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#339-20

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 13, 2020
Land Use Action Date:	December 22, 2020
City Council Action Date:	January 4, 2021
90-Day Expiration Date:	January 11, 2021

DATE: October 9, 2020

TO: City Council

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

SUBJECT: **Petition #339-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a detached garage greater than 700 sq. ft. for more than three vehicles, further extending the nonconforming side setback in an accessory structure, to allow a dormer in excess of 50% of the wall plane below, creating an FAR of .69 where .40 is required and .56 exists at **44 Billings Park**, Ward 7, Newton, on land known as Section 72 Block 08 Lot 15, containing approximately 9,014 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, 3.4.2.B.1, 3.4.3.A.1, 1.5.4.G.2.b 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.



44 Billings Park

EXECUTIVE SUMMARY

The property at 44 Billings Park consists of a 9,014 square foot lot in a Single Residence 2 (SR2) improved with a 2 ½ story, 4,709 square foot single-family dwelling constructed in 1890 and a detached one-story 361 square foot one-car garage.

The petitioner seeks approval for the construction of a one-story, 58.5 square foot “mudroom” addition to the rear of the dwelling, and for the removal and replacement of the existing garage with a 1 ½ story, four car, 1,419 square foot (880 square feet of which would be used as ground level garage space) detached garage in the same general location in the rear left of the property.

Taken together, the addition and garage would further increase the property’s nonconforming floor area ratio (FAR) from 0.56 to 0.69 where 0.40 is the maximum allowed, requiring a special permit per Sections 3.1.3, 3.1.9 and 7.8.2.C.2 of the Newton Zoning Ordinance (NZO).

As designed the detached garage requires several additional special permits for the following reasons. The existing detached garage is three feet from the left (southwestern) side property line where 5 feet is required per Section 3.4.3.A.1 and the proposed larger garage would maintain and extend that nonconforming left side setback. The proposed detached garage would have an 880 square foot footprint and accommodate four vehicles, larger than the 700 square feet and three stalls allowed. Lastly, the petitioner proposes to construct three 7.33 foot wide dormers, totaling 21.99 feet in aggregate on each side of the proposed garage’s roof, greater than 50% of the length of 40 foot wide exterior walls of the story next below.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- a. The increase in the nonconforming floor area ratio (FAR) 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)
- b. The further extension of the property’s nonconforming floor area ratio (FAR) is substantially more detrimental than the existing nonconforming structure to the neighborhood (§3.1.3, §7.8.2.C.2)
- c. The further extension of the property’s nonconforming side setback of an accessory structure is substantially more detrimental than the existing nonconforming structure to the neighborhood (§3.4.3.A.1, §7.8.2.C.2)
- d. The specific site in a Single Residence 2 (SR2) district is an appropriate location for a detached garage as designed with a footprint in excess of 700 square feet, that accommodates more than three vehicles, and has dormers in excess of 50% of the wall planes below (§7.3.3.C.1)
- e. The proposed detached garage with a footprint in excess of 700 square feet , that accommodates more than three vehicles, and has dormers in excess of 50% of the

- wall planes below, will adversely affect the neighborhood (§7.3.3.C.2)
- f. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
 - g. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The surrounding neighborhood is generally a mix of single- and two-, family dwellings, as well as some three-family and multifamily dwellings. The latter includes a seven-unit dwelling that abuts the subject property to the rear. There is also a religious use across Church Street to the north (**Attachment A**). The site and surrounding area to the south are zoned SR2, while the area to the north across Commonwealth Avenue is generally zoned Multi Residence 1 (MR1) (**Attachment B**).

B. Site

The property consists of a 9,014 square foot lot improved with a 2 ½ story, 4,709 square foot single-family dwelling and a detached one-story 361 square foot one-car garage. The lot slopes gently downward approximately five feet from the front left to the rear right of the lot. Vehicular access is provided via an asphalt driveway and an associated curb cut off Billings Park that serves the garage. The remainder of the site is generally lawn with mature trees and shrubbery.

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

The petitioner is seeking approval for the construction of a one-story, 58.5 square foot “mudroom” addition to the rear of the dwelling, and for replacement of the existing garage with a 1 ½ story, four car, 1,419 square foot (with a footprint of 880 square feet) detached garage in the same general location in the rear left of the property.

Taken together, the addition and garage would significantly further increase the property’s already nonconforming floor area ratio (FAR) by 0.13, from 0.56 to 0.69 where 0.40 is the maximum allowed. The larger garage would maintain and extend the existing garage’s nonconforming left (southwestern) side three-foot setback where 5 feet is required.

