



## Zoning & Planning Committee Agenda

### City of Newton In City Council

Thursday, October 1, 2020

7:00 PM

The Zoning and Planning Committee will hold this meeting as a virtual meeting on Thursday, October 1, 2020 at 7:00 PM. To view this meeting using Zoom use this link: <https://us02web.zoom.us/j/82130108102> or call 1-646-558-8656 and use the following Meeting ID: 821 3010 8102.

#### Items Scheduled for Discussion:

##### *Public Hearing*

- #30-20(2) Amendment to Zoning Ordinance 3.4.4 Garages**  
COUNCILOR ALBRIGHT requesting amendment to Chapter 30 of Newton's Zoning Ordinance, section 3.4.4 on garages (delayed implementation until July 1). This ordinance has been delayed five times.
- #88-20 Discussion and review relative to the draft Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.  
Zoning & Planning Held 8-0 on 09/14/2020

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

**Chair's Note:** *Item #148-20 will only be discussed within the context of zoning redesign specifically as it relates to Article 3 Residential Districts.*

**#148-20**

**Request to amend Chapter 30 to eliminate parking minimums**

COUNCILORS ALBRIGHT, AUCHINCLOSS, BOWMAN, CROSSLEY, DANBERG, DOWNS, GENTILE, GREENBERG, KALIS, KELLEY, LIPOF, MARKIEWICZ, NOEL, KRINTZMAN, AND RYAN

seeking amendments to Chapter of the Revised City of Newton Ordinances to eliminate mandated parking minimums to improve vitality of local businesses, reduce the cost of housing, and support the climate action goals.

**Zoning & Planning Held 8-0 on 06/15/2020**

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**

**CITY OF NEWTON  
LAW DEPARTMENT  
MEMORANDUM**

**TO:** Deborah J. Crossley, Chair of the Zoning and Planning Committee  
Zoning and Planning Committee

**FROM:** Andrew S. Lee, Assistant City Solicitor

**SUBJECT:** Dkt. No. 30-20(2) – Delayed Implementation of Amendment to Chapter 30 of  
Newton’s Zoning Ordinance, Section 3.4.4 Garage

**CC:** Barney Heath, Director of Planning and Development

The law department has been asked to review the necessary procedural requirements to defer the effective date of the amendment to Section 3.4.4 of Chapter 30 of Newton’s Zoning Ordinance (the “Garage Ordinance”). The City Council amended the Garage Ordinance by Order dated June 20, 2016, Dkt. No. 22-13(2). Pursuant to M.G.L. c. 40A, §5, and Newton City Charter Sec. 2-9(a), the effective date of the amendment to the Garage Ordinance was twenty (20) days after the date of adoption (July 10, 2016). The City Council has voted to defer the implementation of the amendment to the Garage Ordinance several times.<sup>1</sup> The most recent City Council Order deferring implementation is dated June 22, 2020, Dkt. No. 30-20, and set the effective date of the amendment to the Garage Ordinance as January 31, 2022.

Under M.G.L. c. 40A, any change to the zoning ordinance requires a public hearing and a two-thirds (2/3) vote of the full City Council. The deferrals of the implementation of the amendment to the Garage Ordinance did not meet these procedural requirements. Notwithstanding the foregoing, the amendment to the Garage Ordinance has not been enforced or treated as effective in any manner. The City Council must hold a public hearing as set forth under Chapter 40A and vote by two-thirds (2/3) to defer the implementation of the amendment of the Garage Ordinance to a future date. Such actions will cure prior procedural deficiencies.

RECEIVED

2020 SEP 25 PM 3:00

CITY CLERK  
NEWTON, MA, 02459

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<sup>1</sup> See City Council Orders Dkt. Nos.: 222-13(4); 222-13(6); 222-13(8); 143-18; 572-18; 327-19; and 30-20.

RECEIVED

#30-20(2)

2020 SEP 25 PM 2: 58

CITY CLERK  
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO. B-60

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 30 ZONING as most recently amended by Ordinance B-18** as follows:

1. The effective date of Ordinance A-78 shall be \_\_\_\_\_.
2. Ordinance A-78 shall apply to any building or special permit issued after such effective date.

Approved as to legal form and character:

Alissa O. Giuliani  
City Solicitor

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON

City Clerk

(SGD) RUTHANNE FULLER

Mayor

Date: \_\_\_\_\_



Ruthanne Fuller  
Mayor

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

**#30-20(2)**

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

**DATE:** November 22, 2019

**TO:** Councilor Susan Albright, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director of Planning  
Zachery LeMel, Chief of Long Range Planning  
Gabriel Holbrow, Community Planner – Engagement Specialist

**RE:** **#327-19 Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages**  
COUNCILOR ALBRIGHT requesting that Chapter 30 of Newton’s Zoning ordinance be amended to repeal section 3.4.4 Garages (effective December 31, 2019 after three postponements). Garages will be discussed during Zoning Redesign next term.

**MEETING:** November 25, 2019

**CC:** Planning Board

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The Council adopted amendments to the zoning ordinance in June 2016 (Ordinance A-78) that regulated the placement and scale of garages in residential districts with the intention of limiting their impact on the streetscape and neighborhood character. After adoption, many residents and professionals in the design community raised concerns that the content of the garage ordinance went too far, causing unnecessary challenges for some properties as well as encouraging design modifications on other properties that could further harm the character of the streetscape and neighborhood.

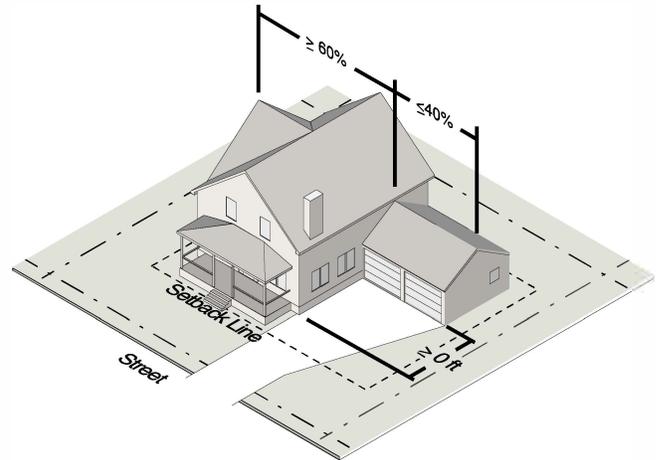
In October 2016, the Council voted to defer implementation of the garage ordinance until the end of that year. The Council passed further deferrals in December 2016, March 2017, March 2018, and December 2018. Currently, implementation is deferred until December 31, 2019, after which the ordinance will go into effect, unless the Council takes other action before then.

In the intervening years, the intent of the original garage ordinance has been incorporated into the goals of the citywide Zoning Redesign project. At this time, the Planning Department recommends

completely repealing the current (deferred) ordinance, and addressing changes to the regulation of garages in residential districts through Zoning Redesign.

**Attachments**

- Attachment A – Deferred Garage Ordinance: Chapter 30 Zoning Ordinance sec. 3.4.4 Garages, recommended for repeal
- Attachment B – Garage regulation in effect during deferral and after repeal: Chapter 30 Zoning Ordinance sec. 3.4.2.B.1 and sec. 3.4.3.A.4, highlighted.



*The requirements of Section 3.4.4 Garages do not become effective until December 31, 2019.*

### 3.4.4. Garages

#### A. Defined.

1. An attached or detached structure intended primarily for the storage or parking of one or more automobiles. A detached garage is an accessory building.
2. A garage wall is any wall enclosing a garage including that wall containing the garage entrance.

**B. For each dwelling unit there shall be no more than 1 garage and a garage shall provide for no more than 3 automobiles, except by special permit.**

**C. Where more than one garage is provided as part of a building and they are placed side-by-side, there shall be living area connected by a shared wall above both garages.**

**D. Garage setback.** A garage wall may be no closer to the front lot line than the longest street-facing wall of the dwelling unit measured at ground level.

#### E. Garage Dimensions.

1. The length of a garage wall facing a street may be up to 40 percent of the total length of the building parallel to the street, inclusive of the garage wall, or 12 feet, whichever is greater. This requirement does not apply to detached garages.

2. On corner lots, only one street-facing garage wall must meet the standard above.
3. The ground floor area of an accessory building containing a garage or an attached garage shall not exceed 700 square feet, except by special permit.

#### F. Exemptions

1. The Commissioner of ISD, in consultation with the Director of Planning and Development and/or the Urban Design Commission, may grant an exemption, subject to such conditions as he may require, to the garage setback (section 3.4.4.D) and garage wall length facing the street (section 3.4.4.E.1) requirements, where, based on one or more of the following factors, strict adherence to these requirements would be impossible:
  - i. Irregular lot shape;
  - ii. Topography of the lot;
  - iii. Configuration of existing structures on the lot;
  - iv. Protection of the historic integrity of a building; and
  - v. Preservation of mature trees or similar natural features.
2. Any exemption request shall be reviewed relative to the intent of minimizing the amount of building frontage devoted to garage walls and ensuring a clear connection between the front

entrance and living space of a dwelling and the street, meeting the requirements of this section to the greatest extent possible. All exemption requests shall present design features including, but not limited to windows, architectural details, screening, and landscaping and these shall be generally consistent with the remainder of the house.

3. A request for exemption shall be on such form and shall provide such information as the Commissioner of ISD may require.
4. The applicant shall provide written notice of an exemption request and shall provide a copy of the request application to neighboring properties within 300 feet fronting on the same street.
5. Where the house is more than 70 feet from the street, the garage setback (section 3.4.4.D) and garage wall length facing the street (section 3.4.4.E.1) requirements shall not apply.

(Ord. No. A-78, 06/20/16; Ord. No. A-84, 06/20/16; Ord. No. A-95, 12/05/16; Ord. No. A-105, 03/06/17; Ord. No. B-6, 03-19-18)

### 3.4.2. Accessory Uses Allowed

- A. By Right in All Residence Districts.** Such accessory purposes as are proper and usual with detached single-family dwellings or detached two-family dwellings, including but not limited to:
1. Housing of resident domestic employees;
  2. Renting of rooms for not more than 3 lodgers;
  3. Parking or storage of recreational trailers or vehicles, provided that if not parked or stored within a garage or other enclosed structure, such trailer or vehicle shall not be parked or stored within the area between any front line of the principal building and the street line, or stored within the side or rear setback, and further provided that such trailer or vehicle may be parked in the side or rear setback for a period not to exceed 7 days;
  4. Parking or storing of not more than 1 commercial vehicle per lot, subject to Sec. 6.7.3;
  5. Home businesses subject to Sec. 6.7.3; and
  6. Accessory apartments, subject to Sec. 6.7.1.

**B. By Special Permit in All Residence Districts.**

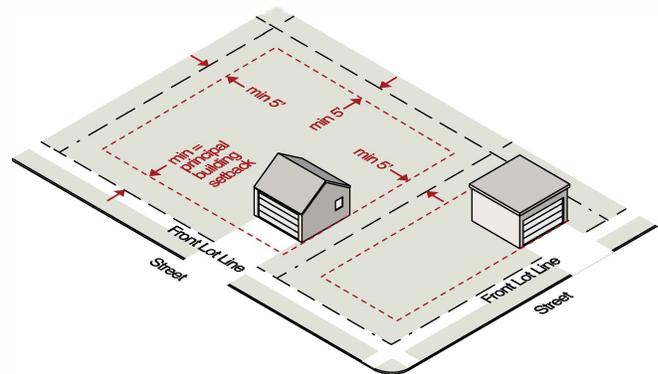
*The text of section 3.4.2.B.1 is in effect until December 31, 2019. After that date refer to section 3.4.4.*

1. A private garage with provision for more than 3 automobiles, or a private garage of more than 700 square feet in area, or more than 1 private garage per single-family dwelling;
2. Internal and detached accessory apartments subject to provisions of Sec. 6.7.1;
3. Home businesses subject to the provisions of Sec. 6.7.3; and
4. Accessory purposes as are proper and usual with the preceding special permit uses and are not injurious to a neighborhood as a place for single-family residences.

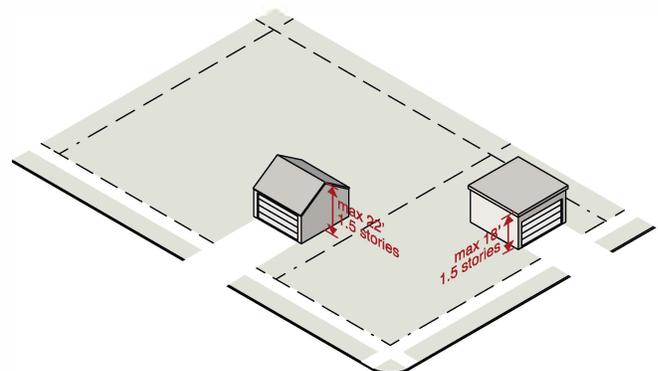
(Ord. No. S-260, 08/03/87; Ord.No. S-322, 07/11/88; Ord. No. T-114, 11/19/90; Ord. No. V-274, 12/06/99; Ord. No. A-78, 06/20/16; Ord. No. A-95, 12/05/16; Ord. No. A-99, 01/17/17; Ord. Nol. A-105, 03/06/17)

### 3.4.3. Accessory Buildings

- A.** Except as provided in Sec. 6.9, accessory buildings shall conform to the following requirements:
1. An accessory building shall be no nearer to any side or rear lot line than 5 feet, and no nearer to any front lot line than the distance prescribed for the principal building.



