



#262-19

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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:	September 24, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	December 23, 2019

DATE: September 20, 2019

TO: City Council

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

SUBJECT: **Petition #262-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #63-99 to allow more than one private garage, to allow a private garage exceeding 700 square feet, to allow a private garage for more than three vehicles, to exceed the floor area ratio from .35 to .36, and to further extend the nonconforming height, at **333 Otis Street**, Ward 3, West Newton, on land known as SBL 32, 03, 13 containing approximately 24,547 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.3, §3.1.9, §3.4.2.B.1, §7.3.3, §7.4, and §7.8.2.C.2, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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.



333 Otis Street

EXECUTIVE SUMMARY

The subject property located at 333 Otis Street consists of a 24,547 square foot lot in the Single Residence 2 (the "SR-2") zone in West Newton. The property is improved with a single-family dwelling constructed circa 1884 and a detached 1.5-story carriage house. In 1999, the petitioners obtained a special permit, Council Order #63-99, from the then Board of Alderman to establish an accessory apartment within the half story of the carriage house; the first story is used as a three-car garage (**Attachment A**). The petitioners are seeking to construct an attached garage at the northwest corner of the dwelling. The additional garage requires a special permit because only one garage is allowed per lot, but the garage also requires special permits because the garage space would exceed 700 square feet and would allow garage space accommodating more than three vehicles. In addition to the special permits regarding the garage, the addition increases the floor area ratio (the "FAR") beyond what is allowed as of right, and due to the site's topography, the addition increases the nonconforming building height. As a result, the petitioners require special permits to amend Council Order #63-99 to allow more than one private garage, to allow garage space in excess of 700 square feet, to allow garage space for more than three vehicles, to exceed the FAR from .35 to .36, where .35 is the maximum allowed as of right, and to further extend the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed.

The Planning Department is unconcerned with all aspects of the petition. The garage will be minimally visible from the street, will require minimal site work, and is consistent with the architecture of the dwelling. Staff believes the increase in FAR is minor and is due to the topography of the lot. Lastly, staff believes the increase in the nonconforming building height is an outcome of the Newton Zoning Ordinance (the "Ordinance") rather than an increase in building height.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The specific site is an appropriate location for the additional garage space. (§7.3.3.C.1.)
- The site, due to the additional garage space, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians due to the additional garage space. (§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 increase in FAR from .35 to .36, where .35 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures

in the neighborhood. (§3.1.9 and §7.3.3)

- The increase in the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed is substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.3 and §7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

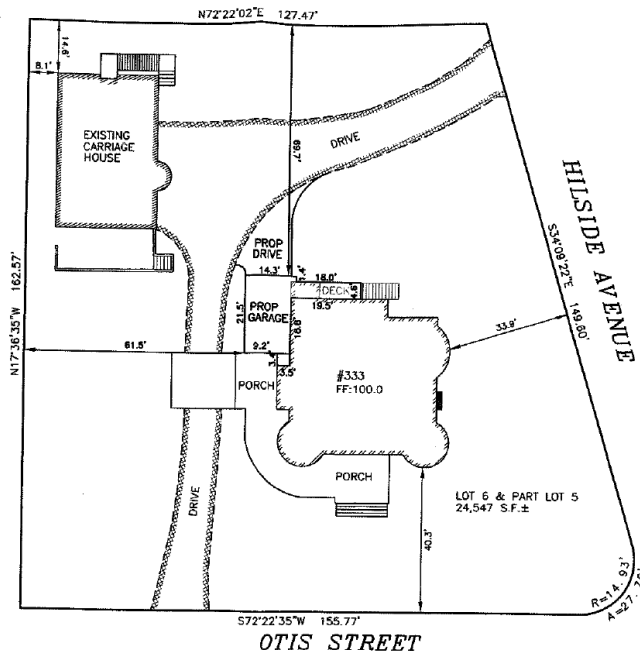
A. Neighborhood and Zoning

The subject property is a corner lot with frontages on Otis Street and Hillside Avenue in the SR-2 zone in West Newton. The SR-2 zone continues from the subject property to the north, while to the east, south, and west lies the Single Residence 1 zone (**Attachment B**). Due to these two districts, the neighborhood and the surrounding area are comprised entirely of single-family uses (**Attachment C**).

