



Land Use Committee Report

City of Newton

In City Council

Tuesday, October 12, 2021

Present: Councilors Lipof (Chair), Kelley, Lucas, Markiewicz, Downs, Bowman, Laredo, Wright, Albright

City Staff Present: Senior Planner Katie Whewell, Senior Planner Michael Gleba, Chief Planner Neil Cronin, Assistant City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at the following link <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1058>. Presentations for each project can be found at the end of this report.

#334-21 **Petition to exceed FAR and allow oversized dormer at 52 Ashton Avenue**
CHURCHILL GEORGE YONG AND JOIA RAMCHANDANI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the allowable FAR by constructing a new, one-story single-car garage with a dormer in excess of 50% of the exterior wall below at 52 Ashton Avenue, Ward 6, Newton Centre, on land known as Section 64 Block 24 Lot 07, containing approximately 8,768 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2, 1.5.4.G.2.b of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0; Public Hearing Closed 10/12/2021**

Note: Architect Henry Finch presented the request to exceed FAR and allow an oversized dormer at 52 Ashton Avenue. An existing garage is located on the property line of the properties at 52 and 60 Ashton Avenue. The petitioner owns one garage bay and the property owner at 60 Ashton Avenue owns the second garage bay. The abutter at 60 Ashton Avenue is taking down their portion of the area and relocating a garage on the other side of their site. The petitioner may rebuild the garage in the same non-conforming location, if it is rebuilt within two years, no higher than the existing structure. The proposed plans include an increase by approximately 100 sq. ft. The current FAR is .54 where .42 is allowed (.56 proposed). Mr. Finch noted that a portion of the basement is exposed and counts toward FAR (approximately 892 sq. ft.). Mr. Finch noted that the petitioners have communicated the proposed plans to neighbors who have been supportive.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown in the attached presentation. 12'2" and a decorative dormer. Ms. Whewell noted that a proposed dormer requires relief as it exceeds 50% of the width of the wall below. She explained that as the proposed location improves on the 0' setback, no relief is required for the location of the garage.

The Public Hearing was Opened.

Sean Roche, 42 Daniels Street. expressed support for the petition.

Lisa Monahan, 1105 Walnut Street, expressed support for the project.

No other member of the public wished to speak. Councilor Bowman motioned to close the public hearing which carried 7-0. Councilor Bowman motioned to approve the petition and commended the design of the project, which is consistent with the existing dwelling. The Committee reviewed the draft findings and conditions as shown in the attached presentation and voted 7-0 in favor of approval.

#353-21 **Petition to extend nonconforming three-story structure at 173 Allen Avenue**
MEGAN AND MATTHEW FEINBERG petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a front addition and three-story rear addition, extending the nonconforming three-story structure at 173 Allen Avenue, Ward 5, Waban, on land known as Section 53 Block 22 Lot 10, containing approximately 13,776 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0; Public Hearing Closed 10/12/2021**

Note: Tova Greenberg represented the petitioners Megan and Matthew Feinberg. The petitioners are seeking a request to extend the nonconforming three-story structure at 173 Allen Avenue by constructing two additions; a front two-story addition, bumping out the first and second stories and a rear addition in similar footprint of an existing porch. Chief Planner Neil Cronin presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Mr. Cronin presented renderings of the proposed additions and confirmed that the Planning Department is unconcerned by the two additions which will add approximately 109 sq. ft. to the third story.

The Public Hearing was Opened.

Kathy Pillsbury, noted that the project is a renovation rather than a tear-down. She expressed support for the petition and noted that it should be an example for other property owners.

No other member of the public wished to speak. Councilor Downs motioned to close the public hearing which carried 7-0. Councilor Downs moved approval of the petition. The Committee reviewed the draft findings and conditions as shown in the attached presentation and voted 7-0 in favor of approval.

#333-21 **Petition to allow four single-family attached dwelling at 34 Prescott Street**
WHITEACRE PROPERTIES, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert the existing single-family dwelling unit and carriage house into two, two-unit single-family attached dwelling units, to reduce require side and rear setbacks, to allow a driveway within 10' of the side lot line and parking within 20' of a boundary, to waive two parking stalls and to allow reduced parking stall width and depth at 34 Prescott Street, Ward 2, Newtonville, on land known as Section 23 Block 12 Lot 04, containing approximately 19,432 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3,

7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.1.4, 5.1.13, 5.1.7.B.1, 5.1.7.B.2 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 7-0; Public Hearing Closed 09/28/2021**

Note: After the Land Use Committee approved the petition subject to second call pending a review of the turning radii in the driveway, the item was recommitted at the Council meeting on October 4, 2021. The petitioner requested a continuance of the petition until November 4 or November 9, 2021. The Committee voted 7-0 in favor of a motion to hold the item.

