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Mayor

City of Newton, Massachusetts  
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**Barney Heath**  
Director

**PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** January 6, 2017  
**MEETING DATE:** January 10, 2017  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney Heath, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

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

**PETITION #308-16**

**79 Kenwood Avenue**

Request for Special Permit/Site Plan Approval to FURTHER INCREASE THE NONCONFORMING SETBACK by razing the existing 12'x22' detached garage and construct a 22'x22' detached garage, reducing the setback from 16.2' to 6.2' where 25' is required at Kenwood Avenue.

The Land Use Committee (the "Committee") held a public hearing on October 13, 2016. The City Council subsequently referred the petition back to the Committee for further consideration. This memo reflects revised plans and additional information submitted by the petitioner as of January 6, 2017, as addressed to the Planning Department.

This project involves replacing an existing 12 foot by 22 foot (264 square foot) one-car garage detached garage with a 22 foot by 22 foot (484 square foot), 13 foot high two-car detached garage. As initially proposed, the proposed garage would have further reduced the existing nonconforming front setback in that location (along Kenwood Avenue), from 16.2 feet to 6.2 feet.

**Plan Modifications**

Subsequent to the Committee's public hearing, the City Council referred this petition back to the Committee for further consideration. In the interim the petitioner has modified the proposed project (see **Attachment A**).

The garage's proposed location has been moved southward toward the existing dwelling, reducing the distance between the two to 13.7 feet, slightly increasing the proposed garage's resulting front setback from 6.2 feet to 7.6 feet (it would still be approximately 8.6 feet further into that setback than the existing garage). The petitioner has also reoriented the garage so its entrance would be on the northern, rather than the western elevation. This would require a new, approximately 7.5 foot long, 20 foot wide driveway, and curb cut, at that location on Kenwood Avenue.

The petitioner's current proposal also involves the retention of the existing driveway (resurfaced with permeable pavers) and its curb cut near the curve on Kenwood Avenue. The petitioner has indicated that the while this driveway would be intended mostly for use as a patio area, it would also be used as guest parking (at 7.5 feet in depth the proposed new driveway would be too shallow for parking).

In reviewing the submitted revised plans the Planning Department has noted the need for several additions and corrections, including the location and dimensions of the proposed new driveway, the dimensions of the resurfaced existing driveway and the related recalculations of the proposed lot coverage and open space on the surveyed site plan. Also, the schematic (and not to scale) drawings currently include several discrepancies, including inconsistent measurements of the proposed garage's height and roof overhang and several measurements inconsistent with the surveyed site plan. The petitioner has stated that while the changes can be made to the schematic drawings, the land surveyor might not be immediately available to make changes to the site plan. In the event the petition is approved, the submission of appropriately modified plans should be made a condition of the Order (plan dates in the attached draft Order have been left blank for modification).

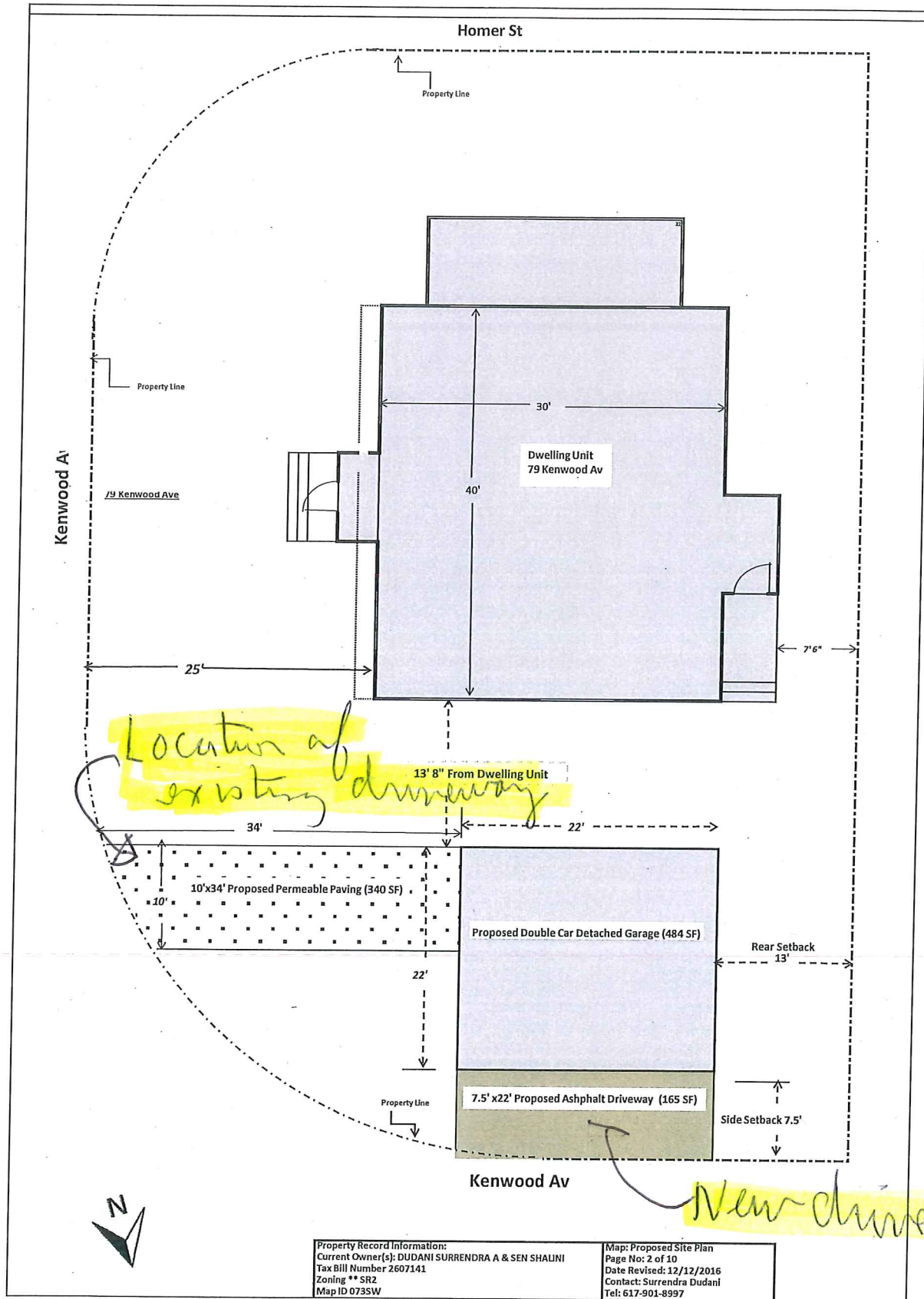
As stated in its public hearing memorandum, the Planning Department is generally not concerned with the proposed two car garage. While also generally not concerned with the proposed location of the new driveway as it responds to some of the concerns about existing driveway's visibility, staff notes that the new driveway's benefits are offset by the proposed retention of the existing curb cut and driveway. Limiting the existing driveway's parking use to guests would pose enforcement questions, and its retention would not address visibility concerns and would result in even more curb space being used for driveways and curb cuts. Also, the Planning Department previously recommended that maintenance of vegetative screening be a condition of any special permit so as to "ensure adequate screening of the proposed garage." The retention of the existing driveway would result in even less screening of a larger garage located further into the property's front setback.

