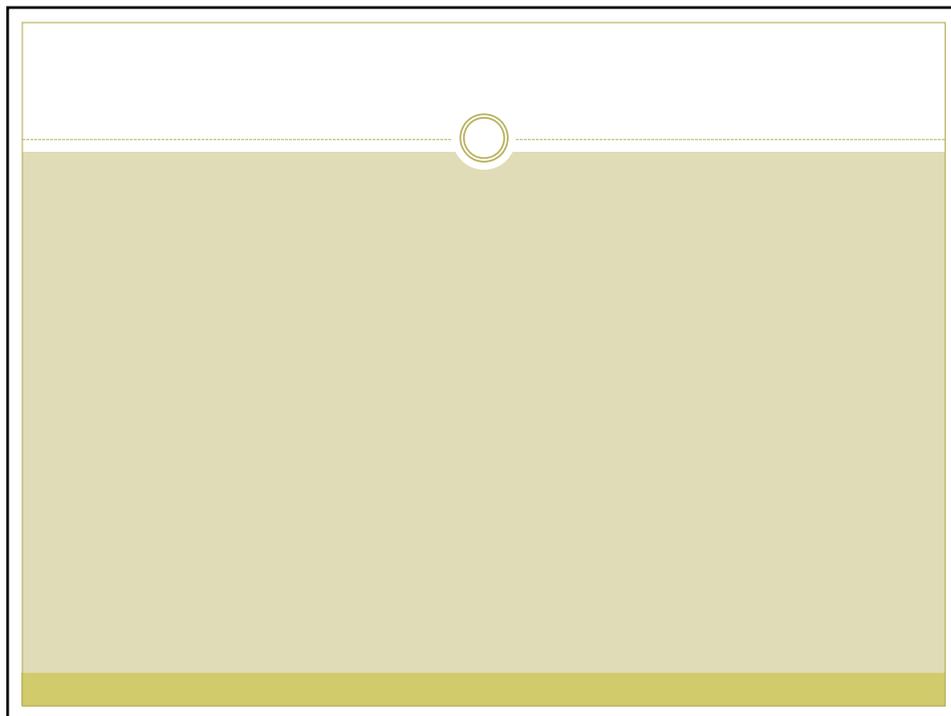
1. The specific site is an appropriate location for the proposed for-profit educational use as it is located in an active commercial area with a mix of retail, service, office and residential uses (§7.3.3.C.1);
2. The proposed for-profit educational use as developed and operated will not adversely affect the neighborhood as the site is located in a mixed-use area with active commercial uses and has adequate off-site parking to meet the projected parking demand for the proposed uses (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians; (§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).

12

Proposed Conditions

1. *Plan Referencing Condition*
2. The educational use staff is limited to two employees on the largest shift.
3. Any changes to signage shall be subject to review by the Urban Design Commission and approval of the Commissioner of Inspectional Services.
4. *Standard Building Permit Condition.*
5. No Certificate of Occupancy for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - Filed a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.

13



14

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 for-profit educational use in a Business 2 (BU2) zoning district (§4.4.1; §6.3.14.B.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed for-profit educational use as it is located in an active commercial area with a mix of retail, service, office and residential uses (§7.3.3.C.1);
2. The proposed for-profit educational use as developed and operated will not adversely affect the neighborhood as the site is located in a mixed-use area with active commercial uses and has adequate off-site parking to meet the projected parking demand for the proposed use (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§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: #70-19

PETITIONER: SSDS MA Studio 4, LLC

LOCATION: 739 Beacon Street, on land known as Section 61, Block 27, Lot 17, containing approximately 10,498 square feet of land

OWNER: Equity Realty, LLC

ADDRESS OF OWNER: 825 Beacon Street
Newton, MA 02459

TO BE USED FOR: For-profit educational use

EXPLANATORY NOTES: Special permit per §7.3.3 to allow a for-profit educational use (§4.4.1; §6.3.14.B.2)

ZONING: Business 2 (BU2) 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. a plan entitled "ALTA/ACSM Land Title Survey in Newton, Mass., Owner: 739 Beacon Corporation, Deed Reference: Book 24786, Page 99, Recorded with the Middlesex South Registry of Deeds," prepared by Hayes Engineering, Inc., signed and stamped by Thomas F. Winslow, Professional Land Surveyor, dated May 21, 1996;
 - b. a plan entitled "Floor Plan," prepared by CID Associates Inc., dated May 9, 1995, as revised through July 21, 1995;
 - c. a plan entitled "Kung Fu School, 739 Beacon Street, Newton, MA 02459," prepared by DLA Architecture, signed and stamped by Donald Lang, Registered Architect, dated December 10, 2018.
2. The educational use staff is limited to no more than two employees on the largest shift.
3. The petitioner shall discourage double-parking by its patrons on Beacon street and encourage patrons to use the on-site parking facility for drop off and pick up.
4. Any changes to signage shall be subject to review by the Urban Design Commission and approval of the Commissioner of Inspectional Services.
5. 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 Approval 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 Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.

6. No Certificate of Occupancy for the buildings and uses 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 a registered architect or surveyor certifying substantial compliance with Condition #1.



PETER SACHS
ARCHITECT

46 Berwick Rd, Newton MA Proposed Addition



3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

1



Peter Sachs
Architect

Areas

3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

2

AREAS OF BUILDINGS IN SQUARE FEET



3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

3

Existing Pictures

Showing actual F.A.R. per property

3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

4



52 Berwick - 4,965 s.f.



42 Berwick Rd - 3,780 s.f.



9 Saxon Rd - 3,742 s.f.



46 Saxon Rd - 3,640 s.f.



30 Berwick Rd - 6,100 s.f.



46 Berwick - 4,184 s.f.

Average F.A.R. = 4,650 s.f.

Proposed F.A.R. = 4,184 s.f.



46 Berwick - 4,180 s.f.



30 Berwick Rd - 6,100 s.f.



29 Berwick Rd - 5,230 s.f.



35 Berwick Rd - 4,434 s.f.



5 Pine Crest Rd - 4,228 s.f.



Existing and Proposed Views

Proposed Front View



3/14/2019

Existing Front View



46 Berwick Rd., Newton MA - Proposed Addition

Proposed Front View



7

Left Elevation

3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

8

Addition to Left Elevation



3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

9

3D View

3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

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3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

11

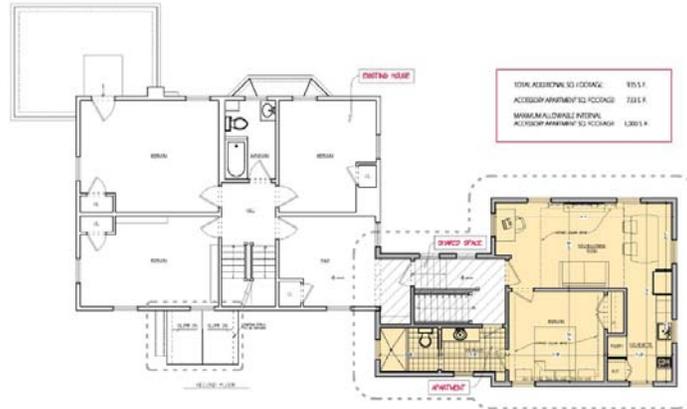
Floor Plan

3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

12

Proposed Floor Plan



Site Plans

Existing and Proposed Site Plans

Proposed F.A.R.

