



#459-20

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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: December 15, 2020
Land Use Action Date: February 23, 2021
City Council Action Date: March 1, 2021
90- Day Expiration Date: March 15, 2021

DATE: December 11, 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 #459-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to vertically extend the nonconforming side setback in an accessory structure by creating a consistent height through the structure and constructing a rooftop deck and to further extend the nonconforming front setback by constructing a new covered porch entrance and second story deck at 25 Emerson Street, Ward 1, Newton, on land known as Section 11 Block 25 Lot 25, containing approximately 4,456 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.3.A.1, 7.8.2.C.2, 1.5.3.B, 3.2.3 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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



25 Emerson Street

EXECUTIVE SUMMARY

The property located at 25 Emerson Street consists of a 4,456 square foot lot in the Multi Residence 2 (MR-2) zone in Newton Corner. The lot is improved with a single-family residence constructed circa 1900. The petitioners are seeking to construct a two-story porch to the front facade which would extend a nonconforming front setback. They are also seeking to modify a detached garage by extending the nonconforming setback of an accessory structure.

The Planning Department is unconcerned with the modifications to the single-family dwelling and detached garage that extend the nonconforming setbacks. The proposed modifications to the garage do not alter the setback nor the footprint of the garage. The proposed extension of the nonconforming front setback of the single-family dwelling will not be substantially more detrimental because it is contextual with other setbacks on Emerson Street.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed vertical extension of a nonconforming side setback of an accessory structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.4.3.A.1 and §7.8.2.C.2)
- The proposed extension of a nonconforming front setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§1.5.3.B, §3.2.3 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Emerson Street in the MR-2 zone in Newton Corner. The MR-2 zone encompasses the surrounding neighborhoods, with a Public Use zone on Carleton Street (**Attachment A**). The surrounding area has both single-family and multi-family residential uses, with Carleton Park as the open space use on Carleton Street (**Attachment B**).

B. Site

The site consists of 4,456 square feet of land and is improved with a single-family dwelling constructed circa 1900. The lot is served by one curb cut providing access to a ribbon driveway and the detached garage. The single-family dwelling has a nonconforming front setback of 14.9 feet, where 18.55 is required when utilizing the averaging provision and the detached garage has a nonconforming setback of less than one foot from the side property line at the northern boundary, where five feet is

required.

III. PROJECT DESCRIPTION AND ANALYSIS

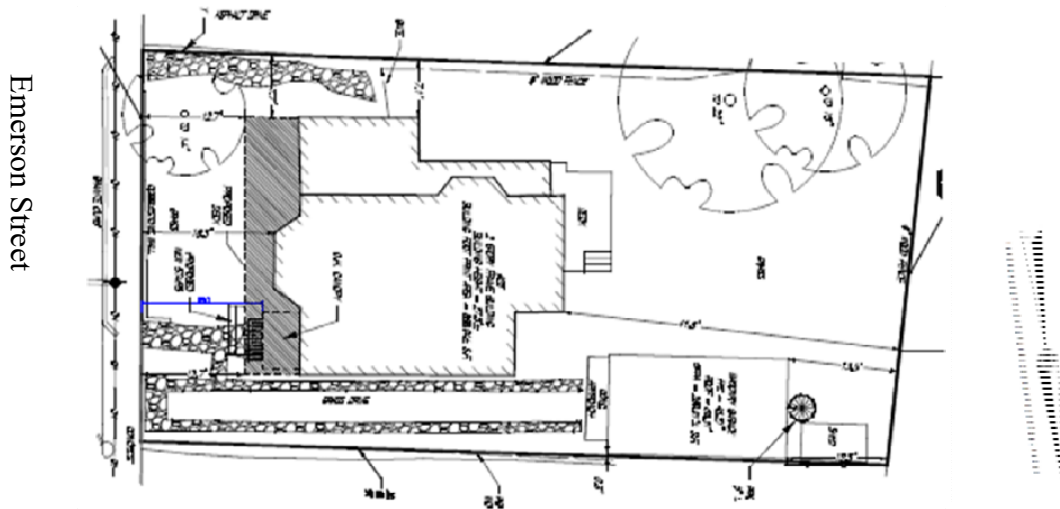
A. Land Use

The principal use of the site is and will remain single-family.

