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#33-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 25, 2022
Land Use Action Date: April 12, 2022
City Council Action Date: April 18, 2022
90-Day Expiration Date: April 25, 2022

DATE: January 21, 2022

TO: City Council

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

SUBJECT: **Petition #33-22** SPECIAL PERMIT/SITE PLAN APPROVAL to construct a two-story addition to the existing dwelling, to extend the nonconforming front and rear setbacks, and extend the nonconforming lot coverage at **14 Cummings Road**, Ward 2, Newton, on land known as Section 64 Block 03 Lot 53, containing approximately 4008 sq. ft. of land in a district zoned SINGLE RESIDENCE. Ref: Sec. 7.3.3, 7.4, 3.1.3, 7.8.2.C.2, of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



14 Cummings Road

EXECUTIVE SUMMARY

The subject property at 14 Cummings Road consists of a 4,008 square foot corner lot in a Single Residence 2 (SR2) district improved with a 1,359 square foot, two story single-family dwelling constructed circa 1860. The petitioner intends to construct a two-story addition on the south side of the parcel, towards Dennis Place, replacing a smaller, one-story portion of the dwelling

The dwelling has a nonconforming front setback along Cummings Road of 14.6 feet where 25 feet is required per Section 3.1.3 of the Newton Zoning Ordinance (NZO). The two-story addition would be setback 20.4 feet along Cummings Road, extending, though not increasing, that nonconforming front setback, requiring a special permit per Secs. 3.1.3 and 7.8.2.C.2.

The dwelling also has a nonconforming rear setback of 6.4 feet where 15 feet is required per Sec. 3.1.3 of the NZO. As proposed the two-story addition, which at 8.3 feet would be set back further from the rear property line than the existing structure, would nevertheless extend the nonconformity southward, also requiring a special permit per Sections 3.1.3 and 7.8.2.C.2.

The parcel has an existing nonconforming lot coverage of 34.9% where 30% is the maximum allowed per Sec. 3.1.3. The proposed addition would further increase the nonconforming lot coverage to 39.7%, requiring a special permit per Secs. 3.1.3 and 7.8.2.C.2.

The Planning Department is not generally concerned with the proposed addition as it would not increase existing setback nonconformities and the resulting FAR would be conforming. The Planning Department suggests that the petitioner consider installing some vegetative screening along the rear and Dennis Place property lines.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The proposed extensions of the existing front and rear setback nonconformities would be substantially more detrimental than the existing nonconforming use to the neighborhood (§3.1.3, §7.8.2.C.2)
- The proposed extension of the existing lot coverage nonconformity would be substantially more detrimental than the existing nonconforming use to the neighborhood (§3.1.3, §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the east side of Cummings Road, about 150 feet south of Homer Street. The residential properties in the vicinity along Cummings Road and the adjacent North Street are zoned Single Residence 2 (SR2), include one- and two- family dwellings, and vary considerably in lot and house size. The neighborhood is almost completely ringed by nonresidential properties, including the electric substation located at 374 Homer Street, a small retail use, the Public Use (PUB) zoned City Hall and Newton Free

Library and the Open Space/Recreational (OSD) zoned Newton Cemetery (**Attachments A & B**).

B. Site

The subject property consists of a 4,008 square foot corner lot in a Single Residence 2 (SR2) district improved with a 1,359 square foot, two story single-family dwelling.

The site is generally level and is accessed by a paved driveway on its southern side, near its Dennis Place corner. The remaining portions of the site are occupied by lawn area with some mature trees and shrubs, patio space, and there is fencing along its east and north property lines.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

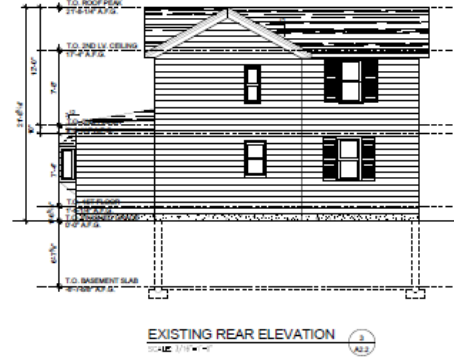
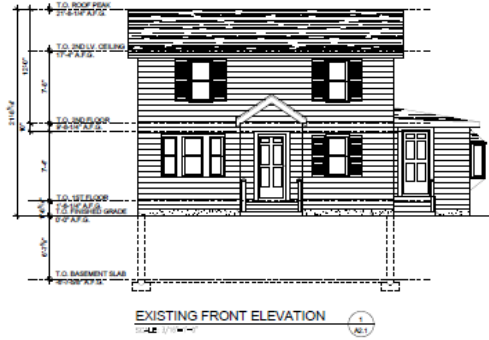
B. Building and Site Design

The petitioner intends to construct a two-story addition to the southern facing façade of the dwelling. The proposed addition would replace a smaller, one story portion of the dwelling.