2. An accessory building with a sloping roof shall have a maximum height of 22 feet. An accessory building with a flat roof shall have a maximum height of 18 feet. An accessory building shall have no more than 1½ stories.



3. The ground floor area of an accessory building shall not exceed 700 square feet.

*The text of section 3.4.3.A.4 is in effect until December 31, 2019. After that date refer to section 3.4.4.*

4. If the accessory building is a garage, unless a special permit is granted, for each dwelling unit there shall be:
  - a. No more than 1 garage, wheter or not it is located in an accessory building;

- b. A garage shall provide for not more than 3 automobiles; and
- c. The ground floor area of a garage shall not exceed 700 square feet.

B. Accessory structures other than accessory buildings referenced above must conform to the applicable setback requirements for the principal building.

(Ord. No. V-273, 12/06/99; Ord. No. Z-91, 06/06/11; Ord. No. A-78, 06-20-16; Ord. No. A-84, 10-17-16; Ord. No. A-105, 03/06/17; Ord. No. B-18, 12-17-18)





Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** September 25, 2020

**TO:** Councilor Deborah Crossley, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director, Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
Cat Kemmett, Planning Associate

**RE:** **#88-20 Discussion and review relative to the draft Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.  
**Other docket items to be taken up within the context of Zoning Redesign include #30-20, #38-20, and #148-20**

**MEETING:** October 1, 2020

**CC:** City Council  
Planning Board  
John Lojek, Commissioner of Inspectional Services  
Neill Cronin, Chief of Current Planning  
Alissa O. Giuliani, City Solicitor  
Jonathan Yeo, Chief Operating Officer

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### Recap of Previous ZAP Meeting

At the September 14, 2020 ZAP meeting, the Planning Department presented on three specific elements in Article 3: District dimensional standards (Sec. 3.1), Building Type dimensional Standards (Sec. 3.2), and Building Component allowable increases (Sec. 3.3.). The meeting intent was to reiterate the rationale for these recommended proposals and present on the potential impacts and outcomes of these standards in order to determine if there was consensus on the Committee that these standards align with their goals and objectives. Committee members discussed the merits and areas of concern of these standards.

While some Committee members, other City Councilors, and members of the Planning Board expressed sentiment that the proposals were moving in the right direction, other participants noted the need for additional information in order to reach consensus. Where possible, staff has responded to questions and comments from this meeting and others received by written submission in this memo (Attachment A). Other items require more analysis, which will be presented in Committee at a later date.

### **Introduction to Upcoming ZAP Meeting**

Per the calendar shared in the Planning Department memo, dated September 9, 2020, and discussed at the previous ZAP meeting, the upcoming ZAP meeting will be focusing on the following mechanisms and standards within the revised draft of Article 3 – Residence Districts:

- Garage Design Standards (Sec. 3.4)
- Driveway Access (Sec. 3.7.1.E)
- Parking Requirements (Sec. 3.7)

This memo will go into these three elements by stating the areas of consensus achieved in previous ZAP meetings, highlight key changes in the latest draft (if any), outline possible alternatives (if applicable), and lay out specific questions the Planning Department needs feedback from the Committee on to move forward. In addition, staff have provided answers to Councilor questions and comments previously received relevant to the above items (Attachment B).

### **Garage Design Standards (Sec. 3.4)**

The Committee discussed the Garage Design Standards at two ZAP meetings earlier this year (April 27 and May 19) and came to consensus on the goals and outcomes to be achieved by them. These are generally:

- To limit the visual impact and dominance of garages within Newton’s neighborhoods
- Promote walkability and enhance public safety by ensuring the location and amount of living areas are more prominent than areas for motor vehicle

At the May 19 meeting, staff presented revised zoning language that we believe achieves these goals within a controlled manner, while also providing significant flexibility to accommodate the variety of lot and building configurations found throughout Newton. Since releasing this draft, staff have introduced minor changes to better clarify the zoning and better achieve the Committee intent of the proposed zoning (Attachment C). These include:

- Limiting a Front Facing Garage on a home with a porch to align up to the front elevation (Sec. 3.4.1.D.1.a). The previous version allowed a Front Facing Garage to align with the porch (Attachment D).
- Allowing Front Facing Garages with two parking stalls to have individual doors up to a maximum of 9 ft. Previous versions set the maximum individual door width at 8 ft. (Sec. 3.4.1.D.2)
- Simplifying the standards regulating garages facing the Primary Front Lot Line in relation to the overall Front Elevation of the building to be no more than 50% of that Front Elevation. This standard applies to all buildings, regardless of # of units (Sec. 3.4.1.D.4). Previous versions were overly complicated and differentiated between one- and two- or more-unit buildings.

To help facilitate a productive discussion in Committee and build consensus around the proposed draft, staff are providing the following questions:

- Does the proposed ordinance offer enough controlled flexibility to allow for a variety of garage configurations to be utilized on the variety of lots in Newton (Front Facing, Side Facing, Attached, Detached, etc.)?
- Do you agree with the ways the code limits the visual impact of garages?
  - Front Facing Garages required to be set back
  - Separate doors for two-car Front Facing Garages
  - Side Facing Garages have design requirements
  - No attached Front Facing Garages along Front Elevation less than 22 ft
- Should garages in R1 setback more than 70 ft from the Front Lot Line be exempt from Garage Design Standards?

**Driveway Access (Sec. 3.7.1.E)**

Similar to garages, driveways can greatly impact the look and feel of a property as it relates to the neighborhood because it provides access into the property where that property meets the public realm. The revised zoning language, originally presented at the 5/19 ZAP meeting, is meant to align with the goals and objectives laid out within the Garage Design Standards and further advance many of Newton’s sustainability goals outlined in the adopted Climate Action Plan. Since releasing this draft, staff have introduced minor changes to better clarify the zoning and better achieve the Committee intent of the proposed zoning (Attachment B). These include:

- A driveway must maintain a maximum width, depending on the # of units, measured from the lot line where the driveway accesses the lot (Attachment D). The revised recommendation links this distance to the specific zoning district, instead of a single number (Sec. 3.7.1.E.5).

| District  | Minimum Distance Measured from the Lot Line |
|-----------|---|
| R1, R2    | 10 ft                                       |
| R3, R4, N | 5 ft  |

To help facilitate a productive discussion in Committee and build consensus around the proposed draft, staff are providing the following questions:

- Should driveways be allowed within the side setback so long as a minimum of 3 ft is maintained from the property line? (note: the current ordinance only regulates parking in the side setback, the proposal goes further to provide an opportunity for a landscaped buffer)
- Should a second curb cut always require a Special Permit? (note: the proposal does not allow a second curb cut for single-family properties and only allows a second curb cut for two-units or more if certain design requirements are met)
- Do you agree that limiting the width of a curb cut and driveway (at the lot line) reduces its visual impact and increases safety by limiting the area where vehicles and pedestrians may come into conflict?

- Should the maximum driveway width be maintained for a minimum depth into the property as shown above? Should this depth be reduced? Increased?

### **Parking Requirements (Sec. 3.7)**

At the ZAP discussion on June 15, the Committee discussed Parking Requirements. There was a consensus among many members that on-street parking should only count for non-residential uses and that any parking provided above the maximum allowance by Special Permit should be designed using pervious materials to mitigate environmental impacts. These recommendations have since been incorporated into the updated draft.

The proposed ordinance formats Parking Requirements somewhat differently than the current ordinance. Instead of a standalone section on parking, the proposed ordinance contains parking requirements within each of the relevant articles, specific to that article. Article 8 – Development Standards contains additional parking standards.

Under the current zoning code, single-family, two-family, or multi-family dwellings require two parking stalls for each unit. In the proposed draft, minimum parking requirements are reduced, and maximum parking requirements are introduced. For one- and two-family homes, accessory uses, and ground story non-residential uses less than 5,000 square feet, parking minimums are proposed to no longer apply (Sec.3.7.1.A). A maximum cap for residential parking has also been set, limiting the number of parking stalls to 2 per dwelling unit for Residential uses (Sec. 3.7.3), again the current ordinance minimum.

Though mandatory parking minimums no longer apply for one- and two-family homes, this does not mean that creating new parking is prohibited. For small-scale developments, these looser parking restrictions can provide more options to developers and property owners. If parking is not a requirement, builders have more creative flexibility on the lot- rather than needing to build two they could provide only what the homeowner needs. By being able to unbundle the cost of a parking spot from the housing cost, tenants or owners are given the opportunity to save money and space by creating only as much parking as they need. The proposed draft also requires bicycle parking for multi-family dwellings to further encourage alternative modes of transportation within Newton (Sec. 3.7.3).

Reducing parking minimums is consistent with the city's environmental goals outlined in the Climate Action Plan. Minimum parking requirements often have the effect of facilitating a built environment that favors automobile use over any other mode of transportation, and often require parking at levels higher than the market demands, resulting in an excess of parking stalls and impervious surface and increased development costs. As Newton moves towards a future that better acknowledges the role that safe and accessible public transit, biking, and pedestrian infrastructure can play in how we move around the city, this plan anticipates a time when parking needs will be reduced through modest, incremental change.

Because the proposed ordinance contains parking requirements within each of the relevant articles, it is likely that the Committee will want to evaluate parking requirements more holistically at a later date. Planning staff expect that the impact of reducing or eliminating parking minimums will be most impactful in village centers and change to be more modest in Residence districts.

Several Councilors and ZAP members have voiced concern for the possible unintended consequences of eliminating parking requirements for one- and two-family homes. A possible alternative for this draft would be a reduction in parking minimum requirements from two parking stalls per dwelling unit to just one parking stall for these uses, rather than no minimum at all. Another possibility would be to take into

consideration the important role that proximity to village centers and public transit plays when it comes to parking needs and eliminate parking minimums only in areas within a walking distance of these nodes.

To help facilitate a productive discussion in Committee and build consensus around the role that Parking Requirements play in the proposed draft, staff are providing the following questions:

- Do you agree with the limited instances where the proposed code eliminates parking requirements? If not, would you support the elimination of parking requirements based on proximity to public transit and village centers?
- Do you agree with the reduction in parking minimums and the proposal to impose parking maximums?

### **Looking Ahead**

At the following ZAP meeting, scheduled for October 15, staff hope to facilitate a discussion on the proposed regulations and standards of Multi-Unit Conversion (Sec. 3.5.3) and other Alternative Lot/Building Configurations (Sec. 3.5).

### **Attachments**

Attachment A Responses to Councilor questions and comments from the 9/14 meeting

Attachment B Responses to Councilor questions and comments for the 10/1 meeting

Attachment C Draft zoning for Garage Design Standards, Driveway Access, and Parking Requirements

Attachment D Draft zoning diagrams and tables

**Attachment A**

**Staff Responses to Questions from 9/14 ZAP Meeting**

**Q:** What is the year used as the baseline for the data in the tables?

**A:** The data used for the tables shared as part of the 9/14 ZAP meeting memo was collected as part of the Pattern Book and goes through the year 2016.

**Q:** In this draft, House B can be over 3800 square feet if you add the maximum of square footage through components, which puts it at risk of a teardown. Why would we allow this if we want less teardowns?

**A:** New construction of a House B, with Building Components, can be built over 3,800 square feet so long as the lot can accommodate it, which not all lots can. The total allowable square footage is one factor used to determine tear down vulnerability, while another factor is the regulatory and permitting process. Under the current code, minor modifications, like those of Building Components, often equal to that of entirely new construction. Through Building Components, the proposed draft lays out a simplified process for existing homes to renovate, by-right, in a controlled, yet flexible, manner. Staff believe this simplified process will make it easier for existing homeowners, and potential developers, to renovate and rehab existing structures. An option that has been raised previously is limiting by-right side wing and rear additions to existing buildings. Planning staff will need to further analyze this with Law and Inspectional Services.

**Q:** Will there be max front setbacks or not? They were removed from the August draft, but put back into the most recent version.

**A:** Maximum front setbacks were not removed from the August draft. They can be found within the Dimensional Standards Tables within each Residence District (Sec. 3.1). A note, R1 never had a maximum front setback, only a minimum. The other districts are set at:

| District | Min. Front Setback | Max. Front Setback |
|----------|--------------------|--------------------|
| R1       | 25                 | --                 |
| R2       | 20                 | 40                 |
| R3       | 10                 | 35                 |
| R4       | 5                  | 35                 |
| N        | 0                  | 25                 |

**Attachment A**

**Q:** Is conformity not a driving force behind these standards? Can we get a better sense for the analytical decision-making process here?

**A:** Zoning standards and regulations should facilitate the types of development Newton wants. The mechanisms and standards should reflect the values of the community. Where a standard achieves this, and increases conformity, then conformity can be used as a decision driving metric. As the current zoning standards often do not relate to the actual built environment in Newton, adjusting zoning standards to better relate to the existing scale and proportion of buildings will reduce nonconformities in many cases. In the remaining cases, the non-conformity represents a direct contrast to the City’s desired outcomes. Trying to set a given standard, side setbacks for example, just to eliminate non-conformity would be a violation of what the Council and staff have heard throughout this process (i.e. new development is overly imposing on its neighbors by often building up to the minimum side setbacks).

**Q:** How many unbuildable lots do we have in the city now that could be built on if we got rid of minimums? One estimate put the number at 500 lots but is that right?

