



Ruthanne Fuller  
Mayor

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

Petition: **#391-23**  
Public Hearing: ----  
12/12/23

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

**DATE:** December 8, 2023

**TO:** City Council

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

**SUBJECT:** **Petition #391-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the detached garage and construct a new larger detached garage with an accessory apartment with oversized dormers and reduced setbacks and to construct a one-story rear addition to the principal dwelling which exceeds the FAR at 16 Everett Street, Ward 6, Newton Centre, on land known as Section 61 Block 25 Lot 06, containing approximately 10,658 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec. 7.3.3, 3.1.3, 3.1.9, 6.7.1.E.4, 1.5.4.G.2.b of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



**16 Everett St**  
**Principal Dwelling**

## **Project Description**

### **Background**

The subject property at 16 Everett Street consists of a 10,658 square foot lot in a Single Residence 2 (SR2) zoning district at the corner of Everett Street and Dalton Road in Newton Centre. The parcel is improved with a single-family dwelling constructed circa 1917 and a detached garage.

The site is north of Beacon Street in Newton Centre, and approximately 1,000 feet from the intersection of Langley, Centre and Union Streets. While most of the area between Everett and Beacon is within the SR2 zone, there is an SR1 zone to the east across Grant Avenue. Southwest of the site towards Newton Centre Village Center are multi residential and business zones.

### **Special Permit**

The petitioner is seeking relief to construct a single-story addition to the principal building as well as to construct a detached garage with an accessory apartment. The project needs relief to exceed the FAR, allow a detached accessory apartment that does not meet half of the principal building setbacks, and to allow an oversized dormer. The petitioner's proposed detached garage with an accessory apartment as designed maintains five-foot setbacks from the side and rear property lines. Detached accessory apartments are required to meet one half of principal building setbacks or 7.5 feet for the side and rear setbacks, whichever is greater, as required in §6.7.1.E.5 unless waived or reduced by special permit from the City Council. In this case, the 7.5-foot setbacks are the greater number, thus are applied as the required side and rear setback distances.

### **Analysis and Recommendations**

The provision of the ordinance that requires 7.5-foot minimum setbacks was adopted in 2022 and is a more recent policy decision from the City Council. The petitioner should address why they cannot meet the 7.5-foot minimum setbacks required for detached accessory apartments and are seeking five-foot setbacks on new construction. Planning notes that the proposed oversized dormer requiring special permit relief is tucked into the rear of the site and will be minimally visible from the street.

Planning is unconcerned with the addition to the principal dwelling as it only adds 142 square feet to the rear of the dwelling.

I. ZONING RELIEF REQUESTED:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3
§6.7.1.E.5	To allow a detached accessory apartment that does not meet principal setbacks	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer exceeding 50% of the width of the wall plane next below	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the detached accessory apartment with reduced setbacks and oversized dormer. (§7.3.3.1)
- The proposed detached accessory apartment with reduced setbacks and oversized dormer will not adversely affect the neighborhood. (§7.3.3.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)
- The proposed increase in the FAR from .29 to .39 where .37 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.3, §3.1.9).

III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property is a 10,658 square foot, corner lot with a single-family dwelling constructed circa 1917 and a detached garage. The parcel is situated at the corner of Everett Street and Dalton Street

The principal building (single-family dwelling) has a nonconforming front setback of 19.7 feet from Dalton Street. There is an existing 251 square foot detached garage at the southeast corner of the site.

The site features landscaping including trees and shrubs, screening much of the site

from the public way, especially along Dalton Road. Vehicular access is provided via a curb cut and driveway from Everett Street.

IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

If approved, the use of the site would remain as a single-family dwelling, but with the inclusion of a detached accessory apartment.

B. Site and Building Design

The petitioners are proposing to raze the existing detached garage and construct a new detached garage with a 700 square foot footprint with an accessory apartment above in approximately the same location as the existing garage.

For detached accessory apartments, the required side and rear setbacks are half of the principal building setbacks or 7.5 feet, whichever is greater. The petitioner is proposing to construct a new accessory building with setbacks of five feet, which is the minimum required for garages. However when introducing the accessory apartment use to a detached structure, the setback requirement increases to 7.5 feet. As this is a relatively new provision of the accessory apartment regulations, adopted in 2022, the petitioner should address why they cannot meet the required 7.5-foot setbacks.

The first floor of the detached accessory apartment will have parking for two vehicles, some living space, and ground level access to the upper half story. The accessory apartment will consist of two bedrooms, a bathroom and living area. The petitioners proposed a 16-foot-wide dormer to the half story, with the exterior wall next below at 24.6-feet-wide, the dormer exceeds the 50% allowed as of right per the Ordinance.

The addition to the principal dwelling adds 142 square feet to the principal dwelling, and the detached accessory building's construction adds 911 square feet of floor area to the site above what is existing. The addition and new construction increase the site's FAR from 3,066 square feet to 4,119 square feet, or from .29 to .39 where .37 (3,943.46 square feet) is the maximum allowed as of right. As the increase in FAR above the maximum allowed as of right is only 175 square feet and includes the demolition of an existing garage, the increase in FAR will not be in derogation of the size, scale and design of other structures in the neighborhood.

C. Parking and Circulation

No changes are proposed to the parking or circulation.

D. Landscaping

A landscape plan was not provided with this petition.

