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James Freas
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PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 10, 2015
Land Use Action Date: March 31, 2015
Board of Aldermen Action Date: April 5, 2015
90-Day Expiration Date: June 1, 2015

DATE: March 6, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

SUBJECT: **Petition #41-15**, JUAN & KIRSTEN SMALL, for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE in order to construct a second-story addition upon the existing footprint of an existing single-family dwelling, which will increase the Floor Area Ratio from .49 to .53, where .41 is the maximum allowed by right, at 85 ERIE AVENUE, Ward 6, Newton Highlands, on land known as SBL 52, 42, 19, containing approximately 9,100 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-24, 30-23, 30-15(u)(2), and 30-21(b) of the City of Newton Rev Zoning Ord., 2012

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. 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 Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



85 Erie Avenue

EXECUTIVE SUMMARY

The property at 85 Erie Avenue consists of a 9,100 square foot lot, and is improved with a nonconforming single-family residence constructed in 1890 and a detached garage built in 2007. The dwelling is considered nonconforming because the structure is three-stories, where 2½ -stories is allowed, and the current floor area ratio (FAR) exceeds the maximum allowed. The petitioner is seeking a special permit to construct a second floor addition above a one-story wing in the rear of the existing residence, which will increase the current nonconforming structure with its FAR of .49 to .53, where .41 FAR allowable by right (**ATTACHMENT A**).

The proposed addition is approximately 319 square feet, which will enlarge the dwelling from 4,490 square feet to 4,809 square feet, and does not enlarge the footprint of the existing structure. The location of the addition is partially obscured by the existing structure and will be screened by new landscape plantings. As designed, the addition will be subordinate to the existing dwelling. The City's Senior Planner that staffs the Newton Historical Commission reviewed and approved the project, with the condition that final plans be reviewed during the building permit process.

The Planning Department has no particular concerns with this petition. The *Newton Comprehensive Plan*, adopted in 2007, encourages residential property owners to consider modest additions to older homes in order to preserve the existing structure, while allowing them to meet the needs of today's families. The Planning Department believes the addition has been designed to be sympathetic with the architectural style and detailing, and color of the existing structure, which is of the Second Empire Victorian style. The character of the expanded structure also appears to be consistent with other structures in the immediate neighborhood. For these reasons, the Planning Department finds the proposed addition to be consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood, and that the addition will not be substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed addition, which will increase the existing nonconforming FAR of .49 to .53, where the maximum allowable FAR is .41, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§30-15(u)(2))
- The proposed addition, which will extend the existing nonconforming structure by approximately 319 square feet, will not be substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood. (§30-21(b))
- The site is an appropriate location for the proposed addition. (§30-24(d)(1))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Erie Avenue approximately half way between the intersections of Erie Avenue at Bowdoin Street and Erie Avenue at Woodward Street. The subject property is surrounded by parcels containing single- and multi-family residential uses (**ATTACHMENT B**). The immediate neighborhood and subject parcel are zoned Single Residence 2, and the site is also proximate to parcels zoned Multi-Residence 1 (**ATTACHMENT C**).

B. Site

The subject property consists of approximately 9,100 square feet of land, and is improved with a nonconforming single-family residence constructed in 1890 and a detached garage built in 2007. The dwelling is considered nonconforming because the structure is three-stories, where 2½ -stories is the maximum allowed, and the current FAR exceeds the maximum allowed. The topography of the site is mostly flat. The site has vehicular access via a bituminous driveway on the western side of the parcel, parallel to the property line. The remaining portions of the property consist of lawn area. The site is partially screened in the rear and along the portions of the side property lines with sight-obscuring stockade fencing.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to construct a modest addition consisting of approximately 319 square feet above an existing one-story wing in the rear of the dwelling. The addition will allow the petitioner to create a larger master bedroom and reconfigure the existing layout of the second floor. The design of the addition is intended to be sympathetic with the architectural style, details, and color of the existing structure, which is of the Second Empire Victorian style.

As proposed, the size of the addition will increase the residence from approximately 4,490 square feet to 4,809 square feet (including the garage). The existing floor area of the buildings on the site already exceeds the maximum allowable FAR by 759 square feet. The addition will not enlarge the existing footprint of the structure, and therefore will not impact the current building lot coverage of 28.8%. The available open space on the site will increase slightly from 50.8% to 53.7%, as the petitioner is proposing to remove a portion of an existing deck.

To further understand how the size and scale of the expanded residence compares to

other structures in the surrounding neighborhood, City staff completed an analysis of surrounding dwellings using data from the Assessor's Database (**ATTACHMENT D**). As the data indicates, the proposed addition will create a structure that is slightly larger than the average and median building square footage and FAR in the neighborhood. The difference in FAR appears partly to be due to the size of the lot and whether the dwelling has a basement or attic floor that counts towards FAR. The data further shows that most of the dwellings in the immediate neighborhood also exceed the maximum allowable FAR.

