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#416-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 20, 2022
Land Use Action Date:	December 13, 2022
City Council Action Date:	December 19, 2022
90-Day Expiration Date:	December 19, 2022

DATE: September 16, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #416-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow the construction of an attached garage with living space above, further extending the nonconforming front setback and further reducing the nonconforming open space at **39 Floral Street**, Ward 6, Newton, on land known as Section 52 Block 38 Lot 13, containing approximately 7,589 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2017.

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 Floral Street

EXECUTIVE SUMMARY

The subject property at 39 Floral Street consists of a 7,589 square foot “back lot” in a Multi Residence 1 (MR1) zoning district improved with a single-family dwelling constructed circa 1869.

As the parcel is a back lot, the front setback is measured from the rear lot line of the parcel at the front (43-45 Floral Street). The existing dwelling has a nonconforming front setback of 24.5 feet where 25 feet is required per Section 3.2.3. of the Newton Zoning Ordinance (NZO).

The petitioners propose to construct an addition that includes an attached garage and living space on the dwelling’s first and second floors, including above the proposed garage, that would further reduce and extend the nonconforming front setback to three feet, requiring a special permit per Secs. 3.2.3 and 7.8.2.C.2.

The proposed construction would also further reduce the parcel’s nonconforming open space from 40.7% to 34.2% where the minimum required is 50% per Sec. 3.2.3, requiring a special permit per Sec. 7.8.2.C.2.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- further reducing the existing nonconforming front setback as measured from the rear lot line of the parcel at the front from 24.5 feet to three feet would be substantially more detrimental than the existing nonconforming front setback to the neighborhood (§3.2.3, §7.8.2.C.2)
- further reducing the nonconforming open space from 40.7% to 34.2% would be substantially more detrimental than the existing nonconforming open space to the neighborhood (§3.2.3, §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the north side of Floral Street just east of Walnut Street. An MBTA rail line is located immediately to the rear (north) of the property. The site is developed with a single-family dwelling, consistent with the residential use of the neighborhood which is predominantly a mix of single- and two- family dwellings with commercial uses along Walnut Street (**Attachment A**). The site and surrounding area east of Walnut Street is zoned MR1, with several parcels along Walnut Street zoned Business 2 (BU2); the area west of Walnut Street is a mix of MR1, BU2, Business 1 (BU1), and Multi Residence 2 (MR2) (**Attachment B**).

B. Site

The subject property consists of a 7,589 square foot “flagpole” lot improved with a single-family dwelling constructed circa 1869.

The lot slopes upward approx. four feet upward from the front to the rear lot line along the

abutting MBTA rail line. Access from Floral Street is provided via an approx. 18-foot-wide corridor and 16-foot-wide paved driveway and curb cut. The balance of the lot has lawn and paved areas.

