

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 an oversized internal accessory apartment and to exceed the floor area ratio (FAR) as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed oversized accessory apartment due to its location within the existing dwelling's footprint. (§6.7.1.D.2; §7.3.3.C.1)
2. The proposed oversized accessory apartment will not adversely affect the neighborhood due to neighboring structures consisting of two stories on similarly sized lots. (§6.7.1.D.2; §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians the site complies with the zoning ordinance regarding driveway width and the number of parking stalls. (§6.7.1.D.2; §6.7.1.E.5; §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because all parking will be contained on site. (§6.7.1.D.1; §7.3.3.C.4)
5. The proposed increase in FAR from .58 to .64, where .58 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because there are neighboring structures consisting of two stories on similarly sized lots. (§3.2.3; 3.2.11; §7.3.3)

PETITION NUMBER: #521-20

PETITIONER: Yefim Shapiro

LOCATION: 26 Gilbert Street, on land known as Section 33, Block 2, Lot 25, containing approximately 5,000 square feet of land

OWNER: Yefim Shapiro

ADDRESS OF OWNER: 26 Gilbert Street
Newton, MA 02465

TO BE USED FOR: Single-Family Dwelling with an internal accessory
apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §6.7.1.D.1, and §7.3.3, to allow an oversized internal
accessory apartment and §3.2.3, and §7.3.3 to exceed the
FAR

ZONING: Multi Residence 1

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. Plot Plan showing proposed conditions at 26 Gilbert Street, signed and stamped by A. Matthew Belski, Professional Land Surveyor, dated September 9, 2020;
 - b. Architectural Plans and Elevations, prepared by RAV & Associates, signed and stamped by Richard Volkin, dated September 11, 2019, most recently revised December 10, 2020 consisting of the following five (5) sheets.
 - i. Existing Floor Plans
 - ii. Proposed Floor Plans
 - iii. Existing Elevations
 - iv. Proposed Elevations, Front and Left
 - v. Proposed Elevations, Right and Rear
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
3. The Petitioner and the accessory apartment must at all times comply with all applicable rules for accessory apartments set forth in Section 6.7 of the Newton Zoning Ordinance. The accessory apartment cannot constitute its own unit within a condominium.
4. The accessory apartment must be held in common ownership with the principal dwelling unit in accordance with Section 6.7.C.1 of the Newton Zoning Ordinance.
5. The owner of the principal dwelling unit to which the accessory apartment is accessory to shall occupy either the principal 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. these requirements shall be included in the master deed if the two-family dwelling is converted into a condominium.

6. In the event ownership of the principal dwelling unit being held in common ownership with the accessory apartment 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.
7. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use 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 statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - 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.