



Dear Colleagues,

Here is a brief summary of the proposed amendments to Section **6.7.1 Accessory Apartments**, as recommended by the Zoning & Planning committee.

This item is on second call as we postponed to a date certain, pending the opinion of the Planning & Development Board, who sent us their letter last week recommending all changes as proposed.

In this week's packet, you have the redline version of the ordinance, as well as the most recent committee report.

Note that the Accessory Apartment (ADU) Ordinance was first passed in 1987; revisions were minor until December of 2017, when Council passed a substantially revised ordinance to allow all homeowners to create an ADU as of right within the principle dwelling, up to a certain maximum floor area, requiring owner occupancy of one of the units, annual recertification, and allowing some additional floor area by special permit.

In 30 years from 1987 through 2017, about 54 ADUs were permitted.

In three years from December 2017 through 2021, another 72 units have been permitted.

But two things were not changed in 2017:

1. Detached accessory apartments currently require a special permit in every case, except where the structure is historically significant, such as a turn of the century carriage house. These are allowed by right currently intending to encourage restoration.
2. A person may not build a home in Newton including an accessory apartment until the principle dwelling is at least four years old.

**Proposed substantive amendments** intend to remove these barriers to creating accessory units. There are three proposed substantive amendments:

1. To allow ADUs to be planned for with new construction, eliminating the four year waiting period, so that families who need this for family, caregivers and/or income can incorporate code requirements into their initial planning.
2. To allow Detached ADUs by-right up to 900 sf, (which as well must conform to other rules for accessory buildings in 6.7, such as a maximum footprint of 700sf, maximum of 1.5 stories and maximum height to ridge of 18')
3. To impose stricter setback requirements for an accessory building than for other accessory uses (which is 5' side and rear), to be no less than 7.5', or 50% of the side or rear setback required for the principle dwelling, whichever is greater. Originally the committee considered making side and rear setbacks for by-right ADUs uniformly 7.5', but the compromise language we voted is as noted above.

**Clarifying language proposed:**

**6.7.1.C.3.** is amended to further clarify ownership rules, by making explicit how occupancy must work in the case of a Trust.

**6.7.1.E.6** is language added to reinforce that the existing rule requiring that all structures (more than 120sf) on a property must be included in the floor area calculation to show compliance with the FAR limit. Of course, this includes detached accessory apartments. The language is redundant, but harmless.

**About screening...**

The current ordinance does not require additional screening (fencing or planting) for ADUs in any case, and we understand that Land Use typically does not require screening in granting special permits. Language had been suggested to require screening if the detached ADU is between 7.5' setback (the minimum proposed for side or rear) and 50% whatever the setback is that is required for the principle dwelling.

**Example:** So, if a setback requirement is normally 20', 50% would require 10'. In this case, if the ADU is located 10' or 15' from the rear that setback is would be compliant, but less than the principle dwelling. Most did not feel it was reasonable to require fencing or planting in such a case. And of course, ADUs proposed within existing accessory structures like a garage, if less than the proposed setback, still would require a special permit.

I hope this provides some clarifying information.

Looking forward to our discussion on Monday,

Deborah Crossley