The proposed detached garage would have an 880 square foot footprint and

accommodate four vehicles. It would have three 7.33-foot-wide dormers, totaling 21.99 feet in aggregate, on each side of the its roof, requiring a special permit for dormer(s) greater than 50% of the length of 40-foot-wide exterior walls of the story next below. These dormers would serve to create floor space on the attic level of the garage measuring approx. 539 square feet countable toward FAR. The attic level would be accessible via staircases that serve the garage interior as doors on either side of the structure.

While the new, larger garage would be approx. 12 feet closer to the street than the existing garage, its front façade would be behind that of the dwelling by 45 feet. As discussed in the attached zoning review memorandum, the addition and garage would increase the lot coverage from a conforming 23.9% to a nonconforming 30.2%, exceeding the maximum 30% allowed by right. However, as lot coverage requirements do not apply to private garages built in connection with single- or two-family dwellings in existence on December 27, 1922 the proposed garage's footprint of 880 square foot area (9.8% of the lot) does not count toward this calculation, rendering the total proposed lot coverage 20.4%, well below the maximum 30% allowed.

C. Parking and Circulation

The petitioners are proposing to provide four vehicle spaces on the ground floor of the proposed garage which would replace the existing two-car garage. The driveway/circulation area would also be expanded by 140 square feet to provide a paved surface across the full width of the garage's front façade.

D. Landscape and Screening

While a landscape plan was not submitted with the petition, the petitioner has submitted photos of the types of plantings that would be installed around the proposed garage. The Planning Department suggests that the petitioner be prepared to provide additional details, including the proposed locations of such plantings, in advance of or at the upcoming public hearing.

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:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- allow a detached garage with a footprint in excess of 700 square feet and accommodating more than three vehicles (§3.4.2.B.1)
- further extend the nonconforming side setback of an accessory structure

(§3.4.3.A.1, §7.8.2.C.2)

- To allow a dormer in excess of 50% of the wall plane below (§1.5.4.G.2.b)

B. Engineering Review

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

C. Newton Historical Commission

On November 4, 2019, the Newton Historic Commission approved the project based upon materials submitted, requiring only the review of final plan.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time. The petitioner should be prepared to address any issues raised above at the public hearing.

ATTACHMENTS:

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

ATTACHMENT A

Land Use

44 Billings Park

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Nonprofit Organizations



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
Feet

Map Date: October 07, 2020



ATTACHMENT B

Zoning

44 Billings Park

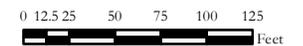
*City of Newton,
Massachusetts*

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

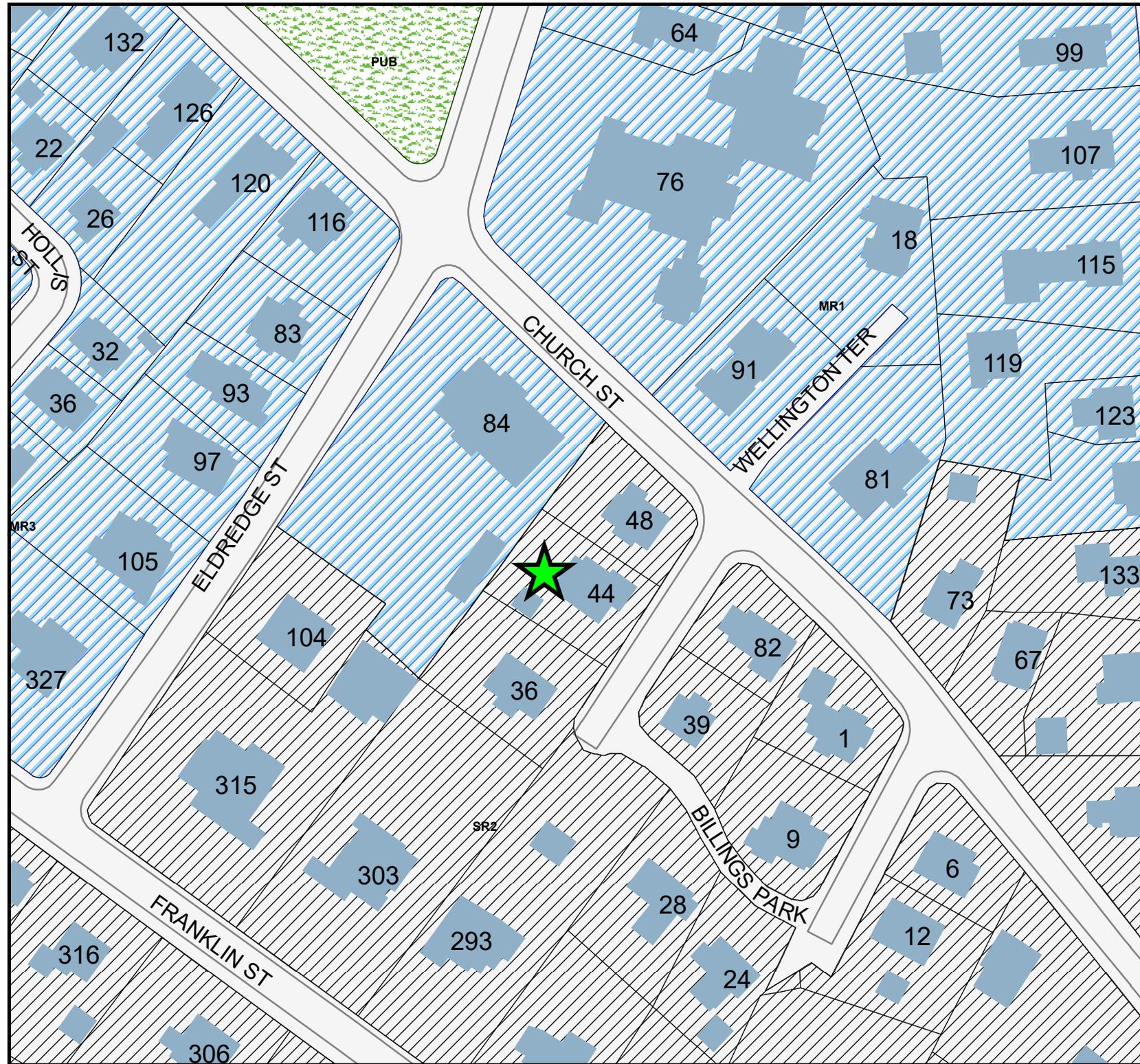


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: October 08, 2020





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 12, 2020

To: John Lojek, Commissioner of Inspectional Services

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

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

RE: Request to allow a private garage exceeding 700 square feet with provision for more than three vehicles, to further extend a nonconforming side setback, to allow dormers exceeding 50% and to further extend nonconforming FAR

Applicant: Tiffany Barqawi	
Site: 44 Billings Park	SBL: 72008 0015
Zoning: SR2	Lot Area: 9,014 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 44 Billings Park consists of a 9,014 square foot lot improved with a single-family dwelling constructed in 1890 and a detached one-car garage. The petitioner seeks to construct a mudroom addition to the rear of the dwelling and to construct a detached garage that exceeds the by right dimensions and further extends a nonconforming side setback, both further extending the nonconforming FAR. Further, the garage exceeds the maximum by-right footprint.

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

- Zoning Review Application, prepared by Tiffany Barqawi, dated 5/26/2020
- FAR worksheet, submitted 5/26/2020, revised 7/27/2020, revised 8/4/2020
- Certified Plot Plan, signed and stamped by George C. Collins, dated 5/27/2020, revised 8/6/2020
- Architectural plans and elevations, signed and stamped by Paul Lessard, architect, dated 7/25/2020, revised 8/5/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a first-floor mudroom addition to the dwelling of 58.5 square feet. Additionally, a 1.5-story detached garage is proposed with 1,419 square feet, of which 880 square feet is on the ground level. The proposed additions increase the nonconforming FAR from .56 to .69 where .40 is the maximum allowed per sections 3.1.3 and 3.1.9. A special permit is required to further increase the nonconforming FAR per sections 3.1.3, 3.1.9 and 7.8.2.C.2.
2. The petitioner proposes to construct a detached garage with an 880 square foot footprint accommodating four vehicles. Per section 3.4.2.B.1 a special permit is required for a private garage with a footprint larger than 700 square feet and accommodating more than three vehicles.
3. The existing detached garage on the property is located 3 feet from the southwestern lot line, where 5 feet is required per section 3.4.3.A.1. The petitioner proposes to raze the existing garage and construct a larger garage, further extending the nonconforming side setback, requiring a special permit per section 7.8.2.C.2.
4. Section 1.5.4.G.2.b requires a special permit for a dormer (or the sum of multiple dormers on the same side of the roof) that is greater than 50% of the length of the exterior wall of the story next below. The petitioner proposes to construct three dormers, each 7.33 feet wide, on both sides of the roof. The dormers total 21.99 feet where the exterior wall next below is 40 feet, resulting in dormers totaling 55%, requiring a special permit.
5. The maximum allowable lot coverage in the SR2 zoning district for an old lot is 30% per section 3.1.3. The existing lot coverage is 23.9% and the proposed additions increase the lot coverage to 30.2%, exceeding the maximum allowed. Per section 1.5.2.D.2, the lot coverage requirements do not apply to the construction of a private garage in connection with a single- or two-family dwelling in existence on December 27, 1922. The proposed garage is 880 square feet, which equates to 9.8% lot coverage. Eliminating the 9.8% lot coverage of the garage renders the total proposed lot coverage 20.4%, which is less than the maximum allowed.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	9,014 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	13.1 feet 10.6 feet 35.9 feet	No change No change No change
Setbacks – Accessory <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 5 feet 5 feet	>60 feet 3 feet 15 feet	58.1 feet No change No change
Height – <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	35.9 feet <22 feet	No change 21.5 feet
Stories – <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	2.5 1	No change 1.5
FAR	.40	.56	.69
Max Lot Coverage	30%	23.9%	30.2%
Min. Open Space	50%	62.7%	56.9%

