



Ruthanne Fuller  
Mayor

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

**#283-20**

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

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	July 28, 2020
Land Use Action Date:	October 13, 2020
City Council Action Date:	October 19, 2020
90-Day Expiration Date:	October 26, 2020

DATE: July 24, 2020

TO: City Council

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

SUBJECT: **Petition #283-20** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a detached two-car garage, creating more than one garage, garage space with more than three vehicles and garage space in excess of 700 sq. ft. at **103 Cabot Street**, Ward 2, Newton, on land known as Section 12 Block 09 Lot 01, containing approximately 12,960 sq. ft. in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.2.B.1, 3.4.3.A.4.a, 3.4.3.A.4.b, 3.4.3.A.4.c of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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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.



**103 Cabot Street**

## EXECUTIVE SUMMARY

The subject property at 103 Cabot Street consists of a 12,960 square foot lot in a Single Residence 2 (SR2) zoning district improved with a 2 ½ story, approximately 3,120 square foot single-family residence constructed in 1930 with an approximately 400 square foot basement-level two-car garage. The petitioners are seeking to construct a detached, 676 square foot, two-car garage while maintaining the existing two-car garage.

Per of the Newton Zoning Ordinance (NZO), the proposed detached garage, by creating a second garage (§§ 3.4.2.B.1 and 3.4.3.A.4), adding two parking stalls (thus accommodating parking for four vehicles) (§§ 3.4.2.B.1 and 3.4.3.A.4.b), and resulting in more than 700 square feet of total garage space (§§ 3.4.2.B.1 and 3.4.3.A.4.c), requires a Special Permit per §7.3.3.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Single Residence (SR2) district is an appropriate location for the proposed detached two-car garage that would be the second garage on the property, increase the number of spaces on the property above three, and increase the amount of garage space on the property above 700 square feet (§7.3.3.C.1)
- The proposed detached two-car garage that would be the second garage on the property, increase the number of spaces on the property above three, and increase the amount of garage space on the property above 700 square feet, will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed detached two-car garage as designed 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

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on the north side of Cabot Street between Laudholm Road and Claremont Street. The surrounding neighborhood is predominantly occupied by single-family dwellings as well as the Newton Country Day School of the Sacred Heart which is located directly to the south (**Attachment A**). The site and directly surrounding area are in a Single Residence 2 (SR2) zoning district with Single Residence 3 (SR3) and Multi Residence 1 (MR1) districts located to the west (**Attachment B**).

#### B. Site

The subject property consists of a 12,960 square foot lot improved with a 2 ½ story, approximately 3,120 square foot, single-family residence built in 1930 with a basement-level two-car garage.

The lot, which features lawn area and mature trees and shrubs, slopes upward approximately 10 feet from left to right (west to east) and about six feet front to back (south to north), with the high point being in the right rear of the property.

Vehicular access to the garage is provided by an approximately 10 foot wide driveway and associated curb cut located on the left (west side) of the parcel. The driveway leads to an approximately 1,200 square foot asphalt paved area to the rear of the dwelling which serves the existing basement-level garage which is accessed at the rear of the dwelling.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The principal use of the site will remain a single-family residence, with, if approved, a detached accessory garage in addition to the existing attached basement-level garage.

#### B. Building and Site Design

The petitioners are proposing to construct a detached 26 foot by 26 foot two-car garage to the rear of the existing dwelling. Measuring 676 square feet, the proposed garage would be in addition (but not connected to) the dwelling's basement-level garage.

As designed, the proposed garage would be 'built into' the upward grade of the property's backyard. This would have the effect of considerably reducing the garage's visibility as only the left side-facing west façade (with two garage doors) would be fully at or above grade.

Only about half of the north and south sides would be above grade; the garage would not be visible from its right (east) as that side would be below grade. The roof of the garage would be used as a patio/deck accessed at grade from that side of the property.

The detached garage would be located approximately 14 feet from the rear of the dwelling. At 32.7, 40.0 and 23.1 feet, respectively, its rear (north), left (west) and right (east) setbacks would all be considerably greater than the required five feet.

