



#282-20

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## City of Newton, Massachusetts

### Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller  
Mayor

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 S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Katie Whewell, Senior Planner

SUBJECT: **Petition #282-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend the nonconforming residential use by constructing additions to the existing detached garage at **17 Shamrock Street**, Ward 1, Newton, on land known as Section 14 Block 20 Lot 01, containing approximately 7,972 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**17 Shamrock Street**

### **EXECUTIVE SUMMARY**

The subject property consists of a 7,972 square foot lot improved with a two-family dwelling and detached garage. The two-family dwelling was constructed in 1881 and is a nonconforming use due to its location in the Business 1 (BU-1) zone. The petitioner is seeking to construct additions to the existing detached garage that would increase the height and footprint. The modifications to the garage require a special permit to extend the nonconforming residential use.

The Planning Department is unconcerned with the proposed alterations to the detached garage that extend the nonconforming residential use in a BU-1 zoning district. The proposed changes improve an existing nonconforming rear setback that encroaches upon an abutting property to 2.4 feet.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

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

- The proposed additions to the garage that extend the nonconforming residential use are not substantially more detrimental than the existing nonconforming residential use. (§4.4.1, §7.8.C.2.C.2)

#### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

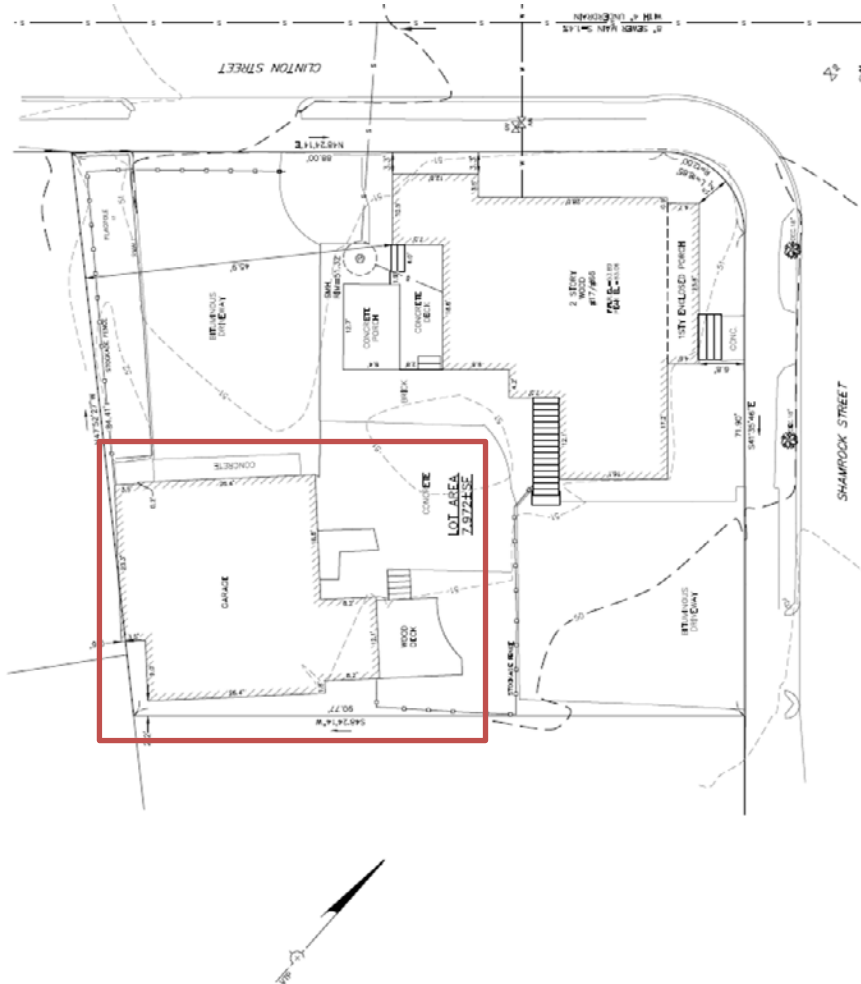
##### **A. Neighborhood and Zoning**

The subject property is a corner lot with frontages on Shamrock Street and Clinton Street in the BU-1 zone in Nonantum. There are several zoning districts in the surrounding area, including Multi Residence 2 zones to the north, east, and west, and a Manufacturing zone to the south (**Attachment A**). There is a Business 2 zone to the southeast on Crafts Street, which runs parallel to Shamrock Street. The surrounding area also has a variety of uses including multifamily and single family residential in the immediate vicinity, and commercial nearby on Crafts Street (**Attachment B**).