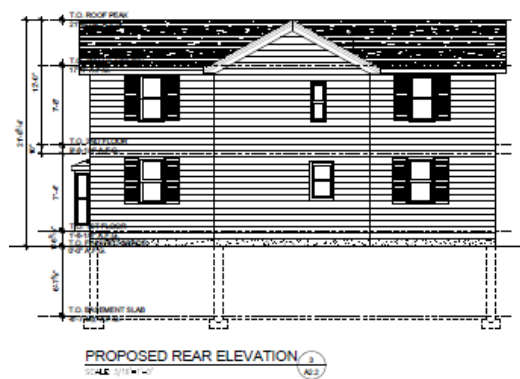
The resulting structure would contain 1,829 square feet of floor area, increasing the parcel's floor area ratio (FAR) from 0.34 to 0.45, remaining just below the maximum 0.46 allowed by right. As the addition's height would be the same as the existing structure, there would be no increase in the overall height of the structure, and the number of stories would remain the same at two.

Regarding the setbacks, the dwelling has a nonconforming front setback along Cummings Road of 14.6 feet where 25 feet is required. The two-story addition would be setback 20.4 feet along Cummings Road. While the addition would be further from the front property line than the existing structure, it would nevertheless, extend, but not increase, that nonconforming front setback.

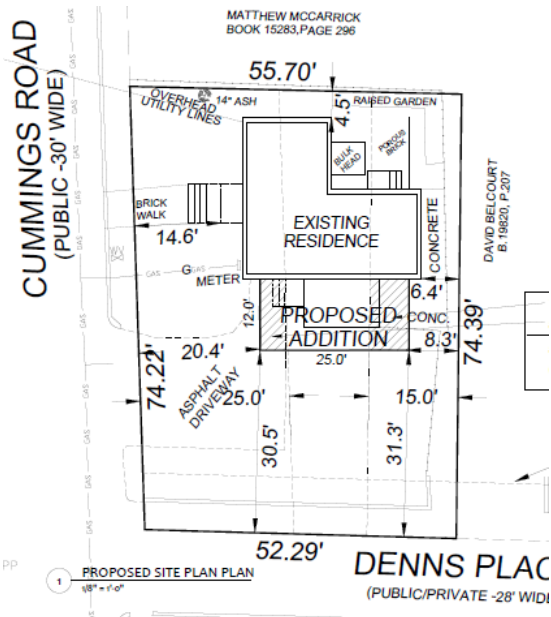
The existing structure also has a nonconforming rear setback of 6.4 feet where 15 feet is required. As the proposed addition would be set back 8.3 feet from the rear property line, it would be further from the rear property line than the existing structure, it would similarly extend, but not increase, the nonconforming rear setback southward toward Dennis Place.



Existing front and rear elevations



Proposed front and rear elevations



Proposed site plan

The parcel has an existing nonconforming lot coverage of 34.9% where 30% is the maximum allowed per section 3.1.3. The proposed addition would further increase the parcel's nonconforming lot coverage to 39.7%

C. Parking and Circulation

A portion of the proposed addition would occupy several square feet of the existing asphalt driveway.

D. Landscape, Lighting and Signage

A landscape plan was not submitted as part of this petition. The Planning Department suggests that the petitioner consider installing some vegetative screening along the rear property line in the vicinity of the proposed addition as well as along the Dennis Place frontage.

IV. TECHNICAL REVIEW

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

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

➤ Special Permit per §7.3.3 to:

- extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)
- extend a nonconforming rear setback (§3.1.3, §7.8.2.C.2)
- extend nonconforming lot coverage (§3.1.3, §7.8.2.C.2)

B. Engineering Review

Review of the proposal by the Engineering Division is not required at this time.

