



Land Use Committee Report

City of Newton In City Council

Thursday, November 5, 2020

Present: Councilors Lipof (Chair), Kelley, Greenberg, Markiewicz, Downs, Bowman, Laredo and Lipof

City Staff Present: Chief Planner Neil Cronin, Associate City Solicitor Jonah Temple, Senior Planner Katie Whewell, Director of Planning and Development Barney Heath

Planning and Development Board Members Present: Peter Doeringer (Chair), Sonia Parisca, Kelley Brown, Chris Steele, Kevin McCormick, James Robertson

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.

#89-20

Petition to allow waivers for a rear lot subdivision at 40 Williston Road

LAUREN AND DAVID BROOKS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision and construct a new single-family dwelling on the rear lot, requiring relief to exceed FAR on the front (from .40 to .42) and rear (from .24 to .30) lots, and to allow a retaining wall greater than four feet in the setback at 40 Williston Road, Ward 4, Auburndale, on land known as Section 43 Block 28 Lot 06, containing approximately 25,099 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.5, 3.1.10.A, 3.1.3, 3.1.9, 3.1.5, 3.1.10.C, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved Withdrawal without Prejudice 7-0

Note: The Committee reviewed the request to withdraw the petition without prejudice. The Committee expressed no concerns relative to the request and voted 7-0 in favor of a motion to approval the withdrawal without prejudice from Councilor Laredo.

#25-20

Special Permit Petition to allow marijuana retailer at 1158 Beacon Street

UNION TWIST, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retail marijuana establishment, to waive the minimum driveway width for two-way traffic, to waive minimum driveway width by use of an easement, to waive perimeter screening requirements, to waive perimeter screening requirements by use of an easement, to allow parking in the side setback, and to waive lighting requirements at 1158 Beacon Street, Ward 6, Newton Highlands, on land known as Section 54 Block 22 Lot 49A, containing approximately 20,443 sq. ft. of space in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.1, 5.1.10, 5.1.8.A.1, 5.1.6.A, 5.1.6.B, 5.1.13, 5.1.8.D.1, 5.1.9.A of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved Withdrawal without Prejudice 7-0

Note: After a review of the request to withdraw without prejudice petition #25-20, the Committee voted 7-0 in favor of a motion to approve the withdrawal from Councilor Markiewicz.

#316-19(2) Request for an extension of time to Exercise #316-19 at 969/969F Chestnut St
JUDITH CIMETTA petition for a one-year EXTENSION OF TIME to EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL of Council Order #316-19 to construct front and rear additions and a detached shed structure, at 969/969F Chestnut Street, Ward 5, Upper Falls, on land known as Section 51 Block 2 Lots 7 and 19, containing approximately 8,780 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Said Extension of Time to Run from October 21, 2020 to October 21, 2021. Ref: Sec. 7.3.3, 7.4, 3.2.3, 3.2.11, 7.8.2.C.2, 3.4.1 of the City of Newton Revised Zoning Ord, 2017.

Action: Land Use Approved 7-0

Note: Attorney Laurance Lee, with law offices at Rosenberg, Freedman and Lee, represented the petitioner, Judith Cimetta. Atty. Lee explained that the project was delayed during 2020 due to time and financial considerations resulting from the impact of COVID-19. He confirmed that the petitioner is in the process of applying for building permits. The Committee expressed no concerns relative to the extension of time and voted 7-0 in favor of a motion to approve from Councilor Laredo.

#399-20 Petition to extend nonconforming FAR at 91 Lenox Street
CHRISTOPHER AND LISA WYETT petition for SPECIAL PERMIT/SITE PLAN APPROVAL to further extending the nonconforming FAR by razing the existing 366 sq. ft. detached garage and replace it with a new 699 sq. ft. detached garage, creating an FAR of .37 where .34 exists and .28 is allowed at 91 Lenox Street, Ward 3, West Newton, on land known as Section 32 Block 48 Lot 03, containing approximately 19,284 sq. ft. in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 7.8.2.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 11/05/2020

Note: Attorney Laurance Lee, with law offices at Rosenberg, Freedman and Lee, represented the petitioners Christopher and Lisa Wyett. Atty. Lee presented the request to extend the nonconforming FAR at 91 Lenox Street as shown on the attached presentation. The petitioners propose to raze an existing detached garage and replace it with a larger, detached garage. The proposed, two-car garage will increase the FAR to .37 where .34 exists and .28 is allowed. The location of the new garage will conform to setback requirements in the SR1 zone, where the existing garage does not. Proposed elevations can be found on the attached presentation.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. The Public Hearing was Opened. No member of the public wished to speak.