##### **B. Site**

The site consists of 7,972 square feet of land and it is improved with a two-family residence and detached garage. The garage encroaches into the adjacent property at 76 Clinton Street by .6 feet along the western boundary. The garage has a nonconforming side setback of 2.2 feet along the southern boundary. The site is accessed by two driveways: one from Clinton Street leading to the detached garage; and the other driveway off Shamrock Street. The site is relatively flat and hardscaped.

### Existing Conditions



### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

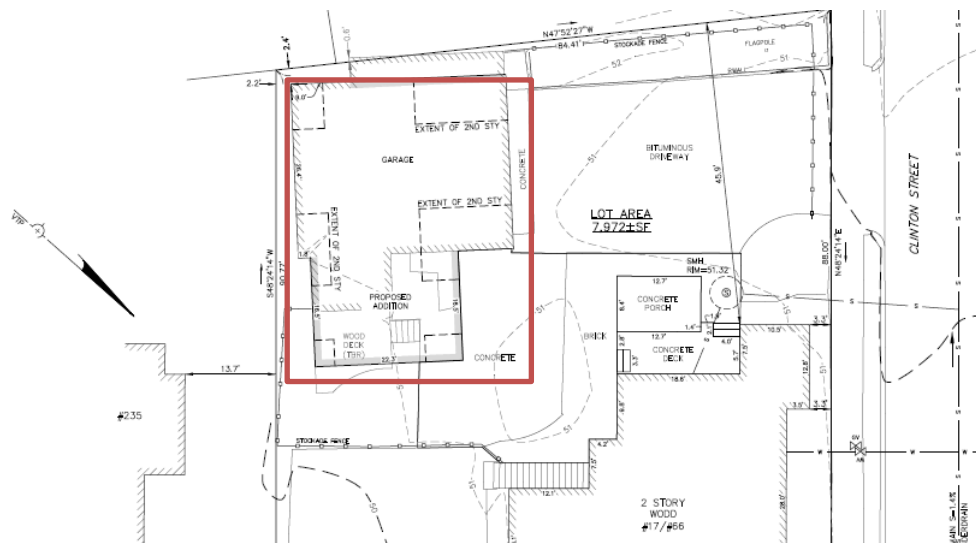
The principal use of the site is a two-family residence. If approved, the use will remain the same.

#### B. Building and Site Design

The petitioner is proposing to expand the footprint of the existing garage with an addition to the west elevation as well as construct a half story on top of the existing garage. The petitioner is razing the portion of the garage that encroaches on the

abutter's property, improving the existing encroachment to a setback of 2.4 feet from the eastern property line. The side addition to the first story consists of 369 square feet, resulting in a footprint of 1,251 square feet. The petitioner is proposing to increase the height of the garage by constructing a half story above, resulting in an additional 696 square feet of floor area. The additions to the garage result in an additional 1,065 square feet. The half story will feature two dormers on both the front elevation and rear elevation of the garage.

### Proposed Site Plan



For structures in Business zones, height and FAR is tied to the number of stories. The maximum FAR for a two-story structure is 1.00 and the maximum height is 24 feet. The proposed changes to the garage result in a structure that is 21.75 feet tall. The Floor Area Ratio, ("FAR") is increasing from .31 to .52, where 1.00 is the maximum allowed by right. The lot coverage is increasing from 31.4% to 33.8%. The Business 1 zone does not provide dimensional requirements for lot coverage and beneficial open space and therefore can go over the 30% commonly applied in residential districts.

### Proposed Garage Elevations



*Front Elevation from Clinton Street*



*Rear Elevation*

The Planning Department is unconcerned with the proposed alterations that extend the nonconforming residential use. The proposed modifications to the garage that include demolition of an encroachment will improve a nonconforming rear setback from -0.6 feet to 2.4 feet. Although the property is in the Business 1 zoning district, there are residential land uses in the surrounding area on Lincoln Road, Shamrock and Clinton Streets that also have detached garages.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §4.4.1 and §7.8.2.C.2 of Section 30, Request to further extend a nonconforming residential use in a Business 1 zoning district.

B. Engineering Review

Engineering Review is not required at this time.