III. PROJECT DESCRIPTION AND ANALYSIS

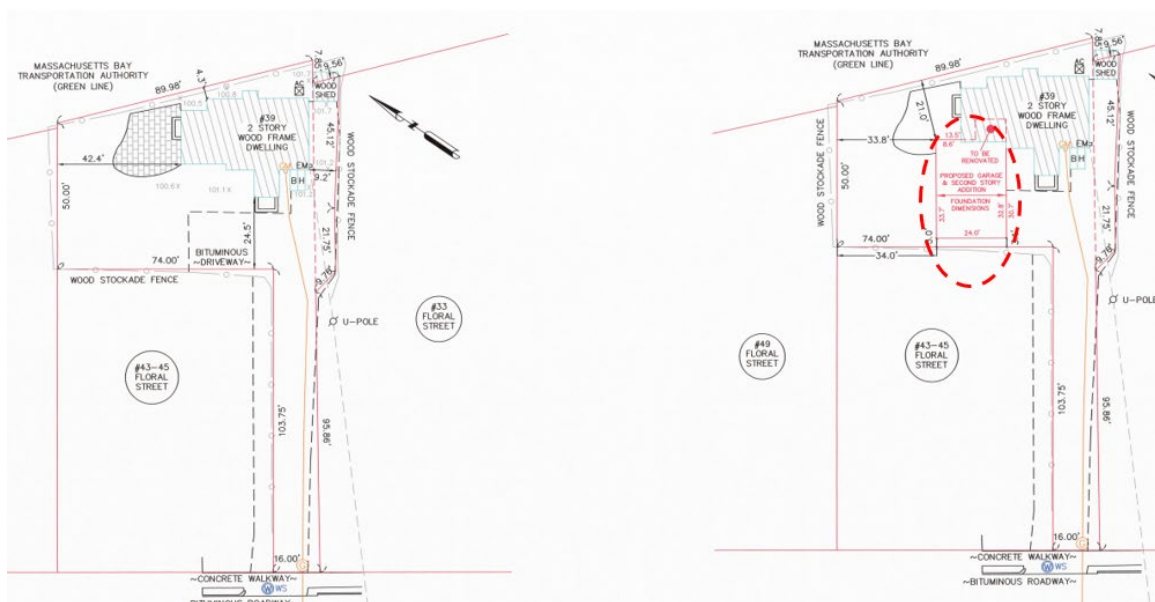
A. Land Use

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

B. Building and Site Design

The petitioners propose to construct a front addition that would include a 600 square foot attached garage and 1,014 square feet of living space (136 square feet on the first floor, 878 square feet on the second). In total the proposed construction would add 1,614 feet of floor area to the property, increasing its floor area ratio (FAR) from 0.26 to 0.45, remaining below the 0.53 the maximum allowed by right. The expanded structure's height would remain the same at 28.9 feet and two stories, less than the 36 feet and 2 ½ stories allowed by right.

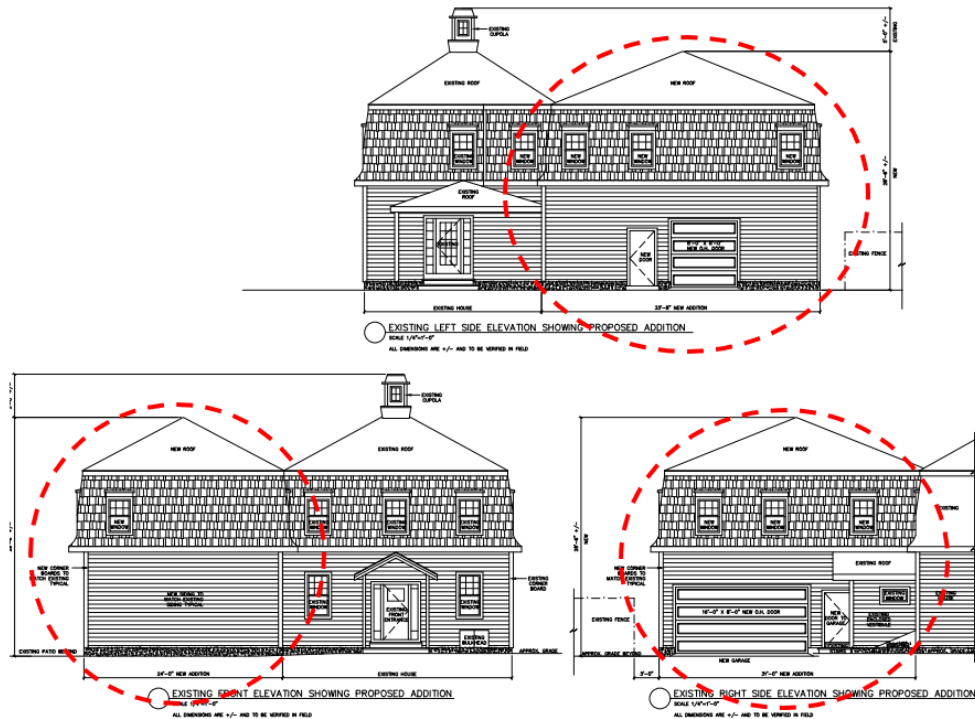
As the parcel is a back lot, its front setback is measured from the rear lot line of the parcel at the front (43-45 Floral Street). The dwelling's existing nonconforming front setback is 24.5 feet where 25 feet is required. The proposed addition would further reduce and extend that front setback nonconformity to three feet, bringing the dwelling close to the front abutting property's rear lot line.



Site plans- existing and proposed (proposed addition location indicated)

The proposed construction would also further reduce the parcel's nonconforming open space from 40.7% to 34.2% where the minimum required is 50%. The proposed changes would increase the lot coverage from 15.3% to 25.1%, remaining below the maximum 30% allowed

by right. The property's open space would decrease from 59.8% to 57.1% but remain above the minimum 50% required.



Proposed left, front and right side elevations (proposed addition location indicated)

C. Parking and Circulation

The petitioners are proposing to provide two parking spaces within the proposed garage. Vehicular access from Floral Street would remain unchanged, via the existing corridor portion of the flagpole lot.

D. Landscaping

A landscaping plan was not submitted with this petition.

