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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

| | |
|---------------------------|-------------------|
| Public Hearing Date: | December 13, 2016 |
| Land Use Action Date: | January 24, 2017 |
| City Council Action Date: | February 6, 2017 |
| 90-Day Expiration Date: | March 13, 2017 |

DATE: December 9, 2016

TO: City Council

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

SUBJECT: **Petition #**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the floor to area ratio (FAR) from .39 to .43 where .39 is the maximum allowed by-right, at **441 Ward Street**, Ward 7, Newton Centre, on land known as SBL 73, 30, 06 containing approximately 9,299 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9, and §7.3.3, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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.



441 Ward Street

EXECUTIVE SUMMARY

The property located at 441 Ward Street consists of a 9,299 square foot lot improved with a colonial-revival type single-family residence constructed in 1924. The property is located in the Single Residence 2 zoning district in Newton Centre. The petitioners are seeking to construct a two-car attached garage to the southwestern corner of the structure. The garage will be one-story and attached to the dwelling via a mudroom. In order to pursue the project, the petitioners require a special permit to exceed the floor area ratio (FAR) from .39 to .43, where .39 is the maximum allowed by-right. If approved, the proposed addition will represent a 12% increase of square footage built on the lot.

The Planning Department notes the property at 441 Ward Street is located in a neighborhood comprised of larger single-family dwellings. In addition, it is common for these dwellings to be associated with either attached or detached garages. Staff also notes that the addition of the garage and mudroom will not have a significant impact on the square footage of the structure or other dimensional requirements. For these reasons, the Planning Department believes exceeding the FAR from .39 to .43, where .39 is the maximum allowed by-right will not be in derogation of the size, scale, and design of other structures in the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in FAR from .39 to .43 where .39 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9 and §7.3.3).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Ward Street, in a Single Residence 2 zone, in Newton Centre. The neighborhood is largely comprised of single family dwellings, except three institutional uses; one of which is a direct abutter to the west (**Attachments A & B**).

B. Site

The site consists of 9,299 square feet of land, improved with a 2.5-story single-family residence built in 1924. The property is a corner lot with frontages on Ward and Ballard Streets. There is an approximately 475 square foot existing driveway on Ballard Street with a curb cut of approximately 19 feet which serves as the parking facility. There is an additional curb cut on Ward Street to the southwest of the structure, but does not lead to a driveway. The property slopes upwards from the sidewalk on Ward and Ballard Streets creating a slight berm. Otherwise, the site is predominantly flat, with mature landscaping.

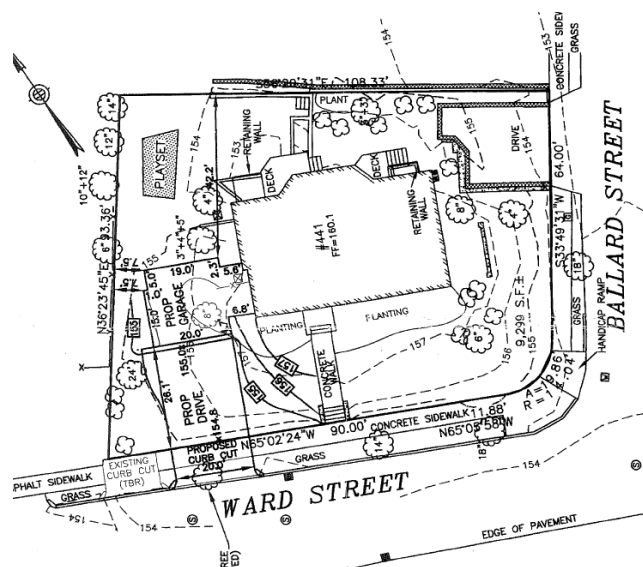
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The applicant is proposing to construct a 415 square foot one-story attached garage with a small mudroom on the southwestern side of the structure with access from Ward Street. In order to access the garage, the petitioner is proposing to create a 20 foot wide curb cut on Ward Street with an approximately 26 foot long driveway leading to the garage. The proposed garage will decrease the side yard setback from 26 feet to 7.5 feet, the minimum allowed. Lastly, the garage will be 17 feet tall and will comply with the front yard setback on Ward Street. The petitioner has agreed to remove the existing driveway and close the curb cut on Ballard Street and replace it with grass and other landscaping to match the rest of the yard.



