



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#457-22**

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Barney S. Heath  
Director

## PUBLIC HEARING MEMORANDUM

Public Hearing Date: November 1, 2022  
Land Use Action Date: January 17, 2022  
City Council Action Date: January 23, 2022  
90-Day Expiration Date: January 30, 2022

DATE: October 28, 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 #457-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to raze two dwellings, merge two-lots and construct a six-unit multifamily dwelling with below grade parking accommodating 12 vehicles in addition; to allow ground floor residential use with residential above; to allow a three-story structure with 36 feet in height; to extend a nonconforming side setback; to extend a nonconforming rear setback; to allow an FAR of 1.47; to allow a reduced parking stall width; to allow restricted end stalls; to reduce the driveway width for two-way traffic and to allow a retaining wall exceeding four feet in height within a setback at **416 and 418 Langley Road**, Ward 6, Newton, on land known as Section 65 Block 10 Lot 27 and Section 65 Block 10 Lot 28, containing approximately 11,176 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.8.A.1, 5.1.13, 5.1.8.B.6, 5.1.8.D.1, 5.4.2.B 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.



**416 and 418 Langley Road**

## EXECUTIVE SUMMARY

The subject site consists of two lots, 416 Langley Road (3,388 square feet, the “front lot”) and 418 Langley Road (7,745 square feet, the “rear lot”), located in a Business 1 (BU1) district. Each lot is improved with a single-family dwelling, constructed in 1875 and 1925 respectively.

The petitioner intends to raze the two single-family dwellings, combine the lots into one 11,176 square foot lot, and construct a three-story 6-unit multi-family dwelling with below-grade parking for twelve vehicles. Per Section 4.4.1 of the Newton Zoning Ordinance (NZO), a special permit is required to allow residential uses on the ground floor with residential use above in a BU1 zoning district, and per Secs. 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 35.3 feet in height.

To construct the development as designed additional other zoning relief is required, including that related to number of stories, height, setbacks, floor ratio (FAR), and certain parking facility requirements.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Business 1 (BU1) zoning district is an appropriate location for the project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall exceeding four feet in height within a setback (§7.3.3.C.1)
- The project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall exceeding four feet in height within a setback, will adversely affect the neighborhood (§7.3.3.C.2)
- The project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall 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 proposed extension of nonconforming side and rear setbacks would be substantially more detrimental than the existing nonconforming setbacks to the neighborhood (§4.1.3, §7.8.2.C.2)
- Literal compliance with applicable parking facility requirements requiring a minimum driveway width of twenty feet for two-way traffic, minimum parking stall widths and restricted end stalls, is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on the east side of Langley Road just north of its intersections with Jackson Street and Boylston Street (Route 9). Land use in the area is mixed, with multi-family dwellings predominating, with exceptions including commercial uses along Boylston and Jackson Street, an industrial property abutting to the rear, and some open space (**Attachment A**). The site and nearby properties are largely zoned BU1, with surrounding areas zoned for multi-residential use (**Attachment B**).

### B. Site

The proposed combined subject site is a 11,176 square foot lot, currently improved with two single family dwellings.

There is an approximately six foot high stone wall along most of the front property line, with the remainder occupied by a paved at-grade driveway. From that wall towards the rear of the property the lot's grade rises about four feet near its center before sloping downward. The parcel features mature trees, lawn area and other vegetation.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site would change from two single family dwellings to a three-story 6-unit multi-family dwelling with below-grade parking for twelve vehicles.

### B. Building and Site Design

The petitioners are proposing to replace two single family dwellings with a three-story 6-unit multi-family dwelling with below-grade parking for twelve vehicles.

Regarding the site, the grade of the right (south) half of the property's front yard would be lowered to street level (the corresponding portion of the approx. six foot retaining wall would be eliminated). This area would then be used for paved walkway area, stairs and low retaining wall structures. Much of the parcel's perimeter would have low retaining walls, either new (e.g., the front portions of the left and right property lines) or existing (e.g., along the rear right and right boundaries).

