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#406-21

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: December 7, 2021
Land Use Action Date: February 22, 2021
City Council Action Date: March 7, 2021
90-Day Expiration Date: March 7, 2021

DATE: December 3, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner
Michael Gleba, Senior Planner

SUBJECT: **Petition #406-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a garage accommodating more than three vehicles with ground floor area exceeding 700 sq. ft., to vertically extend a nonconforming side setback, to allow a system of retaining walls exceeding four feet within the setback at **229 Bellevue**, Ward 1, Newton, on land known as Section 12 Block 17 Lot 29, containing approximately 9,700 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.3.A.1, 7.8.2.C.2, 3.4.3.A.4, 3.4.4.E, 3.4.4.H, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



229 Bellevue Street

EXECUTIVE SUMMARY

The subject property at 229 Bellevue Street consists of a 9,700 square foot corner lot in a Multi Residence 1 (MR1) district improved with a 3,256 square foot single-family residence constructed in 1890 and a 200 square foot detached two-car garage located approximately two feet from the sidewalk along Belleville Street. The petitioners intend to raze the existing garage and construct a new enlarged garage built into the slope with accommodation for four vehicles that would, as designed, require a special permit as well as amendments to two previously granted variances.

Regarding the required special permit, the existing one-story garage has a side setback of 4.3 feet where 5 feet is required per Sec. 3.4.3.A.1 of the Newton Zoning Ordinance (NZO). The proposed garage would maintain that existing nonconforming side setback and extend it vertically to accommodate a new half story. To so vertically extend the nonconforming side setback requires a special permit per Secs. 3.4.3.A.1 and 7.8.2.C.2. The ground level of the proposed detached garage would measure 1,250 square feet, exceeding the maximum 700 square feet allowed by-right per Secs. 3.4.3.A.4 and 3.4.4.E, thus requiring a special permit per Sec. 3.4.4.H. Since per Sec. 3.4.4.E a garage may provide for no more than three vehicles by right, the proposed four car garage would require a special permit per Sec. 3.4.4.H.

Also, the petitioner proposes to install stairs and a system of retaining walls with an overall height of 5.4 feet with the required 25-foot front setback. As the height would exceed the four feet in height allowed by right, a special permit per Sec. 5.4.2 would be required.

Regarding the variances, a variance (#87291) from the front setback requirement was granted in 1945 to allow the garage to be located approximately 2 feet of the front lot line along Bellevue Street. In 2011, a second variance, Variance #9-11, was granted from the rear setback requirement for the principal dwelling. The petitioners will need to seek separate approval from the Zoning Board of Appeals (ZBA) to amend the Variance #87291, and, to the extent necessary, Variance #9-11, to allow for the garage to be razed and reconstructed with a 3.6-foot front setback where 25 feet is required per section 3.4.3.A.1.

The Planning Department notes that the proposed higher garage would have more visual presence from adjacent public ways and properties than the existing garage, but also notes that the area's topography, location, and existing built conditions could serve to lessen its impact.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the site in a Multi Residence 1 (MR1) district is an appropriate location for the project as designed, with a garage with a ground floor area greater than 700 square feet and provisions for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback. (§7.3.3.C.1)
- the project as designed, with a garage with a ground floor area greater than 700 square feet and provisions for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback, will adversely affect the neighborhood. (§7.3.3.C.2);
- the project as designed, with a garage with a ground floor area greater than 700 square feet and provisions for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback, 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 vertically extended nonconforming side setback would be substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located at the northeast corner of Bellevue Street and Newtonville Avenue, on a dead-end section of the former just south of the Massachusetts Turnpike.

The neighborhood is predominantly a mix of single- and two- family dwellings, with exceptions including the newly constructed self-storage facility located one block to the west and parkland directly across Newtonville Avenue from that (**Attachment A**). Parcels located on the north side of Newtonville Avenue, and those located to the west on the west side of Lewis Street are zoned MR2, while those located to the south of Newtonville Avenue and east of Lewis Street are zoned Single Residence 2 (SR2). The previously referenced self-storage facility is zoned Manufacturing (MAN) (**Attachment B**).