C. Historic Review

On April 16, 2021, Newton Historical Commission staff approved the project based upon submitted materials, requiring final review of construction plans prior to the issuance of a building permit.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A









Land Use

14 Cummings Rd.

City of Newton,
Massachusetts

Land Use

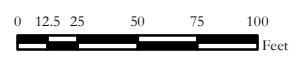
Land Use

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

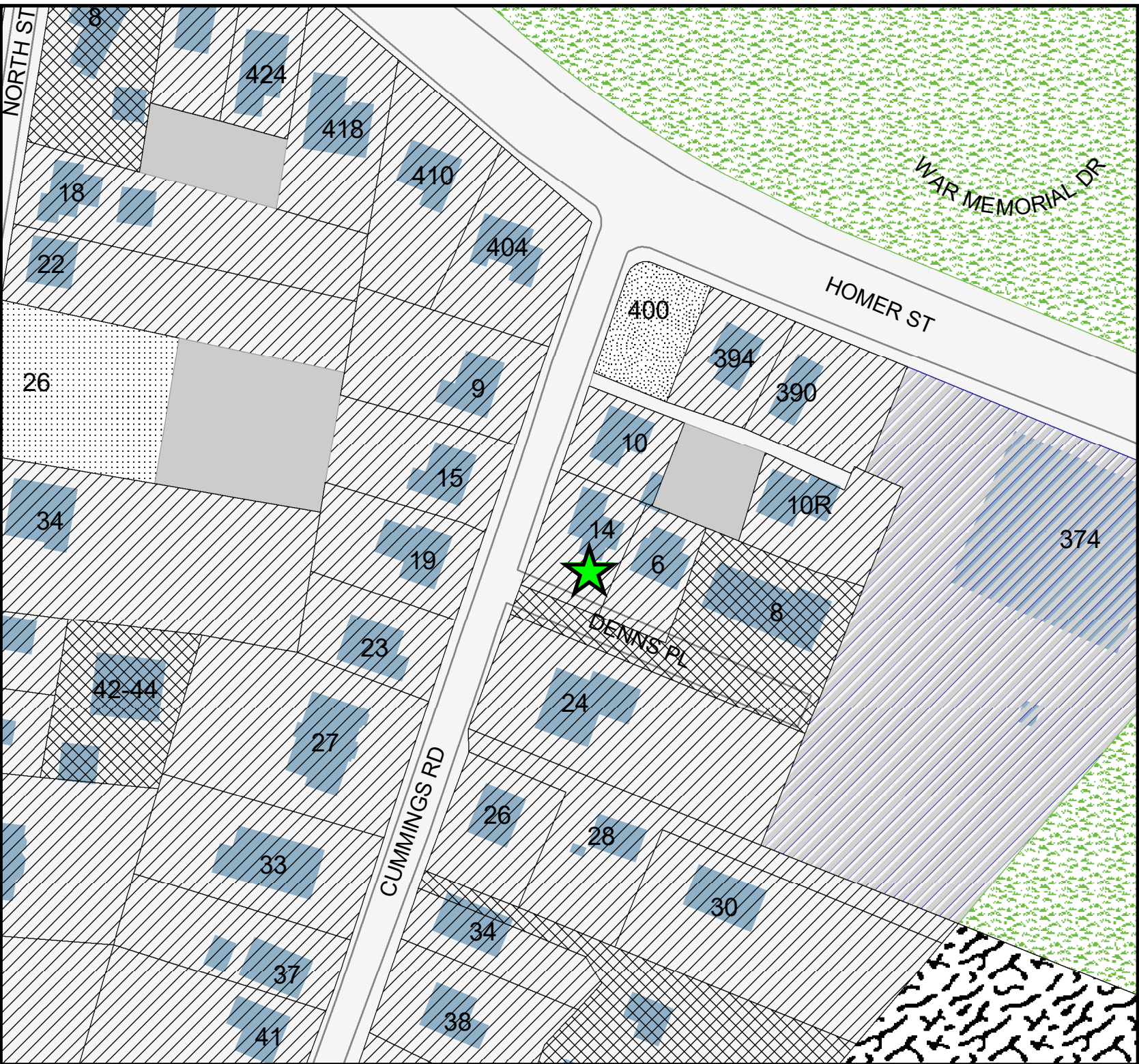


The information on this map is derived from the City of Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily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

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



Map Date: November 24, 2021






ATTACHMENT B

Zoning

14 Cummings Rd.

*City of Newton,
Massachusetts*

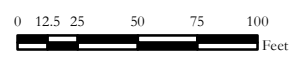


-  Single Residence 2
-  Open Space/Recreation
-  Public Use



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





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ZONING REVIEW MEMORANDUM

Date: December 20, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Joanne Ren, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to extend nonconforming front and rear setbacks and to further increase nonconforming lot coverage

Applicant: Joanne Ren	
Site: 14 Cummings Road	SBL: 64003 0053
Zoning: SR2	Lot Area: 4,008 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 14 Cummings Road consists of a 4,008 square foot corner lot improved with a single-family dwelling constructed circa 1860 in the Single Residence 2 zoning district. The petitioner intends to construct a two-story addition, extending the nonconforming front and rear setbacks and further increasing the nonconforming lot coverage, requiring a special permit.