Noting that the lot slopes to the rear, the Committee questioned whether the Engineering Department has provided any analysis on potential drainage issues. Atty. Lee confirmed that the Engineering Department will review the plans and any drainage will be subject to the City's requirements that drainage is kept on site. It was noted that the addition is small and no further Engineering Dept analysis

is required. In response to a question from the Committee with respect to moving the garage closer to the home, it was noted that the petitioners hoped to maintain the existing yard and landscaping between the house and the garage.

The Committee expressed no concerns relative to the request. Councilor Kelley motioned to close the public hearing which carried 7-0. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted 7-0 in favor of approval.

#387-20 Petition to exceed FAR and extend nonconformities at 101-103 Warwick Road

JOSEPH DeNUCCI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition to the existing dwelling, creating an FAR of .72 where .57 exists and .48 is allowed, extending the nonconforming three-story structure and extending the nonconforming two-family use at 101-103 Warwick Road, Ward 3, West Newton, on land known as Section 31 Block 28 Lot 55 containing approximately 6,377 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 6-0-1 (Councilor Kelley abstaining); Public Hearing Closed 11/05/2020

Note: Attorney Terry Morris, with law offices at 57 Elm Road represented the petitioner, Mr. Joe DeNucci on the request to exceed the FAR and extend nonconformities at 101-103 Warwick Road. Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and details of the petition as shown on the attached presentation. The petitioner proposes a rear addition, creating approximately 990 sq. ft. of habitable space. Because of the steep slope of the lot from the front of the site to the rear of the site, the basement is exposed and approximately 1200 sq. ft. of the basement space counts towards FAR. Because of the grade of the lot, the existing dwelling is a non-conforming 3.5 story structure. The proposed addition is three-stories with a two-story deck. The project results in an FAR of .72 where .57 exists and .48 is allowed. The proposed elevations can be found on the attached presentation. Ms. Whewell noted that the addition and deck will reduce the setback from 34' to 17.8' where 15' is required.

Atty. Morris noted that the Fessenden School property is located at the rear of the site, at the bottom of a significant slope. He noted that a previous plan included a retaining wall at the rear of the site, which would have artificially reduced the FAR at the site. He explained that the wall was eliminated in response to concerns relative to design by the Planning Department.

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

It was noted that although the request for relief is triggered by the topography of the site, the increase in FAR is significant. The Committee questioned whether the Engineering Department has reviewed the proposed drainage for the site. Civil Engineer Verne Porter confirmed that the petitioner will be required to provide treatment(s) that accommodate the additional runoff at the site. He noted that although the retaining wall in the original plan would have made the FAR conforming, it would have impacted water runoff in the neighborhood. A Committee member questioned whether the proposed civil plans will

ensure that no water is discharged onto abutting property. It was noted that the proposed relief does not trigger Engineering review at the special permit stage. Chief Planner Neil Cronin confirmed that proper drainage, that meets the City's standards must be installed and approved by the Engineering Department.

The Committee noted that the stairs that are shown in the plans for the deck are visible from the street and not visually attractive. It was noted that the Planning Department recommended additional landscaping to shield the stairs from view. Atty. Morris confirmed that the petitioner would be willing to relocate the stairs so that they are not visible from the street. The Committee expressed support for this modification. Atty. Morris confirmed that the basement space is unfinished, and the ceiling is approximately 6.5', making it uninhabitable.

Seeing no member of the public who wished to speak, Councilor Kelley motioned to close the public hearing which carried unanimously. Atty. Morris confirmed that the revised plans can be submitted before the Council meeting on November 16, 2020. The Committee asked that the Planning Department notify the Committee that the revised plans are in accordance with the condition discussed. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. The Committee asked that the finding 1 be revised to replace the language "uniformly nonconforming" with "other nonconforming". With that, the Committee voted 6-0-1 in favor of approval (Councilor Kelley abstaining).

#319-20 **Request to Rezone two parcels from BU-2 to MU-4 at 1149-1151 Walnut Street**
NEWTON WALNUT LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone two parcels; 1149 Walnut Street (Section 52 Block 08 Lot 13) and 1151 Walnut Street (Section 52 Block 08 Lot 14) from BUSINESS USE 2 to MIXED USE 4.