As detailed in the attached zoning review memorandum, the lot area per unit would be approximately 1,863 square feet which, while significantly less than the existing 5,588 square feet, meets the lot area per unit requirement of 1,200 square feet for a multi-family dwelling use here.

As proposed the multifamily structure would have three stories by special permit which, if granted, would in turn allow it to be 36 feet high. At 35.27 feet the proposed structure's height would be just under that height and higher than the two existing single-family dwellings which measure 26.53 and 30.29 feet.

The floor area ratio (FAR) allowed by-right for three-story structures is 1.00, and up to 1.50 by special permit. The petitioner is seeking a special permit to allow a FAR of 1.47, slightly less than the special permit maximum of 1.50.

Regarding setbacks, in a BU1 district the required side setbacks are half the building height or equal to the abutting side yard setback. The existing single-family home at 416 Langley Road (the front parcel) has a height of 26.53 feet, thus requiring a side setback of 13.3 feet where 11.9 feet exists, rendering the current side setback nonconforming. The existing single-family home at 418 Langley Road (the rear parcel) has a height of 30.29 feet, thus requiring a side setback of 15.2 feet, rendering its current southern side setback of 11.9 feet nonconforming. That structure also has a nonconforming rear setback of 11.2 feet where 15.2 feet is currently required. Further, that portion of its rear lot line that abuts a multi-Residence 1 zoning district has a required rear setback is 17.6 feet.

Given the foregoing, as designed the proposed structure would further extend the two nonconforming side setbacks and the nonconforming rear setbacks.

Also, the petitioner proposes to construct several new sections of retaining walls in addition to the existing walls which will remain. A portion of the wall along the entrance driveway to the underground parking would exceed four feet in height within a setback.

C. Parking and Circulation

The petitioners are proposing to provide 12 parking stalls, two for each of the six units. The stalls would be located in a below-grade parking and accessed via a new curb cut and associated 16-foot wide driveway to be constructed near the center of the property's frontage in a location currently occupied by a portion of the front retaining wall. Of the twelve stalls, one is shown as accessible, two as "compact," and two as "EV charging stations."

The Planning Department notes that portions of the underground parking facility is as close as 2.1 feet from the property lines.

Regarding the proposed parking facility, at 16 feet in width, the proposed driveway serving the underground parking area does not conform with the required 20-foot width for two-way driveways. Also, end stalls restricted on one or both sides are required to have a maneuvering space of at least five feet in depth and nine feet in width. Two end parking stalls are restricted and lack that room for maneuvering.

The Planning Department is generally not concerned with the foregoing as users of the parking facility would be all but exclusively residents and, regarding the driveway's proposed width given its straight alignment and site lines and its relatively short length (approx. 37 feet) and that residents would be familiar with these conditions. That said, the Department suggests that the petition explore ways to address the visibility of vehicles exiting the driveway to pedestrians cross the driveway from the north.

D. Landscaping

The petitioner has submitted a landscaping plan featuring the installation of 11 trees located generally along the northern (left) and rear (eastern) property lines as well as along the front

sidewalk (approximately seven trees would be removed). Paved areas, lawn areas, shrubs and other vegetation would be installed on the left (southern) side of the property.

#### 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 a Special Permit per §7.3.3 to:

- allow ground floor residential use with residential above (§4.4.1)
- allow a three-story structure with 36 feet in height (§4.1.2.B.3, §4.1.3)
- extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
- extend a nonconforming rear setback (§4.1.3, §7.8.2.C.2)
- allow an FAR of 1.47 (§4.1.3)
- allow a reduced parking stall width (§5.1.8.A.1, §5.1.13)
- allow restricted end stalls (§5.1.8.B.6, §5.1.13)
- reduce the driveway width for two-way traffic (§5.1.8.D.1, §5.1.13)
- allow a retaining wall exceeding four feet in height within a setback (§5.4.2.B)

##### B. Engineering Review

Review of the proposal by the Engineering Division at this time. In the event the present petition is granted such review would be required before a building permit could be issued.