**A:** This analysis was performed as part of the February 2019 Build Out Analysis. Though the standards have changed with the latest draft, the ones that would most determine the buildability of a lot have not significantly changed (lot frontage/coverage, side/rear setbacks, etc.).

|                       | Current Ordinance | Feb. 2019 Proposal |
|-----------------------|-------------------|--------------------|
| # of Unbuildable Lots | 868               | 547                |

**Q:** Is going to the median for setbacks a mistake? If you allow more things in setbacks, you increase tensions between property owners that could be alleviated by larger setbacks.

**A:** The tables provided within the ZAP memo for the 9/14 meeting highlight the existing conditions for setbacks throughout Newton’s residential neighborhoods. Staff recommend setting the specific setbacks, as well as all standards, to align with goals and objectives laid out by the Committee/City Council.

**Q:** If someone buys a small house with the intention of building a large house on the lot later, is it fair to change the rules on them? People buy into a neighborhood expecting to build what is allowed now and might be mad if it changes.

**A:** It is possible that under this new plan, homeowners will not be able to build as largely as they would under current zoning rules. However, dimensional standards for home buildouts and components are set in such a way that a homeowner will have flexibility and options to alter their home or expand it, even if zoning changes mean that their structure is legally nonconforming.

**Attachment A**

**Q:** If people have a big lot in R2 or R3, why wouldn't we let them build as big as a house in R1?

**A:** The standards that shape Building Types and Residence Districts were set to facilitate development patterns that both fit with the City Council's goals and objectives and relate to the scale and proportion of the features that characterize the built environment that exists in Newton today. Building Types, unlike FAR, recognize that scale and proportion are not only tied to lot size, but also the adjacent buildings along the street or within the larger neighborhood. Under the current ordinance, this determination happens on a case-by-case basis through the Special Permit Process when a homeowner seeks relief. The proposed draft uses a data driven approach to embed these determinations directly into the zoning code to preserve the existing building pattern.

**Q:** Why is the side setback so strict in the R2 district? Many houses that fall under R2 have much smaller setbacks now.

**A:** This setback was increased in part because staff has received a significant amount of feedback from members of the public that new construction or renovations are increasingly being built uncomfortably close to abutting structures. Setting the side setback at 12.5 feet ensures adequate space between buildings will be maintained moving forward, while State Law would protect existing structures that have smaller setbacks as legally non-conforming.

**Q:** Do the architects agree with the side setbacks in this draft? How can we comment on these standards without more information from architects who report that this plan is not workable?

**A:** Staff has consulted with several different local architects and builders in establishing the setbacks and dimensional standards proposed, and will continue to work closely with architects and builders to ensure a final product that responds to their needs and provides a workable framework for future development. Though there is not a universal consensus, a number of these experts have expressed concern that some proposed setbacks, particularly those proposed for the R2 district, could be restrictive and serve as a barrier for some development. If the sentiment of the Committee is that this setback is too restrictive, that number can be amended.

**Q:** Do we have an economic study to back up this proposal? Without one, how can we know the fiscal impacts these changes might have?

**A:** The standards and methods proposed here are based in best planning practices and customized to address Newton's unique needs and characteristics. A build out analysis was presented in early 2019 based upon the draft at that time. The build out analysis showed that while more units could be produced under the proposed zoning, as compared to the existing zoning, the overall square footage of what could be built was reduced. This build out analysis has not been updated at this time as important conversations regarding the ability to locate two units in all house types and the number of units permitted through multi-unit conversion still need to be had by the City Council. It is important to

**Attachment A**

remember that any changes will be incremental and gradual and larger projects will still require a Special Permit. The current zoning has been in effect for decades and the city is still far from built out per zoning.

**Q:** Why are we getting rid of the concept of FAR?

**A:** FAR is a formula that is useful in creating a relationship between lot size and building size designed to produce housing units within subdivisions. It works well when it comes to streamlining a process for development yield in an undeveloped area that can be uniformly distributed, but this is not the case in Newton. Where a neighborhood is defined by lots with similar sizes and shapes, FAR will result in predictable and consistent building sizes. The city is built up, with a long history of different housing types and lots of varying sizes and shapes. FAR also inherently leads to unintended consequences when properties try to maximize what does not count as floor area for the purposes of FAR. FAR is a blunt instrument that cannot capture the richness of forms that exist today in Newton. In moving towards Building Types and away from FAR, we are affirming that what matters most is how new buildings relate to existing ones and the public realm, rather than how it relates to the lot itself. Since Building Types are derived from the built environment we already have, we can better ensure that future development will be appropriate in terms of physical form and character.

**Q:** Some of the changes in the draft will allow for more dense development, and therefore less green space on some lots. How can this plan help us address our sustainability goals if this is true? We need to keep bigger frontages and prevent subdivision to keep the open space that suburban development provides.

**A:** The frontage and setback standards put forth in this proposal are based on the built fabric that exists today in the city. Though this plan would allow for a greater diversity of building types and in some instances, for greater density, this does not always correspond to less open space. By allowing for more compact building design, the footprint for some new construction could be smaller, which could allow for more green space. By allowing the creation of smaller units, particularly in areas proximate to public transit, this plan also encourages walkability and the use of alternatives to cars, which helps achieve goals established in the Climate Action Plan.

**Q:** On page 11 in the memo from September 14, multiplex is not defined. Is this a new term?

**A:** No, it refers to a small apartment building. Staff is exploring ways to simplify terms, including Building Types, to make the zoning ordinance as user friendly as possible.

## Attachment A

**Q:** The zoning diagrams in the memo show a minimum front length for buildings. What is the point in having these in R2-N?

**A:** This refers to Frontage Buildout. It ensures that appropriate portions of the building are oriented to the street.

**Q:** Why was 28 feet set as the length for townhouses? Version 2 had a different number for the townhouses in the definition as well- why the change?

**A:** Staff worked with architects to set the width. We changed the minimum number of townhouses because the duplex definition also changed. This better differentiates between the two building types.

**Q:** What about wraparound porches? They are not discussed in the draft, are they allowed?

**A:** We have updated the draft to remove references to “front” in the porch regulations. A porch would be allowed to wrap around, however it could only encroach up to 6 feet into the front setback and would be required to meet side and rear setbacks. Staff is working to clarify this within the text.

**Q:** People like to see smaller homes. Why aren't ranches allowed in more places in the city?

**A:** The allowed number of stories shown in the diagrams is a maximum- that doesn't preclude smaller homes from being built. However, the Planning Department will work with ISD and Law to confirm if additional language is needed to clarify.

**Q:** The old definition of Lot Coverage was more permissive. How do we understand the Table 2 comparison in the latest memo since the measurement method has changed so much?

**A:** Table 2 shows data collected looking at all impervious surfaces on a lot. It shows the inverse of usable open space as defined in the Current Ordinance, which is more in relation to all impervious surfaces. Overall, staff is continuing to work on the proposed definition of lot coverage.

**Q:** When we allow additions by right, do you still need to comply with setbacks and height restrictions?

**A:** All additions need to comply with setback and height restrictions. In some cases, specific building components are allowed within the front setback. These rules are outlined in the draft.

## Attachment A

**Q:** Has ISD commented on this draft?

**A:** They have the full draft, but we have not gotten full comments back yet. Editing and review will be ongoing with ISD.

**Q:** Some councilors have provided feedback. Have any others responded in writing that hasn't been included in the packet?

**A:** Councilors Kalis and Downs have sent in comments that were not included in the packet. Staff can ask them if they want their comments/questions put into the packet.

**Q:** What is housing opportunity?

**A:** It refers to diversity of housing options- different forms, sizes, etc to accommodate different needs and desires within the community.

**Q:** Could you build a 10,000 square foot house under this plan under any circumstances?

**A:** In this plan within the Residence Districts, the biggest single-family house you could build would be in R1, where you could build up to 7,500 square feet by right so long as you can adhere to all dimensional standard requirements.

**Q:** Can you seek a variance if a lot is nonconforming?

**A:** If zoning rules change in such a way that your house is no longer conforming, it will become legally nonconforming. A variance is not necessary if a building or lot is nonconforming. An owner retains the right to maintain that nonconformity and any extension of the nonconformity would require a Section 6 finding. Currently these findings are done by the City Council as Special Permits.

**Q:** Can we get the raw numbers for the tables rather than the deciles? How many lots actually fall under each district designation?

**A:** These are the raw numbers used to create the tables in the memo:

R1: 3683 lots ; R2: 12456 lots ; R3: 5463 lots ; R4: 815 lots ; N: 483 lots

## Attachment B

### Staff Responses to Past Questions from Councilors Regarding Garage Ordinance, Driveways, and Parking Requirements

**Q:** What is the definition of “permeable” areas discussed in Sec. 3.7.E.1? What are grass pavers, pervious concrete and porous asphalt?

**A:** These definitions and standards will need to be worked out with ISD and Engineering. However, working definitions for these specific permeable options are:

- Grass pavers: A type of open-cell paving stone filled with soil and planted with turf grass
- Pervious Concrete: Concrete made from cement and large aggregates that leave open voids allowing for water to pass through the pavement
- Porous asphalt: Concrete made from bitumen and large aggregates that leave open voids allowing for water to pass through the pavement

**Q:** My understanding is that you are recommending that the entrance to a driveway be no greater than 10 feet at the entrance and that this 10 foot width be extended 10 feet into the property from the edge of the sidewalk nearest the property line. Is that correct?

**A:** The latest draft recommends that one-way driveways be restricted to a maximum of 10 feet at the property line and for 10 feet beyond the property line into the site for properties in the R1 and R2 districts. Because of the smaller front setback requirements in R3, R4, and N the proposed distance is reduced to 5 feet beyond the property line. The property line does always correspond to the edge of the sidewalk. The curb cut is restricted to a maximum of 12 feet for one way-driveways.

**Q:** Have you measured the width of the average snowplow that is used to clear driveways when making this calculation?

**A:** The vast majority of commercially available snowplow blades are less than 10 feet wide with standards for attachments to jeeps and trucks ranging between 6 ½ feet and 8 feet. Most standard pickup trucks are best suited to 6½- and 7½-foot plows, half-ton trucks use 7 or 7½-foot blades and ¾- and 1-ton trucks typically use 7½-foot and 8-foot blades. Staff is also reaching out to local snow removal companies for further guidance.

**Q:** You recommend pervious surfaces for driveways. What is the relative cost of installing and maintaining them versus a fully paved driveway?

**A:** Permeable paving costs do tend to be higher than conventional asphalt or cement paving. However, construction costs are variable. Common estimates place maintenance fees for permeable paving at around 1-2% of the cost of construction annually. Though construction costs can skew higher for

## Attachment B

permeable paving, it has the benefit of reducing the need for stormwater conveyances and treatment structures, which can recoup some of the higher cost.

**Q:** Do ribbon driveways work in New England? How can they be plowed in the winter and made safe?

**A:** Ribbon driveways typically consist of two parallel strips of paving rather than a fully paved driveway. These can be constructed by laying a sturdy plastic base in a honeycomb pattern under the grass, which serves to reinforce the structure and can be shoveled or plowed over.

**Q:** Not every lot has room for a garage, and it feels like this proposed zoning is forcing it. Many lots in Newton don't have garages.

**A:** Our intent is not to force properties to have a garage, but to regulate the placement of the garage when provided. The current draft maintains the same allowances for limiting parking within the side setback but restricts parking between the building Front Elevation and the front property line. The Council should consider whether it would be appropriate to allow parking in front of garages and side wings, as long as it is not within the front setback.

**Q:** In Sec. 3.4.2.G, it says in R1 districts where the house is more than 70 feet from the Primary Front Lot Line, they are exempt from the standards of that section. Why?

**A:** The garage design standards are meant to limit the impact of garages on the public realm. Garages set back more than 70 feet will be minimally visible. This language has been updated to state "garage" instead of "house".

**Q:** Sec. 3.7.1.E.1 says, "Driveways may be located within the required side setback area provided the driveways are located at least 3 feet from the side lot line." Why was 3' used? Is this the standard or used now?

**A:** The current ordinance does not include any setbacks for driveways. The 3-foot setback was added to provide a small buffer between driveways and adjacent lots which could be used for landscaping.

**Q:** Can someone park on their lawn? It doesn't seem to prohibit it in Sec. 3.7.1.E.4

**A:** The current draft does not restrict parking on a lawn as long as the vehicle is not parking within the front setback and between the Front Elevation and the property line

**Attachment B**

**Q:** Can you clarify whether commercial vehicle parking is permitted without limitation in all zones? If so, will there be size limits for those vehicles?

**A:** In the proposed plan, commercial vehicle parking is allowed as an accessory use in all residential districts. A maximum size for commercial vehicles has not yet been determined but could be a topic of discussion for the Committee.

**Q:** Why only side facing garages on narrow lots? And what constitutes a “narrow lot”?

**A:** Side Facing garages are allowed on all lots. There is no definition for a “narrow lot” within the proposed ordinance.

**Q:** Why rear garages on narrow lots – shouldn’t all lots be allowed rear garages?

**A:** Rear garages are allowed on all lots.

**Q:** Are the parking stall requirements described in 3.7.1.E.4 just for new builds? Presently many homes would be non-conforming if they apply to existing structures.

**A:** If existing parking is legal, and in existence prior to the adoption of the new Zoning Ordinance, then this parking would be protected under State Law as legally nonconforming.

