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#27-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

| | |
|---------------------------|------------------|
| Public Hearing Date: | January 25, 2022 |
| Land Use Action Date: | April 12, 2022 |
| City Council Action Date: | April 18, 2022 |
| 90-Day Expiration Date: | April 25, 2022 |

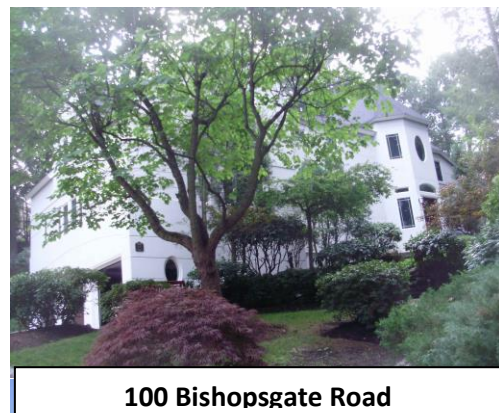
DATE: January 21, 2022

TO: City Council

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

SUBJECT: **Petition #27-22**- for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a detached garage with lifts, creating a total of seven stalls, exceeding the maximum FAR, and allowing relief from dormer regulations at **100 Bishopsgate**, Ward 7, Newton, on land known as Section 61 Block 21 Lot 02, containing approximately 25,188 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.4.E.1, 1.5.4.G.2.a, 3.1.3, 3.1.9 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.



100 Bishopsgate Road

EXECUTIVE SUMMARY

The subject property at 100 Bishopsgate Road consists of a 25,188 square foot lot in a Single Residence 1 (SR1) zoning district improved with a 2 ½ story, 36 foot high, approximately 6,045 square foot single-family dwelling constructed in 1993 which includes an approximately 699 square foot basement level attached garage.

The petitioners propose to construct a 1 ½ story, 20 foot high, two-bay detached garage with a 572 square foot footprint and 406 square feet of atria space, the latter of which would accommodate the use of auto lifts to allow for the storage of a total of four vehicles in the proposed structure.

The proposed garage in addition to the existing attached garage would result in a total of 1,271.7 square feet of total garage floor area, and seven parking stalls, on site. As such, per Sec. 3.4.4.H.1 of the Newton Zoning Ordinance (NZO) a special permit is required to exceed 700 square feet of garage area and to provide stalls for more than three vehicles.

As the proposed garage would add 987 square feet of floor area to the property, it would increase the floor area ratio (FAR) from 0.24 to 0.28, where 0.26 is the maximum allowed per Secs. 3.1.3 and 3.1.9, requiring a special permit. This increase would represent approximately 500 square feet above the by-right maximum FAR.

Lastly, Sec. 1.5.4.G.2.a requires that a roof line overhang must continue between the dormer and the story next below to avoid the appearance of an uninterrupted wall plane. As dormers on the front and rear elevations of the proposed garage have an uninterrupted wall plane, a special permit is required to allow the garage as designed.

The Planning Department is generally not concerned with the petition given the relatively small increase in FAR given the size of the existing dwelling, the proposed garage's location set back from the adjacent public way, and as the grade of the lot will minimize visual impacts on neighboring properties.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the site in a Single Residence 1 (SR1) zoning district is an appropriate location for the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage dormer with an exterior wall plane continuous with the wall below (§7.3.3.C.1)
- the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage with an exterior wall plane continuous with the wall below, will adversely affect the neighborhood (§7.3.3.C.2)
- the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage with an exterior wall plane continuous with the wall below, 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 FAR of 0.28 where 0.24 currently exists and 0.26 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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the southerly side of Bishopsgate Road, just north of The Ledges Road. The site and the surrounding area are occupied by single family dwellings and zoned Single Residence 1 (SR1) (**Attachments A and B**).

B. Site

The subject property consists of a 25,188 square foot lot in a Single Residence 1 (SR1) zoning district improved with a 2 ½ story, 36 foot high, approximately 6,045 square foot single-family dwelling constructed in 1993 which includes a 699.7 square foot attached garage.

