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**Barney Heath**  
Director

**PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** October 6, 2017  
**MEETING DATE:** October 10, 2017  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Neil Cronin, Senior Planner  
**CC:** Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

**PETITION #130-17**

**168 Allerton Road**

Request for Special Permit/Site Plan Approval to further increase the nonconforming floor area ratio (FAR) from .50 to .55, where .40 is the maximum allowed by-right, and extend the nonconforming front setback.

The Land Use Committee (the Committee) opened the public hearing on this petition on Tuesday, September 26, 2017 and held the hearing open. At that hearing, the Committee voiced concern over whether the location of the garage would allow for a third parking stall on site without encroaching upon the sidewalk. As initially proposed, the location of the garage was 17.9 feet from the sidewalk at its farthest point, thereby not allowing for a nine foot wide by nineteen foot long (9'x19') parking stall, which are the dimensions required by the Newton Zoning Ordinance (the Ordinance).

The petitioner has submitted revised plans which show a fully compliant 9'x19' stall in the driveway. In order to create the space for the stall, the architect reduced the depth of the garage by 1 foot and pushed the garage back from the property line approximately six inches. These 18 inches allow the garage to be 19.4 feet from the sidewalk, at its farthest point. The proposed third stall is located within five feet of the sidewalk, but this condition does not require relief because the parking requirement for the dwelling is accommodated by the proposed two-car garage.

Staff notes the petitioner received approval from the Zoning Board of Appeals for a variance to reduce the rear yard setback from 15 feet to 7.5 feet. That approval is currently in the appeal period and the revised garage dimensions comply with the setback required per the variance.

**ATTACHMENTS:**

**Attachment A:** Draft Council Order

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 a nonconforming front setback and further increase the nonconforming floor area ratio from .50 to .55, where .40 the maximum allowed the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing setback is to the neighborhood because the addition will not encroach any farther into the setback than the existing structure (§3.1.3 and §7.8.2.C.2).
2. The proposed increase in the nonconforming floor area ratio is not substantially more detrimental than the existing floor area ratio is to the neighborhood and the structure will be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the addition will add 518 square feet which is contained to the first story of the dwelling (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #224-17

PETITIONER: Alan Lobovits

LOCATION: 168 Allerton Road, on land known as Section 52, Block 27, Lot 08, containing approximately 9,000 square feet of land

OWNER: Alan Lobovits

ADDRESS OF OWNER: 168 Allerton Road  
Newton, MA 02461

TO BE USED FOR:	Single-Family Dwelling
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.1.3 and §7.8.2.C.2 to further extend a nonconforming front setback; §3.1.9 and §7.8.2.C.2 to further increase the nonconforming floor area ratio
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. Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated October 2, 2017
  - b. Architectural Plans, entitled "The Lobovits Residence at 168 Allerton Road, Newton, MA", signed and stamped by Michael Huller, Registered Architect, consisting of nine (9) sheet:
    - i. Existing First Floor Plan
    - ii. Existing Rear Elevation
    - iii. Existing Left Elevation
    - iv. Existing Right Elevation
    - v. Existing and Proposed Front Elevation
    - vi. Proposed First Floor Plan, dated October 2, 2017
    - vii. Proposed Left Elevation
    - viii. Proposed Right Elevation
    - ix. Proposed Rear Elevation
2. Prior to the issuance of any building permit, the petitioner shall either obtain a variance for the reduction of the rear yard setback or provide change of address confirmation from the City Engineer to the Commissioner of Inspectional Services, and the Director of Planning and Development.
3. 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.
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. 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. Provided a copy of the recorded variance from the Zoning Board of Appeals or written confirmation of the address change to the Commissioner of Inspectional Services and Director of Planning and Development in accordance with Condition #2 above.
  - e. 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 or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional land surveyor.
  - c. 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.