B. Site

The site consists of 24,547 square feet of land and it is improved with a single-family dwelling constructed circa 1884. The lot also contains a detached, 1.5-story carriage house located at the northwest corner of the site. The site is accessed by curb cuts from both Otis Street and Hillside Avenue, converge at the carriage house; the site is well landscaped.

Proposed Site Plan



The grade of the lot slopes down from the Otis Street frontage to the rear such that the basement is classified as the first story. As such, the dwelling is nonconforming because it contains 3.5 stories, where 2.5 is the maximum allowed as of right. Because the basement is classified as the first story, the entire basement counts towards the FAR. The grade of the lot also affects the building height calculation such that the dwelling stands 40.2 feet tall where, 36 feet is the maximum allowed.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a single-family residence with an accessory apartment.

B. Building and Site Design

The petitioners are proposing to construct a one-story, attached garage at the northwest corner of the dwelling to accommodate one vehicle. Atop the garage, the petitioners propose to construct a deck that will be accessible from the second floor of the dwelling and which will connect to the port de cochere at the western side of the dwelling. Due to the garage's location, the garage will largely be hidden from Hillside Avenue and will not be visible at all from Otis Street. Nevertheless, the garage will be constructed to complement the architecture of the principal dwelling. Some plantings will be removed, and the driveway will be expanded to allow for access, otherwise, the petitioners are not proposing changes to the site.

Proposed Rear Elevation



The garage will add approximately 379 square feet to the structure, for a total of 8,856 square feet on site. The additional square footage results in a FAR of .36, where .35 is the maximum allowed as of right. As noted above, the garage is a one-story addition that is minimally visible from the street. As a result, staff is unconcerned with the increase in FAR from .35 to .36.

The garage is proposed to the northwest corner of the dwelling. The grade is lower in this portion of the site and therefore the distance from this lower portion to the roof (building height) increases. Specifically, the building height increases from 40.2 feet to 40.8 feet. Staff believes this increase in height is de minimis because it is an outcome of the Ordinance, rather than an increase in building height. For these reasons, staff believes the increase in building height will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood.

C. Parking and Circulation

The detached carriage house has a footprint of approximately 1,209 square feet which is reserved for three parking stalls. As such, the existing condition exceeds the 700 square foot maximum stated in the Ordinance. The proposed garage will add another garage to the lot, requiring a special permit. The additional garage also increases the amount of garage space on site to 1,588 square feet, also requiring a special permit. Lastly, the additional garage space allows for four vehicles to be located within a garage, exceeding the maximum of the Ordinance. The Planning Department is unconcerned with the increase in garage space because the proposed garage is minimally visible from the street and is consistent with the architecture of the principal structure.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. COUNCIL ORDER #63-99

Council Order #63-99 allowed the petitioners to establish an accessory apartment within the half-story of the carriage house. At that time, the accessory apartment section of the Ordinance prohibited lodgers from both the accessory apartment and the principal dwelling. The Ordinance defines lodgers as “A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit.” Therefore, the tenants occupying the accessory apartment are not considered lodgers.

This provision is no longer found in the accessory apartment section, rather the section refers to Section 3.4.2 *Accessory Uses Allowed* which states that “Such accessory purposes as are proper and usual with detached single-family dwellings, or detached two- family

dwellings, including but not limited to: Renting of rooms for not more than three lodgers”.

The petitioners are seeking to delete this condition of Council Order #63-99, in the event they would like to have lodgers in their home. The Planning Department is not concerned with this request because the condition is no longer applied in the Ordinance.

V. 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:

- Amend Council Order #63-99.
- §3.4.2.B.1 and §7.3.3 of Section 30, to allow more than one private garage.
- §3.4.2.B.1 and §7.3.3 of Section 30, to allow more than 700 square feet of garage space.
- §3.4.2.B.1 and §7.3.3 of Section 30, to allow garage space for more than three vehicles.
- §3.1.9 and §7.3.3 of Section 30, to exceed the FAR from .35 to .36.
- §3.1.3 and §7.8.2.C.2 of Section 30, to further extend the nonconforming building height from 40.2 feet to 40.8 feet.

B. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

C. Newton Historical Commission Review

This petition does not meet the minimum threshold for review from the Newton Historical Commission.

VI. PETITIONER’S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Council Order #63-99
- Attachment B:** Zoning Map
- Attachment C:** Land Use Map Zoning Review Memorandum
- Attachment D:** Zoning Review Memorandum, dated September 12, 2019
- Attachment E:** DRAFT Order

JL

#63-99

CITY OF NEWTON
IN BOARD OF ALDERMEN

April 20, 1999

RECEIVED
1999 APR 20 PM 6:07
NEWTON MASS 02459

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the proposal preserves an historic structure and contributes to its restoration.
2. The Board finds that the accessory structure is not detrimental to the neighborhood.
3. The Board finds that the petitioner will remove the recently-built deck which is not part of the original historic structure and will replace it with an at-grade patio.

MSD 05/20/99 01:58:33 1029 13.00

PETITION NUMBER: 63-99

PETITIONER: Laura & Nathaniel Foote

LOCATION: 333 Otis Street, West Newton, Section 32, Block 3, Lot 13, containing approximately 24,500 square feet of land.

OWNER: Laura & Nathaniel Foote

ADDRESS OF OWNER: 333 Otis Street
West Newton, MA

TO BE USED FOR: Accessory apartment in a carriage house

CONSTRUCTION: Wood Frame - exterior staircase and interior renovations

EXPLANATORY NOTE: Section 30-8(d)(2) allows the Board of Aldermen to grant a special permit for an accessory apartment in an accessory structure.

Decd 1-22-99 # 933

EXPLANATORY NOTE REQUESTED

BOOK _____ PAGE _____

A True Copy

Attest

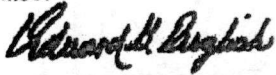
Susan M. Basham

City Clerk of Newton, Mass.

Land referred to is in a Single Residence 2 District.

Approved, subject to the following conditions:

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with plans entitled, "Plan of Land in Newton, Mass - 333 Otis Street," dated February 3, 1999, revised March 26, 1999, by Everett M. Brooks Co. and a set of 4 plans dated February 9, 1999 by Classic Restorations, Inc., showing elevations and floor plans, submitted by the petitioner and filed herewith.
2. That the Historical Commission review the final details for the railings for the staircase and landing.
3. That the existing deck on the south side of the carriage house shall be removed.
4. That the following applicable provisions of Sections 30-8(d)(1) and 30-8(d)(2) of the Zoning Ordinance shall be complied with:
 - a. No more than one accessory apartment shall be allowed per lot.
 - b. There shall be no lodgers in either the original dwelling unit or the accessory apartment.
 - c. Landscape screening of the parking areas shall be provided. Landscape screening of the outdoor patio shall also be provided.
 - d. The apartment shall comply with all applicable building, fire, and health codes.
5. That the landscape screening pursuant to condition 4.c. above shall be submitted for review and approval by the Director of Planning and Development.
6. That the approval granted by this special permit shall not be considered to authorize use of the carriage house for a home business.
7. That the main house shall remain a single family residence and the owner shall continue to occupy one of the units on the site.
8. That one of the three parking bays within the accessory apartment shall be provided to and reserved for tenants of the structure under any lease of the premises, and in any event tenants shall under the lease be limited to no more than two vehicles, one of which shall be required parking within the structure in the bay provided rather than on the driveway outside.

A True Copy
Attest

City Clerk of Newton, Mass.

