



# City of Newton, Massachusetts

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

Petition: **#393-23**  
Public Hearing: ----  
12/12/23

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

---

## 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 #393-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an accessory apartment in its current placement and to allow reduced setbacks at **599 Commonwealth Avenue, Ward 7, Newton Centre**, on land known as Section 73 Block 50 Lot 05, containing approximately 5,408 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec. 7.3.3, 6.7.1.E.5 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

---

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.



**599 Commonwealth Avenue  
Accessory Building**

## Project Description

### **Background**

The subject property at 599 Commonwealth Avenue consists of a 5,408 square foot lot in a Single Residence 2 (SR2) zoning district at the corner of Commonwealth Ave and Sumner St in Newton Centre. The parcel is improved with a single-family dwelling constructed circa 1916 and a detached, single-story, accessory building constructed in 1921.

While the site and much of the area to the east is zoned SR2, Sumner Street bisects the area between SR2 and Multi Residence 1 (MR1). The MR1 zone extends west of Sumner Street and covers the area between Ward and Commonwealth Ave up to Francis Street (parallel to Sumner).

### **Special Permit**

The petitioner is seeking relief to legalize the accessory building as a detached accessory apartment. The accessory building's placement on the site, which predates zoning due to its construction in 1921, requires a special permit to allow reduced setbacks for the proposed change in use to a detached accessory apartment. 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**

Planning is not concerned with the special permit relief to allow the detached accessory apartment in its current placement on site. The zoning relief reflects existing conditions and allows the conversion of a detached structure to an accessory apartment with no changes to the building or site.

#### I. ZONING RELIEF REQUESTED:

<b>Zoning Relief Required</b>		
<b>Ordinance</b>		<b>Action Required</b>
§6.7.1.E.5	To allow a detached accessory apartment that does not meet one-half principal setbacks	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. (§7.3.3.1)
- The proposed detached accessory apartment with reduced setbacks 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)

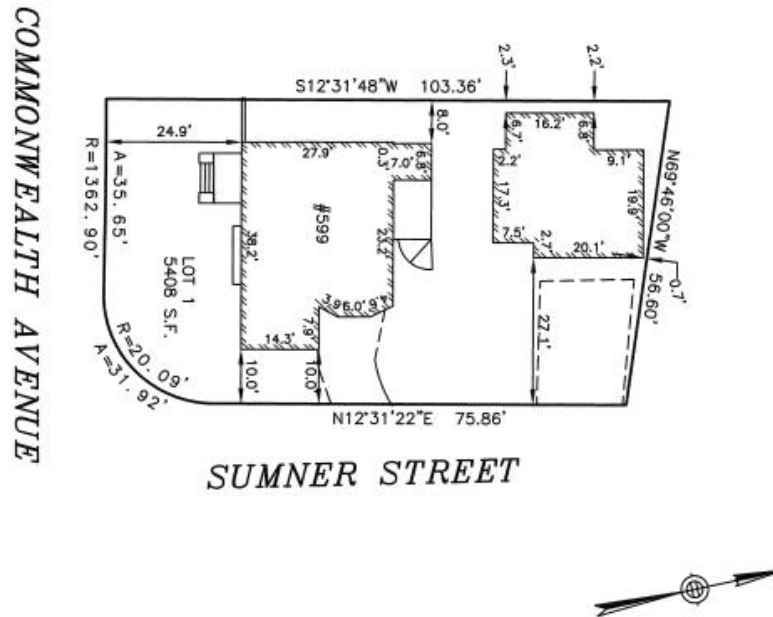
III. PROJECT PROPOSAL AND SITE CHARACTERISTICS:

A. Site - Existing Conditions

The subject property is a 5,408 square foot, flat, corner lot with a single-family dwelling constructed circa 1916 and a detached accessory building constructed in 1921, both buildings predating the adoption of Newton Zoning (1922). The parcel is situated at the corner of Commonwealth Avenue and Sumner Street.

The principal building (single-family dwelling) has several nonconformities including lot size, FAR, lot coverage, and the front and rear setbacks. The detached accessory building has nonconforming side and rear setbacks of 0.7 feet from the side property line and 2.2 feet from the rear property line.