The lot slopes upward approximately twenty feet from the front to rear property line (northwest to southeast). The existing attached garage is accessed by a paved driveway on the left side of the dwelling. The remaining portions of the site are extensively landscaped with lawn area, and mature trees and shrubs.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

No changes to the existing principal structure are contemplated by this petition.

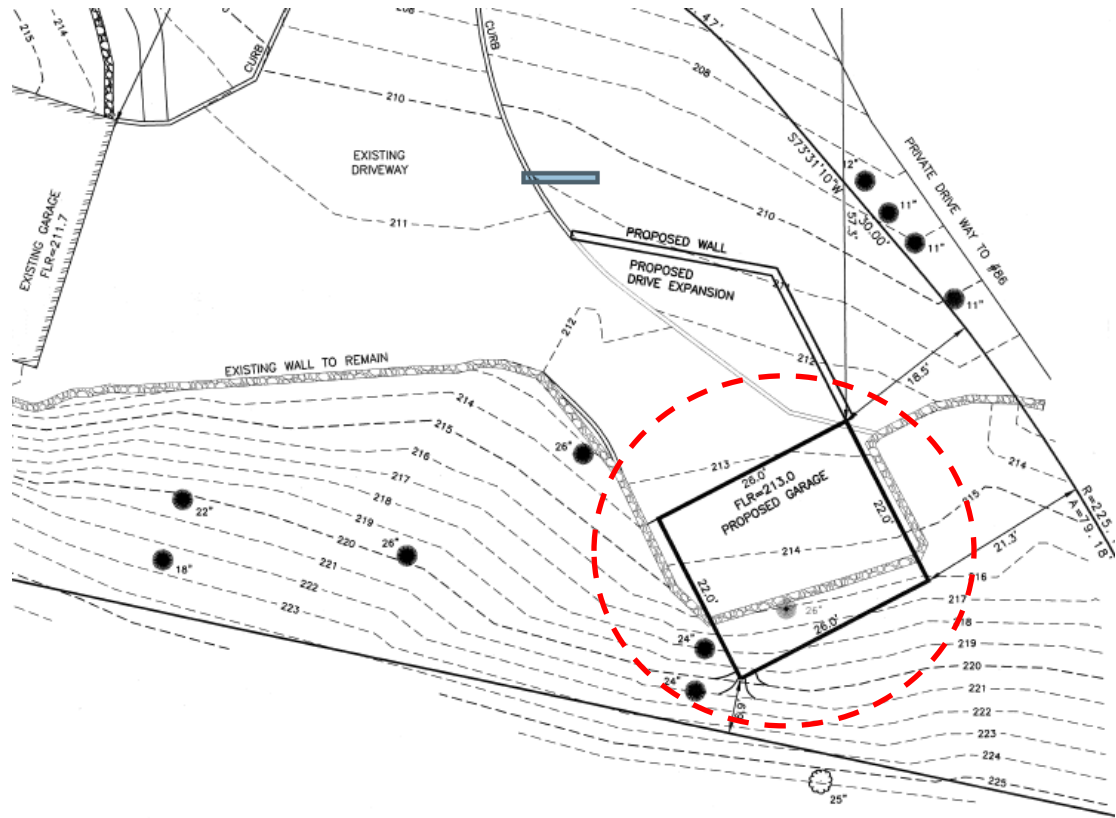
The petitioners propose to construct a two-bay detached garage with a 572 square foot footprint and 406 square feet of atria space in the northeast corner of the lot, approximately 75 feet from the principal structure. The proposed garage would be built into the upward grade of the lot, and portions of the existing driveway and associated retaining walls would be modified to accommodate the garage and vehicular access to its entrance.

The atria space would accommodate the use of lifts that would allow for four vehicles to be stored in the garage. The garage would measure 1 ½ stories and 20 feet in height and would be subordinate to the existing structure and its ridgeline.

