



Ruthanne Fuller
Mayor

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

#497-18
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: November 8, 2018
Land Use Action Date: January 29, 2019
City Council Action Date: February 4, 2019
90-Day Expiration Date: February 6, 2019

DATE: November 2, 2018

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #497-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow Single-Family Attached Dwellings with waivers to the dimensional standards at **10 Pillion Court**, Ward 2, Newtonville, on land known as Section 22, Block 07, Lot 46, containing approximately 10,559 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. §3.2.4, §3.4.1, §6.2.3.B.2, §7.3.3, and §7.4 of the City of Newton Rev Zoning Ord, 2015.

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.



10 Pillion Court

EXECUTIVE SUMMARY

The property located at 10 Pillion Court contains a 10, 559 square foot lot in the Multi-Residence 1 (MR-1) zone in Newtonville. The lot is improved with a Worker Cottage constructed circa 1890. The lot is a legal nonconforming back lot created in 1951 by Variance #99442 that subdivided one lot on Newtonville Avenue into four lots. The petitioner is seeking to construct a 2.5-story addition to the rear of the dwelling, creating a second dwelling unit on the property. The design of the structure does not meet the definition of a two-family dwelling; therefore, the structure is classified as a Single-Family Attached Dwelling, a building type that requires a special permit. The petitioner is also seeking special permits to waive the dimensional standards for Single-Family Attached Dwellings concerning lot size, frontage, front and side setbacks, lot coverage, and to allow a driveway within 10 feet of a side lot line. The petitioner also requires an amendment to Variance #99442 from the Zoning Board of Appeals (ZBA) to create the second dwelling unit.

The subject property has a unique shape that restricts the building envelope and affects the design of the proposed structure. The Planning Department believes the proposed structure is at a scale that is out of context with the immediate area and that the lack of frontage/access highlights why the Single-Family Attached Dwelling building type is not appropriate for this location. As a result, staff does not support the waivers from the dimensional standards to allow the structure as proposed. Staff suggests the petitioner work to redesign the structure to limit the bulk and mass and align the structure with the context of the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Single-Family Attached Dwellings. (§7.3.3.C.1)
- The Single-Family Attached Dwellings will adversely affect the neighborhood. (§7.3.3.C.2)
- The Single-Family Attached Dwellings will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the dimensional standards of Single-Family Attached Dwellings, specifically lot size, frontage, front and side setback, lot coverage, and a driveway within ten feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§3.2.4 and §6.2.3.B.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Pillion Court in the MR-1 zone in Newtonville. To the west is a Multi-Residence 3 zone, while to the east is a Public Use district. Directly north lies a Manufacturing zone (**Attachment A**). This mix of zones results in a variety of land uses from the high-density multi-family development to the west, Cabot Park adjacent to the site to the east, and the commercial and industrial uses to the north (**Attachment B**). Due to this mix of zones, and resulting land uses, the neighborhood does not have a consistent identity. As such, staff focused the analysis on the dwellings in the immediate area.

B. Site

The site consists of 10, 559 square feet of land and is improved with a two-story Worker Cottage constructed circa 1890. The site is a legal nonconforming back lot with ten feet of frontage on Pillion Court via a shared right of way and 55 feet of lot width along the rear property line of 266-268 Newtonville Avenue. The site's width decreases towards the rear of the lot before terminating at 21 feet of lot width. The structure has an existing nonconforming front setback from the rear property line of 266-268 Newtonville Avenue of 12 feet, where 25 feet is the minimum allowed. This front yard area is currently used for surface parking. The site is predominantly flat with mature landscaping along the western boundary shared with Cabot Park. There is a ten-foot wide City drainage easement along this property line that runs the length of the lot.

C. Variance #99442

The subject property was initially part of one parcel that also contained the dwellings now known as 266-268 Newtonville Avenue, 272-274 Newtonville Avenue, and 11 Pillion Court. In 1951, the then Board of Alderman granted Variance #99442 to create the four separate lots, by granting relief for lot size and setbacks for 10 and 11 Pillion Court. In accordance with this petition, it was determined relief was not necessary for frontage/lot width. The Commissioner of Inspectional services has determined that since the proposed use (Single-Family Attached Dwellings) is only allowed by special permit, relief for the nonconforming frontage is required. Additionally, the Acting City Solicitor has determined that an amendment to Variance #99442 is necessary to create the second dwelling unit on site. As such, the petitioner shall be required to amend the variance to create the second dwelling unit, before obtaining a building permit, should this petition be approved. For a complete analysis of this petition concerning zoning, please see the Zoning Review Memorandum, dated September 13, 2018 (**Attachment C**).

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will change from a single-family use to a multi-family use.