$$F.A.R. = \frac{4,184 \text{ ft}^2}{6,437 \text{ ft}^2} = 0.65$$

Effective Proposed F.A.R.

$$F.A.R. = \frac{4,184 \text{ ft}^2}{6,437 \text{ ft}^2 + 982 \text{ ft}^2} = 0.56$$

3/14/2019



46 Berwick Rd., Newton MA - Proposed Addition

15



PETER SACHS
ARCHITECT

Thanks
for your attention



3/14/2019

46 Berwick Rd., Newton MA - Proposed Addition

16

Department of Planning and Development



**PETITION #40-19
46 BERWICK ROAD**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO FURTHER INCREASE
THE NONCONFORMING FLOOR
AREA RATIO FROM .50 TO .65
WHERE .44 IS THE MAXIMUM
ALLOWED



MARCH 5, 2019

1

Requested Relief



Special Permit per §7.8.2.C.2 and §7.3.3 of the NZO to:

- Further increase the nonconforming floor area ratio. (§3.1.9)

2

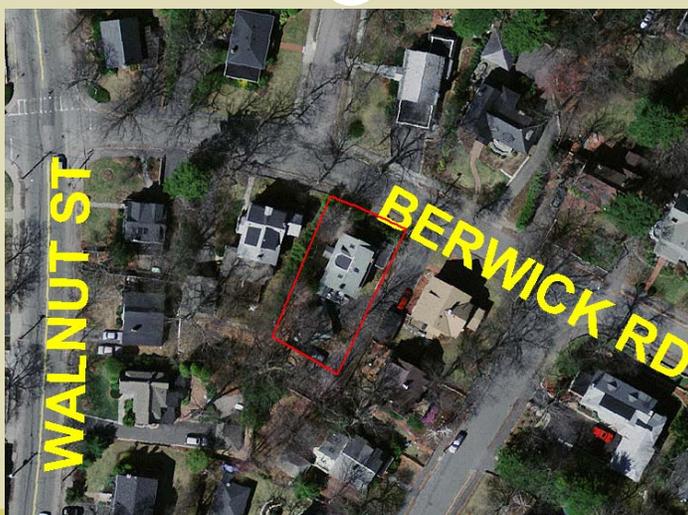
Criteria to Consider

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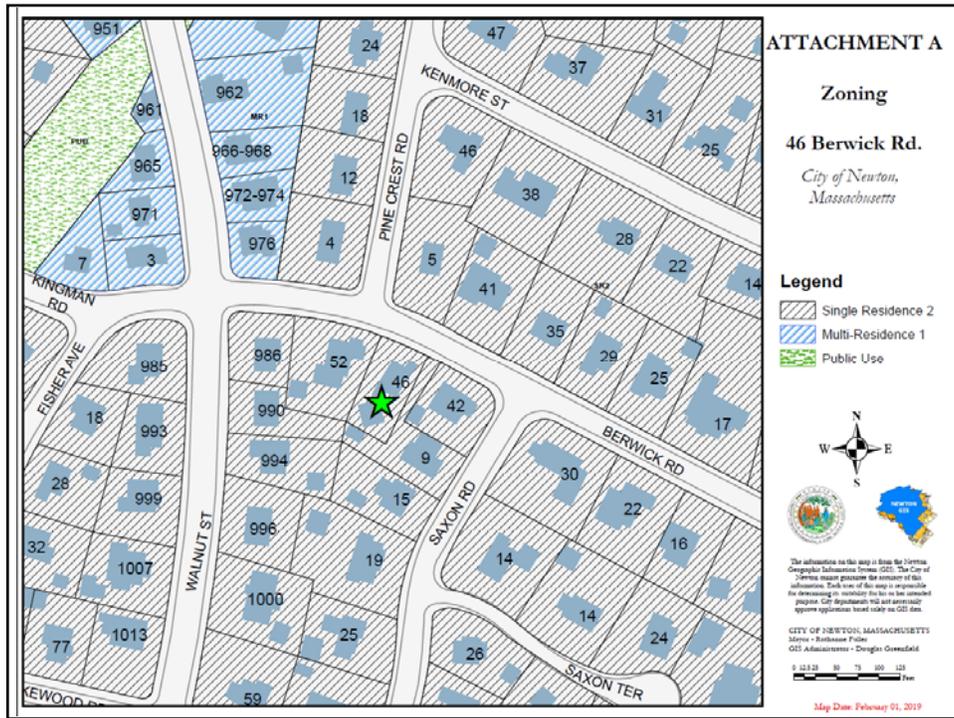
- The proposed increase in the nonconforming FAR from .50 to .65, where .44 is the maximum allowed is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9 and §7.8.2.C.2).
- The proposed increase in the nonconforming FAR will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9 and §7.8.2.C.2).

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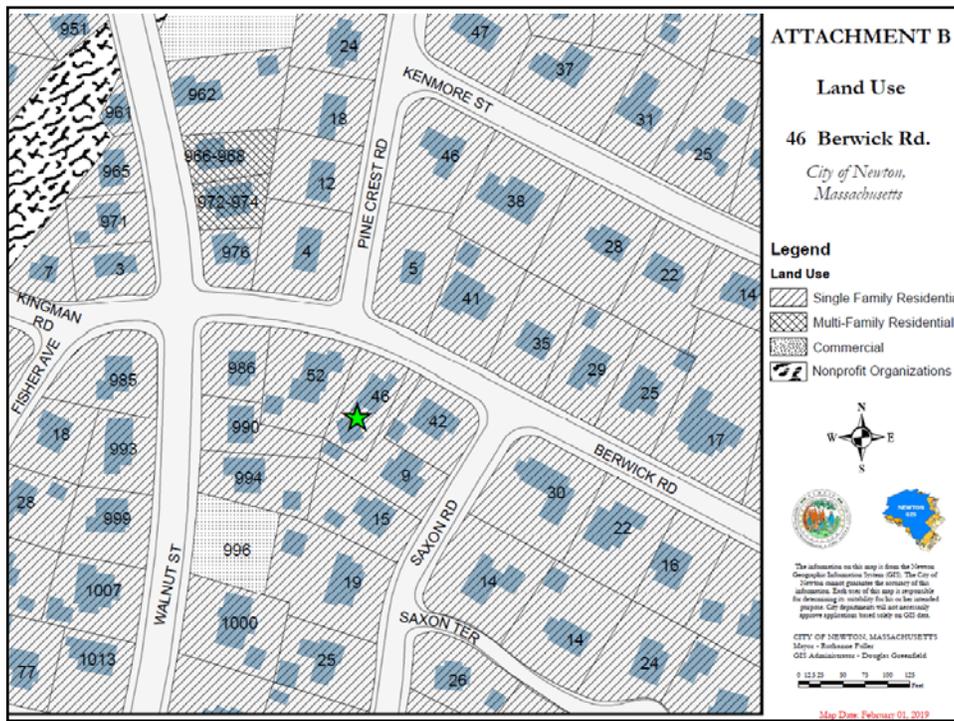
Aerial/GIS Map