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:

- further reduce a nonconforming front setback (§3.2.3, §7.8.2.C.2)
- further reduce the nonconforming open space (§3.2.3, §7.8.2.C.2)

B. Engineering Review

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

C. Historic Review

On August 29, 2022, Historic Preservation staff deemed the existing structure Historically Significant as being historically or architecturally important. The Newton Historic Commission has placed the property on its September 22, 2022, meeting agenda.

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

39 Floral St.

*City of Newton,
Massachusetts*

Land Use

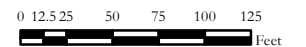
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

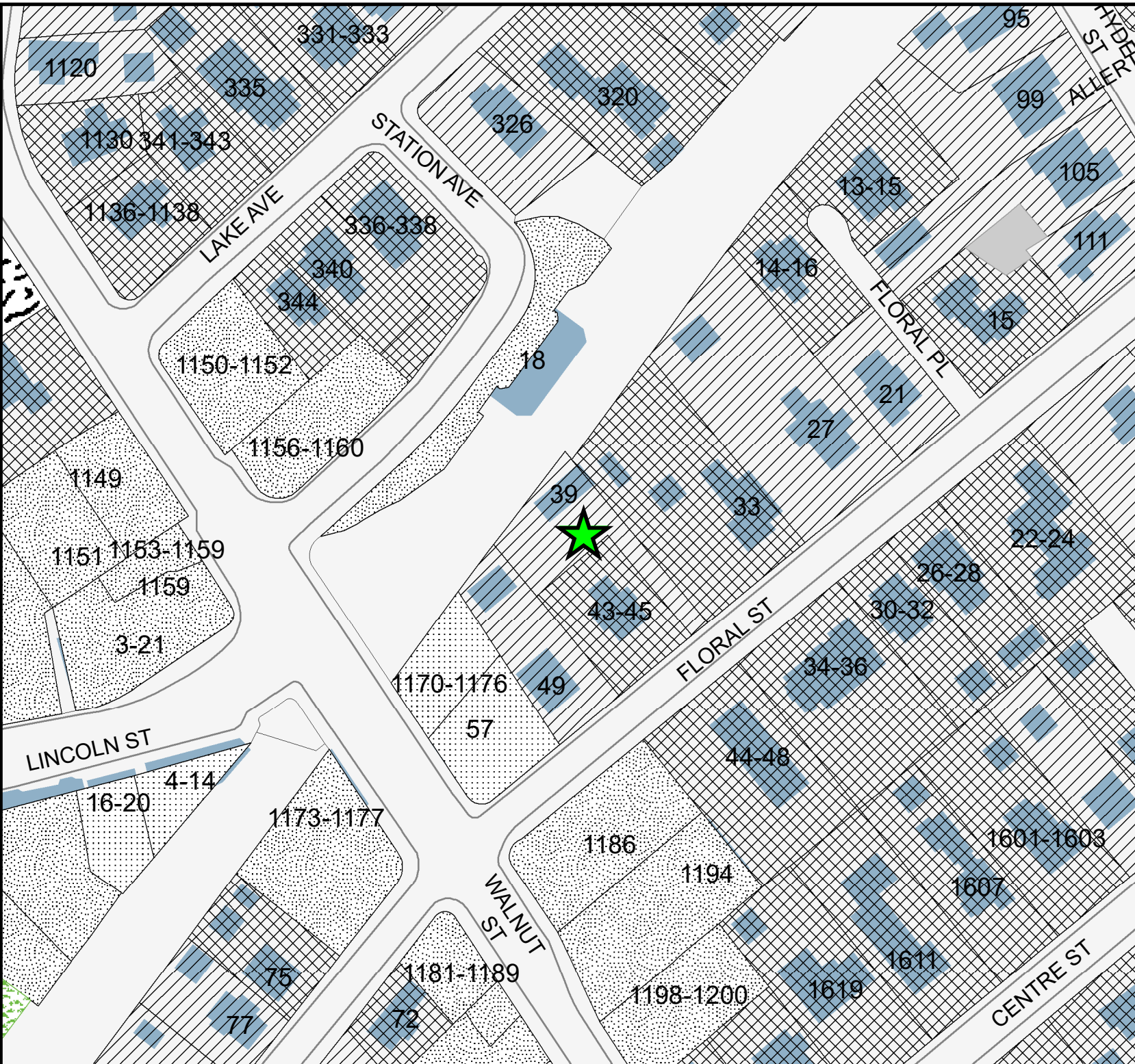


The information on this map is Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based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

