



#257-20

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 9, 2020
Land Use Action Date: August 11, 2020
City Council Action Date: August 17, 2020
90-Day Expiration Date: September 7, 2020

DATE: June 5, 2020

TO: City Council

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

SUBJECT: **Petition #257-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow modifications that result in a garage with a footprint in excess of 700 square feet and to construct oversized dormers to the garage to be used for an accessory apartment in a historic structure at **449 Commonwealth Avenue**, Ward 7, Chestnut Hill, on land known as Section 73 Block 41 Lot 01, containing approximately 22,637 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.2.B.1, 1.5.4.G.2.b of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing that the Land Use Committee of the City Council can consider at a subsequent working session.



449 Commonwealth Avenue

EXECUTIVE SUMMARY

The subject property consists of a 22,637 square foot lot improved with a single-family dwelling and detached garage constructed circa 1929. The property is located within the Single Residence 2 (SR-2) zone in Chestnut Hill. The petitioner is seeking to construct oversized dormers and an addition to an existing detached garage that would result in a garage in excess of 700 square feet, requiring a special permit. The additional floor area is to be used as a two-car garage and an accessory apartment.

The Planning Department is unconcerned with the proposed alterations to the detached garage that require a special permit. The proposed changes alter a historic structure deemed historically significant by the Newton Historical Commission (“NHC”). The garage footprint that exceeds the 700 square feet allowed by right is reasonable due to the accessory apartment space that is occupying part of the first story of the garage. The proposed changes meet all other dimensional controls set forth in the Ordinance.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The site is an appropriate location for the proposed garage with a footprint of more than 700 square feet and oversized dormers. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.1)
- The proposed garage with a footprint in excess of 700 square feet and oversized dormers will not adversely affect the neighborhood. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. 3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

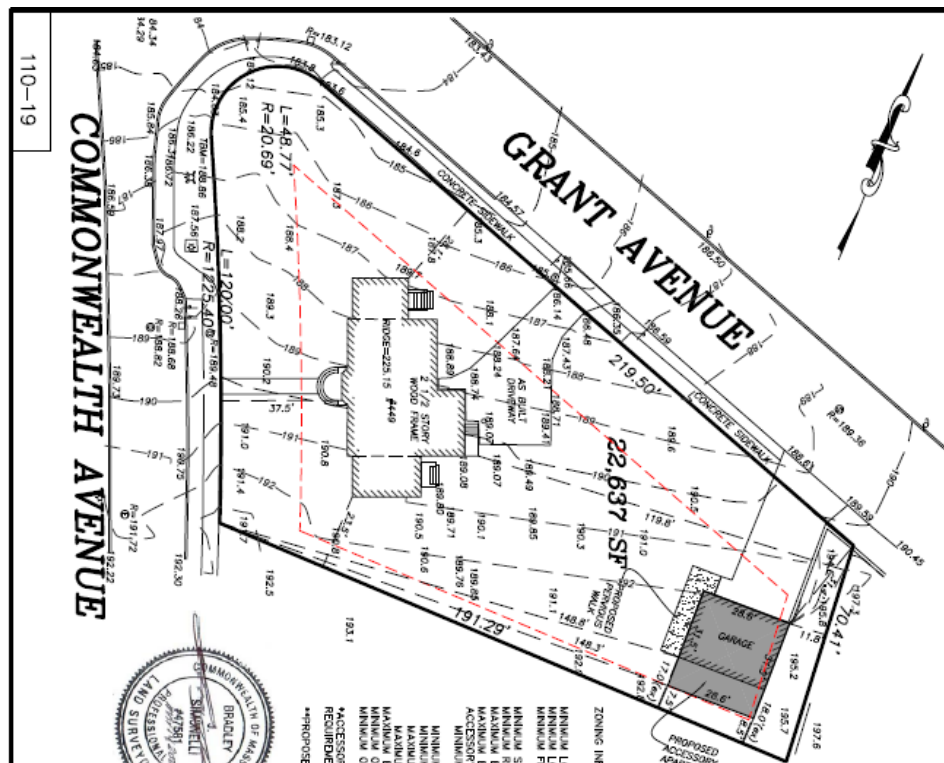
A. Neighborhood and Zoning

The subject property is a corner lot with frontages on Commonwealth Avenue and Grant Avenue in the SR-2 zone in Chestnut Hill. The immediate residential area is within the SR-2 zone, with a Public Use zone across Grant Avenue to the west (**Attachment A**). The area is largely single-family residential uses with the Open Space parcel across Grant Avenue to the west (**Attachment B**).

