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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 9, 2018  
Land Use Action Date: March 27, 2018  
City Council Action Date: April 2, 2018  
90-Day Expiration Date: April 9, 2018

DATE: January 5, 2018

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #19-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the non-conforming use to allow reconfiguration of the existing two-family dwelling into one unit and adding a second two-story attached dwelling unit at **307-309 Lexington Street**, Ward 4, Auburndale, on land known as Section 41, Block 30, Lot 36 and Section 41, Block 30, Lot 37, containing approximately 15,216 sq. ft. of land in a district zoned SINGLE RESIDENCE 3.Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

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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.



**307-309 Lexington Street**

### EXECUTIVE SUMMARY

The property at 307-309 Lexington Street, which comprises two lots consisting in the aggregate of 15,216 square feet, is located in a Single Residence 3 (SR3) zoning district. The site is improved with a nonconforming 2,000 square foot, 2 ½-story, two-family dwelling constructed in 1870 and a detached 414 square foot two-car garage. The dwelling, which was originally a single-family dwelling, was converted with a legal building permit into two units in 1951.

The petitioners propose to reconfigure the existing two-family dwelling into a single unit and construct a 3,189 square foot, two-story addition to the right (north) side of the existing structure that would contain a second unit and an attached two-car garage. The proposed work requires a special permit pursuant to Section 7.8.2.C.2 to extend the existing nonconforming two-family use.

The Planning Department is generally not concerned with this petition as the two-family use will not be changed and it believes the proposed addition will not be substantially more detrimental to the neighborhood than the existing nonconforming use as the resulting structure would comply with current floor area ratio (FAR) and other dimensional regulations.

Furthermore, the Planning Department believes that the proposal is consistent with the 2007 Newton Comprehensive Plan's encouragement of residential property owners to consider modest additions to older homes to preserve existing structures while allowing them to meet the needs of today's families.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider:

- Whether the proposed extension an existing nonconforming two-family use in and Single Residence 3 (SR3) zoning district would not be substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2)

#### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

##### A. Neighborhood and Zoning

The subject property is located on the west side of Lexington Street, opposite that street's intersections to the east with Orris and King streets. The neighborhood is residential with a mix of single- and two- family dwellings, and several of the latter are immediately adjacent to the subject property in either direction along Lexington Street. The site and surrounding area is uniformly zoned Single Residence-3 (SR3). **(Attachments A & B).**

B. Site

The property, which is comprised of two lots measuring 15,216 square feet in the aggregate, is improved with a nonconforming 2,000 square foot, 2 ½-story, two-family dwelling constructed in 1870 and a detached 414 square foot two-car garage located in the rear left of the property.

Vehicular access is provided via a paved driveway along the length of the left (south) property line and an associated curb cut off Lexington Street that provides access to the garage. Pedestrian access to the property is provided by a concrete walk from the back of the sidewalk.

The lot is generally level with the grade varying by one to three feet across the site and features lawn area and several mature trees. The rear yard, which abuts several properties, has a chain link fence along its length. There is little or no screening or fencing along either side property line.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

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

B. Building and Site Design

The proposed addition to the right (north) side of the dwelling would more than double its size by adding approximately 3,189 square feet of floor area to structure; 131 of which would be in the basement, 1,751 on the first floor (including the attached garage) and 1,307 on the second floor. The property's floor area ratio (FAR) would, accordingly, increase from 0.16 to 0.37, remaining just below the maximum 0.38 allowed by right.

The height of the resulting structure would be 32.79 feet above the proposed mean grade, slightly higher than the existing structure's height of 31.3 feet. Most of the addition would be two stories in height, with the exception being the attached one-story attached garage.

The front setback on Lexington Street of 26.4 feet would remain unchanged, as would the 38.4 foot left side setback. The proposed addition would decrease the right side setback from 54.4 to 12.8 feet, but it would remain greater than the minimum 7.5 feet required. The rear set back would be reduced, from 39.4 feet to 20.1 feet, but it would remain in excess of the minimum 15 feet required. The parcel's Lot Coverage would increase from 16.5% to 25.06%, but remain below the maximum 30.0% allowed; its Open Space percentage would decrease from 75.7% to 56.13% but would remain above the required 50%.

(Please note that because the property is comprised of two lots that will combined, “new lot” requirements for lot area and frontage apply; all other dimensional requirements remain those for an “old lot” per Section 7.8.4.D.6.)