B. Building and Site Design

The petitioners are seeking to extend two nonconforming setbacks with modifications to the garage and single-family dwelling. The petitioners propose to raze the existing front entry to construct a covered porch that extends across the length of the front façade and extends towards the front property an additional 2.2 feet. The covered porch will also allow for a second story deck on the front elevation and wraps around the structure. The modifications to the front elevation result in a reduced nonconforming setback of 12.7 feet, where 18.55 is required.

Proposed Site Plan



Existing Front Elevation
Single Family Dwelling



Proposed Front Elevation
Single Family Dwelling



Existing Left Elevation
Single Family Dwelling

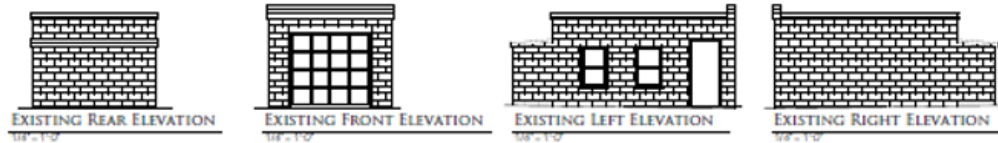


Proposed Left Elevation
Single Family Dwelling

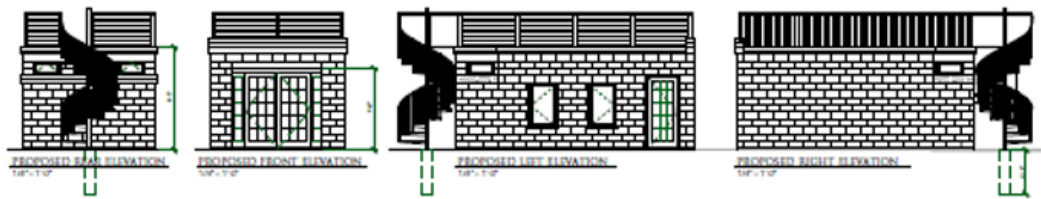


The detached garage along the northern property is approximately 269 square feet and has nonconforming side setback of .3 feet where 5 feet is required for an accessory structure. The garage currently has lower walls at the rear of the garage and the roof steps down with the lower walls. The petitioners propose to remove the step down of the roof to create a consistent roof height. The petitioners are proposing a spiral staircase to the rear of the garage to allow for access to a proposed deck on top of the garage. The footprint of the garage will not change.

Existing Garage Elevations



Proposed Garage Elevations



The Planning Department is unconcerned with the proposed modifications to the single-family dwelling and detached garage that extend the nonconforming setbacks. The proposed modifications to the garage do not alter the setback nor the footprint of the garage. The proposed extension of the nonconforming front setback of the single-family dwelling will not be substantially more detrimental because it is contextual with other setbacks on Emerson Street.

C. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

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

- §3.4.3.A.1 and §7.8.2.C.2 of Section 30, to vertically extend a nonconforming side setback in an accessory structure
- §1.5.3.B, §3.1.3 and §7.8.2.C.2 of Section 30, to further extend a nonconforming front setback

B. Engineering Review

This petition does not meet the minimum threshold for Engineering Review.

C. Historic Preservation Review

The Chief Preservation Planner found the existing single-family dwelling “Historically Significant” on October 27, 2020. The Chief Preservation Planner approved the project based on the submitted plans and will review the plans at the building permit stage for compliance with the October approval.