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



Map Date: September 14, 2022









ATTACHMENT B

Zoning

39 Floral St.

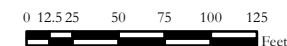
*City of Newton,
Massachusetts*

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Business 2
-  Public Use

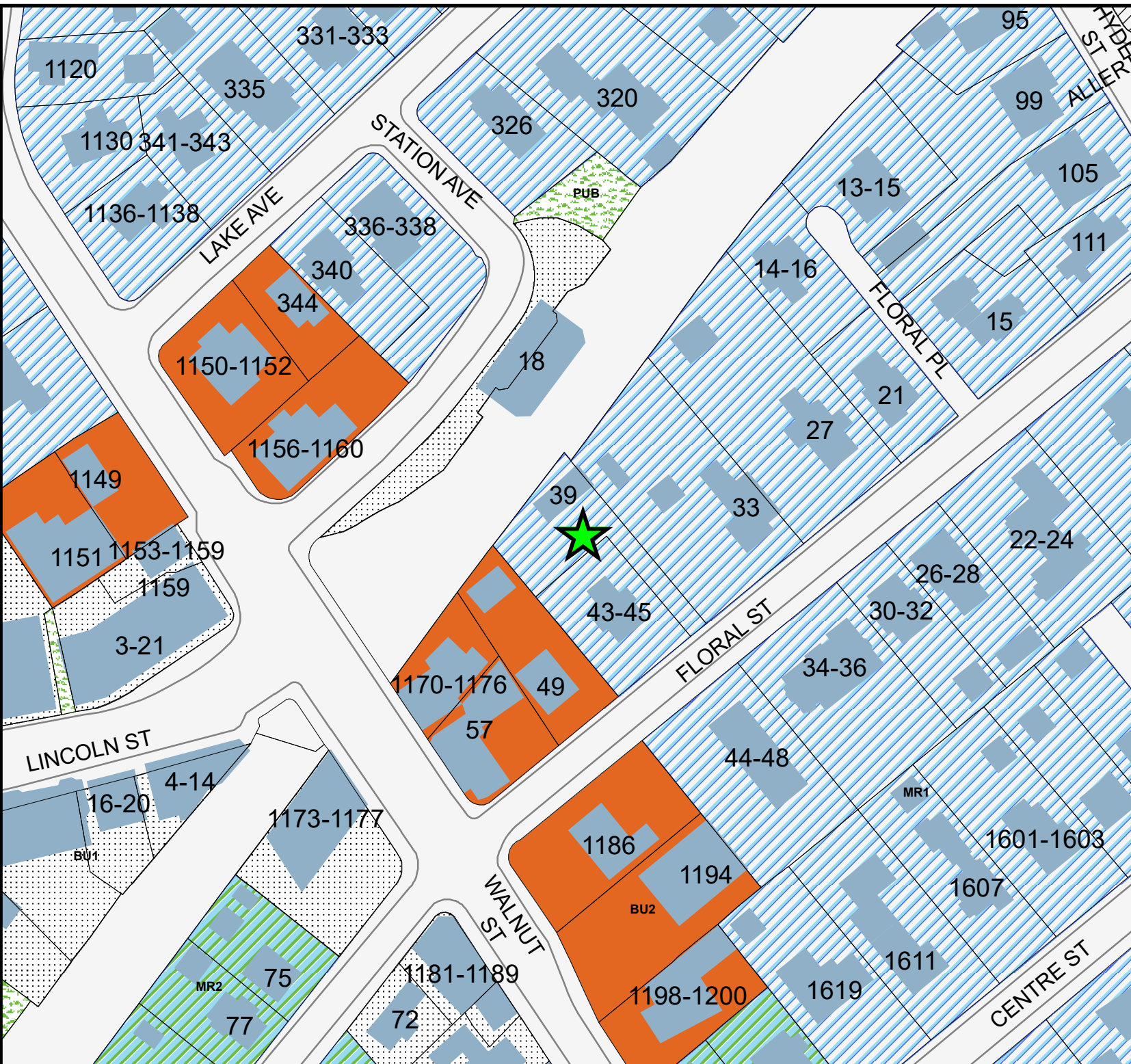


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CITY OF NEWTON, MASSACHUSETTS
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Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 11, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Celia Ivanov, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: **Request to further extend the nonconforming front setback and open space**

Applicant: Celia Ivanov	
Site: 39 Floral Street	SBL: 52038 0013
Zoning: MR1	Lot Area: 7,589 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 39 Floral Street consists of a 7,589 square foot back lot improved with a single-family dwelling constructed circa 1869. The petitioners propose to construct an attached garage with living space above. The proposed additions will further extend the nonconforming front setback, and further reduce the nonconforming open space, requiring a special permit.

