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

Setti D. Warren
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 13, 2016
Land Use Action Date: December 8, 2016
City Council Action Date: January 9, 2017
90-Day Expiration Date: January 11, 2017

DATE: October 7, 2016

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #308-16**, for SPECIAL PERMIT/SITE PLAN APPROVAL 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, Ward 6, Newton Centre, on land known as SBL 64 20 01, containing approximately 7,964 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.4, 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 which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



79 Kenwood Avenue

EXECUTIVE SUMMARY

The property at 79 Kenwood Avenue consists of a 7,964 square foot lot that fronts along Kenwood Avenue, Ashton Avenue and Homer Street. Due to its location and configuration, the lot's front setback "wraps-around" three sides of the property. The site is improved with a single-family residence constructed in 1916, and a detached garage structure built in 1924. The applicant proposes to raze the existing 12 foot by 22 foot detached garage and construct a 22 foot by 22 foot detached garage. The existing garage is 16.2 feet from Kenwood Avenue where 25 feet is required. The proposed design would further reduce the nonconforming front setback to 6.2 feet, requiring a special permit as per Section 7.8.2.C.2.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

1. The proposed larger garage, which will further decrease the nonconforming front setback from 16.2 feet to 6.2 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 garage. (§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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located just to the west of the convergence of Kenwood Avenue, Ashton Avenue and Homer Street in Newton Center. The structures in the surrounding area are uniformly single family dwellings (**Attachment A**). The property and the surrounding area is uniformly zoned Single Residence 2 (SR2) (**Attachment B**).

B. Site

The subject property consists of a 7,964 square foot lot improved with a single-family residence constructed in 1916, and a detached garage structure built in 1924. The property features lawn and considerable mature vegetation, most notably high shrubbery that screens the property from adjacent streets. The rear of the property, abutting the neighboring 205 Homer Street's side yard, is fenced.

The property is considered nonconforming due to its lot size (10,000 square feet is

required in an SR2 district) the dwelling's rear setback of 7.6 feet (15 feet is required) and existing substandard front setback of 16.5 feet, where 25 feet is required.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property would remain a single-family residence.

B. Building and Site Design

The applicant proposes to raze the existing 12 foot by 22 foot (264 square foot) one-car garage detached garage and construct a 22 foot by 22 foot (484 square foot), 13 foot high two-car detached garage. The proposed garage would be built on the location of the existing garage and additional area ten feet to the north, further reducing the existing nonconforming front setback in that location (along Kenwood Avenue), from 16.2 feet to 6.2 feet.

Given the configuration of the proposed garage and adjoining streets, the 22 foot long "side" of the garage would be within the front setback facing Kenwood Avenue, as would the "front" (i.e., the garage doors) facing the intersection of that street with Ashton Avenue.

The proposed new garage would increase the property's Floor Area Ratio (FAR) from 0.38 to 0.41, the maximum allowed. The property's Lot Coverage would increase from 22% to 24%, below the maximum 30% allowed. Its Open Space ratio would decrease from 70% to 67.3%, but remain well above the 50% required minimum.

The Planning Department notes that the proposed location of the new garage would maintain the existing garage's 15 foot distance from the dwelling. Placing the additional garage space instead to the south, rather than to the north as proposed, would preserve the existing (albeit nonconforming) front setback while reducing the distance between structures to five feet. As such, the proposed location represents a choice to locate the structure further within a front setback rather than using area outside the setback available for such a use.

C. Parking and Circulation

The width of the existing curb cut would remain the same, but the existing, approximately 31 foot long driveway on the property would be widened by 10 feet to serve the proposed wider garage.

D. Landscaping

There is considerable mature landscaping along the back of the sidewalks along all three frontages of the property, especially in the location of the existing, and proposed, garage where high shrubs effectively screen the area from adjacent

streets and properties.

The Planning Department recommends that in the event this petition is approved, maintenance of such screening be a condition of a special permit so as to ensure adequate screening of the proposed garage, especially given its location within the front setback and in close proximity to the public right-of-way.

IV. TECHNICAL REVIEW

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

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

- Special Permit per §7.3.3 to further increase nonconforming front setback (§3.1.4; §7.8.2.C.2).

2. Engineering Review:

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed garage should this petition be approved.