Action: **Land Use Held; Public Hearing Continued**

#320-20 **Petition to allow 26-unit mixed use development at 1149-1151 Walnut Street**
NEWTON WALNUT LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing buildings and construct a four-story mixed-use building up to 48' in height, containing 26 units and 23 parking stalls, to waive the minimum lot area per unit, to reduce the side setback requirement, to waive the requirement to use A-B+C formula to determine the parking requirement, to waive 24 parking stalls, to allow 1.25 parking stalls per unit, to allow parking in the side setback, to waive dimensional requirements for parking stalls, to allow restricted end stalls, to allow reduced aisle width , to waive perimeter landscaping requirements, to waive interior landscaping requirements and to waive lighting requirements at 1149-1151 Walnut Street, Ward 6, Newton Highlands, on land known as Section 52 Block 08 Lots 13 and 14, containing 13,200 sq. ft. in a district to be zoned MIXED USE 4 (currently zoned BUSINESS USE 2). Ref: Sec. 7.3.3, 7.4, 4.2.2.B.1, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.b, 4.2.5.A.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.4.A, 5.1.8.A.1, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.1, 5.1.9.A, 5.1.9.B, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 7-0; Public Hearing Continued**

Note: The Committee was joined by the Planning & Development Board for items #319-20 and #320-20. The Chair explained that the petitioner is revising the special permit plans relative to items #319-20 and #320-20. The Land Use Committee and Planning and Development Board opened the public hearings and invited members of the public so speak, noting that the petitioner will be submitting a revised plan. No member of the public wished to speak. Councilor Laredo motioned to hold items #319-20 and #230-20 which carried unanimously. The Planning and Development Board voted unanimously in favor of holding the public hearing open.

The Committee adjourned at 8:45 pm.

