



#414-22

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 13, 2022
Land Use Action Date: November 22, 2022
City Council Action Date: December 12, 2022
90-Day Expiration Date: December 12, 2022

DATE: September 9, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning

SUBJECT: **Petition #414-22**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to raze and construct a new detached garage as well as replace the rear deck further extending nonconforming FAR, further reducing and extending a nonconforming a side setback for an accessory structure and further reducing nonconforming separation between the accessory and principal buildings at 35 Bracebridge Road, Ward 6, Newton, on land known as Section 64 Block 16 Lot 16, containing approximately 11,425 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, 3.4.3.A.1, 3.4.3.A.2 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



35 Bracebridge Road

EXECUTIVE SUMMARY

The subject property consists of an 11,425 square foot lot improved with a single-family dwelling constructed in 1898. The property is located within the Single Residence 2 (SR-2) zone in Newton Centre. The petitioner is seeking to raze and reconstruct a detached accessory structure with a larger footprint. As proposed, the structure extends and reduces a nonconforming side setback, reduces the distance between the accessory structure and principal building, and increases the nonconforming floor area ratio ("FAR"). The detached accessory structure will be used as a garage with a roof deck above.

The proposed detached accessory structure is replacing an existing garage with a nonconforming side setback and nonconforming separation between the accessory structure and principal building. While the Planning Department typically recommends new construction comply with the dimensional standards of the Ordinance, the site is configured in such a way that an alternative location for the garage would result in increased paving via an extended driveway to locate further into the site. The single family dwelling located in the middle of the site also presents challenges to an alternate garage location, which would also require relocating the driveway. The proposed garage is replacing an existing nonconforming detached garage. Due to this, Planning Staff believes the location to be appropriate as well as the waivers increased separation since they reflect existing conditions. Staff does not believe that the increase in nonconforming FAR will be in derogation of the size, scale, and design of other structures in the neighborhood because the FAR is broken up between two structures.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The site is an appropriate location for the proposed detached accessory structure as designed. (§7.3.3.C.1)
- The proposed detached accessory structure will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no 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 .42 to .44, where .37 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. (§3.1.3 §3.1.9 §7.8.2.C.2)
- The proposed extension of the nonconforming side setback is consistent with and not in derogation of the size, scale and design of other structures in the

- neighborhood. (§7.8.2.C.2)
- The proposed extension of the nonconforming distance between the accessory and principal structures 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. (§3.1.3 §3.1.9 §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

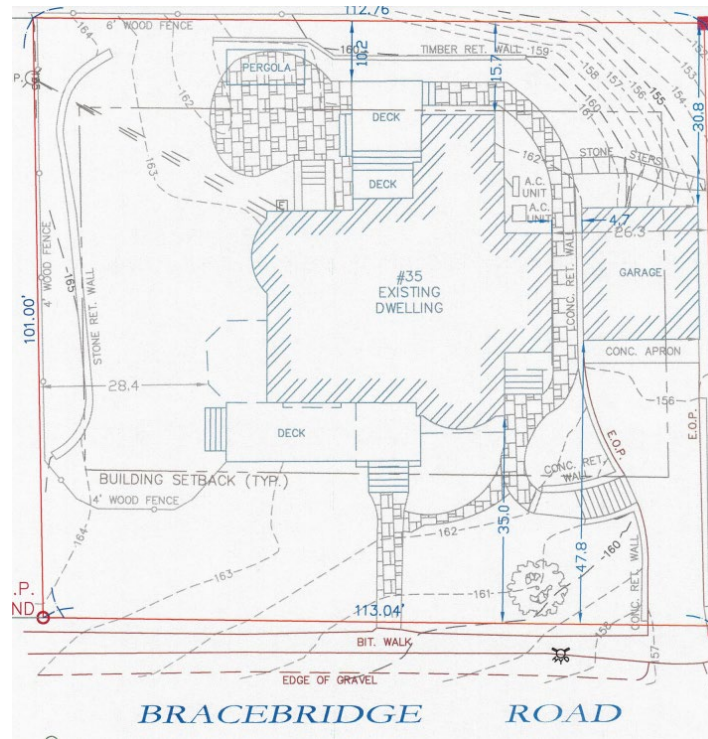
A. Neighborhood and Zoning

The subject property is on Bracebridge Road in the SR-2 zone in Newton Centre. The immediate area is within the SR-2 zone and consists of single family uses. There is a public use zone northwest of the site and the adjacent parcel to the north is vacant. **(Attachments A and B).**

