



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

#19-17

Telephone

(617) 796-1120

Telefax

(617) 796-1142

TDD/TTY

(617) 796-1089

www.newtonma.gov

Setti D. Warren
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 7, 2017
Land Use Action Date:	May 9, 2017
City Council Action Date:	May 15, 2017
90-Day Expiration Date:	June 5, 2017

DATE: March 3, 2017

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 #19-17**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a dormer wider than 50% of the exterior wall below in an accessory structure at **129 Cabot Street**, Ward 2, Newtonville, on land known as SBL 13, 08, 10 containing approximately 8,793 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. §1.5.4.G.2, §1.5.4.G.2.b, 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.



129 Cabot Street

EXECUTIVE SUMMARY

The property located at 129 Cabot Street consists of an 8,793 square foot lot improved with a single-family residence circa 1930. The property is located in a Multi-Residence 1 (MR-1) zone in Newtonville. The petitioner obtained a building permit to install a detached prefabricated garage in June of 2016. Upon inspection, the dormer in the half-story of the garage was determined to be greater than 50% of the width of the exterior wall below, which is only allowed via special permit. Therefore, the building permit was issued in error, and the homeowner seeks to rectify the error by way of special permit. Staff notes the application fee was waived by the City Clerk.

The Planning Department notes the installation of the garage was a “by-right” project which has been approved by Inspectional Services and the Engineering Division. Staff notes detached garages are common in the neighborhood, although existing garages are commonly located at the rear of the property as opposed to the front. Given this is a corner lot, it is the only feasible location for the garage due to the placement of the existing house.

SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for an accessory structure with a dormer wider than 50% of the exterior wall below (§7.3.3.C.1).
- The proposed structure will not adversely affect the neighborhood (§7.3.3.C.2).
- The structure as proposed will not be a nuisance or create a serious hazard to vehicles or pedestrian (§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).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Cabot Street, in the MR-1 zone in Newtonville. The immediate neighborhood is predominantly a residential area with mixed of single and multi-family residences; the only exception is the Newton Country Day School which is located to the west along Cabot Street (**Attachments A & B**).

B. Site

The site consists of 8,793 square feet of land, and is improved with a two-story single-family dwelling circa 1930. The property is a corner lot with frontages on Cabot Street and Langdon Road. There is an existing curb cut to the west of the structure on Langdon Road which leads to the previous parking area at the northeast corner of the site.

II. PROJECT DESCRIPTION AND ANALYSIS

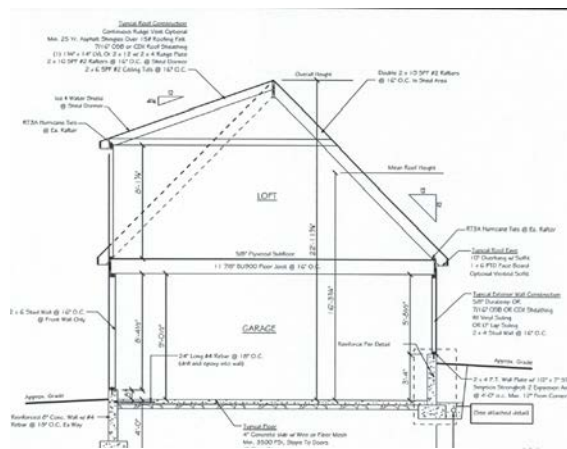
A. Land Use

The principal use of the site is and will remain a single-family dwelling. Staff notes that given the lot size and “old” lot classification, the lot can be converted into a two-family use in the future by-right.

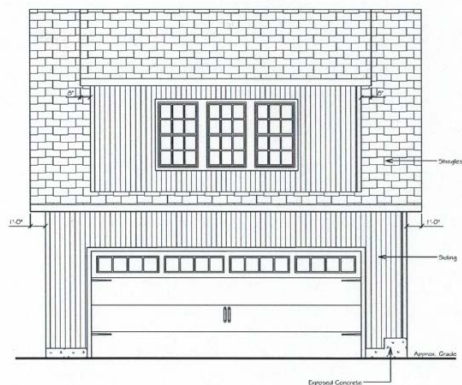
B. Building and Site Design

The petitioner seeks to legalize a dormer wider than 50% of the exterior wall below in the detached two-car garage on site. The petitioner filed for a building permit for the garage in 2016, and during the review process, the width of the dormer was not caught. As a result, the building permit was issued in error. It was during a “rough” inspection that the width of the dormer was noticed and the only choices available to the homeowner were to either apply for a special permit or hire a contractor to demolish and reconstruct the dormer per the Ordinance; removing the dormer all together is an option as well. The Planning Department notes there was also an issue with the foundation as it was initially installed in the setback. Inspectional Services caught this error which required cutting and moving a portion of the foundation to comply with the front yard setback of 25 feet.