B. Site

The site is developed with an approximately 3,256 square foot single-family residence constructed in 1890 and a detached 200 square foot, two-car garage. The grade slopes upward approximately 20 feet from west to east and there is a relatively low retaining wall (and low fencing) along portions of both frontages, and there is a staircase providing access from Bellevue. A shed is located in the northern corner of the site, and there is retaining wall located along the northeast property line (the right side on Newtonville Avenue).

The existing garage and associated curb cut are located close to the left property line on Bellevue Street. Remaining portions of the site include lawn with some mature trees and shrubs.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

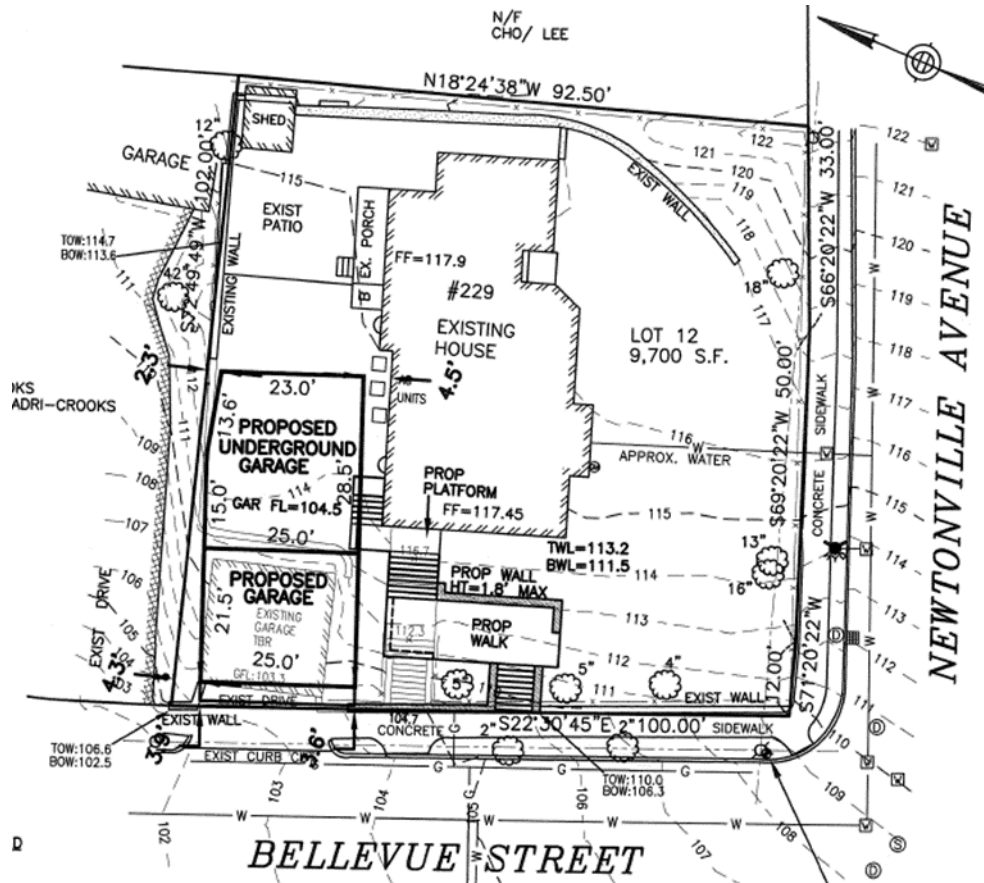
The principal use of the site will remain a single-family residence.

B. Building and Site Design

The petitioners are proposing to raze the existing garage and construct a new enlarged garage built into the slope with accommodation for four vehicles.