**Q:** Section 3.7.1.E.7 says that 2 curb cuts have to be 35’ away from each other. Where did the number 35’ come from? Is this a standard?

**A:** Note: In the latest draft this refers to Sec. 3.7.1.E.8. The 35-foot distance between two curb cuts was provided by our consultant and reviewed by ISD and Engineering. 35 feet allows for two standard cars to be parked between the two curb cuts and it provides a sizeable “safe zone” for pedestrians between each curb cut.

**Q:** In Section 3.4.1.D.4 it says, "Where the building Front Elevation is less than 22 feet long, an attached garage is not allowed as part of that elevation." How was 22’ determined? There should be some similar statement for duplex or house with 2 units.

**Attachment B**

**A:** This requirement has been removed and overall simplified within the latest draft. Sec. 3.4.1.D.4 states, "The length of an attached garage facing the Primary Front Lot Line may be up to 50% of the width of the Front Elevation." This is the recommended standards for all buildings, regardless of the # of units.

**Q:** Section 3.7.1.E.8 says. "Curb cuts for residential driveways should be at least 20' from an unsignalized intersection and at least 40' from a signalized intersection" Are these standards – 20' and 40'?

**A:** Note: In the latest draft this refers to Sec. 3.7.1.E.9. These distances were provided by our consultant as best practice and further reviewed by ISD and Engineering for confirmation.

**Q:** Section 3.4.2.D claims that a garage set back 10' from front elevation and may not exceed 50% of the building front. This is good design practice when the front door takes precedence. How was 10' chosen? Is this a standard?

**A:** The latest draft recommends that a Front Facing Garage be set back a minimum of 8 ft from the Front Elevation (Sec. 3.4.2.D.a), which aligns with the standard requirements for the Side Wing Building Component. This is not a standard per se. The requirement to offset the garage from the Front Elevation of the building is to limit the visual impact. This recommendation was reviewed by the local architects and builders group.

DRAFT: Last Edited – 9/24/2020

### 3.4. Design Standards

#### ~~3.4.1. Building Design Standards~~

##### ~~A. Contextual Front Setback~~

~~Notwithstanding the front setbacks identified for each zoning district, new construction must have a contextual front setback as follows:~~

- ~~1. If the subject lot is an interior lot, the minimum and maximum front setbacks are equal to the actual distances that principal structures are set back from the front lot line on the two abutting lots of the same block face. See Figure 3.1 (a).~~
- ~~2. If the subject lot is a corner lot, the minimum front setback is equal to the actual distance that the principal structure is set back from the front lot line on the abutting lot that is oriented toward the same thoroughfare.~~
- ~~3. The contextual front setback provision does not exempt any building from complying with the maximum front setback required for each zoning district.~~

#### 3.4.1. Garage Design Standards

##### A. Purpose.

- 1. To prevent garages from obscuring the main entrance from the street and ensure that there is a physical and visual connection between the living area of residential buildings and the street;
- 2. Ensure that the location and amount of living areas of residential buildings, as seen from the street, are more prominent than structured parking or garages;
- 3. Ensure that the main entrance for pedestrians, rather than motor vehicles, is the prominent entrance;
- 4. Provide for a more pleasant pedestrian environment by preventing garages from dominating the views of the neighborhood from the sidewalk; and
- 5. Enhance public safety by preventing garages from blocking views of the street from inside the residence.

DRAFT: Last Edited – 9/24/2020

B. Applicability.

Garage Design Standards apply in all Residence Districts

C. Garage, defined.

An attached or detached structure designed primarily for the storage or parking of one or more automobiles. A detached garage is an Accessory Building (See Sec. 3.3.5).

1. Front Facing Garage. A garage, where the primary door or doors through which automobiles enter the garage faces the Primary Front Lot Line. On corner lots, a Front Facing Garage faces the Primary Front Lot Line.
2. Side Facing Garage. A garage, where the primary door or doors through which automobiles enter the garage faces the Primary Front Lot Line at an angle between 45 and 90 degrees.
3. Garage Wall. Any wall enclosing a garage including that wall containing the garage entrance.

D. General Standards

1. A Front Facing Garage may be no closer to the Primary Front Lot Line than 8 feet behind the Front Elevation of the building, except as follow:
  - a. A garage may be in alignment with the Front Elevation if there is a Porch at the main entrance, but no closer to the Primary Front Lot Line than the Porch, so long as the Porch meets the following:
    - i. The Porch must be a minimum of 48 square feet in area, with no dimension less than 6 feet;
    - ii. The Porch must have a solid roof; and
    - iii. The roof may be no more than 12 feet above the floor of the Porch.
2. Garage doors on a Front Facing Garage providing spaces for 2 or more motor vehicles must provide individual doors for each space at a maximum width of 9 feet.
3. A Side Facing Garage may be located in front of the building Front Elevation, but not within the front setback, if it meets the following:
  - a. Fenestrations on the Garage Wall elevation facing the Primary Front Lot Line, 20% minimum, 50% maximum; and
  - b. The garage roof type and roof components, if applicable, match or complement the primary building.
4. Where the building Front Elevation is less than 22 feet long, an attached garage is not allowed as part of that elevation.
4. The length of an attached garage facing the Primary Front Lot Line may be up to 50% of the width of the Front Elevation.
  - a. On corner lots, only one street- or right-of-way facing garage wall must meet the standards of this subsection.

E. Additional Standards for one-unit residential Building Types.

1. There may be no more than 700 square feet in total garage space on a lot providing for no more than 3 motor vehicles, between a maximum of one attached garage and one detached garage.
5. The length of an attached garage facing the Primary Front Lot Line may be up to 50% of the width of the Front Elevation or 12 feet, whichever is greater.

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~~a. On corner lots, only one street or right-of-way-facing garage wall must meet the standards of this subsection.~~

F. Additional Standards for residential Building Types with two-units or more.

Parking spaces in garages are counted toward the minimum number of accessory parking spaces required by Sec. 3.7. Garages may be attached or detached.

1. Attached Garages.

~~a. For each residential unit, there shall be no more than one attached garage and an attached garage shall provide for no more than 2 motor vehicles.~~

~~a. The length of an attached garage, or attached garages, facing the Primary Front Lot Line may be up to 50% of the total Front Elevation or 24 feet, whichever is greater.~~

2. Detached Garages. Centralized and underground garages are encouraged.

~~a. The number of detached garages on a property may not exceed one half of the number of units on the property, rounded down.~~

~~b. A detached garage of more than 700 square feet and providing for more than 3 vehicles is allowed by right if it meets the setbacks for a principal building.~~

~~c. By Special Permit, a detached garage of more than 700 square feet may be located within the setback, provided a minimum of 5 feet from the property line is maintained.~~

~~d. Review Criteria. In its discretion to approve or deny a Special Permit authorizing a detached garage in the setback, the Special Permit Granting Authority must find the application meets the following criteria:~~

~~i. The criteria for all Special Permits specified in Sec. 11.4.3.~~

~~ii. Design and siting are compatible with the neighborhood and adjacent residential properties.~~

~~iii. Strategies such as screening, landscaping, and window placement reduce effects on neighboring properties.~~

G. Exemptions.

1. In R1 districts where the garagehouse is more than 70 feet from the Primary Front Lot Line are exempt from the standards of this section.

2. Garages on lots which slope up or down from the Primary Front Lot Line with an average slope of 20% or more are exempt from the standards of this subsection.

DRAFT: Last Edited – 9/24/2020

### 3.7. Parking Requirements in the Residence Districts.

#### 3.7.1. General Standards.

##### A. Required Accessory Parking Spaces.

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Vehicular and bicycle parking must be provided as specified in Sec. 3.7.3, except as follows:

1. 1- and 2-unit residential buildings are exempt from the requirements of Sec. 3.7.3.
2. Ground story non-residential uses with 5,000 square feet or less of gross leasable floor area are exempt from the requirements of Sec. 3.7.3.
3. There are no parking requirements for accessory uses.
4. Parking may be shared between uses on the same lot and buildings within 500 linear feet as measured along the street in accordance with Article 8.
5. One on-street parking space, where permitted, for every 20 feet of lot width may be counted toward any minimum parking requirement for all allowed use categories, except residential use categories.

B. Vehicular Parking Space Types.

Accessory motor vehicle parking spaces may be provided as off-street surface parking spaces, structured parking spaces, and on-street parking spaces.

C. Unbundled Market Rate Parking.

1. Off-street motor vehicle parking spaces must be rented, leased, or sold as a separate option rather than a requirement of the rental, lease, or purchase of a residential unit or non-residential floor space.
2. Bicycle parking must be provided at no cost or fee to customers, visitors, employees, tenants, and residents.

D. Parking Design.

The design of all parking is subject to Article 8 of this Ordinance.

E. Driveway Access.

1. Driveways must be paved with paving stones, grass pavers, pervious concrete, or porous asphalt unless graded to direct runoff onto onsite permeable areas or granted a waiver by the City Engineer to mitigate adverse site conditions.

a. Ribbon driveways are highly encouraged

2. Ribbon Driveways must have paved tracks that are at least 2 feet in width and 5 feet on center with an unpaved area that is at least 3 feet in width.
3. Driveways may provide access from a front, side, or rear lot line and may be located within required front or rear setback areas. Driveways may be located within the required side setback area provided the driveways are located at least 3 feet from the side lot line.
4. No parking stall may be located within any required setback area, with the exception that up to 2 parking stalls may be located in a side setback area. No parking stall may be located between the building Front Elevation and the street.
5. Residential buildings with eight units or less are limited to a one-way driveway.
6. One-way driveways may be no wider than 10 feet at the property line. Two-way driveways may be no wider than 20 feet at the property line. These maximum driveway widths must be maintained for a minimum distance (measured perpendicularly from the property line) based upon the following:

| District  | Distance Measured from the Lot Line |
|-----------|-------------------------------------|
|           | Min                                 |
| R1, R2    | 10 ft                               |
| R3, R4, N | 5 ft                                |

the need to adjust per the district setback requirements to provide the required spacing for a car to maneuver into a garage stall, while still providing a minimum area for a landscaped buffer.

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7. Driveways may provide access in whole or in part on or across an abutting lot(s), provided that an access easement exists among all affected property owners.
8. Only one curb cut is permitted per Lot, except:
  - a. A maximum of two curb cuts are permitted on a Lot with a residential Building Type with two-units or more, when a minimum distance of 35 feet between each curb cut is maintained.
  - b. Corner Lots and Through Lots may have a maximum of one curb cut per Front Lot Line.
9. Curb cuts must be located to minimize conflict with pedestrians, bicyclists, and motor vehicles on the thoroughfare they provide access to and from.
  - a. Curb cuts for residential driveways must be at least 20 feet from an unsignalized intersection and at least 40 feet from a signalized intersection unless otherwise approved by the City Engineer.
10. Curb cuts may be no wider than 12 feet if providing access to a one-way driveway and no wider than 22 feet if providing access to a two-way driveway.
11. The grade, cross slope, and clear width of the walkway of a sidewalk must be maintained between the driveway apron and the abutting driveway. The appearance of the walkway (i.e. scoring pattern or paving material) must indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the sidewalk.

#### F. Off-site Parking on a Contiguous Lot.

Required accessory vehicular parking spaces, excluding required parking for disabled persons, may be provided on a contiguous lot under the same ownership as the lot that the parking will serve with a Special Permit.

1. The following additional standards apply:
  - a. Pedestrian access to off-site vehicular parking must be via a paved sidewalk or walkway.
  - b. A lease, recorded covenant, or other comparable legal instrument guaranteeing long term use of the site must be provided to the Special Permit Granting Authority or Commissioner of Inspectional Services, as appropriate, and executed and filed with the Registry of Deeds.

#### 3.7.2. Parking Relief

- A. Relief from the number of required accessory parking spaces in Sec. 3.7.3. requires a special permit from the determined Special Permit Granting Authority/Planning Board.
- B. **Review Criteria.** In its discretion to approve or deny a special permit authorizing relief from the parking standards of Sec. 3.7.3, the Special Permit Granting Authority must find that the application meets the following criteria:
  1. The supply and demand of on-street parking in the neighborhood is adequate, as determined through a parking study.
  2. Mobility management programs and services have been provided by the applicant to reduce the demand for parking.
  3. There is availability and access to public transportation options.

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- 4. That parking provided in excess of any maximum permitted must be paved with paving stones, grass pavers, pervious concrete, or porous asphalt. does not result in the increase in impervious lot area.

