



Ruthanne Fuller
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

MEMORANDUM

DATE: September 19, 2024

TO: R. Lisle Baker, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Nora Masler, Planning Associate

RE: **#209-24 Requesting discussion and possible amendment to Section 3.4.4 of Chapter 30 Zoning**
TERRENCE P. MORRIS, ESQ. on behalf of Brian Traugot requesting discussion and possible zoning ordinance amendment to Section 3.4.4 Garage Design Standards, subsection B. Definitions, Subparagraph 1, "Garage" by inserting the words "above grade" after the clause, "or portion of the structure" as it appears in the 1st sentence of the "Garage" definition.

MEETING: September 23, 2024

CC: City Council
Planning Board
Anthony Ciccariello, Commissioner of Inspectional Services
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor

Overview

The Garage Ordinance, Sec. 3.4.4., was last updated in 2021 following numerous years of starts and stops. These updates placed stronger design standards that limit the visual appearance of garages in relation to the individual home, the street, and the neighborhood. It accomplishes this by setting a maximum width of a garage as a percentage of the front façade facing the street. Less strict rules apply to side facing garages or garages set back significantly from the street.

When it comes to the overall size of a garage, attached or detached, the by-right limit has been 700 square feet and 3 cars. A special permit allowance for more square footage and number of cars exists

for Single-Family, Detached buildings, see Sec. 3.4.4.H.1. The most recent amendments created a separate size allowance for Two-Family, Detached buildings. The current maximum garage allowance is 500 square feet and 2 cars per residential unit with no special permit allowance to exceed this.

There is not, and never has been, a differentiation between above or below grade garages when it comes to garage size requirements. The amendment put forward by Attorney Morris would exempt below grade garages from the garage design standards applied above. Simply, this would be a substantive change to how Newton has regulated the size of garages for decades and it is up to City Council to determine whether it wants to consider such an update.

Summary of Draft Amendments

Attorney Morris explains the rationale for his amendment in the docket request, see Attachment A. In short, two adjacent properties (1930-32 and 1936-38 Commonwealth Avenue) looking to develop as two-family homes on each property do not meet the current garage design standards as proposed. The proposed amendment to exempt below grade garages from these requirements would bring this proposal into zoning compliance.

Staff Recommendation and Next Steps

Planning staff do not have a recommendation currently. If the Zoning and Planning Committee (ZAP) would like to further consider this item, then further analysis will be conducted and a recommendation drafted.

That said, one item to consider instead of moving forward with the amendment as proposed would be to allow a special permit for Two-Family, Detached buildings to exceed the garage size requirements like Single-Family, Detached buildings. This would provide Attorney Morris, and his client, with a pathway to approval that does not substantively change the by-right garage requirements.

Attachments

Attachment A	Attorney Morris Proposed Amendment and Supporting Material
--------------	------------------------------------------------------------

Therapy Terrence P. Morris, Esq.
Law Offices of Terrence P. Morris LLC
57 Elm Road
Newton, MA 02460
617 202-9132

May 1, 2024

By electronic transmission: jnorton@newtonma.gov

Jaclyn Norton, ZAP Committee Clerk
Office of the City Clerk
1000 Commonwealth Avenue
Newton, MA 02459

Re: Docket Request
Proposed Zoning Amendment

Dear Jaclyn,

This letter is to clarify that my filing of a proposed zoning amendment with your office on Monday, April 29, 2024, was initiated on behalf of a client, Brian Traugott. Mr. Traugott is the owner of two properties at 1930-32 and 1936-38 Commonwealth Avenue, which have been adversely impacted by application of the Garage Design Standards as currently set forth in the zoning ordinance. Should you need anything further please advise. Mr. Traugott is also one of the persons identified, along with contact information, in the application to be notified.

Thank you for your assistance in this matter.

Sincerely,

Terrence P. Morris

Terrence P. Morris

Cc: Brian Traugott, ***via email***
Andrew Lee, Esq.,
Associate City Solicitor, ***via email***

CITY COUNCIL

CITY OF NEWTON

DOCKET REQUEST FORM

DEADLINE NOTICE: Council Rules require items to be docketed with the Clerk of the Council NO LATER THAN 7:45 P.M. TUESDAY, PRIOR TO THE MONDAY FULL COUNCIL MEETING to be voted to be assigned to Committee(s) that evening.

To: Clerk of the City Council ZAP Committee

Date: April 29, 2024

From (Docketer): Terrence P. Morris, Esq.

Address/phone/email: 57 Elm Road Newton, MA ▪ 617 202-9132 ▪ tpmorris.landuse.law@comcast.net

Additional sponsors:

1. **Please docket the following item (edit if necessary):** Proposed zoning ordinance amendment to Section 3.4.4. Garage Design Standards, subsection B. Definitions, Subparagraph 1, "Garage " by inserting the words "above grade" after the clause, "or portion of the structure" as it appears in the 1st sentence of the "Garage" definition.
2. **The purpose and intended outcome of this item is:** Clarification of the applicability of the Garage Design Standards provision in the Ordinance to above grade accessory structures.
3. **I recommend that this item be assigned to the following committees:** Zoning & Planning.
4. **This item should be taken up in committee:** As soon as possible, preferably within a month; because the application of certain design standards to a two-family dwelling currently under construction is resulting in a deleterious and absurd result.
5. **I estimate that consideration of this item will require approximately:** Less than one hour
6. **The following people should be notified and asked to attend deliberations on this item. (Please check those with whom you have already discussed the issue, especially relevant Department Heads):**

City Personnel

Citizens (include telephone numbers/email please)

Jane Santosuosso, Chief ZCO

Brian Traugott, (585) 478-0454; btraugs@gmail.com

Anthony Ciccariello, Commissioner ISD

7. **The following background materials and/or drafts should be obtained or prepared by the Clerk's office prior to scheduling the item for discussion:**

8. **I have provided additional materials and/or undertaken the following research independently prior to scheduling the item for discussion: excerpt from the zoning ordinance definition for "Garage" and proposed draft Council Order; illustration of an absurd application of the Design standards to a below grade garage.**
9. **I would like to discuss this item with the Chair before any decision is made on how and when to proceed.**
10. **I would like the Clerk's office to confirm that this item has been docketed. My daytime phone number is: 617 202-9132.**
11. **I would like the Clerk's office to notify me when the Chairman has scheduled the item for discussion.**

Thank you.