##### C. Historic Review

On May 6, 2021, the Newton Historical Commission found the house at 416 Langley Road preferably preserved and imposed a Demolition Delay which expired on April 29, 2022. The petitioner should provide information regarding the dwelling at 418 Langley Road in advance of or at the upcoming public hearing.

#### 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

### 416 Langley Road

*City of Newton,  
Massachusetts*

#### Land Use

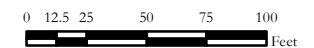
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

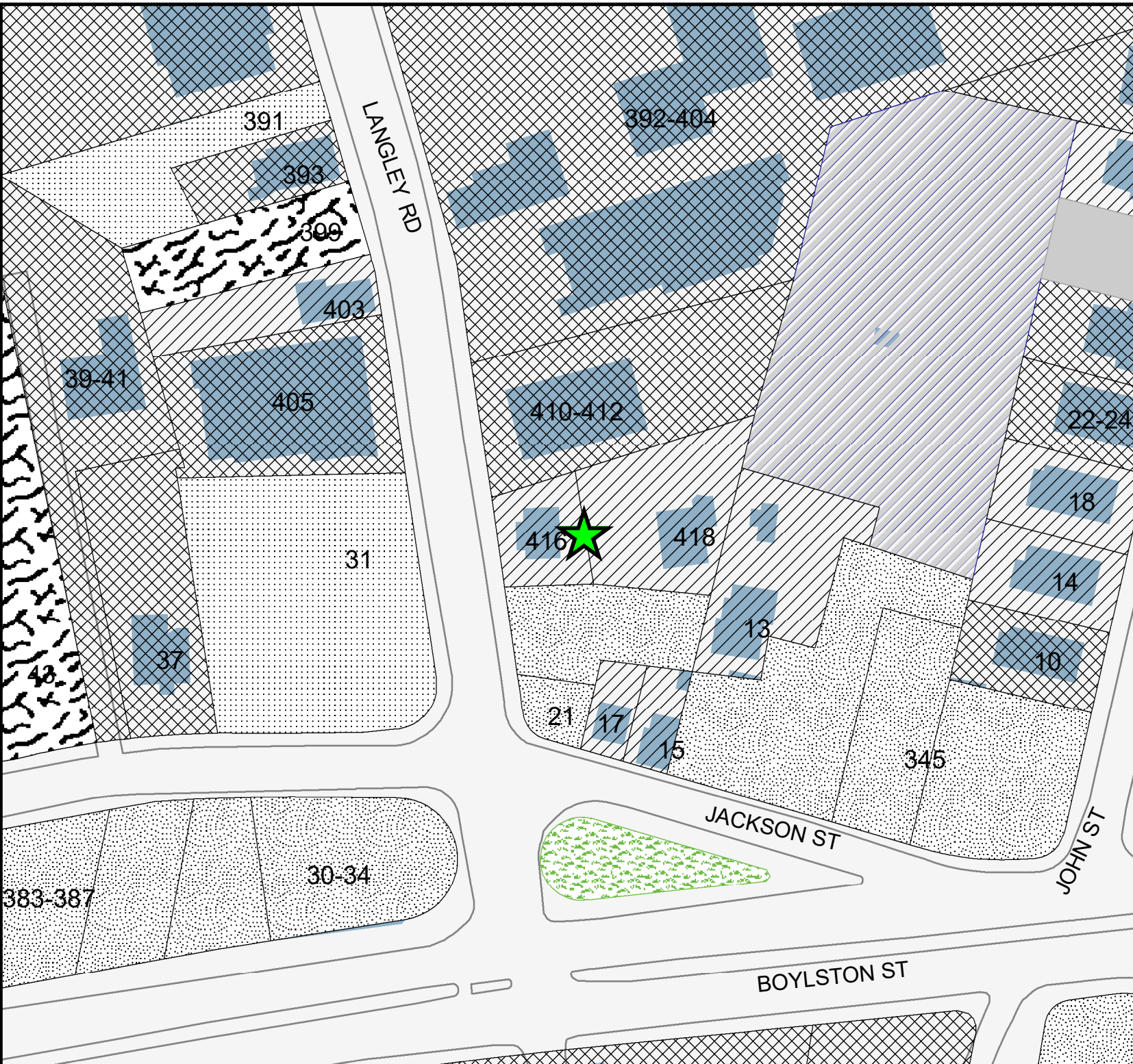


The information on this map is Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based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

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



Map Date: October 26, 2022







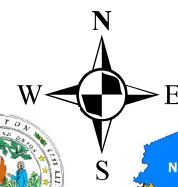
# ATTACHMENT B

## Zoning

### 416 Langley Road

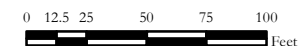
City of Newton,  
Massachusetts

-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Public Use



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



Map Date: October 26, 2022



# ATTACHMENT C



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: July 13, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: 416-418 Langley Road LLC, Applicant  
Laurance Lee, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to allow a 6-unit residential dwelling

Applicant: 416-418 Langley Road LLC	
Site: 416 Langley Road & 418 Langley Road	SBL: 65010 0027 & 65010 0028
Zoning: BU1	Lot Area: 11,176 square feet
Current use: Two single-family dwellings	Proposed use: 6-unit residential dwelling

### BACKGROUND:

The subject site consists 11,176 square feet and is comprised of two lots, each improved with single-family dwellings constructed between 1875 and 1925. The petitioner intends to raze the two dwellings, merge the lots and construct a six-unit multi-family dwelling with below grade parking accommodating 12 vehicles.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 6/2/2022
