Zoning & Planning Committee Report

City of Newton
In City Council

Monday, March 10, 2025

Present: Councilors Baker (Chair), Oliver, Albright, Wright, Krintzman, Getz, Danberg, and Kalis

Also Present: Councilors Lobovits, Lucas, Kelley, Block, Leary, Malakie, Greenberg, and Lipof

City Staff: Jennifer Caira, Deputy Director of Planning; Zachary LeMel, Chief of Long Range Planning; Jennifer Wilson, Assistant City Solicitor; and Jaclyn Norton, Committee Clerk

All agendas and reports, both past and present can be found at the following link: Zoning & Planning Committee | City of Newton, MA (newtonma.gov)

For more information regarding this meeting, a video recording can be found at the following link: Zoning and Planning Committee - March 10, 2025

#369-24 **Requesting discussion and amendments to Accessory Dwelling Unit (ADU) Ordinance**
HER HONOR THE MAYOR requesting discussion and amendments to Newton's Accessory Dwelling Unit (ADU) Ordinance, so it complies with the State's Zoning Act (Ch. 40A).
Zoning & Planning Held 7-0 on 10/10/24
Zoning & Planning Held 8-0 on 12/19/24
Zoning & Planning Held 8-0 on 01/13/25; Public Hearing Set for 02/26/25
Zoning & Planning Held 8-0 on 02/10/25
Zoning & Planning Held 7-0 on 02/26/25; Public Hearing Closed

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

Note: Jennifer Caira, Deputy Director of Planning, presented the attached presentation which outlined the changes required by the state and those that the Committee has a decision on. The attached presentation also included additional analysis on detached ADUs.

Amendments to Retain Language
The first set of amendments for the Committee to consider would be to retain language from our existing ordinance to limit the state amendments to only required ones. The first amendment would be to maintain the owner occupancy requirement for special permit ADUs. Ms. Caira noted that this amendment is not needed as the City Council can tailor conditions as

necessary and that there is no evidence of demand for two-unit rental properties. Committee members were evenly divided on whether to have this be a requirement for all special permit ADUs. During the discussion, it was raised that the owner occupancy requirement could be considered as a condition by the City Council when granting a special permit. Committee members voted 5-3 (Councilors Albright, Danberg, and Krintzman Opposed) on a straw vote to include language that owner-occupancy can be considered as a condition.

The second amendment is to create special permit criteria to consider design compatibility. Ms. Caira described that this provides a more tailored review of ADUs and replaces the eliminated design standards. A Councilor asked if an internal ADU could be an addition to the principal structure. Ms. Caira explained that they can be and that being attached to the principal structure is what would classify them as an internal ADU. When asked how this would be enforced by ISD, Ms. Caira explained that ISD makes sure that the plans are consistent with those approved for the special permit. Councilors raised concern with the phrase architecture being used and the Committee asked staff to look into an alternate phrase that could be used to accomplish the same goal.

The third amendment was to carve out an exemption for height and setbacks for ADUs within local historic districts. This would limit detached Dus to 1.5 stories and have a side and rear setback of 7.5 ft or ½ the principal setback, whichever is greater. Ms. Caira noted that the historic districts have the ability when deciding on a project they may be more restrictive than the zoning ordinance but cannot be more permissive. Projects seeking to go above this would be allowed to seek a special permit for additional height and reduced setbacks. Councilors raised concern with this amendment noting that it would restrict the local historic district commission from deciding what is best for the district. Committee members agreed to not advance this amendment.

Additional Amendments

The second set of amendments would be to expand this ordinance to encourage the production of more ADUs. The first amendment in this set would be to allow 1,200 sf by-right internal ADUs in existing homes. This would be limited to homes more than 4 years old and a special permit option would be retained for newer homes. When asked if a property owner could put an addition on and then convert it to an ADU within that 4-year look back period, Ms. Caira stated that cannot happen as a new certificate of occupancy is issued when the addition is built restarting the clock. Committee members unanimously agreed to adopt the amendment.

The second amendment would be to change the by-right detached ADU allowance to 1,200 sf and the special permit allowance to 1,500 sf. The combined principal unit and ADU must comply with FAR and lot coverage requirements. Several Councilors expressed opposition to the proposal for new construction but were open to allowing the increased size for the conversion of existing buildings. The Chair asked staff to do more research into the proposed

amendment regarding a different limit for new construction vs conversion of existing structures along with what this could look like on sites where FAR is not a limiting factor.

The third amendment would be to extend the provisions for the conversion of a historic carriage house outside of a local historic district to those located within a local historic district. The Newton Historical Commission (NHC) must still find the building historically significant, and the local district commission must approve all exterior changes. The Chair noted that currently, the NHC does not involve itself with the local district commissions and that this would trigger this. Ms. Caira responded that this was kept with the NHC due to them already being the body that issues these decisions for historic carriage houses outside of a local district. When asked about the number of buildings, Ms. Caira noted that 28 outbuildings were located within a local historic district but that there is not sufficient data to determine how many could be converted to an ADU. Committee members were supportive of the amendment but asked that staff do more research to fully understand the scope.

The final amendment would be to remove the 15 ft separation requirement from abutting homes for conversion of historic carriage houses. The attached presentation describes that many carriage houses were built close to the property line and that this amendment would incentivize their preservation. Most Committee members voiced support for the proposed amendment with the exception of one Councilor that wanted to limit the amendment to only outside of local historic districts.

Councilors voted 8-0 on a motion to hold items #369-24 and #369-24(2) from Councilor Krintzman.

