



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#313-22**

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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 5, 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  
Michael Gleba, Senior Planner

SUBJECT: **Petition #313-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing garage and construct a new detached garage, further increasing nonconforming FAR, further extending a nonconforming side setback in a detached garage and further extending and reducing a nonconforming rear setback in a detached garage at **34 Westbourne Road**, Ward 7, Newton, on land known as Section 73 Block 44 Lot 12, containing approximately 7640 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 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.



**34 Westbourne Road**

## EXECUTIVE SUMMARY

The subject property at 34 Westbourne Road consists of a 7,640 square foot lot in a Single Residence 2 (SR2) zoning district improved with a 3,068 square foot single-family home constructed circa 1895 and a 324 square foot detached garage at the rear of the property.

The petitioner proposes to replace the existing detached garage with a new 528 square foot detached garage. The proposed construction would further increase the property's nonconforming FAR from 0.44 to 0.47, where 0.42 is the maximum allowed per Sections 3.1.3 and 3.1.9 of the Newton Zoning Ordinance (NZO), requiring a special permit per Sec. 7.8.2.C.2.

The existing detached garage has a nonconforming side setback of three feet where five feet is required per Sec. 3.4.3.A.1. The petitioner proposes to further extend that nonconforming three-foot side setback four feet towards the front, requiring a special permit per Sec. 7.8.2.C.2. The existing detached garage also has a nonconforming rear setback of 2.3 feet where five feet is required per Sec. 3.4.3.A.1. The proposed construction would extend the nonconforming rear setback southward, further reducing it to 2 feet, also requiring a special permit per Sec. 7.8.2.C.2.

The Planning Department is generally not concerned about the proposed garage since, given its rather modest scale and limited expected impact on abutting properties, it would not be expected to be more detrimental to the neighborhood than the existing nonconforming garage.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed detached garage that would further increase the property's nonconforming floor area ratio (FAR)(§3.1.9), and its side (§3.4.3.A.1) and rear (§3.4.3.A.1) setback nonconformities, 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 on the east side of Westbourne Road between Ward Street and Eastbourne Road/Commonwealth Avenue. The surrounding area is a mix of similarly scaled one- two- and three- family dwellings (**Attachment A**), with properties east of Francis Street zoned Single Residence 2 (SR2) and those and those to the west of that street zoned Multi-Residence 1 (**Attachment B**).

#### B. Site

The property consists of a 7,640 square foot lot improved with a 3,068 square foot single-family home and a 324 square foot detached garage at the rear left of the property.

The site is rather flat with only an approximately two-foot downgrade from front to back (west to east). Vehicular access is provided by an existing driveway and curb cut from

Westbourne Road on the left (north) side of the dwelling. The remaining portions of the site feature walkway and lawn areas and mature trees and shrubs along the property lines abutting adjacent properties.

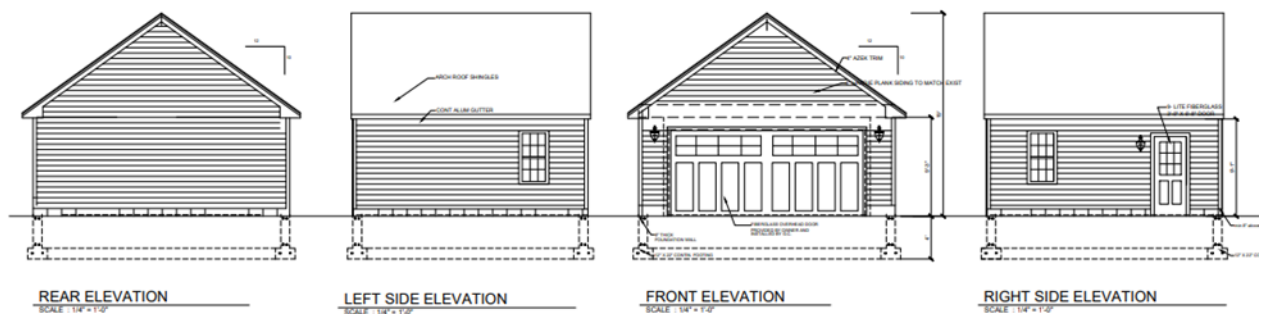
### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