#101-21 Petition to allow single-family attached dwelling units at 667 Boylston Street

CZ FLEET, LLC/MINGZONG ZOU petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four single-family attached dwellings in two buildings, to allow reduced front and rear setbacks, to allow parking in the side setback and to allow a driveway within ten feet of the side lot line at 667 Boylston Street, Ward 6, Newton Centre, on land known as Section 52 Block 29 Lots 40 and 41 containing approximately 16,959 sq. ft. of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.1.7.A, 5.1.13, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0; Public Hearing Closed 10/12/2021**

Note: Attorney Terry Morris, with law offices at 57 Elm Road, represented the petitioner CZ Fleet,/Mingzong Zou. The petitioner is seeking a special permit to allow four single-family attached dwelling units at 667 Boylston Street. Senior Planner Michael Gleba presented the request to allow single-family attached dwelling units at 667 Boylston Street. Mr. Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. The proposed plans are for the property at 667 Boylston Street (zoned MR1) and the lot directly to the east (currently vacant). The site currently contains a dwelling unit and garage. As proposed, the plan includes a driveway along the left side of the site, with two structures each containing two 2,182 sq. ft. detached single-family dwelling units, served by basement level parking stalls along the west side of the site. Mr. Gleba showed renderings of the proposed structures and the proposed landscape plan which can be seen in the attached presentation.

Atty. Morris noted that the two structures were not connected due to the location of structures on abutting properties on the side and the distance of the structures in relation to the properties to the rear on Clark Street. The design was developed with two structures, so that is more consistent with the neighborhood. Atty. Morris noted that there is an existing screen of arborvitae along the rear of the Clark Street site and a 6' vinyl fence on the abutting Clark Street property.

The Public Hearing was Opened.

Lauren and Tim Fagerberg, 127 Clark Street, noted that they are concerned due to the impacts of noise and privacy by changing from a single family to four dwelling units. He noted that the arborvitae may not survive as they were recently cut. He noted that they are also seeking a special permit that will reduce the setback at the rear. Mr. Fagerberg noted that the proposed landscape plan includes the planting of mature trees which will block sunlight and not provide privacy for the majority of the year and asked if the petitioner would be willing to work on the landscape plan.

Atty. Morris noted that there will be a significant distance from the first-floor unit to the back of the dwelling at 127 Clark Street. He confirmed that the petitioner would be willing to consult with the abutter at 127 Clark Street on the proposed landscape plan.

Sean Roche, 42 Daniels Street, noted that the property is walkable to several schools. He expressed support for the petition, as well as the request to work with the abutter on landscaping. Mr. Roche suggested that this could be a 6- or 8- unit building with smaller units.

Lisa Monahan, 1105 Walnut Street, appreciates that the building was made into two two-unit buildings. She noted that the design is consistent with the character along Route 9 and allows for more livable/green space for the residents.

Mary Lee Belleville, questioned why there needs to be eight cars, given the site's proximity to public transportation.

Mr. Gleba confirmed that the petitioner has submitted the turning template which indicates satisfactory turning radii provided there are no vehicles blocking the driveway. He confirmed that the hammerhead configuration should allow cars and delivery vehicles to maneuver within the site to turn out. In response to questions from the Committee, Atty. Morris confirmed that the driveway is 12' wide. Councilors suggested that the petitioner consider designing the structures so that they may be made accessible, if needed.

It was noted that the location of the mechanical equipment is not indicated on the site plan at present. The petitioner stated that there are a number of locations that the mechanical equipment can be located. It was suggested that the mechanicals could be located in the setback, but the Committee noted that mechanicals may only be located in the setback if they are energy efficient. If they are not, the petitioner would need a variance and/or to move the mechanicals.

Councilors noted that the mechanicals may not be located in the setback without zoning relief. It was noted that the ordinances allow for the location of mechanicals in the setbacks, provided the mechanicals are energy efficient. If the petitioner wanted to locate mechanicals in the setback, they would need to be energy efficient or they would need a variance and/or to relocate the mechanicals. Councilor Bowman motioned to close the public hearing which carried 7-0. Councilor Bowman motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown in the attached presentation and voted 7-0 in favor of approval.