3. Newton Historical Commission:

Newton Historical Commission staff reviewed the proposed work and found the existing garage not historically significant.

V. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A


Existing Land Use 79 Kenwood Ave.

City of Newton,
Massachusetts

Legend

Land Use

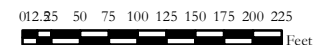
Land Use

 Single Family Residential

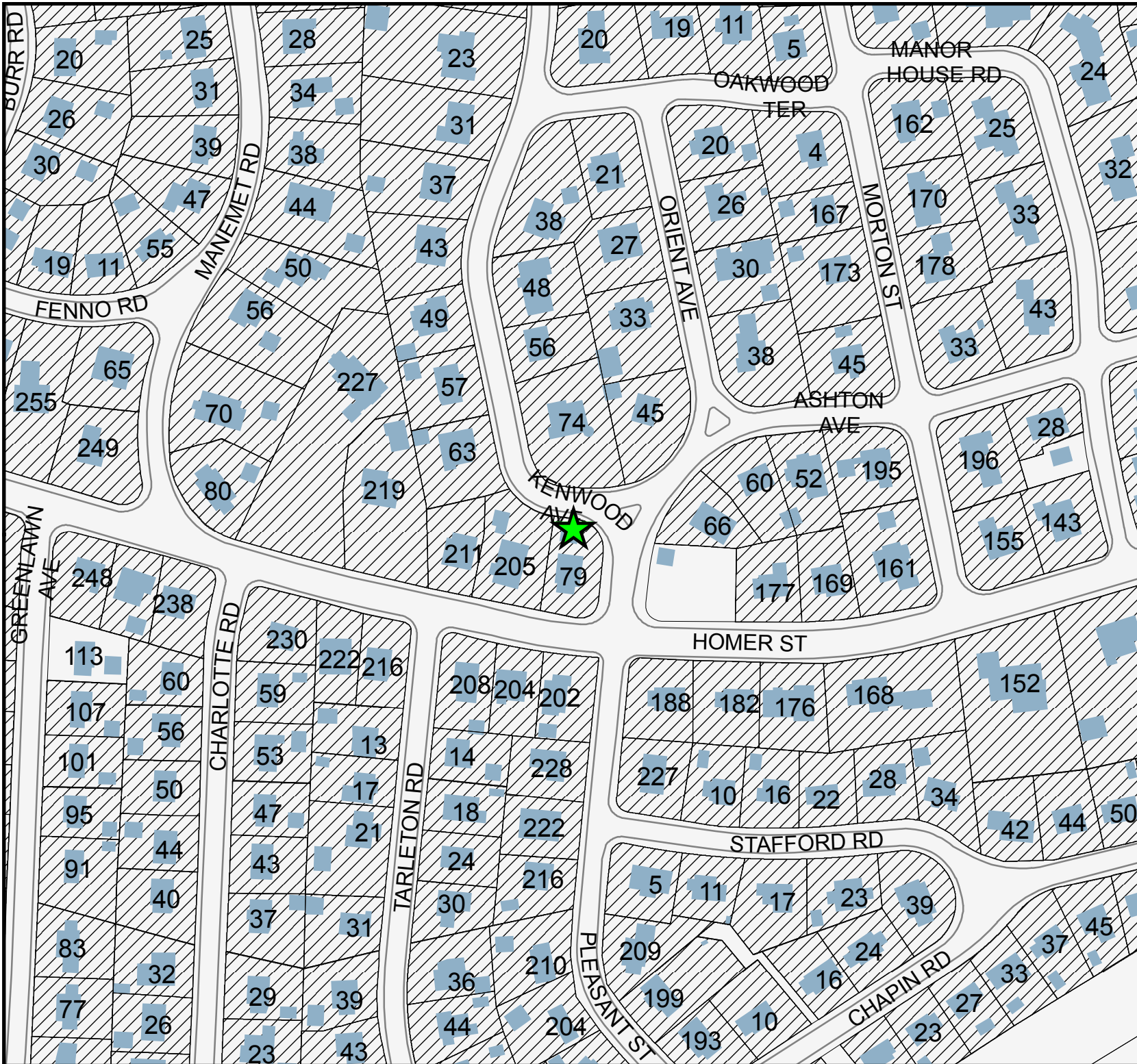


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: October 05, 2016





ATTACHMENT B

Existing Zoning 79 Kenwood Ave.