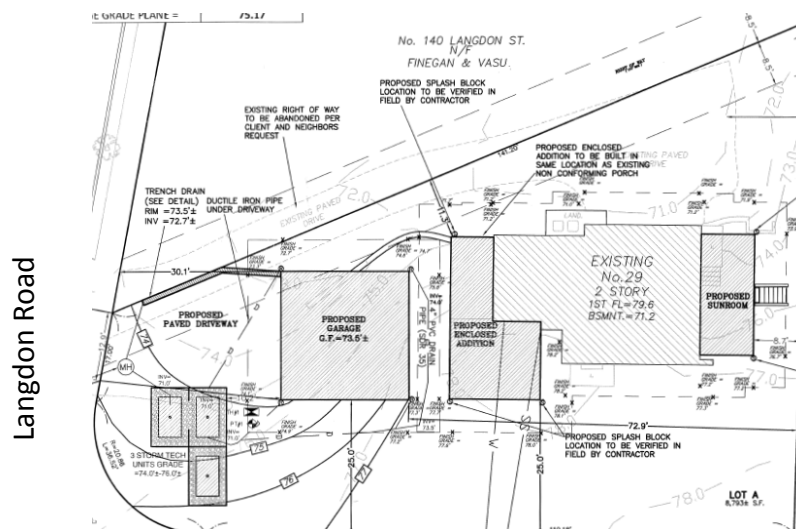
As shown below, the dormer is located on the front facade of the garage which is accessed from Langdon Road. Staff notes the presence of the dormer allows for the half-story to be classified as “habitable space” per building code and therefore adds 352 square feet to the floor area ratio (FAR) calculation. However, the height of the dormer is what allows for this distinction, the width of the dormer only allows for more habitable space. The petitioner states the primary use of the half-story will be storage, and neither water nor sewer lines feed the garage. If there are concerns as to whether this structure can be retro-fitted to accommodate an accessory apartment, staff suggests the Committee consider a condition prohibiting such a use.



Cross-Section of Garage



View from Langdon Road



Cabot Street

As shown above, the garage is located to the west of the principal structure with access from Langdon Road. The existing driveway leading to the old parking area at the northeast corner of the property will be removed and replaced with grass or similar material. This driveway is located in the right-of-way between the subject property and the property to the north at 140 Langdon Street; the petitioner states he is working with this abutter to abandon the right-of-way as noted on the plans. Due to the location of the garage on site, the existing curb cut will be reoriented to align with the garage entrance. Dimensionally, the garage is setback 30 feet and 25 feet from Langdon Road and Cabot Street respectively, where 25 feet is the minimum allowed. Also, the garage is setback five feet from the shared property line with 134 Langdon Street, the minimum allowed.

Lastly, the petitioner intended to construct the additions at the western and eastern sides of the structure, labeled "Proposed Enclosed Addition" and "Proposed Sunroom". However, the petitioner is now unsure of when those additions may be pursued. In preparation for those projects, the surveyor included the square footage of those additions when determining compliance with the Newton Zoning Ordinance, including FAR. Staff notes those additions would be "by-right" as they are in compliance with the dimensional controls for an old lot in the MR-1 zone.

The Planning Department notes detached structures are common in this neighborhood, although this structure is unique in that it is in front of the lot as opposed to the rear. As a result, the dormer in the half-story has more of an effect on the streetscape. The siding of the garage is not consistent with the principal structure or surrounding neighborhood which makes the structure even more distinct. Staff has asked the petitioner to consider improving the attractiveness of the garage either by

plantings, materials, or color.

The Planning Department notes the property is on the eastern side of Langdon Road which includes a mix of Tudor, Cape, and Colonial Revival type structures, much of which have been altered over the years resulting in an assortment of roof peaks and dormers. This mix of styles continues onto Landholm Road and back out to Cabot Street. In contrast, the western side of Langdon Street is a consistent mix of Colonial Revival type structures which have less architectural detail.

C. Parking and Circulation

The detached garage will house the two vehicles associated with the single-family dwelling. The homeowner is currently removing the old paved driveway and the previous parking area at the northeast corner of the site will become a patio.

D. Landscape Screening

A landscape plan is not required with this petition.

