



#224-17

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Setti D. Warren
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 26, 2017
Land Use Action Date:	December 12, 2017
City Council Action Date:	December 18, 2017
90 Day Expiration Date:	December 25, 2017

DATE: September 22, 2017

TO: City Council

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

SUBJECT: **Petition #224-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming front setback, further extend the nonconforming floor area ratio (FAR) from .50 to .55, where .40 is the maximum allowed, and allow a rear setback of 7.6 feet **at 168 Allerton Road**, Ward 6, Newton Highlands, on land known as SBL 52, 27, 08, containing approximately 9,000 sq. ft. of land in a district zoned Single Residence 2. Ref. §3.1.3, §3.1.9, §7.8.2.C.2, and §7.6 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



168 Allerton Road

EXECUTIVE SUMMARY

The property located at 168 Allerton Road consists of a 9,000 square foot corner lot in the Single Residence 2 (SR-2) zone in Newton Highlands. The lot is improved with a Colonial Revival single-family residence constructed circa 1905 as well as a detached one-car garage constructed in 1952. The petitioners are seeking to raze the existing detached garage and construct an attached two-car garage with a mudroom and kitchen addition. The additions will further increase the nonconforming floor area ratio (FAR) and further extend the nonconforming front setback, requiring special permits. In addition, the proposed addition will reduce the rear setback from 15 feet to 7.6 feet, requiring a variance. If the project is approved, the additions will add 518 square feet to the structure, totaling 1,386 square feet over the allowable FAR.

The Planning Department notes the proposed additions are limited to the first story of the structure thereby minimizing the effect of the bulk and mass of the structure. In addition, the additions do not detract from the architectural significance of the dwelling. Lastly, the addition will not encroach any farther into the front setback than the existing structure. As a result, the Planning Department believes the proposed extension of the front setback, and the proposed increase in the FAR are not substantially more detrimental than the existing nonconformities are to the neighborhood.

SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The proposed increase in the nonconforming FAR will be substantially more detrimental than the existing nonconforming FAR is to the neighborhood (§3.1.3, §3.1.9 and §7.8.2.C.2).
- The proposed structure with a floor area ratio (FAR) of 0.55 where 0.40 is allowed by right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.9).
- The proposed extension of the nonconforming front setback will be substantially more detrimental than the existing nonconforming front setback is to the neighborhood (§3.1.3 and §7.8.2.C.2).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is a corner lot with frontages on Allerton Road and Cushing Street in the SR-2 zone in Newton Highlands. The immediate neighborhood and

surrounding area is predominantly residential due to the SR-2 zone to the north, the Single Residence 3 zone to the south, and the Multi-Residence 1 zone to the west. However, there are a few nonconforming commercial and mixed use parcels in the area (**Attachments A & B**).

B. Site

The site consists of 9,000 square feet of land, and is improved with a single-family residence circa 1905. Since the lot is a corner lot, there are front setbacks on Allerton Road and Cushing Street; both of which are nonconforming at 21.3 feet and 10.3 feet, respectively. In the case of a corner lot, the rear yard is determined by the side opposite the front door, which is on Allerton Road. Therefore, the existing rear setback is 33.2 feet. There is an existing detached one-car garage to the south of the dwelling approximately 11 feet tall and is set back from the side lot line more than the five feet required of accessory buildings. The site is predominantly flat with mature landscaping along the boundaries. At the southwest corner of the site there is an approximately 570 square foot driveway providing access to the one-car garage from Cushing Street; staff notes there is neither curbing nor a sidewalk along the frontage of Cushing Street.