The property's FAR would increase by 0.05, from 0.24 to 0.29, but remain below the maximum 0.35 allowed by right. Lot coverage would increase from 9.4% to 14.7%, below the maximum 30% allowed; open space would decrease from 73.7% to 67.3% but remain well above the required 50% minimum.

#### C. Parking and Circulation

The proposed 676 square foot detached garage would add two garaged parking spaces to the existing two stalls in the basement garage, thus accommodating enclosed parking for four vehicles.

The driveway and curb cut would remain unchanged. As indicated by the submitted site plans, the paved area to the rear of the dwelling would be extended slightly to reach the entrance to the proposed garage. The Planning Department notes that, as designed, this entire area (i.e., the currently asphalt paved area and the small extension area) would be paved with pervious pavers.

D. Landscape, Lighting and Signage

A landscape plan was not submitted with this petition. The Planning Department does not believe additional screening is necessary given the proposed design's use of the site's grade and the proposed garage's distance from abutting properties and public ways.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

➤ Special Permit per §7.3.3 to:

- allow more than one garage (§3.4.2.B.1 §3.4.3.A.4.a)
- allow a garage providing parking for more than three vehicles (§3.4.2.B.1, §3.4.3.A.4.b)
- allow for garage space exceeding 700 square feet (§3.4.2.B.1 §3.4.3.A.4.c)

B. Engineering Review

At the time of the drafting of this memorandum the Engineering Division was reviewing this proposal. The Planning Department will be able to discuss any information it subsequently receives regarding this review at the 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 Order