The Department has discussed these concerns with the petitioner and strongly recommends that if the proposed new driveway and garage orientation is approved, the closure of the existing curb cut be made a condition of any Order as there is ample available on-street parking in the area. In the alternative, the petitioner could simply return to the original proposal but be required to remove existing shrubs for a distance of several feet from both sides of the existing driveway entrance location.

**ATTACHMENTS:**

- Attachment A:** Revised proposed site plan (dated 12/12/16)
- Attachment B:** Draft Board Order

Garage Remodel Revised Site Plan  
79 Kenwood Avenue, Newton, MA-02459



<b>Property Record Information:</b> Current Owner(s): DUDANI SURRENDRA A & SEN SHALINI Tax Bill Number 2607141 Zoning ** SR2 Map ID 073SW	<b>Map: Proposed Site Plan</b> Page No: 2 of 10 Date Revised: 12/12/2016 Contact: Surrendra Dudani Tel: 617-901-8997
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# ATTACHMENT B

DRAFT#308-16

79 Kenwood Avenue

CITY OF NEWTON

IN CITY COUNCIL

January [redacted], 2017

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to FURTHER INCREASE A NONCONFORMING SETBACK by constructing a 22 foot by 22 foot detached two-car garage that would further reduce the nonconforming front setback from 16.2 feet to 7.6 feet where 25 feet is required, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The proposed larger garage, which will further decrease the nonconforming front setback from 16.2 feet to 7.6 feet where 25 feet is the minimum allowed, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§7.8.2.C.2)
2. The site is an appropriate location for the proposed two-car garage as its use will be accessory to a single family dwelling within a Single Residence zoning district. (§7.3.3.C.1);
3. The proposed garage will not adversely affect the neighborhood. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3);
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #308-16

PETITIONER: Surrendra Dudani

LOCATION: 79 Kenwood Avenue, Section 64, Block 20, Lot 01, containing approximately 7,964 square feet of land

OWNERS: Surrendra Dudani and Shalini Sen

ADDRESS OF OWNER: 79 Kenwood Avenue  
Newton, MA 02459

TO BE USED FOR: Two car garage accessory to a single-family residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.1.4 and 7.8.2.C.2, to further increase a nonconforming front setback

ZONING: Single-Residence 2 (SR2) 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. A plan entitled "Addition Plan, No. 79 Kenwood Ave., Newton, Mass.," dated           , 201\_; signed and stamped by Michael Paul Antonio, Registered Land Surveyor;
  - b. Plans and elevations (not to scale) dated as "Date Submitted:   /  /201\_ :
    - i. Existing Site Plan (Page No: 1 of 10),
    - ii. Proposed Garage Site Plan (Page No: 2 of 10),
    - iii. Proposed Garage Site Plan Detail (Page No: 3 of 10),
    - iv. Existing Garage Floor Plan (Page No: 4 of 10),
    - v. Proposed Garage Floor Plan (Page No: 4 of 10),
    - vi. Proposed Garage Roof Plan (Page No: 5 of 10),
    - vii. Proposed Garage North Elevation (Page No: 6 of 10),
    - viii. Proposed Garage South Elevation (Page No: 7 of 10),
    - ix. Proposed Garage Rear Elevation (Page No: 8 of 10),
    - x. Proposed Garage Front Elevation (Page No: 9 of 10),
    - xi. Proposed Garage Cross-section (Page No. 10 of 10).
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 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.

4. No Final Inspection and/or Occupancy Permit for the buildings 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 a registered architect or engineer certifying compliance with Condition #1.
  - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
  - c. 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.