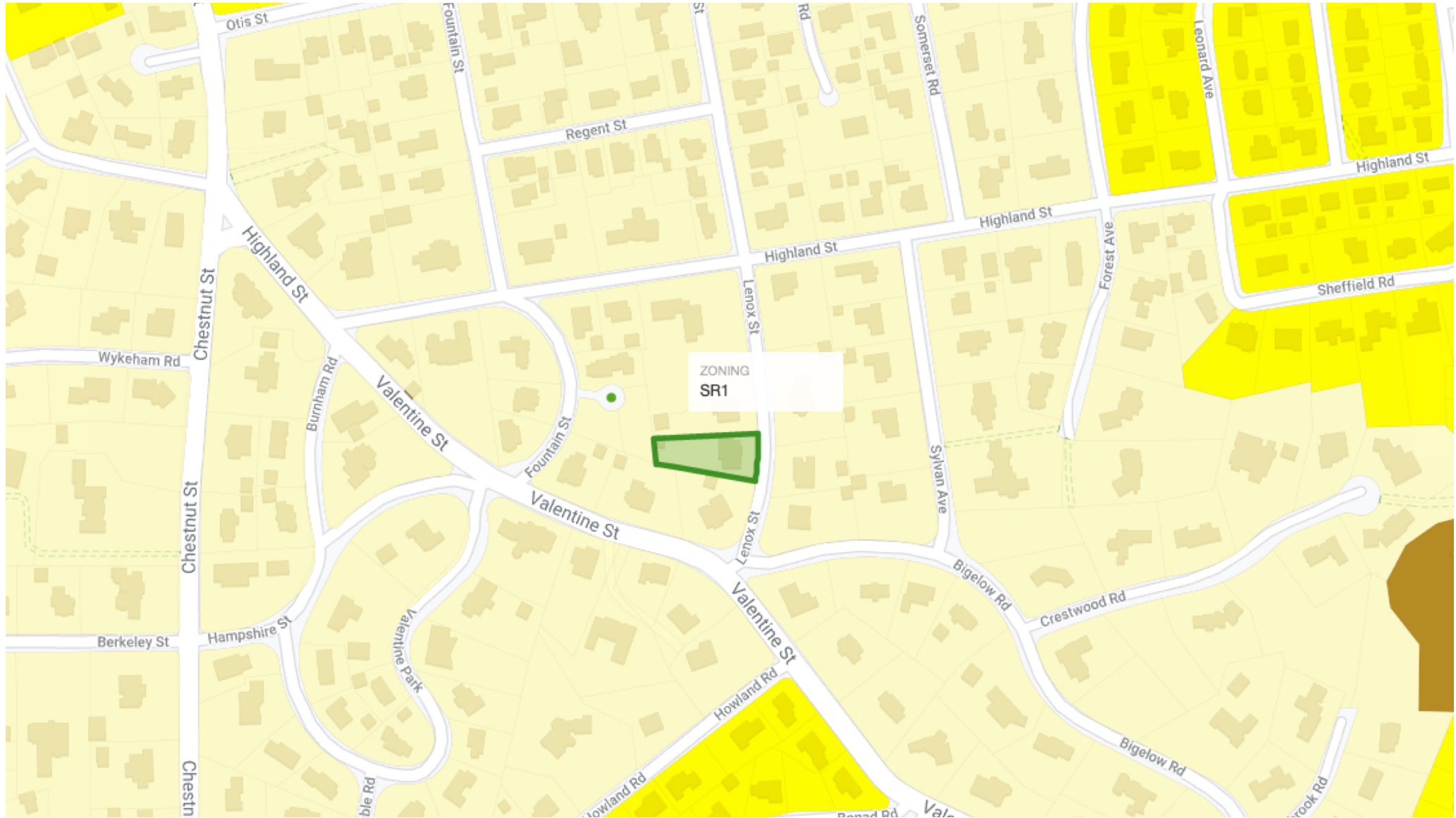
Respectfully Submitted,

Richard Lipof, Chair

**91 LENOX STREET
NEWTON**

Land Use Committee

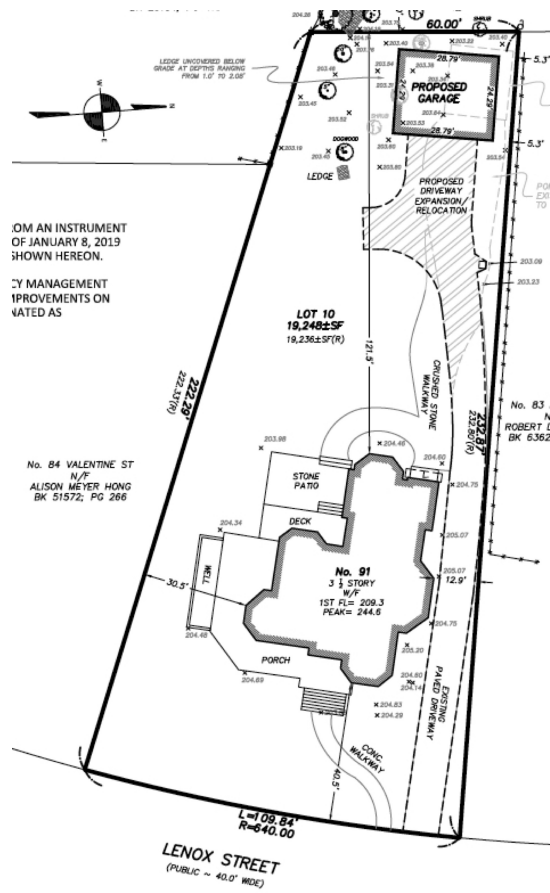
Public Hearing – November 5, 2020



GENERAL SITE INFORMATION AND ZONING RELIEF

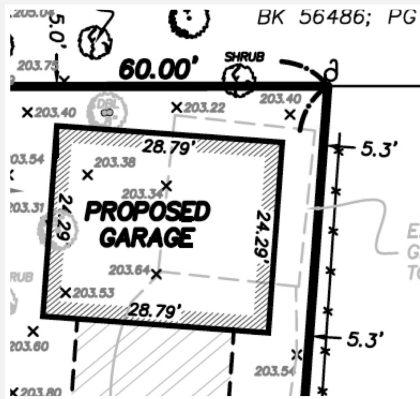
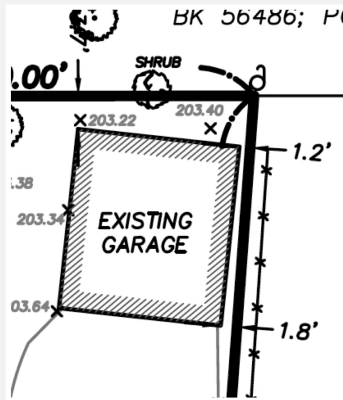
- SRI Zoning District
- 19,248 SF of Lot Area
- Lot is over 200 feet deep
- Existing detached garage located at rear of the property to be replaced with new garage
- NHC approved
- Request to Increase Existing FAR of 0.34 to 0.37 where 0.28 is allowed





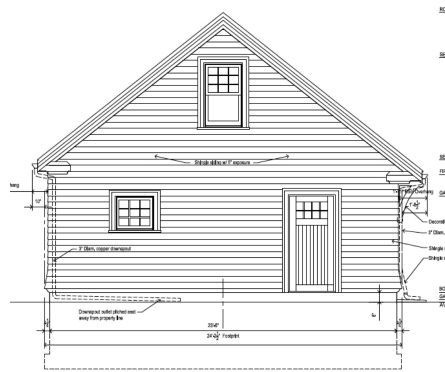
FROM AN INSTRUMENT
 OF JANUARY 9, 2019
 SHOWN HEREON.
 CITY MANAGEMENT
 IMPROVEMENTS ON
 NOTED AS