**3.7.3. Required Number of Accessory Parking Spaces.**

The following standards for accessory bicycle and motor vehicle parking spaces are associated with the use categories permitted in the Residence Districts:

| Use Category<br>Specific Use                                 | Bicycle Parking |                | Motor Vehicle  |                |
|--|-----------------|----------------|----------------|----------------|
|  | Short (min)     | Long (min)     | Min            | Max            |
| <b>Residential Use Categories</b>                            |                 |                |                |                |
| Household Living Uses  | -               | 0.5 / DU       | 1.0 / DU       | 2.0 / DU       |
| Group Living Uses  | 0.5 / DU        | 0.1 / DU       | 1.0 / DU       | 2.0 / DU       |
| <b>Arts &amp; Creative Enterprise Use Categories</b>         |                 |                |                |                |
| Artisan Production Uses                                      | -               | 1.0 / 2,500 sf | 1.0 / 1,000 sf | 2.0 / 1,000 sf |
| Arts Exhibition Uses   | 1.0 / 10,000 sf | 1.0 / 3,000 sf | 1.0 / 1,000 sf | 4.0 / 1,000 sf |
| Arts, Sales & Service Uses                                   | 1.0 / 10,000 sf | 1.0 / 3,000 sf | 1.0 / 1,000 sf | 4.0 / 1,000 sf |
| Shared Workspaces & Arts Education Uses                      | 1.0 / 10,000 sf | 1.0 / 3,000 sf | 1.0 / 1,000 sf | 4.0 / 1,000 sf |
| Work/Live Creative Studio Uses                               | 0.5 / DU        | 0.1 / DU       | 1.0 / DU       | 2.0 / DU       |
| <b>Civic &amp; Institutional Use Categories</b>              |                 |                |                |                |
| Community Center Uses  | 1.0 / 5,000 sf  | 1.0 / 2,500 sf | 2.0 / 1,000 sf | 5.0 / 1,000 sf |
| Minor Utility Uses   | n/a             | n/a            | n/a            | n/a            |
| Major Utility Uses   | -               | -              | -              | -              |
| Museum Uses  | 1.0 / 10,000 sf | 1.0 / 3,000 sf | 2.0 / 1,000 sf | 5.0 / 1,000 sf |
| Private, Non-profit Club or Lodge Uses                       | 1.0 / 5,000 sf  | 1.0 / 2,500 sf | 2.0 / 1,000 sf | 4.0 / 1,000 sf |
| Public Service Uses  | -               | -              | -              | -              |
| Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3 | 1.0 / 1,000 sf  | 1.0 / 2,500    | 2.0 / 1,000 sf | 8.0 / 1,000 sf |
| <b>Commercial Services Use Categories</b>                    |                 |                |                |                |
| Animal Services Uses   | 1.0 / 5,000 sf  | 1.0 / 2,500 sf | 2.0 / 1,000 sf | 3.5 / 1,000 sf |
| Banking & Financial Services Uses                            | 1.0 / 5,000 sf  | 1.0 / 2,000 sf | 1.5 / 1,000 sf | 3.5 / 1,000 sf |
| Building & Home Repair Service Uses                          | -               | 1.0 / 2,500 sf | 1.0 / 1,000 sf | 2 / 1,000 sf   |
| Business Support Service Uses                                | 1.0 / 2,000 sf  | 1.0 / 2,500 sf | 1.0 / 1,000 sf | 3.0 / 1,000 sf |
| Day Care Service Uses  | 1.0 / 5,000 sf  | 1.0 / 1,000 sf | 1.5 / 1,000 sf | 3.0 / 1,000 sf |

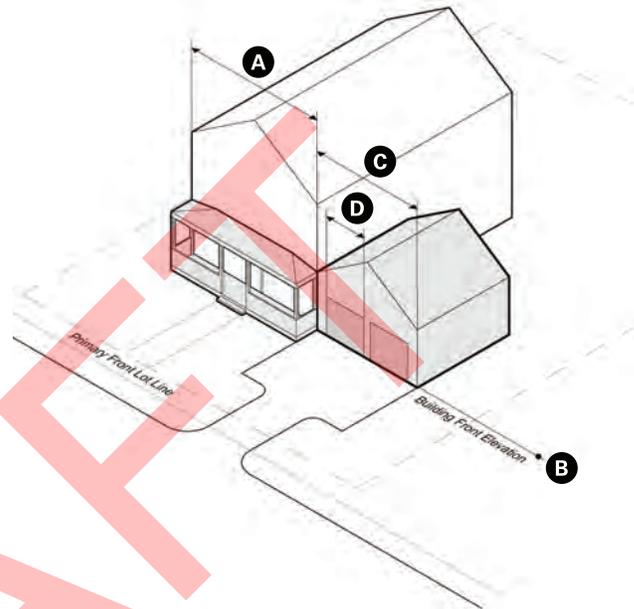
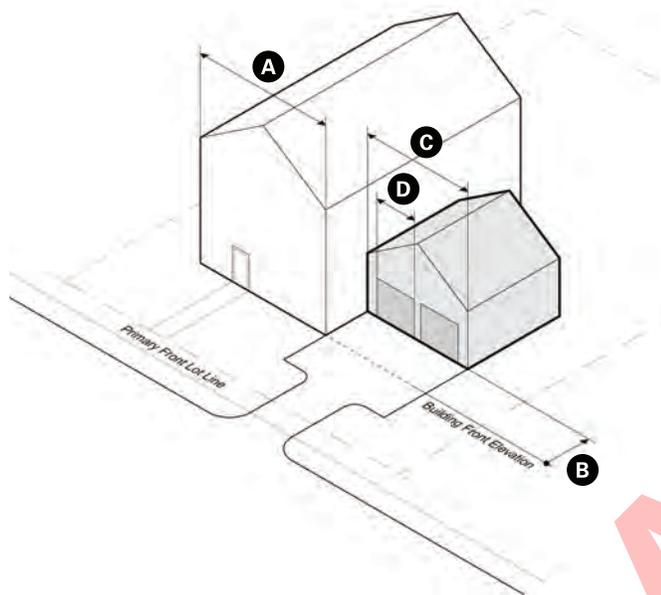
DRAFT: Last Edited – 9/24/2020

|  |                   |                   |                   |                      |
|--|-------------------|-------------------|-------------------|----------------------|
| Educational Institution Uses                   | 1.0 /<br>1,000 sf | 1.0 /<br>2,000 sf | 1.0 /<br>1,000 sf | 4.0 / 1,000 sf       |
| Maintenance & Repair of<br>Consumer Goods Uses | 1.0 /<br>5,000 sf | 1.0 /<br>2,500 sf | 1.0 /<br>1,000 sf | 3.0 / 1,000 sf       |
| Personal Service Uses                          | 1.0 /<br>1,000 sf | 1.0 /<br>2,500 sf | 2.0 /<br>1,000 sf | 4.0 / 1,000 sf       |
| Eating and Drinking Use Categories             |                   |                   |                   |                      |
| Restaurant/Café Uses                           | 1.0 /<br>2,000 sf | 1.0 /<br>2,000 sf | 4.0 /<br>1,000 sf | 8.0 / 1,000 sf       |
| Lodging Use Categories                         |                   |                   |                   |                      |
| Bed & Breakfast Uses                           | -                 | -                 | 1.0 /<br>bedroom  | 3 +<br>1.0 / bedroom |
| Motor Vehicle Oriented Uses                    |                   |                   |                   |                      |
| Motor Vehicle Parking Uses                     | -                 | -                 | -                 | -                    |
| Office Use Categories                          |                   |                   |                   |                      |
| Co-Working Uses                                | 1.0 /<br>5,000 sf | 1.0 /<br>2,000 sf | 1.5 /<br>1,000 sf | 3.5 / 1,000 sf       |
| General Office Uses                            | 1.0 /<br>5,000 sf | 1.0 /<br>2,000 sf | 1.0 /<br>1,000 sf | 2.5 / 1,000 sf       |
| Open Space Use Categories                      |                   |                   |                   |                      |
| Farming Uses                                   | -                 | -                 | -                 | -                    |
| Private Cemetery Uses                          | -                 | -                 | -                 | -                    |
| Resource Extraction Uses                       | -                 | -                 | -                 | -                    |
| Retail Sales Use Categories                    |                   |                   |                   |                      |
| Consumer Goods Uses                            | 1.0 /<br>2,000 sf | 1.0 /<br>2,500 sf | 1.0 /<br>1,000 sf | 3.0 / 1,000 sf       |

Attachment D  
3.4 Garage Design Standards

Attached Garage: Front-Facing

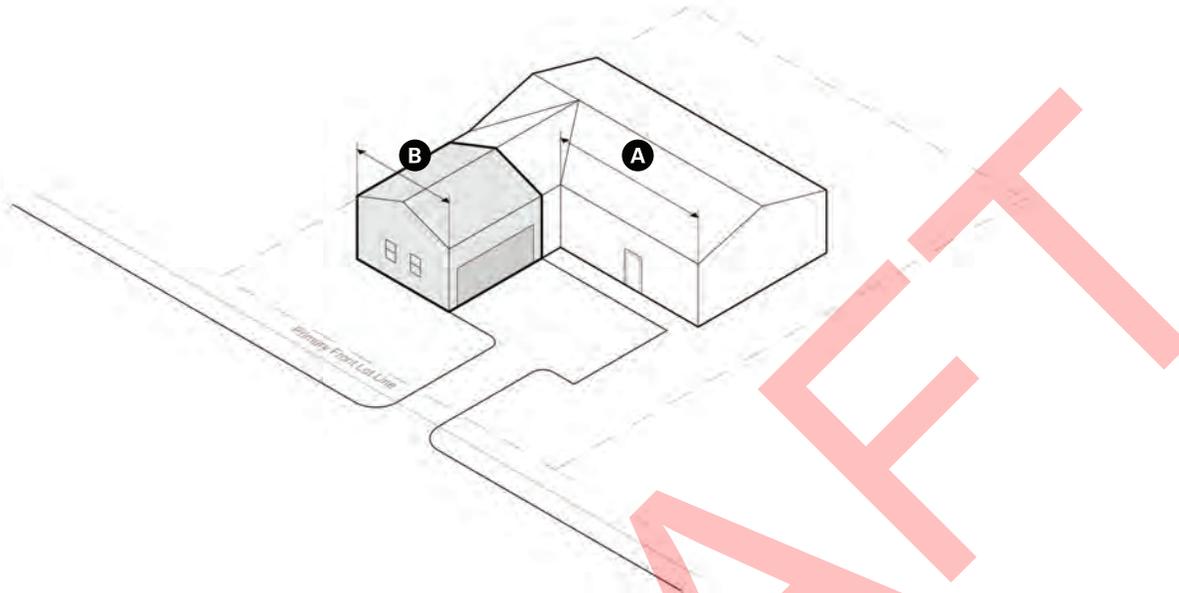
Garage Setback Exception



| Principal Building   | min  | max                          |
|--|------|------------------------------|
| <b>A</b> Front Elevation   | --   | --                           |
| <b>Garage Setbacks</b>   |      |                              |
| <b>B</b> Distance from Building Front Elevation  | 8 ft | --                           |
| Exceptions: A Front Facing Garage may be in alignment with the Building Front Elevation with a Porch meeting the requirements according to Sec. 3.3.2.C. | 0 ft | --                           |
| <b>Garage Dimensions</b>   |      |                              |
| <b>C</b> Garage width  | --   | 50% of total Front Elevation |
| <b>D</b> Width of individual Garage Door   | --   | 9 ft                         |

Attachment D  
3.4 Garage Design Standards

Attached Garage: Side-Facing



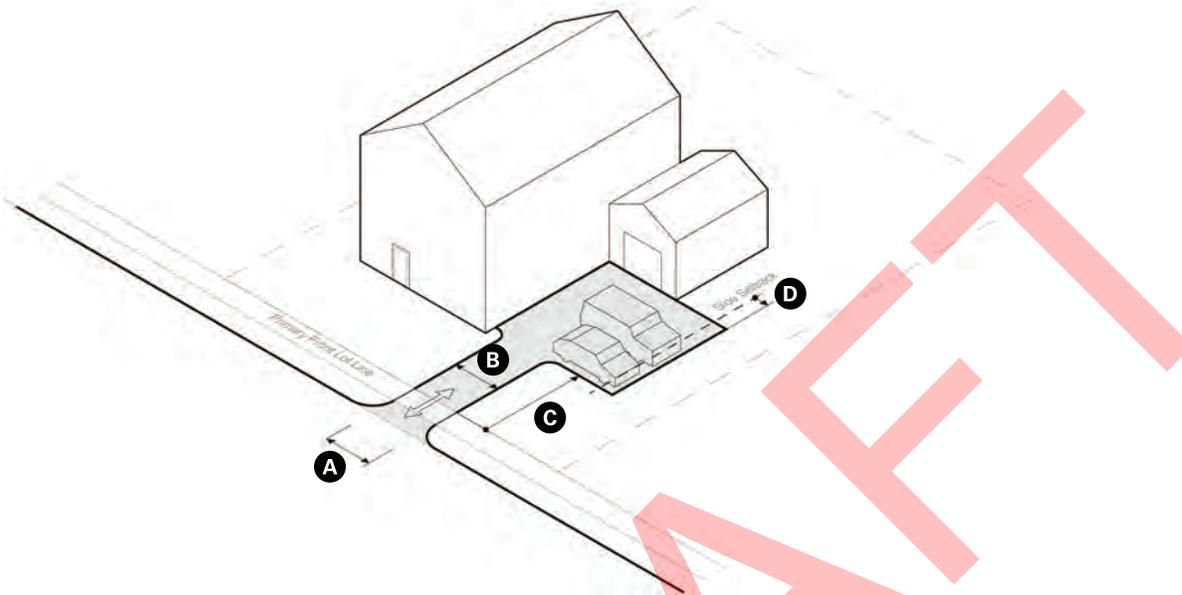
| Principal Building                          | min | max                          |
|---|-----|------------------------------|
| <b>A</b> Front Elevation                    | --  | --                           |
| <b>Garage</b>                               |     |                              |
| <b>B</b> Width of Garage Wall facing street | --  | 50% of total front elevation |
| Fenestration on Garage Wall facing street   | 20% | 50%                          |