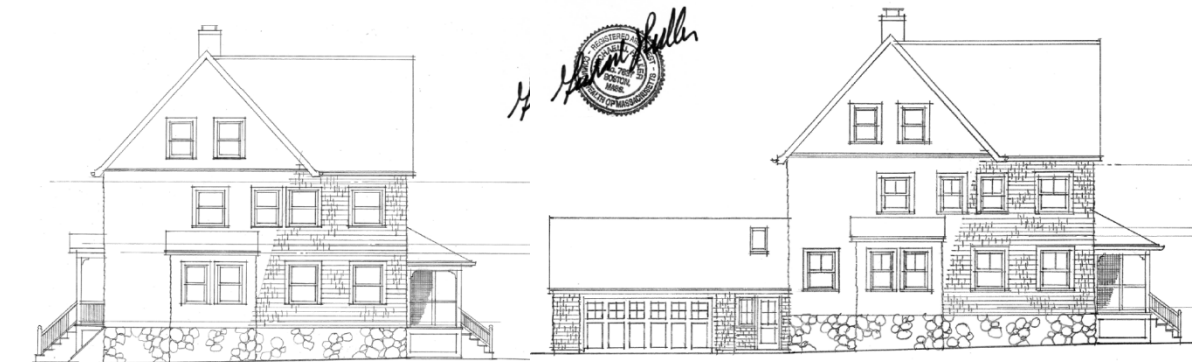
II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The petitioners are proposing to raze the existing one-car garage and construct an attached two-car garage with a mudroom and kitchen addition to the southern side of the dwelling. As the addition is to the rear, as determined by the front door, the addition will not be seen from Allerton Road, but from Cushing Street. The existing and proposed Cushing Street elevations (below) show the proposed garage. Staff notes the kitchen addition cannot be seen from either Allerton Road or Cushing Street.



Existing Cushing Street Facade

Proposed Cushing Street Facade

The proposed garage will be located closer to Cushing Street, than the existing garage, by approximately eight feet. This will put the garage 16.8 feet back from the Cushing Street boundary. The proposed garage will also reduce the rear setback from 33.2 feet to 7.6 feet which requires a variance. Staff notes that if the petitioner is not granted a variance, the petitioner has the option of changing their address from Allerton Road to Cushing Street. This change will reclassify the rear yard, thereby allowing the garage to be compliant with the side yard setback.

The existing garage is approximately 11 feet tall, whereas the proposed garage is approximately 17 feet tall. The difference in height is due to the difference between the grade and the first floor elevation. In order to enter the house from the garage, stairs are required to get to the first floor, with stairs comes the requisite headroom per building code which is why the proposed garage is approximately six feet taller. Lastly, the addition will create some additional space in the basement which counts towards the FAR calculation.

C. Parking and Circulation

Currently, parking consists of one surface parking stall and one stall in the garage. The proposed two-car garage will house both vehicles associated with the single-family dwelling.

D. Landscape Screening

A landscape plan is not required with this petition.

III. 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 Memorandum, the petitioner is seeking the following relief:

- §3.1.9 and §7.8.2.C.2 of Section 30, to further extend the nonconforming FAR
- §3.1.3 and §7.8.2.C.2 of Section 30, to further reduce the nonconforming front setback
- In addition, the petitioner requires a variance from §3.2.3 to reduce the rear yard setback from 15 feet to 7.6 feet.

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit should this project be approved.

C. Newton Historical Commission

The petitioners are proposing to demolish the existing one-car garage, and partially demolish a side of the dwelling greater than 50 years old. On August 17, 2017 the demolition was approved by the Chief Preservation Planner based on the submitted plans.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.










ATTACHMENTS:

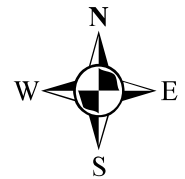
- Attachment A:** Zoning Map
Attachment B: Land Use Map
Attachment C: Zoning Review Memorandum
Attachment D: DRAFT Order

Attachment A Zoning Map Allerton Rd., 168

City of Newton,
Massachusetts

Legend

-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Business 1
-  Business 2
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