The Planning Department is not concerned with the proposed addition, as the structures on the site already exceed the maximum allowable FAR and that the resulting structure will only be increased by an additional 319 square feet (or .04). The Planning Department also believes that the proposed addition has been designed to be sensitive to the existing historic structure and surrounding neighborhood. The *Newton Comprehensive Plan* encourages property owners to consider modest additions to older homes in order to preserve the existing structure. For these reasons, the Planning Department finds the proposed structure to be consistent with the size, scale and design of other structures in the neighborhood. The Planning Department also believes the proposed addition will not be substantially more detrimental than the existing nonconforming structure is to the surrounding neighborhood.

C. Landscape Screening

The site is partially screened in the rear and along the portions of the side property lines with a sight-obscuring stockade fence. The proposed addition will be partially visible from the street and the abutting property to the east. To mitigate the visual impact of the addition on the abutting property to the east and from the street, the petitioner has proposed to install additional landscape plantings around the dwelling. It appears the additional planting will adequately screening the proposed addition.

IV. TECHNICAL REVIEW

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

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

- §30-15, Table A, §30-15(u)(2), to exceed the allowable FAR.
- §30-21(b), to extend a nonconforming structure in regard to the maximum allowable FAR.

B. Engineering Review

The project as proposed does not increase the amount of impervious surface on the site, and therefore no drainage improvements are warranted.

C. Historic Review

The existing structure is more than 50 years old and the proposed addition will cover (i.e. demolish) more than 50% of a single façade, thus requiring the petitioner to file a demolition review application. The City's Senior Planner that staffs the Newton Historical Commission reviewed and approved the partial demolition of the structure and the construction of the addition, with the condition that final plans be reviewed during the building permit process.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum, dated January 26, 2015
ATTACHMENT B: Land Use Map
ATTACHMENT C: Zoning Map
ATTACHMENT D: Parcel Comparison



Setti D. Warren
Mayor

ATTACHMENT A

City of Newton, Massachusetts

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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: January 26, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Christopher Dalmus, architect
Juan and Kirsten Small, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend nonconforming FAR

Applicant: Juan and Kirsten Small	
Site: 85 Erie Avenue	SBL: 52042 0019
Zoning: SR-2	Lot Area: 9,100 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 85 Erie Avenue consists of a 9,100 square foot lot improved with a single-family residence constructed in 1890 and a detached garage built in 2007. The structure is mansard-style, and consists of three stories and a basement. The applicant proposes a second-story addition upon the existing footprint which will increase the already nonconforming FAR.

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

- Zoning Review Application, prepared by Christopher Dalmus, architect, submitted 12/16/2014
- FAR Worksheet, prepared by Christopher Dalmus, architect, submitted 12/16/2014
- Topographic Site Plan, signed and stamped by James E. Patterson, surveyor, dated 11/8/2007
- Architectural Plans, prepared by Design Associates, Inc., dated 12/11/2014

ADMINISTRATIVE DETERMINATIONS:

- The applicants' existing nonconforming FAR is .49, where .41 is the maximum allowed. The proposed addition results in an FAR of .53. A special permit pursuant to Sections 30-15(u)(2) and 30-21(b) is required.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	9,100 square feet	No change
Frontage	80 feet	70 feet	No change
Setbacks			
• Front	25 feet	15.4 feet*	No change
• Side	7.5 feet	8.6 feet	No change
• Rear	15 feet	38.1 feet	No change
Building Height	36	34.3 feet	No change
Max Number of Stories	2.5	3	No change
FAR	.41	.49	.53
Max Lot Coverage	30%	28.6%	No change
Min. Open Space	50%	56.1%	No change

*Per §30-15(d), the average setback of the buildings on either side of the property is 15.4 feet