B. Site

The site consists of 22,637 square feet of land and it is improved with a single-family residence and detached garage constructed circa 1929. The garage has a rear setback of 11.8 feet, and a side setback of 17 feet along the southern boundary. The site is accessed by two driveways: one from Grant Avenue along the northern boundary leading to the detached garage; and another driveway off Grant Avenue leading to the single-family home. The site is relatively flat, however there is a retaining wall along the eastern property line where there is landscaping. The site is landscaped and screened from Commonwealth Avenue and Grant Avenue with shrubs.

Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is a single-family residence. If approved, the use will remain the same but with the addition of an accessory apartment.

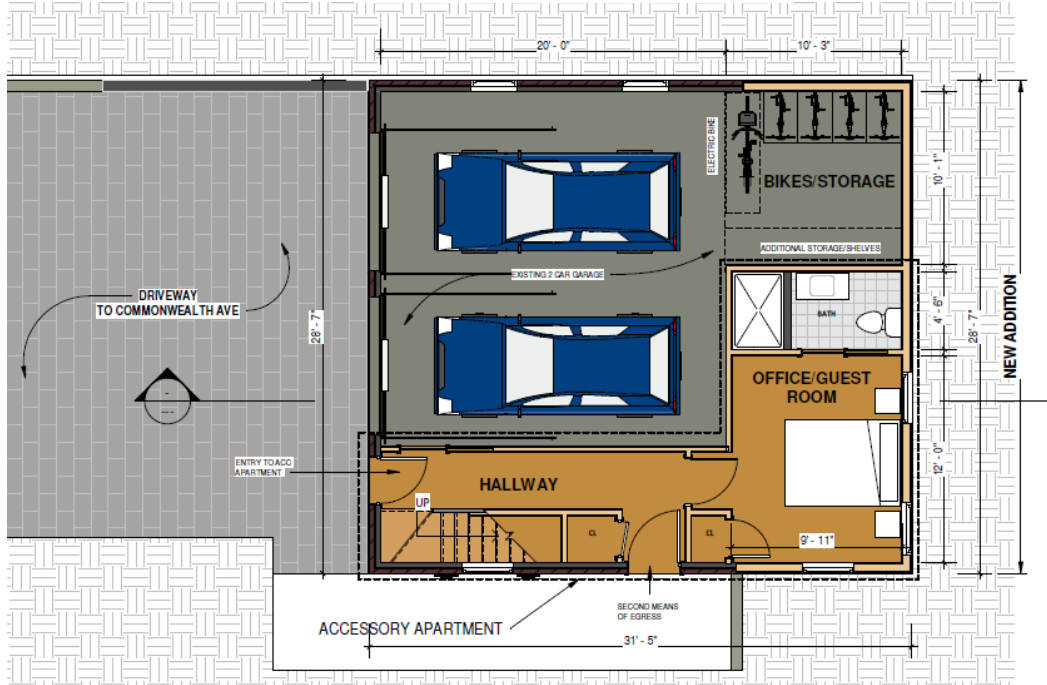
B. Building and Site Design

The petitioner is proposing to expand the footprint of the existing garage as well as construct dormers to the half-story above the garage's first floor. The addition to the rear of the first story of the garage adds 271 square feet to the footprint of the garage. This results in a 900 square foot footprint, exceeding the 700 square feet allowed by right. The petitioner is proposing dormers to the half story, resulting in an additional 599 square feet of floor area. The dormers are on the front elevation and rear elevation of the garage, and both dormers proposed are considered oversized, exceeding the 50% width maximum set forth in the Ordinance. The proposed dormer to the front elevation is 18.25 wide, which is 64% of the exterior wall plane below. The dormer to the rear is 21.2 feet wide, which is 74% of the exterior wall plane below. A special permit is required to allow the oversized dormers to the front and rear of the detached garage.

