



Petition: #118-26
New Gov: SP-26-2
Public Hearing: 3/24/26

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Marc C. Laredo
Mayor

Katie Whewell
Acting Director

PUBLIC HEARING MEMORANDUM

DATE: March 20, 2026

TO: City Council

FROM: Katie Whewell, Acting Director of Planning and Development
Cat Kemmett, Deputy Chief Planner for Current Planning
Sondria Berman, Senior Planner

SUBJECT: **Petition #118-26**, for SPECIAL PERMIT/SITE PLAN APPROVAL to further extend nonconforming FAR and to further extend nonconforming lot coverage at 199 Otis Street

PROJECT

MATERIALS: <https://newtonma.portal.opengov.com/records/908997>
Planning notes that there are multiple plan sets submitted. The site plan reviewed for this memo is labeled: 119 Otis Street Zoning Plan, last revised 2/14/2026

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.



199 Otis Street

Project Description

Current Use: Single-family residential constructed circa 2001

Zoning: Single Residence 1 (SR1)

Lot size: 26,571 square feet

Existing nonconformities:

- Maximum lot coverage of 15.1% where 15% is the maximum allowed as of right
- Floor area Ratio (FAR) of .29 where up to .26 is allowed as of right

Proposal

The petitioner seeks to construct a one-story detached accessory building at the rear of the lot, further extending the nonconforming FAR and nonconforming lot coverage.

Planning Analysis

The relief requested is limited to extensions of existing nonconformities and meets all other required dimensional standards including height, open space, and setbacks. Though the FAR will increase from .29 to 0.30 and lot coverage will increase from 15.1% to 16.3%, only 333 square feet will be added. Additionally, the proposed location of the accessory building will be at the rear of the property behind the existing primary dwelling and shielded from street view.

Existing trees along the rear and side lot lines also provide natural screening of the proposed one-story structure from rear and side abutters' view. The notable density of trees along the rear and sides of the property coupled with oversized abutting lots with additional perimeter screening makes it unlikely that the proposed structure will have an adverse impact on neighbors. It is unclear based on the plans provided, however, if any trees on site will be impacted by the proposed project. Planning recommends the Petitioner review closely the locations of existing trees along the rear and sides of the property, as this project will require a Tree Permit prior to the issuance of a building permit.

The petitioner is not proposing to add any new retaining walls or modify any existing retaining walls on site as part of this project. Given the sloped topography of the site, particularly around the proposed accessory structure, Planning advises the petitioner confirm that no new retaining walls are needed for access to the accessory building as any changes to the site plan involving new retaining walls may require a consistency ruling, an amendment to the approved permit and plans, and/or further zoning relief.

The request to increase existing nonconformities on site is minimal and will likely not be substantially more detrimental to the site than the existing conditions. For these reasons, Planning believes the creation of the new accessory building is unlikely to have a significant negative impact on abutters or the neighborhood compared to the existing structure.

Zoning Relief Requested

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend nonconforming lot coverage	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A**.

Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2

- The proposed increase in nonconforming FAR is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.9 and §7.8.2.C.2)
- The proposed accessory structure that further extends nonconforming lot coverage is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

Project Proposal and Site Characteristics

The site consists of a 26,571 square foot lot on Otis Street that is improved with a two-story single-family dwelling with an attached garage constructed in 2001. The existing dwelling is nonconforming with respect to FAR and lot coverage but is compliant with all other dimensional requirements including setbacks, height, and open space. The existing noncompliant FAR is .29 where up to .26 is allowed by right, and the existing lot coverage is 15.1% where up to 15% is allowed by right. The site is sloped, with a difference in grading of approximately 20 feet from the low point along the frontage on Otis Street to the high point near the rear lot line, and features several retaining walls. The property is located in West Newton in a residential area that predominately consists of single-family homes. The zoning in the neighborhood is a mix of SR1, Single-Residence 2, with several small areas of Public Use in the nearby traffic islands.

The petitioner proposes to construct a one-story detached accessory building at the rear of the lot behind the dwelling, which according to the petitioner will be used as a home office inclusive of one half bath. Approximately 333 square feet of new gross floor area will be created, resulting in an increase in the FAR from 0.29 to 0.30 where up to 0.26 is allowed by

right, which requires relief. The proposed construction will also increase the nonconforming lot coverage from 15.1% to 16.3% where up to 15% is allowed by right, requiring special permit relief.

No changes are proposed to parking or vehicular access on site. The accessory building will be one story tall (14.6 feet in height). No relief is required for the setbacks, with the smallest setback at the rear measuring 12.1 feet where a minimum of five feet is required. Open space will decrease from 77.9% to 76.6% but will remain above the minimum required threshold of 70%.

Land Use

If approved, the use will remain single-family residential.

Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS

Attachment A: Zoning Review Memorandum, dated 3/18/2026

Attachment B: DRAFT Council Order



City of Newton

Department of Planning & Community Development

1000 Commonwealth Avenue, Newton, Massachusetts 02459
(617) 796-1120 | newtonma.gov/planning

Marc C. Laredo
Mayor

Katie Whewell
Acting Director

ZONING REVIEW MEMORANDUM

Date: March 18, 2026

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Chris Bierly, Applicant
Katie Whewell, Acting Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to further extend nonconforming FAR and lot coverage

Table with 2 columns: Applicant: Chris Bierly, Site: 199 Otis Street, Zoning: SR1, Current use: Single-family dwelling, SBL: 24012 0017D, Lot Area: 26,571 square feet, Proposed use: No change

BACKGROUND:

The property at 199 Otis Street consists of a 26,571 square foot post-1953 lot improved with a single-family dwelling constructed in 2001. The petitioners propose to construct a detached accessory building to be used as a home office, further extending the existing nonconforming FAR and lot coverage, requiring a special permit.

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

- Zoning Review Application, prepared by Josh Lapan, architect, submitted 10/20/2025
• Certified Plot Plan, prepared by Clifford Rober, surveyor, dated 9/3/2025
• Proposed Plot Plan, signed and stamped by Clifford E. Rober, surveyor, dated 9/30/2025
• Existing floor plan, submitted 10/27/2025
• Proposed Floor Plans and Elevations, prepared by Owner, dated 01/07/2026
• FAR calculations, signed and stamped by Edmond Spruhan, engineer, submitted 1/9/2026

ADMINISTRATIVE DETERMINATIONS:

1. Floor Area Ratio (FAR) is a measurement of the bulk of buildings on a lot relative to the size of the lot. As the square footage of the building(s) on a lot increases, so does the FAR. The petitioner proposes to construct a one-story 333 square foot detached accessory building to be used as a home office. The proposed construction increases the nonconforming FAR from .29 to .30 where .26 is the maximum allowed, requiring a special permit per sections 3.1.1.3, 3.1.1.9 and 7.8.2.C.2.
2. The original dwelling on the property was constructed in 1959, with a significant addition made in 2001 resulting in the current configuration. The 2025 Certified Plot Plan, signed and stamped by Clifford Rober, surveyor, indicates that the existing lot coverage is 15.1%, where the maximum allowed is 15%. Lot coverage is a measurement of the percentage of the lot covered by buildings. Per Massachusetts General Laws Chapter 40A, section 7, where the violation of lot coverage has existed for more than ten years without action for enforcement, it is now considered legally nonconforming. The proposed construction further increases the lot coverage to 16.3%, requiring a special permit per section 7.8.2.C.2

SR1 Zone	Required	Existing	Proposed
Lot Size	25,000 square feet	26,571 square feet	No change
Frontage	140 feet	164 feet	No change
Setbacks-Principal <ul style="list-style-type: none"> • Front • Side • Side • Rear 	40 feet 20 feet 20 feet 25 feet	42.7 feet 22.6 feet 42.7 feet 55.1 feet	No change No change No change No change
Setbacks - Accessory <ul style="list-style-type: none"> • Front • Side • Side • Rear 	40 feet 5 feet 5 feet 5 feet	N/A N/A N/A N/A	>40 feet 34.4 feet 34.2 feet 12.1 feet
Height <ul style="list-style-type: none"> • Principal • Accessory 	36 feet 22 feet	33.3 feet N/A	No change 14.6 feet
Stories <ul style="list-style-type: none"> • Principal • Accessory 	2.5 1.5	2 N/A	No change 1
FAR	.26	.29	.30*
Max Lot Coverage	15%	15.1%	16.3%*
Min. Open Space	70%	77.9%	76.6%

BOLD indicates a nonconformity

*Relief required

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to further extend nonconforming lot coverage	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow construction of an accessory building that will further exceed the maximum Floor Area Ratio (FAR) and further exceed the nonconforming lot coverage as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

FINDINGS:

1. The site is an appropriate location for the proposed accessory building that will result in an FAR of 0.30 where 0.26 is the maximum allowed is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. The accessory building is one story in height, subordinate to height of the dwelling, and will be located behind the dwelling, mitigating the visual impact of the new building when viewed from the street. (§3.1.3, §3.1.9)
2. The proposed increase in the nonconforming lot coverage is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the new accessory building will be modest in size at 333 square feet and meets the requirements for other applicable dimensional standards including setbacks, open space, and height. (§7.8.2.C.2)

PETITION NUMBER: #118-26

PETITIONER: Chris Bierly

LOCATION: 199 Otis Street, Ward 5, Newton, on land known as Section 24 Block 12 Lot 17D containing approximately 26,571 sq. ft. of land

OWNER: Chris Bierly

ADDRESS OF OWNER: 199 Otis Street
Newton, MA 02465

TO BE USED FOR: Single family dwelling

RELIEF GRANTED: Special Permit per §3.1.3, §3.1.9, §7.8.2.C.2 and §7.3.3 to extend the nonconforming FAR and extend the nonconforming lot coverage

ZONING: Single Residence 1

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:
 - a. Site plan signed and stamped by Clifford E. Rober, Professional Land Surveyor, dated 1/05/2026 and revised 2/14/2026
 - b. Architectural plans prepared by NEDC Design & Construction, signed and stamped by Oliver C. Klein, Registered Architect, titled "The Bierly Residence" consisting of the following sheet:
 - i. "Exterior Elevations," Sheet A1.31
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.

3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested, and the Petitioner has:
 - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1, including the as-built FAR.
 - b. Submitted final as-built survey plans in digital format, stamped, and signed by a professional land surveyor or professional engineer, as applicable.