#369-24(2) **Requesting discussion and amendments to Accessory Dwelling Unit (ADU) Ordinance**
ZONING & PLANNING COMMITTEE requesting discussion and possible amendments to Chapter 30, Zoning regarding Accessory Dwelling Units (ADU) in addition to those needed to comply with recent changes to the State's Zoning Act (Ch. 40A).
Zoning & Planning Held 8-0 on 01/13/25
Zoning & Planning Held 8-0 on 01/27/25
Zoning & Planning Held 8-0 on 02/10/25
Zoning & Planning Held 7-0 on 02/26/25
Action: **Zoning & Planning Held 8-0**

Note: This item was discussed concurrently with item #369-24. A written report can be found with item #369-24.

#375-24 **Requesting discussion and possible amendments to Chapter 30 Zoning to allow certain routine residential alterations by right**
COUNCILORS KELLEY AND LIPOF requesting discussion and possible amendments to Chapter 30 Zoning to allow certain routine residential alterations by right to streamline City processes for Newton property owners.
Action: **Zoning & Planning Held as Amended Adding Councilor Lobovits as a Co-docketer 8-0**

Note: The docketing Councilors and Ms. Caira described that this is the result of conversations during both this term and the previous term. The potential amendments would allow certain residential alterations to happen by-right. The purpose of this discussion would be to see if there is interest from the Committee on a series of amendments. The attached presentation describes the analysis conducted by the Planning Department on special permit requests that were approved and the existing de minimis relief.

Front Setbacks
The current zoning allows for a total of 75 sf additions within a nonconforming front setback. Ms. Caira described that this currently does not account for properties with multiple front setbacks such as corner lots and through lots. The proposal would allow a 75 sf addition within a nonconforming front setback per frontage. A Councilor asked what the review process was for these. Currently, the application is reviewed by ISD in coordination with the chief zoning official. These projects still need to apply for building permits and are subjected to that review as well. Councilors expressed concern about potentially disrupting sightlines for those driving. There was also a request for more research into whether these projects going before the Land Use Committee led to any changes in the project.

Side and Rear Setbacks
Under the current zoning a 200sf first floor and 400sf 2nd floor additions are allowed if you have nonconforming side and rear setbacks. The distance between the addition and the nearest home is equal to the sum of the required setbacks. Councilors expressed concern with completely removing the sum of the required setbacks provision but were open to potentially not requiring that provision for 2nd floor additions.

Two-Family Dwellings
The proposed amendment would allow up to 200 sf additions in nonconforming two-family dwellings in single residence districts. This is currently allowed for one-family dwellings in single residence districts. Committee members expressed support for the proposed amendment.

FAR
Currently under the zoning the de minimis provision an increase in FAR is not allowed. The proposal is to allow for a 0.02 increase in nonconforming FAR. This would bring benefits for small lots with limited FAR and allow for enclosing existing porches. In response to the

Councilor's concerns, Ms. Caira explained that this would only apply to existing buildings that have a FAR above what is allowed by right. Committee members were hesitant and asked staff to do more research on the number of parcels affected and potentially limiting this to enclosing porches.

Increasing Dormer Allowance
The proposal would increase the dormer allowance above 50% of the roofline and/ or reduce the 3 ft offset from the edge of the building. Ms. Caira outlined the other aspects of the zoning that control the size of dormers. Committee members expressed caution proceeding with this amendment due to the recent amendments relating to dormers passed in Fall 2024.

Landings
Currently the minimum size landing under the building code (3 ft x 4 ft) is allowed within the setback, and this cannot be covered. Ms. Caira stated that if advanced staff would need to do work to determine an appropriate size and allowing covered landings. In response to concerns from a Councilor she added that this would be in limited circumstances. Councilors expressed support with moving this amendment forward.

Parking in Front Setback
This request routinely comes before the Land Use Committee when there is no garage or a very small garage. The current zoning allows single-family homes to have one stall in the front setback. The stalls must still meet all dimensional requirements for parking stalls. Lots that are narrow or with a steep topography typically have difficulty parking in the rear or side of the house. Ms. Caira recommended that some constraints be put in place if the Committee decides to proceed with having language drafted. Committee members expressed interest in limiting this to certain lots but decided to postpone further work on this amendment due to the upcoming ballot question on the overnight winter parking ban.

Committee members voted 8-0 on a motion to hold the item as amended adding Councilor Lobovits as a co-docketer from Councilor Getz.

#44-25 **Reappointment of Ann Houston to the Newton Affordable Housing Trust**
HER HONOR THE MAYOR reappointing Ann Houston, 45 Wedgewood Road, West Newton as a member of the Newton Affordable Housing Trust for a term of office set to expire on May 2, 2027. (60 Days: 05/02/2025)
Action: **Zoning & Planning Approved 8-0**

Note: The Chair read items #44-25, #45-25, and #46-25 into the record. Committee members voted 8-0 on a motion to approve items #44-25, #45-25, and #46-25 from Councilor Getz.

#45-25 **Reappointment of Peter Sargent to the Newton Affordable Housing Trust**
HER HONOR THE MAYOR reappointing Peter Sargent, 33 Avondale Road, Newton as a member of the Newton Affordable Housing Trust for a term of office set to expire on May 2, 2027. (60 Days: 05/02/2025)
Action: **Zoning & Planning Approved 8-0**

Note: This item was discussed concurrently with item #44-25. A written report can be found with item #44-25.