9. That the loft within the apartment shall be used for storage only and not occupancy.
10. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL until:
- a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
 - b. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
11. That no building or structure or portion thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL shall be occupied until:
- a. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features and parking areas as specified in the foregoing condition provided however, that if certain specimens require later installation because of the growing season, their installation may be deferred so long as it takes place within 12 months from the date of occupancy.
 - b. All aspects of conditions 2, 3, and 4 above, including the second means of egress, have been met.
 - c. All applicable building, fire and health codes are met as approved by the Commissioner of Inspectional Services, Fire Department, and Health Department, prior to the occupation of the accessory unit.
 - d. Notwithstanding the provisions of Section 11.a. hereof, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy of all or portions of the building prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
- d. The petitioner shall have filed with the City Clerk, the

A True Copy
Attest
Edward J. Hughes
City Clerk of Newton, Mass.

Services and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition #1 has been complied with.

Under Suspension of Rules
Readings Waived and Approved
20 yeas 4 nays (Ald. Bullwinkle, Gentile, Maguire, Merrill)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on April 29, 1999. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

Linda Finucane, acting
(SGD) ~~EDWARD G. ENGLISH~~, City Clerk
Clerk of the Board of Aldermen
LINDA FINUCANE






I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 4/29/99 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

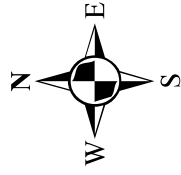
ATTEST *Linda Finucane*
~~EDWARD G. ENGLISH~~, City Clerk
acting

A True Copy
Attest
Edward G. English
City Clerk of Newton, Mass.

Attachment B Zoning Map Otis St., 333

City of Newton,
Massachusetts

Legend	
	Single Residence 1
	Single Residence 2
	Building Outlines
	Surface Water
	Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: September 14, 2019








Attachment C Land Use Map Otis St., 333

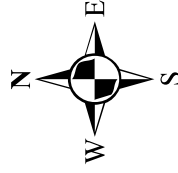
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Open Space
-  Building Outlines
-  Surface Water
-  Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 12, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Laura and Nathaniel Foote, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow more than one private garage, a private garage for more than three vehicles and a private garage of more than 700 square feet, to further extend nonconforming height, to further exceed nonconforming FAR, and to amend Board Order #63-99

Applicant: Laura and Nathaniel Foote	
Site: 333 Otis Street	SBL: 32003 0013
Zoning: SR2	Lot Area: 24,547 square feet
Current use: Single-family dwelling and accessory apartment	Proposed use: No change

BACKGROUND:

The property at 333 Otis Street consists of a 24,547 square foot corner lot improved with a single-family residence constructed circa 1884 and a detached carriage house with an accessory apartment and parking. The petitioners propose to construct a one-car attached garage at the rear of the house. The addition is at a lower grade than the existing dwelling, thereby increasing the overall nonconforming height of the structure. The proposed construction requires an amendment to the existing special permit, and a special permit to further extend the nonconforming height, and certain relief relative to private garages.

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

- Zoning Review Application, prepared by Laura and Nathaniel Foote, applicants, submitted 4/23/2019
- FAR Worksheet, signed and stamped by David Wheelwright Torrey, architect 4/23/2019, revised 7/8/2019, 8/27/2019

- Existing Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 6/30/2000
- Proposed Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 4/8/2019
- Architectural Plans and Elevations, prepared by Torry Architecture, architect, dated 2/21/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners were granted Council Order #63-99 in 1999 allowing for the use of portions of the existing detached carriage house as an accessory apartment. The petitioners seek to construct a one-story single-car attached garage at the rear of the existing primary dwelling structure. The council order requires that all structures and improvements be in accordance with the plans submitted as part of the approval in 1999. As such, an amendment is required to allow for the proposed construction.
2. The existing height of the dwelling is nonconforming at 40.2 feet where the maximum height allowed in the Single Residence 2 zoning district is 36 feet per section 3.1.3. The proposed garage addition is situated at a lower grade than the existing dwelling, lowering the average grade and the increasing the overall nonconforming height to 40.8 feet. The increased nonconforming height requires a special permit per sections 3.1.3 and 7.8.2.C.2.
3. Due to the average grade of the property, the entire basement level of the existing dwelling counts toward FAR and is considered the first floor. Per sections 3.1.3 and 3.1.9, the maximum allowable FAR for the property is .33. As the proposed addition meets new lot setback requirements, it is afforded the .02 bonus, increasing the allowable FAR to .35. The existing dwelling meets the FAR requirements at .35. The proposed 379 square foot single-car addition increases the FAR from .35 to .36, requiring a special permit per sections 3.1.3 and 3.1.9.
4. Section 3.4.2.B.1 states that a special permit is required for a private garage with provision for more than three vehicles. The Commissioner of Inspectional Services views all garages on a site as a whole, thus, though the carriage house has parking for three vehicles, and the primary residence has provision for one, the site is viewed as having private garage parking for four vehicles, requiring a special permit.

