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Mayor

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**#294-21**

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	September 21, 2021
Land Use Action Date:	December 14, 2021
City Council Action Date:	December 20, 2021
90-Day Expiration Date:	December 20, 2021

DATE: September 17, 2021

TO: City Council

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

SUBJECT: **Petition #294-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow an accessory building with a ground floor area greater than 700 sq. ft., to allow a detached accessory apartment with reduced setbacks, to allow a dormer wider than 50% of the exterior wall below and to allow a dormer within 3' of the intersection of the roof and the wall plane at **39 Adella Avenue**, Ward 3, West Newton, on land known as Section 31 Block 13 Lot 02, containing approximately 10,000 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 6.7.1.E.1, 3.1.3, 6.7.1.E.5, 1.5.4.G.1.b, 1.5.4.G.1.c, 3.4.3.A.4 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.



**39 Adella Ave.**

## EXECUTIVE SUMMARY

The subject property at 39 Adella Avenue consists of a 10,000 square foot lot located in a Single Residence 3 (SR3) zoning district improved with a 2,516 square foot single-family dwelling constructed in 1911 and a 436 square foot detached garage structure constructed in 1918.

The petitioner proposes to demolish the garage and construct a 2 story, approx. 1,038 square foot detached structure to be used as an accessory apartment, requiring a special permit per Sec. 6.7.1.E.1 of the Newton Zoning Ordinance (NZO). As designed, the proposal requires additional zoning relief, including:

Since per Sec. 6.7.1.E.5 a detached accessory apartment must meet the setbacks of the principal dwelling, and the proposed accessory apartment has a 5-foot side setback where a setback of 7.5 feet is so required per Sec. 3.1.3, and a 7.5-foot rear setback where a setback of 15 feet is required, the proposed side and rear setbacks require a special permit.

As Sec. 1.5.4.G.1.b requires that no dormer be wider than 50% of the length of the exterior wall next below, and the petitioner proposes to construct a clerestory dormer on the eastern side of the accessory building that is 19.33 feet long, 59% of the 32.5-foot wall below, a special permit is required. Also regarding the dormer, per the vertical plane of the side wall of any dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. The proposed dormer on the eastern side of the accessory building terminates at the intersection with the building end wall, rather than terminating at least three from the vertical plane of that building end, requiring a special permit per Sec. 1.5.4.G.1.c.

While the Planning Department is generally supportive of accessory apartments, and is supportive of the effort here, it, as discussed below, has some concerns regarding the dimensional and design aspects of the proposed detached structure.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a SR3 district is an appropriate location for the proposed detached accessory dwelling as designed (§7.3.3.C.1)
- The proposed detached accessory dwelling as designed will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed detached accessory dwelling as designed will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on the south side of Adella Avenue just east of Orchard Avenue. The neighborhood is predominantly a mix of one- and two- family dwelling, with the exception of a multifamily property approximately 250 feet to the southwest. (**Attachment A**). The site and surrounding area north of Watertown Street are zoned SR3; the area south of Watertown Street is a Multi-Residence 1 (MR1) district (**Attachment B**).

### B. Site

The subject property consists of a 10,000 square foot lot improved with a 2,516 square foot single-family dwelling and a 436 square foot detached garage. Vehicular access to the lot is provided via a paved driveway on the right (west) side of the property that services the existing garage in the rear right of the property. The remaining portions of the site feature mature lawn area, trees and shrubs. Fencing is located generally parallel to the right (west) and rear (south) property lines.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site will remain a single-family residence and, if approved, an accessory apartment will be in a detached accessory structure.

### B. Building and Site Design

The subject property consists of a 10,000 square foot lot improved with a 2,516 square foot single-family dwelling and a 436 square foot detached garage. No changes to the dwelling are contemplated by this petition (a proposed 20' x 12' deck of the rear of the dwelling is shown on the proposed site plan).

The petitioner proposes to demolish the garage and construct a 2 story, 1,038 square foot accessory detached structure to be used as an accessory apartment. The proposed structure would have a 668 square foot footprint and a height of 21.6 feet at its roof ridge line.

Per Sec. 6.7.1E.3, a new detached accessory apartment structure should be "in keeping with the architectural integrity of the existing structure and/or the principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site." The petitioner should be prepared to discuss how the proposed structure meets these requirements in advance of or at the upcoming public hearing, including the exterior finishes.

Regarding the dormer which is both oversized and located too close to the vertical line of the wall below, the Planning Department notes that as new construction the need for such relief could seemingly be avoided with slight design changes.