#46-25 **Reappointment of Jennifer Pucci to the Zoning Board of Appeals**
HER HONOR THE MAYOR reappointing Jennifer Pucci, 22 Florence Court, Newtonville as a member of the Zoning Board of Appeals for a term of office set to expire on April 30, 2028. (60 Days: 05/02/2025)
Action: **Zoning & Planning Approved 8-0**

Note: This item was discussed concurrently with item #44-25. A written report can be found with item #44-25.

The meeting adjourned at 10:21pm.

Respectfully Submitted,

R. Lisle Baker, Chair

#369-24 Requesting discussion and amendments to Accessory Dwelling Unit (ADU) Ordinance

Zoning and Planning Committee
Working Session
March 10, 2025

State Required Amendments

Adopt State Required Amendments

- Allow ADUs accessory to residential uses in SR, MR, and BU1-4 districts
- Measure ADUs per state definition of gross floor area and up to 50% of principal dwelling unit (or 1,000 sf/900 sf)
- Remove owner occupancy requirement for at least by-right ADUs
- Apply occupancy limitations (association of persons) to each unit separately
- Remove design standards
- Remove maximum 700 sf footprint
- Allow 2.5 story ADUs with principal setbacks and 1.5 story ADUs with 5 ft side and rear setbacks

Options to Limit State Amendments to Minimum Required

Retaining Language to Limit State Amendments

Option 1:

- Retain owner occupancy requirement for special permit ADUs

Analysis:

- Unnecessary as Council can tailor conditions as necessary through the special permit
- There is no evidence of demand for new two unit rental properties
- Units would remain under common ownership

Retaining Language to Limit State Amendments

Option 2:

- Create special permit criteria to consider design compatibility:
  - That the size and location of the ADU is appropriate for the lot; and
  - That the exterior alterations are compatible with the size, scale, and architecture of the principal dwelling

Analysis:

- Provides a more tailored review of ADUs compared to general criteria
- Replaces the eliminated design standards

Retaining Language to Limit State Amendments

Option 3:

- Carve out exemption for height and setbacks in Local Historic Districts
  - Limit detached ADUs to 1.5 stories
  - Side and rear setbacks at least 7.5 ft or ½ principal setback, whichever is greater

Analysis:

- Historic District Commissions have ability to further restrict what is allowed under zoning, but may not be more permissive
- Smaller ADUs may be more compatible with historic dwellings
- City Council can allow additional height and reduced setbacks through special permit

#369-24 (2) Additional Proposals

Additional Proposals

Proposal 1:

- Allow 1,200 sf by-right internal ADUs in existing homes
  - Would be limited to homes more than 4 years old
  - Retain special permit option for newer homes

Analysis:

- Incentivizes preservation of existing home
- Does not add mass to existing home
- Only homes with at least 2,400 sf of floor area could create a 1,200 sf ADU

Additional Proposals

Proposal 2:

- Allow 1,200 sf by-right detached ADUs
  - Up to 1,500 sf by special permit

Analysis:

- Combined principal unit and ADU must still comply with FAR and lot coverage for a single family home
- Helps offset high costs of detached ADUs
- More attractive for families and downsizing older adults

Additional Proposals

Proposal 3:

- Allow historic carriage house conversions in local historic districts
  - NHC must find the building historically significant
  - Local district commission must approve all exterior changes

Analysis:

- There is not currently a way to convert historic carriage houses in historic districts that do not meet all dimensional requirements
- If the size of new construction of detached ADUs is limited in historic districts this would allow more existing structures to convert

Additional Proposals

Proposal 4:

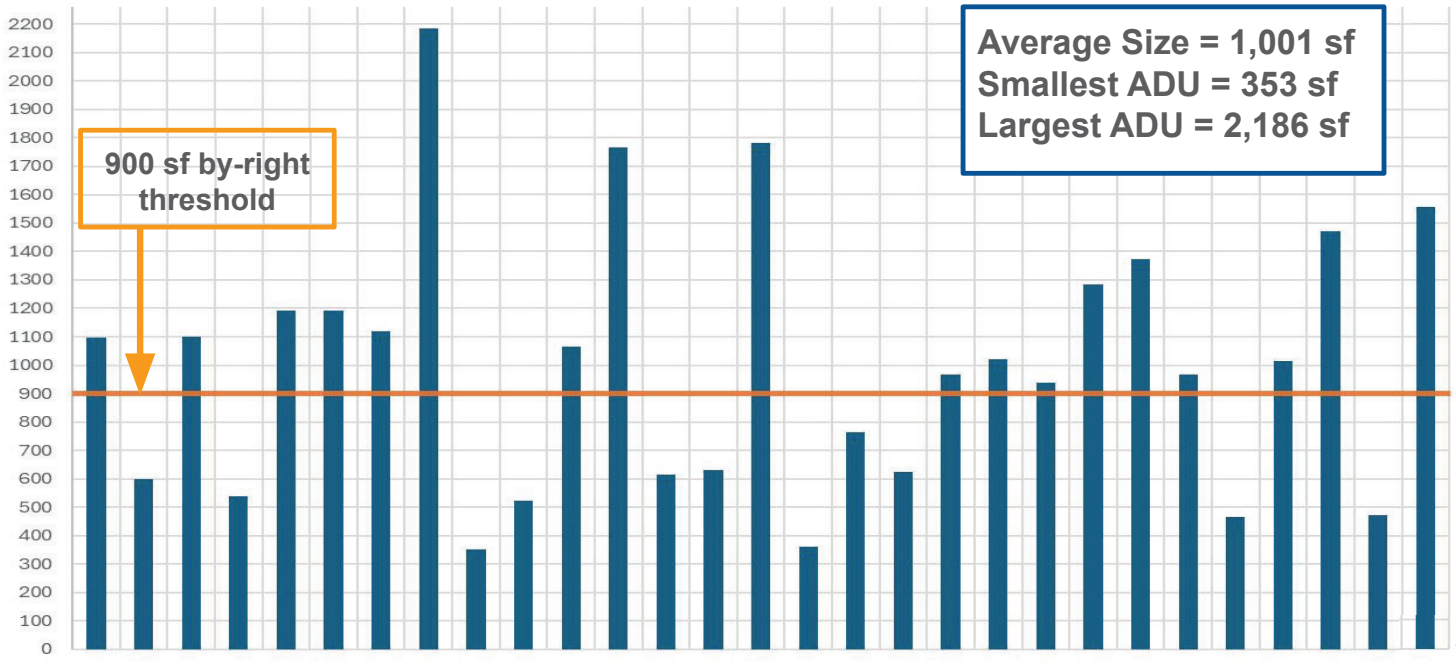
- Remove 15’ separation requirement from abutting homes for conversion of historic carriage houses