PROPOSED SITE PLAN



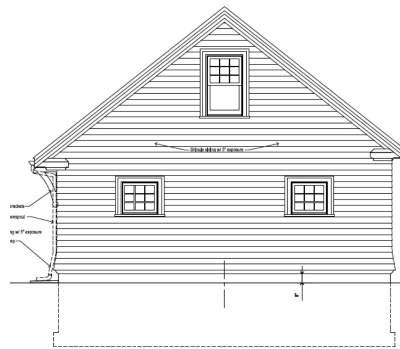
REMOVE EXISTING NON-CONFORMITIES

- Existing Garage has Non-Conforming setbacks
- Proposed Garage
 - All Conforming setbacks, height and size
 - Situate further from lot lines
 - Two-Car Parking



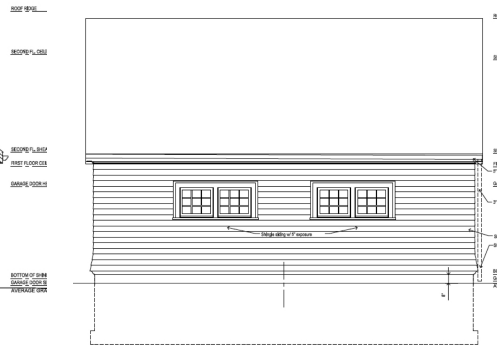
Exterior Elevation - South

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

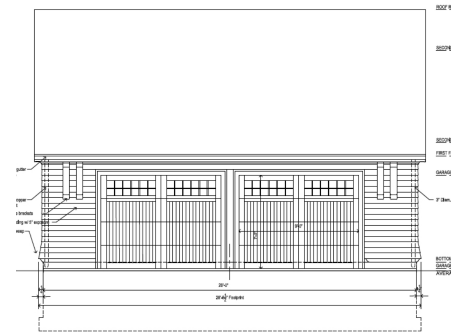


Exterior Elevation - North

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



Exterior Elevation - West



Exterior Elevation - East

ELEVATIONS OF PROPOSED GARAGE

Department of Planning and Development



PETITION #399-20

91 LENOX STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO INCREASE THE
NONCONFORMING FLOOR AREA
BY CONSTRUCTING A DETACHED
GARAGE