B. Site

The site consists of 11,425 feet of land and is improved with a single-family residence constructed circa 1898 and a detached garage. The single-family dwelling has a rear nonconforming setback of 10.8 feet, where 15 feet is required. The site is accessed by a driveway from Bracebridge Road Steet along the northern boundary leading to the detached garage. The garage has a footprint of 437 square feet and a nonconforming side setback of 1.7 feet, where five feet is the minimum required. There is an approximate six feet grade difference between the location of the single-family dwelling and the adjacent garage. Despite the grade differential, the dwelling and the garage have a 4.7-foot separation. The site slopes upward from the street to the dwelling, and then a downwards slip from the dwelling to the rear property line.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

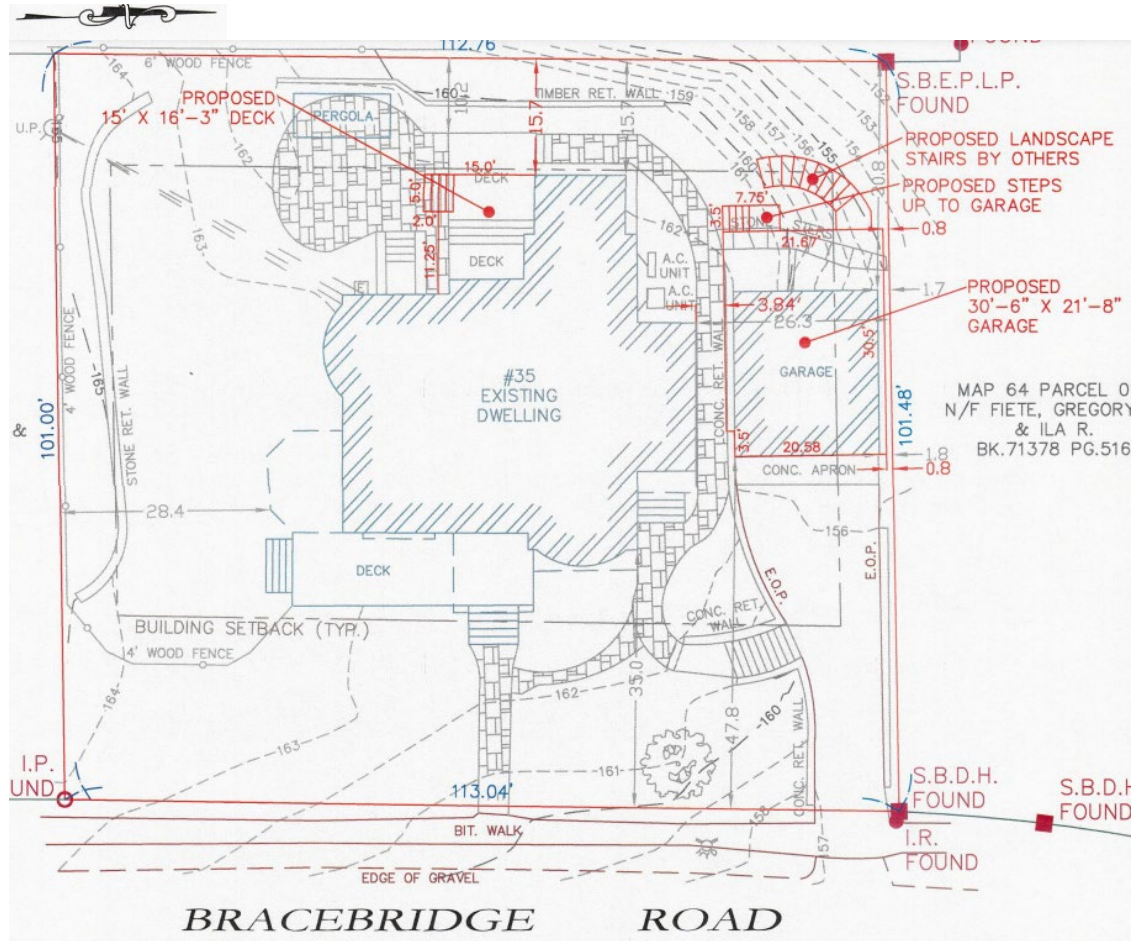
B. Building and Site Design

The petitioner is proposing to raze the existing detached garage and construct a new detached garage with a larger footprint. The construction of the detached accessory apartment requires special permits to further reduce and extend the nonconforming side setbacks for an accessory structure, to further reduce the nonconforming separation between the principal and accessory building, and to increase the nonconforming FAR.

The proposed accessory structure will have a side setback of .8 feet from the side property lines, a reduction of approximately a foot from the existing conditions. The increase in the footprint of the garage further reduces the nonconforming side setback. The detached structure will have a footprint of 659 square feet and

