



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#273-22**

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 3, 2022  
Land Use Action Date: July 23, 2022  
City Council Action Date: August 1, 2022  
90-Day Expiration Date: August 1, 2022

DATE: April 29, 2022

TO: City Council

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

SUBJECT: **Petition #273-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached garage and two-story rear addition, exceeding the maximum allowable FAR at **78 Commonwealth Park West**, Ward 2, Newton, on land known as Section 53 Block 33 Lot 04, containing approximately 7968 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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



**78 Commonwealth Park West**

## EXECUTIVE SUMMARY

The subject property at 78 Commonwealth Park West consists of a 2½ story, 28.1 foot high, 7,968 square foot lot in a Single Residence 2 (SR2) zoning district improved with a 2,444 square foot, single-family dwelling constructed circa 1922 and a 400 square foot detached garage at the rear of the property.

The petitioner proposes to raze the existing detached garage and construct an attached garage and mudroom on the side of the dwelling and a two-story addition to the rear that would include kitchen area on the first floor and a second story bedroom. A farmer's porch at the front of the dwelling is also proposed.

The proposed additions would increase the property's floor area ratio (FAR) from 0.36 to 0.45, where 0.41 is the maximum allowed per Section 3.1.9 of the Newton Zoning Ordinance (NZO), requiring a special permit per Sec. 3.1.9.A.2 to exceed maximum allowable FAR.

Also, the proposed rear addition has a 14.1-foot rear setback where 15 feet is required per Sec. 3.1.3. As the dwelling has an existing nonconforming rear setback of 13.8 feet., that addition is allowed by *de minimis* per Sec. 7.8.2.B.2.c and d.

While Planning Department is generally not concerned with the proposal, it does have some specific comments below regarding the need for vegetative screening in the vicinities of the proposed additions.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the proposed structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9.A.2)

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located along a curved portion of the south side of Commonwealth Park West as it runs between Commonwealth Park and Commonwealth Avenue. The site is developed with a single-family dwelling as are all the other parcels in the surrounding neighborhood (**Attachment A**). The site and surrounding area are uniformly zoned Single Residence 2 (SR2) (**Attachment B**).

#### B. Site

The subject property consists of a mostly level 7,968 square foot lot improved with a 2 ½ story, 28.1 foot high, 2,444 square foot, single-family dwelling and a 400 square foot detached garage located at the rear of the property.

Vehicular access is provided by a paved driveway along the south side property line that serves the existing garage in the rear of the property. The remaining portions of the site are lawn area with mature vegetation.