V. PETITIONER’S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
Attachment B: Land Use Map
Attachment C: Zoning Review Memorandum
Attachment D: DRAFT Council Order




ATTACHMENT A

Zoning

25 Emerson Street

*City of Newton,
Massachusetts*

Zoning

-  Multi-Residence 2
-  Business 1
-  Public Use

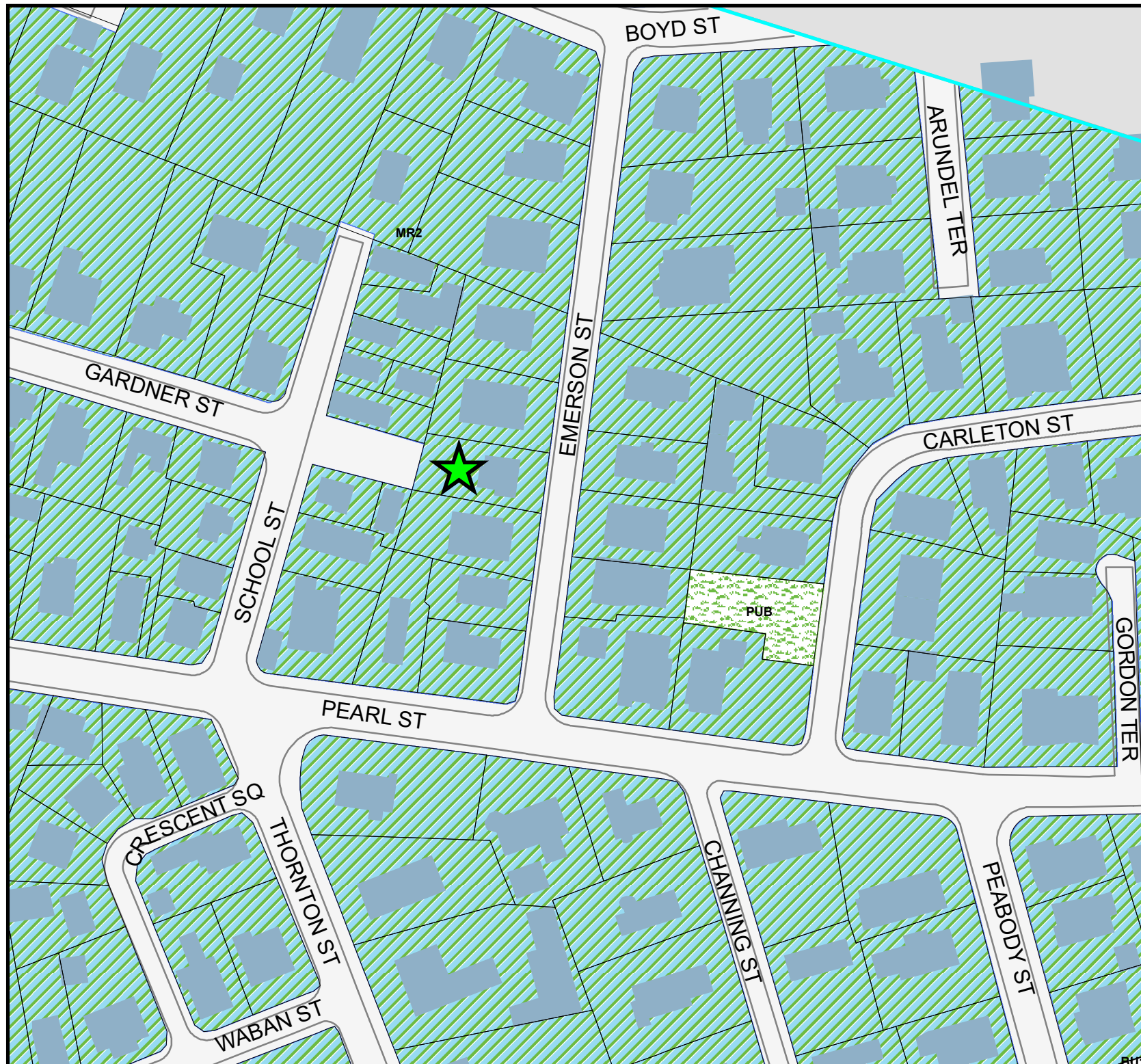


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: December 10, 2020



ATTACHMENT B







Land Use

25 Emerson Street

*City of Newton,
Massachusetts*

Land Use

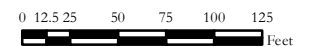
Land Use

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

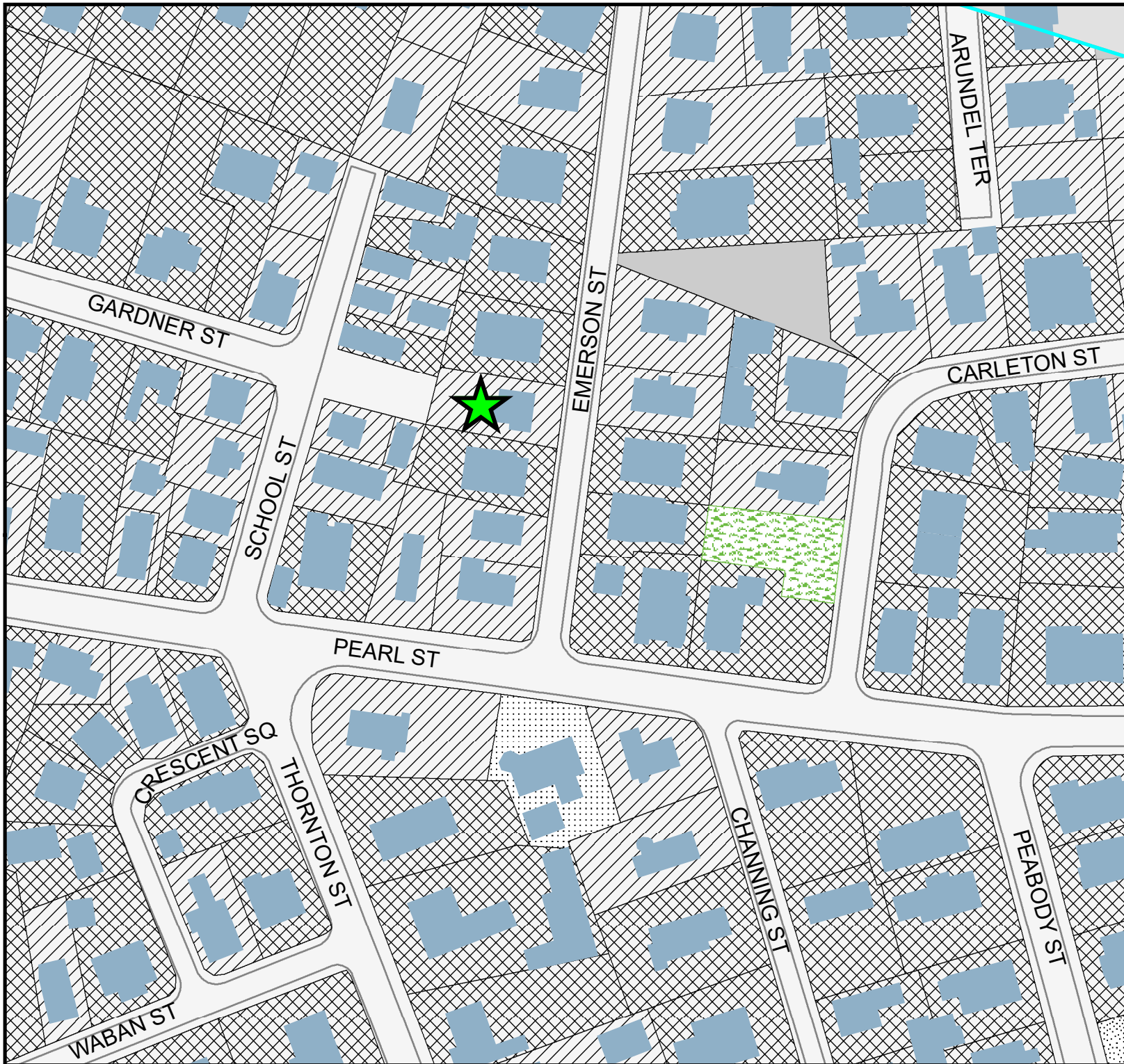


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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: November 3, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mark Landsberg, Architect
Stephen Thomas, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to extend a nonconforming side setback in an accessory structure and to extend a nonconforming front setback**

Applicant: Stephen Thomas	
Site: 25 Emerson Street	SBL: 11025 0025
Zoning: MR2	Lot Area: 4,456 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 25 Emerson Street consists of a 4,456 square foot lot improved with a single-family residence built circa 1900 and a detached garage structure. The petitioner proposes to construct an addition to the rear of the garage to convert the space into a home office with a bathroom, with a rooftop deck.

