



## Zoning & Planning Committee Report

### City of Newton In City Council

**Monday, July 18, 2022**

**Present:** Councilors Crossley (Chair), Albright, Danberg, Krintzman, Wright, Leary, Baker, and Ryan

**Also Present:** Councilors Downs, Bowman, Malakie, Oliver, and Lipof

**Planning and Development Board Members:** Kevin McCormick

**City Staff:** Zachary LeMel, Chief of Long Rand Planning; Andrew Lee, Assistant City Solicitor; Cat Kemmett, Planning Associate; Jonathan Yeo, Chief Operating Officer; Jaclyn Norton, Committee Clerk

**#192-22      Request for review and amendments to Section 6.7.1**

COUNCILORS CROSSLEY, DANBERG, LIPOF, KELLEY, ALBRIGHT, NORTON, BOWMAN, GREENBERG, HUMPHREY, LEARY, RYAN, AND KRINTZMAN requesting a review of and possible amendments to, Section 6.7.1 Accessory Apartments, to remove barriers to creating accessory apartments, such as to consider conditions under which detached ADUs may be allowed by right, and under which ADUs may be permitted as part of new construction.

**Zoning & Planning Held 8-0 on 04/11/22**

**Action:**      **Zoning & Planning Held 8-0**

**Note:**      The Chair read the item into the record and provided a summary of the previous discussion  
(<https://www.newtonma.gov/home/showpublisheddocument/83587/637856354169400000>).

Cat Kemmett, Planning Associate joined the Committee to present the proposed changes to Section 6.7.1. Ms. Kemmett provided the Committee with an overview of ADUs (Accessory Dwelling Units) and the proliferation of them within the City since the last major revision. Within Ms. Kemmett's presentation (attached) and the subsequent discussion, it was reaffirmed that ADUs are limited to the by-right FAR of the property. The proposed amendments from the Planning Department focus on two major aspects.

First is a recommendation to remove the 4-year lookback period for all ADUs, so as to allow ADUs to be considered as part of the building process. Therefore, the Planning Department proposes to remove Section 6.7.1.C.5.

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For more information regarding this meeting, a video recording can be found at the following link: <https://newtv.org/recent-video/107-committee-meetings-and-public-hearings/7623-zoning-and-planning-committee-july-18-2022>

Several Councilors raised concerns over removing the lookback period over fear of creating a teardown incentive. Mr. LeMel responded that he has not seen ADUs as an incentive to teardown and rebuild. It was noted that these are expensive to build, limit the market and that the total square footage allowed on a site is the same with or without the accessory unit. Councilors in favor of removing the lookback period cited the ability to promote flexibility and make housing more affordable in Newton. Seeing no further discussion, the Chair brought this provision for a straw vote which was approved 5-3 with Councilors Ryan, Baker, and Wright opposed.

The second recommendation is to allow small detached ADUs by-right, under certain conditions. The current ordinance allows only historic carriage houses to become ADUs by right. In accomplishing this the Planning Department proposed allowing by right detached ADUs from 250 sq. ft.(the current minimum) to – 900 sq. ft. or 50% of total floor area in the primary dwelling unit, whichever is less. This would also change what is allowed by special permit to allow an upper limit of 1,500 sq. ft. The proposed change in the attached presentation regarding setback requirements would bring them in line with those for Accessory Buildings and allow for additional screening requirements.

The third recommendation is to make the setback requirement for by-right detached accessory dwellings to be the same as that required for any accessory structure (five feet side and rear), whether conversion of an existing structure to an ADU, or building new. These last two recommendations were discussed together.

Multiple Councilors expressed support, noting that these changes would allow for more flexibility, especially on odd-shaped lots within Newton. Other Councilors opposed this proposed change, citing their concern of possible detrimental impacts on neighbors by allowing living units in closer proximity to neighboring homes. The Planning staff and Chair responded to this concern, by clarifying that Accessory Buildings (used for any other purpose) must currently comply with the proposed setbacks, and that the only difference between an accessory structure used for any other purpose and one used for an ADU, is a permanent stove connected in an ADU. This clarification was further elaborated by the Planning Department when concerns over an increase in noise complaints were raised. The noise ordinance would apply in any case, but staff had no record of complaints from detached accessory units that have been allowed by special permit. As the record of noise complaints is held by the Inspectional Services Department, the Chair suggested checking to see if there is data on noise complaints from this Department.