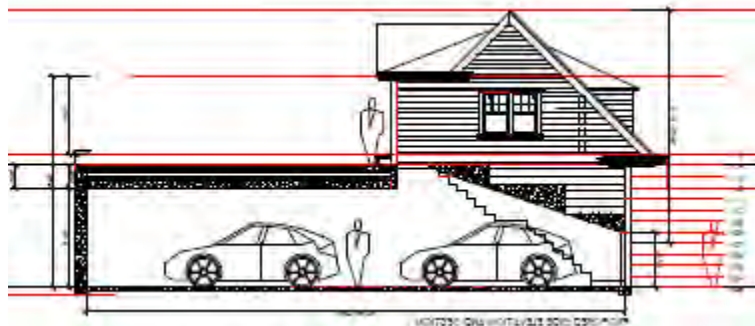
No modifications to the existing single dwelling are contemplated by the present petition. Rather, the petitioner intends to replace the existing 200 square foot, 1 story detached garage located along the Bellevue Street frontage garage with a new approximately 1,250 square foot,

1 ½ story four-car garage.

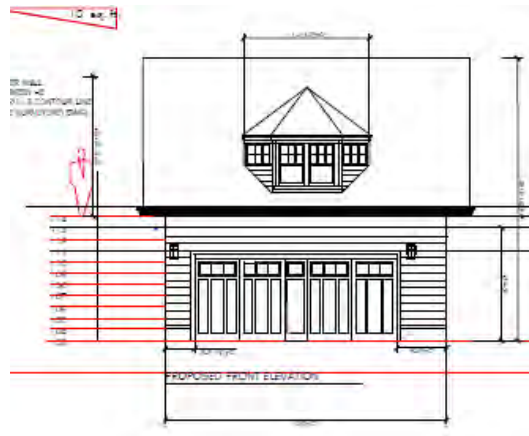


Proposed site plan

As new portions that would be located “behind” the location of the garage would be built into the hill and below grade, only 624 feet of the new garage would be countable toward the property’s floor area ratio (FAR). The new garage’s half-story above would include 355 square feet countable toward the FAR. With these changes, the property’s floor area ratio (FAR) would increase from 0.36 to 0.44, remaining below the maximum 0.48 allowed.



Section- Bellevue St. to right



Bellevue St. elevation

At 20.5 feet the proposed structure's height would be just below the 22-foot maximum height for such structures.

The proposed garage would maintain the existing nonconforming north side setback of 4.3 feet where 5 feet is required and extend it vertically to accommodate the new half story, thus increasing its presence and visibility from the adjacent public ways and neighboring properties. The new portion of the garage built further into the slope would be approx. 2.3 feet from the property line but, as it would be below grade it would not be subject to setback requirements.

The ground level of the proposed detached garage would measure 1,250 square feet, exceeding the maximum 700 square feet allowed by-right. Since a garage may provide for no more than three vehicles by right, the proposed four car garage would require a special permit.

Also, the petitioner proposes to install stairs and a system of retaining walls with an overall height of 5.4 feet with the required 25-foot front setback. The stair configuration would include a relatively large landing area approximately halfway up its ascent. As the aggregate height of the wall system would exceed the four feet in height allowed by right, a special permit would be required.

The Planning Department notes that due to the area's topography, the immediate vicinity features several examples of structures, such as dwellings and retaining walls, located relatively close to front property lines, although not at the height of the proposed garage. The Planning Department suggests that the petitioner be prepared to discuss the anticipated use and design of the area above the below grade portion of the proposed garage and consider whether some screening of that area would be appropriate.

C. Parking and Circulation

The petitioners are proposing to provide four parking stalls accessed via the location of the existing curb cut on Bellevue Street, two more spaces than what is required for a single family-dwelling. The four spaces would be configured as two sets of tandem spaces.

The Planning Department notes that the new garage's entrance would be located 3.6 feet from the back of the sidewalk, a slight improvement over the existing garage's two feet.

D. Landscaping

A landscaping plan was not submitted with this petition.