The proposed changes to the garage result in a structure that is 20 feet tall, where 22 feet is the maximum allowed. The Floor Area Ratio, ("FAR") is increasing from .18 to .22, where .33 is the maximum allowed by right.

The petitioner is also seeking to establish an accessory apartment in a detached structure. The Ordinance states that accessory apartments in structures deemed historically significant located outside of a historic district may be allowed by right provided it is greater than 15 feet from an existing residential dwelling on an abutting property, and the exterior of the building will preserve the historic character and integrity of the building. Because the proposed accessory apartment is both in a structure deemed historically significant and outside of a historic district, the apartment is allowed by right. The NHC issued a Statement of Historical Significance that states the existing detached garage is historically significant because it is on the National Register of Historic Places or eligible for listing. **(Attachment C)**.

Proposed Garage Footprint



Proposed Garage Elevations



Front Elevation from Grant Avenue



Rear Elevation

The Planning Department is unconcerned with the proposed alterations to the detached garage that require a special permit. The front dormer maintains the historic character of the structure. The rear dormer and bulk of the addition to the rear will not be visible from the street and the proposed changes are keeping a historic structure deemed historically significant by NHC. The garage footprint of 900 square feet is appropriate due to the accessory apartment space that is occupying part of the first story of the garage. The proposed changes meet all other dimensional controls set forth in the Ordinance such as height, setbacks, and FAR.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the proposal regarding zoning (**Attachment D**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.4.2.B.1 and §7.3.3 of Section 30, to allow a detached garage with a footprint of over 700 square feet.
- §3.4.2.B.1 and §7.3.3 of Section 30, to allow dormers with widths exceeding 50% of the length of the wall plane below.

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time.

C. Newton Historical Commission Review

The existing detached garage was found to be historically significant, final review of the plans is required by NHC.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Statement of Historical Significance
- Attachment D:** Zoning Review Memorandum
- Attachment E:** DRAFT Order