Within the discussion of these proposed changes, one Councilor suggested instituting design standards, if the setbacks allowed for a living unit are to be the same as allowed for any other accessory use, such as buffering requirements and/or restricting openings in the walls. This idea was met with support from several other Councilors. In addition, several councilors suggested creating a distinction between ADUs built within existing detached structures and constructing a new detached ADU, such as varying the setback requirements. The Planning

Department responded with cautioning against this distinction as new buildings become existing structures quickly, but also suggested that the setback could be expressed as a percentage of what is allowed by right for the primary dwelling, to an absolute minimum.

The Chair suggested taking several straw votes, to try to provide some direction to the department for further discussion at the August meeting. Chair Crossley first polled the Committee on supporting the proposal as recommended from the Planning Department which 3 Councilors supported. The Chair then asked the committee who would support allowing detached by right under different circumstances, such as requiring design standards and varying setback requirements for existing versus new construction. This proposal was supported by 6 Councilors, with 2 opposed.

A motion to hold from Councilor Krintzman passed unanimously.

**#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers**

ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

**Zoning & Planning Held 8-0 on 06/27/22**

**Action: Zoning & Planning Held 8-0**

**Note:** The Chair introduced Zachary LeMel, Chief of Long Range Planning to discuss upcoming community engagement efforts. These efforts are building upon previous engagement efforts and seek to make the information from the June ZAP meetings accessible to the public. One aspect of this will be an interactive exhibit at the library running from mid-August through early October. To help disperse this information a network of about 90 individuals, representing a wide variety of organizations, boards, commissions and neighborhoods, has been assembled to prompt the community to engage with the exhibit and make sure that information is accessible at the library exhibit. One Councilor inquired about a second, larger, community event and Mr. LeMel promptly responded that this event is currently being planned. Seeing no further discussion, the Committee voted on Councilor Krintzman’s motion to hold which carried unanimously.

**#379-22 Reappointment of Eliza Datta to the Community Preservation Committee**

HER HONOR THE MAYOR reappointing Eliza Datta, 40 Homer Street, Newton as a full member of the Community Preservation Committee for a term of office to expire on July 31, 2025. (60 Days: 09/09/2022)

**Action: Zoning & Planning Approved 8-0**

**#380-22 Reappointment of Martin Smargiassi to the Community Preservation Committee**

HER HONOR THE MAYOR reappointing Martin Smargiassi, Newton as a full member of the Community Preservation Committee for a term of office to expire on July 10, 2025. (60 Days: 09/09/2022)


**Action:** **Zoning & Planning Approved 8-0**

**Note:** The Chair read items #379-22 and #380-22 into the record. Committee members expressed no concerns relative to the reappointments and voted 8-0 in favor of a motion to approve both items from Councilor Danberg.

The meeting adjourned at 9:24pm

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**



# Accessory Apartment Amendments

Docket #192 -22

Zoning and Planning Committee  
July 18, 2022



## Overview

- Recap of April Meeting
- Proposed Amendments
- Examples of Recent Projects
- Next Steps

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# Recap of April Meeting

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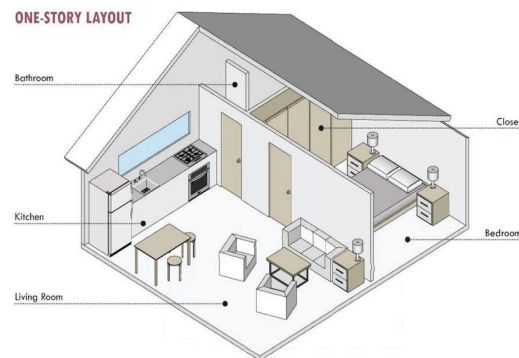
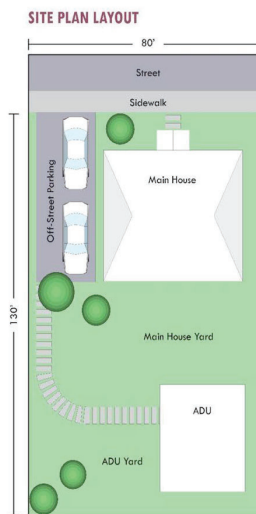
## Interior & Detached ADUs