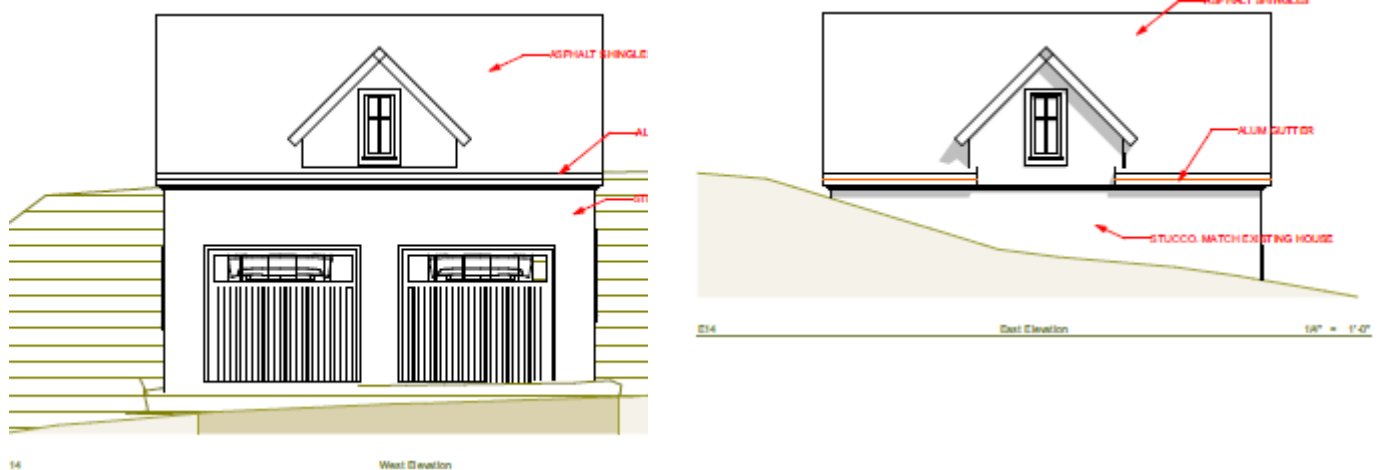
Regarding setbacks, the proposed garage would be setback in excess of 40 feet from the front property line, and 18.5 and 6.9 feet from the relevant side and rear property lines, both in excess of the required five-foot side and rear setbacks for accessory structures.

As designed, the proposed garage would add approximately 987 square feet of floor area to the property, increasing its floor area ratio (FAR) from 0.24 to 0.28, where 0.26 is the maximum

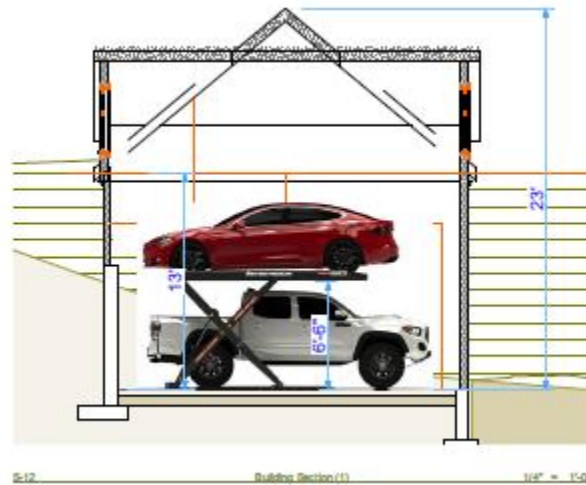
by right. This increase would represent approximately 500 square feet above the by-right maximum FAR.



Proposed site plan(proposed garage area detail)



Proposed front and rear elevation(proposed garage)



Proposed section

Also, the Planning Department suggests the design be modified so as to not require the requested relief regarding the dormers' design.

C. Parking and Circulation

The proposed a 1 ½ story, 20 foot high, two-bay detached garage would have a 572 square foot footprint and 406 square feet of atria space, the latter of which would accommodate the use of lifts to allow for the storage of a total of four vehicles in the proposed structure.