Analysis:

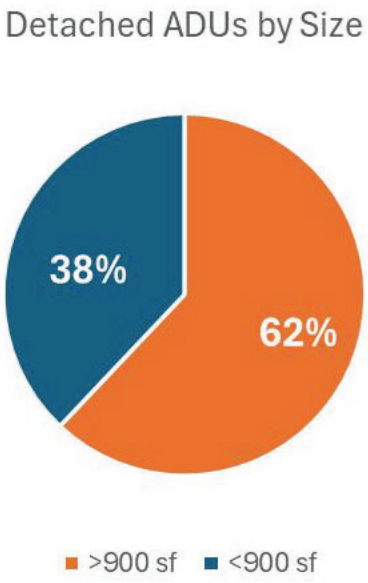
- Many carriage houses were built close to the property line
- The structures are already existing
- Incentivizes preservation

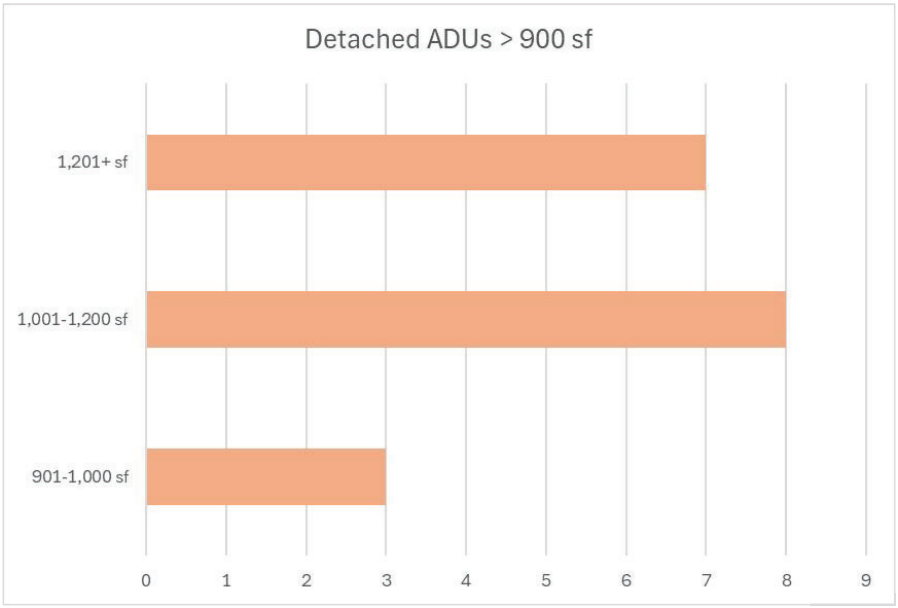
Detached ADU Analysis

Existing Detached ADUs by Size (sf)