ATTACHMENT A

Zoning

449 Commonwealth Ave.

*City of Newton,
Massachusetts*

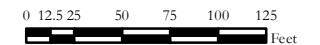
Zoning

-  Single Residence 1
-  Single Residence 2
-  Public Use

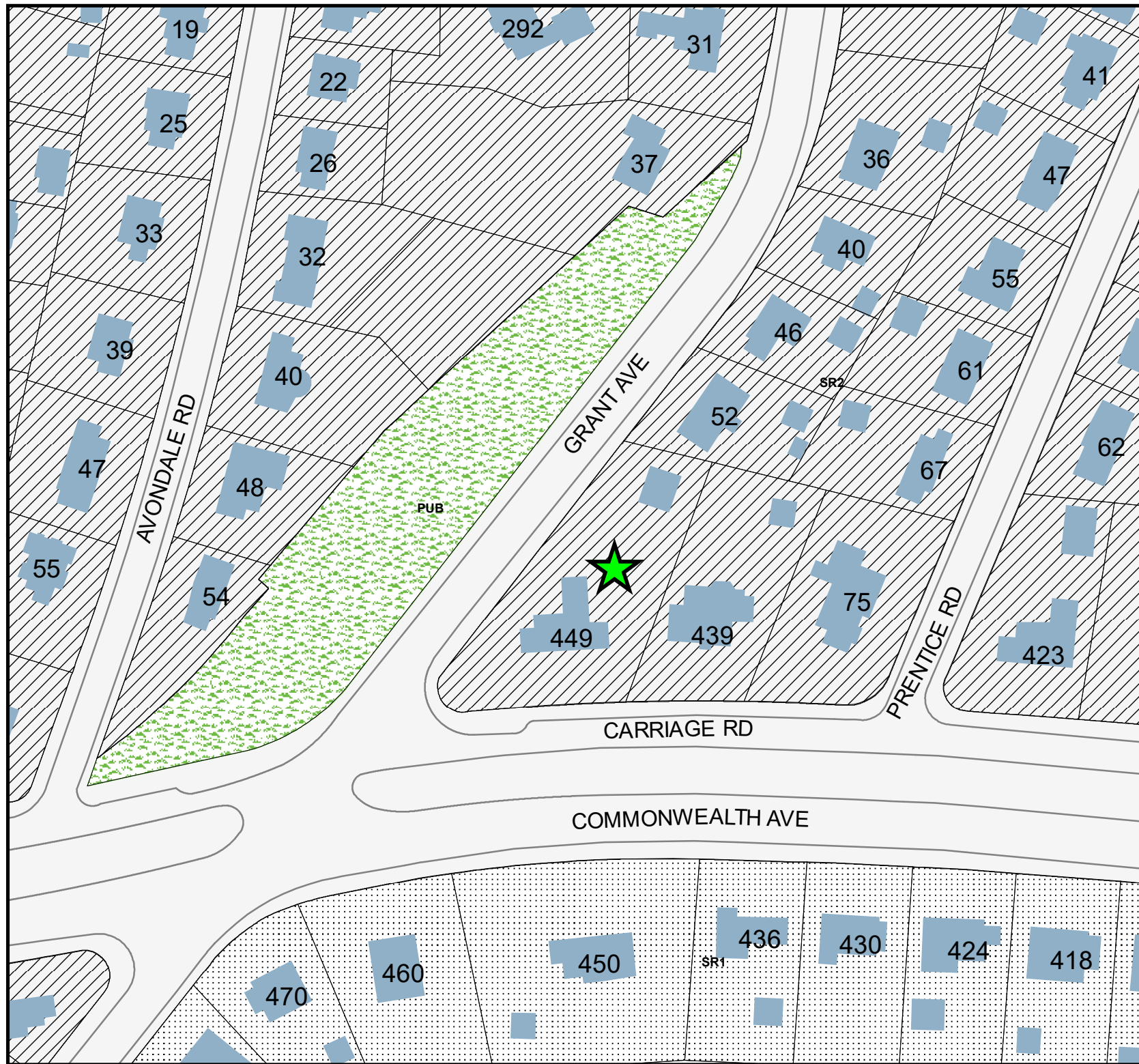


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 04, 2020



ATTACHMENT B






Land Use

449 Commonwealth Ave.

*City of Newton,
Massachusetts*

Land Use

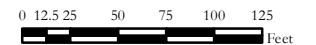
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Vacant Land