Attachment D

3.7 Parking Requirements in the Residence Districts

E. Driveway Access

Lot with eight residential units or less



| Curb Cut Dimensions        | min   | max  |
|----------------------------|-------|--|
| <b>A</b> Width             | --    | 12 ft  |
| Number of Curb Cuts        | --    | two curb cuts are permitted on a lot with a residential Building Type with two-units or more |
| Distance between Curb Cuts | 35 ft | --   |

| Driveway Dimensions   | min   | max   |
|---|-------|-------|
| <b>B</b> Width  | --    | 10 ft |
| <b>C</b> Distance that the driveway must conform to width limits, measured from the lot line where the driveway is accessed |       |       |
| R1 and R2   | 10 ft | --    |
| R3, R4, and N   | 5 ft  | --    |
| <b>D</b> Side Setback Encroachment  | --    | 3 ft  |

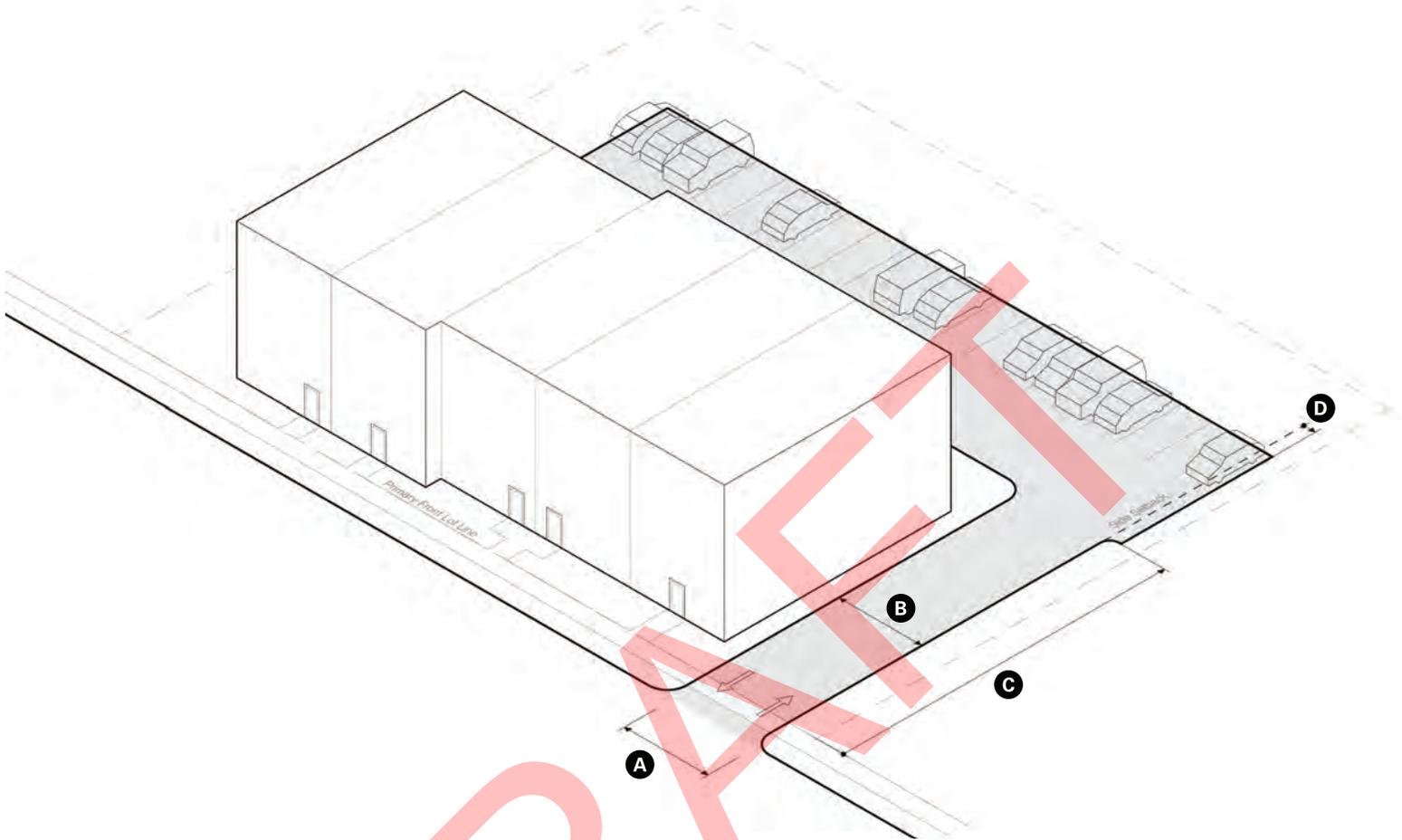
| Parking Stalls |  |
|----------------|--|
| Location       | 2 parking stalls may be located in the side setback area.<br>No parking stall may be located between the building front elevation and the street |

Attachment D

3.7 Parking Requirements in the Residence Districts

E. Driveway Access

Lot with nine residential units or more



| Curb Cut Dimensions        | min   | max   |
|----------------------------|-------|-------|
| <b>A</b> Width             | --    | 22 ft |
| Number of Curb Cuts        | --    | two   |
| Distance between Curb Cuts | 35 ft | --    |

| Driveway Dimensions   | min   | max   |
|---|-------|-------|
| <b>B</b> Width  | --    | 20 ft |
| <b>C</b> Distance that the driveway must conform to width limits, measured from the lot line where the driveway is accessed |       |       |
| R1 and R2   | 10 ft | --    |
| R3, R4, and N   | 5 ft  | --    |
| <b>D</b> Side Setback Encroachment  | --    | 3 ft  |

| Parking Stalls |  |
|----------------|--|
| Location       | 2 parking stalls may be located in the side setback area.<br>No parking stall may be located between the building front elevation and the street |



Ruthanne Fuller  
Mayor

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Department of Planning and Development  
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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** May 15, 2020

**TO:** Councilor Deborah Crossley, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning

**RE:** **#88-20 Discussion and review relative to the draft Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.  
**Other docket items to be taken up within the context of Zoning Redesign include #30-20, #38-20, and #148-20**

**MEETING:** May 19, 2020

**CC:** City Council  
Planning Board  
John Lojek, Commissioner of Inspectional Services  
Alissa O. Giuliani, City Solicitor  
Jonathan Yeo, Chief Operating Officer

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At the April 27, 2020 ZAP meeting, the Planning Department held the third *workshop* on Article 3 – Residence Districts, the discussion focused on Garage Design Standards (sec. 3.4.2) and Driveway Access (3.7.1.E). In addition, the second part of the presentation introduced Building Components (sec. 3.3).

Moving forward, staff plan to focus the upcoming ZAP discussion on the revised zoning text for Garage Design Standards and Driveway Access (Attachment A) and how these standards achieve the goals/outcomes discussed at the April 27 meeting. Staff will present case studies and diagrams that visualize these standards. In addition, the Committee should discuss the requirements for taking these sections out separately as amendments to the current Zoning Ordinance to replace the currently deferred garage ordinance that goes into effect July 1, 2020.

Finally, staff plan to focus the second part of the presentation around a deeper dive into Building Components. Specifically, reiterating goals, while diving deeper into the technical elements underlying them.

## Part I – Garage Design Standards and Driveway Access

### *Garage Design Standards (Sec. 3.4.2)*

Utilizing form-based mechanisms the draft zoning language creates standards to achieve the goals outlined in Sec. 3.4.2.A. The draft ordinance breaks down how residential building types can provide garages in a variety of configurations that respond to the variety of Newton's lot sizes and layouts, without compromising on these goals. In this way, the new language greatly increasing both the level of predictability and flexibility for developing garages as part of new construction or an addition. Highlighted below are some of the key mechanisms and standards, which will be covered in more detail through case studies and figures within the presentation.

- A Front-Facing Garage (Sec. 3.4.2.C.1) must be setback from the front elevation by 10 feet, unless certain design requirements are met, and may not exceed 50% of the building front elevation/facade (see fig. 1).
- Garages providing parking for two or more motor vehicles that face the street must be designed with individual doors, each no wider than 9 feet (see Fig. 2).
- Narrow lots may incorporate:
  - A Side-Facing Garage (Sec. 3.4.2.C.2), which can be placed in front of the building front elevation provided certain design requirements are met (see Fig. 3); or
  - A rear garage, attached or detached, accessed from a driveway running along the side of the building (see Fig. 4).

City staff believe that the draft language not only achieves the stated goals, but also encompasses most of Newton's residential properties. A section for exemptions (Sec. 3.4.2.G) has been added to provide relief for the outlier residential properties.

### *Driveway Access (Sec. 3.7.1.E)*

The discussion of garages must include driveway access because the two function together within a property and where that property meets the public realm. The revised language helps achieve many of the stated goals guiding the overall Zoning Redesign effort.

- Sustainability (stormwater management)
  - Sec. 3.7.1.E.1 requires driveways to be paved with pervious materials, unless graded to direct runoff to onsite permeable areas, with ribbon driveways encouraged as another way to reduce impervious area.
  - Sec. 3.7.1.E.5 sets maximum widths of driveways from the lot line for a minimum of 10 feet into the property before widening out to provide necessary space for maneuvering (See Fig. 1).
- Safety
  - 3.7.1.E.6-9 restricts overly large curb cuts and the distance between curb cuts to ensure a more continuous public sidewalk for pedestrians. In addition, a narrower curb cut forces motor vehicles to enter and exit the driveway at slower speeds (See Fig. 2).

- 3.7.1.E.10 reinforces that the sidewalk or public right of way must be maintained clearly so that, although a motor vehicle may cross, the area between the curb cut and driveway remains part of the sidewalk

### *Part I – Looking Ahead*

The currently deferred garage ordinance will go into effect on July 1, 2020 if no action is taken. At the previous ZAP meeting, staff enumerated the flaws within the deferred garage ordinance and recommend the Committee to either repeal or extend deferment. Once repealed or deferred, it is up to the ZAP Committee to decide if they would like to take on the draft zoning provided in this memo as a standalone amendment to the current ordinance or remain part of the overall Zoning Redesign project. Doing so will impact the overall timeline for Zoning Redesign.

The draft zoning provided in this memo is formatted for the new zoning ordinance, not the current ordinance. Taking up the garage ordinance as a standalone item will require either a second version formatted for the current ordinance or require adding/defining new terms to the current ordinance (like Primary Front Lot Line). Second, staff will need to consider if the draft zoning requires changes to other sections of the current zoning ordinance and/or to other City ordinances (ex. Ch. 26 – Streets and Sidewalks) to ensure enforceability and that no conflicts arise. Staff has begun looking into this with Current Planning, ISD, and the City Engineer.

At this time, staff cannot say how long it would take to adopt the draft garage ordinance as a standalone amendment especially as we enter the summer months, which is typically a slower time for the City Council. For reference a comparable amendment, the sustainable zoning amendments focused on sustainable design (#364-19) and building efficiencies (#363-19), passed in December 2019 took four months and were not presented concurrently with Zoning Redesign.

### **Part II – Building Components (Sec. 3.3)**

#### *Goals*

Building Components are accessory features that attach to the building type and increase the habitable square footage or enhance the usefulness of a building (See Fig. 5). In addition, Building Component regulations will enhance predictability of growth for homeowners and neighbors. Finally, these components provide an important means for achieving variety and individuality in design of building facades and are permitted as indicated for each building type.

Building Components should be viewed as a by-right bonus, like the current ordinance De Minimus Relief (Attachment B), with standards that ensure such a bonus does not negatively impact the surrounding neighborhood or public realm. However, the draft language on Building Components and Building Types shared with the City Council previously does not fully achieve these goals.

#### *Issues with Latest Draft Language and High-Level Proposed Changes*

- Problem A - Building Components count towards Building Type footprint (Sec. 2.5.1.B)
  - Outcome – There is no incentive to utilize Building Components in new construction or renovations.
- Solution A – Building Components do not count towards Building Type footprint
  - Outcome - This will promote design individuality and increased habitable space. Components should be regulated by specific standards for each type as well as the

district lot coverage and setback requirements. Doing so ensures proportional Building Components relative to the surrounding neighborhood.

- Problem B – Language to directly implies style
  - Outcome - This regulation of style came up as a primary concern at the Architect Focus Group held on April 24, 2020. Architects felt the language inhibits creativity and is too prescriptive.
- Solution B – Building Components should be named generically
  - Outcome – As a form-based code tool, Building Components should only imply an appropriate volume or massing that designers are free to work within. Building Types accomplishes this through generic naming (House Type A, B, etc.) and this should apply to Building Components to the greatest extent possible. For example, a Turret (Sec. 3.3.2.J) could change to a *Corner Feature*. Additionally, Staff is looking at replacing individual Roof Types (sec. 2.6.3.D) with one set of standards, disconnected from formal roof styles (i.e. gable, hipped, etc.), and will be presented at the upcoming ZAP Meeting.
- Problem C – Building Type footprint increase allowed by Special Permit
  - Outcome – Taken with Building Components, which are allowed by-right, these two mechanisms attempt to allow for the same thing, controlled flexibility. The new ordinance should strive for simplicity, with one regulation solving one issue. Taken together, Building Components and an increase in footprint by Special permit allow for development to increase in size far too greatly.
- Solution C - Remove Building Type footprint increases by Special Permit and add new Building Components that allow for similar flexibility
  - Outcome – Doing so will directly address one of the goals found in the Zoning Reform Group Report, *simplify and streamline the permitting and review process*. Building components, by-right, are a cleaner and simpler mechanism to achieve the flexibility that Special Permits are now used for. This will also ensure that the additional volume created will be proportional to the surrounding neighborhood and configured to not negatively impact the public realm.