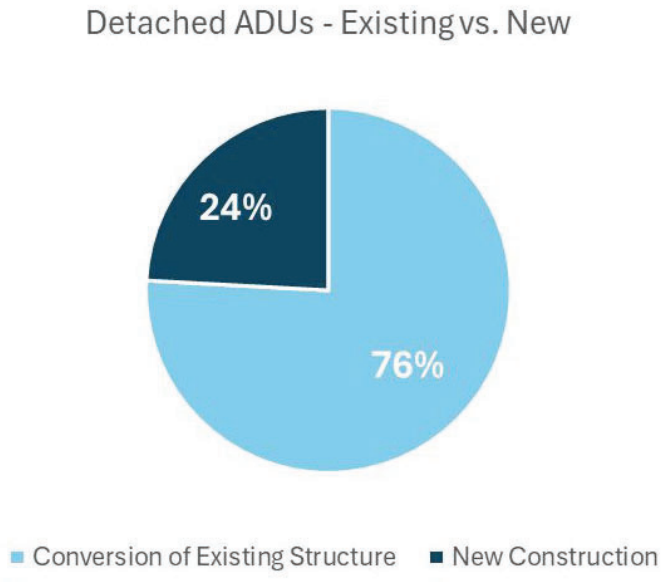


Most Detached ADUs are Larger than 900 sf





Most Detached ADUs are in Converted Structures



1,096 SF
Average size of detached ADU in converted structure

705 SF
Average size of new construction detached ADU

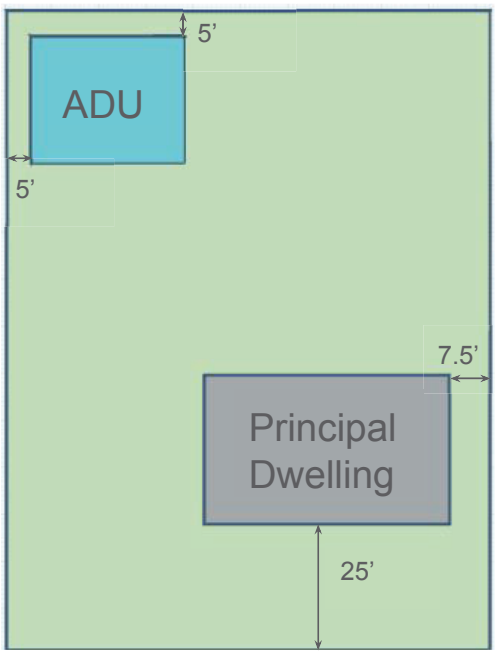
Existing Detached ADU Examples

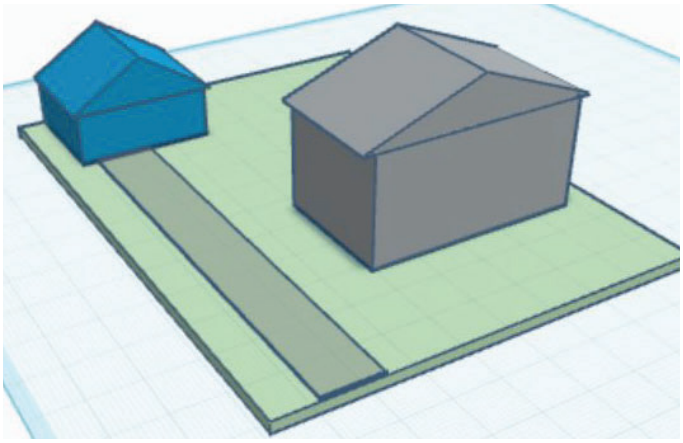
39 Adella Avenue
1,020 sf detached ADU
New Construction

51 Winthrop Street
967 sf detached ADU
Historic Carriage House Conversion

46 Suffolk Road
1,192 sf detached ADU
Historic Carriage House Conversion
Chestnut Hill Local Historic District

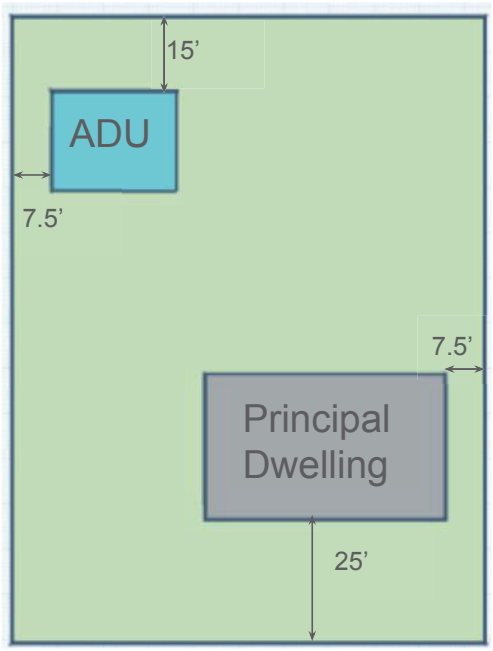
1,200 sf Detached ADU Visualization (1.5 stories)

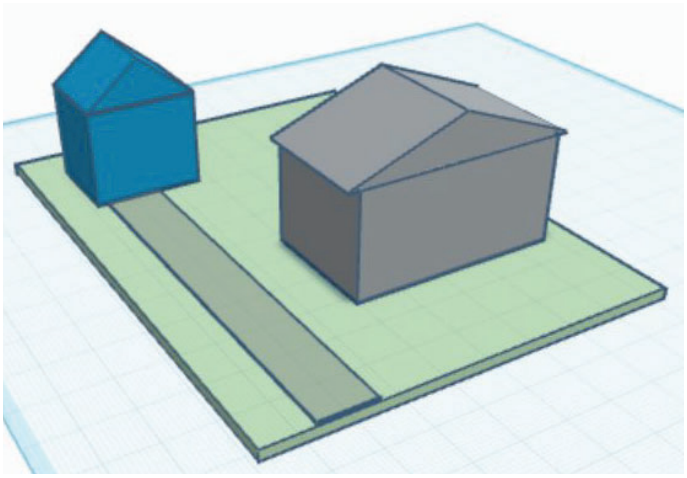




Typical SR2/SR3 lot
1.5 story ADU
5’ side and rear setbacks

1,200 sf Detached ADU Visualization (2.5 stories)





Typical SR2/SR3 lot
2.5 story ADU
7.5’ side and 15’ rear setbacks

Next Steps

- Planning staff to provide final versions of the ordinance based on committee straw votes for a possible vote on March 24th