C. Parking and Circulation

The petitioners are proposing a new attached two-car garage on the first floor of the proposed addition. The garage would be accessed via a second paved driveway and curb cut. Both would be located on the right (north) side of the property and in addition to the existing driveway and curb cut that now serve the existing garage in the rear left of the parcel. The Planning Department notes that the additional driveway and curb cut appear to be necessitated by the location of the proposed new garage’s doors being oriented facing north (i.e., toward the right property line) and recommends the petitioner consider the possibility of a configuration that would allow the shared use of the existing driveway.

D. Landscaping and Screening

No landscaping plan was submitted as part of the petition. The Planning Department notes that the location of the garage entrance on the north elevation of the expanded structure and the associated placement of an additional driveway on the right (north) side of the property result in there being little opportunity for vegetative screening of said driveway, garage and/or addition. The Department suggests that the petitioner be prepared to discuss this issue at the public hearing, as well as possible screening along the rear (west) property line which abuts several neighboring properties.

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 extend the existing nonconforming two-family use (§3.4.1; §7.8.2.C.2).

B. Engineering Review

As of the writing of this memo, the petitioner has not yet (to the knowledge of the Planning Department) submitted the requested drainage analysis and associated plans for review by the Engineering Division. As such, the Associate City Engineer has not yet been able to provide an analysis of the project proposal with regard to engineering issues. The Department recommends that the petitioner be prepared to

address this issue in advance of the public hearing.

C. Historical Commission

On May 9, 2017, Newton Historical Commission approved the partial demolition of the dwelling based on approved plans with the condition that proposed materials be submitted to Historic Preservation staff.

V. PETITIONER'S RESPONSIBILITIES

The Planning Department suggests that the petitioner be prepared to address the driveway/landscaping and engineering review issues raised above at the public hearing.

**ATTACHMENTS:**

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

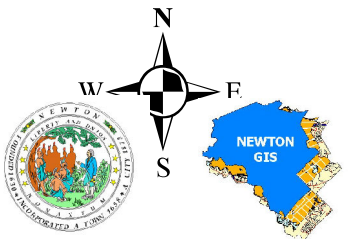
# ATTACHMENT A

## Land Use

### 307-309 Lexington St.

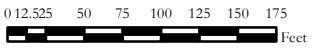
*City of Newton,  
Massachusetts*

- Land Use**
- Single Family Residential
  - Multi-Family Residential
  - Mixed Use
  - Open Space
  - Vacant Land