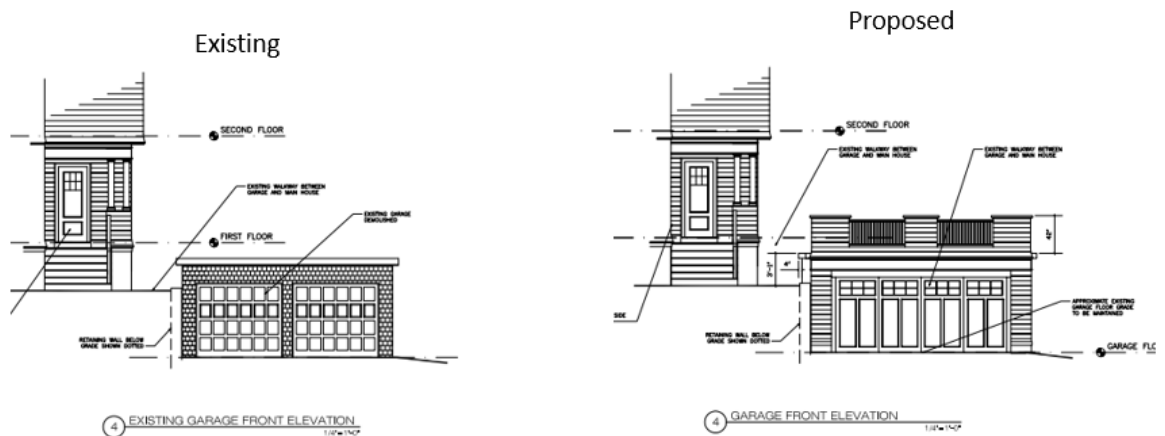
measure 21.9 feet tall.

Proposed Site Plan



Together, the single-family home and existing garage currently have an FAR of .42 where .37 is the maximum allowed as of right. The existing FAR of .37 translates to 4,846 square feet of floor area, where 4,227 is allowed as of right. As designed, the proposed accessory structure adds approximately 222 square feet of floor area to the site, resulting in an FAR of .44 or 5,068 square feet between the two structures, requiring a special permit to extend the nonconforming FAR.

Garage Elevations



The proposed detached structure is replacing an existing garage and features reduced nonconforming setbacks from the existing garage. While the Planning Department typically recommends new construction comply with the dimensional standards of the Ordinance, the site is configured in such a way that an alternative location for the garage would result in an increase in paving via an extended driveway to locate further into the site, or relocating the driveway entirely, resulting in a reduced open space calculation. Planning Staff believe the location to be appropriate as well as the waivers increased separation since they largely reflect existing conditions. Staff does not believe that the increase in nonconforming FAR will be in derogation of the size, scale, and design of other structures in the neighborhood because the FAR is broken up between two structures.