The Planning Department notes the proposed garage is compliant with the current garage ordinance. However, the garage is forward of the dwelling which may render the garage nonconforming after April of 2017. Staff notes the reason for the proposed design is that pushing the garage backwards to meet the front wall of the dwelling will encroach upon the side yard setback, requiring a variance from the Zoning Board of Appeals.

C. Parking and Circulation

The petition will change the location of the driveway and parking facilities from Ballard Street to Ward Street. Otherwise, no other changes are proposed.

D. Landscape Screening

The petition requires the removal of an 18 inch City tree to allow for the creation of the driveway on Ward Street. In addition, an eight inch tree on the petitioner's property will need to be removed for the garage. The Planning Department notes the petitioner will need to comply with the City's Tree Preservation Ordinance and suggests the petitioner consult with the City's arborist to explore replacing the City tree at the location of the driveway to be removed on Ballard Street or elsewhere on Ward Street.

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 Memorandum, the petitioner is seeking the following relief:

- §3.1.9 and §7.3.3 of Section 30, to exceed the maximum FAR;

B. Engineering Review

Associate City Engineer, John Daghlion, provided an Engineering Review Memorandum providing a brief analysis of the project (**Attachment D**). Mr. Daghlion notes that an existing driveway apron to the west of the proposed curb cut on Ward Street shall be closed and the sidewalk rebuilt to Americans with Disabilities Act (ADA) standards. This can be arranged with the Department of Public Works. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards again, prior to the issuance of a building permit, should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

Should this project be approved, the Planning Department suggests the petitioner submit an updated site plan showing the trees to be planted to comply with the City's Tree Preservation ordinance and the number as well as type of landscaping to be added in place of the driveway on Ballard Street prior to the issuance of a building permit.





ATTACHMENTS:

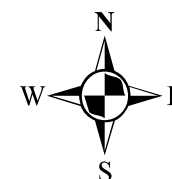
- | | |
|----------------------|---|
| Attachment A: | Zoning Map |
| Attachment B: | Land Use Map |
| Attachment C: | Zoning Review Memorandum |
| Attachment D: | Engineering Review Memorandum, dated December 7, 2016 |
| Attachment E: | Draft Board Order |