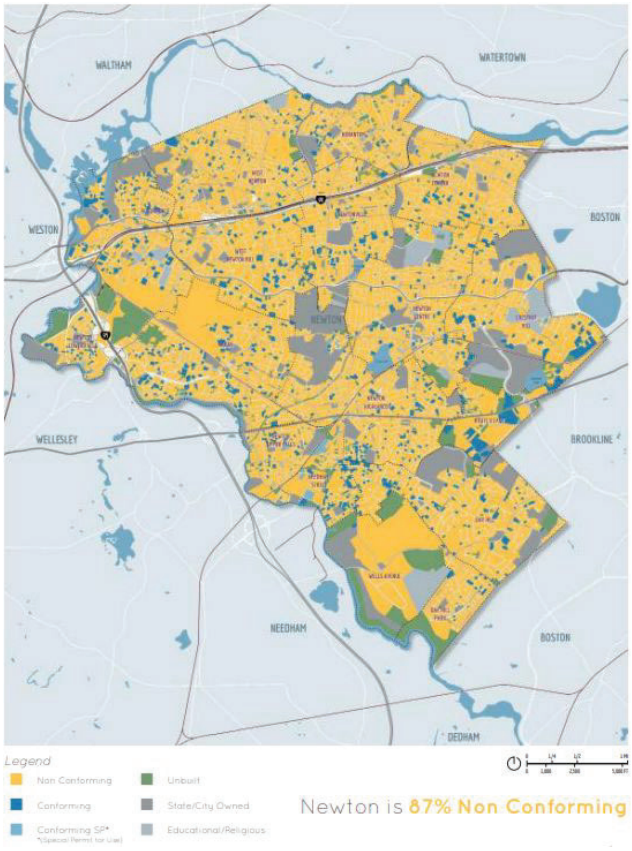
#375-24 Requesting discussion and possible amendments to Chapter 30 Zoning to allow certain routine residential alterations by right

Zoning and Planning Committee
Discussion
March 10, 2025

City of Newton - Planning and Development Department

Background

- City Council routinely grants special permits for minor changes on single family and two family homes
- 87% of Newton is nonconforming with zoning
- Zoning allows for some “de minimis” relief by-right for extensions of nonconforming elements
- All other changes require a special permit



Objective

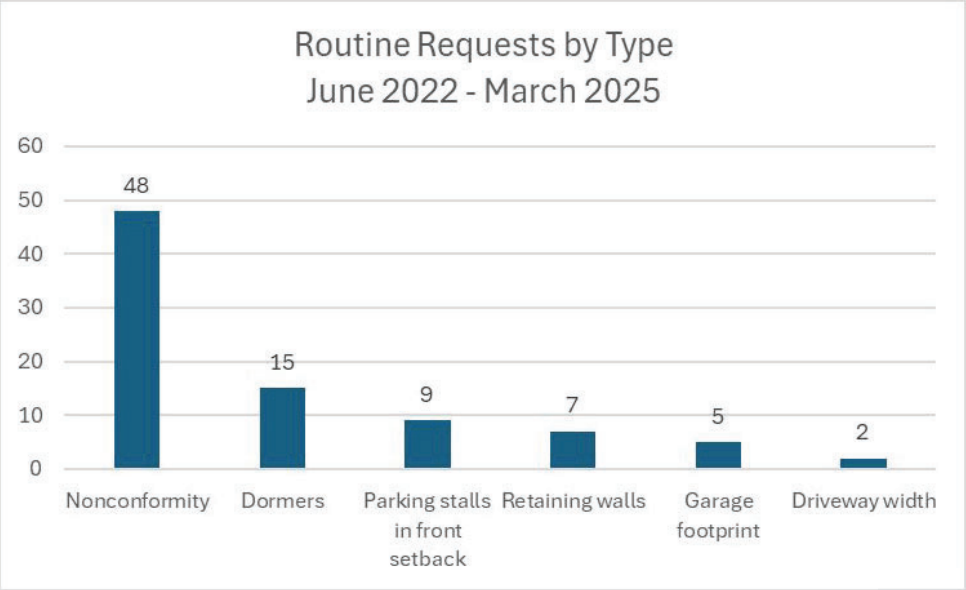
- Identify small special permit requests that are routinely approved
- Allowing flexibility for alterations and additions helps preserve existing homes
- Relieve homeowners of the need to seek a special permit
  - Special permit adds time and cost to project
  - Once granted, the decision runs with the land in perpetuity
  - All future work on the property must be consistent with the approved plans and Council Order
  - This adds time and confusion when homeowner wants to do small, zoning compliant projects in the future, such as adding a deck or swimming pool or changing landscaping

Special Permit Data Analysis

- Reviewed special permit applications that have been approved by Land Use Committee since June 1, 2022
- Eliminated those for commercial properties, that were amending prior special permits, that were seeking parking waivers, that were asking for additional FAR (where FAR was currently compliant), and those that were adding units or significant floor area
- Reviewed the remaining 73 applications to see most common requests

Routine Alterations

- Alteration requests fell into 6 categories
- These categories were requested 85 times (some applications included multiple requests)
- Nonconformities made up 56% of those requests
- Dormers - 17%
- Parking in front setback - 10%