C. Parking and Circulation

There are no changes to the parking or circulation. The proposed garage maintains the existing location and does not require additional paving.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the

petitioner is seeking the following relief:

| Zoning Relief Required | | |
|--------------------------------|--|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.1.3 §3.1.9 §7.8.2.C.2 | To further extend nonconforming FAR | S.P. per §7.3.3 |
| §3.4.3.A.1 §7.8.2.C.2 | To further reduce and extend a nonconforming side setback for an accessory structure | S.P. per §7.3.3 |
| §3.4.3.A.2 §7.8.2.C.2 | To further reduce nonconforming separation between the accessory and principal buildings | S.P. per §7.3.3 |

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time.

C. Newton Historical Commission Review

The petitioner applied for Historic review to demolish the existing garage. Approval from Historic will be required prior to the issuance of a building permit, should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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




ATTACHMENT A

Zoning

35 Bracebridge Road

*City of Newton,
Massachusetts*

Zoning

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

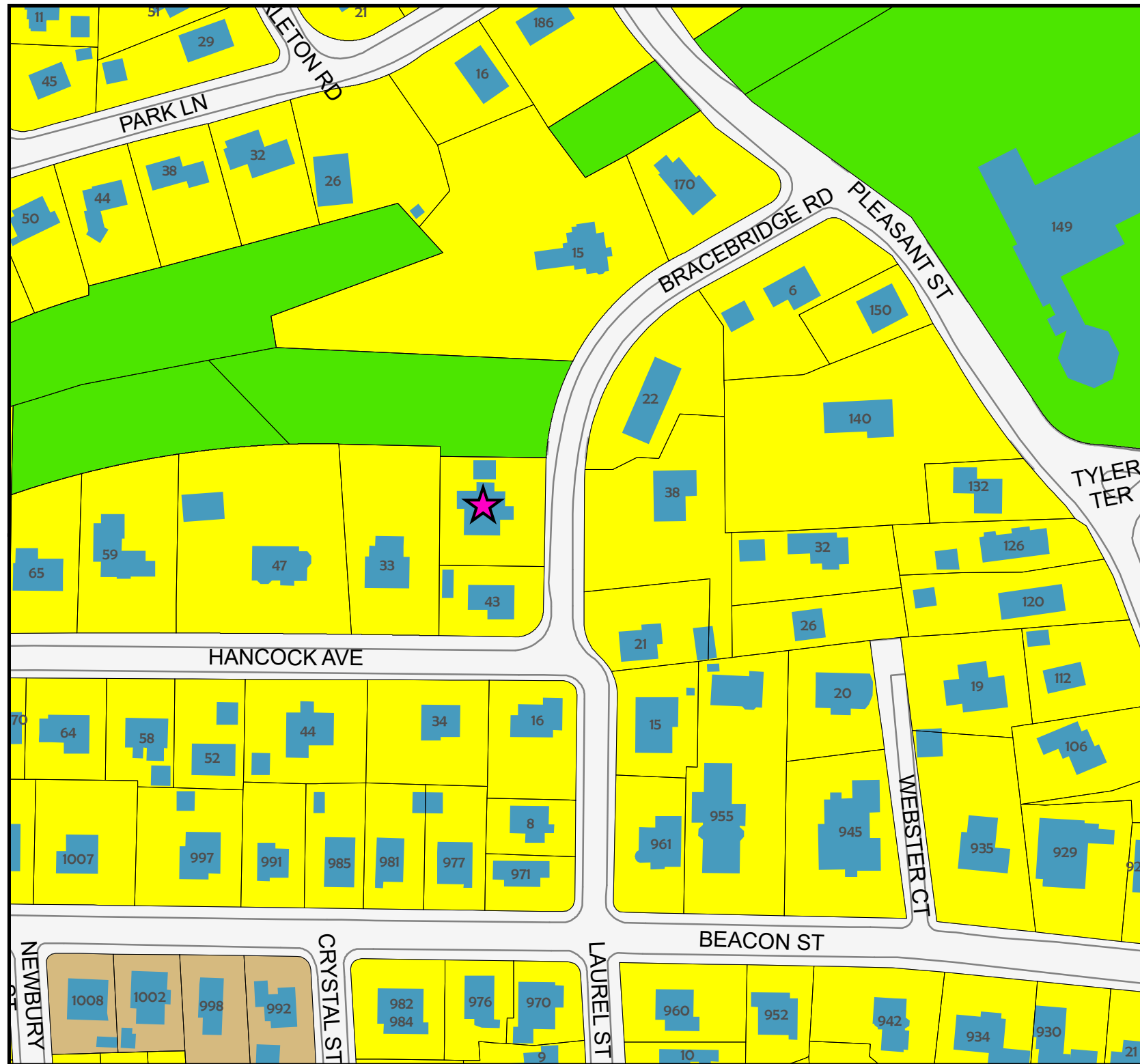


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

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

0 12.5 25 50 75 100 125 150 175 Feet

Map Date: August 18, 2022