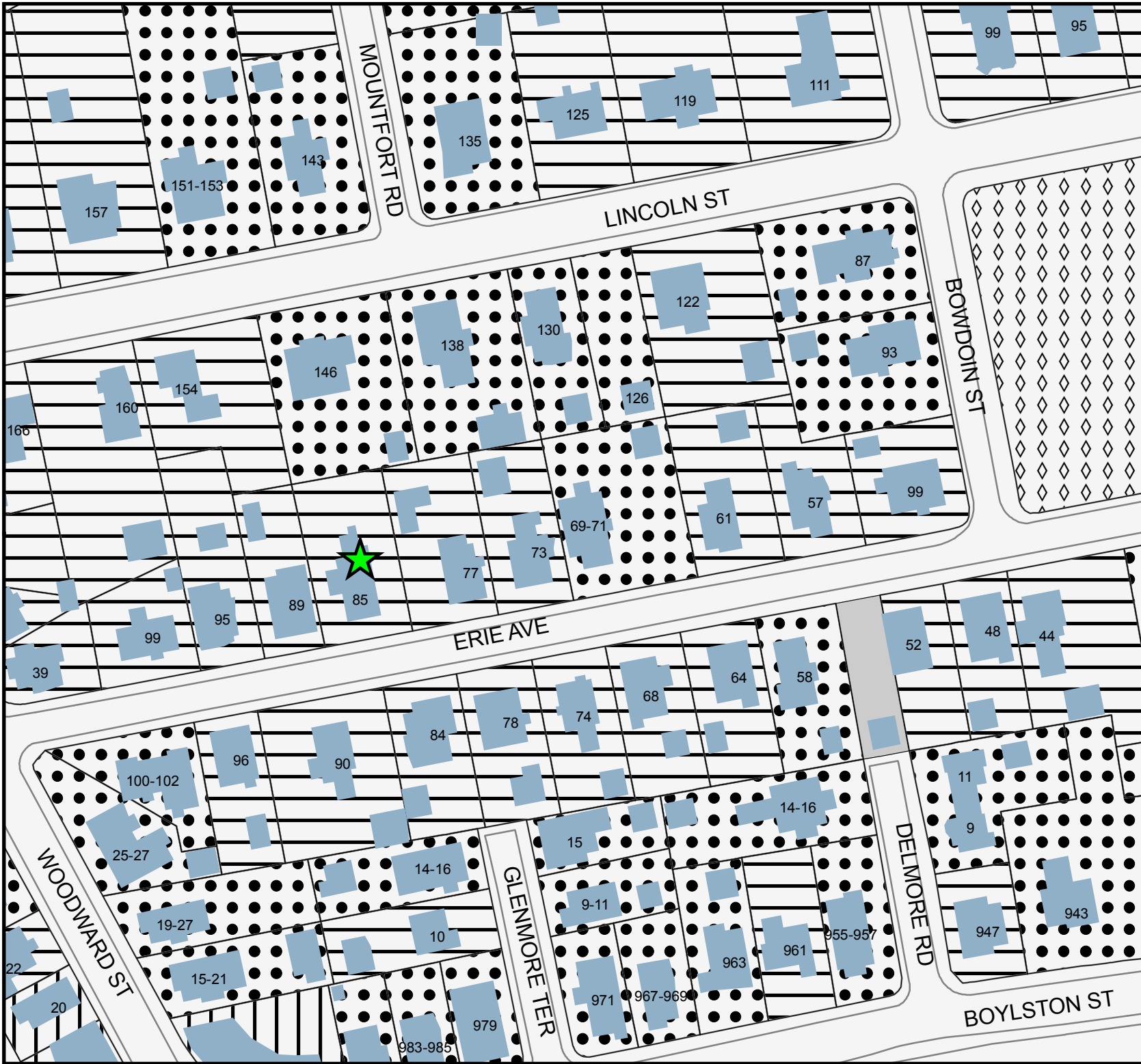
- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15(u)(2) 30-21(b)	To extend nonconforming FAR	S.P. per §30-24

Land Use Map 85 Erie Avenue

*City of Newton,
Massachusetts*

ATTACHMENT B

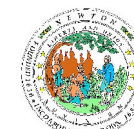
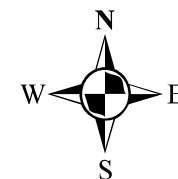