III. 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:

- §1.5.4.G.2, §1.5.4.G.2.b, and §7.3.3 of Section 30, to allow a dormer wider than 50% of the exterior wall below

B. Other Departmental Review

The garage was approved by Inspectional Services, the Engineering Division of Public Works, and the Newton Fire Department in June of 2016. As such, the project has already been approved for drainage, and life safety.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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








Attachment A

Zoning Map

Cabot St., 129

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



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: February 07, 2017









Attachment B Land Use Map Cabot St., 129

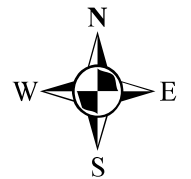
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Private Educational
-  Vacant Land
-  Building Outlines
-  Property Boundaries



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

Map Date: February 07, 2017



Setti D. Warren
Mayor

Attachment C

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 17, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Michael Mendis, owner
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow an oversized dormer in an accessory structure

Applicant: Michael Mendis	
Site: 129 Cabot Street	SBL: 13008 0010
Zoning: MR1	Lot Area: 8,793 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 129 Cabot Street consists of an 8,793 square foot lot improved with a single-family dwelling constructed circa 1930. The applicant was issued a building permit for a detached garage structure, however the permit was issued in error due to an oversized dormer on the half-story above the first level. The structure has been built and the applicant is requesting a special permit for the oversized dormer to rectify the error.

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

- Zoning Review Application, prepared by Michael Mendis, submitted 1/17/2017
- Foundation As-Built Plan, signed and stamped by Christopher Charlton, surveyor, dated 10/6/2016
- FAR calculations, submitted 1/17/2017
- Architectural plans, signed and stamped by Elvin Engell, architect, dated 4/8/2016

ADMINISTRATIVE DETERMINATIONS:

1. Section 1.5.4.G.2.b states that a dormer in an accessory structure may be no wider than 50% of the length of the exterior wall of the next story below. The applicant proposes a dormer 17 feet wide, where the building is 24 feet wide at the first story, which is 71% of the exterior wall below. Per Section 1.5.4.G.2, a special permit is required.

Zone MR1	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	8,793 square feet	No change
Frontage	70 feet	110 feet	No change
Setbacks for accessory structures <ul style="list-style-type: none">• Front (Cabot St)• Front (Langdon St)• Side• Rear	25 feet 25 feet 5 feet 5 feet	N/A N/A N/A N/A	25.1 feet 30 feet >65 feet 5.6 feet
Max Height (accessory)	22 feet		21.32 feet
Max Stories (accessory)	1.5		1.5
Max Lot Coverage	30%	11.2%	17.8%
Min Open Space	50%	74.5%	68%
FAR	.50	.38	.44

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§1.5.4.G.2 §1.5.4.G.2.b	To allow a dormer wider than 50% of the exterior wall below	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

IN CITY COUNCIL

March 20, 2017

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a dormer wider than 50% of the exterior wall below in an accessory structure, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The site is an appropriate location for a dormer wider than 50% of the exterior wall below in an accessory structure (§7.3.3.C.1).
2. The structure will not adversely affect the neighborhood (§7.3.3.C.2).
3. The structure will not be a nuisance or create a serious hazard to vehicles or pedestrians (§7.3.3.C.3).
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #19-17

PETITIONER: Michael Mendis

LOCATION: 129 Cabot Street, Ward 2, Newton Corner, on land known as Section 13, Block 08, Lot 10, containing approximately 8,793 square feet of land

OWNER: Michael Mendis

ADDRESS OF OWNER: 129 Cabot Street
Newton, MA

TO BE USED FOR: Accessory structure with a dormer wider than 50% of the exterior wall below

CONSTRUCTION: Pre-fabricated

EXPLANATORY NOTES: §1.5.4.G.2, §1.5.4.G.2.b to allow a dormer wider than 50% of the exterior wall below in an accessory structure

ZONING: Multi-Residence 1

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 "129 Cabot Street Newton, Massachusetts" prepared by Peter Nolan & Associates LLC, signed and stamped by Christopher C. Charlton, Professional Land Surveyor, and Richard A. Volkin Registered Professional Engineer, dated May 20, 2016.
 - b. A set of architectural drawings, signed and stamped by Elvin R. Engel, dated April 25, 2016
 - i. Code & Loading Information (1);
 - ii. First Floor Plan (2);
 - iii. Second Floor Plan (3);
 - iv. Section A (4);
 - v. Front Elevation (11);
 - vi. Right Elevation (12);
 - vii. Rear Elevation (13);
 - viii. Left Elevation (14).
2. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. 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.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, the Assessing Department and the Department of Planning and Development.
 - c. 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.
 - d. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.
 - e. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.