V. INTERDEPARTMENTAL REVIEW:

No interdepartmental review is required at this time.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

**ATTACHMENTS:**

**Attachment A:** Zoning Review Memorandum  
**Attachment B:** DRAFT Council Order



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**Attachment B**  
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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: November 27, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Ifat and Yaniv Bejerano, Applicants  
Lee Silverstone, Architect  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to exceed FAR, to allow an oversized detached accessory apartment, reduced setbacks for the apartment and to allow oversized dormers**

Applicant: Ifat and Yaniv Bejerano	
<b>Site:</b> 16 Everett Street	<b>SBL:</b> 61025 0006
<b>Zoning:</b> SR2	<b>Lot Area:</b> 10,658 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> Single-family dwelling with a detached accessory apartment

### BACKGROUND:

The property at 16 Everett Street consists of a 10,658 square foot corner lot in the Single Residence 2 zoning district improved with a single-family dwelling constructed in 1917 and a detached garage. The petitioners propose to raze the detached garage and construct a new larger detached garage with an accessory apartment and to construct a one-story rear addition to the principal dwelling, requiring a special permit.

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

- Zoning Review Application, prepared by Lee Silverstone, architect, submitted 10/23/2023
- Floor plans and elevations, prepared by SB Architects, architect, dated 10/11/2023
- FAR Worksheet, submitted 10/23/2023
- Existing Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 3/9/2023
- Proposed Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 9/11/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to raze the detached garage in the rear of the property and construct a new larger detached garage with an accessory apartment. A 142 square foot single-story rear mudroom addition is proposed in the principal dwelling. The existing FAR is .29. The proposed construction and addition increase the FAR to .39, where .37 is the maximum allowed per sections 3.1.3 and 3.1.9, requiring a special permit.
2. The accessory apartment is proposed with 576 square feet, which is less than 900 square feet allowed by section 6.7.1.E.2, requiring no relief.
3. Per section 6.7.1.E.5 a detached accessory apartment must meet half the principal setback requirements, but not less than 7.5 feet, unless by special permit. The proposed detached building is set back 5.0 feet from the side and rear lot lines where 7.5 is required per section 3.1.3 (7.5 feet at the side, and one-half of 15 feet, or 7.5 feet for the rear). A special permit is required to allow a detached accessory apartment with the proposed reduced setbacks.
4. Per section 1.5.4.G.2.b a dormer may be no wider than 50% of the length of the exterior wall next below, unless by special permit. The petitioners propose a 16-foot-wide dormer on the front of the accessory building above a 24.6-foot-wide exterior wall next below. The proposed dormer is 65% of the wall below, requiring a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,658 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks - Principal <ul style="list-style-type: none"> <li>• Front (Everett St)</li> <li>• Front (Gibbs St)</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 25 feet 7.5 feet 15 feet	30.3 feet <b>19.7 feet</b> 12.3 feet 49.8 feet	No change <b>No change</b> No change
Setbacks – Accessory Apartment <ul style="list-style-type: none"> <li>• Front (Everett St)</li> <li>• Front (Gibbs St)</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 55 feet 7.5 feet 7.5 feet	> 80 feet > 75 feet 5.7 feet 15 feet	> 80 feet > 60 feet <b>5.0 feet*</b> <b>5.0 feet*</b>
Height – <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	36 feet 22 feet	32.9 feet <22 feet	No change 22 feet
Stories – <ul style="list-style-type: none"> <li>• Principal</li> <li>• Accessory</li> </ul>	2.5 1.5	2.5 1	No change 1.5
FAR	.37	.29	<b>.39*</b>
Max Lot Coverage	30%	16.1%	21%
Min. Open Space	50%	74%	64%

\*Requires relief

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<b>Ordinance</b>		<b>Action Required</b>
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3
§6.7.1.E.5	To allow a detached accessory apartment that does not meet principal setbacks	S.P. per §7.3.3
§1.5.4.G.2.b	To allow a dormer exceeding 50% of the width of the wall plane next below	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 a detached accessory apartment with reduced side and rear setbacks, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the detached accessory apartment with reduced setbacks and oversized dormer because the façade with the dormer will be tucked into the site and minimally visible from the street. (§7.3.3.1)
2. The proposed detached accessory apartment with reduced setbacks and oversized dormer will not adversely affect the neighborhood because the façade with the dormer will be tucked into the site and minimally visible from the street. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)
5. The proposed increase in the floor area ratio (FAR) from .29 to .39 where .37 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.3, §3.1.9).

PETITION NUMBER: #391-23

PETITIONER: Yaniv & Ifat Bejerano

LOCATION: 16 Everett Street, on land known as Section 61 Block 25 Lot 6, containing approximately 10,658 sq. ft. of land

OWNER: Yaniv & Ifat Bejerano

ADDRESS OF OWNER: 16 Everett Street  
Newton, MA 02459

TO BE USED FOR: Single-family dwelling with detached accessory apartment

RELIEF GRANTED: Special permit per §7.3.3 to allow a reduced side and rear setbacks for a detached accessory apartment (§6.7.1.E.5), an oversized dormer (§1.5.4.G.2.b), and to exceed the FAR ( §3.1.3, §3.1.9)

ZONING: Single Residence 2 district

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 of Land in Newton, MA, 16 Everett Street, Proposed Conditions,” prepared by Everett M. Brooks, dated September 11, 2023, signed and stamped by Bruce Bradford, Professional Land Surveyor on September 11, 2023.
  - b. A set of architectural plans entitled “Proposed Garage”, prepared by SB Architects, unsigned and unstamped, dated November 11, 2023 consisting of the following sheets:
    - i. A2.1G Front Elevation
    - ii. A2.2G Right Elevation
    - iii. A2.3G Rear Elevation
    - iv. A2.3G Left Side Elevation
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 and the petitioner has:
  - a. Filed with the building permit record statements by a registered architect, 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.