IV. TECHNICAL REVIEW

A. 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 completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to:
 - vertically extend a nonconforming side setback (§3.4.3.A.1, §7.8.2.C.2)
 - allow an accessory building with a ground floor area greater than 700 square feet (§3.4.3.A.4, §3.4.4.E, §3.4.4.H)
 - allow a garage with provision for more than three vehicles (§3.4.4.E, §3.4.4.H)
 - allow a system of retaining walls exceeding four feet in height (§5.4.2)

Also, as referenced above, the proposal would require amendments to Variances #87291 and #9-11 to be granted by the ZBA, with the former pertaining to the proposed increased height of garage within the front setback.

B. Engineering Review

Review by the Engineering Division is not required at this time.

C. Historic Review

On November 1, 2021, the Newton Historic Commission determined the existing garage is not historically significant and no further review is required.

V. PETITIONER'S 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





Land Use

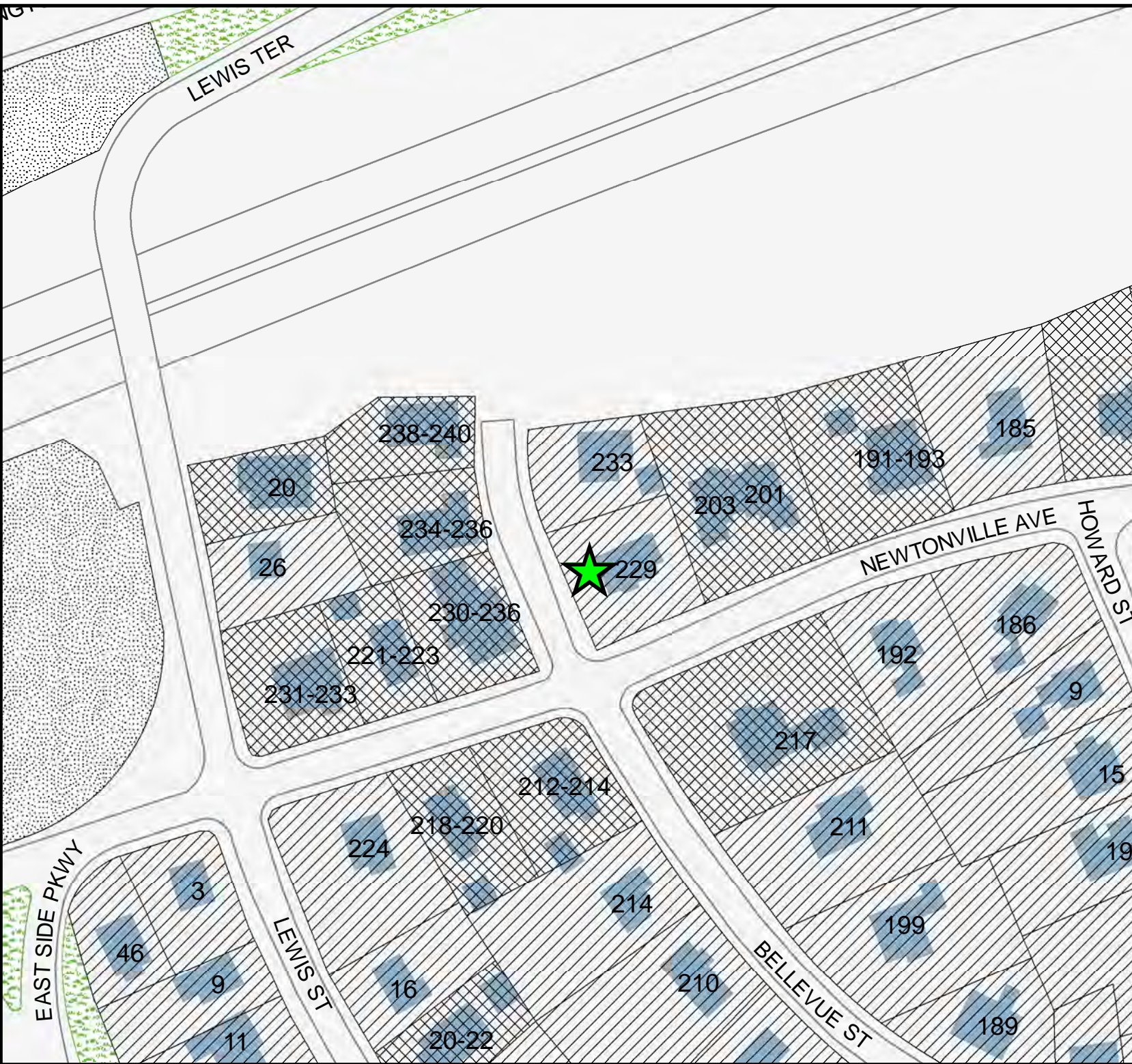
229 Bellevue St.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space