The Department notes also that the dormer located on the right side of the structure would

overlook the abutting property. While this might not usually be a concern, it is notable here as the structure requires relief to diminish the existing right side setback to five feet, in addition to reducing the rear setback to 7.5 feet. Also, the proposed structure would be taller than the garage that it would replace. Given the forgoing, it is unclear why the proposed structure could not be accommodated on the without it being located within either the rear or side setbacks.

C. Parking and Circulation

As the existing garage would be replaced with a detached accessory apartment, the property would have no garaged parking. As shown, three parking stalls would be located directly in front of the proposed detached structure and would be accessed by the existing driveway. The petitioner should clarify if additional paving would be required to accommodate the three stalls as shown.

D. Landscaping

The proposed locations of several proposed tree installations are indicated in a submitted architectural plan, including several at the rear of the proposed structure and along the right property line, adjacent to the parking that would be created directly in front of the accessory apartment. Given the proposed location of the proposed accessory structure's proximity to property neighboring to the right, the Planning Department recommends that the petitioner consider appropriate onsite vegetative screening in that location as well.

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:

- allow detached accessory apartment (§6.7.1.E.1)
- allow a detached accessory apartment with reduced setbacks (§3.1.3, §6.7.1.E.5)
- allow a dormer wider than 50% of the exterior wall next below (§1.5.4.G.1.b)
- allow a dormer within 3 feet of the intersection of the roof and wall plane (§1.5.4.G.1.c)
- allow an accessory building with a ground floor area exceeding 700 square feet (§3.4.3.A.4, §3.4.4.H.1) (*note*: the petitioner is no longer seeking this relief)

B. Engineering Review

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

C. Historic Review

On August 19, 2021, the Newton Historic Commission found the garage not historically

significant and required no further review.