# ATTACHMENT A





## Land Use

103 Cabot St.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Private Educational
-  Tax Exempt

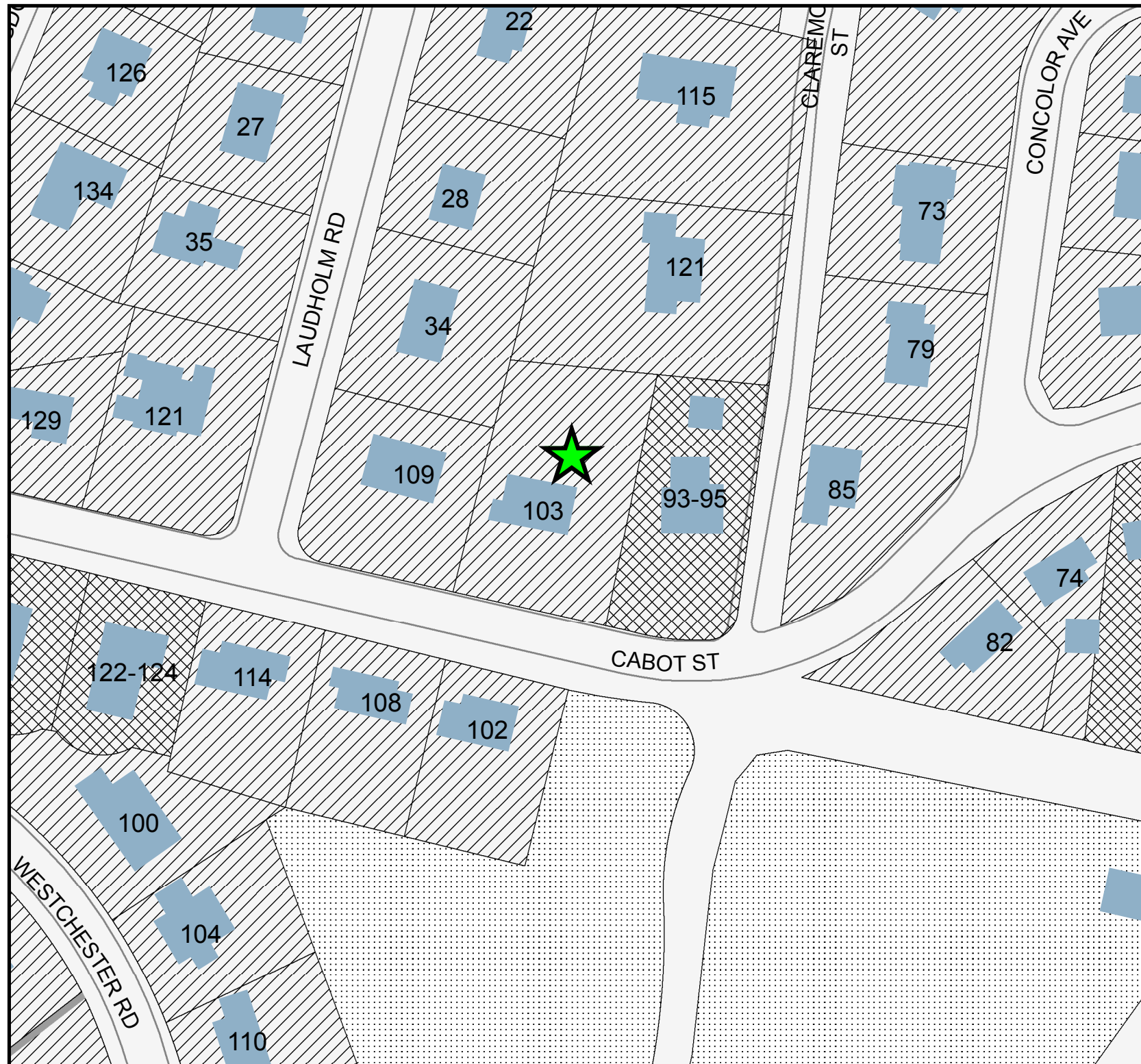


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 Feet

Map Date: July 22, 2020








# ATTACHMENT B

## Zoning

103 Cabot St.

*City of Newton,  
Massachusetts*

## Legend

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1

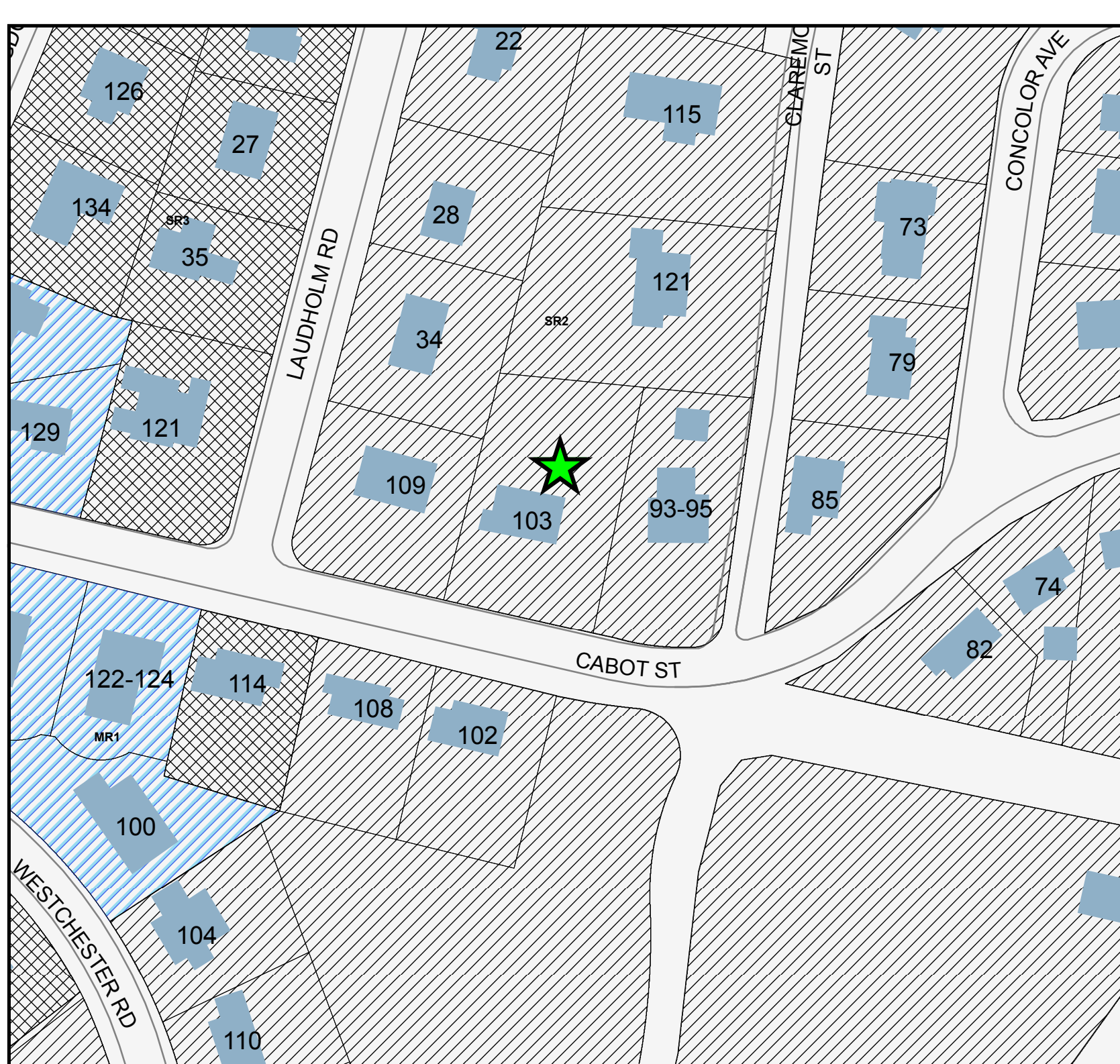


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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0 12.5 25 50 75 100 Feet

Map Date: July 22, 2020





Ruthanne Fuller  
Mayor

## ATTACHMENT C

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TDD/TTY  
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www.newtonma.gov

Barney S. Heath  
Director

### ZONING REVIEW MEMORANDUM

Date: June 9, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Amy Kloempken and Matthew Mugherini, Applicants  
Stacey Oliva, Building Designer  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to allow more than one garage and a garage space in excess of 700 square feet

Applicant: Amy Kloempken and Matthew Mugherini	
Site: 103 Cabot Street	SBL: 13009 0001
Zoning: SR2	Lot Area: 12,960 square feet
Current use: Single-family dwelling	Proposed use: No change

#### BACKGROUND:

The property at 103 Cabot Street consists of a 12,960 square foot lot improved with a single-family residence constructed in 1930 with a two-car garage in the basement. The petitioners seek to construct a detached two-car garage while maintaining the existing two-car garage.

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

- Zoning Review Application, prepared Stacey Oliva, Building Designer, submitted 4/8/2020
- FAR Worksheet, submitted 4/8/2020, updated 6/9/2020
- Topographic Plan, prepared by Framingham Survey Consultants, surveyors, dated 6/18/2019
- Proposed Partial Site Lay-Out, prepared by SO Design Collective, dated 4/6/2020

