



Setti D. Warren  
Mayor

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: September 11, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Stephen J. Buchbinder, attorney  
Langley Montrose LLC and Langley Farlow LLC  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request for a zone change from MR2 and BU1 to MR3, and a special permit for multi-family dwellings and for associated parking waivers, and to legalize a nonconforming deck**

Applicant: Langley Montrose LLC and Langley Farlow LLC	
<b>Site:</b> 392-396, 400, 402-404 Langley Road	<b>SBL:</b> 65010 0001, 65010 0008, 65010 0030
<b>Zoning:</b> MR2 and BU1	<b>Lot Area:</b> 79,636 square feet (combined)
<b>Current use:</b> Three multi-family dwellings and one two-family dwelling	<b>Proposed use:</b> Four multi-family dwellings

### BACKGROUND:

The subject site is comprised of three lots on Langley Road with a total area of 79,636 square feet near the intersection with John Street. There are 30 dwelling units within a two-building apartment complex and 51 surface parking stalls on a 55,159 square foot lot at 392-396 Langley Road, located in the MR2 zoning district. A two-family dwelling is located at 400 Langley Road on 7,348 square feet, also in the MR2 district. There is also a 16-unit multi-family dwelling with a 23 garaged parking stalls located on 17,130 square feet at 402-404 Langley Road in the BU1 zoning district.

There have been two special permits and one variance issued for 392-396 Langley Road. Special permit #661-67 in 1967 authorized the 30-unit apartment complex. A second special permit #468-72 allowed an in-ground swimming pool at the site. Variance #15-73 was issued in 1973, waiving the parking setback requirements.

Board Order #598-84 was issued to 402-404 Langley Road in 1984 authorizing a 16-unit apartment building on the property.

The applicant proposes a zone change for all three properties to make one large property zoned MR3. The intent is to raze the existing two-family dwelling at 400 Langley Road and construct a new multi-family dwelling containing 20 dwelling units, of which four will be inclusionary units. The new construction will include 16 parking stalls in an underground garage connected to the existing garage at 402-404 Langley Road. There will be a total of 66 dwelling units within four buildings, and 89 parking stalls.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 6/29/2017
- Project Information, submitted 6/29/2017
- Board Order #661-67, dated 10/2/1967
- Variance #15-73, dated 4/6/1973
- Board Order #468-72, dated 6/4/1973
- Area Plan, prepared by VTP Associates, dated 7/20/2017, revised 9/7/17
- Topographic Site Plan showing existing conditions, prepared by VTP Associates, dated 4/27/17, revised 8/21/17
- Zoning Plan Showing Proposed Conditions, signed and stamped by Joseph R. Porter, surveyor, dated 6/6/2017, revised 8/21/2017
- Parking Plan, prepared by VTP Associates, dated 9/5/2017
- 392-404 Langley Rd Newton Plans, prepared by Perkins Eastman, dated 9/8/2017
- Landscape Plan, prepared by G2 Collaborative dated September 8, 2017

#### **ADMINISTRATIVE DETERMINATIONS:**

---

1. The site is comprised of three properties. The two properties at 392-396 and 400 Langley are zoned Multi Residence 2, as are the abutting properties to the north on Langley Road. The property at 402-404 Langley is zoned Business 1, as are the abutting properties to the south on Langley Road. The properties abut an MR1 zone to the rear. The applicant requests to rezone all three properties to Multi Residence 3.

The administrative determinations and relief requested by this application assume that the entire site is zoned MR3.

2. The applicant proposes to raze the existing two-family dwelling at 400 Langley Road and construct a three-story 20-unit multi-family apartment building, consisting of 5 two-bedroom units, 9 one-bedroom units and 6 studio apartments. After combining the three lots, there will be a total of four apartment buildings housing 66 dwelling units on the site. Section 3.4.1 requires a special permit for multi-family housing in the MR3 zoning district.
3. The proposed multi-family structure meets all of the dimensional requirements for the MR3 zoning district. The two structures at 392-396 Langley meet all current and MR3 setback requirements.

The originally permitted side setback for the 12-unit apartment building at 402-404 Langley Road is 7.65 feet. The required setback in a BU1 zoning district is one-half the building height, or 16.1 feet, thus creating a nonconforming side setback. At some point a deck was built along the southern wall of the structure, though no record of a building permit exists in the Inspection Services file. The applicant states that the deck has existed for more than ten years. Per MGL Chapter 40A Section 7, noncompliant structures having been in existence for a period of at least ten years which have not been subject to an action, suit or proceeding as to the alleged violation have been

deemed nonconforming structures subject to section 6 (of MGL 40A) and the local zoning ordinance relative to nonconforming structures. This new language has rendered these violations as nonconformities, which may be rectified by a section 6 finding from the City Council through the special permit process if an expansion or alteration is proposed. The required side setback for this structure in the MR3 zoning district is 10.74 feet (where 16.1 feet would have been required by Ordinance for the BU1 district) and 7.65 feet is required by the Special Permit. The applicant seeks such finding so as to legalize the existing deck as to the new nonconforming side setback of 10.74 feet.

4. There are currently 51 surface parking stalls at 392-396 Langley Road. A variance was granted in 1973 for 38 parking stalls located within a setback. At that time, a pool was proposed for the eastern leg of the lot. The pool was either never built, or has been filled in, and the space is now used for parking, bringing the total number of surface stalls to 51.

The existing multi-family dwelling at 402-404 Langley Road has a below-grade parking garage which accommodates 23 stalls. The proposed multi-family dwelling at 400 Langley Road will contain an additional 16 stalls in an underground parking garage and will connect to the existing underground garage at 402-404 Langley Road. This connection will eliminate two existing parking stalls in the garage at 402-404 Langley Road. A total of 89 parking stalls are proposed for the property.