NOVEMBER 5, 2020

Requested Relief



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

- To further increase the nonconforming FAR

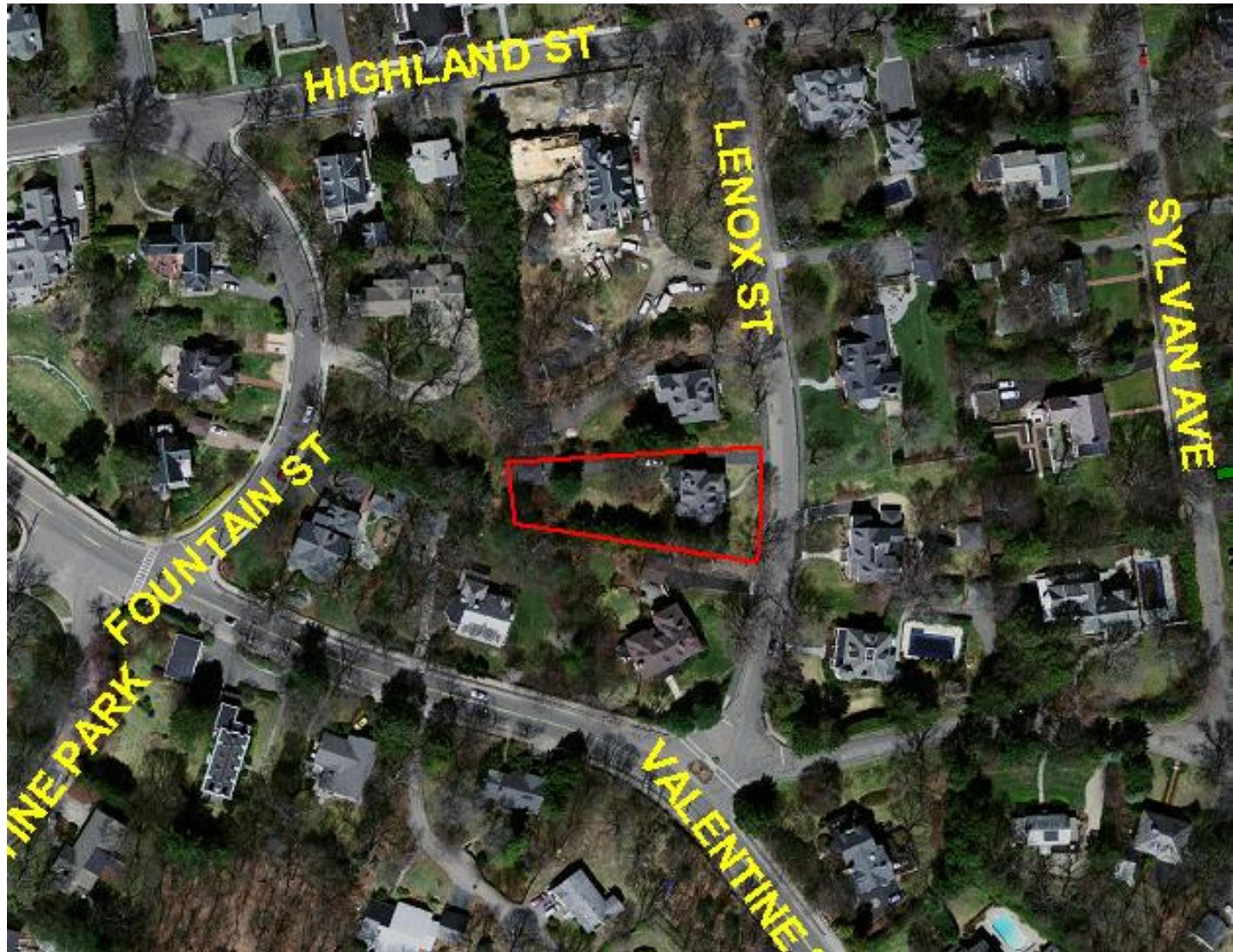
Criteria to Consider



When reviewing this request, the Council should consider whether:

- The site is an appropriate location for proposed detached garage that increases the nonconforming FAR (§7.3.3.C.1);
- The proposed detached garage that increases the nonconforming FAR will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed detached garage that increases the nonconforming FAR 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);
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9 and §7.8.2.C.2);
- The proposed increase in the nonconforming FAR from .34 to .37, where .28 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).

Aerial/GIS Map



Proposed Finding



1. The site is an appropriate location for proposed detached garage that increases the nonconforming FAR *because it complies with all accessory structure dimensional standards* (§7.3.3.C.1);
2. The proposed detached garage that increases the nonconforming FAR *will not adversely affect the neighborhood because it is located at the rear of the site* (§7.3.3.C.2);
3. The proposed detached garage that increases the nonconforming FAR will not create a nuisance or serious hazard to vehicles or pedestrians *because it will be accessed from the existing driveway* (§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);
5. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood *because the proposed garage eliminates nonconforming setbacks and will not be visible from the public right of way* (§3.1.3, §3.1.9 and §7.8.2.C.2);
6. The proposed increase in the nonconforming FAR from .34 to .37, where .28 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 there are similar two car detached garages in the neighborhood* (§3.1.3, §3.1.9, and §7.8.2.C.2).

Proposed Conditions



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

Department of Planning and Development



**PETITION #387-20
101-103 WARWICK ROAD**

**SPECIAL PERMIT/SITE PLAN
APPROVAL TO INCREASE THE
NONCONFORMING FLOOR AREA
RATIO, AND FURTHER EXTEND THE
NONCONFORMING TWO FAMILY,
THREE AND A HALF STORY
STRUCTURE**

NOVEMBER 5, 2020



Requested Relief



Special Permits per §7.3.3, 7.8.2.C.2 of the Newton Zoning Ordinance to:

- Further extend a nonconforming two-family dwelling (§3.4.1, §7.8.2.C.2);
- Further extend a nonconforming 3.5 story structure (§3.1.3, §7.8.2.C.2); and
- To increase the nonconforming FAR (§3.1.3, §3.1.9 §7.8.2.C.2)

Criteria to Consider

1 of 2



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for proposed addition that increases the nonconforming FAR, and extends the nonconforming two-family, three and a half story structure (§7.3.3.C.1, §3.4.1);
- The proposed addition which increases the nonconforming FAR will adversely affect the neighborhood (§7.3.3.C.2, §3.4.1);
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);
- The proposed extension of the nonconforming two-family dwelling will be substantially more detrimental than the existing nonconforming two-family dwelling is to the neighborhood (§3.4.1, §7.8.2.C.2);