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

- Zoning Review Application, prepared by Joanne Ren, submitted 7/27/2021
- Plot Plan, Existing Conditions, signed and stamped by Timothy R. Callahan, surveyor, dated 1/2/2020
- Plot Plan, Proposed Conditions, signed and stamped by Timothy R. Callahan, surveyor, dated 1/2/2020, revised 10/12/2021
- FAR worksheet, submitted 8/31/2021
- Elevations, signed and stamped by Jim Chen, architect, submitted 7/27/2021

ADMINISTRATIVE DETERMINATIONS:

1. The dwelling has a nonconforming front setback of 14.6 feet, where 25 feet is required per section 3.1.3. The petitioner intends to construct a two-story addition with a proposed setback of 17.9 feet, extending the nonconforming front setback, though not increasing it. A special permit per sections 3.1.3 and 7.8.2.C.2 is required.
2. The dwelling has a nonconforming rear setback of 6.4 feet, where 15 feet is required per section 3.1.3. The proposed addition further extends the nonconforming rear setback, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.
3. The parcel has an existing nonconforming lot coverage of 34.9% where 30% is the maximum allowed per section 3.1.3. The proposed addition further increases the nonconforming lot coverage to 39.7%, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	4,008 square feet	No change
Frontage	80 feet	74 feet	No change
Setbacks			
• Front – Cummings Road	25 feet	14.6 feet	No change*
• Front – Dennis Place	25 feet	34.7 feet	30.5 feet
• Side	7.5 feet	4.5 feet	No change
• Rear	15 feet	6.4 feet	No change*
Height	36 feet	21 feet	No change
Stories	2.5	2	No change
FAR	.46	.34	.45
Max Lot Coverage	30%	34.9%	39.7%*
Min. Open Space	50%	70.3%	64.6%

Figures in **BOLD** are nonconforming

*Requires relief

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming front setback	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming rear setback	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to extend nonconforming lot coverage	S.P. per §7.3.3

Next Steps

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

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

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming front setback (§3.1.3, §7.8.2.C.2); extend a nonconforming rear setback (§3.1.3, §7.8.2.C.2); and extend nonconforming lot coverage (§3.1.3, §7.8.2.C.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed extensions of the existing front and rear setback nonconformities would not be substantially more detrimental than the existing nonconforming use to the neighborhood as the addition's front and rear setbacks would be greater than those of the existing structure (§3.1.3, §7.8.2.C.2)
2. The proposed extension of the existing lot coverage nonconformity would not be substantially more detrimental than the existing nonconforming use to the neighborhood given the small increase of less than 200 square feet and the continued existence of a deep front setback along one of the property's two frontages (§3.1.3, §7.8.2.C.2)

PETITION NUMBER: #33-22

PETITIONER: Joanne Ren

LOCATION: 14 Cummings Road, Section 64, Block 3, Lot 53, containing approximately 4,008 square feet of land

OWNER: Joanne Ren

ADDRESS OF OWNER: 14 Cummings Road
Newton, MA 02459

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

- EXPLANATORY NOTES: Special Permit per §7.3.3 to:
- extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)
 - extend a nonconforming rear setback (§3.1.3, §7.8.2.C.2)
 - extend nonconforming lot coverage (§3.1.3, §7.8.2.C.2)

ZONING: Single Residence 2 (SR2)

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the following plans:
 - a. a site plan entitled "Single Family Residence, 14 Cummings Road, Newton, MA, Proposed Site Plan (A1.0), undated, prepared by JCBT Architect
 - b. a set of architectural drawings entitled "Single Family Residence, 14 Cummings Road, Newton, MA ," prepared by JCBT Architect, undated, signed and stamped by Jim Chen, Registered Architect, consisting of the following sheets:
 - i. Existing Floor Plans (A1.1)
 - ii. Existing Floor Plans (A1.2)
 - iii. Proposed Floor Plans (A1.3)
 - iv. Proposed Floor Plans (A1.4)
 - v. Existing Exterior Elevations (A2.1)
 - vi. Proposed Exterior Elevations (A2.2)
 - vii. Proposed Foundation Plan (S-1))
 - c. A document entitled "Floor Area Worksheet- 14 Cummings Road, Newton, MA," indicating a proposed total gross floor area of 1,829 square feet and a proposed FAR of 0.45
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

3. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.