Terrence P. Morris

Terrence P. Morris, Esq.

#448-20

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO. B-67

February 16, 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 30 ZONING** as follows:

1. DELETE **Ordinance No. A-78** dated June 20, 2016 in its entirety.
2. DELETE **Section 3.4.2.B.1** in its entirety and renumber **Sections 3.4.2.B.2, 3, and 4** to **3.4.2.B.1, 2 and 3** accordingly.
3. DELETE **Section 3.4.3 Accessory Buildings** in its entirety and insert in place thereof the following language:

3.4.3 Accessory Buildings

- A. Except as provided in Sec. 6.7, accessory buildings shall conform to the following requirements:
 1. An accessory building shall be no nearer to any side or rear lot line than 5 feet, and no nearer to any front lot line than the distance prescribed for the principal building.
 2. No portion of any accessory building shall be less than 5 feet from any point on any principal building on the subject lot.
 3. An accessory building with a sloping roof shall have a maximum height of 22 feet. An accessory building with a flat roof shall have a maximum height of 18 feet. An accessory building shall have no more than 1½ stories.
 4. The ground floor area of an accessory building shall not exceed 700 square feet.
4. INSERT following **Section 3.4.3** a new **Section 3.4.4 Garage Design Standards** as follows:

3.4.4 Garage Design Standards

A. Applicability

Garage Design Standards apply in all Residence Districts

B. Definitions

1. **Garage.** An attached or detached structure, or portion of a structure, that is able to be accessed by an automobile or is used or intended to be used primarily for the storage or parking of 1 or more automobiles. A detached Garage is an Accessory Building (See Sec. 3.4.3).

ABOVE
GRADE

DRAFT
-24

CITY OF NEWTON

IN CITY COUNCIL

PROPOSED COUNCIL ORDER NO. _____

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS
FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended and are hereby
further amended with respect to Chapter 30 Zoning as follows:

1. That Section 3.3.4.B.1 is hereby amended as follows:

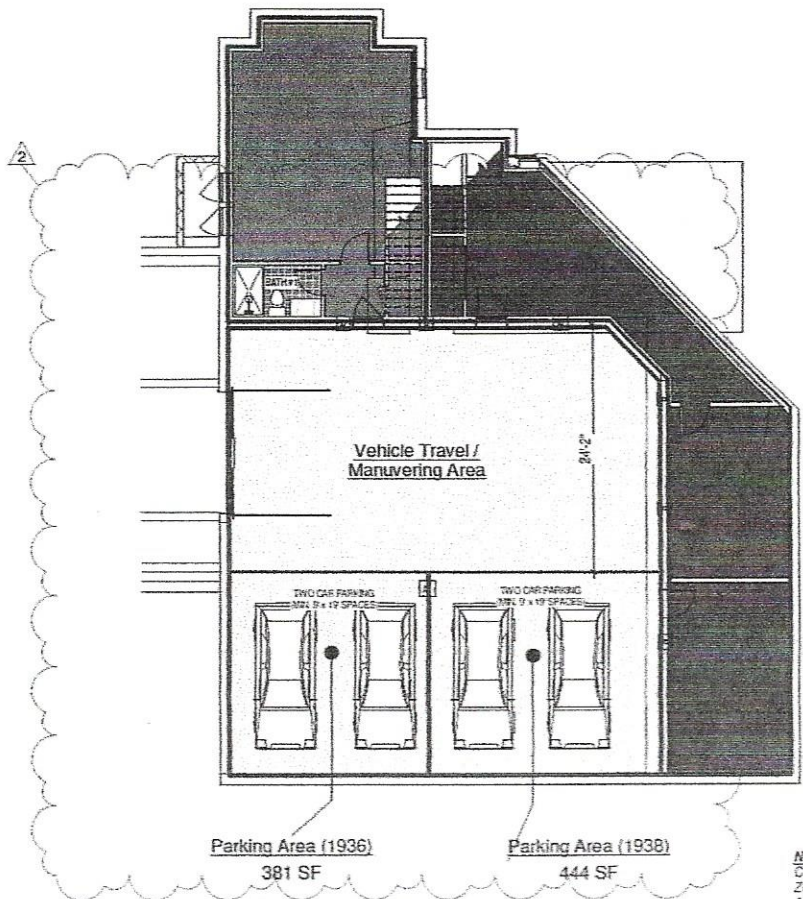
By inserting the words “above grade” after the clause, “or portion of the structure”
as it appears in the 1st sentence of the “Garage” definition, so that it reads as
follows:

B. Definitions

1. Garage. An attached or detached structure, or portion of a structure
above grade, that is able to be accessed by an automobile or is used or
intended to be used primarily for the storage or parking of 1 or more
automobiles. A detached Garage is an Accessory Building (See sec.
3.4.3).

Approved as to legal form and character:

City Solicitor



00 - Basement - Areas