B. Building Design

The petitioner is seeking to construct a 2.5-story addition to the south side of the structure to create a second dwelling unit. The footprint of the structure will be extended approximately 91 feet to the south decreasing the rear yard setback from 202 feet to 111 feet. The addition is narrower than the existing structure, but due to the shape of the lot, the side setbacks remain largely unchanged. The front entry to the rear unit is located within the side setback. Staff has reached out to the petitioner to confirm this distance. The addition will contain living space on the first and second floors, increasing the floor area ratio of the structure by approximately 3, 728 square feet for a total of 5, 052 square feet on site; the space in the attics and basements do not count towards FAR. The Newton Zoning Ordinance (Ordinance) does not regulate FAR for Single-Family Attached Dwellings, but the proposed square footage is allowed as of right if the structure were a single- or two-family dwelling. The height of the existing dwelling is 25.5 feet while the height of the addition reaches 33 feet. This increase in height is due largely to both attic spaces and the cupola located above the garages.

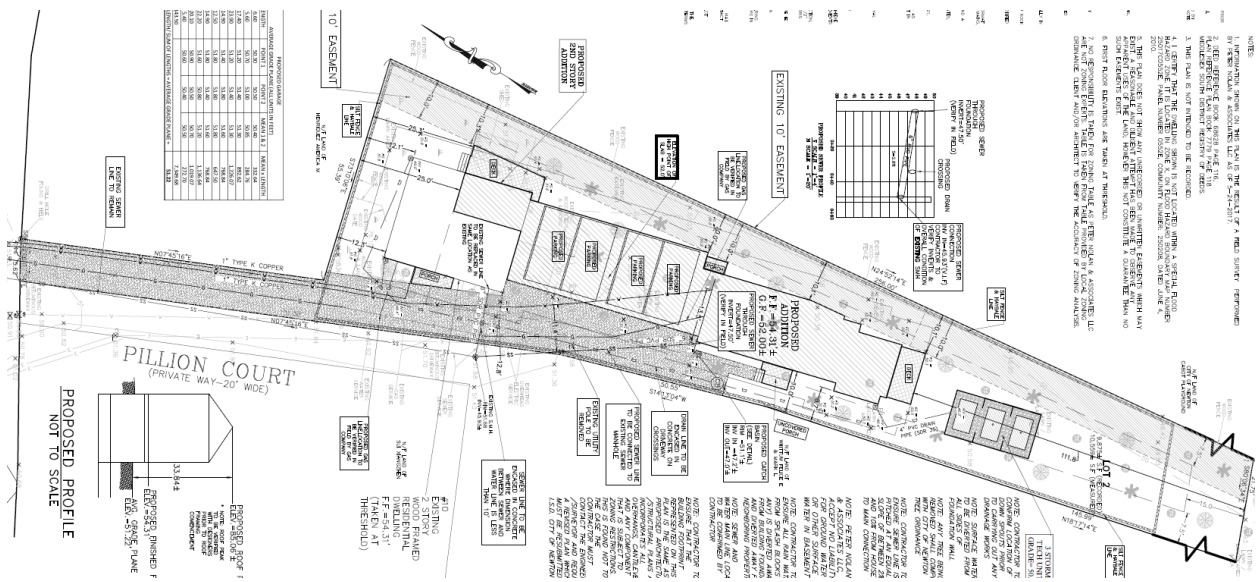


The Planning Department believes the proposed structure is at a scale that does not fit the context of the immediate area. The dwellings at 11 Pillion Court, 266-268 Newtonville Avenue and 272-274 Newtonville Avenue remain largely unchanged from their initial construction and from the granting of Variance #99442. The bulk and mass of the structure are oriented to the adjacent property at 11 Pillion Court rather than in keeping with a traditional rear addition. Moreover, the cupola and the attic spaces are architectural features that convey the bulk and mass of the structure that do not exist

on other dwellings nearby. Lastly, the addition is constructed in a line from the existing dwelling which does not allow for articulation to break up the massing.

C. Site Design

The petitioners are not proposing to significantly alter the site. The existing surface parking facility will be removed to allow for green space and a new driveway will provide access to the two, two-car garages. The petitioner is proposing to keep much of the rear of the site as open space.



D. Parking and Circulation

The petitioners are proposing to remove the existing surface parking facility and are proposing to construct two, two-car garages within the first floor of the addition. The petitioners are also proposing to install a driveway within ten feet of the side lot line, requiring a special permit. Staff has asked the petitioner to provide a turning template for vehicles exiting the garage because this maneuvering space appears limited.

E. Landscaping

A landscape plan is not required with this petition.

IV. SINGLE-FAMILY ATTACHED DWELLINGS

A. Single-Family Attached Dwellings

Single-Family Attached Dwellings are an allowed use in the MR-1 zone, with dimensional standards that are waivable via special permit. The criteria for granting such waivers is that “literal compliance with the dimensional standards of Single-

Family Attached Dwellings is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features.”