#335-21

Petition to allow three single-family attached dwellings at 10-12 Mechanic Street

CATHERINE AND PHILIP WESALOWSKI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to combine two lots and replace an existing three-unit multi-family dwelling with three single-family attached dwelling units, to reduce the required lot area, to reduce lot area per unit, to increase allowed lot coverage, to reduce side setbacks, to allow a three-story structure, to allow a driveway within 10' of the side lot line, to allow parking within 20' of the side and rear lot lines, to allow for reduced driveway width and to allow retaining walls of four feet or more in height within a setback at 10-12 Mechanic Street, Ward 5, Upper Falls, on land known as Section 51 Block 31 Lots 04 and 05, containing approximately 9,964

sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.1.7.C, 5.1.13, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0; Public Hearing Closed 10/12/2021**

Note: Atty. Michael Peirce, with law offices at 60 Walnut Street, Wellesley, Mass, represented the petitioners Catherine and Philip Wesalowski. Atty. Peirce presented the request to allow three, single-family attached dwelling units at 10-12 Mechanic Street. The petitioners have a three-unit legal non-conforming structure (stacked units) and propose to take it down and replace it with a three-unit dwelling with single-family attached dwelling units. Atty. Peirce noted that the plans conform to the City's parking requirements and stated that the petitioner wanted to be considerate of the existing parking constraints on Mechanic Street, which is densely populated with multi-family units. The proposed structure is designed with two units presenting to the street and one unit lower and to the rear. Plans can be found at the following link on the City's website: <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-2104>. Atty. Peirce confirmed that the petitioner has performed community outreach for the project.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning, proposed architectural and landscape plans as shown on the attached presentation.

The Public Hearing was Opened.

John Pelletier, 92 Central Avenue, expressed support for the petition, but noted that there seems to be a lot of parking in an area that is supported by public transportation options. He suggested that the number of stalls and lack of EV charging stations contradicts the City's climate goals.

Councilors noted that the proposed plan improves on the existing setback and green spaces at the site. It was noted that upon development of the new dwelling units, the petitioner will be installing a full drainage system to ensure that runoff is managed on site. In response to questions from the Committee, Atty. Peirce confirmed that the green spaces for each unit measure approximately 25'x18'. A Committee member suggested the unbundling of the parking spaces from the rent of the units but the Committee ultimately expressed support for charging for parking separately, noting that unbundling the parking is typically reserved for larger projects. Councilors asked that as the petitioner continues to design the development, they consider varying facades to bring different character to the neighborhood.

Councilor Downs motioned to close the public hearing which carried 7-0. Councilor Downs motioned to approve the petition. The Committee reviewed the draft findings and conditions as shown in the attached presentation. Atty. Peirce noted that the City typically requires submission of an ANR plan for combining where two lots are involved. He noted that because one lot is registered land and one lot is recorded land, the ANR plan will take longer to complete. He asked that the Council move the condition relative to submission of the ANR plan from prior to issuance of a building permit to prior to issuance of a Certificate of Occupancy. Atty. Temple expressed no concern relative to the change. With that, the Committee voted 7-0 in favor of approval.

#338-21 **Class 2 Auto Dealer License**
CITY OF NEWTON
1000 Commonwealth Avenue
Newton, MA. 02458

Action: **Land Use Approved 7-0**

#339-21 **Class 2 Auto Dealer License**
UNITED AUTO CENTER INC
454 Watertown Street
Newton, MA. 02460

Action: **Land Use Approved 7-0**

Note: The Committee expressed no concern relative to items #338-21 and #339-21. It was confirmed that there are no outstanding issues on either request for a license. The Committee voted 7-0 in favor of approval.