Attachment A Zoning Map Ward St., 441

*City of Newton,
Massachusetts*

Legend

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

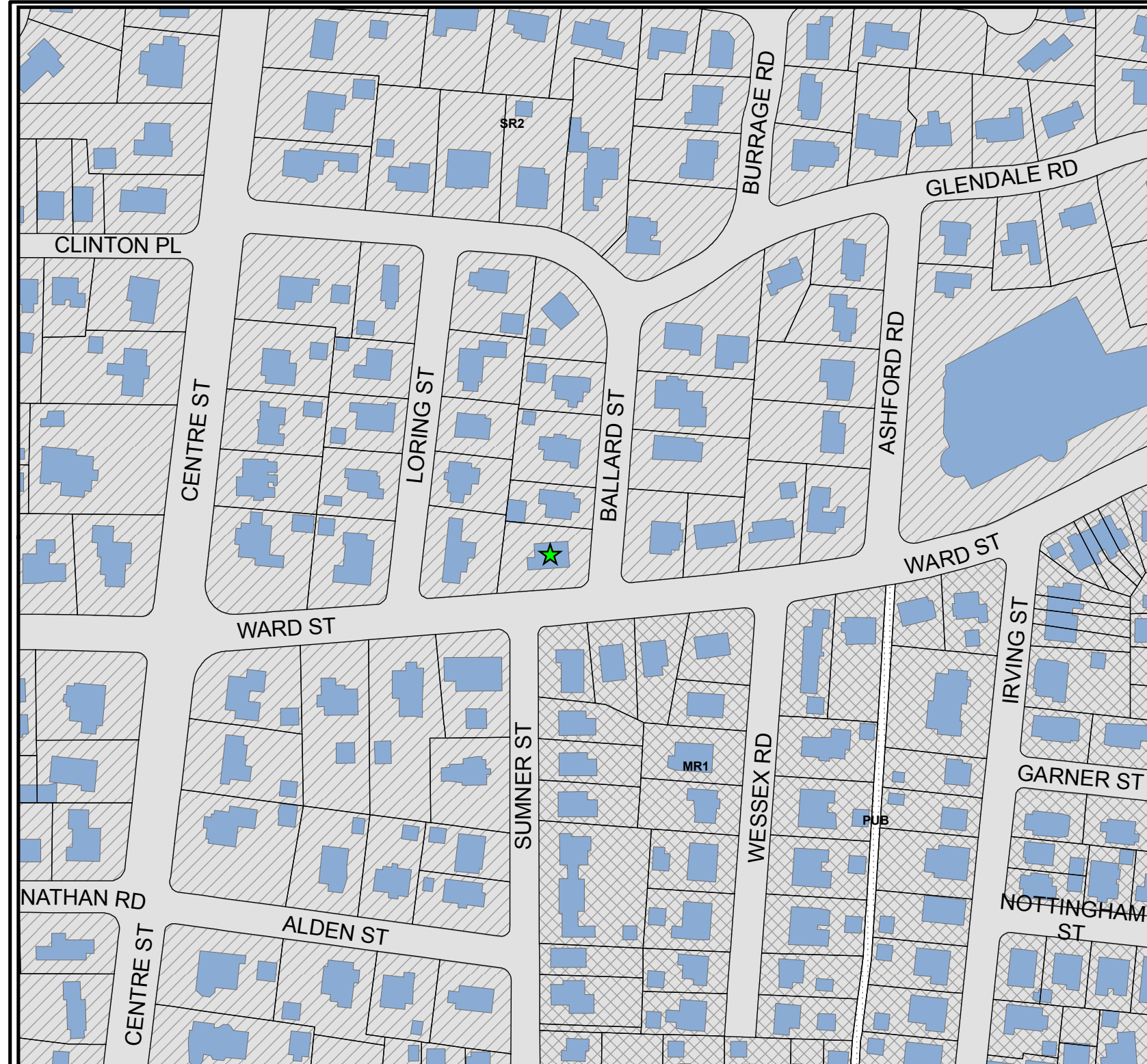


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

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Feet

Map Date: November 16, 2016










Attachment B Land-Use Map Ward St., 441

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Nonprofit Organizations
-  Vacant Land
-  Tax Exempt
-  Building Outlines



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Setti D. Warren
Mayor

Attachment C

City of Newton, Massachusetts
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 25, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Yakir and Cheryl Levin, applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to exceed FAR**

| Applicant: Yakir and Cheryl Levin | |
|-------------------------------------|-----------------------------|
| Site: 441 Ward Street | SBL: 73030 0006 |
| Zoning: SR2 | Lot Area: 9,299 square feet |
| Current use: Single-family dwelling | Proposed use: No change |

BACKGROUND:

The property at 441 Ward Street consists of a 9,299 square foot corner lot improved with a single-family dwelling constructed in 1924. The applicants are requesting a special permit to exceed the maximum allowable FAR to construct a one story, 415 square foot two-car attached garage.

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

- Zoning Review Application, prepared by Yakir and Cheryl Levin, applicants, submitted 9/19/2016
- FAR Worksheet, submitted 9/19/2016
- Site Plan, signed and stamped by Bruce Bradford, surveyor dated 9/13/2016
- Architectural Plans, prepared by Cynthia David Sachs, architect, dated 9/15/2016

ADMINISTRATIVE DETERMINATIONS:

1. The applicants propose to add a 415 square foot one-story two-car garage addition to the side of the existing dwelling. The applicants' existing FAR is .39, where .39 is allowed. The proposed additions create an FAR of .42, which exceeds the .39 allowed, requiring a special permit per Section 3.1.9.A.2.
2. The proposed project meets with the requirements for garages in effect at this time through December 31, 2016. As changes to the garage provisions of the Newton Zoning Ordinance are proposed, the Applicant should be sure to check with Planning Staff prior to filing the special permit application. The applicant will need have been issued a building permit prior to the first notice of the public hearing amending and approving the garage provisions.

| SR2 Zone | Required | Existing | Proposed |
|---|---|--|---|
| Lot Size | 10,000 square feet | 9,299 square feet | No change |
| Frontage | 80 feet | 120 feet | No change |
| Setbacks <ul style="list-style-type: none">• Front (Ward St)• Front (Ballard St)• Side• Rear | 25 feet 25 feet 7.5 feet 15 feet | 27 feet 25 feet 26 feet 15 feet | 26.1 feet No change 7.5 feet No change |
| Building Height | 36 | 23 feet | 23.4 feet |
| Max Number of Stories | 2.5 | 2.5 | No change |
| FAR | .39 | .39 | .43 |
| Max Lot Coverage | 30% | 17.8% | 23% |
| Min. Open Space | 50% | 75% | 64% |

1. See "Zoning Relief Summary" below:

| Zoning Relief Required | | |
|------------------------|-----------------------|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.1.9 | Request to exceed FAR | S.P. per §7.3 |