Earlier versions of the Ordinance defined Single-Family Attached Dwellings as structures that contained four or more dwelling units. That definition was changed in 1989 to the current definition, due in part, to the lack of lots available in the City that could accommodate such a development. The definition was changed to apply to as few as two units, but the dimensional standards did not change. As a result, the dimensional standards intended to govern a development of four units, are applied to petitions containing two units.

The Planning Department recognizes that the lot has a unique narrow shape that restricts the building envelope, making it difficult to comply with the dimensional standards of Single-Family Attached Dwellings. Staff believes the design of the structure is directly related to the lack of frontage/access to the site. The adjacent garages located towards the front of the site allow for vehicular access, but also push the bulk and mass of the addition towards the side lot line and to the adjacent parcel at 11 Pillion Court. The petitioner has requested a waiver of this side setback requirement from 25 feet to 8.7 feet. Staff believes this design illustrates why a Single-Family Attached Dwelling is not an appropriate building type for this site because attaching dwellings to each other results in a long structure that requires a relationship to a street, and resultingly access, rather than to a side lot line. For these reasons, staff believes the Single-Family Attached Dwelling building type is not appropriate at this location and staff does not support the waivers to allow the proposed structure.

V. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning. Based on the Zoning Review Memorandum, the petitioner is seeking the following relief:

- §3.2.4 and §7.3.3 of Section 30, to allow attached single-family dwellings in an MR1 zoning district.
- §3.2.4 and §7.3.3 of Section 30, to reduce the lot area requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the side setback requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the front setback requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the lot coverage requirement.

- §3.2.4, §6.2.3.B.2, and §7.3.3 of Section 30, to allow a driveway within ten feet of a side lot line.

B. Engineering Review

The Engineering Division suggests the petitioner conduct pre-construction and post-construction Closed Circuit Television inspections of the City's drain line at the western boundary to ensure the line is not damaged during construction. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this petition be approved.

C. Historic Preservation Review

At the April 27, 2017 meeting of the Newton Historical Commission (NHC), NHC found the structure "Preferably Preserved" due to the structure's style and context. The NHC waived the demolition delay based on the submitted plans; however, the owner may deviate from those plans because more than a year has lapsed without work to the structure. If no work occurs by April 27, 2020, the owner must resubmit to NHC.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

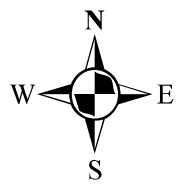
- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum

Attachment A Zoning Map Pillion Ct., 10

*City of Newton,
Massachusetts*

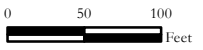
Legend

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 3
-  Business 2
-  Manufacturing
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: November 02, 2018



Attachment B Land Use Map Pillion Ct., 10

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Open Space
-  Nonprofit Organizations
-  Building Outlines
-  Surface Water
-  Property Boundaries



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CITY OF NEWTON, MASSACHUSETTS
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Feet

Map Date: November 02, 2018





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Attachment C

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Director

ZONING REVIEW MEMORANDUM

Date: September 13, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner

Cc: Ten Pillion LLC, Applicant
Terrence Morris, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request for a special permit to allow two attached dwellings, to waive certain dimensional requirements and to allow parking and a driveway within a setback and to amend Variance #99442

Applicant: Ten Pillion LLC	
Site: 10 Pillion Court	SBL: 22007 0046
Zoning: MR1	Lot Area: 10,559 square feet
Current use: Single family dwelling	Proposed use: Two attached dwellings

BACKGROUND:

The property at 10 Pillion Court consists of 10,559 square feet and is improved with a single-family residence constructed in 1890 in the MR1 zoning district. The lot is a legally nonconforming back lot, created in 1951 by a variance which subdivided one lot on Newtonville Avenue into the present four lots. All the dwellings on each of the four lots existed at the time of the subdivision. The property is accessed by a ten-foot wide easement right of way serving the subject property and the front lot at 266-268 Newtonville Avenue. There is also a ten-foot wide city easement on the eastern boundary with Cabot Playground. The petitioner submitted plans to Inspectional Services for a building permit for a by-right two-family dwelling, but it was determined that the design of the building did not meet the definition of a detached two-family dwelling per section 1.5.4, and was therefore an attached dwelling, which requires a special permit. The petitioner proposes to construct an addition to the existing dwelling consisting of a second dwelling unit, creating two attached dwellings. To construct the additional unit as proposed, the applicant requires relief from several of the dimensional and parking requirements for attached dwellings.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, dated 7/3/2018
- Site Plan, signed and stamped by Edmond Spruhan, surveyor, dated 6/9/2017
- Architectural Plans, signed and stamped by Jai Singh Khalsa, architect, dated 7/5/2017

ADMINISTRATIVE DETERMINATIONS:

1. Prior to 1951, the subject lot was part of one large parcel of over 30,000 square feet with four existing separate dwellings, two . Variance #99442 was issued in 1951 granting exceptions to lot area and setbacks. It appears that while the subject property was shown on the subdivision plan associated with the variance, the subject property did not require any relief, as lot width was required at that time, and not lot frontage. The parcel met all the dimensional requirements of the Zoning Ordinance at the time it was created and appears to have been a by-product of the variance decision. However, in the description of the use proposed by the variance, it was stated that the uses were to “continue as at present.” At the time of the issuance of the variance, the property had only a single-family dwelling, as evidenced by a 1951 building permit in the Inspectional Services files. The City Solicitor has interpreted Variance #99442 to require an amendment to allow a change from a single-family dwelling use to attached dwellings.
2. The applicant proposes to construct a second dwelling unit attached to the existing single-family residence to create two attached dwellings, as defined in Section 1.5.1.C.2. Per Section 3.4.1, a special permit is required to construct single-family attached dwellings in the MR1 zoning district.
3. Section 3.2.4 of the Zoning Ordinance sets forth the dimensional requirements for Single Family Attached Dwellings in the MR1 zoning district. There is a provision in this section that enables the City Council to grant exceptions to the dimensional standards if it is found that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or the protection of environmental features. The applicant requires several exceptions utilizing this provision.
4. The existing lot has 10,559 square feet of lot area, where Section 3.2.4 requires 15,000 square feet of lot area to construct attached dwellings in the MR1 zoning district. The petitioner requires an exception to the required lot area of 15,000 square feet.
5. Section 3.2.4 requires 80 feet of frontage for single-family attached dwellings. The existing lot has ten feet of frontage on Newtonville Avenue, and 55 feet of width along the rear lot line of the front lot from which it was carved, as was allowed at the time of creation, for a total of approximately 65 feet. While a detached two-family dwelling would be allowed by right on this lot with legally nonconforming frontage, the Commissioner of Inspectional Services has determined that the proposed change of use to a special permit use requires that the insufficient frontage seeks relief.

The petitioner requires relief for the 65 feet of frontage, where 80 feet is required per section 3.2.4.

6. The petitioner intends to maintain the existing dwelling and add a second unit to the rear. The existing dwelling is 12.2 feet from the rear of the lot in front of it, which acts as the front lot line in the case of back lots. Section 3.2.4 requires a 25 foot front setback for attached single family dwellings. The petitioner requires a special permit for the 12.2 foot front setback.
7. The proposed second unit additions create a side setback of 8.7 feet. This project was designed as a detached two-family dwelling, meeting the 7.5 foot side setback requirement. However, the side setback requirement for an attached single-family dwelling is 25 feet per section 3.2.4. The petitioner requires an exception to the side setback regulation of 25 feet to allow for a 8.7-foot and 10-foot side setbacks.
8. Per Section 3.2.4 the maximum lot coverage allowed in an attached dwelling project is 25%. The proposed lot coverage after construction of the second unit is 25.9%, which exceeds the maximum allowed. The applicant requires an exception to the maximum lot coverage of 25%.
9. Per section 6.2.3.B.2, no driveway associated with attached dwellings may locate within ten feet of a side or rear lot line. The petitioner proposes to locate a drive along the western side lot line. A waiver from this provision is required.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	10,559 square feet	No change
Frontage	80 feet	65 feet	No change
Setbacks			
• Front	25 feet	12.2 feet	No change
• Side	25 feet	14.8 feet*	10 feet
• Rear	25 feet	202.5 feet	111.6 feet
Building Height	36 feet	25.6 feet	32.7 feet
Max Number of Stories	1.5	2.5	2.5
Lot Coverage	25%	9.4%	29.8%
Open Space	50%	<20%	55.7%
Lot Area Per Unit	4,000 square feet	10,559 square feet	5,279.5 square feet

*As a single-family dwelling in the MR1 district, the existing structure meets the side setback requirement of 7.5 feet, but does not meet the side setback requirement for the proposed Attached Single-Family Dwelling use.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Amend Variance #99442	
§3.4.1	To allow attached single-family dwellings in an MR1 zoning district	S.P. per §7.3.3
§3.2.4	To reduce the lot area requirement	S.P. per §7.3.3
§3.2.4	To reduce the frontage requirement	S.P. per §7.3.3
§3.2.4	To reduce the side setback requirement	S.P. per §7.3.3
§3.2.4	To reduce the front setback requirement	S.P. per §7.3.3
§3.2.4	To reduce the lot coverage requirement	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway to locate along the side lot line	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

10. Two (2) copies of the completed Special Permit Application (signed by property owner)
11. Filing Fee (see Special Permit Application)
12. Two (2) copies of the Zoning Review Memorandum
13. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
14. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
15. One (1) copy of any previous special permits or variances on the property (as applicable)
16. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
17. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N