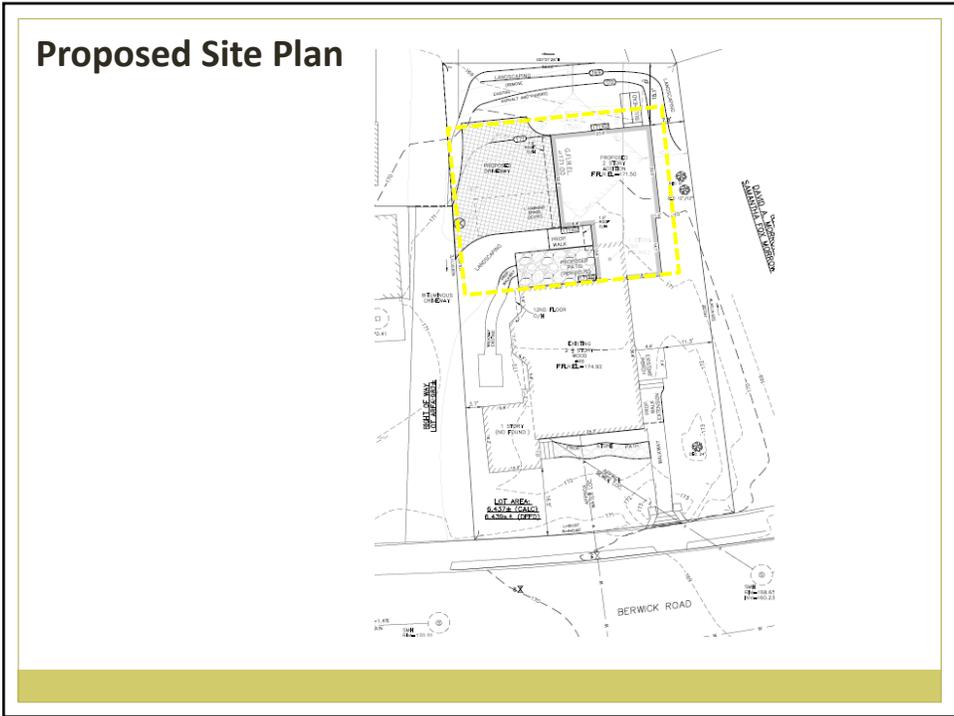
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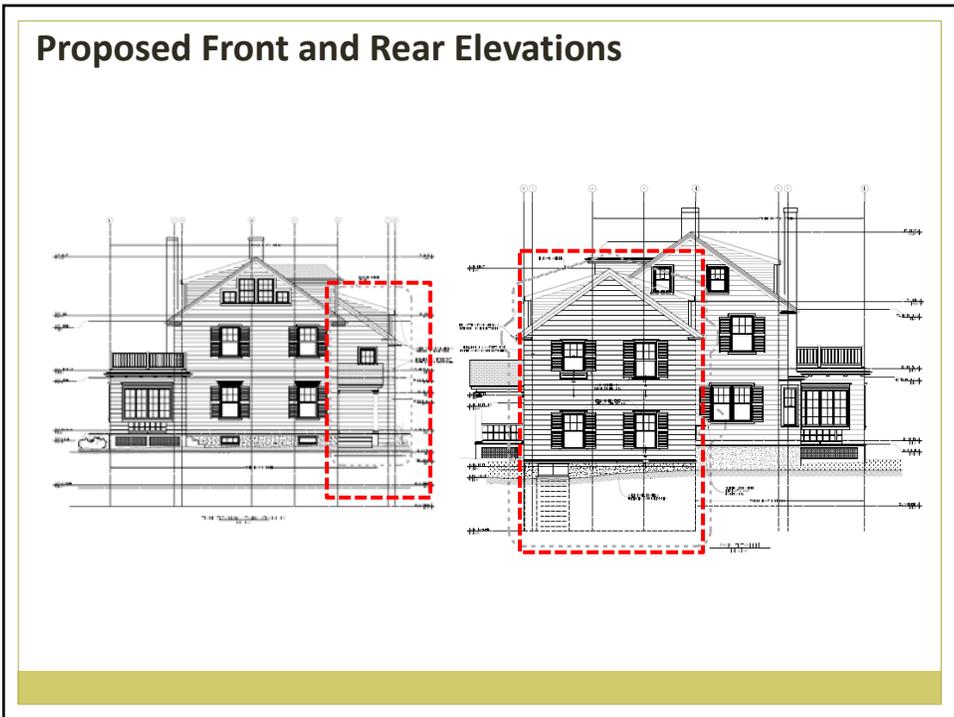
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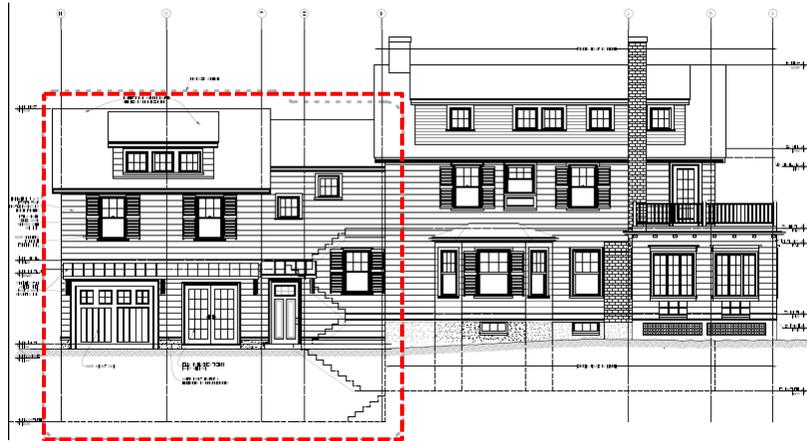


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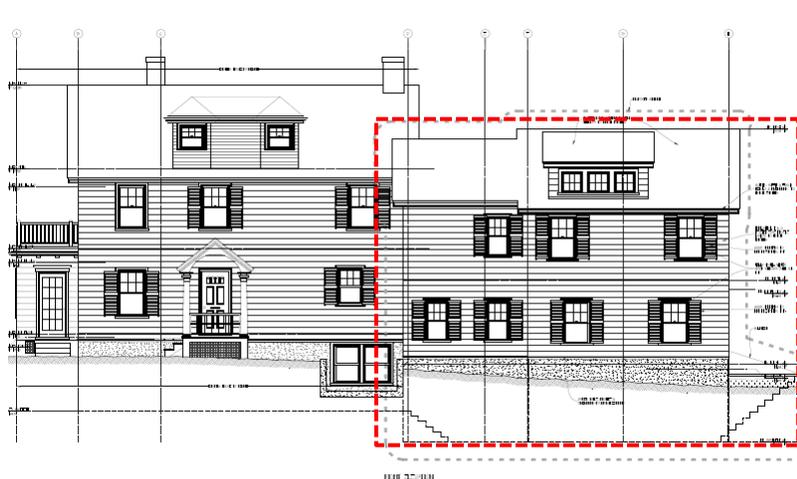
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Proposed Left Elevations



9

Proposed Right Elevations



10

Planning Analysis

- Explore options to reduce the size of the addition.
- Include landscape plan with screening along the rear and side lot lines.

11

Proposed Finding

1. The proposed increase in the nonconforming floor area ratio from .50 to .65, where .44 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition will have minimal visibility from the street, meets all setback requirements, and is not higher than the existing structure (§3.1.9 and §7.8.2.C.2).