- Proposed Plot Plan, prepared by Spruhan Engineering, dated 2/21/2022
- Floor Plans and Elevations, signed and stamped by Eric Zachrison, architect, dated 4/6/2022
- FAR worksheet, submitted 6/2/2022



## **ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner intends to raze the two single-family dwellings, combine the lots and construct a three-story 6-unit multi-family dwelling with below-grade parking for twelve vehicles. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor with residential use above in a Business 1 zoning district.
2. The petitioner intends to construct a three-story structure. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 35.3 feet in height.
3. Per section 4.1.3, the required side setbacks in the BU1 district are half the building height or equal to the abutting side yard setback. The existing single family home at 416 Langley Road has a height of 26.53 feet, resulting in a required side setback of 13.3 feet, where 11.9 feet exists, rendering the current setback nonconforming.

418 Langley Road, located towards the rear of the site, has a height of 30.29 feet, resulting in a required side setback of 15.2 feet. The existing rear structure has a nonconforming side setback of 11.9 feet on the southern (side) lot line.

The proposed structure on the proposed combined lot has a height of 35.27 feet, resulting in a required side setback of 17.6 feet. The petitioner seeks to extend the existing nonconforming side setback on the northern lot line to accommodate a 12.3-foot side setback, and a 12.2-foot side setback from the southern lot line, where both require 17.6 feet. A special permit per sections 4.1.3 and 7.8.2.C.2 is required to further extend the nonconforming side setbacks.