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

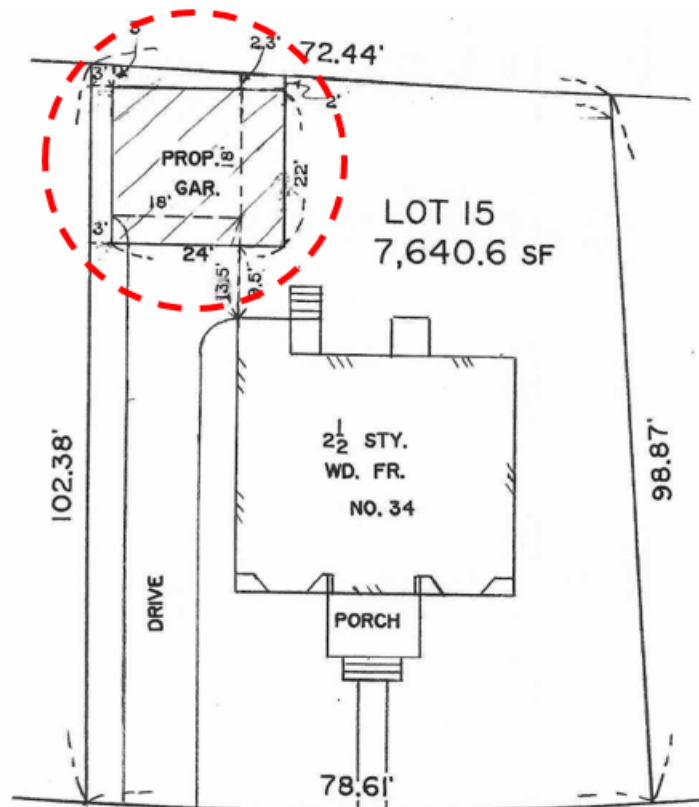
#### B. Building and Site Design

The petitioner proposes to replace the existing 324 square foot (18 feet by 18 feet) detached garage with a new 528 square foot (24 feet by 22 feet) detached garage. The proposed garage would have one story and its measured height would be 19 feet, lower than the maximum one and half stories and 22 feet allowed by right. The proposed construction would add 204 feet of area to the property, further increasing its nonconforming FAR from 0.44 to 0.47, where 0.42 is the maximum allowed by right.



***Proposed elevations***

The existing detached garage has a nonconforming side setback of three feet where five feet is required per Sec. 3.4.3.A.1. The petitioner proposes to further extend that nonconforming three-foot side setback four feet towards the front. The existing detached garage also has a nonconforming rear setback of 2.3 feet where five feet is required. By in effect widening the garage the proposed construction would further reduce the nonconforming rear setback slightly from 2.3 feet to two feet.



**Site plan- location of existing & proposed garage (crosshatched) indicated**

The proposed changes would increase the lot coverage from 20.1% to 22.8%, remaining below the maximum 30% allowed by right. The property's open space would decrease from 59.8% to 57.1% but remain above the minimum 50% required.

C. Parking and Circulation

No changes to the associated curb cut or driveway located along the property's left (north) property line are contemplated by the petition.

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:

- further increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further extend a nonconforming side setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2)
- further extend and reduce a nonconforming rear setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2)

B. Engineering Review

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

C. Historic Review

On September 17, 2021, the Newton Historic Commission found the garage to be demolished not historically significant and required no further review.

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 Council Order

# ATTACHMENT A





## Land Use

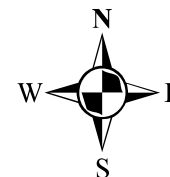
### 34 Wesbourne Rd.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