ATTACHMENT B

Land Use

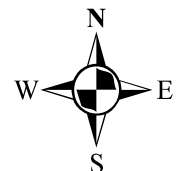
35 Bracebridge Road

*City of Newton,
Massachusetts*

Land Use

Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Vacant Land

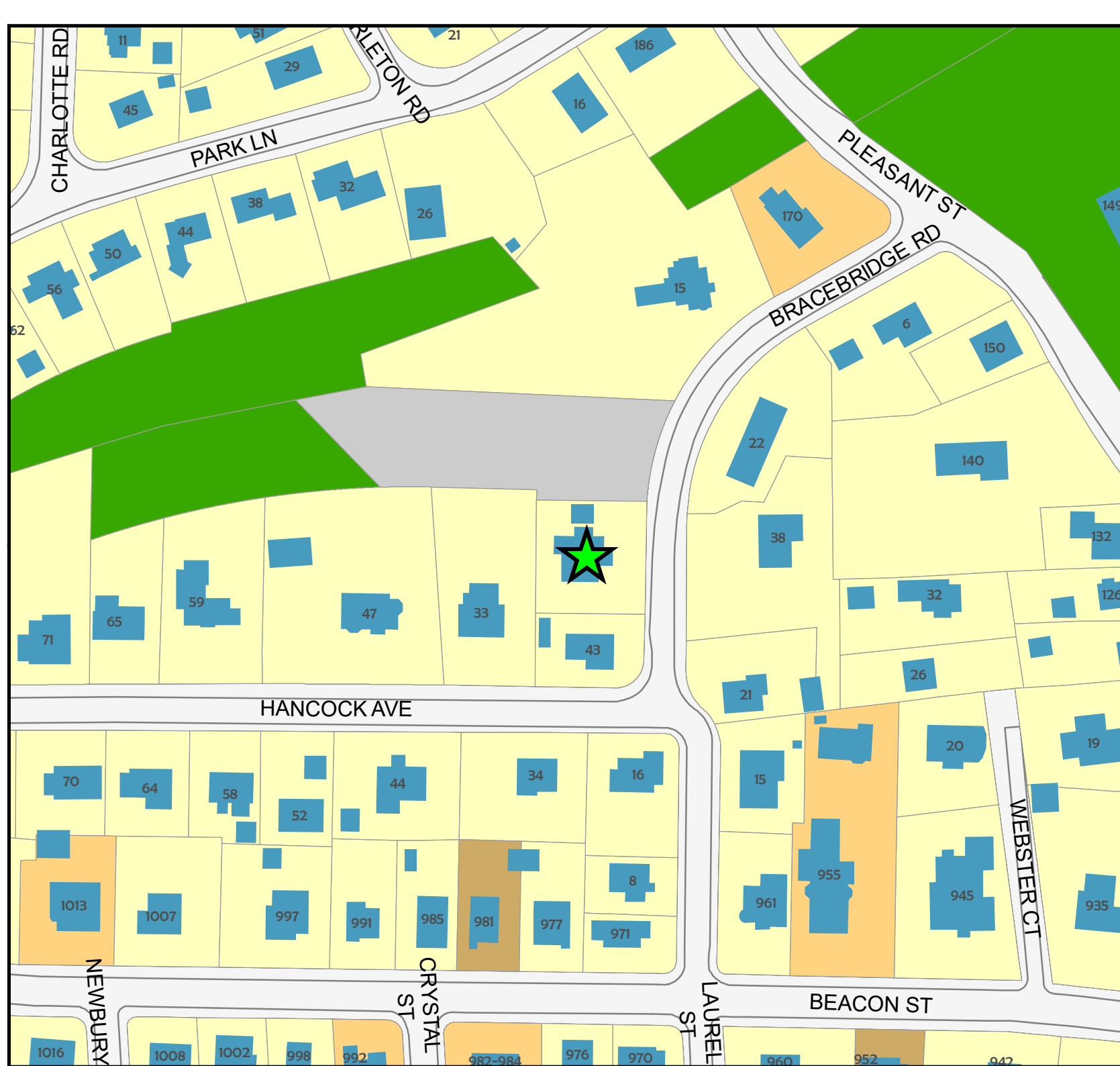


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

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Map Date: August 18, 2022





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 18, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Andrea Roman, Applicant
Richard Levey, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to further extend nonconforming FAR and to further extend nonconforming side setback and accessory building separation

| Applicant: Andrea Roman | |
|--|-------------------------------------|
| Site: 35 Bracebridge Road | SBL: 64016 0016 |
| Zoning: SR2 | Lot Area: 11,425 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 35 Bracebridge Road consists of an 11,425 square foot lot improved with a single-family dwelling constructed circa 1898 and a detached garage structure. The petitioners propose to raze the existing detached garage and construct a new larger detached garage, as well as replace a rear deck. The proposed construction will further extend the already nonconforming FAR and will further reduce the nonconforming side setback and separation of the detached structure, requiring a special permit.

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