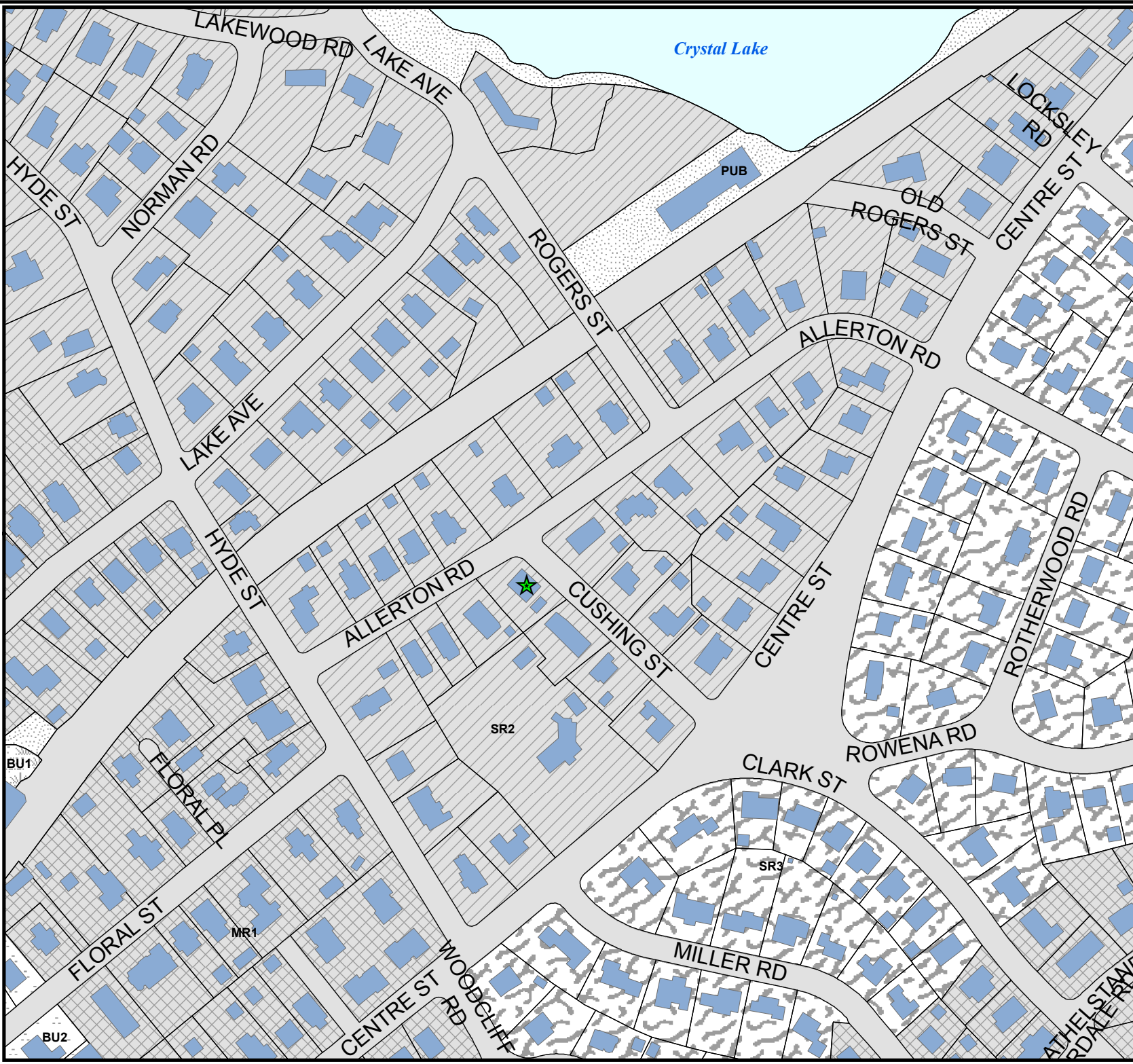


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 50 100 200
Feet

Map Date: September 05, 2017



Attachment B Land Use Map Allerton Rd., 168

*City of Newton,
Massachusetts*

Legend

Land Use

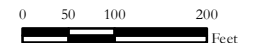
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries

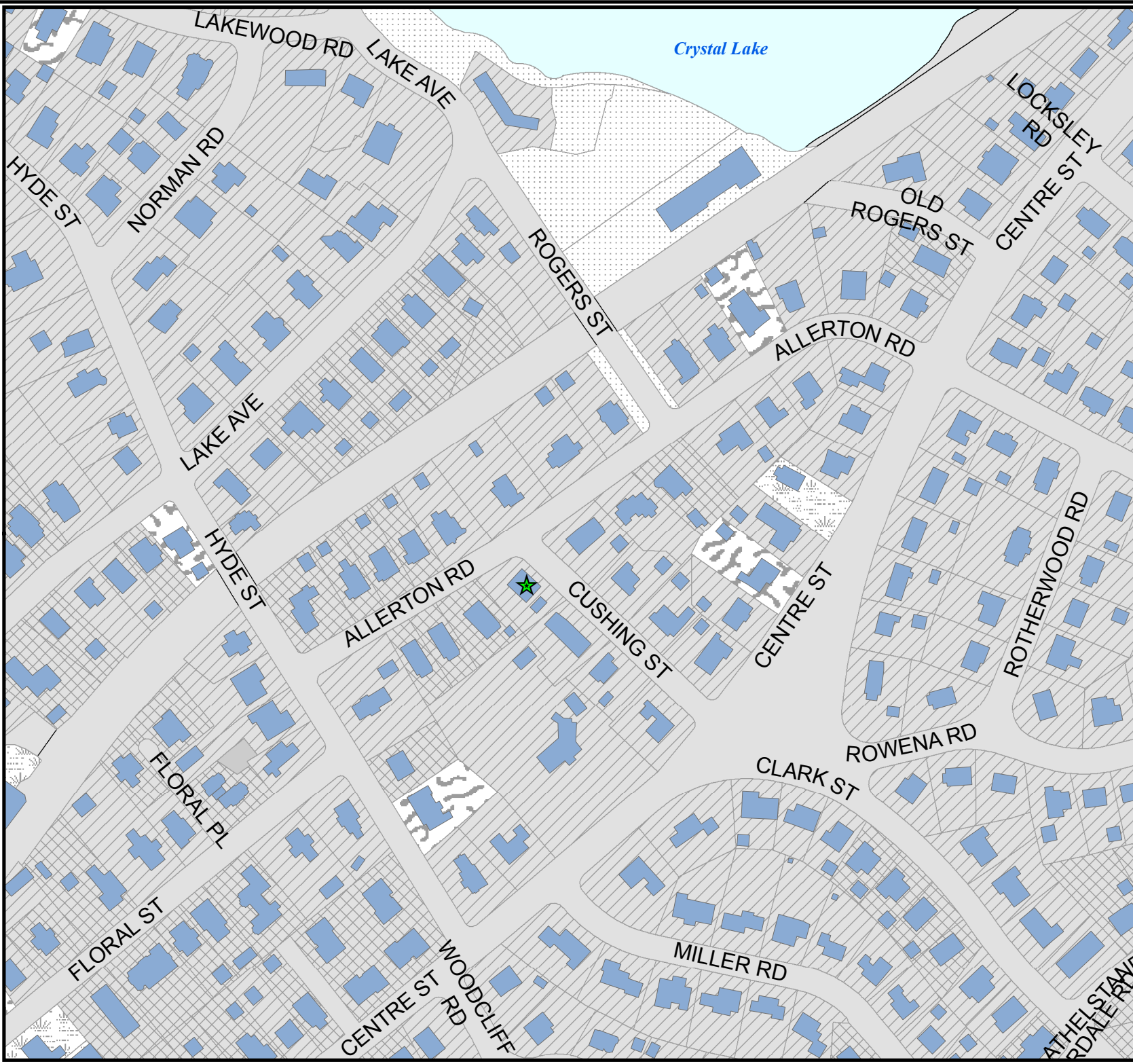


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Map Date: September 05, 2017





Setti D. Warren
Mayor

Attachment C

City of Newton, Massachusetts
Department of Planning and Development

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 25, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Michael Huller, Architect
Alan Lobovits and Lisa Rosenfeld, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a special permit to further increase nonconforming FAR and to further extend an existing nonconforming front setback, and a variance from the rear setback requirement

Applicant: Alan Lobovits and Lisa Rosenfeld	
Site: 168 Allerton Road	SBL: 52027 0008
Zoning: SR-2	Lot Area: 9,000 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 168 Allerton Road consists of a 9,000 square foot corner lot improved with a single-family residence constructed in 1905 and a detached garage constructed in 1952. The applicant proposes to raze the existing detached garage and construct an attached garage with a mudroom and kitchen addition. The proposed addition extends the existing nonconforming front setback on Cushing Street, as well as further increases the nonconforming FAR, requiring a special permit. The addition is proposed at 7.6 feet from the rear lot line, where 15 feet is required, requiring a variance.