With that, the Committee adjourned at 9:43 pm

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



**PETITION #334-21
52 ASHTON AVENUE**

**SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
DETACHED GARAGE WITH
OVERSIZED DORMER, INCREASING
THE NONCONFORMING FAR**

OCTOBER 12, 2021



Requested Relief



Special Permits per §7.3.3 of the Newton Zoning Ordinance to:

- Increase the nonconforming FAR (§3.1.3, §3.1.9, §7.8.C.2.C)
- Allow a dormer exceeding 50% of the wall below (§1.5.4.G.2.b)

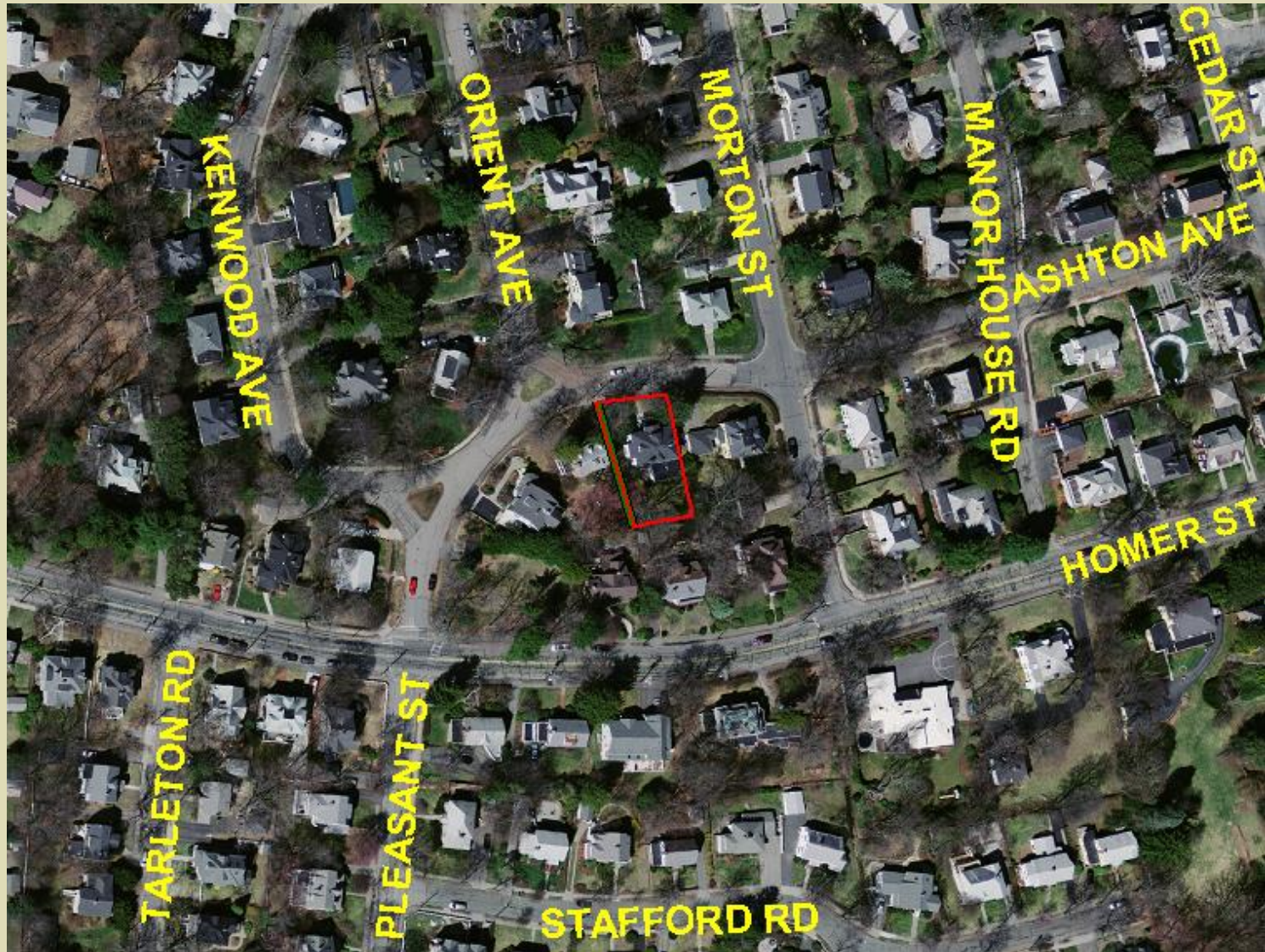
Criteria to Consider



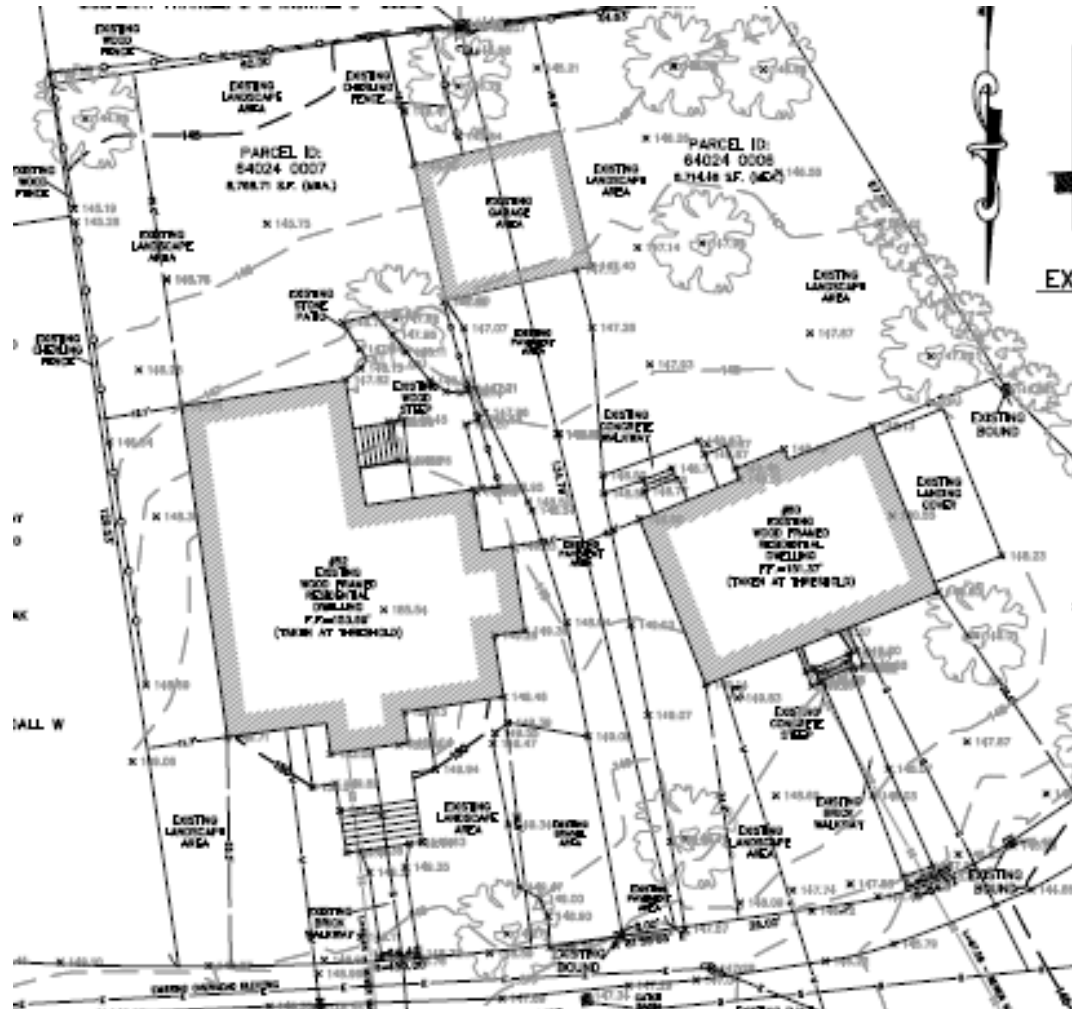
When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed garage and oversized dormer. (§7.3.3.C.1)
- The proposed garage and the oversized dormer will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed garage and the oversized dormer will create a nuisance or serious hazard to vehicles or pedestrians. (§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 proposed increase in the nonconforming FAR from .54 to .56 where .40 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. (§3.1.9, and §7.8.2.C.2)
- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9, and §7.8.2.C.2)