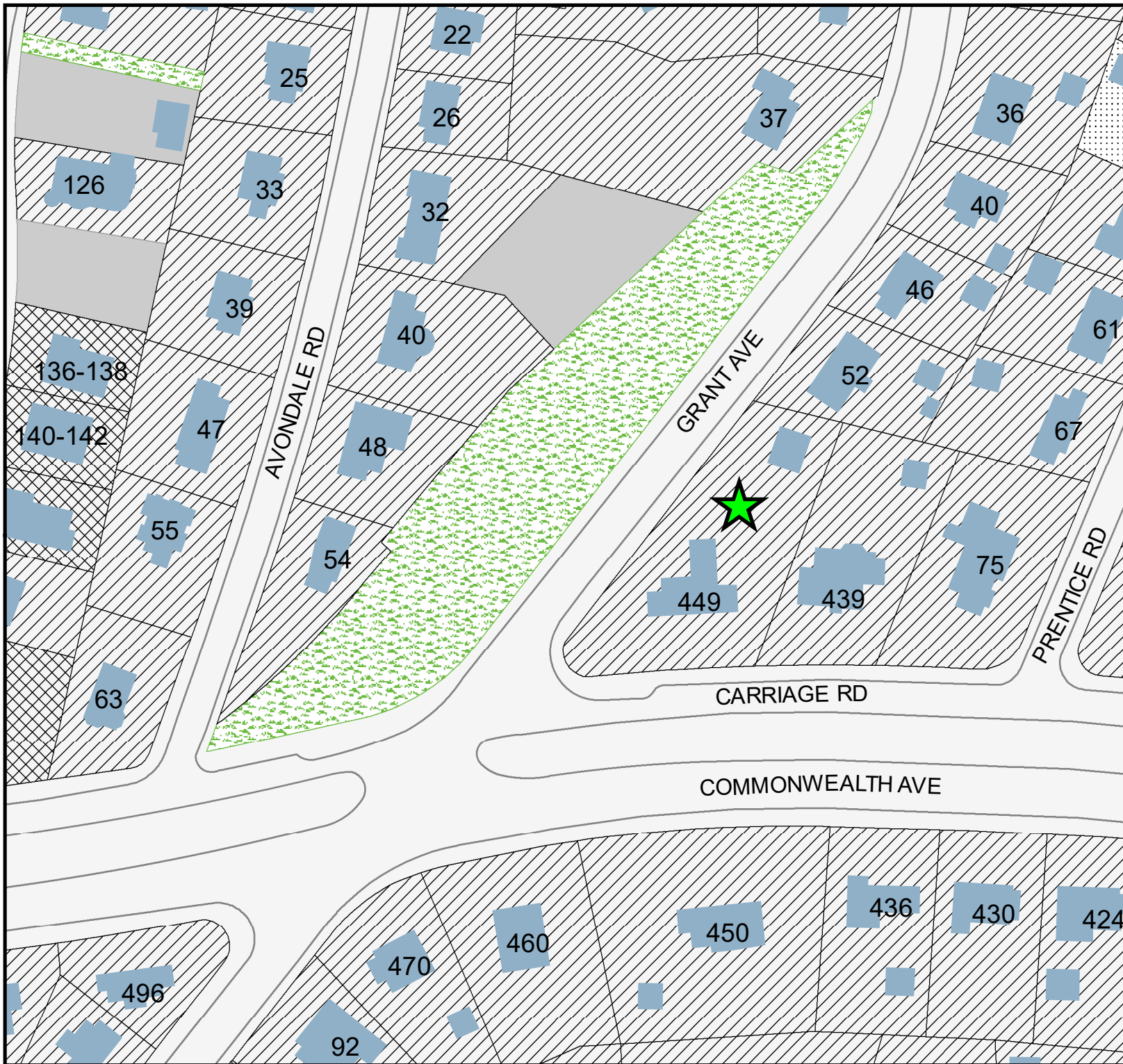


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 04, 2020





Setti D. Warren
Mayor

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Barney S. Heath
Director

STATEMENT OF HISTORICAL SIGNIFICANCE

DATE: 2/26/2020

PROJECT# 20020039

Dear Homeowner/ Contact Person:

RE: **PROPERTY ADDRESS:** 449 Commonwealth Avenue (detached garage 1929)

We have conducted our initial site visit and documentary research of the structure for which you have requested conversion to an accessory apartment and have determined that the building or structure is **Historically Significant** for the reason(s) indicated below.

The building or structure is historically significant because it is:

 in a National Register or local historic district not visible from a public way.

 X on the National Register of Historic Places or eligible for listing;

 historically or architecturally important for its period, style, architect, builder, or context.

 located within 150 feet of a National Register or local historic district and contextually similar.

If partial demolition is planned for the structure, the next regularly scheduled Commission meeting date is NA . An agenda will be mailed to you one week prior to the meeting. At this meeting the Newton Historical Commission will determine whether the structure(s) or partial structure(s) is "Preferably Preserved." If the building(s) is found to be "Preferably Preserved," no Building Permit for demolition shall be issued by the Inspectional Services Department unless the demolition delay is waived by the Commission or the delay expires.

Please note that direct abutters to this property will be notified of the Commission hearing by mail at least one week prior to the meeting on the date shown above.

Additional information on establishing Accessory Apartments in Newton can be found on our website at http://www.newtonma.gov/gov/planning/housing_strategy4/accessory_apartments.asp. If you should have any questions about this determination please call our office at 617-796-1120.

Regards,

The Historic Preservation Staff



Ruthanne Fuller
Mayor

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Director

ZONING REVIEW MEMORANDUM

Date: June 5, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Terry Morris, Attorney
Raquel Oliva Alencar, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow a detached garage with a footprint greater than 700 square feet and to allow dormers exceeding allowable width

Applicant: Raquel Oliva Alencar	
Site: 449 Commonwealth Avenue	SBL: 73041 0001
Zoning: SR2	Lot Area: 22,637 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a detached accessory apartment

BACKGROUND:

The property at 449 Commonwealth Avenue consists of a 22,637 square foot lot improved with a single-family dwelling constructed circa 1929 and a detached garage structure. The petitioner proposes to enlarge the existing detached garage to be used as a two-car garage with an accessory apartment.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 2/10/2020, revised 4/1/2020
- Architectural plans and elevations, signed and stamped by Derek A. Rubinoff, architect, dated 1/30/2020, revised 4/6/2020, 4/27/2020
- Site Plan, signed and stamped by Bradley J. Simonelli, surveyor, dated 4/20/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a 1.5 story addition to an existing detached garage structure to allow for a two-car garage with an accessory apartment. Per section 6.7.1.E.7, an accessory apartment in a detached structure deemed to be historically significant by the Newton Historical Commission may be allowed by right. The structure was deemed historic in February 2020, and is more than 15 feet from the abutting residential dwelling, thus no special permit is required.
2. The existing garage is 629 square feet, and the addition adds 271 square feet to the first level for a total footprint of 900 square feet. Per section 3.4.2.B.1, a garage with a footprint exceeding 700 square feet requires a special permit.
3. Per section 1.5.4.G.2.b a dormer may be no wider than 50% of the length of the exterior wall plane below it. Dormers are proposed on the north and south facing walls. The north-facing dormer is 18.25 feet wide, where 14.3 feet is 50%. The south-facing dormer is 21.2 feet wide where 14.3 feet is 50% of the wall plane below. The proposed dormers both exceed 50% of the wall plane below them requiring a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	22,637 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front (Comm Ave) • Front (Grant Ave) • Side • Rear 	25 feet 25 feet 7.5 feet 15 feet	37.5 feet 28.1 feet 23.5 feet 119.8 feet	No change No change No change No change
Setbacks – Accessory Apartment <ul style="list-style-type: none"> • Front (Grant Ave) • Side • Rear 	25 feet 5 feet 5 feet	NA 17 feet 11.8 feet	No change 7.5 feet No change
Max Number of Stories <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	2.5 1	No change 1.5
Height <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	NA NA	No change 20.3 feet
Accessory Apartment size	1,200 square feet	NA	939 square feet
FAR	.33	.18	.22
Max Lot Coverage	30%	11.6%	12.9%
Min. Open Space	50%	79%	76.7%

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.2.B.1	To allow detached garage with a footprint greater than 700 square feet	S.P. per §7.3.3
§1.5.4.G.2.b	To allow dormers with widths exceeding 50% of the length of the wall plane below	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a detached garage with a footprint of over 700 square feet, and to allow dormers with widths exceeding 50% of the length of the wall plane below as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed garage with a footprint of more than 700 square feet and oversized dormers because the structure is to be used for an accessory apartment and maintains a historically significant structure. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.1)
2. The proposed garage with a footprint in excess of 700 square feet and oversized dormers will not adversely affect the neighborhood because the bulk of the additions are to the rear of the structure and the project is meeting all other dimensional standards. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (3.4.2.B.1, 1.5.4.G.2.b, §7.3.3.C.4)

PETITION NUMBER: #257-20

PETITIONER: Raquel Oliva Alencar

LOCATION: 30-32 Salisbury Road, on land known as Section 73, Block 41, Lot 1, containing approximately 22,637 square feet of land

OWNER: Raquel Oliva Alencar

ADDRESS OF OWNER: 449 Commonwealth Avenue
Newton, MA 02459

TO BE USED FOR: Detached garage with accessory apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.4.2.B.1, 1.5.4.G.2.b, and §7.3.3. to allow a garage with a footprint of more than 700 square feet and to allow dormers with a width of more than 50% of the wall plane below

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. Certified plot plan showing proposed garage addition, signed and stamped by Bradley Simonelli, Professional Land Surveyor, Field Resources Inc., dated April 8, 2020
 - b. Architectural Plans, prepared by MGC + LLC, signed and stamped by Derek A. Rubinoff, dated March 31, 2020, consisting of nine (9) sheets:
 - i. Zoning Summary and FAR calculation, SD.00-2, revised April 27, 2020
 - ii. Proposed First Floor Plan, SD.02, revised April 27, 2020
 - iii. Proposed Second Floor Plan, SD.03, revised April 27, 2020
 - iv. Elevations, left and front, SD.06, revised April 27, 2020
 - v. 3D View, SD.07, revised April 27, 2020
 - vi. Elevations, rear and right, SD.08, revised June 2, 2020
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this council 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 council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.