Legend

- Property Boundaries
- Building Outlines

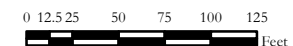
Land Use

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



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

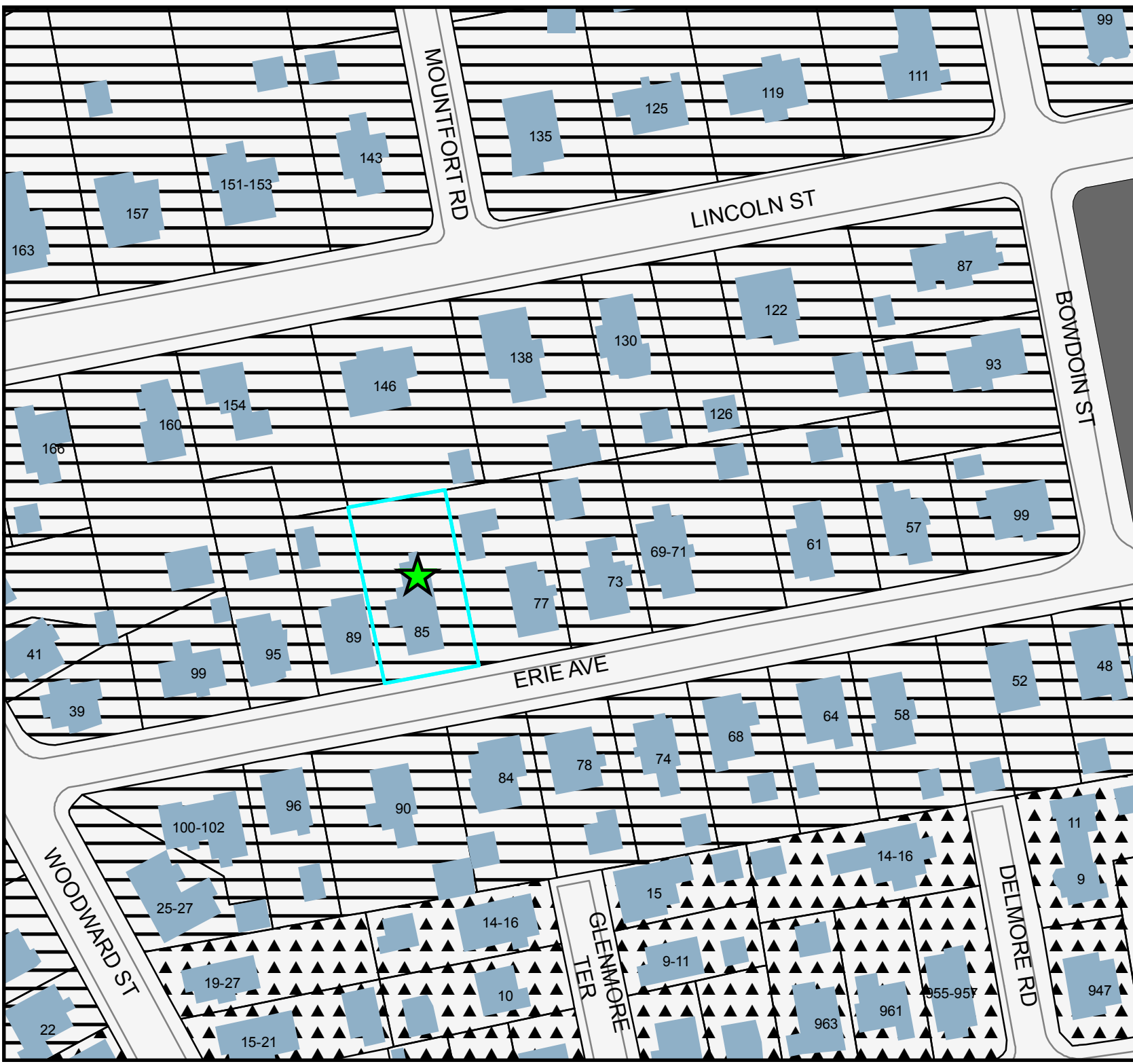
CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Zoning Map 85 Erie Avenue

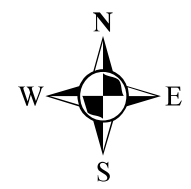
*City of Newton,
Massachusetts*

ATTACHMENT C



Legend

- Property Boundaries
- Building Outlines
- Single Residence 2
- Multi-Residence 1
- Public Use



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CITY OF NEWTON, MASSACHUSETTS
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GIS Administrator - Douglas Greenfield



FAR ANALYSIS

Parcel Comparison of Lots Surrounding 85 Erie Avenue

Property	Total	Lot Size	FAR
85 Erie Avenue*	4,490	9,100	0.49
89 Erie Avenue	4,261	6,500	0.66
95 Erie Avenue	3,780	8,695	0.43
154 Lincoln Street	3,797	12,296	0.31
146 Lincoln Street	6,670	13,800	0.48
138 Lincoln Street	5,876	13,800	0.43
130 Lincoln Street	5,346	6,900	0.77
73 Erie Avenue	4,990	7,800	0.64
77 Erie Avenue	3,862	9,100	0.42
78 Erie Avenue	3,838	7,584	0.51
84 Erie Avenue	4,355	7,500	0.58
90 Erie Avenue	4,334	12,400	0.35
96 Erie Avenue	5,171	6,179	0.84
Average	4,675	9,358	0.53
Median	4,355	8,695	0.49
85 Erie Avenue**	4,809	9,100	0.53

The information presented in this table was obtained from the City of Newton's Assessor's Database, and was used to calculate the approximate floor area ratio for adjacent parcels.

* Existing conditions for 85 Erie Avenue

** Proposed conditions, with addition, for 85 Erie Avenue