III. PROJECT DESCRIPTION AND ANALYSIS

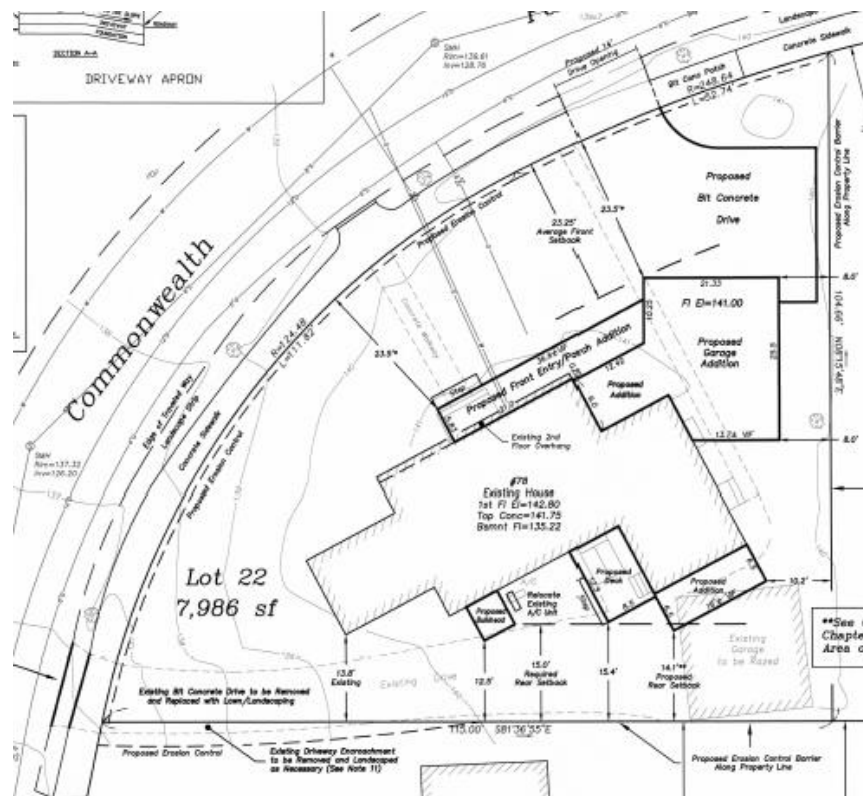
A. Land Use

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

B. Building and Site Design

The petitioner proposes to raze the existing 400 square foot detached garage and construct an attached garage(with floor space above) and mudroom on the side of the dwelling and a two-story addition to the rear that would include kitchen area on the first floor and a second story bedroom. A farmer's porch at the front of the dwelling is also proposed. There would be no change to the number of stories (2 ½) or the dwelling's 28.2-foot height.

The proposed additions would increase the property's floor area ratio (FAR) from 0.36 to 0.45, where 0.41 is the maximum allowed per Section 3.1.9 of the Newton Zoning Ordinance (NZO), requiring a special permit per Sec. 3.1.9.A.2 to exceed maximum allowable FAR.

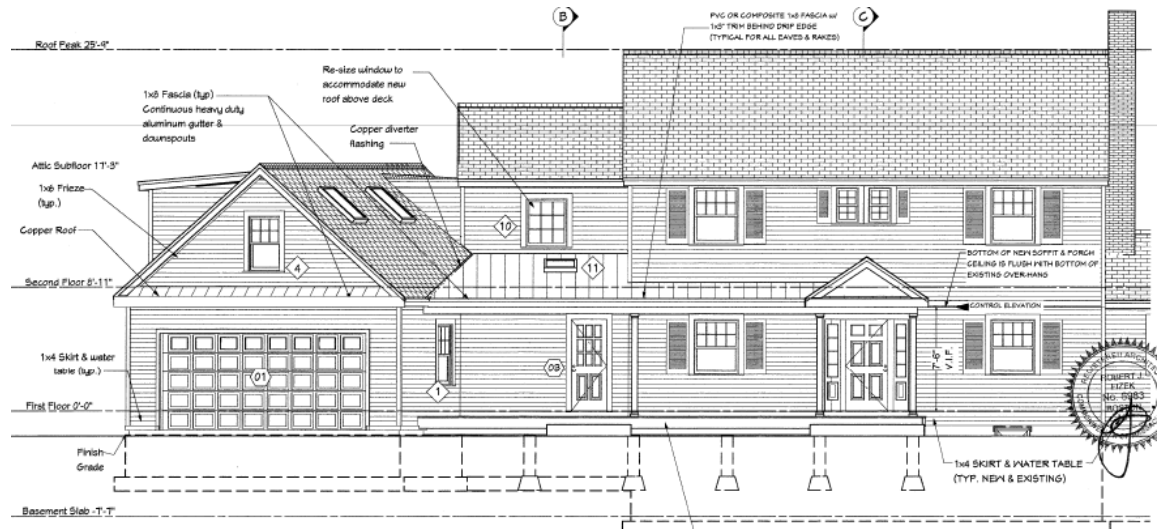


**Proposed site plan**

Regarding setbacks, the front setback would be reduced to the minimum 23.5 feet allowed by the averaging of those of nearby structures and the proposed attached garage would reduce the sole side setback to eight feet. Also, the proposed rear addition would have a 14.1-foot rear setback where 15 feet is required, but as the dwelling has an existing nonconforming rear

setback of 13.8 feet, that addition is allowed by *de minimis* per the NZO.

The resulting lot coverage would be increased from 23% to 29.4%, slightly below the maximum of 30%; the open space measurement would decrease from 64% to 60.1% remaining above the required minimum of 50%. The net change in the amount of impermeable area of the parcel would increase by approx. 10 square feet.



**Proposed front elevation**

**C. Parking and Circulation**

As discussed above, vehicular access is currently provided by a paved driveway along the southern (right) property line that serves the to-be-removed detached garage in the property's rear corner.

The petitioners are proposing to replace the existing detached with a new attached two-car garage in the front left of the site. The existing driveway would be removed, and the proposed garage would be accessed via a new paved driveway with a 14-foot-wide curb cut. A so-called "hammerhead" paved area appurtenant to that new driveway should allow drivers to leave the property facing the street rather than backing out onto Commonwealth Park West.