C. Newton Historical Commission Review

The garage was found to be historically significant on June 16, 2020. The Chief Preservation Planner will review the building permit plans for consistency with the NHC’s approval.

V. 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



## Map Date: July 16, 2020





# ATTACHMENT B







## Land Use

### 17 Shamrock Street

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

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

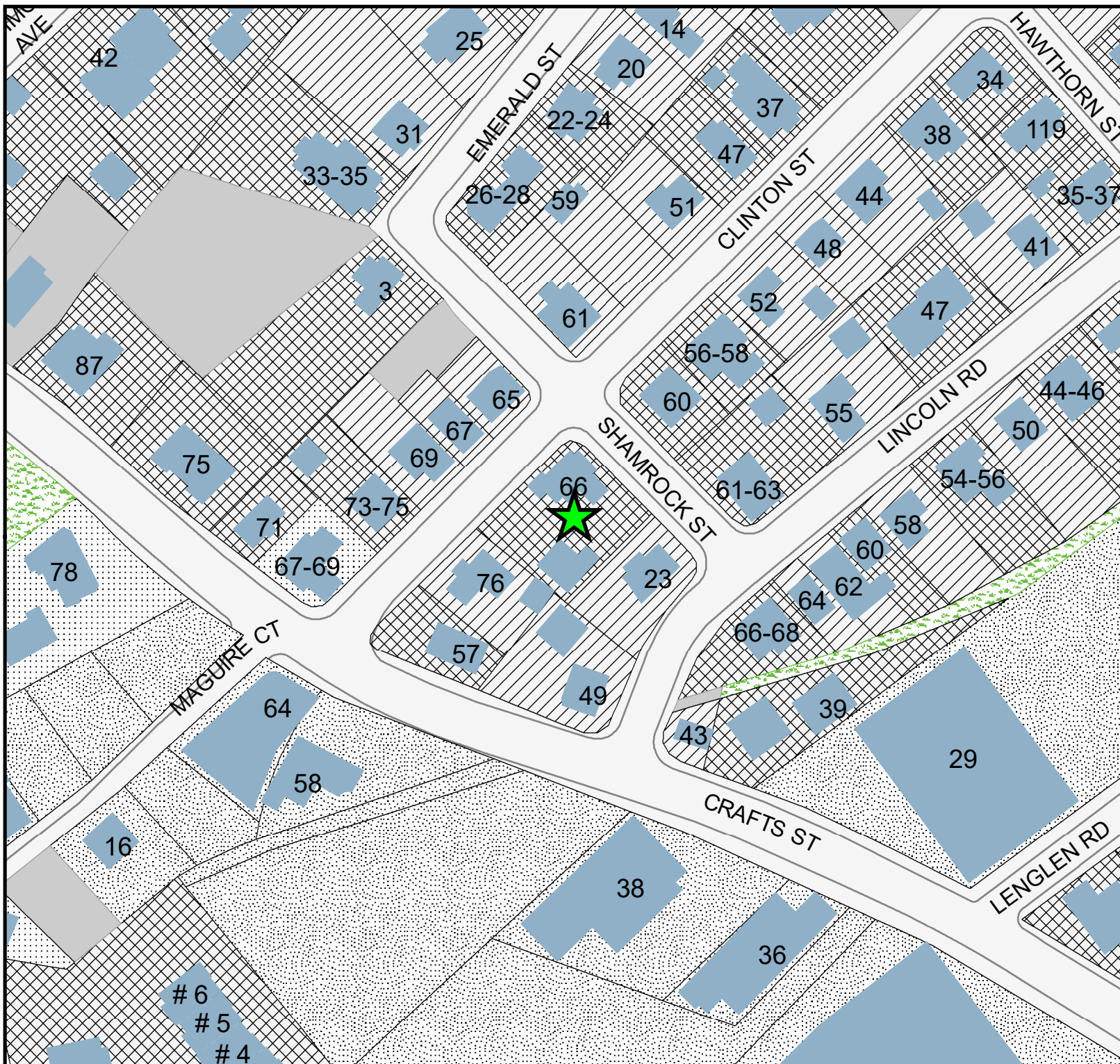


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve 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: July 16, 2020







Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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ATTACHMENT C

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: June 15, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Cliff Jewett, Applicant  
Terrence P. Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to extend a nonconforming residential use