12

Proposed Conditions

1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.
4. Prior to the issuance of any building permit for the Project, the petitioner shall provide a landscape plan for review and approval by the Director of Planning and Development.
5. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
6. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required onsite landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements

13

New Zoning Analysis, 46 Berwick Road

In Compliance:

- Frontage
- Building footprint
- Building width
- Building depth
- Building footprint
- Maximum stories
- Story height

House Type B
R2 Residential 2 Zoning District

The proposed project would **not be allowed by right** due to exceeding what is allowed under the following dimensional standards:

Lot Standard	Required/Allowed	Proposed
Minimum rear setback	20 ft	15.1 ft
Lot Coverage*	35% SP: 45%	46%

*Definition of lot coverage changes under the new ordinance

14

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 increase the nonconforming floor area ratio (FAR) from .50 to .65, where .44 is the maximum allowed as of right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming floor area ratio from .50 to .65, where .44 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition will have minimal visibility from the street, meets all setback requirements, and is not higher than the existing structure (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #40-19

PETITIONER: Jonathan Flynn

LOCATION: 46 Berwick Rd., on land known as Section 52, Block 16, Lot 14, containing approximately 6,437 square feet of land

OWNER: Jonathan Flynn

ADDRESS OF OWNER: 46 Berwick Road
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9, §7.8.2.C.2, to further increase the nonconforming FAR to construct a rear addition with an accessory apartment

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. Topographic Site Plan, signed and stamped by Joseph A. Porter, Professional Land Surveyor, dated August 21, 2018; Revised: November 7, 2018, November 19, 2018.
 - b. Architectural Plans, signed and stamped by Peter Sachs, Registered Architect, consisting of the following nine (9) sheets:
 - i. Proposed Title Sheet, A-1
 - ii. Proposed Basement Floor Plan, A-2
 - iii. Proposed First Floor Plan, A-3
 - iv. Proposed Second Floor, A-4
 - v. Proposed Third Floor, A-5
 - vi. Proposed Front Elevation, A-6
 - vii. Proposed Right Elevation, A-7
 - viii. Proposed Rear Elevation, A-8
 - ix. Proposed Left Elevations, A-9
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. Prior to the issuance of any building permit for the Project, the petitioner shall provide a landscape plan for review and approval by the Director of Planning and Development.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - 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.

5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect 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 licensed architect.
6. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
7. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
8. The petitioner shall install a 500 gallon tank for stormwater and shall use other reasonable good faith efforts to maintain stormwater on the site and not have any additional runoff.

Department of Planning and Development



**PETITION #68-19
45 HYDE AVENUE**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO FURTHER INCREASE
THE NONCONFORMING FLOOR AREA
RATIO AND TO FURTHER INCREASE
THE NONCONFORMING BUILDING
HEIGHT



MARCH 5, 2019

Requested Relief



Special Permits per §7.8 of the NZO to:

- Further increase the nonconforming floor area ratio from .36 to .42, where .33 is the maximum allowed as of right (§3.1.9 and §7.8.2.C.2).
- Further increase the nonconforming building height from 41.12 feet to 41.56 feet, where 36 feet is the maximum allowed as of right (§3.1.3 and §7.8.2.C.2).

Criteria to Consider



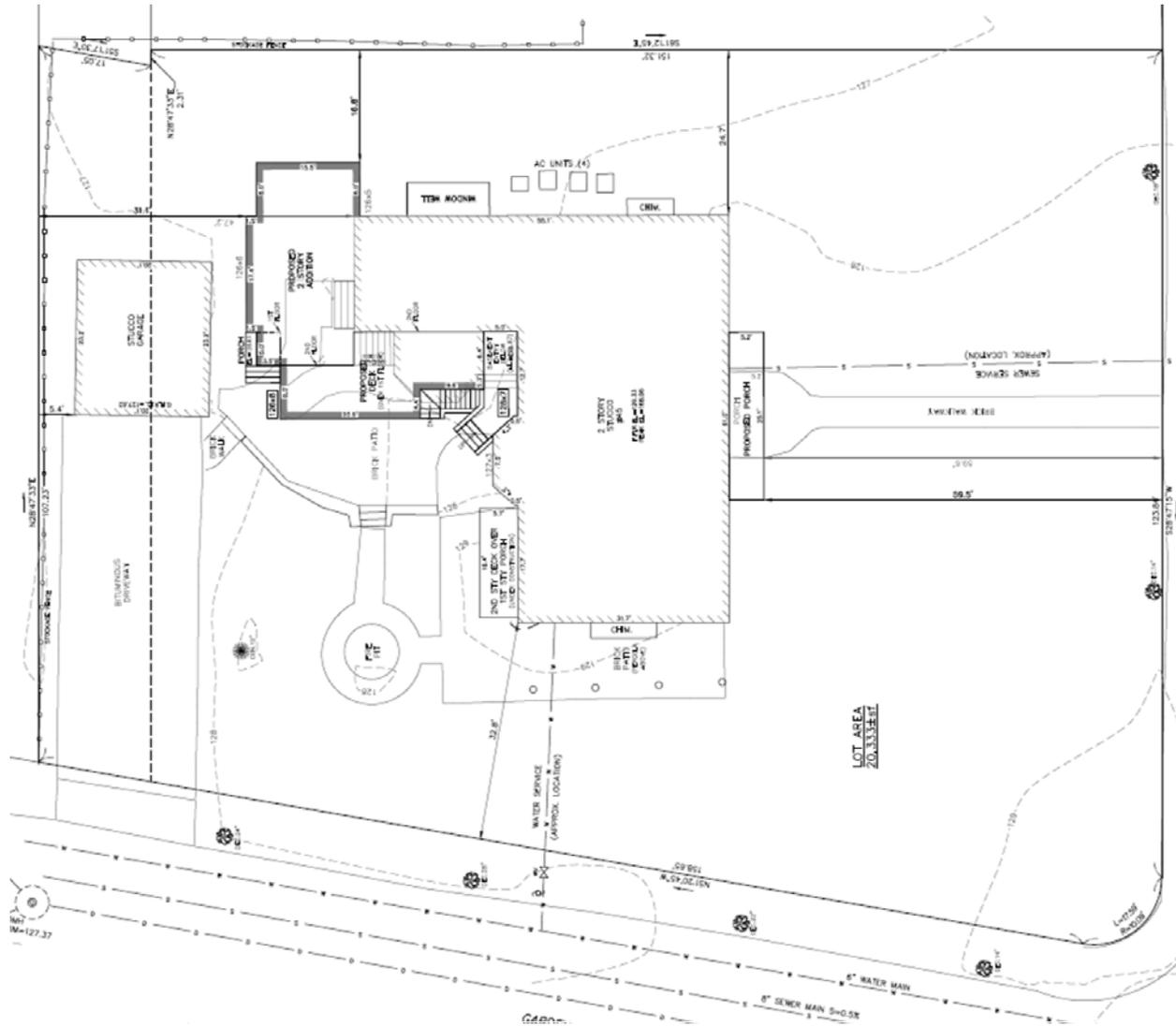
When reviewing this request, the Council should consider whether:

- The proposed increase in FAR from .36 to .42, where .33 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.9 and §7.8.2.C.2)
- The proposed increase in the nonconforming FAR from .36 to .42 where .33 is the maximum allowed by-right is substantially more detrimental than the existing nonconforming FAR is to the neighborhood. (§3.1.9 and §7.8.2.C.2)
- The proposed increase in the nonconforming building height from 41.12 feet to 41.56 feet is substantially more detrimental than the existing nonconforming building height is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

AERIAL/GIS MAP



Proposed Site Plan



Existing Garden Road Elevation



Proposed Garden Road Elevation



Existing Rear Elevation



Proposed Rear Elevation



Existing Side Elevation



Proposed Side Elevation



Analysis



1. Context of the immediate area
2. Building height versus principal roof height

Proposed Findings



1. The proposed increase in the nonconforming FAR from .36 to .42, where .33 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the dwelling is one in a group of dwellings in the immediate area that are distinctive for their scale and their massing. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR from .36 to .42 where .33 is the maximum allowed by-right is not substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the addition will be set back from the side and rear property lines in excess of the required setbacks, and the addition will not impact the Garden Road streetscape due to the addition's distance from the street. (§3.1.9 and §7.8.2.C.2)

Proposed Findings Continued



3. The proposed increase in the nonconforming building height from 41.12 feet to 41.56 feet is not substantially more detrimental than the existing nonconforming building height is to the neighborhood because the change in height is de minimis as the principal roofline is not increasing. (§3.1.3 and §7.8.2.C.2)

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval, should a drainage system be required. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.

Proposed Conditions



4. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.

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 increase the nonconforming Floor Area Ratio (FAR) from .36 to .42, where .33 is the maximum allowed by-right, and to further increase the nonconforming building height, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming FAR from .36 to .42, where .33 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the dwelling is one of a group of dwellings in the immediate area that are distinctive for their scale and their massing. (§3.1.9 and §7.8.2.C.2)
2. The proposed increase in the nonconforming FAR from .36 to .42 where .33 is the maximum allowed by-right is not substantially more detrimental than the existing nonconforming FAR is to the neighborhood because the addition will be set back from the side and rear property lines in excess of the required setbacks, and the addition will not impact the Garden Road streetscape due to the addition's distance from the street. (§3.1.9 and §7.8.2.C.2)
3. The proposed increase in the nonconforming building height from 41.12 feet to 41.56 feet is not substantially more detrimental than the existing nonconforming building height is to the neighborhood because the change in height is de minimis as the principal roofline is not increasing. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #68-19

PETITIONER: Chris and Melissa Kontaridis

LOCATION: 45 Hyde Avenue, on land known as Section 72, Block 24, Lot 07, containing approximately 20,333 square feet of land

OWNER: Chris and Melissa Kontaridis

ADDRESS OF OWNER: 45 Hyde Avenue
Newton, MA 02458

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.8.2.C.2 to further increase the nonconforming FAR; §3.1.3, and §7.8.2.C.2 to further increase the nonconforming building height

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. Topographic Site Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated January 2, 2019.
 - b. Architectural Plans and Elevations, signed and stamped by Peter Sachs, Registered Architect, dated July 2, 2018 revised October 10, 2018, December 7, 2018, and February 5, 2019 consisting of twenty-four (24) sheets.
2. Prior to the issuance of any Building Permit, the petitioners 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. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioners shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioners at the Middlesex South District Registry of Deeds. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this 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 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.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
- 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 licensed land surveyor.
- c. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.
- d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.

Department of Planning and Development



PETITION #69-19
110 GREENLAWN AVE.

SPECIAL PERMIT/SITE PLAN
APPROVAL TO EXTEND THE
NONCONFORMING SIDE SETBACK
BY RAZING AN EXISTING LANDING
AND CONSTRUCTING A NEW DECK
AND STAIRS

MARCH 5, 2019



Requested Relief



Special Permit per §7.8.2.C.2 of the NZO to:

- Further extend a nonconforming side setback (§3.1.3).

Criteria to Consider



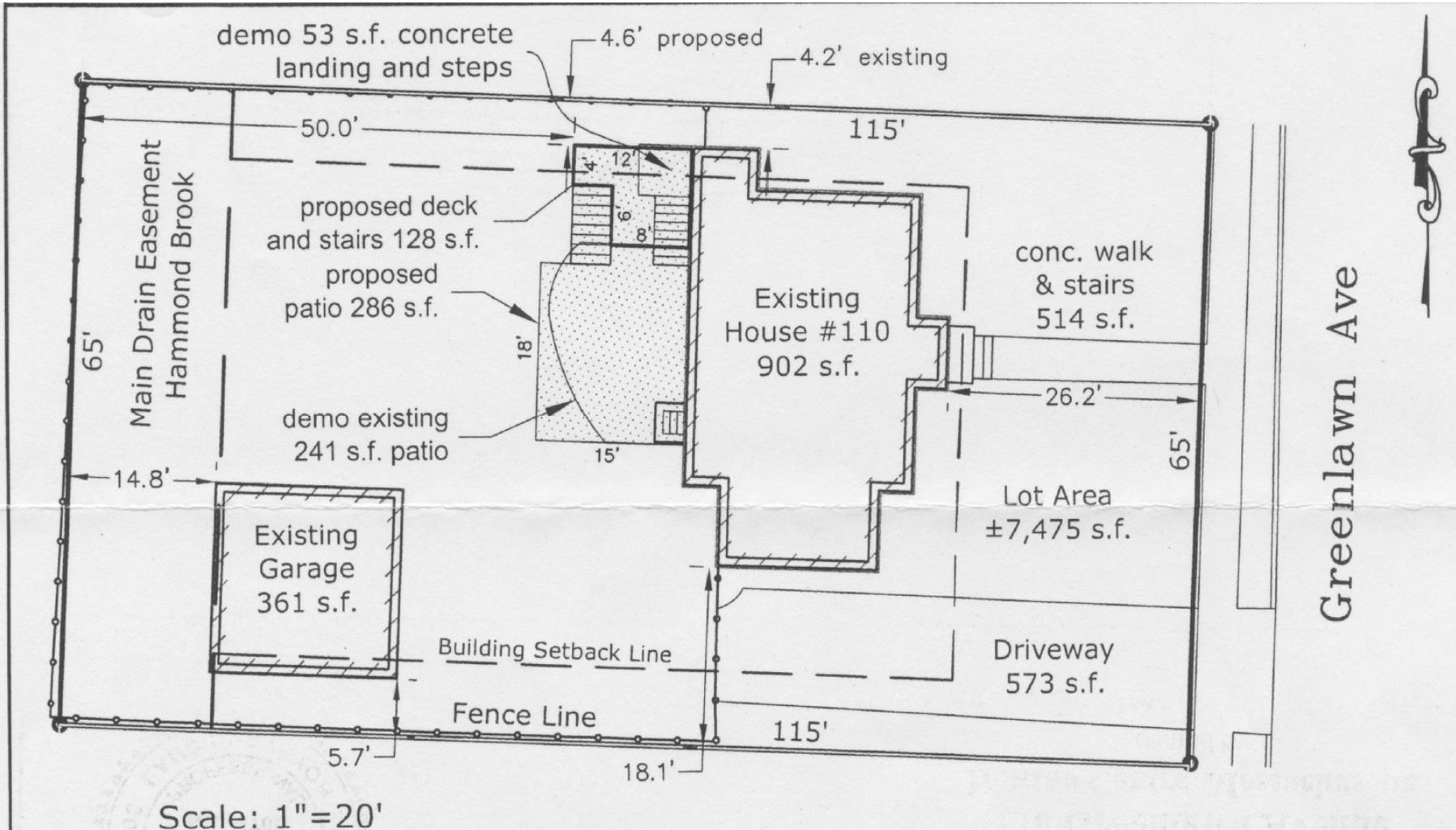
When reviewing this request, the Council should consider whether:

- The proposed deck that would further extend the nonconforming side setback is not substantially more detrimental than the existing nonconforming structure to the neighborhood (§3.1.3 and §7.8.2.C.2).