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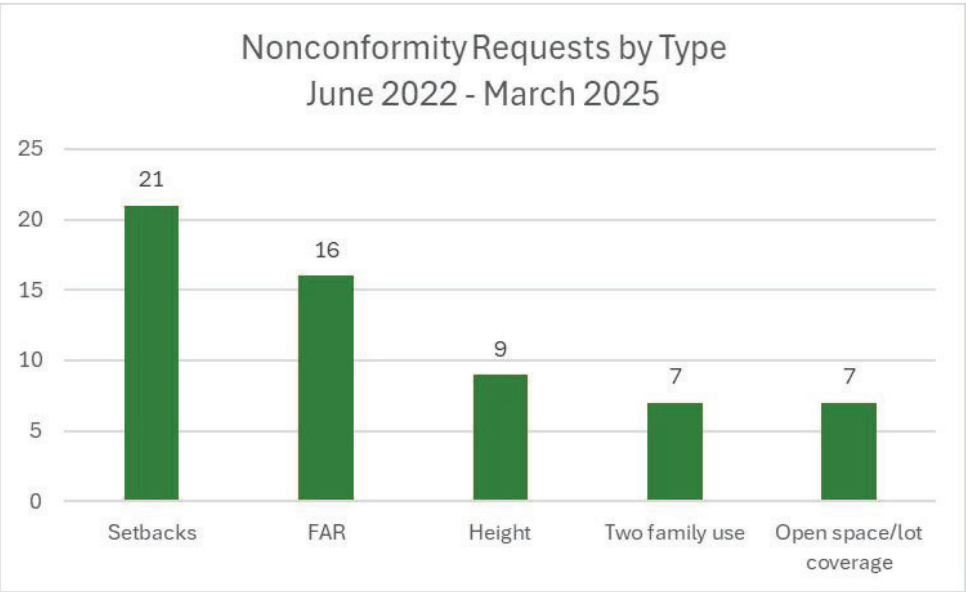
Nonconformities

- From the 73 'routine' applications there were 48 applications which included a request to extend a nonconformity
- Many properties had more than one nonconformity request (there were 60 in total)
- Amongst the nonconformity requests setbacks were the most common, followed by FAR, height, two family use in an SR district, and open space or lot coverage



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Existing De Minimis Relief (Sec. 7.8.2.B)

The following increases to the nonconforming nature of a structure are permitted by-right:

- Dormers not adding more than 400 sf of floor area
- Decks or porches less than 200 sf
- First floor additions along side and rear setbacks less than 200 sf
- Second floor additions less than 400 sf
- Enclosing existing porch of any size
- Bay windows in side and rear setbacks that are cantilevered
- Bay windows which do not protrude more than 3 ft into front setback and are at least 5 ft from lot line
- Alterations to front of structure within existing footprint
- Alterations to front of structure not more than 75 sf which does not encroach any further into setback

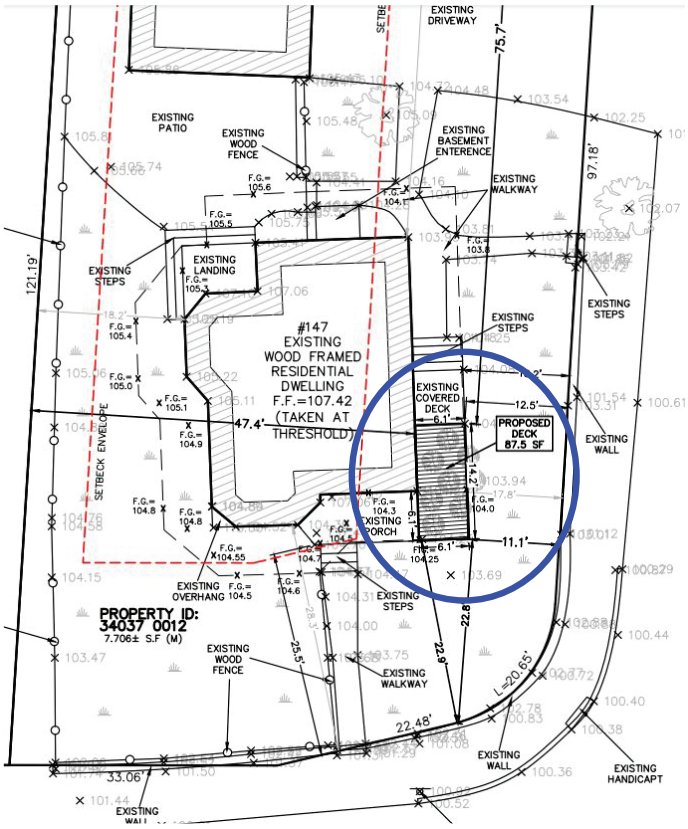
Possible Zoning Amendments

- Expand de minimis allowance for additions in front setback to accommodate lots with multiple frontages
- Allow vertical extension of nonconforming side and rear setbacks
- Allow alterations and small additions to nonconforming two family dwellings in SR districts
- Allow small increase in nonconforming FAR
- Increase dormer allowance
- Allow slightly larger landings with canopies in setback
- Allow additional parking stall in front setback

Front Setbacks

Proposal: allow 75 sf additions within nonconforming front setback per frontage

- Section 7.8.2.B.2.i allows a total of 75 sf additions within nonconforming front setback
- Does not account for properties with multiple front setbacks, such as corner lots and through lots



Side and Rear Setbacks

Proposal: Allow small first floor addition and vertical extension of nonconforming side and rear setbacks

- De minimis currently allows for 200 sf first floor addition and 400 sf 2nd floor addition but requires the distance between addition and nearest home to be at least the sum of the required setbacks
- This rarely can be met as in older neighborhoods adjacent homes likely also have nonconforming setbacks