Criteria to Consider

2 of 2

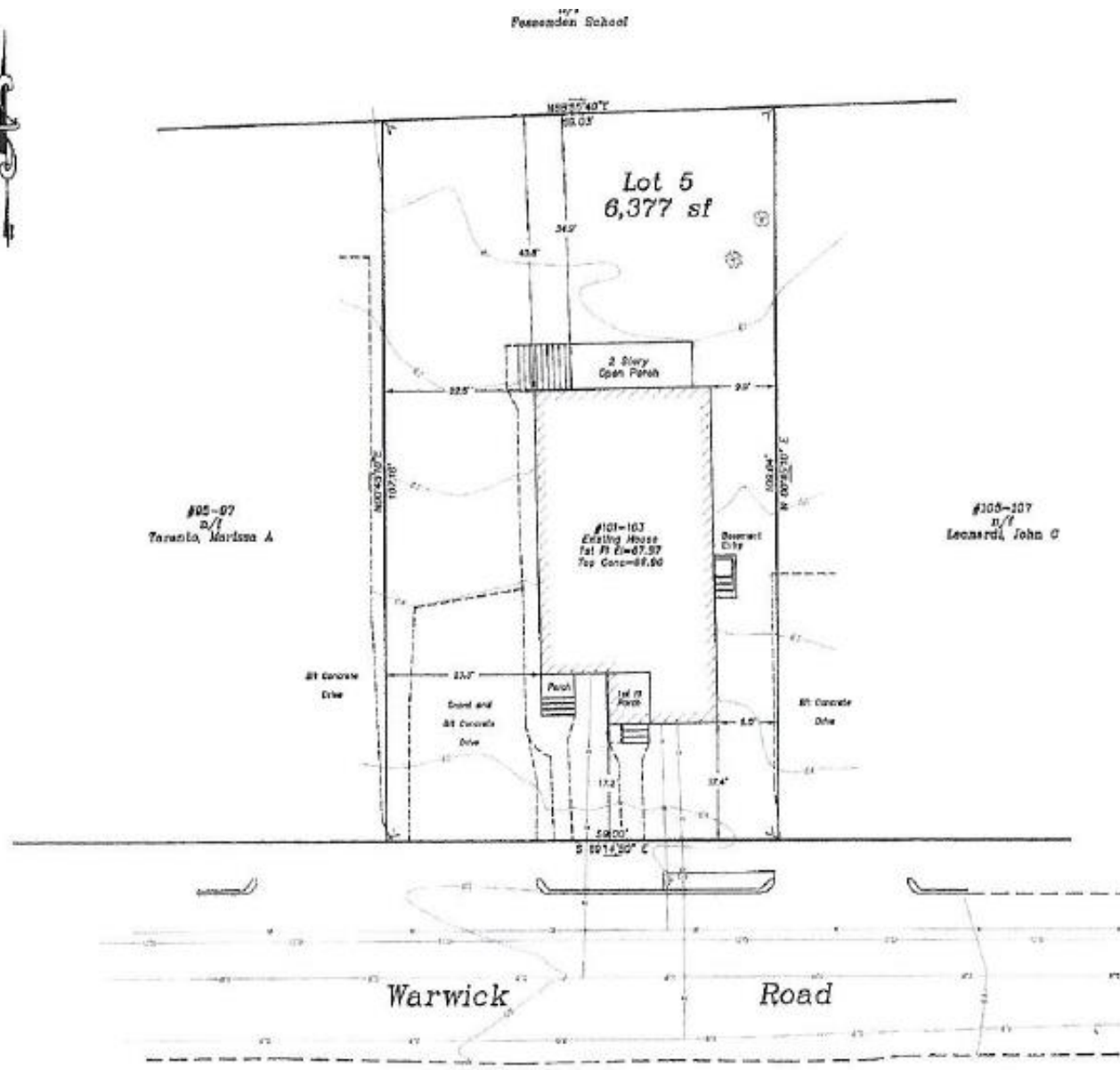


- The proposed extension of the nonconforming three and a half story structure will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.3, §7.8.2.C.2);
- The proposed increase in the nonconforming FAR from .57 to .72 where .48 is the maximum allowed 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 nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.9, and §7.8.2.C.2).