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

- Zoning Review Application, prepared by Mark Landsberg, architect, submitted 8/19/2020
- FAR worksheet, prepared by Mark Landsberg, architect, submitted 8/19/2020
- Site Plan, signed and stamped by Robert Belaggi, surveyor, dated 5/12/2020
- Architectural plans and elevations, prepared by Mark Landsberg, architect, submitted 8/19/2020

ADMINISTRATIVE DETERMINATIONS:

1. The existing detached masonry garage is located directly on the side lot line on the northern boundary, where five feet is required per section 3.4.3.A.1. The petitioner intends to infill low existing rear walls in the garage to match the height of the rest of the structure, as well as to construct a rooftop deck. As the garage structure is on the side lot line, the increased headroom and rooftop deck vertically extend the nonconforming side setback requiring a special permit per section 7.8.2.C.2.
2. The existing front setback of the principal dwelling structure is 14.9 feet where 18.55 feet is required per the front setback averaging provisions of section 1.5.3.B. The petitioners propose to raze the existing covered front entrance and construct a covered porch that extends the entire length of the façade. The proposed porch further extends the nonconforming front setback to 12.7 feet, requiring a special permit per sections 1.5.3.B, 3.1.3 and 7.8.2.C.2.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	4,456 square feet	No change
Frontage	80 feet	50 feet	No change
Setbacks – Principal			
• Front	18.55 feet*	14.9 feet	12.7 feet
• Side	7.5 feet	7.1 feet	No change
• Rear	15 feet	41.6 feet	No change
Setbacks – Accessory			
• Front	18.55 feet	>50 feet	No change
• Side	5 feet	0.3 feet	No change
• Rear	5 feet	12.5 feet	No change
FAR	.58	.42	No change
Lot Area Per Unit	3,000 square feet	5,539 square feet	4,154 square feet
Max Lot Coverage	30%	22.7%	26.2%
Min. Open Space	50%	74%	70%

* Due to averaging

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.3.A.1 §7.8.2.C.2	Request to vertically extend a nonconforming side setback in an accessory structure	S.P. per §7.3.3
§1.5.3.B §3.2.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	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 vertically extend the nonconforming side setback of an accessory structure, and to further extend the nonconforming front setback, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed vertical extension of a nonconforming side setback of an accessory structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the footprint of the structure not increasing and the setback remains at .3 feet. (§3.4.3.A.1 and §7.8.2.C.2)
2. The proposed extension of a nonconforming front setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the proposed front setback of 12.7 feet is contextual with other properties in the neighborhood. (§1.5.3.B, §3.2.3 and §7.8.2.C.2)

PETITION NUMBER: #459-20

PETITIONER: Stephen Thomas

LOCATION: 25 Emerson Street, on land known as Section 11, Block 25, Lot 25, containing approximately 4,456 square feet of land

OWNER: Stephen Thomas

ADDRESS OF OWNER: 25 Emerson Street
Newton, MA 02458

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.4.3.A.1 and §7.8.2.C.2 to vertically extend a nonconforming side setback in an accessory structure, and §1.5.3.B, 3.2.3 and §7.8.2.C.2 to further extend a nonconforming front setback

ZONING: Multi 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. Plot Plan showing proposed conditions at 25 Emerson Street, signed and stamped by Gerry Holdright, Professional Land Surveyor, dated October 7, 2020.
 - b. Architectural Plans, prepared by MLA Consultants, unsigned and unstamped, dated November 20, 2014,, revised December 12, 2019 consisting of four (4) sheets:
 - i. Existing Plans, AE-1
 - ii. Existing Elevations, AE-2
 - iii. Proposed Plans and Details, A-1
 - iv. Proposed Elevations and Sections, A-2
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.
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.