Image Source: Google Earth

## Benefits of ADUs

- Diversify housing options
- Flexibility for homeowners
- Allow for new housing without adding new buildings
- Support for aging in place & needs of a dynamic, changing community



### GENERAL LAYOUT

Lot Size	10,000 sf (approx. 1/4 acre), but depends on town's ADU zoning	Unit Size	250 - 1,200 sf or 30% - 42% of primary DU
Setbacks	6' - 10' from primary DU Respects other zoning setbacks	Interior	Kitchen: 8' x 12' Bathroom: 5' x 8' Living Room: 12' x 18' Bedroom (can be lofted): 12' x 18'

Image Source: Living Little, MAPC

## Proposed Amendments:

1. Remove the 4 -year lookback period for ADUs

2. Allow small detached ADUs by **right**

- a. Maximum size allowed by **right**
- b. Updated setback requirements

# 1. Remove 4-year lookback



## Why?

- A primary residence must be at least 4 years old to get a permit for an ADU, except by special permit
- Allowing ADUs to be part of a building process from the beginning can enable the owner to intentionally fold in accessibility features and egress in the design stage
- ADUs are not a bonus on top of the allowed by right FAR, so the square footage can be distributed

# 1. Remove 4-year lookback



## Proposed change - remove Sec. 6.7.1.C.5 (below)

Current	Proposed
<p><i>The principal dwelling unit must have been constructed 4 more years prior to the date of application for a permit to construct an accessory apartment as evidenced by a certificate of occupancy for the original construction of the dwelling or, where no certificate is available, the owner provides other evidence of lawful occupancy of the existing dwelling on or before a date at least 4 years prior to the date of application, except by special permit;</i></p>	<p><del><i>The principal dwelling unit must have been constructed 4 more years prior to the date of application for a permit to construct an accessory apartment as evidenced by a certificate of occupancy for the original construction of the dwelling or, where no certificate is available, the owner provides other evidence of lawful occupancy of the existing dwelling on or before a date at least 4 years prior to the date of application, except by special permit;</i></del></p>



## 1. Remove 4-year lookback

### Case Study - 17 Walnut Place

- Primary dwelling unit: 2,425 sf
- Internal ADU addition: 948 sf
- Actual FAR=2425+948 =3,373 sf
- Allowable FAR= 3,448 sf

FAR calculation: SR3, lot size 7,335 sq ft=FAR of .47 = 3,448 sq ft

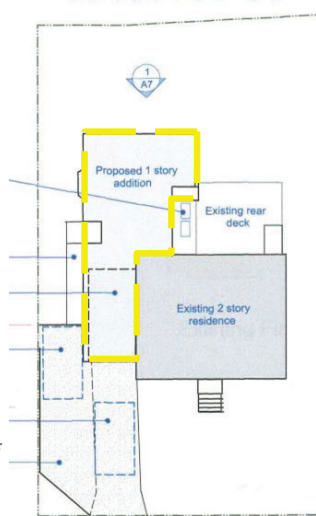
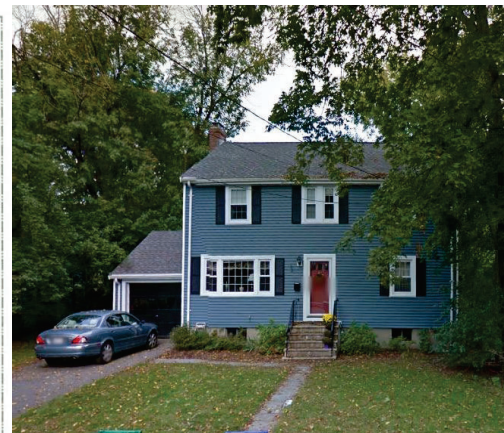