**D. Landscape, Lighting and Signage**

A landscaping plan was not submitted with this petition. The Planning Department recommends that the petitioner provide screening along the side and rear property lines in the vicinities of both additions.

**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:
  - exceed maximum FAR (§3.1.3, §3.1.9)

B. Engineering Review

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

C. Historic Review

Review by the Newton Historical Commission is not required.

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 Council Order

# ATTACHMENT A

## Land Use

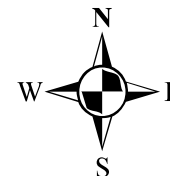
### 78 Commonwealth Park West

*City of Newton,  
Massachusetts*

## Land Use

## Land Use

 Single Family Residential

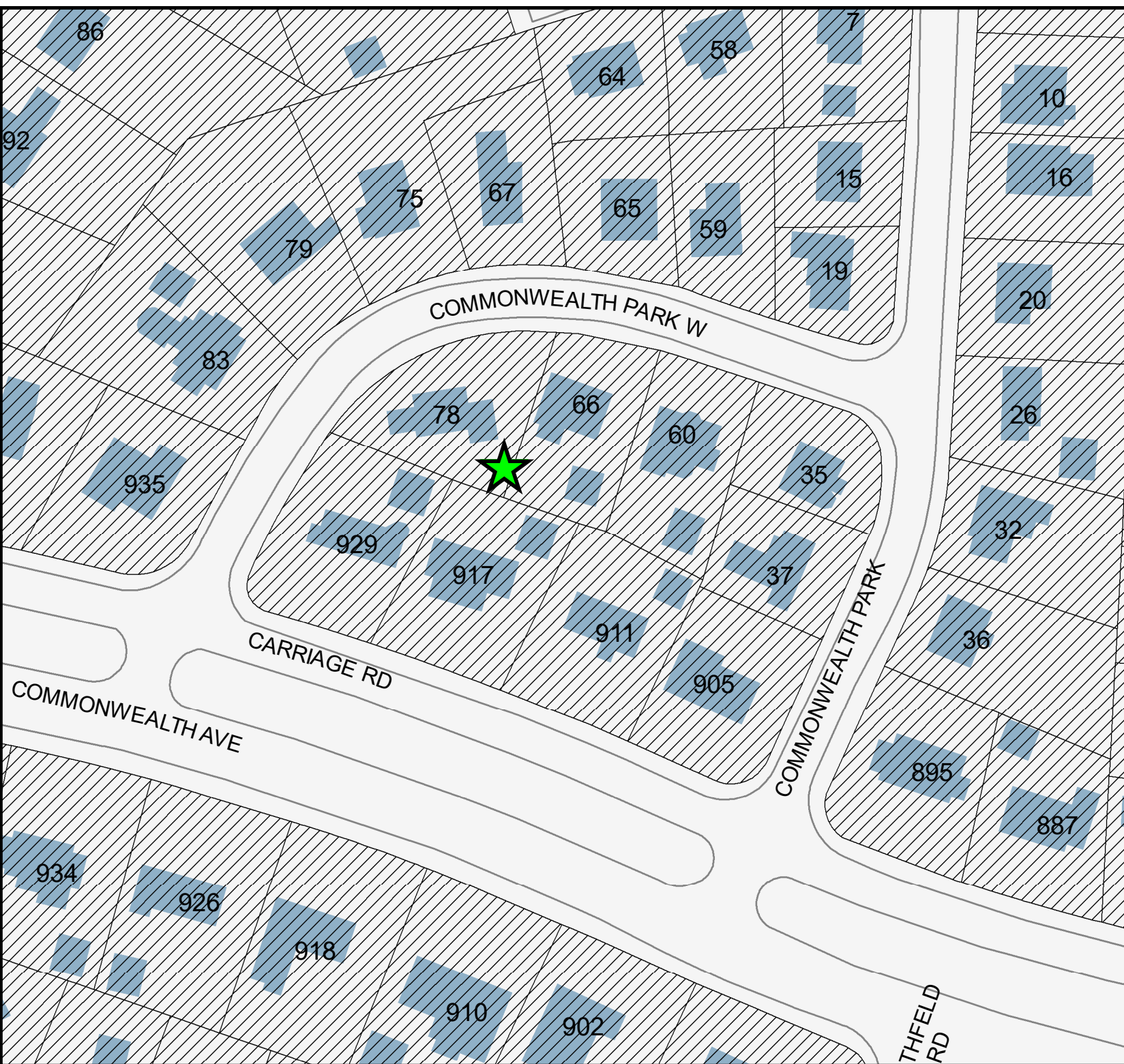


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100  
Feet

Map Date: April 25, 2022



# ATTACHMENT B

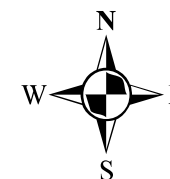
## Zoning

### 78 Commonwealth Park West

*City of Newton,  
Massachusetts*

#### Legend

 Single Residence 2

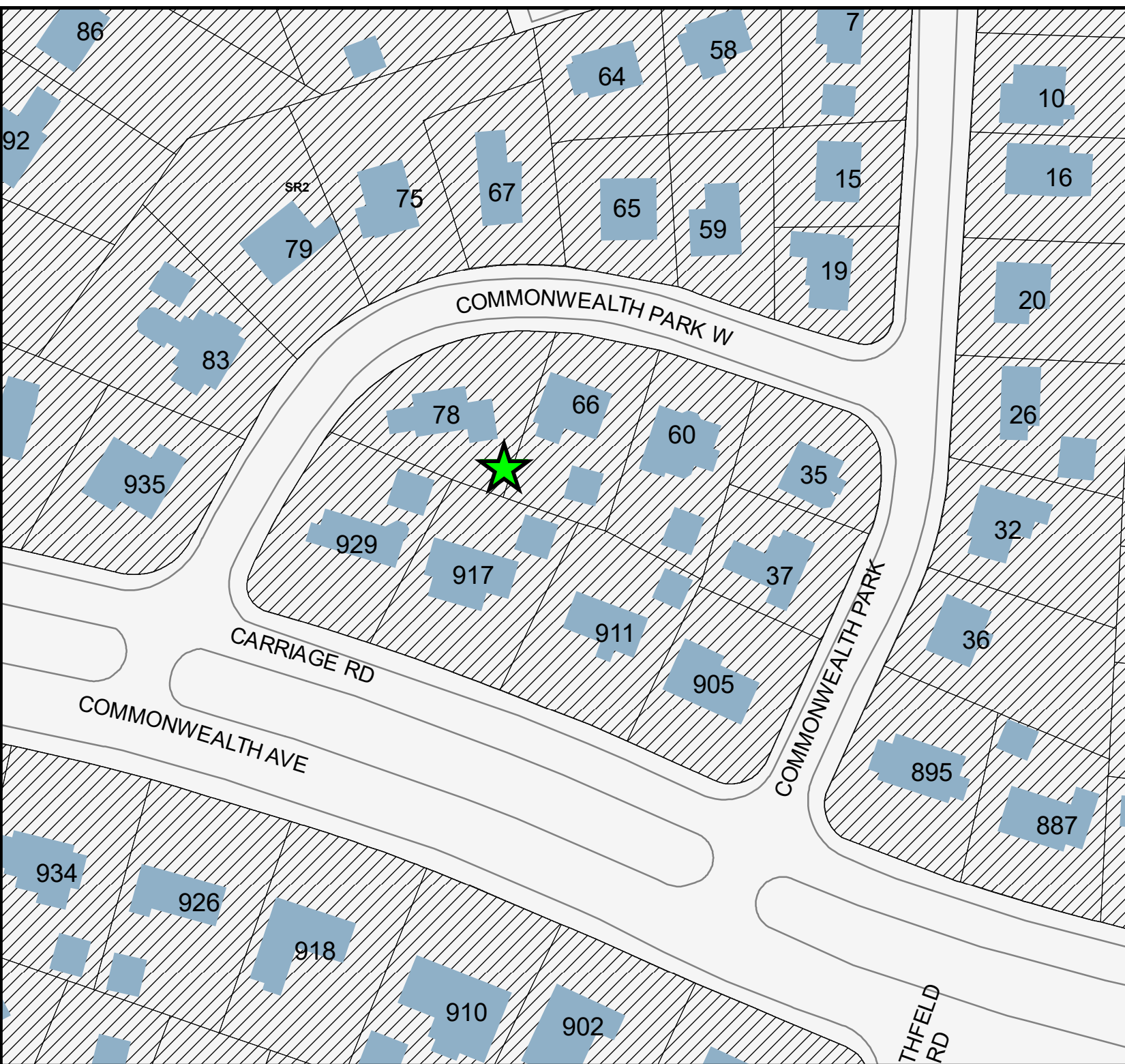


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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: March 28, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Robert Fizek, Architect  
Jeffrey and Nancy Selig, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to exceed maximum FAR**