The information on this map is from the City of Newton's 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
GIS Administrator - Douglas Greenfield




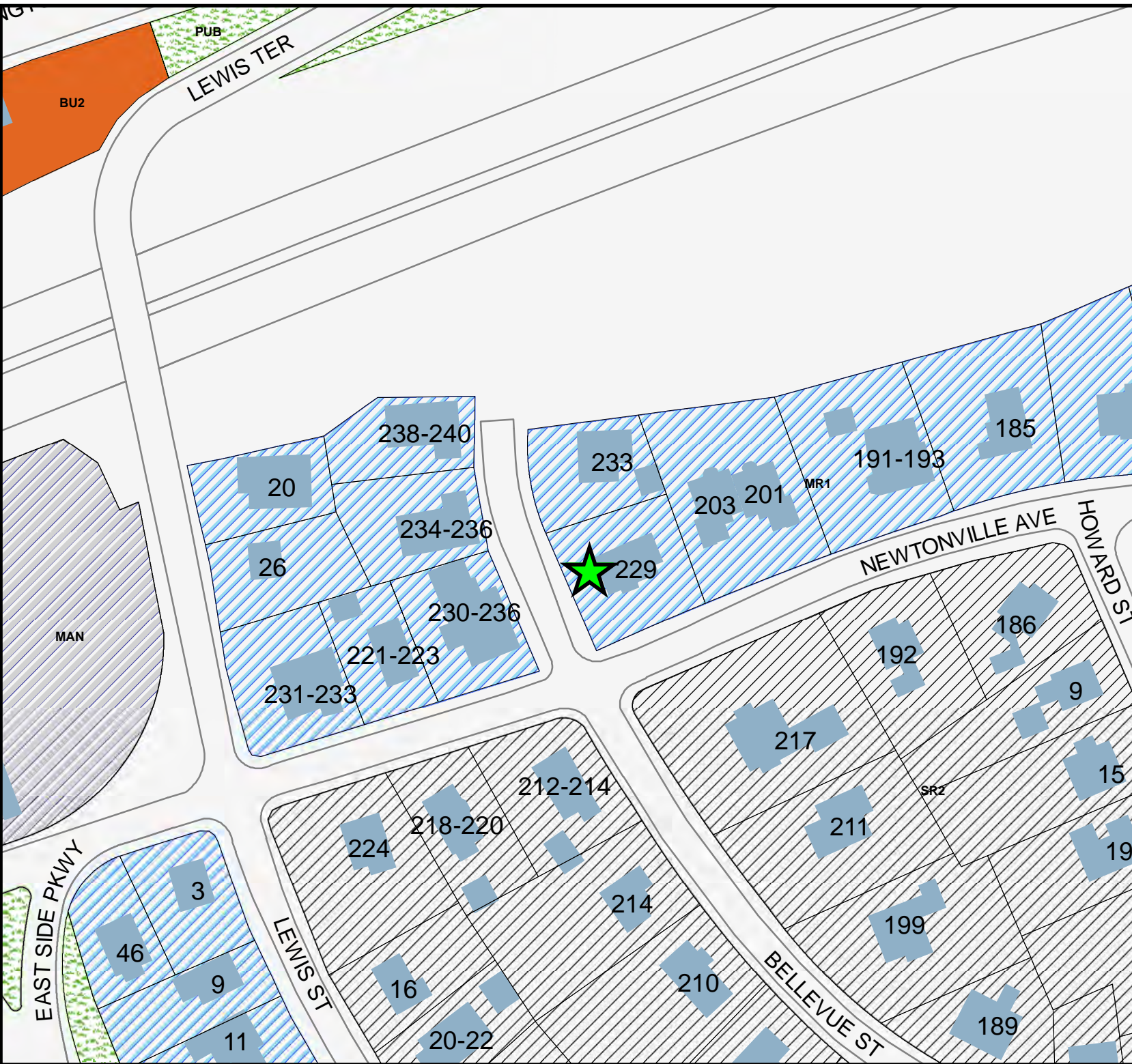
ATTACHMENT B

Zoning

229 Bellevue St.

City of Newton,
Massachusetts

-  Single Residence 2
-  Multi-Residence 1
-  Business 2
-  Manufacturing
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield





Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 23, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: David and Suzanne Wakefield, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to amend Variances #87291 (1945) and #9-11 (2011) and to allow a garage accommodating more than three vehicles and with a ground floor area exceeding 700 square feet, to extend a nonconforming side setback and to allow a system of retaining walls exceeding four feet within the front setback

Applicant: David and Suzanne Wakefield	
Site: 229 Bellevue Street	SBL: 12017 0029
Zoning: MR1	Lot Area: 9,700 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 229 Bellevue Street consists of a 9,700 square foot lot improved with a single-family residence constructed in 1890 and a detached garage. A variance was granted in 1945 allowing for a front setback of two feet for the garage. A second variance from the rear setback for the principal dwelling was granted in 2011. The petitioners intend to raze the existing detached garage and construct a new garage with accommodation for four vehicles, requiring amendments to the existing variances and a special permit.

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

- Zoning Review Application, prepared by David Wakefield, applicant, dated 3/24/2021
- Proposed Site Plan, prepared by Everett M. Brooks, surveyor, dated 1/28/2021
- Architectural Plans and Elevations, submitted 3/24/2021

ADMINISTRATIVE DETERMINATIONS:

1. The property was granted a variance in 1945 from the front setback requirement to allow a garage within 2 feet of the front lot line. The petitioners seek to amend the Variance #87291, and to the extent necessary Variance #9-11, to allow for the garage to be razed and reconstructed with a 3.6-foot front setback where 25 feet is required per section 3.4.3.A.1.
2. The existing one-story garage has a side setback of 4.3 feet where 5 feet is required per section 3.4.3.A.1. The proposed garage maintains the existing nonconforming side setback and extends it vertically to accommodate a half story. To vertically extend the nonconforming side setback requires a special permit per sections 3.4.3.A.1 and 7.8.2.C.2.
3. The petitioners intend to raze the existing detached two-car garage and construct an enlarged garage built into the slope. The ground level of the proposed garage is 1,250 square feet, exceeding the 700 square foot by right maximum prescribed in sections 3.4.3.A.4 and 3.4.4.E. Per section 3.4.4.H, a special permit is required to allow a detached garage structure with a ground floor area of 1,250 square feet.
4. Section 3.4.4.E requires that a garage may provide for no more than three vehicles unless by special permit. The petitioners propose a garage that accommodates four vehicles, requiring a special permit per section 3.4.4.H.
5. The petitioner proposes to relocate stairs and retaining walls within the front setback of 25 feet per section 3.2.3. The system of walls results in an overall height of 5.4 feet. Per section 5.4.2, retaining walls exceeding four feet in height within a setback require a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	3,906 square feet	No change
Frontage	70 feet	51 feet	No change
Setbacks – Principal			
• Front	25 feet		No change
• Side	7.5 feet		No change
• Side	7.5 feet		No change
• Rear	15 feet		No change
Setbacks – Accessory			
• Front	2 feet*	2 feet	3.6 feet
• Side	5 feet	4.3 feet	No change
• Side	5 feet	>50 feet	>50 feet
• Rear	5 feet	>50 feet	>50 feet
Height – Accessory	22 feet	NA	20.5 feet
Stories – Accessory	1.5	1	1.5
Max Lot Coverage	30%	23.1%	27.2%
Min. Open Space	50%	76%	66%