Per section 5.1.4, two parking stalls per unit are required for multi-family dwellings, or 132 stalls for 66 units. By special permit, this number may be reduced to 1.25 stalls per unit, or 83 stalls. The applicant requests a special permit to allow for the reduction of parking to 1.25 stalls per unit, or 83 stalls, where 89 stalls are available.

5. Section 5.1.8.A states that no parking stall be located within required setback distances from street and side lot lines. There are several surface parking stalls located at 392-396 Langley Road within the side setback. Variance #15-73 granted relief from the side setback requirements for the construction of 38 stalls. However, the parking area has expanded since then to include 51 stalls total. To the extent that the 13 unpermitted stalls are within the side setback, a special permit is required.
6. Per section 5.1.8.B.1 and .2, parking stalls must meet the minimum dimensions of 9 feet wide by 19 feet deep. To the extent that any existing or proposed stalls do not meet the dimensional requirements of section 5.1.8.B.1 and 5.1.8.B.2, a special permit is required.
7. The applicant is required to provide five handicapped accessible parking stalls per 521 CMR 23, while section 5.1.8.B.3 of the Newton Zoning Ordinance requires four. The applicant's plans show three handicapped accessible stalls, and another in the proposed underground garage. The applicant has also indicated that a fifth handicapped stall will be located in the existing underground garage at 402-404 Langley Road. To the extent that this results in the loss of an existing space, the applicant has a sufficient surplus of parking to accommodate the need.
8. Section 5.1.8.B.6 states that end stalls restricted on one or both sides by curbs, walls, fences or other obstructions shall have maneuvering space at the aisle end of at least 5 feet in depth and 9

feet in width. To the extent that the existing and/or proposed parking does not meet these requirements, a special permit is necessary.

9. The existing surface parking is all set at 90 degrees. The conceptual plan for proposed underground parking in the proposed multi-family dwelling is also planned at 90 degrees. The parking layout in the existing multi-family at 402-404 Langley is not shown. Section 5.1.8.C.2 requires the minimum width of maneuvering aisles for two-way traffic for 90 degree parking shall be 24 feet. As the existing surface parking facility contains varying aisle widths, ranging from an existing 17.7 feet to 27.3 feet , a special permit is required.
10. Per section 5.1.9.A, outdoor parking facilities containing five or more stalls must provide perimeter screening from abutting streets and properties. The plans do not indicate existing or proposed screening. The plans do not indicate any vegetative screening or fencing on the perimeter of the surface parking area. To the extent that the surface parking at the rear of 392-396 Langley Road does not meet the requirements of section 5.1.9, a special permit is required.
11. Section 5.1.9.B requires that outdoor parking facilities with more than 20 stalls provide interior landscaping of at least five percent of area of the parking facility, with planting areas of at least 25 square feet and one tree of at least three inch caliper per area. No interior landscaping is provided for the surface parking. To the extent that the parking area does not meet the provisions of section 5.1.9.B, a special permit is required.
12. Section 5.1.10 provides that outdoor parking facilities of more than five stalls be lighted, surfaced and maintained per the requirements of that section. To the extent that the surface parking facility does not meet the requirements of section 5.1.10, a special permit is required.
13. Section 5.1.11 specifies that parking facilities with more than 20 stalls must provide space exclusively for bicycle parking. The applicant is required to provide 9 bicycle stalls per the requirements of section 5.1.11. 13 bicycle parking stalls are indicated on the submitted plans.
14. The applicant proposes to demolish the existing two-family dwelling at 400 Langley Road and construct a 20-unit multi-family dwelling, thus introducing 18 new units to the property. Section 5.11.4 provides that when a special permit is required for residential development, inclusionary units shall be provided equaling no less than 15 percent of the total number of newly proposed units. The applicant proposes that four units, or 20 percent, be affordable, thus meeting the requirements of section 5.11.4.

<b>MU3 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	79,876 square feet	No change
Frontage	80 feet	222.5 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side (north)</li> <li>• Side (south)</li> <li>• Rear</li> </ul>	15 feet 10.74 feet 10.85 feet 16.1 feet	<b>5.5 feet</b> <b>0.02 feet</b> 27.3 feet 16.7 feet	27.9 feet <b>No change</b> No change No change
Lot Area Per Unit	1,200 square feet	1,659 square feet	1,210 square feet
Building Height	42 feet	36.18 feet (400 Langley)	34.41 feet
Max Number of Stories	3	3	3
Maximum Lot Coverage	45%		30.6%
Minimum Open Space	30%		40.2%

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Request to rezone parcels to MU3	
§3.4.1	To allow multi-family dwellings	S.P. per §7.3.3
§4.1.2.B.1	Development of 20,000+ square feet of gross floor area	S.P. per §7.3.3
§3.4.1 §7.8.2.C.2	To legalize a nonconforming setback per MGL 40A §7	S.P. per §7.3.3
§5.1.4 §5.1.13	To reduce required parking to 1.25 stalls per unit	S.P. per §7.3.3
§5.1.8.A §5.1.13	To allow parking in the side setback	S.P. per §7.3.3
§5.1.8.B.1 §5.1.8.B.2 §5.1.13	To waive parking stall dimensional requirements to the extent necessary	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	To waive requirements for end stalls to the extent necessary	S.P. per §7.3.3
§5.1.8.C.2 §5.1.13	To waive minimum aisle width	S.P. per §7.3.3
§5.1.9.A §5.1.13	To waive perimeter screening requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	To waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive lighting and surfacing requirements	S.P. per §7.3.3