*City of Newton,
Massachusetts*

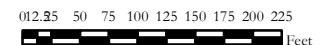
Legend

-  Single Residence 2
-  Public Use

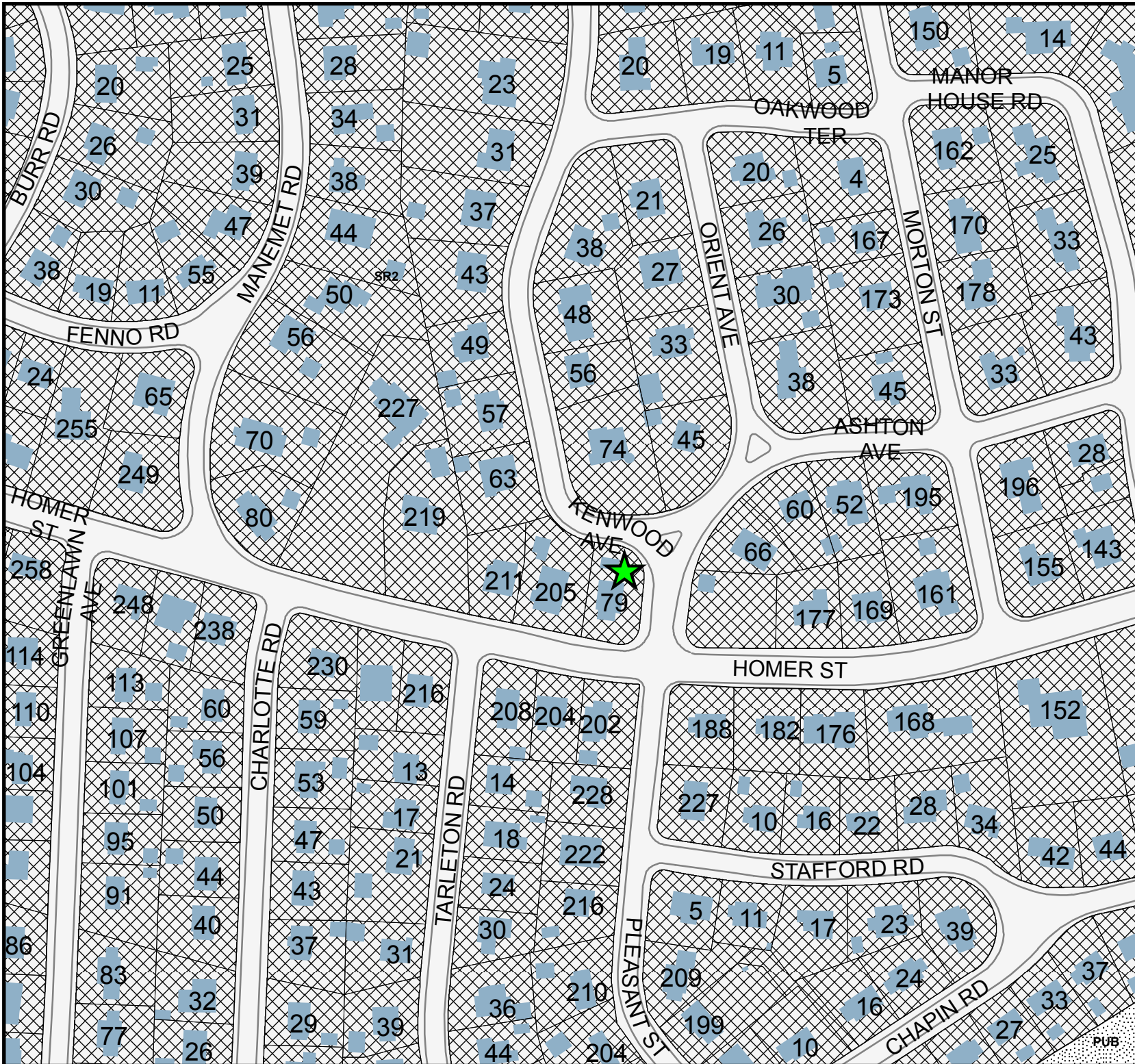


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Setti D. Warren
Mayor

ATTACHMENT C
City of Newton, Massachusetts
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 21, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Surrendra Dudani and Shalini Sen, applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to further increase a nonconforming front setback**

