



Setti D. Warren  
Mayor

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: April 10, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurence Lee, attorney  
Brian McDonald, Trustee, Continuous Improvement Realty Trust  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to extend an existing nonconforming use**

Applicant: Continuous Improvement Realty Trust	
Site: 46 Farwell Street	SBL: 21001 0014
Zoning: MR2	Lot Area: 8,529 square feet
Current use: Office	Proposed use: Office and residential

### BACKGROUND:

The property at 46 Farwell Street consists of a 8,529 square foot lot in the MR2 zoning district. Until recently, the property had a legally nonconforming commercial use consisting of an office in the front (formerly a dwelling) and a detached truck storage structure and yard. Records in ISD indicate that there has been a commercial use on the property since at least 1934, when the detached rear structure was used to clean vegetables, and then later for equipment and truck storage. A 1960 court decision found the trucking company to be a legal nonconforming use. The applicant is requesting a special permit to convert the detached truck storage structure into a dwelling unit, and to continue to use the front structure for an office. Although the proposed residential use is otherwise permitted as of right in the MR2 zoning district, the co-existence with the existing nonconforming office use of the primary building constitutes two primary uses on the site, requiring a special permit from the City Council.

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

- Zoning Review Application, prepared by Laurence Lee, attorney, dated 2/16/2017

- Existing conditions plan, prepared by D. O'Brien Land Surveying, dated 10/17/2016, revised 12/19/2016
- Determination Letter, signed by John Lojek, Commissioner of Inspectional Services and Jane Santosuosso, Chief Zoning Code Official, dated 9/10/2015
- Certified Plot Plan, signed and stamped by Joseph R. Porter, dated 12/9/2015
- Order of Conditions, City of Newton, dated 1/20/2017
- Site Plans, prepared by Pate Landscape Architecture, dated 12/23/2016

**ADMINISTRATIVE DETERMINATIONS:**

---

1. The office use of the existing 1910 primary structure is a legal nonconforming commercial use in the Multi Residence 2 zoning district per Section 3.4.1 and the 1960 decision. The applicants propose to convert the rear detached accessory building into a dwelling unit. While a residential use is allowed in the MR2 district, the addition of the dwelling unit would result in two primary uses on one site, expanding the existing nonconforming use and requiring a special permit.

MR2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	8,529 square feet	No change
Frontage	70 feet	94 feet	No change
Setbacks - Primary			
• Front	25 feet	<b>18 feet</b>	<b>No change</b>
• Side	7.5 feet	21.6 feet	No change
• Rear	15 feet	25.9 feet	No change
Setbacks – Accessory			
• Front	25 feet	62 feet	No change
• Side	5 feet	<b>4.7 feet</b>	<b>No change</b>
• Rear	5 feet	<b>1.8 feet</b>	<b>No change</b>
Max Lot Coverage	30%	<b>31.5%</b>	<b>No change</b>
Min. Open Space	50%	<b>18.8%</b>	<b>45.2%</b>

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to extend the existing nonconforming use	S.P. per §7.3.3