- Zoning Review Application, prepared by Richard Levey, submitted 5/2/2022
- Existing Conditions Plan of Land, signed and stamped by Dennis B. O'Brien, surveyor, dated 5/02/2022, revised 7/15/2022
- Proposed Conditions Plan, signed and stamped by Dennis B. O'Brien, surveyor, dated 3/23/2022, revised 4/29/2022, 7/15/2022
- Plans and elevations, prepared by Richard Levey, architect, dated submitted 4/13/2022
- FAR worksheet, signed and stamped by Richard B. Levey, architect, dated submitted 5/2/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze an existing detached garage and construct a new larger detached garage in the same location with a roof deck. The existing garage has a nonconforming side setback of 1.7 feet, where 5 feet is required per section 3.4.3.A.1. The proposed construction extends and further reduces the side setback to 0.8 feet, requiring a special permit per section 7.8.2.C.2.
2. The parcel has an existing nonconforming FAR of .42 where .37 is the maximum allowed per sections 3.1.3 and 3.1.9. The proposed construction adds 222 square feet to the detached garage, further increasing the FAR to .44, requiring a special permit per section 7.8.2.C.2.
3. Per section 3.4.3.A.2, no portion of any accessory building shall be less than five feet from on any principal building on the subject lot. The existing detached garage is 4.7 feet from the principal dwelling. The proposed construction further reduces the separation to 3.84 feet, requiring a special permit per section 7.8.2.C.2.