4. The rear property line abuts two parcels, one of which is zoned Multi-Residence 1. Per section 4.1.3, the required rear setback from a residential district is half the building height. With the building height proposed at 35.27 feet, the required rear setback is 17.6 feet. 418 Langley Road has a nonconforming rear setback of 11.2 feet where 15.2 feet is currently required. The petitioner seeks a special permit per sections 4.1.3 and 7.8.2.C.2 to further extend the nonconforming rear setback of 15.3 feet where 17.6 feet is required.
5. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, and up to 1.50 by special permit. The building is proposed with a total of 16,465 square feet resulting in an FAR of 1.47, requiring a special permit.
6. Section 5.1.8.B.6 requires that end stalls restricted on one or both sides have a maneuvering space of at least five feet in depth and nine feet in width. Two end parking stalls are restricted, requiring a special permit per section 5.1.13.
7. An entrance and exit drive is required to be a minimum of 20 feet wide for two-way traffic per section 5.1.8.D.1. The proposed drive is 16 feet wide, requiring a special permit per section 5.1.13.
8. Per section 5.4.2.B, a special permit is required for a retaining wall exceeding four feet in height within a setback. The petitioner proposes to construct several new sections of retaining walls in addition to the existing walls which will remain. A portion of the wall along the entrance

driveway to the underground parking exceeds four feet in height within the side setback, requiring a special permit.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	11,176 square feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	10 feet 17.6 feet 17.6 feet 17.6 feet	10.1 feet <b>11.9 feet</b> <b>11.2 feet</b> <b>11.2 feet</b>	18.4 feet <b>12.3 feet*</b> <b>12.2 feet*</b> <b>15.3 feet*</b>
Building Height	24 feet (36 feet by SP)	26.53 ft/ 30.29 ft	<b>35.27 feet*</b>
Max Number of Stories	2 (3 by SP)	2.5	<b>3*</b>
Lot Area Per Unit	1,200 square feet	5,588 square feet	1,863 square feet
FAR	1.00 (1.50 by SP)	.33	<b>1.47*</b>

\*Requires relief

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use with residential above	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to extend a nonconforming side setback	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to extend a nonconforming rear setback	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.47	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	Request to allow a reduced parking stall width	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	Request to allow restricted end stalls	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	Request to reduce the driveway width for two-way traffic	S.P. per §7.3.3
§5.4.2.B	Request to allow a retaining wall exceeding four feet in height within a setback	S.P. per §7.3.3

CITY OF NEWTONIN 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

allow ground floor residential use with residential above (§4.4.1)  
allow a three-story structure with 36 feet in height (§4.1.2.B.3, §4.1.3)  
extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)  
extend a nonconforming rear setback (§4.1.3, §7.8.2.C.2)  
allow an FAR of 1.47 (§4.1.3)  
allow a reduced parking stall width (§5.1.8.A.1, §5.1.13)  
allow restricted end stalls (§5.1.8.B.6, §5.1.13)  
reduce the driveway width for two-way traffic (§5.1.8.D.1, §5.1.13)  
allow a retaining wall exceeding four feet in height within a setback (§5.4.2.B)

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

- *The site in a Business 1 (BU1) zoning district is an appropriate location for the project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall exceeding four feet in height within a setback (§7.3.3.C.1)*
- *The project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall exceeding four feet in height within a setback, will not adversely affect the neighborhood (§7.3.3.C.2)*
- *The project as designed with three-stories and 36 feet in height, a floor area ratio (FAR) of 1.47, ground floor residential use with residential above, and a retaining wall 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)*
- *Access to the site over streets is appropriate for the types and numbers of vehicles*

*involved (§7.3.3.C.4)*

- *The proposed extension of nonconforming side and rear setbacks would not be substantially more detrimental than the existing nonconforming setbacks to the neighborhood (§4.1.3, §7.8.2.C.2)*
- *Literal compliance with applicable parking facility requirements requiring a minimum driveway width of twenty feet for two-way traffic, minimum parking stall widths and restricted end stalls, is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13)*

PETITION NUMBER: #457-22

PETITIONER: 416-418 Langley Realty LLC

ADDRESS OF PETITIONER: 26 Harvard St.  
Brookline, MA 02446

LOCATION: 416 and 418 Langley Road, Ward 6, Newton, on land known as Section 65 Block 10 Lot 27 and Section 65 Block 10 Lot 28, containing approximately 11,176 sq. ft. of land

OWNER: 416-418 Langley Realty LLC

ADDRESS OF OWNER: 26 Harvard St.  
Brookline, MA 02446

TO BE USED FOR: A 6-unit multi-family development with associated garage parking.