## ADMINISTRATIVE DETERMINATIONS:

1. Sections 3.4.2.B.1 and 3.4.3.A.4.a require that there be no more than one garage per single-family dwelling or dwelling unit. The petitioners have an existing two-car garage in the basement of the dwelling and propose to construct a detached two-car garage, while still maintaining the existing garage. To have more than one garage requires a special permit.
2. The proposed detached garage adds two parking stalls to the existing two stalls in the basement garage, accommodating parking for four vehicles. Per sections 3.4.2.B.1 and 3.4.3.A.4.b, a special permit is required for a garage accommodating more than three vehicles.
3. The proposed detached garage is 676 square feet. When added to the existing basement garage which is approximately 400 square feet, the total garage space on the lot is 1,076 square feet. Per sections 3.4.2.B.1 and 3.4.3.A.4.c, a private garage may not exceed 700 square feet of ground floor area.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,960 square feet	No change
Frontage	80 feet	103 feet	No change
Setbacks - Principal <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 7.5 feet 15 feet	40.2 feet 20.1 feet 71 feet	No change No change No change
Setbacks –Accessory <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 5 feet 5 feet	NA NA NA	>100 feet 23.1 feet 32.7 feet
Max Number of Stories (Accessory)	1.5	NA	1
Max Height Accessory (Accessory)	22 feet	NA	12.75 feet
FAR	.35	.24	.29
Max Lot Coverage	30%	9.4%	14.7%
Min. Open Space	50%	73.7%	67.3%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.2.B.1 §3.4.3.A.4.a	Request to allow more than one garage	S.P. per §7.3.3
§3.4.2.B.1 §3.4.3.A.4.b	Request to allow a garage providing parking for more than three vehicles	S.P. per §7.3.3
§3.4.2.B.1 §3.4.3.A.4.c	Request to allow for garage space exceeding 700 square feet	S.P. per §7.3.3



### **Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

### **The following must be included when filing a Special Permit Application:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Building design 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

# ATTACHMENT D

DRAFT- #283-20  
108 Cabot Street

## 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 to construct a detached two-car garage that would result in the property having more than one garage, garage space for more than three vehicles and garage space in excess of 700 sq. ft. as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The site in a Single Residence (SR2) district is an appropriate location for the proposed detached two-car garage as designed as the site's sloping grade will minimize the garage's visual impact on neighboring properties and public ways by allowing it to be constructed partially below grade (§7.3.3.C.1)
- 2) The proposed detached two-car garage as designed, will not adversely affect the neighborhood as it will have limited visual impact on neighboring properties and public ways as the structure will be constructed partially below grade and set back from abutting properties considerably more than the minimum five feet required for accessory structures (§7.3.3.C.2)
- 3) The proposed detached two-car garage as designed will create a nuisance or 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

PETITION NUMBER: #263-20

PETITIONERS: Amy and Matthew Mugherini

ADDRESS OF PETITIONERS: 103 Cabot Street  
Newton, MA 01569

LOCATION: 103 Cabot Street, on land known as Section 13, Block 9, Lot 1, containing approximately 12,960 square feet of land

OWNERS: Amy and Matthew Mugherini

ADDRESS OF OWNERS: 103 Cabot Street  
Newton, MA 01569

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: Special permits per §7.3.3:

- allow more than one garage (§3.4.2.B.1 §3.4.3.A.4.a)
- allow a garage providing parking for more than three vehicles (§3.4.2.B.1, §3.4.3.A.4.b)
- allow for garage space exceeding 700 square feet (§3.4.2.B.1 §3.4.3.A.4.c)

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 "Proposed Site Plan, 103 Cabot Street, Newton, Massachusetts, prepared in association with Framingham Survey Consultants Inc.," dated June 18, 2019
  - b. A site plan entitled "Topographic Plan, 103 Cabot Street, Newton, Massachusetts," prepared by Framingham Survey Consultants Inc., dated June 18, 2019, signed and stamped by Stephen P. DesRoche, Professional Land Surveyor on June 18, 2019
  - c. A set of architectural plans entitled "Mugherini-Kloempken Residence, 103 Cabot Street, Newton, MA 02458," prepared by Design Collective, signed and stamped by Jason D. Kurtz, Architect, dated June 9, 2020, consisting of the following sheets:
    - i. South Elevation and East Elevation (Sheet 1)
    - ii. North Elevation (Sheet 2)
    - iii. Driveway Level Floor Plan (Sheet 3)
    - iv. Roof Deck Plan (Sheet 4)
    - v. Exterior Views (2) (Sheet 5)

- c. A document entitled "Floor Area Ratio Worksheet, 103 Cabot Street, Newton, MA 02458," signed and stamped by Jason D. Kurtz, Registered Architect, indicating a resulting total gross floor area of 3,795 square feet and floor area ratio (FAR) of 0.29.
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. Submitted a Final Site Plan for review and approval by the Engineering Division.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection/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