Aerial/GIS Map



Site Plan



Proposed Findings



1. The proposed deck that would further extend the nonconforming side setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood given that the proposed deck will not be visible from the street and is replacing a damaged concrete landing (§3.1.3 and §7.8.2.C.2).

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Prior to the issuance of an occupancy permit, the petitioner shall provide an as built plan showing the shed to be in compliance with the setbacks required of accessory structures.

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 the non-conforming side setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed deck that would further extend a nonconforming side setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood given that the proposed deck will not be visible from the street and is replacing a damaged concrete landing. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #69-19

PETITIONER: Eric and Phoebe Belsley

LOCATION: 110 Greenlawn Ave., on land known as Section 64, Block 13, Lot 5, containing approximately 7,475 square feet of land

OWNER: Eric and Phoebe Belsley

ADDRESS OF OWNER: 110 Greenlawn Ave.
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3 and §7.8.2.C.2 to further extend the nonconforming side setback by razing a concrete landing and stairs and constructing a deck.

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. Proposed Deck Plot Plan, signed and stamped by Norman G. Hill, Professional Land Surveyor, dated November 27, 2018.
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 petitioners have:
 - 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 petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect 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 licensed architect.

Department of Planning and Development



PETITION #71-19
106 SUMNER ST.

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT
A TWO CAR GARAGE,
CREATING MORE THAN 700 SQ.
FT. OF GARAGE SPACE AND
MORE THAN ONE GARAGE.

MARCH 5, 2019



Requested Relief



Special Permit per §7.3.3 to

- to allow more than one garage (§3.4.2.B.1, §3.4.3.A.4.a)
- to allow more than 700 square feet of garage space (§3.4.2.B.1, 3.4.3.A.4.c)

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site is an appropriate location for the project as designed, with an additional garage and garage space in excess 700 square feet (§7.3.3.C.1);
- The project as designed, with an additional garage and garage space in excess 700 square feet will adversely affect the neighborhood (§7.3.3.C.2);
- The project as designed, with an additional garage and garage space in excess 700 square feet 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).