It would be located in the northeastern portion of the lot, mostly in an area currently occupied by paved driveway area. The garage would be accessed via the existing curb cut and driveway, and a portion of the latter of which would be widened in front of the garage's front elevation. In the aggregate, the proposed garage and the existing attached garage would result in the parcel having a total of 1,271.7 square feet of total garage floor area, and seven parking stalls, on site, in excess of the maximum 700 square feet of garage area and three garaged stalls allowed by right.

D. Landscaping

A landscaping plan was not submitted with this petition. The proposed site plan indicates that an existing tree in the location of the proposed garage would be removed.

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:
 - allow 1,271.7 square feet of total garage area accommodating seven vehicles (§3.4.4.E.1)

- allow a dormer with an uninterrupted wall plane (§1.5.4.G.2.a)
- exceed FAR (§3.1.3, §3.1.9)

B. Engineering Review

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

C. Historic Review

D. Review by the Newton Historic Commission is not 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

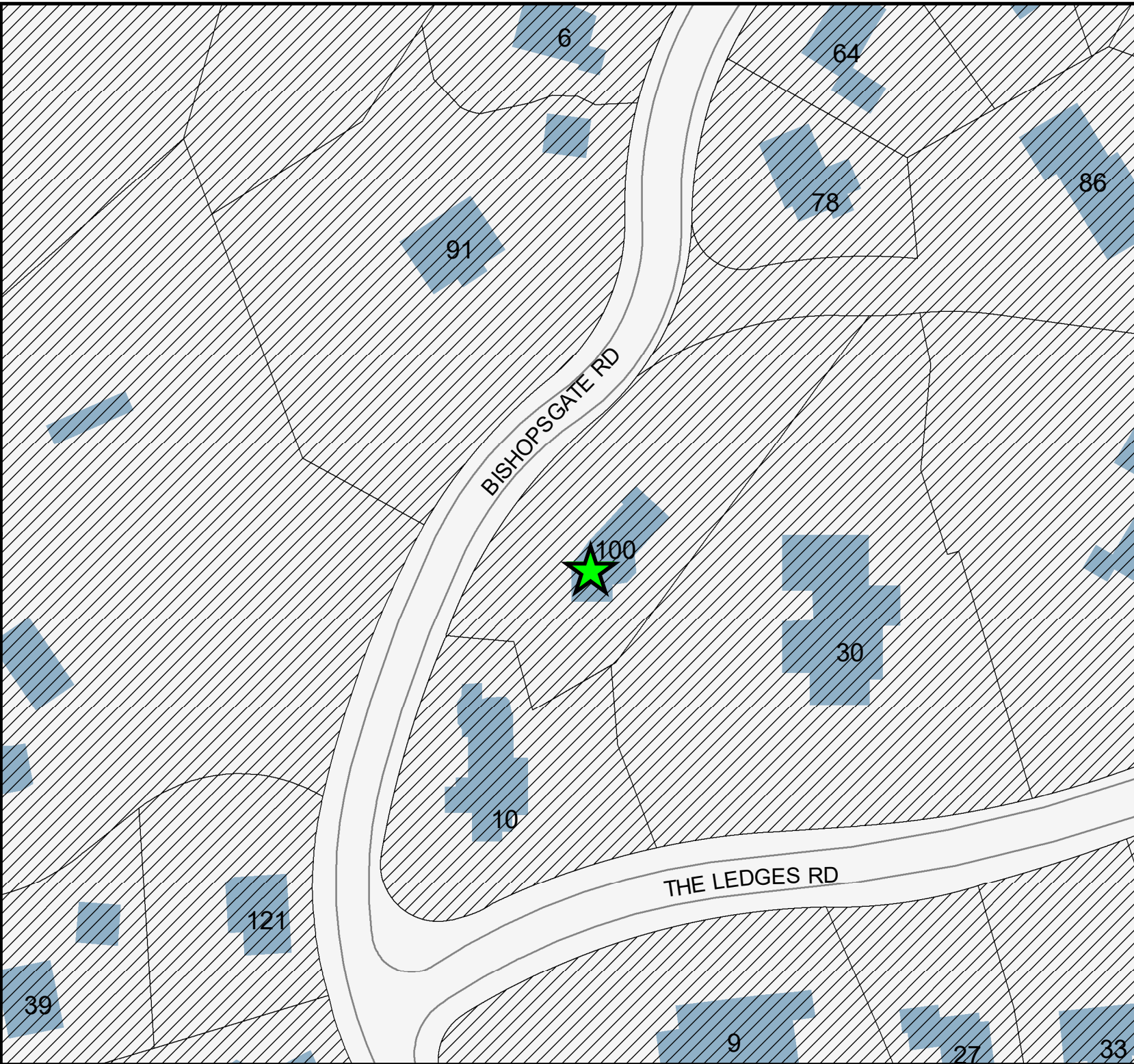
100 Bishopsgate Road

*City of Newton,
Massachusetts*

Land Use

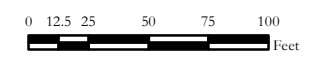
Land Use

 Single Family Residential



The information on this map is 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