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

- Zoning Review Application, prepared by Celia Ivanov, submitted 6/8/2022
- Plan Showing Proposed Garage Addition, signed and stamped by Dennis B. O'Brien, surveyor, dated 11/29/2021, revised 5/13/2022
- FAR calculation, submitted 6/8/2022, revised 8/11/2022
- Plans and elevations, prepared by Costa Architects, architect, dated 2/13/2022, revised 3/17/2022, 4/26/2022, 5/3/2022

ADMINISTRATIVE DETERMINATIONS:

1. The subject lot is a back lot, where the front setback is measured from the rear lot line of the parcel at the front (in this case, 43-45 Floral Street). The existing dwelling has a nonconforming front setback of 24.5 feet where 25 feet is required per section 3.2.3. The petitioners propose to construct an attached garage with living space above. The proposed addition further reduces and extends the nonconforming front setback to 3 feet. A special permit per sections 3.2.3 and 7.8.2.C.2 is required.
2. The open space for the parcel is nonconforming at 40.7%, where the minimum required is 50% per section 3.2.3. The proposed construction further reduces the open space to 34.2%. requiring a special permit per section 7.8.2.C.2.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	7,589 square feet	No change
Frontage	70 feet	90 feet*	No change
Setbacks			
• Front	25 feet	24.5 feet	3 feet**
• Side	7.5 feet	9.2 feet	No change
• Side	7.5 feet	42.4 feet	33.8 feet
• Rear	15 feet	4.3 feet	No change
Max Number of Stories	2.5	2	No change
Max Height	36 feet	28.9 feet	No change
FAR	.53	.26	.45
Max Lot Coverage	30%	15.3%	25.1%
Min. Open Space	50%	40.7%	34.2%**

*For a back lot, the frontage is measured along the rear lot line of the lot in front of it, as well as any frontage along the street.

**Requires relief

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.2.3 §7.8.2.C.2	To further reduce a nonconforming front setback	S.P. per §7.3.3
§3.2.3 §7.8.2.C.2	To further reduce the nonconforming open space	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

further reduce a nonconforming front setback (§3.2.3, §7.8.2.C.2) and further reduce the nonconforming open space (§3.2.3, §7.8.2.C.2),

as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. further reducing the existing nonconforming front setback as measured from the rear lot line of the parcel at the front from 24.5 feet to three feet would not be substantially more detrimental than the existing nonconforming front setback to the neighborhood (§3.2.3, §7.8.2.C.2)
2. further reducing the nonconforming open space from 40.7% to 34.2% would not be substantially more detrimental than the existing nonconforming open space to the neighborhood (§3.2.3, §7.8.2.C.2)

PETITION NUMBER: #416-22

PETITIONER: Celia Ivanov

LOCATION: 39 Floral Street, Section 52, Block 38 Lot 13, containing approximately 7,589 square feet of land

OWNER: Celia Ivanov

ADDRESS OF OWNER: 39 Floral Street
Newton, MA 02461

TO BE USED FOR: Single Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- further reduce a nonconforming front setback (§3.2.3, §7.8.2.C.2)
- further reduce the nonconforming open space (§3.2.3, §7.8.2.C.2)

ZONING: Multi Residence 1 (MR1)

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 "Plan Showing Proposed Gar.- Addition, 39 Floral Street, Newton, MA Middlesex County," dated November 11, 2021, as revised through May 13, 2022, prepared by O'Brien Land Surveying, stamped and signed by Dennis B. O'Brien, Professional Land Surveyor
 - b. a set of architectural plans entitled "Proposed Garage and Second Story Addition, 39 Floral Street, Newton, MA," prepared by Costa Architects LDC, dated February 13, 2022, as revised through May 3, 2023, comprised of the following drawings:
 - i. Existing/Proposed First and Second Floor Plans (A-1)
 - ii. Existing/Proposed Front, Left and Right Elevations (A-2)
 - c. a document entitled "Floor Area Worksheet- 39 Floral Street," indicating a proposed total gross floor area of 3,393 square feet and a proposed FAR (floor area ratio) of 0.45
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, Engineering Division of Public Works and Fire Department.
 - d. 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 or engineer certifying compliance with Condition #1.
- 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 licensed land surveyor.