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

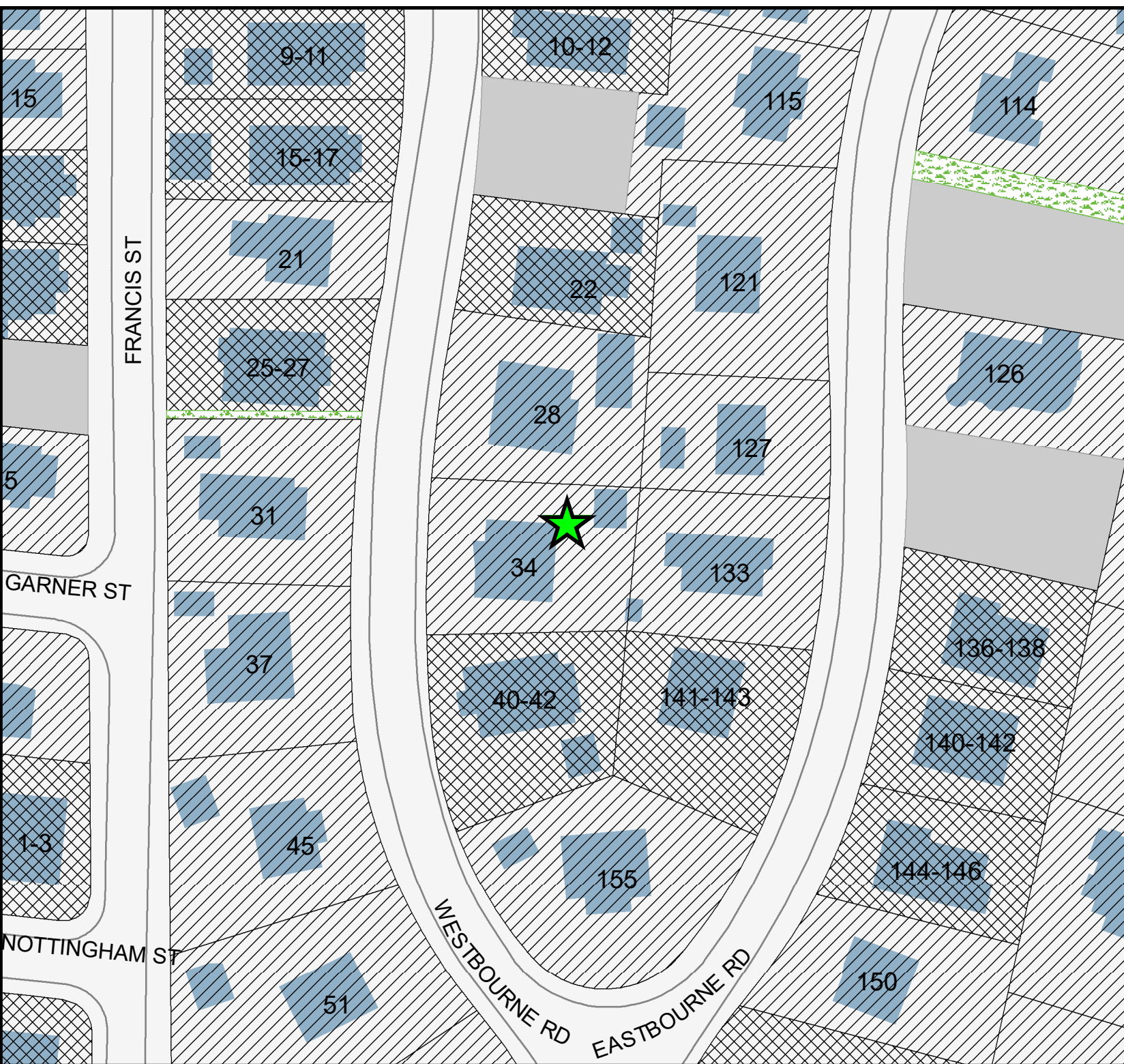


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 23, 2022





# ATTACHMENT B

## Zoning

**34 Wesbourne Rd.**

*City of Newton,  
Massachusetts*

### Legend

-  Single Residence 2
-  Multi-Residence 1



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: May 23, 2022





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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: May 11, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Sean Zheng, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to further increase nonconforming FAR

| Applicant: Sean Zheng               |                             |
|-------------------------------------|-----------------------------|
| Site: 34 Westbourne Rd              | SBL: 73044 0012             |
| Zoning: SR2                         | Lot Area: 7,640 square feet |
| Current use: Single-family dwelling | Proposed use: No change     |

### BACKGROUND:

The property at 34 Westbourne Road consists of a 7,640 square foot lot improved with a single-family dwelling constructed circa 1895. The petitioner proposes to raze the detached garage and construct a new larger garage which will further increase the nonconforming FAR, requiring a special permit.