| SR2 Zone | Required | Existing | Proposed |
|-----------------------------------|--------------------|--------------------|-------------------------------|
| Lot Size | 10,000 square feet | 11,425 square feet | No change |
| Frontage | 80 feet | 85 feet | No change |
| Setbacks - Principal | | | |
| • Front | 25 feet | 25 feet | No change |
| • Side | 7.5 feet | 28.4 feet | No change |
| • Side | 7.5 feet | 26.3 feet | No change |
| • Rear | 15 feet | 10.2 feet | 15.7 feet |
| Setbacks – Accessory | | | |
| • Front | 25 feet | 47.8 feet | No change |
| • Side | 5 feet | 1.7 feet | 0.8 feet* |
| • Rear | 5 feet | 30.8 feet | 20.8 feet |
| Max Number of Stories (accessory) | 1.5 | 1 | No change |
| Max Height (accessory) | 18 feet | NA | 6.8 feet (10.2 ft to parapet) |
| FAR | .37 | .42 | .44* |
| Max Lot Coverage | 30% | 20.8% | 22.8% |
| Min. Open Space | 50% | 68.5% | 66.5% |

*Requires relief

1. See “Zoning Relief Summary” below:

| Zoning Relief Required | | |
|--------------------------------|--|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.1.3 §3.1.9 §7.8.2.C.2 | To further extend nonconforming FAR | S.P. per §7.3.3 |
| §3.4.3.A.1 §7.8.2.C.2 | To further reduce and extend a nonconforming side setback for an accessory structure | S.P. per §7.3.3 |
| §3.4.3.A.2 §7.8.2.C.2 | To further reduce nonconforming separation between the accessory and principal buildings | S.P. per §7.3.3 |

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to further extend the nonconforming floor area ratio, to further reduce and extend a nonconforming side setback for an accessory structure, and to further reduce nonconforming separation between the accessory and principal buildings as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed detached accessory structure as designed because it replaces an existing accessory structure in the same location. (§7.3.3.C.1)
2. The proposed detached accessory structure will not adversely affect the neighborhood because it maintains the same location as the existing accessory structure. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the accessory structure maintains the same driveway access from Bracebridge Road. (§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 .42 to .44, where .37 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 the FAR is divided between two structures. (§3.1.3 §3.1.9 §7.8.2.C.2)
6. The proposed extension of the nonconforming side setback is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because it is replacing a garage with an existing nonconforming side setback. (§7.8.2.C.2)
7. The proposed extension of the nonconforming distance between the accessory and principal structures 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 it reflects an existing nonconformity. (§3.1.3 §3.1.9 §7.8.2.C.2)

8.

PETITION NUMBER: #414-22

PETITIONER: Andrea Roman and Thomas Gloria

LOCATION: 35 Bracebridge Road, on land known as Section 64, Block 16, Lot 16, containing approximately 11,425 square feet of land

OWNER: Andrea Roman and Thomas Gloria

ADDRESS OF OWNER: 35 Bracebridge Road
Newton, MA 02459

TO BE USED FOR: Detached garage

CONSTRUCTION: Wood frame, masonry

EXPLANATORY NOTES: to further extend the nonconforming floor area ratio, to further reduce and extend a nonconforming side setback for an accessory structure, and to further reduce nonconforming separation between the accessory and principal buildings (§3.1.3, §3.1.9, §3.4.3.A.1, §3.4.3.A.2, §7.3.3, §7.8.2.C.2)

ZONING: Single Residence 2

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. Proposed Addition Plan at 35 Bracebridge Road, signed and stamped by Dennis O'Brien, Professional Land Surveyor, dated March 23, 2022, revised July 15, 2022.
 - b. Architectural Plans, "Roman-Gloria Residence" prepared by RBL Architects, unsigned and unstamped by Peter Sachs, dated July 18, 2022, consisting of three (3) sheets:
 - i. Proposed Elevations A-6

2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development and Inspectional Services.
3. No building permit, including foundation permit, shall be issued without approval from the Newton Historical Commission.
4. 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 council 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 council 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.
5. No Final Inspection/Occupancy Permit for the use 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 professional architect certifying compliance with Condition #1, including the as built FAR of the project.
 - 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 professional land surveyor.