This same section 3.4.2.B.1 also requires a special permit for a private garage of more than 700 square feet in area. The Commissioner of Inspectional Services has determined that the square footage of private garages is cumulative for the property. The existing carriage house has a footprint of approximately 1,150 square feet, and the proposed garage is 329 square feet, totaling 1,479 square feet. As such, the total square footage of garage space between the detached structure and the primary dwelling will exceed 700 square feet, requiring a special permit.

Finally, section 3.4.2.B.1 also requires a special permit for more than one private garage per single family dwelling. The first level of the detached carriage house is used to park three vehicles, and the proposed construction adds a single-car garage to the existing primary dwelling. Two separate garage structures require a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	24,547 square feet	No change
Frontage	80 feet	156 feet	No change
Setbacks <ul style="list-style-type: none"> • Front (Otis St) • Front (Hillside Ave) • Side • Rear 	25 feet 25 feet 7.5 feet 15 feet	40 feet 33.9 feet 61.5 feet 68.3 feet	No change No change No change 69.7 feet
Height	36 feet	40.2 feet	40.8 feet
Max Number of Stories	2.5	2.5	No change
FAR	.32	.35	.36
Max Lot Coverage	30%	16.8%	18.1%
Min. Open Space	50%	69%	67%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend special permit	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend nonconforming height	S.P. per §7.3.3
§3.1.3 §3.1.9	Request to exceed FAR	
§3.4.2.B.1	To allow a private garage with provision for more than three vehicles, more than 700 square feet, and more than one private garage	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

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 more than one private garage, to allow more than 700 square feet of garage space, to allow a garage accommodating more than three vehicles, to exceed the floor area ratio from .35 to .36, where .35 is the maximum allowed as of right, and to further extend the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the additional garage space. (§7.3.3.C.1.)
2. The site, due to the additional garage space, as developed and operated will not adversely affect the neighborhood because the garage is contained to the first story and is consistent with the architecture of the principal dwelling. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the additional garage space because the garage is set back from the street. (§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 increase in floor area ratio from .35 to .36, where .35 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 is to the rear of the structure, minimally visible from the street. (§3.1.9 and §7.3.3)
6. The increase in the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the increase is de minimis and is an outcome of the Newton Zoning Ordinance rather than an increase in building height. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER:

#262-19

PETITIONER: Nathaniel and Laura Foote

LOCATION: 333 Otis Street, on land known as Section 32, Block 03, Lot 13, containing approximately 24,547 square feet of land

OWNER: Nathaniel and Laura Foote

ADDRESS OF OWNER: 333 Otis Street
Newton, MA 02465

TO BE USED FOR: Garage addition to dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §7.3.3 to amend Council Order #63-99; §3.4.2.B.1 and §7.3.3 to allow more than one private garage; §3.4.2.B.1 and §7.3.3 to allow 1,529 square feet of garage space; §3.4.2.B.1 and §7.3.3 to allow garage space for four vehicles; §3.1.9 and §7.3.3 to exceed the floor area ratio; and §3.1.3 and §7.8.2.C.2 to further extend the nonconforming building height

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. Proposed Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated April 8, 2019.
 - b. Architectural Plans and Elevations, prepared by Torrey Architecture, unsigned and unstamped, dated February 26, 2019 Revised March 15, 2019 consisting of three (3) sheets.
2. Condition #4 of Council Order #63-99 is hereby deleted in its entirety.
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 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 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.
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 statements by a registered architect or a professional land surveyor certifying compliance with Condition #1, including the as built FAR 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 licensed land surveyor.