Aerial/GIS Map



Existing Conditions



Proposed Garage Elevations



revised roof maximum height no greater than existing garage roof

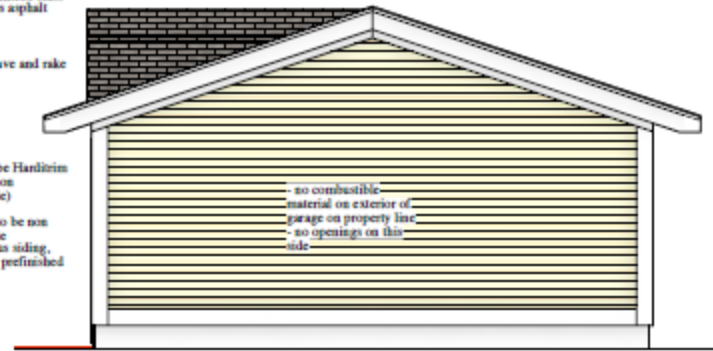
1 Elevation North

Roof Certainteed class A fiberglass asphalt shingles

see wall, eave and rake details

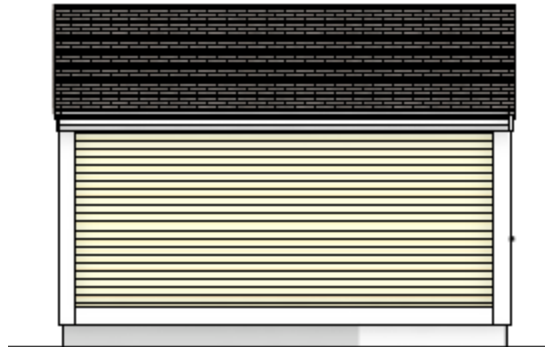
all trim to be Hardtrim Smooth, (non combustible)

clapboard to be non combustible cementitious siding, hardiplank prefinished



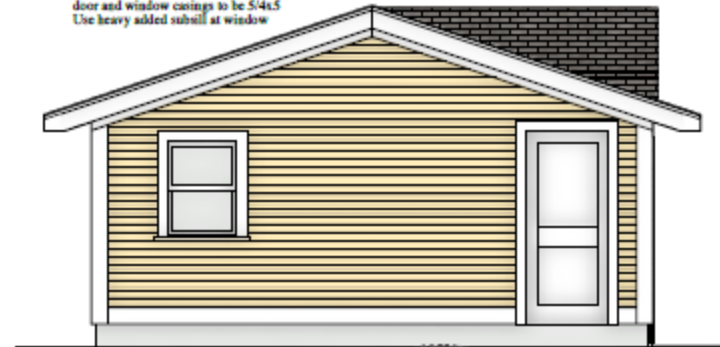
- no combustible material on exterior of garage on property line
- no openings on this side

2 Elevation West



3 Elevation South

door and window casings to be 5/4x5
Use heavy added sub sill at window



4 Elevation East



Proposed Findings



1. The specific site is an appropriate location for the proposed garage and oversized dormer because it is *replacing an existing garage in the same location*. (§7.3.3.C.1)
2. The proposed garage and the oversized dormer will not adversely affect the neighborhood because *it is located at the rear of the site*. (§7.3.3.C.2)
3. The proposed garage and the oversized dormer will not create a nuisance or serious hazard to vehicles or pedestrians because *the garage is maintaining the existing driveway location*. (§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 proposed increase in the nonconforming FAR from .54 to .56 where .40 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 there are similar one-story garages in the neighborhood*. (§3.1.9, and §7.8.2.C.2);
6. The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood *because there are similar one-story garages in the neighborhood*. (§3.1.9, and §7.8.2.C.2)

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

Department of Planning and Development



PETITION #353-21
173 ALLEN AVENUE

SPECIAL PERMIT/SITE PLAN
APPROVAL TO FURTHER EXTEND THE
NONCONFORMING THREE-STORY
STRUCTURE



OCTOBER 12, 2021

Requested Relief



Special Permit per §7.3.3 of the NZO to:

- to further increase the nonconforming three-story structure (§3.1.3 and §7.8.2.C.2).