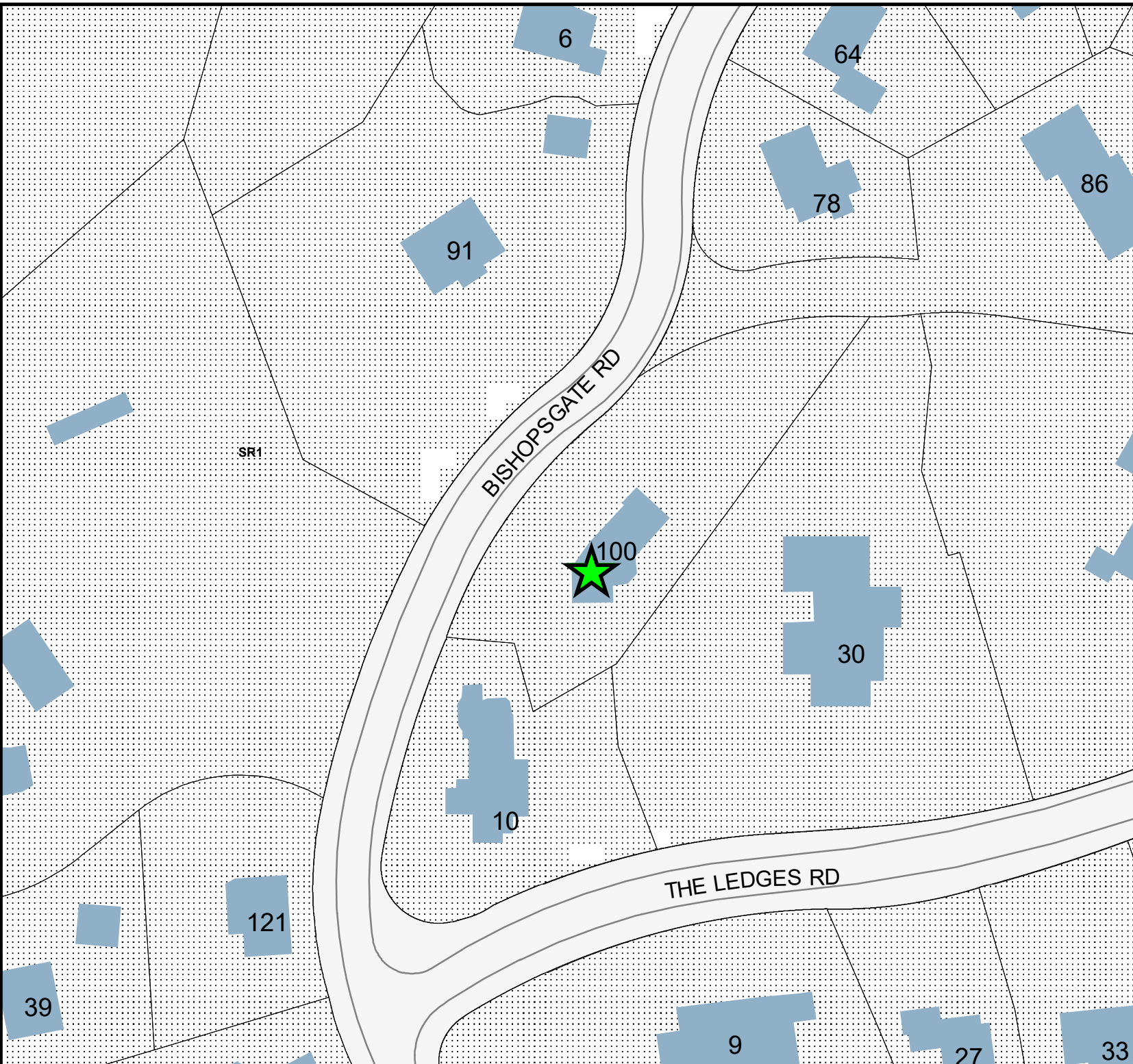
Map Date: January 18, 2022

ATTACHMENT B

Zoning

100 Bishopsgate Road

*City of Newton,
Massachusetts*



 Single Residence 1



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Geographic Information System (GIS). The City of
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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

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Feet

Map Date: January 18, 2022



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: November 17, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Jonathan Kantar, Agent
Ely and Ellen Kaplansky, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow more than 700 square feet of total garage area on a lot and for more than three garage stalls, to exceed FAR and for relief from dormer regulations

| Applicant: Ely & Ellen Kaplansky | |
|-------------------------------------|------------------------------|
| Site: 100 Bishopsgate Road | SBL: 61021 0002 |
| Zoning: SR1 | Lot Area: 25,188 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 100 Bishopsgate Road consists of a 25,188 square foot lot improved with a single-family dwelling constructed in 1993. The petitioners propose to construct a detached garage with lifts accommodating up to four vehicles, creating a total of seven stalls and 1,249 square feet of garage area, requiring a special permit.

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

- Zoning Review Application, prepared by Jonathan Kantar, agent, submitted 10/8/2021
- Plans and elevations, signed and stamped by Mark Sangiolo, architect, dated 9/20/2021
- Site Plan, Proposed Conditions, signed and stamped by Bruce Bradford, surveyor, dated 8/20/2021
- FAR worksheet, signed and stamped by Mark Sangiolo, architect, submitted 10/8/2021

ADMINISTRATIVE DETERMINATIONS:

1. Per section 3.4.4.E.1 there may be no more than 700 square feet in total garage area on a lot for a residential building with one dwelling unit accommodating up to three vehicles. The petitioners propose to construct a 572 square foot detached garage in addition to the existing 699.7 square foot attached garage, resulting in 1,271.7 square feet of total garage area. The detached garage will present as two-bays but will contain a lift to accommodate up to four vehicles and allowing for a total of seven vehicles on site. Per section 3.4.4.H.1 a special permit is required to exceed 700 square feet of garage area and to provide for more than three vehicles.

2. Section 1.5.4.G.2.a requires that a roof line overhang must continue between the dormer and the story next below so as to avoid the appearance of an uninterrupted wall plane. Dormers on the east and west elevations of the proposed garage have an uninterrupted wall plane, requiring a special permit.

3. The applicant intends to construct a two-bay garage with atria space to accommodate a lift to park a total of four vehicles, adding 987 square feet of FAR to the property. The proposed additions increase the FAR from .24 to .28, where .26 is the maximum allowed per section 3.1.3 and 3.1.9. A special permit is required to exceed the maximum FAR.

| SR1 Zone | Required | Existing | Proposed |
|--|-------------------------------|--|--|
| Lot Size | 25,000 square feet | 25,188 square feet | No change |
| Frontage | 140 feet | ±180 feet | No change |
| Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Rear | 40 feet 20 feet 25 feet | 40.5 feet 20.2 feet 17.4 feet | No change No change No change |
| Setbacks - Accessory <ul style="list-style-type: none"> • Front • Side • Rear | 40 feet 5 feet 5 feet | | >40 feet 18.5 feet 6.9 feet |
| Max Number of Stories <ul style="list-style-type: none"> • Principal • Accessory | 2.5 1.5 | 2.5 | No change 1 |
| Height <ul style="list-style-type: none"> • Principal • Accessory | 36 feet 22 feet | NA NA | No change 20 feet |
| FAR | .26 | .24 | .28* |
| Max Lot Coverage | 15% | 11.9% | 14.2% |
| Min. Open Space | 70% | 71% | 70% |