[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 (Twelve 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
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Mark Laredo, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 411 Ward Street

Date: December 7, 2016

CC: Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Alexandria Ananth, Chief Planner
Neal Cronin, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Plan of Land in
Newton, MA
441 Ward Street
Prepared by: Everett M. Brooks, Company
Dated: September 13, 2016*

Executive Summary:

This application entails a proposed new attached garage and driveway off Ward Street. Based on a site visit today; there is an existing driveway apron on this property off Ward Street, this needs to be removed and remodeled as an ADA and City of Newton compliant sidewalk with granite curbing and cement concrete sidewalk.



View of 441 Ward Street ~ Existing curb cut & City Tree

Furthermore the proposed location of the new driveway apron will necessitate the removal of a City tree (see photo above). The proposed new impervious surfaces (roof & driveway 1,043 square feet) exceed the allowable 4% (lot size) of the Stormwater Policy; therefore, the design will require on site collection and infiltration system designed to the City's Stormwater Policy.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 7-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the project. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
2. An on-site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the drainage study. The locations of these tests need to be shown on the site plan and must be performed within 25-feet of a proposed system.

3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material,

and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***

7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

CITY OF NEWTON

IN CITY COUNCIL

December 19, 2016

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL for to exceed the floor area ratio (FAR) from .39 to .43, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The addition of a two-car garage and mudroom is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as the addition does not significantly affect the square footage of the structure and will remove surface parking on the lot (§3.1.9, and §7.3.3).
2. The petitioners proposed reconstruction of the sidewalk along the Ward Street frontage is a public benefit to the City that will enhance the safety of pedestrians in the immediate neighborhood.

PETITION NUMBER: #399-16

PETITIONER: Cheryl and Yakir Levin

LOCATION: 441 Ward Street, Ward 7, Newton Centre, on land known as Section 73 Block 30 Lot 06, containing approximately 9,299 square feet of land

OWNER: Cheryl and Yakir Levin

ADDRESS OF OWNER: 441 Ward Street
Newton, MA 02459

TO BE USED FOR: Two-car attached garage and mudroom

CONSTRUCTION: Wood

EXPLANATORY NOTES: §3.1.9 and §7.3.3 to exceed the FAR

ZONING: Single Residence 2 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:
 - i) Plan of Land in Newton 441 Ward Street, Proposed Additions, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated September 13, 2016.
 - ii) A Set of architectural plans, dated September 15, 2016, signed and stamped by Cynthia N. Sachs, Registered Architect, Sheets A.0, A.1, A.2, and A.3
2. The petitioners shall comply with the City's Tree Preservation Ordinance.
3. The petitioners shall, at its expense, repair or replace the sidewalks located along the Ward Street frontage subject to the approval of the Commissioner of Public Works prior to the issuance of any occupancy permit.
4. The petitioners shall, at its expense, close the curb cut on Ballard Street subject to the approval of the Commissioner of Public Works prior to the issuance of any occupancy permit.
5. Prior to the issuance of any Building Permits, the petitioners shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
6. Prior to the issuance of any Building Permits, the petitioners shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department showing the trees to be planted to comply with the City's Tree Preservation Ordinance and the number as well as type of landscaping to be added in place of the driveway on Ballard Street.
7. Prior to the issuance of any Building Permits, the petitioners shall submit a final Construction Management Plan (CMP) to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should include at a minimum:
 - 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 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 3:00 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.
- c. 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.
 - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
 - e. A plan for site access and traffic control.
 - f. A plan regulating the delivery of material to the site, including the staging and storage of construction vehicles.
 - g. A plan for rodent control during construction.
 - h. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
8. No Building Permits shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
- a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - b. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - c. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
 - e. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M in accordance with Condition #9.
 - f. Filed a final Site Plan to the Director of Planning and Development for review and approval.
 - g. Received approval for the removal and replacement of the street tree impacted by this project.
9. No Final Inspection and/or Occupancy Permit for the buildings constructed pursuant to 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 a registered architect certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer

- certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
- c. 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.
 - d. Filed with the Department of Inspectional Services, and the Department of Planning and Development a statement by the City Engineer certifying that finished grades and final construction details of driveways, parking areas and drainage systems have been constructed to the standards of the City Engineering Department.
 - e. Filed with the City Clerk and 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.
10. Notwithstanding the provisions of Condition #9 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioners shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.