Image Source: Google Earth



Note: ADU cannot be seen from the street

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## 2. Allow small detached ADUs by -right - max. size

### Why?

- Except for some historic carriage houses, all detached ADUs require a special permit
- Very few homeowners pursue detached ADUs in new structures, or non historic ones
- Special permit requirement has deterred some from pursuing an ADU

2. Allow small detached ADUs by -right - max. size

**Proposed change - Amend Sec.6.7.1.E.1**

	Current	Proposed
Allowed by-right	Not allowed (except historic carriage houses in non-historic districts)	250 sf- 900 sf or 50% of total Habitable Space, whichever is less
Allowed by Special Permit	- 250 sf- 1200 sf or 40% of total Habitable Space, whichever is less - Or up to 1,500 sq. ft.	Up to 1,500 sq. ft.

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2. Allow small detached ADUs by -right - max. size

**Case Study - 1224 Boylston**

- Pre-existing accessory building
- Meets all dimensional requirements
- No changes proposed to interior or exterior of accessory building
- Needed Special Permit to become ADU regardless



Image Source: Newton Inspectional Services Department

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## 2. Allow small detached ADUs by -right - reduce setbacks

### Why?

- Significant amount of existing accessory buildings do not meet the setback requirements of the principal dwelling
- Common setback relief granted by special permit for detached ADUs

Lots with Accessory Buildings

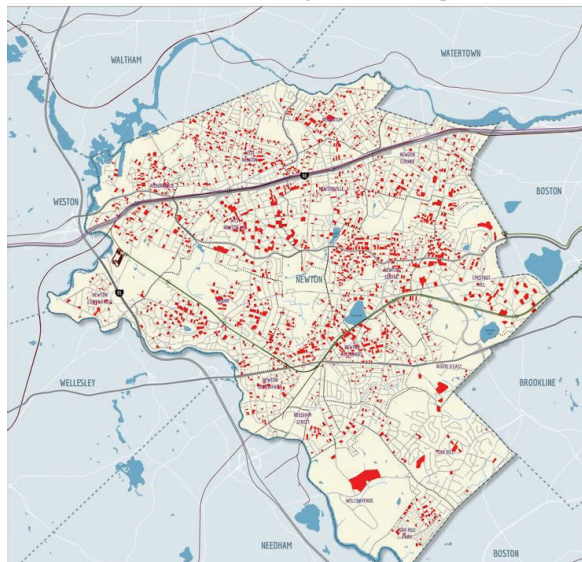


Image Source: Newton Pattern Book

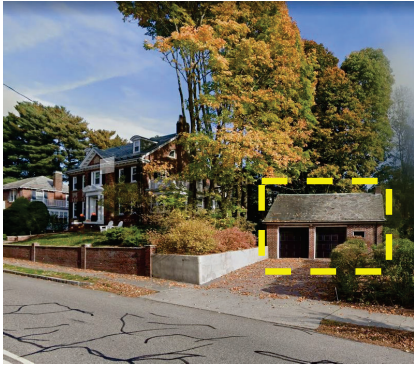
## 2. Allow small detached ADUs by -right - reduced setbacks

### Proposed change - Amend Sec.6.7.1.E.5

Current	Proposed
<ul style="list-style-type: none"> <li>- A detached ADU must meet the setback requirements of the principal dwelling unit, except by special permit</li> </ul>	<ul style="list-style-type: none"> <li>- A detached ADU must meet the setback requirements for Accessory Buildings (5 ft rear and side yard setbacks)</li> <li>- Additional screening requirements if detached ADU setbacks are less than the principal dwelling unit requirements                             <ul style="list-style-type: none"> <li>- Dense planting</li> <li>- Fencing</li> </ul> </li> </ul>

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## Case Study - Existing accessory building setbacks



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## Looking Ahead:

- Refine proposals based on Committee feedback
- Set public hearing date

**Thank you!**

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