Applicant: Cliff Jewett	
Site: 17 Shamrock Street	SBL: 14020 0001
Zoning: BU1	Lot Area: 7,972 square feet
Current use: Two-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 17 Shamrock Street consists of a 7,972 square foot lot improved with a two-family dwelling built in 1881 and a detached one-story garage in the Business 1 zoning district. The petitioner proposes to construct additions to the garage increasing both the height and footprint, extending the nonconforming residential use.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 4/8/2020
- Topographic Site Plan- Existing Conditions, prepared by VTP Associates, surveyor, dated 3/6/2019
- Topographic Site Plan- Proposed Conditions, prepared by VTP Associates, surveyor, dated 5/22/2020
- Architectural plans, signed and stamped by Ron Jarek, architect, dated 8/15/2019, revised 6/2/2020

**ADMINISTRATIVE DETERMINATIONS:**

1. The existing two-family dwelling was constructed in 1881 in what is now the Business 1 zoning district. Per section 4.4.1, the dwelling is a nonconforming use, as two-family dwellings are not allowed in the Business 1 district. The petitioner proposes to construct additions to the existing detached garage, adding a one-story 369 square foot addition on the west side, and adding a 705 square foot half story atop the the remainder of the garage, further expanding the residential use. A special permit per sections 4.4.1 and 7.8.2.C.2 is required.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	<b>7,972 square feet</b>	<b>No change</b>
Setbacks- Principal <ul style="list-style-type: none"> <li>• Front (Shamrock St)</li> <li>• Front (Clinton St)</li> <li>• Side</li> <li>• Rear</li> </ul> Setbacks – Accessory <ul style="list-style-type: none"> <li>• Front (Shamrock St)</li> <li>• Front (Clinton St)</li> <li>• Side</li> <li>• Rear</li> </ul>	10 feet 10 feet 16.1 feet (½ building height) 0 feet  10 feet 10 feet 10.9 feet (½ building height) 0 feet	<b>6.8 feet</b> <b>3.3 feet</b> >16.1 feet 45.9 feet  >10 feet >10 feet 2.2 feet <b>-0.75 feet</b>	<b>No change</b> <b>No change</b> No change No change  >10 feet >10 feet No change 2.2 feet
Building Height <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	36 feet	32.11 feet 10 feet	No change 21.75 feet
Max Number of Stories	2	<b>2.5</b>	<b>No change</b>
Lot Area Per Unit	1,200 square feet	3,986 square feet	No change
FAR	1.00	.31	.52

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<b>Ordinance</b>		<b>Action Required</b>
§4.4.1 §7.8.2.C.2	Request to further extend a nonconforming residential use in a Business 1 zoning district	S.P. per §7.3.3

CITY OF NEWTON  
IN CITY COUNCIL

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 extend a nonconforming residential use, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed additions to the garage that extend the nonconforming residential use is not substantially more detrimental than the existing nonconforming residential use as the alterations to the garage improve an existing nonconforming setback from -.6 feet to 2.4 feet.

PETITION NUMBER: #282-20

PETITIONER: Cliff Jewett

LOCATION: 17 Shamrock Street, on land known as Section 14, Block 20,  
Lot 1, containing approximately 7,972 square feet of land

OWNER: Cliff Jewett

ADDRESS OF OWNER: 17 Shamrock Street  
Newton, MA 02458

TO BE USED FOR: Detached Garage

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §4.4.1 and §7.8.2.C.2 to extend a nonconforming residential use by constructing additions to a detached garage

ZONING: Business 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. Topographic Site Plans showing proposed conditions at 351 17 Shamrock St, signed and stamped by Joseph Porter, Professional Land Surveyor, dated May 22, 2020, revised July 22, 2020.
  - b. Architectural Plans, prepared by Ronald F. Jarek, signed and stamped by Ron Jarek, Registered Architect, dated August 15, 2019, revised June 6, 2020 consisting of seven (7) sheets:
    - i. Zoning and Code Summary, A0.01
    - ii. Existing Conditions, A0.02
    - iii. First Floor and Site Plan, A1.01
    - iv. Second Floor and Roof Plans, A1.02
    - v. Elevations, A2.01
    - vi. Sections and Construction Details, A2.02
    - vii. 3D Views, A4.01
2. Prior to the issuance of any building permit, the petitioner 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.
3. 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 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. No Final Inspection/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 an architect or land surveyor 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 professional land surveyor.