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 A





## Land Use

39 Adella Ave.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Nonprofit Organizations
-  Vacant Land

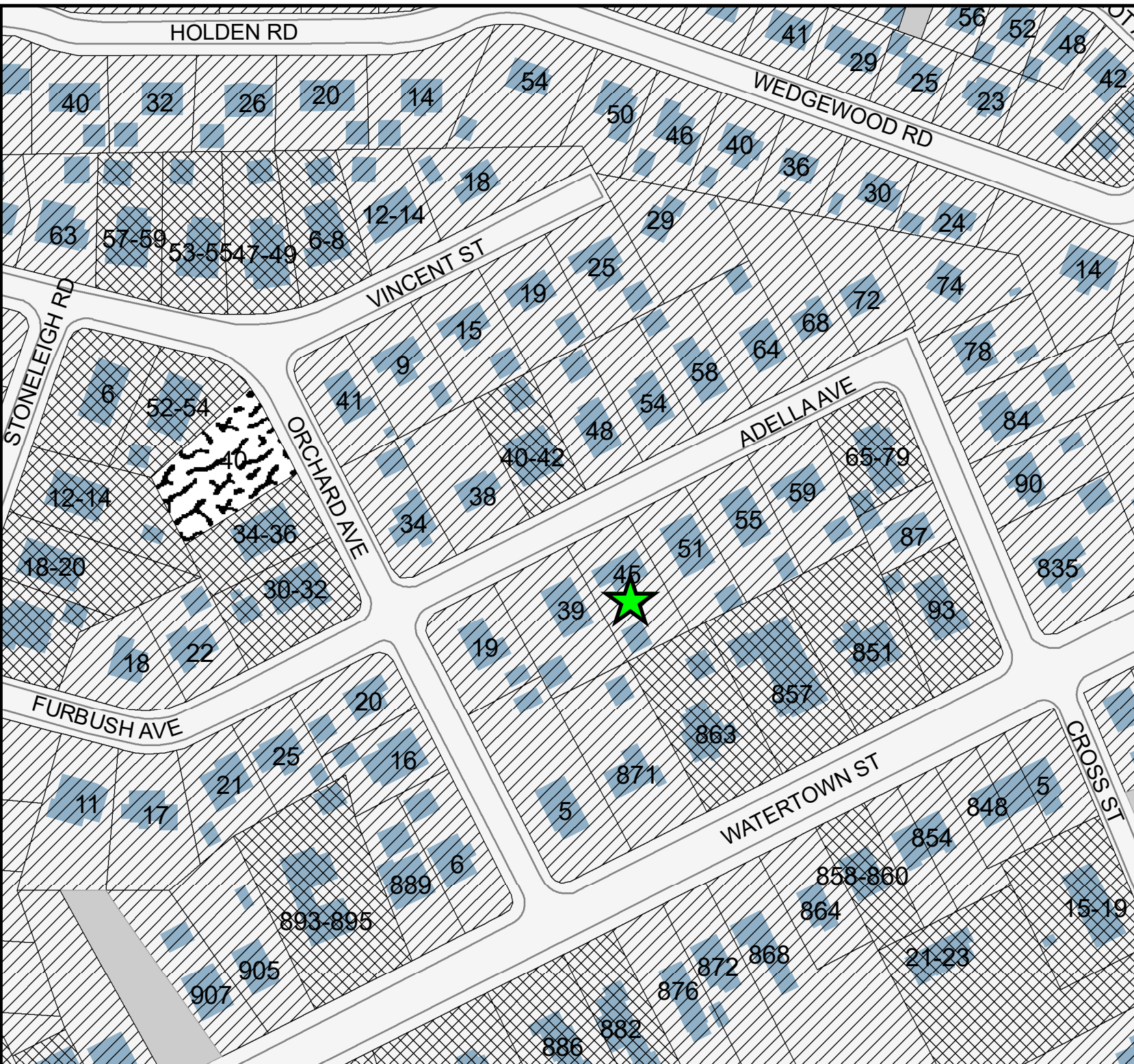


The information on this map is a Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications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