### *Part II – Looking Ahead*

Because staff is proposing new Building Components, allowing increased square footage by-right, it is imperative that the standards used for each component is calibrated correctly. Staff is working with local architects to analyze their recent projects where they utilized what can be categorized as Building Components to get a baseline of standard dimensions. Additionally, staff will look to the existing De Minimus Relief rule for further guidance. Lastly, staff will review how the revised Building Components sections works with Building Type footprints, lot coverage, and setbacks. All these standards together will determine a developments overall volume, so changing one standard may warrant updating another. At upcoming meetings, staff will present these revised standards along with the logic behind them and case studies possible implementation.

**Further Reading**

The ZAP Committee should reread Sections 2.1 – 2.7 and Section 3.3, previously shared with the City Council in March 2020. These sections, in addition to the attachments will help guide an informed discussion on the revised garage/driveway language and the new framework developed for Building Components.

**Attachments**

Attachment A Revised draft Garage Design Standards (sec. 3.4.2) and Driveway Access (3.7.1.E).

Attachment B Sec. 7.8.2.B – De Minimus Relief (current ordinance)

Figure 1: Front-Facing Garage

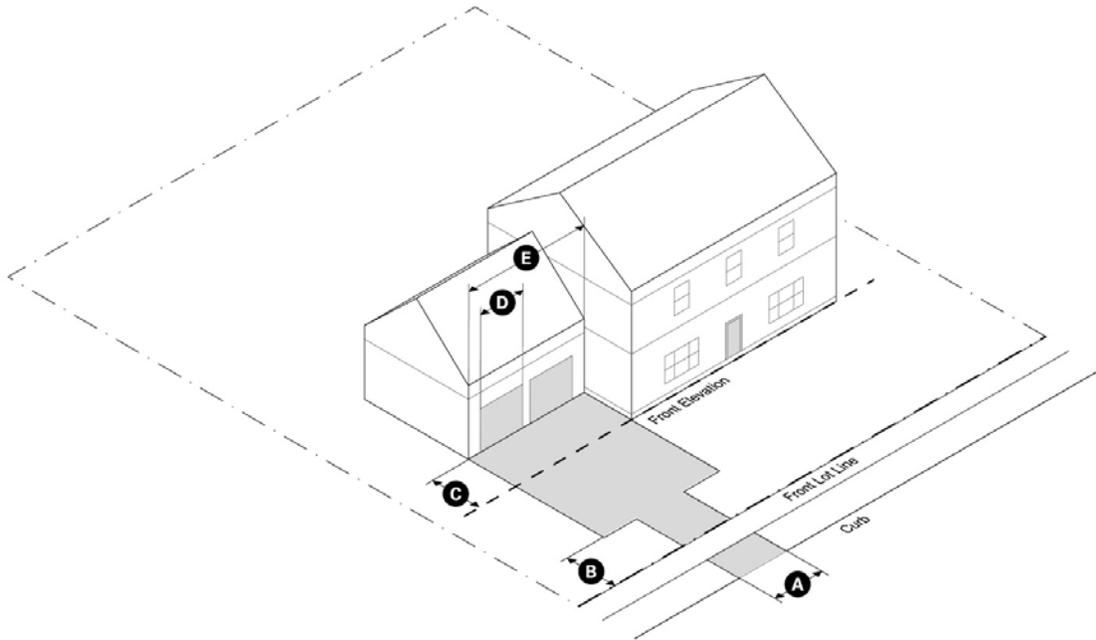


Figure 2: Individual doors for Front-Facing Garages (two-family)

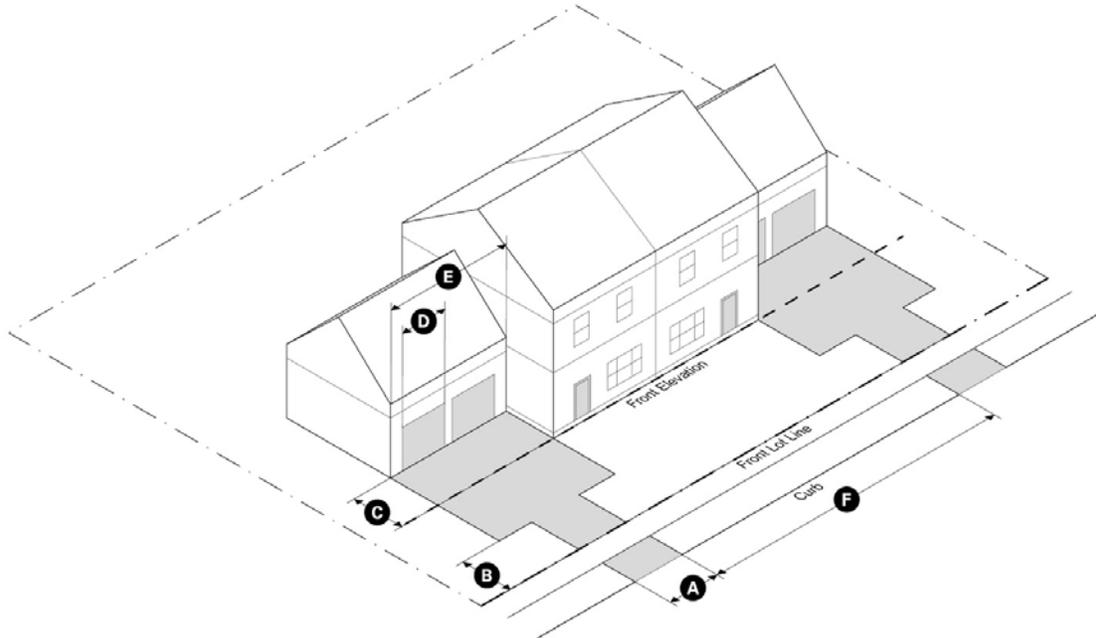


Figure 3: Side-Facing Garage

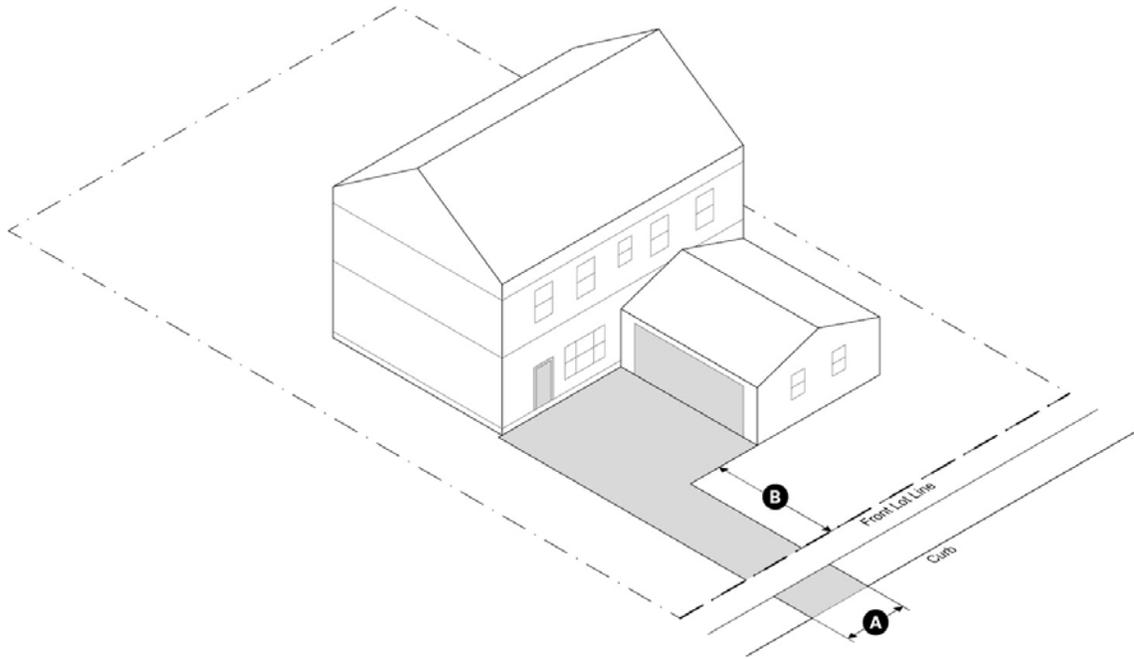


Figure 4: Rear Garage

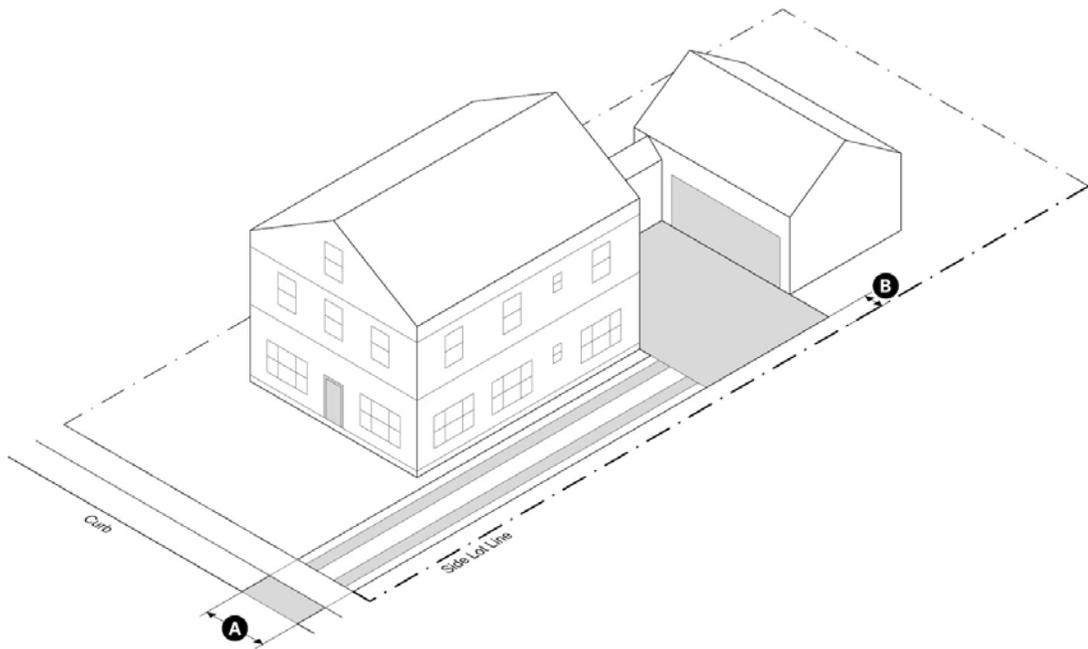
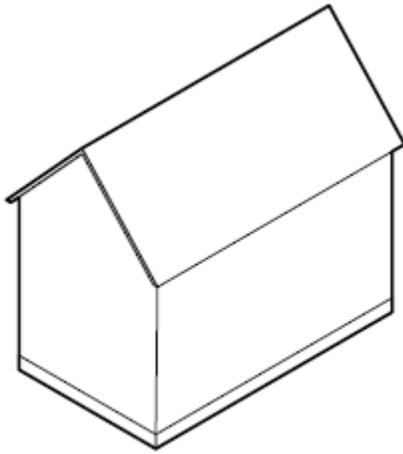
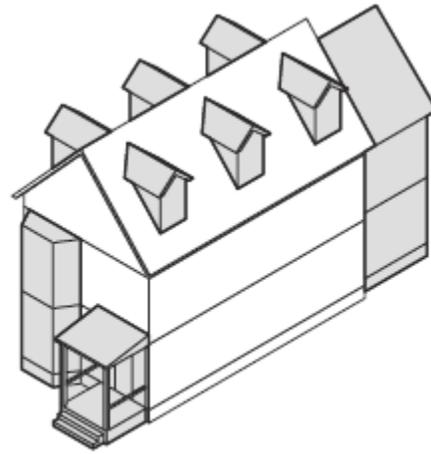


Figure 5: Building Components in Relation to Main Massing of a Building Type



MAIN MASSING of a BUILDING



Additional BUILDING COMPONENTS

### 3.4.2. Garage Design Standards

#### A. Purpose.

1. To prevent garages from obscuring the main entrance from the street and ensure that there is a physical and visual connection between the living area of residential buildings and the street;
2. Ensure that the location and amount of living areas of residential buildings, as seen from the street, are more prominent than structured parking or garages;
3. Ensure that the main entrance for pedestrians, rather than motor vehicles, is the prominent entrance;
4. Provide for a more pleasant pedestrian environment by preventing garages from dominating the views of the neighborhood from the sidewalk; and
5. Enhance public safety by preventing garages from blocking views of the street from inside the residence.

#### B. Applicability.

Garage Design Standards apply in all Residence Districts

#### C. Garage, defined.

An attached or detached structure designed primarily for the storage or parking of one or more automobiles. A detached garage is an accessory building (See Sec. 3.3.4).

1. **Front Facing Garage.** A garage, where the primary door or doors through which automobiles enter the garage faces the Primary Front Lot Line. On corner lots, a Front Facing Garage faces the Primary Front Lot Line.
2. **Side Facing Garage.** A garage, where the primary door or doors through which automobiles enter the garage faces the Primary Front Lot Line at an angle between 45 and 90 degrees.
3. **Garage Wall.** Any wall enclosing a garage including that wall containing the garage entrance.