Applicant: Surrendra Dudani and Shalini Sen	
Site: 79 Kendwood Ave	SBL: 64020 0001
Zoning: SR-2	Lot Area: 7,964 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 79 Kenwood Avenue consists of a 7,964 square foot lot at the corner of Kenwood Avenue and Homer Street. Due to the configuration of the streets and lot, the lot has three fronts. The site is improved with a single-family residence constructed in 1916, and a detached garage structure built in 1924. The applicant proposes to raze the existing 12 foot by 22 foot detached garage and reconstruct a 22 foot by 22 foot detached garage. The existing garage is 16.2 feet from Kenwood Avenue, where 25 feet is required. The applicant's proposed design further reduces the nonconforming front setback to 6.2 feet, which requires a special permit.

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

- Zoning Review Application, prepared by Surrendra Dudani, applicant, submitted 6/13/2016
- FAR Worksheet, submitted 6/13/2016
- Plot Plan, signed and stamped by Michael Paul Antonino, surveyor, dated 6/6/2016
- Proposed Plan, dated 6/10/2016
- Plans and Elevations, dated 6/10/2016

ADMINISTRATIVE DETERMINATIONS:

1. The applicant’s property is located on Kenwood Avenue, which curves around the lot effectively creating a corner, producing two front setbacks for the proposed detached garage structure. Section 3.4.4.D states that a garage may be no closer to the front lot line than the longest street-facing wall of the dwelling. The front of the existing garage is set back from the longest street-facing wall of the principal dwelling from the straight portion of Kenwood Avenue, meeting this requirement. The applicant proposes to maintain this setback with the proposed enlarged detached garage and will continue to meet the requirement of a detached garage being no closer to the street than the principal dwelling. Due to the curvature of Kenwood Avenue, the corner of enlarged garage is closer to the northern part of Kenwood Avenue, but in number only. In appearance it is set back from the main face of the dwelling.
2. The side of the detached garage structure faces the curve of Kenwood Avenue and has an existing nonconforming front setback of 16.2 feet, where 25 feet is required per Sections 3.1.3 and 3.4.3.A.1. The applicant is proposing to enlarge the garage structure, making it 10 feet wider to accommodate two cars, further extending the nonconforming front setback to 6.2 feet, which requires a special permit per Section 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	7,964 square feet	No change
Frontage	80 feet	125 feet	No change
Setbacks - Dwelling <ul style="list-style-type: none"> • Front (Kenwood Ave) • Front (Homer St) • Rear 	25 feet 25 feet 15 feet	25 feet 25 feet 7.6 feet	No change No change No change
Setbacks – Detached Garage <ul style="list-style-type: none"> • Front (Kenwood Ave north) • Rear 	25 feet 5 feet	16.2 feet 13 feet	6.2 feet No change
FAR	.41	.38	.41
Max Lot Coverage	30%	22%	24%
Min. Open Space	50%	70%	67.3%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.4, §7.8.2.C.2	Request to further increase nonconforming front setback	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

October 17, 2016

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 6.2 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 6.2 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 June 6, 2016; signed and stamped by Michael Paul Antonio, Registered Land Surveyor;
 - b. A set of plans and elevations entitled "Proposed Garage Renovation Plans, 79 Kenwood Avenue, Newton, MA-02459," dated as "Date Submitted: 6/10/2016":
 - i. Proposed Garage Site Plan (Page No: 1 of 10),
 - ii. Proposed Garage Site Plan Detail (Page No: 2 of 10),
 - iii. Existing Garage Floor Plan (Page No: 3 of 10),
 - iv. Proposed Garage Floor Plan (Page No: 4 of 10),
 - v. Proposed Garage Roof Plan (Page No: 5 of 10),
 - vi. Proposed Garage North Elevation (Page No: 6 of 10),
 - vii. Proposed Garage South Elevation (Page No: 7 of 10),
 - viii. Proposed Garage Rear Elevation (Page No: 8 of 10),
 - ix. Proposed Garage Front Elevation (Page No: 9 of 10),
 - x. Proposed Garage Cross-section (Page No. 10 of 10).
2. 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.
3. 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.