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9 §7.8.2.C.2	To further extend nonconforming FAR	S.P. per §7.3.3
§3.4.2.B.1	To allow a detached garage with a footprint in excess of 700 square feet and accommodating more than three vehicles	S.P. per §7.3.3
§3.4.3.A.1 §7.8.2.C.2	To further extend the nonconforming side setback of an accessory structure	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer in excess of 50% of the wall plane below	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 allow a detached garage greater than 700 sq. ft. for more than three vehicles, further extending the nonconforming side setback in an accessory structure, to allow a dormer in excess of 50% of the wall plane below, creating an FAR of 0.69 where 0.40 is required and 0.56 exists as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The increase in the nonconforming floor area ratio (FAR) 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)
- 2) The further extension of the property's nonconforming floor area ratio (FAR) is not substantially more detrimental than the existing nonconforming structure to the neighborhood (§3.1.3, §7.8.2.C.2)
- 3) The further extension of the property's nonconforming side setback of an accessory structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood (§3.4.3.A.1, §7.8.2.C.2)
- 4) The specific site in a Single Residence 2 (SR2) district is an appropriate location for a detached garage as designed with a footprint in excess of 700 square feet, that accommodates more than three vehicles, and has dormers in excess of 50% of the wall planes below (§7.3.3.C.1)
- 5) The proposed detached garage with a footprint in excess of 700 square feet that accommodates more than three vehicles and has dormers in excess of 50% of the wall planes below, will not adversely affect the neighborhood (§7.3.3.C.2)
- 6) There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- 7) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

PETITION NUMBER: #339-20

PETITIONER: Tiffany Barqawi

ADDRESS OF PETITIONERS: 44 Billings Park
Newton, MA 02458

LOCATION: 44 Billings Park, on land known as Section 72, Block 8, Lot 15,
containing approximately 9,014 square feet of land

OWNERS: Tiffany Barqawi

ADDRESS OF OWNERS: 44 Billings Park
Newton, MA 02458

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: Special Permits per §7.3.3 to:

- further extend nonconforming FAR (§3.1.3, §3.1.9, §7.8.2.C.2)
- allow a detached garage with a footprint in excess of 700 square feet and accommodating more than three vehicles (§3.4.2.B.1)
- further extend the nonconforming side setback of an accessory structure (§3.4.3.A.1, §7.8.2.C.2)
- allow a dormer in excess of 50% of the wall plane below (§1.5.4.G.2.b)

ZONING: Single Residence 2 (SR2) district

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 site plan entitled "Certified Plot Plan, Located at 44 Billings Park, Newton, MA," prepared by George C. Collins, P.L.S., dated August 6, 2020, signed and stamped by George C. Collins, , Professional Land Surveyor

- b. A set of architectural plans entitled “Barqawi Residence, 44 Billings Park, Newton, Massachusetts,” prepared, stamped and signed by Paul R. Lessard, Registered Architect, dated July 25, 2020, consisting of the following sheets:
 - i. Proposed Garage Elevations & Section (A1)
 - ii. Proposed Garage Floor Plans (A2)
 - iii. Proposed Mudroom Elevations (A3)
 - c. A document entitled “Floor Area Ratio Worksheet, 44 Billings Park,” indicating a proposed “Total gross floor area” of 6,196 square feet and a proposed “FAR” (floor area ratio) of 0.69.
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
- a. Recorded a certified copy of this board 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 board 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.
3. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an 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