#### D. General Standards

1. A Front Facing Garage may be no closer to the Primary Front Lot Line than 10 feet behind the Front Elevation of the building, except as follow:
  - a. A garage may be up to 6 feet in front of the Front Elevation if there is a Front Porch at the main entrance, but no closer to the Primary Front Lot Line than the Front Porch, so long as the Front Porch meets the following:
    - i. The Front Porch must be a minimum of 48 square feet in area, with no dimension less than 6 feet;
    - ii. The Front Porch must have a solid roof; and
    - iii. The roof may be no more than 12 feet above the floor of the Front Porch.
2. Garage doors on a Front Facing Garage providing spaces for 2 or more motor vehicles must provide individual doors for each space at a maximum width of 9 feet.
3. A Side Facing Garage may be located in front of the building Front Elevation, but not within the front setback, if it meets the following:

**Sec. 3.4.2 Garage Ordinance**

- a. Fenestrations on the Garage Walll elevation facing the Primary Front Lot Line, 20% minimum, 50% maximum; and
  - b. The garage roof type and roof components, if applicable, match or complement the primary building.
4. Where the building Front Elevation is less than 22 feet long, an attached garage is not allowed as part of that elevation.

**E. Additional Standards for one-unit residential Building Types.**

- 1. There may be no more than 700 square feet in total garage space on a lot providing for no more than 3 motor vehicles, between a maximum of one attached garage and one detached garage.
- 2. The length of an attached garage facing the Primary Front Lot Line may be up to 50% of the width of the Front Elevation or 12 feet, whichever is greater.
  - a. On corner lots, only one street- or right-of-way-facing garage wall must meet the standards of this subsection.

**F. Additional Standards for residential Building Types with two-units or more.**

Parking spaces in garages are counted toward the minimum number of accessory parking spaces required by Sec. 3.7. Garages may be attached or detached.

- 1. **Attached Garages.** The length of an attached garage facing the Primary Front Lot Line may be up to 50% of the total Front Elevation or 24 feet, whichever is greater.
- 2. **Detached Garages.** Centralized and underground garages are encouraged.
  - a. The number of detached garages on a property may not exceed one half of the number of units on the property, rounded down.
  - b. A detached garage of more than 700 square feet and providing for more than 3 vehicles is allowed by right if it meets the setbacks for a principal building.
  - c. By Special Permit, a detached garage of more than 700 square feet may be located within the setback, provided a minimum of 5 feet from the property line is maintained.
  - d. **Review Criteria.** In its discretion to approve or deny a Special Permit authorizing a detached garage in the setback, the Special Permit Granting Authority must find the application meets the following criteria:
    - i. The criteria for all Special Permits specified in Sec. 11.4.3.
    - ii. Design and siting are compatible with the neighborhood and adjacent residential properties.
    - iii. Strategies such as screening, landscaping, and window placement reduce effects on neighboring properties.

**G. Exemptions.**

- 1. In R1 districts where the house is more than 70 feet from the Primary Front Lot Line are exempt from the standards of this section.
- 2. Garages on lots which slope up or down from the Primary Front Lot Line with an average slope of 20% or more are exempt from the standards of this subsection.

### 3.7. Parking Requirements in the Residence Districts.

#### 3.7.1. General Standards.

##### A. Required Accessory Parking Spaces.

Vehicular and bicycle parking must be provided as specified in Sec. 3.7.3, except as follows:

1. 1- and 2-unit residential buildings are exempt from the requirements of Sec. 3.7.3.
2. Ground story non-residential uses with 5,000 square feet or less of gross leasable floor area are exempt from the requirements of Sec. 3.7.3.
3. There are no parking requirements for accessory uses.
4. Parking may be shared between uses on the same lot and buildings within 500 linear feet as measured along the street in accordance with Article 8.
5. One on-street parking space, where permitted, for every 20 feet of lot width may be counted toward any minimum parking requirement for Building Types that do not include residential uses.

##### B. Vehicular Parking Space Types.

Accessory motor vehicle parking spaces may be provided as off-street surface parking spaces, structured parking spaces, and on-street parking spaces.

##### C. Unbundled Market Rate Parking.

1. Off-street motor vehicle parking spaces must be rented, leased, or sold as a separate option rather than a requirement of the rental, lease, or purchase of a residential unit or non-residential floor space.
2. Bicycle parking must be provided at no cost or fee to customers, visitors, employees, tenants, and residents.

##### D. Parking Design.

The design of all parking is subject to Article 8 of this Ordinance.

##### E. Driveway Access.

1. Driveways must be paved with paving stones, grass pavers, pervious concrete, or porous asphalt unless graded to direct runoff onto onsite permeable areas or granted a waiver by the City Engineer to mitigate adverse site conditions.
  - a. Ribbon driveways are highly encouraged
2. Ribbon Driveways must have paved tracks that are at least 2 feet in width and 5 feet on center with an unpaved area that is at least 3 feet in width.
3. Driveways may provide access from a front, side, or rear lot line and may be located within required front or rear setback areas. Driveways may be located within the required side setback area provided the driveways are located at least 3 feet from the side lot line.
4. No parking stall may be located within any required setback area, with the exception that up to 2 parking stalls may be located in a side setback area. No parking stall may be located between the building front elevation and the street.
5. For a minimum of 10 feet measured from the lot line where the driveway is accessed into the lot, driveways may be no wider than 10 feet if providing one-way

access to a parking area for residential Building Types with eight-units or less and no wider than 20 feet if providing two-way access to a parking area for residential Building Types with nine-units or more.

- a. Driveways widths may increase beyond the minimum 10 feet measured from the lot line where the driveway is accessed to allow for motor vehicles to back-in and back-out.
6. Driveways may provide access in whole or in part on or across an abutting lot(s), provided that an access easement exists among all affected property owners.
7. Only one curb cut is permitted per Lot, except;
  - a. A maximum of two curb cuts are permitted on a Lot with a residential Building Type with two-units or more, when a minimum distance of 35 feet between each curb cut is maintained.
  - b. Corner Lots and Through Lots may have a maximum of one curb cut per Front Lot Line.
8. Curb cuts must be located to minimize conflict with pedestrians, bicyclists, and motor vehicles on the thoroughfare they provide access to and from.
  - a. Curb cuts for residential driveways should be at least 20 feet from an unsignalized intersection and at least 40 feet from a signalized intersection.
9. Curb cuts may be no wider than 12 feet if providing one-way access to a parking area for residential Building Types with eight-units or less and no wider than 22 feet if providing two-way access to a parking area for residential Building types with nine-units or more, excluding flares or returned curbs.
10. The grade, cross slope, and clear width of the walkway of a sidewalk must be maintained between the driveway apron and the abutting driveway. The appearance of the walkway (i.e. scoring pattern or paving material) must indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the sidewalk.

F. Off-site Parking on a Contiguous Lot.

Required accessory vehicular parking spaces, excluding required parking for disabled persons, may be provided on a contiguous lot under the same ownership as the lot that the parking will serve with a Special Permit.

1. The following additional standards apply:
  - a. Pedestrian access to off-site vehicular parking must be via a paved sidewalk or walkway.
  - b. A lease, recorded covenant, or other comparable legal instrument guaranteeing long term use of the site must be provided to the Special Permit Granting Authority or Commissioner of Inspectional Services, as appropriate, and executed and filed with the Registry of Deeds.

## Attachment B

- c. Has on it a single- or two-family dwelling that was constructed in compliance with a building permit and received a certificate of occupancy on or before December 22, 2011.

(Rev. Ords. 1973; Ord. No. 284, 06/19/78; Ord. No. 303, 11/20/78; Ord. No. S-275, 02/05/87; Ord. No. T-115, 11/19/90; Ord. No. W-49, 07/09/01; Ord. No. A-24, 06/03/13)

## 7.8.2. Nonconforming Buildings, Structures, or Uses

### A. Special Permit Not Required.

1. A special permit is not required from the City Council for nonconforming buildings or structures in the following cases:
  - a. Alteration, reconstruction, extension or structural change to a single- or two-family residential structure which does not increase the nonconforming nature of the structure, and no such increase shall be deemed to have occurred solely because the lot area or the lot frontage, or both, are nonconforming, and no such increase shall be deemed to have occurred solely because the lot area per unit is nonconforming unless the number of units increases;
  - b. Alteration, reconstruction, structural change, but not an extension or enlargement of a nonconforming building or structure for a use permitted as of right, in a Business, Mixed Use, Manufacturing or Limited Manufacturing district;
  - c. Additional outdoor sidewalk seats permitted under Revised Ordinances Chapter 12, Section 12-70 shall not be considered an increase in the nonconformity nor constitute an extension of use of a lawful nonconforming restaurant in any district; and
  - d. Alteration, reconstruction, extension or structural change to a nonconforming non-residential building or structure, which does not increase the nonconforming dimensional nature of said building or structure, for conversion of the building or structure to a use permitted as of right in any residential district.

- e. A special permit is not required from the City Council for change in use to a use permitted as of right, in a Business, Mixed Use, Manufacturing or Limited Manufacturing district.

### B. De Minimis Relief.

1. Regardless of whether there are increases in the nonconforming nature of a structure, the City Council deems that the following changes to lawfully nonconforming structures are *de minimis* and that these changes are not substantially more detrimental to the neighborhood pursuant to M.G.L. Chapter 40A, Section 6. The following alterations, enlargements, reconstruction or extensions to a lawful nonconforming building or structure used for residential purposes may be allowed in accordance with the procedures set forth below; provided that:
  - a. Relief is limited to that portion or portions of the building or structure which is presently dimensionally nonconforming;
  - b. The resulting changes on the nonconforming side will be no closer than 5 feet to the side or rear property line;
  - c. The resulting distance to the nearest residence at the side where the proposed construction will take place is equal to or greater than the sum of the required setbacks of the 2 adjacent lots;
  - d. The resulting construction will meet all building and fire safety codes; and
  - e. The *de minimis* relief provided in this paragraph shall not apply to buildings in which the nonconformity is due solely to FAR requirements, nor shall it be used to increase the FAR beyond that shown in Sec. 3.1.
2. In accordance with Sec. 7.8.2.B.1, the following *de minimis* alterations are allowed:
  - a. Dormers that do not extend above the height of the existing roof peak and do not add more than 400 square feet of floor area;
  - b. Decks or deck additions or porches less than 200 square feet in size;

- c. First floor additions in the side and rear setbacks which do not total more than 200 square feet in size;
- d. Second floor additions which do not total more than 400 square feet in size;
- e. Enclosing an existing porch of any size;
- f. Bay windows in the side and rear setbacks which are cantilevered and do not have foundations;
- g. Bay windows which protrude no more than 3 feet into the front setback and are no less than 5 feet from the alteration to the lot line;
- h. Alterations to the front of the structure if within the existing footprint; and
- i. Alterations and additions to the front of a structure of not more than 75 square feet in size, so long as the alteration, addition, reconstruction or extension does not encroach any farther into the front setback.

**C. Special Permit Required.**

- 1. A special permit from the City Council shall be required for any alteration, reconstruction, extension or structural change of such building or structure to provide for its use in a substantially different manner or greater extent than the existing use, except as provided above in paragraph A. above.
- 2. A nonconforming building or structure may be structurally or substantially altered or reconstructed or may be altered or enlarged to permit the extension of a nonconforming use, and a nonconforming use may be extended in an existing building or structure or enlargement thereof, or may be introduced into a new building as a part of a nonconforming establishment existing on December 27, 1922, and a nonconforming use may be changed to another nonconforming use; provided that a special permit is obtained. In granting such a permit, the City Council shall make a finding that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and shall impose such conditions as may be necessary to protect the neighborhood from injury. As used in this Paragraph, the

word "establishment" shall include buildings, structures and lands.

**D. Standards.**

- 1. **Nonconforming Buildings or Structures.** Whenever nonconforming buildings or structures do not require a special permit, all otherwise applicable regulatory provisions of this Chapter, as amended, specifically including but not limited to Sec. 5.1 shall apply.
- 2. **Minimum Dimensions.** Whenever the operation of this Sec. 7.8.2 would reduce the area available for building a dwelling house upon any lot in a residence district to less than 20 feet in its shortest dimension, or less than 800 square feet in total area, the requirements of this Sec. 7.8.2 shall be modified so far as necessary to provide such minimum dimension and total area by reducing the minimum distance of such dwelling house from rear lot and street lines, first from rear lot lines, but to not less than 7½ feet, and second, if necessary, from street lines, but to not less than 15 feet.
- 3. **Replacing 3-Story Residential Structures.** Any residential structure that is replacing a previously existing 3-story residential structure shall be allowed 3 stories, but only insofar as the absolute height does not exceed that of the previously existing structure.

(Rev. Ords. 1973; Ord. No. 284, 06/19/78; Ord. No. S-260, 08/03/87; Ord. No. T-115, 11/19/90; Ord. No. T-313, 12/6/93; Ord. No. T-314, 12/6/93; Ord. No. V-113, 04/23/97; Ord. No. W-51, 07/09/01; Ord. No. X-39, 12/02/02; Ord. No. Z-51, 08/10/09; Ord. No. Z-77, 02/22/11; Ord. No. A-13, 03/18/13; Ord. No. A-99, 01/17/17)