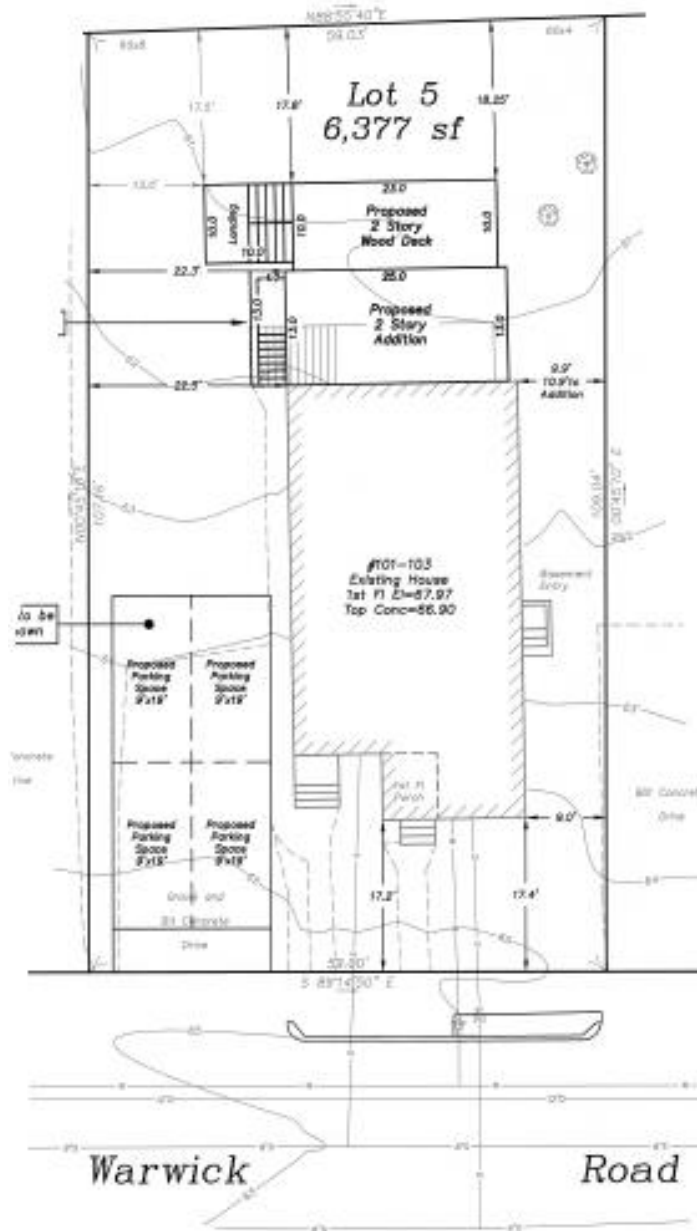
Aerial/GIS Map



Existing Conditions



Proposed Site Plan



Existing Front Elevation



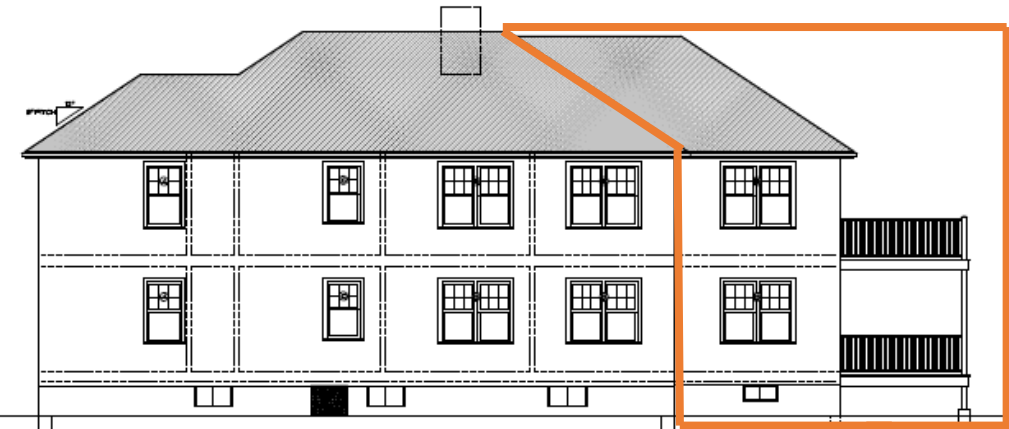
Proposed Front Elevation



Existing Right Elevation



Proposed Right Elevation



Existing Left Elevation



Proposed Left Elevation



Proposed Findings

1 of 2



1. The specific site is an appropriate location for proposed addition that increases the nonconforming FAR, extends the nonconforming two-family, and the nonconforming three and a half story structure *because it is located in a neighborhood which is uniformly nonconforming two family dwellings with similar scale and lot sizes* (§7.3.3.C.1, §3.4.1);
2. The proposed addition will not adversely affect the neighborhood *because the bulk of the addition will be focused to the rear and not be visible from the street* (§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 sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);

Proposed Findings

2 of 2



1. The proposed extension of the nonconforming two-family dwelling will not be substantially more detrimental than the existing nonconforming two-family dwelling is to the neighborhood because *it is located in a neighborhood which is uniformly nonconforming two family dwellings with similar scale and lot sizes* (§3.4.1, §7.8.2.C.2);
2. The proposed extension of the nonconforming three and a half story structure will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood *because the addition meets new lot setbacks and is not taller than the existing structure.* (§3.1.3, §7.8.2.C.2);
3. The proposed increase in the nonconforming FAR from .57 to .72 where .48 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 addition meets new lot standards and is not taller than the existing structure* (§3.1.9, and §7.8.2.C.2).
4. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood *because the addition which increases the FAR is to the rear of the structure and not visible from the street* (§3.1.9, and §7.8.2.C.2).

Proposed Conditions



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