### Existing Conditions



The site features landscaping including trees, shrubs and decorative paved areas. Vehicular access is provided via a curb cut and driveway located along Sumner 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 not proposing any changes to the site and neither of the buildings but are looking to legitimize the detached building as a detached accessory apartment with reduced setbacks. For detached accessory apartments, the required side and rear setbacks are half of the principal building setbacks or 7.5 feet, whichever is greater. Detached accessory apartments must always meet the required front setbacks for a principal building.

With a 0.7-foot side setback and a 2.2-foot rear setback, the building does not meet the 7.5-foot minimum required setbacks for a detached accessory apartment within the SR2 zone, requiring a special permit.

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: November 20, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Padmini Pillai and Piotr Bielecki, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to allow reduced setbacks for a detached accessory apartment**

Applicant: Padmini Pillai and Piotr Bielecki	
Site: 599 Commonwealth Avenue	SBL: 73050 0005
Zoning: SR2	Lot Area: 5,408 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a detached accessory apartment

### BACKGROUND:

The property at 599 Commonwealth Avenue consists of a 5,408 square foot corner lot in the Single Residence 2 zoning district improved with a single-family dwelling constructed in 1916 and a detached garage constructed in 1921. A previous owner of the property converted the detached garage into an accessory apartment without the benefit of permits. The petitioners seek to legalize the apartment in its current placement on site which does not meet the setback requirements, requiring a special permit.

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

- Zoning Review Application, prepared by Padmini Pillai and Piotr Bielecki, applicants, submitted 11/1/2023
- FAR Worksheet, submitted 11/1/2023
- Existing Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 3/31/2021

**ADMINISTRATIVE DETERMINATIONS:**

1. 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 detached building was constructed in 1921 and is set back 0.7 feet from the side lot line and 2.2 feet from the rear where 7.5 feet 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.
2. The accessory apartment is proposed with 452 square feet, which is less than 877 square feet (40% of the habitable space) allowed by section 6.7.1.E.2, requiring no relief.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	<b>5,408 square feet</b>	<b>No change</b>
Frontage	80 feet	130 feet	No change
Setbacks - Principal			
• Front (Commonwealth Ave)	25 feet	<b>24.9 feet</b>	<b>No change</b>
• Front (Sumner Street)	25 feet	<b>10 feet</b>	<b>No change</b>
• Side	7.5 feet	±39 feet	No change
• Rear	15 feet	<b>8.0 feet</b>	<b>No change</b>
Setbacks – Accessory Apartment			
• Front (Commonwealth Ave)	25 feet	27.1 feet	No change
• Side	7.5 feet	<b>0.7 feet</b>	<b>No change*</b>
• Rear	7.5 feet	<b>2.2 feet</b>	<b>No change*</b>
Stories –			
• Principal	2.5	2.5	No change
• Accessory	1.5	1	No change
FAR	.45	<b>.47</b>	<b>No change</b>
Max Lot Coverage	30%	<b>33%</b>	<b>No change</b>
Min. Open Space	50%	57%	No change

\*Requires relief

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.E.5	To allow a detached accessory apartment that does not meet one-half principal setbacks	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 because the detached accessory building has been in its current configuration since 1921, predating the zoning requirements. There are also no proposed modifications to the existing site plan, only to establish the accessory dwelling use. (§7.3.3.1)
2. The proposed detached accessory apartment with reduced setbacks will not adversely affect the neighborhood because the detached accessory building has been in its current configuration since 1921, predating the zoning requirements. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because access to the site and its circulation is not changing. (§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)

PETITION NUMBER: #393-23

PETITIONER: Padmini Sushila Pillai and Piotr Bielecki

LOCATION: 599 Commonwealth Avenue, on land known as Section 73 Block 50  
Lot 05, containing approximately 5,408 sq. ft. of land

OWNER: Padmini Sushila Pillai and Piotr Bielecki

ADDRESS OF OWNER: 599 Commonwealth Avenue  
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)

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, 599 Commonwealth Avenue, Existing Conditions," prepared by Everett M. Brooks, dated March 31, 2021, signed and stamped by Bruce Bradford, Professional Land Surveyor on March 31, 2021.
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.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.