Figures in **BOLD** are nonconforming

*Requires relief

See "Zoning Relief Summary" below:

| Zoning Relief Required | | |
|-------------------------------|--|------------------------|
| Ordinance | | Action Required |
| §3.4.4.E.1 | To allow 1,271.7 square feet of total garage area accommodating seven vehicles | S.P. per §7.3.3 |
| §1.5.4.G.2.a | To allow a dormer with an uninterrupted wall plane | S.P. per §7.3.3 |
| §3.1.3 §3.1.9 | To exceed FAR | S.P. per §7.3.3 |

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 exceed 700 square feet of garage area and to provide for more than three vehicles. (§3.4.4.E.1); allow a dormer with an uninterrupted wall plane (§1.5.4.G.2.a); exceed the allowed floor area ratio (FAR) (§3.1.3, §3.1.9), 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 Single Residence 1 (SR1) zoning district is an appropriate location for the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage dormer with an exterior wall plane continuous with the wall below as the lot's size and shape allow the garage area to be divided between two structures (§7.3.3.C.1)
2. the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage with an exterior wall plane continuous with the wall below, will not adversely affect the neighborhood as the topography and shape of the site is such that there will be limited visibility of the garage from adjacent public ways and properties (§7.3.3.C.2)
3. the proposed detached garage that would result in more than 700 square feet of garage area and more than three parking stalls in the aggregate on the property, and a garage with an exterior wall plane continuous with the wall below, will not create a nuisance or serious hazard to vehicles or pedestrians because there are no proposed changes to the existing curb cut or the driveway (§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 FAR of 0.28 where 0.24 currently exists and 0.26 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 as the neighborhood is developed with similarly designed and scaled residential dwellings (§3.1.9)

PETITION NUMBER: #27-22

PETITIONER: Ely and Ellen Kaplansky

LOCATION: 100 Bishopsgate Road, Section 61, Block 21, Lot 2, containing approximately 25,188 square feet of land

OWNER: Ely and Ellen Kaplansky

ADDRESS OF OWNER: 100 Bishopsgate Road
Newton, MA 02459

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- exceed 700 square feet of garage area and to provide for more than three vehicles. (§3.4.4.E.1);
- allow a dormer with an uninterrupted wall plane (§1.5.4.G.2.a);
- exceed the allowed floor area ratio (FAR) (§3.1.3, §3.1.9)

ZONING: Single Residence 1 (SR1)

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, 100 Bishopsgate Road- Proposed Additions," dated August 20, 2021, as revised through September 22, 2021, prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, Professional Land Surveyor, September 22, 2021
 - b. a set of architectural drawings entitled "New Garage For 100 Bishopsgate Rd.," prepared by Sangiolo Associates, dated September 20, 2021, signed and stamped by Mark Sangiolo, Registered Architect, consisting of the following sheets:
 - i. 3D, Sections & Elevations (A1)
 - ii. Plan & Elevations (A2)
 - iii. Context (A3)
 - c. A document entitled "Floor Area Worksheet- 100 Bishopsgate Road," indicating a proposed total floor area of 7,073 square feet and a proposed FAR of 0.28, (including "detached garage plus atria calc.") signed and stamped by Marc Sangiolo, Registered Architect
2. The petitioner shall do the following to remediate pest and rodent activity:

- a. Prior to issuance of any demolition or building permit, the petitioner shall hire a licensed pest control operator (the "Operator") to assess the property for pest and rodent activity and develop and implement a pest remediation action plan (the "Plan") to eliminate the activity and prevent off-site migration. The Plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Plan shall be submitted to the Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copy of such approvals shall be provided to the Department of Planning and Development.
 - c. The Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of the certificate of occupancy, the Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment.
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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. 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 certifying compliance with Condition #1.
 - b. 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.