Aerial/GIS Map



ATTACHMENT A

Zoning

106 Sumner St.

City of Newton,
Massachusetts

Legend

 Single Residence 2

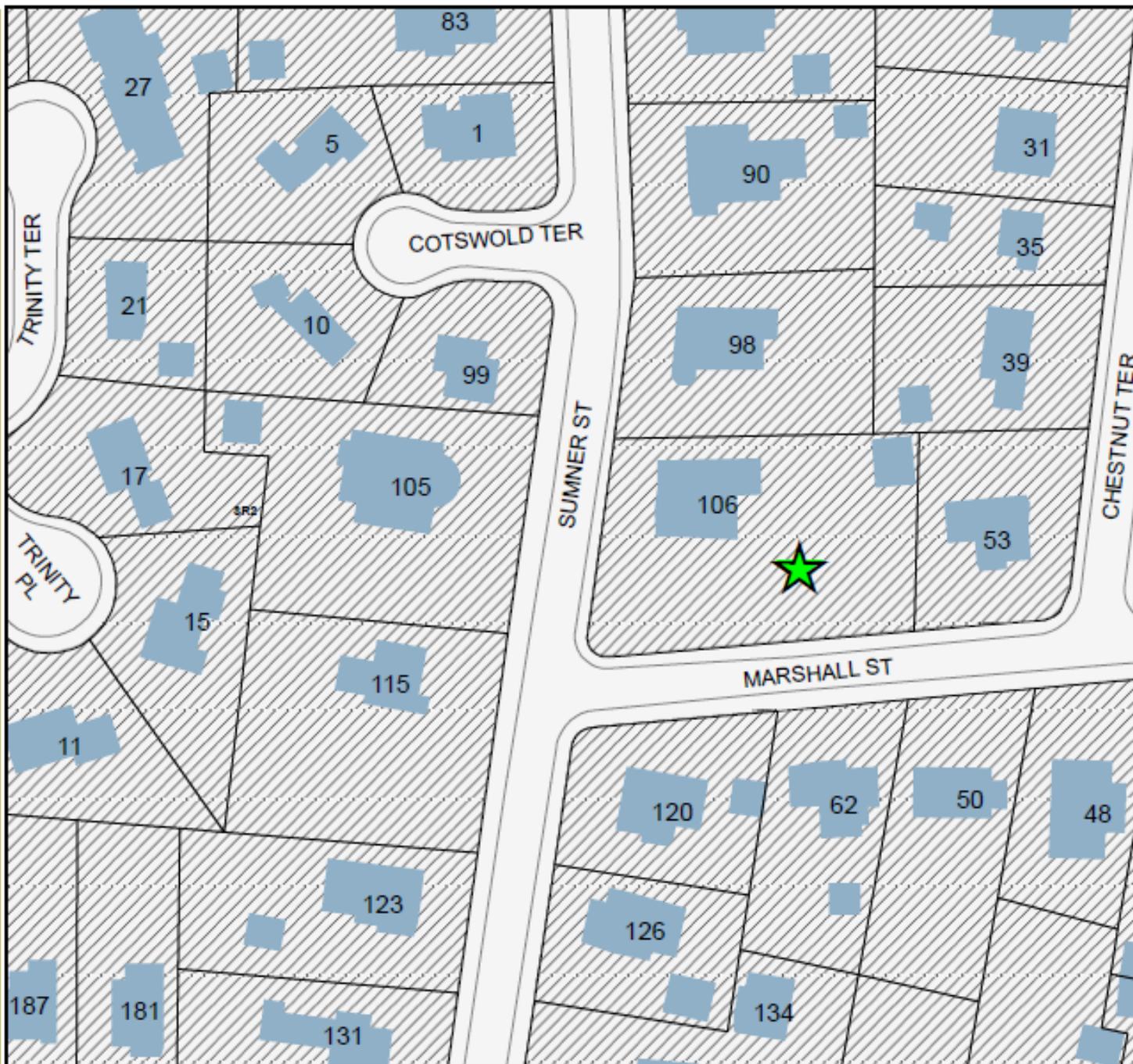


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100
Feet

Map Date: March 01, 2019



ATTACHMENT B

Land Use

106 Sumner St.

City of Newton,
Massachusetts

Legend

Land Use

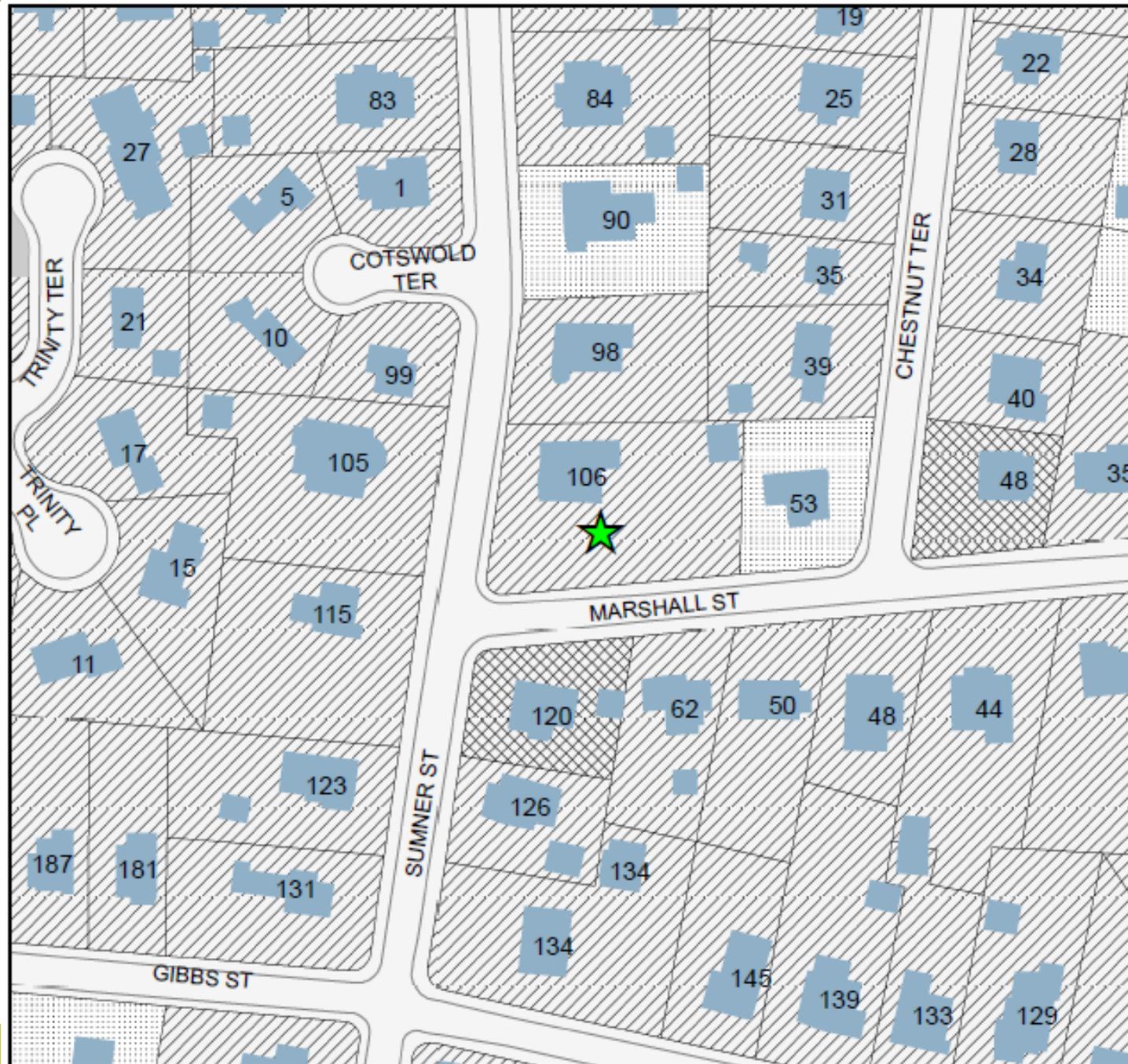
-  Single Family Residential
-  Multi-Family Residential
-  Commercial



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.

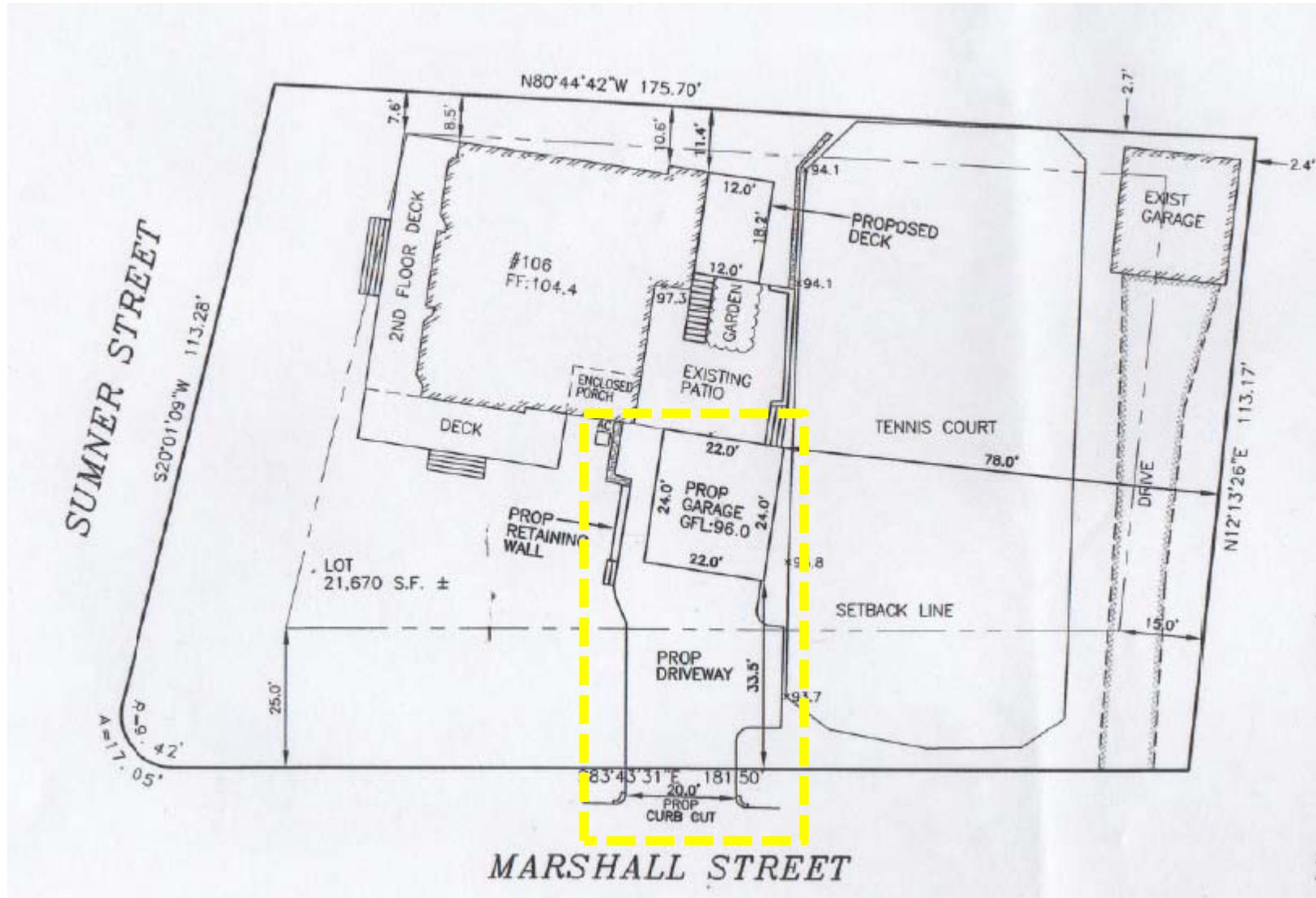
CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet



