

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to further expand a nonconforming two-family use in a Single Residence 2 (SR2) district by creating an accessory apartment within one of the two principal dwelling units (§3.4.1. and §7.8.2.C.2) and allow an internal accessory apartment larger than 33% of the total habitable space of the principal dwelling unit with which it is associated, or 1,000 square feet, whichever is less (§6.7.1.D.2) 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 proposed oversized accessory apartment as designed . (§7.3.3.C.1)
2. The proposed oversized accessory apartment as developed and operated will not adversely affect the neighborhood as it would be created within the existing structure. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed modification of an existing nonconforming two-family use in the Single Residence 2 (SR2) zoning district to create an oversized accessory apartment within one of the two principal dwelling units would not be substantially more detrimental than the existing nonconforming use to the neighborhood as the structure will not be expanded and additional open space will be created on the property. (§3.4.1 and 7.8.2.C.2). (§7.8.2.C.2)

PETITION NUMBER: #177-22

PETITIONERS: Peter Leis & Jennifer Storo

LOCATION: 350-352 Cabot Street, Section 22, Block 19, Lot 5, containing approximately 12,594 square feet of land

OWNER: Peter Leis & Jennifer Storo

ADDRESS OF OWNER: 350 Cabot Street
Newton, MA 02460

TO BE USED FOR: Two-family dwelling with one accessory apartment

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to further expand a nonconforming two-family use in a Single Residence 2 (SR2) district (§3.4.1; §7.8.2.C.2) and allow an oversized internal accessory apartment (§6.7.1.D.2)

ZONING: Single Residence 2 (SR2) 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:
 - a. a plan entitled "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #350-352 Cabot Street," prepared by VTP Associates, Inc., dated May 15, 2020, as revised through January 28, 2022, signed and stamped by Joseph R. Porter, Registered Professional Surveyor
 - b. a plan entitled "Proposed Condominium Floor Plans, for Unit 350-A and Unit 350-B of the '350-352 Cabot Street Condominium'" located at 350-352 Cabot Street, Newton, MA," prepared by Boston Survey, Inc. dated January 24, 2022
2. The accessory apartment may not be held in separate ownership from the principal dwelling unit to which it is associated.
3. The owner of the principal dwelling unit to which the accessory apartment is associated shall occupy either said principal dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. In the event ownership of the principal dwelling unit to which the accessory apartment is associated changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.

5. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Fire Department approving the building permit plans.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
6. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect, surveyor or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.