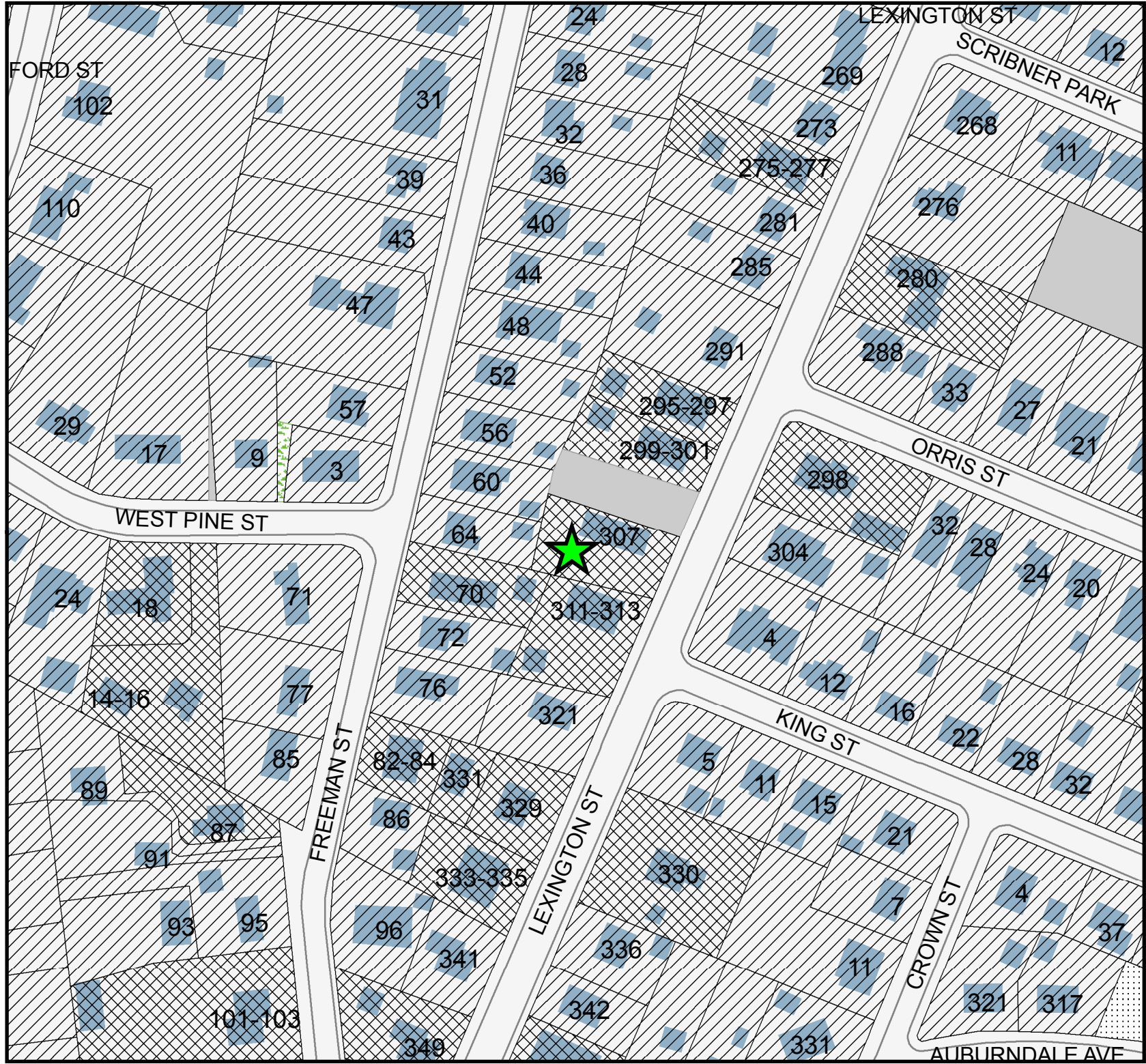


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: December 22, 2017





# ATTACHMENT B

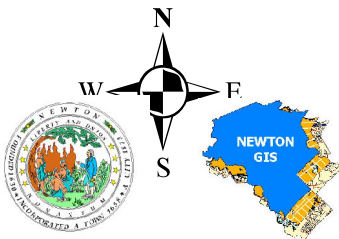
## Zoning

**307-309  
Lexington St.**

*City of Newton,  
Massachusetts*

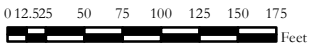
### Legend

-  Single Residence 3
-  Multi-Residence 1



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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: November 27, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: Maria Banis, Applicant  
Peter Sachs, Architect  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to extend an existing nonconforming two-family use**

Applicant: Maria Banis	
Site: 307-309 Lexington Street	SBL: 41030 0036 and 41030 0037
Zoning: SR3	Lot Area: 15,216 square feet
Current use: Two-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 307-309 Lexington Street is comprised of two lots consisting of 15,216 square feet lot in the SR3 zoning district improved with a dwelling constructed circa 1870 and a detached two-car garage structure. Originally used as a single-family, the dwelling was converted with a legal building permit into two units in 1951. The applicant proposes to reconfigure the existing two-family dwelling to convert it to a single unit, and to add a two-story addition of a second unit with an attached two-car garage.

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

- Zoning Review Application, prepared by Peter Sachs, architect, submitted 5/31/2017
- Existing Site Plan, prepared by Peter Sachs, architect, dated 3/8/2016
- Proposed Site Plan, prepared by Peter Sachs, architect, dated 3/8/2017
- Architectural Plans, prepared by Peter Sachs, architect, dated 3/28/2017
- Proposed Conditions Site Plan, signed and stamped by Verne T. Porter Jr, surveyor, dated 11/20/2017

**ADMINISTRATIVE DETERMINATIONS:**

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1. The site is currently improved by an existing nonconforming two-family dwelling constructed in 1870. The applicant intends to convert the existing dwelling structure into a single unit and construct a new second dwelling unit with an attached garage. Per Section 3.4.1, the existing two-family use is nonconforming, and to extend the use requires a special permit.
2. Per Section 7.8.4.D.6, because the property exists now as two separate lots which are being combined into one, the requirements for a “new lot” for lot area and frontage apply once the internal lot line is eliminated. All other dimensional requirements remain those for an “old lot.”

SR3 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	15,216 square feet	No change
Frontage	80 feet	113 feet	No change
Setbacks			
• Front	25 feet	26.4 feet	No change
• Side	7.5 feet	10.1 feet	12.8 feet
• Rear	15 feet	39.4 feet	20.1 feet
Building Height	36 feet	31.3 feet	32.79 feet
Stories	2.5	2.5	No change
FAR	.38	.16	.36
Max Lot Coverage	30%	16.5%	25.06%
Min. Open Space	50%	75.7%	56.13%

See “Zoning Relief Summary” below:

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