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

0 12.5 25 50 75 100 125 150 175  
Feet

Map Date: September 14, 2021

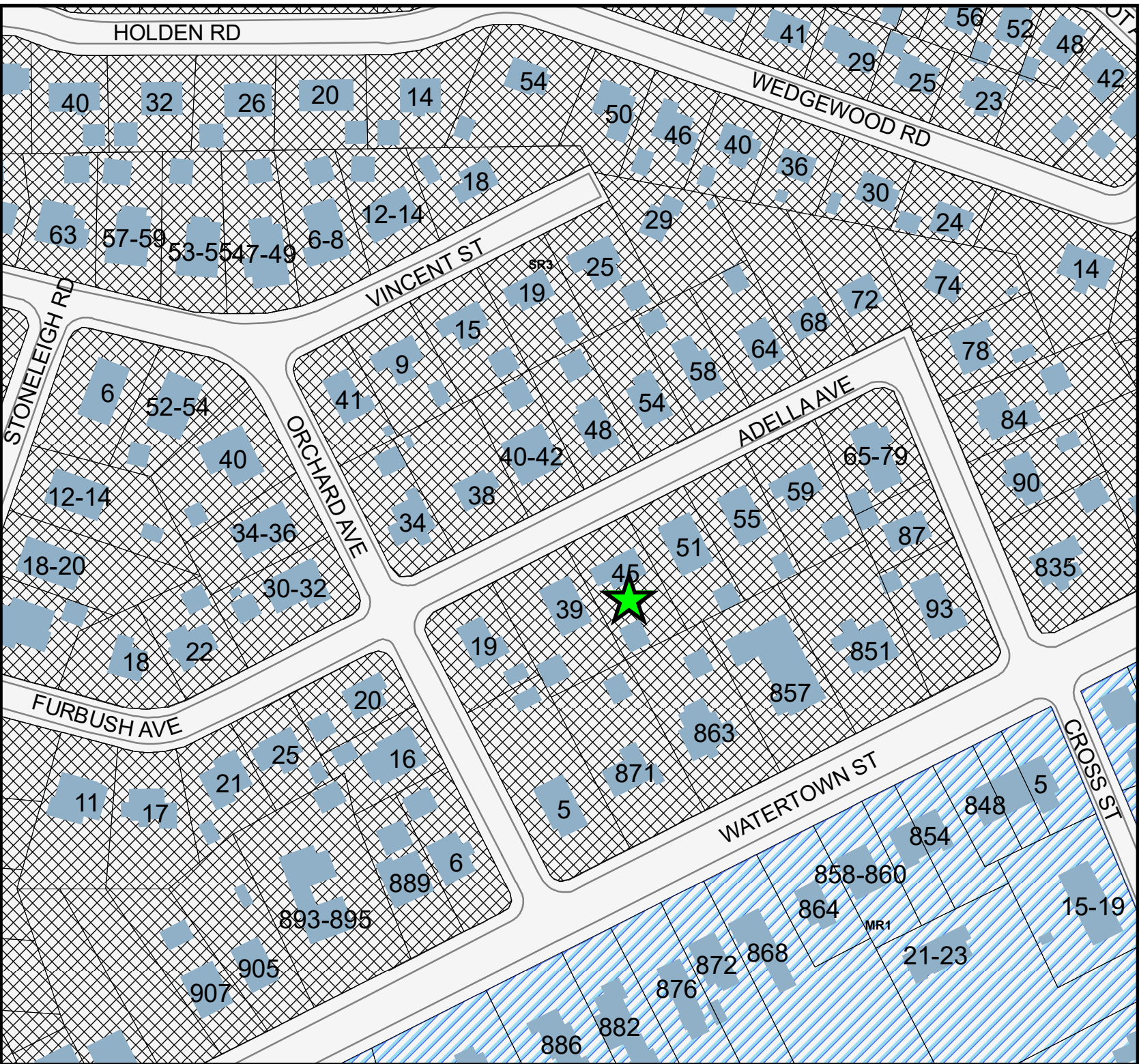




# ATTACHMENT B

## Zoning

**39 Adella Ave.**

*City of Newton,  
Massachusetts*

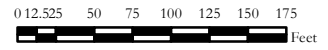


-  Single Residence 3
-  Multi-Residence 1



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CITY OF NEWTON, MASSACHUSETTS  
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Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: June 23, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mark Armstrong, Architect  
Naomi and Ilan Frankel, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to allow a detached accessory apartment with reduced setbacks and an accessory building with a ground floor area greater than 700 square feet**

Applicant: Naomi and Ilan Frankel	
Site: 39 Adella Avenue	SBL: 31013 0002
Zoning: SR3	Lot Area: 10,000 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a detached accessory apartment

### BACKGROUND:

The property at 39 Adella Avenue consists of a 10,000 square foot lot improved with a single-family dwelling constructed in 1911 and a detached garage structure constructed in 1918. The petitioner proposes to raze the garage and construct a larger detached structure to be used as an accessory apartment.

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

- Zoning Review Application, prepared by Mark Armstrong, architect, submitted 5/5/2021
- Architectural plans and elevations, prepared by Mark Armstrong, architect, dated 3/19/2021
- Site Plan, Existing Conditions, prepared by EMB, surveyor, dated 4/21/2021
- Site Plan, Proposed Conditions, prepared by Mark Armstrong, architect, dated 3/19/2021



## **ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner proposes to demolish the detached garage and construct a detached accessory building to be used as an accessory apartment. Per section 6.7.1.E.1, a special permit is required to allow a detached accessory apartment.
2. Per section 6.7.1.E.2, a detached accessory apartment may be a maximum of 40% of the habitable area of the principal dwelling or 1,200 square feet, whichever is less. The principal unit has 2,991 square feet of habitable space, allowing for a 1,196 square foot apartment (40%). The proposed apartment is 1,020 square feet, requiring no relief.
3. Per section 6.7.1.E.5, a detached accessory apartment must meet the setbacks of the principal dwelling unless by special permit. The proposed accessory apartment has a 5-foot side setback where a setback of 7.5 feet is required per section 3.1.3, and a 7.5-foot rear setback where a setback of 15 feet is required. The proposed reduced side and rear setbacks require a special permit.
4. Section 1.5.4.G.1.b requires that no dormer be wider than 50% of the length of the exterior wall next below. The petitioner proposes to construct a clerestory dormer on the eastern side of the accessory building that is 19.33 feet long on the 32.5-foot wall, resulting in a dormer that is 59% of the length of the wall next below, requiring a special permit.
5. Per section 1.5.4.G.1.c the vertical plane of the side wall of any dormer may not be closer than three feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. The proposed dormer on the eastern side of the accessory building terminates at the intersection with the main building end wall, requiring a special permit.
6. Per section 3.4.3.A.4, the ground floor area of an accessory building may not exceed 700 square feet, unless by special permit. The petitioner proposes a ground floor area of 750 square feet, requiring a special permit per section 3.4.4.H.1.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	10,000 square feet	No change
Frontage	70 feet	80 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 7.5 feet 15 feet	27.5 feet 14.1 feet ± 40 feet ± 35 feet	No change No change No change No change
Setbacks - Accessory <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 7.5 feet 7.5 feet 15 feet	NA 7.5 feet ± 35 feet 13.9 feet	± 75 feet <b>5 feet</b> ± 35 feet <b>7.5 feet</b>
Max Number of Stories <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	2.5 1.5	2.5 1	No change 1.5
Height <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	36 feet 22 feet	30.3 feet 18 feet	No change 21.5 feet
FAR	.41	.30	.37
Max Lot Coverage	30%	14.7%	21.7%
Min. Open Space	50%	67.2%	62.2%

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.1	To allow detached accessory apartment	S.P. per §7.3.3
§3.1.3 §6.7.1.E.5	To allow a detached accessory apartment with reduced setbacks	S.P. per §7.3.3
§1.5.4.G.1.b	To allow a dormer wider than 50% of the exterior wall next below	S.P. per §7.3.3
§1.5.4.G.1.c	To allow a dormer within 3 feet of the intersection of the roof and wall plane	S.P. per §7.3.3
§3.4.3.A.4 §3.4.4.H.1	To allow an accessory building with a ground floor area exceeding 700 square feet	S.P. per §7.3.3