Map Date: February 21, 2019

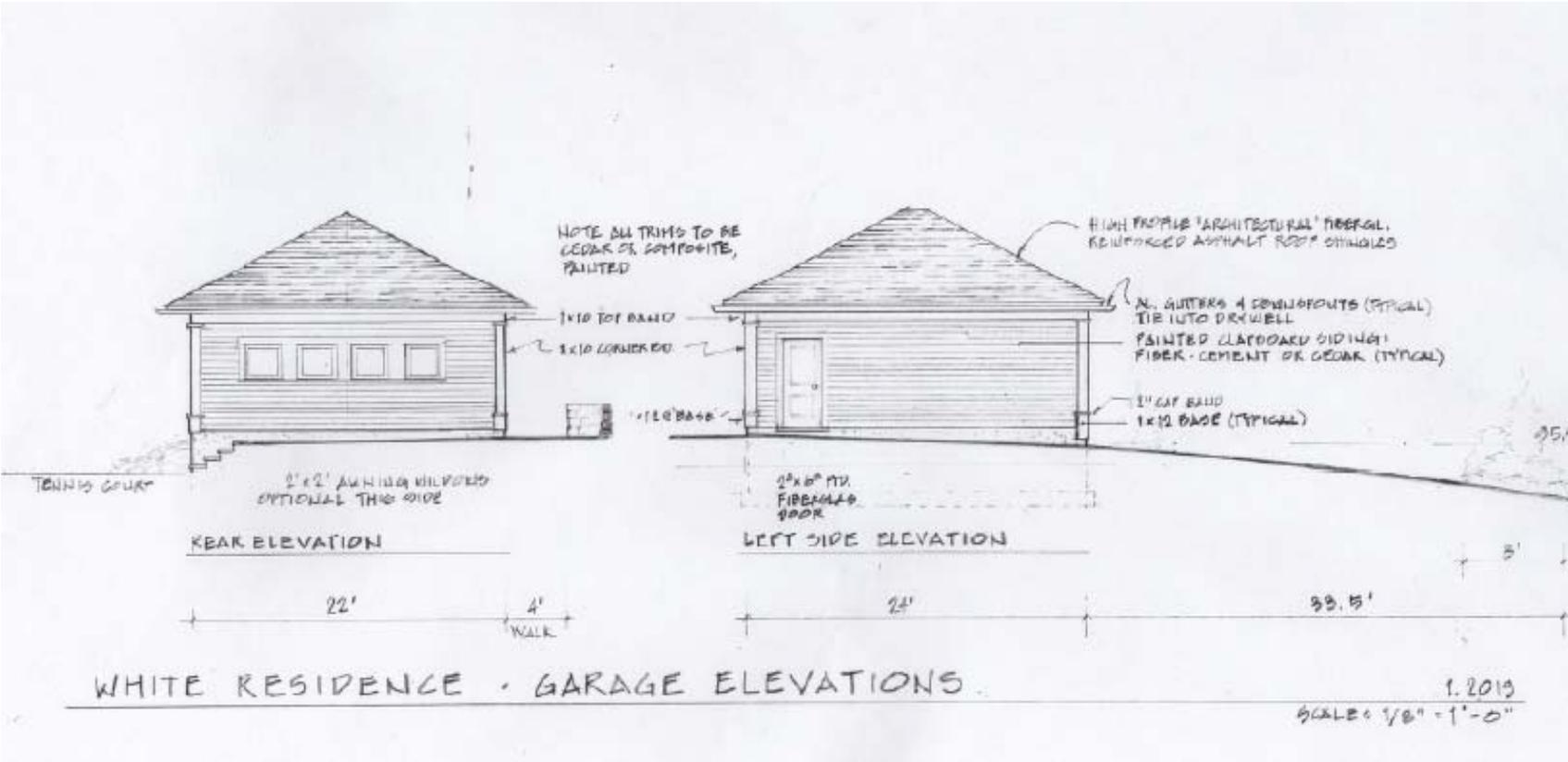
Site Plan



Elevations



Elevations



Photos



Photos



Planning Analysis



- Supportive of the additional garage on site.
- Would like to see the proposed curb cut reduced from 20 ft.

Proposed Findings



1. The site is an appropriate location for the project as designed, with an additional garage, and garage space in excess of 700 square feet because the existing garage appears to be on the abutters property, rather than one house with two garages at 106 Sumner St. (§7.3.3.C.1);
2. The project as designed, with an additional garage, and garage space in excess of 700 square feet, will not adversely affect the neighborhood as there are existing structures on the site that create a visual separation between the existing garage and proposed garage.(§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§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).

Proposed Conditions



1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

New Zoning Analysis, 106 Sumner St.

In Compliance:

- Accessory building height
- May be no closer to the primary front lot line than the front elevation of the building

R2 Residential 2 Zoning District

The proposed project would **not be allowed by right** due to exceeding what is allowed under the following dimensional standards:

Standard	Required/Allowed	Proposed
Lot Coverage*	35% SP: 45%	Approx. 50%
Garage Space (sf)	700 sf maximum	1,0001 sf

*Definition of lot coverage changes under the new ordinance

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow more than one garage on the property, and garage space exceeding 700 square feet as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the project as designed, with an additional garage, and garage space in excess of 700 square feet because the existing garage visually presents as part of the abutting property and is directly adjacent to the abutting property. (§7.3.3.C.1)
2. The project as designed, with an additional garage, and garage space in excess of 700 square feet, will not adversely affect the neighborhood as there are existing structures on the site that create a visual separation between the existing garage and proposed garage. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§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: #71-19

PETITIONER: Barry and Elenor White

LOCATION: 106 Sumner St., Section 61, Block 2, Lot 8, containing approximately 21,670 square feet of land

OWNER: Barry and Elenor White

ADDRESS OF OWNER: 106 Sumner Street

Newton, MA 02459

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to allow:

- more than one garage (§3.4.2.B.1, §3.4.3.A.4.a);
- garage space exceeding 700 square feet (§3.4.2.B.1 §3.4.3.A.4.c);

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:
 - i. A plan entitled “Plan of Land in Newton, Massachusetts, 106 Sumner Street Proposed Garage” prepared by Everett M. Brooks Co. Surveyors and Engineers, dated November 26, 2018, signed and stamped by Bruce Bradford, Professional Land Surveyor.
 - ii. A set of architectural plans entitled “White Garage and Landscape Plan,” prepared by Jay Walter, dated November 11, 2018, signed and stamped by Jay Walter, Registered Architect, consisting of the following sheets:
 - a. Site Plan;
 - b. Garage Elevation, December 15, 2018 (1)
 - c. Garage Elevation, December 15, 2018 (2)
 - d. Garage Elevations, rear and left side elevations, January 2019
2. 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 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

3. No Final Inspection and/or Occupancy Permit for the buildings 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 a registered architect or engineer certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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 licensed land surveyor.