Criteria to Consider



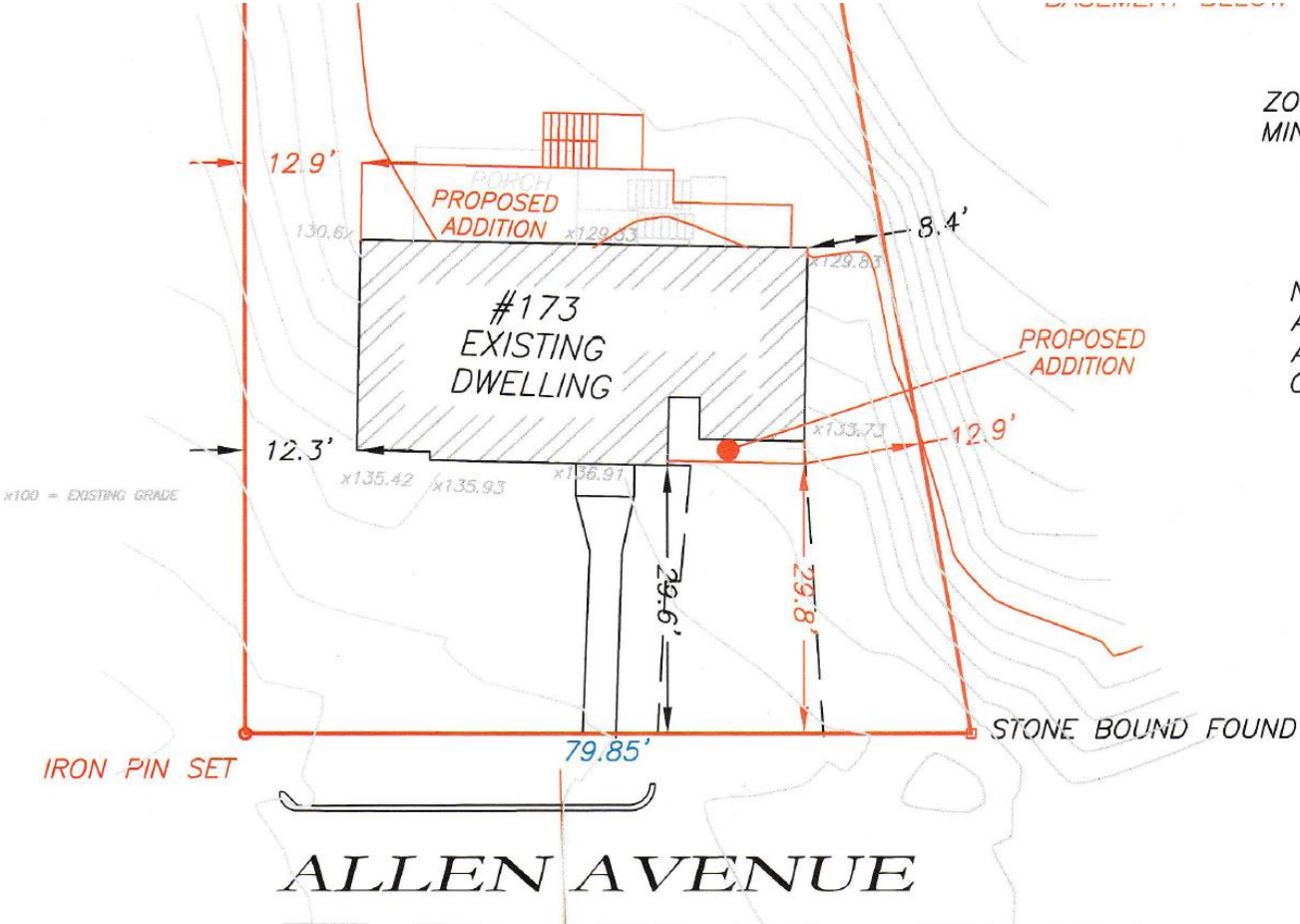
When reviewing this request, the Council should consider whether:

- The proposed additions which further increase the nonconformity of a structure with three stories is not substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.3 and §7.8.2.C.2).

AERIAL/GIS MAP



Proposed Site Plan



ZONED - SR2(PRE 12/7/1953)
 MINIMUM AREA = 10,000 SQ FT
 MINIMUM FRONTAGE = 80'
 FRONT SETBACK = 25'
 SIDE SETBACK = 7.5'
 REAR SETBACK = 15'

NOTES:
 ALL OFFSETS & DIMENSIONS
 ARE TO THE SIDING UNLESS
 OTHERWISE NOTED.

Proposed Front Elevation



A FRONT ELEVATION
A-8 Scale: 1/8" = 1'0"

Proposed Right Elevation



B NORTH ELEVATION
A-8 Scale: 1/8" = 1'0"

Proposed Rear Elevation



C REAR ELEVATION
A-8 Scale: 1/8" = 1'0"

Proposed Left Elevation



D SOUTH ELEVATION
A-8 Scale: 1/8" = 1'0"

Proposed Findings



1. The proposed additions to the nonconforming third story are not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the additions add 109 square feet to the third story and are in keeping with the massing of the structure. (§3.1.3 and §7.8.2.C.2)

Proposed Conditions



1. Plan Referencing Condition.
2. Standard Building Permit Condition
3. Standard Occupancy Certificate Condition