Applicant: Mark Preston	
<b>Site:</b> 78 Commonwealth Park West	<b>SBL:</b> 53033 0004
<b>Zoning:</b> SR2	<b>Lot Area:</b> 7,968 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 78 Commonwealth Park West consists of a 7,968 square foot in the Single Residence 2 zoning district improved with a single-family dwelling constructed circa 1922. The petitioner intends to construct an attached garage and two-story rear addition increasing the FAR beyond that which is allowed, requiring a special permit.

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

- Zoning Review Application, prepared by Robert Fizek, architect, dated 2/10/2022
- FAR worksheet, submitted 2/10/2022
- Proposed Addition Plan, signed and stamped by Verne T, Porter, surveyor, dated 1/19/2022
- Floor plans and elevations, signed and stamped by Robert J. Fizek, architect, dated 1/7/2022



**ADMINISTRATIVE DETERMINATIONS:**

- The applicants propose to raze an existing detached garage at the rear of the property and construct an attached garage and mudroom on the side of the dwelling. Additionally, a two-story rear addition is proposed adding to the kitchen and a second story bedroom. A farmer’s porch is proposed at the front of the dwelling. The proposed additions increase the FAR from .36 to .45, where .41 is the maximum allowed per section 3.1.9. Per section 3.1.9.A.2, a special permit is required to exceed maximum allowable FAR.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	<b>7,986 square feet</b>	<b>No change</b>
Frontage	80 feet	165 feet	No change
Setbacks			
• Front	25 feet	21.9 feet	No change
• Side	7.5 feet	±15 feet	12.1 feet
• Side	7.5 feet	27.3 feet	No change
• Rear	15 feet	<b>12.8 feet</b>	<b>No change</b>
Building Height	36 feet	28.2 feet	No change
Max Number of Stories	2.5	2.5	No change
Lot Coverage	30%	20.5%	26.9%
Open Space	50%	74%	66.5%
FAR	.38	.28	<b>.41</b>

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.1.3 §3.1.9	Request to exceed maximum FAR	S.P. per §7.3.3

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 increase the floor area ratio (FAR) from 0.36 to 0.45 where 0.41 is the maximum allowed by right, (§3.1.3, §3.1.9) as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. the proposed structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9)

PETITION NUMBER: #273-22

PETITIONER: Jeff and Nancy Selig

LOCATION: 78 Commonwealth Park West, Section 53, Block 22, Lot 4, containing approximately 7,968 square feet of land

OWNER: Jeff and Nancy Selig

ADDRESS OF OWNER: 78 Commonwealth Park West  
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- exceed floor area ratio (FAR)(§3.1.3, §3.1.9)

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 "78 Commonwealth Park West, Newton, Massachusetts, Proposed Addition Plan (Sheet 1 of 1)," dated January 19, 2022, prepared Verne T. Porter, PLS, signed and stamped by Verne T. Porter, Professional Land Surveyor
  - b. Architectural plans entitled "Selig Residence, Commonwealth Park West, Newton Centre, MA 02459," dated January 7, 2022, prepared by Archimage, signed and stamped by Robert J. Fizek, Registered Architect, comprised of the following sheets:
    - i. Proposed Site Plan (A0)
    - ii. Proposed Basement Plan (A1)
    - iii. Proposed First Floor Plan (A2)
    - iv. Proposed Second Floor Plan (A3)
    - v. Proposed Roof Plan (A4)
    - vi. Proposed Front Elevation (A5)
    - vii. Proposed Right Elevation (A6)
    - viii. Proposed Rear Elevation (A7)
    - ix. Proposed Left Elevation (A8)
  - c. A document entitled "Floor Area Worksheet- 78 Commonwealth Park West, Newton, MA," indicating a total gross floor area of 3,601 square feet and a proposed FAR of 0.45, signed and stamped by Robert J. Fizek, Registered Architect
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 and the Engineering Division of Public Works
  - 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.