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

- Zoning Review Application, prepared Michael Huller, Architect, submitted 6/21/2016
- FAR Worksheet, submitted 6/21/2017
- Proposed Additions Plan, signed and stamped by Bruce Bradford, surveyor, dated 6/14/2017
- Area Plan, signed and stamped by Bruce Bradford, surveyor, dated 1/9/2015
- Architectural Plans, signed and stamped by Michael Huller, Architect, dated 6/1/2017

ADMINISTRATIVE DETERMINATIONS:

1. The applicants’ existing FAR is .50, where .40 is the maximum allowed. The proposed addition adds 518 square feet to the dwelling, resulting in an FAR of .55. A special permit pursuant to Sections 3.1.9 and 7.8.2.C.2 is required to further increase the already nonconforming FAR.
2. The dwelling has an existing nonconforming front setback from Cushing Street of 10.3 feet, where 25 feet is required per Section 3.1.3. The applicants’ addition is proposed at 16.8 feet, which requires a special permit for the extension of the existing nonconforming front setback per Section 7.8.2.C.2.
3. The applicants’ lot is at the corner of Allerton Road and Cushing Street, with the front door of the dwelling facing Allerton Road. Per Section 1.5.3, in the case of a corner lot, the rear lot line is the lot line opposite the front door. The applicants’ addition is proposed for what is considered the rear of the house per the Ordinance, and to be located 7.6 feet from the rear lot line, where 15 feet is required per Section 3.1.3. The construction of the addition located at 7.6 feet from the rear lot line where 15 feet is needed requires a variance.

SR2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	9,000 square feet	No change
Frontage	70 feet	90.5 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	21.3 feet 28.1 feet 33.2 feet	No change No change 7.6 feet
Max Number of Stories	2.5	2.5	No change
FAR	.40	.50	.55
Max Lot Coverage	30%	21.9%	26.9%
Min. Open Space	50%	70%	67%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9, §7.8.2.C.2	Request to further increase nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further decrease nonconforming front setback	S.P. per §7.3.3
§3.1.3	Request to allow a rear setback of 7.6 feet	Variance per §7.6

CITY OF NEWTON
IN CITY COUNCIL

October 2, 2017

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to further extend a nonconforming front setback and further increase the nonconforming floor area ratio from .50 to .55, where .40 the maximum allowed the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing setback is to the neighborhood because the addition will not encroach any farther into the setback than the existing structure (§3.1.3 and §7.8.2.C.2).
2. The proposed increase in the nonconforming floor area ratio is not substantially more detrimental than the floor area ratio is to the neighborhood and the structure with be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the addition will add 518 square feet which is contained to the first story (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #224-17

PETITIONER: Alan Lobovits

LOCATION: 168 Allerton Road, on land known as Section 52, Block 27,
Lot 08, containing approximately 9,000 square feet of land

OWNER: Alan Lobovits

ADDRESS OF OWNER: 168 Allerton Road
Newton, MA 02461

TO BE USED FOR:	Single-Family Dwelling
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.1.3 and §7.8.2.C.2 to further extend a nonconforming front setback; §3.1.9 and §7.8.2.C.2 to further increase the nonconforming floor area ratio
ZONING:	Single Residence 2 district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated June 14, 2017
 - b. Architectural Plans, entitled "The Lobovits Residence at 168 Allerton Road, Newton, MA", signed and stamped by Michael Huller, Registered Architect, consisting of nine (9) sheet:
 - i. Existing First Floor Plan
 - ii. Existing Rear Elevation
 - iii. Existing Left Elevation
 - iv. Existing Right Elevation
 - v. Existing and Proposed Front Elevation
 - vi. Proposed First Floor Plan
 - vii. Proposed Left Elevation
 - viii. Proposed Right Elevation
 - ix. Proposed Rear Elevation
2. Prior to the issuance of any building permit, the petitioner shall either obtain a variance for the reduction of the rear yard setback or provide change of address confirmation to the City Engineer, Commissioner of Inspectional Services, and the Director of Planning and Development.
3. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:

- a. Recorded a certified copy of this board order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 and the as-built floor area ratio of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.