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

- Zoning Review Application, prepared Sean Zheng, applicant, dated 4/6/2022
- Existing conditions plan, submitted 4/6/2022
- Proposed Conditions Plot Plan, signed and stamped by Alexander Crucoli, surveyor, dated 2/28/2022
- Floor Plans and Elevations, signed and stamped by John Karavolas, civil engineer, submitted 4/6/2022
- FAR calculations, submitted 4/6/2022



**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to raze the existing 324 square foot detached garage structure at the rear of the property and construct a 528 square foot detached garage. The proposed construction increases the nonconforming FAR from .44 to .46, where .42 is the maximum allowed per sections 3.1.3 and 3.1.9. A special permit per section 7.8.2.C.2 is required to further increase the nonconforming FAR.

| <b>SR2 Zone</b>  | <b>Required</b>             | <b>Existing</b>                            | <b>Proposed</b>              |
|--|-----------------------------|--|------------------------------|
| Lot Size   | 10,000 square feet          | <b>7,640 square feet</b>                   | <b>No change</b>             |
| Frontage   | 80 feet                     | <b>78.6 feet</b>                           | <b>No change</b>             |
| Setbacks (Accessory) <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul> | 25 feet<br>5 feet<br>5 feet | >70 feet<br><b>3 feet</b><br><b>3 feet</b> | >70 feet<br>5 feet<br>5 feet |
| Height (Accessory)   | 22 feet                     | NA   | 19 feet                      |
| Stories (Accessory)  | 1.5                         | 1  | 1                            |
| FAR  | .41                         | <b>.44</b>                                 | <b>.46*</b>                  |
| Max Lot Coverage   | 30%                         | 20.1%                                      | 22.8%                        |
| Min. Open Space  | 50%                         | 59.8%                                      | 57.1%                        |

\*Requires relief

1. See “Zoning Relief Summary” below:

| <b>Zoning Relief Required</b>  |   |                        |
|--------------------------------|---|------------------------|
| <i>Ordinance</i>               |   | <i>Action Required</i> |
| §3.1.3<br>§3.1.9<br>§7.8.2.C.2 | Request to further increase nonconforming FAR | 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

further increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2); further extend a nonconforming side setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2); and further extend and reduce a nonconforming rear setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2)

as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed detached garage that would further increase the property's nonconforming floor area ratio (FAR)(§3.1.9), and its side (§3.4.3.A.1) and rear (§3.4.3.A.1) setback nonconformities, will not be substantially more detrimental than the existing nonconforming use to the neighborhood (§7.8.2.C.2)

PETITION NUMBER: #313-22

PETITIONER: Sean Zheng

LOCATION: 34 Westbourne Road, Section 73, Block 44 Lot 12, containing approximately 7,640 square feet of land

OWNER: Sean Zheng

ADDRESS OF OWNER: 74 Westbourne Road  
Newton, MA 02459

TO BE USED FOR: Single Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- further increase nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- further extend a nonconforming side setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2)
- further extend and reduce a nonconforming rear setback in a detached garage (§3.4.3.A.1, §7.8.2.C.2)

ZONING: Single Residence 3 (SR3)

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 "Plot Plan in Newton, MA, (indicated as 34 Westbourne Road)," dated May 31, 2022, prepared by Gloral Associates, stamped and signed by Andrew Crucoli, Professional Land Surveyor, on May 31, 2022
  - b. a plan entitled "Rebuild Exist Garage- One Family Dwelling, 34 Westbourne Rd Newton MA (A-1)," prepared by LDC, undated, signed and stamped by John Karavolas, Registered Professional Engineer
  - c. a document entitled "Floor Area Worksheet- 34 Westbourne Road- Proposed," indicating a proposed total gross floor area of 3,595.533 square feet and a proposed FAR (floor area ratio) of 0.47062, signed and stamped by Charles M. Navratil, Registered Architect
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. 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.
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 or engineer 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.