Two Family Dwellings

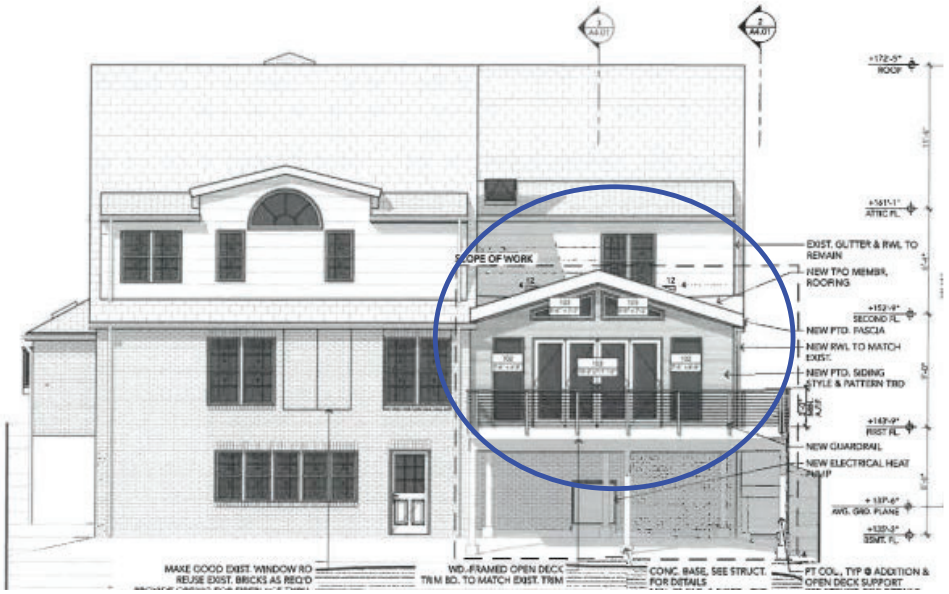
Proposal: Allow routine alterations and small additions to nonconforming two family dwellings in single residence districts

- Limit additions to 200 sf

FAR

Proposal: Allow 0.02 increase in nonconforming FAR

- Benefits small lots with limited FAR
- Allow for enclosing existing porches



Increase Dormer Allowance

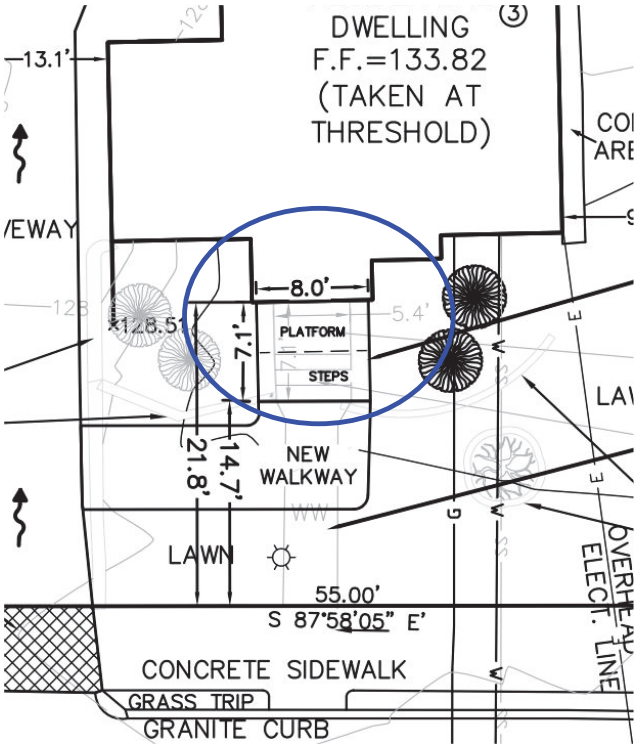
Proposal: Increase dormer allowance above 50% of roofline and/or reduce 3 ft offset from edge of building

- Also benefits ADUs
- Half story definition limits dormers from creating a full additional story
- Increased dormers further limited by FAR

Landings

Proposal: Allow slightly larger landing with canopy within the setback

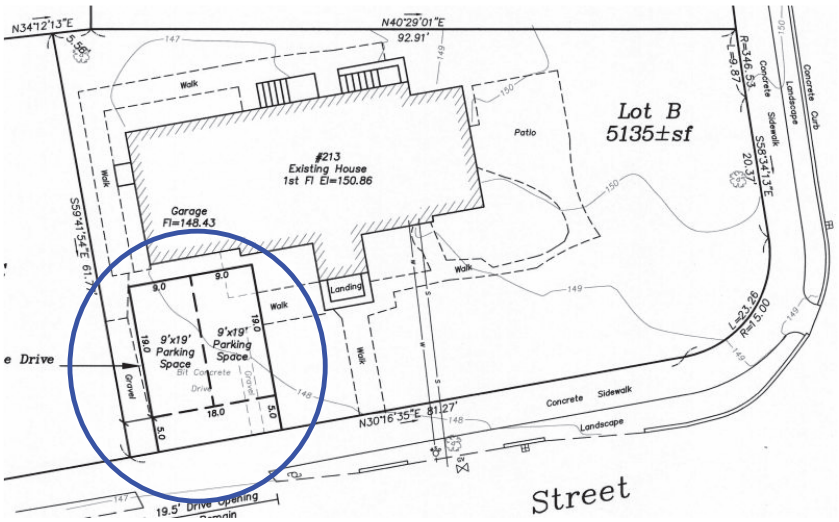
- Building code minimum size landing currently allowed in the setback (3 ft x 4ft) and does not allow covered landings
- Allowing slightly larger landing with cover provides benefit to homeowner and is not big enough to turn into a deck



Parking in Front Setback

Proposal: Allow additional parking stall in the front setback

- Single family homes are limited to one stall in the front setback
- Many older homes do not have garages or space for two vehicles to park
- Narrow lots or steep topography make it difficult to park along the side or in the rear of the house
- Consider limiting to houses without garages or smaller lots



Next Steps

Based on Councilor feedback, Planning staff will further pursue proposals and work with ISD and Law to develop draft zoning text