EXPLANATORY NOTES: Special permits per §7.3.3:

- allow ground floor residential use with residential above (§4.4.1)
- allow a three-story structure with 36 feet in height (§4.1.2.B.3, §4.1.3)
- extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
- extend a nonconforming rear setback (§4.1.3, §7.8.2.C.2)
- allow an FAR of 1.47 (§4.1.3)
- allow a reduced parking stall width (§5.1.8.A.1, §5.1.13)
- allow restricted end stalls (§5.1.8.B.6, §5.1.13)
- reduce the driveway width for two-way traffic (§5.1.8.D.1, §5.1.13)

- allow a retaining wall exceeding four feet in height within a setback (§5.4.2.B))

ZONING: Business 1 (BU1)

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. A set of engineering plans entitled “416—418 Langley Rd, Newton, Massachusetts,” prepared by Spruhan Engineering, P.C., consisting of the following sheets:

- i. Proposed Plot Plan (Structures Above Grade) (Sheet 1 of 2), dated August 23, 2022;
- ii. Proposed Plot Plan (Structures Below Grade) (Sheet 2 of 2), dated August 23, 2022;
- iii. Civil Plan (1 of 3), dated August 10, 2022, signed and stamped by Edmond Spruhan, Professional Engineer and Christopher C. Charlton, Professional Land Surveyor
- iv. Details (2 of 3), dated August 10, 2022, signed and stamped by Edmond Spruhan, Professional Engineer
- v. Details (3 of 3), dated August 10, 2022, signed and stamped by Edmond Spruhan, Professional Engineer

b. A set of architectural plans entitled “416-418 Langley Road, Newton, MA 02459,” prepared by Context, consisting of the following sheets:

- i. Cover Sheet With Aerial Location Map
- ii. Neighbourhood Contextual Plan
- iii. Floor Plans
- iv. Floor Plans
- v. Landscape Plan
- vi. Building Elevations (Side Elevation And Side Elevation)
- vii. Building Elevations (Front Elevation and Rear Elevation)
- viii. Material Selection
- ix. Project Information
- x. Aerial Of Proposed Building in Neighbourhood
- xi. Aerial Of Proposed Building in Neighbourhood
- xii. Sustainability Strategies

- xiii. Front View of Proposed Building
  - xiv. Street View of Proposed Building
  - xv. Street View of Proposed Building
- c. A landscape plan entitled "416-418 Langley Road, Newton, MA," prepared by Verdant Landscape Architecture comprised of three sheets, dated September 8, 2022
- d. A document entitled "Floor Area Ratio Worksheet- 416-418 Langley Rd, Newton, MA 02459," indicating a Proposed Total Gross Floor Area of 16,465 square feet and a Proposed FAR of 1.47
2. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Said stormwater management system shall be designed to capture 100% of runoff generated in 1% storm condition for all impervious areas of the project. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
3. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity in determining hours and routes for construction vehicles.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and construction and delivery vehicles and equipment, and location of any security fencing.
  - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using

dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.

- f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. A plan for **rodent control** during construction.
  - i. The CMP shall also address the following:
    - safety precautions;
    - construction materials,
    - parking of construction workers' vehicles,
    - anticipated dewatering during construction;
    - site safety and stability;
    - impacts on abutting properties;
    - proposed method of noise and vibration control.
4. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
5. 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 with the Middlesex South Registry of Deeds.
  - 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 Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
  - d. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approvals shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - e. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public

Works, the City Engineer, and the Director of Transportation.

6. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
7. No 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 registered architect and civil engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features and fencing consistent with the plans referenced in Condition 1.
8. Notwithstanding the provisions of Condition #7d above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of required on-site landscaping/exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
9. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased and/or dies shall be replaced on an annual basis with similar material.