*Per Variance #87291

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend variances #87291 and #9-11	
§3.4.3.A.1 §7.8.2.C.2	Request to vertically extend a nonconforming side setback	S.P. per §7.3.3
§3.4.3.A.4 §3.4.4.E §3.4.4.H	Request to allow an accessory building with a ground floor area greater than 700 square feet	S.P. per §7.3.3
§3.4.4.E §3.4.4.H	Request to allow a garage with provision for more than three vehicles	S.P. per §7.3.3
§5.4.2	Request to allow a system of retaining walls exceeding four feet in height	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 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 vertically extend a nonconforming side setback (§3.4.3.A.1, §7.8.2.C.2), allow a garage with a ground floor area greater than 700 square feet (§3.4.3.A.4, §3.4.4.E, §3.4.4.H) and provision for more than three vehicles (§3.4.4.E, §3.4.4.H), and allow a system of retaining walls exceeding four feet in height in a setback (§5.4.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Multi Residence 1 (MR1) district is an appropriate location for the project as designed, with a garage with a ground floor area greater than 700 square feet and provision for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback as the topography of the site will allow for much of the structure to be located below grade (§7.3.3.C.1);
2. The project as designed, with a garage with a ground floor area greater than 700 square feet and provision for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback, will not adversely affect the neighborhood as the topography of the site will allow for much of the structure to be located below grade (§7.3.3.C.2);
3. The project as designed, with a garage with a ground floor area greater than 700 square feet and provision for more than three vehicles, and a system of retaining walls exceeding four feet in height within a setback, will not create a nuisance or serious hazard to vehicles or pedestrians (§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 vertically extended nonconforming side setback would not be substantially more detrimental than the existing nonconforming use to the neighborhood as the topography of the site and immediate vicinity will minimize its visual impact (§7.8.2.C.2)

PETITION NUMBER: #39-19

PETITIONER: David and Suzanne Wakefield

LOCATION: 229 Bellevue Street, Section 12, Block 17, Lot 29, containing approximately 9,700 square feet of land

OWNER: David and Suzanne Wakefield

ADDRESS OF OWNER: 229 Bellevue Street
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame, masonry

EXPLANATORY NOTES: Special Permit per §7.3.3 to allow:

- vertically extend a nonconforming side setback (§3.4.3.A.1, §7.8.2.C.2)
- allow an accessory building with a ground floor area greater than 700 square feet (§3.4.3.A.4, §3.4.4.E, §3.4.4.H)
- allow a garage with provision for more than three vehicles (§3.4.4.E, §3.4.4.H)
- allow a system of retaining walls exceeding four feet in height (§5.4.2)

ZONING: Multi Residence 1 (MR1)

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 the following plans:
 - a. a site plan entitled “Plan of Land in Newton, MA, 229 Bellevue Street- Proposed Garage & Drive (Preliminary Plan),” dated January 28, 2021, prepared by Everett M. Brooks Co.
 - b. architectural drawings consisting of two sheets:
 - i. Proposed Side Elevation and Section; Proposed Floor Plan; Proposed Side Elevation and Section; and Proposed Front Elevation
 - ii. Gross square foot diagrams and Proposed Side Elevation and Section
 - c. a document entitled Floor Area Ratio Worksheet- Property address: 229 Bellevue Street Newton, signed and stamped by Patricia J. Fisher, Registered Architect, indicating a proposed “total gross floor area” of 4,235 square feet and a proposed FAR (floor area ratio) of .44

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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. 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 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 from the Engineering Division of the Department of Public Works certifying that improvements authorized by this 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.